


MEMORANDUM

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

DATE: October 5, 2005

TO: Planning Commission

FROM: Nathan Bishop, Planner 
Community Development Department

FILE NO.: MAP2005-00004

PROPOSAL: Rezone of Lot 2, Hospital Subdivision and USS 3824 FR from General Commercial to D-5.

GENERAL INFORMATION

Applicant: AEL&P

Property Owner: AEL&P

Property Address: 2750 Egan Drive

Legal Description: USS 3824 FR and HOSPITAL LT 2

Parcel Code No.: 7-B09-0-102-001-0; 7-B09-0-102-002-2

Site Size: 6-Acres

Zoning: General Commercial

Utilities: Public Sewer and Water are available at site

Access: Egan Drive

Existing Land Use: Parcels are occupied by the Salmon Creek Powerhouse and Switch yard

Surrounding Land Use: North - Bartlett Regional Hospital
South - Egan Drive and D-5 Single family residential dev.
East - Egan Drive
West - Vacant Rural Reserve land



PROJECT DESCRIPTION

The applicant is requesting these two parcels of land be down-zoned from the existing General Commercial zoning designation to a D-5 single family residential zoning district. The attached narrative (See Attachment "A") for this proposal indicates the primary purpose for this zone change is to reduce the property taxes on these parcels. As this land is owned and occupied by the local electrical utility AEL&P, any and all costs incurred in the management of this land are directly transferred to the electrical utility rate payers.

The following language is provided by the CBJ Land Use Code to describe the zoning designations currently existing on the subject parcels, and that designation requested by the applicant, as well as an alternative designation recommended by staff:

Existing Designation

The GC, general commercial district, is intended to accommodate most commercial uses. Commercial activities are permitted outright in the zone except for those few uses that are listed as conditional uses to ensure compatibility.

Applicant Proposed Designation

The D-5, residential district, is intended to accommodate primarily single-family and duplex residential development at a density of five dwelling units per acre. D-5 zoned lands are located in the urban service boundary and are served or can be served by public water and sewer.

Alternative Designation Proposed by Staff

The RR, rural reserve zoning district, is intended for lands primarily in public ownership managed for the conservation and development of natural resources and for future community growth. In addition, recreation cabins, lodges and small seasonal recreational facilities may be allowed.

BACKGROUND

The area being considered in this rezoning proposal has a long and interesting history. Located at the base of the "Salmon Creek" Trail, this area has been actively occupied since the early 18th century. Work on the Salmon Creek Dam, and the accompanying powerhouses began in May 1912 with construction of the lower powerhouse. The original trail, terminating on the subject property, was built in 1914 as a tramway to carry men and supplies to construct the dam. The dam itself is 175 feet tall and 645 feet long across its crest. Its concrete base is 47.5 feet thick and narrows to 6 feet at the top. It is one of the largest variable-arch dams in the world. Following completion of the facilities, the Alaska Gastineau Mining Co. used it as an electrical source for hydroelectric power for its operations at Sheep Creek.

Today, the Salmon Creek Dam and the associated powerhouse, switching station, and water treatment facilities on the subject parcels still play an important role in Juneau. Not only is over 10% of Juneau's power generated here, but it also supplies water to the community and is the sole source of water for the Douglas Island Pink and Chum Hatchery at Lower Salmon.

ANALYSIS

ZONE CHANGE PROCESS

Initiation

A rezoning may be initiated by the Director, the Commission, or the Assembly at any time during the year. A developer or property owner may initiate a request for rezoning in January or July only. Adequate public notice shall be provided by the director to inform the public that a rezoning has been initiated.

These requirements have been met as the applicant submitted their application in July of 2004, and the director has provided adequate public notice through newspaper advertising, property owner mailings and requiring a public notice sign to be posted on-site.

Restrictions on re-zonings

The CBJ Land Use Code provides three prescriptive requirements for zone change requests:

1. Rezoning requests covering less than two acres shall not be considered unless the rezoning constitutes an expansion of an existing zone.
2. Rezoning requests which are substantially the same as a rezoning request rejected within the previous 12 months shall not be considered.
3. A rezoning shall not allow uses which violate the land use maps of the Comprehensive Plan.

The proposed rezone exceeds the two-acre requirement and has not been considered for a rezoning within the previous 12 months.

In considering if the proposal would violate the land Use Maps of the Comprehensive plan it is important to recognize that unlike the Land Use Code, the Comprehensive Plan is a guiding document. The Preface of the Comprehensive Plan contains the following guidance:

*It is evident that the comprehensive plan can be a meaningful and effective document. But it must be used by citizens, the Planning Commission, and the governing body and it must be kept current. Discussions related to community growth, redevelopment, capital and social improvements, or budget, must occur in consultation with the plan. This is not to say that the plan will be infallible or that it is **cast in concrete**. It should however, bring into focus sufficient information and data so that the best possible objective value judgments can be made.*

Comprehensive Plan Chapter Seven titled “Comprehensive Plan as Guiding Planning Document” contains additional information about how to utilize the plan:

*The Plan contains 71 policy statements, each of which have a series of “implementing actions” which are directives for how to carry out the policy. As a preliminary matter, the reviewer must determine which Policies are relevant to the subject at hand. Of course, the writers of the Plan cannot envision every sort of proposal that might one day be conceived and analyzed against the Policies. In that vein, **such analyses are not conducted on an absolute basis**. That is, failure of a proposal to conform to one particular Policy in the Plan does not automatically mean that it is inappropriate if conformance is shown with other policies of the Plan.*

Thus, the analysis is one of balancing the many relevant policies and looking holistically at the situation.

Applying this perspective to the Land Use Maps, it becomes acceptable to take a broad view of the location of Land Use Categories and not imperative to consider the lines to be distinct boundaries. Rather they should be considered approximate locations subject to other policy considerations. In this case, the applicant is proposing that the boundary between the General Commercial area under consideration and the Urban Low Density Residential (ULDR) designation of the adjacent land to the South should be moved north to include the two subject parcels in the ULDR designation. Whether or not this opinion is shared by staff or the Planning Commission is not relevant; what is important is that the proposed expansion of the boundary could be justified if other Comprehensive Plan Policies support it. Therefore, staff has determined that this application for a zone change to a D-5 Single Family Residential zoning district does not allow uses which violate the land use maps of the Comprehensive Plan.

Procedure

A rezoning shall follow the procedure for a major development permit except for the following:

- 1) The commission decision for approval shall constitute only a recommendation to the assembly.*

The action by the Planning Commission on a zone change request is different from action on a permit request. Action on a zone change request is discretionary. There is no assumption the zone change will be approved. Specifically, the Planning Commission action is to make a recommendation to the Assembly to change the zoning maps or deny the request.

LAND USE

The subject parcels are located on the Southern Boundary of the General Commercial Zoning District in the Salmon Creek Neighborhood. Land to the South East is occupied by single family residential structures in the D-5 zoning district. Land to the North East is within the Rural Reserve Zoning district and is currently undeveloped.

As previously mentioned, the subject lots are occupied by the Salmon Creek powerhouse and Switchyard. These facilities have been in place for many decades, and given the recent upgrades are not expected to move in the foreseeable future. Major Utilities such as those situated on this land require a conditional use permit in all zoning districts in the borough. As such, changing the zoning district would not create a nonconforming use.

Situated in the center of the Salmon Creek, General Commercial zoning district, and due North of the subject parcels is Bartlett Regional Hospital. However, a large elevation difference between the subject parcel and the Medical complex makes connectivity between the two areas difficult.

Given the topographic constraints the only feasible access to the subject parcels is from Egan Drive. The applicant's agent has pointed out the difficulties in developing any sizable commercial enterprise at this location given the lack of traffic control measures at this location.

COMPREHENSIVE PLAN REVIEW

The Comprehensive Plan (Plan) land use designation of the subject site is General Commercial. The Plan offers the following guidance for appropriate uses within this designation:

General Commercial. Land for retail uses, including neighborhood retail and community commercial, such as shopping centers, mixed retail/residential/office uses, especially in downtown Juneau and Douglas, and office use, including leased government office space.

To the South of the subject parcel the land use designation is Urban Low Density Residential. The Plan offers the following guidance for appropriate uses within this designation:

Urban/Low Density Residential. Urban/suburban residential land for detached single family units, duplex and zero-lot-line units at densities of one to six units per acre; may include mobile homes where specifically permitted.

The applicant has proposed to rezone the subject parcels to D-5 Single family residential. As residential uses are allowed within the General Commercial land use designation, or, as the Urban Low Density Residential designation could be expanded to encompass this area, this rezone request could be appropriate within either of these designations. However, in reviewing a rezoning application it is important to consider community needs as shown by long term land use patterns, as well as Comprehensive Plan policies and implementing actions.

Given the long standing history of utility expansion in this area, and the applicant's discussion of the future use of these parcels, it is unlikely they will ever be developed for anything other than future utility expansions. Therefore, it seems more fitting to rezone these properties to a zoning district and land use designation that more specifically supports the development of Major Utilities.

The land use designation of the adjacent property to the North is Institutional and Public Use. The Plan offers the following guidance for appropriate uses within this designation:

Institutional and Public Use (IPU). Land for major public institutional uses, such as the University of Alaska, Southeast; local, state and federal government uses; and for such public facilities as schools, libraries, fire stations, treatment plants, and public sanitary landfills.

Clearly this land use designation supports the development of water treatment and pumping facilities as found on the subject parcel; further, it appears to be the most appropriate designation for other major utilities such as power generation and distribution.

Recognition of the adjacency of this Land Use Designation to the subject parcels, and the description of the uses appropriate within such a designation, combined with current and foreseeable uses of the subject parcel, leads staff to conclude the IPU land use designation is the most appropriate for the subject parcels.

SUMMARY

Staff recognizes the many potential pitfalls with any sizable commercial endeavor on the subject lots. Further, in reviewing the land use history and the potential for change, it appears the current zoning designation is not appropriate. Given the public and private sector commitments to maintain this land for Major Utility development, and given the access constraints it would not be in the public interest to promote any changes in the established land use pattern on the subject lots. Therefore, down zoning appears to promote the continuation of the highest and best use of the subject parcels.

Zoning districts should be a reflection of the Land Use Maps of the Comprehensive Plan. As determined in the previous analysis, the most appropriate designation of the subject lots is Institutional and Public Use. However, given there is no zoning district that directly reflects the IPU designation, staff recommends that the boundary of the adjacent Rural Reserve zoning district be adjusted to include the subject lots in the RR district. As the RR district is specifically intended for "the development of natural resources and for community growth" it appears to be the most appropriate designation for lands serving the growing needs of the CBJ's electrical and water utilities

FINDINGS

After review of the application materials, the CBJ Land Use Code and the CBJ Comprehensive Plan the Director makes the following findings:

1. The request meets the submittal requirements and the rezoning initiation, zone change restrictions and procedural requirements of the CBJ Land Use Code.
2. Per the previous analysis, the Rural Reserve zoning designation is more appropriate for these parcels than the D-5 single-family residential designation proposed by the applicant.
3. This boundary adjustment of the Rural Reserve zoning district, does not violate the Land Use maps of the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and forward this application for rezoning on to the CBJ Assembly with a recommendation to change the zoning of the subject lots from General Commercial to Rural Reserve.

ZONE CHANGE APPLICATION

(APPLICANT PLEASE FILL IN SHADED AREAS AS A MINIMUM)

Project Number	Project Name AELHP RE ZONE 405 2133, 3834 MAP 2005-4	Case Number	Hearing Date	Date Received 7/1/05																																										
NEW ZONE REQUESTED: D-5																																														
DESCRIBE LIMITS OF AREA TO BE REZONED: Approx. 5.6 acres generally called the Salmon Creek Powerhouse and Switchyard. 2750 Egan Drive.																																														
TYPE OF ZONE CHANGE: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Transition																																														
PURPOSE OF THE REQUESTED ZONE CHANGE: Reduce tax burden on ratepayers.																																														
TYPE AND DENSITY OF PROPOSED DEVELOPMENT: Current uses will remain indefinitely.																																														
DESCRIBE IMPACTS TO ROADS AND ANY ADDITIONAL ROADS PROPOSED: No new impacts proposed or expected. No new development is proposed. Impacts that could have occurred from commercial development are averted.																																														
UTILITIES AVAILABLE WATER: <input checked="" type="checkbox"/> Public <input type="checkbox"/> On Site SEWER: <input checked="" type="checkbox"/> Public <input type="checkbox"/> On Site																																														
DIMENSIONS OF SITE: Width _____ ft. Depth _____ ft. varies Square Feet 244,372																																														
REVIEW APPROVALS <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 15%; text-align: center; font-size: small;">Initials</th> <th style="width: 15%; text-align: center; font-size: small;">Date</th> </tr> </thead> <tbody> <tr> <td>Buildings</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Engineering</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Planning</td> <td>_____</td> <td>_____</td> </tr> </tbody> </table>			Initials	Date	Buildings	_____	_____	Engineering	_____	_____	Planning	_____	_____	ZONE CHANGE FEES <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center; font-size: small;">Fees</th> <th style="width: 10%; text-align: center; font-size: small;">Check No.</th> <th style="width: 10%; text-align: center; font-size: small;">Receipt</th> <th style="width: 10%; text-align: center; font-size: small;">Date</th> </tr> </thead> <tbody> <tr> <td>Application Fees</td> <td style="text-align: center;">\$ 500.00</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Adjustment</td> <td style="text-align: center;">\$ _____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Public Notice Sign</td> <td style="text-align: center;">\$ 50.00</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Public Notice Sign Deposit</td> <td style="text-align: center;">\$ 100.00</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Total Fee</td> <td style="text-align: center;">\$ 650.00</td> <td style="text-align: center;">V010379</td> <td style="text-align: center;">20674</td> <td style="text-align: center;">7/1/05</td> </tr> </tbody> </table>				Fees	Check No.	Receipt	Date	Application Fees	\$ 500.00	_____	_____	_____	Adjustment	\$ _____	_____	_____	_____	Public Notice Sign	\$ 50.00	_____	_____	_____	Public Notice Sign Deposit	\$ 100.00	_____	_____	_____	Total Fee	\$ 650.00	V010379	20674	7/1/05
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NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

DEVELOPMENT PERMIT APPLICATION

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

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 8/1/05
Project Name (City Staff to assign name)	AELP REZONE USS 2133, 3834	

PROJECT / APPLICANT INFORMATION	Project Description Rezone of AELP's Salmon Creek Powerhouse and Switchyard		
	PROPERTY LOCATION		
	Street Address 2750 Egan Drive	City / Zip Juneau. 99801	
	Subdivision (if known) Hospital Lot 2 USS Surveyors 2133 & 3834	Survey (if known)	Block / Tract (if known) Lot (if known)
	Assessor's Parcel Number (if known) 7B0901020010 & 7B0901020022		
	LANDOWNER/LESSEE		
	Property Owner's Name Alaska Electric Light & Power	<input type="checkbox"/> Contact by E-Mail:	Contact Person Tim McLeod
	Mailing Address 5601 Tongsgard Court, Juneau, AK 99801	Home Phone No.	Work Phone No. 780-2222
	FAX No. 780-3571		
	LANDOWNER/LESSEE CONSENT (Required for Planning permits not needed on Building/Engineer permits)		INITIAL ALL THAT MAY APPLY
I am (we are) the owner(s) or Lessee of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.		APPLICATION TYPE	
<input checked="" type="checkbox"/> Landowner/Lessee Signature <i>Timothy D. McLeod</i> Date 6-20-05 <input checked="" type="checkbox"/> Landowner/Lessee Signature _____ Date _____		OWNER'S INITIALS	
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property and may do so during the weekend before the scheduled public hearing date.		ALLOWABLE USE	
		CONDITIONAL USE	
		VARIANCE	
		DESIGN REVIEW	
		SUBDIVISION	
		OTHER: Re-zone TDm	
APPLICANT (If same as OWNER, write "SAME" and sign and date at X below)			
Applicant's Name Alaska Electric Light & Power		<input type="checkbox"/> Contact by E-Mail: murray@gci.net	Contact Person Murray Walsh
Mailing Address 2974 Foster Ave. Juneau, AK 99801		Home Phone No. 586-1106	Work Phone No. 586-4083
FAX No. 586-4093			
<input checked="" type="checkbox"/> Applicant's Signature <i>Murray Walsh</i>		<input checked="" type="checkbox"/> Date of Application July 1, 2005	

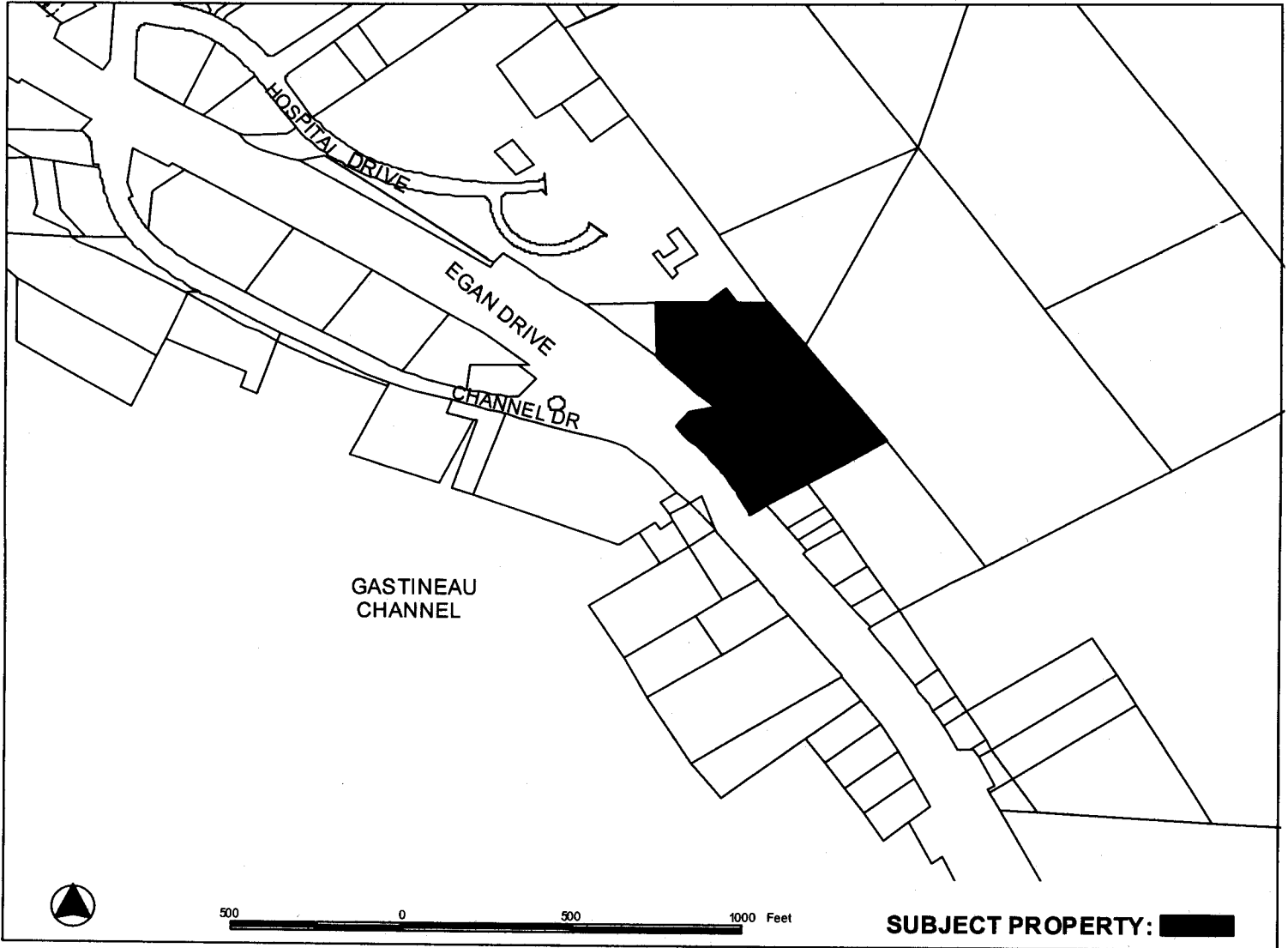
(OFFICE USE ONLY BELOW THIS LINE)

STAFF APPROVALS	C K	SIGN	DATE RECEIVED	APPLICATION NO.	C K	DATE RECEIVED	APPLICATION NO.
Zone		Total Lot Area		Required Setbacks			
				Front _____ Back _____ Side _____ Other _____			
COMMENTS:							

(I:\FORMS\CDD\FORMS\PERMFORM.XLS REV. 2/18/99)

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

NOTICE OF PUBLIC HEARING



PROPOSAL: Rezone of Lot 2, Hospital Subdivision and USS 3824 FR from GC (General Commercial) to D-5 (Residential).

FILE NO:	MAP2005-00004	APPLICANT:	AEL&P
TO:	Adjacent Property Owners	PROPERTY OWNER:	AEL&P
HEARING DATE:	September 27, 2005	PROPERTY ADDRESS:	2750 EGAN DR
HEARING TIME:	7:00 P.M.	PARCEL CODE NUMBER:	7-B09-0-102-001-0 & 7-B09-0-102-002-2
PLACE:	ASSEMBLY CHAMBERS Municipal Bldg. 155 South Seward St., Juneau, Alaska 99801	SITE SIZE:	Approximately 6.04 Acres
		ZONING:	General Commercial
		ACCESS:	EGAN DRIVE

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Nathan Bishop at 586-0759, or e-mail: Nathan_Bishop@ci.juneau.ak.us

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm. Date notice was printed: September 12, 2005

Narrative to Support AELP Re-Zone Request

July 1, 2005

ATTACHMENT A

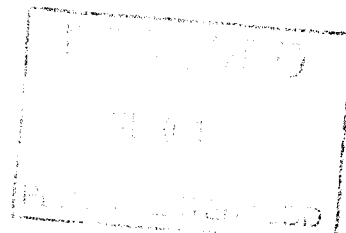
The two subject parcels are occupied with the Salmon Creek Powerhouse and Switchyard. These facilities have been in place for many decades and have been upgraded and improved over the years. There is no reason to expect any change in use for many decades to come. Utility facilities are permissible uses in any zoning district for obvious reasons. The utility company does not need or prefer one land use classification over another in order to carry out its obligations.

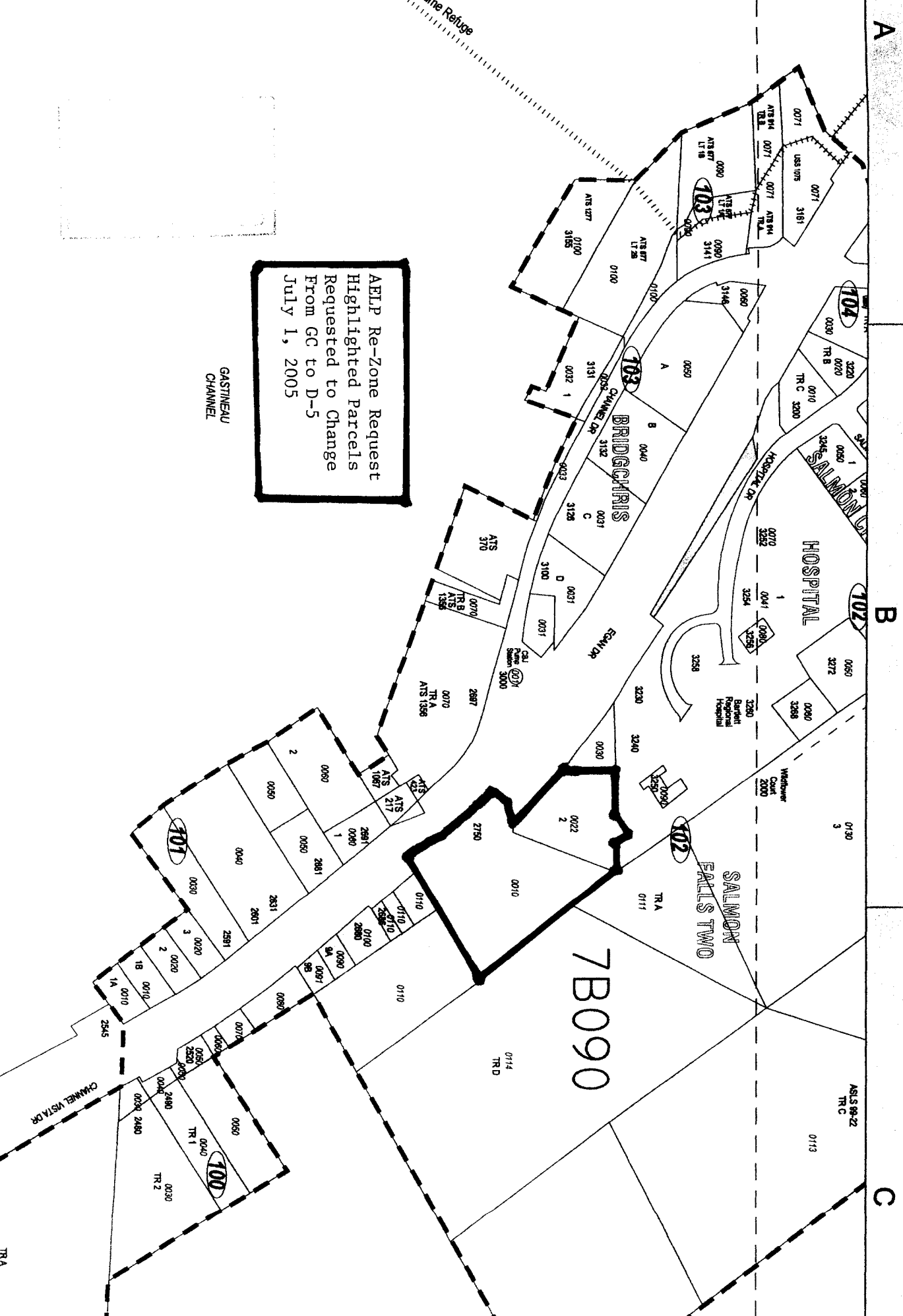
The subject parcels are zoned General Commercial as are other lands in the hospital area. Unlike the other commercial properties in the vicinity, the AELP lands have significant access problems. The only existing and only practical access is from Egan Drive. There is no deceleration lane available to enter the parcel and no acceleration lane available to re-enter the expressway. The existing access is used by AELP workers, CBJ workers for the water system pump station also on site, and by the public for access to the Salmon Creek Trail. As dangerous as it is, this entrance has functioned without much difficulty over the years. However, the Planning Commission has been observed to be ever more concerned about traffic safety over the years and the company has grave doubts that any significant traffic-generating new commercial use would be permitted on this site without a deceleration lane and we also doubt whether the state would allow an acceleration lane so close to the Salmon Creek turnoff.

It is also impractical to think that AELP would seek some sort of commercial development in this area. The only places flat enough are already occupied with power facilities, and, as said above, there is no reason or expectation that those facilities would change in any meaningful way for decades to come.

Values have skyrocketed over the years to eight dollars a square foot or more. One parcel, the fraction of USS 2133 was given such a value for 2005 and, under appeal, the Assessor agreed to reduce the value somewhat because of the limited access problems but still felt obliged to value the property as commercial land. The other parcel, a fraction of USS 3834, was not increased in value for 2005, probably because it is already valued at \$9.15 per square foot. There was no apparent discount for the access problems.

The money paid by AELP in real estate taxes to the CBJ is directly paid, in turn, by the electric utility rate payers. There is no discount or overhead factor. A dollar paid by AELP to the city is a dollar paid to AELP by the ratepayers. The company is loath to raise rates for any reason and only does so when no other option is available. Such increases are carefully monitored by the state. Since the parcels have no commercial viability and since they are adjacent to land that is zoned D-5, it only makes sense to re-zone them to that residential classification. There is a considerable vegetative buffer between the power facilities and the first actual house in the adjoining residential area.





**AELP Re-Zone Request
 Highlighted Parcels
 Requested to Change
 From GC to D-5
 July 1, 2005**

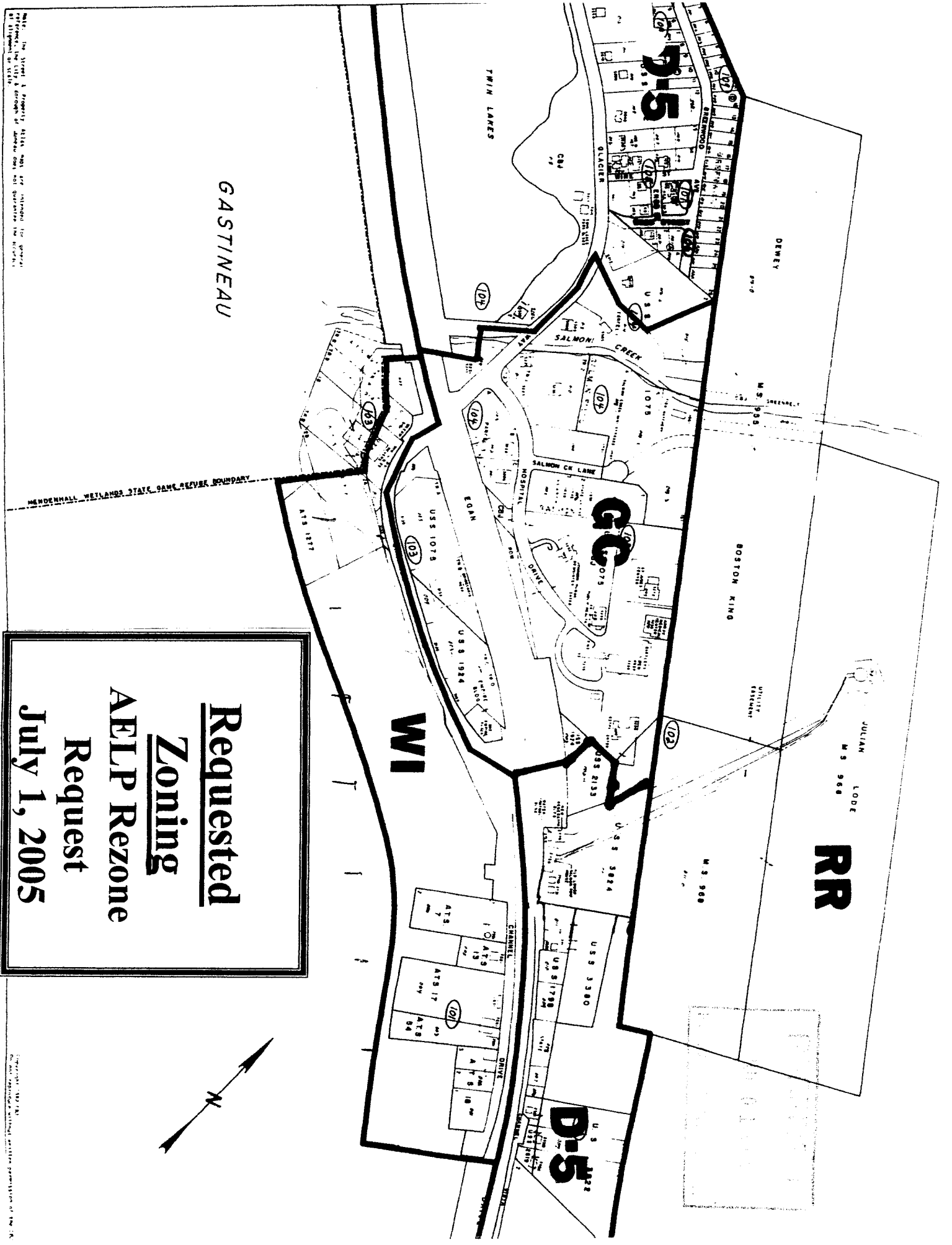
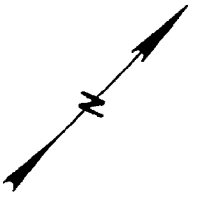
GASTINEAU
 CHANNEL

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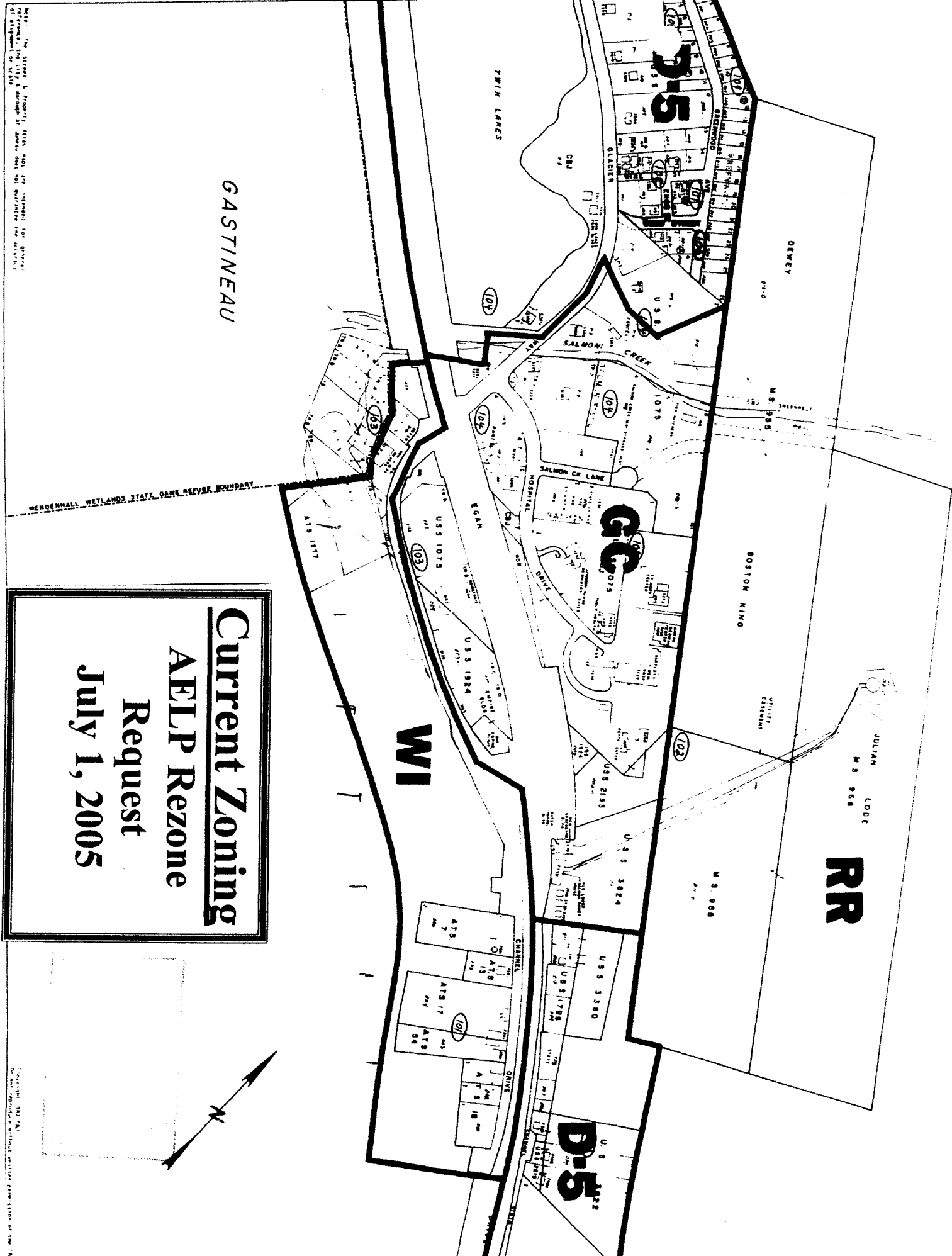
TR A

Note: The Street & Property Atlas map are intended for general reference; the City & Borough of Astoria does not guarantee the accuracy or completeness of this information.

Requested
Zoning
AFLP Rezone
Request
July 1, 2005



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GASTINEAU

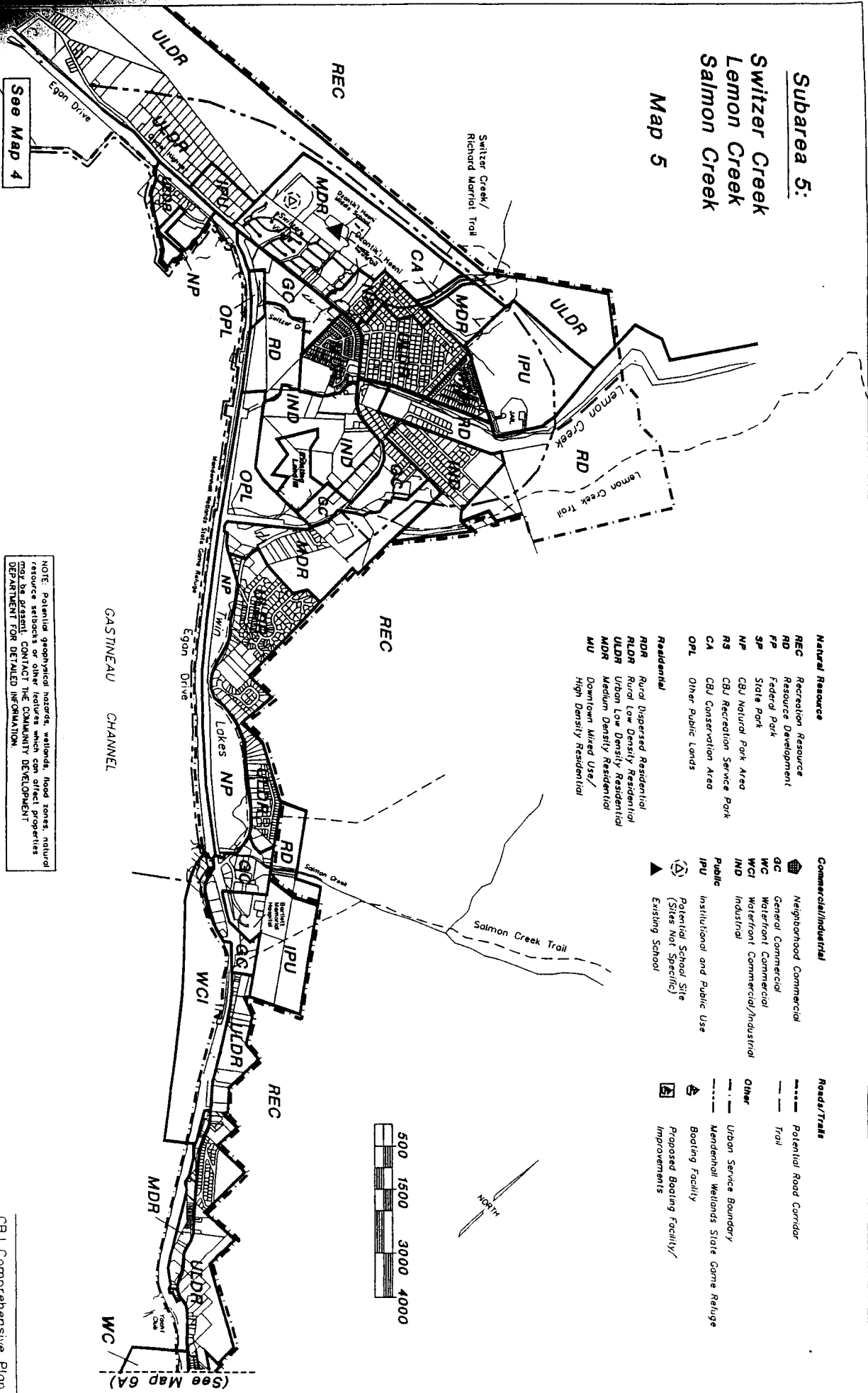
Current Zoning
AEI/P Rezone
 Request
 July 1, 2005

Map of the Street & Property Atlas may be obtained for general reference to the Group of Areas and all other information for general reference to the Group of Areas may be obtained for general reference to the Group of Areas.

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Subarea 5:
Switzer Creek
Lemon Creek
Salmon Creek

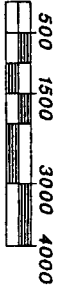
Map 5



- Natural Resource**
- REC Recreation Resource
 - RD Resource Development
 - FP Federal Park
 - SP State Park
 - NP CBU Natural Park Area
 - R3 CBU Recreation Service Park
 - CA CBU Conservation Area
 - OPL Other Public Lands
- Residential**
- RDR Rural Dispersed Residential
 - RLDR Rural Low Density Residential
 - ULDR Urban Low Density Residential
 - MDR Medium Density Residential
 - MU Downtown Mixed Use/High Density Residential

- Commercial/Industrial**
- Neighborhood Commercial
 - GC General Commercial
 - WC Waterfront Commercial
 - WCI Waterfront Commercial/Industrial
 - IND Industrial
- Public**
- IPU Institutional and Public Use
 - Potential School Site (Site Not Specific)
 - Existing School

- Roads/Trails**
- Potential Road Corridor
 - Trail
- Other**
- Urban Service Boundary
 - Mendenhall Wetlands State Game Refuge
 - Boating Facility
 - Proposed Boating Facility/Improvements



NOTE: Potential geophysical hazards, wetlands, flood zones, natural resource setbacks or other regulatory constraints and properties may be present. CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR DETAILED INFORMATION.

See Map 4

(See Map 6A)