

MEMORANDUM

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

DATE: May 18, 2005
TO: Planning Commission
FROM: Peter Freer, Planner
Community Development Department
FILE NO.: USE2005-00019 - Allowable Use

PROPOSAL: An Allowable Use permit for a driveway within the Susan Way ROW.

GENERAL INFORMATION

Applicant: R H Development
Property Owner: John Eichman, Roger Eichman, Sondra Baer
Property Address: Susan Way
Legal Description: Dales 2, Lot 3 and 4
Parcel Code Number: 5-B16-0-109-005-0
5-B16-0-109-005-0
Site Size: 47,486 Square Feet
29,615 Square Feet
Zoning: Light Commercial
Utilities: City Utilities
Access: Susan Way
Existing Land Use: Vacant Land
Surrounding Land Use: North - Vacant; Egan Drive
South - Commercial/Residential
East - Single Family Residences/Commercial
West - Vacant/Faith Lutheran Church



PROJECT DESCRIPTION

The applicant requests an allowable use permit for the development of a 20-foot wide, 100-foot long paved driveway in the ROW of Susan Way and a 165-foot-long, five-foot-wide pedestrian path in the ROW of Susan Way. The driveway will provide access to a 30-unit condominium complex developed in two phases: a first phase of ten units and a second phase of twenty units. The pedestrian path will provide foot access from the Phase 2 lot to Del Rae Road.

BACKGROUND

The Planning Commission approved USE2005-00015 at its regular hearing on May 10, 2005, authorizing Phase 1 and Phase 2 of a 30-unit condominium complex at Susan Way and Del Rae Road. Approval of this application would permit the developer to gain vehicle and pedestrian access to the property through a portion of the un-constructed ROW. There is some potential that adjacent property owners may seek vacation of Susan Way, and for this reason, the driveway and pedestrian access will be located on that portion of the ROW that would accrue to the developer should the vacation occur.

Per CBJ §49.35.240 (d) *Access Driveways allowed in rights-of-way*, the Director must find that all of the following requirements and conditions have been met, in addition to all other applicable requirements of the City and Borough Land Use Code:

(1) *All lots to be served by the access driveway must be properly existing lots of record.*

The proposed driveway will access two existing lots of record comprising Phases 1 and 2 of the development. No other lots are proposed to have access from the driveway.

(2) *Only public rights-of-way not improved for and in use as a public road may be used for the access driveway.*

Susan Way is not a publicly improved right-of-way.

(3) *The applicant must provide a notarized statement agreeing to and acknowledging the following:*

- (A) *That the city and borough shall not be obligated to provide maintenance, grading or snow plowing for the access driveway that would not be provided as a matter of course for any other driveway located on private land;*
- (B) *That the applicant and the applicant's heirs, successors, and assigns, will defend, indemnify and hold harmless the City and Borough from any claim or action for any injury, loss or damage suffered by any person arising from the design, maintenance, or use of the access driveway;*
- (C) *That the access driveway will not be blocked from vehicular or pedestrian access by the public;*
- (D) *That the City and Borough will have unimpeded access to the driveway to carry out other responsibilities not associated with subsection (d)(3)(A) of this section;*

- (E) That the applicant will maintain the access driveway according to the requirements and conditions established by the director of engineering in the excavation permit; and*
- (F) That the City and Borough will record a copy of the agreement with the state recorder's office for each lot or parcel of land adjoining the segment of right-of-way in which the access driveway is to be located.*

A condition of this permit will require the above described notarized statement to be recorded before the applicant may begin construction.

- (4) A permit fee, inspection fee and performance bond must be provided according to the requirements of the engineering department. In addition, the applicant must pay a one-time sign placement fee in an amount to be established by the manager.*

A condition of this permit will require the applicant to post a bond and pay fees required by the Engineering Department before the applicant may begin construction.

- (5) No new lots may be created from the division of any parcel of land that is served by the access driveway unless the driveway is converted to a full standard public road or street or other full standard access is provided.*

No new lots have been proposed by the applicant under this application. The applicant understands that the driveway will not fulfill the requirements to provide access for a new CBJ subdivision.

- (6) A permit for an access driveway that could serve one to four lots may be issued only after approval of the concept for the access driveway by the planning commission under the allowable use permit procedure.*

The applicant has properly applied for an Allowable Use Permit.

- (7) A permit for an access driveway that could serve five or more lots may be issued only after approval of the concept for the access driveway by the planning commission under the conditional use permit procedure.*

ANALYSIS

Project Site – The site is comprised of two parcels comprising 1.77 acres fronted by Del Rae Road on the south and the Susan Way ROW on the east. The driveway will provide access to the condominium with a 100-foot driveway to Phase 1. Phase 2 of the development will have internal vehicle access from phase 1. A foot path will provide pedestrian access from Phase 2 of the development to Del Rae Road

Project Design – The driveway will extend approximately 100 feet in the Susan Way ROW before turning left and gaining access to the Phase 1 parcel of the condominium development. The 20-foot wide driveway meets the requirements of the Fire Marshall for width and access and will be paved.

Traffic – The driveway is anticipated to accommodate 70 vehicle trips daily for Phase 1 (10 units) and 210 vehicle trips per day for both phases (30 units). This is based on trip generation standards of approximately

seven trips per day per unit for multi-family housing, based on the Institute of Transportation Engineers Trip Generation Handbook used by ADOT.

Juneau Coastal Management Program - The proposed development was reviewed for compliance with CBJ §49.70.900, the Juneau Coastal Management Program. The analysis reveals that no provisions of the JCMP apply to this project.

FINDINGS

CBJ §49.15.320 (e), Decision, states that the Planning Commission shall consider the Allowable Use permit application and shall review the Community Development Director's recommendation with respect to:

1. Whether the application is complete;
2. Whether the requested permit is appropriate according to the Table of Permissible Uses;
3. Whether the development as proposed will comply with the other requirements of this chapter; and,
4. Whether conditions are necessary for approval¹.

The Commission shall approve the application and grant the permit unless it finds, by a preponderance of the evidence, that one or more of the criteria have not been met. In either case the Commission shall adopt written findings setting forth the basis for its decision.

Per CBJ §49.15.320 (e)(1 through 4), Decision, the Director makes the following findings on the criteria for granting the requested Allowable Use approval:

1. Is the application for the requested allowable use permit complete?

Yes. We find the application contains the information necessary to conduct a full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15.

2. Is the requested permit appropriate according to the Table of Permissible Uses?

Yes. The requested permit is appropriate according to the Table of Permissible Uses. An Allowable Use Permit is specified at CBJ §49.25.300 section 17.310 "Access Driveways on Public Rights-of-Way Adjoining One to Four Existing Lots" for the Light Commercial zoning district.

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

¹CBJ §49.15.320 (f)(1 through 12), Conditions on Approval, lists a set of conditions that may be placed on the requested allowable use permit approval

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the May 13th and May 23rd issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public right of way.

4. *Are conditions necessary for approval of the requested Allowable Use permit?*

Yes. Based on the preceding staff analysis, it is found that conditions are necessary for approval of the requested permit. The conditions are listed in the following Recommendation.

Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

5. *Will the proposed development comply with the Juneau Coastal Management Program?*

Not Applicable. Based on the preceding staff analysis, it is found that no provisions of the Juneau Coastal Management Program apply to the proposed development.

RECOMMENDATION

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Allowable Use permit. The permit would allow the development of [project]. The approval is subject to the following conditions:

It is recommended that the Planning Commission adopt the director's analysis and findings and grant the requested allowable use permit to construct an access driveway within the undeveloped Susan Way ROW. The approval is subject to the following conditions:

1. Prior to issuance of an excavation and grading permit, the applicant must provide a notarized statement agreeing to and acknowledging the following:
 - (A) *That the city and borough shall not be obligated to provide maintenance, grading or snow plowing for the access driveway that would not be provided as a matter of course for any other driveway located on private land;*
 - (B) *That the applicant and the applicant's heirs, successors, and assigns, will defend, indemnify and hold harmless the City and Borough from any claim or action for any injury, loss or damage suffered by any person arising from the design, maintenance, or use of the access driveway;*
 - (C) *That the access driveway will not be blocked from vehicular or pedestrian access by the public;*
 - (D) *That the City and Borough will have unimpeded access to the driveway to carry out other responsibilities not associated with subsection (e)(3)(A) of this section;*
 - (E) *That the applicant will maintain the access driveway according to the requirements and conditions established by the director of engineering in the excavation permit; and*
 - (F) *That the City and Borough will record a copy of the agreement with the state recorder's office for each lot or parcel of land adjoining the segment of right-of-way in which the access driveway is to be located.*

Planning Commission

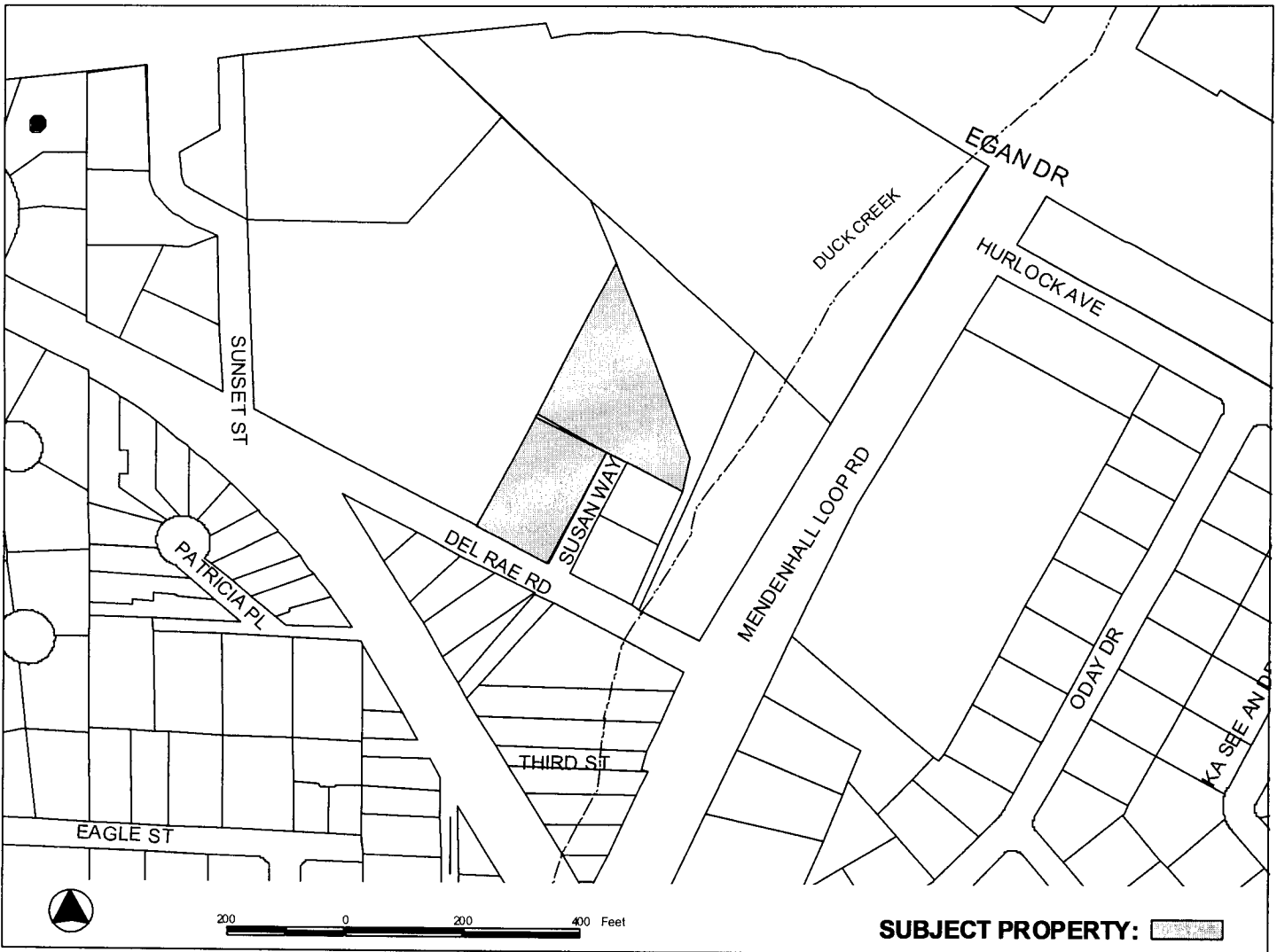
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2. Prior to issuance of an excavation and grading permit a permit fee, inspection fee and performance bond must be provided according to the requirements of the CBJ Engineering Department.
3. The new driveway shall be paved between its commencement at Del Rae Road and its termination at the property line of Phase 1. It shall be constructed entirely on that portion of Del Rae Road that would accrue to the applicant if the ROW were vacated, and shall be shifted onto the applicant's property as needed to preserve standing trees.
4. The pedestrian path shall connect Phase 2 of the development to Del Rae Road and shall remain separated from the access driveway to the greatest possible extent.

NOTICE OF PUBLIC HEARING



PROPOSAL: USE2005-00019: An Allowable Use permit for a driveway within the right of way.
VAR2005-00025: A Variance request to work within the 330-foot setback of an active eagle nest tree.

FILE NO:	USE2005-00019 & VAR005-00025	APPLICANT:	R H DEVELOPMENT LLC
TO:	Adjacent Property Owners	PROPERTY OWNER:	ROGER EICHMAN & JOHN EICHMAN & ROBERT & SONDRBA BAER LIVING TRUST
HEARING DATE:	May 24, 2005		
HEARING TIME:	7:00 P.M.	PROPERTY ADDRESS:	SUSAN WAY
PLACE:	ASSEMBLY CHAMBERS Municipal Bldg. 155 South Seward St., Juneau, Alaska 99801	PARCEL CODE NUMBER:	5-B 16-0-109-005-0 ; 006-0
		SITE SIZE:	47,486 Square Feet
		ZONING:	Light Commercial
		ACCESS:	SUSAN WAY

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 Peter K. Freer at 586-0465, or e-mail: Peter_Freer@ci.juneau.ak.us
 Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

ALLOWABLE/CONDITIONAL USE APPLICATION

(APPLICANT PLEASE FILL IN TOP PORTION OF PAGE AFTER FIRST LINE AS A MINIMUM)

Project Number	Project Name <u>SUSAN WAY CONDOS DRIVEWAY</u>	Case Number <u>USE 05-19</u>	Date Received <u>4/27/05</u>
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APPLICANT INFORMATION

DESCRIBE THE PROJECT FOR WHICH AN ALLOWABLE OR CONDITIONAL USE APPROVAL IS NEEDED. ATTACH A DETAILED DESCRIPTIVE LETTER ABOUT THE PROJECT DESCRIBED IN THIS APPLICATION.

Place an access Driveway within a CBS ROW

MODIFICATION OF EXISTING APPROVAL? No Yes - CASE NUMBER

EXISTING USE OF LAND AND/OR BUILDING(S):

Vacant

PROPOSED USE OF LAND AND/OR BUILDING(S):

DRIVEWAY ACCESS

UTILITIES PROPOSED

WATER: Public On Site SEWER: Public On Site

SITE DIMENSIONS:

SUSAN WAY ROW
Width _____ ft. Depth _____ ft.

Total Area _____ square feet

DIMENSIONS OF STRUCTURE: N/A (Outside Dimensions)

Length _____ ft. Width _____ ft. Height _____ ft.

Total Area _____ square feet

SIGNS: Sign Approvals are a separate permit approval. Provide sign plan as an information item.

EXTERNAL LIGHTING

Existing to remain No Yes - provide fixture information, illumination pattern, and location of lighting fixtures.
Proposed No Yes - provide fixture information, illumination pattern, and location of lighting fixtures.

PARKING

Existing Spaces: _____ Proposed Spaces: _____

PLEASE NOTE: INCOMPLETE APPLICATIONS MAY NOT BE SCHEDULED FOR PLANNING COMMISSION ACTION. UNACCEPTED APPLICATIONS WILL BE RETURNED TO THE APPLICANT FOR COMPLETION.

CIRCLE TYPE OF PERMIT: ALLOWABLE USE / CONDITIONAL USE		TABLE OF PERMISSIBLE USES CATEGORY:		
	<u>Fees</u>	<u>Check No.</u>	<u>Receipt No.</u>	<u>Date</u>
Application Fees	\$ <u>350.00</u>	_____	_____	_____
Adjustment	\$ _____	_____	_____	_____
Public Notice Sign Fee	\$ _____	_____	_____	_____
Public Notice Sign Deposit	\$ _____	_____	_____	_____
Total Fee	\$ <u>350.00</u>	<u>charge</u>	<u>20190</u>	<u>4/27/05</u>

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NOTE: MUST BE ACCOMPANIED BY "DEVELOPMENT PERMIT APPLICATION" FORM WHICH HAS LAND OWNER OR LESSEE CONSENT SIGNED

