

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Dispose of Interest at MH Parcel C20499 in Juneau
TLO Project #2017-156

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a Land Lease and/or Land Sale of certain Trust land. The basis for this determination is explained in a written best interest decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is within the City of Juneau, and is more particularly described as: Lot C1 at the Juneau Alaska Subport Subdivision comprising 2.9 acres, more or less, located within Section 23, Township 41 South, Range 67 East, Copper Meridian (MH Parcel **C20499**).

Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, July 11, 2017. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, Anchorage, AK 99503, or by fax (907) 269-8905 or email mhtlo@alaska.gov.** Submittal of competing interest must comply with stated deadline for comments. Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at www.mhtrustland.org. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.



John Morrison
Executive Director

6-6-17

Date

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION DISPOSAL OF INTEREST AT MH PARCEL C20499 IN JUNEAU

TLO Project #2017-156
MH Parcel(s) C20499

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust ("Trust") land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office ("TLO") shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

I. Proposed Use of Trust Land. Disposal of interest through competitive or negotiated sales or leases at Mental Health (MH) Parcel #C20499 in Juneau (see Exhibit A). This best interest decision enables the Executive Director to complete competitive or negotiated sale or lease transactions for the parcel under consideration. Negotiated sales, or leases could be for the entirety, or a portion thereof.

II. Applicant/File #. TLO, Project File 2017-156

III. Subject Property.

- A. Legal Description.** Lot C1 at the Juneau Alaska Subport Subdivision comprising 2.9 acres, more or less, located within Section 23, Township 41 South, Range 67 East, Copper Meridian, and as further depicted in Plat #2009-37 (see Exhibit A).
- B. Settlement Parcel Number(s).** C20499.
- C. Site Characteristics/Primary Resource Values.** This site is a flat low lying site within the City of Juneau, and near the downtown area. The specific area of location is locally referred to as the Willoughby District. The site is generally unimproved, but is proximate to city sewer and water utilities as well as power available from AEL&P.
- D. Historical and Existing Uses of the Property.** Parcel C20499 was received by Quitclaim Deed #8000004 from the State of Alaska Department of Natural Resources in September of 1996. At the time of conveyance, Lot C1 included permanent infrastructure in the form of an aging building known as the Subport Building. The

warehouse style building was nearing the end of its useful life, and was abated and demolished in the entirety with demolition completing in calendar year 2008 at a cost exceeding \$1,000,000.

Most recently, the Subport property provided revenue through a license agreement to the Alaska Department of Transportation and Public Facilities for construction staging and parking in support of the recently completed State Library Archives Museum (SLAM) project. The license commenced on November 8, 2012, expired June 30, 2016 and allowed for the use of both Lot C1 and Lot C2.

- E. Adjacent Land Use Trends.** The site is located on the perimeter of the current downtown business and tourist district. Across an unnamed street to the east is vacant Lot C2, which is in the process of being sold. Also across the street to the east is the United States Coast Guard facility. Across the Egan Drive to the north is the KTOO building. The remainder of the site to the south and west property boundaries is waterfront on Gastineau Channel.
- F. Previous State Plans/Classifications.** None known.
- G. Existing Plans Affecting the Subject Parcel.** The subject parcel is zoned as Mixed Use 2 (MU2). Per review of the City and Borough of Juneau (CBJ) land use designation in the CBJ Code of Ordinances, this zoning designation is established to accommodate a mix of appropriate commercial and residential uses. The MU2, mixed use 2 district is intended to place a greater emphasis on residential development than is the case in the MU district. A range of residential development types is allowed. Multifamily residential uses are allowed at a density of up to 80 units per acre. No other plans are known that would designate use at this site.
- H. Apparent Highest and Best Use.** The primary resource value is as real estate with the “highest and best use” as a commercial and/or residential use that could include mixed-use development.

- IV. Proposal Background.** This decision does not consider a specific proposal. Over the course of the last year the Trust Land Office (TLO) has been approached by many prospective suitors inquiring about the potential for purchase or lease of Lot C1. The TLO is also aware of some anticipated construction projects for the near future, and that could require the use of Lot C1 for construction staging, or that could require some portion of Lot C1 for expanded right-of-way.
- V. Terms and Conditions.** Final terms and conditions remain to be negotiated through the execution of a Purchase and Sale Agreement (PSA) or lease, or combination thereof.
- VI. Resource Management Considerations.** This proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), which was adopted in March of 2016 in consultation with the Trust. The RMS acknowledges negotiated or competitive leases or sales as acceptable actions provided they are subject to a stringent adjudication process, a component of which is this decisional document.
- VII. Alternatives.** Do nothing. This alternative offers no definitive timeline for revenue generation and leaves the site more susceptible to the potential of trespass and/or illegal dumping.
- VIII. Risk Management Considerations.**
 - A. Performance Risks.** Terms specific to the occupancy are established in the standard form ground lease of the Trust Land Office. The standard form ground lease mitigates risks associative to the occupancy through the inclusion of the requirement for a performance bond. The standard ground lease form is also inclusive of indemnification requirements as well as the requirement for standard insurance coverages for builder’s

risk, liability and property damage. Completion of the lease will also consider the need for any non-standard coverages, or increased limits of coverage.

- B. Environmental Risks.** There are no known environmental risks at this site. Environmental risks could be associative to a future lease scenario. These are evaluated based on the application, applicant and proposed use. These will be mitigated through the request for insurance coverages and premiums prudent for the risk under consideration. The applicant accepts the site, and is responsible for remediation of any pollution upon vacation.
- C. Public Concerns.** None known.

IX. Due Diligence.

- A. Site Inspection.** The site has been inspected on many occasions by numerous employees of the TLO. Additional inspection(s) as required to confirm suitability of the land for a prospective Offeror's intended use remains as the responsibility of the offeror, and their own due diligence.
- B. Valuation.** Valuation remains to be finalized through the negotiation and execution of a lease. For an application for purchase, an appraisal would likely be necessary to establish value at this location.
- C. Terms and Conditions Review.** Terms specific to the occupancy are established in the standard form ground lease of the Trust Land Office. Terms specific to a proposed purchase are addressed in the standard form purchase and sales agreement. For any transaction, the TLO will seek legal review of any non-standard terms or clauses if deemed necessary by the Executive Director.

X. Authorities.

- A. Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).
- B. Inconsistency Determination.** As the proposed lease or sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust board of trustees was consulted on May 4, 2017, and the board of trustees concurred with the motion for disposal of interest, in part, or in whole, through competitive or negotiated leases or sales subject to the outcome of specific negotiations and the notice process.

- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transactions are in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from

determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature may require a best interest decision specific to the proposal.

- XIII. Opportunity for Comment.** Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period.

Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See notice for specific dates.)

- XIV. Reconsideration.** To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

- XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: www.mhtrustland.org.

- XVI. APPROVED:**



John Morrison
Executive Director
Alaska Mental Health Trust Land Office

6-6-17

Date

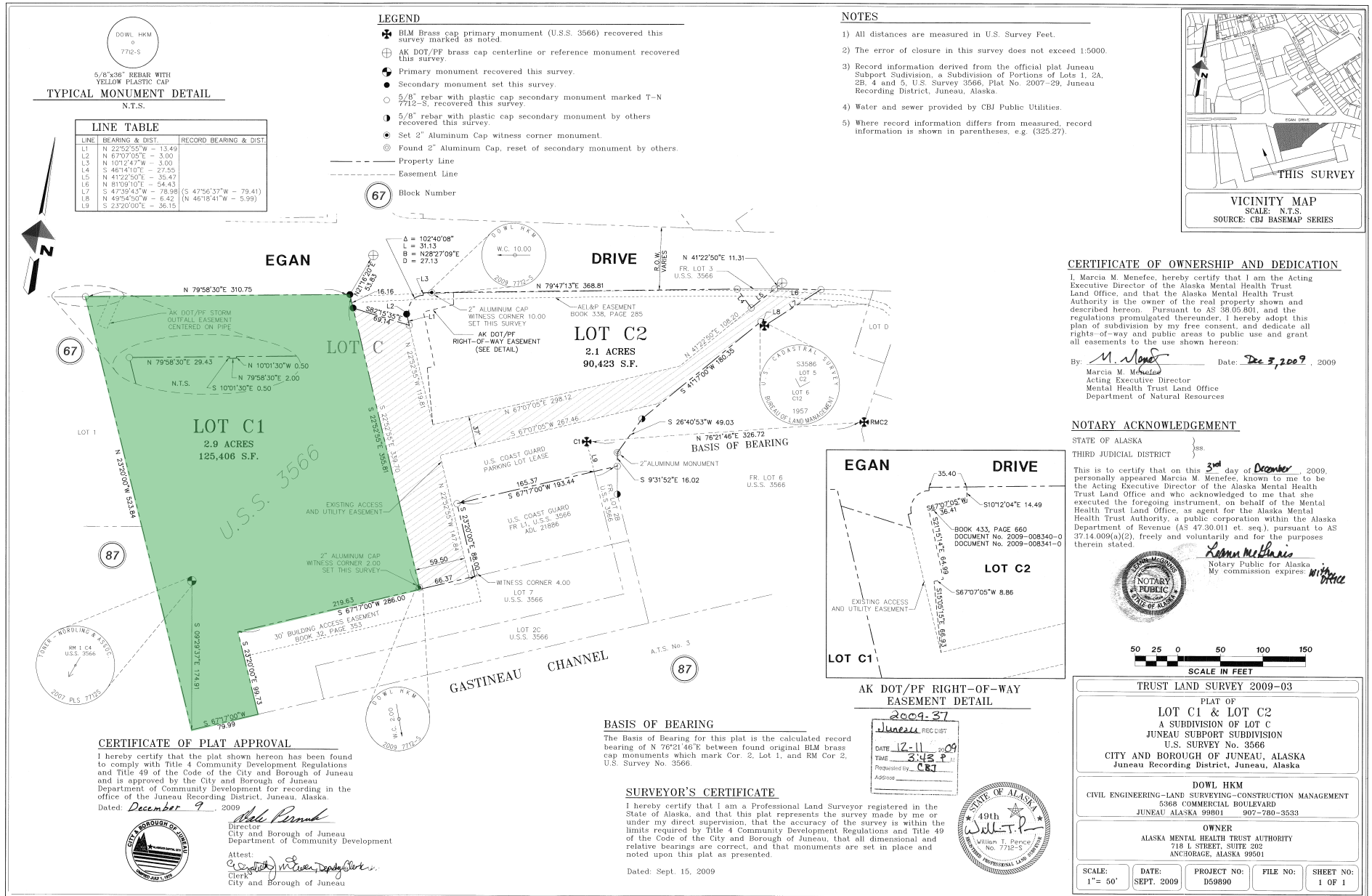


Exhibit A - Plat 2009-37 Depicting Lot C1 at the Juneau Support Subdivision