



REGULAR PLANNING COMMISSION AGENDA

August 27, 2024 at 7:00 PM

Zoom Webinar

<https://juneau.zoom.us/j/83717266634> or 1-253-215-8782 Webinar ID: 837 1726 6634

A. LAND ACKNOWLEDGEMENT

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land, and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

B. ROLL CALL

C. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA

D. APPROVAL OF MINUTES

1. July 23rd, 2024 Draft Minutes Regular Planning Commission

E. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION

F. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

G. ITEMS FOR RECONSIDERATION

H. CONSENT AGENDA

I. UNFINISHED BUSINESS

J. REGULAR AGENDA

2. **USE2024 0012:** Conditional Use Permit (CUP) to convert first floor of an existing common wall dwelling into an accessory dwelling unit (ADU) located within a D18 zoning district. - **APPROVED AS RECOMMENDED**

Applicant: Eva Melancon

Location: John Street

DIRECTOR'S REPORT

The applicant requests a Conditional Use Permit (CUP) to convert the first floor of an existing common wall dwelling into an accessory dwelling unit (ADU) located within a D18 zoning district. According to CBJ 49.25.510(k)(2)(G)(ii), efficiency or one-bedroom accessory apartments under 600 sq. ft. are allowed in a multi-family zoning district if the primary use of the lot is a single-family dwelling, with a Conditional Use Permit.

STAFF RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and approve Conditional Use Permit USE2024 0012 with the requested modifications.

K. OTHER BUSINESS

[3.](#) ARF2024 0001 - Procedure Memo

L. STAFF REPORTS

M. COMMITTEE REPORTS

N. LIAISON REPORT

O. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

P. PLANNING COMMISSION COMMENTS AND QUESTIONS

Q. EXECUTIVE SESSION

R. SUPPLEMENTAL MATERIALS

[4.](#) Additional Materials

S. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.gov.

DRAFT MINUTES

Agenda

Planning Commission

Regular Meeting

CITY AND BOROUGH OF JUNEAU

Erik Pedersen, Acting Chair

July 23, 2024

I. LAND ACKNOWLEDGEMENT – Read by Commissioner Arndt.

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

II. ROLL CALL

Erik Pedersen, Acting Chair, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in Assembly Chambers of the Municipal Building, virtually via Zoom Webinar, and telephonically, to order at 7 p.m.

Commissioners present: Commissioners present in Chambers – Erik Pedersen, Acting Chair; Travis Arndt, Clerk; Adam Brown; David Epstein, Jessalynn Rintala,

Commissioners present via video conferencing – Lacey Derr

Commissioners absent: Mandy Cole, Chair; Nina Keller; Matthew Bell, Assistant Clerk

Staff present: Jill Lawhorne, CDD Director; Irene Gallion, Senior Planner; Daniele Gaucher, CDD Administrative Officer, Nicolette Chappell, CDD Administrative Coordinator; Kevin Allen, Meeting Clerk

Staff present via video conferencing – Sherri Layne, Attorney III; David Peterson, Planner II; Ilsa Lund, Planner I

Assembly members: Paul Kelly

III. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - No changes or comments

IV. APPROVAL OF MINUTES

A. June 25, 2024 Draft Minutes, Regular Planning Commission

MOTION: *by Mr. Epstein to approve the June 25, 2024 Planning Commission Regular Meeting minutes.*

The motion passed with no objection.

V. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

VII. ITEMS FOR RECONSIDERATION - None

VIII. CONSENT AGENDA

USE2024 0004: A Conditional Use Permit to continue an existing gravel mining operation in the Lemon Creek streambed.
Applicant: SECON
Location: Anka Street

Staff Recommendation

Staff recommends the Planning Commission adopt the Director’s analysis and findings and approve Conditional Use Permit USE2024 0004 with the requested conditions.

STV2024 0001: Applicant requests a Public Way Vacation for the cul-de-sac portion at the South end of Hendrickson Road.
Applicant: Francis & Sarah Rue
Location: Hendrickson Road

Staff Recommendation

Staff recommends the Planning Commission approve the vacation of the cul-de-sac portion of Hendrickson Rd with the following conditions:

1. A utility easement accommodating CBJ access to Sherry Lot 1 (Rue Property) utilities must be shown on the final plat.
2. The owner of Sherry Lot 1 will decommission redundant services before final plat approval.

IX. *Acting Chair Pedersen asked the Commission if there were any objections and, hearing none, the items on the consent addenda were approved. UNFINISHED BUSINESS -*
None

X. REGULAR AGENDA

PWP2024 0003: Parking Waiver Permit
Applicant: Hali Duran
Location: 120 W. North Street

Staff Recommendation

Staff recommends the Planning Commission adopt Director's analysis and findings and APPROVE the requested Parking Waiver.

Hali Duran, applicant, requested an additional parking space for an accessory apartment and shared that she wants to provide additional housing in unit above.

Ms. Rintala asked if the applicant is familiar with the parking situation in the neighborhood, and if so to give a description of that.

Ms. Duran responded that she is familiar. She explained it is a tight community and a handful of people in the community do not have parking other than street parking and she does not have a way to accommodate parking on her actual property.

Acting Chair Pedersen asked for public comment.

Karen Blejwas, 820 Dixon St, said she is shocked that the recommendation is to approve with a conclusion there will be no impact to residents. She explained the parking has been good the last couple years due to several vacant dwellings, but before that it was a big issue and will become one again once the empty houses are filled. She noted there is a steep hill and in the wintertime that will cause cars to slide into each other if they are parked tightly.

Commissioner Arndt asked Ms. Blejwas if she calls JPD when cars are parked illegally.

Ms. Blejwas answered that she does not call JPD and sometimes parks illegally herself when there is no parking anywhere around.

Acting Chair Pedersen inquired on what makes particular spots illegal for parking.

Ms. Blejwas responded that there is a no parking sign, but not sure why it is marked no parking.

Julie Willoughby, 820 Dixon St, share a photo showing two cars parked illegally. She said she was told the purpose of the no parking is EMS access. She noted the construction vehicles for the renovation sometimes get a parking permit to block out three spots in the neighborhood, which results in them having to park up on West 7th, down the hill, or sometimes over by the Governor's

Mansion. She stated the neighborhood is full of long-term residents and not having acceptable parking to their houses does not allow them to age in place.

Mr. Epstein asked if there was a way for the applicant to provide a parking spot at the property.

Ms. Willoughby answered not that she can think of. She added it is an unsafe corner.

Mr. Epstein noted they have a situation of multiple instances of noncompliance, and the applicant cannot provide parking at the property, so there is a requirement that the city has to provide parking.

Ms. Willoughby explained the primary house was occupied for many years and the neighborhood accommodated them by letting them use the spot in front of her house. She said it was unrealistic to add additional parking and say that it is a walkable area and people will not have cars. She added it was not a good decision for the neighborhood.

Roman Motyka (via Zoom), 835 Dixon Street, expressed he is 82 years old and echoed the concerns of previous testimony about the lack of parking, including no room, a dangerous corner, needed space for emergency vehicles, and especially no space in the wintertime. He said granting a variance for another person to park there would really tax the neighborhood.

Terry Kramer (via Zoom), 801 Dixon Street, echoed the previous testimony and added that there are only three houses on the street that have off street parking and the rest are left to rely on parking they can scrounge. She said when the AirBnBs are empty it is easy, but when they're not it is hard.

Acting Chair Pedersen called back the applicant to provide any relevant testimony or rebuttal.

Hali Duran, applicant, appreciated the comments from the neighbors. She said she understood the concerns and brings forth a good platform to address some of the parking concerns but does not think it is necessarily the property itself. She added that she does not have the land or capability to provide additional parking for additional occupancy.

Mr. Arndt asked if the applicant will be living in the apartment when it is done.

Ms. Duran said she hopes to move back in when it is done.

Acting Chair Pedersen asked if there were any follow up questions and/or discussion for staff.

Mr. Epstein inquired on if voting to deny the waiver would tank the other application.

Ms. Lawhorne communicated that the applicant could apply for a variance, but it is likely that would be denied if the waiver is denied.

Ms. Derr asked how many houses have parking waivers around the property.

Ms. Lawhorne said she did not know off the cuff, but the number of variances for parking in downtown is a high number through the entire downtown area, but not just this neighborhood.

Ms. Rintala asked for clarification on the statements that nonconforming situations may not be aggravated. She voiced that she did not understand how this does not constitute aggravating the non-conforming situation.

Ms. Lawhorne voiced that the rule of thumb is that if you have a nonconforming situation, it leaves the tool still there for parking specifically, but other nonconforming situations do not apply.

Mr. Epstein asked if they know how often tickets are issued to people that park in front of the no parking anytime signs.

Ms. Lawhorne was not certain of that.

MOTION: *by Mr. Arndt moved the approval of PWP2024 003 to accept staff's finding and recommendations for the parking waiver.*

Mr. Arndt expressed that they are pitting parking in the neighborhood versus increasing the housing stock by one more unit. He said increasing stock is good and they need to keep doing it, but asked if it is worth one extra spot where there is a known parking problem. He noted they granted other parking waivers in the area, but they were not on streets that didn't have any parking by them.

Ms. Rintala hesitated to turn down a waiver for a person that had a relationship with someone who was in the neighborhood for a long time and AirBnB's are an increasing issue in the community. She said she did not think stopping the one unit of construction would achieve the goal of providing adequate parking for long term residents.

Ms. Derr shared concerns with granting the parking waiver after hearing from people living there on the parking and said it was giving off the AirBnB vibe.

Mr. Epstein stated his concern was the potential of setting a precedent if they allow or deny the waiver to go through. He said it comes down to what is the greater impact. He added that he sees the issue with the parking, but there is parking available somewhere in the vicinity.

Acting Chair Pedersen shared he believes the parking waiver was set up to give the Commission discretion to look at it and would not set a precedent either way. He asked if the fee in lieu parking was for commercial purposes and would it work for this situation.

Ms. Lawhorne responded it does not apply due to the property being located outside of the town center parking area.

Acting Chair Pedersen suggested a 5-minute at ease.

At ease 7:54-7:59 p.m.

Acting Chair Pedersen called the meeting back to order.

Acting Chair Pedersen inquired on any suggestions to take up the next item if the waiver is not approved.

Ms. Lawhorne answered they could use Commission Arndt’s suggestion to have the applicant try to use a joint use to find a parking lot somewhere else that is not being used, but she is not sure how likely that is to happen. She said they could also still take up the use permit and add a condition to the apartment approval that it must meet parking requirements.

Mr. Brown commented they could rent them as rooms individually and would have cars for each person. He understands there is not enough parking, but they want housing downtown and there are ways to get around this even if they say no.

ROLL CALL VOTE:

YEA: Rintala, Epstein, Brown

NO: Arndt, Derr, Pedersen

The motion failed 3-3.

USE2024 0011:	Conditional Use Permit for an accessory apartment
Applicant:	Hali Duran
Location:	120 W. North Street

Staff Recommendation

Staff recommends the Planning Commission adopt the Director’s analysis and findings and APPROVE Conditional Use Permit USE2024 0011 with conditions.

MOTION: *by Mr. Arndt moved to approve USE2024 0011 and accept staff’s finding and recommendations, including their conditions, which says prior to the issuance of a building permit the applicant must demonstrate that the parking requirements are met.*

Mr. Arndt stated he does like housing stock, but they need to find a way to make the parking work better. He suggested a parking use agreement with someone within 500 feet.

Acting Chair Pedersen said he wants to approve the parking waiver to facilitate the accessory apartment, but in this situation it is not appropriate.

The motion passed.

XI. OTHER BUSINESS - None

XII. STAFF REPORTS

Ms. Lawhorne reported that they are in the process of the Tyler Technologies permit software system migration, and it is going well, but also difficult and a lot of work. There are also four vacancies in the department and are currently trying to hire for an administrative assistant, a planner I / II flex, a building inspector, and a permit center manager. She noted their phone system is having issues, and suggested email or text.

XIII. COMMITTEE REPORTS

Mr. Arndt suggested pushing off a couple more Title 49 meetings to give the new hire time to get up to speed.

XIV. LIAISON REPORTS

Mr. Kelly expressed the Assembly has not met since the last meeting. He said the Public Works Committee met and voted to do an RFP for a contractor to manage the zero-waste lot.

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Attorney Sherri Layne let the Commission know about a couple of public meetings scheduled for the week regarding picking a new city attorney to replace Mr. Palmer.

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS

Ms. Derr stated this is the second time Bonnie Brae has come before our additional materials and asked if they have sent anyone out to inspect the permit and their concerns. She noted she has been asked by the public about it.

Ms. Lawhorne answered they have been responsive to the neighbors, and the compliance officer and others have been out there, and the Director of Engineering and Public Works has been in contact with the owners. They filled the public records request with all the documentation.

Acting Chair Pedersen asked for more insight on that. He explained it seems like comments may be outside of the Commission's purview as to what they can approve or control.

Ms. Lawhorne expressed she would take the question and answer it at the next meeting.

XVII. EXECUTIVE SESSION - None

XVIII. ADJOURNMENT

The July 23, 2024 Planning Commission Meeting was adjourned at 8:19 p.m.



PLANNING COMMISSION STAFF
 CONDITIONAL USE PERMIT USE2024 0012
 HEARING DATE: AUGUST 27, 2024

Section J, Item 2.

(907) 586-0715

CDD_Admin@juneau.gov

www.juneau.org/community-development

155 Heritage Way • Juneau, AK 99801

DATE: August 15, 2024

TO: Mandy Cole, Chair, Planning Commission

BY: Jay Larson, Planner II 

THROUGH: Jill Lawhorne, Director, AICP

PROPOSAL: Applicant requests a Conditional Use Permit (CUP) to convert first floor of an existing common wall dwelling into an accessory dwelling unit (ADU) located within a D18 zoning district.

STAFF RECOMMENDATION: Approval with conditions

KEY CONSIDERATIONS FOR REVIEW:

- This ADU will be constructed on top of an existing structure which complies with infill housing development policies in the Comprehensive Plan.
- Approval for the construction of a common wall dwelling was approved in 1980 and was issued a Certificate of Occupancy in 1984.
- This property is certified nonconforming per NCC2024- 0019, and the ADU addition will not aggravate the nonconforming situations.

ALTERNATIVE ACTIONS:

1. **Amend:** require additional conditions or delete or modify the recommended conditions.
2. **Deny:** deny the permit and adopt new findings for items 1-6 below that support the denial.
3. **Continue:** to a future meeting date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

Assembly action is not required for this permit.

STANDARD OF REVIEW:

- Quasi-judicial decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - 49.25.510(k)(2)(G)(ii)
 - 49.80

GENERAL INFORMATION	
Property Owner	Daniel Melancon
Applicant	Eva Melancon
Property Address	2622 John Street
Legal Description	BELLEVIEW BL G LT 8D
Parcel Number	1D050L120067
Zoning	D18
Lot Size	2,070
Water/Sewer	CBJ/CBJ
Access	John St
Existing Land Use	Residential
Associated Applications	NCC2024-0019, BLD2024-0191

SITE FEATURES AND ZONING



SURROUNDING ZONING AND LAND USES	
North (D18)	Residential
South (D18)	Residential
East (D18)	Residential
West (D18)	Residential

SITE FEATURES	
Anadromous	None
Flood Zone	No
Hazard	Not Mapped
Hillside	No
Historic District	No
Overlay District	Mining & Exploration Surface Activities Exclusion

BACKGROUND INFORMATION

Project Description – The applicant requests a Conditional Use Permit (CUP) to convert the first floor of an existing common wall dwelling into an approximately 412 sq ft accessory dwelling unit (ADU) located within a D18 zoning district.

According to CBJ 49.25.510(k)(2)(G)(ii), efficiency or one-bedroom accessory apartments under 600 sq. ft. are allowed in a multi-family zoning district, if the primary use of the lot is a single-family dwelling, with a Conditional Use Permit.



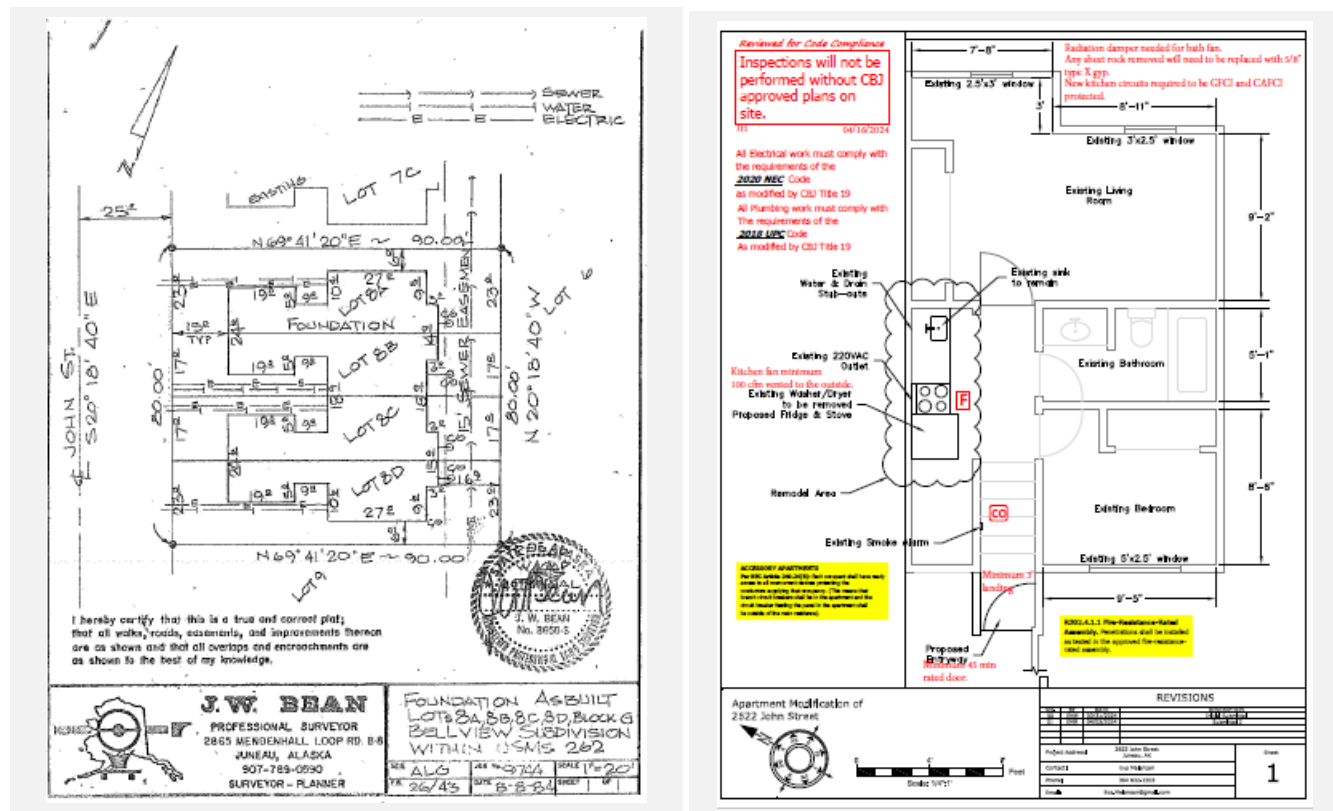
Background – The table below summarizes relevant history for the lot and proposed development.

Year	Item	Summary
1956	Plat	Bellevue Subdivision Plat (Attachment B)
1970	Zone Change	Ordinance Serial No. 70-21 changing Lot 1-5, block J of Belview subdivision from R-7 to RML Multi Family (Attachment C)
1983	CUP	Conditional Use for construction of common wall duplex (Attachment D)
	As Built Survey	Shows footprints of existing structures (Attachment E)
1985	COO	Certificate of Occupancy for 4 plex (2628/2626/2624/2622 John Street) (Attachment F)
2024	PAC Report	Preapplication conference report for ADU over garage and parking waiver (Attachment G)
	NCC	Nonconforming Certificate of Compliance for lot dimensions and structure (Attachment H)

ZONING REQUIREMENTS

Standard		Requirement	Existing	Code Reference
Lot	Size	2,500 sq. ft.	2,070 sq. ft.	CBJ 49.25.400
	Width	50 ft	24 ft	CBJ 49.25.400
Setbacks	Front	20 ft	10 ft	CBJ 49.25.400
	Rear	10 ft	>10 ft	CBJ 49.25.400
	Side	5 ft	8 ft	CBJ 49.25.400
	Street Side	13 ft	N/A	CBJ 49.25.400
Lot Coverage Maximum		50% @ 1,035 sq ft	>50% @ 1,640 sq ft	CBJ 49.25.400
Vegetative Cover Minimum		20 %	<20%	CBJ 49.25.300
Height	Permissible	35 ft	Standard 3 story Dwelling	CBJ 49.25.400
	Accessory	25 ft	N/A	CBJ 49.25.400
Maximum Dwelling Units		2	1	CBJ 49.25.500
Use		Residential	Residential	CBJ 49.25.300
Off-street Parking		2	>2	CBJ 49.40.210(a)

SITE PLAN



ANALYSIS

Project Site – Remodeling is of the interior only. The existing washer/dryer will be removed, and a stove and refrigerator will be installed.

Condition: None

Project Design – The first floor will be converted to an accessory apartment.

Condition: None

Traffic – A Traffic Impact Analysis (TIA) is not required. An accessory apartment in a single-family dwelling does not meet the threshold for a TIA.

Condition: None

Vehicle Parking & Circulation – Three (3) parking spaces are required. There is one (1) driveway space, a one-car garage and room for an additional parking space next to the driveway.

Condition: None

Noise – Anticipated noise is consistent with that expected in zoning.

Condition: None

Lighting - The exterior will remain unmodified.

Condition: None

Vegetative Cover & Landscaping – The lot exceed vegetative cover requirements, see the nonconforming certification for details (**Attachment H**).

Condition: None

Habitat - Anadromous streams are not within 200 feet of the lot.

Condition: None

Drainage and Snow Storage – The exterior will remain unmodified.

Condition: None

Historic District – The parcel is not located within the Historic District.

Condition: None

Hazard Zones - The parcel is not in a mapped moderate or severe avalanche hazard area per adopted hazard maps (Ordinance 2023-18(am)).

Condition: None

Property Value or Neighborhood Harmony – There is no evidence to suggest that the proposed development will be out of character with the existing neighborhood, or that it would reduce property values of neighboring properties. The lot is in a D10 multi-family zoning district and is surrounded by residential uses.

Condition: None

AGENCY REVIEW

CDD conducted an agency review comment period between July 22, 2024, and August16, 2024 and received the following responses:

Agency	Summary
Fire	No Comments Received
Engineering	No Comments Received
Building	No Comments Received

PUBLIC COMMENTS

CDD conducted a public comment period between July 22, 2024 and August 23, 2024. Public notice was mailed to property owners within 500 feet of the proposed development. A public notice sign was also posted on-site two weeks prior to the scheduled hearing. Public comments submitted at time of writing this staff report can be found in Attachment N.

Name	Summary
1. Nick Coti	As owner of the home at 2624 John Street, I am a co-owner of the common wall with 2622 John Street. Despite numerous attempts, I have not been able to make contact with the owner to learn any details of the planned conversion. So, I object to the approval of the conditional use permit until I am assured that it will not adversely affect my home at 2624 John Street.

CONFORMITY WITH ADOPTED PLANS

The proposed development is in general conformity with the 2013 Comprehensive Plan, and the 2015 Juneau Economic Development Plan.

PLAN	Chapter	Page No.	Item	Summary
2013 Comprehensive Plan	3	20	Policy 3.2	Promotes compact urban development within the designated urban service area to ensure efficient utilization of land resources and to facilitate cost effective provisions of community services and facilities.
	4	37	Policy 4.2	Facilitates the provision of an adequate supply of various housing types and sizes to accommodate present and future housing needs for all economic groups.
	11	147	Land Use Designation	Complies with the <i>Medium Density Residential</i> land use designation.
2016 Housing Action Plan	2	35	Production Targets	Creates additional housing, which advances the City's goal of increasing housing stock.

FINDINGS

Conditional Use Permit Criteria – 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?*

Analysis: No further analysis needed.

Finding: Yes. The application contains the information necessary to conduct a full review of the proposed development. 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?*

Analysis: The application is for an accessory apartment within the first floor of an existing, certified nonconforming single-family dwelling. The use is listed at CBJ 49.25.300, Section 1.130 for the D18 zoning district.

Finding: Yes. The requested permit is appropriate according to the Table of Permissible Uses.

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

Analysis: No further analysis needed.

Finding: Yes. With the recommended condition, the proposed development will comply with Title 49, including parking, lighting, and vegetative cover requirements.

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

Analysis: No further analysis needed.

Finding: No. There is no evidence to suggest that, with the recommended condition, the requested accessory apartment, in a D18 zoning district, will 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?*

Analysis: No further analysis is needed.

Finding: No. There is no evidence to suggest that, with the recommended condition, the requested accessory apartment, in a D18 zoning district will substantially decrease the value or be out of harmony with the property in the neighboring area.

6. *Will the proposed development be in general conformity with the Land Use Plan, Thoroughfare Plan, or other policies in the Comprehensive Plan call for compact, in-fill development within the Urban Service Boundary?*

Analysis: Staff finds the proposed development is in general conformity with the land use designation identified in the Comprehensive Plan.

Finding: Yes. The proposed accessory apartment, with the recommended condition, will be in general conformity with the 2013 Comprehensive Plan and the Juneau Economic Development Plan.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE the requested Conditional Use Permit. The permit would allow the development of an accessory apartment within a certified nonconforming structure in a D18 zoning district.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	<i>Application Packet</i>
Attachment B	<i>1956 Bellview Subdivision Plat</i>
Attachment C	<i>1970 Zone Change</i>
Attachment D	<i>1983 Conditional Use Permit</i>
Attachment E	<i>1984 As built</i>
Attachment F	<i>1985 Certificate of Occupancy</i>
Attachment G	<i>PAC Report</i>
Attachment H	<i>NCC Report</i>
Attachment I	<i>Public Comment No. 1</i>
Attachment J	<i>Public Notice Photos</i>
Attachment K	<i>Apartment Parking Plan</i>

USE



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications. This form and all documents associated with it are public record once submitted.

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address 2622 John St Juneau AK 99801		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) BELLEVIEW BL G LT 8D		
	Parcel Number(s) 1D050L120067		
	☐ This property is located in the downtown historic district ☐ This property is located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner Eva & Daniel Melancon	Contact Person Eva Melancon	
	Mailing Address 2622 John St Juneau AK 99801	Phone Number(s) 304-932-2205	
	E-mail Address eva.melancon@gmail.com		
	LANDOWNER/ LESSEE CONSENT		
Required for Planning Permits, not needed on Building/ Engineering Permits. Consent is required of all landowners/ lessees. If submitted with the application, alternative written approval may be sufficient. Written approval must include the property location, landowner/ lessee's printed name, signature, and the applicant's name. I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for the City and Borough of Juneau officials/employees to inspect my property as needed for purposes of this application.			
Eva Melancon Landowner Landowner/Lessee (Printed Name) Title (e.g.: Landowner, Lessee) X Eva Melancon Digitally signed by Eva Melancon DN: cn=Eva Melancon, o, ou, email=eva.melancon@gmail.com, c=US Date: 2024.04.03 19:28:33 -08'00' 6/3/2024 Landowner/Lessee (Signature) Date Daniel Melancon Landowner Landowner/Lessee (Printed Name) Title (e.g.: Landowner, Lessee) X MELANCON.DANIEL.EUGENE.1290326601 Digitally signed by MELANCON.DANIEL.EUGENE.1290326601 Date: 2024.06.13 12:07:14 -04'00' 6/13/2024 Landowner/Lessee (Signature) Date NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours. We will make every effort to contact you in advance, but may need to access the property in your absence and in accordance with the consent above. Also, members of the Planning Commission may visit the property before a scheduled public hearing date.			
APPLICANT			
If same as LANDOWNER, write "SAME"			
Applicant (Printed Name) same		Contact Person same	
Mailing Address same		Phone Number(s) same	
E-mail Address same			
X Eva Melancon Digitally signed by Eva Melancon Date: 2024.04.02 11:26:48 -08'00' 4/2/2024		Date of Application	
Applicant's Signature			

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Intake Initials JAM	Case Number USE 24-012	Date Received 6/17/24
------------------------	---------------------------	--------------------------



ALLOWABLE/CONDITIONAL USE PERMIT APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

PROJECT SUMMARY

convert 1st floor of our 3 floor duplex into an accessory dwelling apartment. change laundry room to kitchenette by adding stove and fridge, move washer/dryer, adding entry door. the bathroom and other 2 rooms we are not expecting any changes to.

TYPE OF ALLOWABLE OR CONDITIONAL USE PERMIT REQUESTED

- ☒ Accessory Apartment – Accessory Apartment Application (AAP)
☐ Use Listed in 49.25.300 – Table of Permissible Uses (USE)
 Table of Permissible Uses Category: _____

IS THIS A MODIFICATION or EXTENSION OF AN EXISTING APPROVAL?

☒ YES – Case # PAC2024 0025 ☐ NO

UTILITIES PROPOSED

WATER: ☐ Public ☒ On Site SEWER: ☐ Public ☒ On Site

SITE AND BUILDING SPECIFICS

Total Area of Lot 2,070 square feet Total Area of Existing Structure(s) 1,640 square feet
 Total Area of Proposed Structure(s) 1,640 square feet

EXTERNAL LIGHTING

Existing to remain ☐ No ☒ Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures
 Proposed ☒ No ☐ Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures

ALL REQUIRED DOCUMENTS ATTACHED

☒ Narrative including:

- ☒ Current use of land or building(s)
☒ Description of project, project site, circulation, traffic etc.
☒ Proposed use of land or building(s)
☒ How the proposed use complies with the Comprehensive Plan

If this is a modification or extension include:

- ☐ Notice of Decision and case number
☐ Justification for the modification or extension
☐ Application submitted at least 30 days before expiration date

☒ Plans including:

- ☒ Site plan
☒ Floor plan(s)
☒ Elevation view of existing and proposed buildings
☒ Proposed vegetative cover
☒ Existing and proposed parking areas and proposed traffic circulation
☒ Existing physical features of the site (e.g.: drainage, habitat, and hazard areas)

To be completed by Applicant

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

ALLOWABLE/CONDITIONAL USE FEES				
	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>350.00</u>			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ <u>50.00</u>			
Pub. Not. Sign Deposit	\$ <u>100.00</u>			
Total Fee	\$ <u>500.00</u>			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number	Date Received
USE24-012	6/17/24

Allowable/Conditional Use Permit Application Instructions

Allowable Use permits are outlined in CBJ 49.15.320, Conditional Use permits are outline in CBJ 49.15.330

Pre-Application Conference: A pre-application conference is required prior to submitting an application. There is no fee for a pre-application conference. The applicant will meet with City & Borough of Juneau and Agency staff to discuss the proposed development, the permit procedure, and to determine the application fees. To schedule a pre-application conference, please contact the Permit Center at 586-0770 or via e-mail at permits@juneau.org.

Application: An application for an Allowable/Conditional Use Permit will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed Allowable/Conditional Use Permit Application and Development Permit Application forms.
2. **Fees:** Fees generally range from \$350 to \$1,600. Any development, work, or use done without a permit issued will be subject to double fees. All fees are subject to change.
3. **Project Narrative:** A detailed narrative describing the project.
4. **Plans:** All plans are to be drawn to scale and clearly show the items listed below:
 - A. Site plan, floor plan and elevation views of existing and proposed structures
 - B. Existing and proposed parking areas, including dimensions of the spaces, aisle width and driveway entrances
 - C. Proposed traffic circulation within the site including access/egress points and traffic control devices
 - D. Existing and proposed lighting (including cut sheets for each type of lighting)
 - E. Existing and proposed vegetation with location, area, height and type of plantings
 - F. Existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.)

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the permit request the application may be required to be reviewed by other municipal boards and committees. During this review period, the Community Development Department also sends all applications out for a 15-day agency review period. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: All Allowable/Conditional Use Permit Applications must be reviewed by the Planning Commission for vote. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting.

Public Notice Responsibilities: Allowable/Conditional Use requests must be given proper public notice as outlined in CBJ 49.15.230:

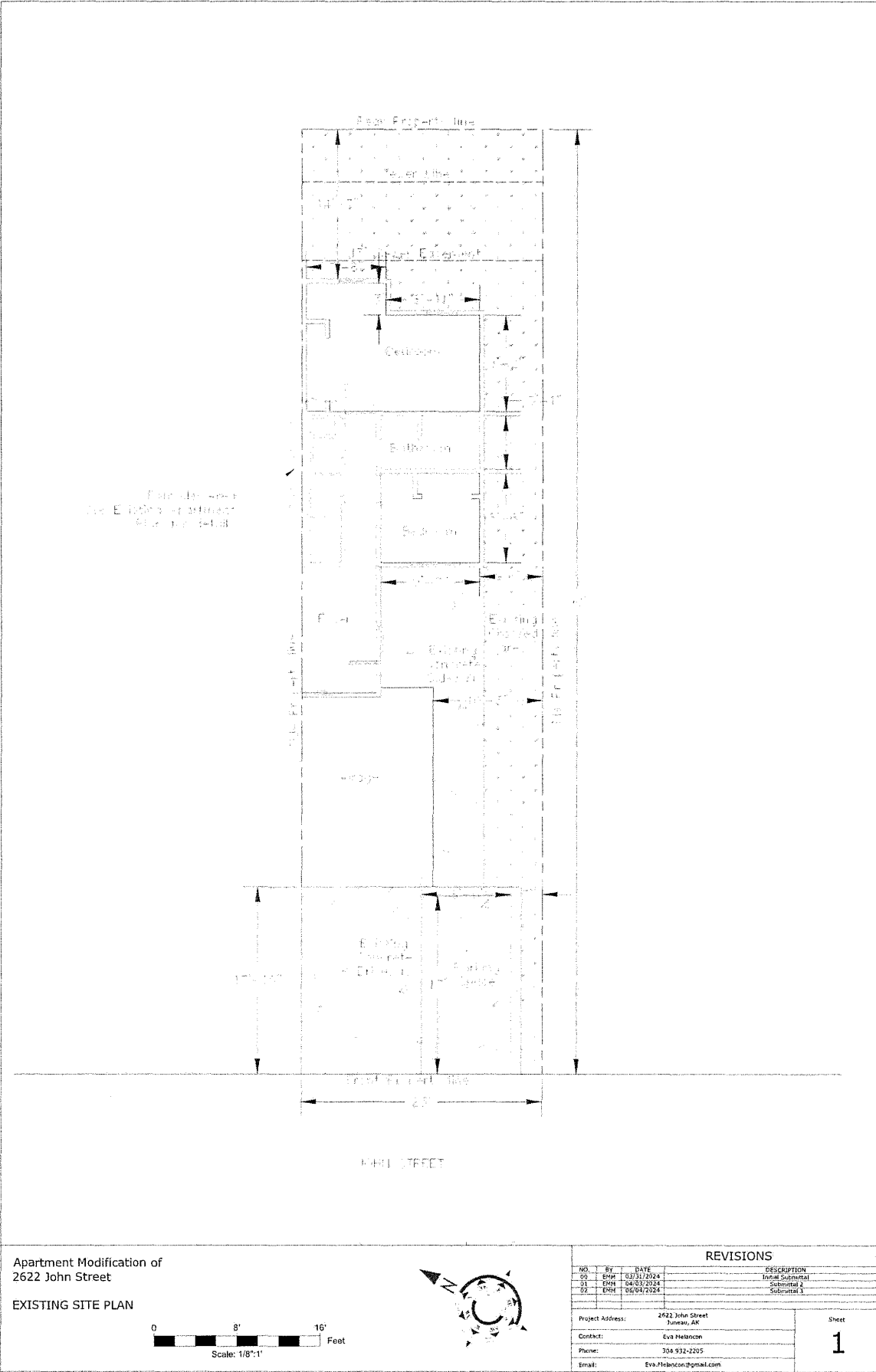
The Community Development Department will give notice of the pending Planning Commission meeting and its agenda in the local newspaper a minimum of 10-days prior to the meeting. Furthermore, CDD will mail notices to all property owners within 500-feet of the project site.

The Applicant will post a sign on the site at least 14 days prior to the meeting. The sign shall be visible from a public right-of-way or where determined appropriate by CDD. Signs may be produced by the Community Development Department for a preparation fee of \$50, and a \$100 deposit that will be refunded in full if the sign is returned within seven days of the scheduled hearing date. If the sign is returned between eight and 14 days of the scheduled hearing \$50 may be refunded. The Applicant may make and erect their own sign. Please contact the Community Development Department for more information.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Narrative:

We have a 3-story ~~duplex~~ ^{common wall} and we want to turn our first floor into a 1 bedroom accessory apartment. It currently has 2 bedrooms, a full bathroom and a laundry room with sink. We only plan to move the washer and dryer to the foyer closet about 50ft away from the current location and add a refrigerator, stovetop, microwave oven and kitchen cabinets in place of the washer and dryer. The sink would remain. The 2 bedrooms and full bathroom will remain unchanged. We'll add a entry door, 45 minute fire door as required. There is an existing off-street parking spot to be used for this apartment. Nothing is planned for outside of the house.





(907) 586-0715
CDD_Admin@juneau.gov
www.juneau.org/community-development
155 Heritage Way • Juneau, AK 99801

Accessory Dwelling Unit/Apartment Remodel

Case Number: PAC2024 0025
Applicant: Eva Melancon
Property Owner: Daniel Melancon
Property Address: 2622 John Street
Parcel Code Number: 1D050L120067
Site Size: 2,070 sq ft / 0.04 ac
Zoning: D18 Multifamily
Existing Land Use: Residential

Conference Date: May 22, 2024
Report Issued: May 30, 2024

DISCLAIMER: Pre-application conferences are conducted for the purpose of providing applicants with a preliminary review of a project and timeline. Pre-application conferences are not based on a complete application and are not a guarantee of final project approval.

List of Attendees

Note: Copies of the Pre-Application Conference Report will be emailed, instead of mailed, to participants who have provided their email address below.

Name	Title	Email address
Eva Melancon	Applicant	Eva.Melancon@gmail.com
Jay Larson	Planning	Jason.Larson@uneau.gov
Irene Gallion	Planning	Irene.Gallion@juneau.gov
Jeff Hedges	Building	Jeffrey.Hedges@juneau.gov
Bridget LaPenter	General Engineering	Bridget.LaPenter@juneau.gov
Sydney Hawkins	Permit Center	Permits@juneau.gov

Pre-Application Conference Final Report

Conference Summary

Questions/issues/agreements identified at the conference that weren't identified in the attached reports.

The following is a list of issues, comments, and proposed actions, and requested technical submittal items that were discussed at the pre-application conference.

Conditional Use Permit Process:

- Submit the application and back-up materials (listed on the back of the application).
 - Electronic submissions accepted at Permits@juneau.gov. Note that the permit center will call you for payment when the application is processed. Applications are submitted in the order in which they are received, and it may be a few days before you get a call.
- The project will be assigned to a planner. They will review submitted materials, and coordinate where necessary. When the planner assesses the file is complete, they will schedule a hearing before the Planning Commission.
 - A notice will be sent to property owners within 500 feet of the project.
 - There will be two newspaper ads for the case.
 - The Applicant is required to post a Public Notice sign, which will be provided by CDD. The sign must be posted two weeks before the hearing.
 - Staff will prepare a report analyzing the project, and make a recommendation to the Commission. The report will be publicly available the week before the hearing.
- At the Planning Commission meeting, the project can be:
 - On the Consent Agenda, where it will be passed without discussion.
 - On the Regular Agenda:
 - The Director will briefly describe the project.
 - The Applicant has 15 minutes to describe the project.
 - The public has the opportunity to comment. There is usually a time limit of two to three minutes.
 - The Applicant has time to respond to issues raised.
 - Public comment is closed and there is no additional opportunity to participate.
- The Planning Commission will:
 - Approve the project
 - Approve the project with conditions (the most common outcome)
 - Deny the project
 - Continue the project – if more information is required or if the Commission runs out of time.
- The decision can be appealed for 20 days after the Notice of Decision is filed with the City Clerk. If the decision is appealed, the Applicant can continue with their project at their own risk.

Videos of the Planning Commission activities are posted on Assembly's Minutes and Agendas site.

<https://juneau-ak.municodemeetings.com/>

Project Overview

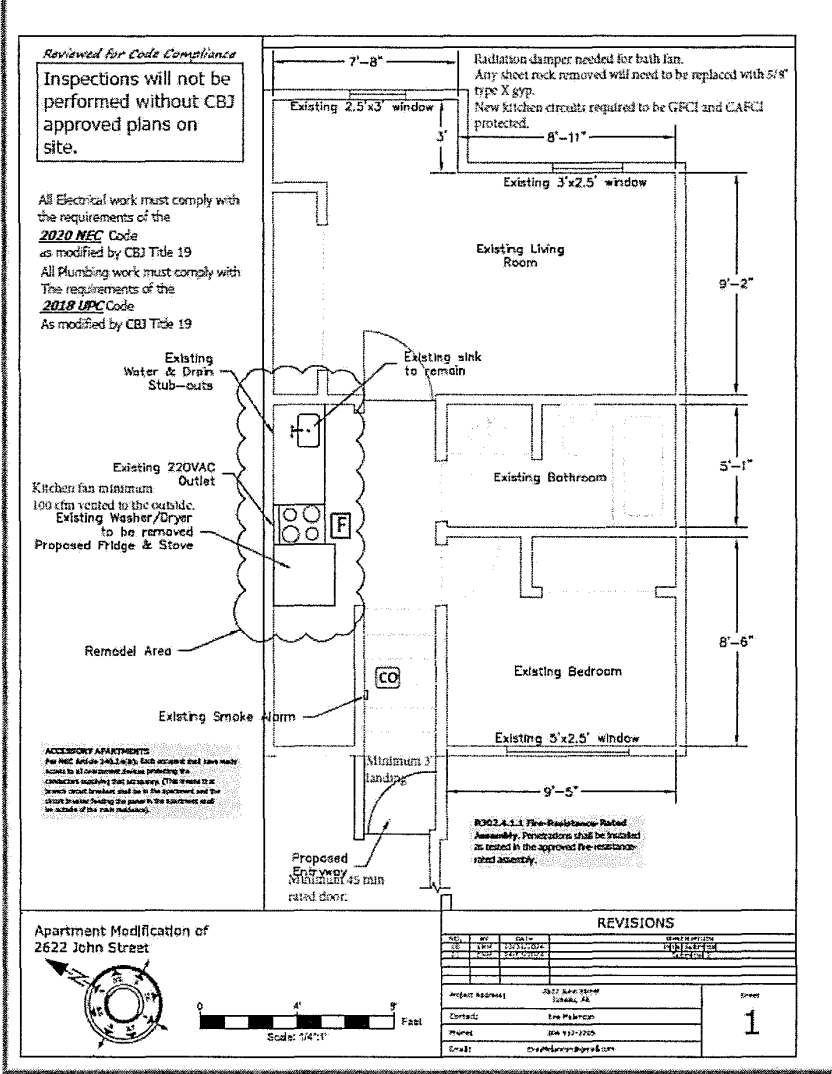
The property is located on Douglas Island and is part of the Bellevue subdivision.

The applicant proposes:

- Remodel the first floor of a two story, common wall dwelling into an Accessory Dwelling Unit (ADU)
- Convert the laundry room area into a full kitchen and add a washer/dryer combo.

Pre-Application Conference Final Report

Application for the Accessory Apartment Grant has been submitted with Building Permit No. BLD2024-0191



Because the proposed apartment is on a lot less than minimum size required in D18, the Planning Commission must approve the ADU [CBJ 49.25.510(k)(2)(E)(ii)]. This ADU cannot exceed 600 square feet.

The property requires nonconforming certification for lot and structure before development can proceed. The certification can be applied for at the same time as the Conditional Use permit.

Planning Division

- 1. **Zoning** – D18 No special overlays recorded.
- 2. **Table of Permissible Uses (TPU)** – In D18 zoning district, Accessory apartments are allowed in Common wall developments with a Conditional Use Permit (CUP) according to the TPU.
- 3. **Subdivision** – N/A.

Pre-Application Conference Final Report

4. **Setbacks** – Required setbacks for D18 are: 20 ft. front, 10 ft. rear, 5 ft. side and zero lot line for existing common wall. Existing front setback is set at 15 ft and is not within the allotted setbacks.
5. **Lot Size** – The minimum lot size for D18 is 2,500 sq ft. This is an undersized lot at 2,070 sq ft. The structure will need to be certified nonconforming for setbacks and lot size before Planning Commission review of the CUP.
6. **Height** – A maximum building height of 35 ft. is allowable.
7. **Access** – John St
8. **Parking & Circulation** – 2 spaces required for primary dwelling, 1 space required for ADU.
9. **Lot Coverage** – 50%
10. **Vegetative Coverage** – The single-family dwelling covers approximately 63% of the lot. The minimum vegetative coverage of 20% is not met. This will be certified during the nonconforming review process.
11. **Lighting** – N/A
12. **Noise** – N/A
13. **Flood** – Not in a flood zone/Flood Panel 02110C1566E
14. **Hazard/Mass Wasting/Avalanche/Hillside Endorsement** – Not Mapped
15. **Wetlands** – None
16. **Habitat** – Check with the U.S. Fish and Wildlife Service on the presence of eagle nests in the area. The presence of eagle nests may impact construction scheduling. No anadromous streams within 50 feet of the development.
17. **Plat Restrictions** – None shown on Plat No. 84-160
18. **Traffic** – Traffic analysis information was researched in the Institute of Transportation Engineers, 9th Edition, Volume II and found to be well under the requirement. Traffic analysis survey not required.
19. **Nonconforming Situations** – A Nonconforming Certificate (for lot, structure, and vegetative cover) is required prior to the issuance of a building permit or land use permit. The Nonconforming Certificate can be applied for with the Conditional Use Permit.

Building Division

1. **Building** – Associated building permit #BLD20240191 is currently in review.
2. **Outstanding Permits** – None.

General Engineering/Public Works

3. **Engineering** – N/A, interior remodel.
4. **Drainage** – N/A, interior remodel.
5. **Utilities** – A water meter shall be required due to the increase in dwelling units. The associated utility permit may include an additional water assessment fee, dependent on the current line size.

Fire Marshal

6. **Fire Items/Access** – N/A

Other Applicable Agency Review

7. **USF&W** – Eagle Nests

List of required applications

Based upon the information submitted for pre-application review, the following list of applications must be submitted in order for the project to receive a thorough and speedy review.

- 1. Round 1 of applications:
 - a. Nonconforming Certification Review (NCC)
 - b. Conditional Use Permit (CUP)
- 2. Round 2 of applications (contingent on CUP approval):
 - a. Accessory Apartment Permit
 - b. Building Permit

Additional Submittal Requirements

Submittal of additional information, given the specifics of the development proposal and site, are listed below. These items will be required in order for the application to be determined Counter Complete.

- 1. A copy of this pre-application conference report.
- 2. Project narrative
- 3. Floor plan with square footage measurements
- 4. Waterline information sheet

Exceptions to Submittal Requirements

Submittal requirements that staff has determined **not** to be applicable or **not** required, given the specifics of the development proposal, are listed below. These items will **not** be required in order for the application to be reviewed.

- 5. None

Fee Estimates

The preliminary plan review fees listed below can be found in the CBJ code section 49.85.

Based upon the project plan submitted for pre-application review, staff has attempted to provide an accurate estimate for the permits and permit fees which will be triggered by your proposal.

Round 1 Submission		
Case/ Fee Type	Fee amount (\$)	Notes
Nonconforming Certification Review (NCC)	0.00	Waived when submitted in conjunction with a major development permit application.
Conditional Use Permit (USE or CUP)	350.00	Class I use in accordance with CBJ 49.85.100(3)(A)(iii).
Public Notice Sign	150.00	\$100 refundable deposit
	500.00	

Pre-Application Conference Final Report

Round 2 Submission		
Case/ Fee Type	Fee amount (\$)	Notes
Accessory Apartment	0.00	Staff review, no charge
Accessory Apartment Grant Application	0.00	
Building Permit	TBD	Overall cost estimate of the project
	TBD	

For informational handouts with submittal requirements for development applications, please visit our website at www.juneau.org/community-development.

Submit your Completed Application

You may submit your application(s) online via email to permits@juneau.gov

OR in person with payment made to:

City & Borough of Juneau, Permit Center
 230 South Franklin Street
 Fourth Floor Marine View Center
 Juneau, AK 99801

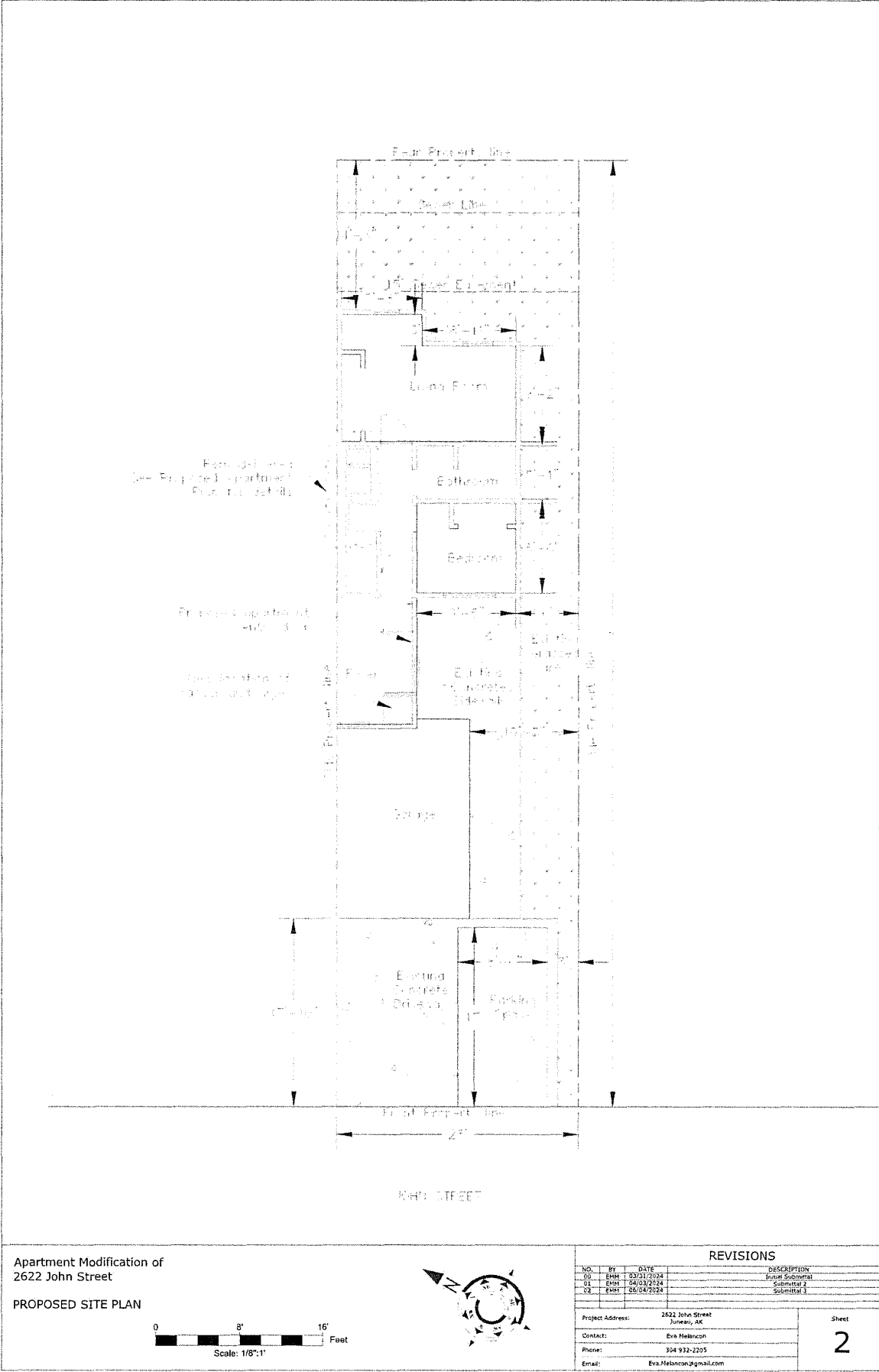
Phone: (907) 586-0715
 Web: www.juneau.org/community-development

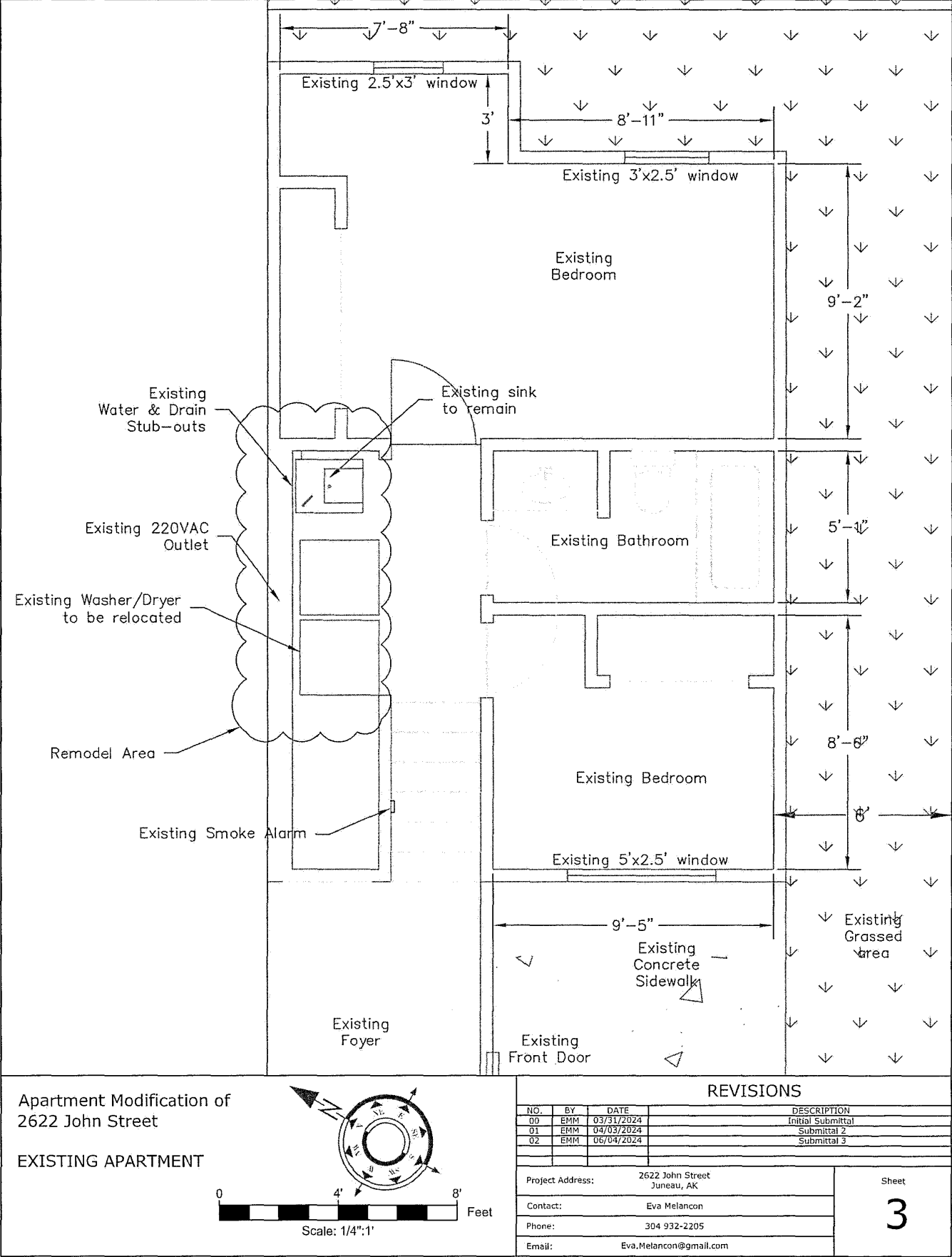
Attachments:

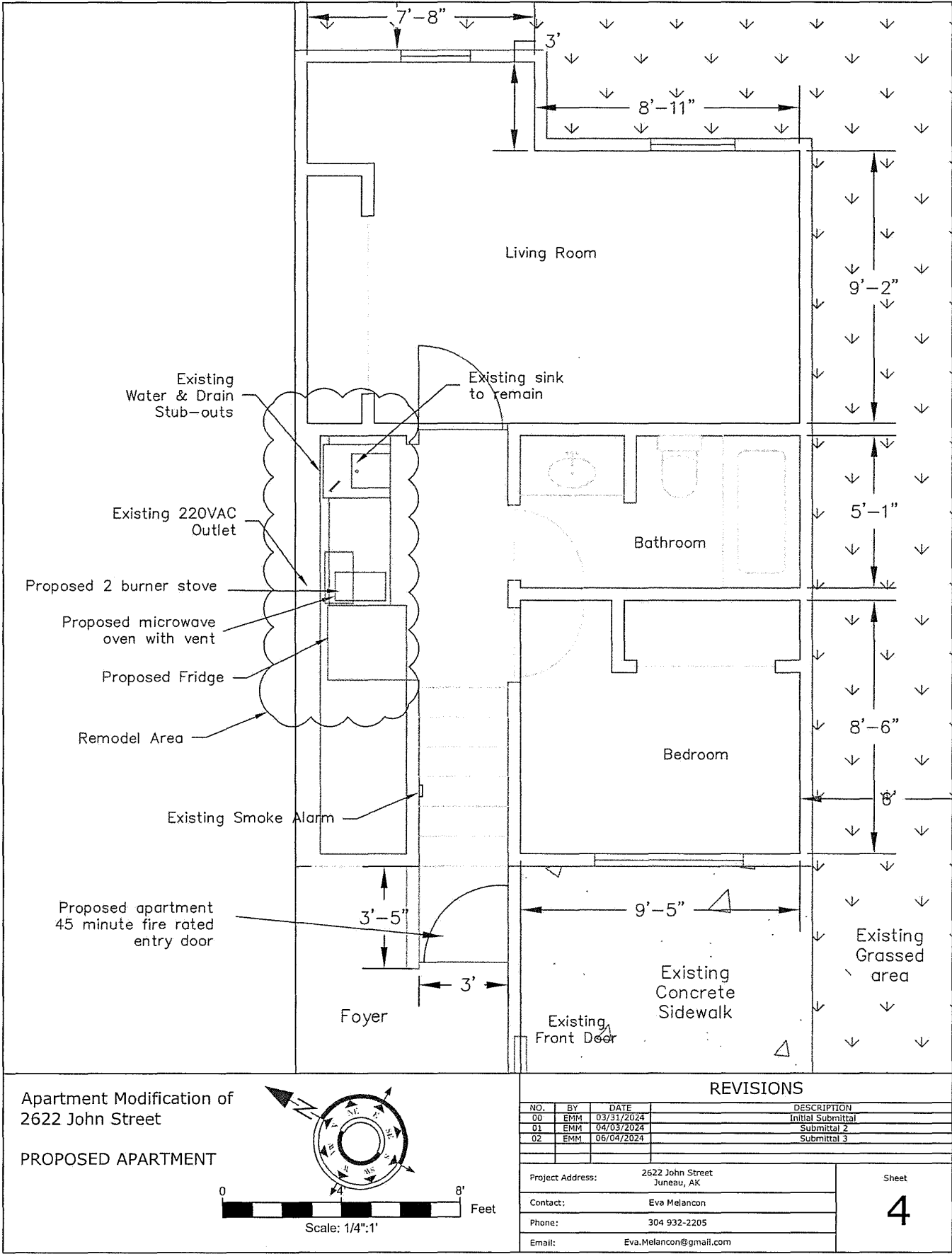
- 49.15.330 – if a Conditional Use Permit
- 49.25.510(k) – Accessory apartments
- 49.30.110-270 – Nonconforming Situations
- 49.35.410(c) – Residential wastewater- property owner responsibility

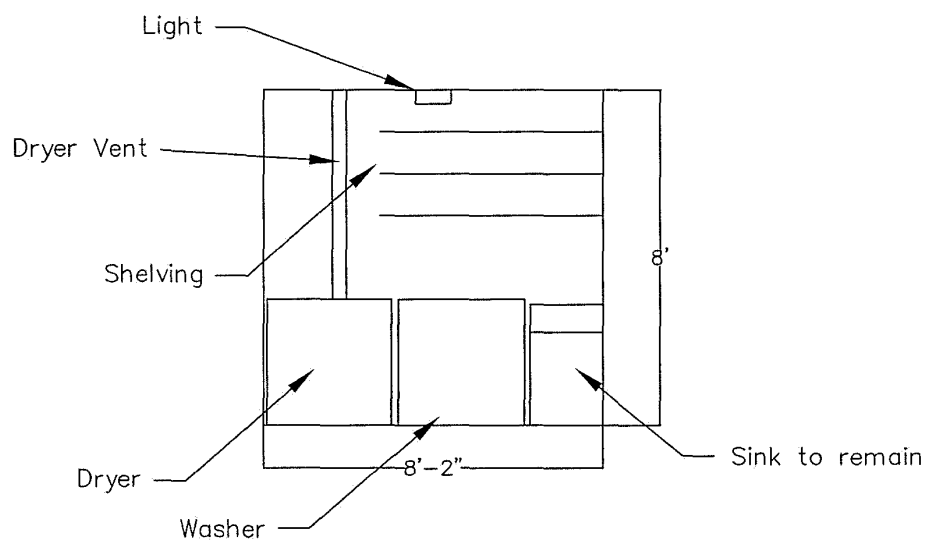
Applications:

- Development Permit Application
- Conditional Use Permit Application
- Nonconforming Certification Review Application



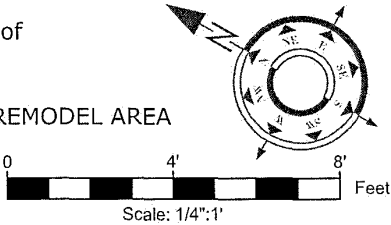






Apartment Modification of
2622 John Street

EXISTING PROFILE OF REMODEL AREA



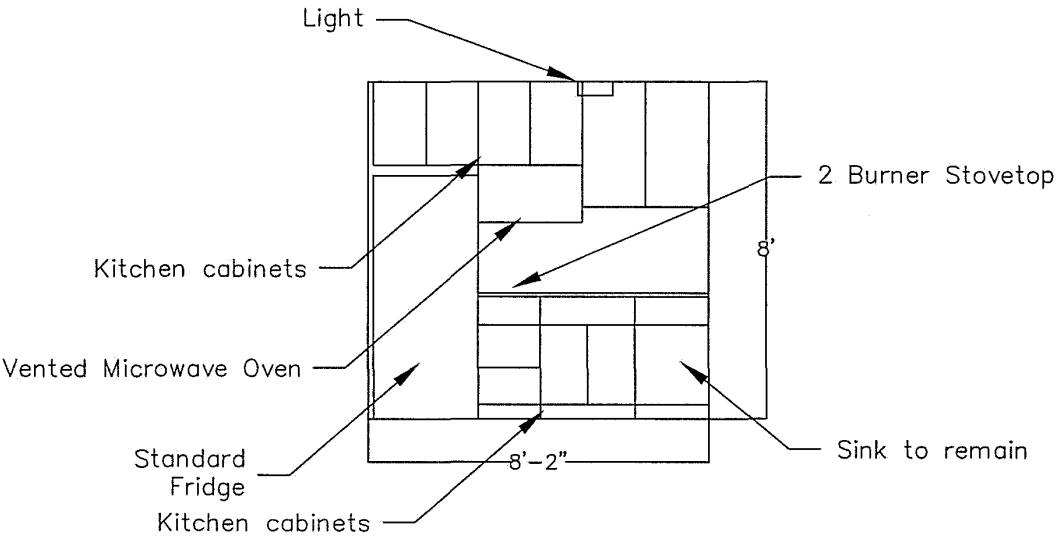
REVISIONS

NO.	BY	DATE	DESCRIPTION
00	EMM	03/31/2024	Initial Submittal
01	EMM	04/03/2024	Submittal 2
02	EMM	06/04/2024	Submittal 3

Project Address:	2622 John Street Juneau, AK
Contact:	Eva Melancon
Phone:	304 932-2205
Email:	Eva.Melancon@gmail.com

Sheet

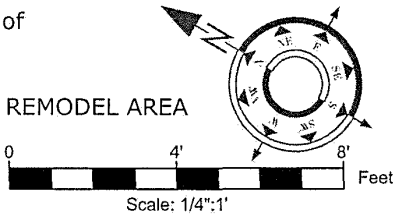
5



- Notes:
- 1. Microwave will include stove vent with minimum 100 cfm vented to outside.
 - 2. 3 Kitchen electrical outlets to be added in addition to appliance outlets.

Apartment Modification of
2622 John Street

PROPOSED PROFILE OF REMODEL AREA



REVISIONS

NO.	BY	DATE	DESCRIPTION
00	EMM	03/31/2024	Initial Submittal
01	EMM	04/03/2024	Submittal 2

Project Address:	2622 John Street Juneau, AK
Contact:	Eva Melancon
Phone:	304 932-2205
Email:	Eva.Melancon@gmail.com

Sheet

6

5/20/24, 9:09 AM

Juneau, AK Code of Ordinances

49.15.330 - Conditional use permit.

- (a) *Purpose.* A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission determines that these impacts cannot be satisfactorily overcome, the permit shall be denied.
- (b) *Preapplication conference.* Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the conditional use permit procedure. The director shall discuss with the developer, regulation which may limit the proposed development as well as standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this subsection shall be provided to the developer at the conference.
- (c) *Submission.* The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.
- (d) *Director's review procedure.*
 - (1) The director shall endeavor to determine whether the application accurately reflects the developer intentions, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
 - (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.
 - (3) The director shall forward the application to the planning commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor. The director shall make those determinations specified in subsections (1)(A)—(1)(C) of subsection (e) of this section.
 - (4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
 - (5)

5/20/24, 9:09 AM

Juneau, AK Code of Ordinances

Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:

- (A) Will materially endanger the public health or safety;
- (B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
- (C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

(e) *Review of director's determinations.*

(1) At the hearing on the conditional use permit, the planning commission shall review the director's report to consider:

- (A) Whether the proposed use is appropriate according to the table of permissible uses;
- (B) Whether the application is complete; and
- (C) Whether the development as proposed will comply with the other requirements of this title.

(2) The commission shall adopt the director's determination on each item set forth in paragraph (1) of this subsection (e) 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.

(f) *Commission determinations; standards.* Even if the commission adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the 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) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

(g) *Specific conditions.* The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

- (1) *Development schedule.* A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighborhood, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.
- (2) *Use.* Use of the development may be restricted to that indicated in the application.

about:blank

2/4

5/20/24, 9:09 AM

Juneau, AK Code of Ordinances

- (3) *Owners' association.* The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.
- (4) *Dedications.* Conveyance of title, easements, licenses, or other property interests to government entities, private or public utilities, owners' associations, or other common entities may be required.
- (5) *Performance bonds.* The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted may provide for partial releases.
- (6) *Commitment letter.* The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
- (7) *Covenants.* The commission may require the execution and recording of covenants, servitudes, or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
- (8) *Revocation of permits.* The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the sole responsibility of the owner to apply for a new permit. In other cases, any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.
- (9) *Avalanche areas.* Development in moderate and severe avalanche hazard areas shown on the Avalanche Hazard Designation Mapping, dated April 27, 2022, and attached to Serial No. 2023-18(am) as Appendix A, must minimize the risk to life and property.
- (10) *Habitat.* Development in the following areas may be required to minimize environmental impact:
 - (A) Developments in wetlands and intertidal areas.
- (11) *Sound.* Conditions may be imposed to discourage production of more than 65 dBa at the property line during the day or 55 dBa at night.
- (12) *Traffic mitigation.* Conditions may be imposed on development to mitigate existing or potential traffic problems on arterial or collector streets.
- (13) *Water access.* Conditions may be imposed to require dedication of public access easements to streams, lake shores and tidewater.
- (14) *Screening.* The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.

5/20/24, 9:09 AM

Juneau, AK Code of Ordinances

- (15) *Lot size or development size.* Conditions may be imposed to limit lot size, the acreage to be developed or the total size of the development.
- (16) *Drainage.* Conditions may be imposed to improve on and off-site drainage over and above the minimum requirements of this title.
- (17) *Lighting.* Conditions may be imposed to control the type and extent of illumination.
- (18) *Other conditions.* Such other conditions as may be reasonably necessary pursuant to the standards listed in subsection (f) of this section.

(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 2, 6-5-2006; Serial No. 2015-03(c)(am), § 9, 8-31-2015; Serial No. 2017-29, § 3, 1-8-2018, eff. 2-8-2018; Serial No. 2023-18(am), § 3, 12-11-2023, eff. 1-11-2024)

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

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.
- (d) *Two-unit dwellings.*
 - (1) *Duplexes.* The minimum lot size for a duplex dwelling shall be at least 150 percent of the square footage required for a single-family dwelling in the same zoning district, except in multi-family, mixed-use, and commercial zoning districts, where duplexes may be constructed on any lot of sufficient size for two dwelling units.
 - (2) *Reserved.*
- (e) *Detached single-family dwellings.* Two detached single-family dwellings located on a single lot within the Rural Reserve D1 and D3 zoning districts shall each meet 100 percent of the applicable square-footage requirement.
- (f) *Reserved.*
- (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)

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

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.
- (k) *Accessory apartments.* No person shall construct or maintain an accessory apartment except in accordance with a permit issued under this section.
 - (1) *Application.* Accessory apartment applications shall be submitted on a form provided by the director and shall include:
 - (A) A completed application form;
 - (B) The application fee required by chapter 49.85;
 - (C) A site plan drawn to scale or dimensioned indicating all required parking, minimum setbacks, and actual lot size; and
 - (D) A floor plan drawn to scale or dimensioned indicating all dwelling units and including each room labeled as to use;
 - (E) A statement that the property is connected to sewer. If the property is not connected to sewer, a statement from the department of environmental conservation confirming that the existing wastewater disposal system is sufficient for the development, including the proposed accessory apartment, and a statement from a qualified inspector that the existing wastewater disposal system is functioning as designed.

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

(2) *Approval standards.*

- (A) Unless otherwise provided, the accessory apartment shall be a one-bedroom or efficiency unit not exceeding 600 square feet in net floor area.
- (B) Areas common to more than one dwelling unit - including entry ways, furnace rooms, laundry rooms, and interior stairways - shall not be included in the computation of the net floor area for the accessory apartment.
- (C) The minimum lot size as used in this section refers to the minimum lot size for permissible uses listed in the table of dimensional standards, CBJ 49.25.200.
- (D) A permit under this subsection may be issued if the applicant establishes:
 - (i) The development meets all setback requirements;
 - (ii) The total building footprint does not exceed the maximum lot coverage allowable under section 49.25.400, the table of dimensional standards, or, in the case of nonconforming structures, the total building footprint does not increase with the proposed accessory apartment;
 - (iii) The development does not violate the vegetative cover requirements imposed by section 49.50.300; or, in the case of nonconforming structures, the proposed accessory apartment does not decrease the existing vegetative cover;
 - (iv) The development meets the parking standards required by chapter 49.40; and
 - (v) The development is connected to public sewer or the existing wastewater disposal system has adequate capacity for the development, including the proposed accessory apartment.
- (E) Single-family detached accessory apartment approval.
 - (i) The director may approve a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:
 - (a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area and is on a lot that exceeds the minimum lot size; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.
 - (ii)

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.
- (iii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 125 percent of the minimum lot size.
- (F) Single-family detached, two dwellings per lot, accessory apartment approval.
 - (i) When a lot has two primary dwelling units, each primary dwelling unit may have up to one accessory apartment that is consistent with the requirements of this section. The lot shall not have more than two accessory apartments.
 - (ii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 250 percent of the minimum lot size.
 - (iii) The director may approve a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:
 - (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a double sized lot (two times the minimum lot size), and the lot does not have another accessory apartment in excess of 600 square feet in net floor area; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, on a lot that exceeds 250 percent of the minimum lot size, and the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.
 - (iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:
 - (a)

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;

- (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.

(G) Multifamily dwelling and accessory apartment approval. Unless authorized by this section, an accessory apartment is prohibited in multifamily, commercial, and mixed-use zoning districts.

- (i) The director may approve a 49.25.300.1.300 accessory apartment application if all the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that exceeds the minimum lot size, and the primary use of the lot is a single-family dwelling.

- (ii) The commission may approve, with a conditional use permit, a 49.25.300.1.300 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the primary use of the lot is a single-family dwelling.

(H) Common wall accessory apartment approval.

- (i) Each common wall dwelling may have up to one accessory apartment that does not exceed 600 square feet in net floor area and that is consistent with the requirements of this section.

- (ii) The director may approve a 49.25.300.1.911 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that exceeds the minimum lot size.

- (iii) The commission may approve, with a conditional use permit, a 49.25.300.1.911 accessory apartment application if all of the requirements of this section and the following are met:

- (a)

5/20/24, 10:22 AM

Juneau, AK Code of Ordinances

The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size.

(Serial No. 87-49, § 2, 1987; Serial No. 89-33, § 2, 1989; Serial No. 91-01, § 2, 1991; Serial No. 94-07, § 4, 1994; Serial No. 95-33, § 8, 1995; Serial No. 97-49, § 3, 1998; Serial No. 2001-12, § 3, 4-2-2001; Serial No. 2006-15, §§ 5, 6, 6-5-2006; Serial No. 2007-39, § 11, 6-25-2007; Serial No. 2009-22(b), § 3, 10-12-2009; Serial No. 2012-24, § 4, 5-14-2012, eff. 6-14-2012; Serial No. 2012-36, § 3, 9-17-2012; Serial No. 2015-7(b)(am), § 5, 2-23-2015, eff. 3-26-2015; Serial No. 2019-37, § 4, 3-16-2020, eff. 4-16-2020)

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

Chapter 49.30 - NONCONFORMING SITUATIONS

*Footnotes:**--- (1) ---*

Editor's note— Sec. 5 of Serial No. 2019-37, adopted Mar. 16, 2020, and becoming effective Apr. 16, 2020, repealed and replaced Ch. 49.30 in its entirety to read as herein set out. Former Ch. 49.30 pertained to nonconforming development, consisted of §§ 49.30.010—49.30.800, and derived from Serial No. 87-49, 1987; Serial No. 89-05, 1989; Serial No. 89-33, 1989; Serial No. 91-01, 1991; Serial No. 91-03, 1991; Serial No. 91-46, 1991; Serial No. 91-50, 1991; Serial No. 2001-02, adopted Apr. 2, 2001; Serial No. 2006-15, adopted June 5, 2006; Serial No. 2012-36, adopted Sept. 17, 2012; Serial No. 2016-46, adopted Mar. 6, 2017.

Article I. - General

49.30.110 - Purpose.

The purpose of this chapter is to create processes and standards to review nonconforming situations.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.120 - Applicability.

(a) This chapter applies to the following nonconforming situations:

- (1) Nonconforming uses (49.30.230);
- (2) Nonconforming residential densities (49.30.240);
- (3) Nonconforming structures (49.30.250);
- (4) Nonconforming lots (49.30.260); and
- (5) Nonconforming parking (49.30.270).

(b) A property with more than one nonconforming situation is governed by each type of nonconforming situation.

(c) This chapter does not apply to nonconforming signage, which is addressed in chapter 49.45.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

Article II. - Standards

49.30.210 - Nonconforming situations in general.

- (a) *Continuation of nonconforming situations.* Except as otherwise provided in this title, situations made nonconforming by this title may remain.
- (b) *Change of nonconforming situation to comply with this title.* Any nonconforming situation may be changed to comply with this title. Once a nonconforming situation becomes conforming, the nonconforming rights under this chapter are relinquished with respect to that nonconforming situation, and the nonconforming situation must not be re-established.
- (c) *Ownership.* Change in property ownership does not alter the legal status of any nonconforming situation.
- (d) *Routine maintenance and repair.* Nothing in this chapter prohibits normal maintenance or routine repairs, which includes, but is not limited to, roofing repair or replacement, window replacement, and other similar minor structural repairs.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.215 - Accidental damage or destruction.

- (a) *Building official determination.* The building official shall determine the extent and cause(s) of damage and/or destruction under this chapter, pursuant to CBJ Title 19.
- (b) *Continuation of nonconforming rights.* Except as provided in this section, the cost to replace a nonconforming structure or a structure containing a nonconforming use that is damaged accidentally less than or equal to 75 percent of the assessed building value, exclusive of foundation(s), maintains the nonconforming rights.
- (c) *Loss of nonconforming rights.* Except as provided in this section, a nonconforming structure or a structure containing a nonconforming use is deemed destroyed when damaged accidentally and the cost to replace the structure is more than 75 percent of the assessed building value, exclusive of foundation(s). A structure that is deemed destroyed loses all nonconforming rights.
- (d) *Exceptions.*
 - (1)

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

Residential use in non-industrial districts. In non-industrial districts, a nonconforming situation containing exclusively residential use that was damaged or destroyed accidentally, or by any means beyond the control of the owner or the authorized agent of the owner, may be reconstructed regardless of the cost of replacement of the structure subject to the following:

- (A) The nonconforming situation is or has been certified pursuant to section 49.30.310 prior to any work that requires a building permit;
 - (B) Written notice of intent to reconstruct is provided to the department within 365 days of the date the damage or destruction occurred;
 - (C) The total number of dwelling units established by the certification of nonconforming status is not increased;
 - (D) A temporary certificate of occupancy for the structure has been obtained within three years of issuance of the building permit; and
 - (E) Upon a written request demonstrating good cause, the director may approve one 18-month extension for the reconstruction or for obtaining the temporary certificate of occupancy.
- (2) *Residential use in industrial districts.* On property in industrial or waterfront industrial districts, if a structure containing a nonconforming residential use was damaged or destroyed accidentally, or by any means beyond the control of the owner or the authorized agent of the owner, the following applies:
- (A) Nonconforming residential use is maintained and the structure may be rebuilt within three years if all of the following are met:
 - (i) Nonconforming residential use is or has been certified pursuant to the procedures set forth in section 49.30.310;
 - (ii) The cost to replace the structure is less than 75 percent of the assessed building value, exclusive of foundation(s);
 - (iii) Written notice of intent to reconstruct is provided to the department within 365 days of the date the accidental damage or destruction occurred as determined by the building official;
 - (iv) The reconstruction complies with applicable zoning district dimensional, development, and design standards, including, but not limited to: setbacks, parking, and landscaping that apply to new development.
 - (B) If a temporary certificate of occupancy for the structure has not been obtained within three years of issuance of a building permit, the nonconforming residential use rights are relinquished.
 - (C) Upon a written request demonstrating good cause, the director may approve one 18-month extension for the reconstruction or for obtaining the temporary certificate of occupancy.

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

- (e) *Reconstruction footprint.* Reconstruction allowed pursuant to this section may be in the existing footprint except for encroachments into rights-of-way or adjacent property.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.220 - Abandonment of a nonconforming situation.

- (a) The abandonment of a nonconforming situation relinquishes all nonconforming rights associated with that situation. The existence of an abandoned nonconforming situation becomes a noncompliant situation and subjects the property to enforcement actions consistent with this title.
- (b) A nonconforming situation is abandoned if any of the following events occur:
- (1) The owner indicates in writing that the nonconforming situation is being permanently discontinued;
 - (2) The nonconforming situation is damaged, destroyed, removed or demolished intentionally by the owner or intentionally by an authorized agent of the owner;
 - (3) The nonconforming structure is moved;
 - (4) The owner takes action consistent with an intent to abandon the nonconforming situation;
 - (5) The structure(s) associated with the nonconforming situation has been vacant for 365 consecutive days;
 - (6) Except for a structure with a nonconforming residential density, the nonconforming use has ceased and not substantially resumed for 365 consecutive days; or
 - (7) A structure with a nonconforming residential density has been unoccupied for 1095 consecutive days.
- (c) Determination of abandonment shall be made by the director and supported by written findings. An abandonment determination may be reconsidered within 20 days of the date of the determination. No appeal of an abandonment determination may be made unless reconsideration is first sought.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.225 - Reconsideration of abandonment determination.

- (a) A director's determination of abandonment under 49.30.220 may be reconsidered if information submitted establishes all of the following:

about:blank

4/9

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

- (1) The owner has been maintaining the land and structure(s) in accordance with applicable building, fire, and other codes and regulations;
- (2) The owner has been maintaining or pursuing applicable permits and licenses; and
- (3) The owner has filed applicable tax documents.
- (b) Other factors that may be considered include whether:
 - (1) The applicant has been engaged in activities that are consistent with or would affirmatively prove there was no intent to abandon, such as actively and continuously marketing the land, business, or structure for sale or lease; and
 - (2) The applicant has applied for a nonconforming certificate in accordance with section 49.30.310.
- (c) The burden of proof for overcoming a determination of abandonment is on the applicant.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.230 - Nonconforming uses.

- (a) *Expansion of nonconforming use.* A nonconforming use within a structure may not be expanded to other structures or to other land beyond the original structure. A nonconforming use of land may not be increased or extended.
- (b) *Modifications to nonconforming use.* Modifications to a nonconforming use are permissible and do not constitute a change or expansion of the nonconforming use provided the modification does not impose a significant or new impact that is out of harmony with the neighborhood, as determined by the director.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.240 - Nonconforming residential densities.

- (a) *Applicable zoning districts.* This section applies only to nonconforming residential density situations on property located in zoning districts other than industrial and waterfront industrial.
- (b) *Modification of existing dwelling units.* A structure containing nonconforming residential density may be modified subject to the following:
 - (1) The nonconforming residential density is certified pursuant to the procedures provided in section 49.30.310 prior to commencing any modification that requires a building permit; and

5/20/24, 10:23 AM

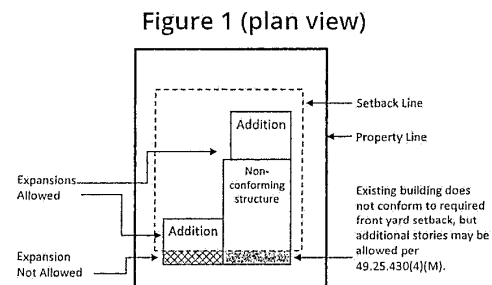
Juneau, AK Code of Ordinances

(2) Applicable dimensional standards and parking requirements are met unless otherwise provided in this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.250 - Nonconforming structures.

- (a) Except as otherwise provided in this chapter, a nonconforming structure may be enlarged, altered, or reconstructed as long as the enlargement, alteration, or reconstruction does not increase or aggravate the nonconforming situation and complies with other dimensional and parking standards of this title. (See Figure 1.)



- (b) Certification of nonconforming status pursuant to section 49.30.310 must be obtained prior to any enlargement, alteration, or reconstruction of a nonconforming structure.
- (c) Renovations within an existing structure shall not be considered an enlargement, alteration, or reconstruction for purposes of this section.
- (d) Projections allowed in yard setbacks under CBJ 49.25.430(4) shall not be considered to increase or aggravate a nonconforming situation.
- (e) This subsection shall not be interpreted to allow the expansion of a nonconforming use or nonconforming residential density, which are governed by sections 49.30.230 and 49.30.240.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.260 - Nonconforming lots.

about:blank

6/9

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

- (a) A property owner of a nonconforming lot has the same development rights as a property owner of a conforming lot, provided the owner first obtains nonconforming certification pursuant to section 49.30.310.
- (b) An undeveloped nonconforming lot that adjoins one or more lots under common ownership and each lot has frontage on a right-of-way, the undeveloped lot(s) may each be developed with a single-family dwelling or as otherwise provided in this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.270 - Nonconforming parking.

- (a) A nonconforming parking situation may be reconstructed if:
 - (1) The number of parking spaces does not decrease;
 - (2) The type of parking spaces remain the same or become more conforming; and
 - (3) The government entity that controls the right-of-way determines the reconstruction does not endanger public health, safety, or welfare.
- (b) When a nonconforming parking situation is changed to become more compliant with [chapter] 49.40, the provided off-street parking may not be removed. This section does not preclude the applicant's right to obtain a parking waiver or variance in accordance with this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

Article III. - Reviews

49.30.310 - Nonconforming certification review by the director.

- (a) *Purpose.* The purpose of nonconforming certification review is to determine whether nonconforming status under this chapter exists, and whether nonconforming certification is justified.
- (b) *When to seek certification of nonconforming status.* An owner may apply for a nonconforming certificate at any time, but an owner must apply for a nonconforming certificate prior to seeking nonconforming situation review.

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

- (c) *Nonconforming certification review prior to issuance of permit.* Prior to the issuance of a permit for development related to a nonconforming situation, a nonconforming certification must be obtained pursuant to this section.
- (d) *Certification.* Upon finding the applicant's information establishes all of the following, the director must issue the nonconforming certificate:
 - (1) When there is a nonconforming situation; and
 - (2) The nonconforming situation has not been abandoned.
- (e) *Application.* An application for nonconforming certification shall be submitted to the department on forms approved by the director with relevant information establishing the factors set out in subsection (d). The application should identify and include each nonconforming situation known to exist on the subject property.
- (f) *Relevant information.* The following information may be relevant for the director's review:
 - (1) Building, land use, or development permits;
 - (2) Zoning codes or maps;
 - (3) Recorded plats;
 - (4) Dated photographs;
 - (5) Insurance records and maps that identify use or development, e.g. Sanborn Maps;
 - (6) Utility bills;
 - (7) Property tax records;
 - (8) Business licenses;
 - (9) Telephone listings;
 - (10) Advertisements in dated publications; or
 - (11) Leases.
- (g) *Decision.* The director shall review the applicant's information and issue a written decision that includes separate certification findings on each nonconforming situation included in the application.
- (h) *Burden of proof.* The burden of proof is on the applicant.
- (i) *Fee.* An application for a nonconforming certification shall include a fee as established by chapter 49.85.

about:blank

8/9

5/20/24, 10:23 AM

Juneau, AK Code of Ordinances

- (j) *Failure of a situation to qualify for nonconforming certification.* If a situation does not qualify for or is denied nonconforming certification, it is noncompliant and the property is subject to enforcement actions consistent with this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

5/20/24, 10:25 AM

Juneau, AK Code of Ordinances

49.35.410 - Sewer systems.

- (a) For new development, the developer must construct a public sewer system connecting to the existing public sewer system if the following criteria are met:
 - (1) If development of five more lots is proposed within 500 feet of an existing public sewer system.
 - (2) If development of four or fewer lots is proposed within 200 feet of an existing public sewer system.
 - (3) For the purpose of this section, distance is measured as the radial distance from the closest sewer main to the nearest point of the boundary of the proposed subdivision.
- (b) If a proposed development is located at greater distances from the existing public sewer system than specified above, unless the developer chooses to connect to the public system, then a private system is required. Either of the following acceptable private systems may be installed:
 - (1) *Community and cluster wastewater systems.* Community wastewater systems, which have shared collection, treatment, and disposal and cluster wastewater systems, which have individual on-site treatment with a shared collection and disposal system are acceptable if the following requirements are met:
 - (A) The developer must provide a report and certification by a registered, qualified engineer licensed by the State of Alaska, which clearly shows that the proposed community or cluster wastewater system will operate satisfactorily, and how it will meet all other state and federal standards, to the satisfaction of the director of engineering and public works.
 - (B) The director of engineering and public works must review the report and make a recommendation to the commission. The director of engineering and public works will not make independent findings, but will make a recommendation as to the adequacy of the methodology and data provided in the report.
 - (C) All improvements must meet the City and Borough standards of construction for public sewer systems.
 - (D) The proposed wastewater systems must be approved by the Alaska Department of Environmental Conservation and any other agencies having jurisdiction. Proof of approval must be submitted to the department.
 - (2) *On-site wastewater systems.* Wastewater systems, which have individual on-site treatment and individual on-site disposal shall be acceptable if all the following requirements are met:
 - (A)

5/20/24, 10:25 AM

Juneau, AK Code of Ordinances

The developer must provide a report and certification by a registered, qualified engineer or geologist licensed by the State of Alaska, which clearly shows that the proposed lots are large enough and have existing soils of sufficient permeability to permit the construction of on-site wastewater treatment and disposal systems.

(B) The director of engineering and public works shall review the report and make a recommendation to the director for minor subdivisions and to the commission for major subdivisions. The director of engineering and public works will not make independent findings but will make a recommendation as to the adequacy of the data provided and of the methodology proposed in the report for wastewater treatment and disposal.

(C) If adequate soils are not available onsite, the applicant can propose alternative methods for individual on-site wastewater systems. Alternative methods may include mound systems, marine outfalls, or other suitable wastewater systems. Review and approval of a proposal under this section must meet the applicable requirements of subsections (i) and (ii) of this section.

(c) *Residential wastewater systems—Property owner responsibility.* The responsibilities of individual property owners for their individual wastewater systems are as follows:

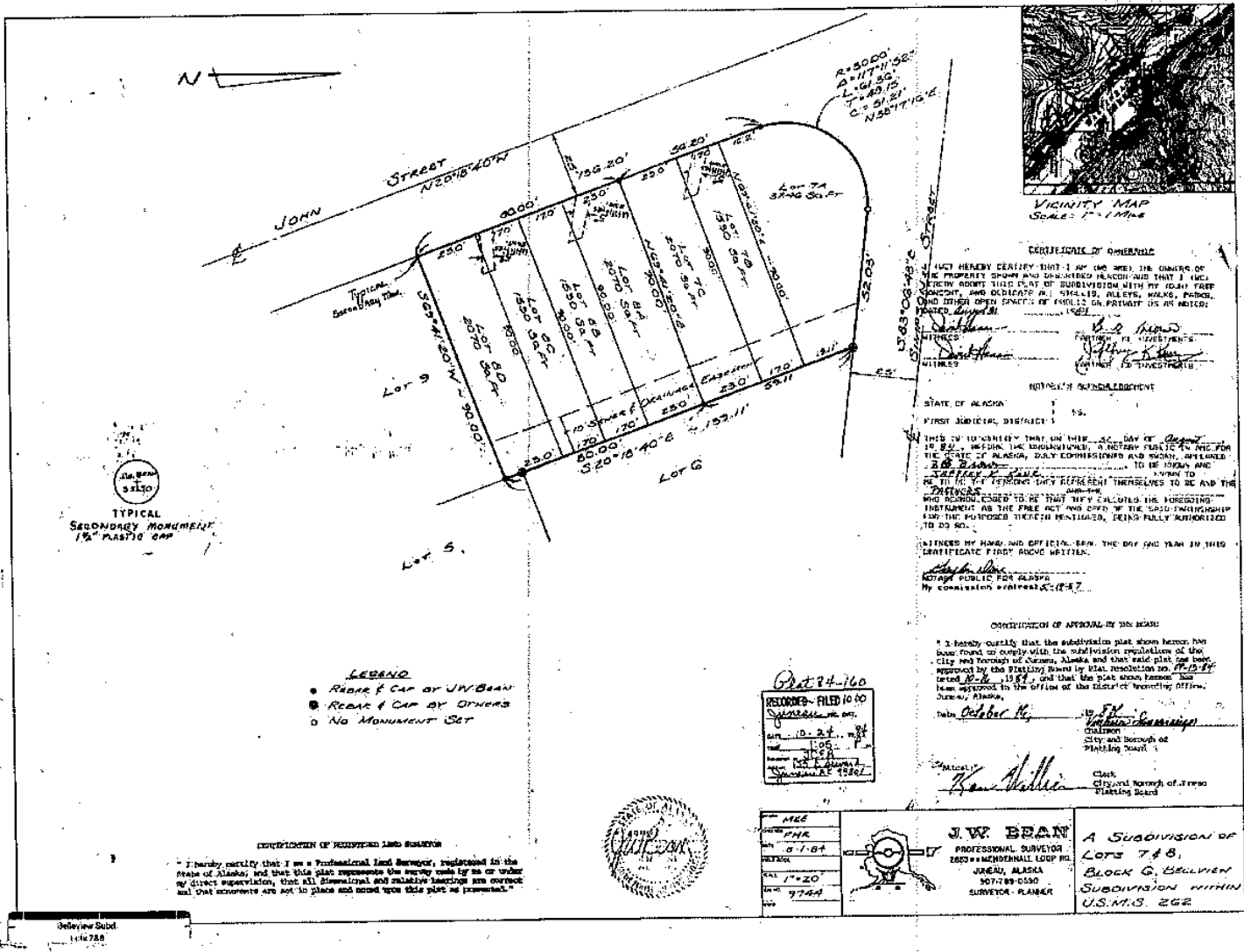
(1) *Permitting.* All the owners of lots in new minor and major residential subdivisions using cluster or on-site wastewater systems must obtain a City and Borough on-site wastewater treatment and disposal system (OWTDS) permit from the engineering and public works department, and have completed construction and inspection of the system prior to issuance of any certificate of occupancy. The requirements for obtaining a wastewater treatment and disposal system permit, and the permit fees, shall be established by regulations issued by the manager pursuant to CBJ 01.60.

(2) *Limited maintenance contract required.* In addition, the property owners in new residential minor and major subdivisions shall be required to enter into a contract with the department of public works or its designee for inspection, monitoring, and treatment plant pumping of the private wastewater facility. All other maintenance of the wastewater system is the responsibility of the property owner.

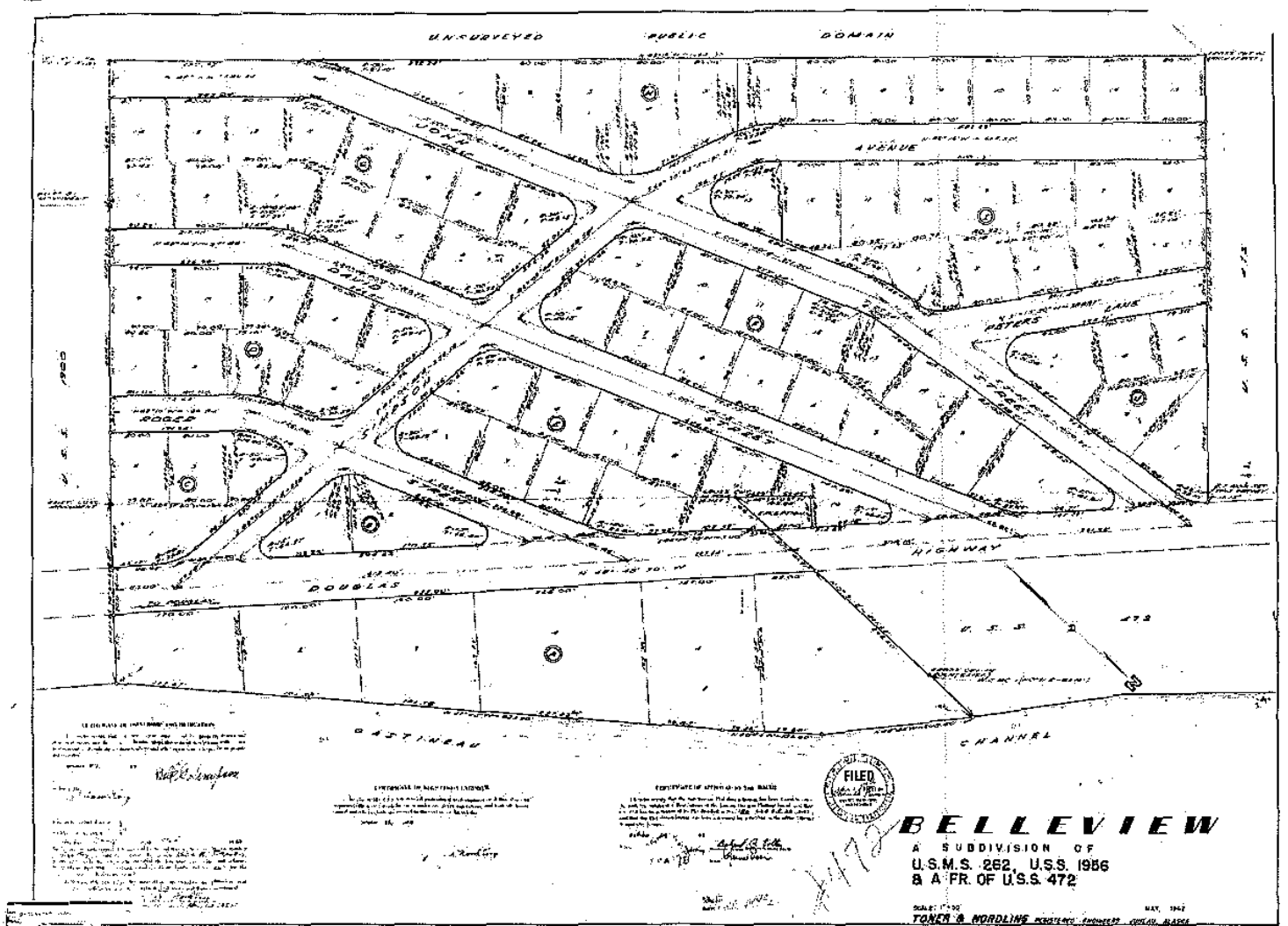
(3) *Violation of this section is an infraction.*

(d) Compliance with (b) of this section does not exempt the developer or individual property owners from meeting all requirements of the Alaska State Department of Environmental Conservation regarding approval of wastewater systems.

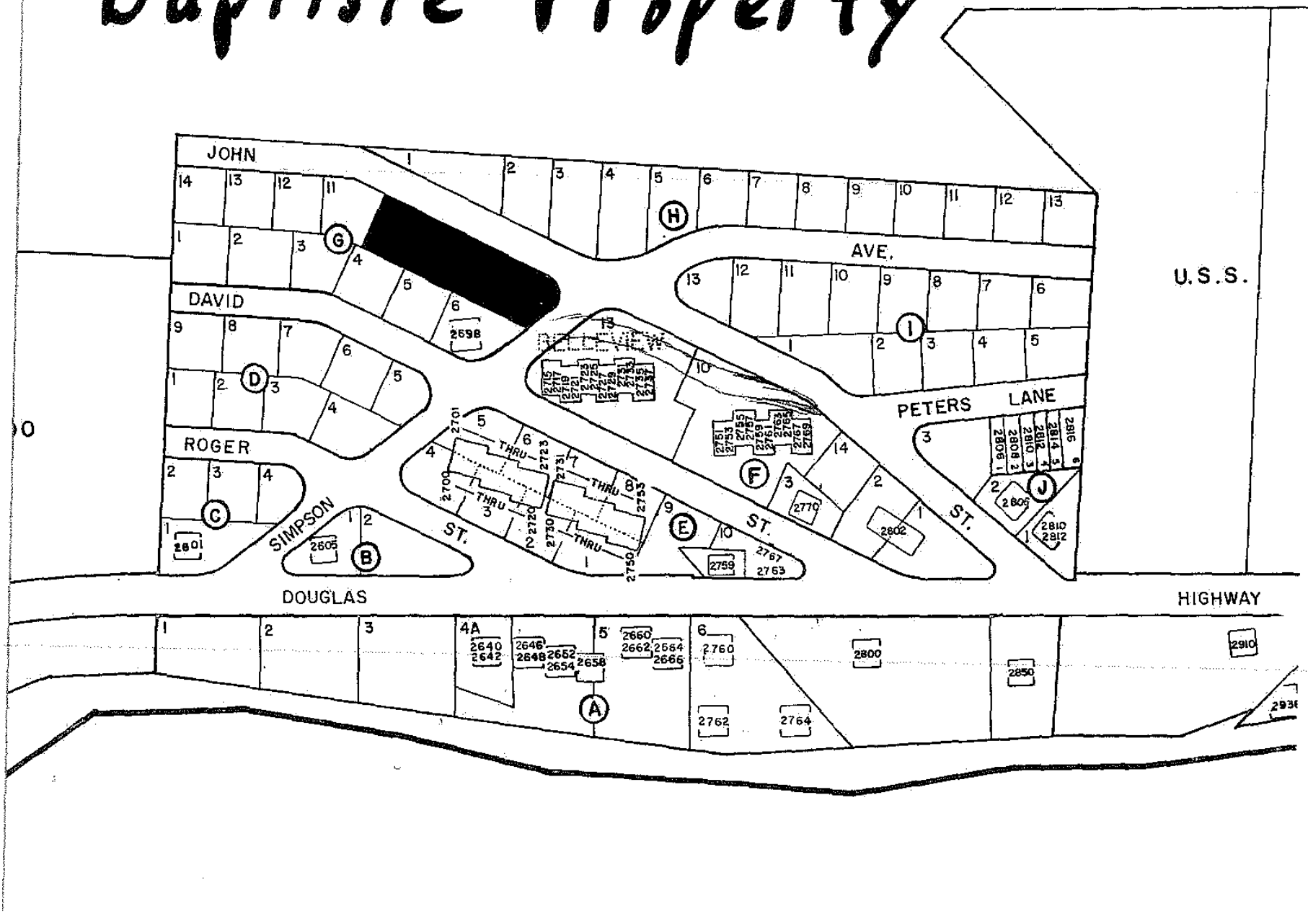
(Serial No. 87-49, § 2, 1987; Serial No. 2003-02, § 3, 2-10-2003; Serial No. 2015-03(c)(am), § 31, 8-31-2015)



Attachment B - 1956 Bellview Subdivision Plat



Baptiste Property



Attachment B - 1956 Bellview Subdivision Plat

Presented by: Planning & Zoning committee

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

SERIAL NO. 70-21

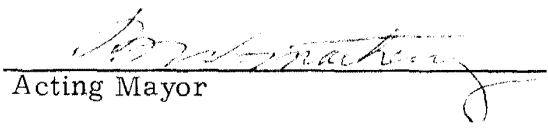
AN ORDINANCE AMENDING GJB 49.25 BY
AMENDING THE OFFICIAL ZONING MAP
TO CHANGE THE ZONING OF LOT 1-5,
BLOCK J BELLVIEW SUBDIVISION FROM
R-7 SINGLE & TWO FAMILY RESIDENTIAL
DISTRICT TO RML MULTI-FAMILY
RESIDENTIAL DISTRICT.

Sec. 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough Code.

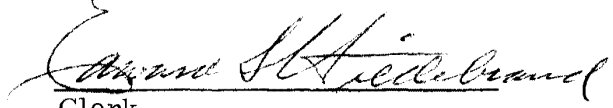
Sec. 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Sec. 3. Amendment of Zoning Map. The City and Borough Official Zoning Map is hereby amended to change the zoning of lots 1-5, Block J Bellview Subdivision from R-7 Single and Two Family Residential District to RML Multi-Family Residential District.

Adopted November 5, 1970.


Acting Mayor

~~Attest:~~


Clerk

APPLICATION FOR CONDITIONAL USE

FILE NO. _____

DATE OF APPLICATION 6/14/83

RECEIPT NO. _____ FEE _____

DATE OF HEARING June 29, 1983

Existing Zone

RML

PROPOSED CONDITIONAL USE

Zero-lot Line Townhouses

NAME OF APPLICANT KB INVESTMENTS

PHONE 789-2651

ADDRESS 3020 Glacierwood Drive JUNEAU, ALASKA 99801

WHO HOLDS TITLE TO THE PROPERTY? Gus Menakakis

IF YOU DO NOT HOLD TITLE TO THE PROPERTY, WHAT IS YOUR INTEREST? _____

building contractor

LOCATION OF THE PROPERTY

House Number

John
Street

Douglas
City

U.S. SURVEY NO. _____ SUBDIVISION BELLVIEW SUBDIVISION

LOTS 7 & 10 BLOCK G RESOLUTION NO. _____

DIMENSIONS OF PROPERTY: WIDTH 80 ft LENGTH 90 ft TOTAL SQ. FT. 7200

STATE SPECIFIC CONDITIONAL USE ZERO LOT LINE Fourplex and Threeplex

NUMBER OF PEOPLE TO USE WATER & SANITARY FACILITIES _____

SOURCE OF WATER City

SQUARE FEET DRAINAGE AREA AVAILABLE _____

TYPE OF EXISTING STRUCTURES None

SIZE OF EXISTING STRUCTURES: WIDTH _____ LENGTH _____

TOTAL SQUARE FEET _____

USE OF EXISTING STRUCTURES: _____

TYPE OF PROPOSED STRUCTURES: WOOD FRAME

SIZE OF PROPOSED STRUCTURES: 32 WIDTH 64 LENGTH 5404 TOTAL
32 48 4053 SQ. FT.

USE OF PROPOSED STRUCTURES RESIDENTIAL HOUSING

FUTURE EXPANSIONS PLANS NONE

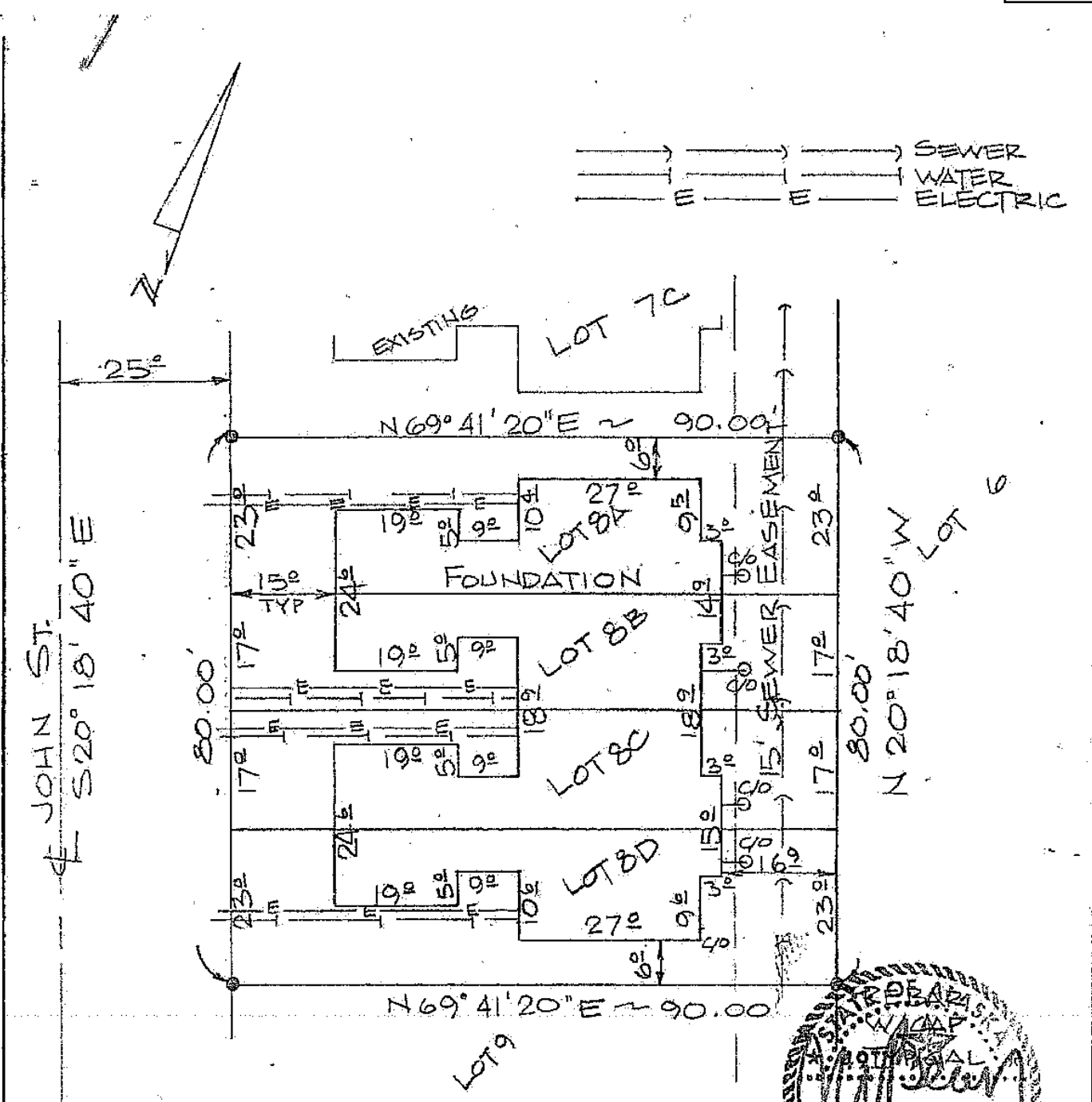
PARKING PROVISIONS: SQ. FT. AVAILABLE _____

PROPOSED CONDITIONS OF PARKING AREA: GRAVELED X PAVED _____

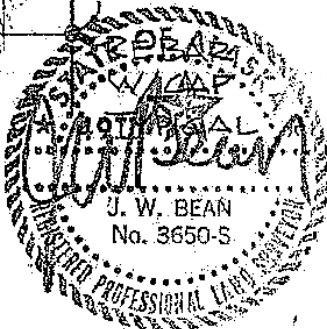
DATE _____ STAFF: _____

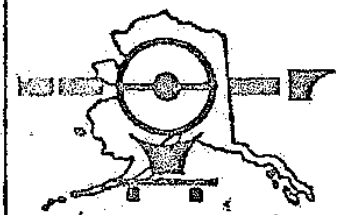
[Signature]
SIGNATURE OF APPLICANT

DATE OF PLANNING COMMISSION MEETING _____



I hereby certify that this is a true and correct plat;
that all walks, roads, easements, and improvements thereon
are as shown and that all overlaps and encroachments are
as shown to the best of my knowledge.





J. W. BEAN
PROFESSIONAL SURVEYOR
2865 MENDENHALL LOOP RD. B-8
JUNEAU, ALASKA
907-789-0590
SURVEYOR - PLANNER

FOUNDATION AS BUILT
LOTS 8A, 8B, 8C, 8D, BLOCK G
BELLVIEW SUBDIVISION
WITHIN USN'S 262

DES. ALG	JOS No. 9744	SCALE 1"=20'
F.B. 26/43	DATE 8-8-84	SHEET 1 OF 1

Certificate of Occupancy

City & Borough of Juneau, Alaska

This Certificate issued pursuant to the requirements of Section 306 of the Uniform Building Code, as amended, certifying that at the time of issuance this structure was in compliance with the various ordinances of the City & Borough of Juneau regulating building construction or use for the following:

Use Classification Residential Bldg. Permit No. 16749
 Occupancy Group R-3 Construction Type V-N
 Owner of Building K.B. Investments Owner Address 3499 Meander Way, Juneau, AK 99801
 Building Address 2628/2626/2624/2622 John Street, Juneau, AK 99824 (4 Plex)
 Legal Description of Building Lot Lot 8 Block G
Bellevue Subdivision
 File No. 1-L-038-00G-008-0000 Date January 15, 1985

Howard R. Furman
 HOWARD R. FURMAN
 Building Official

Post this Certificate and all identified attachments in a conspicuous place.



(907) 586-0715
CDD_Admin@juneau.gov
www.juneau.org/community-development
155 Heritage Way • Juneau, AK 99801

Accessory Dwelling Unit/Apartment Remodel

Case Number: PAC2024 0025
Applicant: Eva Melancon
Property Owner: Daniel Melancon
Property Address: 2622 John Street
Parcel Code Number: 1D050L120067
Site Size: 2,070 sq ft / 0.04 ac
Zoning: D18 Multifamily
Existing Land Use: Residential

Conference Date: May 22, 2024
Report Issued: May 30, 2024

DISCLAIMER: Pre-application conferences are conducted for the purpose of providing applicants with a preliminary review of a project and timeline. Pre-application conferences are not based on a complete application and are not a guarantee of final project approval.

List of Attendees

Note: Copies of the Pre-Application Conference Report will be emailed, instead of mailed, to participants who have provided their email address below.

Name	Title	Email address
Eva Melancon	Applicant	Eva.Melancon@gmail.com
Jay Larson	Planning	Jason.Larson@uneau.gov
Irene Gallion	Planning	Irene.Gallion@juneau.gov
Jeff Hedges	Building	Jeffrey.Hedges@juneau.gov
Bridget LaPenter	General Engineering	Bridget.LaPenter@juneau.gov
Sydney Hawkins	Permit Center	Permits@juneau.gov

Conference Summary

Questions/issues/agreements identified at the conference that weren't identified in the attached reports.

The following is a list of issues, comments, and proposed actions, and requested technical submittal items that were discussed at the pre-application conference.

Conditional Use Permit Process:

- Submit the application and back-up materials (listed on the back of the application).
 - Electronic submissions accepted at Permits@juneau.gov. Note that the permit center will call you for payment when the application is processed. Applications are submitted in the order in which they are received, and it may be a few days before you get a call.
- The project will be assigned to a planner. They will review submitted materials, and coordinate where necessary. When the planner assesses the file is complete, they will schedule a hearing before the Planning Commission.
 - A notice will be sent to property owners within 500 feet of the project.
 - There will be two newspaper ads for the case.
 - The Applicant is required to post a Public Notice sign, which will be provided by CDD. The sign must be posted two weeks before the hearing.
 - Staff will prepare a report analyzing the project, and make a recommendation to the Commission. The report will be publicly available the week before the hearing.
- At the Planning Commission meeting, the project can be:
 - On the Consent Agenda, where it will be passed without discussion.
 - On the Regular Agenda:
 - The Director will briefly describe the project.
 - The Applicant has 15 minutes to describe the project.
 - The public has the opportunity to comment. There is usually a time limit of two to three minutes.
 - The Applicant has time to respond to issues raised.
 - Public comment is closed and there is no additional opportunity to participate.
- The Planning Commission will:
 - Approve the project
 - Approve the project with conditions (the most common outcome)
 - Deny the project
 - Continue the project – if more information is required or if the Commission runs out of time.
- The decision can be appealed for 20 days after the Notice of Decision is filed with the City Clerk. If the decision is appealed, the Applicant can continue with their project at their own risk.

Videos of the Planning Commission activities are posted on Assembly's Minutes and Agendas site.

<https://juneau-ak.municodemeetings.com/>

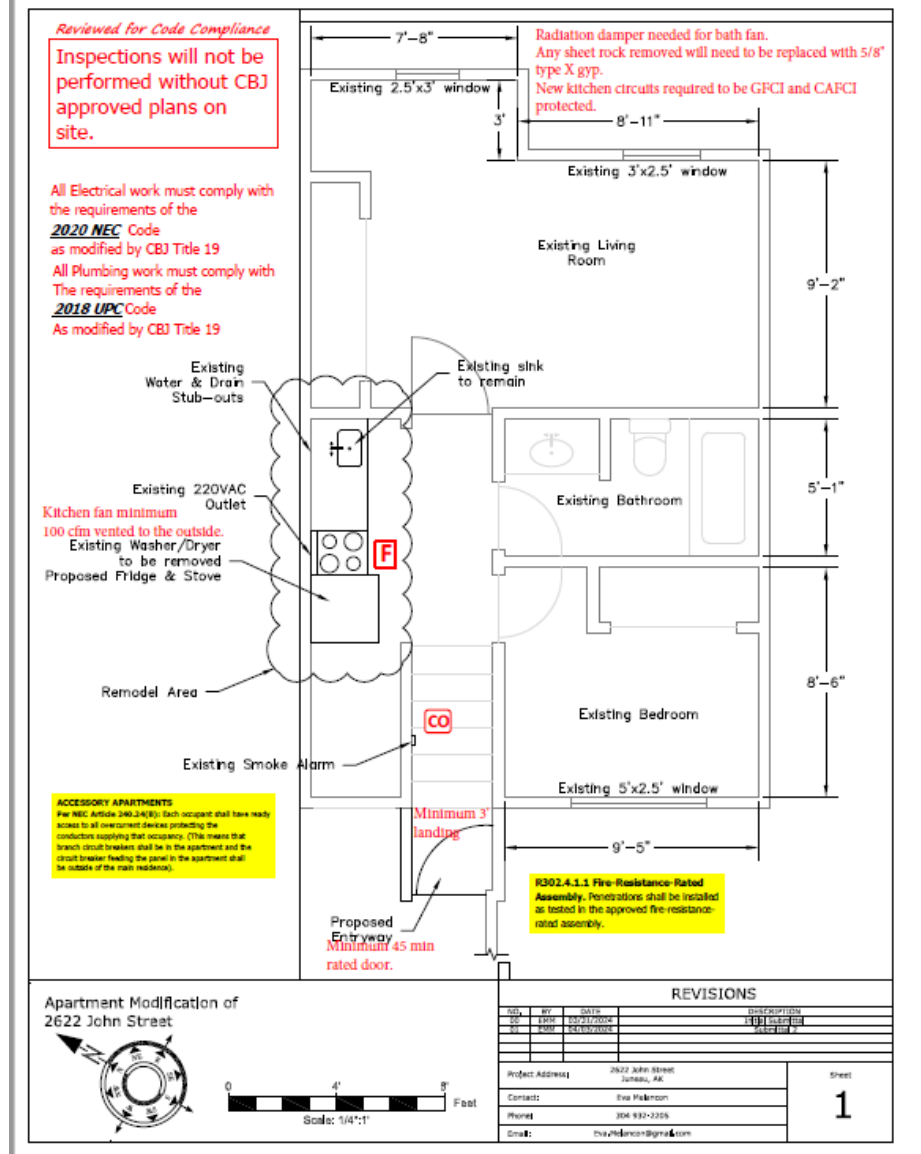
Project Overview

The property is located on Douglas Island and is part of the Bellevue subdivision.

The applicant proposes:

- Remodel the first floor of a two story, common wall dwelling into an Accessory Dwelling Unit (ADU)
- Convert the laundry room area into a full kitchen and add a washer/dryer combo.

Application for the Accessory Apartment Grant has been submitted with Building Permit No. BLD2024-0191



Because the proposed apartment is on a lot less than minimum size required in D18, the Planning Commission must approve the ADU [CBJ 49.25.510(k)(2)(E)(ii)]. This ADU cannot exceed 600 square feet.

The property requires nonconforming certification for lot and structure before development can proceed. The certification can be applied for at the same time as the Conditional Use permit.

Planning Division

1. **Zoning** – D18 No special overlays recorded.
2. **Table of Permissible Uses (TPU)** – In D18 zoning district, Accessory apartments are allowed in Common wall developments with a Conditional Use Permit (CUP) according to the TPU.
3. **Subdivision** – N/A.

4. **Setbacks** – Required setbacks for D18 are: 20 ft. front, 10 ft. rear, 5 ft. side and zero lot line for existing common wall. Existing front setback is set at 15 ft and is not within the allotted setbacks.
5. **Lot Size** – The minimum lot size for D18 is 2,500 sq ft. This is an undersized lot at 2,070 sq ft. The structure will need to be certified nonconforming for setbacks and lot size before Planning Commission review of the CUP.
6. **Height** – A maximum building height of 35 ft. is allowable.
7. **Access** – John St
8. **Parking & Circulation** – 2 spaces required for primary dwelling, 1 space required for ADU.
9. **Lot Coverage** – 50%
10. **Vegetative Coverage** – The single-family dwelling covers approximately 63% of the lot. The minimum vegetative coverage of 20% is not met. This will be certified during the nonconforming review process.
11. **Lighting** – N/A
12. **Noise** – N/A
13. **Flood** – Not in a flood zone/Flood Panel 02110C1566E
14. **Hazard/Mass Wasting/Avalanche/Hillside Endorsement** – Not Mapped
15. **Wetlands** – None
16. **Habitat** – Check with the U.S. Fish and Wildlife Service on the presence of eagle nests in the area. The presence of eagle nests may impact construction scheduling. No anadromous streams within 50 feet of the development.
17. **Plat Restrictions** – None shown on Plat No. 84-160
18. **Traffic** – Traffic analysis information was researched in the Institute of Transportation Engineers, 9th Edition, Volume II and found to be well under the requirement. Traffic analysis survey not required.
19. **Nonconforming Situations** – A Nonconforming Certificate (for lot, structure, and vegetative cover) is required prior to the issuance of a building permit or land use permit. The Nonconforming Certificate can be applied for with the Conditional Use Permit.

Building Division

1. **Building** – Associated building permit #BLD20240191 is currently in review.
2. **Outstanding Permits** – None.

General Engineering/Public Works

3. **Engineering** – N/A, interior remodel.
4. **Drainage** – N/A, interior remodel.
5. **Utilities** – A water meter shall be required due to the increase in dwelling units. The associated utility permit may include an additional water assessment fee, dependent on the current line size.

Fire Marshal

6. **Fire Items/Access** – N/A

Other Applicable Agency Review

7. **USF&W** – Eagle Nests

List of required applications

Based upon the information submitted for pre-application review, the following list of applications must be submitted in order for the project to receive a thorough and speedy review.

1. Round 1 of applications:
 - a. Nonconforming Certification Review (NCC)
 - b. Conditional Use Permit (CUP)
2. Round 2 of applications (contingent on CUP approval):
 - a. Accessory Apartment Permit
 - b. Building Permit

Additional Submittal Requirements

Submittal of additional information, given the specifics of the development proposal and site, are listed below. These items will be required in order for the application to be determined Counter Complete.

1. A copy of this pre-application conference report.
2. Project narrative
3. Floor plan with square footage measurements
4. Waterline information sheet

Exceptions to Submittal Requirements

Submittal requirements that staff has determined **not** to be applicable or **not** required, given the specifics of the development proposal, are listed below. These items will **not** be required in order for the application to be reviewed.

5. None

Fee Estimates

The preliminary plan review fees listed below can be found in the CBJ code section 49.85.

Based upon the project plan submitted for pre-application review, staff has attempted to provide an accurate estimate for the permits and permit fees which will be triggered by your proposal.

Round 1 Submission		
Case/ Fee Type	Fee amount (\$)	Notes
Nonconforming Certification Review (NCC)	0.00	Waived when submitted in conjunction with a major development permit application.
Conditional Use Permit (USE or CUP)	350.00	Class I use in accordance with CBJ 49.85.100(3)(A)(iii).
Public Notice Sign	150.00	\$100 refundable deposit
	500.00	

Round 2 Submission		
Case/ Fee Type	Fee amount (\$)	Notes
Accessory Apartment	0.00	Staff review, no charge
Accessory Apartment Grant Application	0.00	
Building Permit	TBD	Overall cost estimate of the project
	TBD	

For informational handouts with submittal requirements for development applications, please visit our website at www.juneau.org/community-development.

Submit your Completed Application

You may submit your application(s) online via email to permits@juneau.gov

OR in person with payment made to:

City & Borough of Juneau, Permit Center
230 South Franklin Street
Fourth Floor Marine View Center
Juneau, AK 99801

Phone: (907) 586-0715

Web: www.juneau.org/community-development

Attachments:

- 49.15.330 – if a Conditional Use Permit
- 49.25.510(k) – Accessory apartments
- 49.30.110-270 – Nonconforming Situations
- 49.35.410(c) – Residential wastewater- property owner responsibility

Applications:

- Development Permit Application
- Conditional Use Permit Application
- Nonconforming Certification Review Application

49.15.330 - Conditional use permit.

- (a) *Purpose.* A conditional use is a use that may or may not be appropriate in a particular zoning district according to the character, intensity, or size of that or surrounding uses. The conditional use permit procedure is intended to afford the commission the flexibility necessary to make determinations appropriate to individual sites. The commission may attach to the permit those conditions listed in subsection (g) of this section as well as any further conditions necessary to mitigate external adverse impacts. If the commission determines that these impacts cannot be satisfactorily overcome, the permit shall be denied.
- (b) *Preapplication conference.* Prior to submission of an application, the developer shall meet with the director for the purpose of discussing the site, the proposed development activity, and the conditional use permit procedure. The director shall discuss with the developer, regulation which may limit the proposed development as well as standards or bonus regulations which may create opportunities for the developer. It is the intent of this section to provide for an exchange of general and preliminary information only and no statement by either the developer or the director shall be regarded as binding or authoritative for purposes of this code. A copy of this subsection shall be provided to the developer at the conference.
- (c) *Submission.* The developer shall submit to the director one copy of the completed permit application together with all supporting materials and the permit fee.
- (d) *Director's review procedure.*
- (1) The director shall endeavor to determine whether the application accurately reflects the developer intentions, shall advise the applicant whether or not the application is acceptable and, if it is not, what corrective action may be taken.
 - (2) After accepting the application, the director shall schedule it for a hearing before the commission and shall give notice to the developer and the public in accordance with section 49.15.230.
 - (3) The director shall forward the application to the planning commission together with a report setting forth the director's recommendation for approval or denial, with or without conditions together with the reasons therefor. The director shall make those determinations specified in subsections (1)(A)—(1)(C) of subsection (e) of this section.
 - (4) Copies of the application or the relevant portions thereof shall be transmitted to interested agencies as specified on a list maintained by the director for that purpose. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director.
 - (5)

Even if the proposed development complies with all the requirements of this title and all recommended conditions of approval, the director may nonetheless recommend denial of the application if it is found that the development:

- (A) Will materially endanger the public health or safety;
- (B) Will substantially decrease the value of or be out of harmony with property in the neighboring area; or
- (C) Will not be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans.

(e) *Review of director's determinations.*

- (1) At the hearing on the conditional use permit, the planning commission shall review the director's report to consider:
 - (A) Whether the proposed use is appropriate according to the table of permissible uses;
 - (B) Whether the application is complete; and
 - (C) Whether the development as proposed will comply with the other requirements of this title.
- (2) The commission shall adopt the director's determination on each item set forth in paragraph (1) of this subsection (e) 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.

(f) *Commission determinations; standards.* Even if the commission adopts the director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the 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) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

(g) *Specific conditions.* The commission may alter the director's proposed permit conditions, impose its own, or both. Conditions may include one or more of the following:

- (1) *Development schedule.* A reasonable time limit may be imposed on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighborhood, to ensure that development is not used or occupied prior to substantial completion of required public or quasi-public improvements, or to implement other requirements.
- (2) *Use.* Use of the development may be restricted to that indicated in the application.

- (3) *Owners' association.* The formation of an association or other agreement among developers, homeowners or merchants, or the creation of a special district may be required for the purpose of holding or maintaining common property.
- (4) *Dedications.* Conveyance of title, easements, licenses, or other property interests to government entities, private or public utilities, owners' associations, or other common entities may be required.
- (5) *Performance bonds.* The commission may require the posting of a bond or other surety or collateral approved as to form by the city attorney to guarantee the satisfactory completion of all improvements required by the commission. The instrument posted may provide for partial releases.
- (6) *Commitment letter.* The commission may require a letter from a public utility or public agency legally committing it to serve the development if such service is required by the commission.
- (7) *Covenants.* The commission may require the execution and recording of covenants, servitudes, or other instruments satisfactory in form to the city attorney as necessary to ensure permit compliance by future owners or occupants.
- (8) *Revocation of permits.* The permit may be automatically revoked upon the occurrence of specified events. In such case, it shall be the sole responsibility of the owner to apply for a new permit. In other cases, any order revoking a permit shall state with particularity the grounds therefor and the requirements for reissuance. Compliance with such requirements shall be the sole criterion for reissuance.
- (9) *Avalanche areas.* Development in moderate and severe avalanche hazard areas shown on the Avalanche Hazard Designation Mapping, dated April 27, 2022, and attached to Serial No. 2023-18(am) as Appendix A, must minimize the risk to life and property.
- (10) *Habitat.* Development in the following areas may be required to minimize environmental impact:
 - (A) Developments in wetlands and intertidal areas.
- (11) *Sound.* Conditions may be imposed to discourage production of more than 65 dBa at the property line during the day or 55 dBa at night.
- (12) *Traffic mitigation.* Conditions may be imposed on development to mitigate existing or potential traffic problems on arterial or collector streets.
- (13) *Water access.* Conditions may be imposed to require dedication of public access easements to streams, lake shores and tidewater.
- (14) *Screening.* The commission may require construction of fencing or plantings to screen the development or portions thereof from public view.

- (15) *Lot size or development size.* Conditions may be imposed to limit lot size, the acreage to be developed or the total size of the development.
- (16) *Drainage.* Conditions may be imposed to improve on and off-site drainage over and above the minimum requirements of this title.
- (17) *Lighting.* Conditions may be imposed to control the type and extent of illumination.
- (18) *Other conditions.* Such other conditions as may be reasonably necessary pursuant to the standards listed in subsection (f) of this section.

(Serial No. 87-49, § 2, 1987; Serial No. 2006-15, § 2, 6-5-2006; Serial No. 2015-03(c)(am), § 9, 8-31-2015; Serial No. 2017-29, § 3, 1-8-2018, eff. 2-8-2018; Serial No. 2023-18(am), § 3, 12-11-2023, eff. 1-11-2024)

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.
- (d) *Two-unit dwellings.*
 - (1) *Duplexes.* The minimum lot size for a duplex dwelling shall be at least 150 percent of the square footage required for a single-family dwelling in the same zoning district, except in multi-family, mixed-use, and commercial zoning districts, where duplexes may be constructed on any lot of sufficient size for two dwelling units.
 - (2) *Reserved.*
- (e) *Detached single-family dwellings.* Two detached single-family dwellings located on a single lot within the Rural Reserve D1 and D3 zoning districts shall each meet 100 percent of the applicable square-footage requirement.
- (f) *Reserved.*
- (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.
- (k) *Accessory apartments.* No person shall construct or maintain an accessory apartment except in accordance with a permit issued under this section.
 - (1) *Application.* Accessory apartment applications shall be submitted on a form provided by the director and shall include:
 - (A) A completed application form;
 - (B) The application fee required by chapter 49.85;
 - (C) A site plan drawn to scale or dimensioned indicating all required parking, minimum setbacks, and actual lot size; and
 - (D) A floor plan drawn to scale or dimensioned indicating all dwelling units and including each room labeled as to use;
 - (E) A statement that the property is connected to sewer. If the property is not connected to sewer, a statement from the department of environmental conservation confirming that the existing wastewater disposal system is sufficient for the development, including the proposed accessory apartment, and a statement from a qualified inspector that the existing wastewater disposal system is functioning as designed.

(2) *Approval standards.*

- (A) Unless otherwise provided, the accessory apartment shall be a one-bedroom or efficiency unit not exceeding 600 square feet in net floor area.
- (B) Areas common to more than one dwelling unit - including entry ways, furnace rooms, laundry rooms, and interior stairways - shall not be included in the computation of the net floor area for the accessory apartment.
- (C) The minimum lot size as used in this section refers to the minimum lot size for permissible uses listed in the table of dimensional standards, CBJ 49.25.200.
- (D) A permit under this subsection may be issued if the applicant establishes:
 - (i) The development meets all setback requirements;
 - (ii) The total building footprint does not exceed the maximum lot coverage allowable under section 49.25.400, the table of dimensional standards, or, in the case of nonconforming structures, the total building footprint does not increase with the proposed accessory apartment;
 - (iii) The development does not violate the vegetative cover requirements imposed by section 49.50.300; or, in the case of nonconforming structures, the proposed accessory apartment does not decrease the existing vegetative cover;
 - (iv) The development meets the parking standards required by chapter 49.40; and
 - (v) The development is connected to public sewer or the existing wastewater disposal system has adequate capacity for the development, including the proposed accessory apartment.
- (E) Single-family detached accessory apartment approval.
 - (i) The director may approve a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:
 - (a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area and is on a lot that exceeds the minimum lot size; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.

(ii)

The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.
 - (iii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 125 percent of the minimum lot size.
- (F) Single-family detached, two dwellings per lot, accessory apartment approval.
- (i) When a lot has two primary dwelling units, each primary dwelling unit may have up to one accessory apartment that is consistent with the requirements of this section. The lot shall not have more than two accessory apartments.
 - (ii) An application for an accessory apartment with a net floor area that exceeds 600 square feet shall not be approved on a lot that is less than 250 percent of the minimum lot size.
 - (iii) The director may approve a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:
 - (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a double sized lot (two times the minimum lot size), and the lot does not have another accessory apartment in excess of 600 square feet in net floor area; or
 - (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, on a lot that exceeds 250 percent of the minimum lot size, and the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.
 - (iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the following are met:
 - (a)

The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;

- (b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.

(G) Multifamily dwelling and accessory apartment approval. Unless authorized by this section, an accessory apartment is prohibited in multifamily, commercial, and mixed-use zoning districts.

- (i) The director may approve a 49.25.300.1.300 accessory apartment application if all the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that exceeds the minimum lot size, and the primary use of the lot is a single-family dwelling.

- (ii) The commission may approve, with a conditional use permit, a 49.25.300.1.300 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the primary use of the lot is a single-family dwelling.

(H) Common wall accessory apartment approval.

- (i) Each common wall dwelling may have up to one accessory apartment that does not exceed 600 square feet in net floor area and that is consistent with the requirements of this section.

- (ii) The director may approve a 49.25.300.1.911 accessory apartment application if all of the requirements of this section and the following are met:

- (a) The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that exceeds the minimum lot size.

- (iii) The commission may approve, with a conditional use permit, a 49.25.300.1.911 accessory apartment application if all of the requirements of this section and the following are met:

- (a)

The application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size.

(Serial No. 87-49, § 2, 1987; Serial No. 89-33, § 2, 1989; Serial No. 91-01, § 2, 1991; Serial No. 94-07, § 4, 1994; Serial No. 95-33, § 8, 1995; Serial No. 97-49, § 3, 1998; Serial No. 2001-12, § 3, 4-2-2001; Serial No. 2006-15, §§ 5, 6, 6-5-2006; Serial No. 2007-39, § 11, 6-25-2007; Serial No. 2009-22(b), § 3, 10-12-2009; Serial No. 2012-24, § 4, 5-14-2012, eff. 6-14-2012; Serial No. 2012-36, § 3, 9-17-2012; Serial No. 2015-7(b)(am), § 5, 2-23-2015, eff. 3-26-2015; Serial No. 2019-37, § 4, 3-16-2020, eff. 4-16-2020)

Chapter 49.30 - NONCONFORMING SITUATIONS

*Footnotes:**--- (1) ---*

Editor's note— Sec. 5 of Serial No. 2019-37, adopted Mar. 16, 2020, and becoming effective Apr. 16, 2020, repealed and replaced Ch. 49.30 in its entirety to read as herein set out. Former Ch. 49.30 pertained to nonconforming development, consisted of §§ 49.30.010—49.30.800, and derived from Serial No. 87-49, 1987; Serial No. 89-05, 1989; Serial No. 89-33, 1989; Serial No. 91-01, 1991; Serial No. 91-03, 1991; Serial No. 91-46, 1991; Serial No. 91-50, 1991; Serial No. 2001-02, adopted Apr. 2, 2001; Serial No. 2006-15, adopted June 5, 2006; Serial No. 2012-36, adopted Sept. 17, 2012; Serial No. 2016-46, adopted Mar. 6, 2017.

Article I. - General

49.30.110 - Purpose.

The purpose of this chapter is to create processes and standards to review nonconforming situations.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.120 - Applicability.

(a) This chapter applies to the following nonconforming situations:

- (1) Nonconforming uses (49.30.230);
- (2) Nonconforming residential densities (49.30.240);
- (3) Nonconforming structures (49.30.250);
- (4) Nonconforming lots (49.30.260); and
- (5) Nonconforming parking (49.30.270).

(b) A property with more than one nonconforming situation is governed by each type of nonconforming situation.

(c) This chapter does not apply to nonconforming signage, which is addressed in chapter 49.45.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

Article II. - Standards

49.30.210 - Nonconforming situations in general.

- (a) *Continuation of nonconforming situations.* Except as otherwise provided in this title, situations made nonconforming by this title may remain.
- (b) *Change of nonconforming situation to comply with this title.* Any nonconforming situation may be changed to comply with this title. Once a nonconforming situation becomes conforming, the nonconforming rights under this chapter are relinquished with respect to that nonconforming situation, and the nonconforming situation must not be re-established.
- (c) *Ownership.* Change in property ownership does not alter the legal status of any nonconforming situation.
- (d) *Routine maintenance and repair.* Nothing in this chapter prohibits normal maintenance or routine repairs, which includes, but is not limited to, roofing repair or replacement, window replacement, and other similar minor structural repairs.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.215 - Accidental damage or destruction.

- (a) *Building official determination.* The building official shall determine the extent and cause(s) of damage and/or destruction under this chapter, pursuant to CBJ Title 19.
- (b) *Continuation of nonconforming rights.* Except as provided in this section, the cost to replace a nonconforming structure or a structure containing a nonconforming use that is damaged accidentally less than or equal to 75 percent of the assessed building value, exclusive of foundation(s), maintains the nonconforming rights.
- (c) *Loss of nonconforming rights.* Except as provided in this section, a nonconforming structure or a structure containing a nonconforming use is deemed destroyed when damaged accidentally and the cost to replace the structure is more than 75 percent of the assessed building value, exclusive of foundation(s). A structure that is deemed destroyed loses all nonconforming rights.
- (d) *Exceptions.*
 - (1)

Residential use in non-industrial districts. In non-industrial districts, a nonconforming situation containing exclusively residential use that was damaged or destroyed accidentally, or by any means beyond the control of the owner or the authorized agent of the owner, may be reconstructed regardless of the cost of replacement of the structure subject to the following:

- (A) The nonconforming situation is or has been certified pursuant to section 49.30.310 prior to any work that requires a building permit;
 - (B) Written notice of intent to reconstruct is provided to the department within 365 days of the date the damage or destruction occurred;
 - (C) The total number of dwelling units established by the certification of nonconforming status is not increased;
 - (D) A temporary certificate of occupancy for the structure has been obtained within three years of issuance of the building permit; and
 - (E) Upon a written request demonstrating good cause, the director may approve one 18-month extension for the reconstruction or for obtaining the temporary certificate of occupancy.
- (2) *Residential use in industrial districts.* On property in industrial or waterfront industrial districts, if a structure containing a nonconforming residential use was damaged or destroyed accidentally, or by any means beyond the control of the owner or the authorized agent of the owner, the following applies:
- (A) Nonconforming residential use is maintained and the structure may be rebuilt within three years if all of the following are met:
 - (i) Nonconforming residential use is or has been certified pursuant to the procedures set forth in section 49.30.310;
 - (ii) The cost to replace the structure is less than 75 percent of the assessed building value, exclusive of foundation(s);
 - (iii) Written notice of intent to reconstruct is provided to the department within 365 days of the date the accidental damage or destruction occurred as determined by the building official;
 - (iv) The reconstruction complies with applicable zoning district dimensional, development, and design standards, including, but not limited to: setbacks, parking, and landscaping that apply to new development.
 - (B) If a temporary certificate of occupancy for the structure has not been obtained within three years of issuance of a building permit, the nonconforming residential use rights are relinquished.
 - (C) Upon a written request demonstrating good cause, the director may approve one 18-month extension for the reconstruction or for obtaining the temporary certificate of occupancy.

- (e) *Reconstruction footprint.* Reconstruction allowed pursuant to this section may be in the existing footprint except for encroachments into rights-of-way or adjacent property.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.220 - Abandonment of a nonconforming situation.

- (a) The abandonment of a nonconforming situation relinquishes all nonconforming rights associated with that situation. The existence of an abandoned nonconforming situation becomes a noncompliant situation and subjects the property to enforcement actions consistent with this title.
- (b) A nonconforming situation is abandoned if any of the following events occur:
- (1) The owner indicates in writing that the nonconforming situation is being permanently discontinued;
 - (2) The nonconforming situation is damaged, destroyed, removed or demolished intentionally by the owner or intentionally by an authorized agent of the owner;
 - (3) The nonconforming structure is moved;
 - (4) The owner takes action consistent with an intent to abandon the nonconforming situation;
 - (5) The structure(s) associated with the nonconforming situation has been vacant for 365 consecutive days;
 - (6) Except for a structure with a nonconforming residential density, the nonconforming use has ceased and not substantially resumed for 365 consecutive days; or
 - (7) A structure with a nonconforming residential density has been unoccupied for 1095 consecutive days.
- (c) Determination of abandonment shall be made by the director and supported by written findings. An abandonment determination may be reconsidered within 20 days of the date of the determination. No appeal of an abandonment determination may be made unless reconsideration is first sought.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.225 - Reconsideration of abandonment determination.

- (a) A director's determination of abandonment under 49.30.220 may be reconsidered if information submitted establishes all of the following:

- (1) The owner has been maintaining the land and structure(s) in accordance with applicable building, fire, and other codes and regulations;
 - (2) The owner has been maintaining or pursuing applicable permits and licenses; and
 - (3) The owner has filed applicable tax documents.
- (b) Other factors that may be considered include whether:
- (1) The applicant has been engaged in activities that are consistent with or would affirmatively prove there was no intent to abandon, such as actively and continuously marketing the land, business, or structure for sale or lease; and
 - (2) The applicant has applied for a nonconforming certificate in accordance with section 49.30.310.
- (c) The burden of proof for overcoming a determination of abandonment is on the applicant.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.230 - Nonconforming uses.

- (a) *Expansion of nonconforming use.* A nonconforming use within a structure may not be expanded to other structures or to other land beyond the original structure. A nonconforming use of land may not be increased or extended.
- (b) *Modifications to nonconforming use.* Modifications to a nonconforming use are permissible and do not constitute a change or expansion of the nonconforming use provided the modification does not impose a significant or new impact that is out of harmony with the neighborhood, as determined by the director.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.240 - Nonconforming residential densities.

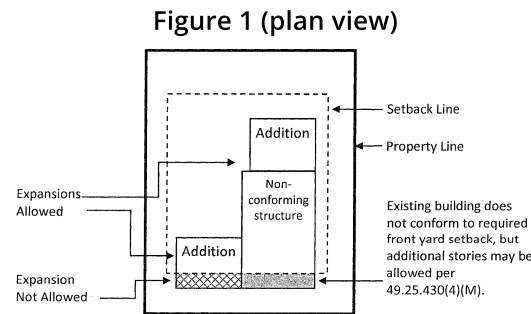
- (a) *Applicable zoning districts.* This section applies only to nonconforming residential density situations on property located in zoning districts other than industrial and waterfront industrial.
- (b) *Modification of existing dwelling units.* A structure containing nonconforming residential density may be modified subject to the following:
 - (1) The nonconforming residential density is certified pursuant to the procedures provided in section 49.30.310 prior to commencing any modification that requires a building permit; and

(2) Applicable dimensional standards and parking requirements are met unless otherwise provided in this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.250 - Nonconforming structures.

- (a) Except as otherwise provided in this chapter, a nonconforming structure may be enlarged, altered, or reconstructed as long as the enlargement, alteration, or reconstruction does not increase or aggravate the nonconforming situation and complies with other dimensional and parking standards of this title. (See Figure 1.)



- (b) Certification of nonconforming status pursuant to section 49.30.310 must be obtained prior to any enlargement, alteration, or reconstruction of a nonconforming structure.
- (c) Renovations within an existing structure shall not be considered an enlargement, alteration, or reconstruction for purposes of this section.
- (d) Projections allowed in yard setbacks under CBJ 49.25.430(4) shall not be considered to increase or aggravate a nonconforming situation.
- (e) This subsection shall not be interpreted to allow the expansion of a nonconforming use or nonconforming residential density, which are governed by sections 49.30.230 and 49.30.240.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.260 - Nonconforming lots.

- (a) A property owner of a nonconforming lot has the same development rights as a property owner of a conforming lot, provided the owner first obtains nonconforming certification pursuant to section 49.30.310.
- (b) An undeveloped nonconforming lot that adjoins one or more lots under common ownership and each lot has frontage on a right-of-way, the undeveloped lot(s) may each be developed with a single-family dwelling or as otherwise provided in this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.30.270 - Nonconforming parking.

- (a) A nonconforming parking situation may be reconstructed if:
 - (1) The number of parking spaces does not decrease;
 - (2) The type of parking spaces remain the same or become more conforming; and
 - (3) The government entity that controls the right-of-way determines the reconstruction does not endanger public health, safety, or welfare.
- (b) When a nonconforming parking situation is changed to become more compliant with [chapter] 49.40, the provided off-street parking may not be removed. This section does not preclude the applicant's right to obtain a parking waiver or variance in accordance with this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

Article III. - Reviews

49.30.310 - Nonconforming certification review by the director.

- (a) *Purpose.* The purpose of nonconforming certification review is to determine whether nonconforming status under this chapter exists, and whether nonconforming certification is justified.
- (b) *When to seek certification of nonconforming status.* An owner may apply for a nonconforming certificate at any time, but an owner must apply for a nonconforming certificate prior to seeking nonconforming situation review.

- (c) *Nonconforming certification review prior to issuance of permit.* Prior to the issuance of a permit for development related to a nonconforming situation, a nonconforming certification must be obtained pursuant to this section.
- (d) *Certification.* Upon finding the applicant's information establishes all of the following, the director must issue the nonconforming certificate:
 - (1) When there is a nonconforming situation; and
 - (2) The nonconforming situation has not been abandoned.
- (e) *Application.* An application for nonconforming certification shall be submitted to the department on forms approved by the director with relevant information establishing the factors set out in subsection (d). The application should identify and include each nonconforming situation known to exist on the subject property.
- (f) *Relevant information.* The following information may be relevant for the director's review:
 - (1) Building, land use, or development permits;
 - (2) Zoning codes or maps;
 - (3) Recorded plats;
 - (4) Dated photographs;
 - (5) Insurance records and maps that identify use or development, e.g. Sanborn Maps;
 - (6) Utility bills;
 - (7) Property tax records;
 - (8) Business licenses;
 - (9) Telephone listings;
 - (10) Advertisements in dated publications; or
 - (11) Leases.
- (g) *Decision.* The director shall review the applicant's information and issue a written decision that includes separate certification findings on each nonconforming situation included in the application.
- (h) *Burden of proof.* The burden of proof is on the applicant.
- (i) *Fee.* An application for a nonconforming certification shall include a fee as established by [chapter 49.85](#).

(j) *Failure of a situation to qualify for nonconforming certification.* If a situation does not qualify for or is denied nonconforming certification, it is noncompliant and the property is subject to enforcement actions consistent with this title.

(Serial No. 2019-37, § 5, 3-16-2020, eff. 4-16-2020)

49.35.410 - Sewer systems.

- (a) For new development, the developer must construct a public sewer system connecting to the existing public sewer system if the following criteria are met:
 - (1) If development of five more lots is proposed within 500 feet of an existing public sewer system.
 - (2) If development of four or fewer lots is proposed within 200 feet of an existing public sewer system.
 - (3) For the purpose of this section, distance is measured as the radial distance from the closest sewer main to the nearest point of the boundary of the proposed subdivision.
- (b) If a proposed development is located at greater distances from the existing public sewer system than specified above, unless the developer chooses to connect to the public system, then a private system is required. Either of the following acceptable private systems may be installed:
 - (1) *Community and cluster wastewater systems.* Community wastewater systems, which have shared collection, treatment, and disposal and cluster wastewater systems, which have individual on-site treatment with a shared collection and disposal system are acceptable if the following requirements are met:
 - (A) The developer must provide a report and certification by a registered, qualified engineer licensed by the State of Alaska, which clearly shows that the proposed community or cluster wastewater system will operate satisfactorily, and how it will meet all other state and federal standards, to the satisfaction of the director of engineering and public works.
 - (B) The director of engineering and public works must review the report and make a recommendation to the commission. The director of engineering and public works will not make independent findings, but will make a recommendation as to the adequacy of the methodology and data provided in the report.
 - (C) All improvements must meet the City and Borough standards of construction for public sewer systems.
 - (D) The proposed wastewater systems must be approved by the Alaska Department of Environmental Conservation and any other agencies having jurisdiction. Proof of approval must be submitted to the department.
 - (2) *On-site wastewater systems.* Wastewater systems, which have individual on-site treatment and individual on-site disposal shall be acceptable if all the following requirements are met:
 - (A)

The developer must provide a report and certification by a registered, qualified engineer or geologist licensed by the State of Alaska, which clearly shows that the proposed lots are large enough and have existing soils of sufficient permeability to permit the construction of on-site wastewater treatment and disposal systems.

(B) The director of engineering and public works shall review the report and make a recommendation to the director for minor subdivisions and to the commission for major subdivisions. The director of engineering and public works will not make independent findings but will make a recommendation as to the adequacy of the data provided and of the methodology proposed in the report for wastewater treatment and disposal.

(C) If adequate soils are not available onsite, the applicant can propose alternative methods for individual on-site wastewater systems. Alternative methods may include mound systems, marine outfalls, or other suitable wastewater systems. Review and approval of a proposal under this section must meet the applicable requirements of subsections (i) and (ii) of this section.

(c) *Residential wastewater systems—Property owner responsibility.* The responsibilities of individual property owners for their individual wastewater systems are as follows:

(1) *Permitting.* All the owners of lots in new minor and major residential subdivisions using cluster or on-site wastewater systems must obtain a City and Borough on-site wastewater treatment and disposal system (OWTDS) permit from the engineering and public works department, and have completed construction and inspection of the system prior to issuance of any certificate of occupancy. The requirements for obtaining a wastewater treatment and disposal system permit, and the permit fees, shall be established by regulations issued by the manager pursuant to CBJ 01.60.

(2) *Limited maintenance contract required.* In addition, the property owners in new residential minor and major subdivisions shall be required to enter into a contract with the department of public works or its designee for inspection, monitoring, and treatment plant pumping of the private wastewater facility. All other maintenance of the wastewater system is the responsibility of the property owner.

(3) *Violation of this section is an infraction.*

(d) Compliance with (b) of this section does not exempt the developer or individual property owners from meeting all requirements of the Alaska State Department of Environmental Conservation regarding approval of wastewater systems.

(Serial No. 87-49, § 2, 1987; Serial No. 2003-02, § 3, 2-10-2003; Serial No. 2015-03(c)(am), § 31, 8-31-2015)



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications. This form and all documents associated with it are public record once submitted.

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot)		
	Parcel Number(s)		
	☐ This property is located in the downtown historic district ☐ This property is located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner	Contact Person	
	Mailing Address	Phone Number(s)	
	E-mail Address		
	LANDOWNER/ LESSEE CONSENT		
Required for Planning Permits, not needed on Building/ Engineering Permits. Consent is required of all landowners/ lessees. If submitted with the application, alternative written approval may be sufficient. Written approval must include the property location, landowner/ lessee's printed name, signature, and the applicant's name.			
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for the City and Borough of Juneau officials/employees to inspect my property as needed for purposes of this application.			
_____ Landowner/Lessee (Printed Name) Title (e.g.: Landowner, Lessee)			
X _____ Landowner/Lessee (Signature) Date			
_____ Landowner/Lessee (Printed Name) Title (e.g.: Landowner, Lessee)			
X _____ Landowner/Lessee (Signature) Date			
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours. We will make every effort to contact you in advance, but may need to access the property in your absence and in accordance with the consent above. Also, members of the Planning Commission may visit the property before a scheduled public hearing date.			
APPLICANT If same as LANDOWNER, write "SAME"			
Applicant (Printed Name)		Contact Person	
Mailing Address	Phone Number(s)		
E-mail Address			
X _____ Applicant's Signature Date of Application			

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

Intake Initials

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number

Date Received



ALLOWABLE/CONDITIONAL USE PERMIT APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.
NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

To be completed by Applicant

PROJECT SUMMARY	
TYPE OF ALLOWABLE OR CONDITIONAL USE PERMIT REQUESTED Accessory Apartment – Accessory Apartment Application (AAP) Use Listed in 49.25.300 – Table of Permissible Uses (USE) Table of Permissible Uses Category: _____	
IS THIS A MODIFICATION or EXTENSION OF AN EXISTING APPROVAL? YES – Case # _____ NO	
UTILITIES PROPOSED	WATER: Public On Site SEWER: Public On Site
SITE AND BUILDING SPECIFICS Total Area of Lot _____ square feet Total Area of Existing Structure(s) _____ square feet Total Area of Proposed Structure(s) _____ square feet	
EXTERNAL LIGHTING Existing to remain No Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures Proposed No Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures	
ALL REQUIRED DOCUMENTS ATTACHED Narrative including: Current use of land or building(s) Description of project, project site, circulation, traffic etc. Proposed use of land or building(s) How the proposed use complies with the Comprehensive Plan Plans including: Site plan Floor plan(s) Elevation view of existing and proposed buildings Proposed vegetative cover Existing and proposed parking areas and proposed traffic circulation Existing physical features of the site (e.g.: drainage, habitat, and hazard areas)	
<i>If this is a modification or extension include:</i> Notice of Decision and case number Justification for the modification or extension Application submitted at least 30 days before expiration date	

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

ALLOWABLE/CONDITIONAL USE FEES		Check No.	Receipt	Date
	Fees			
Application Fees	\$ _____			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Pub. Not. Sign Fee	\$ _____			
Pub. Not. Sign Deposit	\$ _____			
Total Fee	\$ _____			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number	Date Received
-------------	---------------

Allowable/Conditional Use Permit Application Instructions

Allowable Use permits are outlined in CBJ 49.15.320, Conditional Use permits are outline in CBJ 49.15.330

Pre-Application Conference: A pre-application conference is required prior to submitting an application. There is no fee for a pre-application conference. The applicant will meet with City & Borough of Juneau and Agency staff to discuss the proposed development, the permit procedure, and to determine the application fees. To schedule a pre-application conference, please contact the Permit Center at 586-0770 or via e-mail at permits@juneau.org.

Application: An application for an Allowable/Conditional Use Permit will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed Allowable/Conditional Use Permit Application and Development Permit Application forms.
2. **Fees:** Fees generally range from \$350 to \$1,600. Any development, work, or use done without a permit issued will be subject to double fees. All fees are subject to change.
3. **Project Narrative:** A detailed narrative describing the project.
4. **Plans:** All plans are to be drawn to scale and clearly show the items listed below:
 - A. Site plan, floor plan and elevation views of existing and proposed structures
 - B. Existing and proposed parking areas, including dimensions of the spaces, aisle width and driveway entrances
 - C. Proposed traffic circulation within the site including access/egress points and traffic control devices
 - D. Existing and proposed lighting (including cut sheets for each type of lighting)
 - E. Existing and proposed vegetation with location, area, height and type of plantings
 - F. Existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.)

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the permit request the application may be required to be reviewed by other municipal boards and committees. During this review period, the Community Development Department also sends all applications out for a 15-day agency review period. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: All Allowable/Conditional Use Permit Applications must be reviewed by the Planning Commission for vote. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting.

Public Notice Responsibilities: Allowable/Conditional Use requests must be given proper public notice as outlined in CBJ 49.15.230:

The Community Development Department will give notice of the pending Planning Commission meeting and its agenda in the local newspaper a minimum of 10-days prior to the meeting. Furthermore, CDD will mail notices to all property owners within 500-feet of the project site.

The Applicant will post a sign on the site at least 14 days prior to the meeting. The sign shall be visible from a public right-of-way or where determined appropriate by CDD. Signs may be produced by the Community Development Department for a preparation fee of \$50, and a \$100 deposit that will be refunded in full if the sign is returned within seven days of the scheduled hearing date. If the sign is returned between eight and 14 days of the scheduled hearing \$50 may be refunded. The Applicant may make and erect their own sign. Please contact the Community Development Department for more information.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED



APPLICATION FOR A NONCONFORMING CERTIFICATION REVIEW

See reverse side for more information regarding the permitting process and the materials required for a complete application.

NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

TYPE OF NONCONFORMING SITUATION (CHECK ALL THAT MAY APPLY)

☐ USE ☐ STRUCTURE ☐ DENSITY ☐ PARKING ☐ LOT

Is this property for sale: ☐ YES ☐ NO
If yes, what is the projected closing date?

Have you submitted a narrative that fully explains the above listed nonconforming situations? YES ☐ NO ☐

The narrative should explain the nature of the nonconforming situation(s). Be specific, state past and present uses of the building, property, etc.

List all relevant information being submitted. Include this material and an as-built or site plan with the application.

Relevant information to show that the **situation was allowed when established** may include: building or land use permits, recorded plats, zoning codes or maps, dated photographs.

Situation	Type of Documentation

Relevant information to show that the **situation was maintained over time** may include: business licenses, dated photographs, insurance records and maps, utility bills, property tax records, business license, telephone listing, advertisement in dated publications, leases.

Maintained Situation	Type of Documentation

NOTE: If an as-built survey is not submitted, the Community Development Department may not be able to issue a Nonconforming Certificate for setbacks. As-built surveys should show the property in its current condition.

ALL REQUIRED MATERIALS ATTACHED

☐ **Complete Application (Per CBJ 49.30.310)**

- ☐ Narrative
- ☐ As-built survey or similar document
- ☐ Documentation
- ☐ Fees

NONCONFORMING CERTIFICATION REVIEW FEES:

	Fees	Check No.	Receipt	Date
Application Fees	\$ _____			
Admin. of Guarantee	\$ _____			
Adjustment	\$ _____			
Total Fee	\$ _____			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center
907-586-0770.

Case Number	Date Received
-------------	---------------

Nonconforming Certification Application Instructions

Nonconforming Situations is outlined in CBJ 49.30.310

Pre-Application Conference: A pre-application conference is **NOT** required prior to submitting an application. It is highly recommended that applicants meet with a planner to discuss the nonconforming situation(s) and necessary or appropriate documentation for submittal. Staff may have access to documentation that the applicant does not. Please contact the Permit Center at 907-586-0770 or via e-mail at permits@juneau.org.

Application: An application for a Nonconforming Certificate will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed application for Nonconforming Certificate and Development Permit Application forms.
2. **Fees:** Fee is \$150. If submitted in conjunction with a development permit, the fee is waived. All fees are subject to change.
3. **Project Narrative:** A detailed narrative describing the nonconforming situation(s).

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Application Review: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process, the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes. Depending on the details of the permit request, the application may require review by other City & Borough of Juneau departments. Applicants may be required to provide additional information and clarification.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED



**DIRECTOR'S REVIEW STAFF REPORT
NONCONFORMING CERTIFICATION
NCC2024 0019**

(907) 586-0715

CDD_Admin@juneau.gov

www.juneau.org/community-development

155 Heritage Way • Juneau, AK 99801

DATE: July 24, 2024
TO: Jill Lawhorne, AICP | Director
BY: Jay Larson, Planner II 

PROPOSAL: A Nonconforming Situation Review for nonconforming structure and lot.

KEY CONSIDERATIONS FOR REVIEW:

- The lot was platted in 1984 after a Conditional Use was approved for the development of a six-unit townhouse project that allowed minimum dimensional reductions.
- The structure (common wall dwelling) was permitted and built in 1984.
- The 2,070 square foot (sf) lot is nonconforming.
- The structure is nonconforming to the front yard setback.

GENERAL INFORMATION	
Property Owner	Daniel Melancon
Applicant	Eva Melancon
Property Address	2622 John Street
Legal Description	BELLEVIEW BL G LT 8D
Parcel Number	1D050L120067
Zoning	D18
Lot Size	2,070
Water/Sewer	CBJ/CBJ
Access	John St
Existing Land Use	Residential
Associated Applications	Conditional Use Permit No. USE24-012

STAFF RECOMMENDATION:

Staff recommends the following situations receive

Nonconforming Certification:

- Nonconforming Structures (CBJ 49.30.250)
- Nonconforming Lots (CBJ 49.30.260)

ABANDONMENT:

If a nonconforming situation is deemed to be abandoned by the Director, the decision may be reconsidered in accordance with CBJ 49.30.220. After reconsideration is reviewed, an appeal may be filed in accordance with CBJ 49.20.110.

NONCOMPLIANCE:

No information has been found to suggest noncompliant situations exist on the lot.

CBJ 49.30.215: Accidental damage or destruction. Structures receiving a nonconforming certification may have the right to reconstruct a nonconforming structure per CBJ Chapter 49.30.

Eva Melancon
File No: NCC2024 0019
July 24, 2024
Page 2 of 8

SITE FEATURES AND ZONING

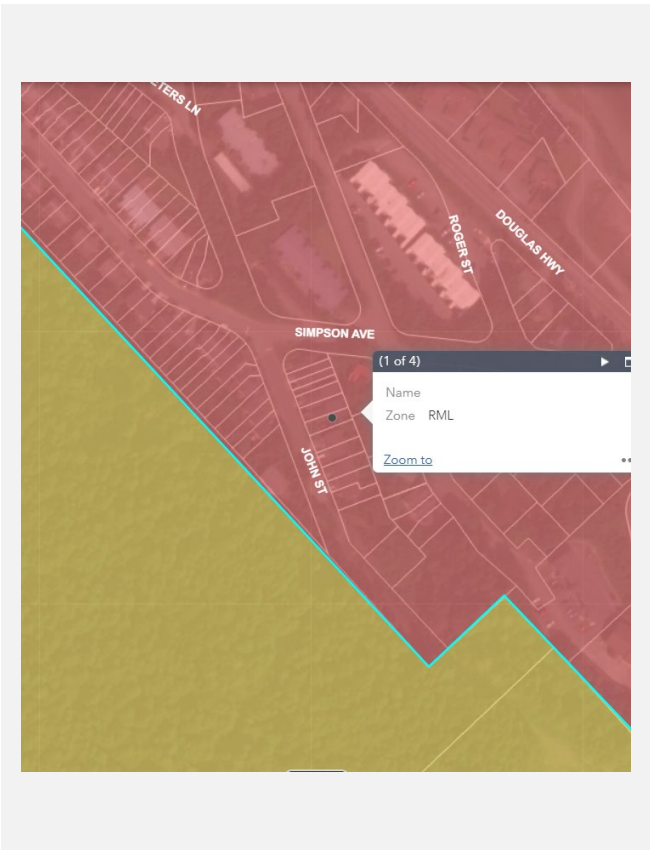
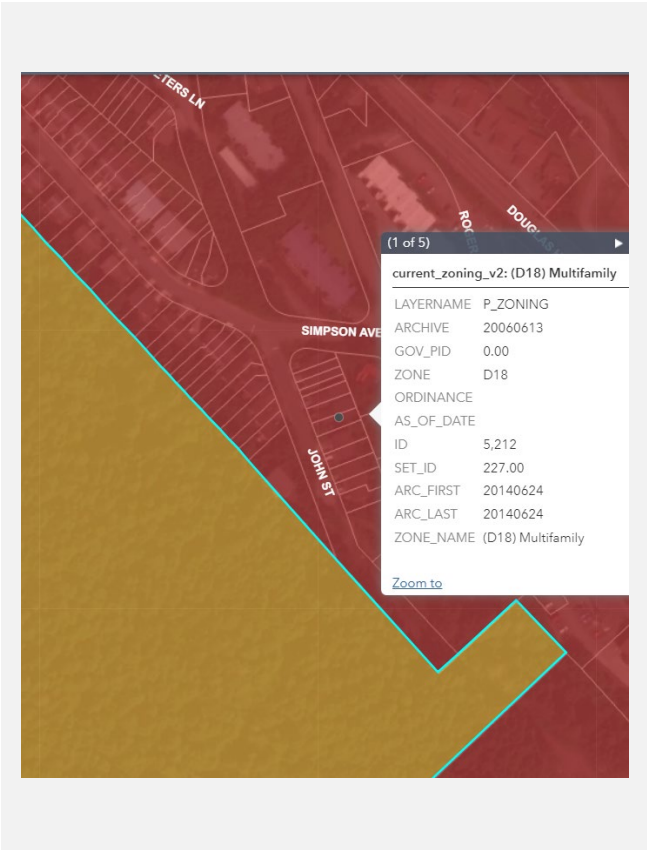


CURRENT ZONING MAP

SURROUNDING ZONING AND LAND USES	
North (D18)	Residential
South (D18)	Residential
East (D18)	Residential
West (D18)	Residential

SITE FEATURES	
Anadromous	None
Flood Zone	No
Hazard	Not Mapped
Hillside	No
Historic District	No
Overlay District	Mining & Exploration Surface Activities Exclusion District

ZONING AT TIME OF ESTABLISHMENT



Eva Melancon
 File No: NCC2024 0019
 July 24, 2024
 Page 3 of 8

ZONING HISTORY

Year	Zoning District	Summary
1970	R7	Minimum Lot Size: 5,400 sq ft. No multi-family dwelling may locate on an existing lot of record of less than 4,500 sq. ft. Minimum lot area per dwelling unit: 2,400 sq. ft. for the first dwelling unit; 1,200 sq. ft. for each additional dwelling unit. Minimum width of lot at front building: 60 ft Maximum lot depth: 90 ft Maximum building height: 35 ft Maximum lot coverage: 50% Minimum front yard setback: 15 ft Minimum rear yard setback: 15 ft Minimum side yard setback: 5 ft, 6 ft for two stories, 8 ft for three stories The structure was nonconforming for minimum lot size, width, maximum coverage, front setback and vegetative coverage.
1987	RML	Minimum lot size: 2,500 square feet for common wall dwelling Lot width: 20 feet for common wall Maximum building height: 35 feet Maximum lot coverage: 50% Minimum front yard setback: 20 feet Minimum rear yard setback: 10 feet Minimum side yard setback: 5 feet Two parking spaces per dwelling unit The structure remained nonconforming for minimum lot size, width, maximum coverage, front setback and vegetative coverage.
2021	Zoning changed to D18 *All zoning districts – lot depth repealed	Minimum lot size (common wall): 2,500 Lot width: 50 feet Lot coverage: 50% Maximum height: 35 feet Minimum front yard setback: 20 feet Minimum rear yard setback: 10 feet Minimum side yard setback: 5 feet Minimum side yard setback: (common wall dwelling): 5 feet, 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. On August 23, 2021, the CBJ Assembly adopted Ordinance 2021-28, repealing lot depth as a minimum dimensional standard. Other dimensional standards for D18 remain the same.

BACKGROUND INFORMATION

The applicant requests a Nonconforming Situation Review for relief from new setback and lot size standards (**Attachment A**). The lot was platted in 1980 and the structures were constructed in 1984.

Eva Melancon
 File No: NCC2024 0019
 July 24, 2024
 Page 4 of 8

INFORMATION REVIEWED

Year	Type	Summary
1956	Plat	Bellevue subdivision survey of U.S.M.S. 262 (Attachment B)
1983	CUP	CUP for zero-lot line townhouse/common wall dwellings (Attachment C)
1984	Site Plan	Site plan showing Lots 7-10 (Attachment D)
	Site Plan	Site plan showing common wall structures (Attachment E)
	As Built Survey	As built of lots 8A – 8D (Attachment F)
1985	Certificate of Occupancy	C of O for 2622/2624/2626/2628 John Street (Attachment G)
2021	Assessor's Records	Assessor photo of 2622 John Street (Attachment H)
2024	Assessor's Records	Assessor parcel summary (Attachment I)



CBJ Assessor's photo of common wall structure. 2622 John Street.

Eva Melancon
 File No: NCC2024 0019
 July 24, 2024
 Page 5 of 8



Additional CBJ Assessor's photos of common wall structure. 2622 John Street.

ANALYSIS

Zoning District Comparison Table – The table below lists the required standards for the D18 zoning district compared to the lot. A description of these situations is provided in the following sections. Items bolded do not meet current requirements.

Standard		Requirement	Existing	Code Reference
Lot	Size	2,500 sq. ft.	2,070 sq. ft.	CBJ 49.25.400
	Width	50 ft	24 ft	CBJ 49.25.400
Setbacks	Front	20 ft	10 ft	CBJ 49.25.400
	Rear	10 ft	>10 ft	CBJ 49.25.400
	Side	5 ft	8 ft	CBJ 49.25.400
	Side	0 ft	0 ft	CBJ 49.25.400
	Street Side	13 ft	N/A	CBJ 49.25.400
Lot Coverage		50% @ 1,035 sq ft	>50% @ 1,640 sq ft	CBJ 49.25.400
Height	Permissible	35 ft	Standard 3 story	CBJ 49.25.400
	Accessory	25 ft	N/A	CBJ 49.25.400
Maximum Dwelling Units		2	2	CBJ 49.25.500
Use		Residential	Residential	CBJ 49.25.300
Vegetative Cover		20%	<20%	CBJ 49.50.300
Parking		2	>2	CBJ 49.40.210(a)

Eva Melancon
File No: NCC2024 0019
July 24, 2024
Page 6 of 8

Minimum Lot Requirements – Minimum lot size of 2,500 sq ft/50 ft lot width.

Finding: Staff finds the lot nonconforming for lot size and lot width.

Minimum Setback Requirements – Minimum front yard setback is 20 ft., and the structure encroaches 10ft. into the front yard setback.

Finding: Staff finds the structure(s) nonconforming for setbacks.

Lot Coverage – Maximum lot coverage allowed is 50%.

Finding: Staff finds the lot nonconforming for lot coverage.

Structure Height – Maximum height allowed is 35 ft.

Finding: Staff finds the structure(s) conforming for height.

Residential Density – The lot has one common wall dwelling.

Finding: Staff finds the lot conforming for residential density.

Use – The use of the lot is single-family residential.

Finding: Staff finds the lot conforming for use.

Vegetative Cover – Vegetative coverage was determined by scaling the vegetation shown on the Parcel Viewer, then verifying with Assessor’s square footage.

Finding: Staff finds the lot nonconforming for vegetative cover.

Parking – CBJ 49.40.210 requires 2 off-street parking spaces. Back-out parking may be allowed for single-family dwellings in residential zoning districts per CBJ 49.40.235(b)(6)(A).

Finding: Staff finds the use conforming for number and type of off-street parking spaces.

NONCOMPLIANT SITUATIONS

CBJ 49.30.310(j) Failure of a situation to qualify for nonconforming certification. If a situation does not qualify for or is denied nonconforming certification, it is noncompliant and the property is subject to enforcement actions consistent with this title.

No information has been found to suggest noncompliant situations exist on the lot.

ABANDONMENT

CBJ 49.30.220(b) Abandonment of a nonconforming situation. *A nonconforming situation is abandoned if any of the following events occur:*

- (1) The owner indicates in writing that the nonconforming situation is being permanently discontinued;*
- (2) The nonconforming situation is damaged, destroyed, removed or demolished intentionally by the owner or intentionally by an authorized agent of the owner;*
- (3) The nonconforming structure is moved;*
- (4) The owner takes action consistent with an intent to abandon the nonconforming situation;*
- (5) The structure(s) associated with the nonconforming situation has been vacant for 365 consecutive days;*
- (6) Except for a structure with a nonconforming residential density, the nonconforming use has ceased and not substantially resumed for 365 consecutive days; or*
- (7) A structure with a nonconforming residential density has been unoccupied for 1095 consecutive days.*

No information has been submitted to suggest the nonconforming situations on the lot have been abandoned.

RECOMMENDATION

Staff recommends that the Director adopt the analysis and findings, and find the following situations on the lot to be NONCONFORMING to the Title 49 Land Use Code and issue a Nonconforming Certification for the following situations:

- Nonconforming Structures (CBJ 49.30.250):
 - Minimum front yard setback: 20 feet
- Nonconforming Lots (CBJ 49.30.260):
 - Lot size: 2,500 sf
 - Lot width: 50 ft
 - Lot coverage: 50%
 - Vegetative cover: 20%

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Application Packet
Attachment B	Plat
Attachment C	CUP for zero-lot line townhome
Attachment D	Site plan I
Attachment E	Site Plan II
Attachment F	As Built

Eva Melancon
File No: NCC2024 0019
July 24, 2024
Page 8 of 8

Item	Description
Attachment G	Certificate of Occupancy
Attachment H	Assessor’s Photo
Attachment I	Assessor’s Parcel Summary



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications. This form and all documents associated with it are public record once submitted.

To be completed by Applicant	PROPERTY LOCATION																					
	Physical Address 2622 John St Juneau AK 99801																					
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) BELLEVIEW BL G LT 8D																					
	Parcel Number(s) 1D050L120067																					
	☐ This property is located in the downtown historic district ☐ This property is located in a mapped hazard area, if so, which _____																					
	LANDOWNER/ LESSEE																					
	Property Owner Eva & Daniel Melancon	Contact Person Eva Melancon																				
	Mailing Address 2622 John St Juneau AK 99801	Phone Number(s) 304-932-2205																				
	E-mail Address eva.melancon@gmail.com																					
	LANDOWNER/ LESSEE CONSENT																					
Required for Planning Permits, not needed on Building/ Engineering Permits. Consent is required of all landowners/ lessees. If submitted with the application, alternative written approval may be sufficient. Written approval must include the property location, landowner/ lessee's printed name, signature, and the applicant's name. I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for the City and Borough of Juneau officials/employees to inspect my property as needed for purposes of this application. <table border="0"> <tr> <td style="text-align: center;">Eva Melancon</td> <td style="text-align: center;">Landowner</td> </tr> <tr> <td style="text-align: center;">Landowner/Lessee (Printed Name)</td> <td style="text-align: center;">Title (e.g.: Landowner, Lessee)</td> </tr> </table> <table border="0"> <tr> <td style="text-align: center;">X Eva Melancon</td> <td style="text-align: center;">Digitally signed by Eva Melancon DN: cn=Eva Melancon, o=ou, email=eva.melancon@gmail.com, c=US Date: 2024.04.03 19:28:33 -08'00'</td> <td style="text-align: center;">4/3/2024</td> </tr> <tr> <td style="text-align: center;">Landowner/Lessee (Signature)</td> <td></td> <td style="text-align: center;">Date</td> </tr> </table> <table border="0"> <tr> <td style="text-align: center;">Daniel Melancon</td> <td style="text-align: center;">Landowner</td> </tr> <tr> <td style="text-align: center;">Landowner/Lessee (Printed Name)</td> <td style="text-align: center;">Title (e.g.: Landowner, Lessee)</td> </tr> </table> <table border="0"> <tr> <td style="text-align: center;">X MELANCON,DANIEL.EUGENE.1290326601</td> <td style="text-align: center;">Digitally signed by MELANCON,DANIEL.EUGENE.1290326601 Date: 2024.06.13 12:07:14 -04'00'</td> <td style="text-align: center;">6/13/2024</td> </tr> <tr> <td style="text-align: center;">Landowner/Lessee (Signature)</td> <td></td> <td style="text-align: center;">Date</td> </tr> </table> NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours. We will make every effort to contact you in advance, but may need to access the property in your absence and in accordance with the consent above. Also, members of the Planning Commission may visit the property before a scheduled public hearing date.			Eva Melancon	Landowner	Landowner/Lessee (Printed Name)	Title (e.g.: Landowner, Lessee)	X Eva Melancon	Digitally signed by Eva Melancon DN: cn=Eva Melancon, o=ou, email=eva.melancon@gmail.com, c=US Date: 2024.04.03 19:28:33 -08'00'	4/3/2024	Landowner/Lessee (Signature)		Date	Daniel Melancon	Landowner	Landowner/Lessee (Printed Name)	Title (e.g.: Landowner, Lessee)	X MELANCON,DANIEL.EUGENE.1290326601	Digitally signed by MELANCON,DANIEL.EUGENE.1290326601 Date: 2024.06.13 12:07:14 -04'00'	6/13/2024	Landowner/Lessee (Signature)		Date
Eva Melancon	Landowner																					
Landowner/Lessee (Printed Name)	Title (e.g.: Landowner, Lessee)																					
X Eva Melancon	Digitally signed by Eva Melancon DN: cn=Eva Melancon, o=ou, email=eva.melancon@gmail.com, c=US Date: 2024.04.03 19:28:33 -08'00'	4/3/2024																				
Landowner/Lessee (Signature)		Date																				
Daniel Melancon	Landowner																					
Landowner/Lessee (Printed Name)	Title (e.g.: Landowner, Lessee)																					
X MELANCON,DANIEL.EUGENE.1290326601	Digitally signed by MELANCON,DANIEL.EUGENE.1290326601 Date: 2024.06.13 12:07:14 -04'00'	6/13/2024																				
Landowner/Lessee (Signature)		Date																				
APPLICANT																						
If same as LANDOWNER, write "SAME"																						
Applicant (Printed Name) same	Contact Person same																					
Mailing Address same	Phone Number(s) same																					
E-mail Address same																						
X Eva Melancon	Digitally signed by Eva Melancon Date: 2024.04.02 11:26:48 -08'00'	4/2/2024																				
Applicant's Signature		Date of Application																				

DEPARTMENT USE ONLY BELOW THIS LINE

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Intake Initials JPM
Case Number NCC 24-019
Date Received 6/17/24



APPLICATION FOR A NONCONFORMING CERTIFICATION REVIEW

See reverse side for more information regarding the permitting process and the materials required for a complete application.

NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

TYPE OF NONCONFORMING SITUATION (CHECK ALL THAT MAY APPLY)

☒ USE ☐ STRUCTURE ☐ DENSITY ☐ PARKING ☐ LOT

Is this property for sale: ☐ YES ☒ NO

If yes, what is the projected closing date?

Have you submitted a narrative that fully explains the above listed nonconforming situations? YES ☒ NO ☐

The narrative should explain the nature of the nonconforming situation(s). Be specific, state past and present uses of the building, property, etc.

List all relevant information being submitted. Include this material and an as-built or site plan with the application.

Relevant information to show that the *situation was allowed when established* may include: building or land use permits, recorded plats, zoning codes or maps, dated photographs.

Situation	Type of Documentation
lot size is smaller than allowed under new regulations,	original site plan we received when we bought the house
it was acceptable when the house was built in the 90s	

Relevant information to show that the *situation was maintained over time* may include: business licenses, dated photographs, insurance records and maps, utility bills, property tax records, business license, telephone listing, advertisement in dated publications, leases.

Maintained Situation	Type of Documentation

NOTE: If an as-built survey is not submitted, the Community Development Department may not be able to issue a Nonconforming Certificate for setbacks. As-built surveys should show the property in its current condition.

ALL REQUIRED MATERIALS ATTACHED

Complete Application (Per CBJ 49.30.310)

☒ Narrative

☒ As-built survey or similar document

☒ Documentation

☒ Fees

NONCONFORMING CERTIFICATION REVIEW FEES:

	Fees	Check No.	Receipt	Date
Application Fees	\$ 150			
Admin. of Guarantee	\$			
Adjustment	\$ -150			
Total Fee	\$ 0			

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center
907-586-0770.

Case Number	Date Received
NCC24-019	6/17/24

Nonconforming Certification Application Instructions

Nonconforming Situations is outlined in CBJ 49.30.310

Pre-Application Conference: A pre-application conference is **NOT** required prior to submitting an application. It is highly recommended that applicants meet with a planner to discuss the nonconforming situation(s) and necessary or appropriate documentation for submittal. Staff may have access to documentation that the applicant does not. Please contact the Permit Center at 907-586-0770 or via e-mail at permits@juneau.org.

Application: An application for a Nonconforming Certificate will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

- 1. **Forms:** Completed application for Nonconforming Certificate and Development Permit Application forms.
- 2. **Fees:** Fee is \$150. If submitted in conjunction with a development permit, the fee is waived. All fees are subject to change.
- 3. **Project Narrative:** A detailed narrative describing the nonconforming situation(s).

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

- 1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
- 2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

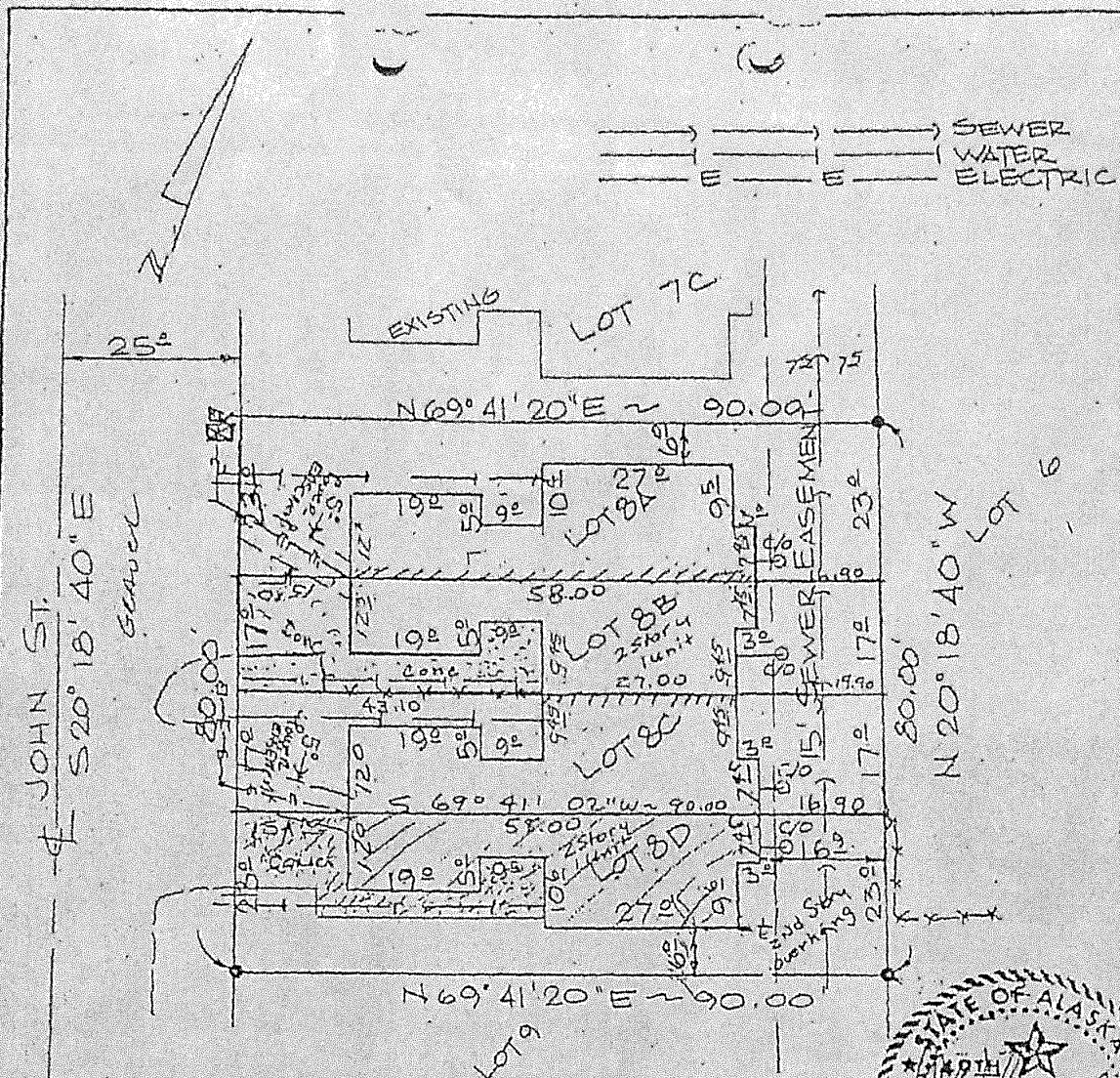
Application Review: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process, the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes. Depending on the details of the permit request, the application may require review by other City & Borough of Juneau departments. Applicants may be required to provide additional information and clarification.

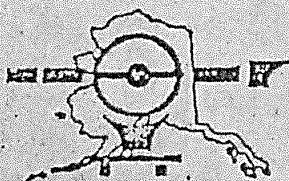
INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

Narrative:

We bought a duplex that was built in the 90s. at the time the lot size of 2,070 SFT was acceptable. It doesn't meet current CBJ regulations requiring the lot size be 2,500 SFT. There isn't anything we can do about that, but we aren't changing anything at all on the outside of our house.



I hereby certify that this is a true and correct plat;
that all walks, roads, easements, and improvements thereon
are as shown and that all overlaps and encroachments are
as shown to the best of my knowledge.

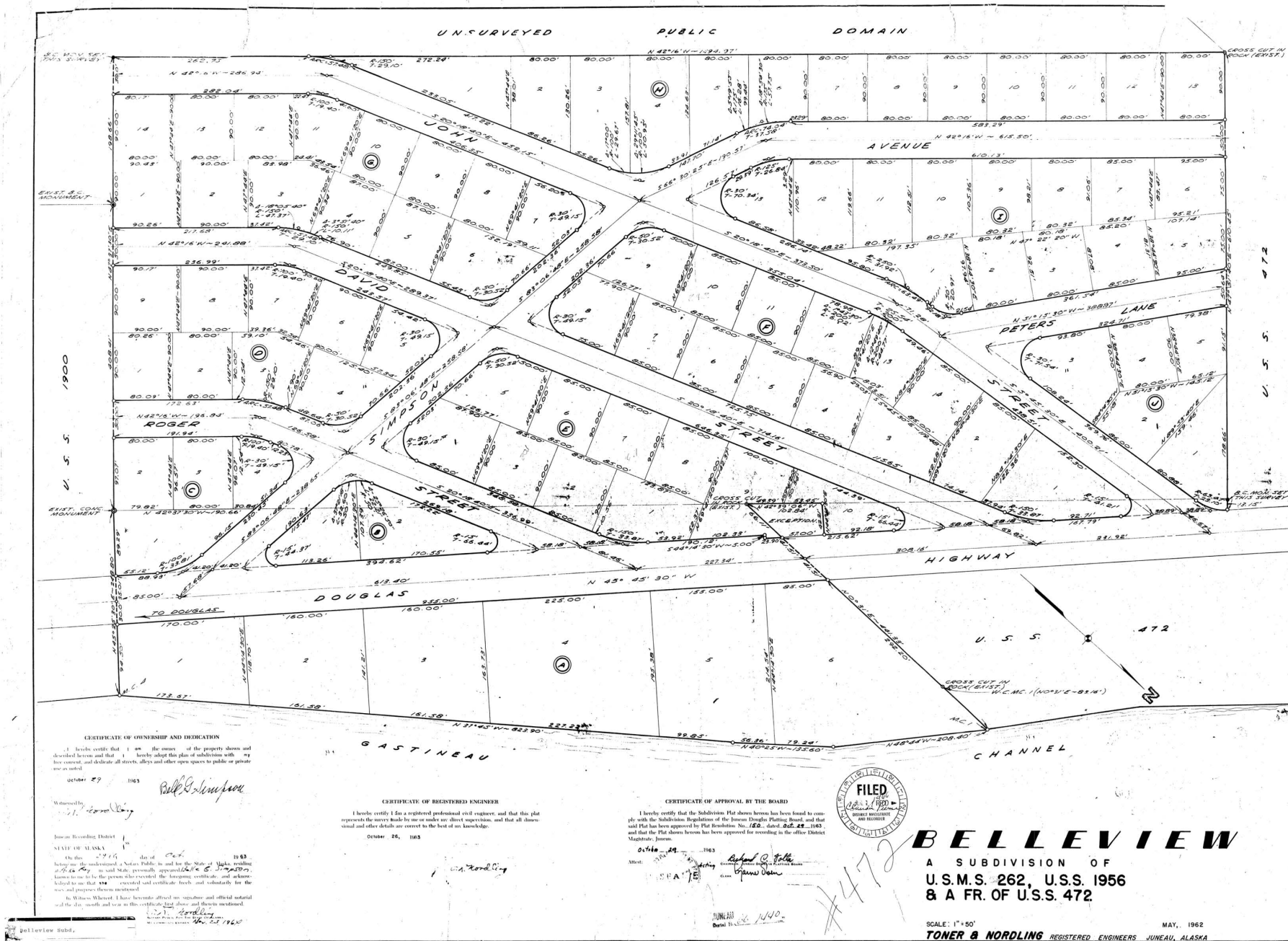


J. W. BEAN

PROFESSIONAL SURVEYOR
4528 SAWA Circle
JUNEAU, ALASKA
907-789-0590
SURVEYOR - PLANNER

AS-Built Survey of
Lot 8 P, Block G
Bellyview Subdivision
Within USMS 262

DES. ALG	JOB No. 974A	SCALE 1"=20'
P.B. 26/43	DATE 9-27-97	SHEET 1 OF 1



Attachment B - Plat
Attachment H - NCC Report

APPLICATION FOR CONDITIONAL USE

FILE NO. _____
DATE OF APPLICATION 1/17/84
RECEIPT NO. _____ FEE _____
DATE OF HEARING 2/7/84

Existing Zone	PROPOSED CONDITIONAL USE
RML	ZERO LOT LINE TOWNHOUSE

NAME OF APPLICANT K B INVESTMENTS (Linda) PHONE 789-2651
ADDRESS 3499 Meander Way
WHO HOLDS TITLE TO THE PROPERTY? Gus Menakakis
IF YOU DO NOT HOLD TITLE TO THE PROPERTY, WHAT IS YOUR INTEREST? buyer

LOCATION OF THE PROPERTY John Douglas
House Number _____ Street _____ City _____
U.S. SURVEY NO. _____ SUBDIVISION Bellview Subdivision
LOT 8 BLOCK G RESOLUTION NO. _____
DIMENSIONS OF PROPERTY: WIDTH 80 ft LENGTH 90 ft TOTAL SQ. FT. 7200 ft.
STATE SPECIFIC CONDITIONAL USE zero lot line townhouse - a common wall agreement
has been prepared for buyers to sign.

NUMBER OF PEOPLE TO USE WATER & SANITARY FACILITIES n/a
SOURCE OF WATER city
SQUARE FEET DRAINAGE AREA AVAILABLE n/a
TYPE OF EXISTING STRUCTURES none

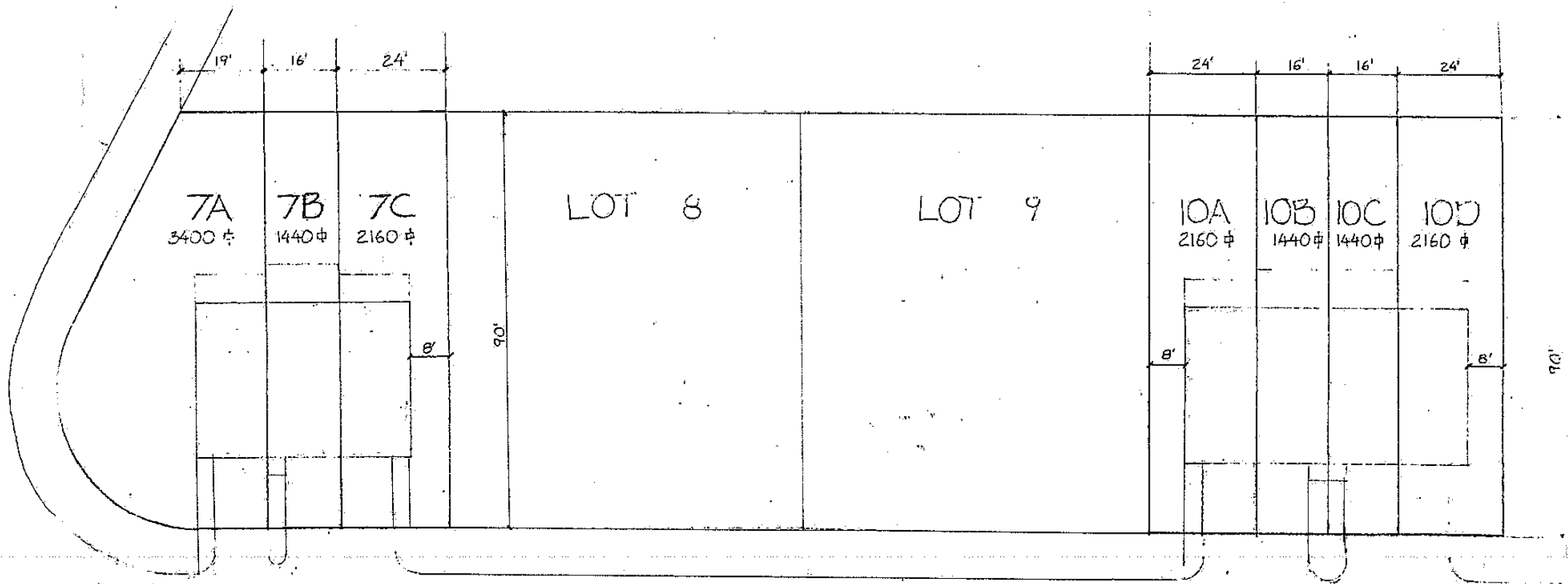
SIZE OF EXISTING STRUCTURES: WIDTH - LENGTH -
TOTAL SQUARE FEET -
USE OF EXISTING STRUCTURES: -

TYPE OF PROPOSED STRUCTURES: residential housing
SIZE OF PROPOSED STRUCTURES: 32 WIDTH 68 LENGTH 5,480 TOTAL SQ. FT. 32
USE OF PROPOSED STRUCTURES residential housing
FUTURE EXPANSIONS PLANS none

PARKING PROVISIONS: SQ. FT. AVAILABLE 400 +
PROPOSED CONDITIONS OF PARKING AREA: GRAVELED X PAVED _____
DATE _____ STAFF: _____

Linda H. Warner
SIGNATURE OF APPLICANT

DATE OF PLANNING COMMISSION MEETING 2/7/84

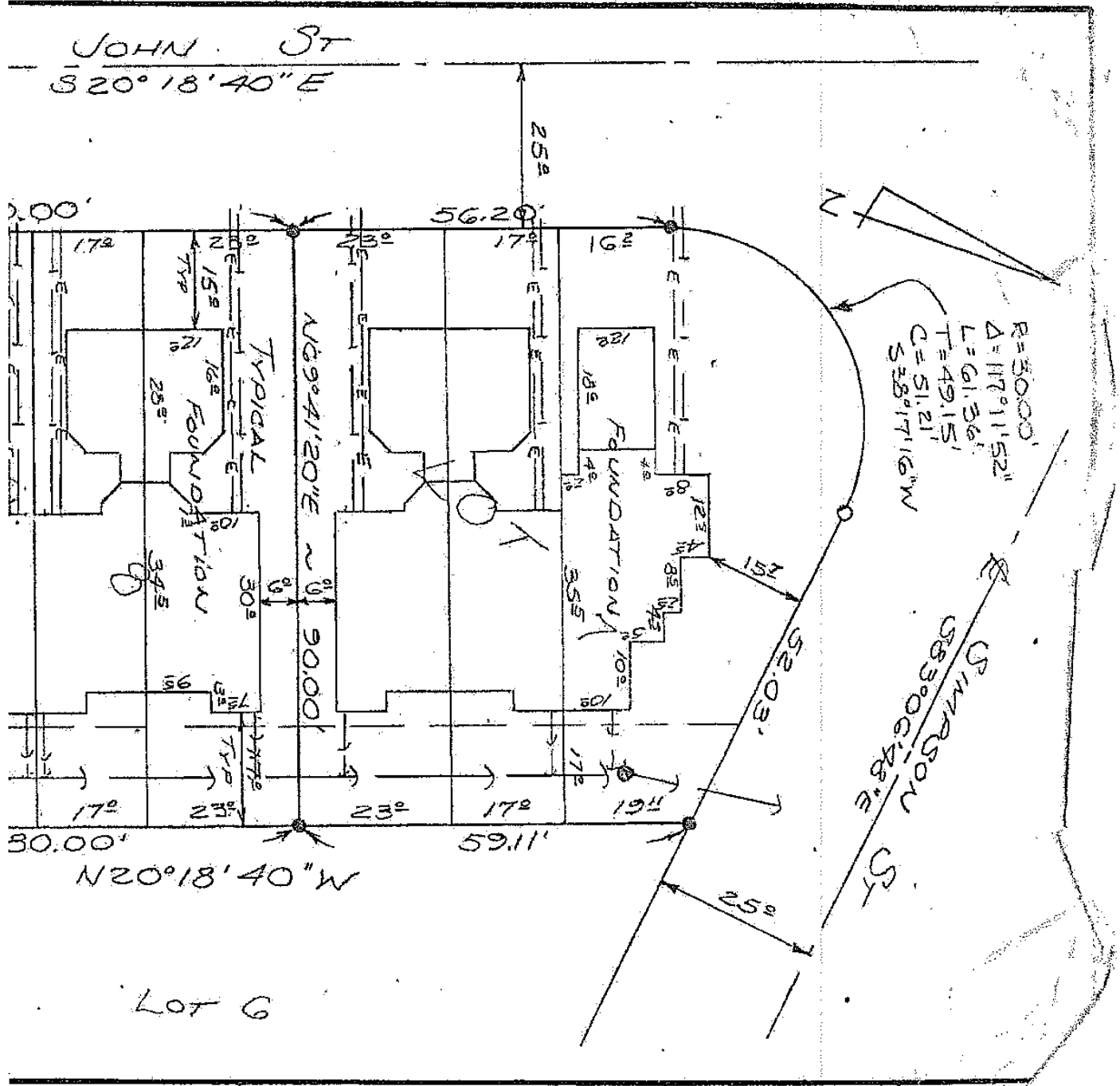


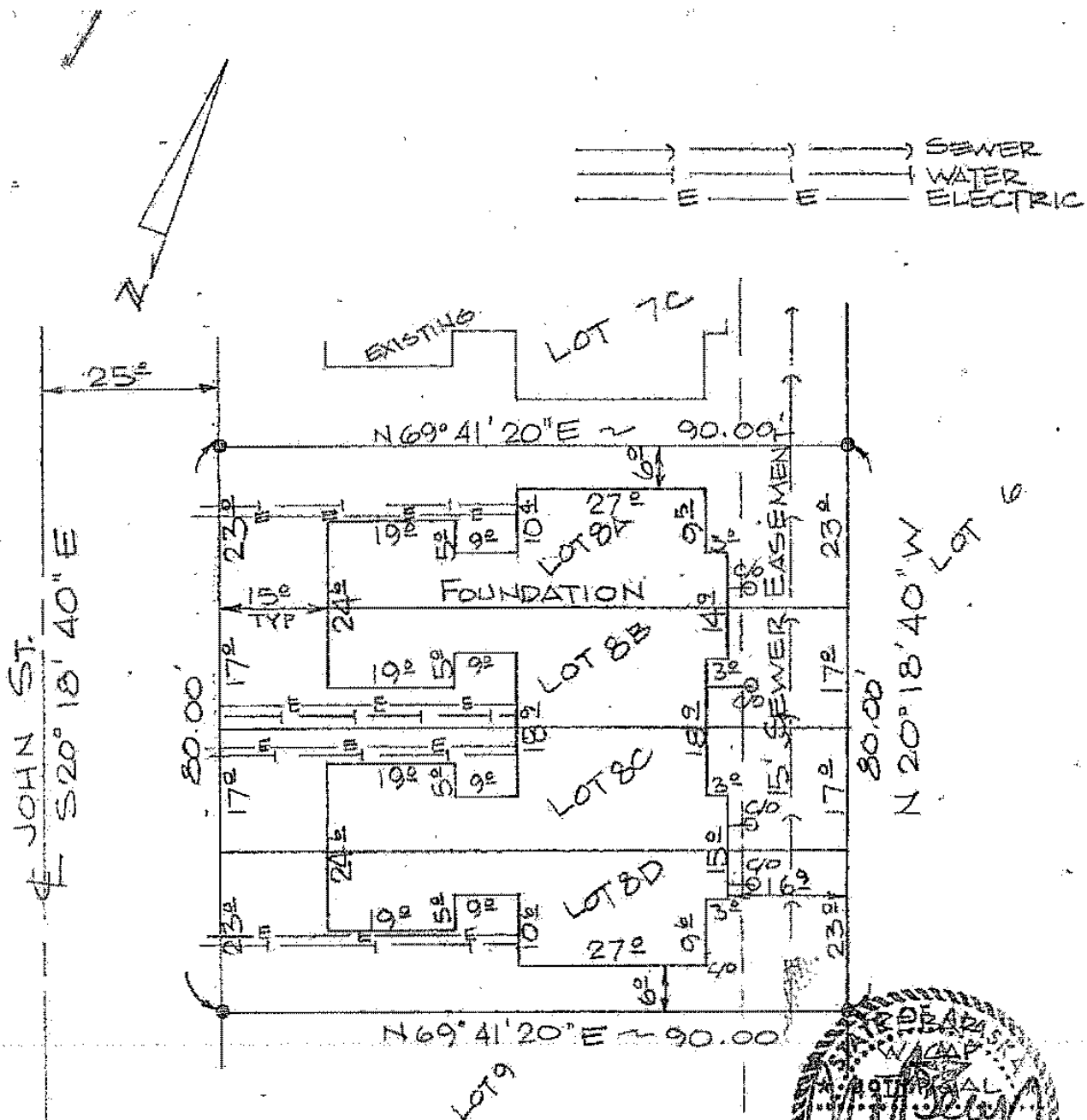
JOHN STREET

NORTH

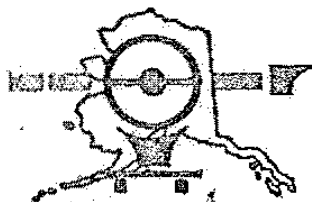
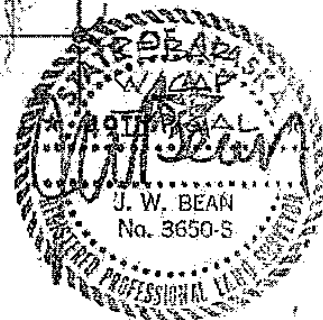
SITE PLAN

TOWNHOUSE





I hereby certify that this is a true and correct plat;
that all walks, roads, easements, and improvements thereon
are as shown and that all overlaps and encroachments are
as shown to the best of my knowledge.



J. W. BEAN

PROFESSIONAL SURVEYOR
2865 MENDENHALL LOOP RD. B-8
JUNEAU, ALASKA
907-789-0690
SURVEYOR - PLANNER

FOUNDATION ASBUILT
LOTS 8A, 8B, 8C, 8D, BLOCK G
BELL VIEW SUBDIVISION
WITHIN USMIS 262

DES. ALG	POS NO. 9744	SCALE 1"=20'
F.B. 26/43	DATE 8-8-84	SHEET 1 OF 1

Certificate of Occupancy

City & Borough of Juneau, Alaska

This Certificate issued pursuant to the requirements of Section 306 of the Uniform Building Code, as amended, certifying that at the time of issuance this structure was in compliance with the various ordinances of the City & Borough of Juneau regulating building construction or use for the following:

Use Classification Residential Bldg. Permit No. 16749

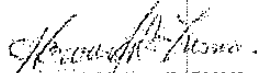
Occupancy Group R-3 Construction Type V-N

Owner of Building K.B. Investments Owner Address 3499 Meander Way, Juneau, AK 99801

Building Address 2628/2626/2624/2622 John Street, Juneau, AK 99824. (4 Plex)

Legal Description of Building Lot Lot 8 Block G

Bellevue Subdivision


HOWARD R. FURMAN
Building Official

File No. 1-L-038-00G-008-0000 Date January 15, 1985

Post this Certificate and all identified attachments in a conspicuous place.



Attachment H - Assessor's Photo
Attachment H - NCC Report



Showing result 1 of 1

PARCEL	
Tax ID	1D050L120067 (assessor summary)
Owner(s)	Daniel E Melancon; Eva M Melancon
Previous owner(s)	SHANNA E ENTIN
Site address(es)	2622 John St
Mail address(es)	2622 John St - Juneau, AK 99801
Legal description	BELLEVIEW BL G LT 8D
Lot square feet	2,070
Lot acres	0.0475
Zoning	(D18) Multifamily
Road system	yes
Fire service	yes
Water available	yes
Sewer available	yes
Year built	1984
Living area	1640
Assessment year	2024
-- assessed value	435,100
-- land value	124,700
-- building value	310,400
-- exemptions	0
GIS Date	2024/07/02
DBMS Date	2024/07/02

From: [Nick Coti](#)
To: [Jason Larson](#)
Subject: Conditional Use Permit: USE2024 0012. Comment
Date: Sunday, August 4, 2024 12:36:52 PM

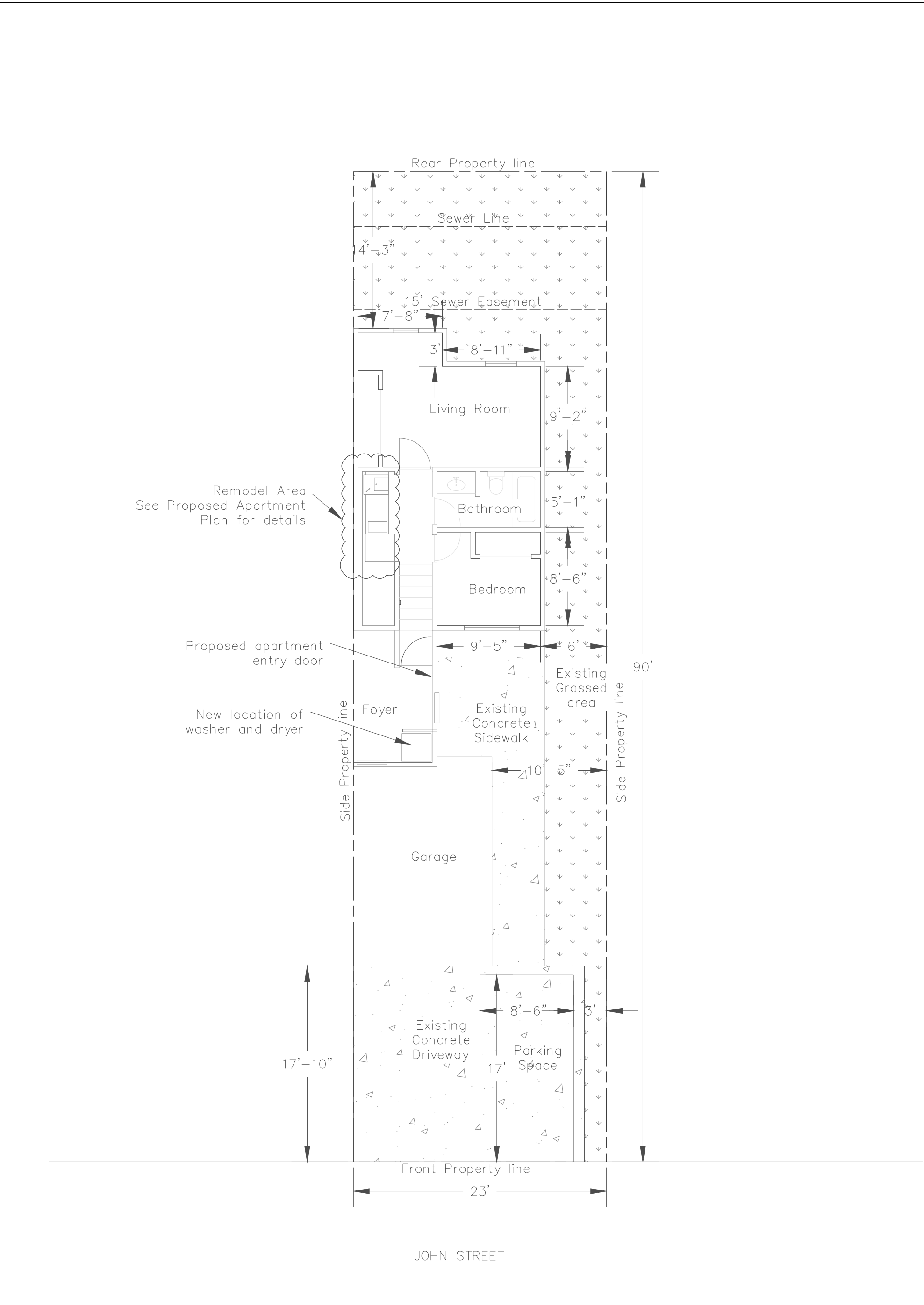
EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

To whom it may concern:

As owner of the home at 2624 John Street, I am a co-owner of the common wall with 2622 John Street. Despite numerous attempts, I have not been able to make contact with the owner to learn any details of the planned conversion. So, I object to the approval of the conditional use permit until I am assured that it will not adversely affect my home at 2624 John Street.

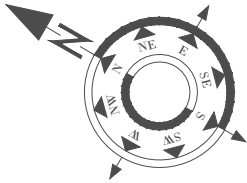
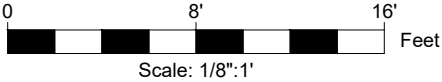






Apartment Modification of
2622 John Street

PROPOSED SITE PLAN



REVISIONS

NO.	BY	DATE	DESCRIPTION
00	EMM	03/31/2024	Initial Submittal
01	EMM	04/03/2024	Submittal 2
02	EMM	06/04/2024	Submittal 3
Project Address:		2622 John Street Juneau, AK	
Contact:		Eva Melancon	
Phone:		304 932-2205	
Email:		Eva.Melancon@gmail.com	

Sheet

2

Attachment K - Apartment Parking Plan



(907) 586-0715
CDD_Admin@juneau.gov
www.juneau.org/community-development
155 Heritage Way • Juneau, AK 99801

June 12, 2024

MEMO

To: Mandy Cole, Chair, Planning Commission

From: Irene Gallion, Senior Planner

Through: Jill Lawhorne, AICP, Director

Parcel No.: 5B1401010010

Legal Description: USS 1568 TR B1

Case Number: ARF2024 0001

RE: Streamlining development decisions for Alternative Residential Subdivisions (ARS)

The purpose of this proposal is to:

- Encourage housing development through improved regulatory stability.
- Reduce workload and complexity for the Commission.
- Improve CDD reaction time for development decisions on large projects with challenging sites.

Staff asks the Commission to consider delegating review authority to the Director for certain threshold activities for the Ridgeview project. Those might include:

- **Changes to number of bedrooms make-up:** Does the Commission care about maintaining the proportion of one-, two- and three-bedroom units in a building?
- **Changes to parking:**
 - If overall parking spaces are not changed, does the Commission care if the parking is underground or surface parking?
 - If the overall number of required parking spaces is adjusted due to the addition or deletion of bedrooms, does the Commission need to approve the new parking configuration?
 - Is there a threshold number of parking space changes that the Commission would like to review?
 - Are there different areas where parking adjustments need more scrutiny? (For instance, along the west lot line with the Vista del Sol neighborhood).

- **Relocated buildings:** The lot has highly variable soils, which has led to structure location modifications.
 - Does the Commission want to see every move?
 - Does the Commission need to review relocations that move the structure farther from the lot line with Vista del Sol?
 - Does the Commission want to see relocations within a certain number of feet of the Vista del Sol lot line? Other lot lines?
 - Is there a threshold move toward or away from a feature that would warrant Commission review?
 - Does the Commission care about orientation? For instance, if a building is relocated, but remains with an east-west longitudinal orientation, does that need to be reviewed?
- **Building construction order:** Does the Commission want to review phasing changes? For instance, after development of two structures on the west side of Seymour Way, the Developer is considering developing two on the east side of Seymour Way, which would change phasing order. The change leverages improvements already made, and provides more desirable properties for occupation. Note that, regardless of phasing order, the connection to Vista del Sol drive will need to be completed before the 100th unit is built in order to comply with fire code.

While delegation of authority is specific to this project, successes could be considered for future rewrites or standardized guidance. As the code has been exercised, shortcomings are recognized.

This proposal is being given to the Commission in advance for mindful consideration and pre-emptive drafting of guidance to the Director. Direction can be provided at a Commission meeting, and might include something like the following (example, not expectation):

I move the Commission delegates Ridgeview modification approval to the Director for:

- *Approval or denial of changes to the number of bedrooms for each unit.*
- *Approval or denial of parking modifications associated with building configuration, such as bedroom make-up or underground parking.*
- *Approval of building relocations that move the structure:*
 - *More than 30 feet from the lot line in common with Vista del Sol.*
 - *Farther than the required setback from other lot lines.*
- *Approval of building construction order, if locations are consistent with the original Plan approval (ARF2022 0001), subsequent changes (ARF2023 0001, AF2023 0002 and, possibly, ARF2024 0001), and the guidance above.*

Additional Materials

Regular Planning Commission Meeting

Virtual Via Zoom

7:00pm

Meeting Date: 8/27/2024

1. Case # USE2024 0012:

- a. Public Comment: AJ Perling received 8/10/2024

2. Comments on Non-Agenda Items:

- a. Public comment: Beth McEwen, received 8/13/2024
- b. Public comment: Barbara Thompson, received 8/22/2024

From: [AJ Perling](#)
To: [PC Comments](#)
Cc: [Jason Larson](#)
Subject: USE2024 0012
Date: Saturday, August 10, 2024 12:01:27 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hey there,

I have read thru the documentation made available about this proposal.
Thank you for the heads-up on this project.
I live at 2602 John Street.

The landowner proposal seems innocuous enough. Landowner claims that an off-street parking spot is available to whomever stays in this new unit.

My only real concern is that it is tight up here, vehicle-wise. A mother-in-law who doesn't drive would be the ideal occupant...or a person who walks to their job.

There is hardly room for folks who come up the street this far to turn around. Even in the summer time, deliveries (fuel trucks, UPS, postal, FedEx) make judicious 3-point & more-point turns. Complicate this current situation with repairmen vehicles (roofers, plumbers, construction), and then SNOW REMOVAL (this last winter was a nightmare even for trash removal) and the expectation of on-street parking for current residents.

Thank you for the opportunity to voice my concerns.

AJ Perling (and Julie Jensen)
2606 John Street
Juneau, AK 99801

From: [Beth McEwen](#)
To: [Dan Bruce - Baxter Bruce & Sullivan](#); [Emily Wright](#); [Éven Garcia - Schlemlein Fick & Franklin](#); [Garth Schlemlein - Schlemlein Fick & Franklin](#); [Karla Hart](#); [Lacey Georgeson - Legal Asst - Schlemlein Fick & Franklin](#); [Laurel Barton - Legal Asst - Schlemlein Fick & Franklin](#); [Robert Palmer](#); [Russell Dick](#); [Sherri Layne](#); [Shirley Davenport - Legal Asst - Baxter Bruce & Sullivan](#)
Cc: doa.oah@alaska.gov; sarah.marshall@alaska.gov; [City Clerk](#)
Subject: Final Decision in Hart v. CBJ Planning Commission & HTC Appeal before the Assembly #2023-AA01/OAH No. 23-0695-MUN
Date: Tuesday, August 13, 2024 1:31:11 PM
Attachments: [2024-08-13 Order on Amended Decision-Final-signed with attachment.pdf](#)

Good afternoon,

Please find attached the final decision in the matter of the Hart vs. CBJ Planning Commission & Huna Totem Corporation Appeal before the Assembly, Appeal #2023-AA01.

As noted in the attached Order, this is the final decision of the Assembly and may be appealed to Superior Court consistent with CBJ 01.50.190 provided it is filed within 30 days of today's date.

Clerks' Note: Distribution of this notice is going to all the parties of the appeal and bcc: to the Assembly, Planning Commission members and the CBJ Leadership Team.

Beth McEwen, MMC

CBJ Municipal Clerk/Election Official * 155 Heritage Way, Juneau, AK 99801

907-586-5278 x 4175

Beth.McEwen@juneau.gov * www.juneau.org



PUBLIC RECORDS LAW DISCLOSURE: This email, including any attachments, may be subject to disclosure under the law.

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

KARLA HART,

Appellant,

v.

CITY AND BOROUGH OF JUNEAU
PLANNING COMMISSION,

Appellee,

HUNA TOTEM CORPORATION,

Intervenor Appellee.

OAH No. 23-0695-MUN
Appeal Case No. APL2023-AA01

Appeal of:
PC Case No. USE2023 0003
Decision dated July 20, 2023

ORDER RE AMENDED DECISION

On July 29, 2024, the Assembly of the City and Borough of Juneau accepted and adopted the Hearing Officer's Amended Decision dated July 20, 2024 (attached).

This is a final decision of the Assembly and may be appealed to superior court consistent with CBJC 01.50.190. Consistent with Appellate Rule 602(a)(2), the Assembly intends the 30 day appeal window to start upon distribution of this order.

IT IS SO ORDERED.

DATED August 13, 2024.

ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU



By: Beth Weldon
Mayor

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE CITY AND BOROUGH OF JUNEAU**

In the Matter of	)	
	)	
KARLA HART,	)	
	)	
Appellant,	)	
	)	
v.	)	
	)	
CITY AND BOROUGH OF JUNEAU	)	
PLANNING COMMISSION,	)	
	)	OAH No. 23-0695-MUN
Appellee,	)	Appeal Case No. APL 2023-AA01
	)	
HUNA TOTEM CORPORATION,	)	Appeal of:
	)	PC Case No. USE2023 0003
Intervenor Appellee.	)	Decision dated July 20, 2023
	)	

AMENDED DECISION

I. Introduction

This case concerns an application of Huna Totem Corporation (HTC) for a conditional use permit (CUP) for a phased mixed-use development project involving a floating cruise ship dock, related retail space, underground bus staging and vehicle parking, and a community park. Following a public comment period and a public meeting to take testimony from members of the public, the CBJ Planning Commission (Commission) voted to approve the CUP application for the dock portion of the project only.

Juneau Resident Karla Hart appealed the Commission’s decision to the CBJ Assembly, expressing concerns that the permit, as conditioned, will materially endanger public health and safety and will violate the Long Range Waterfront Plan (as amended in 2022).

This decision concludes that substantial evidence supports the Commission’s determination that the permit will not materially endanger public health and safety and is in general conformity with the Long Range Waterfront Plan. The Commission’s approval of the CUP application is affirmed.

II. Facts and Proceedings

A. *The Project Background*

The project at issue involves the proposed construction of a fifth dock in the Juneau Subport at the southeast corner of Eagan and Whittier Streets.¹ The subport consists of tidelands owned in part by CBJ and in part by the State of Alaska, as well as 2.2 acres of associated uplands currently owned by HTC.²

Efforts to build a dock have been ongoing since at least 2019, when Norwegian Cruise Lines (NCL) purchased the uplands property and began exploring the possibility of a floating cruise ship dock and related waterfront development.³ NCL engaged in various outreach efforts during its ownership of the property, including three community meetings, in which HTC participated.⁴

B. *Process for Consideration of a Fifth Dock*

The CBJ's process for considering a fifth dock in Juneau was outlined at a public meeting in January 2022.⁵ The process entails three steps: (1) an update to the Long Range Waterfront Plan (LRWP), which is included in the CBJ Comprehensive Plan and codified at CBJ Code (CBJC) 49.05.200(b)(1)(C);⁶ (2) the application for a conditional use permit for consideration by the Planning Commission for compliance with Title 49 of the CBJC and related plans; and (3) an application for a tidelands lease, to be submitted to the CBJ Division of Lands and Resources for consideration by the CBJ Assembly.⁷

The first step in the process was completed on March 14, 2022, through the CBJ Assembly's adoption of Ordinance 2022-12, which amended the LRWP "to allow for creation of a dock facility capable of accommodating one large cruise ship."⁸ The ordinance also contained an appendix (Appendix B) that listed criteria for future dock construction projects, for reference

¹ R. 57.

² R. 61. The property at issue is identified as Lot C1 on the Plat 2009-37, which subdivided the Subport. R. 57. The tidelands are zoned Waterfront Commercial, and the uplands are zoned for mixed use development. R. 346.

³ R. 75; Tr. at 60.

⁴ Tr. at 60.

⁵ This process was established when NCL still owned the property. R. 55.

⁶ CBJ Tourism manager Alexandra Pierce has described the LRWP as "an infrastructure plan and guidebook to manage waterfront change along four overarching goals identified by the CBJ: (1) enhance community quality of life; (2) strengthen tourism product offerings as well as downtown retail, entertainment, residential and service activities; (3) improve Juneau's image and attractiveness for investment; and (4) recognize all current waterfront uses." R. 765. The LRWP was originally adopted in 2004. R. 765.

⁷ R. 55.

⁸ R. 280.

during the conditional use permitting process.⁹ The criteria had been recommended by the Visitor Industry Task Force, a task force established by the CBJ Mayor in 2019 in part to make recommendations on tourism and updating the LRWP.¹⁰ Appendix B of the 2022 amendment to the LRWP states:

VITF Criteria for Subport Dock Construction

In 2020, the CBJ VITF established the following criteria for constructing a cruise ship dock at the Subport. This amendment supports the VITF's criteria and any application for development needs to be evaluated consistent with the following:

1. One larger ship per day using one side of the facility;
2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;
4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor.)
5. CBJ manages dock to some extent through a public private partnership or management agreement;
6. **Dock is electrified;**

The following criteria are related to uplands development and remain strong recommendations for uplands-related proposals:

7. High quality uplands development for community and visitors;
8. Year-round development orientation.¹¹

The bolding in the above quotation has been added.

Later in 2022, NCL transferred the uplands property to HTC.¹²

C. *HTC's Conditional Use Permit Application*

The appeal in this case concerns the second step in the three-step process: an application for a CUP for development of the Subport. On January 25, 2023, HTC submitted a CUP application, which it revised and updated on May 18, 2023, for a development project referred to as the Aak'w Landing project.¹³ HTC described the project as:

⁹ R. 55 and 58.

¹⁰ R. 283 and 803. After meeting twelve times, holding two public meetings, and receiving written and public testimony, the task provided a final report with its recommendations to the Assembly. R. 803.

¹¹ R. 283 (emphasis supplied).

¹² R. 58.

¹³ R. 1-52; R. 58 R. 86. The original application was for development of the uplands only. The revised application proposed the construction of a floating dock in the tidelines. R. 1-52; R. 86.

a phased development of mixed use, including retail, food and beverage, community park, docking and associated parking. . . . The Aak’w Landing uplands project will be a concrete Bus Staging and vehicle Garage topped by a landscaped Park sloping up from Egan Drive. The project will include 34,000 sf of Retail spaces in the first phase with future phases adding 9,000 sf of additional Retail and 40,000 sf of facilities with a use yet to be determined. . . .

The pier portion of the project will utilize a proven steel float solution that will be built with a deck up to 70 feet wide and 500 feet long, allowing for the best facility layout and passenger handling solution.¹⁴

The application also states that the dock will include “cable trays and structure for integrating future shore power connections once the municipal feed is available.”¹⁵

D. Review and Approval of the CUP

The CUP application was distributed to various CBJ departments and outside agencies for review and comment, and a public comment period was held from June 2-20, 2023.¹⁶ Only one public comment, which opposed the project due to over-tourism concerns, was received.¹⁷ On June 29, 2023, the Community Development Department (CDD) submitted a staff report to the Planning Commission, evaluating the proposal under the permitting standards in CBJ 49.15.330(e) and (f), concluding, among other things, that the project would not materially endanger public health and safety and would conform with the CBJ comprehensive plan, the LRWP as amended, and various other adopted plans.¹⁸ The CDD recommended that the Commission approve the application with nine conditions, including the provision of shore power by HTC within 24 months of a power line being located nearby; the completion of a navigability study; a limit of one large cruise ship at the dock every 24 hours; no hot berthing; and no temporary certificate of occupancy for the dock until a tidelands lease is recorded.¹⁹

The Commission convened a public hearing on the CUP application on July 11, 2023.²⁰ Public interest in the application was surprisingly low, with only three members of the public

¹⁴ R. 120. HTC described the first phase of the project as developing the dock and a retail/welcome center; the second phase as adding retail space and an upper-level plaza; and the third phase as parking and a flexible space.

¹⁵ R. 119.

¹⁶ R. 74-75, 292-300, and 337.

¹⁷ R. 353.

¹⁸ R. 8—81.

¹⁹ R. 81-82.

²⁰ R. 346 and 1521.

(other than the applicant) testifying, each in support of the project.²¹ Although Commissioners expressed concern that the uplands portion of the application (particularly phase 3) required further clarification, they determined that they had sufficient information about the proposed dock to take a vote on that portion of the project.²² At the conclusion of the hearing, they voted 5-2 to approve the CUP for the floating dock.²³ On July 20, 2024, they issued a decision approving a floating steel dock up to 70 feet wide and 500 feet long, with the nine conditions specified in the CDD's staff report, including condition 5:

The dock owner will, at their own expense, provide shore power within 24 months after an appropriately-sized power line is within 25 feet of the property line. When shore power is provided, large ships using the dock will be required to use shore power instead of ship power.²⁴

Ms. Hart's notice of appeal followed, which was accepted by the CBJ Assembly, and HTC was allowed to intervene as a real party of interest in the subject of the appeal. The appeal was referred to Alaska Office of Administrative Hearings to supply a hearing officer as permitted by CBJC 01.50.040.²⁵

A hearing by Zoom videoconference was held on January 24, 2024. In this context, a "hearing" consists of oral argument by the parties, with an opportunity for the hearing officer to ask questions of the presenters. Participants in the oral argument included Ms. Hart, and counsel for the Commission and HTC, respectively. A proposed decision was issued on March 12, 2024, followed by a written objection to the proposed decision by Huna, and a written response by Ms. Hart to the objection. On April 25, 2024, the undersigned requested additional briefing from the

²¹ Tr. 38-48. Commissioner Pedersen expected there would have been more public comment on the project, and Commission Chair LeVine described being "baffled" by the level of public participation. Tr. at 103-104.

²² Tr. at 81. Commission Chair LeVine expressed his hope that the Commission's approve of the CUP for a dock "will signal to the developer and the Assembly that we're supportive of this development and would like to see a complete application come back before the Commission as quickly as possible." Tr. at 104.

²³ Tr. at 105.

²⁴ R. 362-363. The Commission did not adopt the analysis and findings regarding the uplands portion of the application because it "did not contain sufficiently specific information, particularly about the portion designated Phase 3, to support a conclusion that the project as a whole would comport with Title 49, including the MU2 land use designation." R. 363. The uplands portion of the project was heard at the Planning Commission's August 8, 2023, an approved as a separate CUP.

²⁵ The appeal was referred to the Office of Administrative Hearings after the Assembly granted a motion by Ms. Hart to disqualify the hearing officer originally designated to hear this case. Order Re Disqualification of Hearing Officer, October 25, 2023.

parties. Upon consideration of the parties' briefs and all information in the record, this amended proposed decision follows.²⁶

The appeal points and arguments raised at the hearing and in the parties' written filings are discussed below. Before turning to the merits of the arguments, however, a short explanation of the process and legal standards is provided.

III. Discussion

A. Procedure

A decision of the Commission to grant or deny a CUP may be appealed by "any party affected by the proceedings," a member of the Assembly, or a municipal officer or employee.²⁷ The appeal is to the Assembly, which may appoint a hearing officer to conduct a hearing and issue a proposed decision for the Assembly's consideration.²⁸

Appeals of a CUP are heard on the established record, as supplemented by relevant and admissible "new information" - i.e., information that was not presented to the Commission and that could not have been presented for reasons beyond the control of the party seeking its submission.²⁹ After briefing and oral argument, a proposed decision is issued, followed by the opportunity for parties to file written objections or statements of support after which either an amended proposed decision is issued, or a statement that no changes to the proposed decision should be made.

B. Standard of Review

The standard of review governing this appeal is established by the CBJC. For the Commission's decision to be set aside, the appellant has the burden of proving at least one of the following: (1) the decision is not supported by substantial evidence in light of the whole

²⁶ Under the CBJC, after briefing and oral argument, a proposed decision is issued, to which the parties may file written objections and, potentially statements of support. CBJC 01.50.140(c)(1). Ultimately, upon consideration of these submissions, the Assembly issues a written decision affirming, modifying, or setting aside the proposed decision in whole or in part, remanding the matter to the Commission, or directing that the matter be reheard. CBJC 01.50.140(a) and (c).

²⁷ CBJ Home Rule Charter, 3.16(b).

²⁸ CBJC 01.50.030(e)(4)(A); CBJ 01.05.040.

²⁹ CBJC 01.50.030(f). CUP applications must be submitted to the CDD Director. Once the application is accepted, the CDD Director is required to schedule and notice a public hearing in front of the Commission. CBJC 49.15.330(d)(2). The Director shall also forward the application to the Commission with a report containing the Director's recommendation for approval or denial of the application, and a determination of whether (1) the proposed project is an appropriate use of the property, (2) the application is complete, and (3) the project will comply with the requirements of Title 49. CBJC 49.15.330(d)(3) and 49.15.330(e).

record;³⁰ (2) the decision is not supported by adequate written findings, or the findings fail to identify the basis upon which the decision was made;³¹ or (3) a due process or other material procedural violation occurred.³²

“Substantial evidence” means “such relevant evidence a reasonable mind might accept as adequate to support a conclusion.”³³ This standard requires the reviewer to uphold the original factual findings if they are supported by substantial evidence, even if the reviewer may have a different view of the evidence. In a case reviewed on the substantial evidence standard, “[i]t is not the function of the [hearing officer] to reweigh the evidence or choose between competing inferences, but only to determine whether such evidence exists.”³⁴ For decisions based on the interpretation of a zoning ordinance implicating the Commission’s expertise or the formulation of fundamental policies, the decision is “entitled to considerable deference” and is reviewed under the “reasonable basis” standard of review.³⁵ In those circumstances, review of the Commission’s decisions is narrow, and a “presumption of validity” is applied.³⁶ Otherwise, the decision is reviewed under the “independent judgment” standard of review.³⁷

C. CUP Requirements

The standards applicable to CUP applications are set forth CBJC 49.15.330(e) and (f). Under section 330(e), at the hearing on the CUP, the Commission shall review the CDD Director’s report to consider:

- (1) Whether the proposed use is appropriate according to the table of permissible uses;
- (2) Whether the application is complete; and
- (3) Whether the development as proposed will comply with the other requirements of this title.³⁸

³⁰ CBJC 01.50.070(a)(1).

³¹ CBJC 01.50.070(a)(2).

³² CBJC 01.50.010. A fourth basis for setting aside the Commission’s decision, that it would violate the law, is implicit.

³³ CBJC 01.50.010.

³⁴ *Interior Paint Co. v. Rodgers*, 522 P.2d 164, 170 (Alaska 1974).

³⁵ *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 176 (Alaska 1993); *Balough v. Fairbanks North Star Borough*, 995 P.2d 245, 254 (Alaska 2000).

³⁶ *South Anchorage*, 862 P.2d at 173.

³⁷ *Balough*, 995 P.2d at 254.

³⁸ CBJC 49.15.330(e)(1).

The Commission is required to adopt the Director’s determination on each of these items “unless it finds by a preponderance of the evidence that the Director’s determination was in error, and it states its reasons for each finding with particularity.”³⁹

Under CBJC 49.15.330(f) if the Commission decides to adopt the staff report, it may nevertheless deny or place conditions on the permit in some circumstances. That section states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director’s determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:⁴⁰
 - (1) Materially endanger the public health or safety;
 - (2) Substantially decrease the value of or be out of harmony with the property in the neighboring area; or
 - (3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

D. Points on Appeal

Ms. Hart raised a number of points in her notice of appeal, which she expressly narrowed through briefing to the two issues summarized below. She has not briefed any additional issues identified in her notice of appeal. Thus, those issues are waived.⁴¹

1. Appellant’s Arguments Regarding Health, Safety, and Welfare

Ms. Hart argues that the Commission’s finding that the project will not materially endanger public health and safety is not supported by substantial evidence, and the project is inconsistent with the goal of the Comprehensive Plan to “promote public health and the general welfare.”⁴² As support for her position, she contends that the CDD failed to consider relevant studies and research concerning the effects of cruise ship emissions on human health. She quotes a statement from a CBJ Dock Electrification Fact Sheet by the Juneau Commission on Sustainability regarding significant health problems from exposure to cruise-ship related air pollution; she cites an EPA Shore Power Calculator she purportedly used to estimate the costs of

³⁹ CBJC 49.15.330(e)(2).

⁴⁰ The language of the section that the Commission “may” deny a CUP if specific circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.

⁴¹ *Martinez v. GEICO*, 473 P.3d 316, 326 (Alaska 2020); *Hagen v. Strobel*, 353 P.3d 799, 805 (Alaska 2015) (argument “given only a cursory statement in the argument portion of a brief” was waived due to inadequate briefing and “will not be considered on appeal”).

⁴² Appellant Brief, November 30, 2023, at p. 1

one year of air emissions from a large cruise ship at dock for 16 hours per day during the cruise season, which she claims “are realized as deaths, disabilities, emergency room visits, asthma attacks, and other harms;” and she references a Harvard School of Public Health publication as “one of many examples” of scientific studies and other “peer-reviewed federal government tools” about diesel air pollution she alleges the CDD should have examined to properly assess the health effects of emissions from the project.⁴³

The threshold problem with Ms. Hart’s assertions on these points is that the studies and documents she references are not in the record in this case.⁴⁴ In the context of appellate review, the Commission’s approval of the CUP must be evaluated solely based on the established record – i.e., the information that was before it – not some larger body of evidence that was not presented to the Commission.⁴⁵

There are similar problems with other assertions by Ms. Hart. For example, she contends generally that “[d]iesel air pollution has been associated with respiratory, cardiovascular, and neurodegenerative disease (such as Parkinson’s and Alzheimer’s), as well as cancer,” and “[p]renatal exposure is also of concern” – without citing any supporting authority or clarifying how these concerns are related to potential cruise ship emissions in this case.⁴⁶ She also maintains that to properly assess the effect of emissions from the project on human health, the CDD should have commissioned its own studies.⁴⁷ Again, Ms. Hart cites no legal authority in the CBJC or elsewhere that supports this position. Where legal authority is asserted without citation, it is waived.⁴⁸

Here, the question is whether the finding that the project would not materially endanger public health and safety is supported by substantial evidence in the record. The 30-page CDD staff report that was presented to the Commission looked at the whole project and included a section on health, with a particular focus on shore power. The report recognized that shore

⁴³ Appellant Brief, November 30, 2023, at pp. 2-4.

⁴⁴ Nor did Ms. Hart seek to supplement the record to include any of these items. The deadline for motions to supplement the record was November 9, 2023. Prehearing Order, September 25, 2023, at p. 2.

⁴⁵ Ms. Hart wanted the Commission to consider particular information in its decision-making process, she could have availed herself of the opportunity to submit that information to the Commission through the public comment and public meeting process. She did not elect to do so.

⁴⁶ Appellant Brief, November 30, 2023, at p.4.

⁴⁷ Appellant Brief, November 30, 2023, at p. 2; Appellant’s Response Brief to Opposition Briefs of Appellee and Intervenor Appellee, January 16, 2023, at p. 4.

⁴⁸ *Coppe v. Bleicher*, 318 P.3d 369, 378–79 (Alaska 2014) (upholding determination that issues are waived where argument “lacked citation to authority or a legal theory to support it.”)

power would improve health through reduction of combustion byproducts, that the dock would be built to accommodate shore power when a municipal line is available, and identified suggestions of the local electric utility, Alaska Electric Light & Power (AEL&P), about options for a transmission line to the Subport. The report provided information on the effects of the project on safety, noting that sidewalk and traffic congestion in downtown are major concerns of Juneau residents, and the project would take pressure off downtown by moving roughly 120,000 passengers west of Main Street. The report provided information about sanitation, traffic, noise and lighting (among other things), and discussed the dock and related issues, including sidewalks, walkways, and bus traffic from the dock, passenger fees to offset impacts, and the percentage of local residents employed by tourism.

The Commission then reviewed the staff report and conducted its public hearing in July 2023. Following a presentation of the project proposal by HTC, the Commissioners asked many questions about the project design and timing, parking and traffic, and most notably, shore power. There was considerable discussion about the timing of shore power to the project, with HTC stating that it is “investing in the infrastructure as part of the initial plan” so it will be “plumbed and ready for shore power” as soon as a transmission line is available to the property. Because of power capacity limitations in Juneau, HTC emphasized that the timing of a power line to the property is largely out of its control, but it explained that it has met with the power utility to discuss the project, and approving the CUP would serve as a catalyst to help prioritize bringing power to the property.

The Commission considered and weighed all this evidence in deciding to adopt the staff report’s findings regarding the dock. There is substantial evidence in the record to support the conclusion that the CUP as conditioned will not materially affect public health and safety.

2. Appellant’s Argument that the Proposed Project Violates the LRWP

Ms. Hart contends that the conditions in Appendix B of the LRWP are mandatory, including the criterion that “the dock is electrified.” She observes that condition 5 of the CUP does not require shore power before the dock is allowed to operate – only that shore power be provided within 24 months of a line becoming accessible to the property. This means the dock could operate without shore power for at least some period of time, contrary to the condition about shore power in Appendix B. Thus, Ms. Hart argues that approving the CUP violated the LRWP.

The Commission and HTC dispute this contention, arguing that the LRWP is part of the CBJ comprehensive plan, which consists of aspirational goals and policies, rather than obligatory standards. Thus, they claim that the Appendix B criteria are likewise aspirational only, and while they should be considered in deciding whether to approve a CUP, but they are not compulsory. The Commission and HTC argue that if the criteria were mandatory, development of a fifth dock would be delayed indefinitely, contrary to the LRWP's purpose "to allow a large cruise ship dock that accommodates one large cruise ship. . . ." ⁴⁹ They reason that if a dock were required to have shore power before operating, no one would try to build a dock in Juneau, given the considerable uncertainty about electrical capacity beyond the dock operator's control.

a. The conditions in the LRWP are aspirational goals and policies rather than mandatory requirements.

Whether the Appendix B condition that the "dock is electrified" is a mandatory requirement or an aspirational goal requires an interpretation of the land use ordinances concerning the LRWP. Because the Commission has expertise applying zoning and land use ordinances, including officially adopted plans of the CBJ, the reasonable basis standard of review applies to the Commission's interpretation of the ordinances in this instance. According to the plain language of CBJC 49.05.200(c), the LRWP is a part of the CBJ comprehensive plan. That section specifically states:

There is adopted the comprehensive plan of the City and Borough of Juneau, that publication titled The Comprehensive Plan of the City and Borough of Juneau, Alaska, 2013 Update, including the following additions:

(C) The Long Range Waterfront Plan for the City and Borough of Juneau, dated January 22, 2004, as amended including by Ordinance 2022-12.

Thus, understanding the nature of the LRWP necessitates an understanding of CBJ comprehensive plan and its role in municipal land use planning and zoning. Alaska law defines a comprehensive plan as "a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development. . . of the borough. . . including recommendations for implementation of the comprehensive plan." Consistent with this definition, CBJC 49.05.200(b) identifies the CBJ comprehensive plan as "the policies that guide and direct public and private land use activities in the City and Borough."

⁴⁹ R. 282.

The CBJC makes clear that the policies of the comprehensive plan are aspirational only; they are not regulations of land. CBJ 49.05.200(c) specifically states:

The goals and policies set forth in the comprehensive plan are aspirational in nature, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. **Neither the comprehensive plan nor the technical appendix adopted under this section nor the amendment of either** creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they **constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose**. (Emphasis supplied)

Because the comprehensive plan consists of aspirational goals and policies, and the LRWP, including Appendix B, is part of the comprehensive plan, it follows logically that the Commission reasonably construed the Appendix B conditions as aspirational goals and objectives, albeit goals specific to development of the downtown waterfront area.⁵⁰ As aspirational goals, they are not mandatory requirements, despite their seemingly mandatory language, including that the “dock is electrified.”⁵¹

The language of the CBJ comprehensive plan supports this conclusion. The plan contains 123 policies, each of which contains an associated “Standard Operating Procedure”, “Development Guideline”, and/or “Implementing Action,” described as “directives for how to carry out [each] policy.”⁵² These actions include the adoption and revision of zoning ordinances. The language of the plan specifies that it is the zoning ordinances that “regulat[e] the use of land and the improvements on it. . . which implement the land use policies and maps of this Comprehensive Plan,” by “establish[ing] standards for development and create[ing] different zoning districts or classification of land. In CBJ, zoning regulations are adopted within Title 49, the Land Use Code.”⁵³

This conclusion is reinforced by the Alaska Supreme Court’s general description of the land use planning and zoning process in *Lazy Mountain Land Club v. Matanuska-Susitna Borough Board of Adjustment and Appeals*, 904 P. 2d 373, 378 (Alaska 1995). In that case, the Court drew a distinction between development policies and goals, which are contained in a

⁵⁰ This conclusion would be the same even if the independent basis standard of review were applied.

⁵¹ This conclusion is also supported under the “independent basis” standard of review.

⁵² <https://juneau.org/index.php?gf-download=2017%2F08%2F20170316UPDATEComp.Plan2013WEB.pdf&form-id=22&field-id=11&hash=44bf8467abf6aacec02114d42e16e845d6a7d6c9ebb1b73a4e0e299b018299a8>, p. 227.

⁵³ *Id.* at 243.

comprehensive plan and the measures that implement them. The Court described land use planning and zoning as a “hierarchical process in which the comprehensive plan of a municipality serves as a ‘long-range policy guide for development of the [municipality] as a whole,’”⁵⁴ which is then implemented through measures such as zoning regulations and permit requirements.⁵⁵

The determination that the Appendix B conditions are aspirational goals rather than mandatory requirements is not altered by the language of CBJC 49.05.200(b) regarding the relationship between the policies in the comprehensive plan and the ordinances implementing them. CBJC 49.05.200(b) states that the “implementation of policies” in the comprehensive plan “includes the adoption of ordinances in this title,” and “[w]here there is a conflict between the comprehensive plan and any ordinance adopted under or pursuant to this title, such ordinance shall take precedence over the comprehensive plan.” Relying on this language, Ms. Hart suggests that the ordinance adopting the LRWP, Ordinance 2022-12, conflicts with and takes precedence over the comprehensive plan, rendering the Appendix B conditions mandatory. But this argument is misplaced. Ordinance 2022-12 was not adopted pursuant to the comprehensive plan to implement the plan’s policies. As explained previously, the adoption of the ordinance incorporated the LRWP into the comprehensive plan, establishing goals and policies for development of the downtown waterfront area – not legally binding requirements.⁵⁶

The CBJ could certainly adopt specific ordinances providing mandatory permitting requirements for a fifth dock in the Subport, including a requirement mandating shore power, to implement the LRWP specifically. But the CBJ has not done so to date. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) are binding in this context.

b. The application of CBJC 49.15.330(f) supports the Commission’s determination that the proposed project is in conformity with the LRWP.

⁵⁴ *Lazy Mountain*, 904 P.3d at 377.

⁵⁵ *Id.*, 904 P.3d at 377 (“the legitimate function of a zoning regulation is to implement a plan for the future development of the community.” Citing 1 Robert M. Anderson, *American Law of Zoning*, § 5.02, at 263 (2d. ed. 1976)).

⁵⁶ The CBJ could have adopted ordinances with specific permitting requirements for proposed dock projects in the Subport, to specifically implement the LRWP, but it has not yet done so. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) apply here.

In this case, the Commission adopted the findings in the CDD staff report. Under CBJC 49.15.330(f), the Commission nevertheless had the authority to deny or condition the permit in certain circumstances. CBJC 49.15.330(f), in pertinent part, states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director's determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:⁵⁷

(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.
(Emphasis supplied)

Here, the Commission concluded that the proposed development was in “general conformity” with the comprehensive plan and other officially adopted plans. The legal question is whether the Commission’s determination is supported by substantial evidence in the record.

The record reflects that proposed project is in general conformity with the goal of the LRWP that a fifth dock be electrified. The CDD recognized there is not currently a power line to the property, but it sought to ensure that the project be ready for shore power within a reasonable time of a power line becoming accessible. The CDD made note that the proposal includes cable trays and structures for integrating shore power once a power line to the property is available, and it recommended a condition requiring the dock owner to pay for and provide shore power within 24 months of a power line being within 25 feet of the property, and for large ships to use shore power at the dock once it is available.⁵⁸

For its part, the Commission spent substantial time at the public hearing on the subject of shore power. Vice-Chair Cole asked multiple questions about the timeline for the availability of a power line to the property, and Chair Levine asked whether any portion of the project could be expedited to enable shore power to be provided sooner.⁵⁹ HTC’s representatives explained that HTC is “committed to shore power,”⁶⁰ the dock will be “plumbed and ready” for shore power,⁶¹

⁵⁷ The language of the section that the Commission “may” deny a CUP if the specified circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.

⁵⁸ T. 70, 77, 79, and 81.

⁵⁹ T. 20 -24, 30-31.

⁶⁰ T. 31.

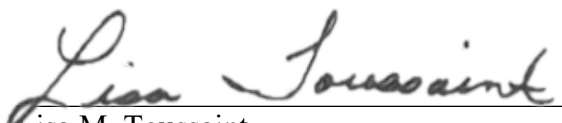
⁶¹ T. 20.

and all of the necessary infrastructure will be in place for the “power to come to us.”⁶² But HTC does not know when a transformer will be available to run power to the property,”⁶³ claiming that is “outside of our control,”⁶⁴ so it cannot promise shore power will be available on day one.⁶⁵ After robust questioning and discussion, the Commission voted to adopt the CDD’s findings and approve the project with condition that HTC pay for and provide shore power within 24 months of a power line being within 25 feet of the property. This condition was aimed at balancing the goal of providing shore power with the practical reality that the timing of availability of electricity to the dock is uncertain. Substantial evidence supports the Commission’s conclusion that the proposed project is in general conformity with the LRWP, including the goal in Appendix B that the dock “is electrified.

IV. Conclusion

Under the standard of review afforded to the Commission’s land use determinations, there is sufficient evidence to persuade a reasonable mind that the proposed CUP will not materially endanger the public health or safety, and that it is in general conformity with the LRWP. Accordingly, the Commission’s decision to adopt the CUP is AFFIRMED.

DATED: June 21, 2024.


 Lisa M. Toussaint
 Administrative Law Judge

Certificate of Service: I certify that on June 21, 2024, this document was distributed by email to Karla Hart, Sherri Layne, Garth Schlemlein, Even Garcia, Dan Bruce, Robert Palmer, Emily Wright, and the Juneau City Clerk.

By: 
 Office of Administrative Hearings

⁶² T. 22 (“... all the electricity is to the place where the transformer would sit.”); R. 24.

⁶³ T. 24 (“... we’ve already been talking with the designer to have all of the connections and everything needed to bring the power to the ships that are ready to go, but the problem is going to be connecting from our property to the power supply. . . .”)

⁶⁴ T. 22 (“... the city has already ordered or is in line for two transformers, so we’d be the third in line, but we wanted to make sure that we are plumbed, meaning that all the electricity is to the place where the transformer would sit, it’s run all the way to the dock, that we’ve invested in that infrastructure as part of the initial plan.”)

⁶⁵ T. 24 (“So we were initially anticipating that the project would have shore power on day one, and then we were told that there’s not enough capacity in town to provide it. So the problem wasn’t us; the problem was bringing power to us, and then to our location. . . .”)

From: [Barbara Thompson](#)
To: [PC Comments](#)
Subject: On-Street Parking on Second Street, Douglas, AK
Date: Thursday, August 22, 2024 9:27:44 AM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hi!

I'm trying to figure out who I need to contact to ask about an on-street parking issue that's going to get worse, this winter.

I think that a solution would be to move the "No Parking from November 1-April 1" sign from one side of the street to the other side. This would still allow snow removal and emergency vehicle access to occur, during winter months. I live on a short, dead-end piece of Second Street in Douglas and this change would affect only this section of Second Street.

I have no idea if this "fix" would be a possibility, or who I can talk with at the CBJ, about it. Would you please point me in the right direction?

Thank you!

Barbara Thompson
2114-A Second Street
Douglas, AK 99824

907-209-2424

thompsonba8282@gmail.com