

Response of Indefinitely
1/19/10

Submitted by: Assemblymember Selkregg
Prepared by: Planning Department
For reading: April 14, 2009

Anchorage, Alaska
AO 2009- 55

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING THE ZONING MAP, AND PROVIDING FOR THE REZONING OF APPROXIMATELY 2.65 ACRES FROM R-3 (MULTIPLE-FAMILY RESIDENTIAL DISTRICT) TO B-3 (GENERAL BUSINESS DISTRICT), FOR LOTS 1-12, BLOCK 1, AND BLOCK 2, LOTS 1A, 10, S ½ OF LOT 11, N ½ OF LOT 11, AND LOT 12, SUNNY ACRES SUBDIVISION; GENERALLY LOCATED EAST OF MULDOON ROAD BETWEEN EAST 10TH AVENUE AND EAST 12TH COURT.

(Northeast Community Council) (Planning and Zoning Commission Case 2009-003)

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. The zoning map shall be amended by designating the following described property as B-3 (General Business District):

Lots 1-12, Block 1, and Block 2, Lots 1A, 10, S½ of Lot 11, N½ of Lot 11, and Lot 12, Sunny Acres Subdivision, containing 2.65 acres, as shown on Exhibit "A" attached.

Section 2. The Director of the Planning Department shall change the zoning map accordingly.

PASSED AND APPROVED by the Anchorage Assembly this
_____ day of _____ 2009.

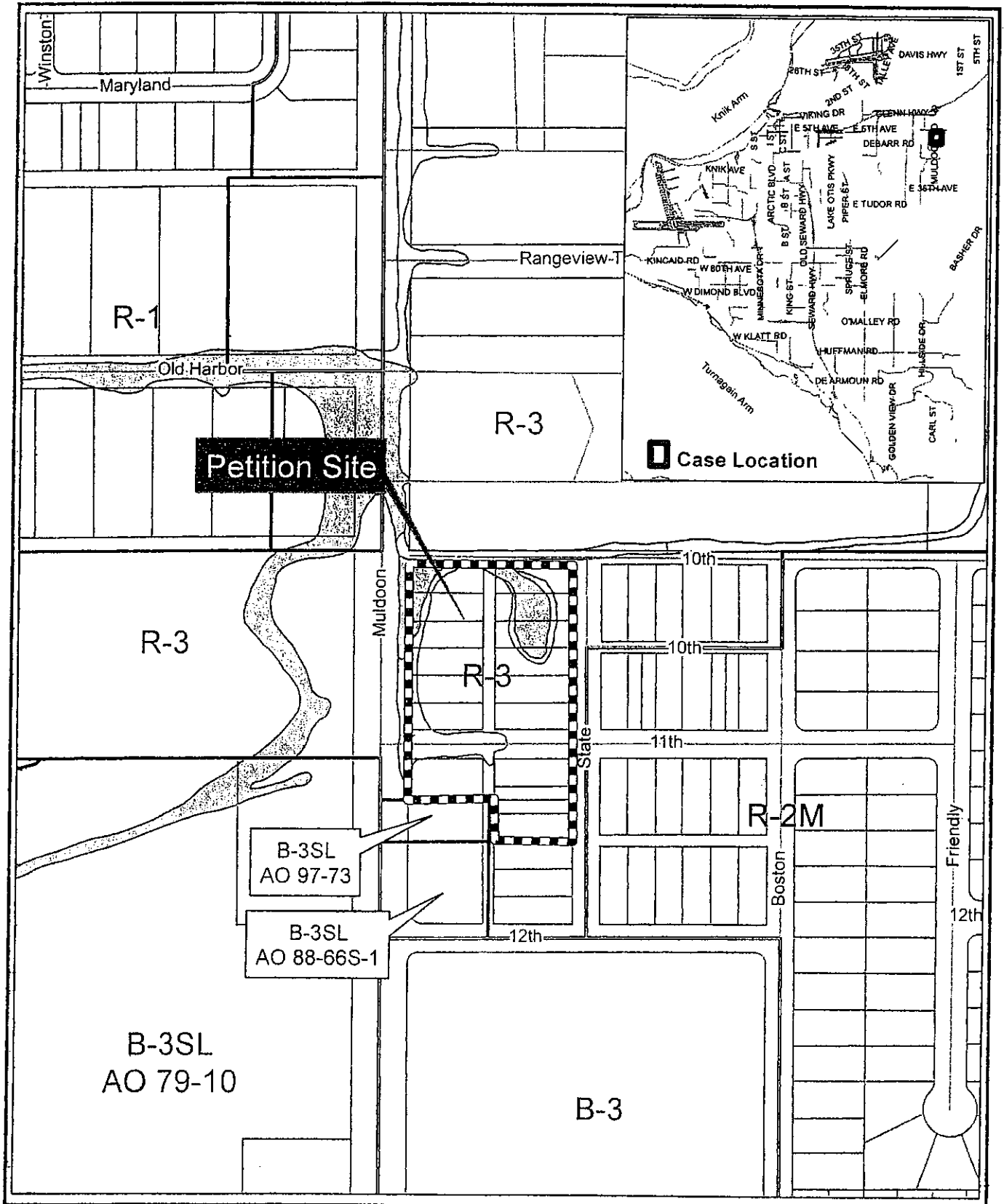
ATTEST:

Chair

Municipal Clerk

(Tax I.D. Nos. 006-121-07 through -16; -49; -63; -64; -68)

2009-003 EXHIBIT A



Municipality of Anchorage
Planning Department

Date: November 13, 2008

Flood Limits
 100 Year
 500 Year
 Floodway

0 200 400
Feet

N
002

**MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2009-007**

A RESOLUTION RECOMMENDING DENIAL OF A REZONING OF 2.65 ACRES +/- , FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO B-3 (GENERAL BUSINESS), FOR LOTS 1-12, BLOCK 1, AND BLOCK 2, LOTS 1A, 10, S ½ OF LOT 11, N ½ OF LOT 11, AND LOT 12 SUNNY ACRES SUBDIVISION; GENERALLY LOCATED EAST OF MULDOON ROAD BETWEEN EAST 10TH AVENUE AND EAST 12TH COURT.

(Case 2009-003, Tax I.D. No. 006-121-07 through -16; -49; -63; -64; -68)

WHEREAS, a request has been received from Burt Bomhoff to rezone 2.65 acres +/- , from R-3 to B-3 for Lots 1-12, Block 1, and Block 2, Lots 1A, 10, S ½ of Lot 11, N ½ of Lot 11, and Lot 12 Sunny Acres Subdivision; generally located east of Muldoon Road between East 10th Avenue and East 12th Court; and

WHEREAS, notices were published, posted and sixty-two (62) public hearing notices were mailed and a public hearing was held on February 2, 2009.

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

A. The Commission makes the following findings of fact:

1. On June 2, 2008, the Planning and Zoning Commission denied a request to rezone Lots 7-10, Block 1, Sunny Acres, consisting of 1.28 acres, to B-3 SL, and Lots 7-10, Block 1, Sunny Acres, consisting of .65 acres, to R-3 SL (Resolution 2008-041/Case 2008-022), because neither change in zoning constituted 1.75 acres, as required by AMC 21.20.070. Further, it was not supported by *Anchorage 2020* policies #5, #12 and #14.
2. This rezone request is substantially different from Case 2008-022: the amount of land involved is significantly larger (2.65 acres compared to 1.93 acres), and it borders existing B-3 commercial zoning.
3. The petition area, consisting of 2.65 acres, is comprised of 13 lots. As permitted under AMC 21.20.040, the rezone request must be accompanied by a petition favoring the amendment signed by the owners of at least 51 percent of the property to be rezoned. Written consent is given from 73% ownership of the subject

property constituting eight of the 13 lots, or 1.77 acres.

4. The remaining five lots, consisting of 38,500 SF or .88 acres, are owned by Sun Wai Fong who opposes rezoning to B-3. Four lots are vacant and one has a duplex dwelling.
5. Seven of the 13 lots are vacant. Of the remaining six developed lots, three lots have a legal nonconforming auto repair with three apartment units, one has a duplex, one has a single family dwelling, and one has a 4-plex residential structure.
6. The Commission expressed concern that B-3 allowed too many types of uses and no restrictions or review of development. A development site plan was developed by Burt Bomhoff to construct a carwash on Lots 1, 2, 3, 11 and 12, if the property is rezoned to B-3. Although no special limitations were offered with this rezoning application, he stated he thought the Commission would add special limitations similar to the February 4, 2008 public meeting, which he would accept. These include requiring a public hearing site plan review to address noise, drainage, ingress/egress, and extra landscaping provided on the entire site. There are no development plans for the remaining petition property.
7. The Commission noted that this is clearly a commercial area. There may be some business potential on this property, but it should be neighborhood oriented and integrated with residential. If the request were for B-1A, with more compatible and limited uses, it would not be as objectionable. A site plan review would give the ability to ensure that what is done supports residential uses and the transit supportive corridor. However, there is concern that B-3 zoning for 1.9 acres is speculative and could precipitate rezoning of other residential property and erode the residential base that is needed to support the emerging town center.
8. The petition site is located within an area designated by Anchorage 2020 as a Town Center and on a Transit-Supportive Development Corridor. Accommodation of commercial development is expected in the transit corridor but the policies on page 55 of *Anchorage 2020* explain what type of commercial use is encouraged: "strategically located neighborhood retail uses that are oriented to the street . . . (with) the ability to make an intermediate stop at a

grocery store or other retail on the way home from work has been shown to improve transit usage." This clearly indicates that the type of commercial use envisioned is that which can be accessed at least partly on foot or by transit.

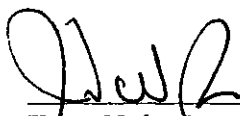
9. Issues addressing traffic volumes, access, the alley, State Street; the north branch of the South Fork of Chester Creek, possible noise impact from a carwash to adjacent residential areas, availability of underdeveloped or undeveloped commercial land, how compatible commercial at this location is to existing residential, redevelopment of the subject property as multi-family residential similar to that found between Northern Lights Boulevard and Muldoon and Debarr/Muldoon heading north, were discussed.
10. The Commission agreed with the Housing and Neighborhood Development Commission, that there is need for affordable, low income and workforce housing in Muldoon and residential zoning should be retained at this location near the town center.
11. The Commission finds the zoning map shows that this parcel is not surrounded by commercial zoning and, if rezoned, could become an island of commercial surrounded by residential.
12. The Commission finds there is insufficient ability to ensure compatibility between commercial and residential areas. *Anchorage 2020* designates this area for multi-family residential use and there is no town center plan in place to give other direction. It is inappropriate to rezone the property to B-3. Policies #5, #12, #14 of the Anchorage 2020 Plan do not support B-3 zoning. Further the rezoning did not meet the standards for approval found in AMC 21.20.090.

- B. The Commission recommends the DENIAL of the subject rezoning by the Anchorage Assembly for Lots 1-12, Block 1, Sunny Acres Subdivision

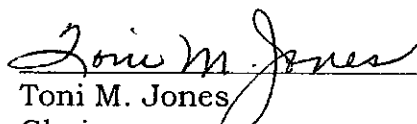
PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 2nd day of February, 2009.

ADOPTED by the Anchorage Municipal Planning and Zoning Commission this 2nd day of March 2009. If the Planning and Zoning Commission recommends that the Assembly disapproves a zoning map

amendment that action is final unless within 15 days of the Commission's written resolution recommending disapproval, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Assembly.



Tom Nelson
Secretary



Toni M. Jones
Chair

(Case 2009-003)
(Tax ID No. 006-121-07 through -16; -49; -63; -64; -68)

(ma)

F. REGULAR AGENDA – None

G. PUBLIC HEARINGS

1. **2009-003** Burt Bomhoff. A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

Staff member MARY AUTOR stated 62 public hearing notices were mailed. A response from the Housing and Neighborhood Development (HAND) Commission was included in supplemental comments and information. There are also 10 email comments and a signed copy of the affidavit of posting. The petition site is 2.65 acres in size and the boundaries are 10th Avenue on the north, Muldoon the west, State Street on the east, and a portion of 11th Avenue on the south. A similar case was heard earlier in 2008 from the same petitioner that encompassed Block 1 only; this request involves Block 1 and portions of Block 2. In the June 2008 case, the Commission recommended denial; however, the case was not taken forward to the Assembly. Therefore, the petitioner is entitled to bring this request back to the Commission in a changed configuration. The petitioner has provided signatures of 73% of the subject property, constituting 1.77 acres. Ms. Sun Wai Fong, who does not support the rezoning and did not provide authorization for the rezoning, owns the remaining acreage. Ms. Sun Wai Fong has provided a letter and has sent emails, all of which were provided to the Commission. Several nonconformities exist in the petition area, including an auto repair facility with a 3-unit apartment, which would become conforming under the B-3, and conversely, single-family dwellings would become nonconforming under B-3. The Department does not support the rezoning. There are residential policies in *Anchorage 2020* dealing with density that speak to a medium to high-density retention. Those policies include #24, #9, and #34 and #12. The Department feels it is more compatible to retain residential on this property, although B-3 allows residential at 12

dwelling unit per acre (DUA). If the five parcels owned by Ms. Sun Wai Fong were not rezoned, an illogical zoning boundary would be created.

COMMISSIONER FREDRICK asked if Ms. Sun Wai Fong's lots could be rezoned without her approval. MS. AUTOR replied that the Assembly could choose to rezone that property without her consent.

COMMISSIONER PHELPS asked what is the recommendation for this property on the Draft Land Use Map. MS. AUTOR believed it is medium density residential.

COMMISSIONER WEDDLETON asked if the assertion in the analysis that "the auto related businesses typically do not fall within the concept of town centers" is specifically stated somewhere. MS. AUTOR replied that *Anchorage 2020* describes general concepts for what should be present in a town center; one is a strong walking pedestrian environment, which does not support automobile-dependent lifestyles. COMMISSIONER WEDDLETON believed there as an HLB parcel to the north of the creek. MS. AUTOR believed he was referring to an area that is part of the trailer park. MR. NELSON clarified that the HLB land is south of the petition area, south of DeBarr Road (extended) and east of Muldoon Road; Chester Creek runs through that property.

The public hearing was opened.

BURT BOMHOFF, petitioner, stated his business is family-owned. He stated his children went through the Anchorage school system and his grandchildren attend now. He proposes to build a modern, fully automated carwash on this property. This property is less than ¼ mile from the heart of the town center. The intent is to rezone the property to B-3. This petition was before the Commission one year ago with only Block 1 and the Commission's vote was 4 in favor and 2 against. He understood that the primary objection at that time was that the proposal would involve rezoning Ms. Sun Wai Fong's property. There is now adequate property to meet the 1.75-acre area requirement for rezoning without that property. He believed that, even without Ms. Sun Wai Fong's property there are logical zoning boundaries. He sincerely believed the project is a good addition for Muldoon and is in total compliance with *Anchorage 2020* and good planning practice. He stated he worked for the Department of Highway approximately 50 years ago and when he left the Department he was the district pre-construction engineer for Southcentral Alaska. One of his divisions was planning and research and traffic. He has had a background in planning and has a degree in civil

engineering with a major in transportation planning. He has been involved in private practice for many years providing planning consulting, including comprehensive plans and others. He felt the most important statement in the Staff analysis is on page 9 "Existing and new centers shall be characterized by: one-half to one mile in diameter; range of commercial retail/services and public facilities that serve the surrounding neighborhoods." This says that the town center should contain commercial facilities that serve surrounding residential areas. The proposed rezoning removes very little residential, but provides an essential service to a large surrounding area. *Anchorage 2020* was approved seven years ago and in that time no town center plan has been developed. He stated it is not fair to the business community to let that be justification to deny a petition to rezone. *Anchorage 2020* states the town center area should be self-sufficient to reduce traffic volumes to other centers. This means that most essential services should exist in the town center. There is only a small self-serve carwash and another automatic bay that is incidental to a gas station in the Muldoon area. Traffic past the petition property is the heaviest volume in Muldoon. Residential development is not suitable adjacent to that level of traffic. The code states that B-3 is specifically intended for commercial uses in areas exposed to high levels of traffic. This property has had a business use in the past and has never had a residential use. Noise studies have been done on Muldoon Road and there is a level of more than 100 decibels (db) resulting from traffic. The code permits no more than 50 db at night and 60 db during the day in a residential area. This facility would produce 55 db from the ends of the facility and at the base there is very little noise. Traffic noise is 90 db at a distance of 100 feet from the street. The State is moving the traffic signal from 12th Avenue to 11th Avenue for an approach to the new Wal-Mart store. This rezoning request is consistent with other recent rezonings in the area, particularly near the intersection of Muldoon and DeBarr. Sound planning strategy has always placed business buffers between highly trafficked roads and residential uses. The old Alaska Greenhouse property is being zoned B-3 from Muldoon Road east and residential behind that.

COMMISSIONER PHELPS asked what is the difference between this and the previous rezoning request. MR. BOMHOFF replied that the original request was for Block 1 only, which was 1.75 acres and owners of 75% of that area signed. Ms. Sun Wai Fong owned four lots and she did not want that rezoned. He was advised that he could appeal to the Assembly but he did not want to create a difficult situation for Ms. Sun Wai Fong. In the meantime, property owners south of 11th Avenue asked to include their properties, creating an area in excess of 1.75 acres to rezone without Ms. Sun Wai Fong's property. There is an auto repair business that has existed for some time and across 11th Avenue is another nonconforming auto repair shop that has

operated for some time. Neither of those uses can improve their property because they are nonconforming.

COMMISSIONER FREDRICK understood Mr. Bomhoff had approval to include the property south of 11th Avenue, which would eliminate the necessity to rezone Ms. Sun Wai Fong's property, but the Commission is presented with a rezoning request that includes her property. MR. BOMHOFF explained that Planning Staff advised inclusion of the northwest corner, Lot 1A, in order to create a logical zoning boundary.

COMMISSIONER WEDDLETON asked if there are other B-3 zoned properties Mr. Bomhoff could use for his business. MR. BOMHOFF replied that other B-3 properties are either not an adequate size or are cost prohibitive. COMMISSIONER WEDDLETON noted that commercial land is typically valued at 5 to 10 times the value of residential property. He asked if the other B-3 properties are too expensive for this reason. MR. BOMHOFF replied that they are not suitable for a carwash; the southwest corner of Muldoon and DeBarr should be more retail oriented. He looked at a parcel south of the intersection at DeBarr that has a tire repair shop, but it does not have enough depth for vehicles to queue. He noted that this type of use does not generate traffic; rather its customers are already passing by. The configuration of the use does not adversely impact Muldoon Road. He stated that it is not his policy for vehicles to drag water onto the roadway; there is a distance of 400 feet before vehicles reach the roadway.

COMMISSIONER PEASE asked for Staff response to the statement that there are decibel levels of 100 adjoining Muldoon Road and that Staff give information on its position that there is other B-3 property in the area. MS. AUTOR responded that in June 2008 Mr. Bomhoff presented a series of background information, one of which addressed decibel levels; Staff did not disagree with that information. In terms of other B-3 property in the area, Staff has identified several parcels of vacant B-3 land at the southwest intersection of Muldoon and DeBarr; however, the configuration and design of those lots are not conducive to the purposes the petitioner envisions. Furthermore, that area is part of a PUD. She noted there is no adopted town center plan for this area. *Anchorage 2020* does call out characteristics that are desirable in a town center area. A town center should have a variety of services that support the surrounding neighborhood. There is emphasis on a pedestrian friendly environment from neighborhoods to those services.

COMMISSIONER EARNHART understood that if this petition site were rezoned to B-3, Ms. Sun Wai Fong would be able to live in her home until she chooses, but if her property is not rezoned at this time, she would have to add

property across the street in order to rezone her property to B-3. MS. AUTOR replied that Ms. Sun Wai Fong could continue to live on her property if it were rezoned B-3 with this petition, but she would also be able to rezone to B-3 at a later time her property is adjacent to B-3. COMMISSIONER EARNHART asked if the petition site is not adjacent to B-3SL. MS. AUTOR stated there is B-3SL zoning directly adjacent to two or three of the parcels in Block 2; there is a 1.75-acre requirement for rezoning to another district. COMMISSIONER EARNHART asked if the B-3SL could be expanded. MS. AUTOR replied that the petitioner could request B-3 without special limitations because he has over 1.75 acres.

COMMISSIONER PEASE asked for a response to the statement that the Municipality is going to seek to zone land along Muldoon Road to commercial. She noted that the Staff asserts on page 10 that the east side of Muldoon has remained residential. MS. AUTOR stated that nothing has been submitted regarding that property and the Department has not taken a position with regard to a rezoning of that property. The comment about development on the east side of Muldoon came from the June 2008 analysis because, up to this point in time, there has not been commercial activity by way of rezoning that would have extended north of Arby's. COMMISSIONER PEASE asked if Staff stands by the statement that the area on the east side has remained residential. MS. AUTOR replied that is the historical fact.

COMMISSIONER ISHAM asked where the auto repair shop is located. MR. BOMHOFF replied that the auto repair shop in Block 1 is on Lots 4, 5, and 6.

COMMISSIONER WEDDLETON believed there are commercial uses on the east side of Muldoon Road. MR. BOMHOFF replied that there are several auto-related commercial uses on the east side of Muldoon. There is an auto repair shop adjacent, to the north is a mobile home park, and immediately north of that are convenience store and gas station uses.

JOHN ZAPPA stated he has owned property in the petition area for a considerable number of years. He asked how he could sell this property under the current zoning. Muldoon Road from DeBarr north to the Glenn Highway has only one building with apartments, which was built before zoning. Every year the valuation of this property has risen and he has paid taxes on it. He did not understand why a rezoning to B-3 for property adjacent to Muldoon Road would be denied. He stated Mr. Bomhoff has spent considerable money and time attempting to secure a rezoning of this property. He understood that some people would like to have businesses built underground with palm trees on each side. He emphasized that the zoning was done by humans. He

indicated that Senator Begich told him at one time that the entire area would be zoned business.

PEGGY ROBINSON, representing the Northeast Community Council, asked whether the commissioners had driven down Muldoon Road in the last 30 days to see the businesses and residential uses. She felt there must be a misunderstanding regarding the amount of residential on the east side of Muldoon Road; it is all business with the exception of trailers. The Grass Creek CIRI development is zoned as business and that residential development is set back from the road. A replatting request was before the Council this fall for the HLB property and they propose commercial along Muldoon Road with housing behind it. She stated that a new business is logically put along Muldoon Road, which is a five-lane road that has 35,000 cars a day. Not everyone can wash their car in their driveway and, even if that is possible, it cannot be done in the winter. She stated the idea of a town center is to have services in an area where people live so they do not have to drive as far to get the services they need. After considerable discussion at the Council meeting on September 20, 2007, the vote on this rezoning request was 15 in favor, 4 against, and 2 abstaining.

COMMISSIONER PEASE asked whether the Council discussed conditions, if this were to become business property, as it abuts residential property behind it. MS. ROBINSON stated the only condition in the motion that passed was that it be subject to a site plan review.

COMMISSIONER WEDDLETON asked if the City has brought the HLB property to platting. MS. ROBINSON stated that replatting the south fork of Chester Creek involves forming two commercially viable pieces of property to sell. COMMISSIONER WEDDLETON asked if that property would be a good location for a car wash. MS. ROBINSON replied that a hill on the back of the property will be zoned residential and the creek is a viable creek and there are aesthetics to consider. She believed the hope is that businesses on that property would make use of the creek to enhance the look of the area.

ROD McCOY, representing the HAND Commission, stated there is no Council position on this rezone, which is a different case and involves a different area than the previous request. He felt this matter should go back before the Council. He stated that the residents on Old Harbor Road did not support the previous request. On behalf of the HAND Commission, he stated that this rezone is a pivotal issue on the idea of development in town centers and the need for residential development in the community. The Anchorage economy hinges on the ability to provide adequate low-income housing. This particular area is important in this regard. Rezoning this property would

have the effect of rezoning the other 10 acres of residential property along Muldoon, taking that residential development opportunity away. There are 100 acres of vacant commercial land available and two large commercial developments in this area that could have this type of use. *Anchorage 2020* says rezoning should not be inappropriate or offensive to adjacent properties and there are residential zonings to the north, east, and west of the petition site. A comprehensive plan is being developed for East Anchorage under *Anchorage 2020* and it should be completed in 2010. These types of decisions should be delayed until that plan is completed. He stated that this pocket of residential zoning is an important statement. The HAND Commission asks that the Planning and Zoning Commission honor *Anchorage 2020* and not change residential zones unless there is a specific plan for the area. *Anchorage 2020* says that any residential land that is removed must be compensated for elsewhere; that is not being proposed. *Anchorage 2020* recognizes this city needs strong residential neighborhoods. No more business zoning is needed in East Anchorage.

COMMISSIONER WEDDLETON asked whether Mr. McCoy agrees to the statement that it is not advisable to put homes on Muldoon Road because it is too noisy. MR. McCOY responded that there are fine homes on L Street and I Street and Muldoon Road is not worse than those.

COMMISSIONER PEASE noted that Mr. McCoy alluded that *Anchorage 2020* requires no net loss of residential. She asked if that is a specific policy. MR. McCOY believed that was contained in the Staff analysis. COMMISSIONER PEASE asked if rezoning this property sets a precedent for rezoning other residential land along Muldoon. MR. McCOY replied in the affirmative. Rangeview Trailer Court asked in recent years to change the front strip of their property to business and the Commission denied it. Rezoning this property to the south of them would no doubt prompt them to come back. He noted that the property to the north of Rangeview is available for purchase. The two acres across from Rangeview was also brought in for rezone and denied. COMMISSIONER PEASE asked if Mr. McCoy feels this development provides a buffering effect that would improve the residential behind it. MR. McCOY did not believe the residents of the trailer court or the properties behind this rezone site would prefer to have a carwash beside their property.

COMMISSIONER EARNHART noted there is residential use backing onto Muldoon to the south of the town center site. This lot and the adjacent trailer court are an island of residential. He asked what are the chances this petitions site will be developed residentially. MR. McCOY stated one of the things Muldoon has been waiting for is redevelopment and reconstruction of

the strip zoned properties along Muldoon Road. If commercial rezoning occurs, that redevelopment will not occur. He noted that the trailer court is three blocks long.

JOE STIMSON, area resident on Friendly Lane, stated that he drives this street numerous times a day and knows the history of this property as a former Planning Staff member and former chief zoning inspector. There was a junkyard on this property when it was zoned in 1967. The junkyard was amortized in the 1970s and that is now the vacant area being requested for rezoning. He and his wife oppose the rezoning request. He noted they could drive five blocks north to a self-service car wash or another five blocks north to an automated car wash. The old greenhouse property and the property extending to Schuck's is zoned B-3SL and does not permit automotive uses.

COMMISSIONER PEASE asked what B-3SL excludes automotive uses. MR. STIMSON replied that the B-3SL zoning extends from south of the HLB land up to Schuck's. The MOA owns the property beginning at the creek and extending up to the vacant property. COMMISSIONER PEASE asked if he was referring to the east or west side of Muldoon. MR. STIMSON stated he was referring to the west side. There is commercial property on the east side of Muldoon, but it is B-1A and that also does not permit automotive uses.

COMMISSIONER EARNHART stated this lot looks commercial, as it is surrounded by commercial. He asked if this property would likely develop residentially. MR. STIMSON stated there are properties all over the community that are developed with multi-family residential backing onto arterial roads, including Tudor Road, Northern Lights Boulevard, and some parts of Muldoon. This property is not surrounded by commercial; there is R-3 to the north, Ms. Sun Wai Fong owns the lot to the south side of 12th Court, which is R-3, and across the street is R-3 and B-1A. The property is surrounded by more residential than commercial. COMMISSIONER EARNHART noted that to the south of Ms. Sun Wai Fong's lot is B-3SL. MR. STIMSON was aware Ms. Sun Wai Fong intends to block commercial use from extending south. COMMISSIONER EARNHART asked if the concern is the carwash or commercial uses in general. He asked if there would be the same opposition if the proposal were for B-1. MR. STIMSON stated that this property may or may not be developed with a car wash, if it were rezoned to B-3. He stated he would be more amenable to a B-1A zoning, but still felt the property could be developed residentially.

MARIAN SIMON, long-time property owner on Muldoon Road having lived there 1955 to 1970, stated she moved when the traffic noise became unbearable. This situation has worsened with the building of malls, box

stores, and increased traffic that will continue to grow in the future. She thought this parcel would be better with a car wash than what can be developed under the current zoning. She stated she has known the petitioner for four years and believed he would be a good developer.

JAY MALESKI, resident on Friendly Lane, opposed the rezoning request because there is poor traffic in the area. Muldoon Road is a major thoroughway for the State and the Municipality. There is already a light at East 12th Avenue and DeBarr/Muldoon. There is tremendous traffic traveling from Fred Meyer onto Muldoon going north. This car wash and a rezoning to B-3 would create more traffic. Muldoon Road is a 4-lane road with a center turn lane. People coming in and out of the car wash could turn either right or left. There is a garage at East 11th Avenue and Muldoon that is nonconforming and it looks like a junkyard. He did not support a rezoning to B-3. Until changes are made to Muldoon or there is a light at 11th Avenue, he felt this property should not be rezoned. He stated this is a respectable neighborhood.

In rebuttal, MR. BOMHOFF stated the property will not be developed as it is currently zoned and instead it is a collector of trash. With the rezone the non-complying uses can make their businesses attractive and he can develop his business. He stated his existing facility on DeBarr Road is a good facility. He stated he talked to the municipal assessing department and was told the difference in price between R-3 and B-3 property is not that great. He stated that cost was not the deciding factor; he could not find a property that was practical. He stated the Alaska Greenhouse property is intended to be zoned B-3 for the front 675 feet, which he saw when he picked up plans that show that property to B-3 with R-3 behind that and parks behind that.

COMMISSIONER PHELPS stated one of his concerns is that this request is for B-3 and not B-3SL, so there are no restrictions on development. When the Commission last saw this property, there were a number of conditions. He asked for Mr. Bomhoff's reaction to a requirement for a site plan review. MR. BOMHOFF favored such a requirement. COMMISSIONER PHELPS asked whether Mr. Bomhoff would be agreeable to sunsetting this rezoning so that if a certificate of occupancy is not issued for a period of time, the zoning would revert back to the existing R-3. MR. BOMHOFF preferred that not happen because the current economy has made financing difficult. He explained he thought that if he submitted this as B-3, the Commission would add special limitations that it thought were appropriate. He recalled that he had no objection to the conditions discussed in June 2008.

COMMISSIONER PEASE assumed that a site plan, were it required, would be for the lots Mr. Bomhoff plans to develop. MR. BOMHOFF stated that is correct. The land uses for the rest of this area are fairly well established. He added regarding traffic that Rob Campbell at ADOT has no objection to this proposed use. COMMISSIONER PEASE asked the total acreage of the lots Mr. Bomhoff owns. MR. BOMHOFF stated he is buying five lots. COMMISSIONER PEASE estimated that area would total 35,000 SF or three-quarters of an acre. MS. AUTOR stated each lot contains 7,000 SF, which would total three-quarters of an acre.

MS. AUTOR noted the motion made at the February 4, 2008 meeting is on page 24 of the attached minutes. She added that the Law Department has advised the Planning Department that it is not legal to have a reversion clause on a rezoning.

The public hearing was closed.

COMMISSIONER EARNHART moved to approve a rezoning to B-3 on Lots 1-12 Block 1 and Lots 1A, 10, S ½ of Lot 11, N ½ of Lot 11 and Lot 12, Sunny Acres Subdivision. COMMISSIONER PHELPS seconded.

COMMISSIONER EARNHART opposed his motion, feeling that denial is owed to the community. He felt this is clearly a commercial area. If the request were for B-1A with more compatible uses and some limitations, he would not object; however, he had concern with the B-3 zone. Even with limitations, B-3 zoning would allow many types of uses. He also had a concern with the idea of a carwash and did not believe it is compatible with residential. He understood there is a hope for redevelopment along Muldoon Road. He noted that professionally he has become very familiar with the car wash business and it is a profitable enterprise.

COMMISSIONER PEASE opposed the motion. He stated that, in looking at the map of the area, this is not an island of residential surrounded by business zones. A claim could be made that it would create an island of business, if it were rezoned. Such a rezoning could precipitate rezoning of other residential property and erode the residential base that is to support the emerging town center and is needed in the Bowl. *Anchorage 2020* Policy #14 urges conservation of the community's residential base. Although there is not an adopted town center, this is a transit supportive development corridor, addressed by Policy #34, which clearly talks about residential being built within one-quarter mile of the corridor. There is accommodation expected for commercial development in the corridor, but the policies on page 55 of *Anchorage 2020* that explain what type of commercial use is encouraged, it is

"strategically located neighborhood retail uses that are oriented to the street should also be encouraged along transit corridors. The ability to make an intermediate stop at a grocery store or other retail on the way home from work has been shown to improve transit usage." She felt this clearly indicated that the type of commercial envisioned is that which can be accessed at least partly on foot or by transit. She concurred with Commissioner Earnhart that there may be some business potential on this property, but it should be neighborhood oriented and could be integrated with residential. A site plan would give the ability to ensure that what is done supports residential uses, the transit supportive corridor, and B-3. Rezoning this would be 1.9 acres of speculative B-3 with no assurance to the neighborhood.

COMMISSIONER YOSHIMURA opposed the motion. She recognized Mr. Bomhoff's service in professional development in the community; he is a reputable developer. However, the fact there would be 1.9 acres left for speculative development is not a good solution for this property. She supported Staff and, in particular, the HAND Commission's comments about the need to retain residential property. There is a need for affordable, low-income, and workforce housing. There are three cases before the Commission this evening that take residential property and request to turn it into commercial property. She stated that at some point she wants to talk about compensation for upzoning, perhaps creating a fund to put into affordable housing programs. If such a fund existed, she would support this motion.

COMMISSIONER WEDDLETON did not support the motion, noting that there is progress toward the East Anchorage District Plan, which would address this type of proposal.

AYE: None

NAY: Phelps, Weddleton, Isham, Jones, Yoshimura, Fredrick, Pease,
Earnhart

FAILED

2. 2009-014

S.E. Grainger Development Group, LLC. A request to rezone approximately 1.4 acres from R-5 (Rural Residential) to B-3 SL (General Business with Special Limitations). Beacon Park Subdivision, Block 1, Lots 1, 2, 3, 37, 38, 39 and 40 (Plat No. 65-81) all located within the NW1/4 of Section 29, T12N, R3W, S.M., Alaska. Generally located

**PLANNING & ZONING
COMMISSION
MEETING**

February 2, 2009

**Supplemental Comments &
Information Received After Packet
Delivery**

**G.1. Case 2009-003
Rezoning to B-3 General business
district.**

Zoning and Platting Cases On-line

View Case Comments

[Submit a Comment](#)

**** These comments were submitted by citizens and are part of the public record for the cases ****

Questions? If you have questions regarding a case, please contact Zoning at **907-343-7943** or Platting & Variances at **907-343-7942**.

1. Select a Case: 2009-003

[View Comments](#)

2. View Comments:

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JAN 28 2009

Municipality of Anchorage
Zoning Division

Case Num: 2009-003

Rezoning to B-3 General business district

Site Address: 7901 E 11TH CT

Location: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

[Details](#) | [Staff Report](#) | [submit a comment](#)

Public Comments

1/28/09

Steven McCoy

7749 Old Harbor Ave

Anch AK 99504

DO NOT FURTHER STRIP ZONE MULDOON ROAD CITY NEEDS MORE RESIDENTIAL NOT MORE COMMERCIAL LAND (100 acres of vacant commercial land within easy walking distance of this rezone) QUALITY RESIDENTIAL POCKETS LIKE OLD HARBOR ROAD NEED YOUR PROTECTION Community Development Plan for Muldoon created by the Northeast Community Council with the Municipal Department of Community Development while George Vakalis was president of the council expresses as its primary concern: strip zoning on Muldoon Road. The staff analysis to deny this rezone and maintain the residential zone along this portion of Muldoon road identifies how this rezone is a violation of the comprehensive plan and good city planning. This analysis supports long term community council concerns. Planning staff recognizes that this property is surrounded by about ten acres of residential properties along Muldoon Road and allowing this rezone will likely determine that all these properties will eventually be commercial completing the strip of commercial property from the Glenn Highway to 16th avenue. Major Ugly! My home is on Old Harbor Road. We have a fine community on Old Harbor with expansive lots and a peaceful residential neighborhood. This rezone would violate the residential nature of this section, would allow light and noise pollution. Water tracking onto Muldoon Road in the winter would be a driving hazzard. Every dollar of advantage given to this petitioner would be lost ten fold in the collective values of properties nearby.

019

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

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JAN 28 2009

Municipality of Anchorage
Planning Division

NOTICE OF PUBLIC HEARING - - Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1--Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sund Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11B1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

The Planning and Zoning Commission will hold a public hearing on the above matter at 6:30 p.m., Monday, February 02, 2009 in the Assembly Chambers of the Z. J. Loussac Library, 3600 Denali Street, Anchorage, Alaska.

The Zoning Ordinance requires that you be sent notice because your property is within the vicinity of the petition area. This will be the only public hearing before the Commission and you are invited to attend and present testimony, if you so desire.

If you would like to comment on the petition this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Department of Planning, P.O. Box 196650, Anchorage, Alaska 99519-6650. For more information call 343-7943; FAX 343-7927. Case information may be viewed at www.muni.org by selecting Departments/Planning/Zoning and Platting Cases.

Name: Kareneth Karabelnikoff
Address: 1603 Old Harbor Ave
Legal Description: Crescent Park 2nd lot 7
Comments:

We have lived here since 1955 -
We do not want the business encroachment of Old Harbor Ave

REZONING/RESIDENTS-PLANNING COMMISSION
2009-003

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

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JAN 28 2009

Municipality of Anchorage
Zoning Department

NOTICE OF PUBLIC HEARING - - Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1—Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

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Name: Bill Oaks
Address: 7430 Old Harbor Ave
Legal Description: Creekside Park 3 lot 39
Comments: Concerned about traffic impact - wet cars and ice on Muldoon
Muldoon - should not be all business

REZONING/RESIDENTS-PLANNING COMMISSION
2009-003

Municipality of Anchorage
P. O. Box 198850
Anchorage, Alaska 99519-8850
(907) 343-7943

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JAN 28 2009

Municipality of Anchorage
Zoning Division

NOTICE OF PUBLIC HEARING - -

Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1--Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

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If you would like to comment on the petition this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Department of Planning, P.O. Box 198850, Anchorage, Alaska 99519-8850. For more information call 343-7943; FAX 343-7927. Case information may be viewed at www.muni.org by selecting Departments/Planning/Zoning and Planning Cases.

Name: Joe Bear
Address: 7729 Old Harbor Road
Legal Description: Creekside Park 2 lot 3
Comments: Please do not strip zone Muldoon Road

REZONING/RESIDENTS-PLANNING COMMISSION
2009-003

Municipality of Anchorage
P. O. Box 198650
Anchorage, Alaska 99519-8650
(907) 343-7943

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JAN 28 2009

Municipality of Anchorage
Zoning Division

NOTICE OF PUBLIC HEARING --

Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1---Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

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If you would like to comment on the petition this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Department of Planning, P.O. Box 198650, Anchorage, Alaska 99519-8650. For more information call 343-7943; FAX 343-7927. Case information may be viewed at www.muni.org by selecting Departments/Planning/Zoning and Planning Cases.

Name: Carol Loran
Address: 7744 Old Harbor Ave
Legal Description: Crackside Park 2 Lot 18
Comments: This section of Muldoon Road should stay residential
Does not conform to town center plan

REZONING/RESIDENTS--PLANNING COMMISSION

2009-003

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

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JAN 28 2009

Municipality of Anchorage
Zoning Division

NOTICE OF PUBLIC HEARING - - Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1--Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

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Name: Ann Hincley
Address: 7749 Old Harbor Ave
Legal Description: Creekside Park 2 Lot 2
Comments: years ago the Municipality had a practice of
not allowing strip zones to proliferate. This is a bad idea
because it allows business to further encroach in a vanishing
neighborhood area

REZONING/RESIDENTS-PLANNING COMMISSION
2009-003

Municipality of Anchorage
P. O. Box 196850
Anchorage, Alaska 99519-6850
(907) 343-7943

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JAN 28 2009

Municipality of Anchorage
Zoning Division

000-000-00-000

NOTICE OF PUBLIC HEARING - -

Monday, February 02, 2009

Planning Dept Case Number: 2009-003

The Municipality of Anchorage Planning and Zoning Commission will consider the following:

CASE: 2009-003
PETITIONER: Burt Bornhoff
REQUEST: Rezoning to B-3 General business district
TOTAL AREA: 2.650 acres
SITE ADDRESS: 7901 E 11TH CT
CURRENT ZONE: R-3 Multiple-family residential district
COM COUNCIL(S): 1--Northeast

LEGAL/DETAILS: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

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If you would like to comment on the petition this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Department of Planning, P.O. Box 196850, Anchorage, Alaska 99519-6850. For more information call 343-7943; FAX 343-7927. Case information may be viewed at www.muni.org by selecting Departments/Planning/Zoning and Planning Cases.

Name: DAVID LAMORE

Address:

Legal Description: CREEKSIDE PARK 3 LOT 28

Comments:

COMMERCIAL ENCROACHMENT IS INCOMPATIBLE WITH
OLD HARBOR ROAD RESIDENTIAL COMMUNITY

REZONING/RESIDENTS-PLANNING COMMISSION
2009-003

Zoning and Platting Cases On-line

View Case Comments

[Submit a Comment](#)

**** These comments were submitted by citizens and are part of the public record for the cases ****

Questions? If you have questions regarding a case, please contact Zoning at **907-343-7943** or Platting & Variances at **907-343-7942**.

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1. Select a Case: 2009-003

[View Comments](#)

FEB 02 2009

2. View Comments:

City of Anchorage
Zoning Division

Case Num: 2009-003

Rezoning to B-3 General business district

Site Address: 7901 E 11TH CT

Location: A request to rezone approximately 2.65 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 thru 12, and Block 2, Lots 1A, 10 & 11S1/2, and 12 & 11N1/2, all located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located east of Muldoon Road, west of State Street, south of E. 10th Avenue and north of E. 12th Court.

[Details](#) | [Staff Report](#) | [submit a comment](#)

Public Comments

2/1/09

Kenneth Sun

1520 Oxford Drive

Anchorage Ak 99503

There are other properties that are available for the proposed car wash and other business. The rezone raises the value of property being rezoned at the expense of adjacent properties. Put the carwash on property that is already developed for commercial use. There is plenty available. The rezone includes Wai Fong Sun's Property. She is opposed to the rezone.

2/1/09

Wai Sun

7923 E. 11th Court

Anchorage Ak 99504

I oppose the rezoning. I request that the hearing be postponed so that I can submit a protest.

1/29/09

Nina Prockish

7600 Old Harbor Ave.

Anchorage AK 99504

I am opposed to the rezoning of the property from R-3 to B-3. A proposed car wash with traffic going out onto Muldoon Road is a hazard for icy conditions for most of the year. There is a car wash to the north on Muldoon now. The property is close to the east of an established residential area (Old Harbor Ave.).

Autor, Mary P.

From: O'Neill, Corrine L.
Sent: Monday, February 02, 2009 9:36 AM
To: Autor, Mary P.
Cc: 'Rod McCoy'; 'Rod McCoy'
Subject: HAND Resolution

Attachments: Scan Document1249_000.pdf



Scan
Document1249_000.pdf (Hi Mary,

As we discussed, unfortunately I don't have the signed resolution back from the Chair of the Commission yet. However, here is a copy of the Resolution that the HAND Commission passed for the meeting tonight.

Thanks so much.
Corrine

Case 2008-022 — Case 2009-003

ear planning and zoning Commission

this is supplemental to the previous 3 letters 2008, as of this date
you ~~not~~ neither respond nor release the public records and information
of the actual facts, but ^{you} also expanding and widespreading ill mind
ill scheme on going, perturbing inhumanity target victimize me
destroy me. Kill me for your wild hatred, discrimination, I would
like you ask yourself — what is your job?

1. I petition that you immediately shutdown and tear down your illegal
A.B.E auto wrecking Buildings, clean up your pollution of your
illegal yard and surrounding area, your pollution is killing me
landixing from your wrong doing, ~~that~~ that you abuse your
position violate the laws, the codes, the regulations, the
human rights . . .

2. I petition that you immediately ~~produce~~ produce verifications
to verify your join violaters John A zappa and his wife
Dorothy Anne zappa whether still alive . . .

3. I petition that you immediately shutdown and tear down your
illegal auto repair Building in the Sunny Acres ~~sub~~ Sub, Block
2. that you abuse your position violate the laws, the codes, the
regulations, the human rights . . .

4. I petition that you immediately ~~remove~~ shut down . . .

your illegal arby's Building that you abuse your position, violate

the laws, the codes, the regulations, the human rights - - -

I petition that you immediately shutdown and tear down your

9 illegal Buildings in the Sunny Acres sub. Block 4 and

clean up your contamination of your illegal septic system

that you abuse your position, violate the laws, the codes, the regulations, the human rights - - -

I oppose this rezoning and ask the Planning and Zoning Commission to postpone action on Case 2009-003.

Wai Hong 



Municipality of Anchorage
Housing and Neighborhood
Development Commission

HANDR 2009-1

**A RESOLUTION CONCERNING PRESERVATION OF RESIDENTIAL LAND AND
APPROPRIATE COMMERCIAL REDEVELOPMENT IN TOWN CENTERS**

MOA CASE 2009-3

WHEREAS, the purpose of the Housing and Neighborhood Development (HAND) Commission is to advise the mayor and the assembly on issues related to long- and short-term housing and community development needs in the municipality, and strategies to effect revitalization of lower-income and at-risk neighborhoods; and

WHEREAS, the purpose of the HAND Commission is further defined to identify and address long- and short-term housing issues in Anchorage, including strategies to stabilize and monitor the housing market, achieve a range of housing options for sale and for rent and cost-effective and socially responsible strategies to preserve or increase the supply of affordable housing; and

WHEREAS, based on the 2000 Census East Anchorage meets the HUD criteria of a primarily low-income neighborhood, thus making it eligible for community development efforts funded with CDBG or HOME and efforts to preserve and expand affordable housing; and

WHEREAS, *Anchorage 2020* depicts a town center in East Anchorage in the general vicinity of Debarr and Muldoon Road; and

WHEREAS, *Anchorage 2020* encourages conservation of residential lands and discourages conversion of residential land to commercial land (Land Use Policy #14) which further states "No regulatory action under Title 21 shall result in a conversion of dwelling units or residentially zoned property into commercial or industrial uses unless consistent with an adopted plan."; and

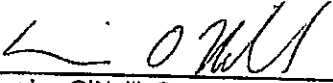
WHEREAS, the Municipality of Anchorage is planning to undertake an East Anchorage District Plan in 2009, to be completed in 2010, which will become an officially adopted plan. The East Anchorage District Plan will include a land use plan map which will provide clarity to the community's needs and goals in east Anchorage, and provide a foundation for future regulatory decisions; and

WHEREAS, Planning staff review of Case 2009-3 recommended against a rezone, citing numerous *Anchorage 2020* Land Use Policies which encourages residential development; and

WHEREAS, the HAND Commission supports efforts to develop town centers with a mix of uses, inclusion of housing for a range of income levels, that are supportive of transit and pedestrian circulation, and that offer an alternative to strip commercial development; and

NOW, THEREFORE, BE IT RESOLVED, that the Housing and Neighborhood Development Commission hereby advises the Planning and Zoning Commission, the Assembly, and the Mayor to OPPOSE CASE #2009-3 in its petition for a rezone.

PASSED AND APPROVED by the Housing and Neighborhood Development Commission this January 30 2009.


Corrine O'Neill, Secretary

Timothy M. Sullivan, Sr., Chair

PLANNING DEPARTMENT PLANNING STAFF ANALYSIS REZONING

DATE: February 2, 2009

CASE NO.: 2009-003

APPLICANT: Burt Bomhoff

REPRESENTATIVE: Burt Bomhoff

REQUEST: Rezoning from R-3 (Multiple Family Residential)
to B-3 (General Business)

LOCATION: Lots 1-12, Block 1, and Block 2, Lots 1A, 10, S ½
of Lot 11, N ½ of Lot 11 and Lot 12, Sunny
Acres Subdivision; Generally located east of
Muldoon Road, between East 10th Avenue and
East 12th Court.

SITE ADDRESS: As listed

COMMUNITY COUNCIL: Northeast

TAX NUMBER: 006-121-07 thru -16; -49; -63; -64 -68;
Grid SW1341

ATTACHMENTS:

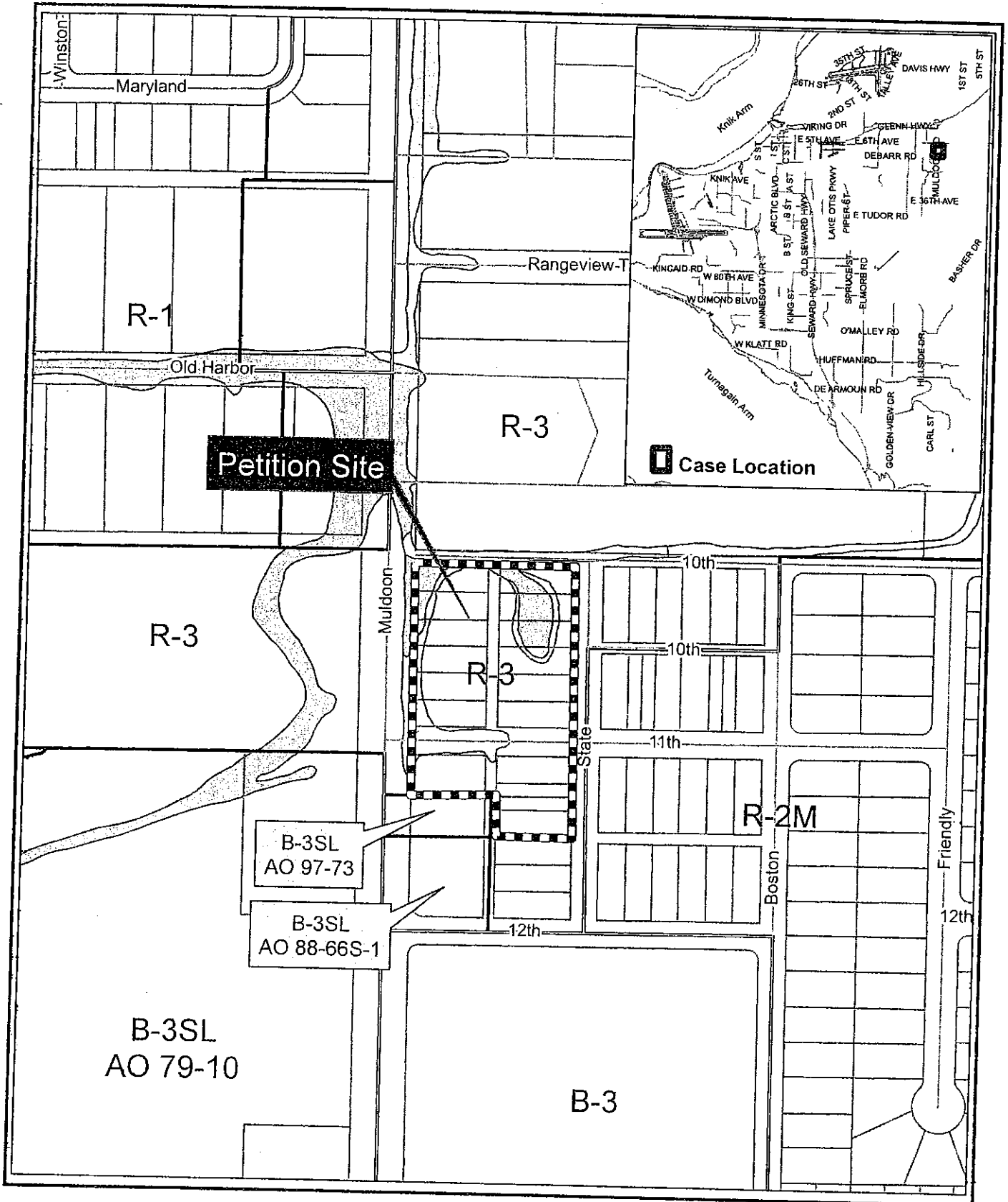
1. Zoning & Location Maps
2. Departmental Comments
3. Public Comments
4. Application
5. Posting Affidavit

RECOMMENDATION SUMMARY: Denial

SITE:

Acres: 2.65 Acres (Approximately)
Vegetation: Largely covered with native trees and brush
Zoning: R-3
Topography: Generally level
Existing Use: 10 vacant lots; 1 Duplex lot; 2 Residential

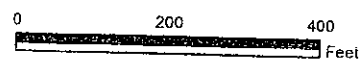
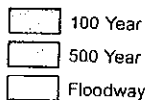
2009-003



Municipality of Anchorage
Planning Department

Date: November 13, 2008

Flood Limits



Soils: 1 lot – 4 unit apt/auto/parts service
Public Water & Sewer Available

COMPREHENSIVE PLAN:

1982 Plan Residential
Classification: 11-20
Density
Anchorage 2020 Town Center, Transit Supportive Development
Corridors

HISTORY:

06-02-2008	Case 2008-022	PZC recommended denial of a rezoning of 1.93 acres +/-, from R-3 to B-3 for Lots 1-12, Block 1, Sunny acres Subdivision consisting of 1.93 acres. Resolution 2008-041
04-13-1970	Areawide Zoning	Subject property zoned to R-3 as part of Area 'B' Areawide zoning, GAAB Ordinance #25-70.
1967		Legal Nonconforming rights established on Lots 1, 2, 3, 4, 5, 6, 11 and 12, Block 1, Sunny Acres Subdivision, for ABC Auto Wrecking and Service.
04-07-1953		P-320, Sunny Acres, Blocks 1 thru 4

APPLICABLE LAND USE REGULATIONS:

Existing Zoning:

R-3 AMC 21.40.050. Permits medium-density urban and suburban multiple-family residential: allows up to eight DUA on 20,000 square foot lots. Structures and uses required to serve governmental, educational, religious, noncommercial, recreational and other needs are permissible as conditional uses. Maximum lot coverage is 40%; maximum height is 30-feet. The yard requirement is 20 foot front yard, 5 foot side yard, 10 foot rear yard.

Proposed Zoning:

B-3: AMC 21.40.180. Permits general commercial uses, allows residential uses with a minimum of 12 dwelling units per acre. Minimum lot area is 6,000 square feet, 50 feet wide. Maximum lot coverage unrestricted unless predominately a residential development, and side and rear yards abated unless adjacent to residential, with a 10 foot front yard setback. Maximum height is unrestricted.

SURROUNDING AREA:

	NORTH	EAST	SOUTH	WEST
Zoning:	R-3	R-3, R-2M	R-3, B-3 SL AO 97-73 AO 88-66 (S-1)	R-3/B-3 SL AO 79-10
Land Use:	Rangeview Trailer Court Residential	Mixed Density Residential	Arby's Restaurant; Muldoon Mall; various fast food stores; residential	Vacant Fred Meyer's Store; future Sam's Club, Wal-Mart

BACKGROUND

On June 2, 2008, the Planning and Zoning Commission denied a request to rezone (1) Lots 7-10, Block 1, Sunny Acres, consisting of 1.28 acres, to B-3 SL, and (2) Lots 7-10, Block 1, Sunny Acres, consisting of .65 acres, to R-3 SL (Resolution 2008-041/Case 2008-022). Acting on the advice of the Law Department, the PZC determined that under the plain language of AMC 21.20.070 neither rezones constituted 1.75 acres. Further, the rezoning was not supported by Anchorage 2020 policies #5, #12, #14, and did not meet the standards for approval found in AMC 21.20.090.

PROPOSAL

This is a request to rezone Lots 1 through 12, Block 1, Sunny Acres Subdivision and Lots 1A, 10, 11 and 12, Block 2, Sunny Acres Subdivision consisting of 2.65 acres from R-3 to B-3.

Mr. Bomhoff did not pursue taking Case 2008-022 forward to the Assembly. Since the Assembly never acted on his earlier application, the subject application may be processed under the terms of AMC 21.20.080.

The Department determined the subject application is substantially different from Case 2008-022: the amount of land involved in the subject application is significantly larger than the first and that it borders existing commercial zoning district. Though this new application includes all of Block 1 (consisting of 1.93 acres), the subject of Case 2008-022, it also includes three additional lots from Block 2 (consisting of 31,500 square feet) amounting to 2.65 acres.

AMC 21.20.040 requires a rezone application be accompanied by a petition favoring the amendment signed by the owners of at least 51 percent of the property within the area to be rezoned: Written consent is given from 73% ownership of the subject property constituting 1.77 acres (John Zappa, Phillip Simon, Frank and Shelley McConkey, Ryan Schmittinger and Thomas Vasileff).

The remaining five lots (38,500 SF), or 27 %, are owned by Sun Wai Fong.

Mr. Bomhoff is purchasing Lots 1, 2, 3, 11 and 12 from John A. Zappa and Phillip Simon, and is the applicant of this application.

Sunny Acres Subdivision Lot 1, BK 1	006-121-12	John Zappa	1001 Muldoon Rd	7,000 SF
Sunny Acres Subdivision Lot 2, BK 1	006-121-11	John Zappa	1011 Muldoon Rd	7,000 SF
Sunny Acres Subdivision Lot 3, BK 1	006-121-10	John Zappa	1021 Muldoon	7,000 SF
Sunny Acres Subdivision Lot 4, BK 1	006-121-09	Phillip S. Simon	1031 Muldoon Road	7,000 SF
Sunny Acres Subdivision Lot 5, BK 1	006-121-08	Phillip S. Simon	1039 Muldoon Road	7,000 SF
Sunny Acres Subdivision Lot 6, BK 1	006-121-07	Phillip S. Simon	7901 E. 11 th Ct.	7,000 SF
Sunny Acres Subdivision Lot 7 and 8, BK 1	006-121-68	Sun Wai Fong	7923 E. 11 th Ct.	14,000 SF
Sunny Acres Subdivision Lot 9 BK 1	006-121-16	Sun Wai Fong	No Street Address	7,000 SF
Sunny Acres Subdivision Lot 10, BK 1	006-121-15	Sun Wai Fong	No Street Address	7,000 SF
Sunny Acres Subdivision Lot 11, BK 1	006-121-14	John Zappa	No Street Address	7,000 SF

Sunny Acres Subdivision Lot 1A, BK 2	006-121-49	Sun Wai Fong	No Street Address	10,500 SF
Sunny Acres Subdivision Lot 12 & 11 N2, BK 2	006-121-63	Shelley & Frank McConkey	No Street Address	10,500 SF
Sunny Acres Subdivision Lot 10 & 11 S2, BK 2	006-121-64	Ryan Schmittinger & Thomas Vasileff	1116 State Street	10,500 SF

Mr. Bomhoff proposes to construct a carwash on Lots 1, 2, 3, 11 and 12 if the property is zoned B-3.

USE DETERMINATION:

A legal nonconforming auto repair facility with an apartment (3 units) operates on Lots 4, 5 and 6 (owned by Mr. Simon). B-3 would make the auto repair facility a legal use. A duplex is located on Lots 7 and 8 (owned by Mrs. Sun). Duplexes are legal in the R-3 but would become nonconforming in the B-3 based on density. A single family dwelling is located on Lot 12 and the north half of Lot 11, Block 2 and would become a nonconforming use if rezoned to B-3. A 4-unit multi-family building is located on Lot 10 and the south half of Lot 11 and would be conforming under B-3.

COMMUNITY COMMENTS:

At the time this report was written, there was no returned public hearing notices (PHN) received out of sixty-two (62) public hearing notices mailed 01/12/09.

FINDINGS:

Map Amendments, and 21.05.080 Implementation - Anchorage Bowl Comprehensive Development Plan Maps

A. Conformance to the Comprehensive Plan.

The petition site is located within an area designated in the *Anchorage 2020 - Anchorage Bowl Comprehensive Plan* as a Town Center and on the Muldoon Road Transit-Supportive Development Corridors.

Town centers are designed to function as a focal point for community activities, encompassing an area that services 30,000-40,000 people. Town centers are generally one-half to one mile in diameter (reference pg. 53). Muldoon Road is

identified as a Transit-Supportive Development Corridors. Town centers are guided by Land Use Policy #24 and are typically linked by transit-support development corridors (Land Use Policy #34).

Transit supportive development corridors represent optimal locations for more intensive commercial and residential land use patterns which will support and encourage higher levels of transit service. Transit-Supportive Development Corridors are guided by Land Use Policy #34, and supported by Transportation Policies #30 and #37; General Land Use Policy #3; and Residential Policy #9 and #14.

Residential is allowed in the B-3 zoning district: a minimum of 12 dwelling units per acre, or dwellings in commercial structures with a gross floor area not less than 5,000 square feet. Multifamily residential uses and structures are permitted in the B-3 District, Single family residential are not allowed uses and structures in the B-3.

Residential policies in Anchorage 2020 include:

(1) Policy #24: The Town Center concept supports a medium to high-density residential development in and surrounding the core. In most cases the residential portion of a town center will provide a combination of duplexes, townhouses, and apartment buildings with overall density targets of 12-40 dwelling units per acre. R-3 zoning calls for a density range of 15 -30 DUA. If B-3 zoning were approved, the minimum density is 12 DUA.

(2) Policy #14: New residential development at densities less than identified in the Neighborhood or District Plans is discouraged. No regulatory action under Title 21 shall result in a conversion of dwelling units or residentially zoned property into commercial or industrial uses unless consistent with an adopted plan. To date, there is no adopted Muldoon town center plan, neighborhood or district plans, nor is there an adopted Generalized Land Use Map. The 1982 Generalized Land Use Map identifies the petition site as Residential, and the Generalized Residential Intensity Map calls for a medium density of 11- 20.

(3) Policy #9: New residential development located within ¼ mile of the major street at the center of a Transit-Supportive Development Corridor shall achieve an overall average of equal to or greater than 8 dwelling units per acre.

(4) Policy #34: Average residential density equal to or greater than 8 dwelling units per acre within ¼ mile characterize a Transit Supportive Development Corridor.

Zone/Description	Area (acres)	Units	Density Range (DUA)
R-3 or B-3	2.65	21	8 ¹
B-3	2.65	29 - 53	11 - 20 ²
R-3 or B-3	1.77	14	8
B-3	1.77	19 - 35	11 - 20

DUA = Dwelling Units per Acre

Note: 1.77 acres represent signatures of 73% ownership of property.
2.65 acres represent 100% of the petition area.

There are additional policies that are applicable to this proposal.

General Land Use Policy #3: The Municipality shall employ development strategies for the Anchorage Bowl in order to accommodate approximately 31,600 additional dwelling units by the year 2020 with the allocation of the dwelling units by planning sector. Between 5,000 and 7,000 additional dwelling units are projected for the Northeast planning sector. The strategies for this policy call for minimum residential density, mixed use and design standards, infill, and redevelopment. See density discussion above.

General Land Use Policy #5: Rezones and variances shall be compatible in scale with adjacent uses and consistent with the goals and policies of Anchorage 2020. The petitioner has assembled 2.65 acres of land under five separate ownerships for rezoning to B-3, making it less likely that there will be any unified development in size or scale. No special limitations dealing with transition and buffering, landscaping, height, and site plan review, were offered to ensure to ensure compatibility between commercial and residential areas.

Mr. Bomhoff's intention is to develop a car wash on five lots (three of which front onto Muldoon Road). A conceptual site layout is included in the application. It shows a two bay car wash building facing Muldoon. There is a right-in right-out access from East 10th Avenue. No access is shown from State Street to Lots 1 and 12. Commercial development on the east side of Muldoon Road, such as the Muldoon Mall and the various fast food restaurants are typically no more than one or two story structures.

¹ Policy #9, and #34

² 1982 Generalized Residential Intensity Map

General Land Use Policy #7: Avoid incompatible uses adjoining one another. Land use in the immediate vicinity of the project site is a mix of commercial, residential, and retail. Land on the east side of Muldoon, north of the petition site is zoned R-3, and south of the petition site is R-3, B-3 SL and B-3. The Rangeview Trailer Park property, approximately 32 acres to the north of the petition site, is an area identified as a major redevelopment area, most likely as medium-high residential. Land to the south of the petition site (East 11th Court) is split zoned R-3, B-3 SL and B-3. The north one-third of the west half of Block 2 (south of the petition site) is undeveloped, with Arby's, zoned B-3, located on the south two-thirds of Block 2. The east half of Block 2 is undeveloped with the exception of one single family residential dwelling and one 4-plex apartment. The Muldoon Mall, south of Block 2, is zoned B-3. Land immediately east of the petition site is developed with mixed density residential zoned R-2M. Land on the west side of Muldoon Road contains a retail development (Fred Meyer), bank, gas station, and one sit-down restaurant and is zoned B-3. A future Wal-Mart and Sam's Club, and mixed commercial/office/residential is proposed for development located on the west side of Muldoon and Debarr. This application request has proposed no special limitations, nor does it provide for a consolidated development plan in the event B-3 zoning were approved.

Residential Policy #12: New higher density residential development, including that within Transit-Supportive Development Corridors, shall be accompanied by the following: a) Building and site design standards; b) Access to multi-modal transportation, to include transit, and safe pedestrian facilities; and, c) Adequate public or private open space, parks or other public recreational facilities located on site or in close proximity to the residential developments. To achieve higher density development would likely require consolidation of lots under a single ownership. ADOT and Municipal Transit both believe that commercial zoning is inconsistent with higher density along a transit route which is intended to promote residential opportunities to live a less automobile-dependent lifestyle.

Commercial Policy # 21: All new commercial development shall be located and designed to contribute to improving Anchorage's overall land use efficiency, compatibility, traffic flow, transit use, pedestrian access, and appearances. To eliminate the problems associated with strip commercial development, new commercial development shall adhere to the following principles: a) New commercial development shall occur primarily within Major Employment Centers, Redevelopment/Mixed-Use Areas, Town Centers, and Neighborhood Commercial Centers. b) In order to use existing commercial land more efficiently, redevelopment, conversion, and reuse of underused commercial areas shall be encouraged. c) Rezoning of property

to commercial use is only permitted when designated in an adopted plan. d) Architectural and site design standards shall improve the function, appearance, and land use efficiency of new commercial developments. e) New strip commercial development is strongly discouraged.

Commercial Policy #24: Town Centers are designated on the Land Use Policy Map in seven areas of the Bowl. Development of Town Center strategies shall provide direction for the design and construction of public improvements. Existing and new centers shall be characterized by: one-half to one mile in diameter; range of commercial retail/ services and public facilities that serve the surrounding neighborhoods; public facilities include indoor recreational facilities, parks, branch libraries, etc., schools, post office and transit facilities; medium to high density residential with an overall density target of 12-40 dwelling units per acre; enhanced pedestrian environment. The Muldoon-Debarr area has developed with many of the desirable characteristics of a town center such as commercial retail, restaurants, schools, and has medium to high density being constructed south of Debarr. There is also approved, but not constructed, additional commercial retail businesses (Wal-Mart and Sam's Club). However, there is no adopted Town Center Plan.

B. A zoning map amendment may be approved only if it is in the best interest of the public, considering the following factors:

1. The effect of development under the amendment, and the cumulative effect of similar development, on the surrounding neighborhood, the general area and the community; including but not limited to the environment, transportation, public services and facilities, and land use patterns, and the degree to which special limitations will mitigate any adverse effects.

Environment

Noise: All uses are subject to AMC 15.70 Noise Ordinance. A commercial use, such as a car wash, will generate noise from equipment, patrons, and cars entering and exiting the site and should be oriented toward the street front, away from neighboring uses. Adverse noise impacts have occurred when car wash exits and patron drying areas face away from the street front and toward neighboring uses. It is common for patrons to open car doors and turn up music while they dry and buff their vehicles. The heavy amount of vehicle traffic along Muldoon Road contributes to the increased levels of road noise.

Air: All uses are subject to AMC 15.30 South Central Clean Air Ordinance, and AMC 15.35 South Central Clean Air Ordinance Regulations.

Seismic: The petition area is primarily located in a moderately low ground failure susceptible zone.

Soils: Public utilities are available.

Floodplain: Portions of this property are located in a floodplain. Development will require a floodplain permit.

Wetlands: None.

Land Use Patterns

Land to the north is zoned R-3 and developed residential, R-3/B-3 SL to the west and developed commercially and vacant, R-3/B-3 SL to the south developed with residential with some vacant lots and commercial, and R-3/R-2M to the east and partially developed residential (all of Block 3 is undeveloped, bounded by E. 11th to the north and E. 12th Court to the south, State Street to the west and Boston Street to the east).

Although much of Muldoon Road has been stripped with commercial, the area on the east side has remained residential. This site is important to the maintenance and continuity of viable future residential development to support the developing "town center" community-serving retail, public services, and public facilities that has and is developing on the west side of Muldoon, but within the general geographic perimeters of the Muldoon and Debarr.

Transportation/Drainage

Block 1 is bounded on the west by Muldoon Road; East 10th Avenue on the north; State Street (Aspen Street) on the east; and by East 11th Court on the south. Block 2 is bounded on the west by Muldoon Road; East 11th Court on the north; State Street on the east, and East 12th Court on the south.

Muldoon Road is classified as a class III, Major Arterial Road by the *Official Streets and Highways Plan*.

A 20 foot dedicated north-south alley divides Block 1 and Block 2: Lots 1 thru 6 Block 1, and Lot 1A Block 2, front onto Muldoon Road; Lots 7 thru 12 Block 1, and Lots 10 & S ½ of Lot 11 Block 2, and Lots 12 and N ½ Lot 11 Block 2, front onto State Street. East 10th has a 30-foot half street dedication.

Traffic Engineering confirmed that signal and road upgrades are planned with the proposed Creekside Drive North for the recent Wal-Mart plat S-11451 as a result of a traffic impact analysis. The signal at 12th and Muldoon will be moved north to 11th and Muldoon. State Street between 11th and 12th will be upgraded/paved to provide circulation between the Creekside Plaza Mall and the signal at 11th. 11th is classified as an IB collector street. The roadway/signal construction will occur when the Wal-Mart development moves ahead. Connection of 10th Avenue onto Muldoon will require authorization from ADOT&PF. Because of 10th's proximity to the future signal at 11th and Muldoon, it is likely only right turns will be permitted on and off Muldoon to 10th Avenue. Recent traffic counts along Muldoon Road between Debarr Road and 6th Avenue are 35,266 daily trips.

The north branch of the South Fork of Chester Creek is within the 10th Street alignment, and has a 25-foot stream setback requirement. The stream is generally located in an open man made channel over the top of the sanitary sewer. The creek enters the storm drain system at Muldoon Road. Portions of Block 1 are located in Flood Hazard Zone A2, Map # 0235, and will require a flood hazard permit for any construction.

Project Management &I Engineering has no objection to the rezoning but anticipates further discussions and/or a replat of the lots shown on the car wash site plan. At the least, PM&E will require an Improvement to Public Places agreement for the improvement of 10th Avenue and the alley, along with the appropriate drainage calculations, drainage plans and easements associated with the anticipated development.

Public Services and Facilities

Roads: See above. Public Transportation is located along Muldoon and Debarr Roads.

Utilities: public sewer, water, gas, and electrical utilities are available to the surrounding property. The AWWU water main is

located in E. 11th Avenue and is currently available to most of the properties. AWWU's sanitary sewer is located in the alleyway between Muldoon Road and State Street. AWWU has no objection to the rezoning.

Public Safety: The petition site is located within the Police, Fire, Building Safety, Parks, and Anchorage Roads and Drainage service areas.

2. The supply of land in the economically relevant area that is in the use district to be applied by the zoning request or in similar use districts, in relationship to the demand for that land.

The impetus for this rezoning stems from a search by the petitioner to locate and develop a car wash business (similar to one he developed near Costco at Bragaw and Debarr Roads). He has determined through his research that the Town Center area of Muldoon and Debarr is in need of auto related businesses, in particular a car wash. Car wash businesses require high volumes of vehicle traffic and direct access to a high volume road. This location satisfies these criterions.

There are scattered B-3 lots in the area that are undeveloped or underdeveloped. Many lots are small in area, and they are narrow and shallow lots under mostly individual ownership, similar to the subject property. At the southwest corner of Debarr and Muldoon Roads are six undeveloped B-3 SL lots consisting of 9.3 acres in the Alaska Village Subdivision.

3. The time when development probably would occur under the amendment, given the availability of public services and facilities and the relationship of supply to demand found under paragraph 2 above.

Development of the car wash will begin soon after approval of the rezoning by the Assembly. No other redevelopment is proposed.

4. The effect of the amendment on the distribution of land uses and residential densities specified in the Comprehensive Plan, and whether the proposed amendment furthers the allocation of uses and residential densities in accordance with the goals and policies of the Plan.

This application is for a change in zoning classification from residential R-3 to commercial B-3. Although the B-3 District

allows higher density residential, the application does not propose mixed development or offer any special limitations. If B-3 zoning is approved there would be a loss of R-3 residential density ranging from a minimum of 8 DUA or 15 units (as called for by the Transit Supportive Development policy #9 and #34) to 11-20 DUA or 21-38 units (1982 Generalized Residential Intensity Densities).

The proposed B-3 zoning is in conflict with supporting residential infill and redevelopment that would promote a less automobile dependent lifestyle, and Policy #14 which discourages the loss of residentially zoned property into commercial.

DISCUSSION:

The subject property is located within the one-half to one mile radius of the Muldoon Town Center Anchorage 2020 designation. Town centers contemplate mixed-use development which includes residential along with commercial development. However, there is no adopted Town Center Plan in place as called for by Policy #24 and there are no adopted design standards to guide such development. Auto related businesses typically do not fall within this concept. The approved development plans over the past several years at the southwest and northwest corners of Muldoon and Debarr provides mixed residential and commercial development.

The petition site might be appropriate for a rezoning to B-3, as it is in an area where mixed-use development would be desirable due to access, location and size, and in light of the changing traffic patterns and signals resulting from the future Wal-Mart development. There is an existing legal nonconforming auto repair use occupying three of the six lots which front onto Muldoon. The proposed car wash would occupy the remaining three lots along Muldoon, plus two fronting onto State Street. Both of these uses would become conforming in the B-3. However, these auto-related uses are typically not conducive to fostering compact mixed-use development with a strong pedestrian environment. Also, without a consolidated development plan for the entire petition site that would include residential uses, it may be premature to rezone it to B-3. The existing duplex and single family dwellings would become nonconforming under B-3.

The proposed zoning is inconsistent with the *Anchorage 2020 Anchorage Bowl Comprehensive Plan*, specifically Policy #21


principle's b, c and e – existing commercial land in the Muldoon area is underused and is encouraged to be redeveloped, and rezoning to a commercial zoning district is only permitted when designated in an adopted plan, and new strip commercial development is strongly discouraged. There is no adopted town center plan. It is also inconsistent with Transit supportive development corridor policies #30, #34, #37; Residential policies #9, #14, #24. Land Use Policy #34; General Land Use Policy #5 and #7.

Assuming Mrs. Sun did not wish to participate in this rezoning and her 38,500 square feet (five properties) were excluded from the total 2.65 rezone area, 1.77 acres would still remain. Zoning boundaries extend to the middle of a street right-of-way. Mrs. Sun's lots separate the subject lots in Block 1 from Block 2 along the street right-of-way, and the lots would no longer be adjacent (share a common lot line) to one another and create an illogical zoning boundary.

RECOMMENDATION:

The Department finds that the requested rezoning from R-3 to B-3 does not meet the standards of the Comprehensive Plan and AMC 21.20.090 rezoning standards.

Reviewed by:



Tom Nelson
Director

Prepared by:



Mary Aultor
Senior Planner

(Case 2009-003)

(Tax ID No.006-121-07 through 16; -49; -63; -64; -68)

1

LOCATION MAPS

2

COMMENTS

Reviewing Agency Comment Summary Case No.: 2009-003

Agency	Comments Included in Packet	No Comments and/or Objections	No Response
Air Pollution Control			
Alaska DEC			
Alaska Division of Parks			
Alaska DOT/PR	✓		
Anchorage Police Department			
AWWD	✓		
DHHS Environmental	✓		
DHHS Social Services			
Community Council			
Fire Prevention		✓	
Flood Hazard			
MAP			
On-Site Water & Wastewater		✓	
Parks and Recreation	✓		
Project Mgt & Engineering	✓		
Right-of-Way		✓	
School District			
Transit	✓		
Treasury			
Traffic & Transportation Planning	✓		
Watershed Management Services			

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

CENTRAL REGION - PLANNING

4111 AVIATION AVENUE
P.O. BOX 196900
ANCHORAGE, ALASKA 99519-6900
(907) 269-0520 (FAX 269-0521)
(TTY 269-0473)

December 1, 2008

Rezoning 2009-003

RECEIVED

DEC 03 2008

Municipality of Anchorage
Zoning Division

Jerry Weaver
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99519-6650

Dear Mr. Weaver:

The Alaska Department of Transportation and Public Facilities, ADOT&PF, planning office has reviewed the application to rezone these five parcels adjacent to Muldoon Road.

Automobile comments:


- We appreciate that the site plan does not show driveways directly onto Muldoon Road. We find in the winter car washes need room for vehicles to drip dry before exiting the property. The icing of roads is a problem where vehicles from car washes directly access onto roadways.
- Upon getting Municipality approval, we would be favorable to granting a driveway onto Muldoon Road from 10th Avenue.

Transit Corridor comments:

- Rezoning this land to commercial does not meet the 2020 Anchorage Comprehensive Plan's goals of building higher density housing within transit-supported development corridors. Page 54 of the plan discusses encouraging land use to support higher levels of transit service. Page 58 gives the strategy of building higher density housing within corridors.

In the short term a car wash on this site, if developed as shown on the site plan, will not have a detrimental effect on Muldoon Road traffic. In the long term the car wash would create inefficiencies in supporting transit by removing nearby residential property from the corridor.

Sincerely,


Mark Parniele
Area Planner

/aj
cc: Tucker Hurn, Right-of-Way Agent
Scott Thomas, P.E., Regional Traffic Engineer

"Providing for the movement of people and goods and the delivery of state services."

**Municipality Of Anchorage
ANCHORAGE WATER & WASTEWATER UTILITY**

RECEIVED

M E M O R A N D U M

DEC 10 2008

~~Municipality of Anchorage~~
Zoning Division

DATE: December 3, 2008

TO: Jerry Weaver, Zoning Division Administrator, Planning Department

FROM: Paul Hatcher, Engineering Technician III, AWWU *PH*

SUBJECT: Zoning Case Comments
Planning & Zoning Commission Hearing January 05, 2009
Agency Comments due December 08, 2008

AWWU has reviewed the materials and has the following comments.

09-003 **SUNNY ACRES BLK 1 LTS 1-12, BLK 2 LTS 1A & 10-12, Request: Rezoning to B-3 General business district, Grid SW1341**

1. AWWU water main located in E 11th Avenue is currently available to most of the properties.
2. AWWU sanitary sewer located in Alleyway between Muldoon Road and State Street is currently available to these properties.
3. AWWU has no objection to this request for rezoning.

09-004 **SPENARD ROAD (W 30th to Chester Creek), Request: Site plan review for a public roadway, Grid SW1429, SW1529, SW1629**

1. AWWU water main located throughout portions of Spenard Road.
2. AWWU sanitary sewer located throughout portions of Spenard Road.
3. AWWU requests that locates be performed prior to any construction so that clearances may be maintained.
4. AWWU has no objection to this site plan review.
5. AWWU requests that the AWWU Planning Department be involved in the upcoming design review and any construction projects that pertain to this project.

09-006 **ARR 8391 US SURVEY 1170 PTN, Request: Site plan review for an office/retail complex, Grid SW1230, SW1231**

1. AWWU water main located in W 1st Avenue is currently available to this property.
2. AWWU sanitary sewer located in W 1st Avenue is currently available to this property.
3. AWWU has no objection to this site plan review.

If you have any questions pertinent to public water and sanitary sewer, you may call me at 564-2721 or the AWWU planning section at 564-2739, or e-mail paul.hatcher@awwu.biz.



MUNICIPALITY OF ANCHORAGE

Department of Health and Human Services



Date: 11/25/08
To: Department of Planning, Zoning and Platting Division
From: Nathan D. Johnson, Division Manager, DHHS
Subject: Comments Regarding CUP 2009-003

RECEIVED

NOV 25 2008

Municipality of Anchorage
Zoning Division

CUP 2009-003

Rezoning to B-3 general business district

Comments re Noise

This revised CUP describes rezoning to allow a proposed carwash project, originally submitted as CUP #2008-022. Recommend assessment of potential noise impact on existing and future residential areas. Layout of the carwash has historically determined areas of impact, as the carwash is responsible for the noise from equipment and patrons. Please verify that all noise reduction measures meet the standards as shown below, and maintain compliance as surrounding area develops.

No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level measured at any location on a boundary between two receiving land use categories that exceeds the arithmetic mean of the respective sound level limits set forth for such receiving land use categories in table 1.

Table 1. Sound Levels by Receiving Land Use states (Receiving Land Use Category / Time / Sound Level Limit (dB(A))):

Residential area

7:00 a.m. – 10:00 p.m.	60 dB(A)
10:00 p.m. – 7:00 a.m.	50 dB(A)

Commercial area

7:00 a.m. – 10:00 p.m.	70 dB(A)
10:00 p.m. – 7:00 a.m.	60 dB(A)

Industrial area

At all times	80 dB(A)
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CC: Diane Ingle, Director, DHHS



MUNICIPALITY OF ANCHORAGE
PARKS & RECREATION DEPARTMENT
MEMORANDUM



DATE: December 26, 2008
TO: Jerry T. Weaver, Zoning Div. Administrator
FROM: Tom Korosei, Park Planner
SUBJECT: Planning and Zoning Case Review

RECEIVED

DEC 29 2008

Municipality of Anchorage
Zoning Division

Anchorage Parks and Recreation has the following comments:

CASE NO. **CASE**

2007-077-2 **Rezoning approx. 12.88 acres from R-1A one-family res. to R-4SL multiple family res.**
(2421 O'Malley Rd. at Independence Dr.; for proposed multifamily development)

S11586-2 **Plat for review by Planning and Zoning Commission** (2421 O'Malley Rd. at Independence Dr.; replat four parcels into three parcels, with vacation of access and elect. esmt.)

The *Areawide Trails Plan* shows multi-use paved trail, planned multiuse paved and unpaved trails, and planned grade-separated trail crossing in the vicinity of the subject property. Parks and Recreation recommends adequate control of increased storm water runoff from future development of the subject property to prevent potential adverse drainage impacts to properties nearby or down grade, including nearby Municipal parkland.

2009-003

Rezoning approx. 2.65 acres from R-3 multiple-family res. to B-3 general business.
(Muldoon Rd. vic. E. 10th Ave.; for proposed car wash)

The *Areawide Trails Plan* shows multi-use paved trail and planned bicycle route along adjoining Muldoon Rd.

2009-004 **Site plan review for a public roadway** (Spenard Rd. reconstruction, Chester Crk. to Benson Blvd.)
(Parks and Recreation has provided comments regarding this project to the Project Management and Engineering Dept.)

2009-006 **Site plan review for an office/retail complex** (155 W. 1st Ave.; Alaska Railroad Corp. Freight Shed Core & Shell)
The *Areawide Trails Plan* shows multi-use paved trail along adjoining W. 1st Ave.



Municipality of Anchorage
Project Management & Engineering Department



Comments to Miscellaneous Planning and Zoning Applications

RECEIVED

DATE: December 9, 2008

DEC 09 2008

TO: Jerry Weaver, Platting Officer

Municipality of Anchorage
Zoning Division

FROM: Sharen Walsh, P.E. -- Private Development - Plan Review Engineer

SUBJECT: Comments for Planning & Zoning Commission Public Hearing date:
January 5, 2008

Case 2009-003, Rezoning to B-3 General Business District

Project Management and Engineering has the same comments as we had for the previous case 2008-022, which are repeated here for convenience:

PM&E notes that the proposed site plan submitted with this request shows access off 10th Avenue and a traffic circulation plan which criss-crosses the alley between Muldoon Road and State Street. PM&E has no objection to the rezoning but anticipates further discussions and/or a replat of the lots shown on the site plan. At the least, PM&E will require an Improvement to Public Places agreement for the improvement of 10th Avenue and the alley, along with the appropriate drainage calculations, drainage plans and easements associated with the anticipated development.

Case No. 2009-004 – Site plan review for a public roadway

The Private Development Division of Project Management and Engineering notes that technical review of this project is being conducted by PM&E's Roads and Drainage Division. PM&E/PD has no additional technical comment.

Graves, Jill A.

RECEIVED

From: Staff, Alton R.
Sent: Monday, December 08, 2008 4:52 PM
To: McLaughlin, Francis D.; Graves, Jill A.; Stewart, Gloria I.
Subject: Zoning and Plat Case Reviews

DEC 09 2008

Municipality of Anchorage
Zoning Division

Case No. 2009-003 People Mover has a transfer center at Muldoon and Debarr Road. The property under rezoning consideration is within the Muldoon city center and is along a transit supportive development corridor. Per Anchorage 2020, page 53; "The overall intent is to create a city in which there will be more opportunities to live a less automobile-dependent lifestyle." The rezone of residential property to accommodate a car-wash does not seem consistent with a less automobile-dependent lifestyle.

Case No. 2009-004 People Mover has worked with the design of Spenard Road to accommodate bus stop and pedestrian improvements.

Case No. 2009-007 The Public Transportation Department has no comment.

The Public Transportation Department has no comment on the following short plat cases:

S11581-2
S11706-1
S11714-1
S11715-1
S11716-1

Thank you for the opportunity to review.

Alton R. Staff
Planning Manager
Public Transportation Department
3600 Dr. Martin Luther King Jr. Ave.
Anchorage, AK 99507
907-343-8230



MUNICIPALITY OF ANCHORAGE
Traffic Department



MEMORANDUM

RECEIVED

DATE: December 2, 2008
TO: Jerry T. Weaver, Platting Supervisor, Planning Department
THRU: Leland R. Coop, Associate Traffic Engineer
FROM: Mada Angell, Assistant Traffic Engineer
SUBJECT: Traffic Engineering and Transportation Planning Comments for
January 5, 2009 Planning & Zoning Commission

09-003 Sunny Acres; Rezone from R-3 to B-3; Muldoon Road between 11th
Avenue & 12th Avenue

Traffic Engineering and Transportation Planning have no comment on this rezone.

09-004 Spenard Road Reconstruction; from Chester Creek to Benson Blvd

Traffic Engineering and Transportation Planning have no comment. Traffic Department conducts road reconstruction reviews during the Project Management and Engineering design review process.

09-006 Alaska Railroad Reserve; Site Plan Review for the renovation of
the Freight Shed on 1st Avenue

- The Master Development Plan for a PC Zoned District requires that parking areas be approved as part of the Master Development Plan. Verify that the parking approved for this site in the Master Development Plan is provided.
- All work within Municipal rights of way and encroachments within Municipal rights of way must be permitted by the Municipalities Right of Way Group.



**Municipality of Anchorage
Development Services Department
Building Safety Division**

MEMORANDUM




RECEIVED

DEC 08 2008

Municipality of Anchorage
Zoning Division

DATE: December 8, 2008

TO: Jerry Weaver, Jr., Platting Officer, CPD

FROM:  Daniel Roth, Program Manager, On-Site Water and Wastewater Program

SUBJECT: Comments on Cases due December 8, 2008

The On-Site Water & Wastewater Program has reviewed the following cases and has these comments:

2009 - 003 Rezoning to B - 3 General business district

No objection

2009 - 004 Site plan review for a public roadway

No objection

2009 - 006 Site plan review for an office/retail complex

No objection

Fire plan review comments 12/2008 M. Schwan

S11716-1	Eagle Heights	No Objection
S11581-2	Gamble Sub.	No Objection
S11706-1	Simonson Homestead	No Objection
2009-003	Sunny Acres	No Objection
2009-004	Chester Creek Bridge to 30th	No Objection
2009-006	T13N R3W AK Railroad	No Objection
2009-007	Pennington Park Sub. Blk 2 Lt 7A	Comment: I spoke with Capt. Hoke at station 10 and he did not consider the deck to impose a hazard to fire fighters. There shall be no structures within 10' of deck/house.

RECEIVED

DEC 08 2008

Municipality of Anchorage
Zoning Division



MUNICIPALITY OF ANCHORAGE

Development Services Department
Right of Way Division
Phone: (907) 343-8240 Fax: (907) 343-8250



RECEIVED

DEC 08 2008

DATE: December 5, 2008
TO: Planning Department, Zoning and Platting Division
THRU: Jack L. Frost, Jr., Right of Way Supervisor *L*
FROM: Lynn McGee, Senior Plan Reviewer *L*
SUBJ: Request for Comments on Assembly case(s) for January 5, 2009.

Right of Way Division has reviewed the following case(s) due December 8, 2009.

- 09-003 Sunny Acres, Block 1, Lots 1, 2, 3, 11, & 12, grid 1341
(Rezoning Request, R-3 to B-3)**
Right of Way Division has no comments at this time.
Review time 15 minutes.
- 09-004 Spenard Road, grids 1429, 1529, & 1629
(Site Plan Review, Public Roadway)**
Right of Way Division will provide design review comments to the PME Department.
Review time 15 minutes.
- 09-006 Ship Creek Crossing, Block 1, Lot 4, grids 1230 & 1231
(Site Plan Review, Office Retail Complex)**
Right of Way Division is concerned the planned development will impact utilities and the long term usability of 1st Avenue, which becomes a collector road at the intersection with North C Street.
The proposed front of the building will face the unattractive eyesores of the warehouses and commercial parking lot. The walkway may benefit from a better view to the north and the potential for landscaping and a courtyard are also on the north. The improvements will impact the accessibility of the existing and proposed utilities on the south side of the building.
The elevated walkway encroaches 8' - 8.5' into the 1st Avenue right of way; a necessary transportation corridor and impacting future utility and road improvements. The walkway stairs and landings deposit pedestrians to a street without existing or planned sidewalks. The building permit design currently under review omits the sidewalks depicted on the concept drawings, the circulation diagrams and the planning review documents.
The proposed storm drain location, under the elevated walkway is in an unacceptable location as it is inaccessible for maintenance and repair. Even if moved from under the walkway, the orientation is to be at MASS approved location unless waived by written approval by the MOA Engineer.
Review time 15 minutes.

3

APPLICATION

Burton M. Bomhoff
19239 Adrian Ave.
Chugiak, AK 99677

Jerry T. Weaver. Jr.
Zoning Division Administrator
Municipality of Anchorage
4700 Bragaw St.
Anchorage, AK 99510-6650

October 29, 2008

Dear Mr. Weaver:

Attached is our Application for Zoning Map Amendment to rezone Block 1, and portions of Block 2, Sunny Acres Subdivision from R-3 to B-3. This property fronts on the east side of Muldoon Road between 10th and 12th Avenues.

Documents in support of rezoning are attached and include:

Completed Application for zoning Map amendment

Response to "Standards for Zoning Map Amendments" Questionnaire

Petition to rezone this property signed by owners of 73% of property to be rezoned

Location Map

Copy of Block 1 & 2, Sunny Acres showing lots and outline of lots to be used for carwash

Copy of Block 1 & 2, Sunny Acres showing petition area and existing adjacent B-3 zoning.

Resolution by the Northeast Community Council Resolution which supports the proposed rezone from R-3 to B-3 for commercial development of Sunny Acres, Block 1, as it is compatible with the 2020 Plan for the Muldoon Road area.

Proposed Site Plan for construction of an automatic carwash

Site Photos

Check in the amount of \$6,000

This application is essentially a revision of our application of November 20, 2007, and is intended to solve concerns voiced by members of the Commission. Our earlier application failed on a vote of four ayes to two nays. While a majority of those present voted in favor, a short commission that night worked against passage. In any case, we've resolved the concerns voiced that night.

There was concern regarding re-zoning Mrs. Sun's home site on Lots 7, 8, 9 & 10 of block 1, against her wishes. These lots are no longer needed to make up the 1.75 acres minimum area required by the ordinance. The owners of three lots adjoining the original petition area recently requested that they be added to the petition providing a total area under signature of 1.77 acres. These added lots include Lots 10, 11, and 12 of Block 2, Sunny Acres, to be added to the original petition area. An auto repair business occupies Lot 12 and the north half of Lot 11, a non-conforming use. The original request was just for Block 1 of Sunny Acres. We included Lot 1A, Block 2, in the petition at the suggestion of staff as the most logical overall boundary for the rezoning petition.

In addition to the question of Mrs. Sun's property, a question had been raised regarding the affect that our carwash might have on the small drainage located within the 10th Avenue right-of-way. There was also concern regarding the affect on adjacent residential areas. I recently spent two weeks meeting with equipment manufacturers and carwash operators from Florida to Colorado to seek solutions that will narrow the facilities foot print on our property. Based on this research, we can develop a site plan using newer alternative carwash technology which significantly narrows the buildings width. We anticipate no impact on the small drainage, and very little impact on residential areas.

The question of strip development along Muldoon Road was raised. This project will result in two businesses, each separate entities fronting on Muldoon Road along an entire city block. This is not strip development under any conceivable definition. If this type of development were not permitted, then the small businessman has no hope in Anchorage.

The property lies on Muldoon's busiest street. Noise levels on Muldoon Road at this location exceed 100 decibels. This is double the noise level permitted in a residential area making it unacceptable to require that a residential development be placed here.

Sound planning strategy has always placed a business buffer along busy thoroughfares which are noisy and dangerous. This strategy is consistent with recent similar zoning amendments in close proximity to this site on both DeBarr Road and Muldoon Road.

The above is discussed in greater detail in our responses to STANDARDS FOR ZONING MAP AMENDMENTS.

Please let me know if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Burton M. Bomhoff", written in a cursive style.

Burton M. Bomhoff

Application for Zoning Map Amendment

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

Please fill in the information asked for below.

PETITIONER*	PETITIONER REPRESENTATIVE (IF ANY)
Name (last name first) <i>Bomhoff, Burt</i>	Name (last name first) <i>Same</i>
Mailing Address <i>19239 Adrian Ave Chugiak, AK 99567</i>	Mailing Address
Contact Phone: Day: <i>688-2084</i> Night: <i>830-3464</i>	Contact Phone: Day: Night:
FAX: <i>688-2084</i>	FAX:
E-mail: <i>burtb@mtaonline.net</i>	E-mail:

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

PROPERTY INFORMATION
Property Tax #(000-000-00-000): <i>See below</i>
Site Street Address: <i>East Side of Muldoon between 10th & 11th</i>
Current legal description: (use additional sheet if necessary) <i>Block 1, Sunny Acres Subdivision, Anchorage Recording Dist.</i>
Property Tax Numbers:
<div style="display: flex; justify-content: space-between;"> <div> <i>006-121-07-000</i> <i>006-121-08-000</i> <i>006-121-09-000</i> <i>006-121-10-000</i> <i>006-121-11-000</i> <i>006-121-12-000</i> <i>006-121-13-000</i> <i>006-121-14-000</i> </div> <div> <i>006-121-15-000</i> <i>006-121-16-000</i> <i>006-121-68-000</i> <i>006-121-49-000</i> <i>006-121-63-000</i> <i>006-121-64-000</i> </div> </div>
<div style="display: flex; justify-content: space-between;"> <div>Zoning: <i>R-3</i></div> <div>Acreage: <i>2.65 Acres</i></div> <div>Grid # <i>1341</i></div> </div>

I hereby certify that (I am)/(I have been authorized to act for) owner of the property described above and that I petition to rezone it in conformance with Title 21 of the Anchorage Municipal, Code of Ordinances. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the rezoning. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff, the Planning and Zoning Commission or the Assembly for administrative reasons.

<i>10-29-08</i>	<i>Burt M Bomhoff</i>
Date	Signature (Agents must provide written proof of authorization)

Accepted by: _____ Poster & Affidavit: _____ Fee: _____ Case Number: _____

COMPREHENSIVE PLAN INFORMATIONAnchorage 2020 Urban/Rural Services: ☒ Urban ☐ RuralAnchorage 2020 West Anchorage Planning Area: ☒ Inside ☐ Outside

Anchorage 2020 Major Urban Elements: Site is within or abuts:

- ☐ Major Employment Center ☐ Redevelopment/Mixed Use Area ☒ Town Center
☐ Neighborhood Commercial Center ☐ Industrial Center
☐ Transit - Supportive Development Corridor

Eagle River-Chugiak-Peters Creek Land Use Classification:

- ☐ Commercial ☐ Industrial ☐ Parks/opens space ☐ Public Land Institutions
☐ Marginal land ☐ Alpine/Slope Affected ☐ Special Study
☐ Residential at _____ dwelling units per acre

Girdwood- Turnagain Arm

- ☐ Commercial ☐ Industrial ☐ Parks/opens space ☐ Public Land Institutions
☐ Marginal land ☐ Alpine/Slope Affected ☐ Special Study
☐ Residential at _____ dwelling units per acre

ENVIRONMENTAL INFORMATION (All or portion of site affected)

- Wetland Classification: ☒ None ☐ "C" ☐ "B" ☐ "A"
 Avalanche Zone: ☒ None ☐ Blue Zone ☐ Red Zone
 Floodplain: ☒ None ☐ 100 year ☐ 500 year
 Seismic Zone (Harding/Lawson): ☐ "1" ☒ "2" ☐ "3" ☐ "4" ☐ "5"

RECENT REGULATORY INFORMATION (Events that have occurred in last 5 years for all or portion of site)

- ☐ Rezoning - Case Number:
☐ Preliminary Plat ☐ Final Plat - Case Number(s):
☐ Conditional Use - Case Number(s):
☐ Zoning variance - Case Number(s):
☐ Land Use Enforcement Action for
☐ Building or Land Use Permit for
☐ Wetland permit: ☐ Army Corp of Engineers ☐ Municipality of Anchorage

APPLICATION ATTACHMENTS

- Required: ☒ Area to be rezoned location map ☒ Signatures of other petitioners (if any)
☒ Narrative statement explaining need and justification for the rezoning; the proposed land use and development; and the probable timeframe for development.
☐ Draft Assembly ordinance to effect rezoning.
- Optional: ☐ Building floor plans to scale ☒ Site plans to scale ☐ Building elevations
☐ Special limitations ☐ Traffic impact analysis ☐ Site soils analysis
☒ Photographs

APPLICATION CHECKLIST

1. Zoning map amendments require a minimum of 1.75 acres of land excluding right-of-way or a boundary common to the requested zone district.
2. The petitioning property owner(s) must have ownership in at least 51% of property to be rezoned.

Municipality of Anchorage

Department of Community Planning and Development

P.O. Box 196650

Anchorage, Alaska 99519-6650

STANDARDS FOR ZONING MAP AMENDMENTS

The following narrative is to address Municipal Zoning Standards relative to rezoning Block 4, Sunny Acres Subdivision on the east side of Muldoon Road between 10th and 11th from zone R-3 to B-3. Also included are Lots 1A, 10, 11, and 12 of Block 2, Sunny Acres. The proposed amendment area is 2.65 acres and abuts Lot 2-B of Block 2 which is presently zoned B-3. The purchaser of Lots 1, 2, 3, 11 & 12, proposes to construct a carwash. An auto repair facility already operates on Lots 4, 5 & 6. Lot 1A is vacant, Lot 12 and the north half of Lot 11 is occupied by an auto repair facility. Except for the owner of Lots 7, 8, 9 and 1A, all owners support the rezoning, and comprise 73% of the area.

See attached "STANDARDS FOR ZONING MAP AMENDMENTS" for description of "STANDARDS".

GENERAL

A. CONFORMANCE TO COMPREHENSIVE PLAN.

1. No TOWN CENTER PLAN has been developed for Muldoon since the adoption of ANCHORAGE 2020, Anchorage Bowl Comprehensive Plan on February 20, 2001. While no such guidelines are available to potential developers, we believe that this proposed Zoning Map Amendment is, in compliance with the intent of ANCHORAGE 2020.

The property is in the core of the Muldoon Town Center, less than a ¼ mile from its epicenter. The Anchorage 2020 Comprehensive Plan intends this area to include a mix of community serving retail shopping and services surrounded by medium to high density residential development. Traffic fronting this property is the highest volume along Muldoon Road exceeding 34,000 vehicles per day. It is the heaviest volume in east Anchorage. The Zoning Code states that the R-3 zone is intended to protect, preserve and enhance the primarily residential character of a district. It also states that the B-3 zone is specifically intended for general commercial uses in areas exposed to heavy automobile traffic. The ordinance clearly intends that property such as this is appropriate for business use and undesirable for residential development.

Noise studies indicate that levels generated by traffic on Muldoon Road at this location exceed 100 decibels. This is double the noise level permitted in a residential area making it unacceptable to require that a residential development be placed here. Noise levels 100' back from the street still exceeded 90 decibels. Noise from our carwash on DeBarr Rd. measure only 55 decibels 50' away from the facility. This is within the range that is acceptable for a residential area.

Sound planning strategy has always placed a business buffer along busy thoroughfares which are noisy and dangerous. With the above and what follows, this property is not suitable for residential development..

We ask that no Special Provisions be placed on the Re-zone of Lots 1, 2, 3, 11 & 12, Block 1, which would affect the other petition properties. Any requirements that the Municipality requires for us can simply be made part of the record and we will comply with them. Landscaping and buffers will be in compliance with B-3 zoning or better.

Lots 1, 2, 3, 11 & 12 have been for sale for many years with no takers because residential development is not practical, and commercial development is not permitted. The result is that the property is in limbo and has become an magnet for unsightly junk and debris. Undesirable strip development along Muldoon Road is an issue. This project will result in two businesses, each separate entities fronting on Muldoon Road along an entire city block. This is not strip development under any conceivable definition.

Our request is consistent with similar zoning approvals nearby on both DeBarr Road and Muldoon Road. This pertains to property owned and under development by the Municipality of Anchorage as well as private property. All of the developments which we studied have zoned the portions fronting Muldoon Road, and fronting on DeBarr Road B-3 zoning. R-3 residential areas were located away from the noise, congestion and hazards related to Muldoon Road's high volume of traffic.

Muldoon Estates, the old Alaska Greenhouse property is presently owned by the Municipality of Anchorage and is under development by the Heritage Land Bank. The Land Bank is zoning the entire Muldoon Frontage B-3, to a depth of 675', with R-3 behind that.

Cook Inlet Housing Authority is developing a residential complex on the Alaska Village property in the SW quadrant of Muldoon and DeBarr. The frontage along both Muldoon Road and DeBarr Road is approved for B-3 zone to a depth of more than 250' with R-3 residential behind.

These properties are similar to ours, but larger, with all being in the core of the Muldoon Town Center, less than a ¼ mile from its epicenter, as is ours. All front on Muldoon Road, a major arterial highway.

Again, our request is consistent with Anchorage 2020. Anchorage 2020 intends that our area include a mix of community serving retail shopping and services surrounded by medium to high density residential development. Medium and high-density residential development, as well as commercial mixed use, is encouraged in aging and underutilized areas within and adjacent to Major Employment Centers. The town center concept encourages business development in the town center areas with a surrounding residential community which utilizes the town center.

We sincerely believe that a carwash at this site is a much needed service for Muldoon. No modern, touchless automatic carwash exists in East Anchorage. While the Comprehensive Plan didn't specifically show this land as B-3, it is important to note that Anchorage 2020 was implemented in 2001 and clearly intends that this property be business.

2. The proposed rezoning conforms to the density outlined in Anchorage 2020.
 - a. The amendment conforms to the generalized intensity of the applicable Comprehensive Plan map. The area is adjacent to neighborhood shopping centers and other traffic generators.
 - b. The rezoning will not impact residential intensity to a noticeable degree. There is a large amount of R-3 to offset the net loss, and most agree that property fronting on Muldoon Road is not appropriate for residential development because of extreme noise and other hazards. The property, upon which we propose to build our carwash, is now vacant. It has a history of commercial uses going back many years, but has never been used as residential property. The property is a growing negative impact on the area because of its "no man's land" status. It can't be developed as a business because of zoning but isn't suitable for residential, so has been a magnet for junk and questionable behavior.
 - c. The proposed rezoning does not affect residential density in either the surrounding neighborhood or the general area.

B. The rezoning to be in the best interest of the public. The Northeast Community Council voted to support the rezoning and the proposed carwash project on September 20, 2007, a significant indicator of "best public interest". It should be noted that the project was presented to the Council several months earlier with a request that no action be taken then. We wanted residents to have an opportunity to fully discuss the project prior to the September 20, meeting. This assured that no argument could be made that people had second thoughts after the vote.

1. At present, no automatic carwash exists to serve East Anchorage. There is considerable benefit and very little downside to rezoning this property, considering the following factors:

a. Environment: The development will have no known adverse impact on the environment. Statistics show that commercial carwash facilities use less water per wash than the average for cars washed in the driveway at home. The condition of the property at present is not consistent with the goals of Anchorage 2020. The property simply isn't suitable for residential development. Rezoning to an appropriate zone for its location within the Muldoon Town Center on this busy thoroughfare will encourage development of an attractive commercial facility.

The applicant recently spent two weeks meeting with equipment manufacturers and carwash operators from Florida to Colorado to seek designs that will narrow the facilities foot print on our property. Based on this research, we can develop a site plan using newer alternative carwash technology which significantly narrows the buildings width. This will minimize the impact on the small stream to the north and on adjacent residential areas.

b. Transportation: Transportation will not be affected. Average daily traffic on this section of Muldoon Road is in excess of 34,000 vehicles per day. If an automatic carwash is located convenient to the area, a touchless automatic carwash will draw customers primarily from existing drive-by traffic performing other errands. This will reduce traffic traveling greater distances resulting in a savings in fuel consumption and reduced air pollution.

c. Public Services and Facilities: No adverse impact is anticipated.

d. Land Use Patterns: The location of the proposed rezoning within the Town Center along with high traffic volumes on Muldoon Road make the proposed rezoning compatible with anticipated future growth patterns. Again, the property is well within the Muldoon Town Center.

2. The applicant has done an extensive search for undeveloped land and obsolete developments with similar zoning that would be appropriate for a carwash. No appropriately zoned property could be located that has sufficient area, exposure and configuration except for large tracts that are unaffordable and are more suitable for high volume retail uses. Some B-3 property is available; however none that can be purchased is suitable for this purpose. A carwash is badly needed for Muldoon.

3. It is expected that development will occur during 2009 if zoning is approved. All public utilities are available to the property including water, sewer, street, electricity and gas.

4. The proposed rezoning is consistent with use indicated in Anchorage 2020, the applicable Comprehensive Plan. The property is within the Muldoon Town center and is located less than ¼ mile from Town Center ground zero. It fronts on the busiest section of the area's busiest collector street which carries more than 34,000 vpd. Anchorage 2020 intends that town centers are to function as a focal point for community activities containing a mix of community-serving retail, public services among others. The plan goes on to state that a wide range of retail shopping and services is important to the life of town centers.

The town centers identified in the Land use Policy Map were selected because they already have many of the town center elements described. A quality, attractive touchless automatic carwash is one of the few services not available in the Muldoon Town Center.

It is respectfully requested that Block 4, Sunny Acres Subdivision be rezoned from R-3 to B-3.

APPLICATION FOR ZONING MAP AMENDMENT

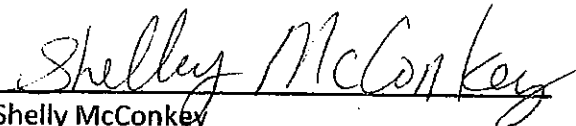
PETITIONER AND AUTHORIZED REPRESENTATIVE

I hereby petition the Municipality of Anchorage to rezone the following property from R-3 to B-3.

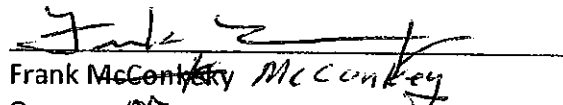
Legal description: Lot 12 and the North ½ of Lot 11, Block 2, Sunny Acres Subdivision, Anchorage Recording District, Alaska.

This property is 0.24 acres and is located on the south side of East 11th Court between Muldoon Road and State Street.

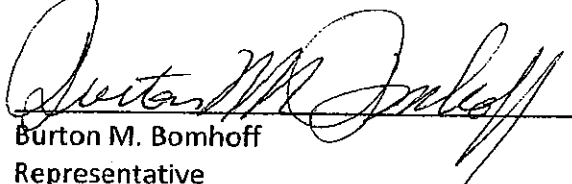
I own 100% of this property and hereby authorize Burton M. Bomhoff, to represent me and to act and work with the Municipality in seeking this rezoning in conformance with Title 21 of the Anchorage Municipal Code of Ordinances. I ask that it be added to the APPLICATION FOR ZONING MAP AMENDMENT FOR Block 1, Sunny Acres Subdivision, which is presently before the Municipality under Case 2008-022.


Shelly McConkey
Owner

5/12/08
Date


Frank McConkey
Owner

05-12-08
Date


Burton M. Bomhoff
Representative

5.12-08
Date

APPLICATION FOR ZONING MAP AMENDMENT


PETITIONER AND AUTHORIZED REPRESENTATIVE

We hereby petition the Municipality of Anchorage to rezone the following property from R-3 to B-3.

Legal description: Lot 10 and the South ½ of Lot 11, Block 2, Sunny Acres Subdivision, Anchorage Recording District, Alaska.

This property is 0.24 acres and is located on south of East 11th Court between Muldoon Road and State Street.

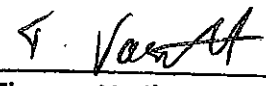
We own 100% of this property and hereby authorize Burton M. Bomhoff, to represent us and to act and work with the Municipality in seeking this rezoning in conformance with Title 21 of the Anchorage Municipal Code of Ordinances. We ask that it be added to the APPLICATION FOR ZONING MAP AMENDMENT FOR Block 1, Sunny Acres Subdivision, which is presently before the Municipality under Case 2008-022.



Ryan Schmittinger
Owner

6/7/08

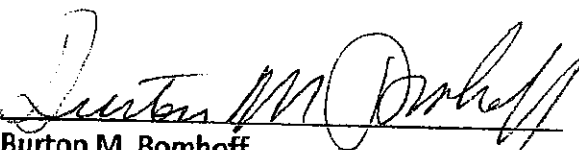
Date



Thomas Vasilev
Owner

6/9/08

Date



Burton M. Bomhoff
Representative

6.9.08

Date

APPLICATION FOR ZONING MAP AMENDMENT

PETITIONERS AND AUTHORIZED REPRESENTATIVE

We hereby petition the Municipality of Anchorage to rezone the following property from R-3 to B-3.

Legal Description: Block 1, Sunny Acres Subdivision, Anchorage Recording District, Alaska

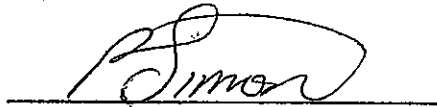
This property is 1.93 acres and is located on the east side of Muldoon Road between 10th Avenue and 11th Avenue.

The following persons own 67% of Block 1 and hereby authorize Burton M. Bomhoff, Purchaser of Lots 1, 2, 3, 11 & 12, to represent us and to act and work the Municipality in seeking this rezoning in conformance with Title 21 of the Anchorage Municipal, Code of Ordinances:



John A. Zappa

Owner of Lots 1, 2, 3, 11 & 12, Block 1, Sunny Acres Subdivision



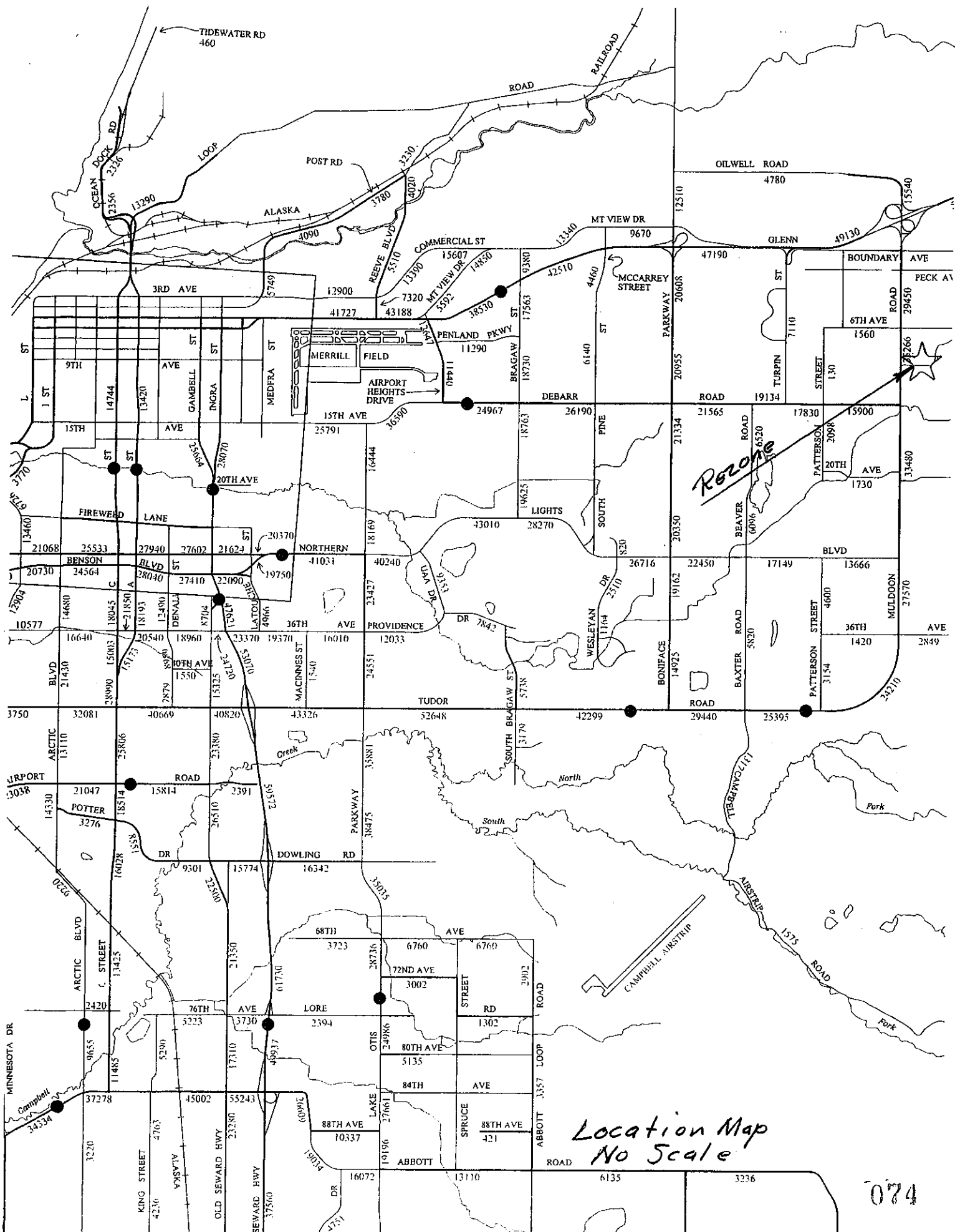
Phillip Simon

Owner of Lots 4, 5 & 6, Block 1, Sunny Acres Subdivision



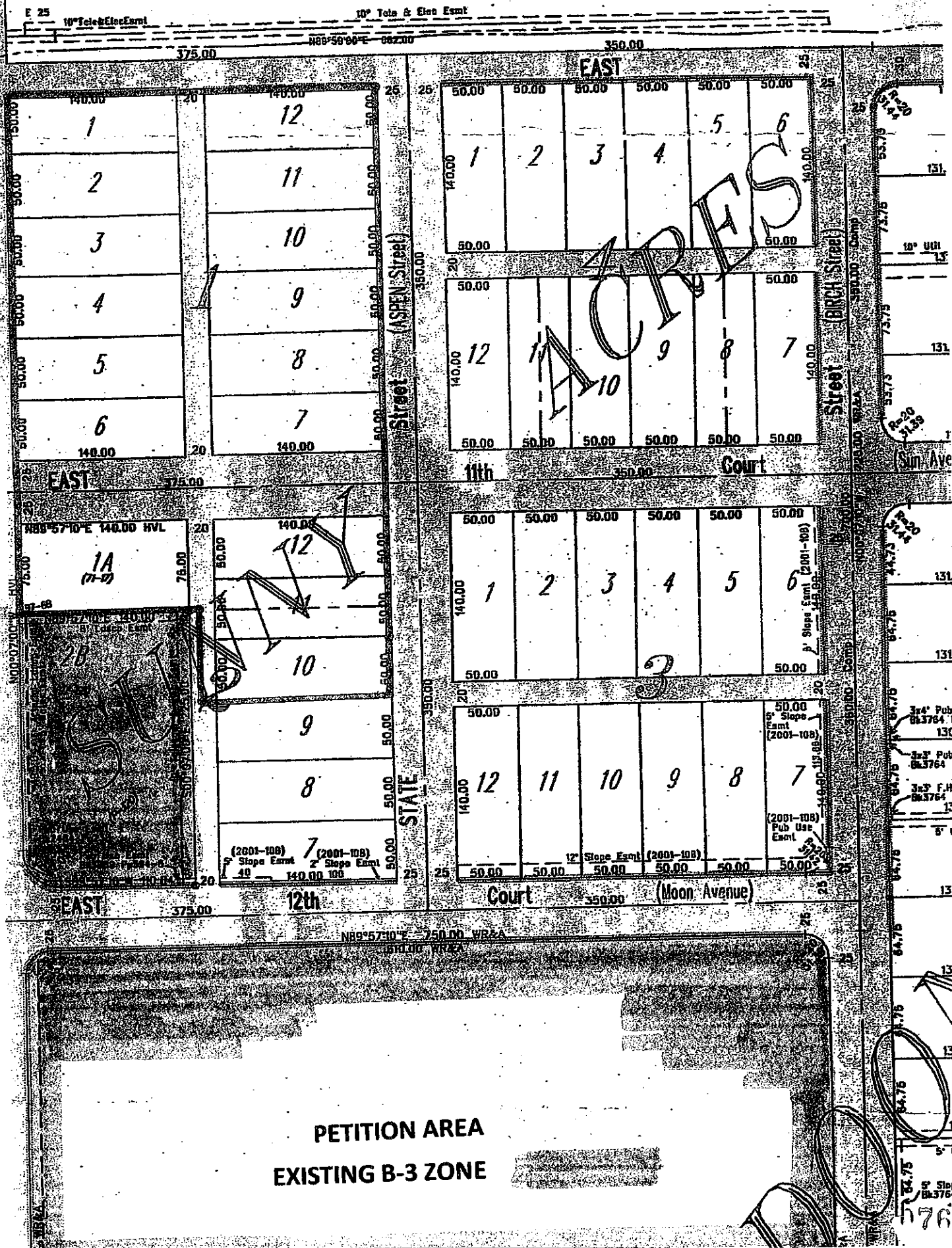
Burton M. Bomhoff,

Purchaser of Lots 1, 2, 3, 11 & 12



Location Map
No Scale

MULDOON ROAD



NECC

Northeast Community Council

Resolution 2 (Updated)

RECEIVED

TO: Planning & Zoning Commission
MOA Planning Department (fax: 343-7927)
Burt Bomhoff

DEC 10 2007

Municipality of Anchorage
Zoning Division

FROM: Peggy Robinson, President North East Community Council
333-1831 or 632-6436

SUBJECT: Case 2008 – 022. Rezoning Request for Sunny Acres, Block 1, Lots 1 thru 12,
generally located at the northeast corner of 11th Avenue and Muldoon Road

DATE: December 7, 2007

At the September 20th NECC membership meeting, a presentation was made by Burt Bomhoff about his plans to build a Grime Fighters Car Wash on Lots 1-3, 11 and 12 of Sunny Acres, Block 1, along Muldoon Road. The property is currently zoned R-3 and his request was to rezone it to B-3. His request also includes rezoning to B-3 the property owned by Phillip Simon, Lots 4-6, currently home to Hollywood Auto Repair. The rezone will also affect lots 7-10.

There was discussion about his business extending across the alley right of way, and access from the alley and State Street to East 10th, which currently is not improved. He would build East 10th for access into the property, and would clean up the North Fork of Chester Creek.

After discussion, a motion was made: *"NECC supports the proposed rezone from R-3 to B-3 for commercial development of Sunny Acres, Block 1, as it is compatible with the 2020 Plan for the Muldoon Road area. This rezone should subject improvements to a site plan review."*

The vote was 15 in favor, 4 opposed, and 2 abstaining.

We ask that you consider our motion as you make decisions in the best interests of the NECC and the community of Anchorage as a whole. Please contact me if you have any questions.

Sincerely,

Peggy Robinson

PHOTOS OF LOTS 1, 2 AND 3, BLOCK 1, SUNNY ACRES SUBDIVISION

REZONING APPLICATION FOR REZONING FROM R-3 TO B-3

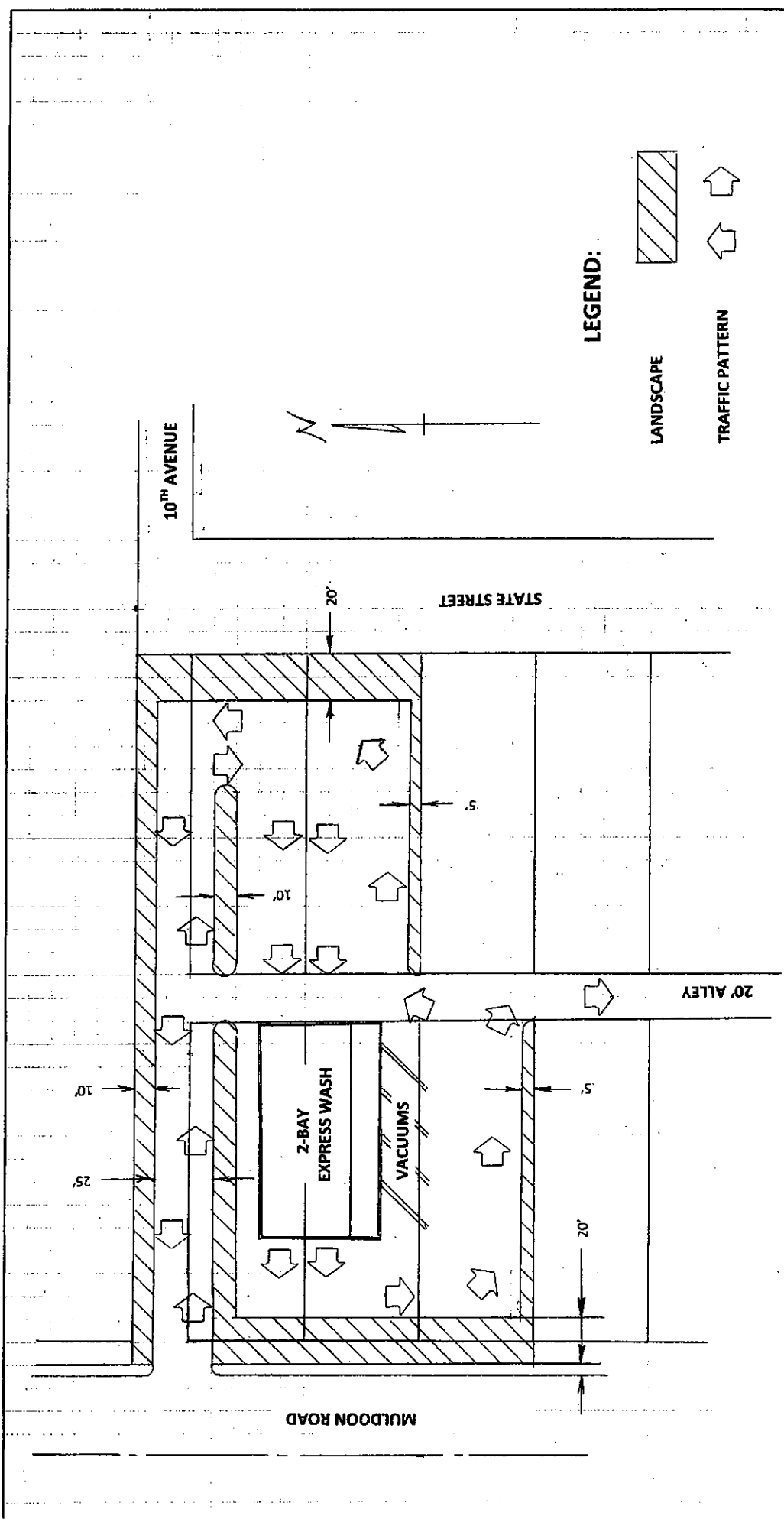


**VIEW FROM STREET LOOKING EAST ACROSS LOTS 1, 2, 3, 11 AND 12
BLOCK 1, SUNNY ACRES SUBDIVISION. NOTE DRIVEWAY APPROACH**

PHOTOS OF LOTS 1, 2 AND 3, BLOCK 1, SUNNY ACRES SUBDIVISION
REZONING APPLICATION FOR REZONING FROM R-3 TO B-3



**VIEW FROM SOUTHEAST CORNER OF LOT 3, BLOCK 1, SUNNY ACRES
SUBDIVISION. NOTE DRIVEWAY APPROACH AT NORTH END**



PRELIMINARY PROPOSED SITE PLAN		JOB _____ SHEET NO. _____ OF _____ CALCULATED BY _____ DATE _____ CHECKED BY _____ DATE _____ SCALE _____
MULDOON CARWASH		OCTOBER, 2008

4

POSTING AFFIDAVIT

RECEIVED

JAN 29 2009

PLANNING DEPARTMENT



AFFIDAVIT OF POSTING

CASE NUMBER: 2009-603

I, Brad Bomhoff hereby certify that I have ^{replaced (2 out of 3)} posted a **Notice of Public Hearing** as prescribed by Anchorage Municipal Code 21.15.005 on the property that I have petitioned for Re-zone. The notice was posted on _____ which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.
(Notice posted on 11th did not blow down and has remained posted since first put up.)
Affirmed and signed this 25th day of January, 2009

Brad Bomhoff
Signature (Brad Bomhoff)

LEGAL DESCRIPTION

Tract or Lot _____

Block _____

Subdivision _____

RECEIVED

JAN 29 2009

Municipality of Anchorage
Zoning Division



AFFIDAVIT OF POSTING

CASE NUMBER: 2009-003

I, Burton M. Bomhoff hereby certify that I have posted a Notice of Public Hearing as prescribed by Anchorage Municipal Code 21.15.005 on the property that I have petitioned for Rezone. The notice was posted on 12-23-08 which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.

Affirmed and signed this 23 day of December, 2008

Burton M. Bomhoff
Signature

LEGAL DESCRIPTION

Tract or Lot _____

Block 1, Lots 1-11
2, Lots 1A & 10-12

Subdivision Sunny Acres

5

HISTORICAL INFORMATION

MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2008-041

A RESOLUTION RECOMMENDING DENIAL OF A REZONING OF 1.93 ACRES +/- , FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO B-3 (GENERAL BUSINESS), FOR LOTS 1-12, BLOCK 1, SUNNY ACRES SUBDIVISION; GENERALLY LOCATED EAST OF MULDOON ROAD BETWEEN EAST 10TH AVENUE AND EAST 11TH COURT.

(Case 2008-022/2008-022-2, Tax I.D. No. 006-121-07 through -16; -68)

WHEREAS, a request has been received from Burt Bomhoff to rezone 1.93 ACRES +/- , from R-3 (Multiple Family Residential) to B-3 (General Business), for Lots 1-12, Block 1, Sunny Acres Subdivision; generally located east of Muldoon Road between East 10th Avenue and East 11th Court., and

WHEREAS, notices were published, posted and thirty-nine (39) public hearing notices were mailed and a public hearing was held on February 4, 2008, and a notice of reconsideration on June 2, 2008. The Northeast Community Council voted 15 in favor and 4 against in favor of the rezone at its meeting held September 20, 2007.

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

A. The Commission makes the following findings of fact:

1. This is a request by Burt Bomhoff on behalf of himself, John Zappa and Phillip S. Simon, who represent 67 percent of property ownership of the subject property. The remaining four lots are owned by Sun Wai Fong, who provided a letter to the Commission noting her belief that John A. Zappa had died some years ago and suggesting that the application could not be valid.
2. Seven of the twelve lots are vacant. Of the remaining five developed lots, three lots have a legal nonconforming auto repair with three apartment units, and two lots have a single duplex structure.
3. Mr. Bomhoff proposes to construct a carwash on Lots 1, 2, 3, 11 and 12 if the property is rezoned to B-3. He indicated that all of the chemicals at the carwash are non-toxic and will drain into a sump pump that collects any oil and the water then goes into the sanitary sewer. Surface runoff will drain either into the street or ditch.
4. An alley runs north/south through the block with six lots fronting Muldoon and six lots fronting State Street. Tenth Avenue is a half dedicated, unconstructed right-of-way and 11th Avenue forms the south boundary. Property zoned R-3 and R-2M to the north and east are developed residential. Commercial retail zoned B-3 SL is located to the south and west, as well as a few undeveloped R-3 lots to the south and west.
5. The petition site is located within an area designated by Anchorage 2020 as a Town Center and on a Transit-Supportive Development Corridor.

6. The Commission noted that AMC 21.20.040 says no zoning map amendment may be approved to an area less than 1.75 acres, and therefore without Mrs. Sun's property, this would not be a valid rezone application and the rezone would be a spot rezone because of the small size.
7. Issues addressing traffic volumes, access, the alley, State Street; the north branch of the South Fork of Chester Creek, possible noise impact from a carwash to adjacent residential areas, availability of underdeveloped or undeveloped commercial land, how compatible commercial at this location is to existing residential, redevelopment of the subject property as multi-family residential similar to that found between Northern Lights Boulevard and Muldoon and Debarr/Muldoon heading north, were discussed.
8. Public testimony objecting to the rezone were based on a preference for residential development; the properties proximity to the creek and concern that if 10th Avenue were ever put through that there would be a need to preserve the 25-foot setback; that runoff from snow removal, car waxing etc would go directly into the creek; objection to more curb cuts onto Muldoon.
9. Peggy Robinson, representing the Northeast Community Council, explained the council's support of the rezoning, noting that it should be subject to a site plan review process. The council is interested in improving the appearance of Muldoon Road in this area. They found B-3 is compatible with the 2020 Plan. The Plan does not say no more commercial development can be done, rather, it encourages clustering of commercial. The undeveloped lots have been vacant over 20 years. They were zoned decades ago and the R-3 zoning no longer fits. The Alaska Greenhouse property fronting Muldoon is identified for commercial with residential behind that. People have not been interested in building residential on the petition site. Muldoon has high traffic volumes and generates a lot of noise. It is a truck route. Existing housing along Muldoon mainly faces away from Muldoon Road. B-3 zoning will allow the auto service facility to upgrade its property, which is not possible under the current R-3 zoning as a legal non-conforming use and structure.
10. At its February 4, 2008 meeting the Commission voted to approve Lots 7-10 to R-3 SL requiring a 15-foot landscape buffer adjacent to State Street, and approve B-3 SL zoning for the remaining lots with three special limitations addressing landscaping, site plan review, and a time limitation to acquire a certificate of occupancy (presumably for the carwash). The motion failed: 4 in favor and 2 opposed. The debate focused on whether the Commission had authority to recommend zoning resulting in use districts that, taken separately, do not meet the minimum acreage of 1.75 acres. The proposed R-3 SL lots would equal 28,000 or .65 acres; the proposed B-3 SL lots would equal 56,000 square feet or 1.28 acres.
11. A Notice of Reconsideration was spread by Commissioner Isham at the conclusion of the February 4, 2008 meeting based on whether the Commission has the authority to recommend rezoning an area of less than


1.75 acres where there are two use districts involved, neither of which would meet the minimum 1.75 acres.

12. At its February 11, 2008 meeting the Commission voted to postpone the reconsideration until such time as they had a legal determination from the Law Department.
13. At its June 2, 2008 meeting, Commissioner Isham withdrew his motion to reconsider, noting that the legal memorandum dated April 11, 2008 instructed that the Commission cannot recommend a rezone in violation of the minimum area requirement of Title 21. Discussion noted that those voting to support the rezone did so based on the premise that the special limitations provided adequate protection to the neighborhood, and that the arguments given by the community council were persuasive and that B-3 was an appropriate rezoning to grant.
14. A motion to approve rezoning the subject property from R-3 to B-3 SL failed 1 in favor, 5 opposed and 1 abstained. There was insufficient ability to ensure compatibility between commercial and residential areas. Anchorage 2020 designates this area for multi-family residential use and there is no town center plan in place to give other direction. It is inappropriate to rezone the property to B-3. Policies #5, #12, #14 of the Anchorage 2020 Plan do not support B-3 zoning. Further the rezoning did not meet the standards for approval found in AMC 21.20.090.

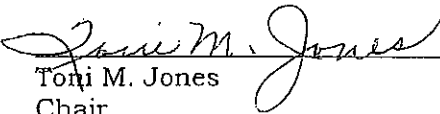
B. The Commission recommends the DENIAL of the subject rezoning by the Anchorage Assembly for Lots 1-12, Block 1, Sunny Acres Subdivision

PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 2nd day of June, 2008.

ADOPTED by the Anchorage Municipal Planning and Zoning Commission this 4th day of August 2008. If the Planning and Zoning Commission recommends that the Assembly disapprove a zoning map amendment that action is final unless within 15 days of the Commission's written resolution recommending disapproval, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Assembly.



Tom Nelson
Secretary



Toni M. Jones
Chair

(Case 2008-022, and -022-2)
(Tax ID No. 006-121-07 thru -16; -68)

MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2008-041

A RESOLUTION RECOMMENDING DENIAL OF A REZONING OF 1.93 ACRES +/- , FROM R-3 (MULTIPLE FAMILY RESIDENTIAL) TO B-3 (GENERAL BUSINESS), FOR LOTS 1-12, BLOCK 1, SUNNY ACRES SUBDIVISION; GENERALLY LOCATED EAST OF MULDOON ROAD BETWEEN EAST 10TH AVENUE AND EAST 11TH COURT.

(Case 2008-022/2008-022-2, Tax I.D. No. 006-121-07 through -16; -68)

WHEREAS, a request has been received from Burt Bomhoff to rezone 1.93 ACRES +/- , from R-3 (Multiple Family Residential) to B-3 (General Business), for Lots 1-12, Block 1, Sunny Acres Subdivision; generally located east of Muldoon Road between East 10th Avenue and East 11th Court., and

WHEREAS, notices were published, posted and thirty-nine (39) public hearing notices were mailed and a public hearing was held on February 4, 2008, and a notice of reconsideration on June 2, 2008. The Northeast Community Council voted 15 in favor and 4 against in favor of the rezone at its meeting held September 20, 2007.

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

A. The Commission makes the following findings of fact:

1. This is a request by Burt Bomhoff on behalf of himself, John Zappa and Phillip S. Simon, who represent 67 percent of property ownership of the subject property. The remaining four lots are owned by Sun Wai Fong, who provided a letter to the Commission noting her belief that John A. Zappa had died some years ago and suggesting that the application could not be valid.
2. Seven of the twelve lots are vacant. Of the remaining five developed lots, three lots have a legal nonconforming auto repair with three apartment units, and two lots have a single duplex structure.
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5. The petition site is located within an area designated by Anchorage 2020 as a Town Center and on a Transit-Supportive Development Corridor.

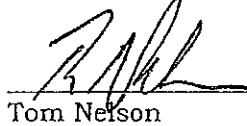
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10. At its February 4, 2008 meeting the Commission voted to approve Lots 7-10 to R-3 SL requiring a 15-foot landscape buffer adjacent to State Street, and approve B-3 SL zoning for the remaining lots with three special limitations addressing landscaping, site plan review, and a time limitation to acquire a certificate of occupancy (presumably for the carwash). The motion failed: 4 in favor and 2 opposed. The debate focused on whether the Commission had authority to recommend zoning resulting in use districts that, taken separately, do not meet the minimum acreage of 1.75 acres. The proposed R-3 SL lots would equal 28,000 or .65 acres; the proposed B-3 SL lots would equal 56,000 square feet or 1.28 acres.
11. A Notice of Reconsideration was spread by Commissioner Isham at the conclusion of the February 4, 2008 meeting based on whether the Commission has the authority to recommend rezoning an area of less than

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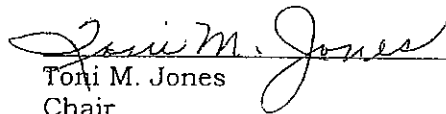
12. At its February 11, 2008 meeting the Commission voted to postpone the reconsideration until such time as they had a legal determination from the Law Department.
 13. At its June 2, 2008 meeting, Commissioner Isham withdrew his motion to reconsider, noting that the legal memorandum dated April 11, 2008 instructed that the Commission cannot recommend a rezone in violation of the minimum area requirement of Title 21. Discussion noted that those voting to support the rezone did so based on the premise that the special limitations provided adequate protection to the neighborhood, and that the arguments given by the community council were persuasive and that B-3 was an appropriate rezoning to grant.
 14. A motion to approve rezoning the subject property from R-3 to B-3 SL failed 1 in favor, 5 opposed and 1 abstained. There was insufficient ability to ensure compatibility between commercial and residential areas. Anchorage 2020 designates this area for multi-family residential use and there is no town center plan in place to give other direction. It is inappropriate to rezone the property to B-3. Policies #5, #12, #14 of the Anchorage 2020 Plan do not support B-3 zoning. Further the rezoning did not meet the standards for approval found in AMC 21.20.090.
- B. The Commission recommends the DENIAL of the subject rezoning by the Anchorage Assembly for Lots 1-12, Block 1, Sunny Acres Subdivision

PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 2nd day of June, 2008.

ADOPTED by the Anchorage Municipal Planning and Zoning Commission this 4th day of August 2008. If the Planning and Zoning Commission recommends that the Assembly disapprove a zoning map amendment that action is final unless within 15 days of the Commission's written resolution recommending disapproval, the applicant files a written statement with the municipal clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Assembly.



Tom Nelson
Secretary



Tori M. Jones
Chair

(Case 2008-022, and -022-2)
(Tax ID No. 006-121-07 thru -16; -68)

COMMISSIONER WANG stated regarding case 2008-080 that Eklutna Inc. is a client of his firm and he has been excused regularly from participation in matters involving that entity.

COMMISSIONER PALMER moved to direct Commissioner Wang to participate in case 2008-080. COMMISSIONER FREDRICK seconded.

AYE: None

NAY: Jones, Fredrick, Isham, Earnhart, Phelps, Palmer

ABSTAIN: Wang

FAILED

2. **Notice of Reconsideration: Case 2008-022-2, Rezone from R-3 (Multiple Family Residential) to B-3 (General Business), Sunny Acres Subd., Block 1, Lots 1-12 generally located at the northeast corner of 11th Ave. and Muldoon Road.**

COMMISSIONER ISHAM moved to reconsider case 2008-022-2.
COMMISSIONER PALMER seconded.

COMMISSIONER ISHAM explained he had spread Notice of Reconsideration because he believed the Commission had taken action that was not permitted.

COMMISSIONER PALMER asked if, in fact, the Commission was in error voting on the motion that was placed on the floor. The memorandum from the Municipal Attorney appears to indicate that action was not permitted. MS. AUTOR confirmed that was the case.

AYE: Jones, Wang, Fredrick, Isham, Earnhart, Phelps, Palmer

NAY: None

PASSED

COMMISSIONER ISHAM asked whether it is appropriate for the Commission to make findings on the motion, now that the motion is on the floor. MS. AUTOR noted that the motion failed 4:2. The Secretary clarified that the motion is back on the floor as it was made without a vote. The motion can be voted on, withdrawn, or amended.

COMMISSIONER PHELPS noted that the Municipal Attorney has indicated the Commission cannot rezone as it had intended because of the acreage

threshold in the code. His support for the rezoning was based upon the premise that there would be adequate protection to the neighborhood with the rezoning. He stated that, because that is no longer possible, he would likely not support the rezoning because he could not effectuate the considerations he had when placing the motion on the floor. He asked whether it would be appropriate to postpone this matter and ask for Staff to make comment before taking action.

MS. AUTOR indicated that the matter could be postponed until a meeting in July. COMMISSIONER PALMER asked whether Staff was prepared to provide a briefing at this time, given the time that has transpired since the matter was heard. COMMISSIONER PHELPS stated it would be useful to receive a briefing from Staff regarding the rezoning prior to taking a vote on the motion.

COMMISSIONER ISHAM asked whether the Staff recommendations had changed from the initial hearing. MS. AUTOR stated the Department was not supporting the rezoning based upon the *Comprehensive Plan*. Both the petitioner and Peggy Robinson, Chair of the Northeast Community Council, testified in favor of the rezone, believing that the *Comprehensive Plan* erred in designating this area as residential, given the volume of traffic along Muldoon Road and the commercial developments along Muldoon, as well as the pending Sam's/Walmart construction. One of their arguments was that if residential were truly intended it would have occurred and the designation is over 30 years old without residential having been developed. Those Commissioners who voted in favor of the motion were persuaded by arguments given by the petitioner and others that this was an appropriate rezoning to grant.

COMMISSIONER ISHAM recalled that there were three property owners involved in this case and two-thirds of the owners were supportive of the rezoning, while another was not. MS. AUTOR stated this rezone constituted an entire block of 12 individual lots. Those lots have separate ownership. There was a petition by the ownership of 67% of the entire block, or 1.9 acres, requesting the rezoning. The Commission felt that the lots at the corner of State Street and 11th Court should remain R-3. By removing those three lots from the overall rezoning to B-3SL, 1.28 acres of land remained. The Commission rezoned the other three lots to R-3SL. Neither of the rezonings totaled the required size for a rezoning of 1.75 acres. COMMISSIONER ISHAM understood that the Commission could rezone the entire area B-3SL. MS. AUTOR replied in the affirmative. COMMISSIONER ISHAM added that, in the alternative, the Commission could leave the entire area R-3. MS. AUTOR noted that would be a denial of the petitioner's request.

COMMISSIONER ISHAM believed the Commission was in favor of some of the area being rezoned to B-3SL; he suggested that the Commission decide whether or not to rezone the entire area.

COMMISSIONER PHELPS felt that in order to be fair to the Commission and the petitioner, it would be best to take additional time, but he was prepared to take action this evening.

COMMISSIONER PHELPS moved to withdraw his motion.
COMMISSIONER FREDRICK seconded.

AYE: Jones, Wang, Fredrick, Isham, Earnhart, Phelps, Palmer
NAY: None

PASSED

COMMISSIONER PHELPS moved to approve a rezoning from R-3 to B-3SL.
COMMISSIONER PALMER seconded.

COMMISSIONER PHELPS did not support the motion, as he did not believe there was sufficient ability to ensure compatibility between commercial and residential areas. The *Comprehensive Plan* also designates this area for multi-family residential use and there is no town-center plan in place to give other direction. He did not feel it was appropriate to rezone to B-3 in this area.

AYE: Palmer
NAY: Jones, Wang, Fredrick, Isham, Phelps
ABSTAIN: Earnhart

FAILED

COMMISSIONER EARNHART explained that he abstained as he was absent from the hearing on case 2008-022-2.

(NOTE: At a point later in the meeting, CHAIR JONES noted for the record that she had listened to the tapes of the hearing in case 2008-022-2.)

3. **Notice of Reconsideration: Case 2008-080**, A conditional use to allow a sewer/storm drain lift station for Chugiak High School. Chugiak School Tract A, located west of the Glenn Highway at the South Birchwood Loop Road exit.



MUNICIPALITY OF ANCHORAGE
Office of the Municipal Attorney

Memorandum

RECEIVED

APR 11 2008

DATE: April 11, 2008

TO: Jerry Weaver, Zoning Administrator

THRU: Rhonda Fehlen Westover, Acting Municipal Attorney

FROM: Pamela D. Weiss, Assistant Municipal Attorney

SUBJECT: P & Z - AUTHORITY TO REZONE
Matter No. N08-0041

THIS COMMUNICATION AND ANY DOCUMENT(S) ACCOMPANYING IT ARE
CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION(S)
AND/OR PROTECTED BY OTHER LEGAL GROUNDS OF CONFIDENTIALITY. IT **MAY NOT** BE REPRODUCED,
FORWARDED, DISTRIBUTED OR OTHERWISE DISCLOSED OR DISSEMINATED WITHOUT THE EXPRESS
PERMISSION OR UPON THE ADVICE OF AN ATTORNEY IN THE MUNICIPALITY OF ANCHORAGE
DEPARTMENT OF LAW.

DISCLOSURE OF CONFIDENTIAL INFORMATION IS PROHIBITED BY AMC §1.15.020A.

This communication is also covered by the Electronic Communications Privacy Act,
18 U.S.C. 2510-2521.

QUESTIONS:

1. Does the Planning and Zoning Commission ("Commission") have the authority to modify a rezoning proposal where the modification results in use districts that, taken separately, do not meet the minimum acreage of 1.75?
2. Does the failure of 33% of property owners to agree to Commission's modifications to the zoning proposal affect the validity of those modifications?
3. Does the Commission have authority to act on a rezoning application when a 33% owner objects at the public hearing, but not before?

THIS COMMUNICATION AND ANY DOCUMENT(S) ACCOMPANYING IT ARE
CONFIDENTIAL ATTORNEY--CLIENT COMMUNICATION(S)

4. If, on reconsideration, the Commission denies petitioner's rezoning application, can petitioner request a hearing before the assembly on the original rezoning application? What about on the Commission's modifications to the rezoning application?
5. Can the assembly approve a zoning amendment that does not have 100% property owner approval or support?

BRIEF ANSWERS:

1. No. The Commission cannot recommend a rezone in violation of the minimum area requirement of Title 21.
2. No. Lack of unanimous consent (33%) does not affect the validity of Commission modifications. *See* AMC 21.20.040B. (petition to be accompanied by owners of at least 51% property in the rezone area).
3. Yes. The timing of objections does not affect the Commission's authority to act. *See* AMC 21.20.110 (governing protests to assembly only).
4. If the Commission denies the application, the petitioner may protest to the Assembly. The Assembly will have the opportunity to review the original application as well as the Commission's proposed modifications. *See* AMC 21.20.100D.
5. Yes. Unanimous consent of property owners is not required for a rezone to be approved. *See* AMC 21.20.110.

BACKGROUND:

A petitioner submitted an application to rezone 1.93 acres located in Sunny Acres Subdivision from R-3 (Multiple Family Residential) to B-3 (General Business). The petitioner's intent appears to be purchase of five of the lots – those owned by Mr. Zappa and Mr. Simon – for building a car wash. Ms. Wai Fong Sun owns the remainder of the property subject to the proposed rezoning. The petitioner's application included a petition signed by Mr. Zappa and Mr. Simon, who own 67% of the property, indicating their consent to the rezone.

THIS COMMUNICATION AND ANY DOCUMENT(S) ACCOMPANYING IT ARE
CONFIDENTIAL ATTORNEY--CLIENT COMMUNICATION(S)

The Planning Department (Department) recommended against the rezoning application because, in its view, it failed to meet the standards of the Comprehensive Plan and AMC section 21.20.090. Specifically, the Department explained the proposed use does not foster compact mixed-use development and, without a plan for residential development, it was premature to rezone the area to B-3.

The Commission held a public hearing on February 4, 2008. The petitioner testified about the plan to build a carwash and the reasons rezoning was appropriate. The petitioner also responded to allegations, contained in a letter from Mrs. Sun submitted the day of the hearing, that Mr. Zappa had died and the application was a fraud.

In addition, various members of the public testified against the rezone, complaining the rezone conflicted with the Comprehensive Plan, objecting to a carwash as incompatible with Old Harbor Road, the need for more residential housing, the availability of vacant business property, potential runoff from the property into the creek, traffic issues, the legality of Mr. Zappa's involvement, the need for more low-income residential housing, and noise complaints from petitioner's other carwash.

There was also testimony the Northeast Community Council found the rezone to be compatible with the 2020 Plan for Muldoon Road. However, NCC recommended the rezone be subject to site review plan process.

After the public hearing was closed, Commissioners proposed to modify the petitioner's application to provide for:

approve[al of] a rezoning from R-3 to B-3SL for Lots 1-6 and Lots 11-12, Block 1, Sunny Acres Subdivision with the following special limitations: 1) landscaping be provided on the entirety of the site that is zoned B-3 along State Street; 2) a site plan be submitted to the Planning Department prior to the issuance of a building permit, the purpose of which is to deal with ingress/egress, drainage, revision of buffer landscaping, and the generation of noise, especially as it affects the adjacent residential areas; and 3) this rezoning to B-3 is valid for a period of two and one-half years from date of adoption of the rezoning by the assembly and, if a certificate of occupancy is not issued within that period of time, the rezoning to B-3 sunsets. And to approve a rezoning from R-3 to R-3SL for Lots 7-10, Block 1,

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CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION(S)

Sunny Acrès Subdivision with special limits of a 15-foot landscape buffer adjacent to State Street.

(Emphasis added). This modification essentially divided the area contained in the application into two areas - one consisting of 1.28 acres to be rezoned to B-3SL and another consisting of .65 acres to be rezoned to R-3SL. The Commission voted 4-2 to recommend approval of this modified proposal to the Assembly.¹

At its meeting on February 11, 2008, the Commission voted to reconsider the case.

DISCUSSION AND ANALYSIS:

AMC section 21.10.015A.4. empowers the Commission to “[r]eview and make recommendations to the assembly regarding applications to amend the zoning map, in accordance with Chapter 21.20.” Section 21.20.100 further provides:

After a public hearing, the planning and zoning commission shall recommend to the assembly one of [three] actions on a zoning map amendment.

The Commission may, in the course of reviewing an application, make modifications. See section 21.20.100A. (providing the assembly may approve the Commission’s recommendation with special limitations “or other modifications”). However, any modifications must be at least as restrictive as the zoning amendment submitted. See section 21.20.120A.3.

The Commission’s modifications in this case are impermissible. Section 21.20.070 states “[n]o zoning map amendment may be approved that applies any use district to an area less than 1.75 acres (76,230 square feet), excluding rights-of way.” AMC section 21.20.070A. The rezoning, as modified by the Commission on February 4, 2008, applies a single use district to an area that is 56,000 square feet – approximately 20,000 square feet below the minimum area requirement. Thus, the rezone is not permitted under the plain language of section 21.20.070.²

¹ Prior to the vote, Vice Chair Isham did question whether section 21.20.070 permitted the action because neither of the areas meets the minimum area requirement.

² In interpreting this provision, the ordinary principles of statutory interpretation apply. *South Anchorage Concerned Coalition, Inc. v. MOA*, 177 P.3d 768 (Alaska 2007). Chief among these

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The code does provide some exceptions to the minimum area requirement. These include:

1. An amendment extending the boundaries of an existing use district.
2. An amendment initiated by the municipal administration to place municipally owned land in a PLI use district.
3. An amendment for local and neighborhood business zoning, subject to the requirements of Section 21.40.140G.

Section 21.20.070A. However, the Commission's modified rezoning does not fall under any of these exceptions. While the Staff Analysis does note some property to the south and to the west of the proposed rezone area is zoned as B-3SL, the petitioner did not request an extension of boundaries and nothing in the Staff Analysis or the Commission's meeting minutes suggest the application was intended to be an extension of the B-3 district boundaries.

The remaining questions (numbered 2 through 5) are answered in the brief answers above. Detailed discussion is not necessary.

is interpretation begins with the text itself. *City of Kenai v. Friends of Recreation Center, Inc.*, 129 P.3d 452, 458-59 (Alaska 2006).

The purpose of the minimum area requirement presumably is to avoid "spot zoning." The classic case of "spot zoning" is "the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners." *Griswold v. City of Homer*, 34 P.3d 1280, 1284 (Alaska 2001) (citing *Griswold v. City of Homer*, 925 P.2d 1015, 1020 (Alaska 1996)). Regardless of whether the particular rezone here constitutes spot zoning, it is not permitted under the code.

COMMISSIONER WANG stated regarding case 2008-080 that Eklutna Inc. is a client of his firm and he has been excused regularly from participation in matters involving that entity.

COMMISSIONER PALMER moved to direct Commissioner Wang to participate in case 2008-080. COMMISSIONER FREDRICK seconded.

AYE: None

NAY: Jones, Fredrick, Isham, Earnhart, Phelps, Palmer

ABSTAIN: Wang

FAILED

2. **Notice of Reconsideration: Case 2008-022-2,** Rezone from R-3 (Multiple Family Residential) to B-3 (General Business), Sunny Acres Subd., Block 1, Lots 1-12, generally located at the northeast corner of 11th Ave. and Muldoon Road.

COMMISSIONER ISHAM moved to reconsider case 2008-022-2.
COMMISSIONER PALMER seconded.

COMMISSIONER ISHAM explained he had spread Notice of Reconsideration because he believed the Commission had taken action that was not permitted.

COMMISSIONER PALMER asked if, in fact, the Commission was in error voting on the motion that was placed on the floor. The memorandum from the Municipal Attorney appears to indicate that action was not permitted. MS. AUTOR confirmed that was the case.

AYE: Jones, Wang, Fredrick, Isham, Earnhart, Phelps, Palmer

NAY: None

PASSED

COMMISSIONER ISHAM asked whether it is appropriate for the Commission to make findings on the motion, now that the motion is on the floor. MS. AUTOR noted that the motion failed 4:2. The Secretary clarified that the motion is back on the floor as it was made without a vote. The motion can be voted on, withdrawn, or amended.

COMMISSIONER PHELPS noted that the Municipal Attorney has indicated the Commission cannot rezone as it had intended because of the acreage

threshold in the code. His support for the rezoning was based upon the premise that there would be adequate protection to the neighborhood with the rezoning. He stated that, because that is no longer possible, he would likely not support the rezoning because he could not effectuate the considerations he had when placing the motion on the floor. He asked whether it would be appropriate to postpone this matter and ask for Staff to make comment before taking action.

MS. AUTOR indicated that the matter could be postponed until a meeting in July. COMMISSIONER PALMER asked whether Staff was prepared to provide a briefing at this time, given the time that has transpired since the matter was heard. COMMISSIONER PHELPS stated it would be useful to receive a briefing from Staff regarding the rezoning prior to taking a vote on the motion.

COMMISSIONER ISHAM asked whether the Staff recommendations had changed from the initial hearing. MS. AUTOR stated the Department was not supporting the rezoning based upon the *Comprehensive Plan*. Both the petitioner and Peggy Robinson, Chair of the Northeast Community Council, testified in favor of the rezone, believing that the *Comprehensive Plan* erred in designating this area as residential, given the volume of traffic along Muldoon Road and the commercial developments along Muldoon, as well as the pending Sam's/Walmart construction. One of their arguments was that if residential were truly intended it would have occurred and the designation is over 30 years old without residential having been developed. Those Commissioners who voted in favor of the motion were persuaded by arguments given by the petitioner and others that this was an appropriate rezoning to grant.

COMMISSIONER ISHAM recalled that there were three property owners involved in this case and two-thirds of the owners were supportive of the rezoning, while another was not. MS. AUTOR stated this rezone constituted an entire block of 12 individual lots. Those lots have separate ownership. There was a petition by the ownership of 67% of the entire block, or 1.9 acres, requesting the rezoning. The Commission felt that the lots at the corner of State Street and 11th Court should remain R-3. By removing those three lots from the overall rezoning to B-3SL, 1.28 acres of land remained. The Commission rezoned the other three lots to R-3SL. Neither of the rezonings totaled the required size for a rezoning of 1.75 acres. COMMISSIONER ISHAM understood that the Commission could rezone the entire area B-3SL. MS. AUTOR replied in the affirmative. COMMISSIONER ISHAM added that, in the alternative, the Commission could leave the entire area R-3. MS. AUTOR noted that would be a denial of the petitioner's request.

COMMISSIONER ISHAM believed the Commission was in favor of some of the area being rezoned to B-3SL; he suggested that the Commission decide whether or not to rezone the entire area.

COMMISSIONER PHELPS felt that in order to be fair to the Commission and the petitioner, it would be best to take additional time, but he was prepared to take action this evening.

COMMISSIONER PHELPS moved to withdraw his motion.
COMMISSIONER FREDRICK seconded.

AYE: Jones, Wang, Fredrick, Isham, Earnhart, Phelps, Palmer
NAY: None

PASSED

COMMISSIONER PHELPS moved to approve a rezoning from R-3 to B-3SL.
COMMISSIONER PALMER seconded.

COMMISSIONER PHELPS did not support the motion, as he did not believe there was sufficient ability to ensure compatibility between commercial and residential areas. The *Comprehensive Plan* also designates this area for multi-family residential use and there is no town center plan in place to give other direction. He did not feel it was appropriate to rezone to B-3 in this area.

AYE: Palmer
NAY: Jones, Wang, Fredrick, Isham, Phelps
ABSTAIN: Earnhart

FAILED

COMMISSIONER EARNHART explained that he abstained as he was absent from the hearing on case 2008-022-2.

(NOTE: At a point later in the meeting, CHAIR JONES noted for the record that she had listened to the tapes of the hearing in case 2008-022-2.)

3. **Notice of Reconsideration: Case 2008-080**, A conditional use to allow a sewer/storm drain lift station for Chugiak High School. Chugiak School Tract A, located west of the Glenn Highway at the South Birchwood Loop Road exit.

AYE: Josephson, Isham, Fredrick, Palmer, Pease, Phelps

NAY: None

PASSED

COMMISSIONER PALMER suggested that the Commission list its concerns following the next hearing.

Resolution 2008-__

This item was postponed with case 2008-024.

2. 2008-022 Burt Bomhoff. A request to rezone approximately 1.93 acres from R-3 (Multiple Family Residential) to B-3 (General Business). Sunny Acres Subdivision, Block 1, Lots 1 through 12, located within the SE1/4 of Section 13, T13N, R3W, S.M., AK. Generally located at the northeast corner of 11th Avenue & Muldoon Road.

Staff member MARY AUTOR stated 39 public hearing notices were mailed, 11 were returned via email or mail in opposition, 5 were returned in favor, a letter was submitted by the Northeast Community Council indicating a vote 15:4 in favor of the rezone, and late this afternoon a letter in opposition was received from one of the property owners, Mrs. Sun. This is a request to rezone from R-3 to B-3 for the entirety of Block 1, Sunny Acres Subdivision, a total of 1.93 acres. The property is partially developed. An alley runs north/south through the block with six lots fronting Muldoon and six lots fronting State Street. Tenth Avenue is a half dedicated, unconstructed right-of-way and 11th Avenue forms the south boundary. The property was zoned R-3 in 1970. To the north is a trailer court, zoned R-3; to the east is property zoned R-3 and R-2M; to the south is property zoned R-3 and B-3SL containing an Arby's Restaurant and vacant lots; and to the west is Muldoon Road. Mr. Bomhoff is proposing to construct a car wash on five lots, the three northernmost facing Muldoon Road and two to the east. AMC 21.20.040.B allows submittal of an application provided it is accompanied by a petition favoring the amendment signed by the owners of at least 51 percent of the property within the area to be rezoned. Mr. Bomhoff has the signature of the property owners representing 67% ownership of the subject property. The remaining lots are owned by Mrs. Sun, provided a letter late this afternoon noting her belief that John A. Zappa had died some years ago. There is a valid

signature, however, and he is shown to be the owner of the property. The first three lots that front onto Muldoon contain an auto repair business and apartments with three units, which is a legal nonconforming use that was created prior to the zoning of the property in 1970. The north branch of the South Fork of Chester Creek lies within the 10th Avenue alignment. It has a 25-foot stream setback. The stream is generally located in an open, manmade channel over the top of the sanitary sewer line. The creek enters the storm sewer system at Muldoon Road. A portion of the petition block is located in a flood hazard zone. Setbacks for construction would be addressed through the building permit process. The Department reviewed the *Comprehensive Plan* and found that this property is within the general geographic boundaries of the town center for Muldoon, although there is no Assembly adopted town center plan. The Plan also suggests that town centers are guided by Land Use Policy #24 and are typically linked by transit-support development corridors (Land Use Policy #34). Muldoon Road is a transit-supported corridor, as is DeBarr Road. The Department also reviewed the residential policies in the *Plan*, specifically Policy #24 that calls for a medium to high residential development and a combination of commercial and residential with an overall density between 12 and 40 DUA. Policy #14 addresses new residential densities and also speaks to a requirement that conversion from residential to commercial or industrial must take into account lost of residential. The 1982 Generalized Land Use Map identifies the petition site as calling for a medium density of 11- 20. Policy #9 speaks to the transit-supported corridor general policy, which calls for an 8 DUA density within one-quarter mile of a major street at the center of a Transit-Supportive Development Corridor. Policy #34 speaks to the transit-supported corridor. The Department also looked at General Land Use Policy #3, which calls for the addition of approximately 31,000 additional dwelling units by 2020 with an allocation to the northeast quadrant of between 5,000 and 7,000 dwelling units. General Land Use Policy #5 speaks to compatibility of scale with adjacent uses. In this case, it could be debated that there is commercial frontage onto Muldoon and there is preservation of residential to the northeast. However, because there is separate ownership, it is unlikely there would be unified development that is compatible with adjacent properties. General Land Use Policy #7 speaks to avoiding the locating of incompatible uses adjacent to one another. To the north the trailer court is zoned R-3, to the south the block is zoned R-3, R-4SL and B-3. Residential Policy #12 speaks to calling for new higher density residential development, including that within Transit-Supportive Development Corridors. Policy #21 says that all new commercial shall

be located and designed to contribute to improving Anchorage's overall land use efficiency, compatibility, traffic flow, transit use, pedestrian access, and appearances. To eliminate the problems associated with strip commercial development, four principles are listed. Applicable to this case is that redevelopment, conversion, and reuse of underused commercial areas shall be encouraged. The most applicable is that rezoning of property to commercial use is only permitted when designated in an adopted plan. There is no Assembly adopted plan for this area.

With regard to the standards for rezoning, Muldoon is located to the west of the property and the previous rezoning of the Wal-Mart and Sam's Club site called for a traffic impact analysis (TIA). Part of that approval incorporated the recommendations from that TIA for a signal and road upgrade on Creekside Drive and that the signal at 12th Avenue and Muldoon would be moved to 11th Avenue and Muldoon; Eleventh Avenue is the south boundary of Block 1. State Street between 11th Avenue and 12th Avenue would be upgraded and paved to provide circulation to the Creekside Plaza Mall.

The Department finds that B-3 zoning is in conflict with supporting the goal of residential infill and development and Policy #14 that discourages the loss of residentially zoned property to commercial. It is the Department's view that R-related businesses typically do not fall within the town center concept and, without a consolidated redevelopment plan for the entire petition site, it is premature to consider rezoning to commercial.

COMMISSIONER FREDRICK asked why the petitioner found it advantageous to include property owned by Mrs. Sun, who appears to not be signatory to the rezoning in this application. MS. AUTOR replied that the Department understands the petitioner has made repeated attempts to contact Mrs. Sun in person, in writing, and by telephone without avail. The Department pointed out to the petitioner that AMC 21.20.040B does allow the merits of a rezoning that does not include agreement of all property owners to be considered. If Mrs. Sun decided to not be part of the rezoning, that would be done in writing at the Assembly level. The Assembly would decide on the validity of zoning boundaries. COMMISSIONER FREDRICK noted that AMC 21.02.070 says no zoning map amendment may be approved to an area less than 1.75 acres, so without Mrs. Sun's property, this would not be a valid rezoning application. MS. AUTOR responded that the code does allow a rezoning where the petitioner owns more than 51% of the property in

the rezone; however, if Mrs. Sun's property had not been included, the application would not have been accepted based on acreage since none of the boundaries are adjacent to B-3. COMMISSIONER PEASE understood that, without Mrs. Sun's property, the rezone would be a spot rezone because of the small size.

COMMISSIONER PHELPS asked whether the Commission has the ability to recraft the rezoning request. For example, could the Commission rezone the lot adjoining Muldoon to commercial and the adjacent lots to residential. MS. AUTOR believed that the Commission could consider and recommend a more restrictive zoning. COMMISSIONER PHELPS presumed that the Staff did not offer an alternate zoning configuration for some reason. MS. AUTOR responded that the Department only considered the request put forward by the petitioner.

The public hearing was opened.

BURT BOMHOFF, petitioner, explained his intent is to build a carwash on this site. He built one three years ago on Debarr. His business is family-owned with he and his daughters equal owners. His family has been in Alaska since 1960. His children and grandchildren have attended the Anchorage School District. He wished to emphasize that his family is established and its reputation is "on the line" with this development. The car wash will occupy half of the frontage on Muldoon Road. An existing car repair shop occupies the other half. He stated he did not receive the Staff packet until late Friday afternoon; he would have liked to respond to the Department's recommendations in writing, but was unable to do so. He stated that the rezone would make the existing car repair facility a conforming use and, therefore, allow it to be upgraded. The proposed car wash facility would provide a necessary service to Muldoon. There are two other car washes in the area; one is self-serve on a small site and another is at a gas station. He believed this project conforms totally to *Anchorage 2020*. Reviewing that document with common sense, there is no conflict posed by this project. Town centers should reduce traffic to and from the area. The nearest car wash is on Debarr. This property has been for sale as R-3 for many years without any offers. The area has changed since this property was zoned in 1970 and it is not appropriate for residential development. There are 100 acres of R-3 zoned property in the area, some developed and some not, and most of which is buffered by B-3. This site contains less than two acres. Maintaining residential land is a priority of *Anchorage 2020*, but that is not an absolute. This land has been vacant for many years and has been the site of undesirable activities. Traffic in excess of 33,000 vehicles per day travels

Muldoon Road. Noise levels from Muldoon Road exceed 100 decibels, far above the levels that the Municipality allows businesses to generate. He stated he has not had complaints at his other car wash due to noise from the car wash. He noted he had distributed a letter from the individual in the Municipal Health Department that monitors that use for noise and it speaks for itself. He stated that sound professional planning requires that neighborhoods be buffered from noisy streets. He stated that all other planned developments in the town center have done what he is suggesting. Alaska Village was surrounded by B-3 within one-quarter mile of the intersection. The old Alaska Greenhouse property consists of three parcels and is owned by the Heritage Land Bank. The zoning on Muldoon is B-3, behind that is residential, and behind that is park. The Heritage Land Bank planner explained that the Heritage Land Bank is putting B-3 on Muldoon because "it makes sense."

COMMISSIONER PEASE noted that Sun Fong asserted that John A. Zappa died some years ago. She asked that Mr. Bomhoff verify that he obtained Mr. Zappa's signature. MR. BOMHOFF stated he would be having lunch with Mr. Zappa tomorrow. He stated that Mrs. Sun did not object to the rezoning and was solicited to issue that letter in objection based on an understanding that Mr. Zappa had died. COMMISSIONER PEASE asked for comment on the Community Council comment regarding cleaning up the creek that is in 10th Avenue. MR. BOMHOFF stated that has been a drainage ditch since the early 1970s. In 1976, the Department of Highways paved Muldoon Road and installed a 48-inch storm drain. At that time they ran the drainage from this ditch into a culvert and then into that storm drain. The flow through that creek is regulated. In the winter, the Municipality raises the weir upstream to allow water to flow. That area is filled with trash and debris. He proposed to clean up that area and make it an amenity for the car wash. COMMISSIONER PEASE asked for comment on the traffic generated by the car wash turning onto Muldoon Road across two lanes of traffic. MR. BOMHOFF stated he has worked with Municipal Transportation Planning and ADOT and there is complete agreement that a left turn onto Muldoon would be hazardous; there will be right turns only.

COMMISSIONER PHELPS referred to page 20 of the packet, a memorandum from DHHS that raises questions regarding noise impact to adjacent residential areas. He asked that Mr. Bomhoff review this memorandum and respond to the recommendations therein. MR. BOMHOFF stated he works regularly with a staff member at DHHS dealing with noise issues. He had submitted a letter from her indicating there had been no complaint associated with his DeBarr Road car wash since last fall. COMMISSIONER PHELPS asked if the recommendation to orient the car

wash exit and drying area toward Muldoon is agreeable. MR. BOMHOFF stated that the noise level on the street is 100 decibels and the noise from the car wash is swallowed. The car wash will be oriented toward the street. The entrance doors at the rear are kept closed during washing. He stated he would work with DHHS to develop a plan acceptable to them and the neighborhood.

ROD McCOY asked that people who are attending in protest to the rezone stand. Two individuals stood. He stated his property is within 300 feet of Muldoon Road. The proposed car wash would face his property. His property is compatible with Muldoon Road, but he did not find the car wash compatible with Old Harbor Road. There are acre lots on Old Harbor Road and it is a quiet residential area. The subject property is in the town center area, which is designated for multiple use. In a quality city there is aesthetic planning and clustering of business zones, and residential is located on major arterials. This site is surrounded by R-3 zoned property. Rezoning to this property would change the entire strip near his home. He stated the challenge for Muldoon is to provide quality homes for Alaska families and a good deal of residential development is needed. There is over 100 acres of vacant business property available for this development within one-half mile of this rezone request. The last thing Muldoon needs is more business zoning.

COMMISSIONER PEASE asked whether Staff examined the amount of business property within one-half mile of the petition site. MS. AUTOR stated she has not verified that, but she accepted Mr. Bomhoff's evidence in writing. MR. McCOY stated that next to Old Harbor Road is 35 acres of vacant industrial land, all of the property owned by Venture Development at the corner of Muldoon/Debarr is B-3, the Municipality bought the old Alaska Greenhouse property. Target is moving in at the intersection of Muldoon and the Glenn Highway with a great deal of vacant commercial property. There is a vacant Shell service station that is no longer used. Near that is another lot on Muldoon Road that would be suitable for this use; none of those properties is available at residential prices.

COMMISSIONER JOSEPHSON commented that Mr. McCoy's position is opposite that of the Northeast Community Council. MR. McCOY stated he chaired the Community Council for six years. He appreciates the way this petitioner has addressed the Commission and the Community Council. Generally the area likes to support people in their goals and that is the basis of the Community Council's support. COMMISSIONER JOSEPHSON remarked that between Northern Lights Boulevard and Muldoon and Debarr and Muldoon heading north are apartments that are very near Muldoon Road. MR. McCOY stated that is one of the worst examples of housing

development in the city. COMMISSIONER JOSEPHSON was troubled by the fact that those front Muldoon and it looks awkward. He was puzzled why much of Muldoon would not simply be a business district. MR. McCOY stated the housing cited by Mr. Josephson is not a good example of residential development. There is housing on both sides of Muldoon that are good examples. A comprehensive plan was developed for Muldoon in the 1990s and the first objective was no more strip commercial zoning.

COMMISSIONER PEASE noted that to the north of the petition site there is residential on both sides of the road. MR. McCOY stated there is residential north of the rezone, south of the rezone, across from the rezoning, and to the east of the rezone. Two acres across the street are zoned B-1SL.

COMMISSIONER PEASE asked if the comprehensive plan for Muldoon is an adopted document. MR. McCOY stated that the Municipality printed the plan, but it is not current; it was developed prior to the *Anchorage 2020 Comprehensive Plan*.

AINSLIE PHILLIPS, chair of the capital improvements committee for the Northeast Community Council, stated she vehemently opposes this rezoning. She objected to this rezoning because the property abuts the north fork of the South Fork of Chester Creek. She noted that the Waterways Council is actively pursuing clean up of Chester Creek and has funding to do it; the third phase of that effort is this portion of the creek. If 10th Avenue were put through, the 25-foot setbacks would be instituted. The runoff from snow removal, car waxing, etc. would go directly into the creek and impact this high-spawning area. She also objected because the State said it would not allow further curb cuts onto Muldoon Road; instead traffic from the proposed use would have to go to 10th Avenue or State Street, neither of which are constructed. Additional traffic on Muldoon at this point would come out under the wishbone design at 11th Avenue. The 30,000 vehicles mentioned in the TIA for the town center is projected to increase to 72,000. She also questioned the legality of Mr. Zappa's involvement in this petition. She did not believe they understand that their current residential property would become nonconforming and make it less desirable for resale.

COMMISSIONER JOSEPHSON asked that Ms. Phillips address the residential development on Muldoon. MS. PHILLIPS stated that the site condo project referred to by Mr. Josephson was the pivot point in getting the site condo ordinance passed. That property was already zoned R-3 and a site plan was not required. Since that development, on Debarr Road there is a condo site called Admiralty Cove that was built with sound deadening windows. In the town center the proposal was for residential use above and commercial below. More low-income housing is needed in the area, given the

development of retailers such as Target and Wal-Mart. There are three new duplexes to the east that are being used as assisted living homes. Mr. Roses, who developed the car wash that Mr. Bomhoff owns, said he had weekly noise complaints when he owned that facility and he expected those would be an ongoing problem. Another car wash has been built next to the How How Restaurant and the one across the street from that has gone out of business for the third time in ten years. She questioned the economic viability of the proposed project.

COMMISSIONER JOSEPHSON was aware that there is no adopted town center plan. MS. PHILLIPS indicated that there has not been success with the Municipality getting one formalized. COMMISSIONER JOSEPHSON asked what is causing the delay in getting the town center plan done. MS. PHILLIPS replied that the funds for formal design are lacking. There was a formal plan in the 1990s and that document is in effect because phase three from DeBarr to the Glenn Highway is underway with the State beautifying Muldoon Road. That document was also the basis for the town center plans that Venture Development proposed. Getting a formal northeast area plan has been very difficult. She was hopeful it would happen in the next 18 months. COMMISSIONER PEASE asked if there are phases of a Muldoon comprehensive plan that are valid and in effect. MS. AUTOR explained there was an effort by the Community Council to draft a plan that the Council approved. That document never went to the Assembly and it is not a municipally adopted plan. COMMISSIONER PEASE asked whether the plan has been used to guide upgrades along Muldoon Road. MS. AUTOR was not aware whether or not it has been used in that fashion and indicated it might have been used for support of capital projects. MS. PHILLIPS stated that Muldoon Road has been on the TIP for AMATS for many years. The large stone sign at DeBarr and Muldoon and the retaining wall from 20th Avenue up to 16th Avenue were done through AMATS.

COMMISSIONER FREDRICK asked for comment on the resolution of support from the Northeast Community Council. MS. PHILLIPS stated the petitioner's presentation to the Council was nicely done; it omitted many of the realities. Many people did not understand the reality and, after the fact when they were told of the realities, they said they likely would have rescinded their votes. There are other sites that are more appropriate for the proposed use. This site is not appropriate because of the creek and access onto 10th Avenue, 11th Avenue, and State Street. She noted that 11th Avenue has no curb and gutter and is narrow.

DIANNE HOLMES stated this case is interesting to her because it is about the *Comprehensive Plan*. She stated this rezoning violates the *Plan* in many

places. She found it interesting that anyone would even consider saying that the density required in various quadrants of the city by the *Comprehensive Plan* is optional. The "no net loss" portion of the *Plan* is significant. Muldoon Road is a very busy road, but if buffering is done properly, residential uses can be developed. She urged that the Commission, if it approves the rezoning, approve buffering to the residential to the east. She noted that any buffer would diminish by half in the first several years and recommended a buffer width of 50 to 100 feet. She stated that various town center areas are designated in the *Plan*.

In rebuttal, MR. BOMHOFF asked for additional time, noting that he did not receive the packet until Friday and there have been misstatements in testimony this evening. He stated that Ms. Phillips attended the first Northeast Community Council meeting and afterward she came up to him and gave him a business card asking to represent him to the Commission and to the Assembly. He explained to her that he wished to represent himself. He stated that all of the chemicals at the carwash are non-toxic. He stated that neither the Municipality nor State objected to this project; a curb cut already exists onto Muldoon Road. Each of the three properties has a right to a curb cut. He stated he has talked to biologists at Fish & Game and he has been told there is no way that an anadromous fish would swim half a mile up a culvert to reach a spawning ground. There are no known sightings of fish in the creek since the culvert was installed in 1976. He did not believe that elderly people who are eligible for assisted living should reside on Muldoon Road. He stated he looked for two years for a site. There is B-3 property available, but none that is appropriate. He commented that this use generates less than one car per minute.

COMMISSIONER PEASE noted that ADOT indicates that ADOT permission would be required for connection of 10th Avenue onto Muldoon Road. MR. BOMHOFF stated he met with Rob Campbell at ADOT and reviewed the project. There were no unsolvable issues. He is not yet at a stage where he can request authorization for the connection. COMMISSIONER PEASE asked whether State Street or 11th Avenue might serve as access. MR. BOMHOFF stated that State Street is a platted right-of-way. He stated it is not a problem for access onto Muldoon Road to be right turn only. The primary access will be to the light at 11th Avenue.

COMMISSIONER JOSEPHSON understood that assisted living is located to the east. MR. BOMHOFF stated that to the east is removed from Muldoon Road. He did not know of any objection from those owners.

COMMISSIONER PALMER asked for any comment on the packet that Mr. Bomhoff had been unable to express. MR. BOMHOFF could not find additional comment in his notes. He remarked that Peggy Robinson with the Northeast Community Council had just arrived, if the Commission has questions regarding their action.

COMMISSIONER PHELPS stated one of his concerns is that this type of operation needs to have buffering to residential uses. He asked if the petitioner has considered such buffering. MR. BOMHOFF stated that buffering is shown on the development plan. MS. AUTOR indicated that plan was contained on page 37 of the packet. COMMISSIONER PHELPS asked if Mr. Bomhoff would be receptive to a special limitation requiring that he submit a site plan dealing with ingress/egress and noise impacts to the Planning and Zoning Commission. MR. BOMHOFF responded that he expected to do that. He intended to work with the Community Council and then submit to Staff. COMMISSIONER PHELPS asked if ADOT has indicated that at least one of the existing curb cuts onto Muldoon Road can be used. MR. BOMHOFF replied in the affirmative. He added that the design engineer indicated the situation is workable. They were pleased that the access to the car wash is moved back from 11th Avenue to the extent possible.

COMMISSIONER PEASE noted the site plan shows construction of 10th Avenue with a 10-foot buffer to the north, but Ms. Autor indicated that area is an open ditch that carries the waters of Chester Creek. She asked whether this design has been reviewed and agreed to by Watershed Management or PM&E. MR. BOMHOFF stated he has spoken with them and they said this plan is feasible. Traffic is allowed within the buffer zone. The stream can be upgraded. He emphasized that no municipal department voiced an objection to this proposal. COMMISSIONER PEASE noted she did not see comment from Watershed Management. MS. AUTOR stated that Watershed Management comments are not required on a rezone. There have been discussions with them; they have confirmed the location of the creek and that it is in an open ditch. They indicated they would review the situation at the time of application for construction.

COMMISSIONER PHELPS asked what is represented by the stipple pattern shown on the site plan along Muldoon Road and State Street. MR. BOMHOFF replied that represents lawn and landscaping.

PEGGY ROBINSON, representing the Northeast Community Council, stated that on September 20, 2007 a presentation was made by Mr. Bomhoff and, after lengthy discussion of issues including access, the alley, State Street, and the creek, a motion was made to support the proposed rezone. The

Council found it compatible with the *2020 Plan* for the Muldoon Road area. The Council also felt the rezone should be subject to a site plan review process. The vote was 15 in favor, 4 opposed, and 2 abstaining. She stated she has lived up the street from the petition site for 20 years and this property has been vacant for that entire time, other than junk cars, etc. The Council has been involved in development in this general area over the last several years and is interested in improving the appearance of Muldoon Road in this area. With the exception of the Rangeview Trailer Court, housing in the Muldoon area is located south of 16th Avenue; all of that housing faces away from Muldoon Road. People have not been interested in building residential on the petition site; there is high traffic volume and noise adjacent to the site. With the amount of commercial uses in this area, the proposal seemed appropriate. It is not possible to do a totally pedestrian-oriented town center because there are two five-lane roads through the area. The existing Grime Fighters car wash on Debarr is clean and well run.

COMMISSIONER PEASE asked whether the Council discussed what happens to the rest of the block when this property is commercially zoned. MS. ROBINSON stated the lots to the south of the petition site, which are occupied by Hollywood Auto, might be upgraded if the property is rezoned. Upgrade cannot be accomplished there at this time because that property is zoned residentially. COMMISSIONER PEASE understood that the community would be happy to have an upgraded auto enterprise. MS. ROBINSON replied that the community responded favorably to the indication from Mr. Bomhoff of that property owner's intentions.

COMMISSIONER FREDRICK noted that he listens to comments from community councils that come before the Commission. The Department has cited no less than 10 policies of *Anchorage 2020* that they feel are being violated by this rezone proposal, yet the Council found that it is compatible with *Anchorage 2020*. MS. ROBINSON thought *Anchorage 2020* does not say no more commercial development can be done, but rather it encourages clustering of commercial. Muldoon Road is a commercial road and there are businesses along its length. The petition site was zoned for residential use decades ago and that zoning no longer fits. Grass Creek is rezoned to commercial along Debarr and Muldoon with residential in the interior. The Alaska Greenhouse property closest to Muldoon is being identified for commercial with residential behind that. She noted that the noise along Muldoon Road is overwhelming and large trucks, as well as other vehicles use the road.

COMMISSIONER JOSEPHSON stated that he has found 14 comments in agreement with the Department and 6 in agreement with the Council, which

is the opposite of the Council vote. He asked if she was surprised by the reaction from these commenters who did not attend the Council meeting. MS. ROBINSON stated the meetings are typically attended by between 20 and 30 residents who can vote. She personally received an email from a member of the Council who voted against the resolution and he encouraged people to go to the website and make comments in opposition to this rezone. Most of those who oppose the rezone are on one street that is located opposite of this site. She remarked that small groups of concerned citizens can do many things. The petitioner did not choose to take a similar approach.

COMMISSIONER PHELPS questioned whether the Council dealt with the entire site, asking whether the three lots in the southeaster portion might be retained as R-3. MS. ROBINSON stated that the Council was told the entire site needed to be rezoned. She understood that the owner of the southeast corner of the site was non-responsive when Mr. Bomhoff attempted to contact her.

COMMISSIONER PHELPS noted that the Commission must consider whether or not a rezoning request is speculative. The Commission deals with such concerns by applying special limitations, such as a sunset clause if a certificate of occupancy for a particular use is not received within a prescribed time frame. MR. BOMHOFF did not object to such a special limitation.

The public hearing was closed.

COMMISSIONER JOSEPHSON asked where would the water used in the car wash drain and will that drainage impact even contaminated streams. MS. AUTOR replied that the discussions the petitioner has had with PM&E and drainage experts are that he would have to develop a drainage system that would not negatively impact the creek. This will require some upgrade along 10th Avenue to the stream. She was not familiar with the specifics of the improvements. She was told this would be given scrutiny during the development permitting stages and the petitioner will be required to upgrade drainage to the road and perhaps even to the stream.

COMMISSIONER PALMER asked that the petitioner explain how water generated by this operation would be handled. MR. BOMHOFF explained that the water from the car wash will drain into a sump inside each bay, that sump collects any oil, the water then goes into the sanitary sewer, and from there it goes to Point Woronzof. The surface runoff will drain either into the street or ditch, but that is no different from the water from any parking lot.

COMMISSIONER PHELPS asked whether the Commission is bound to the size criteria that is required to initiate a rezoning application. He understood that the rezoning must be initiated at a certain acreage, but during its deliberations the Commission can decide to reconfigure the zoning as it is appropriate for the particular site, regardless of the acreage size. MS. AUTOR concurred with this understanding.

COMMISSIONER PEASE asked where the code allows this. MS. AUTOR replied that it has to do with the Commission's scope of authority under a rezoning. COMMISSIONER PHELPS explained that the general principle is that standards are applied to a petitioner for a rezoning, but the same standards do not apply to the Administration. The Administration, which is represented by the Commission, can approve or reject the rezoning or configure it differently. COMMISSIONER FREDRICK stated that AMC 21.20.070 says that no zoning map amendment may be approved that applies any use district to any area less than 1.75 acres. He stated he would not vote in favor of this rezone application if those four lots are included. Unless he heard from Mrs. Sun that she has no objection, it feels like a taking, in a moral sense. He stated he would like a legal opinion on what Commissioner Phelps seems to be suggesting.

COMMISSIONER PHELPS moved to approve a rezoning from R-3 to B-3SL for Lots 1-6 and Lots 11-12, Block 1, Sunny Acres Subdivision, with the following special limitations: 1) landscaping be provided on the entirety of the site that is zoned B-3 along State Street; 2) a site plan be submitted to the Planning Department prior to the issuance of a building permit, the purpose of which is to deal with ingress/egress, drainage, revision of buffer landscaping, and the generation of noise, especially as it affects the adjacent residential areas; and 3) this rezoning to B-3 is valid for a period of two and one-half years from date of adoption of the rezoning by the Assembly and, if a certificate of occupancy is not issued within that period of time, the rezoning to B-3 sunsets. And to approve a rezoning from R-3 to R-3SL for Lots 7-10, Block 1, Sunny Acres Subdivision with a special limitation of a 15-foot landscape buffer adjacent to State Street. COMMISSIONER PALMER seconded.

COMMISSIONER JOSEPHSON asked what is the width of buffer on B-3SL. COMMISSIONER PHELPS replied that the buffer would be 20 feet.

COMMISSIONER PHELPS stated this is a difficult case. There are good arguments by Staff and others that if the rezoning is approved there will be a significant decline in the opportunity for residential development along Muldoon Road. There is also the argument that this rezoning would set

precedent and result in other areas adjacent to Muldoon Road converting from R-3 to B-3. At the same time, the market has argued that this area has not been developed residentially for 30 years, indicating that it is probable that it will not in the future. Although there is a need for residential development in this area, this is not the appropriate location for that use. He also had concern with the impact to the area and wished to ensure that there be buffering, appropriate ingress/egress, and that drainage is addressed. A site plan review should be required before the Planning and Zoning Commission. The second to the motion agreed to this revision.

COMMISSIONER PHELPS proposed R-3SL zoning in the southeastern portion of the site because that action rezones the entire property from R-3 to another zoning district. He did not support a B-3 zone for the entire subject area.

COMMISSIONER FREDRICK noted that the code requires that buffer landscaping is an average 10 feet wide and a minimum of 8 feet wide between B-3 and any residential zoning. The north boundary abuts Rangeview Court, which is R-3, and two lots on State Street that abut R-3. He understood that Commissioner Phelps was proposing a buffer landscaping width that exceeds the code requirement. COMMISSIONER PHELPS stated he is suggesting 15 feet of buffering in a residential area abutting a residential area, which is State Street. COMMISSIONER FREDRICK clarified he was speaking to the buffer of the car wash property to residential uses to the east. COMMISSIONER PHELPS stated his suggestion is that the buffer be wider than code requires.

MS. AUTOR asked what size of buffering is being recommended along 10th Court. COMMISSIONER PHELPS replied that he did not specify that; he was leaving it to the site plan review process.

COMMISSIONER PEASE asked whether Commissioner Phelps wishes to address requiring the applicant to upgrade 10th or State Street if either becomes the ingress/egress. COMMISSIONER PHELPS stated that is best left to the platting process. MS. AUTOR stated that a short plat would be required in order to vacate the lot lines. COMMISSIONER PEASE was concerned that State Street and 10th are not developed and was uncertain whether this situation should be addressed. COMMISSIONER PHELPS amended his motion to add a condition stating "During the platting process, consideration shall be given to the adequacy of East 10th and State Street and to accommodate this projected use and, if required, that a traffic impact analysis be prepared." *This was accepted as a friendly amendment.* COMMISSIONER PEASE asked if the responsibility for construction would be assigned at the time of platting. COMMISSIONER PHELPS responded in

the affirmative. COMMISSIONER PEASE noted that 10th extends further and she was unsure what the streets and highways plan involves for the entire area and how to assign responsibility. COMMISSIONER PHELPS felt this could not be resolved this evening, but it should be resolved during the subsequent review process.

COMMISSIONER PEASE asked what would be the situation if it were discovered that the Commission does not have the authority to rezone this property with two zoning districts. COMMISSIONER PHELPS presumed that, if it is an illegal act, the Commission would be told.

COMMISSIONER PEASE stated that she agreed with Staff that the *Anchorage 2020* policies predominantly point against this rezone. She was concerned with the transit-supported corridor policies and Policy #5 concerning compatibility with adjacent uses. There are no long-term guarantees that the portion of the property to the south will be developed with a use that is compatible with the area. Policy #12 calls for higher density residential in a town center and this property is within the town center radius. Policy #14 to avoid unnecessary conversion of residential to commercial is in effect. In order to have residential infill and redevelopment it is important to keep residential land that less than desirable land available. She noted that new residential areas have been filling in on both sides of the New Seward Highway south of Dimond Boulevard. She was troubled by minimum area requirements noting that, if not for Ms. Sun's lots, this would not be a legal rezoning petition. The cumulative effect on Muldoon Road under AMC 21.20.090B is a concern. There is some indication that people are ready to abandon Muldoon Road to strip commercial development. The comprehensive plan specifically discourages strip commercial development. Maintaining residential development along Muldoon Road softens it. She also had concerns respecting buffer landscaping and buffer landscaping; she favored the conditions proposed in the motion. She felt that the comprehensive plan does not support this rezoning and AMC 21.20.090 and 21.20.070 are of concern.

COMMISSIONER PALMER stated he was prepared to vote against this petition because of concern with rezoning the residential lots owned by an individual who objects to the rezoning. However, if the Commission can take the action proposed by Commissioner Phelps, he was comfortable voting in favor. He stated he does not believe this area is appropriate for residential development. The petitioner is a businessperson who has agreed to provide many improvements with this development. He also put weight on the Community Council's position.

COMMISSIONER FREDRICK stated that, with the reservation that he is not entirely sure that the Commission is meeting the letter of the code in terms of minimum area requirement, he was comfortable with the action proposed in light of actions taken in the immediate vicinity.

COMMISSIONER JOSEPHSON stated he did not initially view this as a difficult case, but it has become one. He stated that, while he admires the Department Staff, he sees some inconsistencies in what they recommend in Muldoon. On page 14 they say that auto-related uses are typically not conducive to fostering compact mixed-use development. This came up with the Quick Lube associated with Wal-Mart development on Muldoon. There were massive inconsistencies in that case and the Department made a particular recommendation. In this case, there is concern with the strong pedestrian environment. He commended Commissioner Phelps for softening the impact of the rezoning.

VICE CHAIR ISHAM did not support the motion because he did not believe AMC 21.20.070 permits this action. There are 12 lots and each lot is 7000 SF. The eight lots proposed for rezoning to B-3 totals 56,000 SF and the four others total 28,000 SF, neither of which meets the minimum requirement of 76,230 SF.

AYE: Josephson, Fredrick, Palmer, Phelps

NAY: Pease, Isham

FAILED

3. S-11640 Alyeska Resort.

POSTPONED INDEFINITELY

Case 2008-024

COMMISSIONER PHELPS stated he has seen serious flaws in the ordinance, but he did not have specific language to offer.

VICE CHAIR ISHAM stated his concern is that someone wants to build a tall building and a code amendment is being crafted to accommodate that. He was also concerned whether this would be included in the Title 21 Rewrite and, if so, what chapter.

COMMISSIONER FREDRICK asked what questions could be asked that would allow a decision.

SUNRISE REALTY
337-3162

March 4, 2009

Municipality of Anchorage
P.O. Box 196650
Anchorage, Ak. 99507



Attention: Municipal Clerk

Re: Blocks 1 & 2 Sunny Acres Subdivision

I am writing to support rezoning portions of Blocks 1 & 2 from R3 to B3 which is under appeal of the Planning Commission case # 2009-003. The property is located along the east side of Muldoon Rd. between 10th Avenue and 12th Avenue.

No residential development has occurred in this area for the past 30 or 40 years. This is primarily a business district and not a residential area and the noise from the traffic is far more than would be allowed in a residential area.

One owner along block 1 operates an auto repair shop and another business is intending to build a car wash. These two businesses are stand alone businesses and are not a part of a strip development.

Rezoning this property to B3 is consistent with other zoning in the area. The entire frontage in the southwest portion along DeBarr and Muldoon Roads was rezoned to B3.

The property has been vacant for decades and will probably remain so as traffic increases. A small group of local people have fought any improvement along Muldoon Rd. for a long time. I do not think this is good for the Muldoon community.

I support rezoning the property from R3 to B3.

Dorothy Rogers
Sunrise Realty
dottierogers47@msn.com

RECEIVED

MAR 18 2009

MUNICIPALITY OF ANCHORAGE
BOARD OF ADJUSTMENT

NOTICE OF APPEAL TO AN ACTION OF THE PLANNING AND
ZONING COMMISSION OR THE PLATTING BOARD

FEE - \$960

M.O.A.
2009 MAR 11 PM 1:19
CLERK'S OFFICE

FOR USE BY CLERK

Acceptance Date: 3-11-09

Appeal Fee: \$960. -

Cost Bond: _____

Actual Cost: _____

Hearing Date: _____

Decision: _____

A. General Identity of Action being appealed

1. Planning Department file number: 2009-03
2. Name of project or subdivision: Portion Lots 1 & 2, Sunny Acres
3. Date of Commission or Board action: Feb. 2, 2009

B. Appellant's Name and Address

1. Name: Burton M. Bernhoff
2. Mailing Address: 19239 Adrian Ave

Chugiak, Ak 99567

3. Telephone: 907-688-2084

4. Relationship to action:

☒ Petitioner

☒ Agent of Petitioner. Provide Name and address of petitioner.

Name: _____

Mailing Address: _____

☐ Other person adversely affected*

☐ Government agency*

* If you are not the petitioner or his/her agent you must give notice to the petitioner by certified mail at his/her last known address within three days of filing this Notice of Appeal.

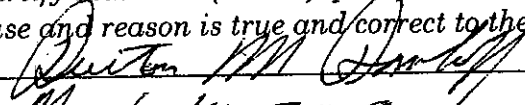
SPECIFICS OF APPEAL CERTIFICATION

An appeal may be considered for three causes, and the cause(s) must be explained and a reason given for why the appeal should be granted. The causes are:

1. Procedural error
2. Error in application of law.
3. Findings or conclusions that were unsupported by evidence.

A written statement of cause and reason for granting the appeal must accompany this notice so that the appeal may be considered. An oral statement may not be used. It is important, then, that a careful and complete statement be made.

I (we) hereby certify that I am (we are) qualified to make this appeal and that my (our) statement of cause and reason is true and correct to the best of my (our) knowledge.

Signature: 

Date: March 10, 2009

STATEMENT INSTRUCTIONS

An appeal may be considered for the following listed three causes, singly or in combination. Explain the cause and also state what corrective decision is desired by his appeal.

1. **Procedural Error.** If you allege procedural error, specify those matters which constitute the error and the manner in which the alleged error resulted in prejudice to your interest.
2. **Error in Application of Law.** If you allege legal error, specify the manner in which principles of law were incorrectly applied. Include reference to any ordinance, statute or other codified law upon which the allegation of legal error is based.
3. **Findings and Conclusion Unsupported by Evidence.** If you allege that findings or conclusions are not supported by the evidence that was presented, specify and explain those findings or conclusions which lacked evidentiary support at the time of the action.

WRITTEN STATEMENT

(Plain paper may be used if needed for additional space.)

MULDOON DECISION UNSUPPORTED BY EVIDENCE

This is to appeal the action of the Planning and Zoning Commission relative to Planning Department File Number 2009-03. This appeal is in accordance with MOA Ordinance 21.20.100D.

The property included in this rezoning petition is located along the east side of Muldoon Road between 10th and 12th Avenues and includes Block 1 as well as portions of Block 2, Sunny Acres Subdivision. The area presently contains vacant land that has been used for commercial purposes but never residential, as well as two businesses that are non-conforming under the present R-3 zoning. Most of the Muldoon Road frontage along Lot 2 is already zoned B-3. The petitioner intends to build a carwash on the vacant land in Lot 1.

No new residential development has occurred along this entire stretch of Muldoon Road during the last several decades, primarily because the area is simply not appropriate for residential use. This has created a “*no man’s land*” where existing non-conforming businesses cannot be improved and vacant properties have become an unsightly magnet for junk and debris.

This land is within the epicenter of the Muldoon Town Center and should be upgraded into an attractive convenience for surrounding residential neighborhoods. The comprehensive plan intends that the town center include a mix of community serving retail shopping and services surrounded by medium to high density, residential development. We believe that rezoning this area to B-3 is a positive thing for Muldoon and that it is in total compliance with sound planning principles. Also, it is totally consistent with general guidelines set forth in ANCHORAGE 2020.

Again, the property is on Muldoon Road in the core of the Muldoon Town Center, ¼ mile from its locus at the intersection of Muldoon Road and DeBarr.

Municipal policy states that: “*Existing and new centers shall be characterized by one-half to one mile in diameter and contain a range of commercial retail/services and public facilities that serve their surrounding neighborhoods*”. It is clearly intended by the MOA’s own policies that the Town Center is to be primarily businesses which serve surrounding residential areas.

Eight years have passed since Anchorage 2020 was approved and the Municipality still has not developed a Town Center Plan for Muldoon, which would provide *specific* guidelines. The MOQ should not use this lack of action to stymie development that is positive and productive for Muldoon. In any case, this rezoning application is in compliance with the general guidelines of the approved comprehensive plan.

This property is suitable for business use but not at all appropriate for residential use. No residential development has occurred fronting on Muldoon Road for decades because of its extremely hostile environment for residential uses. Traffic on Muldoon Road in front of this property is more than 34,000 vehicles per day, the heaviest in Muldoon. This would be a dangerous environment for any resident, not only children but elderly persons in extended care facilities.

The Code states that B-3 is specifically intended for general commercial uses in areas exposed to heavy automobile traffic. The code further states that R-3 zone is intended to protect and preserve and enhance the primarily residential character of a district. This property has no residential character, as proved by the market place. It has been for sale for decades with no buyers because no one has been willing to build residential housing at this location.

Traffic along Muldoon Road creates extreme noise levels, beyond that allowable in a residential zone. Noise levels exceed 100 decibels, double the level allowed by MOA in a residential zone. It would be illegal to move noise levels of this magnitude into a residential area so, in turn, it is inappropriate to locate residences here.

This rezoning is consistent with the B-3 zoning which already exists along Muldoon Road and DeBarr Road within ¼ mile. With rezoning, two businesses will exist along Muldoon Road on one city block. These are stand alone businesses which do not constitute strip zoning.

Rezoning to B-3 is consistent with other recent rezoning in the immediate area. The frontage along the entire SW quadrant of Muldoon and DeBarr was recently rezoned B-3.

Two non-conforming uses exist within the rezone petition area. Both are car repair facilities that cannot be improved until rezoned.

The Planning and Zoning Department provided all Municipal departments as well as state agencies with the opportunity to comment on this rezoning. Not one of those responding objected or expressed concern over this rezoning. The Housing and Neighborhood Development Commission, consisting of appointed volunteers, passed a resolution essentially stating that this land was needed for low income housing. The resolution is misguided. This property is totally unsuited for low income residents who would forced to raise children and elderly family members in a noisy, dangerous environment.

If approved, this rezoning will allow for attractive, needed facilities in place of vacant, undevelopable property which has become a magnet for junk and trash and is a blight on Muldoon's busiest street. It will also allow existing non-conforming businesses to upgrade their facilities within the Muldoon Town Center letting it achieve its potential as intended by Anchorage 2020.

SUNRISE REALTY
337-3162

March 4, 2009

Municipality of Anchorage
P.O. Box 196650
Anchorage, Ak. 99507

Attention: Municipal Clerk

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The property has been vacant for decades and will probably remain so as traffic increases. A small group of local people have fought any improvement along Muldoon Rd. for a long time. I do not think this is good for the Muldoon community.

I support rezoning the property from R3 to B3.

Dorothy Rogers
Sunrise Realty
dottierogers47@msn.com

REZONE B-3

B-3 SL
AO 93-152

R-3

B-3 SL
AO 88-66(S-1)

B-3 SL
AO 79-10

B-3 SL
AO 94-150 (AA)

B-3

B-3 SL
AO 2001-182

B-3 SL
AO 2001-24(S)

B-3 SL
AO 94-120

Muldoon Road

DeBarr Road

N. FU.

ALASKA

SOUTHERN

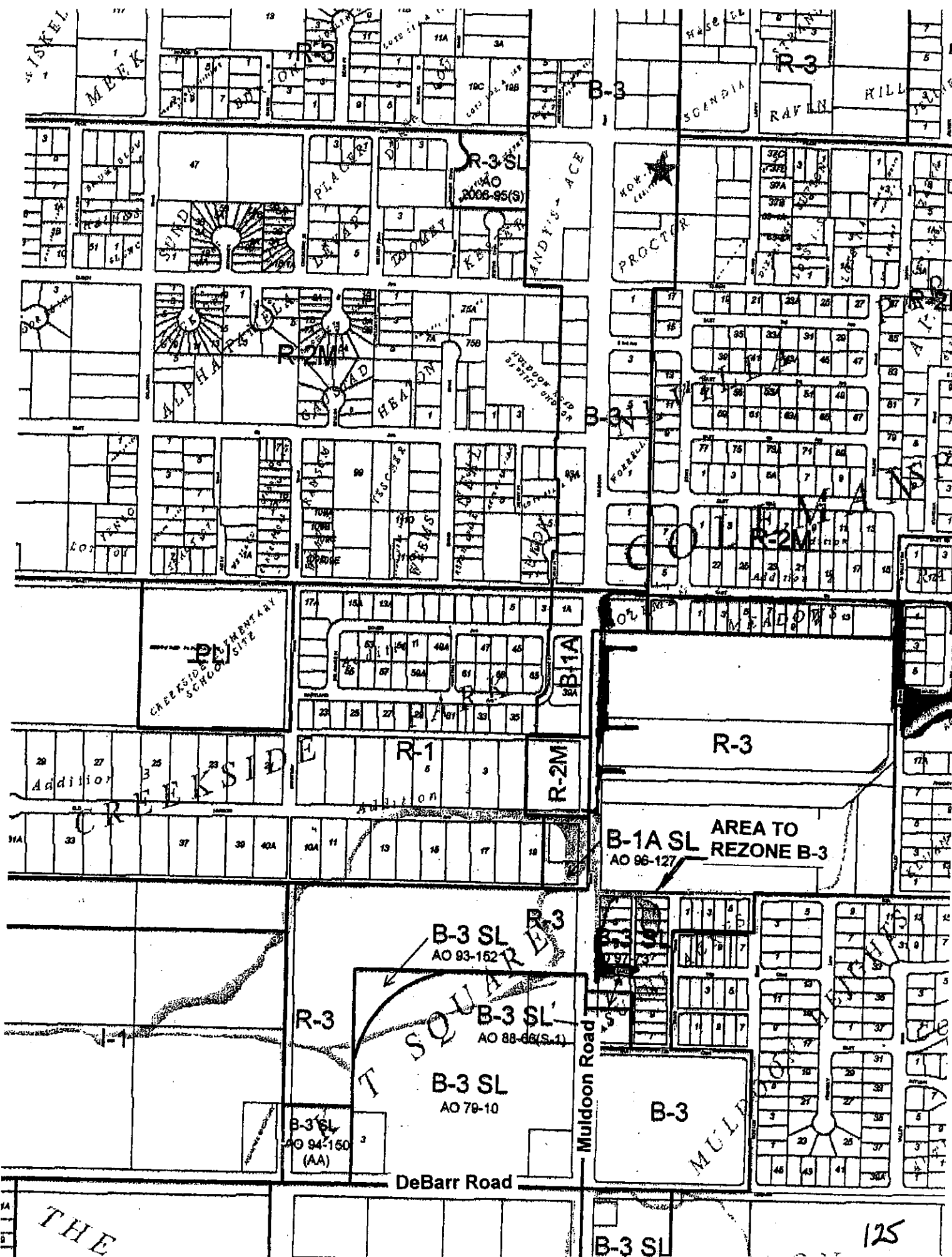
MULDOON

ACRES

CHARTER

ADDITIONS

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17



343722

FINANCE DEPARTMENT



Received from Burton Bomhoff

03/11/09

Receiving Department Remarks

Amount of Payment

Appeal 2009-03

\$ 960.-

☐ ACH

- ☐ MLP

☐ AWWU

Payment type (select only one)

☒ ~~Cash/Check~~☐ Credit Card☐ Debit Card☐ Other

Employee ID | 21923

Coll. Dept ID	1020
---------------	------

Deposit ID

[illegible]

RECEIPT 343722

Prepared by: Janet L. Glem

Date prepared: 3/11/09

Phone no: 343-0204