

# MEMORANDUM

CITY/BOROUGH OF JUNEAU  
155 South Seward Street, Juneau, Alaska 99801

**DATE:** August 18, 2011  
**TO:** Planning Commission  
**FROM:** Kelly Keenan, Planner  
Community Development Department  
**FILE NO.:** USE20110010



**PROPOSAL:** A Conditional Use permit to establish two accessory apartments in two detached single-family dwellings.

## ADDITIONAL MATERIALS

Attached to this cover memo are additional materials received by staff regarding Conditional Use permit USE20110010:

- Attachment 1 - July 21, 2011 Letter of Opposition to Conditional Use permit USE20110010**, received by staff and provided to the Planning Commission on July 22, 2011. The memorandum dated July 8, 2011 (Attachment A) was removed to avoid excessive copies.
- Attachment 2 - Fritz Cove Property Owner's Petition**, received by staff and provided to the Planning Commission on July 22, 2011.
- Attachment 3 - August 17, 2011 letter from Jim & Linda Keikkala in response to the July 21, 2011 Letter of Opposition**, received by staff on August 17, 2011.
- Attachment 4 - August 18, 2011 Revised Letter of Opposition to Conditional Use permit USE20110010**, received by staff on August 18, 2011. The memorandum dated July 8, 2011 (Attachment H) was removed to avoid excessive copies.

The content of these materials will be discussed at the Planning Commission meeting on Tuesday, August 23, 2011.

LAW OFFICES OF  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

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ONE SEALASKA PLAZA, SUITE 300 • JUNEAU, ALASKA 99801  
TELEPHONE: 907-586-1400 • FAX: 907-586-3065

*Hand Delivered*

July 21, 2011

City & Borough of Juneau  
Community Development Department, Planning Commission  
155 S. Seward St.  
Juneau, Alaska 99801

Re: Opposition to Conditional Use Permit Request USE2011-0010

Dear Commissioners:

This letter responds to James and Linda Keikkalas' (the "Keikkalas") request for a conditional use permit to establish two accessory apartments in two detached single-family dwellings – City and Borough of Juneau ("CBJ") File No. USE2011-0010

The Hughes Way property owners (Jeff Hendricks, Virginia Palmer, Ralph Kibby and Julia Smith-Kibby) (the "Hughes Way Owners"), owners of the properties that are directly adjacent to the subject property, object to the Keikkalas' request and the attached 7/8/11 CBJ Memorandum recommending that the CBJ Planning Commission (the "Commission") approve the Keikkalas' request for a conditional use permit. The Hughes Way Owners believe that neither the CBJ Planning Director (the "Director") nor the Commission is authorized to grant the Keikkalas' request for the following reasons, discussed further below:

1. The Hughes Way Owners believe the request for the conditional use permit is out of character with the existing density residential neighborhood and does not belong in the Hughes Way neighborhood. The increased density will increase sewage outfall and will increase traffic, which will adversely impact the quality of life for local residents. The increased density will create greater problems with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. These problems were resolved by a neighborhood agreement that was executed by the Hughes Way Owners, including the Keikkalas, but which the Keikkalas have refused to follow.
2. The Hughes Way Owners consider the request for the conditional use permit a breach of the easement between the Keikkalas and adjoining landowners. The original intent of the grant was an easement for one single-family dwelling. The conditional use permit would allow four times the intended use.
3. The Hughes Way Owners consider the Keikkalas' request for the conditional use permit a breach of the neighborhood agreement to modify and extend Hughes Way. The neighborhood agreement solves problems created by contentious issues

CBJ Planning Commission  
July 21, 2011  
Page 2

associated with the Keikkalas' desire to subdivide and their unpermitted construction of additional dwelling units on their property. The conditional use permit will undo several years of hard work by the neighborhood and CBJ to resolve these issues, which will have a substantial negative effect on neighborhood harmony.

The Hughes Way Owners request that the Commission deny the Keikkalas' request or condition the Keikkalas' request by enforcing the terms of the neighborhood agreement as a condition of the conditional use permit. Failure to deny or condition the permit will not be in compliance with CBJ Code or Alaska law.

## I. FACTUAL BACKGROUND

The Keikkalas' lot is 2.57 acres and zoned D-1. The Keikkalas' lot is land locked. The Keikkalas access their lot via a private easement granted by adjoining Hughes Way Owners.

There is a long and tumultuous history associated with the current configuration of Hughes Way, the Keikkalas' access to their lot and the Keikkalas' desire to subdivide and construct additional dwellings on their property. The problems associated with the current configuration of Hughes Way have been previously noted by the Commission.

On June 20, 2007, property owners of Hughes Ways (Jeff Hendricks, Dixie Belcher, Virginia Palmer, Ralph Kibby, Julia Smith-Kibby, and James and Linda Keikkala) signed a Memorandum of Understanding ("MOU") describing the existing problems associated with the current configuration of Hughes Way, and documenting the property owners' agreement to resolve these issues by modifying the access, easements and rights-of-way affecting Hughes Way (copy enclosed as Attachment B).

The MOU also resolved problems created by the Keikkalas' desire to subdivide their property and by their unpermitted construction of additional dwelling units on their property. With the addition of a cul-du-sac, the agreement also solved problems reported by the CBJ associated with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years.

The Hughes Way Owners provided the CBJ with the MOU and necessary documents associated with the modifications described in the MOU. On July 16, 2009, the CBJ Engineering Director Rorie Watt ("Watt") and Community Development Director Dale Pernula ("Pernula") expressed their support and conceptually approved the modifications described in the MOU. To achieve the Hughes Way Owners' agreement under the MOU, Watt and Pernula informed the property owners that the following must occur: (1) provide the CBJ a signed subdivision paper plat that describes the modifications specified in the MOU, and (2) the Keikkalas must quitclaim rights to utility and access easement to Ralph Kibby and Julia Smith-Kibby. Once these two items were completed, Watt and Pernula would submit the requested modifications to the Commission and, if approved by the Commission, to the CBJ Assembly (the "Assembly"). Watt

CBJ Planning Commission  
July 21, 2011  
Page 3

and Pernula advised that the Assembly would pass a non-code ordinance approving the modifications. The non-code ordinance is necessary because the Hughes Way Owners were only paper platting the proposed reconfiguration, and were not immediately constructing the reconfiguration.

Pursuant to the CBJ's request, the Hughes Way Owners expended considerable sums of money for surveying and platting. This was done in reliance on the CBJ's recommendations, and the property owners' good faith and contractual commitment to follow through with the agreements contained in the MOU. The Hughes Way Owners proceeded according to those recommendations and agreements, and finally secured all the CBJ requirements to proceed with a paper plat for the proposed reconfiguration.

On November 25, 2009, the Commission recommended the Hughes Way modifications, and recommended that the Assembly adopt a non-code ordinance allowing Hughes Way to be replatted. However, prior to the matter going before the Assembly, the Keikkalas informed CBJ officials that they would not sign the subdivision paper plat, thereby renouncing the MOU. This, in spite of the fact that the proposed reconfiguration would solve the problem created by their desire to subdivide and by their unpermitted construction of additional dwelling units on their property, thus increasing the traffic on an easement intended for one single-family dwelling.

The CBJ officials informed the Hughes Way Owners that, without the Keikkalas' signatures on the subdivision paper plat, the Hughes Way modifications would not be approved. The Hughes Way Owners consider the Keikkalas' failure to sign the paper plat a breach of the MOU, and are considering legal remedies.

Per the attached petition, the Hughes Way Owners still desire and intend to comply with and be bound by the terms of MOU (copy of petition attached as Attachment C). The Hughes Way Owners have discussed their intent with the CBJ. The CBJ has discussed the possibility of appropriating funds to assist with the reconfiguration of Hughes Way.

On May 25, 2011, unbeknownst to the Hughes Way Owners, the Keikkalas filed a development permit application for a conditional use permit to legalize two accessory apartments in two detached single-family dwellings at 1970 Hughes Way (USE2011-0010).

On July 19 – 20, 2011, the Hughes Way Owners communicated with the Keikkalas about the possibility of mediating issues associated with the MOU and the Keikkalas' request for a conditional use permit. However, the Keikkalas were not agreeable to this.

## II. STANDARD OF REVIEW

Pursuant to the CBJ Code of Ordinances, Article III, Title 49.15, Section .330, prior to a grant of a permissible use permit the CBJ Planning Director (the "Director") must determine whether the use: (1) materially endanger the public health and safety; (2) substantially decrease the value of or be out of harmony with property in the neighboring area; or (3) not be in general

CBJ Planning Commission  
July 21, 2011  
Page 4

conformity with the land use plan, thoroughfare plan, or other officially adopted plans. CBJ 49.15.330(d)(5).

The Commission shall review the Director's report to consider whether: (1) proposed use is appropriate according to the table of permissible uses; (2) the application is complete; and (3) the development as proposed will comply with the other requirements of this title. *Id.* at .330(e)(1)(A) – (B). The Commission shall adopt the Director's determination unless it finds, by a preponderance of the evidence, that the director's determination was in error. *Id.* at .330(e)(2).

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 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) lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans. *Id.* at .330(f)(1) – (3). The Commission may alter the Director's proposed permit conditions, impose its own as described in CBJ 49.15.330(g), or both. *Id.* at .330.

Pursuant to the CBJ Table of Permissible Uses, the Keikkalas' request for a conditional use permit is at the discretion of the Commission. CBJ 49.25.300(b)(3), 1.135. The request may or may not be allowed at a particular location, depending on a determination by the Commission of the requests' compatibility with surrounding land uses or proposed land uses. *Id.* The Commission may attach any condition to ensure the compatibility of the proposed use. *Id.*

### III. ARGUMENT

*a. The permit is not in conformity with the land use plan because the four unit development is in a D-1 district, which is primarily for single family and duplex development.*

According to CBJ 49.25.210(a) and the CBJ's 1995 Comprehensive Plan (as amended in 2008), the D-1 residential district is intended to accommodate primarily single-family and duplex residential development in areas outside the urban service boundary at a density of one dwelling unit per acre.

The proposed four unit development does not belong in the D-1 district, which is primarily for single family and duplex development. The subject property is on a 2.57 acre property and a four unit development would have a density of 1 unit 0.64 acres, significantly higher than one dwelling unit per acre. In addition, the adjacent properties on Hughes Way are predominantly single detached homes, a few with accessory apartments. The proposed four-unit development is higher density and out of character with the existing neighborhood.

**b. Approval of the permit would cause serious conflict between property owners, will decrease the property value of adjoining lots, will be out of harmony with private easement used to access the Keikkalas' lot and result in litigation.**

Approval of the conditional use permit would have a significant impact on the peace and harmony within the neighborhood. Developing two apartments in the garage and renting them out for several years before applying for a conditional use permit shows a lack of respect for both the planning process and the opinions and wishes of the neighboring property owners. As a result of the MOU, the Hughes Way Owners were willing to move past the Keikkalas' unauthorized development. Now that the Keikkalas have breached the MOU and taken actions that directly conflict with the recommendations of the CBJ, the Commission and neighborhood agreement, harmony in the neighborhood will be severely impacted (CBJ Memorandum and Commission Recommendation regarding the Hughes Way reconfiguration are attached as Attachment D).

Furthermore, the request for the conditional use permit is a breach of the easement between the Keikkalas and adjoining landowners. Where an easement is claimed under a grant or reservation, the extent of the rights granted or reserved depends upon the terms of the grant or reservation, properly construed. Where the grant or reservation of an easement is general in its terms, use of the easement includes those uses which are incidental or necessary to the reasonable and proper enjoyment of the easement, but is limited to those that burden the servient estate as little as possible.

The original intent of the grant was an easement intended for one single-family dwelling. The conditional use permit would allow four times the intended use, which will cause further conflict between adjoining lot owners.

Moreover, higher density and more traffic than is typical, without the agreed-upon reconfiguration in place, will negatively impact property values located adjacent to Hughes Way. The 7/8/11 CBJ Memorandum says the higher density development will generate "more traffic than is typically expected from a lot in a D-1 zone," and takes no action to alleviate the problems associated with the current Hughes Way right-of-way. Problems: (1) previously noted by the CBJ, (2) increased by the Keikkalas' actions, and (3) resolved by the agreed-upon reconfiguration.

**c. Permitting a four unit development on Hughes Way will further endanger the public health and safety of the neighborhood as a result of the continuing**

The four units on the subject property have been occupied for several years. As noted in the 7/8/11 CBJ Memorandum, the Hughes Way right-of-way is narrow (width: 15' – 20') without a turn-around for maintenance and emergency vehicles. Essentially Hughes Way is a road which has problems and is currently not up to the CBJ standards. The increased traffic and density has and will lead to further noise, dust and safety issues.

CBJ Planning Commission  
July 21, 2011  
Page 6

Furthermore, the development has two existing marine outfall systems and, in summer time, the Hughes Way Owners notice a stronger sewage smell in the area.

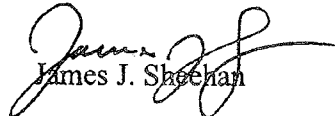
The Commission has previously been advised that the MOU resolved problems created by the Keikkalas' desire to subdivide their property, and by their unpermitted construction of additional dwelling units on their property. With the addition of a cul-du-sac, the agreement also solved problems previously reported to the CBJ Public Works and Facilities Committee and the Commission associated with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection (meeting minutes discussing problems associated with the Hughes Way right-of-way are attached as Attachment E). The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years. Granting the Keikkalas conditional use permit, without at least conditioning the permit with the agreed-upon reconfiguration, will undo a plan, formulated by the CBJ, the Commission and the Hughes Way Owners, that insures health and safety, and resolves liability issues associated with the CBJ.

#### IV. CONCLUSION

The Hughes Way Owners prefer to resolve this matter amicably. Thus, if the Commission is agreeable to making the Keikkalas' compliance with the terms of the MOU and signature on the revised subdivision paper plat a condition of the conditional use permit, the Hughes Way Owners will not object to the Keikkalas' request for a Condition Use Permit. However, if such terms are not a condition of the permit, the Hughes Way Owners request that the Commission deny the Keikkalas' application. Anything short of this will result in a legal action against the Keikkalas.

Resolving the above issues quickly and fairly will save expenses for all concerned. If you have any questions regarding this letter, please email ([jsheehan@stsl.com](mailto:jsheehan@stsl.com)) or call.

Sincerely,  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

  
James J. Sheehan

Cc:  
Ralph Kibby & Julia Smith-Kibby  
Jeff Hendricks  
Dixie Belcher  
Virginia Palmer  
Robert Spitzfaden, Attorney representing the Keikkalas  
Jane Sebens, CBJ Attorney  
Rorie Watt, CBJ Engineer  
Dale Pernula, CBJ Planner

SIMPSON, TILLINGHAST & SORESENEN  
Attorneys at Law

CBJ Planning Commission  
July 21, 2011  
Page 7

Enclosures:

Attachment A – 7/8/11 CBJ Memorandum

Attachment B – 7/20/07 Hughes Way MOU

Attachment C – 6/15/11 Hughes Way Right-of-Way Petition

Attachment D – CBJ Memorandums and Commission Recommendations re: Hughes Way

Attachment E – Public Works and Planning Commission Meeting Minutes re: Hughes Way



Memorandum of Understanding

June 20, 2007 the property owners on Hughes Way met to discuss the current configuration on the South end of the street. Currently City and Borough of Juneau Right of Way ends before it reaches the actual end of the street. The lack of a proper cul de sac has created problems for maintenance crews, emergency vehicle access, parking, snow removal storage and garbage collection.

The current Hughes Way Right of Way is 60.12' wide. City officials indicated they would propose an extension to Hughes Way with a reduced ROW of 50' ending in a reduced cul de sac diameter of 80'. The attached drawing drafted and presented by Ralph Kibby shows the extension of Hughes Way to be 50'-wide and an 80' diameter cul de sac. City officials also have indicated to Mr. Keikkala that the actual roadway surface width of the extension does not need to be any wider than the existing roadway surface and the undersigned agree. The existing road surface of Hughes Way does not follow the centerline of the right of way. To minimize impact of the extension the road surface should follow the existing route as much as possible and the existing power pole shall remain in its current location if possible.

The extension of Hughes Way will have the following impacts.

The current cul de sac location show on the CBJ plat will be vacated by CBJ and deeded to Dixie Belcher. Dixie Belcher will donate land on the northeast side to form the right of way.

Jeff Hendricks will donate land on the Northeast side to form the right of way and a portion of the cul de sac.

Jim and Linda Keikkala will donate land for a major portion of the cul de sac.


Jim and Linda Keikkala will release the existing right of way easement off Fritz Cove Road.

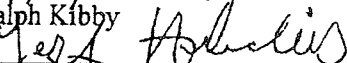
Jim and Linda Keikkala will designate the back portion of their property as a protected green belt that will remain in a natural state.

The city vacate a triangular portion of the existing right of way adjacent to Virginia Palmer's property if the right of way is re-designated.

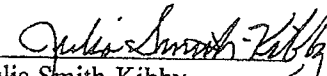
The easement between the Kibby and Keikkala properties will be released after the Keikkala property is subdivided and a new physical connection to Hughes Way is constructed. The agreement for the release of the easement will be addressed under a separate memorandum between Jim and Linda Keikkala and Ralph and Julia Kibby.

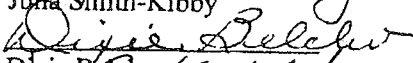
This memorandum shall be presented to the City for consideration of extension of Hughes Way. In exchange for the property owners donation of the land for right of way and cul de sac the city will pay for the improvements.


  
\_\_\_\_\_  
Ralph Kibby

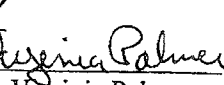
  
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Jeff Hendricks

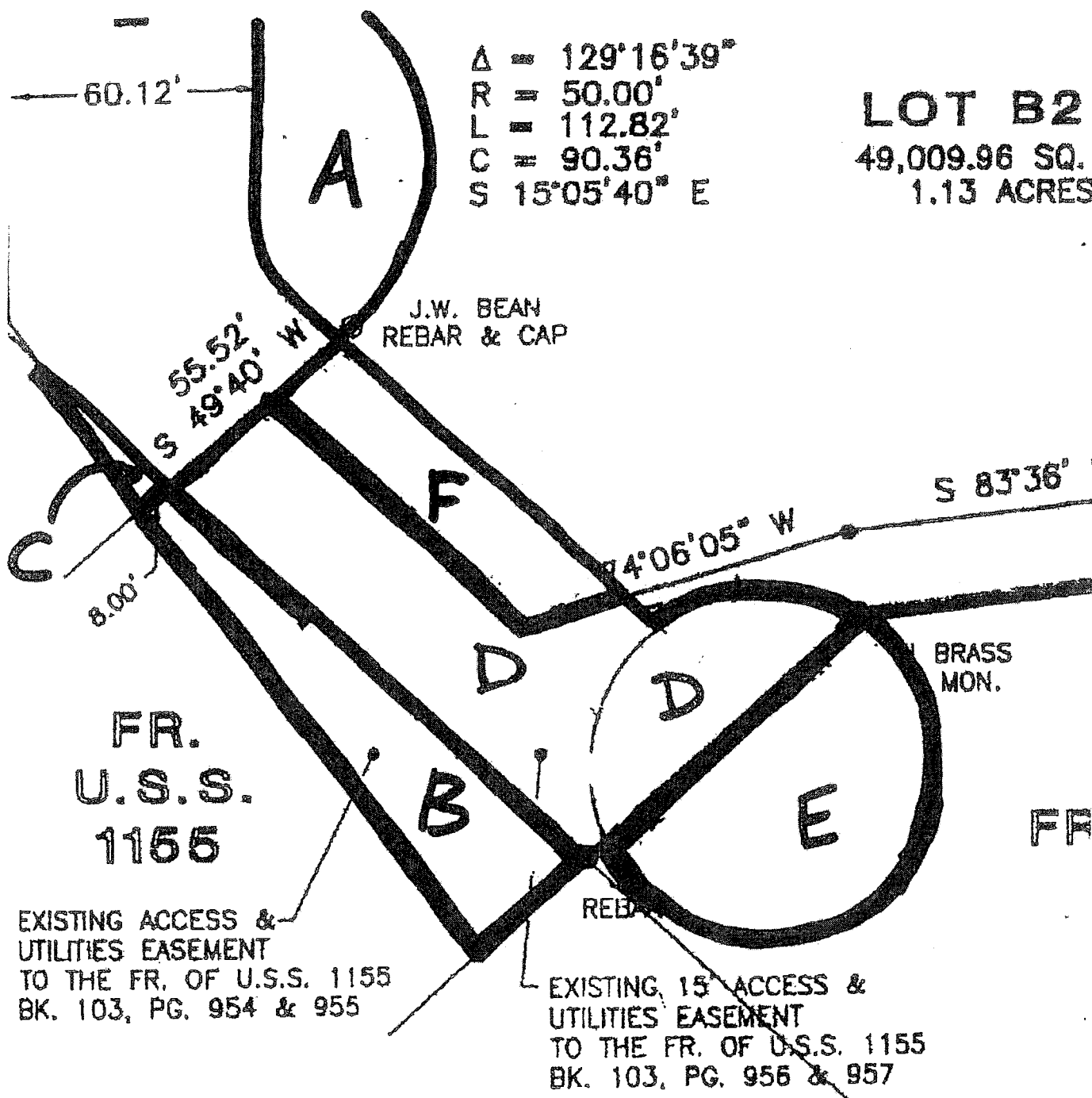
  
\_\_\_\_\_  
Jim Keikkala

  
\_\_\_\_\_  
Julia Smith-Kibby

  
\_\_\_\_\_  
Dixie Belcher

  
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Linda Keikkala

  
\_\_\_\_\_  
Virginia Palmer



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 $C = 90.36'$   
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TO THE FR. OF U.S.S. 1155  
BK. 103, PG. 954 & 955

EXISTING 15' ACCESS &  
UTILITIES EASEMENT  
TO THE FR. OF U.S.S. 1155  
BK. 103, PG. 956 & 957

HUGHES WAY PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

Petitioner


### HUGHES WAY RIGHT OF WAY PETITION

Pursuant to the attached Memorandum of Understanding, the property owners of Hughes Way hereby submit this Petition.

- 1. Memorandum of Understanding:** On or around June 20, 2007, the property owners of Hughes Way (Jeff Hendricks, Dixie Belcher, Virginia Palmer, Ralph Kibby, Julia Smith-Kibby, and Jim and Linda Keikkala), entered into the attached Memorandum of Understanding ("MOU"). The purpose of the MOU was to confirm that all property owners agreed to a proposed modification and extension affecting Hughes Way.
- 2. Hughes Way Modification:** The Hughes Way property owners expended funds to engage professional services for the purposes of the necessary plating associated with the MOU. The MOU and the plat were presented to the City & Borough of Juneau ("CBJ"). The CBJ Planning Commission conceptually approved the plat, and was prepared to submit the plat to the CBJ Assembly. However, prior to submission to the CBJ Assembly, the owners of one property stated that they would refuse to sign the plat thereby renouncing the MOU. The modification and extension described in the MOU were dependent on these property owners' signature on the plat. Therefore, the remaining property owners were unable to finalize the Hughes Way modification and extension.
- 3. Intent to Move Forward:** After further consideration, it is the desire and intent of the undersigned Hughes Way property owners to comply with and be bound by the terms of the MOU.

We declare that we have read the above petition and the statements are true to best of our knowledge and belief.

BY: HUGHES WAY PROPERTY OWNERS

  
Virginia Palmer


June 15, 2011.

  
Dixie Belcher

June 15, 2011.

  
Jeff Hendricks

June 15, 2011.

  
Julia Smith-Kibby

June 15, 2011.

Ralph Kibby  
Ralph Kibby

June 15, 2011.

\_\_\_\_\_  
Linda Keikkala

June \_\_\_\_, 2011.

\_\_\_\_\_  
Jim Keikkala

June \_\_\_\_, 2011.

# MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

**TO:** Ralph Kibby  
Hughes Way Property Owners

**FROM:** Rorie Watt, Engineering Director  
Dale Pernula, Community Development Director

**RE:** Hughes Way Right-Of-Way

**DATE:** July 16, 2009

As we understand the situation, property owners on Hughes Way desire to:

1. Donate land to be used as right-of-way (Keikala, Hendricks, Belcher)
2. Vacate a portion of an existing right-of-way (Belcher, Palmer)
3. Vacate an existing Access & Utilities Easement (Kibby)
4. Make no changes or improvements to the existing roadway or to the donated right-of-way

To achieve the above, the following must occur:

1. Neighbors provide and sign Subdivision Plat (after approval by Planning Commission)
2. Keikala Quitclaim rights to Utility & Access Easement to Kibby
3. CBJ Assembly pass a non-code Ordinance waiving Title 49 requirements that require subdivision improvements.

We support the neighborhood's desire to make these changes, however, a plat must be submitted, approved and recorded dedicating right of way of sufficient width and area to construct a roadway and cul-de-sac. To limit the land donation, the neighbors can provide a slope easement in the cul-de-sac area in lieu of donating additional right-of-way. We will need to verify that a future road and cul-de-sac may be reasonably constructed within the new right-of-way.

We want to also make it clear that this arrangement will not result in any changes to road maintenance responsibilities on Hughes Way. If the neighborhood desires to upgrade or extend the road, that will have to occur under a separate arrangement. For clarity, we have attached a drawing showing the various land actions. They are:

- A. Hughes Way ROW vacation to Belcher
- B. Easement vacation by Keikala to Kibby
- C. Hughes Way ROW vacation to Palmer
- D. ROW donation by Hendricks
- E. ROW donation by Keikala
- F. ROW donation by Belcher

Please contact either of us if you have any questions or concerns.

Roadway Proposal - 45'  
Cul-de-sac " - 100' - includes easement


# MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

**TO:** Merrill Sanford, Chair  
Public Works and Facilities Committee

**DATE:** November 4, 2009

**FROM:** Rorie Watt, P.E., Engineering Department Director 

**RE:** Hughes Way – Proposed Re-Subdivision

Property owners on Hughes Way have been working amongst themselves to resolve long standing issues with property and right-of-way lines and have provided a draft subdivision plat for our review. The property owners propose to vacate existing right-of-way, vacate an existing easement, donate land for right-of-way and make no changes or improvements to the existing roadway or to the donated right-of-way.

The property owner proposal is an improvement over the existing situation, and to achieve their proposal, the following must occur:

1. Neighbors provide a Subdivision Plat (Completed and submitted).
2. Planning Commission hears issue as an "Inquiry Case" possibly makes comments to Assembly.
3. CBJ Assembly passes a non-code Ordinance that has the sole purpose of waiving two specific Title 49 requirements for this action:
  - a. Requirement to Construct Improvements
  - b. Right-of-Way dimensions.
4. Planning Commission approves the Subdivision, Neighbors sign the Plat.

In my opinion there is no harm to the City that would result from allowing this change. As a few points of clarification:

1. There would be no change to City maintenance of Hughes Way.
2. There is no existing turn-around on Hughes Way – use of the existing right-of-way for the construction of a turn-around is not supported by the neighborhood. The new proposal improves the situation by creating a useful turn-around right-of-way.
3. Although it is less than our code standards, the Right-Of-Way proposed by the neighbors is sufficient for the construction of a road and cul-de-sac. It is also greater in width than Anne Coleman Drive which feeds into Hughes Way.

I would also note that it is quite remarkable to see five property owners come to an

*November 5, 2009*

agreement to change their property lines. For clarity, I've attached a drawing showing the various land actions. They are:

- A. Hughes Way ROW vacation
- B. Easement vacation
- C. Hughes Way ROW
- D. ROW donation
- E. ROW donation
- F. ROW donation

This proposed action will soon go to the Planning Commission which may or may not have comments. To move forward, the neighbors would need the PWFC to request staff to draft a non-code ordinance and forward the issue to the full Assembly for consideration. The Assembly could hear comments from the PC at the time they hear the ordinance.

# MEMORANDUM

CITY/BOROUGH OF JUNEAU  
155 South Seward Street, Juneau, Alaska 99801

**DATE:** November 18, 2009

**TO:** Planning Commission

**FROM:** Steve Baxter, Planner  
Community Development Department

**FILE NO.:** INQ2009-00061

**PROPOSAL:** An Inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

## GENERAL INFORMATION

**Applicant:** Dixie Belcher

**Property Owners:** Belcher, Hendricks, Keikkala, Kibby, Palmer

**Parcel Code No.:** 4-B18-0-102-004-1

**Site Size:** Five lots consisting of 5.5 acres

**Zoning:** D1

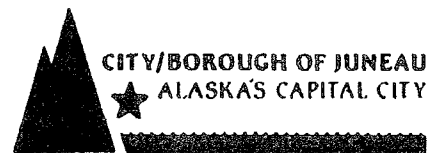
**Access:** Hughes Way and Ann Coleman Road

**Utilities:** City Water, private sewer

**Existing Land Use:** Single-family residential

## BACKGROUND

This is an old subdivision that was platted before there were subdivision improvement standards. Neither Ann Coleman Rd. nor Hughes Way is paved. Hughes Way is a 60-foot right-of-way which includes a 20-foot-wide gravel roadway and Ann Coleman Rd. is a 45-foot-wide right-of-way which also includes a 20-foot-wide gravel surface.





### PROJECT DESCRIPTION

Hughes Way is abutted by nine lots; at the end of Hughes Way, there are five driveways that run in various directions to provide access to five developed lots. The largest of the five lots only has access to Hughes Way by means of an easement rather than by direct access. The owners of these five lots would like to improve their access, but if they have to improve it to meet the Title 49 requirements, their cost would be prohibitive. Title 49 requirements include a 22 foot wide paved roadway with a sidewalk on one side, street lights, storm drainage, and a cul-de-sac with a minimum radius of 50 feet.

Instead of upgrading the street to meet Code standards, the property owners would like to improve the access situation by recording a plat which would lengthen Hughes Way about 200 feet and provide a cul-de-sac with a radius of 45 feet. These proposed plat changes would allow for the potential to shorten their driveways and facilitate emergency vehicle access. The proposed changes would also allow for the turning around of the CBJ snow plow and other traffic. The property owners would also like to reduce the width of the extension of Hughes Way right-of-way from the required width of 50 feet to 45 feet and vacate the undeveloped cul-de-sac right-of-way at the current end of Hughes Way (see Attachment C). Details of how the improvements would be installed and how they would be financed will be explored after the plat has been recorded.

### ANALYSIS

The property owners are not obligated to make any modifications to Hughes Way, however, they are in favor of the changes previously discussed, and these changes could be the first step toward improving the existing situation. The proposed new plat would provide direct right-of-way access to a lot that currently only has access by means of an easement. The new plat would also include a cul-de-sac at a location agreed upon by the property owners. The current plat shows a cul-de-sac at a location that is disliked by at least one of the lot owners, and has never been developed.

Although the modifications of the plat as proposed by the lot owners do not meet the current requirements of improvements and right-of-way width, there would be significant improvement over the current substandard situation.

If the Commission is in agreement with this proposal, a recommendation should be made to the Assembly. The Assembly could then ask that a non-code ordinance be drafted to allow a re-subdivision of this area. Following this ordinance, a subdivision reflecting the changes discussed above would be submitted to the Commission for review and approval.

### ALASKA COASTAL MANAGEMENT PROGRAM (ACMP)

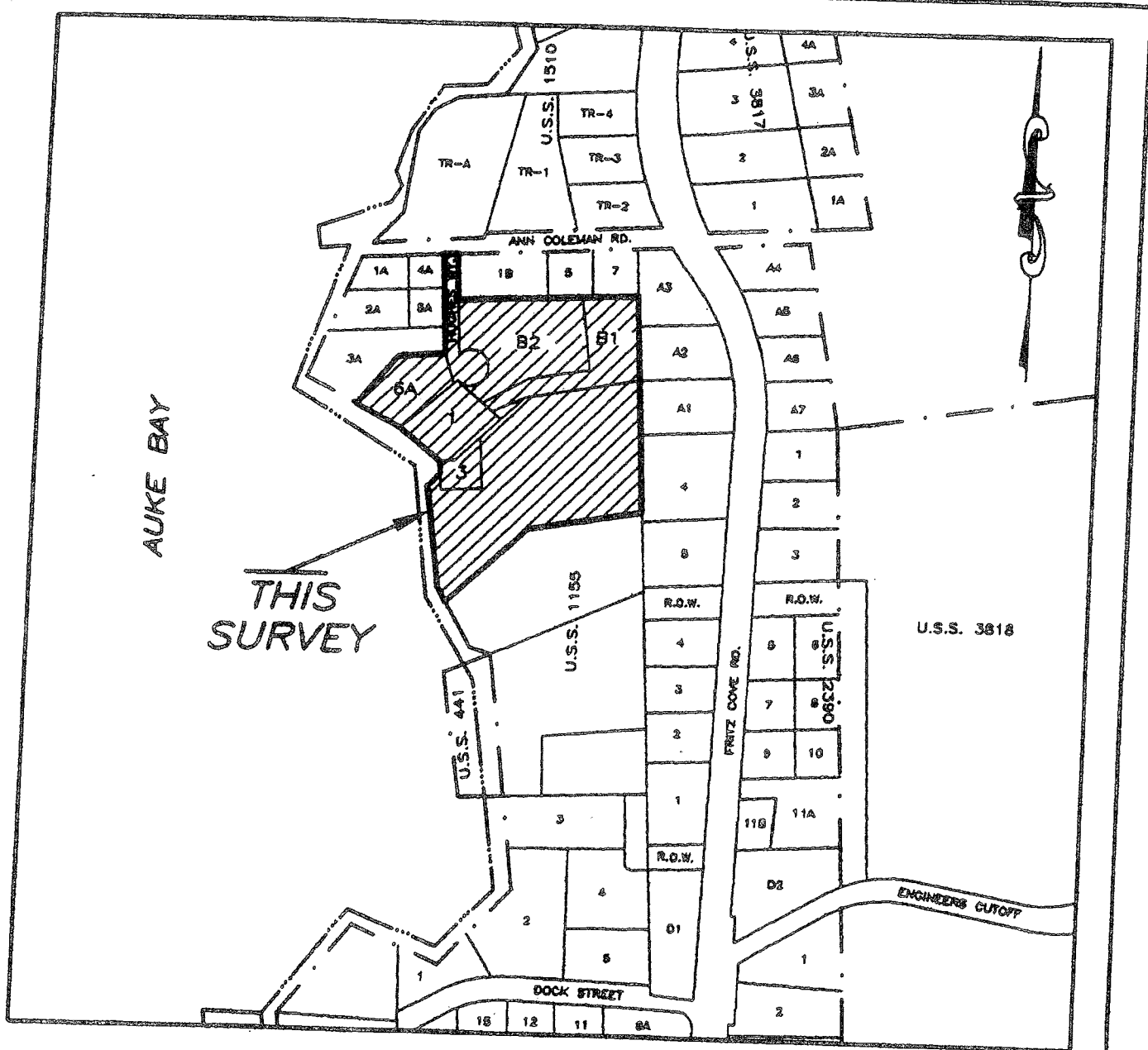
Not applicable. This project does not require a state-coordinated ACMP review.

**RECOMMENDATION**

The use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.

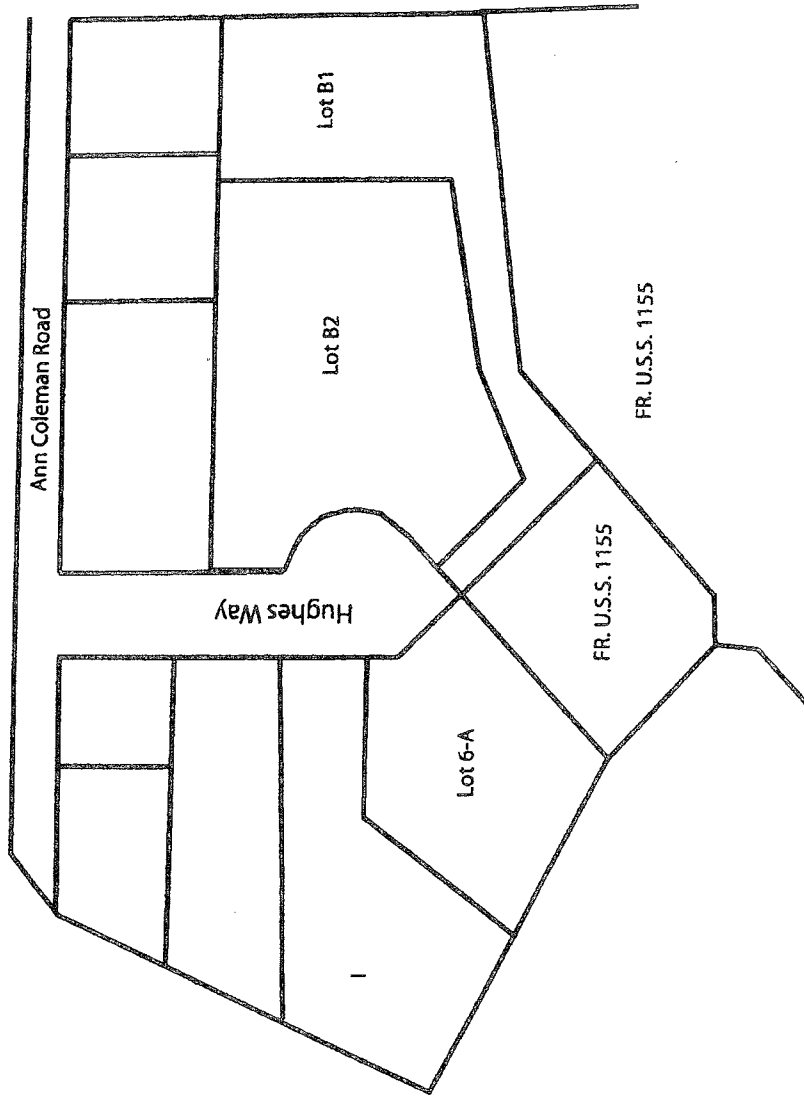
**ATTACHMENTS**

- A Vicinity Map showing current lot lines
- B Map showing current lots
- C As-built survey showing proposed plat
- D Proposed plat



**VICINITY MAP**  
 SOURCE: C.B.J. BASEMAP SERIES - SCALE: 1" = 400'

Approximate Current Lot Configuration - Hughes Way



**ATTACHMENT B**

ATTACHMENT C

ANN COLEMAN ROAD

HUGHES W

LOT 3A

LOT 6A

LOT 1B

LOT 5

ONE STORY WOOD FRAME DWELLING

LOT B2

BASIS OF BEARING

AUKE BAY

PARCELS 1 & 3

NORTH PORTION

CARAGE

POND

RETAINING WALL

SEPTIC TANK

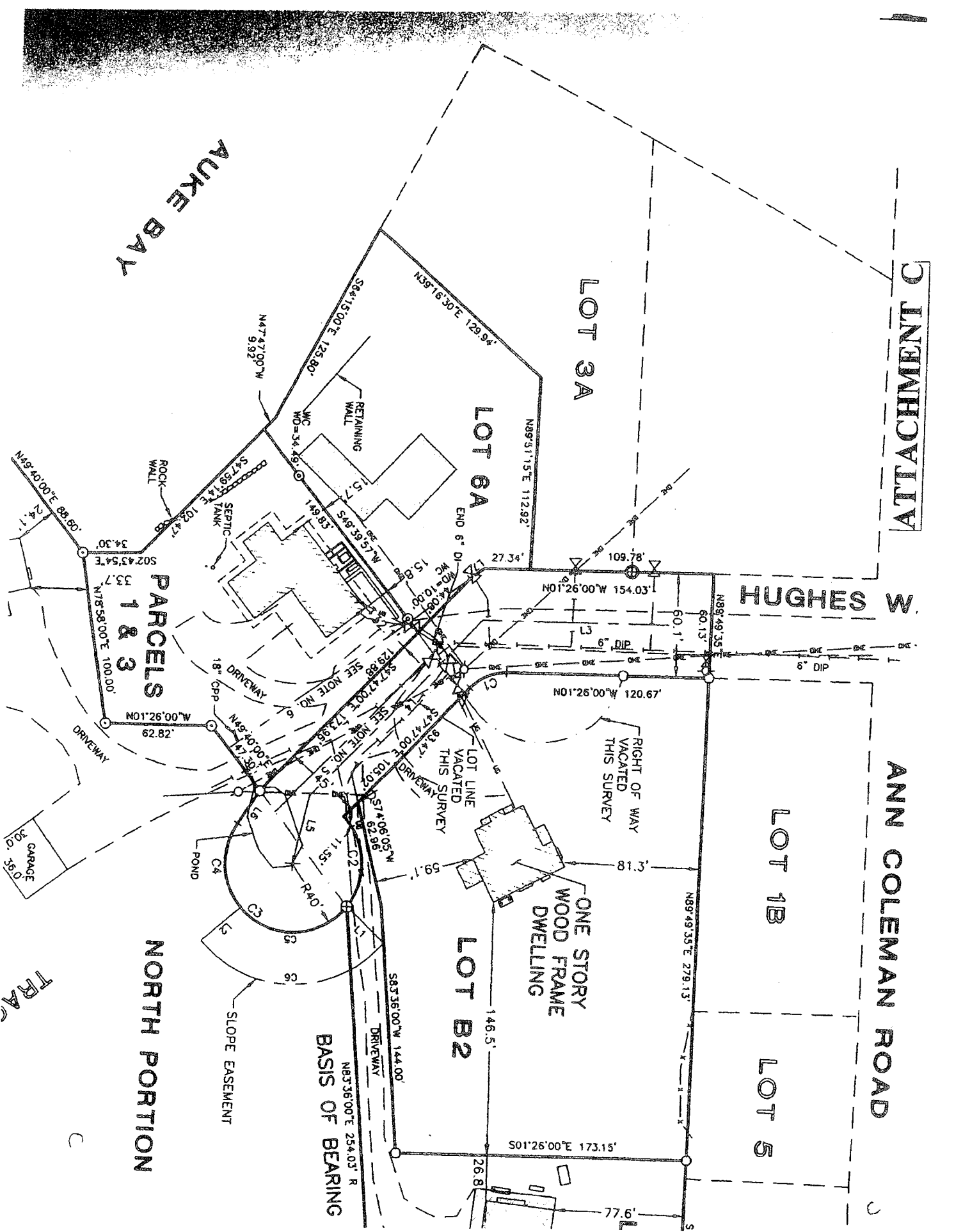
ROCK WALL

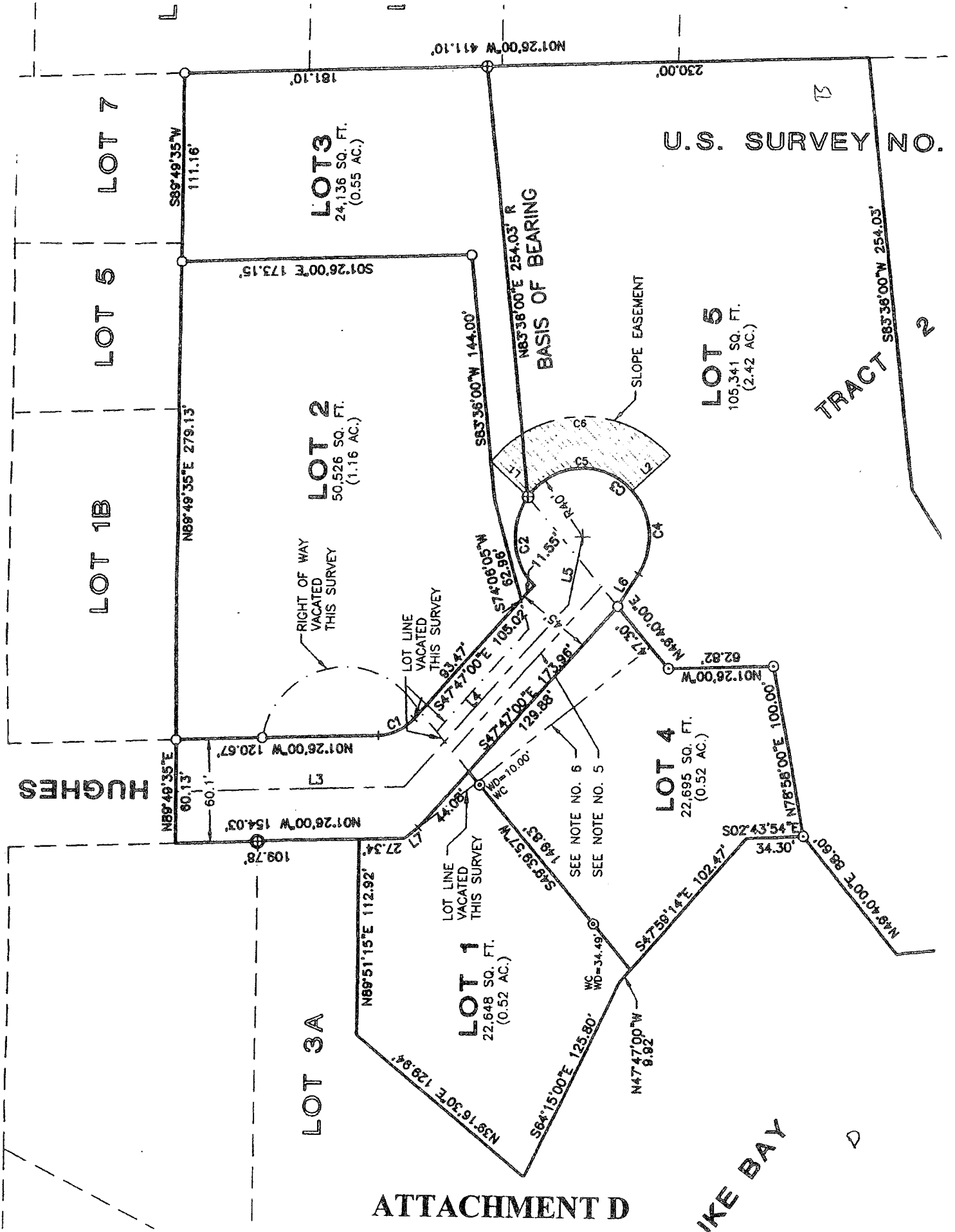
SLOPE EASEMENT

RIGHT OF WAY VACATED THIS SURVEY

LOT LINE VACATED THIS SURVEY

TRA





U.S. SURVEY NO. 13

TRACT 2

LOT 5  
105,341 SQ. FT.  
(2.42 AC.)

LOT 3  
24,136 SQ. FT.  
(0.55 AC.)

LOT 2  
50,526 SQ. FT.  
(1.16 AC.)

LOT 4  
22,695 SQ. FT.  
(0.52 AC.)

LOT 1  
22,648 SQ. FT.  
(0.52 AC.)

LOT 3A

LOT 1B

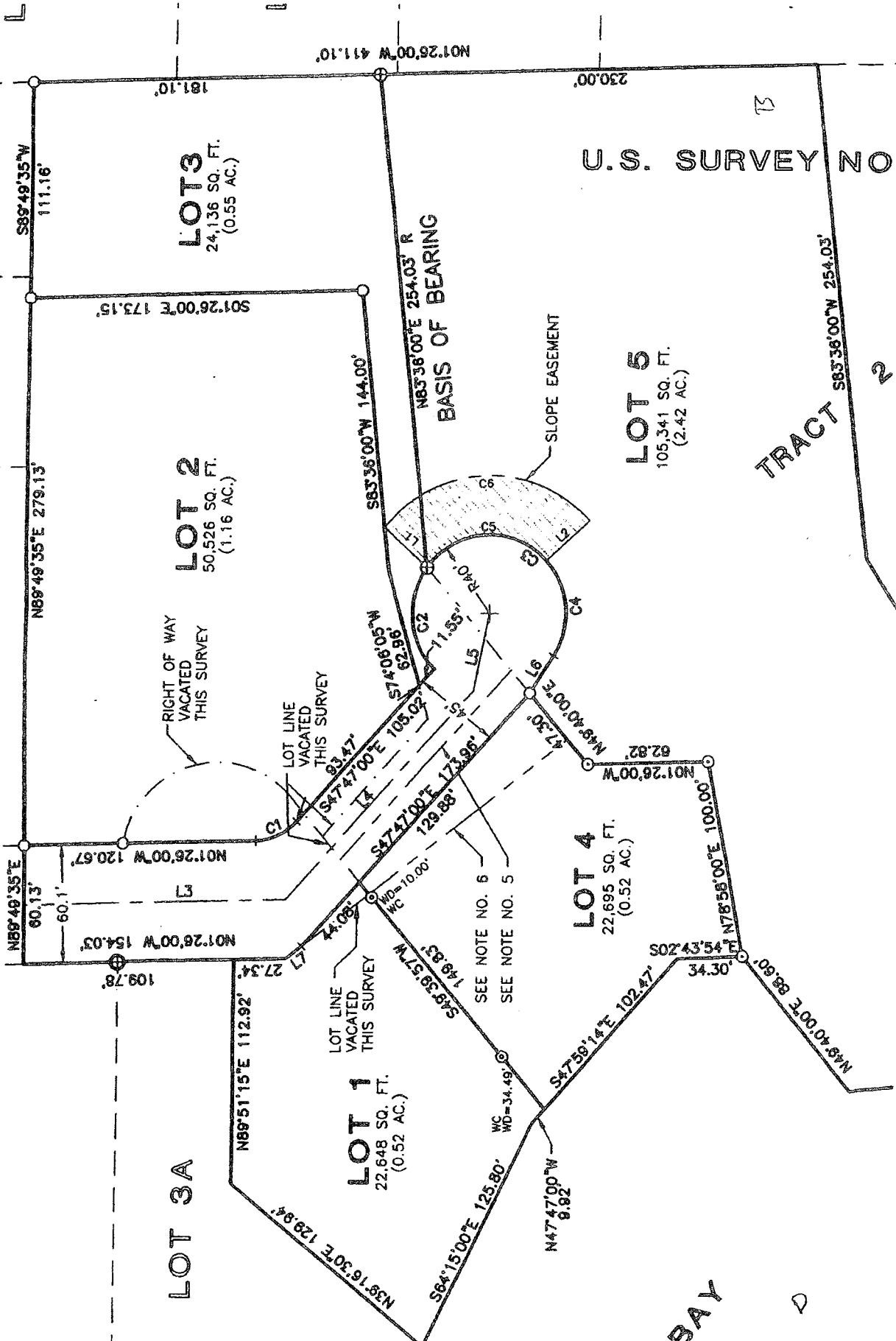
LOT 5

LOT 7

ATTACHMENT D

IKE BAY

HUGHES





**CITY/BOROUGH OF JUNEAU  
ALASKA'S CAPITAL CITY**

**PLANNING COMMISSION  
NOTICE OF RECOMMENDATION**

Date: November 25, 2009

File No.: INQ2009-00061

City and Borough of Juneau  
City and Borough Assembly  
155 South Seward Street  
Juneau, AK 99801

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding an inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

ROW Name: Hughes Way

Parcel Code No's: 4-B18-0-102-004-1; 005-1; 006-0; 007-0; 008-0

Hearing Date: November 24, 2009

The CBJ Planning Commission, at a regular public meeting, reviewed the proposal to extend Hughes Way in a manner that does not meet current minimum subdivision standards as required by the Land Use Code. Although the Planning Commission normally does not support non-code ordinances, in light of the unique circumstances, neighborhood cooperation and extremely poor design of the existing subdivision, the Planning Commission adopted the analysis and findings listed in the attached memorandum dated November 18, 2009, and recommend that the CBJ Assembly move forward to adopt a non-code ordinance allowing Hughes Way to be re-platted as proposed by the residents of Hughes Way.

Attachments: November 18, 2009 memorandum from Stephen Baxter, Community Development, to the CBJ Planning Commission regarding INQP2009-00061.

This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ §01.50.020(b).

Project Planner: Stephen Baxter  
Stephen Baxter, Planner  
Community Development Department

Maria Gladziszewski  
Maria Gladziszewski, Chair  
Planning Commission

Jamie J. Aron  
Filed With City Clerk

11/25/09  
Date

cc: Plan Review

**NOTE:** The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. The CBJ and project designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

**MINUTES**  
**Public Works and Facilities Committee Meeting**  
Monday – May 11, 2009 – 12:00 p.m.  
Assembly Chambers

**I. CALL TO ORDER**

**Attendees**

**Committee Members/Liaison at Dais:** Jonathan Anderson, Bob Doll, Merrill Sanford, Randy Wanamaker, and Dennis Watson (PCL)

**Staff Members:** John Bohan, Craig Duncan, Nancy Gifford, John Hartle, Kim Kiefer, Ron King, Ben Lyman, Jennifer Mannix, Dale Pernula, Rich Ritter, Mike Scott, and Rorie Watt

**Others:** Jeremy Hsieh (Juneau Empire), Dixie Belcher, Jeff Hendricks, Jim Keikkala, Linda Keikkala, Ralph Kibby, Max Mielke, Robert Peterson, and Jonathan Smith

**II. APPROVAL OF MINUTES**

A. April 20, 2009 – Regular Meeting

*Anderson* – I would move approval of the April 20th, 2009, meeting minutes.

*Sanford* – Any there any objections? Hearing none, so ordered.

**III. PUBLIC PARTICIPATION**

**IV. ITEMS FOR ACTION**

A. Land Use Code Fees (Hood vs. Board of Adjustment and Secon)

Hartle – Ordinance 2009-04 was referred to this Committee by the Assembly for a more general discussion about how this fits in with our existing code. In your packet, just ahead of this ordinance is CBJ 49.10.600 and most important are items .610, .620, .630, and .640. Those are the code sections for penalizing anyone who proceeds without a permit.

The purpose of this is to charge more for permits when the work is started, because it costs the department more. There's more research required; sometimes they may have to open up walls or dig under the ground to do the inspection. We also included a section giving a department director discretion to wave those fees. One reason might be that innocent new owners might find themselves hit with double fees because the prior owner put in an accessory apartment.

Sanford – Some people wanted to make a stricter code and we should review 49.10.600 and see if that's feasible.

Anderson – Back in March, when this came before the Assembly, the main issue suggested we should double fees for those who did not apply for permits prior to construction. In the Assembly meeting the question was raised as to how that would impact CDD. This Committee is interested in providing incentives so people won't build without first obtaining permits.

Hartle – We already have the tools to accomplish that. I believe that SECON did violate the code; they proceeded without getting a permit first, and they could have been hit with a variety of penalties.

Anderson – I think what the Assembly wanted to do was to ensure that it was less discretionary, that it would be followed up on, and that advice from you would be forthcoming.

Hartle – It's a law enforcement issue. It isn't feasible to make it mandatory that the Manager charge all offenders with a crime under these circumstances. I don't believe that in the code there's a way to say a person must be charged, even though the law they're violating is clear.

Doll – Paragraph .640 would not appear to offer any discretion to anybody on the Manager's Staff.



Hartle – It says that certain conduct violating this title is illegal. And that applies to everyone all the time. Whether they're prosecuted is a function of Staff to hand out tickets that require court appearances.

Doll – I recall Mr. Swope saying, "My evaluation of the circumstances is that the penalty wasn't appropriate." Is there a good government principle that says, "There should always be a potential for discretion to be exercised, given the circumstances?"

Hartle – Yes, prosecution is expensive, and entails an allocation of resources. In this case, they came into compliance quickly once they were notified. There has to be some prosecutorial discretion to allocate time and resources. We have one compliance person for the entire borough; when we've had life and safety violations, we've charged the perpetrators with a crime and convicted them of misdemeanors. We instituted the infraction penalty so that we could serve a ticket and take the person charged to the district court.

Wanamaker – I don't want to encourage people to try to get around the permit process. Previous owners may have been in violation of a statute of which the new owners are unaware.

Hartle – There needs to be some discretion in determining when a violation falls below the threshold. I don't think this will encourage anybody; nobody wants to pay double fines. Again, our first concern is health and safety codes.

Pernula – The consequences of not applying for a building permit are as follows:

1. A building permit reminder
2. Infraction penalty citations of \$100, \$200, or \$300, respectively
3. A court appearance

Pernula – Item 49.85.140 (b) was cost-based. New owners of a house, whose previous owners didn't have proper permits, didn't know it the entire time they were there. When they went to refinance the house, the lending institution told them that they didn't have the proper permits, so they immediately came in and got them.

Hartle – It's a general rule of ordinance drafting that when you give a director discretion, you need to include standards to apply. You can't just say that he can waive it when he's having a great day.

Doll – This is not about following ordinances, or touching bases. It's about protecting a spawning stream. And that is important for anyone who wants to catch fish in Juneau. The last thing that should happen is for the director or his staff to feel that it's too hard to carry out or that it's too much trouble. We don't want to give him the ability to impose criminal penalties.

Wanamaker – I would move that we return this to the Assembly with a recommendation for a do-pass.

Sanford – Are there any objections? Hearing none, so ordered.

B. Juneau-Douglas High School Reno, Phase II Appropriation of GO Bond Interest Income

Anderson – Would this be all the money required for the project?

Watt – Yes.

Anderson – I would move Staff recommendations to the appropriation of the GO Bond Interest Income.

Sanford – Are there any objections? Hearing none, so ordered.

C. Transfer Request – New Juneau School Site Improvements CIP

Doll – I would move the Transfer Request per the Staff recommendation to the Committee for approval and forward this to the full Assembly.

Sanford – Are there any objections? Hearing none, so ordered.

V. INFORMATION ITEMS

A. Hughes Way

Watt – Hughes Way is a quiet neighborhood off Fritz Cove Road. There have been a few proposals and we've tried to work through the process. I think those in that neighborhood would like to extend the rights-of-way and that poses a tricky problem because the creation of new rights-of-way requires construction of public improvements. If you look at the aerial map you can see that this is not a big subdivision, and big subdivision improvements are not really merited. There is an existing cul-de-sac on Hughes Way and there is some interest from the Street Maintenance Staff in creating a turn-around on Hughes Way. We're not sure where that location might be; nobody in the neighborhood prefers the current location of the cul-de-sac.

Kibby – My name is Ralph Kibby, and I live at 1980 Hughes Way. Life and safety issues are paramount; it's a narrow road, we don't have a turn-around, and we can't get emergency vehicles in there. Last winter the City plowed right to the edge of the City property and left a three-foot berm. Approximately five residents were trying to access the road. They couldn't get out until that berm was taken care of. We have no place to put snow, and the City has no place to put it either. I'm not sure that a cul-de-sac would fix the problem, but it certainly would help.

Sanford – Looking at your map, I see the road ends in a bunch of driveways. Is that where the lower circle is now?

Kibby – No, the road ends back at the City cul-de-sac; that's private property from there on.

Keikkala – My name is Jim Keikkala and I live at 1970 Hughes Way. This has been an ongoing problem and we've tried to come up with ways to mitigate it. We think we now have a workable solution.

Doll – Mr. Watt, have you heard from the Fire Department or from Public Works about this situation?

Watt – I have not. Their needs are pretty simple and that's to turn around a fire truck. I don't think the Fire Department cares where they turn around. If there's a new level of improvement, they would indicate the code requirement in terms of radius.

Kibby – At one point in time I did meet with Staff and the cul-de-sac that's presented at eighty feet was addressed. The Fire Department said that at a minimum, it would have to be a hundred. That was what they had agreed to two years ago.

Doll – Do you think that creating the cul-de-sac is going to solve the berm problem?

Kibby – I believe it's going to provide a place to put the snow, even if we have to haul it away. Right now, a good portion of the berm ends up in my driveway and blocks several of the neighbors.

Wanamaker – I'd like to hear more from Public Works and the Fire Department before I support any recommendation or option.

Sanford – I'm sure we can get a written letter from both.

Scott – The situation is not the most desirable, but it's not unique. We have other situations like Simpson Drive in West Juneau where there is no cul-de-sac or turn-around. Typically operators back a grater down the street pulling snow out of the way. Given the fact that snow loads have been heavy the past couple of years, it isn't always practical.

Anderson – CBJ doesn't usually accept a right-of-way without an LID. Staff's position is that we won't build the street, but we'll maintain it if the citizens build it. Could you provide more clarification?

Watt – We're limited in what we can do because of the code. One of the early options was extending and building the cul-de-sac shown in the aerial photo. The residents can do it cheaper than the City can. The issue of a road standard is a tricky one once a right-of-way is extended. Trying to work a project piecemeal is never easy.

Pernula – The City Code says that a new right-of-way dedicated as part of a plat shall meet the requirements for new rights-of-way set out in Chapter 49.35. Is it this neighborhood's intention to vacate the old cul-de-sac and dedicate a new one. According to the code they would have to construct it. The only way to get around that would be to follow a non-code ordinance – either exempting this dedication from that requirement or forming an LID.

Sanford – Is there anyway to accept the right-of-way now and then do a neighborhood LID later on?

Pernula – Yes, if a non-code ordinance was implemented it would exempt them from building now, because according to the provision, when it's platted is when it's required.

Watt – My recommendation is that Staff schedules a short work session with the neighborhood to make sure we understand the details, revisit fire access, review the code and subdivision requirements, as well as requirements for vacations. It may be appropriate to do a cost estimate to extend the roadway at its current width, and construct a minimal cul-de-sac as part of that.

Watson – If the property lines move back to allow the easement, future owners might ask for a tax abatement on the property that was given up earlier.

Sanford – Does the Committee think that Staff has enough recommendations from us before we move forward?

Anderson – I'd be grateful if Staff would work with the neighborhood to discuss options and then bring those back to this Committee before forwarding them on to the Assembly.

Sanford – That's what we'll do then. Thank you.

#### B. North Douglas – LID 95 Assessment Reduction

Doll – Mr. Watt, in your cover memo you cited a comparison with the West Valley Sewer LID. But the West Valley is a very different area. The mixture of homes and commercial and industrial properties is a very different one. What is the connection? Is it a question of the population in that area?

Watt – In any LID, there are diverse properties, property types, and zoning districts, so it's a difficult task to find equity. The code is simple; it says to assess in proportion to benefits derived. The intent of the subcommittee and the Committee of the Whole last year was to reduce global assessments, and we did that in the West Valley industrial district. The next phase, Pederson Hill, is almost all residential; there's one commercial property and a couple of churches. We applied that logic to fit that zoning district and were successful. This will be presented at the Assembly meeting on the 18<sup>th</sup> of this month. We're going back retroactively to provide equity to the North Douglas residents, so that the residential neighborhoods are linked by logic.

Doll – We spoke about extending the logic for the West Valley to the remainder of the system, but that would pass the cost of the LID to the borough as a whole. As we go up Pederson Hill, what will be the proportion?

Watt – Those numbers are in the Assembly packet. It was the intent of the Committee of the Whole and the subcommittee to absorb on a greater share of the bill.

Wanamaker – I would move Staff's recommendation that with this Committee's consent, Staff will prepare a resolution for Assembly approval.

Sanford – Are there any objections? Hearing none, so ordered.

C. PLA Project for the Downtown Transportation Center (Red Folder Item)

Watt – We did not find that the Downtown Transportation Center was an appropriate project for a PLA and that was a finding that I made in consultation with the City Attorney and the City Manager. The memo signed by Mr. Notar indicates that the Building and Trades Council thinks that we should be taking a more aggressive stance with regard to the application of PLAs. I believe we are already doing that; we have PLAs on five active projects and the only ones recently that we have not placed PLAs on are the Downtown Transportation Center and the Airport Terminal Project. The latter didn't include a PLA due to the presence of federal money.

Sanford – I'd like to discuss the non-PLA for the Airport project. With the new administration and their orders would it now be appropriate to include a PLA for this project?

Watt – If we were to bid the Terminal project today, there would be no prohibition from federal funding and we would make a decision based on guidance from the State Attorney General.

Wanamaker – You mentioned that we needed to be careful in using a PLA so as not to run up against a lack of available labor. How does that fit in with the downtown area? We seem to have a lot of available labor there.

Watt – Last year we spoke about a special circumstance that Juneau had - many construction projects were taking place at the same time and there was a great deal of competition for labor. There was a potential for piracy between jobs from that labor pool. We have a very competitive bidding field and we have contractors willing to take on new work and new laborers. As work is completed, it will be less favorable for the laborer, so competition between projects will no longer be a big issue.

Doll – What projects do we have that are underway or imminent that have PLAs assigned to them?

Watt – Underway we have the Thunder Mountain High School, the Bartlett Regional Hospital Renovation Project – Phase II, the Harborview Elementary School project, the Consolidated Public Works Facility, and the Dimond Park Aquatic Center. Of current major projects to be considered, the two largest are the Airport Runway Safety Area, and the Bartlett Regional Hospital Short Stay Renovation.

Doll – What projects do we have that are underway or imminent that do not have PLAs assigned to them?

Watt – It's an open question on the Airport Safety Area and the Bartlett Regional Hospital project. We found that PLAs are a good fit for the hospital. We don't have any comparison for the Airport Safety Area. It would be the largest earthworks project Juneau has ever seen in and around a working airport, and there are many reasons to consider it for a PLA.

Anderson – According to the new Executive Order, if a project is more than \$25M, is it mandatory?

Watt – No, the new Executive Order encourages inclusion of PLAs on projects that have a total cost to the Federal Government of over \$25M. The Executive Order also calls for regulations implementing the Order, but those regulations aren't out yet. Presumably, projects under \$25M would be eligible too. We've drawn the conclusion that what's big and complicated in New York City is not the same as what's big and complicated in Juneau. Locally, we have different criteria for making that kind of determination.

Mielke – My name is Max Mielke and I reside at 5930 Lemon Street. I'm the Manager for the Plumbers and Pipefitters here in Juneau and Southeast, and I am here representing the Building Tradesmen because Mr. Notar is out of town. What we would ask this Committee to do is to take a different stance on how we look at PLAs.

Doll – Are you suggesting that the primary criterion that the City should apply is monetary?

Mielke – Yes, at one time the City used to abide by a threshold of ~\$5M. We know that these PLAs are legal. We think there is a simpler way to evaluate them, because we can refute the nine points on every project.

Sanford – Maybe we need to have an update from Law on whether or not we can use a dollar figure in Alaska.

Watt – The main point is that we have to make a case by case analysis for each project.

The motion that the Assembly passed was to the extent allowable. That was broader than limiting by dollar amount. The Assembly gave fairly strong direction and was not limited by a dollar amount.

Doll – I thought there was an unstated goal that half of CBJ's projects would include PLAs and half would not. I would like to hear responses from Mr. Mielke and Mr. Watt.

Mielke – You might possibly see a pattern of one project with a PLA, and one without. As a part of the building trades, we like to see PLAs on every project. When I look at the Downtown Transportation Center extraction occurring right now, I don't recognize any local faces on that job. The only legal way to have local hire is through the hiring halls, and that ensures that local people go to work first. We prioritize using a threefold list of workers: 1) local; 2) statewide; and, 3) out of state.

Sanford – I would make the recommendation that Staff work with Mr. Notar and the trades, as well as our Law Department, and see if we can come to a clearer understanding of when to apply PLAs. As I recall, the Law Department stipulated that we must use the nine points to determine whether a PLA be assigned to any given project. This type of discussion will probably be ongoing for some time before we can negotiate a solution. Mr. Watt, can you keep this Committee apprised of your findings?

D. School Board Request (topic added during meeting)

Watt – The School Board made a motion about the School Facilities' request to meet in a joint PWFC and we're looking at the 1<sup>st</sup> of June. They had two topics in their motion that they wanted to discuss; one was the possibility of placing school projects on the fall ballot, and the other was snow plowing. You've probably seen in the paper a proposal to change school start times, which raises different snow plowing issues since some of the smaller kids will be going to school at rush hour.

**VI. NON-AGENDA ITEMS**

A. Contracts Division Activity

**VII. ADJOURNMENT**

This meeting was adjourned at 1:20 p.m. The next meeting is scheduled for June 1, 2009, at 12 noon.

**MINUTES**  
**Public Works and Facilities Committee Meeting**  
Monday – November 9, 2009 – 12:00 p.m.  
Assembly Chambers

**I. CALL TO ORDER**

**Attendees**

**PWFC Members:** Merrill Sanford (Chair), Jeff Bush (Vice-Chair), & Bob Doll

**Planning Commission Liaison:** Dennis Watson

**Other Assembly Member(s):** Ruth Danner (by phone)

**Staff:** John Bohan, Kirk Duncan, Catherine Fritz, Gary Gillette, Scott Jeffers, Cynthia Johnson, Jeannie Johnson, Ron King, Jennifer Mannix, Dale Pernula, Mike Scott, John Stone, Rod Swope, & Rorie Watt

**Others:** Mary Catherine Martin (Juneau Empire), Zoe Morrison, Jim Penor, & Chip Thoma

**II. APPROVAL OF MINUTES**

A. October 5, 2009 – Regular Meeting

Doll – I would move approval of the minutes as submitted.

Sanford – Any changes or corrections? Hearing none, so ordered.

B. October 26, 2009 – Regular Meeting

Doll – I would move approval of the minutes as submitted.

Sanford – Any changes or corrections? Hearing none, so ordered.

**III. PUBLIC PARTICIPATION**

*See V. Information Items, D. Solid Waste Coordinator.*

Scott – Mr. Joe Buck asked me to come today and introduce you to the new City Solid Waste coordinator, Mr. Jim Penor.

Penor – To give you some background information, I've spent 35 years in the business. I worked for 12 years in the private sector before spending twenty-four years with a municipality. This visit is a starting place for a whole new program that will examine where everybody wants to go. I welcome any input you may have.

**IV. ITEMS FOR ACTION**

A. ADEC Grant Appropriation

Bush – I would move Staff's recommendations that two actions be moved to the full Assembly for approval:

- 1.) Appropriation ordinances for each grant
- 2.) Acceptance Resolutions by the Assembly accepting the terms and conditions of each grant.

Sanford – Are there any objections? Hearing none, so ordered.

B. Hughes Way

Watt – Ms. Morrison of Scheinberg and Associates has been hired by the neighborhood to help them through this process. The Committee was supportive in the past by assisting property owners resolve longstanding issues. Recently, the neighborhood hired a professional to survey the property and prepare a draft plat. This needs

assistance from the Assembly, as well as approval by the Planning Commission. It's a parallel process because it needs a waiver from the Assembly for standard construction requirements and a relaxation of right-of-way width.

Danner – Can you tell me how this sub-development became non-compliant? Why do we think a substandard street is now okay?

Watt – Prior to the 1990's, there weren't many requirements for subdivisions and people made land subdivisions on paper. Later, roads were pioneered in and then improved with utilities added, and so forth. During those times, people tended to have lower expectations of services provided to them. As the City evolved and grew, rules and regulations increased over time and now a sub-divider has to build a public road, add public utilities, and pay for private utilities. In the Hughes Way neighborhood, it's a rough gravel road and the neighborhood agrees that they like it the way it is and don't want to change it.

Danner – Is the cul-de-sac that's designated leave sufficient room for emergency vehicles to turn around? I want to make sure that liability is protected.

Watt – Currently, there is no cul-de-sac on the ground, only on paper. No one in the neighborhood wants to follow the paper plan. Effectively, that means presently there is no ability to construct a cul-de-sac.

Doll – I would move Committee approval of Staff's recommendation to draft a non-code ordinance and forward the issue to the full Assembly for consideration.

Sanford – Are there any objections? Hearing none, so ordered.

## V. INFORMATION ITEMS

### A. Sales Tax Projects

Doll – Are we in a position to provide a match for money we received from another source, so that we're required by the terms of an agreement to apply a certain amount of tax money to that project?

Watt – Each project has different matching issues and we'll address your question during the following presentation of projects.

#### 1. Statter Harbor

Stone – PowerPoint presentation in addition to memorandum found in packets.

Watson – Does the tidelands lease continue for the old working dock?

Stone – Originally, a private entity was going to build a dock to support passenger-for-hire whale watching activities. The primary company/customer sold out to Allen-Marine. At this point, the company that holds the leases has requested extensions pending additional market developments to enable them to move forward.

Watson – Would the agreement with the lease still include adding an extra finger at the end?

Stone – We're considering adding a Tee to provide additional moorage.

Watson – It appears that the fuel dock at Statter Harbor would go away. We'd have to move the fuel dock, and that would require new permits.

Stone – We've had preliminary discussions with Petro-Marine. The board wants to replace the fuel dock at Auke Bay/Statter Harbor because it's the only fuel dock north of downtown.

2. Airport Terminal

Johnson – This is a scaled back project, but something that the community will be proud of.

Sanford – If for some reason you were unable to get the full \$10M, what would that do to the project other than postponing it?

Johnson – We'd end up with an incomplete project that would still be functional.

3. Public Works Shop

Scott – In the current project that we have right now, there's at least \$1M for it. Bids came in well; we had actually overestimated some items. Now this phase is overfunded by \$1M. We'd be looking to draw another \$1.1M or \$1.2M of sales tax money out of the full \$10M. That would leave us about \$.5M to \$1M short of the actual \$10M.

4. Sewer Projects

Watt – The new grants approved today will allow full leverage of sales tax monies. We want equal sales tax money to ensure that we are leveraging it properly.

Doll – Would the LID drive this?

Watt – No, but the desire to stimulate growth in the community would.

Bush – When you say that you've matched sales tax money, the State match grant money and our match money are on equal footing. Would that include the projected \$10M, or only what's been committed so far?

Watt – The latter. Sewer projects have not received any money out of the \$10M, but from the prior \$7.5M.

Bush – Mr. Roger Healy, former Engineering Director, commented that sewer projects required annual funding but not too much to overwhelm availability of Juneau construction resources. You mentioned that we're doing better than expected at the grant level. Does that mean it's possible to extend other projects?

Watt – The idea was to apply the first \$7.5M to North Douglas and West Valley and see how far we'd get. We've been able to serve a lot of areas because we've received more grant funding than anticipated. Unfortunately, those grants haven't gone toward treatment plants, because we've used the Juneau portion. In North Douglas we'll have served all urban service boundaries. There's a small extension slightly north of Bonnie Brae that should be a follow-up project. There's a little in-holding on Douglas Highway that should be done as well; it was missed during the 1970s.

The stickier questions pertain to the West Valley. Are we going to go down Engineers Cutoff Road or Fritz Cove Road? Are we going to provide infrastructure to the City property on Pederson Hill? Are we going to advance that land development idea? The Engineers Cutoff and Fritz Cove roads neighborhoods are comprised of large lots; may not easily add to higher zoning densities, and they're areas where utility systems would be very expensive due to topography.

Sanford – What's the status of Pederson Hill?

Bohan – As soon as we get a determination from the Corps, we can proceed with the bidding process. They noted a technicality between definitions for "wetlands" and "maintainable ADOT ditches." As a result, we had to apply for a permit, and we had to take a few steps backward. Bids will open around Christmas, and ground-breaking in Spring 2010.



Sanford – Where are we with the North Douglas A, B, C's?

Bohan – We'll form the LID and start construction documents this fall and winter. We'll break ground sometime next summer if everything lines up.

Doll – Are you committing on any of these projects, to fund them today or next month, not knowing how much tax money's coming in?

Watt – No. All the projects we're talking about are supported by funds in hand appropriated by the Assembly.

Watson – There have been major improvements in the community; I'm aware of eight that have made a significant impact upon local employment. In looking at the shortfall, I hope we're able to take that money and put it where it's going to do the most good.

Watt – I want to briefly touch on building maintenance and school debt. They're part of the voter-approved proposition. The reason building maintenance is in there is that it used to get general-fund support, but we're using the general fund for the PRISM project, which is a software upgrade. We have a good program and it's important to keep facilities in good repair. Projects we've been working on have been good for those facilities. Regarding school debt, we told voters that we would reduce property tax rates to repay school bonds. I'll work with the City Manager and we'll come up with more recommendations.

#### B. Eaglecrest Long Range Plan

Duncan – Regarding development at Eaglecrest, 30% of the people queried looked favorably at the ATV tour, while 70% didn't. It's clear that the Assembly tasked the Eaglecrest Board and Staff to find ways to reduce the level of general fund support.

Doll – Mr. Duncan, can you define for this Committee the objections you've received from the public? Do they include fossil fueled motors/engines, motorized vehicles, and/or noise levels?

Duncan – Some people feel that the Eaglecrest area is the last bastion of non-commercial, non-tourism area in the Borough. I think that's going to come out in this process and some people have come and said, "Okay, charge me more." And in fact we did, and people paid more for season passes. At this point we don't want to do something in 2010 or 2012 that's going to negatively impact the site in 2030. It's a unique resource and we want to make the best of it that we can.

#### C. Trout Street & Basin Road Trestle Update

Bohan – Discussion of materials in the packet.

#### D. Solid Waste Coordinator – Joe Buck, Public Works Director – No packet info

*See Public Participation at start of minutes.*

### VI. NON-AGENDA ITEMS

#### A. Contracts Division Activity Report

### VII. ADJOURNMENT

This meeting was adjourned at ~1:10 p.m. The next meeting is scheduled for Monday, December 7, 2009, at 12:00 p.m. in the Assembly Chambers.

both inside and outside. She said staff's analysis has not changed, and she realizes the recommended alternative will change the applicant's viewshed and create other issues for them.

Ms. Bennett thanked staff for providing photographs, stating that they have assisted her in better understanding the issues regarding this case.

Chair Gladziszewski asked if copies of the staff report presented at the November 10, 2009 meeting are available for the Board of Adjustment tonight. Ms. Camery said the only item added since that previous meeting is the photographs, and apologized for not including the original report in the packet.

#### Public testimony

Diane and Gary Diekmann, 4639 Sawa Circle, the applicants. Mr. Diekmann referred to the photograph of the large boulder located near the southeast corner where he would like place the structure. He said he wants to keep the building slightly away from the large boulder, as opposed to being required to remove it. He explained that he is not able to move the proposed building further to the northwest because of the large pond on the adjoining neighbor's property. He said if they were to place the building on the alternate site that staff is proposing in the existing filled area, he will no longer have any place for snow storage. In addition, they own three antique vehicles, which he wants to store in the proposed building.

Mr. Chaney reminded the Board of Adjustment that at the last meeting the applicants provided a letter in the packet addressing the criteria that were not met by staff. Chair Gladziszewski said the commissioners will take a break from the meeting so staff can provide copies of the original report on this case, VAR2009-00032. [This case was placed on hold, and follows INQ2009-00061.]

BREAK: 7:17 to 7:23 p.m.

Chair Gladziszewski explained that while the commissioners are waiting for copies to be made by staff regarding VAR2009-00032, she will adjourn the Board of Adjustment, and reconvene the PC meeting to hear INQ2009-00061 in the meantime.

Mr. Miller returned to his seat on the PC.

### IX. REGULAR AGENDA

#### INQ2009-00061

An Inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

Location: 1991 Hughes Way

Applicant: Dixie Belcher

#### Staff report

Greg Chaney said this is an Inquiry case, and staff is solely seeking input from the PC on a proposal that will subsequently be presented to the Assembly for a non-code ordinance to allow a re-subdivision to be platted, which does not meet the minimum criteria of the Subdivision Ordinance. Therefore, staff figures that prior to this case being presented to the Assembly, it

would be best for the PC to review it beforehand so staff can receive comments now, rather than after the inertia of going through the Assembly non-code ordinance process.

He said the subject property is located off of Fritz Cove Rd. after taking Ann Coleman Dr. to get to Hughes Way, noting that the existing lot configuration is reflected in Attachment B. He said Ann Coleman Rd. has a substandard right-of-way width of about 45'. He said Hughes Way is approximately 60' wide so it complies with code, but it is not constructed to current CBJ standards because the end of this street turns into a series of driveways with no official turnaround. He noted that this subdivision is inherited (platted probably in the 1940s), which consists of a couple of different subdivisions completed in a style considered to be inappropriate today. He noted that a section of Lot B2 off of Hughes Way does not front a public right-of-way, and instead, accesses Hughes Way through a right-of-way that serves Lot B1. After various discussions with the property owners, he drew a newly proposed cul-de-sac configuration. He explained that the property owners are proposing to improve the situation, and the first step is to plat an extension of Hughes Way. He explained that a section of Lot B2 would be vacated, another part would be extended, and then they would construct a reconfigured platted cul-de-sac. However, there are a few aspects of the proposal that do not comply with the current Subdivision Ordinance, as the end portion of Hughes Way is only 45' wide, which needs to be 60' wide with sidewalks on both sides, but that is not what the property owners are proposing. Therefore, this is going to involve conducting a "paper exercise," noting that no improvements are proposed at this time. He said the idea is to progress the situation by creating a plat that makes sense, and then in the future the property owners or the CBJ can later improve the site by installing a hardened surface, or pavement, and a turnaround. But right now they want to reconfigure the frontage lot lines that access Hughes Way, and then they can move onto the next step. He referred to the as-built survey and proposed plat (Attachment C), explaining that if this scenario was constructed snowplowers, emergency personnel and other traffic could access the newly constructed cul-de-sac to turn around.

He said staff reviewed this proposal, and even though it does not comply with several code provisions, they are supportive because the current situation is abysmal, i.e., landlocked property with no right-of-way frontage, and property owners are currently gaining access through a series of private easements that overlap. He noted that the applicant, the Director of CBJ Engineering, and one of the property owners, Ralph Kibby, are present to respond to questions of the PC.

Ms. Waterman asked staff to explain the location where the utility infrastructure is installed. Mr. Chaney deferred to Mr. Watt, Director of the CBJ Engineering. Mr. Pernula clarified that no new lots will be created with this re-subdivision proposal, as it is solely to provide an extension of the right-of-way, a vacation of a portion of Lot B2; the new plat would include a cul-de-sac at a location agreed upon by the property owners because the current platted cul-de-sac location is disliked by a property owner, which has never been developed. Chair Gladziszewski asked Mr. Watt to appear before the PC to answer Ms. Waterman's query. Rorie Watt said a public water main ends in the existing cul-de-sac, and then water services extend from it. He said there is no public sewer system in the area, but aerial electrical utilities will continue to be located in the new right-of-way under this proposal. Ms. Waterman confirmed that electrical utilities run along Ann Coleman Dr. and Hughes Way, which will not require any changes. Mr. Watt said yes.

He said he also wishes to comment on this Inquiry, explaining that this neighborhood essentially has a nonfunctional right-of-way. He said the property owners have been discussing how to rectify this for the better part of a decade, and he believes it would not be appropriate for a public

roadway to be constructed, including the installation of curbs, gutters, and pavement. He said the new road would be an “orphan” of approximately 100’ stretch of pavement at the end of the existing substandard roadway that goes nowhere, which does not make sense. He said five property owners are proposing to change their property boundaries, release easements, and have a right-of-way vacated. He explained that doing so will improve existing conditions. He noted that there is an existing cul-de-sac, and the CBJ Streets personnel conducted a site visit and proposed to construct the platted cul-de-sac. However, this was not supported by the neighborhood because it would severely encroach on one of the property owner’s privacy, and it does not solve the access issues for the larger parcel; plus it leaves other issues unresolved. Therefore, he believes the current proposal is a good solution, explaining that the property owners attended a Public Works & Facilities Committee (PW&FC) meeting to begin the discussion as to how this proposal might take place, and it was determined that the best method is through a non-code ordinance, which is a one-time waiving of the rules. He said this is an element that neither the PC nor the Assembly should do on a regular basis, so he stresses that the PC should tread cautiously while doing so. He said he wishes to state that he does not think it is a “done deal” when this is presented to the Assembly, so he wants to start the PC off with what ought to be their first comment, which is “The PC does not want to do this very often, if ever,” and then either the PC supports it, or they do not, but he believes this caveat is important. He said he also believes the residents are to be applauded for attempting to derive a better solution.

Ms. Waterman requested Mr. Watt to “role play,” i.e., if he were Mike Scott, Streets Superintendent of CBJ Public Works, asking what his reaction would be to either building out the original cul-de-sac as it was platted, as opposed to the current proposal. She added that this is from a potential operations and maintenance cost impact on equipment point of view. Mr. Watt said Mr. Scott was involved in conversations over the years regarding this proposal, and therefore he believes Mr. Scott prefers a turnaround for the purposes of snowplowing. He noted that currently the snowplow drivers utilize Ann Coleman Rd. and back up along Hughes Way, which is the only way they are able to plow these streets, and they berm everyone in because they have no room to maneuver. He noted that Mr. Scott’s maintenance crew did try and build a cul-de-sac, but they recognized that the neighborhood opposition was substantial and uniform against doing so in the current location, so Mr. Scott recognizes that the existing cul-de-sac right-of-way is effectively not a real operable option. He does not believe Mr. Scott wishes to contribute to a road extension, but effectively the proposed changes does not improve or hurt CBJ Streets operations, and instead, creates the opportunity to provide an improved permanent solution.

#### Public testimony

Zoë Morrison, Sheinberg Associates, representing the applicant, thanked the CBJ Community Development Department (CDD) and CBJ Engineering staff, explaining that they have been very helpful throughout this process. She said the parties worked very hard to come to an agreement on the proposed plan, which will improve access for all the property owners involved.

Public testimony was closed.

Staff recommendation: that the use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.

Commission action

Mr. Satre said he echoes Mr. Watt's comments, stating that the use of non-code ordinances are not what the PC typically prefers to do, but in this situation it appears to make sense. However, the property owners, CBJ Engineering, and the CDD staff have come together and derived a solution that should greatly improve access in this area.

***MOTION:** by Mr. Satre, that the Planning Commission adopts the Director's analysis and findings and recommends approval to the Assembly of the requested inquiry, INQ2009-00061. The inquiry allows extending the right-of-way for Hughes Way to provide better access to five developed lots. The use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.*

Mr. Miller spoke in favor of the motion, stating that the application of common sense is good in this case.

Ms. Waterman said she believes the previously platted cul-de-sac does have some workability, but it is possible to utilize a non-code ordinance in order to enjoy a neighborhood where the landowners and the CBJ are working together to make access an improved situation in this area. Therefore, with respect to all the work that has gone into this, and Mr. Watt's ability to state that there will not be increased operating and maintenance costs by CBJ Public Works, she supports the motion.

Mr. Watson spoke in favor of the motion, which states "...would improve an undesirable situation," which is key. He said it is great to see the CBJ and the property owners working together to solve this issue.

There being no objection, it was so ordered and the PC, as presented, recommended INQ2009-00061 to the Assembly for approval.

**VIII. UNFINISHED BUSINESS [Resumes]**

Chair Gladziszewski adjourned the PC, and reconvened the Board of Adjustment.

Mr. Miller once again was allowed to step down from the Board of Adjustment.

**VAR2009-00032**

A Variance request to reduce the required 25' rear setback to 5' to allow construction of a residential storage building.

Location: 4639 Sawa Circle

Applicants: Diane and Gary Diekmann

Chair Gladziszewski asked if anyone has further questions of the applicants, [whereby seeing none, she closed public testimony].

Public testimony was closed.

FRITZ COVE PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

Petitioner

### FRITZ COVE PROPERTY OWNERS' PETITION

The undersigned Fritz Cove property owners hereby submit this Petition.

1. **Conditional Use Permit:** We object to the conditional use permit to legalize two accessory apartments in two detached single-family dwellings at 1970 Hughes Way (USE2011-0010).


2. **Memorandum of Understanding:** We consider the request for the conditional use permit a breach of the neighborhood agreement between the Hughes Way property owners and the Keikkalas to modify and extend Hughes Way. The neighborhood agreement solves problems created by contentious issues associated with the Keikkalas' desire to subdivide and their unpermitted construction of additional dwelling units on their property. The conditional use permit will undo several years of hard-work by the neighborhood and city to resolve these issues.


3. **Private Right-of-Way:** We consider the request for the conditional use permit a breach of the easement between the Keikkalas and adjoining landowners. The original intent of the grant was an easement intended for one single-family dwelling. The conditional use permit would allow four times the intended use.


4. **D-1 District:** We believe the request for the conditional use permit is out of character with the existing density residential neighborhood and does not belong in Fritz Cove. The increased density will increase sewage outfall and will increase traffic, which will adversely impact the quality of life for local residents. The increased density will create greater problems with maintenance crews, emergency vehicle access, parking, snow removal storage and garbage collection, problems that were resolved by the neighborhood agreement described in Paragraph 2.

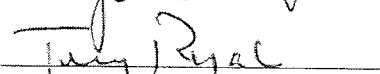
We declare that we have read the above petition and the statements are true to best of our knowledge and belief.


BY:

  
\_\_\_\_\_  
10937 SWEET  
July 20, 2011.

  
\_\_\_\_\_  
2970 Fritz Cove Rd  
July 20, 2011.

  
\_\_\_\_\_  
10501 Ann Coleman  
July 20, 2011.

  
\_\_\_\_\_  
July 21, 2011.

  
\_\_\_\_\_  
10481 Ann Coleman  
July 22, 2011.

ATTACHMENT 2

FRITZ COVE PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

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We declare that we have read the above petition and the statements are true to best of our knowledge and belief.

BY:

Ralph Kibby July 20, 2011.

John Smith Kibby July 20, 2011.

Eugene Palmer July 20, 2011.

Jeff Kuehlin July 20, 2011.

William Collier July 20, 2011.

David M. Belton 10495 Ann Coleman Rd July 20, 2011

Heuse Belton 10495 Ann Coleman Rd July 20, 2011

Chuck Cone 1990 Fritz Cove Rd. July 20, 2011.

Ronald Cabuto Brom 1970 FRITZ COVE RD July 20, 2011.

Danell Brown 1970 Fritz Cove Rd. July 20, 2011.

\_\_\_\_\_ July \_\_\_\_, 2011.

\_\_\_\_\_ July \_\_\_\_, 2011.

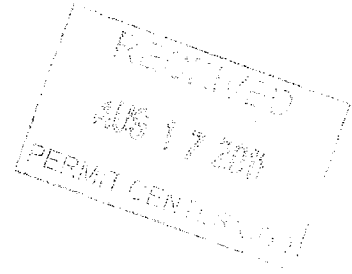
\_\_\_\_\_ July \_\_\_\_, 2011.

\_\_\_\_\_ July \_\_\_\_, 2011.



August 17, 2011

Ms. Maria Gladziszewski  
CBJ Planning Commission  
155 South Seward Street  
Juneau, Alaska 99801



RE: USE2011-0010

Dear Ms. Gladziszewski and Commissioners:

We understand that Planning Commission action on our application for two accessory apartments was postponed until August 23rd so that two matters could be addressed:

1. Whether our existing driveway easement was legally sufficient access to support the traffic associated with our request. This was to be addressed by the CBJ City Attorney's Office. As of this writing, we have not been told the result of the attorney's review but we remain confident that there is no restriction how the access easement may be used.
2. Whether the matters raised in a July 21, 2011 letter from James Sheehan, an attorney purporting to represent other residents in the neighborhood, could and should be addressed somehow before the commission takes up our application.

The purpose of this letter is to respond to the July 21, 2011 letter. That letter attempts to do two things:

1. Present objections to our application.
2. Draw the Planning Commission into a neighborhood dispute.

We will address the objections below, but Sheehan's letter has already accomplished, in part, its second objective by delaying this proceeding. The dispute over how to improve Hughes Way is entirely separate and apart from our aspirations for our own property and separate from the application in front of you. Mr. Sheehan is attempting to use the Planning Commission - and its process for reviewing and acting on Conditional Use Permit (CUP) applications - to gain leverage over us. This is wildly inappropriate because our application does not depend on any change to Hughes Way. Mr. Sheehan's intentions are plainly stated in his penultimate paragraph:

"Thus, if the Commission is agreeable to making the Keikkalas' compliance with the terms of the MOU and signature on the revised subdivision paper plat a

ATTACHMENT 3

condition of the conditional use permit, Hughes Way Owners will not object to the Keikkalas' request for a Condition (sic) Use Permit."

So, after two pages of argument objecting to the permit, the Hughes Way Owners' representative says, in essence, that they really don't mean it and will blithely waive their objections if we do as they say on a matter completely unrelated to our CUP application. If this is not "coercion-by-a-third-party's -process" then we don't know what else to call it. Even so, we understand that commission members might be curious about this dispute and so we will summarize the matter below but we plead with you to keep the two matters separate and focus on the CUP application that is clearly within your authority and to not intertwine the CUP with another matter that is not within your authority.

### The Hughes Way Upgrade Project Dispute

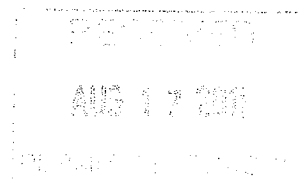
While previously funding has been contentious, at present the parties are moving towards an agreement to fund the project with the CBJ paying 50%, the Kibbys 25% and us 25%. From our perspective, the primary point of dispute at present is when we, the Keikkalas, will quit claim our existing access easement. Note the use of the word "when" in the preceding sentence. Our position is and has been that we are prepared to relinquish the easement but not until the Hughes Way Upgrade Project is completed. Inexplicably, one of Mr. Sheehan's clients has insisted that we relinquish right now, before a replacement for that easement has become a sure thing. Without that easement, our home has no practical access. Believe it or not, this is the primary sticking point - Mr. Sheehan's 50 pages of intimidation correspondence to the contrary - and we have no clue as to why this simple question of timing is such a problem.

### Objections to the CUP Application

We assert that the substantive objections in Mr. Sheehan's letter to our application are in fact window dressing and without any meaningful basis. These words were crafted in order to gain leverage and are nothing more than a ploy. Nevertheless, those words have been placed in front of the Planning Commission and must be rebutted. Mr. Sheehan makes three general assertions:

- a. "That the permit is not in conformity with the land use plan because the four unit development is in a D-1 district, which is primarily for single family and duplex development."

We must first clarify that while the term "four unit development" might be technically correct, this is really two, widely separated, single family homes, each of which is designed to host an accessory apartment. The CBJ Land Use Code's Table of Permissible

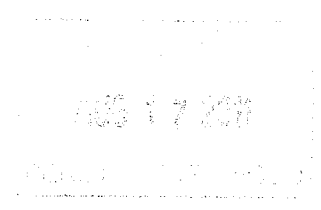


Uses (TPU) is unmistakable and is partially reproduced below. If a person has a large enough lot in D-1 zoning, then he or she can have two houses on that parcel as a "use-by-right" as specified by the "1" in the cell under D-1 and across from Use Category 1.110 "Single-family detached, two dwellings per lot." No special permitting or CUP is needed, just a building permit to have two houses on one lot. This much we have done. Now, to add an accessory apartment to each house is another matter and is separately addressed the TPU under category 1.130 which shows that a CUP is needed to add the accessory apartments.

Use Description	RR	D-1	D-3	D-5	D-10	D-10	D-15	D-18	LC	GC	MU	MU2	WC	WI	I
		1	3	5	10	10	15	18							
					SF										
<b>1.000 RESIDENTIAL</b>															
<b>1.100 Single-family dwellings</b>															
1.110 Single-family detached, one dwelling per lot	1	1	1	1	1	1	1	1	1	1	1	1	1	1 <sup>A</sup>	1 <sup>A</sup>
1.120 Single-family detached, two dwellings per lot	1	1	1												
1.130 Single-family detached, accessory apartments	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>	1 <sup>X</sup> , 3 <sup>X</sup>
1.135 Single-family detached, one or two accessory apartments		3	3												

It is worth noting that the TPU was recently updated and this was one of the specific changes made for the current version. Anything more than two dwelling units per lot was not possible in D-1 before this change was made. This was a clear-eyed and deliberate change in policy made by the CBJ. Mr. Sheehan's first assertion is utterly without basis.

b. "Approval of the permit would cause serious conflict between property owners, will decrease the property value of enjoying (sic) lots, will be out of harmony with private easement used to access the Keikkalas' lot and result in litigation.



This set of assertions is followed by accusations of wrongdoing, a lecture on the nature of easements, and a totally unsubstantiated claim that the original intent of the easement was to serve only one single family dwelling. The language of the easement is plain and unrestricted. It says ".....a perpetual easement for the purpose of ingress and egress and utilities to the aforementioned Parcel 1 over and along certain property owned by grantor..." Clearly, this easement is for providing access to the parcel and to whatever happens to be built on it.

Finally, Mr. Sheehan, in his last paragraph under this assertion says the higher density and more traffic will be a problem in the neighborhood. If that is true, then why has the CBJ allowed other neighboring houses to also have accessory apartments? The properties show in the table below are only what we specifically know about. There may be others. More to the point, our lot is much larger than any of the surrounding properties and if the surrounding density was the sole guide in the matter, we could accommodate ten or twelve units.

Comparative Density in Hughes Way Neighborhood			
	Lot Size in sq. ft.	Dwelling Units	Land area per unit in sq. ft.
Keikkala	111949	4 (proposed)	29987
Hendricks	29607	2	14803
Correa	20909	2	10454
Cheng	17934	2	8967
Powers	18743	2	9371
Adams	12045	2	6022
Emerson	42272	2	21137
Puliafico	23923	2	11961
Waenlaeder	9319	2	4660
Vandiver	14584	2	7292
Ward	30455	2	15227
Yashumishi	28750	2	14375
Emerson	42272	2	21137
Puliafico	23923	2	11961
Waenlaeder	9319	2	4660

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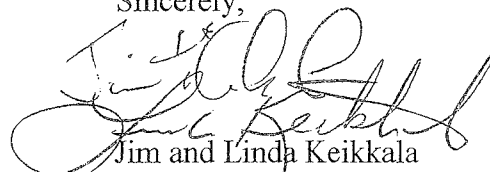
We constructed our primary residence in 1993 as a single family dwelling with an apartment which was established by the CBJ as a legal duplex. The second building was originally intended as a garage and storage but as it appeared likely in 2007 that Hughes Way would be extended in the immediate foreseeable future, we finished the building in 2008 as a single family residence with an accessory apartment. In retrospect that was a mistake. The upper unit has been occupied since June, 2008. The lower unit was occupied but has been vacant since April and will remain so until the CUP is granted.

c. "Permitting a four unit development on Hughes Way will further endanger the public health and safety of the neighborhood as a result of the continuing"

We do not know how this assertion was to end, but from the text that followed, it appears to relate to marine outfalls. To say that owners notice a "stronger sewage smell in the area" is inflammatory since any such smells could be coming from a dozen such outfalls on either side of our property. We can say with certainty that our systems are up to date and functioning properly. We are willing to supply documentation to verify this claim if need be. We can also say with certainty that this neighborhood has been plagued with malfunctioning on-lot sewer systems, many of which are decades old and have not been maintained or updated.

We are willing to provide any other information you require but we ask again that you focus on our CUP application and find it worthy. We understand the temptation of any public entity to want comprehensive resolution of disputes but we ask that you not be a party to this one because it only gives advantage to others and inappropriate leverage over us. We will see the Hughes Way upgrade project to a proper conclusion but we will not be bullied along the way. Please do not let the commission or its process become an instrument to give advantage to one side over another. Thank you for your attention and consideration.

Sincerely,

  
Jim and Linda Keikkala  
Applicants

RECEIVED  
APR 17 2009  
PLANNING DEPARTMENT

Received 8/15/11

To: Planning & Zoning CBJ

Re: Jim & Linda Keikkala's Property

I have known the Keikkalas for about 10 years and have visited their home off Frite Cove Rd several times. I have been impressed with their home and outbuildings and with the beauty of their landscaping. It is easy to see the amount of work and pride that has gone into their yard. Anyone who sees their place should be able to enjoy their place and its surroundings. Certainly I would be happy to be a neighbor.

Ed Bayaroli

Master Gardener  
Eds Edible Landscaping  
789-2299

ATTACHMENT 4

LAW OFFICES OF  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

---

ONE SEALASKA PLAZA, SUITE 300 · JUNEAU, ALASKA 99801  
TELEPHONE: 907-586-1400 · FAX: 907-586-3065

*Hand Delivered*

August 18, 2011

City & Borough of Juneau  
Community Development Department, Planning Commission  
155 S. Seward St.  
Juneau, Alaska 99801

Re: Revised Opposition to Conditional Use Permit Request USE2011-0010

Dear Commissioners:

The purpose of this letter is to amend and add further support to the letter originally submitted to the City and Borough of Juneau Planning Commission on July 22, 2011, which concerns James and Linda Keikkalas' (the "Keikkalas") request for a conditional use permit to establish two accessory apartments in two detached single-family dwellings – City and Borough of Juneau ("CBJ") File No. USE2011-0010.

The Hughes Way property owners (Jeff Hendricks, Virginia Palmer, Ralph Kibby and Julia Smith-Kibby) (the "Hughes Way Owners"), owners of the properties that are directly adjacent to the subject property, object to the Keikkalas' request and the July 8, 2011 CBJ Memorandum recommending that the CBJ Planning Commission (the "Commission") approve the Keikkalas' request for a conditional use permit. The Hughes Way Owners believe that neither the CBJ Planning Director (the "Director") nor the Commission is authorized to grant the Keikkalas' request for the following reasons, discussed further below:

1. The Hughes Way Owners believe the request for the conditional use permit is out of character with the existing density residential neighborhood and does not belong in the Hughes Way neighborhood. The increased density will increase sewage outfall and will increase traffic, which will adversely impact the quality of life for local residents. The increased density will create greater problems with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. These problems were resolved by a neighborhood agreement that was executed by the Hughes Way Owners, including the Keikkalas, but which the Keikkalas have refused to follow.
2. The Hughes Way Owners consider the request for the conditional use permit a breach of the easement between the Keikkalas and adjoining landowners. The original intent of the grant was an easement for one single-family dwelling. The conditional use permit would allow four times the intended use.

CBJ Planning Commission  
August 18, 2011  
Page 2

3. The grant of the Keikkalas' conditional use permit will endanger the public health and safety of the Hughes Way neighborhood. The CBJ and the Commission have previously noted the problems associated with Hughes Way, which include: maintenance crew access, emergency vehicle access, parking, snow removal storage, and garbage collection. These problems are amplified with the Keikkalas' desire to subdivide, and their unpermitted construction of additional dwelling units on their property. Further, the grant of the permit will have a substantial negative effect on neighborhood harmony, and undo several years of hard work by the neighborhood, the Commission and CBJ to resolve issues associated with Hughes Way.

The Hughes Way Owners request that the Commission deny the Keikkalas' request or condition the Keikkalas' request by enforcing the terms of the neighborhood agreement as a condition of the Conditional Use Permit. Failure to deny or condition the permit will not be in compliance with CBJ Code or Alaska law.

## I. FACTUAL BACKGROUND

The Keikkalas' lot is 2.57 acres and zoned D-1. *Attachment A.* The Keikkalas' lot is land locked. *Attachment B.* The Keikkalas access their lot via a private easement granted by adjoining Hughes Way Owners. *Attachment C.* The recorded easement provides "grantees and their successors in ownership" "a perpetual easement for the purpose of ingress and egress and utilities" to grantees' property. *Id.* Although the easement is silent as to how many different parties may use it, from the time of the grant of the easement in 1972 thru 2007 the easement was used for ingress and egress to a single family dwelling. *Id.* When the grantee of the easement, Joyce H. Landingham (previously known as Joyce H. Gnagy) agreed to grant the Keikkalas' predecessor in interest the access easement, it was the parties' intent and understanding that use of the easement was limited to one single-family dwelling. *Id.*

There is a long and tumultuous history associated with the current configuration of Hughes Way, the Keikkalas' access to their lot and the Keikkalas' desire to subdivide and construct additional dwellings on their property. The problems associated with the current configuration of Hughes Way have been previously noted by CBJ Community Development and Engineering Departments, and the Commission. *Attachments D and E.*

On June 20, 2007, property owners of Hughes Ways (Jeff Hendricks, Dixie Belcher, Virginia Palmer, Ralph Kibby, Julia Smith-Kibby, and James and Linda Keikkala) signed a Memorandum of Understanding ("MOU") describing the existing problems associated with the current configuration of Hughes Way previously reported by the CBJ, and documenting the property owners' agreement to resolve these issues by modifying the access, easements and rights-of-way affecting Hughes Way. The MOU is attached as Attachment F. The problems associated with Hughes Way include maintenance crew access, emergency vehicle access, parking, snow removal storage, and garbage collection. *Attachments D and E.* The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years. *Attachments D and E.*



CBJ Planning Commission  
August 18, 2011  
Page 3

The MOU also resolved problems created by the Keikkalas' desire to subdivide their property and by their unpermitted construction of additional dwelling units on their property. *Attachments D and F*. As a condition of the Hughes Way Owners' signature on the MOU, the Keikkalas agreed to: (1) donate a fraction of the north side of their lot to form the new Hughes Way cul-de-sac, (2) release the easements used to access their property, and (3) designate the back portion of their lot as a greenbelt. *Attachment F*.

The Hughes Way Owners provided the CBJ with the MOU and necessary documents associated with the modifications described in the MOU. On July 16, 2009, the CBJ Engineering Director Rorie Watt ("Watt") and Community Development Director Dale Pernula ("Pernula") expressed their support and conceptually approved the modifications described in the MOU. *Attachment D (July 16, 2009 Memorandum from Watt and Pernula)*. To achieve the Hughes Way Owners' agreement under the MOU, Watt and Pernula informed the property owners that the following must occur: (1) provide the CBJ a signed subdivision paper plat that describes the modifications specified in the MOU, and (2) the Keikkalas must quitclaim rights to utility and access easement to Ralph Kibby and Julia Smith-Kibby. *Id.* Once these two items were completed, Watt and Pernula would submit the requested modifications to the Commission and, if approved by the Commission, to the CBJ Assembly (the "Assembly"). *Id.* Watt and Pernula advised that the Assembly would pass a non-code ordinance approving the modifications. *Id.* The non-code ordinance is necessary because the Hughes Way Owners were only paper platting the proposed reconfiguration, and were not immediately constructing the reconfiguration.

Pursuant to the CBJ's request, the Hughes Way Owners expended considerable sums of money for surveying and platting. This was done in reliance on the CBJ's recommendations, and the property owners' good faith and contractual commitment to follow through with the agreements contained in the MOU. The Hughes Way Owners proceeded according to those recommendations and agreements, and finally secured all the CBJ requirements to proceed with a paper plat for the proposed reconfiguration.

On November 25, 2009, the Commission recommended the Hughes Way modifications, and recommended that the Assembly adopt a non-code ordinance allowing Hughes Way to be platted. *Attachment D (November 25, 2009 Commission Notice of Recommendation)*. However, prior to the matter going before the Assembly, the Keikkalas informed CBJ officials that they would not sign the subdivision paper plat, thereby renouncing the MOU. This, in spite of the fact that the proposed reconfiguration would solve the problem created by their desire to subdivide and by their unpermitted construction of additional dwelling units on their property, thus increasing the traffic on an easement intended for one single-family dwelling.

The CBJ officials informed the Hughes Way Owners that, without the Keikkalas' signatures on the subdivision paper plat, the Hughes Way modifications would not be approved. The Hughes Way Owners consider the Keikkalas' failure to sign the paper plat a breach of the MOU, and are considering legal remedies.

CBJ Planning Commission  
August 18, 2011  
Page 4

Per the attached petition, the Hughes Way Owners still desire and intend to comply with and be bound by the terms of MOU. *Attachment G*. The Hughes Way Owners have discussed their intent with the CBJ. The CBJ has discussed the possibility of appropriating funds to assist with the reconfiguration of Hughes Way.

On May 25, 2011, unbeknownst to the Hughes Way Owners, the Keikkalas filed a development permit application for a conditional use permit to legalize two accessory apartments in two detached single-family dwellings at 1970 Hughes Way (USE2011-0010). *Attachment H*.

On July 19 – 20, 2011, the Hughes Way Owners communicated with the Keikkalas about the possibility of mediating issues associated with the MOU and the Keikkalas' request for a conditional use permit. However, the Keikkalas were not agreeable to this. Therefore, on July 22, 2011, the Hughes Way Owners filed an objection letter with the Commission asserting that the Keikkalas' request should be denied or conditioned. *Attachment I*.

On August 2, 2011, in an effort to resolve the issues associated with the Keikkalas' request, the Hughes Way Owners hand delivered a proposed settlement agreement, to legal counsel for the Keikkalas. *Attachment J*. On August 15, 2011, the Hughes Way Owners received a written response to the proposed settlement agreement. *Attachment K*.

## II. STANDARD OF REVIEW

Pursuant to the CBJ Code of Ordinances, Article III, Title 49.15, Section .330, prior to a grant of a permissible use permit the CBJ Planning Director (the "Director") must determine whether the use: (1) materially endanger the public health and 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 land use plan, thoroughfare plan, or other officially adopted plans. CBJ 49.15.330(d)(5).

The Commission shall review the Director's report to consider whether: (1) proposed use is appropriate according to the table of permissible uses; (2) the application is complete; and (3) the development as proposed will comply with the other requirements of this title. *Id.* at .330(e)(1)(A) – (B). The Commission shall adopt the Director's determination unless it finds, by a preponderance of the evidence, that the director's determination was in error. *Id.* at .330(e)(2).

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 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) lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans. *Id.* at .330(f)(1) – (3). The Commission may alter the Director's proposed permit conditions, impose its own as described in CBJ 49.15.330(g), or both. *Id.* at .330.

CBJ Planning Commission  
August 18, 2011  
Page 5

Pursuant to the CBJ Table of Permissible Uses, the Keikkalas' request for a conditional use permit is at the discretion of the Commission. CBJ 49.25.300(b)(3), 1.135. The request may or may not be allowed at a particular location, depending on a determination by the Commission of the requests' compatibility with surrounding land uses or proposed land uses. *Id.* The Commission may attach any condition to ensure the compatibility of the proposed use. *Id.*

### III. ARGUMENT

a. *The permit is not in conformity with the land use plan because the four unit development is in a D-1 district, which is primarily for single family and duplex development.*

The Keikkalas' development, and the possible grant of the requested permit, is out of conformity with the intention of a D-1 residential district and the CBJ Comprehensive Plan.

The Keikkalas' property is located in a D-1 residential district, and is defined as Rural Low Density Residential. *Attachment A and L.* Pursuant to the CBJ's 1995 Comprehensive Plan (as amended in 2008), the Keikkalas' property is within the urban service boundary. *Id.*

According to CBJ 49.25.210(a), "the D-1 residential district, is intended to accommodate primarily single-family and duplex residential development in areas outside the urban service boundary at a density of one dwelling unit per acre." CBJ 49.25.210(a). However, "[c]ertain D-1 zoned lands ... may exist within the urban service boundary in transition areas if public sewer or water are absent but planned for." *Id.* "The D-1 classification will be changed to higher density upon provision of services."

Neither the CBJ Code nor the CBJ Comprehensive Plan provides that the Keikkalas' property is in a transition area. Therefore, their property is not in the process of being reclassified for higher density. Moreover, the CBJ's 1995 Comprehensive Plan (as amended in 2008), provides that undeveloped parcels within rural neighborhoods should be developed "with site design and massing that reflects the rural character of the neighborhood." *Attachment M.* Again, the Keikkalas' property is defined as Rural Low Density Residential.

Thus, the Keikkalas' proposed four unit development does not belong in this rural neighborhood, which is primarily for single family and duplex development. The adjacent properties on Hughes Way are predominantly single detached homes, a few with accessory apartments. The proposed four-unit development is higher density and out of character with the existing neighborhood.

In summary, the Keikkalas' property is on a 2.57 acre lot and a four unit development would have a density of 1 unit 0.64 acres, significantly higher than one dwelling unit per acre and out of character with the rural nature of the adjacent properties.

CBJ Planning Commission  
August 18, 2011  
Page 6

- b. Approval of the permit would cause serious conflict between property owners, will decrease the property value of adjoining lots, will be out of harmony with the private easement used to access the Keikkalas' lot and result in litigation.

Approval of the conditional use permit would have a significant impact on the peace and harmony within the neighborhood. Developing two apartments in the garage and renting them out for several years before applying for a conditional use permit shows a lack of respect for both the planning process and the opinions and wishes of the neighboring property owners. As a result of the MOU, the Hughes Way Owners were willing to move past the Keikkalas' unauthorized development. Now that the Keikkalas have breached the MOU and taken actions that directly conflict with the recommendations of the CBJ, the Commission and neighborhood agreement, harmony in the neighborhood will be severally impacted. The attached Fritz Cove Property Owners' Petition provides further evidence of the neighboring property owners' frustration with the Keikkalas' actions. *Attachment N.*

Furthermore, the request for the conditional use permit is a breach of the easement between the Keikkalas and adjoining landowners. Where an easement is claimed under a grant or reservation, the extent of the rights granted or reserved depends upon the terms of the grant or reservation, properly construed. Where the grant or reservation of an easement is general in its terms, use of the easement includes those uses which are incidental or necessary to the reasonable and proper enjoyment of the easement, but is limited to those that burden the servient estate as little as possible.

In *Labrenz v. Burnett*, 218 P.3d 993 (Alaska 2009), the owner of the dominant estate installed a driveway across an easement granted by the owner of the servient estate. Without permission, the owner of the dominant estate also decorated the easement with shrubs and other landscaping, and installed a wire fence and gate on the easement. *Labrenz*, 218 P.3d at 996. The owner of the servient estate filed a legal action requesting that the owner of the dominant estate remove the unpermitted development on the easement. The court ruled in favor of the owner of the servient estate. *Id.* at 1000. The court said that the owner of the dominant estate can only use the easement in a manner that is reasonably related to the easement's intended use. *Id.*

Similar to *Labrenz*, the easement at issue is a metes and bounds legal description of property granted by a recorded deed to the Keikkalas' predecessor in interest. The recorded easement provides "grantees and their successors in ownership" "a perpetual easement for the purpose of ingress and egress and utilities" to grantees' property. *Attachment C.* Although the easement is silent as to how many different parties may use it, from the time of the grant of the easement in 1972 thru 2007 the easement was used for ingress and egress to a single family dwelling. *Id.* Furthermore, when the grantee of the easement, Joyce H. Landingham (previously known as Joyce H. Gnagy) agreed to grant the Keikkalas' predecessor in interest the access easement, it was the parties intent and understanding that use of the easement was limited to one single-family dwelling. *Id.*

CBJ Planning Commission  
August 18, 2011  
Page 7

In *Guthrie v. Hardy*, 28 P.3d 467 (Montana 2001), an easement was granted in 1977 for occasional use by a single party. In 1995, the owner of the dominant estate sought to make the easement permanent and have it access multiple dwellings. *Guthrie*, 28 P.3d at 473. The Court held in favor of the owner of the servient estate. The Court said, “no use may be made of the right of way different from the use established at the time of the creation of the easement so as to burden the servient estate to greater extent than was contemplated at the time the easement was created.” *Id.* at 476. Further, notwithstanding the fact that the Court found that the easement was silent as to use, the Court accepted the trial court’s determination that usage beyond that would be an unreasonable burden on the servient estate. *Id.* at 477.

Case law on this issue provides that intent, and what may be considered a reasonable and unreasonable use are normally questions of fact, and should be determined in light of the situation of the property and the surrounding circumstances. As in *Labernz* and *Guthrie*, the Keikkalas are taking action that will change the intended grant and use of the easement – conditional use permit would allow four times the intended use of the easement. Thus, the Keikkalas request for a conditional use permit is not authorized by Alaska law and, if the conditional use permit is authorized without condition, the Hughes Way Owners will be forced to block the permit via court action.

Moreover, higher density and more traffic than is typical, without the agreed-upon reconfiguration in place, will negatively impact property values located adjacent to Hughes Way. The July 8, 2011 CBJ Memorandum says the higher density development will generate “more traffic than is typically expected from a lot in a D-1 zone,” and takes no action to alleviate the problems associated with the current Hughes Way right-of-way. *Attachment H*. Problems: (1) previously noted by the CBJ, (2) increased by the Keikkalas’ actions, and (3) resolved by the agreed-upon reconfiguration.

**c. *Permitting a four unit development on Hughes Way will further endanger the public health and safety of the neighborhood as a result of the continuing problems associated with the current rights-of-way and access easement.***

As noted in the July 8, 2011 CBJ Memorandum, the Hughes Way right-of-way is narrow (width: 15’ – 20’) without a turn-around for maintenance and emergency vehicles. *Id.* The problems associated with the narrowness have been previously noted by the Commission. *Attachment D* and *E*. Further, the Keikkalas’ development and roadway servicing their development is not in compliance with access to building and facilities standard in the international fire code, which the CBJ has adopted under CBJ 19.10.010. *Attachment O*. Essentially Hughes Way is a road which has problems and is currently not up to the CBJ standards. The increased traffic and density has and will lead to further noise, dust and safety issues.

Furthermore, the development has a marine outfall system for the Keikkalas’ house and house apartment and an on lot sewer system for the duplex, and, in the summer time, the Hughes Way Owners notice a stronger sewage smell in the area.

CBJ Planning Commission  
August 18, 2011  
Page 8

In summary, the Commission has previously been advised that the MOU resolved problems created by the Keikkalas' desire to subdivide their property, and by their unpermitted construction of additional dwelling units on their property. *Attachment D and E.* With the addition of a cul-du-sac, the agreement also solved problems previously reported to the CBJ Public Works and Facilities Committee and the Commission associated with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. *Id.* The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years. Granting the Keikkalas conditional use permit, without at least conditioning the permit with the agreed-upon reconfiguration, will undo a plan, formulated by the CBJ, the Commission and the Hughes Way Owners, that insures health and safety, and resolves liability issues associated with the CBJ.

#### IV. CONCLUSION

The Hughes Way Owners prefer to resolve this matter amicably. Thus, if the Commission is agreeable to making the Keikkalas' compliance with the terms of the MOU and signature on the revised subdivision paper plat a condition of the conditional use permit, the Hughes Way Owners will not object to the Keikkalas' request for a Condition Use Permit. However, if such terms are not a condition of the permit, the Hughes Way Owners request that the Commission deny the Keikkalas' application. Anything short of this will result in a legal action against the Keikkalas.

Resolving the above issues quickly and fairly will save expenses for all concerned. If you have any questions regarding this letter, please email ([jsheehan@stsl.com](mailto:jsheehan@stsl.com)) or call.

Sincerely,  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

  
James J. Sheehan

Cc:

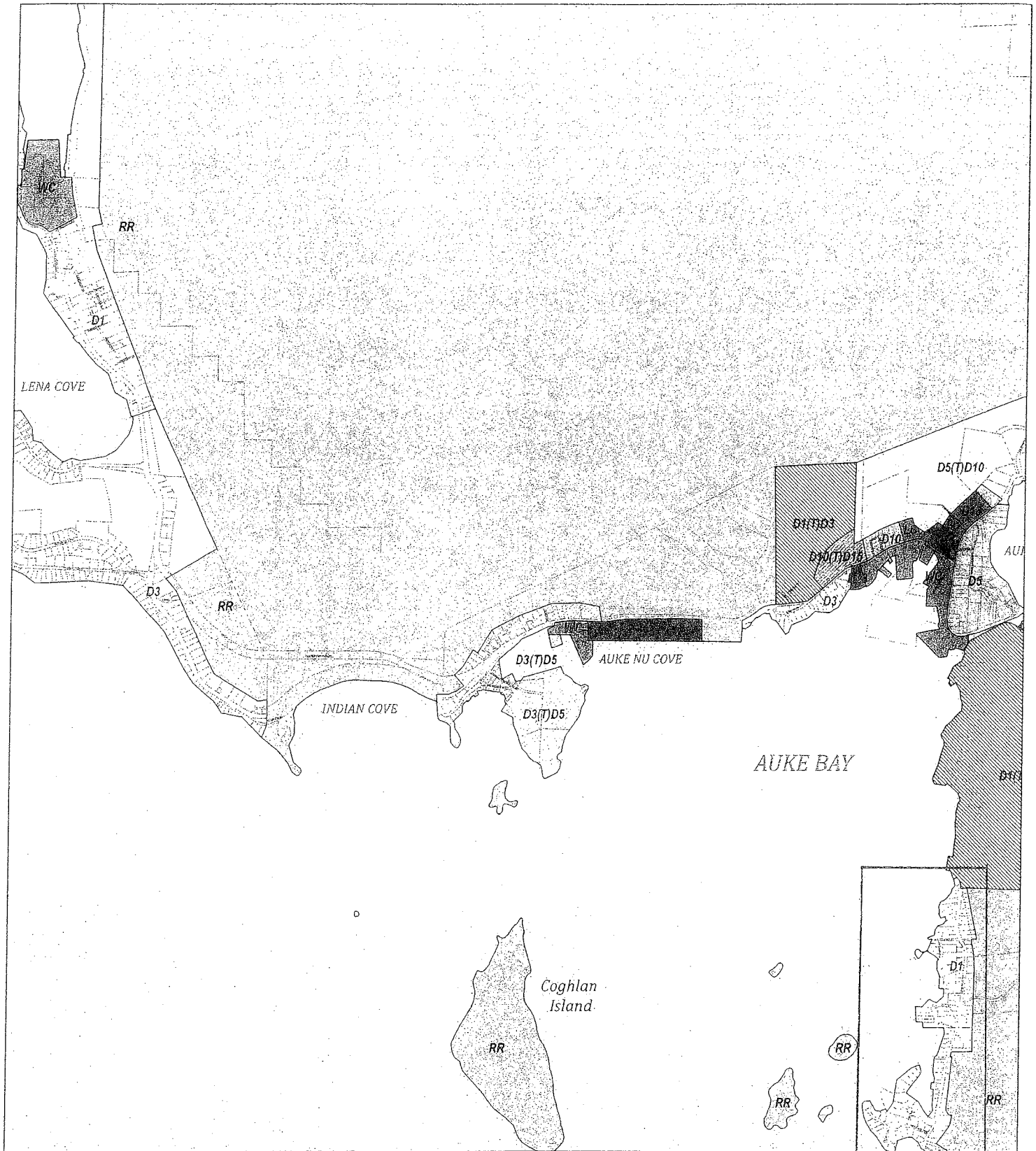
Ralph Kibby & Julia Smith-Kibby  
Jeff Hendricks  
Dixie Belcher  
Virginia Palmer  
Robert Spitzfaden, Attorney representing the Keikkalas  
Jane Sebens, CBJ Attorney  
Rorie Watt, CBJ Engineer  
Dale Pernula, CBJ Planner

Enclosures:

Attachment A – Auke Bay to Tee Harbor Zoning Map

CBJ Planning Commission  
August 18, 2011  
Page 9

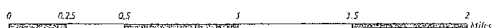
Attachment B – 2001 Hughes Way Subdivision Plat  
Attachment C – Affidavit of Joyce Landingham  
Attachment D – CBJ Memorandums and Commission Recommendations re: Hughes Way  
Attachment E – Public Works and Planning Commission Meeting Minutes re: Hughes Way  
Attachment F – 7/20/07 Hughes Way MOU  
Attachment G – 6/15/11 Hughes Way Right-of-Way Petition  
Attachment H – 7/8/11 CBJ Memorandum  
Attachment I – 7/22/11 Letter to Planning Commission  
Attachment J – Hughes Way Reconfiguration Agreement  
Attachment K – Keikkalas’ response to Hughes Way Reconfiguration Agreement  
Attachment L – Comprehensive Plan Map, Subarea 3 (Auke Bay)  
Attachment M – 2008 CBJ Comprehensive Plan, pg. 15  
Attachment N – Fritz Cove Property Owners’ Petition  
Attachment O – 2009 International Fire Code (applicable sections)



## Auke Bay to Tee Harbor Zoning Map

### ZONING LEGEND

D1	LC	WI	D3(T)D18
D3	GC	RR	D3(T)D5
D5	I	D1(T)D3	D5(T)D10
D10	MU	D1(T)D10	D5(T)D15
D15	MU2	D1(T)D5	RR(T)D15
D18	WC	D10(T)D15	RR(T)D3



**Disclaimer:**

This map was prepared, has been used, and is distributed by the City and Borough of Juneau, Alaska (CBJ). The CBJ makes no warranty, expressed or implied, nor does it assume any legal responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed in this map. The CBJ does not represent that use of this would not infringe private rights.

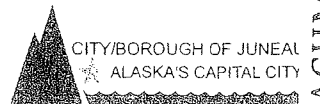
Reference in this map to any commercial product, process, or service by trade name, trademark, manufacturer or otherwise does not constitute or imply an endorsement by CBJ.

Use of this map by any person constitutes agreement by that person to the foregoing paragraph.

These terms may be changed, suspended, or revoked only in writing signed by the City and Borough Manager or the City and Borough Director of Community Development Department.

Suggestions for corrections and improvements to the CBJ zoning maps should be directed to:

Geographic Information Systems  
gis@ci.juneau.ak.us  
(907) 586-0762





SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT, AND THAT I (WE) DEDICATE ALL AREAS SHOWN AS PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

Date: 5-23-2001  
 Witness: [Signature]

Owner: [Signature]  
 Owner: [Signature]

**STATEMENT OF OWNERSHIP:**

I (WE) HEREBY CERTIFY THAT I (WE) (ARE) THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT, AND THAT I (WE) DEDICATE ALL AREAS SHOWN AS PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

Date: 5-23-2001  
 Witness: [Signature]  
 Witness: [Signature]

Notary Public for Alaska  
 My Commission Expires: 5-17-2002

**NOTARY'S ACKNOWLEDGEMENT:**

UNITED STATES OF AMERICA ) S.S.  
 STATE OF ALASKA )

THIS IS TO CERTIFY THAT ON THIS 23<sup>RD</sup> DAY OF MAY 2001 BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED:

Dixie Belcher, Jeff Hendricks and Linda Hendricks

KNOWING TO ME TO BE THE PERSON (PERSONS) DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE (SHE) (THEY) SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public for Alaska  
 My Commission Expires: 5-17-2002  
John W. Beaman

**LOT 6A PALMER BLOCK A**

**CERTIFICATE OF APPROVAL**

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE REQUIREMENTS OF TITLE 18, CHAPTER 45 OF THE CODE OF THE CITY & BOROUGH OF JUNEAU AND IS APPROVED BY THE CITY AND BOROUGH OF JUNEAU DEPARTMENT OF COMMUNITY DEVELOPMENT FOR RECORDING IN THE OFFICE OF THE JUNEAU RECORDING DISTRICT, JUNEAU, ALASKA.

Dated: 5-23-2001  
 Attest:  
 Director, Department of Community Development  
 City & Borough of Juneau

Smith-Kutsch  
 Director  
 Department of Community Development  
 City & Borough of Juneau

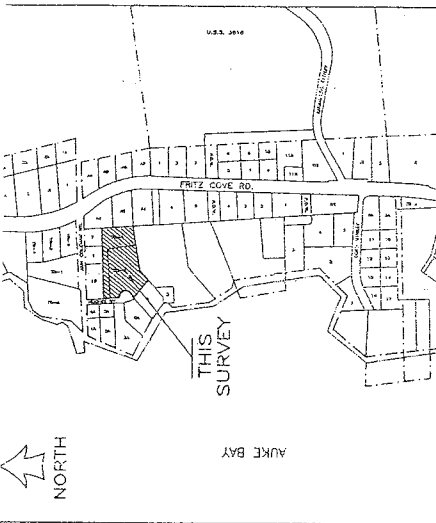
**CERTIFICATE OF REGISTERED LAND SURVEYOR**

I HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF ALASKA AND THAT I HAVE PERSONALLY SUPERVISED A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION THAT REPRESENTS A SURVEY MADE BY ME WITHIN THE LIMITS REQUIRED BY TITLE 18, CHAPTER 45, COMMUNITY DEVELOPMENT REGULATIONS, AS APPLICABLE TO THE CITY AND BOROUGH OF JUNEAU THAT ALL DISTANCES AND BEARINGS AND DISTANCES AND BEARINGS SHOWN ON THIS PLAN ARE SET IN PLACE AND NOTED UPON THIS PLAN AS PRESENTED.

Date: 5-23-2001

STATE OF ALASKA  
 JUNEAU  
 49TH  
[Signature]

DRAWN BY: S.S. - S.G.M.  
 CHECKED BY: J.W.B.  
 DATE: 4-26-2000  
 FIELD BOOK: AUKE BAY



**VICINITY MAP**

SOURCE: C.B.J. BASEMAP SERIES - SCALE: 1" = 500'

A-3  
**FR. LOT A TRACT A U.S.S. 2300**

**LEGEND**

- ⊕ PRIMARY MONUMENT RECOVERED THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY BY J.W. BEAN
- SECONDARY MONUMENT SET THIS SURVEY BY J.W. BEAN
- SECONDARY MONUMENT RECOVERED THIS SURVEY AS SHOWN

○ J.W. BEAN  
 U.S. 3650  
 5/8" REBAR, 30" LONG  
 SECONDARY MONUMENT

**NOTES:**

1. ALL PLAT BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE BASIS OF BEARINGS FROM WAYER AND U.S. 81 LOT 2B, HUGHES SUBDIVISION.
2. ALL DISTANCES SHOWN ARE REDUCED TO HORIZONTAL.
3. BEARINGS AND DISTANCES ARE SHOWN ENCLOSED BECAUSE THEY WERE OBTAINED FROM ENCLOSURE BEARINGS AND/OR DISTANCES ARE SHOWN WITHOUT PARENTHESES.

STATE OF ALASKA ) S.S.  
 THIS IS TO CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2001 BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED:

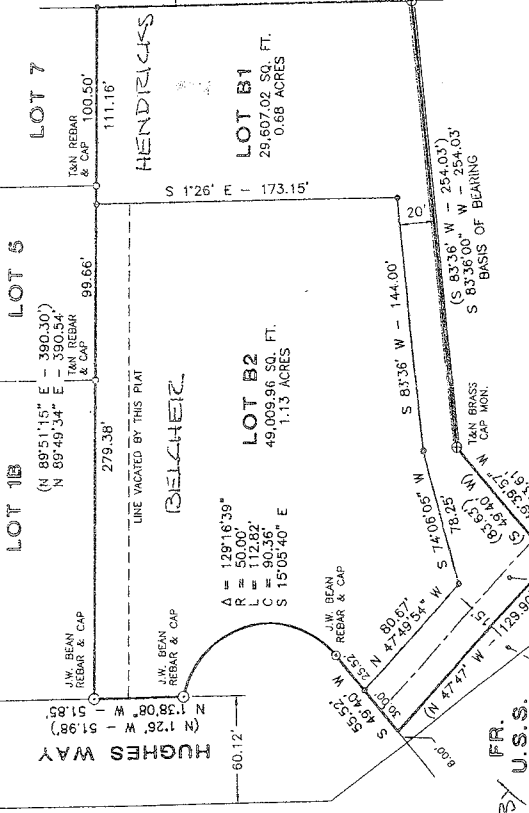
KNOWING TO ME TO BE THE PERSON (PERSONS) DESCRIBED IN AND WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE (SHE) (THEY) SIGNED AND SEALED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public for Alaska  
 My Commission Expires: \_\_\_\_\_

SCALE 1"=50'

**HUGHES SUBDIVISION**



FR. U.S.S. 1155

KEIKKALA

EXISTING ACCESS TO THE FR. OF U.S.S. 1155 BK. 103, PG. 954 & 955

**J.W. BEAN INC.**  
 PROFESSIONAL SURVEYOR

A PLAY OF A RE-SUBDIVISION OF LOTS 2B2 & 2B1 OF LOT 2B, BLOCK B, HUGHES SUBDIVISION, U.S.S. 1155

AFFIDAVIT OF JOYCE LANDINGHAM

1 STATE OF ALASKA )  
2 ) ss  
3 FIRST JUDICIAL DISTRICT )

4 I, Joyce H. Landingham, previously known as Joyce H. Gnagy, being first duly sworn,  
do hereby state as follows:

5 1. My husband and I purchased the following described real property located in  
6 Juneau, Alaska (herein, the "Property"):

7 Parcel 1: A tract of land in U.S. Survey 1155, Juneau Recording District, First  
Judicial District, State of Alaska, described as:

8 BEGIN at the Northeast corner of said survey, run thence S 1°26' E, on the East line  
9 of said survey, 281.10 feet, thence S 83°36' W 254.03 feet; thence S 49°40' W 207.80  
10 feet; thence West 38.12 feet to the true point of beginning; thence N 47°47' W 105.00  
11 feet; thence N 49°40' E 150.00 feet; thence S 47°47' E 129.88 feet to the line herein  
above described as S 49°40' W 207.80 feet; thence S 49°40' W 47.00 feet; thence S  
1°26' E 62.94 feet; thence S 78°58' W 100.00 feet; thence North 32.43 feet to the true  
point of beginning.

12 Parcel 2: A tract of land in U.S. Survey 1155, Juneau Recording District, First  
13 Judicial District, State of Alaska, described as:

14 BEGINNING at Corner No. 1, identical with Corner 1, Meander Corner of the M.M.  
15 Krane Tract as shown on the Subdivision Plat of U.S. Survey No. 1155 by F.A.  
16 Metcalf and dated November 1929, from whence Corner No. 2 of U.S. Survey No.  
1155 bears N 44°52'40" East a distance of 626.26 feet; thence North 47°47' West  
17 114.92 feet to Corner No. 2 a point on the BLM meander line of U.S. Survey 1155;  
18 thence on said BLM meander line S 6°00' East 167.92 feet to Corner No. 3; thence N  
49°40' East 88.61 feet to Corner No. 4, identical to WC MC 1 of Plat No. 380, entitled  
Plat of Gnagy Property; thence North 32.43 feet to Corner No. 1, the place of  
beginning; containing in all 0.17 acres, more or less.

19 2. I have owned and resided on the Property for over thirty-five years.

20 3. As the previous owner of the Property and member of the Hughes Way  
21 neighborhood, I have personal knowledge of all matters stated herein.

22 4. In 1972, Dan and Audrey Taylor (the "Taylors"), owners of the land-locked  
23 parcel adjoining the Property, and I negotiated the grant of an easement across the Property to  
24 obtain access to their parcel. The Taylors informed me that they planned to build a single-

SIMPSON, TILJINGHAST, & SORENSEN  
One Seafarers Plaza, Suite 300  
Juneau, Alaska 99801  
(907) 586-1400 Fax: (907) 586-3065

1 family dwelling on their parcel, and needed an access easement for the purpose of ingress and  
2 egress, and utilities for the dwelling.

3 5. I agreed to grant the Taylors the easement for the access described in  
4 paragraph 4. At the time of the grant, it was my intent and understanding that use of the  
5 easement was limited to one single-family dwelling. A copy of the easement is attached as  
6 Attached A.

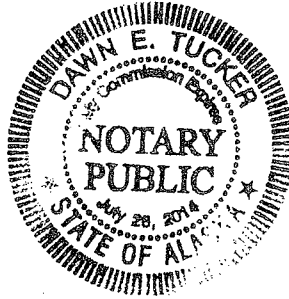
7 6. As consideration for the grant of the easement, the Taylors agreed to construct  
8 a garage on a portion of the easement to be used by the owner of the Property. The Taylors  
9 never constructed the garage or compensated me for the grant of the easement.

10 Further affiant sayeth naught.

11 Dated this 26 day of July, 2011

12 Joyce Landingham  
13 Joyce Landingham

14 SUBSCRIBED AND SWORN to before me this 26 day of July, 2011.



20 Dawn Tucker  
21 Notary Public in and for Alaska  
22 My commission expires 7/28/2014

EASEMENT

THIS INDENTURE made this 12<sup>th</sup> day of November, 1972, by and between JOYCE H. GNAGL, a single woman, as grantor, and DAN M. TAYLOR and AUDREY J. TAYLOR, husband and wife of Juneau, Alaska, as grantees,

WITNESSETH:

The grantor is the owner of certain real property adjacent to and contiguous with the following described real property owned by the grantees situated within U. S. Survey No. 1155, in the Juneau Recording District of Alaska, and which is more particularly described as follows:

A fractional part of Tract II, U. S. Survey No. 1155, more particularly described by metes and bounds as follows:

Beginning at Corner 2 of U. S. Survey No. 1155 and along the easterly boundary of said U. S. Survey 1155, S 1° 26' E, 281.10 feet to the true point of beginning. Thence S 1° 26' E, 230.0 feet along the easterly boundary line of said Tract II, U. S. Survey 1155, thence S 83° 36' W, 254.03 feet, thence S 57° 18' 40" W, 271.25 feet to W.C., thence S 57° 18' 40" W, 28.40 feet to the true meander corner. Thence N 6° 00' W, 168.55 feet, thence N 49° 40' E, 88.60 feet, thence N 78° 58' E, 100.0 feet, thence N 1° 26' W, 62.94 feet, thence N 49° 40' E, 131.13 feet, thence N 83° 36' E, 254.03 to the true point of beginning.

This tract contains 2.5 acres, more or less. (Said property is hereinafter described as Parcel 1.)

The grantor does hereby grant unto grantees and their successors in ownership of that certain property referred to herein as Parcel 1, a perpetual easement for the purpose of ingress and egress and utilities to the aforementioned Parcel 1 over and along certain property owned by grantor situated in U. S. Survey No. 1155, in the Juneau Recording District of Alaska, and which is more particularly described as follows:

A fractional part of USS #1155 more particularly described as follows:

FAULKNER, BANFIELD, DOOGAN, GROSS & HOLMES  
SUITE 201, 311 FRANKLIN ST. PHONE (907) 586-2210  
JUNEAU, ALASKA 99801

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JUNEAU  
Serial No. 72-4181

Beginning at a point which bears S 40° 51' 23" W, 508.00 ft. distant from Corner 2 of said USS #1155, thence N 49° 40' E, 31.02 ft., thence N 47° 47' W, 129.88 ft., thence S 49° 40' W, 8.0 ft., thence S 37° 34' 35" E, 128.95 ft. to the point of beginning.

This tract contains .05 acres more or less.

The easement granted herein is granted in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by the grantees to the grantor.

This easement shall inure to the benefit of and shall be binding upon the successors, executors, administrators, heirs and assigns of the respective parties hereto.

Joyce H. Gnagy  
Joyce H. Gnagy

GRANTOR

Dan M. Taylor  
Dan M. Taylor

Audrey J. Taylor  
Audrey J. Taylor

GRANTEES

RECORDED - FILED  
JUN 13 1972  
REC. DIST.  
DATE 11-13-72  
TIME 1:42 P.M.  
Requested by  
Address

STATE OF ALASKA )  
FIRST JUDICIAL DISTRICT ) ss.

THIS CERTIFIES that on this 12<sup>th</sup> day of November, 1972, before the undersigned, a Notary Public in and for the State of Alaska, personally appeared JOYCE H. GNAGY, a single woman, DAN M. TAYLOR and AUDREY J. TAYLOR, husband and wife, to me known and known to me to be the persons whose names are subscribed to the foregoing Easement and who acknowledged to me that they executed the same for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Michael M. Holmes  
Notary Public for Alaska  
My Commission Expires: Jan. 18, 1975



FAULKNER, BANFIELD, DOOGAN, GROSS & HOLMES  
SUITE 201, 311 FRANKLIN ST. PHONE (907) 586-2210  
JUNEAU, ALASKA 99801

# MEMORANDUM

CITY/BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

**TO:** Ralph Kibby  
Hughes Way Property Owners

**FROM:** Rorie Watt, Engineering Director  
Dale Pemula, Community Development Director

**RE:** Hughes Way Right-Of-Way

**DATE:** July 16, 2009

As we understand the situation, property owners on Hughes Way desire to:

1. Donate land to be used as right-of-way (Keikala, Hendricks, Belcher)
2. Vacate a portion of an existing right-of-way (Belcher, Palmer)
3. Vacate an existing Access & Utilities Easement (Kibby)
4. Make no changes or improvements to the existing roadway or to the donated right-of-way

To achieve the above, the following must occur:

1. Neighbors provide and sign Subdivision Plat (after approval by Planning Commission)
2. Keikala Quitclaim rights to Utility & Access Easement to Kibby
3. CBJ Assembly pass a non-code Ordinance waiving Title 49 requirements that require subdivision improvements.

We support the neighborhood's desire to make these changes, however, a plat must be submitted, approved and recorded dedicating right of way of sufficient width and area to construct a roadway and cul-de-sac. To limit the land donation, the neighbors can provide a slope easement in the cul-de-sac area in lieu of donating additional right-of-way. We will need to verify that a future road and cul-de-sac may be reasonably constructed within the new right-of-way.

We want to also make it clear that this arrangement will not result in any changes to road maintenance responsibilities on Hughes Way. If the neighborhood desires to upgrade or extend the road, that will have to occur under a separate arrangement. For clarity, we have attached a drawing showing the various land actions. They are:

- A. Hughes Way ROW vacation to Belcher
- B. Easement vacation by Keikala to Kibby
- C. Hughes Way ROW vacation to Palmer
- D. ROW donation by Hendricks
- E. ROW donation by Keikala
- F. ROW donation by Belcher

Please contact either of us if you have any questions or concerns.

Roadway Proposal - 45'  
Cul-de-sac " - 100' - includes easement


# MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

**TO:** Merrill Sanford, Chair  
Public Works and Facilities Committee

**DATE:** November 4, 2009

**FROM:** Rorie Watt, P.E., Engineering Department Director 

**RE:** Hughes Way – Proposed Re-Subdivision

Property owners on Hughes Way have been working amongst themselves to resolve long standing issues with property and right-of-way lines and have provided a draft subdivision plat for our review. The property owners propose to vacate existing right-of-way, vacate an existing easement, donate land for right-of-way and make no changes or improvements to the existing roadway or to the donated right-of-way.

The property owner proposal is an improvement over the existing situation, and to achieve their proposal, the following must occur:

1. Neighbors provide a Subdivision Plat (Completed and submitted).
2. Planning Commission hears issue as an "Inquiry Case" possibly makes comments to Assembly.
3. CBJ Assembly passes a non-code Ordinance that has the sole purpose of waiving two specific Title 49 requirements for this action:
  - a. Requirement to Construct Improvements
  - b. Right-of-Way dimensions.
4. Planning Commission approves the Subdivision, Neighbors sign the Plat.

In my opinion there is no harm to the City that would result from allowing this change. As a few points of clarification:

1. There would be no change to City maintenance of Hughes Way.
2. There is no existing turn-around on Hughes Way – use of the existing right-of-way for the construction of a turn-around is not supported by the neighborhood. The new proposal improves the situation by creating a useful turn-around right-of-way.
3. Although it is less than our code standards, the Right-Of-Way proposed by the neighbors is sufficient for the construction of a road and cul-de-sac. It is also greater in width than Anne Coleman Drive which feeds into Hughes Way.

I would also note that it is quite remarkable to see five property owners come to an

*November 5, 2009*

agreement to change their property lines. For clarity, I've attached a drawing showing the various land actions. They are:

- A. Hughes Way ROW vacation
- B. Easement vacation
- C. Hughes Way ROW
- D. ROW donation
- E. ROW donation
- F. ROW donation

This proposed action will soon go to the Planning Commission which may or may not have comments. To move forward, the neighbors would need the PWFC to request staff to draft a non-code ordinance and forward the issue to the full Assembly for consideration. The Assembly could hear comments from the PC at the time they hear the ordinance.



# MEMORANDUM

CITY/BOROUGH OF JUNEAU  
155 South Seward Street, Juneau, Alaska 99801

**DATE:** November 18, 2009

**TO:** Planning Commission

**FROM:** Steve Baxter, Planner  
Community Development Department

**FILE NO.:** INQ2009-00061

**PROPOSAL:** An Inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

## GENERAL INFORMATION

**Applicant:** Dixie Belcher

**Property Owners:** Belcher, Hendricks, Keikkala, Kibby, Palmer

**Parcel Code No.:** 4-B18-0-102-004-1

**Site Size:** Five lots consisting of 5.5 acres

**Zoning:** D1

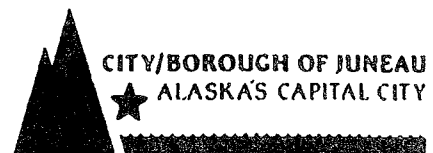
**Access:** Hughes Way and Ann Coleman Road

**Utilities:** City Water, private sewer

**Existing Land Use:** Single-family residential

## BACKGROUND

This is an old subdivision that was platted before there were subdivision improvement standards. Neither Ann Coleman Rd. nor Hughes Way is paved. Hughes Way is a 60-foot right-of-way which includes a 20-foot-wide gravel roadway and Ann Coleman Rd. is a 45-foot-wide right-of-way which also includes a 20-foot-wide gravel surface.



### PROJECT DESCRIPTION

Hughes Way is abutted by nine lots; at the end of Hughes Way, there are five driveways that run in various directions to provide access to five developed lots. The largest of the five lots only has access to Hughes Way by means of an easement rather than by direct access. The owners of these five lots would like to improve their access, but if they have to improve it to meet the Title 49 requirements, their cost would be prohibitive. Title 49 requirements include a 22 foot wide paved roadway with a sidewalk on one side, street lights, storm drainage, and a cul-de-sac with a minimum radius of 50 feet.

Instead of upgrading the street to meet Code standards, the property owners would like to improve the access situation by recording a plat which would lengthen Hughes Way about 200 feet and provide a cul-de-sac with a radius of 45 feet. These proposed plat changes would allow for the potential to shorten their driveways and facilitate emergency vehicle access. The proposed changes would also allow for the turning around of the CBJ snow plow and other traffic. The property owners would also like to reduce the width of the extension of Hughes Way right-of-way from the required width of 50 feet to 45 feet and vacate the undeveloped cul-de-sac right-of-way at the current end of Hughes Way (see Attachment C). Details of how the improvements would be installed and how they would be financed will be explored after the plat has been recorded.

### ANALYSIS

The property owners are not obligated to make any modifications to Hughes Way, however, they are in favor of the changes previously discussed, and these changes could be the first step toward improving the existing situation. The proposed new plat would provide direct right-of-way access to a lot that currently only has access by means of an easement. The new plat would also include a cul-de-sac at a location agreed upon by the property owners. The current plat shows a cul-de-sac at a location that is disliked by at least one of the lot owners, and has never been developed.

Although the modifications of the plat as proposed by the lot owners do not meet the current requirements of improvements and right-of-way width, there would be significant improvement over the current substandard situation.

If the Commission is in agreement with this proposal, a recommendation should be made to the Assembly. The Assembly could then ask that a non-code ordinance be drafted to allow a re-subdivision of this area. Following this ordinance, a subdivision reflecting the changes discussed above would be submitted to the Commission for review and approval.

### ALASKA COASTAL MANAGEMENT PROGRAM (ACMP)

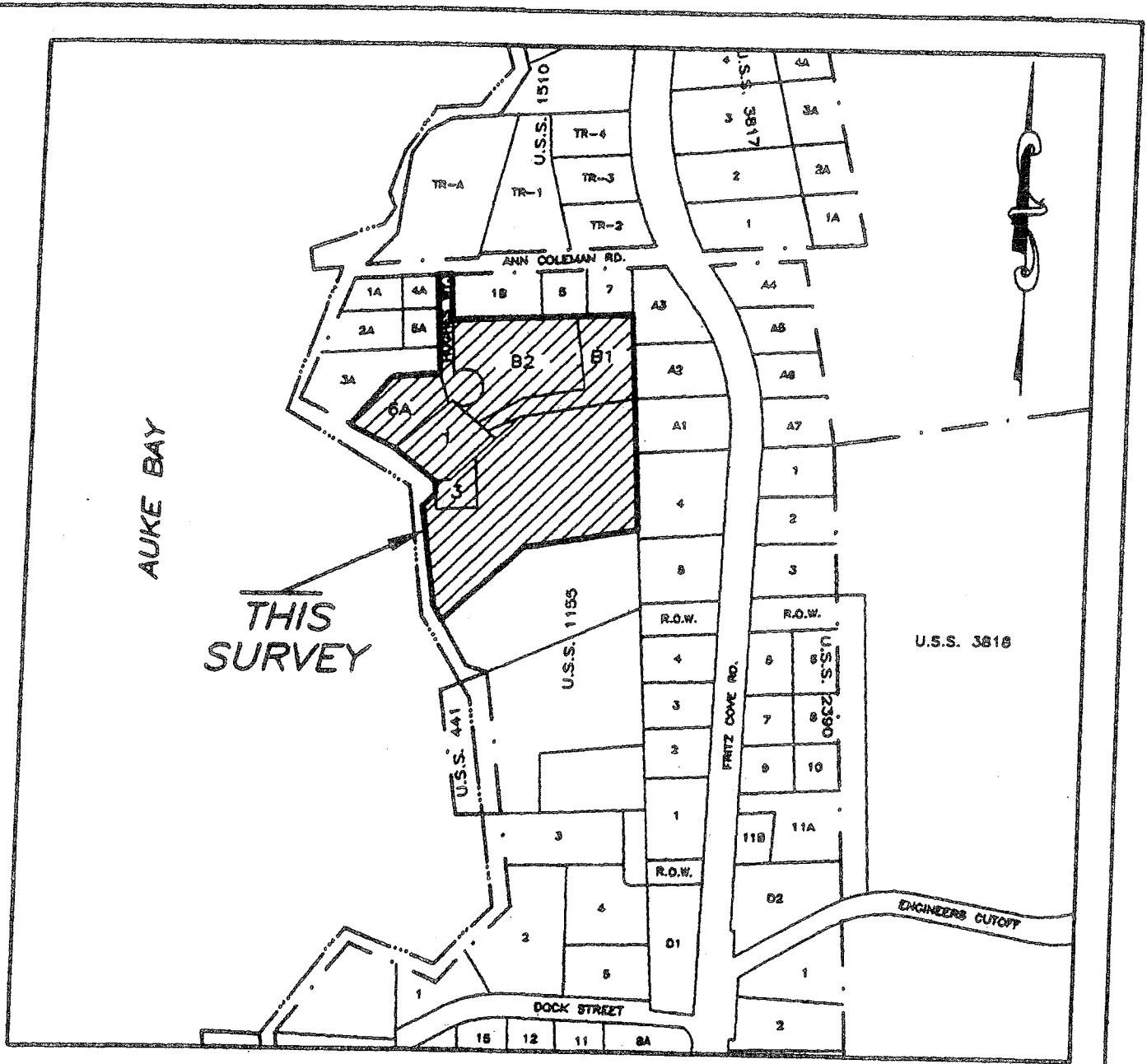
Not applicable. This project does not require a state-coordinated ACMP review.

**RECOMMENDATION**

The use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.

**ATTACHMENTS**

- A Vicinity Map showing current lot lines
- B Map showing current lots
- C As-built survey showing proposed plat
- D Proposed plat

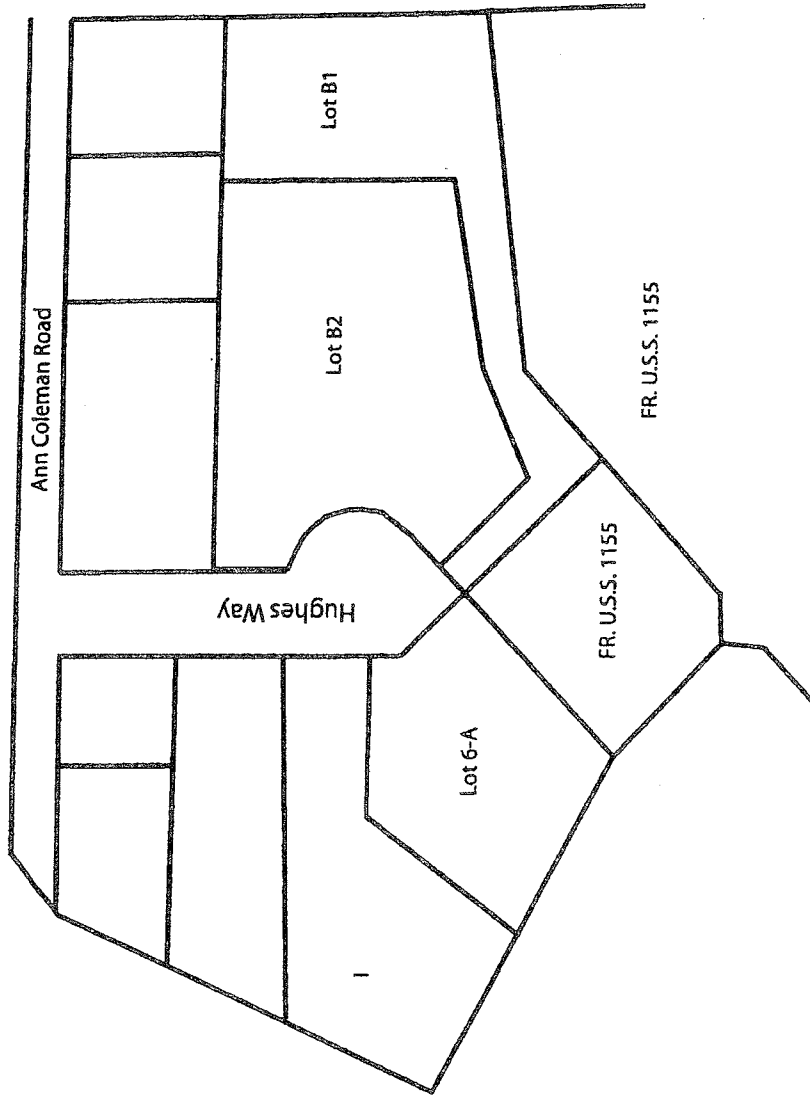


THIS SURVEY

### VICINITY MAP

SOURCE: C.B.J. BASEMAP SERIES - SCALE: 1" = 400'

Approximate Current Lot Configuration - Hughes Way



**ATTACHMENT B**

ATTACHMENT C

ANN COLEMAN ROAD

HUGHES W

LOT 3A

LOT 6A

LOT 1B

LOT B2

LOT 5

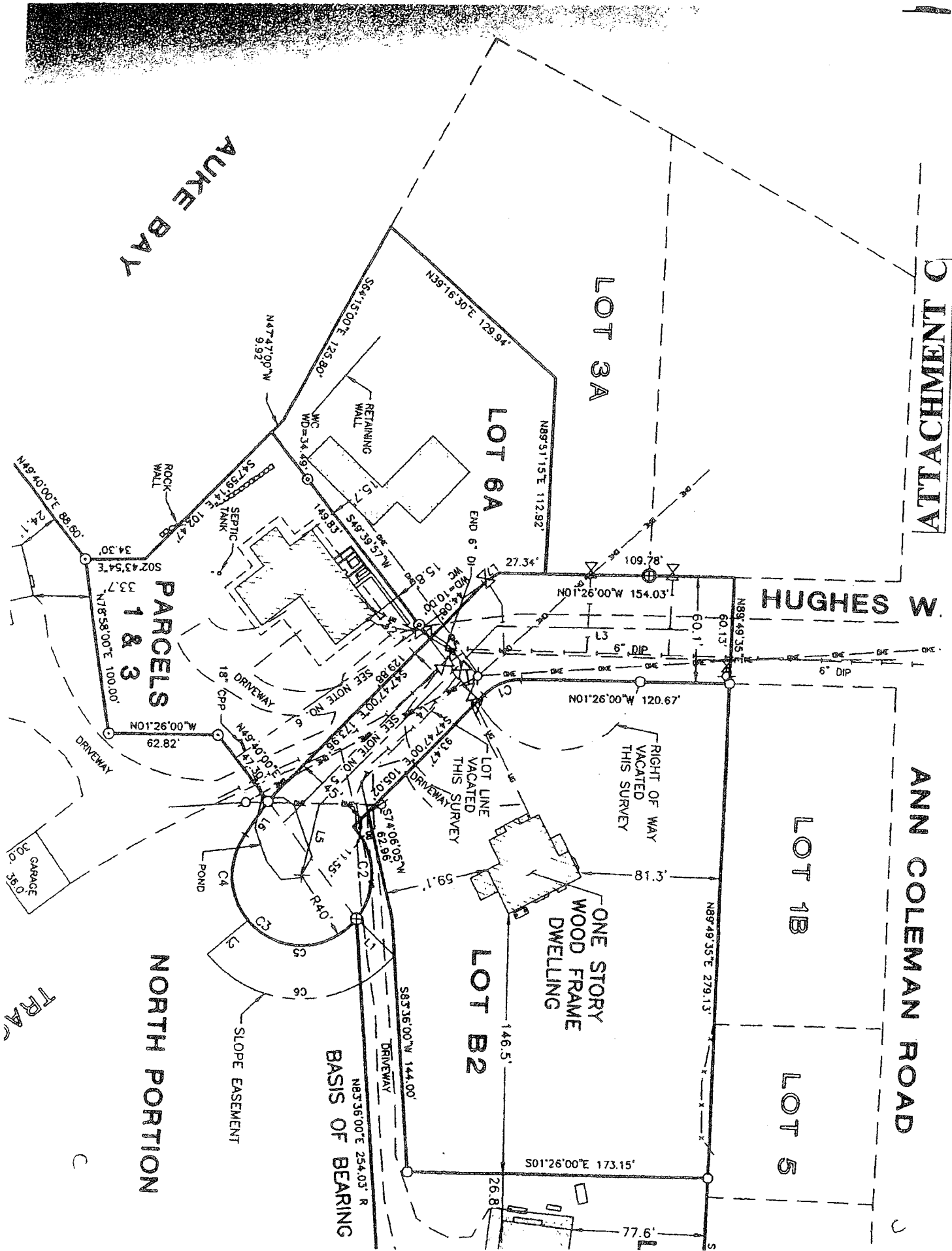
AUKE BAY

PARCELS 1 & 3

NORTH PORTION

ONE STORY WOOD FRAME DWELLING

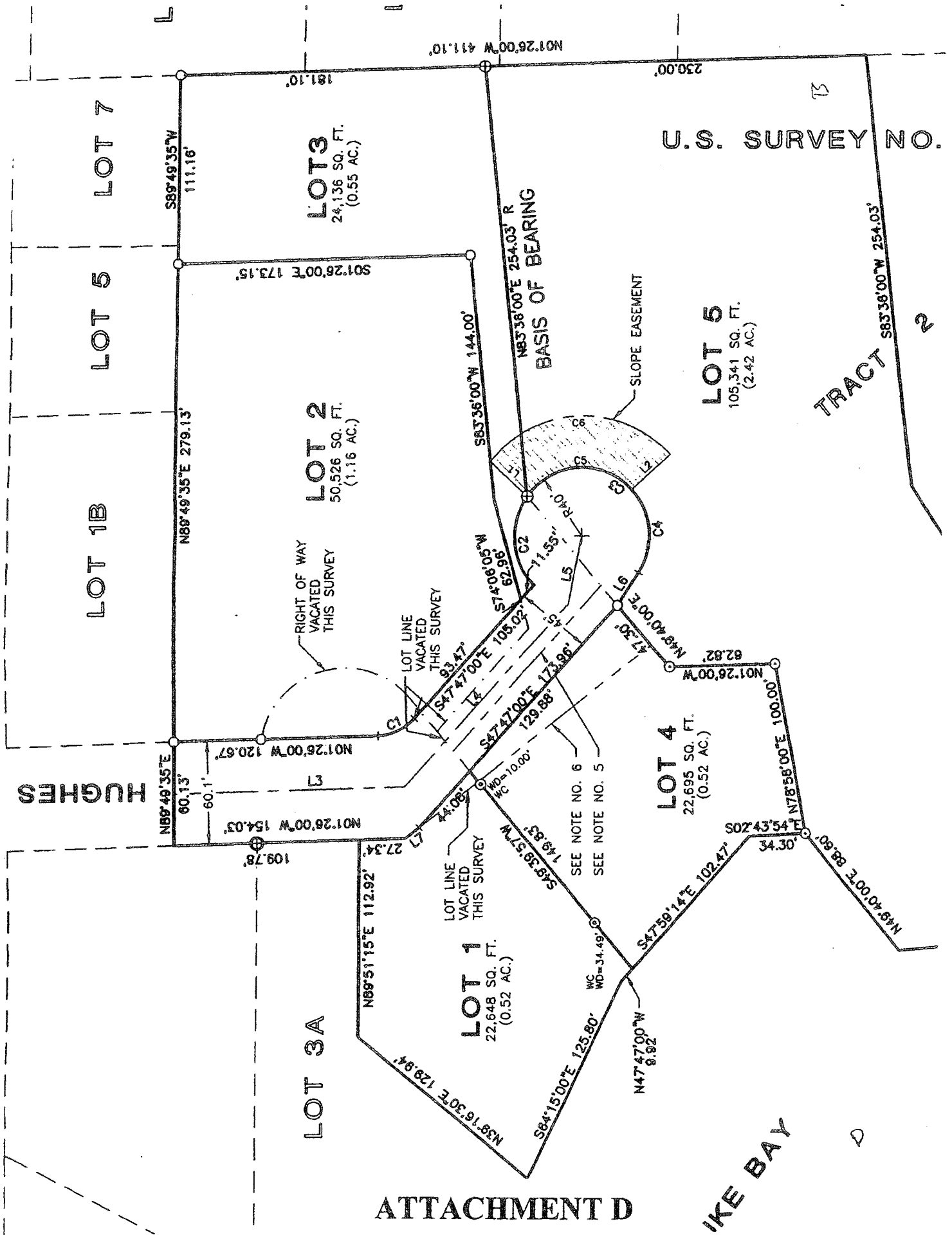
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ATTACHMENT D



IKE BAY

HUGHES

**CITY/BOROUGH OF JUNEAU  
ALASKA'S CAPITAL CITY**

**PLANNING COMMISSION  
NOTICE OF RECOMMENDATION**

Date: November 25, 2009

File No.: INQ2009-00061

City and Borough of Juneau  
City and Borough Assembly  
155 South Seward Street  
Juneau, AK 99801

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding an inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

ROW Name: Hughes Way

Parcel Code No's: 4-B18-0-102-004-1; 005-1; 006-0; 007-0; 008-0

Hearing Date: November 24, 2009

The CBJ Planning Commission, at a regular public meeting, reviewed the proposal to extend Hughes Way in a manner that does not meet current minimum subdivision standards as required by the Land Use Code. Although the Planning Commission normally does not support non-code ordinances, in light of the unique circumstances, neighborhood cooperation and extremely poor design of the existing subdivision, the Planning Commission adopted the analysis and findings listed in the attached memorandum dated November 18, 2009, and recommend that the CBJ Assembly move forward to adopt a non-code ordinance allowing Hughes Way to be re-platted as proposed by the residents of Hughes Way.

Attachments: November 18, 2009 memorandum from Stephen Baxter, Community Development, to the CBJ Planning Commission regarding INQ2009-00061.

This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ §01.50.020(b).

Project Planner: Stephen Baxter  
Stephen Baxter, Planner  
Community Development Department

Maria Gladziszewski  
Maria Gladziszewski, Chair  
Planning Commission

Jamie J. Smith  
Filed With City Clerk

11/25/09  
Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. The CBJ and project designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

155 So. Seward Street, Juneau, Alaska 99801-1397



**MINUTES**  
**Public Works and Facilities Committee Meeting**  
Monday – May 11, 2009 – 12:00 p.m.  
Assembly Chambers

**I. CALL TO ORDER**

**Attendees**

**Committee Members/Liaison at Dais:** Jonathan Anderson, Bob Doll, Merrill Sanford, Randy Wanamaker, and Dennis Watson (PCL)

**Staff Members:** John Bohan, Craig Duncan, Nancy Gifford, John Hartle, Kim Kiefer, Ron King, Ben Lyman, Jennifer Mannix, Dale Pernula, Rich Ritter, Mike Scott, and Rorie Watt

**Others:** Jeremy Hsieh (Juneau Empire), Dixie Belcher, Jeff Hendricks, Jim Keikkala, Linda Keikkala, Ralph Kibby, Max Mielke, Robert Peterson, and Jonathan Smith

**II. APPROVAL OF MINUTES**

**A. April 20, 2009 – Regular Meeting**

*Anderson* – I would move approval of the April 20th, 2009, meeting minutes.

*Sanford* – Any there any objections? Hearing none, so ordered.

**III. PUBLIC PARTICIPATION**

**IV. ITEMS FOR ACTION**

**A. Land Use Code Fees (Hood vs. Board of Adjustment and Secon)**

Hartle – Ordinance 2009-04 was referred to this Committee by the Assembly for a more general discussion about how this fits in with our existing code. In your packet, just ahead of this ordinance is CBJ 49.10.600 and most important are items .610, .620, .630, and .640. Those are the code sections for penalizing anyone who proceeds without a permit.

The purpose of this is to charge more for permits when the work is started, because it costs the department more. There's more research required; sometimes they may have to open up walls or dig under the ground to do the inspection. We also included a section giving a department director discretion to wave those fees. One reason might be that innocent new owners might find themselves hit with double fees because the prior owner put in an accessory apartment.

Sanford – Some people wanted to make a stricter code and we should review 49.10.600 and see if that's feasible.

Anderson – Back in March, when this came before the Assembly, the main issue suggested we should double fees for those who did not apply for permits prior to construction. In the Assembly meeting the question was raised as to how that would impact CDD. This Committee is interested in providing incentives so people won't build without first obtaining permits.

Hartle – We already have the tools to accomplish that. I believe that SECON did violate the code; they proceeded without getting a permit first, and they could have been hit with a variety of penalties.

Anderson – I think what the Assembly wanted to do was to ensure that it was less discretionary, that it would be followed up on, and that advice from you would be forthcoming.

Hartle – It's a law enforcement issue. It isn't feasible to make it mandatory that the Manager charge all offenders with a crime under these circumstances. I don't believe that in the code there's a way to say a person must be charged, even though the law they're violating is clear.

Doll – Paragraph .640 would not appear to offer any discretion to anybody on the Manager's Staff.

Hartle – It says that certain conduct violating this title is illegal. And that applies to everyone all the time. Whether they're prosecuted is a function of Staff to hand out tickets that require court appearances.

Doll – I recall Mr. Swope saying, "My evaluation of the circumstances is that the penalty wasn't appropriate." Is there a good government principle that says, "There should always be a potential for discretion to be exercised, given the circumstances?"

Hartle – Yes, prosecution is expensive, and entails an allocation of resources. In this case, they came into compliance quickly once they were notified. There has to be some prosecutorial discretion to allocate time and resources. We have one compliance person for the entire borough; when we've had life and safety violations, we've charged the perpetrators with a crime and convicted them of misdemeanors. We instituted the infraction penalty so that we could serve a ticket and take the person charged to the district court.

Wanamaker – I don't want to encourage people to try to get around the permit process. Previous owners may have been in violation of a statute of which the new owners are unaware.

Hartle – There needs to be some discretion in determining when a violation falls below the threshold. I don't think this will encourage anybody; nobody wants to pay double fines. Again, our first concern is health and safety codes.

Pernula – The consequences of not applying for a building permit are as follows:

1. A building permit reminder
2. Infraction penalty citations of \$100, \$200, or \$300, respectively
3. A court appearance

Pernula – Item 49.85.140 (b) was cost-based. New owners of a house, whose previous owners didn't have proper permits, didn't know it the entire time they were there. When they went to refinance the house, the lending institution told them that they didn't have the proper permits, so they immediately came in and got them.

Hartle – It's a general rule of ordinance drafting that when you give a director discretion, you need to include standards to apply. You can't just say that he can waive it when he's having a great day.

Doll – This is not about following ordinances, or touching bases. It's about protecting a spawning stream. And that is important for anyone who wants to catch fish in Juneau. The last thing that should happen is for the director or his staff to feel that it's too hard to carry out or that it's too much trouble. We don't want to give him the ability to impose criminal penalties.

Wanamaker – I would move that we return this to the Assembly with a recommendation for a do-pass.

Sanford – Are there any objections? Hearing none, so ordered.

#### B. Juneau-Douglas High School Reno, Phase II Appropriation of GO Bond Interest Income

Anderson – Would this be all the money required for the project?

Watt – Yes.

Anderson – I would move Staff recommendations to the appropriation of the GO Bond Interest Income.

Sanford – Are there any objections? Hearing none, so ordered.

C. Transfer Request – New Juneau School Site Improvements CIP

Doll – I would move the Transfer Request per the Staff recommendation to the Committee for approval and forward this to the full Assembly.

Sanford – Are there any objections? Hearing none, so ordered.

V. INFORMATION ITEMS

A. Hughes Way

Watt – Hughes Way is a quiet neighborhood off Fritz Cove Road. There have been a few proposals and we've tried to work through the process. I think those in that neighborhood would like to extend the rights-of-way and that poses a tricky problem because the creation of new rights-of-way requires construction of public improvements. If you look at the aerial map you can see that this is not a big subdivision, and big subdivision improvements are not really merited. There is an existing cul-de-sac on Hughes Way and there is some interest from the Street Maintenance Staff in creating a turn-around on Hughes Way. We're not sure where that location might be; nobody in the neighborhood prefers the current location of the cul-de-sac.

Kibby – My name is Ralph Kibby, and I live at 1980 Hughes Way. Life and safety issues are paramount; it's a narrow road, we don't have a turn-around, and we can't get emergency vehicles in there. Last winter the City plowed right to the edge of the City property and left a three-foot berm. Approximately five residents were trying to access the road. They couldn't get out until that berm was taken care of. We have no place to put snow, and the City has no place to put it either. I'm not sure that a cul-de-sac would fix the problem, but it certainly would help.

Sanford – Looking at your map, I see the road ends in a bunch of driveways. Is that where the lower circle is now?

Kibby – No, the road ends back at the City cul-de-sac; that's private property from there on.

Keikkala – My name is Jim Keikkala and I live at 1970 Hughes Way. This has been an ongoing problem and we've tried to come up with ways to mitigate it. We think we now have a workable solution.

Doll – Mr. Watt, have you heard from the Fire Department or from Public Works about this situation?

Watt – I have not. Their needs are pretty simple and that's to turn around a fire truck. I don't think the Fire Department cares where they turn around. If there's a new level of improvement, they would indicate the code requirement in terms of radius.

Kibby – At one point in time I did meet with Staff and the cul-de-sac that's presented at eighty feet was addressed. The Fire Department said that at a minimum, it would have to be a hundred. That was what they had agreed to two years ago.

Doll – Do you think that creating the cul-de-sac is going to solve the berm problem?

Kibby – I believe it's going to provide a place to put the snow, even if we have to haul it away. Right now, a good portion of the berm ends up in my driveway and blocks several of the neighbors.

Wanamaker – I'd like to hear more from Public Works and the Fire Department before I support any recommendation or option.

Sanford – I'm sure we can get a written letter from both.

Scott – The situation is not the most desirable, but it's not unique. We have other situations like Simpson Drive in West Juneau where there is no cul-de-sac or turn-around. Typically operators back a grater down the street pulling snow out of the way. Given the fact that snow loads have been heavy the past couple of years, it isn't always practical.

Anderson – CBJ doesn't usually accept a right-of-way without an LID. Staff's position is that we won't build the street, but we'll maintain it if the citizens build it. Could you provide more clarification?

Watt – We're limited in what we can do because of the code. One of the early options was extending and building the cul-de-sac shown in the aerial photo. The residents can do it cheaper than the City can. The issue of a road standard is a tricky one once a right-of-way is extended. Trying to work a project piecemeal is never easy.

Pernula – The City Code says that a new right-of-way dedicated as part of a plat shall meet the requirements for new rights-of-way set out in Chapter 49.35. It is this neighborhood's intention to vacate the old cul-de-sac and dedicate a new one. According to the code they would have to construct it. The only way to get around that would be to follow a non-code ordinance – either exempting this dedication from that requirement or forming an LID.

Sanford – Is there anyway to accept the right-of-way now and then do a neighborhood LID later on?

Pernula – Yes, if a non-code ordinance was implemented it would exempt them from building now, because according to the provision, when it's platted is when it's required.

Watt – My recommendation is that Staff schedules a short work session with the neighborhood to make sure we understand the details, revisit fire access, review the code and subdivision requirements, as well as requirements for vacations. It may be appropriate to do a cost estimate to extend the roadway at its current width, and construct a minimal cul-de-sac as part of that.

Watson – If the property lines move back to allow the easement, future owners might ask for a tax abatement on the property that was given up earlier.

Sanford – Does the Committee think that Staff has enough recommendations from us before we move forward?

Anderson – I'd be grateful if Staff would work with the neighborhood to discuss options and then bring those back to this Committee before forwarding them on to the Assembly.

Sanford – That's what we'll do then. Thank you.

#### B. North Douglas – LID 95 Assessment Reduction

Doll – Mr. Watt, in your cover memo you cited a comparison with the West Valley Sewer LID. But the West Valley is a very different area. The mixture of homes and commercial and industrial properties is a very different one. What is the connection? Is it a question of the population in that area?

Watt – In any LID, there are diverse properties, property types, and zoning districts, so it's a difficult task to find equity. The code is simple; it says to assess in proportion to benefits derived. The intent of the subcommittee and the Committee of the Whole last year was to reduce global assessments, and we did that in the West Valley industrial district. The next phase, Pederson Hill, is almost all residential; there's one commercial property and a couple of churches. We applied that logic to fit that zoning district and were successful. This will be presented at the Assembly meeting on the 18<sup>th</sup> of this month. We're going back retroactively to provide equity to the North Douglas residents, so that the residential neighborhoods are linked by logic.

Doll – We spoke about extending the logic for the West Valley to the remainder of the system, but that would pass the cost of the LID to the borough as a whole. As we go up Pederson Hill, what will be the proportion?

Watt – Those numbers are in the Assembly packet. It was the intent of the Committee of the Whole and the subcommittee to absorb on a greater share of the bill.

Wanamaker – I would move Staff's recommendation that with this Committee's consent, Staff will prepare a resolution for Assembly approval.

Sanford – Are there any objections? Hearing none, so ordered.

C. PLA Project for the Downtown Transportation Center (Red Folder Item)

Watt – We did not find that the Downtown Transportation Center was an appropriate project for a PLA and that was a finding that I made in consultation with the City Attorney and the City Manager. The memo signed by Mr. Notar indicates that the Building and Trades Council thinks that we should be taking a more aggressive stance with regard to the application of PLAs. I believe we are already doing that; we have PLAs on five active projects and the only ones recently that we have not placed PLAs on are the Downtown Transportation Center and the Airport Terminal Project. The latter didn't include a PLA due to the presence of federal money.

Sanford – I'd like to discuss the non-PLA for the Airport project. With the new administration and their orders would it now be appropriate to include a PLA for this project?

Watt – If we were to bid the Terminal project today, there would be no prohibition from federal funding and we would make a decision based on guidance from the State Attorney General.

Wanamaker – You mentioned that we needed to be careful in using a PLA so as not to run up against a lack of available labor. How does that fit in with the downtown area? We seem to have a lot of available labor there.

Watt – Last year we spoke about a special circumstance that Juneau had - many construction projects were taking place at the same time and there was a great deal of competition for labor. There was a potential for piracy between jobs from that labor pool. We have a very competitive bidding field and we have contractors willing to take on new work and new laborers. As work is completed, it will be less favorable for the laborer, so competition between projects will no longer be a big issue.

Doll – What projects do we have that are underway or imminent that have PLAs assigned to them?

Watt – Underway we have the Thunder Mountain High School, the Bartlett Regional Hospital Renovation Project – Phase II, the Harborview Elementary School project, the Consolidated Public Works Facility, and the Dimond Park Aquatic Center. Of current major projects to be considered, the two largest are the Airport Runway Safety Area, and the Bartlett Regional Hospital Short Stay Renovation.

Doll – What projects do we have that are underway or imminent that do not have PLAs assigned to them?

Watt – It's an open question on the Airport Safety Area and the Bartlett Regional Hospital project. We found that PLAs are a good fit for the hospital. We don't have any comparison for the Airport Safety Area. It would be the largest earthworks project Juneau has ever seen in and around a working airport, and there are many reasons to consider it for a PLA.

Anderson – According to the new Executive Order, if a project is more than \$25M, is it mandatory?

Watt – No, the new Executive Order encourages inclusion of PLAs on projects that have a total cost to the Federal Government of over \$25M. The Executive Order also calls for regulations implementing the Order, but those regulations aren't out yet. Presumably, projects under \$25M would be eligible too. We've drawn the conclusion that what's big and complicated in New York City is not the same as what's big and complicated in Juneau. Locally, we have different criteria for making that kind of determination.

Mielke – My name is Max Mielke and I reside at 5930 Lemon Street. I'm the Manager for the Plumbers and Pipefitters here in Juneau and Southeast, and I am here representing the Building Tradesmen because Mr. Notar is out of town. What we would ask this Committee to do is to take a different stance on how we look at PLAs.

Doll – Are you suggesting that the primary criterion that the City should apply is monetary?

Mielke – Yes, at one time the City used to abide by a threshold of ~\$5M. We know that these PLAs are legal. We think there is a simpler way to evaluate them, because we can refute the nine points on every project.

Sanford – Maybe we need to have an update from Law on whether or not we can use a dollar figure in Alaska.

Watt – The main point is that we have to make a case by case analysis for each project.

The motion that the Assembly passed was to the extent allowable. That was broader than limiting by dollar amount. The Assembly gave fairly strong direction and was not limited by a dollar amount.

Doll – I thought there was an unstated goal that half of CBJ's projects would include PLAs and half would not. I would like to hear responses from Mr. Mielke and Mr. Watt.

Mielke – You might possibly see a pattern of one project with a PLA, and one without. As a part of the building trades, we like to see PLAs on every project. When I look at the Downtown Transportation Center extraction occurring right now, I don't recognize any local faces on that job. The only legal way to have local hire is through the hiring halls, and that ensures that local people go to work first. We prioritize using a threefold list of workers: 1) local; 2) statewide; and, 3) out of state.

Sanford – I would make the recommendation that Staff work with Mr. Notar and the trades, as well as our Law Department, and see if we can come to a clearer understanding of when to apply PLAs. As I recall, the Law Department stipulated that we must use the nine points to determine whether a PLA be assigned to any given project. This type of discussion will probably be ongoing for some time before we can negotiate a solution. Mr. Watt, can you keep this Committee apprised of your findings?

D. School Board Request (topic added during meeting)

Watt – The School Board made a motion about the School Facilities' request to meet in a joint PWFC and we're looking at the 1<sup>st</sup> of June. They had two topics in their motion that they wanted to discuss; one was the possibility of placing school projects on the fall ballot, and the other was snow plowing. You've probably seen in the paper a proposal to change school start times, which raises different snow plowing issues since some of the smaller kids will be going to school at rush hour.

**VI. NON-AGENDA ITEMS**

A. Contracts Division Activity

**VII. ADJOURNMENT**

This meeting was adjourned at 1:20 p.m. The next meeting is scheduled for June 1, 2009, at 12 noon.

**MINUTES**  
**Public Works and Facilities Committee Meeting**  
Monday – November 9, 2009 – 12:00 p.m.  
Assembly Chambers

**I. CALL TO ORDER**

**Attendees**

**PWFC Members:** Merrill Sanford (Chair), Jeff Bush (Vice-Chair), & Bob Doll

**Planning Commission Liaison:** Dennis Watson

**Other Assembly Member(s):** Ruth Danner (by phone)

**Staff:** John Bohan, Kirk Duncan, Catherine Fritz, Gary Gillette, Scott Jeffers, Cynthia Johnson, Jeannie Johnson, Ron King, Jennifer Mannix, Dale Pernula, Mike Scott, John Stone, Rod Swope, & Rorie Watt

**Others:** Mary Catherine Martin (Juneau Empire), Zoe Morrison, Jim Penor, & Chip Thoma

**II. APPROVAL OF MINUTES**

A. October 5, 2009 – Regular Meeting

Doll – I would move approval of the minutes as submitted.

Sanford – Any changes or corrections? Hearing none, so ordered.

B. October 26, 2009 – Regular Meeting

Doll – I would move approval of the minutes as submitted.

Sanford – Any changes or corrections? Hearing none, so ordered.

**III. PUBLIC PARTICIPATION**

*See V. Information Items, D. Solid Waste Coordinator.*

Scott – Mr. Joe Buck asked me to come today and introduce you to the new City Solid Waste coordinator, Mr. Jim Penor.

Penor – To give you some background information, I've spent 35 years in the business. I worked for 12 years in the private sector before spending twenty-four years with a municipality. This visit is a starting place for a whole new program that will examine where everybody wants to go. I welcome any input you may have.

**IV. ITEMS FOR ACTION**

A. ADEC Grant Appropriation

Bush – I would move Staff's recommendations that two actions be moved to the full Assembly for approval:

- 1.) Appropriation ordinances for each grant
- 2.) Acceptance Resolutions by the Assembly accepting the terms and conditions of each grant.

Sanford – Are there any objections? Hearing none, so ordered.

B. Hughes Way

Watt – Ms. Morrison of Scheinberg and Associates has been hired by the neighborhood to help them through this process. The Committee was supportive in the past by assisting property owners resolve longstanding issues. Recently, the neighborhood hired a professional to survey the property and prepare a draft plat. This needs

assistance from the Assembly, as well as approval by the Planning Commission. It's a parallel process because it needs a waiver from the Assembly for standard construction requirements and a relaxation of right-of-way width.

Danner – Can you tell me how this sub-development became non-compliant? Why do we think a substandard street is now okay?

Watt – Prior to the 1990's, there weren't many requirements for subdivisions and people made land subdivisions on paper. Later, roads were pioneered in and then improved with utilities added, and so forth. During those times, people tended to have lower expectations of services provided to them. As the City evolved and grew, rules and regulations increased over time and now a sub-divider has to build a public road, add public utilities, and pay for private utilities. In the Hughes Way neighborhood, it's a rough gravel road and the neighborhood agrees that they like it the way it is and don't want to change it.

Danner – Is the cul-de-sac that's designated leave sufficient room for emergency vehicles to turn around? I want to make sure that liability is protected.

Watt – Currently, there is no cul-de-sac on the ground, only on paper. No one in the neighborhood wants to follow the paper plan. Effectively, that means presently there is no ability to construct a cul-de-sac.

Doll – I would move Committee approval of Staff's recommendation to draft a non-code ordinance and forward the issue to the full Assembly for consideration.

Sanford – Are there any objections? Hearing none, so ordered.

## V. INFORMATION ITEMS

### A. Sales Tax Projects

Doll – Are we in a position to provide a match for money we received from another source, so that we're required by the terms of an agreement to apply a certain amount of tax money to that project?

Watt – Each project has different matching issues and we'll address your question during the following presentation of projects.

#### 1. Statter Harbor

Stone – PowerPoint presentation in addition to memorandum found in packets.

Watson – Does the tidelands lease continue for the old working dock?

Stone – Originally, a private entity was going to build a dock to support passenger-for-hire whale watching activities. The primary company/customer sold out to Allen-Marine. At this point, the company that holds the leases has requested extensions pending additional market developments to enable them to move forward.

Watson – Would the agreement with the lease still include adding an extra finger at the end?

Stone – We're considering adding a Tee to provide additional moorage.

Watson – It appears that the fuel dock at Statter Harbor would go away. We'd have to move the fuel dock, and that would require new permits.

Stone – We've had preliminary discussions with Petro-Marine. The board wants to replace the fuel dock at Auke Bay/Statter Harbor because it's the only fuel dock north of downtown.



2. Airport Terminal

Johnson – This is a scaled back project, but something that the community will be proud of.

Sanford – If for some reason you were unable to get the full \$10M, what would that do to the project other than postponing it?

Johnson – We'd end up with an incomplete project that would still be functional.

3. Public Works Shop

Scott – In the current project that we have right now, there's at least \$1M for it. Bids came in well; we had actually overestimated some items. Now this phase is overfunded by \$1M. We'd be looking to draw another \$1.1M or \$1.2M of sales tax money out of the full \$10M. That would leave us about \$.5M to \$1M short of the actual \$10M.

4. Sewer Projects

Watt – The new grants approved today will allow full leverage of sales tax monies. We want equal sales tax money to ensure that we are leveraging it properly.

Doll – Would the LID drive this?

Watt – No, but the desire to stimulate growth in the community would.

Bush – When you say that you've matched sales tax money, the State match grant money and our match money are on equal footing. Would that include the projected \$10M, or only what's been committed so far?

Watt – The latter. Sewer projects have not received any money out of the \$10M, but from the prior \$7.5M.

Bush – Mr. Roger Healy, former Engineering Director, commented that sewer projects required annual funding but not too much to overwhelm availability of Juneau construction resources. You mentioned that we're doing better than expected at the grant level. Does that mean it's possible to extend other projects?

Watt – The idea was to apply the first \$7.5M to North Douglas and West Valley and see how far we'd get. We've been able to serve a lot of areas because we've received more grant funding than anticipated. Unfortunately, those grants haven't gone toward treatment plants, because we've used the Juneau portion. In North Douglas we'll have served all urban service boundaries. There's a small extension slightly north of Bonnie Brae that should be a follow-up project. There's a little in-holding on Douglas Highway that should be done as well; it was missed during the 1970s.

The stickier questions pertain to the West Valley. Are we going to go down Engineers Cutoff Road or Fritz Cove Road? Are we going to provide infrastructure to the City property on Pederson Hill? Are we going to advance that land development idea? The Engineers Cutoff and Fritz Cove roads neighborhoods are comprised of large lots; may not easily add to higher zoning densities, and they're areas where utility systems would be very expensive due to topography.

Sanford – What's the status of Pederson Hill?

Bohan – As soon as we get a determination from the Corps, we can proceed with the bidding process. They noted a technicality between definitions for "wetlands" and "maintainable ADOT ditches." As a result, we had to apply for a permit, and we had to take a few steps backward. Bids will open around Christmas, and ground-breaking in Spring 2010.

Sanford – Where are we with the North Douglas A, B, C's?

Bohan – We'll form the LID and start construction documents this fall and winter. We'll break ground sometime next summer if everything lines up.

Doll – Are you committing on any of these projects, to fund them today or next month, not knowing how much tax money's coming in?

Watt – No. All the projects we're talking about are supported by funds in hand appropriated by the Assembly.

Watson – There have been major improvements in the community; I'm aware of eight that have made a significant impact upon local employment. In looking at the shortfall, I hope we're able to take that money and put it where it's going to do the most good.

Watt – I want to briefly touch on building maintenance and school debt. They're part of the voter-approved proposition. The reason building maintenance is in there is that it used to get general-fund support, but we're using the general fund for the PRISM project, which is a software upgrade. We have a good program and it's important to keep facilities in good repair. Projects we've been working on have been good for those facilities. Regarding school debt, we told voters that we would reduce property tax rates to repay school bonds. I'll work with the City Manager and we'll come up with more recommendations.

**B. Eaglecrest Long Range Plan**

Duncan – Regarding development at Eaglecrest, 30% of the people queried looked favorably at the ATV tour, while 70% didn't. It's clear that the Assembly tasked the Eaglecrest Board and Staff to find ways to reduce the level of general fund support.

Doll – Mr. Duncan, can you define for this Committee the objections you've received from the public? Do they include fossil fueled motors/engines, motorized vehicles, and/or noise levels?

Duncan – Some people feel that the Eaglecrest area is the last bastion of non-commercial, non-tourism area in the Borough. I think that's going to come out in this process and some people have come and said, "Okay, charge me more." And in fact we did, and people paid more for season passes. At this point we don't want to do something in 2010 or 2012 that's going to negatively impact the site in 2030. It's a unique resource and we want to make the best of it that we can.

**C. Trout Street & Basin Road Trestle Update**

Bohan – Discussion of materials in the packet.

**D. Solid Waste Coordinator – Joe Buck, Public Works Director – No packet info**

*See Public Participation at start of minutes.*

**VI. NON-AGENDA ITEMS**

**A. Contracts Division Activity Report**

**VII. ADJOURNMENT**

This meeting was adjourned at ~1:10 p.m. The next meeting is scheduled for Monday, December 7, 2009, at 12:00 p.m. in the Assembly Chambers.

both inside and outside. She said staff's analysis has not changed, and she realizes the recommended alternative will change the applicant's viewshed and create other issues for them.

Ms. Bennett thanked staff for providing photographs, stating that they have assisted her in better understanding the issues regarding this case.

Chair Gladziszewski asked if copies of the staff report presented at the November 10, 2009 meeting are available for the Board of Adjustment tonight. Ms. Camery said the only item added since that previous meeting is the photographs, and apologized for not including the original report in the packet.

Public testimony

Diane and Gary Diekmann, 4639 Sawa Circle, the applicants. Mr. Diekmann referred to the photograph of the large boulder located near the southeast corner where he would like place the structure. He said he wants to keep the building slightly away from the large boulder, as opposed to being required to remove it. He explained that he is not able to move the proposed building further to the northwest because of the large pond on the adjoining neighbor's property. He said if they were to place the building on the alternate site that staff is proposing in the existing filled area, he will no longer have any place for snow storage. In addition, they own three antique vehicles, which he wants to store in the proposed building.

Mr. Chaney reminded the Board of Adjustment that at the last meeting the applicants provided a letter in the packet addressing the criteria that were not met by staff. Chair Gladziszewski said the commissioners will take a break from the meeting so staff can provide copies of the original report on this case, VAR2009-00032. [This case was placed on hold, and follows INQ2009-00061.]

BREAK: 7:17 to 7:23 p.m.

Chair Gladziszewski explained that while the commissioners are waiting for copies to be made by staff regarding VAR2009-00032, she will adjourn the Board of Adjustment, and reconvene the PC meeting to hear INQ2009-00061 in the meantime.

Mr. Miller returned to his seat on the PC.

**IX. REGULAR AGENDA**

INQ2009-00061

An Inquiry on extending the right-of-way for Hughes Way to provide better access to five developed lots.

Location: 1991 Hughes Way

Applicant: Dixie Belcher

Staff report

Greg Chaney said this is an Inquiry case, and staff is solely seeking input from the PC on a proposal that will subsequently be presented to the Assembly for a non-code ordinance to allow a re-subdivision to be platted, which does not meet the minimum criteria of the Subdivision Ordinance. Therefore, staff figures that prior to this case being presented to the Assembly, it

would be best for the PC to review it beforehand so staff can receive comments now, rather than after the inertia of going through the Assembly non-code ordinance process.

He said the subject property is located off of Fritz Cove Rd. after taking Ann Coleman Dr. to get to Hughes Way, noting that the existing lot configuration is reflected in Attachment B. He said Ann Coleman Rd. has a substandard right-of-way width of about 45'. He said Hughes Way is approximately 60' wide so it complies with code, but it is not constructed to current CBJ standards because the end of this street turns into a series of driveways with no official turnaround. He noted that this subdivision is inherited (platted probably in the 1940s), which consists of a couple of different subdivisions completed in a style considered to be inappropriate today. He noted that a section of Lot B2 off of Hughes Way does not front a public right-of-way, and instead, accesses Hughes Way through a right-of-way that serves Lot B1. After various discussions with the property owners, he drew a newly proposed cul-de-sac configuration. He explained that the property owners are proposing to improve the situation, and the first step is to plat an extension of Hughes Way. He explained that a section of Lot B2 would be vacated, another part would be extended, and then they would construct a reconfigured platted cul-de-sac. However, there are a few aspects of the proposal that do not comply with the current Subdivision Ordinance, as the end portion of Hughes Way is only 45' wide, which needs to be 60' wide with sidewalks on both sides, but that is not what the property owners are proposing. Therefore, this is going to involve conducting a "paper exercise," noting that no improvements are proposed at this time. He said the idea is to progress the situation by creating a plat that makes sense, and then in the future the property owners or the CBJ can later improve the site by installing a hardened surface, or pavement, and a turnaround. But right now they want to reconfigure the frontage lot lines that access Hughes Way, and then they can move onto the next step. He referred to the as-built survey and proposed plat (Attachment C), explaining that if this scenario was constructed snowplowers, emergency personnel and other traffic could access the newly constructed cul-de-sac to turn around.

He said staff reviewed this proposal, and even though it does not comply with several code provisions, they are supportive because the current situation is abysmal, i.e., landlocked property with no right-of-way frontage, and property owners are currently gaining access through a series of private easements that overlap. He noted that the applicant, the Director of CBJ Engineering, and one of the property owners, Ralph Kibby, are present to respond to questions of the PC.

Ms. Waterman asked staff to explain the location where the utility infrastructure is installed. Mr. Chaney deferred to Mr. Watt, Director of the CBJ Engineering. Mr. Pernula clarified that no new lots will be created with this re-subdivision proposal, as it is solely to provide an extension of the right-of-way, a vacation of a portion of Lot B2; the new plat would include a cul-de-sac at a location agreed upon by the property owners because the current platted cul-de-sac location is disliked by a property owner, which has never been developed. Chair Gladziszewski asked Mr. Watt to appear before the PC to answer Ms. Waterman's query. Rorie Watt said a public water main ends in the existing cul-de-sac, and then water services extend from it. He said there is no public sewer system in the area, but aerial electrical utilities will continue to be located in the new right-of-way under this proposal. Ms. Waterman confirmed that electrical utilities run along Ann Coleman Dr. and Hughes Way, which will not require any changes. Mr. Watt said yes.

He said he also wishes to comment on this Inquiry, explaining that this neighborhood essentially has a nonfunctional right-of-way. He said the property owners have been discussing how to rectify this for the better part of a decade, and he believes it would not be appropriate for a public

roadway to be constructed, including the installation of curbs, gutters, and pavement. He said the new road would be an "orphan" of approximately 100' stretch of pavement at the end of the existing substandard roadway that goes nowhere, which does not make sense. He said five property owners are proposing to change their property boundaries, release easements, and have a right-of-way vacated. He explained that doing so will improve existing conditions. He noted that there is an existing cul-de-sac, and the CBJ Streets personnel conducted a site visit and proposed to construct the platted cul-de-sac. However, this was not supported by the neighborhood because it would severely encroach on one of the property owner's privacy, and it does not solve the access issues for the larger parcel; plus it leaves other issues unresolved. Therefore, he believes the current proposal is a good solution, explaining that the property owners attended a Public Works & Facilities Committee (PW&FC) meeting to begin the discussion as to how this proposal might take place, and it was determined that the best method is through a non-code ordinance, which is a one-time waiving of the rules. He said this is an element that neither the PC nor the Assembly should do on a regular basis, so he stresses that the PC should tread cautiously while doing so. He said he wishes to state that he does not think it is a "done deal" when this is presented to the Assembly, so he wants to start the PC off with what ought to be their first comment, which is "The PC does not want to do this very often, if ever," and then either the PC supports it, or they do not, but he believes this caveat is important. He said he also believes the residents are to be applauded for attempting to derive a better solution.

Ms. Waterman requested Mr. Watt to "role play," i.e., if he were Mike Scott, Streets Superintendent of CBJ Public Works, asking what his reaction would be to either building out the original cul-de-sac as it was platted, as opposed to the current proposal. She added that this is from a potential operations and maintenance cost impact on equipment point of view. Mr. Watt said Mr. Scott was involved in conversations over the years regarding this proposal, and therefore he believes Mr. Scott prefers a turnaround for the purposes of snowplowing. He noted that currently the snowplow drivers utilize Ann Coleman Rd. and back up along Hughes Way, which is the only way they are able to plow these streets, and they berm everyone in because they have no room to maneuver. He noted that Mr. Scott's maintenance crew did try and build a cul-de-sac, but they recognized that the neighborhood opposition was substantial and uniform against doing so in the current location, so Mr. Scott recognizes that the existing cul-de-sac right-of-way is effectively not a real operable option. He does not believe Mr. Scott wishes to contribute to a road extension, but effectively the proposed changes does not improve or hurt CBJ Streets operations, and instead, creates the opportunity to provide an improved permanent solution.

#### Public testimony

Zoë Morrison, Sheinberg Associates, representing the applicant, thanked the CBJ Community Development Department (CDD) and CBJ Engineering staff, explaining that they have been very helpful throughout this process. She said the parties worked very hard to come to an agreement on the proposed plan, which will improve access for all the property owners involved.

Public testimony was closed.

Staff recommendation: that the use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.

Commission action

Mr. Satre said he echoes Mr. Watt's comments, stating that the use of non-code ordinances are not what the PC typically prefers to do, but in this situation it appears to make sense. However, the property owners, CBJ Engineering, and the CDD staff have come together and derived a solution that should greatly improve access in this area.

***MOTION:** by Mr. Satre, that the Planning Commission adopts the Director's analysis and findings and recommends approval to the Assembly of the requested inquiry, INQ2009-00061. The inquiry allows extending the right-of-way for Hughes Way to provide better access to five developed lots. The use of non-code ordinances should be kept to a minimum. However, in this case, the use of the non-code ordinance would benefit the immediate property owners and the CBJ as a whole, because use of this ordinance would improve an undesirable situation. Once the plat is recorded, it would be possible to improve the ability of street maintenance equipment, emergency vehicles, and other traffic to turn around.*

Mr. Miller spoke in favor of the motion, stating that the application of common sense is good in this case.

Ms. Waterman said she believes the previously platted cul-de-sac does have some workability, but it is possible to utilize a non-code ordinance in order to enjoy a neighborhood where the landowners and the CBJ are working together to make access an improved situation in this area. Therefore, with respect to all the work that has gone into this, and Mr. Watt's ability to state that there will not be increased operating and maintenance costs by CBJ Public Works, she supports the motion.

Mr. Watson spoke in favor of the motion, which states "...would improve an undesirable situation," which is key. He said it is great to see the CBJ and the property owners working together to solve this issue.

There being no objection, it was so ordered and the PC, as presented, recommended INQ2009-00061 to the Assembly for approval.

**VIII. UNFINISHED BUSINESS [Resumes]**

Chair Gladziszewski adjourned the PC, and reconvened the Board of Adjustment.

Mr. Miller once again was allowed to step down from the Board of Adjustment.

**VAR2009-00032**

A Variance request to reduce the required 25' rear setback to 5' to allow construction of a residential storage building.

Location: 4639 Sawa Circle

Applicants: Diane and Gary Diekmann

Chair Gladziszewski asked if the anyone has further questions of the applicants, [whereby seeing none, she closed public testimony].

Public testimony was closed.

Memorandum of Understanding

June 20, 2007 the property owners on Hughes Way met to discuss the current configuration on the South end of the street. Currently City and Borough of Juneau Right of Way ends before it reaches the actual end of the street. The lack of a proper cul de sac has created problems for maintenance crews, emergency vehicle access, parking, snow removal storage and garbage collection.

The current Hughes Way Right of Way is 60.12' wide. City officials indicated they would propose an extension to Hughes Way with a reduced ROW of 50' ending in a reduced cul de sac diameter of 80'. The attached drawing drafted and presented by Ralph Kibby shows the extension of Hughes Way to be 50'-wide and an 80' diameter cul de sac. City officials also have indicated to Mr. Keikkala that the actual roadway surface width of the extension does not need to be any wider than the existing roadway surface and the undersigned agree. The existing road surface of Hughes Way does not follow the centerline of the right of way. To minimize impact of the extension the road surface should follow the existing route as much as possible and the existing power pole shall remain in its current location if possible.

The extension of Hughes Way will have the following impacts.

The current cul de sac location show on the CBJ plat will be vacated by CBJ and deeded to Dixie Belcher. Dixie Belcher will donate land on the northeast side to form the right of way.

Jeff Hendricks will donate land on the Northeast side to form the right of way and a portion of the cul de sac.

Jim and Linda Keikkala will donate land for a major portion of the cul de sac.

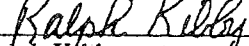
Jim and Linda Keikkala will release the existing right of way easement off Fritz Cove Road.

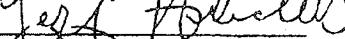
Jim and Linda Keikkala will designate the back portion of their property as a protected green belt that will remain in a natural state.


The city vacate a triangular portion of the existing right of way adjacent to Virginia Palmer's property if the right of way is re-designated.

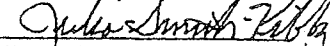
The easement between the Kibby and Keikkala properties will be released after the Keikkala property is subdivided and a new physical connection to Hughes Way is constructed. The agreement for the release of the easement will be addressed under a separate memorandum between Jim and Linda Keikkala and Ralph and Julia Kibby.

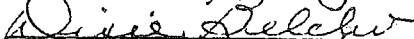
This memorandum shall be presented to the City for consideration of extension of Hughes Way. In exchange for the property owners donation of the land for right of way and cul de sac the city will pay for the improvements.

  
Ralph Kibby

  
Jeff Hendricks

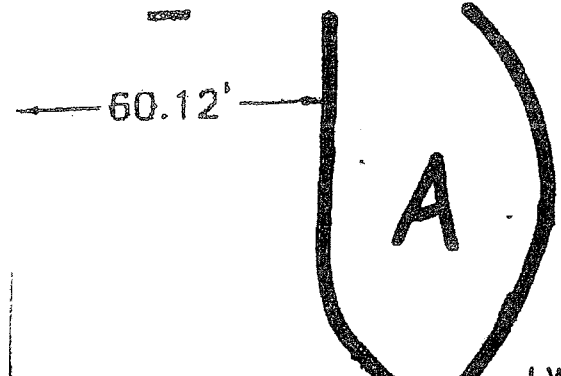
  
Jim Keikkala

  
Julia Smith-Kibby

  
Dixie Belcher

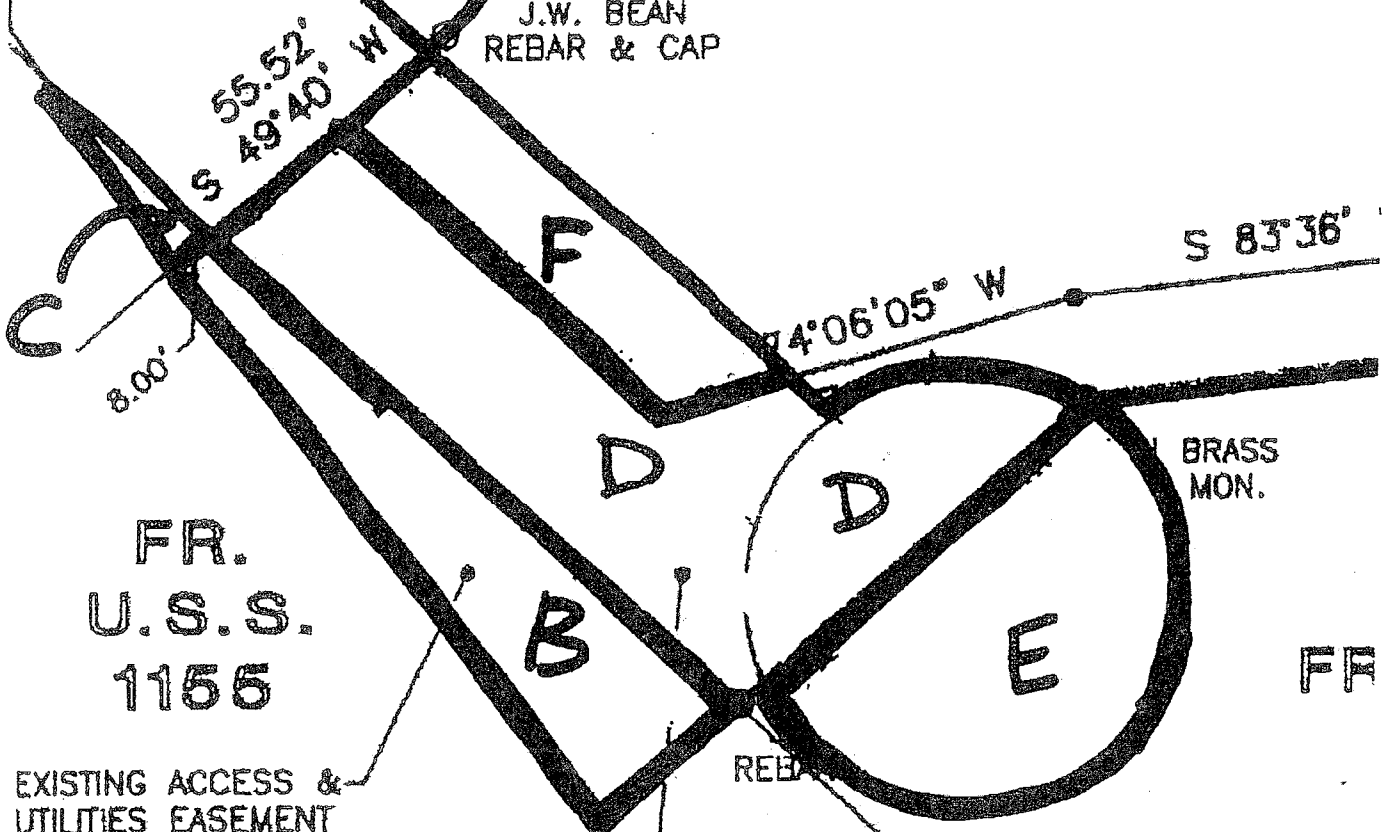
  
Linda Keikkala

  
Virginia Palmer



$\Delta = 129^{\circ}16'39''$   
 $R = 50.00'$   
 $L = 112.82'$   
 $C = 90.36'$   
 $S 15^{\circ}05'40'' E$

**LOT B2**  
 49,009.96 SQ.  
 1.13 ACRES



J.W. BEAN  
REBAR & CAP

BRASS  
MON.

FR.  
U.S.S.  
1155

FR

EXISTING ACCESS &  
UTILITIES EASEMENT  
TO THE FR. OF U.S.S. 1155  
BK. 103, PG. 954 & 955

EXISTING 15' ACCESS &  
UTILITIES EASEMENT  
TO THE FR. OF U.S.S. 1155  
BK. 103, PG. 956 & 957

REBAR



HUGHES WAY PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

Petitioner

### HUGHES WAY RIGHT OF WAY PETITION

Pursuant to the attached Memorandum of Understanding, the property owners of Hughes Way hereby submit this Petition.

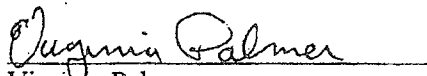
1. **Memorandum of Understanding:** On or around June 20, 2007, the property owners of Hughes Way (Jeff Hendricks, Dixie Belcher, Virginia Palmer, Ralph Kibby, Julia Smith-Kibby, and Jim and Linda Keikkala), entered into the attached Memorandum of Understanding ("MOU"). The purpose of the MOU was to confirm that all property owners agreed to a proposed modification and extension affecting Hughes Way.

2. **Hughes Way Modification:** The Hughes Way property owners expended funds to engage professional services for the purposes of the necessary plating associated with the MOU. The MOU and the plat were presented to the City & Borough of Juneau ("CBJ"). The CBJ Planning Commission conceptually approved the plat, and was prepared to submit the plat to the CBJ Assembly. However, prior to submission to the CBJ Assembly, the owners of one property stated that they would refuse to sign the plat thereby renouncing the MOU. The modification and extension described in the MOU were dependent on these property owners' signature on the plat. Therefore, the remaining property owners were unable to finalize the Hughes Way modification and extension.

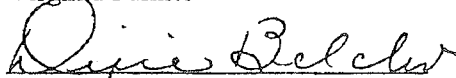
3. **Intent to Move Forward:** After further consideration, it is the desire and intent of the undersigned Hughes Way property owners to comply with and be bound by the terms of the MOU.

We declare that we have read the above petition and the statements are true to best of our knowledge and belief.


BY: HUGHES WAY PROPERTY OWNERS

  
Virginia Palmer

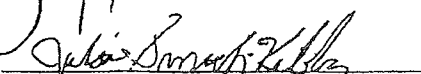
June 15, 2011.

  
Dixie Belcher

June 15, 2011.

  
Jeff Hendricks

June 15, 2011.

  
Julia Smith-Kibby

June 15, 2011.

Ralph Kibby  
Ralph Kibby

June 15, 2011.

\_\_\_\_\_  
Linda Keikkala

June \_\_\_\_\_, 2011.

\_\_\_\_\_  
Jim Keikkala

June \_\_\_\_\_, 2011.

LAW OFFICES OF  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

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ONE SEALASKA PLAZA, SUITE 300 · JUNEAU, ALASKA 99801  
TELEPHONE: 907-586-1400 · FAX: 907-586-3065

*Hand Delivered*

July 21, 2011

City & Borough of Juneau  
Community Development Department, Planning Commission  
155 S. Seward St.  
Juneau, Alaska 99801

Re: Opposition to Conditional Use Permit Request USE2011-0010

Dear Commissioners:

This letter responds to James and Linda Keikkalas' (the "Keikkalas") request for a conditional use permit to establish two accessory apartments in two detached single-family dwellings – City and Borough of Juneau ("CBJ") File No. USE2011-0010

The Hughes Way property owners (Jeff Hendricks, Virginia Palmer, Ralph Kibby and Julia Smith-Kibby) (the "Hughes Way Owners"), owners of the properties that are directly adjacent to the subject property, object to the Keikkalas' request and the attached 7/8/11 CBJ Memorandum recommending that the CBJ Planning Commission (the "Commission") approve the Keikkalas' request for a conditional use permit. The Hughes Way Owners believe that neither the CBJ Planning Director (the "Director") nor the Commission is authorized to grant the Keikkalas' request for the following reasons, discussed further below:

1. The Hughes Way Owners believe the request for the conditional use permit is out of character with the existing density residential neighborhood and does not belong in the Hughes Way neighborhood. The increased density will increase sewage outfall and will increase traffic, which will adversely impact the quality of life for local residents. The increased density will create greater problems with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. These problems were resolved by a neighborhood agreement that was executed by the Hughes Way Owners, including the Keikkalas, but which the Keikkalas have refused to follow.
2. The Hughes Way Owners consider the request for the conditional use permit a breach of the easement between the Keikkalas and adjoining landowners. The original intent of the grant was an easement for one single-family dwelling. The conditional use permit would allow four times the intended use.
3. The Hughes Way Owners consider the Keikkalas' request for the conditional use permit a breach of the neighborhood agreement to modify and extend Hughes Way. The neighborhood agreement solves problems created by contentious issues

CBJ Planning Commission  
July 21, 2011  
Page 2

associated with the Keikkalas' desire to subdivide and their unpermitted construction of additional dwelling units on their property. The conditional use permit will undo several years of hard work by the neighborhood and CBJ to resolve these issues, which will have a substantial negative effect on neighborhood harmony.

The Hughes Way Owners request that the Commission deny the Keikkalas' request or condition the Keikkalas' request by enforcing the terms of the neighborhood agreement as a condition of the conditional use permit. Failure to deny or condition the permit will not be in compliance with CBJ Code or Alaska law.

## I. FACTUAL BACKGROUND

The Keikkalas' lot is 2.57 acres and zoned D-1. The Keikkalas' lot is land locked. The Keikkalas access their lot via a private easement granted by adjoining Hughes Way Owners.

There is a long and tumultuous history associated with the current configuration of Hughes Way, the Keikkalas' access to their lot and the Keikkalas' desire to subdivide and construct additional dwellings on their property. The problems associated with the current configuration of Hughes Way have been previously noted by the Commission.

On June 20, 2007, property owners of Hughes Ways (Jeff Hendricks, Dixie Belcher, Virginia Palmer, Ralph Kibby, Julia Smith-Kibby, and James and Linda Keikkala) signed a Memorandum of Understanding ("MOU") describing the existing problems associated with the current configuration of Hughes Way, and documenting the property owners' agreement to resolve these issues by modifying the access, easements and rights-of-way affecting Hughes Way (copy enclosed as Attachment B).

The MOU also resolved problems created by the Keikkalas' desire to subdivide their property and by their unpermitted construction of additional dwelling units on their property. With the addition of a cul-du-sac, the agreement also solved problems reported by the CBJ associated with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection. The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years.

The Hughes Way Owners provided the CBJ with the MOU and necessary documents associated with the modifications described in the MOU. On July 16, 2009, the CBJ Engineering Director Rorie Watt ("Watt") and Community Development Director Dale Pernula ("Pernula") expressed their support and conceptually approved the modifications described in the MOU. To achieve the Hughes Way Owners' agreement under the MOU, Watt and Pernula informed the property owners that the following must occur: (1) provide the CBJ a signed subdivision paper plat that describes the modifications specified in the MOU, and (2) the Keikkalas must quitclaim rights to utility and access easement to Ralph Kibby and Julia Smith-Kibby. Once these two items were completed, Watt and Pernula would submit the requested modifications to the Commission and, if approved by the Commission, to the CBJ Assembly (the "Assembly"). Watt

and Pernula advised that the Assembly would pass a non-code ordinance approving the modifications. The non-code ordinance is necessary because the Hughes Way Owners were only paper platting the proposed reconfiguration, and were not immediately constructing the reconfiguration.

Pursuant to the CBJ's request, the Hughes Way Owners expended considerable sums of money for surveying and platting. This was done in reliance on the CBJ's recommendations, and the property owners' good faith and contractual commitment to follow through with the agreements contained in the MOU. The Hughes Way Owners proceeded according to those recommendations and agreements, and finally secured all the CBJ requirements to proceed with a paper plat for the proposed reconfiguration.

On November 25, 2009, the Commission recommended the Hughes Way modifications, and recommended that the Assembly adopt a non-code ordinance allowing Hughes Way to be replatted. However, prior to the matter going before the Assembly, the Keikkalas informed CBJ officials that they would not sign the subdivision paper plat, thereby renouncing the MOU. This, in spite of the fact that the proposed reconfiguration would solve the problem created by their desire to subdivide and by their unpermitted construction of additional dwelling units on their property, thus increasing the traffic on an easement intended for one single-family dwelling.

The CBJ officials informed the Hughes Way Owners that, without the Keikkalas' signatures on the subdivision paper plat, the Hughes Way modifications would not be approved. The Hughes Way Owners consider the Keikkalas' failure to sign the paper plat a breach of the MOU, and are considering legal remedies.

Per the attached petition, the Hughes Way Owners still desire and intend to comply with and be bound by the terms of MOU (copy of petition attached as Attachment C). The Hughes Way Owners have discussed their intent with the CBJ. The CBJ has discussed the possibility of appropriating funds to assist with the reconfiguration of Hughes Way.

On May 25, 2011, unbeknownst to the Hughes Way Owners, the Keikkalas filed a development permit application for a conditional use permit to legalize two accessory apartments in two detached single-family dwellings at 1970 Hughes Way (USE2011-0010).

On July 19 – 20, 2011, the Hughes Way Owners communicated with the Keikkalas about the possibility of mediating issues associated with the MOU and the Keikkalas' request for a conditional use permit. However, the Keikkalas were not agreeable to this.

## II. STANDARD OF REVIEW

Pursuant to the CBJ Code of Ordinances, Article III, Title 49.15, Section .330, prior to a grant of a permissible use permit the CBJ Planning Director (the "Director") must determine whether the use: (1) materially endanger the public health and 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 land use plan, thoroughfare plan, or other officially adopted plans. CBJ 49.15.330(d)(5).

The Commission shall review the Director's report to consider whether: (1) proposed use is appropriate according to the table of permissible uses; (2) the application is complete; and (3) the development as proposed will comply with the other requirements of this title. *Id.* at .330(e)(1)(A) – (B). The Commission shall adopt the Director's determination unless it finds, by a preponderance of the evidence, that the director's determination was in error. *Id.* at .330(e)(2).

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 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) lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans. *Id.* at .330(f)(1) – (3). The Commission may alter the Director's proposed permit conditions, impose its own as described in CBJ 49.15.330(g), or both. *Id.* at .330.

Pursuant to the CBJ Table of Permissible Uses, the Keikkalas' request for a conditional use permit is at the discretion of the Commission. CBJ 49.25.300(b)(3), 1.135. The request may or may not be allowed at a particular location, depending on a determination by the Commission of the requests' compatibility with surrounding land uses or proposed land uses. *Id.* The Commission may attach any condition to ensure the compatibility of the proposed use. *Id.*

### III. ARGUMENT

*a. The permit is not in conformity with the land use plan because the four unit development is in a D-1 district, which is primarily for single family and duplex development.*

According to CBJ 49.25.210(a) and the CBJ's 1995 Comprehensive Plan (as amended in 2008), the D-1 residential district is intended to accommodate primarily single-family and duplex residential development in areas outside the urban service boundary at a density of one dwelling unit per acre.

The proposed four unit development does not belong in the D-1 district, which is primarily for single family and duplex development. The subject property is on a 2.57 acre property and a four unit development would have a density of 1 unit 0.64 acres, significantly higher than one dwelling unit per acre. In addition, the adjacent properties on Hughes Way are predominantly single detached homes, a few with accessory apartments. The proposed four-unit development is higher density and out of character with the existing neighborhood.

**b. Approval of the permit would cause serious conflict between property owners, will decrease the property value of adjoining lots, will be out of harmony with private easement used to access the Keikkalas' lot and result in litigation.**

Approval of the conditional use permit would have a significant impact on the peace and harmony within the neighborhood. Developing two apartments in the garage and renting them out for several years before applying for a conditional use permit shows a lack of respect for both the planning process and the opinions and wishes of the neighboring property owners. As a result of the MOU, the Hughes Way Owners were willing to move past the Keikkalas' unauthorized development. Now that the Keikkalas have breached the MOU and taken actions that directly conflict with the recommendations of the CBJ, the Commission and neighborhood agreement, harmony in the neighborhood will be severely impacted (CBJ Memorandum and Commission Recommendation regarding the Hughes Way reconfiguration are attached as Attachment D).

Furthermore, the request for the conditional use permit is a breach of the easement between the Keikkalas and adjoining landowners. Where an easement is claimed under a grant or reservation, the extent of the rights granted or reserved depends upon the terms of the grant or reservation, properly construed. Where the grant or reservation of an easement is general in its terms, use of the easement includes those uses which are incidental or necessary to the reasonable and proper enjoyment of the easement, but is limited to those that burden the servient estate as little as possible.

The original intent of the grant was an easement intended for one single-family dwelling. The conditional use permit would allow four times the intended use, which will cause further conflict between adjoining lot owners.

Moreover, higher density and more traffic than is typical, without the agreed-upon reconfiguration in place, will negatively impact property values located adjacent to Hughes Way. The 7/8/11 CBJ Memorandum says the higher density development will generate "more traffic than is typically expected from a lot in a D-1 zone," and takes no action to alleviate the problems associated with the current Hughes Way right-of-way. Problems: (1) previously noted by the CBJ, (2) increased by the Keikkalas' actions, and (3) resolved by the agreed-upon reconfiguration.

**c. Permitting a four unit development on Hughes Way will further endanger the public health and safety of the neighborhood as a result of the continuing**

The four units on the subject property have been occupied for several years. As noted in the 7/8/11 CBJ Memorandum, the Hughes Way right-of-way is narrow (width: 15' - 20') without a turn-around for maintenance and emergency vehicles. Essentially Hughes Way is a road which has problems and is currently not up to the CBJ standards. The increased traffic and density has and will lead to further noise, dust and safety issues.

CBJ Planning Commission  
July 21, 2011  
Page 6

Furthermore, the development has two existing marine outfall systems and, in summer time, the Hughes Way Owners notice a stronger sewage smell in the area.

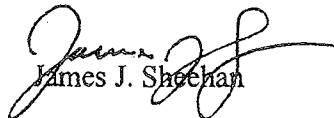
The Commission has previously been advised that the MOU resolved problems created by the Keikkalas' desire to subdivide their property, and by their unpermitted construction of additional dwelling units on their property. With the addition of a cul-du-sac, the agreement also solved problems previously reported to the CBJ Public Works and Facilities Committee and the Commission associated with maintenance crews, emergency vehicle access, parking, snow removal storage, and garbage collection (meeting minutes discussing problems associated with the Hughes Way right-of-way are attached as Attachment E). The Hughes Way Owners and the CBJ had been working toward a resolution of these issues for several years. Granting the Keikkalas conditional use permit, without at least conditioning the permit with the agreed-upon reconfiguration, will undo a plan, formulated by the CBJ, the Commission and the Hughes Way Owners, that insures health and safety, and resolves liability issues associated with the CBJ.

#### IV. CONCLUSION

The Hughes Way Owners prefer to resolve this matter amicably. Thus, if the Commission is agreeable to making the Keikkalas' compliance with the terms of the MOU and signature on the revised subdivision paper plat a condition of the conditional use permit, the Hughes Way Owners will not object to the Keikkalas' request for a Condition Use Permit. However, if such terms are not a condition of the permit, the Hughes Way Owners request that the Commission deny the Keikkalas' application. Anything short of this will result in a legal action against the Keikkalas.

Resolving the above issues quickly and fairly will save expenses for all concerned. If you have any questions regarding this letter, please email ([jsheehan@stsl.com](mailto:jsheehan@stsl.com)) or call.

Sincerely,  
SIMPSON, TILLINGHAST & SORENSEN, P.C.

  
James J. Sheehan

Cc:  
Ralph Kibby & Julia Smith-Kibby  
Jeff Hendricks  
Dixie Belcher  
Virginia Palmer  
Robert Spitzfaden, Attorney representing the Keikkalas  
Jane Sebens, CBJ Attorney  
Rorie Watt, CBJ Engineer  
Dale Pernula, CBJ Planner



CBJ Planning Commission  
July 21, 2011  
Page 7

Enclosures:

- Attachment A – 7/8/11 CBJ Memorandum
- Attachment B – 7/20/07 Hughes Way MOU
- Attachment C – 6/15/11 Hughes Way Right-of-Way Petition
- Attachment D – CBJ Memorandums and Commission Recommendations re: Hughes Way
- Attachment E – Public Works and Planning Commission Meeting Minutes re: Hughes Way

## Hughes Way Reconfiguration Agreement

### Parties

This Reconfiguration Agreement (this "Agreement") is entered into by and among the owners of real property adjoining Hughes Way, Juneau, Alaska (Jeff Hendricks, James and Linda Keikkala, Dixie Belcher, Virginia Palmer, Ralph Kibby and Julia Smith-Kibby) (herein, the "Hughes Way Owners").

### Recitals

A. The lack of a proper cul-de-sac and public access to the City & Borough of Juneau (the "CBJ") right-of-way off Hughes Way, Juneau, Alaska has created problems for maintenance crews, emergency vehicle access, parking, snow removal storage and garbage collections.

B. On June 20, 2007, the Hughes Way Owners signed a Memorandum of Understanding ("MOU") (attached as Exhibit A). The purpose of the MOU was to confirm that Hughes Way Owners agreed to a proposed reconfiguration of Hughes Way to fix the problems described in Recital A.

C. The MOU provides that certain Hughes Way Owners shall take the following action regarding the proposed reconfiguration: (1) donate land to be used as a new right-of-way; (2) vacate a portion of the existing right-of-way; and (3) vacate the existing private access and utility easement.

D. After the Hughes Way Owners signed the MOU, they discussed the reconfiguration with the CBJ. The CBJ informed the Hughes Way Owners that to complete the proposed changes and reconfiguration of Hughes Way without immediately constructing the new cul-de-sac and right-of-way, the following must occur: (1) the Hughes Way Owners must provide and sign a revised subdivision paper plat (after approval by the CBJ Assembly); (2) the Keikkalas must quitclaim rights to their access and utility easement from permanent to temporary so that it is released when the permanent road is attached; and (3) the CBJ Assembly must pass a non-code ordinance waiving CBJ Title 49.

E. Thereafter, the Hughes Way Owners agreed to move forward with the changes and proposed reconfiguration described in the MOU. The Hughes Way Owners expended funds to engage professional services for the purposes of surveying and drafting a revised subdivision paper plat and other related documents. The completed documents were submitted to the CBJ.

F. The CBJ Planning Commission reviewed and moved to submit the Hughes Way revised subdivision paper plat to the CBJ Assembly for approval. The CBJ is prepared to submit the Hughes Way Owners' revised subdivision paper plat to the CBJ Assembly.

G. The purpose of this Agreement is to affirm and formalize the terms of the MOU, revised subdivision paper plat, and confirm that it is the desire and intent of the Hughes Way Owners to comply with, and be bound by, the terms of This Reconfiguration Agreement.

NOW THEREFORE, in consideration of the covenants and promises expressed herein, the undersigned parties agree to the following terms and conditions:

1. **Recitals.** The Hughes Way Owners acknowledge and agree that the Recitals and Attachments discussed herein shall become terms and conditions incorporated into the terms and conditions that follow.

2. **Consideration.** Pursuant to the terms of the MOU, and further agreement by the Hughes Way Owners, the Hughes Way proposed reconfiguration will have the following impacts:

- a. Reconfiguration Impacts: Pursuant to the MOU and 2009 J.W. Bean revised subdivision paper plat (attached as Exhibit B), the Hughes Way proposed reconfiguration will have the following impacts:
  - i. Portions of the current Hughes Way cul-de-sac and right-of-way location shown on the Ann Coleman Rd./Hughes Way CBJ Plat shall be vacated by the CBJ and deeded to Dixie Belcher (“Belcher”) and Virginia Palmer (“Palmer”). Belcher shall donate a fraction of the northeast side of her lot to form the new Hughes Way right-of-way.
  - ii. Jeff Hendricks (“Hendricks”) shall donate a fraction of the northeast side of his lot to form the new Hughes Way right-of-way and cul-de-sac.
  - iii. The Keikkalas shall donate a fraction of the north side of their lot to form the new Hughes Way cul-de-sac. The Keikkalas shall replace their existing rights-of-way and utility easement off Hughes Way and Fritz Cove Road with a temporary easement until the new reconfiguration is constructed per the 2009 J.W. Bean revised subdivision paper plat, at which time the easements shall be released. The Keikkalas shall record an equitable servitude restricting the use of the back portion of their lot as a protected Greenbelt for their benefit, and the adjoining lot owners’ benefit. The equitable servitude shall run with the land, and shall specify that the Greenbelt shall remain in its natural state – trees and undergrowth will be left in place, except to the extent necessary to cut trees and undergrowth to prevent the spread of fire or disease, or remove any invasive species not native to the region.
- b. 2009 J.W. Bean Revised Subdivision Plat/Equitable Servitude: The Hughes Property Owners shall sign the 2009 J.W. Bean revised subdivision paper

plat after language has been inserted on the revised subdivision paper plat defining and describing the area of the equitable servitude (protected Greenbelt) discussed in sub-paragraph 2.a.iii. The protected Greenbelt shall be located adjacent to the boundary of the Keikkalas/Seaver Springs Subdivision property line from the northeast corner, west 175' and 230' wide.

- c. Local Improvement District/Payment of Reconfiguration: CBJ Engineer Rorie Watt ("Watt") has informed the Hughes Way Owners, that Watt will request an appropriation from the CBJ Assembly, whereby the CBJ pay 50% of the construction costs associated with the reconfiguration of Hughes Way. The CBJ shall form a Hughes Way property owners LID for the purpose of constructing the new cul-de-sac and right-of-way. If Watt successfully appropriates 50% of the construction costs, the Keikkalas shall pay 25% of the construction costs and Ralph Kibby and Julia Smith-Kibby (the "Kibbys") shall pay 25% of the construction costs.
- d. Payment for Surveying/Platting: The Kibbys have expended considerable sums of money for surveying and platting, and for drafting of other documents associated with the proposed reconfiguration. This was done in reliance on the Hughes Way Owners' good faith and contractual commitment to follow through with the agreement contained in the MOU. The Hughes Way Owners have agreed to divide these costs, and any costs for further surveying, platting or drafting of documents necessary to complete the terms of this Agreement.
- e. Subdivision/Conditional Use Permit: The Hughes Way Owners must complete the tasks described in sub-paragraphs 2.a. – c. prior to subdividing their individual Hughes Way lot or requesting and finalizing the CBJ permitting process for any variance or conditional use permit regarding the use of their Hughes Way lot. Further, this Agreement must be a condition of any subdivision, variance or conditional use.
- f. Submit Reconfiguration Agreement to CBJ: A Hughes Way Owner who subdivides their Hughes Way lot or who requests a variance or conditional use permit regarding the use of their Hughes Way lot, must submit this Agreement to the CBJ, and confirm that the subdivision, variance or conditional use is in compliance with the terms of this Agreement.
- g. Reconfiguration/Subdivision/Conditional Use Permit: After a Hughes Way Owner subdivides, or requests a variance or conditional use permit, and the new Hughes Way cul-de-sac and right-of-way, described in the 2009 J.W. Bean revised subdivision paper plat, is constructed, the Keikkalas must record a release of their rights-of-way and utility easements off Hughes Way and Fritz Cove Road.

3. **Entire Agreement.** This Agreement constitutes the entire agreement between the Hughes Way Owners with respect to the subject matter hereof, and supersedes all other prior and contemporaneous agreements, contracts, representations, promises, acknowledgments, warranties and covenants, oral or written, by and between the Hughes Way Owners with respect to such subject matter which is not expressly included herein.

4. **Governing Law.** This Amendment shall be construed and interpreted in accordance with the laws of the State of Alaska. The parties agree any action brought to enforce the terms of this Agreement shall be brought in the First Judicial District in Juneau, State of Alaska.

5. **Execution.** This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized representatives.

**THE UNDERSIGNED PARTIES HAVE READ THE FOREGOING HUGHES WAY RECONFIGURATION AGREEMENT, AND FULLY UNDERSTAND IT.**

**CAUTION: READ THE FOREGOING CAREFULLY BEFORE SIGNING.**

_____ Linda Keikkala	August ____, 2011.
_____ Jim Keikkala	August ____, 2011.
_____ Dixie Belcher	August ____, 2011.
_____ Jeff Hendricks	August ____, 2011.
_____ Julia Smith-Kibby	August ____, 2011.
_____ Ralph Kibby	August ____, 2011.
_____ Virginia Palmer	August ____, 2011.

GRUENING & SPITZFADEN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

217 SECOND STREET, SUITE 204

JUNEAU, ALASKA 99801

PHONE (907) 586-8110

FAX (907) 586-8039

CLARK S. GRUENING  
ROBERT S. SPITZFADEN

OF COUNSEL

HARTIG, RHODES, HOGE  
& LENISCH, PC

717 K STREET

ANCHORAGE, ALASKA 99501

PHONE (907) 276-1592

August 15, 2011

Via Fax 586-3065  
James Sheehan  
Simpson Tillinghast & Sorensen PC  
One Sealaska Plaza, Ste. 300  
Juneau, AK 99801

Re: Settlement

Dear Jim:

The Keikkalas have asked me to respond to your letter of August 2, 2011 and proposed reconfiguration agreement. Please consider the following. This is not an offer but rather points to consider.

1. The MOU is not possible to perform because the City will not pay for all of the improvements to Hughes Way. However, the MOU may be amended so it is possible to perform, which is how the Keikkalas propose to proceed. There is no need for the Hughes Way Reconfiguration Agreement, once an amendment to the MOU is worked out among the parties.
2. The MOU amendment provide that the City will pay 50% of the improvement costs and the Keikkalas and the Kibbys each pay 25%. There is no need at this point to provide for an LID. The parties can await the City's deliberations on how to pay for its half.
3. Before the Keikkalas agree to pay 20% of any plat or survey costs, they must see written documentation of all the costs, as well as payment for those costs.
4. The MOU be amended to provide that the Bean plat is acceptable to the parties, with the plat notes set out in this letter; and the parties jointly support adoption, execution and recordation of the plat as amended.
5. The Bean plat be amended to show the following greenbelt and contain the following plat note.

There is a green belt area adjacent to the boundary of Hendricks/Keikkala property line running from the Northeast corner, west 175 feet and 40 feet wide. The greenbelt shall remain in a natural state, meaning trees and undergrowth are left in place, except to the extent necessary to cut trees and undergrowth to prevent the spread of fire or disease, or remove any invasive species not native to the region.

ATTACHMENT K

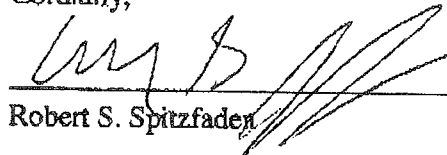
Mr. Sheehan  
August 15, 2011  
Page 2

6. The two existing easements remain in place until the Bean plat as amended is recorded and Hughes Way constructed. The Bean plat would have the following plat note:

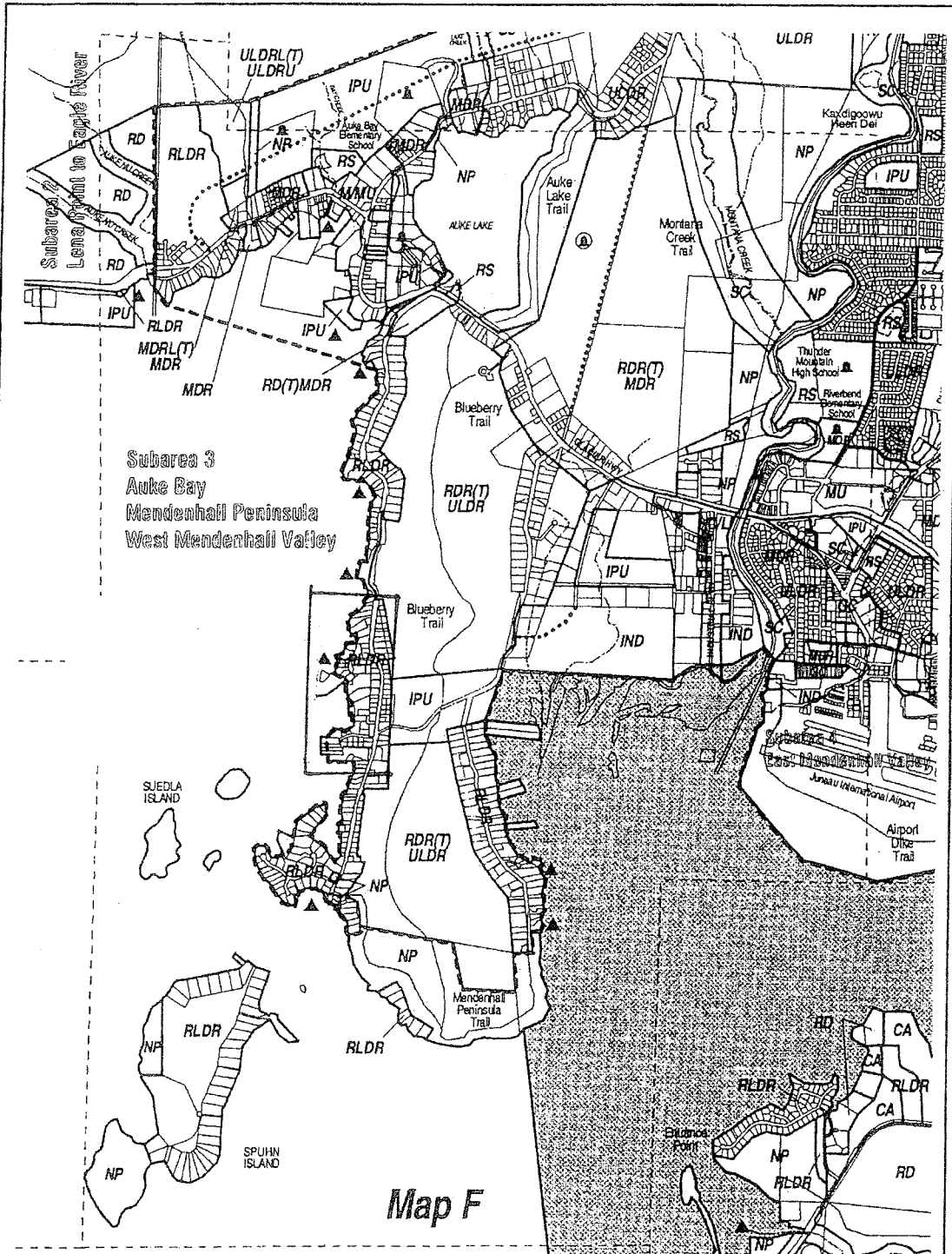
The two existing access and utility easements recorded at book 103 pages 954 and 955 and book 103 pages 956 and 957 shall continue until such time as (i) a conditional use permit to establish two-accessory apartments in two-detached single family dwellings on Tract 2 of this plat is granted (file no. USE2011 0010) and (ii) the construction of Hughes Way is completed and the way is in use, and upon said occurrences, the two easements shall terminate.

7. Ralph Kibby, Julia Smith-Kibby, Jeff Hendricks and Mrs. Hendricks, Dixie Belcher, and Virginia Palmer shall give their written consent, prior to the August 23, 2011 City and Borough of Juneau Planning Commission meeting, to the conditional use permit number USE-2011-0010.

Cordially,

  
Robert S. Spitzfaden

RSS:gw  
Cc: Keikkala



- RECREATIONAL RESOURCE**
- REC Recreational Resource
  - RD Resource Development
  - SP State Park
  - FP Federal Park
  - NP CBJ Natural Area Park
  - RS CBJ Recreational Service Park
  - CA CBJ Conservation Area
  - SC Stream Protection Corridor
- COMMERCIAL INDUSTRIAL**
- GC General Commercial
  - WC Waterfront Commercial
  - WCI Waterfront Commercial/Industrial
  - HC/L Heavy Commercial/Light Industrial
  - IND Industrial

- RESIDENTIAL**
- RDR Rural Dispersed Residential
  - RLDR Rural Low Density Residential
  - ULDR Urban Low Density Residential
  - MDR/SF Medium Density Residential- Single Family
  - MDR Medium Density Residential
  - HDR High Density Residential
  - MU Mixed Use
  - MMU Marine Mixed Use
- PUBLIC**
- IPU Institutional and Public Use
  - Existing School
  - Potential School Location
- ROADS TRAILS**
- Potential Arterial (alignment not specific)
  - Potential Road (alignment not specific)
  - Trails

**City & Borough of Juneau  
COMPREHENSIVE PLAN**  
City & Borough of Juneau  
1400 West Central City  
Juneau, Alaska 99801  
Adopted October 2003, 2008  
Ordinance No. 2006-30

- OTHER**
- New Growth Areas
  - Mendenhall Wetlands
  - State Game Refuge
  - Subarea Boundary
  - Urban Service Area
  - Beach Access
  - Streams

NOTE: Potential geophysical hazards, wetlands, flood zones, natural resource setbacks or other features which can affect properties may be present. CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR DETAILED INFORMATION.



and industrial developments can be found in clusters within these suburban areas. Those non-residential uses should provide land areas that serve as buffer zones between their operations and adjacent residential uses. The suburban scale is characterized by low densities represented by single-family, detached homes built to 3 to 5 units per acre. Typical suburban mass and scale reflects 1 to 2-story homes with attached garages on parcels smaller than 1/3 acre. Discretely integrated within these suburban neighborhoods are smaller accessory apartment dwelling units located within the principal home or above, or within, a garage. Structures are separated by modest yards, streets, sidewalks, and landscaping. Where the carrying capacity of roads permit, vacant parcels within the suburban neighborhoods served by sewers should be developed at higher residential densities to make most efficient use of public services and infrastructure therein. Accessory apartments and/or small bungalow homes on small lots can achieve this higher density while maintaining the suburban character of the neighborhood.

Rural: In the CBJ, rural areas can be found in the forested areas west of the Mendenhall River and in Thane, North Douglas and the out the road areas of Tee Harbor, Lena Cove, Indian Cove and Echo Cove. Residential densities are low at from 1 to 3 units per acre. Many of these areas are served by public water but not public sewer service. If and when public sewer service is provided to rural areas, higher residential densities should be permitted in order to make the most efficient use of this sewer resource. Vacant parcels within rural neighborhoods that are provided municipal sewer service should be developed at urban densities, although with site design and massing that reflects the rural character of the neighborhood.

Rural Remote: The rural remote areas can be found in the non-roaded areas of South Douglas, Taku River, Shelter Island and other islands within the CBJ. These areas are characterized by natural resource management and conservation activities and extremely low density homestead-style cabins or homes. The areas are served by few public services, no public water and sewer, and limited police and fire protection. Rural dispersed residential development is intended to occur at a density no greater than one dwelling unit per acre; in some circumstances, densities as low as one unit per 40 acres may be desired. In areas encompassing sensitive fish and wildlife habitat and other natural resources, subdivision of less than 40 acre lots may not be appropriate.

## **New Development**

New development within the planning horizon of this Plan should occur as in-fill development on vacant or underutilized parcels within the Urban Service Area. In the future, new development could occur as new towns or satellite communities in the Echo Cove and West Douglas New Growth Areas designated in this Plan.

Compact "In Fill" Development Within the Urban Service Area: This Plan designates an approximately 23.9 square mile area within the urban and suburban areas of the CBJ as an Urban Service Area, within which water, sewer, access roads and other community services are provided or will be in the near future. Providing community services to this compact area is efficient and convenient for users. There are over 100 vacant parcels within the Urban Service Area boundary (USAB) of which from 30 to 60 can be deemed vacant buildable parcels, ranging in size from 1 to 150 acres. Buildable land is considered to be vacant or underused land that is relatively flat and dry; that is, with slopes of less than 18 percent and without high value (Class A and B) wetlands.

FRITZ COVE PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

Petitioner

### FRITZ COVE PROPERTY OWNERS' PETITION

The undersigned Fritz Cove property owners hereby submit this Petition.

1. **Conditional Use Permit:** We object to the conditional use permit to legalize two accessory apartments in two detached single-family dwellings at 1970 Hughes Way (USE2011-0010).


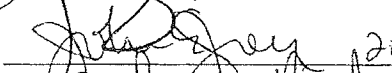
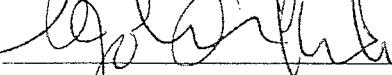
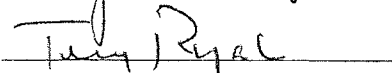

2. **Memorandum of Understanding:** We consider the request for the conditional use permit a breach of the neighborhood agreement between the Hughes Way property owners and the Keikkalas to modify and extend Hughes Way. The neighborhood agreement solves problems created by contentious issues associated with the Keikkalas' desire to subdivide and their unpermitted construction of additional dwelling units on their property. The conditional use permit will undo several years of hard-work by the neighborhood and city to resolve these issues.

3. **Private Right-of-Way:** We consider the request for the conditional use permit a breach of the easement between the Keikkalas and adjoining landowners. The original intent of the grant was an easement intended for one single-family dwelling. The conditional use permit would allow four times the intended use.

4. **D-1 District:** We believe the request for the conditional use permit is out of character with the existing density residential neighborhood and does not belong in Fritz Cove. The increased density will increase sewage outfall and will increase traffic, which will adversely impact the quality of life for local residents. The increased density will create greater problems with maintenance crews, emergency vehicle access, parking, snow removal storage and garbage collection, problems that were resolved by the neighborhood agreement described in Paragraph 2.

We declare that we have read the above petition and the statements are true to best of our knowledge and belief.

BY:

 10497 Ann Colman July 20, 2011.  
 2070 Fritz Cove Rd July 20, 2011.  
 10501 Ann Colman July 20, 2011.  
 July 21, 2011.  
 10481 Ann Colman July 22, 2011.

FRITZ COVE PROPERTY OWNERS,  
CITY AND BOROUGH OF JUNEAU,

Petitioner

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We declare that we have read the above petition and the statements are true to best of our knowledge and belief.

BY:

Ralph Kibby

July 20, 2011.

Julius Smith Kibby

July 20, 2011.

Eugene Palmer

July 20, 2011.

Jeff Heuchler

July 20, 2011.

William Collier

July 20, 2011.

David M. Bolton 10495 Ann Coleman Rd

July 20, 2011

Heush Bolton 10495 Ann Coleman Rd

July 20, 2011

Chuck Cove 1990 Fritz Cove Rd. July 20, 2011.  
Ronald Caduto From 1970 FRITZ COVE RD July 20, 2011.  
Danell Brown 1970 Fritz Cove Rd. July 20, 2011.  
\_\_\_\_\_  
July \_\_\_\_, 2011.  
\_\_\_\_\_  
July \_\_\_\_, 2011.  
\_\_\_\_\_  
July \_\_\_\_, 2011.  
\_\_\_\_\_  
July \_\_\_\_, 2011.

## CHAPTER 5

# FIRE SERVICE FEATURES

### SECTION 501 GENERAL

**501.1 Scope.** Fire service features for buildings, structures and premises shall comply with this chapter.

**501.2 Permits.** A permit shall be required as set forth in Sections 105.6 and 105.7.

**501.3 Construction documents.** *Construction documents* for proposed fire apparatus access, location of *fire lanes*, security gates across fire apparatus access and *construction documents* and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

**501.4 Timing of installation.** When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when *approved* alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

### SECTION 502 DEFINITIONS

**502.1 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**FIRE APPARATUS ACCESS ROAD.** A road that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as *fire lane*, public street, private street, parking lot lane and access roadway.

**FIRE COMMAND CENTER.** The principal attended or unattended location where the status of the detection, alarm communications and control systems is displayed, and from which the system(s) can be manually controlled.

**FIRE DEPARTMENT MASTER KEY.** A limited issue key of special or controlled design to be carried by fire department officials in command which will open key boxes on specified properties.

**FIRE LANE.** A road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

**KEY BOX.** A secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

### SECTION 503 FIRE APPARATUS ACCESS ROADS

**503.1 Where required.** Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.

**503.1.1 Buildings and facilities.** *Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.*

**Exception:** The *fire code official* is authorized to increase the dimension of 150 feet (45 720 mm) where:

1. The building is equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an *approved* alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.

**503.1.2 Additional access.** The *fire code official* is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

**503.1.3 High-piled storage.** Fire department vehicle access to buildings used for *high-piled combustible storage* shall comply with the applicable provisions of Chapter 23.

**503.2 Specifications.** Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8.

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for *approved* security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

**503.2.2 Authority.** The *fire code official* shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

**503.2.3 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of

## APPENDIX D

# FIRE APPARATUS ACCESS ROADS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION D101 GENERAL

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

### SECTION D102 REQUIRED ACCESS

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other *approved* driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

### SECTION D103 MINIMUM SPECIFICATIONS

**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

**D103.2 Grade.** Fire apparatus access roads shall not exceed 10 percent in grade.

**Exception:** Grades steeper than 10 percent as *approved* by the fire chief.

**D103.3 Turning radius.** The minimum turning radius shall be determined by the *fire code official*.

**D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

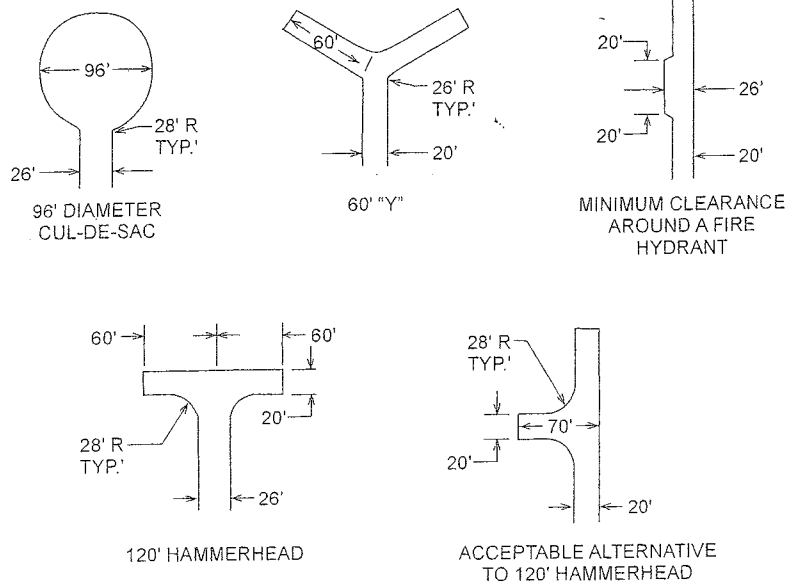
**TABLE D103.4  
REQUIREMENTS FOR DEAD-END FIRE  
APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	

For SI: 1 foot = 304.8 mm.

**D103.5 Fire apparatus access road gates.** Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 20 feet (6096 mm).
2. Gates shall be of the swinging or sliding type.



For SI: 1 foot = 304.8 mm.

**FIGURE D103.1  
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**