

CLERK'S OFFICE

APPROVED

Date: 7-6-04

Submitted by: Chair of the Assembly
at the Request of the Mayor
Prepared by: Planning Department
For reading: May 11, 2004

ANCHORAGE, ALASKA

AO 2004- 90

1 AN ORDINANCE APPROVING THE REZONING OF 8.976 ACRES FROM R-3
2 (MULTI-FAMILY RESIDENTIAL) ZONING DISTRICT TO B-3 SL (GENERAL
3 BUSINESS WITH SPECIAL LIMITATIONS) WITH CONDITIONS FOR COOK
4 SUBDIVISION, TRACT B, GENERALLY LOCATED ON THE SOUTHWEST
5 CORNER OF EAST 40TH AVENUE AND DENALI STREET.

6
7 (Spenard Community Council; Case 2004-004)

8
9 THE ANCHORAGE ASSEMBLY ORDAINS:

10
11 **Section 1.** The zoning map shall be amended by designating the following described
12 property as B-3 SL (General Commercial District) with Special Limitations zone:

13
14 Cook Subdivision, Tract B, consisting of 8.976 acres as shown on
15 Attachment "A."

16
17 **Section 2.** The zoning map amendment described in Section 1 above shall be
18 subject to the following special limitations:

19
20 A. Design Standards:

- 21
22 1. The Planning and Zoning Commission shall hold a public hearing
23 to review the development site plan to address building location,
24 vehicle circulation, pedestrian circulation, landscaping, outdoor
25 seating, building massing, view shed from park, entrances,
26 fenestration, exterior finishes, and rooflines. The Commission
27 shall examine park facing façade of the building or buildings for
28 compatibility to the Cuddy Family Midtown Park.
- 29
30 2. The Commission shall determine that a strong positive functional
31 and aesthetic relationship is created with the park, including
32 integration of similar landscape features, materials, vegetation
33 types, open space, and pedestrian circulation. Site planning and
34 site landscaping shall provide visual breaks within the site as well
35 as on the perimeter of the site without creating unwanted
36 separations within the site, or between the site and the adjacent
37 Cuddy Family Midtown Park.

3. Landscape buffers shall be provided where necessary to separate incompatible uses, or screen uses such as service docks, mechanical equipment, and trash receptacles.
 4. Parking lots shall be visibly broken into smaller parking lots (pods) while providing safe, easy pedestrian access to the building and adjacent to Cuddy Family Midtown Park, Z.J. Loussac Library, and the surrounding trail system.
 5. Buildings and their entries shall be oriented to encourage and accommodate pedestrian circulation and access, both within the site and the adjoining public uses. Transit access within close proximity shall be accommodated.
 6. It is the intent to limit the use of perimeter fences. In the instance of a Federal facility, fencing may be required by Federal design and/or security guidelines. The Planning and Zoning Commission shall determine the location and need for fencing at the time of the site plan approval.
 7. Building height shall not exceed five stories.
 8. To the extent possible, the developer shall retain existing vegetation and integrate it into the context of the site plan.
 9. Cuddy Family Midtown Park visitors shall not be prohibited from using any parking associated with the development after the development's normal business/operational hours.
- B. Permitted uses:
1. Those principal uses permitted in the underlying zoning district, except those listed in the attached prohibited uses.
- C. Accessory uses:
1. The accessory uses permitted in the underlying zoning district.
- D. Conditional uses.
1. Those conditional uses permitted in the underlying zoning district.

E. Prohibited Uses:


1. Adult entertainment/adult bookstores, peepshows, topless/
bottomless dancers, massage parlors and escort services.
2. Mobile home/camper parks/campgrounds.
3. Gasoline service stations, bulk fuel dealers, or primary tire
exchange facilities.
4. Automobile dealerships and/or new and used lots.
5. Pawn shops.
6. Gun dealers.
7. Pull tab or other similar gaming operations.
8. Bingo halls.
9. Snow disposal sites.
10. Heliports.
11. Community correctional residential centers.
12. Unlicensed nightclubs.
13. Flea markets.
14. Commercial storage facilities.
15. Outdoor storage of heavy machinery.
16. Mobile home display lots.
17. Taxicab stands.
18. Bowling alleys.
19. Metal working and steel fabrication.
20. Homeless and transient shelters.

Section 3. Pursuant to AMC subsection 21.20.130A.2., this ordinance shall become effective within 10 days after the Director of the Department of Planning has received the written consent of the owners of the property within the area described in Section 1 above to the special limitations contained herein. If written consent is not received within 120 days after the date of passage of this ordinance, this ordinance shall not be effective and shall terminate without further Assembly action.

Section 4. Pursuant to AMC subsections 21.20.130A.3. and B., this rezoning shall not be effective until approval, within five years of the date of passage of this ordinance, of structure plans by the Building Official for a principal structure with at least 30,000 square feet gross floor area. If structure plans are not submitted and approved within five years, this rezone and authorizing ordinance shall automatically expire without further Assembly action.

Section 5. After this ordinance is passed and approved, and the events in Section 4 have occurred, the Director of the Planning Department shall change the zoning map.

PASSED AND APPROVED by the Anchorage Assembly this 6th day of July 2004.


Chairman of the Assembly

ATTEST:


Municipal Clerk

(2004-004)
(Tax ID. No. 009-131-20)

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2004- 90

Title: Planning and Zoning Commission Recommendation on a rezoning of approximately 8.976 acres from R-3 (Multiple Family Residential) to B-3 SL (Multiple Family Residential) with Special Limitations for Cook Subdivision, Tract B.

Sponsor:

Preparing Agency: Planning Department

Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)			
	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

Approval of this rezoning will change the amount of residentially zoned land from the available supply of residential classified land, but it will provide for a more economically feasible development potential for the site.

PRIVATE SECTOR ECONOMIC EFFECTS:

Property Appraisal notes: the subject property is located in a well established commercial area. The 2004 assessed value was \$833,700. If the subject was valued as a commercially zoned property its assessed value would almost be doubled even undeveloped. A large portion of the parcel is Class "C" wetlands in an area known to have deep pockets of peat. The 2004 assessed value would have been between \$1,500,000 and \$1,600,000.

Prepared by:	<u>Jerry T. Weaver Jr., Zoning Administrator</u>	Telephone: <u>343-7939</u>
Validated by OMB:	<u></u>	Date: <u></u>
Approved by:	<u></u> (Director, Preparing Agency)	Date: <u></u>
Concurred by:	<u></u> (Director, Impacted Agency)	Date: <u></u>
Approved by:	<u></u> (Municipal Manager)	Date: <u></u>



MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 405-2004

Meeting Date: May 11, 2004

From: Mayor

Subject: An Ordinance Approving the Rezoning of Approximately 8.976 Acres from R-3 (Multi-Family Residential) Zoning District to B-3 SL (General Business with Special Limitations) with Conditions for Tract B Cook Subdivision; Generally Located on the Southwest Corner of East 40th Avenue and Denali Street.

1 This is a request by the property owner, Eagle River Center LLC, to rezone the property
2 to B-3 SL. The petitioner's representative provided a Memorandum of Agreement
3 between the petitioner and the Mid-Town Park & Trail Steering Committee which
4 supports the rezoning request and the Federal National Archives facility being located on
5 part of the property. In exchange, if the rezoning is approved, the petitioner will provide
6 one to three acres of the petition site for incorporation into the adjacent park.
7

8 The application information suggests that the petition site has considerable deep areas
9 and is an isolated pocket of multifamily zoning making the land economically difficult, if
10 not undesirable, to develop for residential purposes. There is no specific use proposed
11 with this rezone request, but is publicly known that the National Archives requires a site
12 this size and is looking at building its new facility in Anchorage at this location or one
13 other site.

14 The application proposes several special limitations to be imposed on the rezone parcel,
15 including a requirement for a public hearing site plan review, design standards, height
16 limitation of five stories, and a list of prohibited uses such as adult entertainment
17 services, warehousing and storage, flea markets, bingo halls, snow disposal, taxi stands,
18 shelters, gun dealers, auto dealers, gas stations, mobile home/camper parks, etc. The
19 petitioner suggests, because of the current mixed use character of the overall area,
20 commercial zoning is far more reasonable for this location.

21
22 The Planning and Zoning Commission unanimously approved the rezone, finding this
23 zoning is appropriate for this site. The Commission further found that, although it
24 supports a mixed-use development on this site, it would be difficult to start such a use
25 considering surrounding development. The Commission found that the request generally

1 meets with the standards of AMC Section 21.05.080, the Comprehensive Plan
2 implementation standards, and AMC Section 21.20.090, rezoning standards.

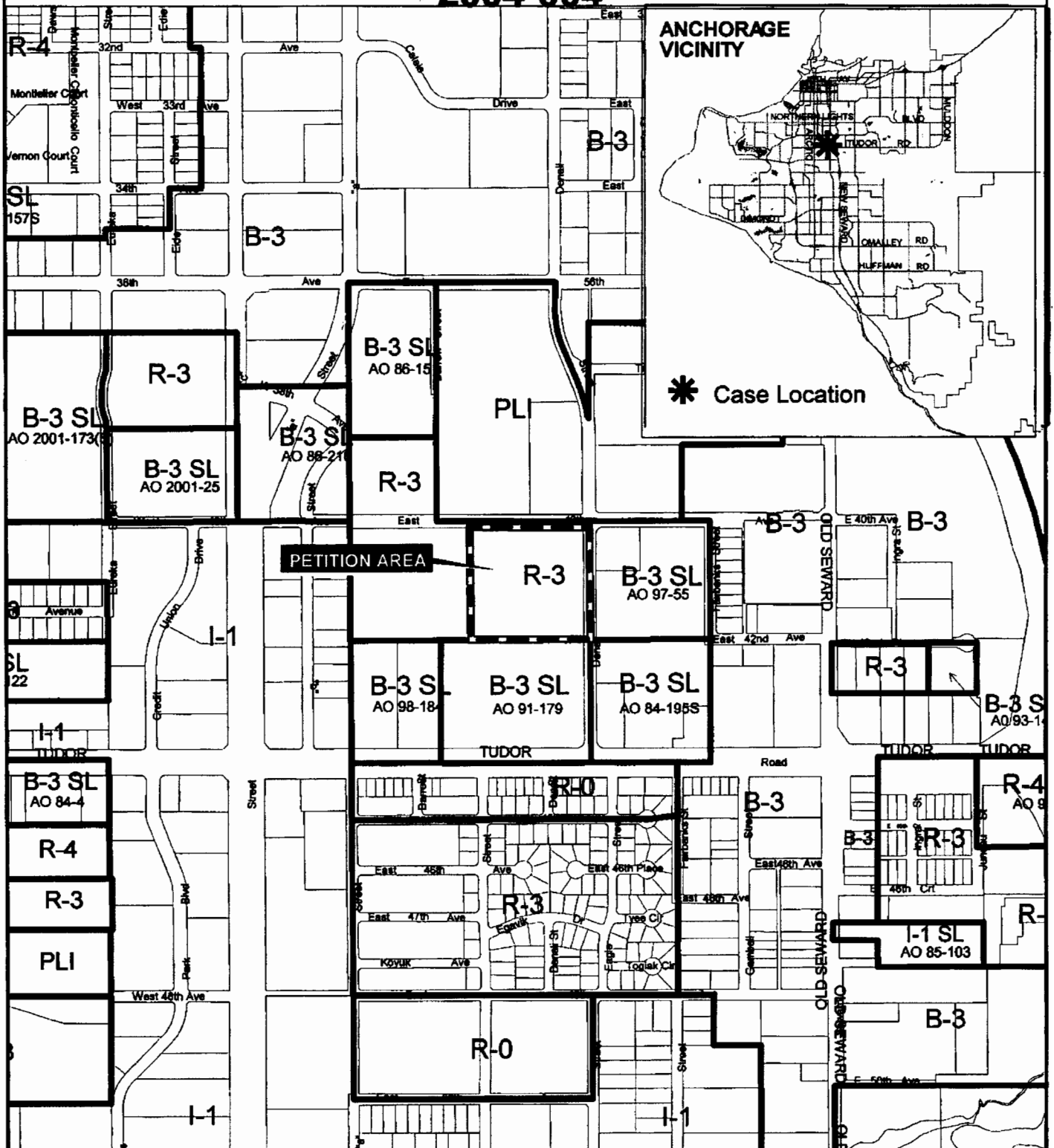
3
4 In Section 3, the Commission approved a zoning reversion back to R-3, if no building
5 permit or site plan approval is received within five years of Assembly approval of the
6 ordinance. This provision provides for automatic reversion back to R-3 without requiring
7 additional Assembly action, as set out in Title 21. The B-3 SL rezoning will not become
8 effective until building plans have been approved by the Building Official, and this must
9 occur within five years from Assembly approval of this ordinance.

10
11
12 The Administration concurs with the Planning and Zoning Commission recommendation
13 supporting the rezoning.

14
15
16 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department
17 Concur: Donald S. Alspach, Acting Director, Planning Department
18 Concur: Mary Jane Michaels, Executive Director, Office of Economic and
19 Community Development
20 Concur: Denis C. LeBlanc, Municipal Manager
21 Respectively Submitted: Mark Begich, Mayor
22
23

REZONING - EXHIBIT - A

2004-004



ANCHORAGE VICINITY

* Case Location

Municipality of Anchorage
Planning Department



Date: NOVEMBER 12, 2003

Flood Limits

- 100 Year Floodplain
- 500 Year Floodplain
- Floodway



0 500 1000 Feet

1

**MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2004-014**

A RESOLUTION APPROVING THE REZONING OF 8.976 ACRES FROM R-3 (MULTI-FAMILY RESIDENTIAL) ZONING DISTRICT TO B-3 SL (GENERAL BUSINESS WITH SPECIAL LIMITATIONS) FOR COOK SUBDIVISION, TRACT B, GENERALLY LOCATED ON THE SOUTHWEST CORNER OF EAST 40TH AVENUE AND DENALI STREET.

(Case: 2004-004; Tax ID 009-131-20)

WHEREAS, a petition has been received from Petitioner Eagle River Center LLC, represented by DOWL Engineers, requesting a rezone of 8.976 acres from R-3 (Multi-Family Residential) to B-3 SL (General Business) with Special Limitations for Cook Subdivision, Tract B, generally located on the southwest corner of East 40th Avenue and Denali Street and,

WHEREAS, notices were published, posted and public hearing notices were mailed and a public hearing was held on February 9, 2004.

NOW THEREFORE BE IT RESOLVED, by the Municipal Planning and Zoning Commission that:

A. The Commission makes the following findings of fact:

1. The petition site is located north of Lowe's Hardware and Garden off of east Tudor Road, southwest of the intersection of 40th Avenue and Denali Street. This is technically a corner lot according to the current zoning map; however East 40th street between Denali Street and "B" Street is not designed or constructed as a through street. East 40th is only constructed along the north side of the petition site, dead-ending on the adjacent R-3 zoned parcel to the west, which is a park. Currently the site fronts to the east onto Denali Street.
2. To the north is the Z.J. Loussac Library (zoned PLI Public Lands and Institutions). Tract C, to the east across Denali Street, is currently Home Depot Hardware store. The petition site, Tract B, Cook Subdivision, is a vacant tract with heavy clusters of Black Spruce and other brushy vegetation.
3. The petitioner proposes to rezone this site to B-3, but does not state a development plan or timeframe. However, the petitioner's representative has provided a Memorandum of Agreement between the petitioner and the Mid-Town Park and Trail Steering Committee. The agreement is for the Committee to support the rezoning request, which the Agreement states is necessary for the siting of the National Archives facility for the Federal Government. In exchange, if the rezoning is approved, the petitioner will provide approximately 1 to 3 acres of the petition site to the adjacent park. The application further suggests that the petition site has deep pockets of peat and is an isolated pocket of multifamily zoning, making the land economically difficult, if not undesirable to develop for residential purposes. There is no specific use proposed with this rezone request, but is publicly known that the National Archives requires a site this size, and is looking at building its new facility in Anchorage at this location or at one other site.

4. The application proposes several special limitations to be imposed on the rezone parcel, including a requirement for public hearing site plan review, design standards, height limitation of 5 stories, and a list of prohibited uses such as adult entertainment services, warehousing and storage, flea markets, bingo halls, snow disposal, taxi stands, shelters, gun dealers, auto dealers, gas stations, mobile home/camper parks, etc. The petitioner suggests that because of the current mixed use character of the overall area, the appeal to commercial zoning is far more reasonable for this location.
5. The Commission amended Department recommended conditions of approval to allow the Commission to determine the location and need for fencing, and amending the effective clause to allow for a reversion of the zoning back to R-3 if there is no building permit or site plan approval within 5 years. The Commission also amended a condition to allow for as much retention of existing vegetation as possible.
6. The Commission finds that this zoning is appropriate for this site. The Commission further finds that it supports a mixed-use development on this site, however, it is difficult to start such a use, and this action would give permanency to the Park and serve the community.
7. The Commission noted that it had profound concern with how people will move around Midtown using other transportation modes than vehicular, regardless of the use on this site or elsewhere in Midtown. With regard to governmental uses, the Commission noted that at one time the community felt it was wise to concentrate governmental uses downtown for reasons of convenience of use.
8. The Commission finds that consideration must be given to the public that might potentially use a particular facility. The Commission also questioned the current level of transit access to this area as that information was not before them. The Commission finds that pedestrian bridges were the most practical means of providing such access.
9. The Commission finds that the Midtown Park needs support in order for it to become what the Parks and Recreation Commission had intended, and that this action will benefit the Midtown area.
10. The Commission voted unanimously in favor of the rezoning as amended, with one abstention.
11. The Commission recommends the above captioned zoning amendment be approved by the Anchorage Assembly, subject to the following:
 - A. Design Standards:
 1. The Planning and Zoning Commission shall hold a public hearing to review the development site plan to address building location, vehicle circulation, pedestrian circulation, landscaping, outdoor seating,

building massing, view shed from park, entrances, fenestration, exterior finishes, and rooflines. The Commission shall examine park facing façade of the building or buildings for compatibility to the park.

2. The Commission shall determine that a strong positive functional and aesthetic relationship is created with the park, including integration of similar landscape features, materials, vegetation types, open space, and pedestrian circulation. Site planning and site landscaping shall provide visual breaks within the site as well as on the perimeter of the site without creating unwanted separations within the site or between the site and the adjacent Cuddy Family Midtown Park.
3. Landscape buffers shall be provided where necessary to separate incompatible uses, or screen uses such as service docks, mechanical equipment, and trash receptacles.
4. Parking lots shall be visibly broken into smaller parking (pods) lots while providing safe, easy pedestrian access to the building and adjacent Cuddy Family Midtown Park, Z.J. Loussac Library, and surrounding trail system.
5. Buildings and their entries shall be oriented to encourage and accommodate pedestrian circulation and access, both within the site and the adjoining public uses. Transit access within close proximity shall be accommodated.
6. It is the intent to limit the use of perimeter fences. In the instance of a federal facility, fencing may be required by federal design and/or security guidelines. The Planning and Zoning Commission shall determine the location and need for fencing at the time of site plan approval.
7. Building height shall not exceed five stories.
8. To the extent possible, the developer shall retain existing vegetation and integrate it into the context of the site plan.
9. Cuddy Family Midtown Park visitors shall not be prohibited from using any parking associated with the development after the development's normal business/operational hours.

B. Permitted uses:

1. Those principal uses permitted in the underlying zoning district, except those listed in the attached prohibited uses.

C. Accessory uses:

1. The accessory uses permitted in the underlying zoning district.

D. Conditional uses.

1. Those conditional uses permitted in the underlying zoning district.

E. Prohibited Uses:

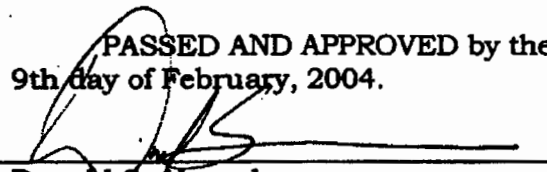
1. Adult entertainment/adult bookstores, peepshows, topless/bottomless dancers, massage parlors and escort services.
2. Mobile home/camper parks/campgrounds
3. Gasoline service stations, bulk fuel dealers or primary tire exchange facilities
4. Automobile dealerships and/or new and used lots
5. Pawn Shops
6. Gun Dealers
7. Pull tab or other similar gaming operations
8. Bingo Halls
9. Snow Disposal sites
10. Heliports
11. Community Correctional Residential Centers
12. Unlicensed nightclubs
13. Flea Markets
14. Commercial storage facilities
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19. Metal working and steel fabrication
20. Homeless and transient shelters

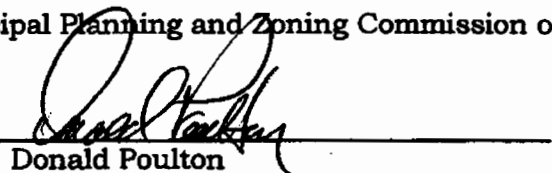
- F. The zoning of the property shall revert to R-3, if there is no building permit or site plan approval received within 5 years of Assembly approval.**

Planning and Zoning Commission
Resolution 2004-014
Page 5

- B. The Commission recommends the above rezoning be APPROVED by the Anchorage Assembly.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 9th day of February, 2004.



Donald S. Alspach
Acting Secretary

Donald Poulton
Chair

(Case No. 2004-004)
(Tax I.D. No. 009-131-20)

G. PUBLIC HEARINGS

1. **2004-004** Eagle River Center LLC. A request to rezone approximately 8.98 acres from R-3 (Multiple Family Residential) to B-3SL (General Business with Special Limitations). Cook Subdivision, Tract B. Located at 4000 Denali Street.

Staff member ANGELA CHAMBERS stated 41 public hearing notices were mailed, 1 was returned with questions, 1 was supplied from the Mayor in favor, and 1 was received from the Spenard Community Council in favor. This request involves a rezoning from R-3 to B-3SL. The zoning map amendment was postponed from January 12, 2004. During the intervening time, Staff has re-examined the original Staff analysis and believed a refinement was warranted. The zoning would not consider the potential use of the property by the GSA, except as an indicator of property value for purchase purposes. The rezoning matter must be decided not by the federal government's potential action, but on the petition's merit in the context of the midtown area. The Commission and Assembly are charged with determining what is best for this and adjoining properties, as well as the community at large. Staff believes the positive aspects of residential development outweigh the negative aspects, but have concluded that residential is not likely imminent. There is no proven market and imbalance of development and viability of the employment center is extremely important to maintaining the larger mixed-use context of the site with the surrounding existing residential neighborhoods. The Department altered its recommendation on this rezoning request. Although the Department has not given up entirely on residential development here, we believe the landowner can and should be given an opportunity to prove this rezoning is not speculative by extending the rezoning window from one year to five years. This means the rezoning would not become effective for B-3SL until the property owner has received a building permit. If after five years no qualifying permit has been issued, the property would be required to be reconsidered via a public hearing process at Planning and Zoning and the Assembly. In accordance with the Staff recommendation, the Department recommends in favor of the rezoning to B-3SL with revised special limitations and ordinance effective conditions.

The public hearing was opened.

TIM POTTER, representing the petitioner, noted there are many things to consider in relation to this rezoning request, including Anchorage 2020 Comprehensive Plan, mixed use, residential development, Midtown Park,

employment center, redevelopment, the marketplace, soils, cost of development, development feasibility, and maturation of the marketplace and whether the community is ready for the development outlined in Anchorage 2020. He stated there is peat up to 14 feet deep on this property and development costs are very high. The R-3 zoning has a 35-foot height limitation, which forces any development to be extended across the site. It is also not possible to effectively cluster residential units because of the 35-foot height limitation. He stated that the Comprehensive Plan, regardless of other statements, is a generalized plan. The specific geotechnical information was not available on this site in order for Anchorage 2020 to consider the ramifications of various designations. That is why properties come forward for more in-depth consideration in a forum such as this. Surrounding land use includes commercial and industrial uses such as the Office Depot, Lowe's, Home Depot, an ACS outdoor storage yard, an outdoor yard, large warehouse, office building, and large parking lot also in support of ACS's operations, the Loussac Library and associated parking and snow dump site, the Midtown Park, and the U.S. Postal Service. There are surrounding uses that do not lend themselves to residential development, such as the rear loading areas of Office Depot and Lowe's that abut the property. The property on which the Library and the Midtown Park sit were zoned R-3, and it is interesting that the city has developed R-3 land for uses other than residential. Anchorage 2020 calls for the Midtown Park to be a focal point for the employment center and mixed development area of midtown. The Assembly approved a conceptual redevelopment plan in the mid-1980s that looked at incorporating the petition site into the overall development of Midtown Park. MR. POTTER indicated Anchorage has an opportunity to enlarge the park, to create capital funds out of the potential sale of the petition site that will allow \$400,000 to be utilized for improvements to Midtown Park. The special limitation on the requested rezoning requires that any development go through site plan review before this Commission, which will ensure compatibility with the park and other surrounding uses. The community would benefit if the Federal Archives acquires this property. That use would encumber 8 acres of the site while the remaining 1 acre would be donated to and incorporated into the Park; up to \$400,000 of the sale of the property would go to the Trails and Greenways Coalition for direct investment in improvements to the Park. If that use does not go through, 3 acres of the 9 acres would be donated to the park and 6 acres would remain for redevelopment. MR. POTTER cited page 20 of the packet, noting the most recent development in this area is south of Tudor one block removed from "C" Street. He displayed a photographic representation of that project, shown in duplicate, to depict how a similar development would look on the petition site if it were to be developed under the R-3 zoning district. MR. POTTER indicated he had supplied the Commission with photographs of developments elsewhere in the Lower 48, which he believed represent the type of mixed-use development that Anchorage 2020 envisions, but that are not possible in the R-3, R-4 or R-O zoning districts.

COMMISSIONER G. JONES asked for Mr. Potter to respond to the Staff's conditions. MR. POTTER asked that, rather than saying the property has been approved for a rezoning but that the rezoning would not be effective unless a building permit has been pulled within 5 years, he would prefer it be rezoned to B-3SL with the caveat that if a building permit is not secured within 5 years, it reverts back to R-3. He noted that the National Archives has selected this site and has initiated negotiations. The differential in value between the R-3 and B-3 are the source of the additional funds for the Midtown Park. COMMISSIONER G. JONES was concerned on the special limitation A.6 regarding the use of perimeter fences and A.7 regarding a height limitation. He believed that some sort of barrier would be appropriate along the south lot line, abutting Lowe's. MR. POTTER explained that the issue of fencing came out of discussions with the Coalition and their concern that the entire 9 acres would be fenced and the grounds of whatever facility is developed would be separated from surrounding uses. COMMISSIONER G. JONES asked what type of uses could be developed under the proposed rezoning. MR. POTTER replied that the B-3SL zoning would permit commercial retail coming through site plan review, residential, or office and commercial retail. MS. CHAMBERS suggested that condition A.6 could be amended to insert ", the necessity and location to be approved by the Planning and Zoning Commission." She asked if the petitioner's request was that the rezoning would not become effective until a "building permit" is pulled within 5 years or a "building permit and/or site plan review" is accomplished within 5 years. MR. POTTER replied that either is acceptable.

COMMISSIONER G. JONES asked if the 5-story limitation allows reasonable use of this property, given the deep peat. MR. POTTER replied that it would, given the size and location of the site. There was a significant concern about the massing of building and the views from the Park to the mountains. A height over 5 stories brings greater fire code and other requirements. COMMISSIONER G. JONES noted that condition A.4 pre-supposes that the parking will be surface. He presumed that structured parking might be built instead. He asked if structured parking would be allowed. MS. CHAMBERS replied that condition A.4 is only in the case that surface parking is provided. MR. POTTER noted that the Commission would have site plan review authority.

CHAIR POULTON asked for Staff to offer new wording for the ordinance effective condition. MS. CHAMBERS suggested that the effective condition state, "If a building permit or site plan review does not occur within 5 years, the zoning of the property would revert to R-3."

COMMISSIONER SIMONIAN understood that, if the National Archives buys the land, one acre goes to the Park, and if that does not occur, three acres goes to the Park. MR. POTTER replied in the affirmative. COMMISSIONER SIMONIAN asked whether in the second scenario any money goes to the park as a result of

the development of the remaining 6 acres. MR. POTTER explained that the increased land value compensates for that.

COMMISSIONER KNEPPER asked what is the intent regarding maintaining trees on the property. MR. POTTER replied that the design guidelines and the memorandum of understanding with the Coalition require that, to the extent practicable, existing vegetation will be maintained; vegetation is primarily in the northwest corner of the property. COMMISSIONER KNEPPER asked if the intent is to retain the maximum vegetation possible. MR. POTTER replied that this is the intent and from conversations he has had, he understands that is the intent of the National Archives as well. He noted that surface parking would cause removal of vegetation, although there would be required parking lot landscaping. To the extent possible, buffers and areas not developed would be retained as natural vegetation.

CHAIR POULTON asked for an explanation of the two possible development scenarios. MR. POTTER explained that the National Archive development would encumber 8 acres, leaving one acre to the Park. Up to \$400,000 from the sale of the property would go to the Trail and Greenways Coalition to achieve improvements to the Midtown Park; those improvements have been approved under an adopted plan for the Midtown Park north of the 40th Street alignment. If the property is zoned B-3SL and the National Archives does not locate on the site, 6 acres goes to development and three acres goes to the park.

COMMISSIONER G. JONES asked how the \$400,000 figure was determined. MR. POTTER believed that consideration was given to the differential in value between R-3 and B-3SL, based on what would be the appraisal value.

COMMISSIONER SIMONIAN clarified that, if the property reverts to R-3, nothing would be dedicated to the park. MR. POTTER hoped by that time there would be a Midtown Master Plan as was originally suggested in 1997. That Master Plan would direct the development of the petition site.

JIM RENKERT former members of the Parks and Recreation Commission, stated he is familiar with the Midtown Park, having worked on a number of concepts for its development over the years. He preferred that the petition site be obtained by the city and dedicated as parkland, but felt that was not likely to occur given current economic conditions. He, therefore, supported the rezoning request and hoped there would be development that provides either one or three-acres for the Park.

COMMISSIONER SIMONIAN understood that Staff felt there were defects in the special limitations because of enforceability and asked that Staff be specific in that regard. MS. CHAMBERS replied that comment was made with regard to

some of the special limitations recommended by the petitioner in the original request; the special limitations have been revised to address those deficiencies.

The public hearing was closed.

COMMISSIONER G. JONES moved for approval of a rezoning from R-3 to B-3SI subject to Special Limitations A.1 through A.9, changing A.6 to add ", allowing the Planning and Zoning Commission to determine the location and need for fencing at the time of site plan approval," and changing the effective condition to state, "The zoning of the property shall revert to R-3, if there is no building permit or site plan approval within 5 years.

COMMISSIONER T. JONES seconded.

COMMISSIONER G. JONES supported the motion, believing that this zoning is appropriate for this site. He stated he would support a mixed-use development on this site, however, it is difficult to start such a use. This action would give permanency to the Park and serves the community.

COMMISSIONER T. JONES supported the motion, but remarked that she had profound concern with how people will move around Midtown using other transportation modes than vehicular, regardless of the use on this site or elsewhere in Midtown. With regard to governmental uses, she noted that at one time the community felt it was wise to concentrate governmental uses downtown for reasons of convenience of use. She felt consideration must be given to the public that might potentially use a particular facility and she was unsure what is the current level of transit access to this area. She felt that this action would benefit the midtown area. She indicated she supports mixed-use development, in general, having seen such uses elsewhere in the U.S.

COMMISSIONER KNEPPER suggested amending A.8 to state "To the extent possible, the developer shall retain existing vegetation and integrate it into the context of the site plan." *This was accepted as a friendly amendment.*

MS. CHAMBERS indicated she would like to bring the language of the three amendments forward to the Commission in the form of a resolution, for confirmation.

COMMISSIONER SIMONIAN stated she uses the Midtown Park and believes it needs support in order for it to become what the Parks and Recreation Commission had intended.

COMMISSIONER G. JONES voiced appreciation for Ms. Jones's comments about how people will access the Park. He believed that pedestrian bridges were the most practical means of providing such access.

CHAIR POULTON asked what is the status of the development of the Midtown Master Plan. MR. POTTER stated that since 1997 there has been acknowledgement of the need for a Midtown Master Plan; it has been set up for funding at \$300,000 to \$500,000 several times, but has never been funded. There is discussion again that this document might again be a high priority. He agreed that pedestrian circulation is very important to the use of the Park. He views users from his office, which is located near the Park, particularly people who walk dogs, however, some other users are not yet coming to this Park. He noted that there is fencing along the sidewalks on "A" and "C" Streets that have lighted bollards. There is a pedestrian flow from Centerpoint to Arctic Slope's building. This summer that will be continued to the edge of the park and cul-de-sac on the west side with approximately 40 parking spaces. Walkways will extend to this area and will be lit. A trail corridor has also been negotiated with the property owners at the Office Depot area leading from Tudor Road north to the southwest corner of the Park. There is transit service in the area. In the agreement documents between the developer and the Coalition is a proposal to vacate the section of 40th Avenue right-of-way that extends from "B" Street to Denali Street so that a road will not be put through the Park. That vacation request has been initiated.

COMMISSIONER T. JONES stated she travels Denali Street and then east on 40th Avenue and had recently seen a number of trucks coming from the west on the 40th Avenue right-of-way and crossing Denali Street down 40th Avenue. MR. POTTER was unaware of this traffic or its source.

AYE: Knepper, T. Jones, Gibbons, Poulton, G. Jones, Simonian

NAY: None

ABSTAIN: Pease

PASSED


2. 2004-007

Turnagain View Joint Ventures. A request to rezone approximately 7.78 acres from R-1SL (Single Family Residential with Special Limitations) to R-1SL (Single Family Residential with Special Limitations). In effect, requesting a change to the current special limitations to remove the 40-foot vegetative buffer adjacent to DeArmoun Road and require a 6-foot high wood sight obscuring fence. Turnagain View Estates Subdivision Tracts D-1 and C-1B. Located along the north side of DeArmoun Road at Mainsail Drive.

**MUNICIPALITY OF ANCHORAGE
MEMORANDUM**

DATE: February 9, 2004

TO: Planning and Zoning Commission

FROM: Donald S. Alspach, Acting Director, Planning Department 

SUBJECT: 2004-004 Cook Subdivision Rezone R-3 to B-3SL

This zoning map amendment was postponed at the request of the petitioner from January 12. During the intervening time, staff has reexamined the original staff report and determined that a revision and refinement was warranted. As noted in the report the zoning will be ignored by the GSA except perhaps as an indicator of property value for purchase purposes.

The rezoning matter must be decided not by GSA's possible action, but on the petition's own merits in context with the midtown area. In other words, is this property properly zoned R-3 or should the zoning be changed to a commercial category such as B-3SL, as petitioner desires which would allow commercial, mixed-use, or high density residential with Planning and Zoning Commission review. The Commission and the Assembly are charged with determining what is best for this property, the abutting properties, and the community at large.

Retaining the R-3

It seems that most everyone is in agreement that R-3 zoning is not up to the task of encouraging development on the site. It seems the principal fault with the R-3 is the limited building height. The soils conditions on the property escalate the development costs that it is alleged can not be recovered with medium density residential development.

A second detractor from residential land use is the less than pleasant appearance of the north facade of the Lowe's store and associated loading activity. The Lowe's aesthetics and the daily store loading activity noise, although a problem could perhaps be overcome with project siting and building design; however, this too could limit the full economic viability of this specific parcel. It appears the site development economics is the dominate factor which condemned the R-3. It should be acknowledged that previous comprehensive plans and residential zoning did not consider specific site development limitations, like soils, etc.

Up zoning to R-4

A density increase and unlimited building height of the R-4 would seem to alleviate the primary structural development restrictions imposed by the R-3. There are a number of high rise residential structures within the Bowl area that support the belief that there is a market for this type of residential development. As the Comprehensive Plan reports in Policy 14 conservation of residential land is a "high community priority."

As a residential property, this site has a number positive attributes:

- Close proximity to an employment center
- Nearby shopping for daily needs
- Abuts a transit route
- Abuts a public park
- Public library within walking distance
- Restaurants and entertainment venues nearby

There are negative attributes as well:

- An isolated residential development
- No easy access to area schools
- Physical site conditions may make recovery of development cost difficult
- Some of abutting development may not be compatible with residential development and costly to mitigate.
- Eliminates potential for a true mixed use of the site.

Staff still believes the properties positive aspects out weigh the negatives on residential development, but have reconciled residential development is likely not eminent, there is no proven market and in balance, the development and viability of the employment center is extremely important to maintaining the larger mixed use context, with the surrounding existing residential neighborhoods.

Up zoning to B-3

The Comprehensive Plan Policy Map depicts this general area Redevelopment/Mixed-Use. The concept is outlined in the plan as redeveloping underutilized land and using infill development techniques to utilize vacant parcels. These concepts will be detailed in the Title 21 rewrite. The mixed use strategy is to provide for combinations and stand-alone uses involving housing and business. It is envisioned that some developments would be both housing and commercial and others be interspersed with the single category uses alternating their dominance.

The B-3 petition before the Commission as a commercial development, shares some of the objectives of the mixed use strategy of providing potential commercial uses and reinforcing the active employment center, but fails to assure housing in the specific site area. Again, context is important, mixed use can be in a building, on a lot, or in a district. The proposed B-3SL accommodates mixed use in a building, on the lot and certainly in the district.

Another dilemma in the time gap between adoption of Anchorage2020 and implementation of the new title 21 is how we transition from our current zoning rules to the Comprehensive Plan objectives. The R-3 district provides no possibility of on-site mixed uses. Likewise, an R-4 zone gives a limited opportunity with a few commercial uses. The B-3 district does allow for both on-site, provided the residential density is great enough.

The property owner is inquiring why the residential burden to meet the mixed-use objective for the area is solely placed on this property. The special limitations proposed by the property

owner does not preclude residential uses, but neither does it assure it. The property owner instead asks that he be given five years to create a project under the commercial zoning with the restrictions set forth in his special limitations. The original staff recommendation provides for only a one year window.

An endorsement for the commercial rezoning comes from the committee advocating for the "Midtown Park". In the past this group supported maintaining a residential land use abutting the park to provide built-in park users. The change in position appears to have occurred with the change in ownership of the property. Conversations with members of the park advocates reveal their belief that this property owner is much more likely to bring a quality development to the area which would not negatively impact the park. The property owner has also agreed to give the park development access to additional land and financial resources, in addition to the special limitation addressing uses and design considerations.

Special limitations

If the B-3 is applied as proposed by the property owner there are to be special limitations attached. A review of the proposed special limitations exposes a defect in several of the items. The defect is enforceability. An SL that directs that the site designer "should" do something does not guarantee it will be done, nor does it give the municipality any leverage to insist on compliance except as fully considered and acted on by the Planning and Zoning Commission. If these SL's are to be used then some word-smithing is required.

Recommendation and action

After further consideration on this rezoning, the Department is altering our original recommendation on this rezoning. We lament the potential loss of residential development abutting the midtown park, but we can see the economic problems with the R-3; the slight conflict with the Comprehensive Plan objectives of mixed-use development; and the reality of trying to unconditionally retain this one midtown parcel for residential development when community support has eroded and in reality elimination of potential residential development on this specific lot does not negate the existing mixed use nature of the greater midtown district.

Although we have not given up entirely on residential development here, we believe the land owner can and should be given an opportunity to prove this rezoning is not speculative by extending the rezoning window from one year to five years. This means the rezoning would not become effective for B-3SL until the property owner has received a building permit. If after five years no qualifying permit has been issued, the property would be required to be reconsidered via a public hearing process at Planning and Zoning and the Assembly.

In accordance with the above staff recommendation the following are the revised special limitations and ordinance effective conditions to be recommended to the Assembly.

A. Design Standards

1. The Planning and Zoning Commission shall hold public hearing to review the development site plan to address building location, vehicle circulation, pedestrian

circulation, landscaping, outdoor seating, building massing, view shed from park, entrances, fenestration, exterior finishes, and rooflines. The Commission shall examine park facing façade of the building or buildings for compatibility to the park.

2. The Commission shall determine that a strong positive functional and aesthetic relationship is created with the park, including integration of similar landscape features, materials, vegetation types, open space, and pedestrian circulation. Site planning and site landscaping site shall provide visual breaks within the site as well as on the perimeter of the site without creating unwanted separations within the site or between the site and the adjacent Cuddy Family Midtown Park.
3. Landscape buffers shall be provided where necessary to separate incompatible uses, or screen uses such as service docks, mechanical equipment, and trash receptacles.
4. Parking lots shall be visibly broken into smaller parking (pods) lots while providing safe, easy pedestrian access to the building and adjacent Cuddy Family Midtown Park, Z. J. Loussac Library, and surrounding trail system.
5. Buildings and their entries shall be oriented to encourage and accommodate pedestrian circulation and access, both within the site and the adjoining public uses. Transit access within close proximity shall be accommodated.
6. It is the intent to limit the use of perimeter fences. In the instance of a federal facility, fencing may be required by federal design and/or security guidelines.
7. Building height shall not exceed five stories.
8. To the extent practicable the Commission shall allow the site developer to retain existing vegetation and integrate it into the context of the site plan.
9. Cuddy Family Midtown Park visitors shall not be prohibited from using any parking associated with the development after the development's normal business/operational hours.

B. Permitted Uses

1. Those principal uses permitted in the underlying zoning district, except those listed in the attached prohibited uses.

C. Accessory Uses

1. Those accessory uses permitted in the underlying zoning district.

D. Conditional Uses

1. Those conditional uses permitted in the underlying zoning district.

16. Mobile Home display lots

17. Taxi Cab Stands

18. Bowling Alleys

19. Metal working and Steel fabrication

20. Homeless and Transient Shelters

Ordinance effectiveness conditions

This rezoning shall not become effective until the Building Official has approved structural plans for a principle structure of at least 30,000 square feet gross floor area within five years of (date of ordinance passage).

Content Information**Content ID :** 001706**Type:** Ordinance - AO

Title: An Ordinance Approving the Rezoning of Approximately 8.976 Acres from R-3 (Multi-Family Residential) Zoning District to B-3 SL (General Business with Special Limitations) with Conditions for Tract B Cook Subdivision.

Author: weaverjt**Initiating Dept:** Planning

Description: An Ordinance Approving the Rezoning of Approximately 8.976 Acres from R-3 (Multi-Family Residential) Zoning District to B-3 SL (General Business with Special Limitations) with Conditions for Tract B Cook Subdivision.

Date Prepared: 4/2/04 10:08 AM**Director Name:** Donald S. Alspach

Assembly Meeting
Date MM/DD/YY: 05/11/04

Public Hearing
Date MM/DD/YY: 06/22/04

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	4/2/04 10:13 AM	Checkin	weaverjt	Public	001706
Planning_SubWorkflow	4/2/04 11:56 AM	Approve	alspach	Public	001706
ECD_SubWorkflow	4/5/04 9:34 AM	Approve	thomasm	Public	001706
OMB_SubWorkflow	4/13/04 10:09 AM	Approve	pearcydl	Public	001706
Legal_SubWorkflow	4/13/04 10:46 AM	Approve	fehlenrl	Public	001706
MuniManager_SubWorkflow	5/3/04 8:17 AM	Approve	leblancdc	Public	001706
MuniMgrCoord_SubWorkflow	5/3/04 11:29 AM	Approve	katkusja	Public	001706

CLEARED FOR FILE

2004 MAY -3 PM 2:47

M.O.A.

CONSENT AGENDA - INTRODUCTION