

Chair

Nancy Bird

Vice Chair

Mark Hall

Commissioners

Tom McGann

Chris Bolin

Trae Lohse

Sarah Trumblee

Tania Harrison

City Planner

Kevin Johnson

**PLANNING COMMISSION REGULAR MEETING
May 10, 2022 AT 6:30 PM
CORDOVA CENTER COMMUNITY ROOMS A & B**

AGENDA

1. CALL TO ORDER

2. ROLL CALL

Chair Nancy Bird, Commissioners Tom McGann, Chris Bolin, Trae Lohse, Mark Hall, Sarah Trumblee, and Tania Harrison

3. APPROVAL OF AGENDA

4. APPROVAL OF CONSENT CALENDAR

a. Minutes of January 11, 2022 Regular Meeting.....Page 1

5. DISCLOSURES OF CONFLICTS OF INTEREST AND EX PARTE COMMUNICATIONS

6. CORRESPONDENCE

7. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

a. Guest Speakers

b. Audience comments regarding agenda items (3 minutes per speaker)

8. PLANNER'S REPORT.....Page 4

9. UNFINISHED BUSINESS

a. Variance Request - Setback and Off-Street Parking – Lot 3, Block 2, Railroad Addition Page 5

b. Resolution 22-03 Title 5.22 Land Disposal Code Update..... Page 19

10. NEW BUSINESS

11. AUDIENCE COMMENTS

12. COMMISSION COMMENTS

13. ADJOURNMENT

You may submit written public comments via email to planning@cityofcordova.net, mail comments to City of Cordova, PO Box 1210, Cordova, AK 99574, or delivered to City Hall directly. Written public comments must be received by 4:00 p.m. on the day of the meeting

**PLANNING COMMISSION REGULAR MEETING
JANUARY 11, 2022 AT 6:30 PM
CORDOVA CENTER COMMUNITY ROOMS A & B
MINUTES**

1. CALL TO ORDER

Vice Chair *Nancy Bird* called the Planning Commission Regular Meeting to order at 6:30 PM on January 11, 2022 in Cordova Center Community Rooms A & B.

2. ROLL CALL

Present for roll call were Chair *Nancy Bird* and Commissioners *Tom McGann, Mark Hall, Trae Lohse,* and *Sarah Trumblee*

Chris Bolin was absent.

Staff present was City Planner *Kevin Johnson*.

3. APPROVAL OF AGENDA

M/McGann S/Trumblee to approve the agenda.

Upon voice vote, motion passed 5-0.

Yea: *Bird, McGann, Lohse, Hall, Trumblee*

Absent: *Bolin*

4. APPROVAL OF CONSENT CALENDAR

a. Record excused absence for Chris Bolin from the December 14, 2021 Regular Meeting

b. Minutes of December 14, 2021 Regular Meeting

M/Hall S/McGann to approve the consent calendar.

Upon voice vote, motion passed 5-0.

Yea: *Bird, McGann, Lohse, Hall, Trumblee*

Absent: *Bolin*

5. DISCLOSURES OF CONFLICTS OF INTEREST AND EX PARTE COMMUNICATIONS

None

6. CORRESPONDENCE

Johnson told the commission that nothing had been received.

7. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

a. Guest Speakers - None

b. Audience comments regarding agenda items

8. PLANNER'S REPORT

Johnson summarized the items found in his report under agenda item 8.

Bird asked for an update on the resolutions for the disposal of the PWSSC building for the use as a brewery. *Johnson* said that the item was on City Councils next meeting agenda and that he would provide an update at the next meeting.

9. UNFINISHED BUSINESS

a. Title 16 Building Code Update Discussion

McGann asked that language referencing the IBC be added to 16.10.010 and that the reference in 16.10.020 should be changed to reference 16.10.010 not 16.05.010. He also asked that the scope of 16.15.030 be narrowed based on previous discussions that the commission does not feel that a building permit shall be necessary for interior alteration that are not structural or for the replacement of appliances such as water heaters / HVAC. Asked that 16.15.030 (C) and (F) be worded differently to provide better clarity. *McGann* asked why appendix H was being struck. *Johnson* said he would investigate it and check with the previous planner and report back. *McGann* asked about why the local amendment section references a specific code year when we are updating title 16 to reduce the need for future updates as the building codes change on a state level. *Johnson* explained that a specific code year must be referenced since when the ICC codes change the sections within them may change. *McGann* said that the amendment R703.2 relating to water resistant barriers should be removed as they are always required. He also mentioned that all the building code references in Title 18 should be removed in their entirety as they are not relevant to zoning setback and heights.

Bird asked why 16.15.050 was listed as "Reserved". *Johnson* explained that this is done to preserve cross references that could be affected if all the sections below that were moved up in numbering.

Hall asked if the ordinance will be reviewed by legal prior to the commission voting on it. *Johnson* confirmed that it will.

10. NEW BUSINESS

a. Election of Planning and Zoning Commission Chair for 2022

The floor was opened for nominations.

McGann nominated *Bird*.

Bird nominated *Hall*. *Hall* declined the nomination.

Lohse nominated *McGann*. *McGann* declined the nomination.

Upon voice vote, nomination passed 5-0.

Yea: *McGann, Bird, Lohse, Hall, Trumblee, Baenen*

Absent: *Bolin*

b. Election of Planning and Zoning Commission Vice-Chair for 2022

The floor was opened for nominations.

McGann nominated **Hall**.

Hall nominated **McGann**. **McGann** declined the nomination.

Upon voice vote, nomination passed 5-0.

Yea: **McGann, Bird, Lohse, Hall, Trumblee, Baenen**

Absent: **Bolin**

11. PENDING CALENDAR

No comments

12. AUDIENCE PARTICIPATION

No Comments

13. COMMISSION COMMENTS

Hall wanted to thank the streets crew for their great work.

Trumblee thanks staff for the great packet and thanked the streets crew.

Lohse thanked **McGann** for all the work he has put into getting the building code updated.

Bird also thanks **McGann** and the streets crew.

14. ADJOURNMENT

M/McGann S/Trumblee to adjourn the Regular Meeting.

With no objection, the meeting was adjourned.

Approved:

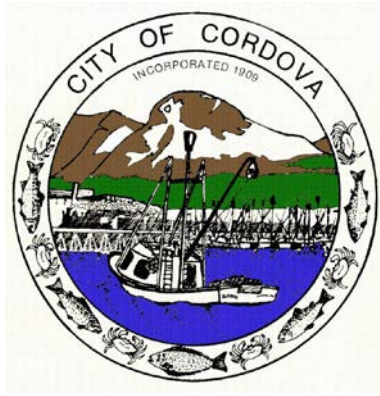
Nancy Bird, Chair

Kevin Johnson, City Planner

Planner's Report

To: Planning and Zoning Commission
From: Kevin Johnson, City planner
Date: 5/10/22
Re: Recent Activities and Updates

- Addressing project approaches completion. Final checks of the data are underway. Address database completion expected by first week of May. Following the completion of the data base the city will begin a notification process to all residents.
- Staff met with NVE and The Eyak Corporation to discuss collaboration on housing projects as there has been historically little collaboration between the city and The Eyak Corp. and we are taking steps to change that. Each entity is looking at what programs they do or do not qualify for at the state and federal levels, so that lead applicants can be determined for future potential grant money.
- City Council approved a resolution supporting the 2022 PIDP grant concept. Staff continues to prepare the application package that is due May 16.
- FEMA coming to town the first week of June to discuss the city's flood plain regulations and permitting process as part of a regular check in with communities that have regulated flood plains. FEMA will point to areas in the code that need to be adjusted if current regulations do not meet federal requirements.
- Staff met with Burkhardt Croft Architects to discuss plans for a new Public Safety Building (PSB). Staff intend to pursue federal funds for a PSB that is located out of the tsunami zone. We have begun the initial steps of working through a needs assessment so that the consultant can update the plans from the 2012 concepts that were done. The location of the new PSB would be in the location to the east of Eagle's lot on Copper River Highway at the intersection of Lefever.



AGENDA ITEM # 9a
Planning Commission Special Meeting Date: 5/10/22
PLANNING COMMISSION COMMUNICATION FORM

FROM: Kevin Johnson, City Planner

DATE: 5/10/22

ITEM: Variance Request - Setback and Off-Street Parking – Lot 3, Block 2, Railroad Addition

NEXT STEP: Decide Whether to Grant Variance

☐ INFORMATION
☒ **MOTION**
☐ RESOLUTION

I. REQUEST OR ISSUE:

Requested Actions: Grant of Variance
Applicant: Hayley Hoover
Address: NA
Legal Description: Lot 3, Block 2, Railroad Addition
Zoning: Medium Density Residence District
Lot Area: 3,792 sq. ft.

The City of Cordova received an application requesting a variance from Cordova Municipal Code (CMC) 18.24.060 – Side Yard and 18.48.060 – Off-Street Parking.

The application specifically requests a variance from the requirement for two onsite parking spaces and a variance to allow for a portion of the building to encroach approximately seven feet into the ten-foot side yard setback along portions of the west property line, see Attachment E.

II. RECOMMENDED ACTION / NEXT STEP:

A Commissioner should make the following motion followed by a second to open the item for discussion

“I move that the Planning Commission grant the variance request by Hayley Hoover and to adopt and incorporate the findings within the staff report.”

Staff recommends the Planning Commission grant the variance request.

The variance can be granted with or without special conditions or denied.

III. FISCAL IMPACTS:

Increased property value and tax base.

IV. BACKGROUND INFORMATION:

Applicable Codes:

18.24.060 – Side Yard

- A. *There shall be a side yard in the R medium density district of not less than five feet. The minimum side yard on the street side of a corner shall be ten feet.*

18.48.060 – Off-street Parking Requirements

Any structure or building hereafter erected, converted or enlarged for any of the following uses shall be provided with not less than the minimum spaces as set forth below unless otherwise permitted under this code. Fractional numbers of required parking spaces shall be increased to the next whole number.

Single Family Dwelling - Two parking spaces

18.64.020 – Variances

- A. *An application for a variance shall be filed in writing and verified by the owner of the property concerned.*
- 1. The application shall contain the following data with respect to the property and the applicant:*
 - a. - A legal description of the property involved,*
 - b. - Plot plans showing the location of all existing and proposed buildings or alterations, elevations of such buildings or alterations, and such other data as may be required,*
 - c. - Evidence of the ability and intention of the applicant to proceed in accordance with the plans within six months after the effective date of the variance;*
 - 2. - The application shall contain a statement and adequate evidence showing the following conditions, all four of which must exist before a variance may be granted.*
 - a. - That there are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which do not apply generally to the other properties in the same land use district,*
 - b. - That the strict application of the provisions of this title would result in practical difficulties or unnecessary hardship,*
 - c. - That the granting of the variance will not result in material damage or prejudice to other*

*properties in the vicinity nor be detrimental to the public health, safety or welfare,
d. - That the granting of the variance will not be contrary to the objectives of the comprehensive plan.*

Suggested Findings:

- a. That there are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which do not apply generally to the other properties in the same land use district.*

This condition has been met. Given the unusual topography of this lot building over the setback will not impact any neighboring properties or the adjacent ROW of Railroad Ave. The lot has both a physical constraint but also a unique shape as it tapers going from the south to more narrow in the north. This taper along with the physical constraints makes placing a footprint outside of all setbacks very difficult while still having a usable building area. Snow shedding has been accounted for with the roof sloping to the east so that snow does not shed over the east property line down onto Railroad Ave. The property is ~ 30 ft above Railroad Ave and ~ 60 ft below Davis Ave which creates a significant physical barrier to create a driveway into the lot. Davis Ave also “dead ends” into Railroad Ave but due to the topographic difference of almost 100 feet these roads cannot be connected.

- b. That the strict application of the provisions of this title would result in practical difficulties or unnecessary hardship.*

This condition has been met. Adhering to the required setbacks and provisions would require onsite parking which would lead to significant structural and developmental difficulties which have the potential to make building infeasible. Because the lot is technically a corner lot the setback for the west property line is ten feet as opposed to a standard five feet for side yards. The requirement for a ten foot setback is unnecessary in this case due to the topographic differences between the two ROWs and that the applicant has accounted for snow shedding in the roof design.

- c. That the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare.*

This condition has been met. The granting of the variance for the setback does not result in harm to other properties in the vicinity as the setback variance requested is along a ROW, and the public will not be harmed by this as snow shedding has been accounted for in the roof design. The variance for off-site parking also does not cause harm to other properties or the public as the proposed parking along Davis Ave is a “dead end” portion of ROW as it cannot and will most likely never be connected to Railroad Ave for vehicular traffic.

- d. That the granting of the variance will not be contrary to the objectives of the comprehensive plan.*

This condition has been met. The 2019 Comprehensive Plan identifies that there is limited availability of land, new construction is expensive, and there is a limited stock of affordable housing. Requiring parking on this lot further limits the availability of land, and if the creation of off-street parking was possible, the cost would be prohibitively expensive and eat up valuable living space. Granting the proposed variances for this topographically-challenged lot would enable a new single-family dwelling to be built which would help to alleviate the lack of housing and would make use of land in the city that may have gone unused due to the hardship associated with developing the lot. Building a home on the lot will also increase property values in

the area.

V. LEGAL ISSUES:

The public or applicant may appeal the decision of the Planning Commission to the City Council.

VI. ENVIRONMENTAL ISSUES:

N/A

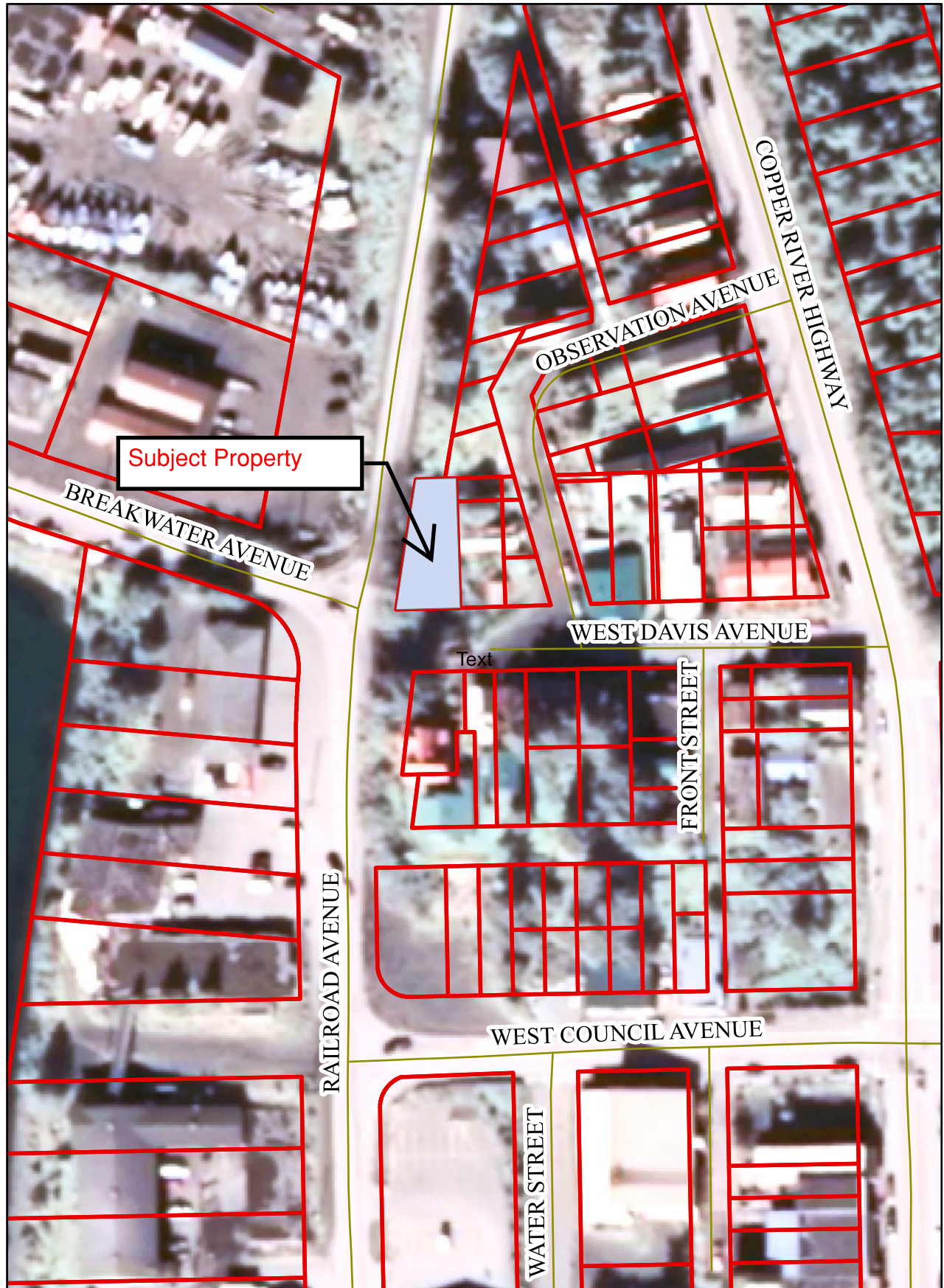
VII. SUMMARY AND ALTERNATIVES:

Following the April 14, 2022 Planning Commission meeting, staff worked with the applicant to adjust the plans as directed by the commission. This included removing any structures within the ROW, clarifying the setback encroachment within the west setback, and clarifying the encroachment within the south setback. Attachment E provides a description of the encroachment area as well as a site plan showing the encroachments. The updated plan has removed the encroachment within the south setback area, the applicant shall utilize the existing stairs within the access easement to the east.

VII. ATTACHMENTS:

- A - Location Map
- B - Application
- C - Application Supplemental
- D – Site Survey
- E – Proposed Site Plan

Hoover Variance Request Location Map



CITY OF CORDOVA



VARIANCE APPLICATION

City of Cordova, Alaska

INSTRUCTIONS	PERMIT TYPE	FEE
Print or type requested information. Incomplete applications will be returned to the applicant and will delay processing of the request. Applications must be received by the Planning Department 21 days prior to the next Planning Commission Regular Meeting, which is scheduled the second Tuesday of each month.	<input checked="" type="checkbox"/> Variance	\$250

APPLICANT INFORMATION	
Name:	Hayley Hoover
Mailing Address:	PO Box 2302
City/State/Zip:	Cordova/AK/99574
Phone Number:	2063717856
Email Address:	hhoover@pwssc.org

OWNER INFORMATION	
Name:	
Mailing Address:	
City/State/Zip:	
Phone Number:	
Email Address:	
Only complete this section if owner is different from applicant.	

PROPERTY INFORMATION	
Address:	121 West Davis AVE
Legal Description:	Lot 3, Block 2, Railroad Addition
Tax Lot No.:	02-060-417
Zone District:	MDR
Planning Department can assist if unknown.	

REQUEST DESCRIPTION

Please describe your request in detail and identify which provision(s) of the code you are seeking a variance from.

See attached

With this application you must also include:

1. Plot plans showing the location of all existing and proposed buildings or alterations and the elevations of such buildings or alterations.
2. Evidence of the ability and intention to proceed in accordance with the plans within six months after the effective date of the variance.

Planning Department staff recommend that you provide any additional documents which will help the Planning Commission better understand the request, such as a cover letter, drawings, maps, or photographs.

VARIANCE CONDITIONS

The Planning Commission may only approve a variance if the commission finds that **ALL** of the following four conditions are met. You must include a statement and adequate evidence showing that each of the conditions has been met. Use additional pages if needed.

CONDITION 1: There are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which do not apply generally to the other properties in the same land use district.

See attached

CONDITION 2: The strict application of the provisions of this title would result in practical difficulties or unnecessary hardship.

See attached

CONDITION 3: The granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare.

This condition has been met. Due to the location of the lot relative to it's neighbors there will be minimal impacts to the adjacent properties. Several properties nearby also do not meet the setback requirements or the on sight parking requirement. The proposed home has been professionally designed and will meet current building codes. Per the variance process, letters will be mailed to all properties within 300 feet of the proposed variance.

CONDITION 4: The granting of the variance will not be contrary to the objectives of the comprehensive plan.

This condition has been met. The 2019 Comprehensive Plan identifies "limited stock of affordable housing" as a key issue of the plan along with the "limited availability of land". Granting the proposed variances for this topographically-challenged lot would enable a new single-family dwelling to be built which would help to alleviate the lack of housing and would make use of land in the city proper that may have gone unused due to the hardship associated with developing the lot. Building a home on the lot will also increase property values in the area.

APPLICANT CERTIFICATION

By the signature attached hereto, I certify that I am the owner or duly authorized owner's agent and that the information provided within this application and accompanying documentation is correct. Furthermore, I hereby authorize the City and its representatives to enter the property associated with this application for purposes of conducting site inspections.

Applicant Signature: _____



Date: 4/1/22

Print Name: Hayley Hoover

Applicable codes:

- **18.24.030 - Lot area.**

A. The minimum lot area in the R medium density district shall be four thousand square feet and the minimum lot width shall be forty feet. Applicable codes:

B. The minimum lot area for dwellings in the R medium density district shall be:

1. For a one—family dwelling, four thousand square feet per dwelling unit;

- **18.24.060 - Side yard.**

A. There shall be a side yard in the R medium density district of not less than five feet. The minimum side yard on the street side of a corner shall be ten feet.

- **18.48.060 - Off-street parking requirements.**

- Any structure or building hereafter erected, converted or enlarged for any of the following uses shall be provided with not less than the minimum spaces as set forth below unless otherwise permitted under this code. Fractional numbers of required parking spaces shall be increased to the next whole number.

Dwellings and Lodgings	Minimum Number of Parking Spaces Required
2. Single-family dwellings, two-family dwellings, trailers, multifamily dwellings and other places containing dwelling units.	Two parking spaces for each unit.

18.64.020 - Variances.

A. An application for a variance shall be filed in writing and verified by the owner of the property concerned.

1. The application shall contain the following data with respect to the property and the applicant:

- a. A legal description of the property involved,
- b. Plot plans showing the location of all existing and proposed buildings or alterations, elevations of such buildings or alterations, and such other data as may be required,

- c. Evidence of the ability and intention of the applicant to proceed in accordance with the plans within six months after the effective date of the variance;

Request description:

I am requesting a variance from codes 18.24.030, 18.24.060, and 18.48.060. The lot is under the 4,000 sq ft requirement for medium density land use by 208 sq ft. I would like to be given the ability to build a home here. I would also like to be able to build over the “side yard” variance which is the western line of the property. Given the unusual topography of this lot building over the setback will not impact any neighboring properties or the adjacent ROW of Railroad Ave. The property is ~ 30 ft above the road surface. I am also requesting a variance from “onsite parking” due to the topography of the lot in relationship to the adjacent road surfaces. As stated, the property is ~ 30 ft above Railroad Ave and ~ 60 ft below Davis Ave.

Due to the topography of the lot in relationship to the adjacent road surfaces the proposed build would not impede the drivers of either Davis Ave or Railroad Ave’s views while driving. The property is ~ 60 ft below Davis Ave and ~ 30 ft above railroad row. The proposed house will have a single pitch roof shedding snow towards the eastern “side” of the lot. The proposed encroachment will mostly be decking as can be seen in the attached house plans and the northeastern corners of the house.

See attached site plan.

I have marked in yellow the “traditional” parking spot for this lot as suggested by the neighbors.



Condition 1:

This condition has been met. The Medium Density Residential District encompasses a wide range of properties; however, this lot is exceptionally challenging to develop due to its topography, access, size, and adjacent road surfaces. The lot is situated at a significantly lower grade than Davis Ave, which is the only way the lot can be reasonably accessed. While the south side of lot is adjacent Railroad Avenue, the terrain is very steep and would be infeasible to construct a driveway on. Off-street parking is nearly infeasible on the lot.

The lot is under 4000 sq ft which is the part of the definition of the “medium density” lot in the code. Presumably a previous variance for this breach of code was already granted to the previous owner given that there was a residence on the lot.

All setbacks will be adhered to with the exception of the proposed variance of the western “side” of the lot. Due to the topography of the lot in relationship to the adjacent road surfaces the lot does not fall into the traditional sense of what a corner lot is and may not have to have the same considerations. As stated, the property is ~ 60 ft below Davis Ave and ~ 30 ft above railroad row. Because the lot is less than 4000 sq ft gaining an additional few ft on the west “side” would make a significant difference in the feasibility of the build.

Granting variances for the build, the west setback and to the onsite parking provision would allow the applicant to build a viable home on a property that was in a dilapidated state upon acquisition.

Condition 2:

This condition has been met. Adhering to the required setbacks and provisions would require onsite parking would lead to significant structural and developmental difficulties which have the potential to make building infeasible. Also, the contractor’s ability and amount of time to construct a steep grade driveway is impractical.

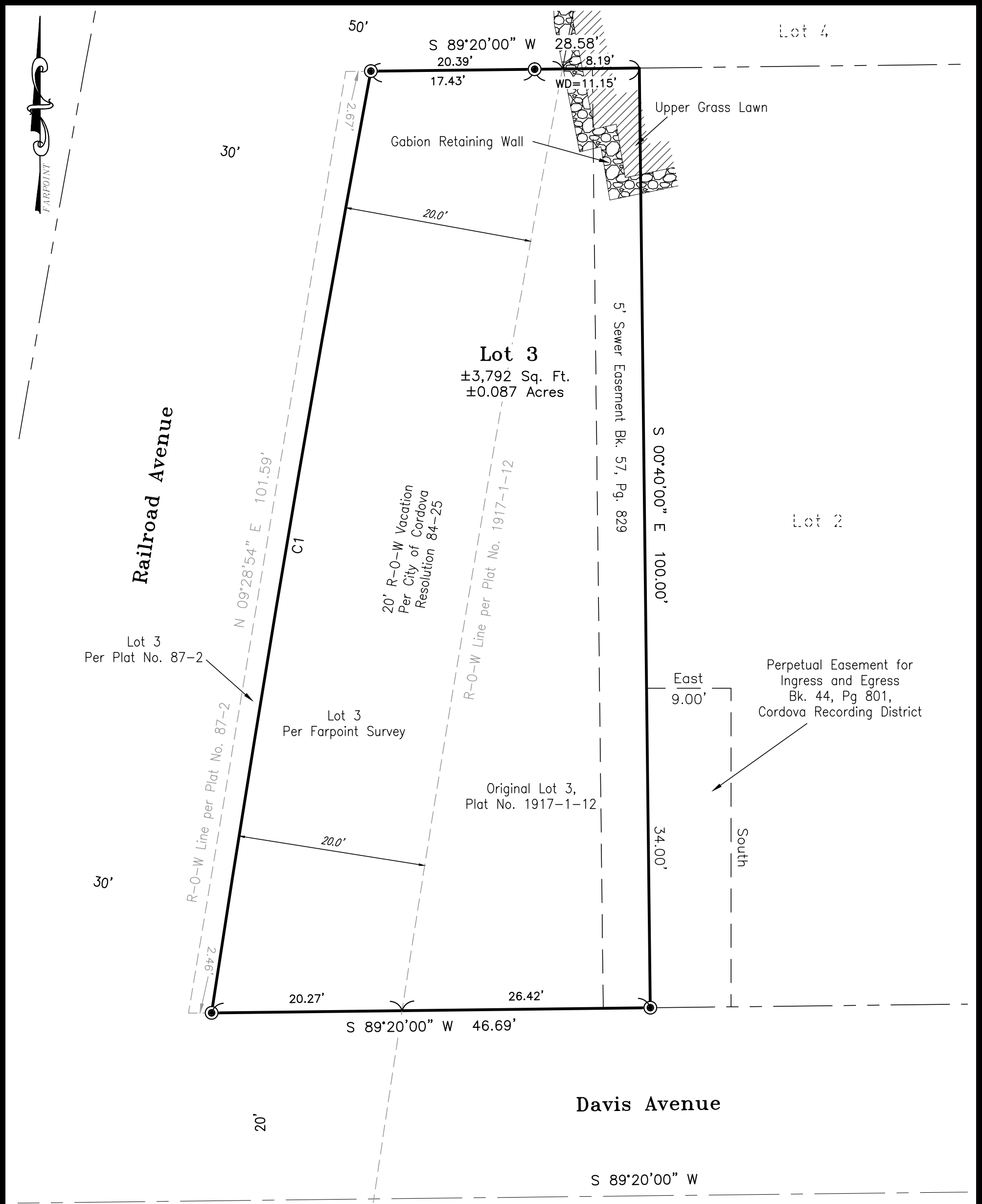
Because the lot is technically a corner lot the setbacks are larger than expected. Given the unusual shape of the lot that the lot is under 4000 sq ft maintaining all setbacks according to the code is impractical. Building the house within the setbacks would make an additional floor to the house plan be added. This would negatively impact the value of the north neighbor by obstructing their view and add hardship to the build again due to the specifics of the lot.

I’ve included two photos below for reference of the lot and the tear down work done last spring.



Thank you for your time and consideration.


Hayley Hoover
4/1/22



CURVE DATA						
CURVE	RADIUS	ARC	DELTA	TANGENT	CHORD	CHORD BEARING
C1	3096.83'	101.63'	1°52'49"	50.82'	101.63'	S 09°35'49" W

NOTES

- Bearings and distances are record per referenced plat unless otherwise noted.
- Sufficient boundary evidence was recovered to establish the subject parcel on the ground. Not all controlling evidence is shown hereon.



Farpoint Land Services, LLC

SURVEYING, MAPPING, LAND PLANNING, GIS

1131 E. 76th Ave., Suite 101 Anchorage, Alaska 99518

FarpointAK.com • (907) 522-7770 • survey@farpointak.com

BOUNDARY SURVEY OF:
Lot 3, Block 2, Railway Addition
Subdivision, Plat No. 1917-1-12 &
Plat No. 87-2, Cordova, Alaska

WORK ORDER No

DATE:

SCALE:

ZONING:

20335

Aug. 31, 2021

1"=10'

Residential

DRAWN: CHECKED:

GRID No:

FB BOOK/PAGE:

JLA MJH

443

CB-1/12

SURVEY CERTIFICATION: FARPOINT has conducted a physical survey of the subject property, the improvements situated thereon are within the property lines as shown.

EXCLUSION NOTES: It is the owners responsibility to determine the existence of any easements, covenants, or restrictions which do not appear on the Plat used for this survey. NOTE: Under no circumstances should any data hereon be used for construction or for the establishing of property lines.

LEGEND

● Fnd 5/8" Rebar

○ Fnd 1" Pipe

⦿ Set 5/8" Rebar with Plastic Cap

PREPARED FOR:

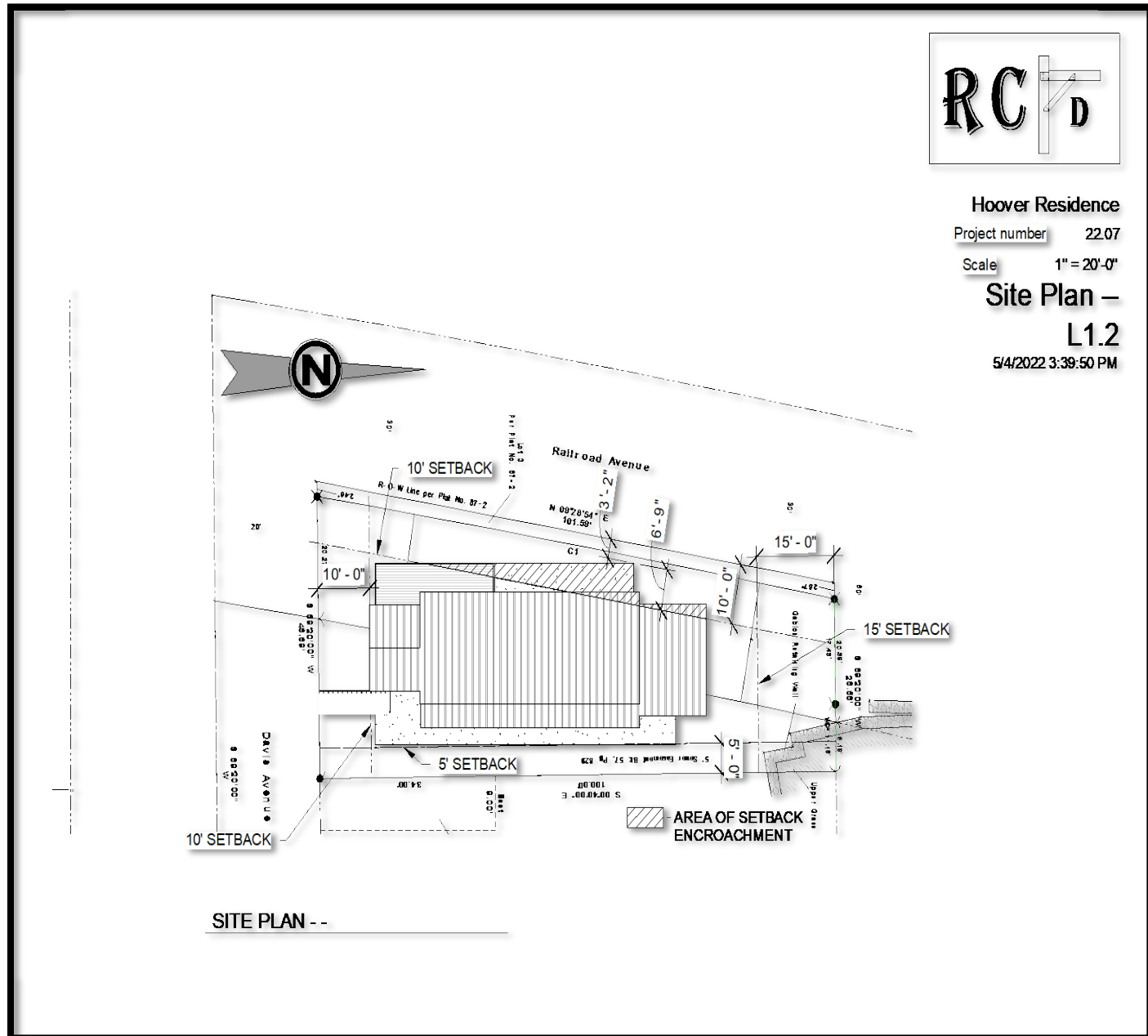
Hayley Hoover

PO Box 2302

Cordova, AK 99574

17

The encroachment along the west side of the property at most will be 6' 10". The encroachment consists of decking, footings and the northwest corners of the house (walls, roofing etc). The area of encroachment is marked with diagonal lines on the site plan below.





AGENDA ITEM # 9b

Planning Commission Special Meeting Date: 5/10/22

PLANNING COMMISSION COMMUNICATION FORM

FROM: Kevin Johnson, City Planner

DATE: 5/10/22

ITEM: Resolution 22-03 CMC 5.22 – Disposal of Real Property, Code Update

NEXT STEP: Make a Recommendation to City Council on the Proposed Code Update

☐ INFORMATION
☐ MOTION
☒ **RESOLUTION**

I. REQUEST OR ISSUE:

Staff has provided draft changes to Cordova Municipal Code (CMC) 5.22 – Disposal of Real Property, as requested by the Planning Commission and City Council.

Staff requests the commission pass a resolution recommending that the City Council amends Chapter 5.22.

II. RECOMMENDED ACTION / NEXT STEP:

Recommended Motion: “I move to approve Resolution 22-03 recommending that the City Council passes an ordinance updating Cordova Municipal Code 5.22 as presented”

III. FISCAL IMPACTS:

The proposed changes would increase materials costs and staff time an additional 3 to 5 hours for processing a letter of interest that involves a request for changing the status of a lot from “Not Available” to “Available”

for the public noticing requirements. There will also be additional legal fees for the review of an ordinance to change the code.

IV. BACKGROUND INFORMATION:

City Council and Planning Commission identified a potential need to change city code regarding disposal of city land and a need for additional noticing in certain circumstances. Multiple Planning Commission regular meetings and a joint meeting with City Council was held in 2021 to identify the desired changes. Based on those discussions staff has drafted changes that address the following:

- Define land disposal map definitions and update procedures
- Includes public noticing when a lots status is requested to be changed from “Not Available” to “Available”. Noticing includes:
 - A sign posted on the site
 - Notice sent to all property owners within 300 feet
 - Notice posted at regular city locations (City Hall, Cordova Public Library, and the Post Office)

V. LEGAL ISSUES:

N/A

VI. ENVIRONMENTAL ISSUES:

N/A

VII. SUMMARY:

Staff has made updates to CMC 5.22

VII. ATTACHMENTS:

- A. Resolution 22-03
- B. CMC 5.22 – Disposal of Real Property updated clean version
- C. CMC 5.22 – Disposal of Real Property ~~strike-through~~, underline version

**CITY OF CORDOVA, ALASKA
PLANNING COMMISSION
RESOLUTION 22-03**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CORDOVA,
ALASKA, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF CORDOVA,
ALASKA TO AMEND CORDOVA MUNICIPAL CODE CHAPTER 5.22 – DISPOSAL OF REAL
PROPERTY, IN ORDER TO UPDATE AND CLARIFY THE CODE.**

WHEREAS, the Planning Commission has determined that Chapter 5.22 requires additional clarity for the keeping and updating of an annual land disposal map; and

WHEREAS, the public will benefit from having a standardized update process and clarification of the land designations; and

WHEREAS, the Planning Commission finds that additional public notice should be required in circumstances in which new properties are added to the land disposal map, or when a properties designation is made “Available”; and

WHEREAS, the public notice will better inform nearby property owners and the city at large to land use changes; and

WHEREAS, the Planning Commission recommend to City Council to accept the proposed amendments and approve an ordinance codifying the changes.

NOW, THEREFORE BE IT RESOLVED THAT the Planning Commission of the City of Cordova, Alaska hereby recommend to the City Council of the City of Cordova, Alaska to amend Cordova Municipal Code Chapter 5.22, in order to update and clarify the code.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2022

Nancy Bird, Chair

ATTEST:

Kevin Johnson, City Planner

Chapter 5.22 DISPOSAL OF REAL PROPERTY¹

5.22.010 Disposal authority.

Except where state statute, the Charter or this code establishes a specific mandatory procedure for disposing of city real property, the city may dispose of city real property by resolution of the council.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.020 Documentation of conveyance.

Every document conveying an interest in city real property under this chapter shall include the terms that are required by this chapter and any additional terms that the council or city manager requires, and shall be executed by the city manager, attested by the clerk, and approved as to form by the city attorney.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.030 Land Disposal Map.

A. The city shall maintain and update annually, a map of city owned real property. The real property shall be divided into the following designations:

1. Available: These properties are available to purchase, or lease.
2. Available – Subdivision Required: These properties are available to purchase or lease, but a subdivision of the land may be required.
3. Tidelands: Tidelands are considered as “Available” designation but shall require review and recommendation from the Harbor Commission. Disposal of tidelands shall follow the procedures in CMC 5.16
4. Not Available: These properties are currently in use for city uses and operations. This designation may be requested to be changed through the submission of a Letter of Interest. A request to change this designation shall be reviewed as outlined in this chapter and a decision made based on the proposed used versus the existing use.
5. Leased: These properties are currently under lease and not considered available. A Letter of Interest for a property that is under lease may be considered when the lease enters the final year of its term.

¹Editor's note(s)—Ord. No. 1127, § 1, adopted May 6, 2015, repealed and replaced ch. 5.22, §§ 5.22.010—5.22.120, in its entirety. Former ch. 5.22 pertained to Disposal of City Real Property and was derived from Ord. 999 § 1(part), adopted 2007; Ord. 1003 § 1, adopted 2007 and Ord. No. 1099, § 1, adopted November 7, 2012.

B. Once per year, city staff shall review, with the Planning and Zoning Commission, the land disposal map to consider possible changes to the current designations or to add or remove properties as needed. The Planning and Zoning Commission shall then forward a recommendation to the City Council for adoption.

C. Maps may be modified throughout the year at the request of the public through the submission of a Letter of Interest. Such requests will be reviewed as outlined in this chapter.

D. Noticing. A public notice shall be published, when real property is being added to the land disposal map, or an existing property is proposed to be changed from "Not Available". The notice shall include the name of the proponent, the location of the property, the proposed use and project description, and information on how the public can comment on the proposal.

No less than 30 (thirty) days prior to the Planning Commission making their recommendation, the public notice shall be published as follows:

1. A sign with the notice shall be posted onsite so that it is visible and able to be read from the Right-Of-Way.
2. At City Hall, Cordova Public Library, and the Post Office.
3. Mailed to all property owners within 300 feet of the perimeter of the subject property.

5.22.040 Letter of interest to lease or purchase.

A. A person may submit a letter of interest to the city raising an interest in the purchase or lease of city property. Except as otherwise provided in this chapter, a letter of interest shall be submitted to the city manager and must include the following information:

1. The name of the interested party and any other names under which the party does business;
2. The interested party's mailing address and the address of the interested party's registered office in the state, if applicable;
3. The use or purpose for which the interested party proposes to lease or purchase the property, and any additional information required by the city manager, school board, city planner or the planning commission.

B. The city manager shall refer a letter of interest from a qualified interested party to the city planner. If the city planner finds that the real property is available for lease or purchase, the city planner shall schedule the letter of interest for review by the planning commission.

C. The planning commission shall review the letter of interest and recommend to the city council whether to offer the real property interest for disposal by one of the methods as described in Section 5.22.060(B).

D. The city council shall review the letter of interest and the planning commission's recommendation, and determine, in the city council's sole discretion, whether to offer the real property of interest for disposal by one of the methods as described in Section 5.22.060(B).

(Ord. No. 1127, § 1, 5-6-2015)

5.22.050 Letter of interest to lease or purchase school building property.

A. A letter of interest to lease or purchase an interest in a school building shall be submitted directly to the school board and shall include all the information required in Section 5.22.040.

B. Upon receipt of a letter of interest, the school board shall have authority to draft a resolution recommending action on the letter of interest and including recommended terms and conditions for any sale or lease of city owned real property with a school located on it.

C. The city council shall review the letter of interest and school board's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods described in Section 5.22.060(B).

(Ord. No. 1127, § 1, 5-6-2015)

5.22.060 Methods of disposal.

A. Except as this chapter provides otherwise, all disposals of interests in city real property shall be for no less than fair market value. The city may accept in exchange for an interest in city real property any consideration of sufficient value not prohibited by law.

B. In approving a disposal of an interest in city real property, the city council shall select the method by which the city manager will conduct the disposal from among the following:

1. Negotiate an agreement with the party who submitted a letter of interest to lease or purchase the property;
2. Invite sealed bids to lease or purchase the property;
3. Offer the property for lease or purchase at public auction;
4. Request sealed proposals to lease or purchase the property.

C. If the city elects to dispose of an interest in city real property under one of the competitive methods described in subsections (B)(2) through (B)(4), notice of the disposal shall be published in the manner which the city manager deems most likely to inform the public of the proposed disposal for a

period of at least thirty days. At a minimum, the notice shall describe the interest in city real property to be disposed of, the method of disposal, and the time and place for submitting bids or proposals.

D. An invitation for bids to lease or purchase city real property shall specify any minimum price requirement and any required terms.

E. A request for proposals to lease or purchase city real property shall specify the criteria upon which proposals will be evaluated and the minimum rent or purchase price. All proposals submitted in response to a request for proposals shall be reviewed by the planning commission, which shall make a recommendation to the city council to accept or decline any or all of the proposals. The city council shall review the proposals and the planning commission's recommendation and accept or decline any of the proposals.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.070 Disposal for less than fair market value.

A. The city may dispose of an interest in city real property for less than fair market value to the United States, the state of Alaska or any political subdivision thereof, or a nonprofit or tribal corporation or association, upon a finding by the council that the disposal will allow the use of the real property for a purpose beneficial to the city.

B. The city may lease city real property for less than fair market value where a commercial or industrial facility or use will be established and maintained on a continuous, year-round basis under the lease, if the council finds each of the following:

1. The reduction in rent below fair market value substantially increases the likelihood that the facility or use will be located in Cordova; and
2. The operation of the facility or use in the city will confer an economic benefit on the city and no equivalent benefit could be obtained by leasing the real property at its fair market value.

C. The city shall publish notice of a proposed disposal of an interest in city real property for less than fair market value at least one week before the date on which the council will consider the agreement for the disposal. At a minimum, the notice shall describe the real property, summarize the terms on which it may be disposed of, identify the proposed lessee or purchaser, and state the date and time of the meeting at which the council will consider the proposal.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.090 Disposal by lease.

In addition to the other requirements in this chapter, a lease of city real property shall conform to the following requirements:

- A. The lease may not be assigned without the approval of the city, which may be granted at the sole discretion of the city council.
- B. The term of the lease may not exceed thirty years, including renewals, unless the city council approves a longer term upon finding that the longer term will be beneficial to the city or the citizens of Cordova in light of the purpose of the lease, the use of the premises and the nature of any improvements to be constructed thereon.
- C. A lease having a term longer than two years may be subject to a rental adjustment at intervals no less frequent than every two years, but no such adjustment shall cause a reduction in the rent under the lease.
- D. A lease may grant the lessee one or more options to renew, provided that:
1. The term, including all available renewal terms, does not exceed the term permitted under subsection (B); and
 2. Upon each renewal, the lease shall be subject to all provisions of this code in effect at the time of the renewal.
- E. The lease shall reserve to the city the right to designate or grant rights-of-way or utility easements across the leased premises without compensation; provided, that the lessee shall be compensated for any resulting, taking or destruction of improvements owned by the lessee, and provided further that the rent shall be adjusted to reflect any resulting reduction in the fair market value of the leased premises.
- F. The lessee's performance under a lease shall be secured in the manner that the city council may require, including without limitation, a security deposit, surety bond or guaranty.
- G. Unless the council provides otherwise in authorizing the lease, the lessee shall pay rent to the city on an annual basis, in advance, with payments due upon commencement of the term and on each anniversary thereof during the term.
- H. The lease shall provide for payment of interest or a late fee for rent past due, and provide for recovery by the city of attorneys' fees and costs to the maximum extent allowed by law in the event the city is required to enforce the lease in court, and such additional provisions pertaining to defaults and remedies as the city manager may determine to be in the city's interest.
- I. A lease of space within a city school building shall provide that payments received for rent shall be made payable to the school district and assigned to a special revenue fund designated by the city council in consultation with the school board.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.100 Deposit—Disposal costs.

A. When disposal of an interest in city real property is by the method in Section 5.22.060(B)(1), the interested party shall deposit the sum of one thousand dollars, and shall deposit such additional sums as the city manager may from time to time require to cover ongoing expenses incurred by the city in connection with the transaction, including without limitation staff time, appraisal costs, attorney's fees and costs, surveying and platting fees and costs, closing costs and escrow fees. The interested party shall reimburse the city in full at or before the closing of a sale or exchange, or the execution by the city of the lease or other document conveying the property interest, for all fees and costs the city incurred to third-parties in the transaction. Any unexpended deposit shall be applied to this reimbursement obligation. If negotiations with the interested party are terminated by either the city or the interested party and the disposal is not executed the city will keep the deposit to cover expenses incurred by the city in connection with the negotiation. The city will refund any unexpended part of the deposit to the interested party no later than ten days after consummation or termination of the transaction.

B. Proposals and bids submitted to the city for disposal of city real property under Section 5.22.060(B)(2) or 5.22.060(B)(4) shall include a deposit less than or equal to ten percent of the minimum purchase price to cover costs associated with the disposal process. The amount of the required deposit shall be indicated in the bidding or proposal documents. The deposit will be put toward the fees and costs the city incurs, including without limitation city staff time, appraisal costs, attorney's fees and costs, and platting fees. In the event that the city notifies an interested party that its proposal or bid has been selected and the interested party subsequently withdraws its proposal or bid, the city will retain the interested party's entire deposit. The city will refund in full an interested party's deposit if the interested party's proposal or bid is not selected by the city or the city withdraws the invitation or request for proposal after selection. Any unexpended portion of a winning bidder's deposit shall be applied toward the property's purchase price or rental rate.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.110 Valuation—Consideration.

Prior to the disposal of any interest in city real property, the city will determine the fair market value of the interest by using a qualified appraisal, tax assessment values, comparable property values or any other method the city determines, in its sole discretion, calculates the fair market value of the interest.

A. Where the disposal is by lease at fair market value, the minimum annual rent shall be the fair market value as determined by the city.

B. Where the disposal is by sale or other disposition at fair market value, the minimum purchase price shall be the fair market value of the city's interest.

C. Where the disposal is to accommodate a structure that encroaches on city property or fails to conform to code requirements in Title 18, the purchase price of the property shall be three times the property's fair market value, which value is determined by the city according to this section.

D. Where the disposal is for less than fair market value, the city council will determine the rent, purchase price or other consideration owed to the city for the property interest.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.120 Effect of city actions.

No action or inaction by the city council, city manager or any other officer, agent or employee of the city relating to or in furtherance of the development, preparation for disposal or disposal of city real property or any interest therein shall be deemed to constitute an express or implied representation or warranty that such real property, or any interest therein, is suitable or usable for any specific purpose whatsoever. Any such action or inaction shall be deemed to be and constitute performance of a discretionary policy and planning function only and shall be immune and give no right of action as provided in AS [Section] 9.65.070, or any amendment thereto.

(Ord. No. 1127, § 1, 5-6-2015)

Chapter 5.22 DISPOSAL OF REAL PROPERTY¹

5.22.010 Disposal authority.

Except where state statute, the Charter or this code establishes a specific mandatory procedure for disposing of city real property, the city may dispose of city real property by resolution of the council.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.020 Documentation of conveyance.

Every document conveying an interest in city real property under this chapter shall include the terms that are required by this chapter and any additional terms that the council or city manager requires, and shall be executed by the city manager, attested by the clerk, and approved as to form by the city attorney.

(Ord. No. 1127, § 1, 5-6-2015)

~~5.22.030 Land Disposal Map~~~~Reserved.~~

~~A. The city shall maintain and update annually, a map of city owned real property. The real property shall be divided into the following designations:~~

- ~~1. Available: These properties are available to purchase, or lease.~~
- ~~2. Available – Subdivision Required: These properties are available to purchase or lease, but a subdivision of the land may be required.~~
- ~~3. Tidelands: Tidelands are considered as “Available” designation but shall require review and recommendation from the Harbor Commission. Disposal of tidelands shall follow the procedures in CMC 5.16~~
- ~~4. Not Available: These properties are currently in use for city uses and operations. This designation may be requested to be changed through the submission of a Letter of Interest. A request to change this designation shall be reviewed as outlined in this chapter and a decision made based on the proposed use versus the existing use.~~
- ~~5. Leased: These properties are currently under lease and not considered available. A Letter of Interest for a property that is under lease may be considered when the lease enters the final year of its term.~~

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B. Once per year, city staff shall review, with the Planning and Zoning Commission, the land disposal map to consider possible changes to the current designations or to add or remove properties as needed. The Planning and Zoning Commission shall then forward a recommendation to the City Council for adoption.

C. Maps may be modified throughout the year at the request of the public through the submission of a Letter of Interest. Such requests will be reviewed as outlined in this chapter.

D. Noticing. A public notice shall be published, when real property is being added to the land disposal map, or an existing property is proposed to be changed from "Not Available". The notice shall include the name of the proponent, the location of the property, the proposed use and project description, and information on how the public can comment on the proposal.

No less than 30 (thirty) days prior to the Planning Commission making their recommendation, the public notice shall be published as follows:

1. A sign with the notice shall be posted onsite so that it is visible and able to be read from the Right-Of-Way.
2. At City Hall, Cordova Public Library, and the Post Office.
3. Mailed to all property owners within 300 feet of the perimeter of the subject property.

5.22.040 Letter of interest to lease or purchase.

A. A person may submit a letter of interest to the city raising an interest in the purchase or lease of city property. Except as otherwise provided in this chapter, a letter of interest shall be submitted to the city manager and must include the following information:

1. The name of the interested party and any other names under which the party does business;
2. The interested party's mailing address and the address of the interested party's registered office in the state, if applicable;
3. The use or purpose for which the interested party proposes to lease or purchase the property, and any additional information required by the city manager, school board, city planner or the planning commission.

B. The city manager shall refer a letter of interest from a qualified interested party to the city planner. If the city planner finds that the real property is available for lease or purchase, the city planner shall schedule the letter of interest for review by the planning commission.

C. The planning commission shall review the letter of interest and recommend to the city council whether to offer the real property interest for disposal by one of the methods as described in Section 5.22.060(B).

D. The city council shall review the letter of interest and the planning commission's recommendation, and determine, in the city council's sole discretion, whether to offer the real property of interest for disposal by one of the methods as described in Section 5.22.060(B).

(Ord. No. 1127, § 1, 5-6-2015)

5.22.050 Letter of interest to lease or purchase school building property.

A. A letter of interest to lease or purchase an interest in a school building shall be submitted directly to the school board and shall include all the information required in Section 5.22.040.

B. Upon receipt of a letter of interest, the school board shall have authority to draft a resolution recommending action on the letter of interest and including recommended terms and conditions for any sale or lease of city owned real property with a school located on it.

C. The city council shall review the letter of interest and school board's recommendation, and determine, in the city council's sole discretion, whether to offer the real property interest for disposal by one of the methods described in Section 5.22.060(B).

(Ord. No. 1127, § 1, 5-6-2015)

5.22.060 Methods of disposal.

A. Except as this chapter provides otherwise, all disposals of interests in city real property shall be for no less than fair market value. The city may accept in exchange for an interest in city real property any consideration of sufficient value not prohibited by law.

B. In approving a disposal of an interest in city real property, the city council shall select the method by which the city manager will conduct the disposal from among the following:

1. Negotiate an agreement with the party who submitted a letter of interest to lease or purchase the property;
2. Invite sealed bids to lease or purchase the property;
3. Offer the property for lease or purchase at public auction;
4. Request sealed proposals to lease or purchase the property.

C. If the city elects to dispose of an interest in city real property under one of the competitive methods described in subsections (B)(2) through (B)(4), notice of the disposal shall be published in the manner which the city manager deems most likely to inform the public of the proposed disposal for a

period of at least thirty days. At a minimum, the notice shall describe the interest in city real property to be disposed of, the method of disposal, and the time and place for submitting bids or proposals.

D. An invitation for bids to lease or purchase city real property shall specify any minimum price requirement and any required terms.

E. A request for proposals to lease or purchase city real property shall specify the criteria upon which proposals will be evaluated and the minimum rent or purchase price. All proposals submitted in response to a request for proposals shall be reviewed by the planning commission, which shall make a recommendation to the city council to accept or decline any or all of the proposals. The city council shall review the proposals and the planning commission's recommendation and accept or decline any of the proposals.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.070 Disposal for less than fair market value.

A. The city may dispose of an interest in city real property for less than fair market value to the United States, the state of Alaska or any political subdivision thereof, or a nonprofit or tribal corporation or association, upon a finding by the council that the disposal will allow the use of the real property for a purpose beneficial to the city.

B. The city may lease city real property for less than fair market value where a commercial or industrial facility or use will be established and maintained on a continuous, year-round basis under the lease, if the council finds each of the following:

1. The reduction in rent below fair market value substantially increases the likelihood that the facility or use will be located in Cordova; and
2. The operation of the facility or use in the city will confer an economic benefit on the city and no equivalent benefit could be obtained by leasing the real property at its fair market value.

C. The city shall publish notice of a proposed disposal of an interest in city real property for less than fair market value at least one week before the date on which the council will consider the agreement for the disposal. At a minimum, the notice shall describe the real property, summarize the terms on which it may be disposed of, identify the proposed lessee or purchaser, and state the date and time of the meeting at which the council will consider the proposal.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.090 Disposal by lease.

In addition to the other requirements in this chapter, a lease of city real property shall conform to the following requirements:

- A. The lease may not be assigned without the approval of the city, which may be granted at the sole discretion of the city council.
- B. The term of the lease may not exceed thirty years, including renewals, unless the city council approves a longer term upon finding that the longer term will be beneficial to the city or the citizens of Cordova in light of the purpose of the lease, the use of the premises and the nature of any improvements to be constructed thereon.
- C. A lease having a term longer than two years may be subject to a rental adjustment at intervals no less frequent than every two years, but no such adjustment shall cause a reduction in the rent under the lease.
- D. A lease may grant the lessee one or more options to renew, provided that:
1. The term, including all available renewal terms, does not exceed the term permitted under subsection (B); and
 2. Upon each renewal, the lease shall be subject to all provisions of this code in effect at the time of the renewal.
- E. The lease shall reserve to the city the right to designate or grant rights-of-way or utility easements across the leased premises without compensation; provided, that the lessee shall be compensated for any resulting, taking or destruction of improvements owned by the lessee, and provided further that the rent shall be adjusted to reflect any resulting reduction in the fair market value of the leased premises.
- F. The lessee's performance under a lease shall be secured in the manner that the city council may require, including without limitation, a security deposit, surety bond or guaranty.
- G. Unless the council provides otherwise in authorizing the lease, the lessee shall pay rent to the city on an annual basis, in advance, with payments due upon commencement of the term and on each anniversary thereof during the term.
- H. The lease shall provide for payment of interest or a late fee for rent past due, and provide for recovery by the city of attorneys' fees and costs to the maximum extent allowed by law in the event the city is required to enforce the lease in court, and such additional provisions pertaining to defaults and remedies as the city manager may determine to be in the city's interest.
- I. A lease of space within a city school building shall provide that payments received for rent shall be made payable to the school district and assigned to a special revenue fund designated by the city council in consultation with the school board.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.100 Deposit—Disposal costs.

A. When disposal of an interest in city real property is by the method in Section 5.22.060(B)(1), the interested party shall deposit the sum of one thousand dollars, and shall deposit such additional sums as the city manager may from time to time require to cover ongoing expenses incurred by the city in connection with the transaction, including without limitation staff time, appraisal costs, attorney's fees and costs, surveying and platting fees and costs, closing costs and escrow fees. The interested party shall reimburse the city in full at or before the closing of a sale or exchange, or the execution by the city of the lease or other document conveying the property interest, for all fees and costs the city incurred to third-parties in the transaction. Any unexpended deposit shall be applied to this reimbursement obligation. If negotiations with the interested party are terminated by either the city or the interested party and the disposal is not executed the city will keep the deposit to cover expenses incurred by the city in connection with the negotiation. The city will refund any unexpended part of the deposit to the interested party no later than ten days after consummation or termination of the transaction.

B. Proposals and bids submitted to the city for disposal of city real property under Section 5.22.060(B)(2) or 5.22.060(B)(4) shall include a deposit less than or equal to ten percent of the minimum purchase price to cover costs associated with the disposal process. The amount of the required deposit shall be indicated in the bidding or proposal documents. The deposit will be put toward the fees and costs the city incurs, including without limitation city staff time, appraisal costs, attorney's fees and costs, and platting fees. In the event that the city notifies an interested party that its proposal or bid has been selected and the interested party subsequently withdraws its proposal or bid, the city will retain the interested party's entire deposit. The city will refund in full an interested party's deposit if the interested party's proposal or bid is not selected by the city or the city withdraws the invitation or request for proposal after selection. Any unexpended portion of a winning bidder's deposit shall be applied toward the property's purchase price or rental rate.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.110 Valuation—Consideration.

Prior to the disposal of any interest in city real property, the city will determine the fair market value of the interest by using a qualified appraisal, tax assessment values, comparable property values or any other method the city determines, in its sole discretion, calculates the fair market value of the interest.

A. Where the disposal is by lease at fair market value, the minimum annual rent shall be the fair market value as determined by the city.

B. Where the disposal is by sale or other disposition at fair market value, the minimum purchase price shall be the fair market value of the city's interest.

C. Where the disposal is to accommodate a structure that encroaches on city property or fails to conform to code requirements in Title 18, the purchase price of the property shall be three times the property's fair market value, which value is determined by the city according to this section.

D. Where the disposal is for less than fair market value, the city council will determine the rent, purchase price or other consideration owed to the city for the property interest.

(Ord. No. 1127, § 1, 5-6-2015)

5.22.120 Effect of city actions.

No action or inaction by the city council, city manager or any other officer, agent or employee of the city relating to or in furtherance of the development, preparation for disposal or disposal of city real property or any interest therein shall be deemed to constitute an express or implied representation or warranty that such real property, or any interest therein, is suitable or usable for any specific purpose whatsoever. Any such action or inaction shall be deemed to be and constitute performance of a discretionary policy and planning function only and shall be immune and give no right of action as provided in AS [Section] 9.65.070, or any amendment thereto.

(Ord. No. 1127, § 1, 5-6-2015)