

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							
	<input type="checkbox"/> This property is located in the downtown historic district <input type="checkbox"/> 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 style="width:100%; border:none;"> <tr> <td style="width:50%; text-align:center;">Eva Melancon</td> <td style="width:50%; 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>			Eva Melancon	Landowner	Landowner/Lessee (Printed Name)	Title (e.g.: Landowner, Lessee)		
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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								
<table style="width:100%; border:none;"> <tr> <td style="width:33%; border-bottom:1px solid black;">X Eva Melancon</td> <td style="width:33%; font-size:small;">Digitally signed by Eva Melancon Date: 2024.04.02 11:26:48 -08'00'</td> <td style="width:33%; text-align:center; border-bottom:1px solid black;">4/2/2024</td> </tr> <tr> <td style="text-align:center;">Applicant's Signature</td> <td></td> <td style="text-align:center;">Date of Application</td> </tr> </table>			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
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-----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
Case Number USE24-012
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.

To be completed by Applicant

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
 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)

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

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

ALLOWABLE/CONDITIONAL USE FEES			
	Fees	Check No.	Receipt
Application Fees	\$ <u>350⁰⁰</u>		
Admin. of Guarantee	\$ _____		
Adjustment	\$ _____		
Pub. Not. Sign Fee	\$ <u>50⁰⁰</u>		
Pub. Not. Sign Deposit	\$ <u>100⁰⁰</u>		
Total Fee	\$ <u>500⁰⁰</u>		

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INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

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Case Number	Date Received
<u>USE24-012</u>	<u>6/17/24</u>

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:

common wall

We have a 3-story duplex 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

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/>

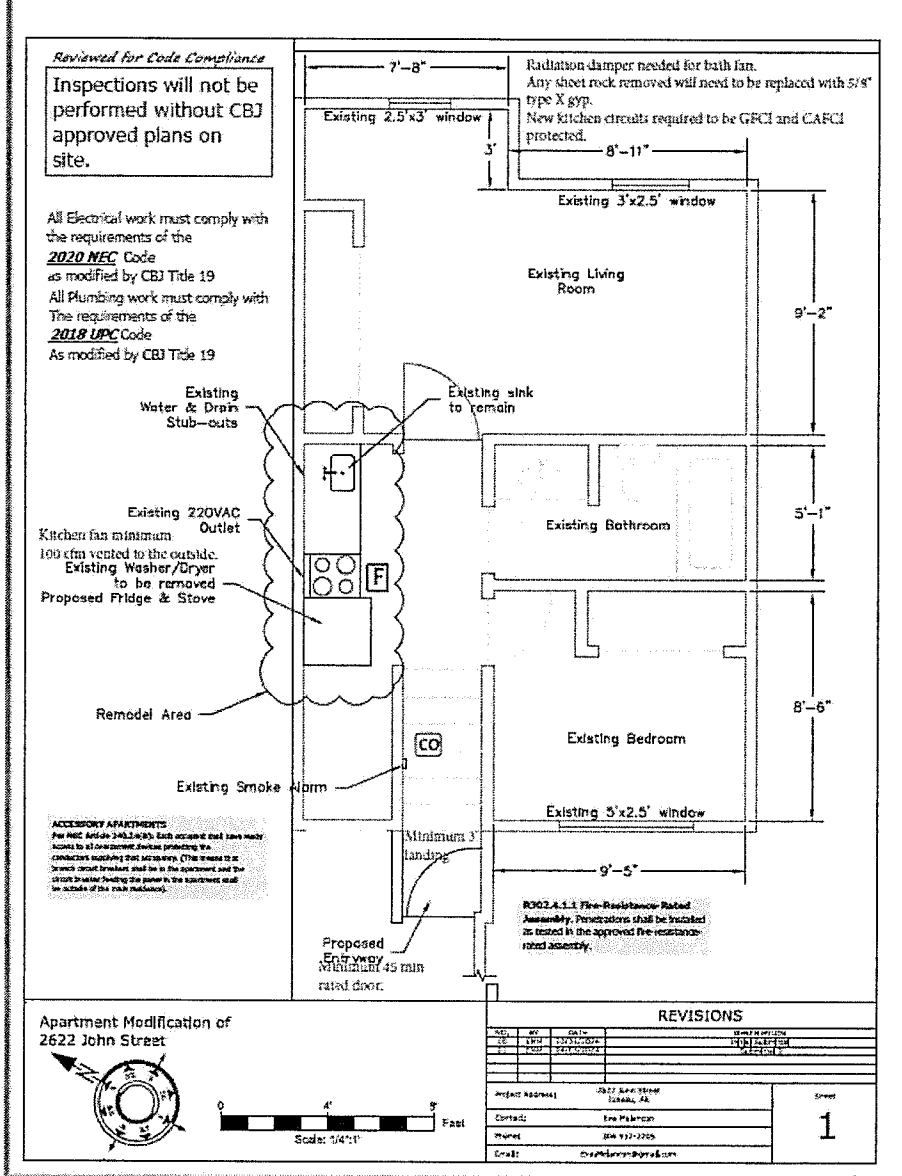
Project Overview

The property is located on Douglas Island and is part of the Belleview 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

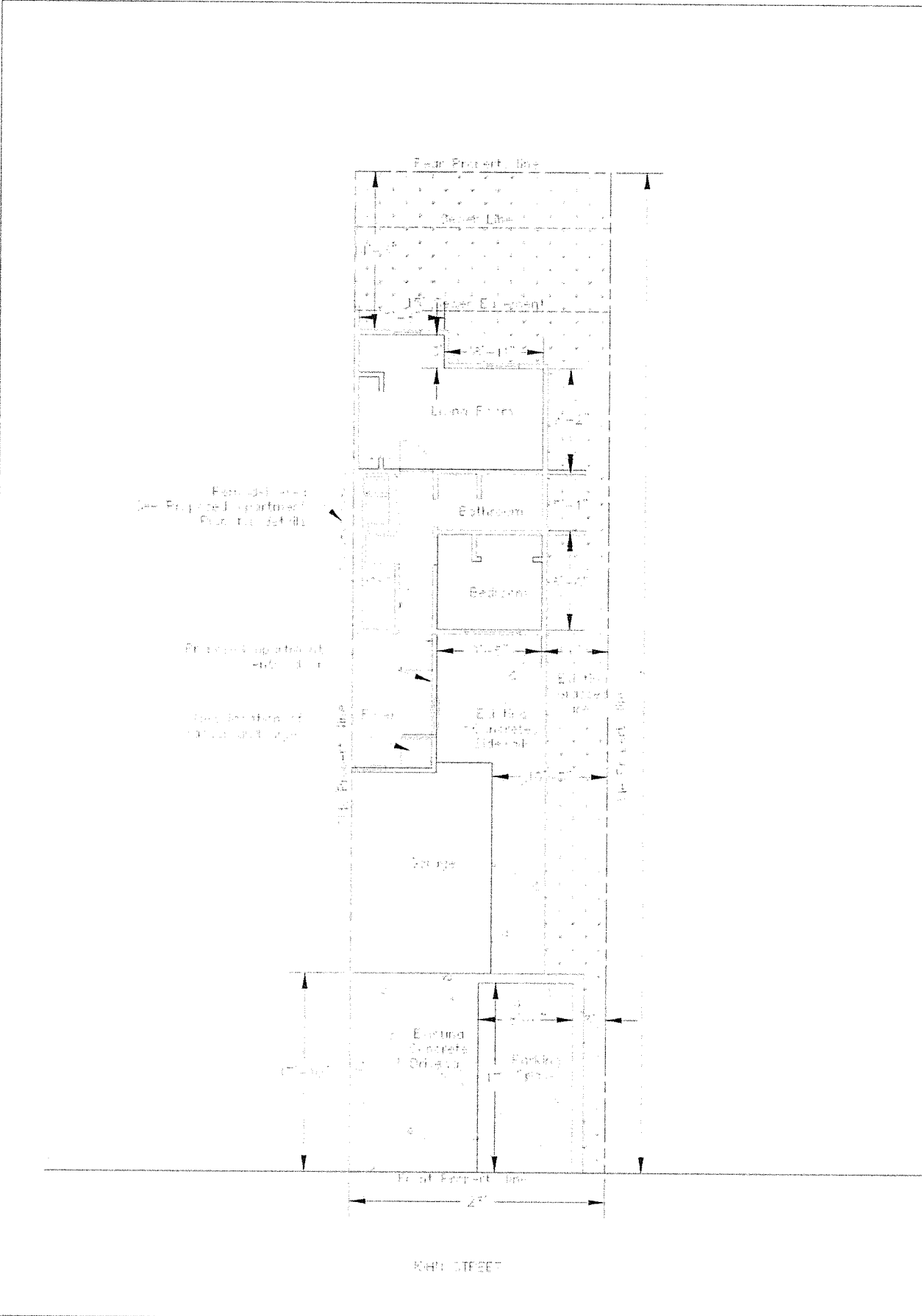
Phone: (907) 586-0715
Web: www.juneau.org/community-development

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

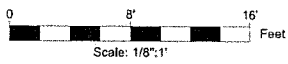
Applications:

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



Apartment Modification of
2622 John Street

PROPOSED SITE PLAN

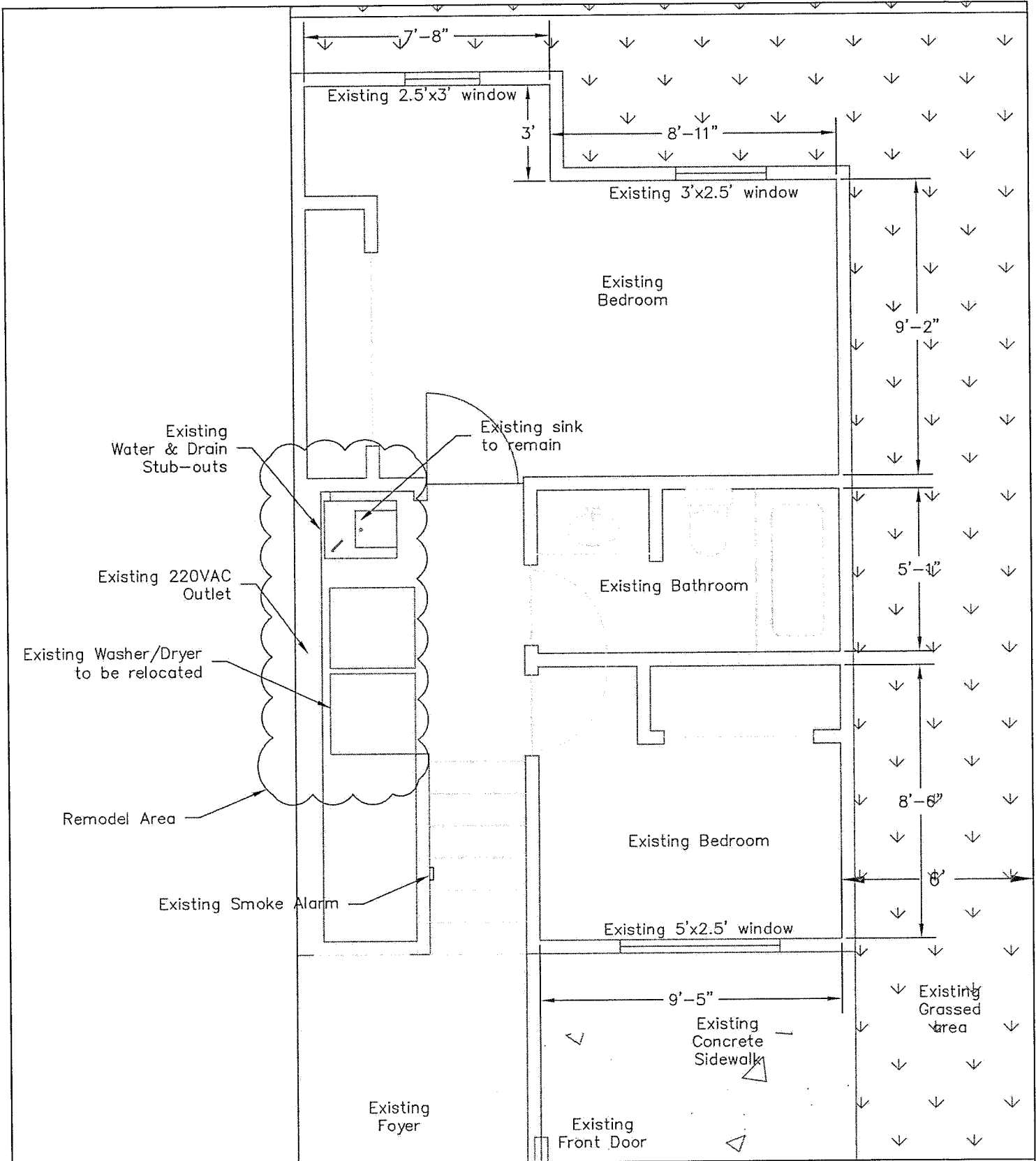


REVISIONS

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

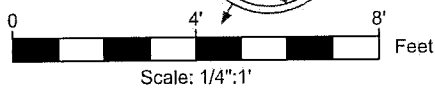
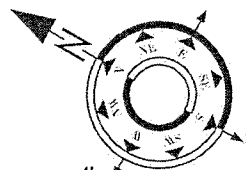
Project Address: 2622 John Street
Jupiter, AK
Contact: Eva Melincon
Phone: 304 932-2205
Email: Eva.Melincon@gmail.com

Sheet
2



Apartment Modification of
2622 John Street

EXISTING APARTMENT



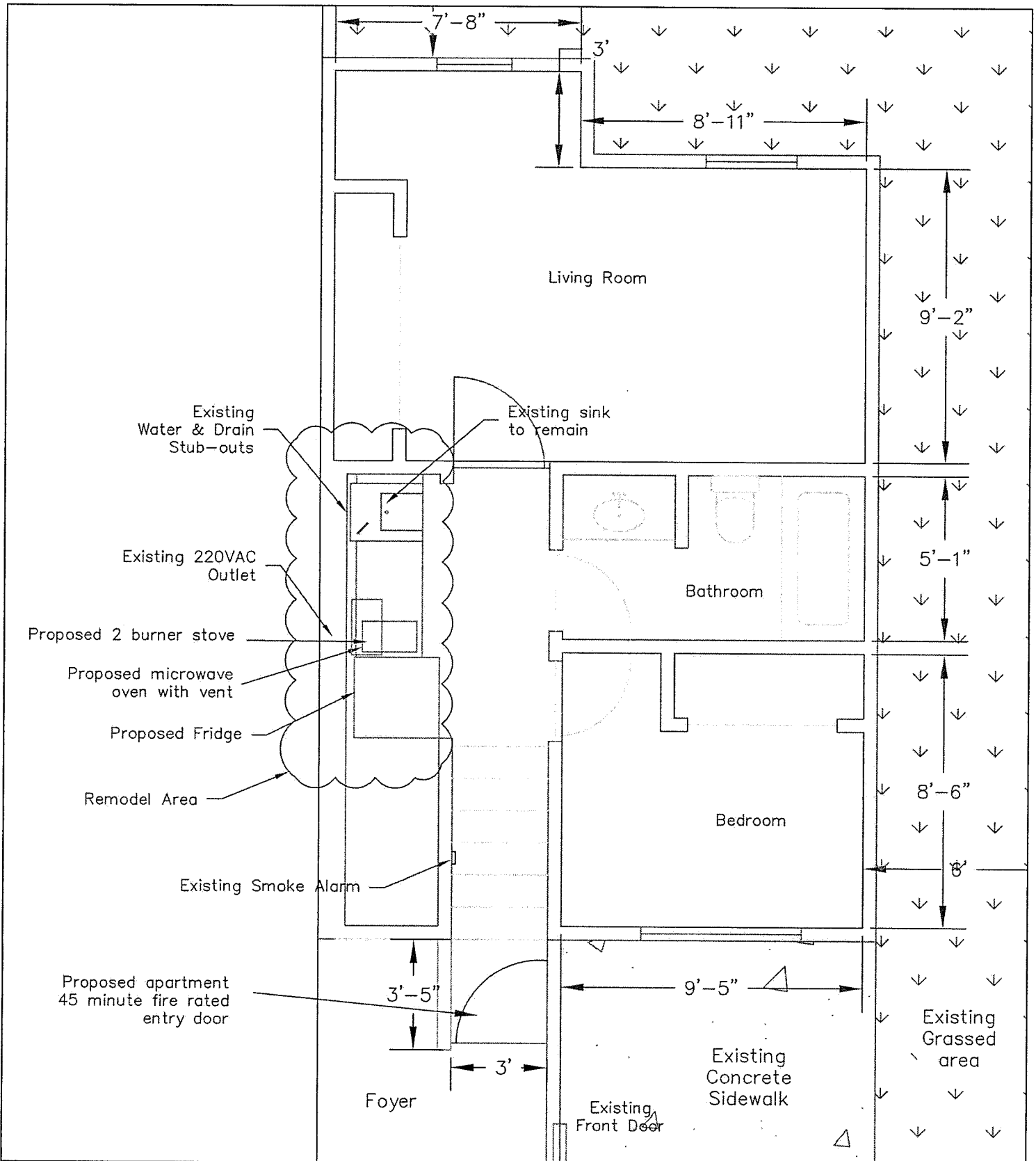
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02	EMM	06/04/2024	Submittal 3

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

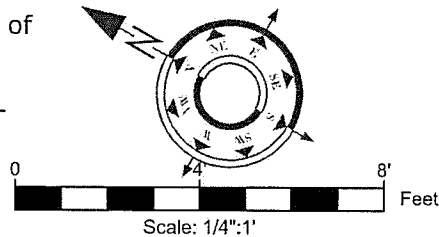
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3



Apartment Modification of
2622 John Street

PROPOSED APARTMENT



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

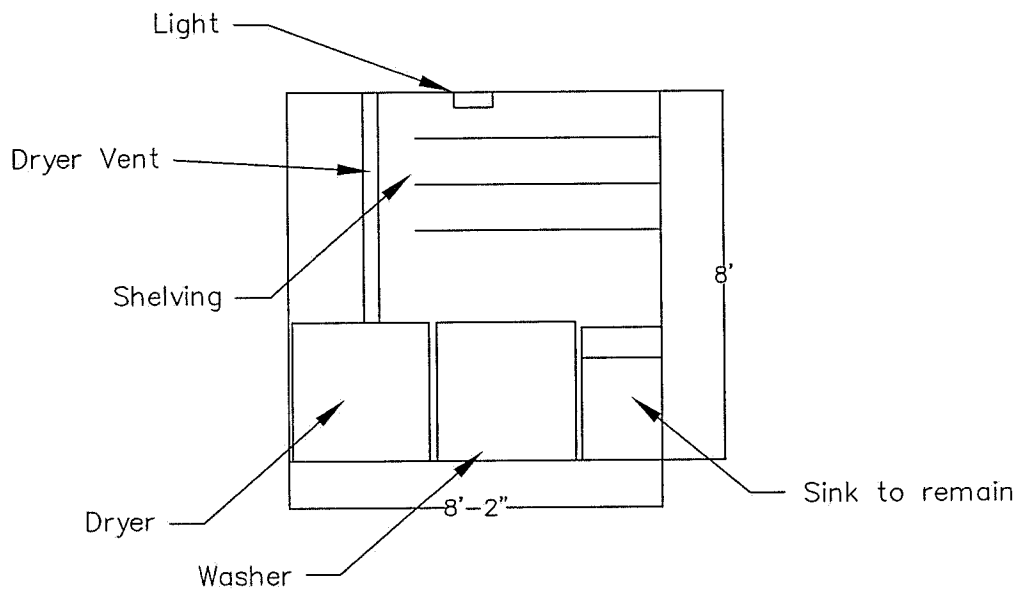
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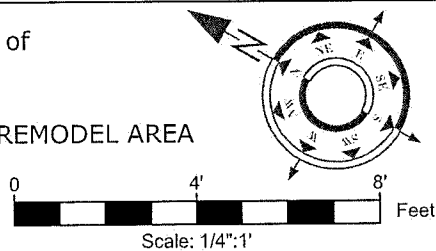
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4



Apartment Modification of
2622 John Street

EXISTING PROFILE OF REMODEL AREA



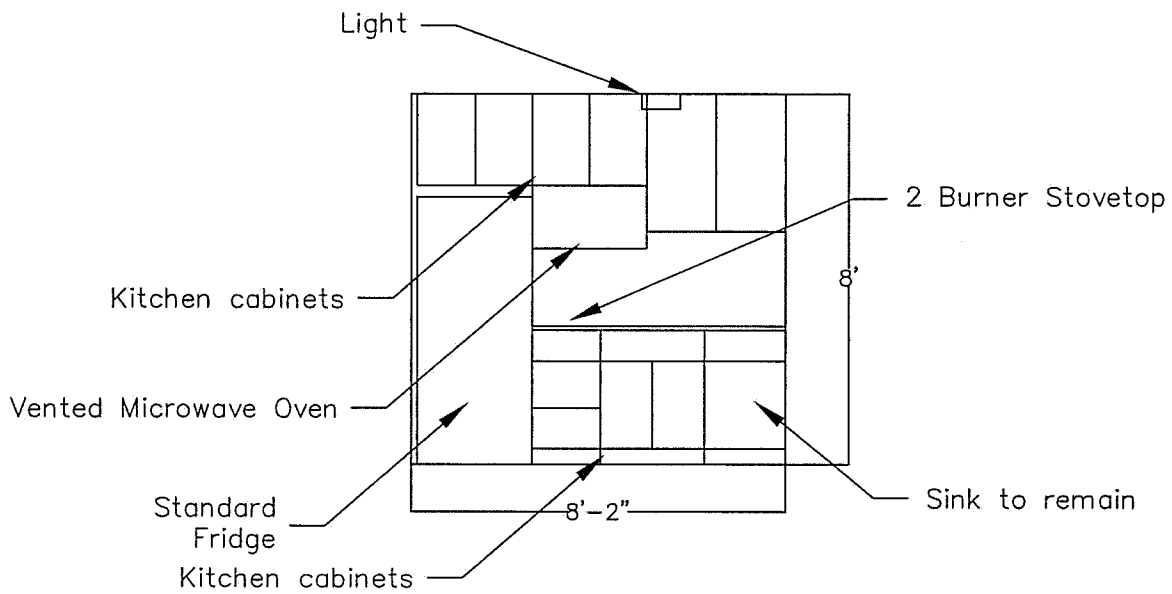
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Project Address:	2622 John Street Juneau, AK
Contact:	Eva Melancon
Phone:	304 932-2205
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Sheet

5

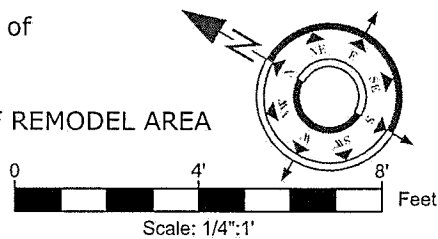


Notes:

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

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Sheet
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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:

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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:

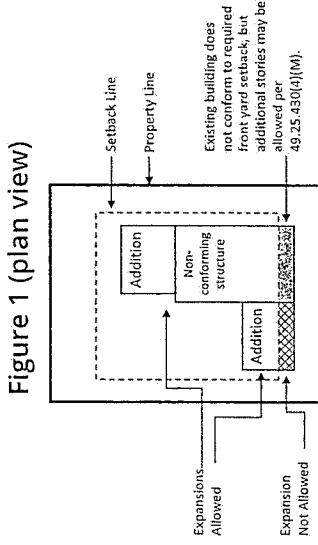
- (1) The owner has been maintaining the land and structure(s) in accordance with applicable building, fire, and other codes and regulations;
 - (2) The owner has been maintaining or pursuing applicable permits and licenses; and
 - (3) The owner has filed applicable tax documents.
- (b) Other factors 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)

