

**PLANNING DEPARTMENT
CURRENT PLANNING DIVISION
DIMENSIONAL VARIANCE**

DATE October 10, 2024
CASE NO: 2024-0091
APPLICANT: Casey & Kirsten Brogan (Owners)
REPRESENTATIVE: Jeremy Hurst (49th Star Surveying)
REQUEST: Dimensional Variances from: 1) AMC 21.09.060 Table 21.09-5 Table of Dimensional Standards: Girdwood Residential Districts to allow the cabin closest to Higher Terrace to encroach into the front setback; and 2) AMC 21.07.020B.9. Table 21.07-1. Minimum Stream Setback Width Per Side to allow the same cabin to encroach into the 25-foot stream setback.
LOCATION: Generally located north and northwest of Higher Terrace, east and south of Alyeska View Avenue
LEGAL DESCRIPTION: Alyeska Subdivision, Third Addition, Block 21, Lot 17 (Plat 66-167)
SITE ADDRESS: 241 Higher Terrace
COMMUNITY COUNCILS: Girdwood
TAX PARCEL NO.: 076-022-30-000
GRID: SW4916

ATTACHMENTS

1. Maps
2. Application
3. Reviewing Agency and Public Comments
4. Affidavit of Posting

SITE

Area: 0.34 acres
Vegetation: The existing site is two small structures and mature vegetation
Zoning: gR-2, Single-Family/Two-Family Residential District
Topography: Steep Slope (28%)
Existing Use: Two single-family structures
Utilities: Public wastewater, onsite water

COMPREHENSIVE PLAN

Classification: "Single-Family Residential" per the 1995 Girdwood Area Plan, Land Use Plan Map

SURROUNDING AREA

	<u>NORTH</u>	<u>EAST</u>	<u>SOUTH</u>	<u>WEST</u>
Zoning:	gR-2	gR-2	gR-2	gR-2
Land Use:	Single-Family/ Two-Family Residential District	Single-Family/ Two-Family Residential District	Single-Family/ Two-Family Residential District	Single-Family/ Two-Family Residential District

REQUEST AND BACKGROUND:

This is a request for dimensional variances from: 1) AMC 21.09.060 *Table 21.09-5 Table of Dimensional Standards: Girdwood Residential Districts* to allow the cabin closest to Higher Terrace to encroach ten feet (10') into the 20-foot front setback; and 2) AMC 21.07.020B.9. *Table 21.07-1. Minimum Stream Setback Width Per Side* to allow the same cabin to encroach a maximum of seven feet (7') into the 25-foot stream setback.

In 2023, the homeowners met with a builder to discuss updates and additions to the cabin. The owners were looking to update the existing structure and add a second-floor addition to the existing footprint. This addition would allow an entrance to be constructed at grade with the existing right-of-way. The builder informed the owner that the structure might have possible encroachments that would need to be addressed prior to acquiring a land use permit.

The current property owners purchased this property in 2011. This structure was constructed sometime in 1998 by previous owners according to the nonconforming determination acquired by the owner in March of 2024. The nonconforming determination established legal nonconforming rights for the stream setback. However, the existing structure built after 1985 requires a variance for the front setback. The addition of a second floor above the existing structure is recognized as an increase in size to the existing nonconformity. Therefore, this addition would be considered an intensification of the encroachment and requires a variance from the stream setback along with a variance for the front setback to acquire a land use permit.

COMMUNITY COMMENTS

On September 16, 2024, a total of 124 public hearing notices were mailed in accordance with the procedures of AMC 21.03.020H. *Notice*. As of this writing, one public comment was received. The Girdwood Board of Supervisors did not provide comments on this case.

REVIEWING AGENCY COMMENTS:

Reviewing agency comments are included in attachment three (3). There were no objections to the encroachment into the front setback or stream setback.

FINDINGS:

AMC 21.03.240G Approval Criteria:

The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application substantially meets the following standards:

- a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district;**

The standard is met for both variance 1 and 2.

The Alaska Supreme Court states “peculiarities of the specific property sufficient to warrant a grant of a variance *must arise from the physical conditions of the land itself* which distinguish it from other land in the general area.”¹

According to the Municipality of Anchorage maps this parcel has a slope of 28%. This property has an elevation difference ranging from forty-three feet (43’) front to back along the northeast side lot line and forty feet (40’) front to back along the southeast side lot line. The unnamed stream starts in the southeast corner of this property at Higher Terrace before meandering in a northwest direction bifurcating most of this parcel. Therefore, the steep slope and stream impact are extraordinary physical circumstances to this subject property. This circumstance is applicable to approximately four (4) other properties in this same zoning district.

- b. Because of these physical circumstances, the strict application of this code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance;**

The standard is met for both variance 1 and 2.

The stream setback and property setbacks reduce the buildable area on this lot by more than 50%. Taking these factors into account along with the steep slope, the impact on this parcel creates an exceptional and undue hardship upon the property owner to build in any other location on the property.

- c. The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant, and**

¹ City and Borough of Juneau v. Thibodeau, 595, P.2 626 (AK, 1979) at 635.

such conditions and circumstances do not merely constitute inconvenience;

The standard is met for both variance 1 and 2.

This hardship is not self-imposed. These encroachments were constructed by a previous owner of the property. This variance to allow the addition of a second floor to the existing footprint does not merely constitute an inconvenience for the property owner. According to the nonconforming determination this structure was constructed sometime in 1998. The current property owners purchased this home in 2011 unaware of the structure encroaching into the front setback and stream setback. The property owner learned of this encroachment after they had acquired a nonconforming determination.

d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;

The standard is met for both variance 1 and 2.

This structure has encroached into the front setback and stream setback since its construction in 1989. The addition of a second floor to the existing footprint will not adversely affect the use of adjacent properties. To date, there have been no complaints from surrounding properties regarding this structure.

e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies;

The standard is met for both variance 1 and 2.

These variances do not change the character of the zoning district and do not permit a use not otherwise permitted in the gR-2 zoning district.

f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality;

The standard is met for both variance 1 and 2.

These encroachments within the front setback and stream setback have no known impacts on the health, safety, or welfare of the people of the municipality to date.

g. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation;

The standard is met for both variance 1 and 2.

This standard is not applicable to multiple single-family structures on one parcel.

h. The variance granted is the minimum variance that will make possible a reasonable use of the land.

The standard is met for both variance 1 and 2.

This is the minimum variance that will allow the property owner to retain this structure that has existed in this location since 1989. Allowing them to add a second floor to the existing footprint without having to demolish or relocate it to meet setback requirements.

DEPARTMENT RECOMMENDATION:

AMC 21.03.240G requires that all eight standards be substantially met in order for a variance to be granted. The Department finds that all eight standards are met for both variances. Therefore, the department recommends APPROVAL of the variances, subject to the following conditions:

Variance 1

1. Dimensional variance from AMC 21.09.060 *Table 21.09-5 Table of Dimensional Standards: Girdwood Residential Districts* to allow a cabin to encroach ten feet (10') into the 20-foot front setback.

Alyeska Subdivision, Addition 3, Block 21, Lot 17, dated July 16, 2024, prepared by 49th State Surveying, LLC.

2. Post addresses for both structures along Higher Terrace and on the structures.
3. Remove "Prop. Parking" from the as-built/plot plan. Parking is not required but if provided must be on property and not within the dedicated Right-of-Way.

Variance 2

4. Dimensional variance from AMC 21.07.020B.9. Table 21.07-1. Minimum Stream Setback Width Per Side to allow a cabin (aka Cabin 1) to encroach a maximum of seven feet (7') into the 25-foot stream setback.

Alyeska Subdivision, Addition 3, Block 21, Lot 17, dated July 16, 2024, prepared by 49th State Surveying, LLC.

5. Request a stream mapping update from Watershed Management Services.
6. Within one year, record a notice of zoning action, the resolution of approval, and the final as-built with the State of Alaska Recorder's Office; and provide proof to the Current Planning Division.

Reviewed by:

Prepared by:



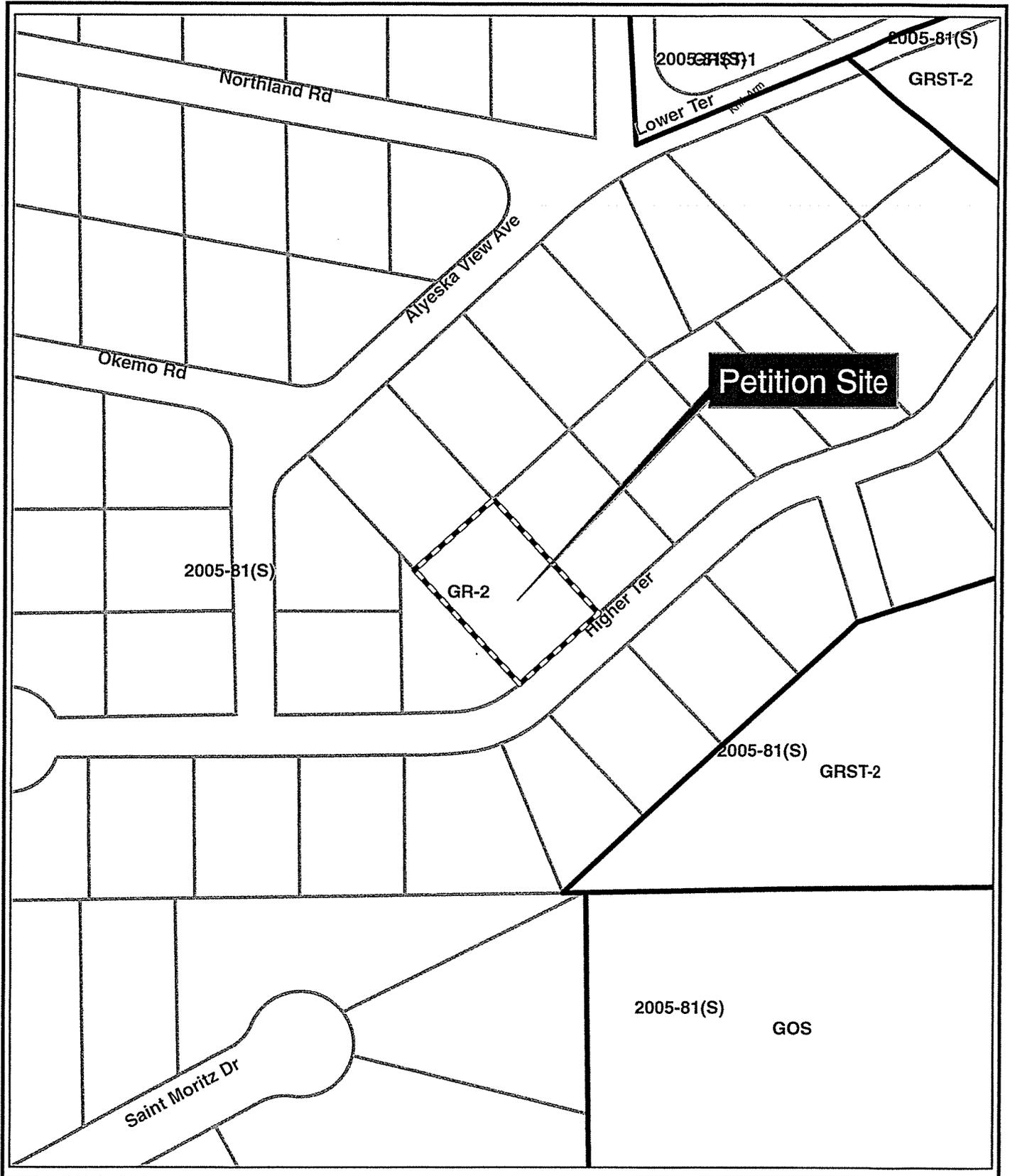
Craig H. Lyon
Director



Paul Hatcher
Senior Planner

MAPS

2024-0091

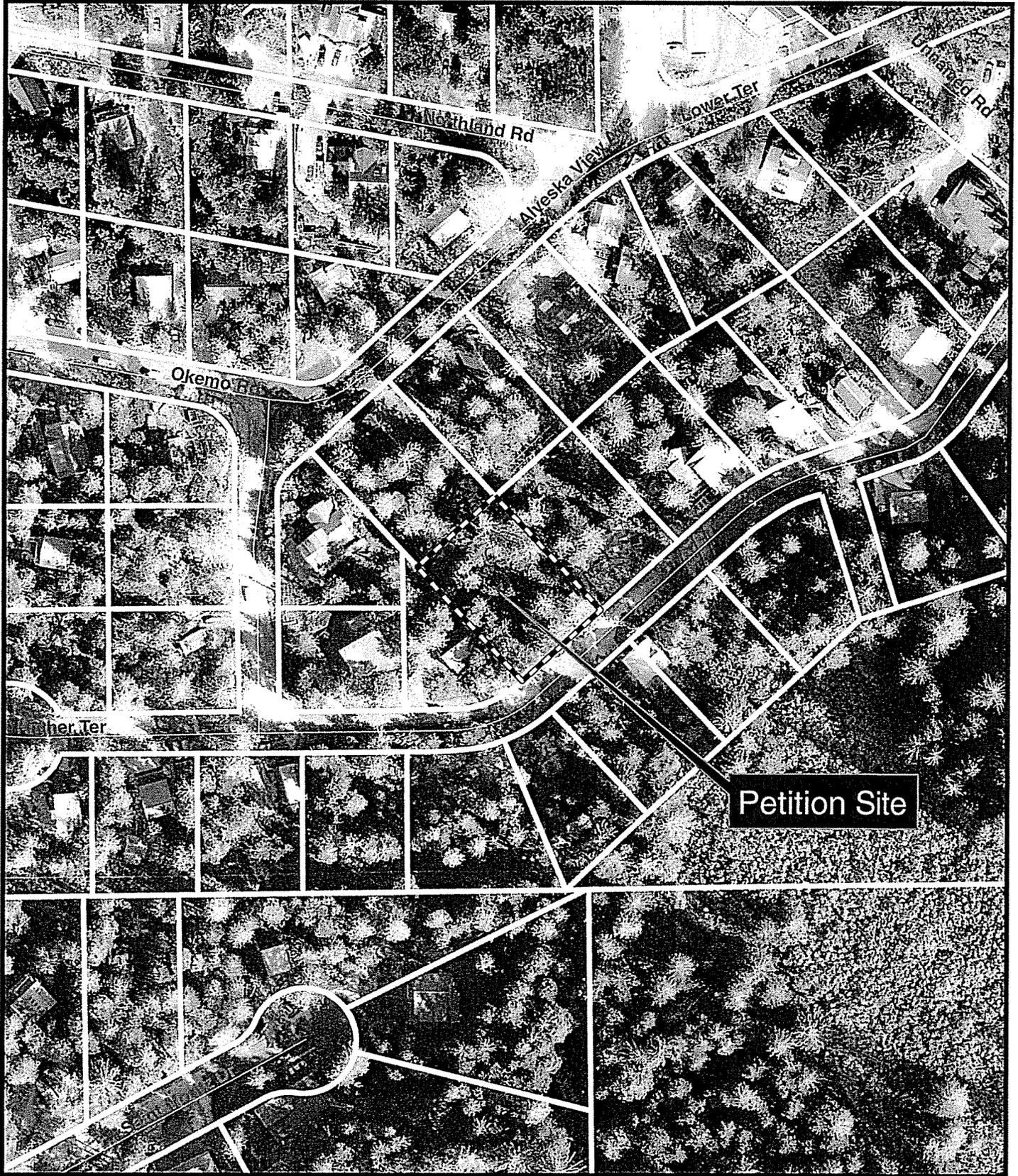


Municipality of Anchorage
Planning Department

Date: 8/20/2024



2024-0091



Municipality of Anchorage
Planning Department

Date: 8/20/2024



APPLICATION

Application for Dimensional Variance

Municipality of Anchorage
 Planning Department
 PO Box 196650
 Anchorage, AK 99519-6650

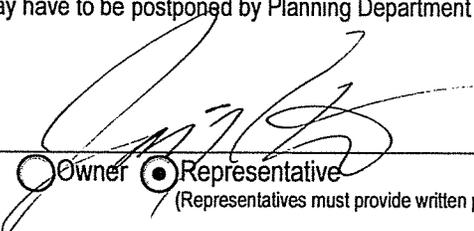
PETITIONER*		PETITIONER REPRESENTATIVE (if any)	
Name (last name first) Brogan, Casey and Kirsten		Name (last name first) Hurst, Jeremy	
Mailing Address 2937 Yale Drive		Mailing Address PO Box 738	
Anchorage, AK 99508		Girdwood, AK 99587	
Contact Phone – Day 907-952-5513	Evening 907-952-5513	Contact Phone – Day 907-891-6111	Evening 907-891-6111
E-mail cobrogan@gmail.com		E-mail jeremy@49thstarsurveying.com	

*Report additional petitioners or disclose other co-owners on supplemental form. Failure to divulge other beneficial interest owners may delay processing of this application.

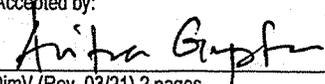
PROPERTY INFORMATION		
Property Tax # (000-000-00-000): 07602230000		
Site Street Address: 241 Higher Terrace, Girdwood		
Current legal description: (use additional sheet if necessary) Lot 17, Block 21, Alyeska #3		
Zoning: GR2	Acreage: 0.34	Grid #: SE4916

PETITIONING FOR
Two variances to MOA Building Setbacks for one existing structure that is located on the property. One variance is for the 25-foot steam setback and the other for the 20-foot front setback (see Variance Narrative).

I hereby certify that (I am)/(I have been authorized to act for) owner of the property described above and that I am petitioning for variance in conformance with Title 21 of the Anchorage Municipal Code of Ordinances. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the variance. I understand that the burden of evidence to show compliance with the variance standards rests with me, the applicant. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff or the Zoning Board of Examiners and Appeals for administrative reasons.

Signature  Owner Representative (Representatives must provide written proof of authorization) Date 7/16/24

Jeremy Hurst
 Print Name

Accepted by: 	Poster & Affidavit: ITI	Fee: \$710.00	Case Number: 2024-0091	Meeting Date: ZBEA: 10/10/2024
---	----------------------------	------------------	---------------------------	-----------------------------------

CODE CITATIONS	
AMC 21. 06.030.C.1.b	09,060 TABLE 21.09-5 P.H. 8/20/24
AMC 21. 07.020.9.b.ii	07.020.B.9.b.ii

RECENT REGULATORY INFORMATION (Events that have occurred in last 5 years for all or portion of site)	
<input type="checkbox"/>	Rezoning - Case Number:
<input type="checkbox"/>	Preliminary Plat <input type="checkbox"/> Final Plat - Case Number(s):
<input type="checkbox"/>	Conditional Use - Case Number(s):
<input type="checkbox"/>	Zoning variance - Case Number(s):
<input type="checkbox"/>	Land Use Enforcement Action for
<input type="checkbox"/>	Building or Land Use Permit for
<input type="checkbox"/>	Wetland permit: <input type="checkbox"/> Army Corps of Engineers <input type="checkbox"/> Municipality of Anchorage

APPLICATION REQUIREMENTS (One of each applicable item is required for initial submittal, additional copies are required after initial submittal)	
1 copy required:	<input checked="" type="checkbox"/> Signed application (original)
16 copies required:	<input checked="" type="checkbox"/> Signed application (copies) <input checked="" type="checkbox"/> Variance narrative, addressing: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> The need for the variance, including when the need for the variance was discovered <input checked="" type="checkbox"/> The effect of granting the variance <input checked="" type="checkbox"/> An analysis of how the proposal meets the variance standards below <input checked="" type="checkbox"/> As-built survey showing existing conditions, to scale (no more than 2 years old) <input checked="" type="checkbox"/> Proposed plot plan or site plan, to scale (new construction) <input checked="" type="checkbox"/> Topographic map of site <input checked="" type="checkbox"/> Photographs
(Additional information may be required.)	

VARIANCE STANDARDS	
<p>The Zoning Board of Examiners and Appeals may only grant a variance if the Board finds that all of the following 8 standards are substantially met. Each standard must have a response in as much detail as it takes to explain how your property's condition satisfies the standard. The burden of proof rests with you.</p>	
<ul style="list-style-type: none"> a. There exist exceptional or extraordinary physical circumstances of the subject property including, but not limited to, streams, wetlands, or slope, and those circumstances are not applicable to other land in the same zoning district; b. Because of these physical circumstances, the strict application of the code creates an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance; c. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience; d. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code; e. The variance, if granted, does not change the character of the zoning district where the property is located, is in keeping with the intent of the code, and does not permit a use not otherwise permitted in the district in which the property lies; f. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the municipality; g. Persons with disabilities are provided with access as required by the Americans with Disabilities Act (ADA) and reasonable accommodation; and h. The variance granted is the minimum variance that will make possible a reasonable use of the land. 	

Variance Narrative

241 Higher Terrace, Girdwood, AK

Variance from AMC ~~06.030.C.1.b~~ and AMC ~~07.020.9.b.ii~~ ^B 07.020.B.9.b.ii
09.060 TABLE 21.09-5 P.11. 8/20/24

The owners of 241 Higher Terrace in Girdwood are seeking 2 variances so that they can rehabilitate their existing cabin that falls in the 25-foot drainage setback and the 20-foot front building setback (Cabin 1). There is an existing secondary cabin on the property which does not violate those existing setbacks (Cabin 2). The MOA Verification of Non-conforming Status is attached to show the history of the property. Cabin 1 was built in 1989; Cabin 2 built in 1978.

The current Owners bought the property in 2011 with the intent on rehabilitation Cabin 1 in the future for their personal use once they could afford the repairs. It was not until last year, when the owners consulted with a local builder to perform the construction, that they were informed of the possible non-conformance with existing setbacks.

The owners rent out Cabin 2 to a long-term Girdwood tenant. They have done this since purchasing the property and have no intention in changing that. The owners seek to keep Cabin 2 as long-term workforce housing to help alleviate the need for affordable housing in Girdwood. Cabin 1 needs structural and health/safety repairs for the owners to use. As you can see from the submitted plans, the owners are seeking to keep the same building foot print for Cabin 1 but add another level above so that handicap access can be achieved. One of the owners has the medical condition choroideremia, which is degenerative and has no cure. He has been legally blind for 35 years and will need special access accommodations. If the variances are not approved, the owners will have to consider not renewing the lease to the Girdwood worker in Cabin 2 so that they can reasonably enjoy their property. We will be applying for right of way encroachment permits for the wooden walk ways that are necessary due to the steep drop off from the edge of the road.

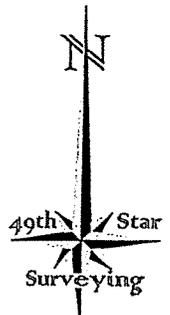
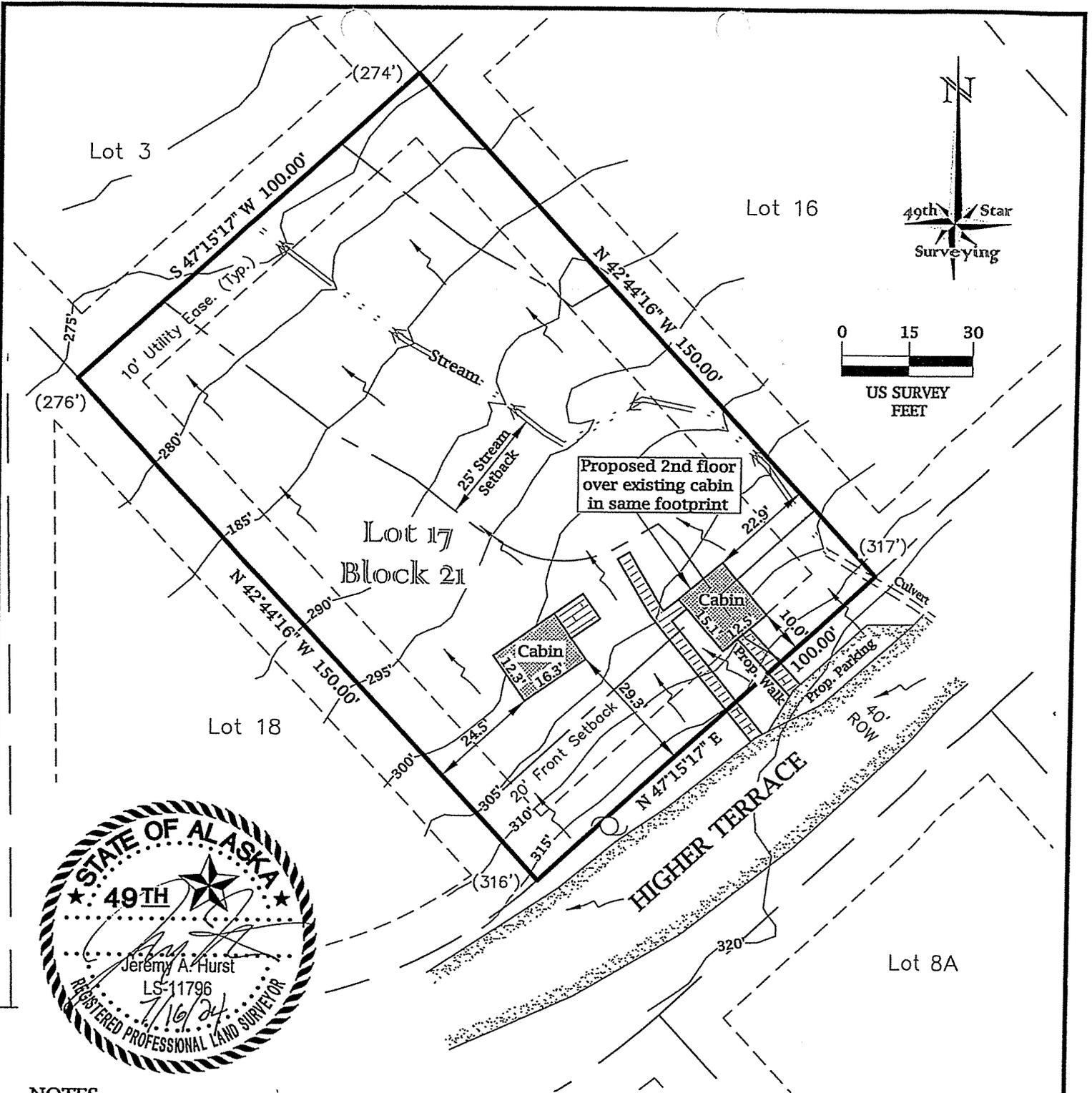
The effect of granting the 2 variances will be maintain affordable workforce housing in Girdwood; Give the owners reasonable enjoyment of their property; provide handicap accessibility to a cabin; All while not changing the footprint of the existing structures.

The below description will highlight the need for these variances and how that would meet the variance standards set out by the Municipality.

- A) There are exceptional physical constraints on the land that require the need for the variances. There is an MOA mapped drainage that flows out of a culvert at the east corner of the property and flows north-northwesterly. Cabin 1 is 19.0 feet from the Ordinary High Water (OHW) line of the drainage. That is why the variance for the 25-foot Drainage Setback is needed. The lot is very steep at just under 30% grade from the edge of the existing road down to past both cabins. In fact, it is so steep that driveway construction is not possible. This is why Cabin 1 is only 10 feet from the front property line, it could not reasonably have been constructed further from the road. That is why a variance is needed from the 20-foot front building setback. That is also why we will be applying for right of way encroachment permits for the wooden walkway. There are also large old-growth Sitka Spruce trees that are on the property that would be in the way of any cabin re-location (the existing grades also make this impractical). It is not wise to remove any of

the old-growth trees because they are stabilizing the steep slope. Any removal of large trees could jeopardize that stability.

- B) Because of the 2 physical constraints on the land mentioned above, it is not possible to relocate Cabin 1. Since Cabin 1 is in a condition that renders it unusable, the owners are unable to commonly enjoy their property like the owners of surrounding properties. In addition, the drainage that has the setback crosses back over the property, rendering the lower of the property unbuildable without a variance.
- C) This hardship is not self-imposed by the current property owners. Both cabins were constructed prior to them owning the property. The current conditions do not allow for the moving of Cabin 1 out of the drainage and front building setback without significant hardship and steep slope destabilization.
- D) If both variances are approved, it will not adversely affect the use of adjoining property owners. The steepness of the slope and the cover of the large trees conceals both structures and would not adversely affect any view corridors of neighbors.
- E) If both variances are approved it will not change the character of the neighborhood. Of the eleven houses on Higher Terrace, at or further up the road, most, if not all of them appear to be violating the 20-foot front building setback (226, 246, 285, 297, 314, 315, 325, 144, and 352 Higher Terrace). This is due to the steepness of the area. Of those eleven existing houses, three of them appear to be in the 25-foot mapped drainage setback (284, 325, and 144 Higher Terrace). If the variances are granted no other use that is otherwise not permitted in this zone would occur.
- F) If the variances are granted the health, safety, and welfare of the people of the Municipality will not be adversely affected. A variance to the front building setback has no chance of adversely affecting the people. The stream setback variance would not adversely affect the people because the footprint of the cabin is not changing.
- G) One of the main purposes seeking the variances is to gain handicap accessibility to the rehabilitated Cabin 1 allowing for continued future use of one of the owners, whose sight continues to degenerate. The newly rehabbed cabin will provide better accommodation to access for this visually impaired property owner, who participates in Challenge Alaska, the state's largest adaptive ski program in Girdwood.
- H) Without both variances Cabin 1 will not be usable and will not give the owners reasonable use of the land and will end another historical long-term rental from the Girdwood workforce housing pool.



NOTES

- All dimensions shown are grid bearings and ground distances, record boundaries and easements are per Plat No. 66-167.
- 49th Star has conducted a physical survey of the property and all details shown on this Asbuilt Survey are correct. Under no circumstances should any data hereon be used for construction or the establishment of property lines.
- It is the owners responsibility to determine the existence of any easements, covenants, or restrictions; no title research performed.
- All disturbed areas not covered with authorized installations are required to be revegetated.
- Bear resistant refuse containers to be stored inside of a structure until day of pick-up.

AS BUILT/PLOT PLAN SURVEY
 Lot 17, Block 21,
 Alyeska Subdivision,
 Add. 3, Girdwood, AK

LEGEND	
	(161') Spot Elev.
	Power Pole
	Drainage Direction
	OHW Stream

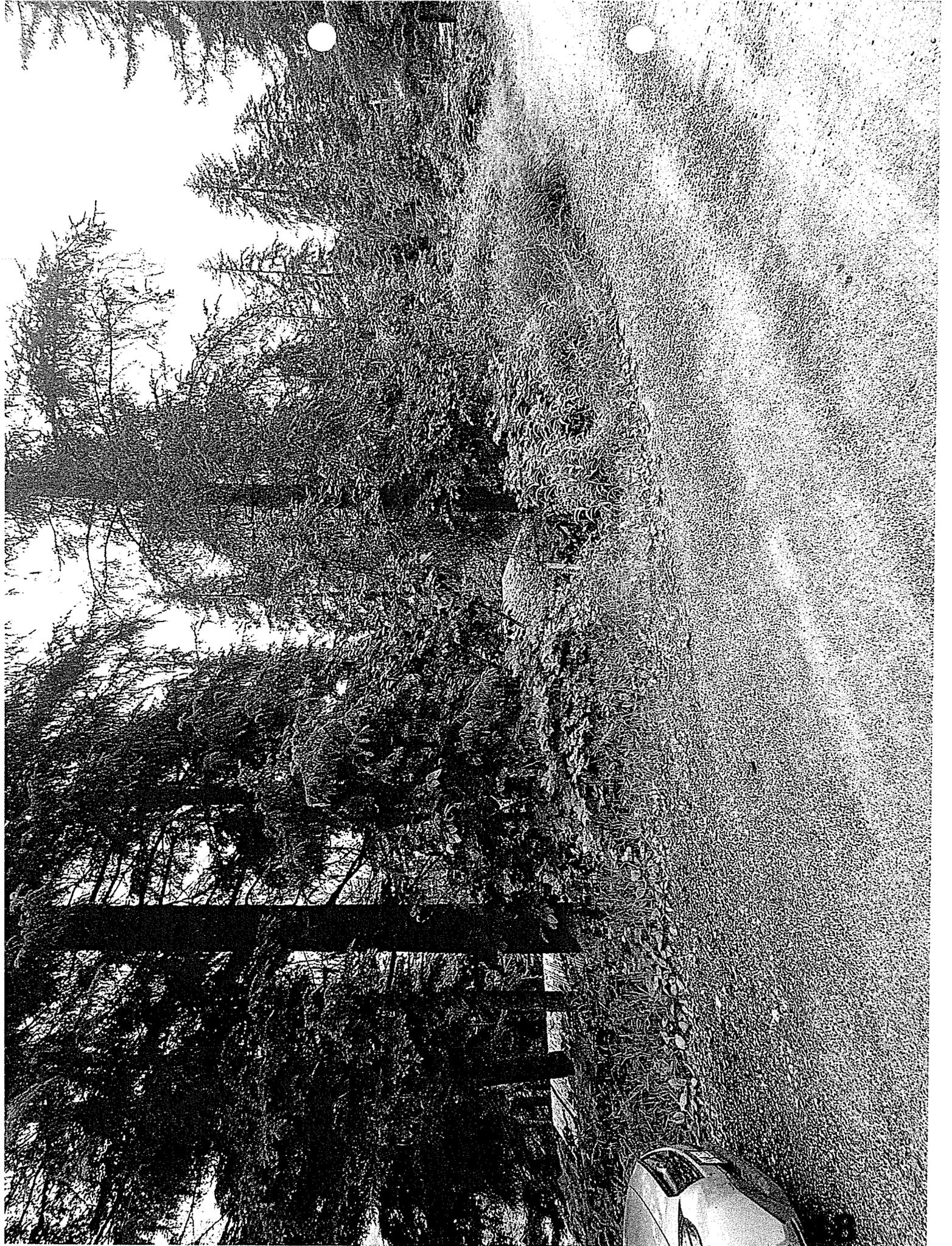
49th Star Surveying LLC
 PO Box 738
 Girdwood, AK 99587
 (907)891-6111
 Jeremy@49thStarSurveying.com

W.O. 2401 DATE: 1/16/24
 SCALE: 1"=30' **15**



Stream









Verification of Nonconforming Status

ALYESKA BASIN #3

BLOCK 21, LOT 17

Plat 66-167

Anchorage Recording District, Alaska

076-022-30-000

241 Higher Terrace, Girdwood

SE 4916

After recording return to:



Municipality of Anchorage, Planning Department
Land Use Review Section
4700 Elmore Road / P.O. Box 196650
Anchorage, Alaska 99519-6650



MUNICIPALITY OF ANCHORAGE



Planning Department
Zoning & Land Use Review Division

Phone: 907-343-7931

Mayor Dave Bronson

VERIFICATION OF NONCONFORMING STATUS

March 28, 2024

Casey and Kirsten Brogan
2937 Yale Drive
Anchorage, AK 99508

To Whom It May Concern:

This letter is in response to your request for a determination of the nonconforming status of the property located at 241 Higher Terrace, Girdwood, Alaska. Grid: SE4916, Parcel 076-022-30-000, Legal Description: **Lot 17, Block 21, Alyeska #3 Subdivision**.

This determination is based upon the as-built survey provided with your request, building permit records, tax assessment records, our research, and the applicable Municipal Ordinances in place presently and at the time of construction.

The following facts were established:

December 7, 1966 Lot 17, Block 21, Alyeska #3 Subdivision was created by Plat 66-167.

November 2, 1978 MOA Property Appraisal records indicate a new cabin on the lot.

December 13, 1983 the area was zoned R-11 (Turnagain Arm) District.

May 14, 1985 stream protection setback enacted by AO 85-57.

September 25, 1986 aerial photo (Flight 15, Frame 8) shows one structure on the lot.

1989 MOA Property Appraisal indicates a new cabin was built.

August 20, 2001 MOA Property Appraisal sketch shows 16 x 12-square-foot cabin with a 96-square-foot enclosed porch on the side of the cabin. The sketch also shows a 12 x 12-square-foot cabin with a 48-square-foot enclosed porch at the rear of cabin.

November 2005 the area was re-zoned GR-2 (Single-Family/Two-Family Residential) District.

August 2011 Google street view shows two metal roofed structures and wooden stairs leading down to them from Higher Terrace.

Mailing Address: P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>



2 of 6

March 28, 2024

Verification of Nonconforming Status

Lot 17, Block 21, Alyeska Basin #3 Subdivision

Page 3 of 6

2015 MOA GIS aerial photo shows a boardwalk and a partial cabin on the southeast corner of the lot.

October 9, 2018 stream ordinance repealed and reenacted by AO 2018-67(S-1).

2021 MOA GIS aerial photo shows no significant changes on the lot since the 2015 aerial photo.

An as-built survey signed **January 16, 2024** by Jeremy Hurst, a Registered State of Alaska Land Surveyor, shows two cabins, one cabin is 15.1 x 12.5 feet, and the second cabin is 12.3 x 16.3 feet with a wood deck. The 15.1 x 12.5-square-foot cabin is 10 feet from the east front lot line at Higher Terrace, and 22.9 feet from the north side lot line. The 12.3 x 16.3-square-foot cabin is 29.3 feet from the east front line at Higher Terrace, and 24.5 feet from the south side lot line. There is a wooden boardwalk connecting Higher Terrace to the 15.1 x 12.5 cabin. The property has access from Higher Terrace. A 10-foot utility easement runs along the north, south, east, and west property lines of the lot. An unnamed stream centerline crosses through a portion of the lot; the 25-foot stream setback line passes through the 15.1 x 12.5-square-foot cabin.

Municipal Property Appraisal records currently indicate the property is a 15,000-square-foot lot with two cabins, built in 1978 and 1989. Listed property inventory includes a 192-square-foot cabin, 144-square-foot cabin, 48-square-foot open porch, and 96-square-foot enclosed porch.

The following conclusions are drawn from the established facts and findings:

Lot 17, Block 21, Alyeska #3 Subdivision is 15,000 square feet in area and 100 feet in width, and has the minimum lot area, and width required for a single-family residence within the gR-2 (Single/Two-Family Residential) District; therefore, **Lot 17 is a legal conforming lot of record.**

The as-built shows two cabins, one cabin is 15.1 x 12.5 feet, and the second cabin is 12.3 x 16.3 feet with a wood deck near the east and north lot lines. The Turnagain Arm Comprehension Plan section 3.2.6.3, Area C allows for 3-5 dwelling units per acre for single family homes on the lot; therefore, **in accordance with AMC 21.13.060A., more than one principal structure on the lot is a Legal Nonconforming Characteristic of Use.**

The 15.1 x 12.5-square-foot cabin encroaches 10 feet into the required 20 foot east front setback at Higher Terrace. Research indicates the cabin was built in 1989 after the zoning ordinance in 1983; therefore, **the cabin encroaching 10 feet into the required 20-foot east front setback is not a Legal Nonconforming Structure and is a violation of AMC 21.09 Dimensional Standards.** To remedy this violation, remove or relocate the cabin to a conforming location, or obtain an approved variance to allow the cabin to remain in place. Variance requests should be directed to the Current Planning Division of the Planning Department that serves as staff for the Zoning Board of Examiners and Appeals.

Mailing Address: P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>



March 28, 2024

Verification of Nonconforming Status

Lot 17, Block 21, Alyeska Basin #3 Subdivision

Page 4 of 6

Planning Department offices are located at 4700 Elmore Road. The telephone number is 907-343-7931.

The 15.1 x 12.5 square foot- cabin constructed in 1989 encroaches within a 25-foot stream setback required by AMC 21.07.020B. Anchorage Ordinance 85-57 did not apply to the subject stream because it was not included in the list of protected streams in AMC 21.45.210. The cabin was legally established before October 9, 2018; therefore, **in accordance with AMC 21.13.045A.1. and A.2., the structure located within the streamside zone and the riparian edge zone are permitted to remain subject to this section.**

The wooden boardwalk encroaches into the right-of-way of Higher Terrace. This violation can be remedied by obtaining an encroachment permit from MOA Right-of-Way. **Please contact the Right-of-Way Section of the Municipality of Anchorage for information about these encroachments.** Their office is located at 4700 Elmore Road, or they may be contacted at 907-343-8240.

Anchorage Municipal Code of Ordinances, Title 21, effective January 1, 2014, as amended, and relevant to this determination are as follows:

AMC 21.09.060B.1. Table of Dimensional Standards:

gR-2 (Single-family/two-family residential district) Dwelling, single-family detached:

Minimum lot size and width requirements:

Lot size 10,400 sq ft with sewer; or 50,000 sq ft without sewer

Lot width 70 feet with sewer; 100 feet without sewer

Minimum setback requirements:

Front at Higher Terrace 20 feet ¹

Side 10 feet ²

Rear 15 feet; or 20 feet for lots > 1 acre ²

² Side and rear setback flexibility: Side setbacks may be reduced by five feet on one side of the lot, but the amount of setback reduction shall be added to the opposite side setback. Rear setbacks may be reduced by five feet, but the amount of reduction shall be added to the front setback.

AMC 21.09.020B.1: To the extent any provision in this chapter conflicts with other provisions of title 21, the provisions of this chapter shall govern. If certain provisions overlap but are not in conflict, then the provisions of this chapter shall be considered to supplement title 21 requirements and are additional requirements.

Mailing Address: P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>



AMC 21.07.020B.9.b.ii. Stream, Water Body, and Wetland Protection: Required minimum stream setback widths shall be as provided in table 21.07-1 below. Exceptions to setback widths are provided in subsection 9.c.

Table 21.07-1 Minimum Stream Setback Width Per Side: Alyeska Creek, Eagle Loop Creek, Fish Creek, Furrow Creek, Hood Creek, Middle Fork Chester Creek, Moose Meadows Creek, North Fork Chester Creek, North Branch South Fork Chester Creek, Reflection Lake Creek, All other streams and unnamed stream tributaries:

Streamside Zone	25 Feet
Riparian Edge Zone	0 Feet
Total Stream Setback Width per Side	25 Feet

AMC 21.13.045A. Nonconforming Encroachments into Watercourse, Water Body, and Wetland Setbacks:

Continuation of Nonconforming Structures and Uses Within Required Stream Setbacks: For the purposes of this code chapter, legally established means legally constructed, permitted, part of an approved conditional use, or part of an approved master plan. Structures and uses located within the streamside zone and the riparian edge zone that were legally established on or before October 9, 2018 are permitted to remain subject to the following:

1. Streamside Zone
 - a. Structures, including portions of structures that are located within the streamside zone and are damaged, removed, or destroyed, may be reconstructed within the streamside zone as long as the structure is reconstructed with the same dimensions (or less) and in the same location as the previous structure, or moved to a more conforming location. Reconstruction may require approval of municipal, state, or federal agencies.
 - b. If a structure or portion of a structure located within the streamside zone is damaged, removed, or destroyed, and reconstruction is not begun within five years, then the structure loses nonconforming rights and may only be reconstructed in a conforming location.
 - c. Once a garden, lawn, or similar use has been removed, the use may not be replaced with another garden, lawn or similar use.
2. Riparian Edge Zone
 - a. Structures, including portions of structures, that are located within the riparian edge zone and are damaged, removed, or destroyed, may be reconstructed within the riparian edge zone as long as the structure is reconstructed with the same dimensions (or less) and in the same location as the previous structure, or moved to a more conforming location. Reconstruction may require approval of municipal, state, or federal agencies.

Mailing Address: P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>



- b. If a structure or portion of a structure located within the riparian edge zone is damaged, removed, or destroyed, and reconstruction is not begun within five years, then the structure loses nonconforming rights and may only be reconstructed in a conforming location.

AMC 21.13.060 Characteristics of Use:

A. Developments Are Conforming

1. Development that was legally established before January 1, 2014 that does not comply with the district-specific standards of chapters 21.04, 21.09, and 21.10; the use-specific standards of chapters 21.05, 21.09, and 21.10; or the design and development standards of chapter 21.07 (except for section 21.07.020B., Stream, Water Body, and Wetland Protection) shall be considered conforming on January 1, 2014, and subject to this section. The standards for development that do not conform to section 21.07.020B., Stream, Water Body, and Wetland Protection, are contained in 21.12.045., Nonconforming Encroachments into Watercourse, Water Body, and Wetland Setbacks.
2. No change shall be made to any development unless the change is in the direction of conformity to the requirements of this title.

This determination is based on the information listed above, which was provided by the applicant or was in the files of the department. If additional information is obtained, or the information provided above is later determined to be inaccurate or false, and materially changes the conclusion herein, the department may revise or revoke this determination.

Anchorage Municipal Code, Title 21, is available on the internet at www.municode.com.

Respectfully,



Tony Barganier
Lead Zoning Plan Reviewer
(907) 343-8379

Appeal: This determination may be appealed to the Zoning Board of Examiners and Appeals (ZBEA) in accordance with AMC 21.03.050B. The appeal may be brought by any party of interest for the application no later than 20 days after the date of service of the decision. The appeal fee is \$1,080 and is required to be paid at the time the appeal is submitted. If the ZBEA fully overturns the decision of the director, then the fee will be returned. If the ZBEA overturns the decision of the director in part, then half of the fee will be returned. Please contact the Current Planning Section for more information.

Mailing Address: P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>



**REVIEWING AGENCY AND
PUBLIC COMMENTS**



MEMORANDUM

DATE: September 12, 2024

TO: Current Planning Division Supervisor,
Planning Department

THRU: Kristen A. Langley, Traffic Safety Section Supervisor,
Traffic Engineering Department

FROM: Randy Ribble PE, Assistant Traffic Engineer

SUBJECT: **2024-0091 Request for Dimensional Variance from AMC 21.09.060 Table 21.09-5 to allow cabin to approach into Front Setback and 25-foot Stream Setback**

RECEIVED

SEP 13 2024

241 Higher Terrace Girdwood Alaska

Traffic Engineering has no objection to approval of the dimensional variance for front and stream setback. The plot plan dated January 16, 2024, shows property parking and two walkways located with public right of way. If parking is required to be provide for this land use, then it needs to be located on property. Recent amendment to title 21 eliminated required parking. Recommend that this be eliminated from plot plan.

Obtain required encroachment permits from Municipal Right of way section for new walkway.



Municipality of Anchorage
Project Management and Engineering
MEMORANDUM



DATE: September 12, 2024
TO: Dave Whitfield
FROM: Kyle Cunningham
SUBJECT: 2024-0091: Comments from Watershed Management Services.

RECEIVED

SEP 12 2024

Watershed Management Services (WMS) has the following comments for the October 10, 2024 Zoning Board of Examiners and Appeals hearing:

- 2024-0091 – Lot 17, Block 21, Third Addition, Alyeska Subdivision (Plat 66-167);
 - Stream mapping shown in the variance documents is different from what current MOA stream mapping shows. Please contact WMS to request stream mapping so that the stream location can be verified and mapping updated.
 - WMS is supportive of the variance to allow Cabin 1 to remain within the stream setback as long as the setback encroachment is not increased by the remodel/redevelopment of the existing cabin (the variance documents state that the proposed improvements will occupy the same building footprint).

MEMORANDUM

DATE: September 12, 2024

TO: Dave Whitfield, Planning Manager, Planning Section, Planning Division

FROM: Seth Wise, Engineering Technician III, Planning Section, AWWU

RE: Zoning Case Comments

Decision date: October 10, 2024

Agency Comments due: September 12, 2024

Seth Wise
RECEIVED

SEP 12 2024

AWWU has reviewed the materials and has the following comments:

2024-0091 LOT 17, BLOCK 21, THIRD ADDITION, ALYESKA SUBDIVISION (PLAT 66-167)
– Request for Dimensional Variances from: 1) AMC 21.09.060 Table 21.09-5 Table of Dimensional Standards: Girdwood Residential Districts to allow a cabin (aka Cabin 1) to encroach into front setback; and 2) AMC 21.07.020B.9. Table 21.07-1. Minimum Stream Setback Width Per Side to allow a cabin (aka Cabin 1) to encroach into required 25-foot stream setback, Grid # SE4916.

1. AWWU sanitary sewer is available to this parcel.
2. AWWU has no objection to this Request for Dimensional Variance.

If you have any questions pertaining to public water or sewer, please call (907) 564-2757 or send an e-mail to seth.wise@awwu.biz.





THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

Department of Transportation and
Public Facilities

Program Development and Statewide Planning
Anchorage Field Office

4111 Aviation Avenue
P.O. Box 196900
Anchorage, AK 99519-6900
Main number: 907-269-0520
Fax number: 907-269-0521
Website: dot.state.ak.us

RECEIVED

SEP 04 2024

September 4, 2024

David Whitfield, Current Planning Manager
MOA, Community Development Department
Planning Division
P.O. Box 196650
Anchorage, Alaska 99519-6650

[Sent Electronically]

Re: MOA Zoning Review

Dear Mr. Whitfield:

The Alaska Department of Transportation and Public Facilities (DOT&PF) has reviewed the following zoning cases and has no comments:

- **2024-0091** – 241 Higher Terrace, Girdwood – Dimensional Variance
- **2024-0103** – 1120 Huffman Rd, Ste 14 – Site Plan Review

We recommend the petitioner verify all section line easements and DOT&PF road rights-of-way adjacent to their property. For assistance, the petitioner may contact the Engineering group within the Right of Way section in DOT&PF at (907) 269-0700. The petitioner is liable to remove any improvements within the easements and rights-of-way that impede the operation and maintenance of those facilities even if they are not shown on the plat, so it is in the petitioner's best interest to identify the exact locations and widths of any such easements or rights-of-way before they improve the property.

If any section line easements or road rights-of-way exist within the bounds of their plat, we recommend the petitioner dedicate them. If there is an existing right-of-way or easement, the petitioner is unable to develop that portion of the property yet continues to pay property taxes on it; dedicating will remove that cost to the petitioner.

If there are any questions regarding these comments, please feel free to contact me at (907) 269-0522 or mark.eisenman@alaska.gov.

"Keep Alaska Moving through service and infrastructure."

Kimmel, Corliss A.

From: Walters, Michael S.
Sent: Wednesday, August 28, 2024 3:49 PM
To: Blake, Lori A.; Kimmel, Corliss A.
Subject: 2024-0091 Request for Reviewing Agency Comments

RECEIVED

AUG 28 2024

ROW has the following comments for case number 2024-0091:

ROW has no comment or objections on the proposed action.

Regards,

Michael S Walters
Senior Plan Reviewer
Right of Way Section
michael.walters@anchorageak.gov
Office: 907-343-8226
Cell: 907-727-7637
Fax: 907-249-7910

#ANCWORKS!
An online tool for Anchorage



MUNICIPALITY OF ANCHORAGE



Development Services Department
Addressing email: addressing@muni.org

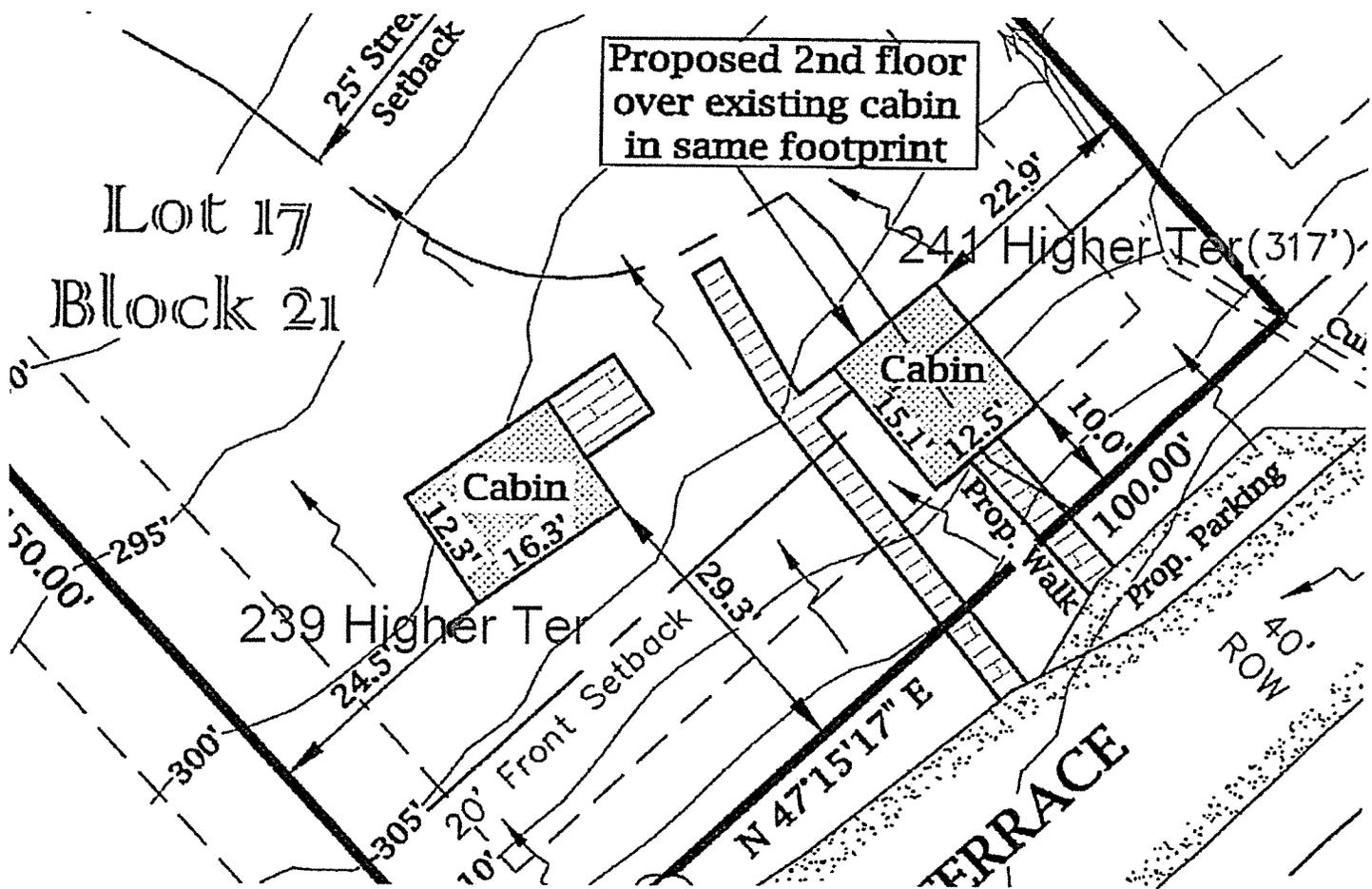
Phone: 907 343-8466
Fax: 907 249-7868

RECEIVED

AUG 22 2024

Case 2024-0091, Variance for Alyeska #3 Block 2, Lot 17, SE4916

- a. Address Requirement:
- When addresses were assigned in Girdwood, Addressing was aware of only 1 cabin.
 - See map for address assignments
 - Both addresses must be posted at the road as well as on the structures



Karleen

Municipality of Anchorage
P. O. Box 196650
Anchorage, Alaska 99519-6650
(907) 343-7943



US POSTAGE PITNEY BOWES
ZIP 99501 \$ 000.69⁰
02 4W
0000368435 SEP 10 2024

07602232000
SCHILLINGER MAX ADOLF & KRISTINE MARIE
PO BOX 4207
PALMER, AK, 99645-4207

RECEIVED

SEP 16 2024

NOTICE OF PUBLIC HEARING: Thursday, October 10, 2024

The Municipality of Anchorage Zoning Board of Examiners and Appeals will consider the following:

CASE: 2024-0091 ~~9964534207~~ ~~BO49~~ 

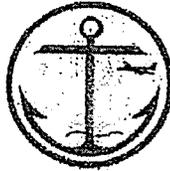
PETITIONER: Casey Brogan & Kirsten Brogan
REQUEST: Request for Dimensional Variances from: 1) AMC 21.09.060 Table 21.09-5 Table of Dimensional Standards: Girdwood Residential Districts to allow a cabin (aka Cabin 1) to encroach into front setback; and 2) AMC 21.07.020B.9. Table 21.07-1. Minimum Stream Setback Width Per Side to allow a cabin (aka Cabin 1) to encroach into required 25-foot stream setback.
TOTAL AREA: 0.34 acres
SITE ADDRESS: 241 Higher Terrace, Girdwood, Alaska 99587
LOCATION: Generally located north and northwest of Higher Terrace, east and south of Alyeska View Avenue
CURRENT ZONE: gR-2 (Single-Family/Two-Family Residential) District
COM COUNCIL(S): Girdwood Board of Supervisors
LEGAL DESCR: Lot 17, Block 21, Third Addition, Alyeska Subdivision (Plat 66-167)

New Public Hearing Process: The Zoning Board of Examiners and Appeals will hold a public hearing on the matter stated above no earlier than 6:30 pm on October 10, 2024 at Z.J. Loussac Library, Assembly Chambers, 3600 Denali Street. To provide testimony via phone, email PlanningPhoneTestimony@anchorageak.gov by 2:00 p.m. the day of the meeting with your name, phone number, and requested agenda item(s). The subject line should read "Phone Testimony". The Secretary will phone you during the public hearing at the number you provide. Individuals will have 3 minutes to testify, and representatives of groups will have 5 minutes.
PLEASE DO NOT EMAIL CASE COMMENTS TO THIS EMAIL ADDRESS.
If you would like to comment on the petition, this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Planning Department, P.O. Box 196650, Anchorage, Alaska 99519-6650. For more information call 343-7931; FAX 343-7927. Case information may be viewed online at <http://www.muni.org/CityViewPortal>. Written comments on public hearing cases will be accepted up until 1:00 p.m. on the last business day before the meeting date. After that time, anyone wishing to submit comments must attend the meeting to testify at the public hearing.
ALL DOCUMENTS LISTED ON THIS AGENDA ARE AVAILABLE ONLINE AT www.muni.org/watchnow.
FOR AUXILLARY AIDS, SERVICES, OR SPECIAL MODIFICATIONS TO PARTICIPATE, PLEASE CONTACT THE MEETING SECRETARY TO REQUEST REASONABLE ACCOMMODATIONS AT 343-7576; FAX 343-7927

I SUPPORT CASEY + KRISTEN BROGAN'S
VARIANCE REQUEST. IT WILL HELP
THEIR CABIN CONSTRUCTION AND WILL
NOT BE OF SIGNIFICANT STREAM DETRIMENT

MAX A. SCHILLINGER
191 HIGHER TERRACE

**AFFIDAVIT
OF POSTING**



AFFIDAVIT OF POSTING

CASE NUMBER: 2024 - 0091

I, Jeremy Hursp hereby certify that I have posted a Notice as prescribed by Anchorage Municipal Code 21.03.020H.5, on the property that I have petitioned for 241 High Terr.. The notice was posted on 7/30/24 which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.

Affirmed and signed this 30 day of July, 20 24.

Signature

LEGAL DESCRIPTION

Tract or Lot: Lot 17 ~~B~~ JAH

Block: 21

Subdivision: Alyeska #3



