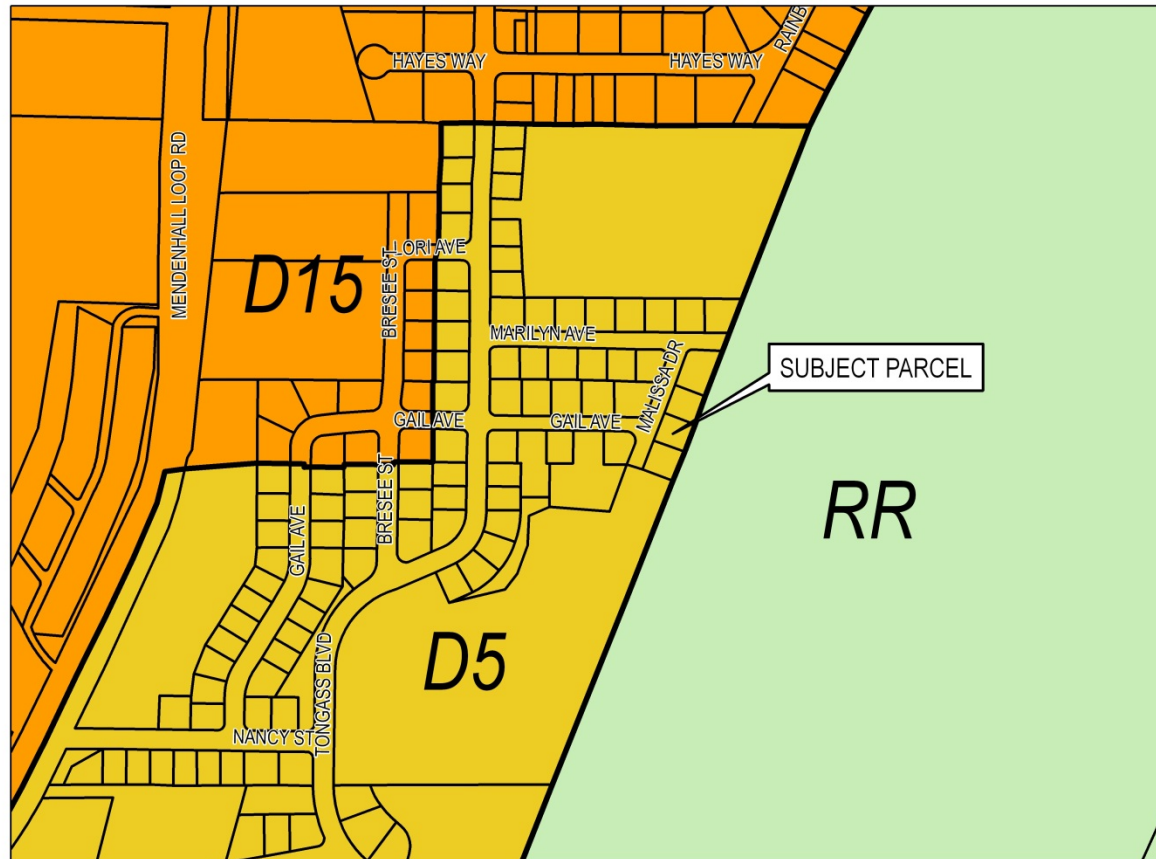




UNL2014 0001

Use Not Listed Determination for
re-entry housing for women
coming out of prison in the D-5
zoning district per CBJ 49.20.320

Area Zoning



Property Owner:	Grant Properties, LLC.
Property Address:	3202 Malissa Drive
Legal Description:	Tall Timbers 1 Block G Lot 3
Total site size	9,000 square feet
Comprehensive Plan Future Land Use Designation:	MDR (Map G)
Zoning:	D-5
Utilities:	City water & sewer
Access:	Malissa Drive
Existing Land Use:	Single Family Residential

CBJ 49.20.320 Use Not Listed

After public notice and a hearing, the board may permit in any district any use which is not specifically listed in the table of permissible uses but which has been determined to be of the same general character as those which are listed as permitted in such district. Once such determination is made, the use will be deemed as listed in the table of permissible uses.

Use Requested

In the D-5 zoning district allow a re-entry home for women coming out of prison

Why a USE NOT LISTED

- From at least 1987 to 2010, halfway houses and group homes were treated the same and allowed in every residential district.
- In 2010, the definitions of group home and halfway houses changed & the TPU also changed.

- The changes resulted in arbitrary results:
 - large halfway houses are allowed in a nearly all zones (12) but small halfway houses are only allowed in a few zones (5).
- The changes also prohibited group homes from having people that are “serving a sentence for a criminal act”. That phrase has been interpreted to prohibit people on probation or parole from living in a group home, which requires a rational basis to be enforceable that has not been articulated to date.

The 2010 changes are likely unenforceable because they lead to irrational results and may lack a rational basis.

Three Board of Adjustment Options

- Use Not Listed is determined to require departmental approval. (1),
- Use Not Listed is determined to be a “conditional use” requiring an approved conditional use permit. (3), or
- Proposed use is determined to not be of the same general character as those which are listed as permitted in such district.

Two recent Use Not Listed Cases

- UNL20100001 – Pet Grooming as a conditional use in the D-5 zoning district –found to be similar to kennels.
- UNL20130001 – Salvage yards permitted outright (no conditional use permit required) in the Industrial zone – found to be similar to recycling operations.

		Zones														
	Use Description	RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU2	WC	WI	I
1.000	RESIDENTIAL															
1.100	Single-family dwellings															
	1.110	Single-family detached, one dwelling per lot	1	1	1	1	1	1	1	1	1	1	1	1	1 ^A	1 ^A
	1.120	Single-family detached, two dwellings per lot	1	1	1											
	1.130	Single-family detached, accessory apartments	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x	1 ^x , 3 ^x		
	1.135	Two single-family detached, one or two accessory apartments		3	3											
1.200	Duplex															
1.300	Multifamily dwellings															
1.400	Group homes															
1.450	Halfway houses															
1.500	Day care homes															
	1.510	Child; 8 or fewer children under the age of 12	1	1	1	1	1	1	1	1	1	1	1			
	1.520	Child; 9 to 12 children under the age of 12	3	3	3	3	3	3	3	3	3	3	3			
	1.530	Adult; 8 or fewer people, 12 years and older	1	1	1	1	1	1	1	1	1	1	1			
	1.540	Adult; 9 to 12, people 12 years and older	3	3	3	3	3	3	3	3	3	3	3			

1.600	Miscellaneous, rooms for rent situations																
	1.610	Rooming, boarding houses, bed and breakfasts, single room occupancies with shared facilities, and temporary residences. Owner or manager must live on site.	3	3	3	3	3	1, 3	1, 3	1, 3	1, 3	1, 3	1	1	3 ^N		
	1.620	Hotels, motels	3								1, 3	1, 3	1, 3	1, 3	3 ^N	3 ^N	
	1.630	Single room occupancies with private facilities						1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3		
1.700	Home occupations		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1.800	Mobile homes																
	1.810	Residential mobile homes on individual lots ^E	3	3	3												
	1.815	Caretakers mobile homes on individual lots ^E	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
	1.820	Mobile home parks ^E					3	3	3	3	3	3					
	1.830	Mobile home subdivision ^E				3	3	3	3	3	3	3					
	1.840	Recreational vehicle parks ^F	3 ^F	3 ^F	3 ^F												
1.900	Common wall development																
	1.910	Two dwelling units				1	1	1	1	1							
	1.911	Accessory apartments	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X	1 ^X , 3 ^X		
	1.920	Three or more dwelling units					3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3			
	1.930	Two dwelling unit structures allowed under special density considerations, subsections 49.25.510 (h)			3	3	3	3	3	3	3			3			

7.000	INSTITUTIONAL DAY OR RESIDENTIAL CARE, HEALTH CARE FACILITIES, CORRECTIONAL FACILITIES															
7.100	Hospital									3	3	3	3			
7.150	Health care clinics, other medical treatment facilities providing out-patient care							3	3	1, 3	1, 3	1, 3	1, 3			
7.200	Nursing care, assisted living, sheltered care		3	3	3	3	3	3	3	3	1, 3	1, 3	1, 3			
7.300	Day care centers for children and adults						3	3	3	1, 3	1, 3	1, 3	1, 3			
7.400	Halfway houses									3	3	3	3			
7.500	Correctional facilities	3	3	3	3	3	3	3	3	3	3	3	3			3

Nursing care/sheltered care/assisted living for more than 9 residents requires a Conditional Use Permit in D-5

**CBJ 49.80.120 – Definitions –halfway house.....
“uses with ten or more residents shall be
regulated as institutional correctional facilities.”**

**Correctional facilities can be allowed by
conditional use permit in the D-5 zoning district
(Title 49 has no definition for this use).**

Findings

1. Was the use not listed publicly noticed?

YES. Public notice of this project was provided in the August 8, 2014 and August 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.

2. Is the proposed use of the same general character as those which are listed as permitted in such district?

YES. Based on the above analysis the requested use, re-entry housing for women coming out of prison does not fall into a specific use subcategory listed in the Table of Permissible Uses, CBJ 49.25.300, and will have uses and impacts of the same general character as those uses in category 1.610, Miscellaneous Rooms for Rent. If approved, this Use Not Listed determination will allow Haven House and all future transitional housing for people coming out of prison to apply for a conditional use permit in the D-5 zoning district.

Recommendations

It is recommended that the Board of Adjustment adopt the Director's analysis and findings and determine that the proposed Haven House, a re-entry home for women coming out of prison is of the same general character as those uses listed in category 1.610, Miscellaneous rooms for rent, with an approved conditional use permit.

It is recommended that the Board of Adjustment schedule the public hearing for the Haven House Conditional Use permit. The earliest possible Planning Commission meeting that this could be heard is September 23, 2014. Any regular meeting after that date is available as is any date after that which the Commission might decide to schedule a special meeting.