DATE: January 16, 2015

TO: Planning Commission

FROM: Chrissy McNally, Planner Community Development Department

FILE NO.: USE2014 0017

PROPOSAL: Conditional Use to operate a 4 bedroom bed and breakfast in the D-1 zoning district.

GENERAL INFORMATION

Applicant: Russell & Gretchen Powers

Property Owner: Russell & Gretchen Powers

Property Address: 10497 Fox Farm Trail

Legal Description: Spruce Point Estates Lot 11

Parcel Code Number: 4-B20-0-103-0-150-0

Site Size: 0.53 Acres

Comprehensive Plan Future Land Use Designation: Rural Low Density Residential (RLDR)

Zoning: D-1

Utilities: City water & private septic

Access: Fox Farm Trail

Existing Land Use: Single Family Residence

Surrounding Land Use: North - D-1/Single Family Residence/Auke Bay

South - D-1/Single Family Residence/Auke Bay
ATTACHMENTS

Attachment A: Conditional Use application
Attachment B: 1989 Plat Spruce Point Estates
Attachment C: As-built
Attachment D: Front of residence
Attachment E: Floor plan
Attachment F: Lighting and circulation plan
Attachment G: Letter from Gary Hayden, P.E.
Attachment H: Public comment
Attachment I: Public notice

PROJECT DESCRIPTION

The applicant requests a Conditional Use permit for the development of a year round 4 bedroom bed and breakfast in the D-1 zoning district.
BACKGROUND

The applicants purchased the single family residence located at 10497 Fox Farm Trail in June 2014 with the intent to operate a bed and breakfast. The lot was platted in 1989 as part of the Spruce Point Estates Subdivision, and the single family residence was built in 1991.

ANALYSIS

Project Site – CBJ 49.80.120 defines a bed and breakfast as, “a dwelling in which more than two bedrooms are used for commercial lodging provided by the owner or operator who lives on site”. The site is located in a D-1 zoning district on the west side of Mendenhall Peninsula in a low density residential neighborhood. According to CBJ 49.25.300 Table of Permissible Uses bed and breakfasts are allowed in the D-1 zoning district with a Conditional Use Permit.

The subject site is 22,966 square feet and was platted in 1989 as part of the Spruce Point Estates Subdivision. It is located near the cul-de-sac of Fox Farm Trail. Fox Farm Trail is a CBJ maintained roadway. There are 21 lots in the subdivision which are governed by 24 covenants and a Homeowners Association. There is a shared boat dock for members of the subdivision; however, its use requires an annual fee (see Vicinity Map).

The subject site is lined with large evergreen and deciduous trees on both the north and south property lines (Figure 1). Both these property lines border single family residences. Additional trees were recently planted along the front yard property line (Attachment D). There is a pedestrian access easement to the shoreline along the southern property line (Figure 1). The rear of the property is a tidewater lot line. The distance from the residence to the northern property line is approximately 15 feet. The distance from the residence to the southern property line is approximately 50 feet.

The top floor of the residence contains the garage, dining room, living room, kitchen, one full bathroom and one bedroom. The bottom floor contains three bedrooms, two bathrooms, and laundry facilities. There is access to a large deck from the bottom floor (Figure 2).
Figure 1: Site Aerial

Figure 2: Rear of house looking from tideline
Project Design – The single family residence is 3,123 square feet with 4 bedrooms and 3 bathrooms. According to the applicant, there is an attic space they plan to convert to their personal bedroom. Therefore, before this work is complete three bedrooms will serve as rentals and one bedroom will be used by the owners. Following completion of the attic bedroom, four bedrooms would be available to rent. The owners intend to upgrade the plumbing and heating systems as well as other minor interior improvements.

Currently, the proposed bed and breakfast is limited to no more than eight guests at a time. According to John Young, CBJ Building Plan Reviewer, the International Building Code allows residences that contain sleeping units that are transient in nature to adhere to standard residential construction standards if they contain 10 or fewer individuals. Beyond ten individuals, stricter construction requirements would be required for the residence. Title 49, the Land Use Code, does not list a maximum number of allowable bedrooms for a bed breakfast.

Traffic – The property is located in a low density residential neighborhood near the end of the Fox Farm Trail cul-de-sac. Traffic consists of residents traveling to and from their residences. According to the applicant, there are also occasional sight seers. There is no expectation that traffic generated by the proposed bed and breakfast would adversely affect traffic flow on Fox Farm Trail.

Staff received comments from two adjacent property owners that were concerned about increased traffic in the neighborhood as a result of the proposed bed and breakfast. The neighbor to the north is concerned about on-street parking in front of their property.

Parking and Circulation – The parking requirement for a bed and breakfast is 1 space per 2 bedrooms. The parking requirement for a single family residence is 2 spaces. Therefore, a total of 4 parking spaces are required for this development. The parking space requirements in CBJ 49.40.210(b)(1) require a parking space to be 8.5 feet wide and 17 feet long. The site has a two car garage and a 20 foot wide by 42 foot long driveway. Therefore, the site can accommodate 6 vehicles, exceeding the minimum parking requirement. However, one car per rented bedroom is a reasonable expectation. With four available parking spaces in the driveway, the site can accommodate one car per rented bedroom.

The neighbor to the north commented that they are concerned bed and breakfast guests will park in front of their property on the street (Attachment H). However, they have spoken to the applicants about their concerns and believe the applicants will maintain sufficient off-street parking for guests.

Noise – With the recommended condition of 8 guests, the proposed bed and breakfast would have 10 individuals on site. There is the potential for guests gathered on the outdoor patio or beach to disturb neighbors to the north and south. There may also be additional noise from guests arriving and departing. The applicants have stated that they intend to establish guidelines for guests that
will address noise.

Based on adjacent property concerns, staff recommends that a condition be placed on the proposed use that outdoor events be limited to no later than 10 p.m. Monday through Thursday and midnight on Fridays and Saturdays. This condition along with the occupancy limit condition and with existing vegetative buffer between properties is expected to mitigate off site noise impacts.

**Public Health or Safety** – The owners have hired an engineer to upgrade the onsite septic system to meet Alaska Department of Environmental Conservation standards (Attachment F). As previously, mentioned the owners intend to upgrade the plumbing and heating systems and smoke and carbon dioxide alarm systems.

There are lights illuminating the driveway and entryway to the house. These will provide for safe entry and exist for the proposed bed and breakfast (Attachment F). Sufficient off-street parking is provided for the proposed use, ensuring guests will not park in the right-of-way disturbing traffic and pedestrians.

Neighbors have commented that they are concerned with guests walking on the shorelines and any liability that may occur if someone were injured on their property. Staff informed the applicant of this concern, and they intend to address trespassing with each guest.

**Habitat** – There are no eagle nests, anadromous fish streams, wetlands, or other sensitive areas on the subject site.

**Property Value or Neighborhood Harmony** – The Spruce Point Estates Declaration of Protective Covenants, Conditions and Restrictions do not specifically mention uses that are restricted in the subdivision. The document does state that one professional sign of one and one half square feet is allowed at each property.

The owner of the property at the end of the cul-de-sac wrote a letter in support of the use. However, staff received two email statements from neighboring property owners opposing the use (Attachment H). The adjacent property owner to the north stated they are not opposed to the use, but want to ensure guests will not trespass on their property, sufficient off-street parking will be provided, and nighttime noise will not disturb adjacent property owners.

Staff received a call from one neighboring property owner that was concerned about guests using the neighborhood dock. Use of this dock requires paid membership and is accessed through a private property. When the applicants purchased the property they opted not to pay for rights to use the dock.

The applicants have stated that they intend to establish guidelines for guests to protect the privacy of adjacent property owners. Based on the concerns of neighboring property owners, available off-
street parking and the International Building Code requirement previously mentioned, staff recommends a condition that the bed and breakfast be limited to eight guests—2 per bedroom.

Conformity with Adopted Plans – The subject site is designated as Rural Low Density Residential (RLDR) on the Comprehensive Plan Land Use maps. RLDR is defined as

*Rural residential land at densities of one to three dwelling units per acre, based on existing platting and capability of the land to accommodate on-site septic systems and wells or whether the land is served by municipal water and sewer service*

Issuance of a conditional use permit for a four bedroom bed and breakfast is allowable based on CBJ 49.25.300 Section 1.610 *Table of Permissible Uses*. The Comprehensive Plan identifies the need to promote independent and over-night travelers and promote “development that supports year-round visitor services and activities”. Further, Policy 5.4 in the Comprehensive Plan states:

**POLICY 5.4** TO ENCOURAGE TOURISM, CONVENTION AND OTHER VISITOR-RELATED SERVICES, WHILE PROTECTING JUNEAU’S NATURAL, CULTURAL AND ECONOMIC ATTRACTIONS FOR LOCAL RESIDENTS AND VISITORS ALIKE, AND TO PARTICIPATE IN THE ACCOMMODATION OF THE FUTURE GROWTH OF TOURISM IN A MANNER THAT ADDRESSES BOTH COMMUNITY AND INDUSTRY CONCERNS.

A small locally owned and operated bed and breakfast fits within this vision set forth in the Comprehensive Plan.

**FINDINGS**

CBJ §49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the Director's report to consider:

1. Whether the application is complete;
2. Whether the proposed use is appropriate according to the Table of Permissible Uses;
   and,
3. Whether the development as proposed will comply with the other requirements of this chapter.

The Commission shall adopt the Director's determination on the three items above unless it finds, by a preponderance of the evidence, that the Director's determination was in error, and states its reasoning for each finding with particularity.

CBJ §49.15.330 (f), Commission Determinations, states that even if the Commission adopts the Director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public hearing, that the
development will more probably than not:

1. Materially endanger the public health or safety;
2. Substantially decrease the value of or be out of harmony with property in the neighboring area; or,
3. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Per CBJ §49.15.330 (e) & (f), Review of Director's & Commission's Determinations, the Director makes the following findings on the proposed development:

1. **Is the application for the requested conditional use permit complete?**

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

2. **Is the proposed use appropriate according to the Table of Permissible Uses?**

   Yes. The requested permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ §49.25.300, Section 1.610 for the D-1 zoning district.

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

   Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the December 6, 2014 and December 15, 2014 issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public Right of Way.

4. **Will the proposed development materially endanger the public health or safety?**

   No. Based on the preceding staff analysis, no evidence is found to indicate that the proposed use, with conditions, will materially endanger the public health or safety.

5. **Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?**

   No. There is no evidence to suggest that the proposed development will decrease property values in the neighboring area. With appropriate conditions, this development will not substantially be out of harmony with property in the neighboring area.
6. **Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?**

Yes. Based on the preceding staff analysis, it is found that the proposed development is in general conformity with the Comprehensive Plan of the City and Borough of Juneau.

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

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

N/A

**RECOMMENDATION**

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit, USE2014 0017. The permit would allow the development of a 4 bedroom bed and breakfast in the D-1 zoning district subject to the following conditions:

1. The bed and breakfast shall not exceed a maximum occupancy of 8 guests and 2 owners/caretakers.
2. Outdoor events shall be limited to 10 p.m. Monday through Thursday and midnight Friday and Saturday.
3. The applicants shall submit a list of house rules that address noise, trespassing and parking to the Community Development Department.
ALLOWABLE/CONDITIONAL USE PERMIT APPLICATION

TYPE OF ALLOWABLE OR CONDITIONAL USE PERMIT REQUESTED

- Accessory Apartment*** (AAP)     Driveway in Right-of-Way (ADW)
- Use Listed in §49.25.300 (USE) (Table of Permissible Uses)

Please list the Table of Permissible Uses Category: Bed & Breakfast

***An Accessory Apartment Application will also be required.

DESCRIBE THE PROJECT FOR WHICH AN ALLOWABLE OR CONDITIONAL USE APPROVAL IS NEEDED.

To operate a B&B out of our existing 4 bedroom home.

IS THIS A MODIFICATION OF AN EXISTING APPROVAL?  

- NO  
- YES – Case #

CURRENT USE OF LAND OR BUILDING(S):

Residential, Zoned D-1

PROPOSED USE OF LAND OR BUILDING(S):

Private Residence and Bed & Breakfast

UTILITIES PROPOSED:

- Existing WATER: [ ] Public [ ] On Site
- Existing SEWER: [ ] Public [ ] On Site

SITE AND BUILDING SPECIFICS:

Total Area of Lot 22,966 square feet
Total Area of Existing Structure(s) 4,391 square feet
Total Area of Proposed Structure(s) 0 square feet

EXTERNAL LIGHTING:

- Existing to remain [ ] No [ ] Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures
- Proposed [ ] No [ ] Yes – Provide fixture information, cutoff sheets, and location of lighting fixtures

PROJECT NARRATIVE AND SUBMITTAL CHECKLIST:

- Site Plan
- Floor Plan of proposed buildings
- Elevation view of existing and proposed buildings
- Proposed Vegetative Cover

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side.

ALLOWABLE/CONDITIONAL USE FEES

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NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

Revised December 2009 - I:\FOMS12010 Applications

Page 1 of 2

Planning Commission  
File No.: USE2014 0017  
Attachment A
DEVELOPMENT PERMIT APPLICATION

CITY and BOROUGH of JUNEAU

Date Received: 11/4/14

Project Description: To operate a bed and breakfast from our home

PROPERTY/LOCATION

Street Address: 10497 Fox Farm Trail
City/Zip: Juneau, AK 99801

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot):
Lot 11, Spice Point Estates, Plat 87-16, Juneau Recording District

Assessor's Parcel Number(s): AB 2001030150

LANDOWNER/LESSEE

Property Owner's Name: Russell + Gretchen Powers
Mailing Address: 10497 Fox Farm Trail
E-mail Address: Rusty@plumbandheat.com

Contact Person: Rusty
Work Phone: 769-3332
Fax Number: 769-6868

Home Phone: 723-2552

Other Contact Phone Number(s): Gretchen 723-1822

LANDOWNER/LESSEE CONSENT:

I am (we are) the owner(ies) of the property subject to this application and I (we) consent as follows:
A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.
B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.

[Signature]
Landowner/Lessee Signature

Date: 11/3/14

[Signature]
Landowner/Lessee Signature

Date: 11/3/14

NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.

APPLICANT

Applicant's Name: Same
Mailing Address: 10497 Fox Farm Trail
E-mail Address: Rusty@plumbandheat.com

Contact Person: Rusty
Home Phone: 723-2552

Other Contact Phone Number(s): Gretchen 723-1822

[Signature]
Applicant's Signature

Date: 11/3/14

OFFICE USE ONLY BELOW THIS LINE

Permit Type

Building/Grading Permit
City/State
Project Review and City Land Action
Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)
Mining Case (Small, Large, Rural, Extraction, Exploration)
Sign Approval (If more than one, fill in all applicable permit #s)
Subdivision (Minor, Major, PIU, St. Vacation, St. Name Change)
Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)
Variance Case (De Minimis and all other Variance case types)
Wetlands Permits
Zone Change Application
Other (Describe)

Date Applied: 11/4/14
Applicant Number(s): USE20140017

Comments: ***Public Notice Sign Form filled out and in the file.

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT APPLICATIONS

I-FORMS12010 Applications
Revised November 2009

Planning Commission
File No.: USE2014 0017
November 3, 2014

City/Borough of Juneau
Permit Center
230 S. Franklin St.
Juneau, AK 99801

Proposal: Application for Conditional Use Permit, Case Number PAC20140032

We are requesting a conditional use permit to operate a year round bed and breakfast from our home at 10497 Fox Farm Trail. Attachment A is an “as built” survey showing the homes' orientation on the lot. Attachment B shows the 2 story floor plan & attic storage. Attachment C is our site plan with lighting, parking, & traffic flow.

This home was constructed in 1992, with 4 bedrooms and 3 bathrooms, located in a D-1 residential zoning district. The site is a low density waterfront wooded peninsular area of Juneau. This home has had no updates in the last 15 years, except for a new deck and greenhouse in 2007. We plan to update the plumbing & heating systems, install interior soundproofing, updated smoke & CO alarm system, interior paint, & floor coverings in the near future. No structural changes are planned. The front of the garage is 42' from the street, the north side of the home is 15.4' from the treed property line, the south side is over 50' from the treed property line, and the rear of the lot is tidewater.

Lighting- There are five 100 watt exterior lights for the front entryway and driveway. A neighborhood street light is located on the north side of our driveway, providing additional illumination. We plan on not changing the current lighting.

Parking- There are 2 parking spaces in the garage and space for 4 vehicles in the 20' wide by 42' long driveway. Providing off street parking is an important aspect for us. We are open to increasing the parking space into the yard area if it becomes an issue in the future.

Proposed Traffic Circulation- Traffic in this neighborhood consists of residents driving to and from their homes and light traffic from sight seers, as this is the last cul-de-sac on Fritz Cove Rd. Our proposal will have minimal effect on the current traffic flow.
I hereby certify that this is a true and correct plat that all walls, roads, easements and improvements thereon are as shown and that all overlaps and encroachments are shown to the best of my knowledge.

Baxandall Associates
P.O. Box 92478 Juneau, Alaska 99803

RECEIVED

NOV 04 2014

PERMIT CENTER/CDD
Comments: All calculations are approximate. Room and utility placement is estimated for visualization.

## AREA CALCULATIONS SUMMARY

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## LIVING AREA BREAKDOWN

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| Net LIVABLE Area  | (rounded) | 3161      | 7 Items (rounded) | 3161 |

Attachment E
Mr. Rusty Powers  
10497 Fox Farm Trail  
Juneau, Alaska 99801

Electronic copy sent to rusty@plumbandheat.com

Subject: On-lot Wastewater System Upgrade  
Engagement of engineering services  
Lot 11 Spruce Point Estates  
Juneau, Alaska

This letter is to acknowledge that you have engaged EA² to act as your engineer concerning upgrades to the on-site wastewater treatment and disposal system serving 10497 Fox Farm Trail.

We have discussed your planned development and business ideas. Our preliminary discussions indicate that some upgrades to the existing sewage treatment system are needed. We have also explored various concept designs for upgrades which could be acceptable to ADEC. The next step will be for me to discuss these concepts with the staff at ADEC and choose the preferred option. I will then complete a detail design and submit it for review and permitting by ADEC.

I am confident that together we will be able to meet the regulatory requirements then install upgrades to the wastewater treatment system which comply with current standards.

I look forward to working with you on this project.

Sincerely,

[Signature]

Gary Hayden, PE
Dear Ms. McNally:

We are adjacent property owners (10468 Fox Farm Trail; 4B2001030210). We request that the Planning Commission deny the application for this proposed conditional use of subject property. This use violates the spirit and intent of the Spruce Point Estates Protective Covenants, Conditions and Restrictions and would have a negative impact on our ability to quietly enjoy our neighborhood and property due to increased automotive and foot traffic.

Sincerely,

Martin and Linda Beckner
Hi Chrissy,

We are next door neighbors of the Powers who are planning to open a B&B on Fox Farm Trail. Our main concerns about the B&B are parking on a narrow street and especially in front of our mailbox, noise especially at night, and liability from their clients using things that belong to us or trespassing on our property.

We have had a discussion with the Powers and feel that they know and understand our concerns and we feel we can work with them if issues come up. We understand that they plan to add more offstreet parking in their existing yard. So we are not opposed to allowing the B&B to happen if these issues are addressed.

Mike McKrill and Lisa Rollin
10507 Fox Farm Trail
Dear Ms. McNally:

We are adjacent property owners (10478 Fox Farm Trail; PCN 4-B20-0-103-020-0). We request that the Planning Commission deny the application for this proposed conditional use of subject property. This use violates the spirit and intent of the Spruce Point Estates Protective Covenants, Conditions and Restrictions. Sincerely,

Lance & Mary Mearig
December 10, 2014

Re: USE2014 0017; Powers

Ms. Chrissy McNally, Planner
Via email: christine.mcnally@juneau.org

Dear Ms. McNally and Commission Members:

   My wife, Phyllis Carlson, and I have lived in Spruce Point Estates subdivision since 1991. We are two lots away from the location of the proposed bed and breakfast. We have long believed that the subdivision, particularly the portion where Rusty and Gretchen Powers reside, would be an ideal location for a bed and breakfast because it is quiet and friendly, has no through-traffic, is relatively dry for Juneau, is at street level, is fully accessible and possesses beautiful views of Auke Bay, Stephens Passage and the lower end of Lynn Canal. In sum, it is the best that Juneau has to offer. We are looking forward to greeting people from different parts of the world and sharing our gardens with them when they walk by our home.

   We strongly support Rusty and Gretchen in this endeavor and urge that you grant the use permits which will enable them to succeed. They have not asked me to write this letter. I am sending it to you because of my heartfelt belief that enterprise of this nature enhances the image and enjoyment of our community by people who do not live here and makes Juneau a better place for everyone.

   Thank you for your time, attention and consideration.

   Sincerely,

   Jan Van Dort
PROPOSAL: Conditional Use to allow a bed and breakfast.

* Rescheduled from the December 16, 2014 Special Planning Commission Meeting.

File No: USE2014 0017  Applicant: Russell & Gretchen Powers

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</tr>
</tbody>
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PROPERTY OWNERS PLEASE NOTE:
You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department 14 days prior to the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a week before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Chrissy McNally at christine.mcnally@juneau.org or at 586-0761.

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

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