


MEMORANDUM

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

DATE: October 16, 2013

TO: Board of Adjustment

FROM: Eric Feldt, Planner 
Community Development Department

FILE NO.: VAR2013 0020

PROPOSAL: A Variance to reduce the minimum ROW frontage width from 30 feet to 10 feet for a future subdivision creating two lots.

GENERAL INFORMATION

Applicant: Mitch Falk

Property Owner: Mitch Falk

Property Address: 16455 Point Lena Loop

Legal Description: USS 3053 & ATS 486 Lot 9

Parcel Code Number: 8-B33-0-100-007-0

Site Size: 1.509 Acres

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

Zoning: D-3

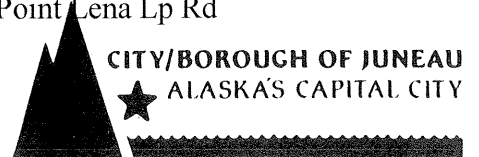
Utilities: CBJ Water & Private Sewer

Access: Point Lena Loop Road via shared driveway

Existing Land Use: Residential (2, Detached homes)

Surrounding Land Use:

North	- D-3; Vacant City Land; Point Lena Lp Rd
South	- Favorite Channel
East	- D-3; Single-Family; Point Lena Lp Rd
West	- D-3; Two-Family; Point Lena Lp Rd



Vicinity Map



16455 PT LENA LOOP RD
VICINITY

Map created: October 29th, 2013

0 125 250 Feet



ATTACHMENTS

Attachment	A	Conceptual Subdivision Plan
Attachment	B	Applicant's Variance Letter
Attachment	C	1951 Subdivision Plat
Attachment	D	Public Comment

PROJECT DESCRIPTION

The applicant seeks to subdivide the property into two lots, whereby each lot would have one existing house on it. The subject variance is needed because one of the two lots will only have 10 feet instead of the required minimum 30 feet of frontage width along a right-of-way (ROW). In this case the ROW is Point Lena Loop Road. The applicant's subdivision design is provided in Attachment A and their reasons to approve the variance is provided in Attachment B.

Proposed Lot 9A is approximately 20,000 square feet in size and has a general dimension of 108 feet x 147 feet. The waterfront lot (Proposed Lot 9B) is 45,732 square feet in size and has a general dimension of 135 feet x 182 feet.

BACKGROUND

The property is located along the south shoreline of Lena Point along Point Lena Loop Road. The site is zoned D-3 and requires a minimum lot dimension of 100 feet of width and depth, and a minimum lot size of 12,000 square feet per CBJ 49.25.400. The 30-foot minimum ROW frontage is required in every zoning district per CBJ 49.15.460 (5)(A).

Prior to the subject subdivision design, the applicant submitted a different subdivision design whereby only one of the lots would have frontage along the ROW while the other fronted along an existing shared driveway. CBJ staff suggested this design be review by the Subdivision Review Board, whom concluded that a lot not having ROW frontage was not allowed. The Board supported an alternate idea that became the subject subdivision plan (Attachment A). This plan consists of the front lot (Proposed Lot 9A) having a frontage along Point Lena Loop Road and narrow strip of land reaching the ocean (to accommodate a marine outfall pipe); Proposed Lot 9B (waterside lot) has a narrow strip of land reaching the ROW. Thus, both lots would front onto the ROW. However, with an overall ROW frontage width of 118 feet, one lot can meet the 100-foot lot width and ROW frontage while the second lot only has a maximum of 18 feet of ROW frontage. The applicant's proposal has the front lot having 108 feet of ROW frontage and the back lot having only 10 feet.

The property was platted in 1951 and predates zoning in Juneau. This plat is shown in Attachment C. A service road is shown on this plat running through seven properties (including the subject lot),

which is the location of the existing shared driveway. See Figure 1. The applicant does not know if any easements or maintenance documents exist that which establish whom is responsible for the common driveway. However, the applicant states that the neighborhood association maintains the driveway.



Figure 1. This photograph shows Point Lena Loop Road (on right) and the shared driveway going downhill (on left). Picture taken by CDD staff on 10-16-2013.

ANALYSIS

The purpose of the 30-foot ROW frontage requirement is to ensure accommodations for a driveway and utilities. As stated earlier, the lot width must be at least 100 feet in the D-3 district but the ROW frontage width can be as narrow as 30 feet. A property having the minimum of these dimensions can result in a triangular wedge or panhandle design. The applicant's design is a panhandle subdivision.

The subdivision plan shows a 'Common-Use Paved Driveway'. This driveway provides the only access to Point Lena Loop Road for the two existing homes on the lot, as well as many adjacent homes. According to the applicant, this driveway is maintained by a neighborhood association, not the City or State Department of Transportation. The driveway varies in width between 10 and 12 feet and has a paved surface, according to CDD staff site inspection. Regardless of the variance or subdivision both homes on the site will use the driveway. See Figure 1. As shown on the proposal, the driveway runs through the middle of site between the two homes. As noted earlier, the driveway connects to seven lots and has existed since 1951.

Many of the lots that rely on this driveway as their only access to the road have very steep front yards that makes creating a separate, direct driveway to Point Lena Loop Road challenging and expensive to build. Figure 2 provides a picture of the front yard of the subject site. CBJ staff measured a downhill slope of approximately 26% from the road to the toe at the subject site. Constructing a new driveway up this hill would be difficult. According to CBJ Engineering and the Panhandle Subdivision regulation (CBJ 49.15.420(h)(1)(D)), any new driveway to this site cannot be steeper than 15% slope. This slope maximum is to protect the user. To meet this slope, the driveway would need to zig-zag up to the road and consume a large amount of land and require removal of many trees. Further, creating a new driveway will require expensive engineering.



Figure 2. The house on the upper portion of Lot 9 is shown under construction in this image. The shared driveway is located between the house and the back of the white vehicle in the right corner. Point Lena Loop Road is uphill and behind the house in the image. Picture taken by CDD staff on 10-16-2013.

Since the existing shared driveway will continue to be used with or without the variance, having a 30-foot frontage width may be less important for the proposed subdivision. As mentioned earlier, many neighboring properties have frontage along the Point Lena Loop Road ROW but do not have direct access and instead rely on the shared driveway.

The applicant is flexible in the widening the frontage width of Proposed Lot 9B to 18 feet if more favorable in gaining variance approval. This will narrow the width of Proposed Lot 9A to the minimum allowed width of 100 feet. This is not shown on the current proposed subdivision plan.

Staff solicited comments from the State Department of Transportation & Public Facilities (DOT) because Point Lena Loop Road is under their jurisdiction. DOT stated that they did not have any objections with the proposal and will require a Driveway Permit if a separate driveway onto Point Lena Loop Road is proposed.

Staff solicited comments from the CBJ Fire Department about this project. As of the date of this memorandum, staff has not received any comments. Also, the CBJ Engineering Department reviewed the project and didn't have any issues.

Approving the variance will allow the applicant to file a Minor Subdivision permit. Once subdivided, the number and type of homes on each lot is flexible and can result in either per lot:

- 1) A duplex (minimum of 18,000 sq. ft. lot size),
- 2) An accessory apartment + single-family home (no minimum lot size), or
- 3) Two, detached homes each with accessory apartments (minimum 24,000 sq. ft. lot size).

Staff notes that none of these scenarios can be combined per lot, according to the Land Use Code. Further, if the variance is approved, staff recommends an access and maintenance easement be required for the existing driveway. Therefore, owners of Proposed Lot 9B may legally use the driveway located on Proposed Lot 9B, and both lot owners are responsible for sharing in the maintenance of the driveway.

Denying the variance will prevent the lot from being subdivided. The lot will continue to have two, detached homes. With an approved Conditional Use permit, the applicant could have up to two accessory apartments on the site. The existing shared driveway will continue to be used to provide access to Point Lena Loop Road.

Public Comment

Staff received written comments from the public indicating concerns with increased traffic and whether or not parking along Point Lena Loop Road would be allowed. See Attachment D. The dwelling increase potential is addressed above and the difference in traffic volume is expected to be minimal. Parking along Point Lena Loop Road is prohibited by DOT due to the narrow road and snow plowing accommodations. There will be adequate parking accommodations on each property if the site is subdivided.

Variance Requirements

Under CBJ §49.20.250 where hardship and practical difficulties result from an extraordinary situation or unique physical feature affecting only a specific parcel of property or structures lawfully existing thereon and render it difficult to carry out the provisions of Title 49, the Board of Adjustment may grant a Variance in harmony with the general purpose and intent of Title 49. A Variance may vary any requirement or regulation of Title 49 concerning dimensional and other design standards, but not those concerning the use of land or structures, housing density, lot coverage, or those establishing construction standards. A Variance may be granted after the prescribed hearing and after the Board of Adjustment has determined:

- 1. That the relaxation applied for or a lesser relaxation specified by the Board of Adjustment would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.***

Relaxing the 30-foot ROW frontage to 10 feet with the recommended condition of an access and maintenance easement, will allow the applicant to subdivide the property. As noted earlier, the adjacent lots all use the existing shared driveway to reach Point Lena Loop Road regardless of how much ROW frontage they have. Though the ROW frontage widths of adjacent lots are wider than the proposal, developing the lot and using the shared access is consistent with other properties.

Staff finds this criteria is met.

- 2. That relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare be preserved.***

As stated earlier, the intent of having a minimum of 30 feet of ROW frontage is to allow accommodations for a driveway and utilities. The existing common, shared driveway that runs through the property has existed for a long time and continues to be used and maintained. Staff's recommended condition will meet the intent of this title.

The safety and welfare of the public will not change with the decision of the variance. Each house will use the common driveway. By establishing a common use and maintenance easement, each owner is responsible for ensuring access through the site.

Staff finds this criteria is met.

- 3. That the authorization of the Variance will not injure nearby property.***

As noted earlier, the recommended condition will ensure the shared driveway will be maintained at the subject site which will enable safe access by the neighboring lots.

Therefore, staff finds this criteria is met.

4. *That the Variance does not authorize uses not allowed in the district involved.*

As mentioned in this memorandum, the variance will allow a subdivision to occur. There are no uses associated with the variance.

Staff finds this criteria is met.

5. *That compliance with the existing standards would:*

(A) *Unreasonably prevent the owner from using the property for a permissible principal use;*

As stated earlier, there are two existing homes on the lot. Residences are permissible principal uses. Therefore, staff finds this criteria is not met.

(B) *Unreasonably prevent the owner from using the property in a manner which is consistent as to scale, amenities, appearance or features, with existing development in the neighborhood of the subject property;*

As mentioned earlier, the adjacent lots in the neighborhood use a common, shared driveway to access Point Lena Loop Road instead of constructing their own direct access driveway. Though all adjacent lots exceed the 30-foot ROW frontage requirement, the steep topography creates a challenge in meeting the purpose of the ROW frontage standard for any lot of future subdivisions. Nevertheless, the proposed subdivision plan is not consistent as to scale, amenity, appearance or feature with existing lots in the neighborhood. Staff finds this criteria is not met.

(C) *Be unnecessarily burdensome because unique physical features of the property render compliance with the standards unreasonably expensive;*

As stated in the memorandum, meeting the 30-foot ROW frontage standard cannot be met with the subdivision proposal due to insufficient lot width. However, even with sufficient lot width, the steep hillside creates a large financial burden in constructing a driveway to have direct access to Point Lena Loop Road and renders the purpose of having a 30-foot ROW frontage unreasonably expensive.
Staff finds this criteria is met.

or

- (D) *Because of preexisting nonconforming conditions on the subject parcel the grant of the Variance would not result in a net decrease in overall compliance with the Land Use Code, CBJ Title 49, or the building code, CBJ Title 19, or both.***

As stated earlier, the property was platted and provided access to Point Lena Loop Road via a privately-maintained, common driveway before zoning was established. Other lots in Lena Point and in the borough have shared driveways due to topographical challenges or other reasons resulting in a shared driveway. Neither the lot's size, dimension or common driveway are non-conforming conditions of the lot. Staff is not aware of any pre-existing, non-conforming conditions of the site that would be aggravated with the approval of this variance. Staff finds this criteria is not met.

Since criterion 5(c) is met, criteria 5 is met.

- 6. *That a grant of the Variance would result in more benefits than detriments to the neighborhood.***

As stated earlier, the recommended condition of approval requires the recording of a maintenance easement across the shared driveway, thereby ensuring Proposed Lot 9B meeting the ROW frontage standard. This will also benefit the owners to the east, as those are also users of the shared driveway. As noted earlier, the denial of the variance will not change the use or maintenance of the driveway. With the recommended condition, maintenance will be assured through recording an access and maintenance agreement. This will benefit the neighborhood. Staff finds this criteria is met.

FINDINGS

- 1. *Is the application for the requested Variance complete?***

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

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

- 2. *Will the proposed development comply with the Juneau Coastal Management Programs?***

Not Applicable. Based on the preceding staff analysis, it is found that no provisions of the Juneau Coastal Management Program apply to the proposed development.

3. *Does the variance as requested, meet the criteria of Section 49.20.250, Grounds for Variances?*

Yes. Based on the analysis above, staff finds that the proposal does meet the criteria of CBJ §49.20.250, Grounds for Variance.

RECOMMENDATION

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and approve the requested Variance, VAR2013 0020 with the condition stated below. The Variance permit would allow the applicant to file a Minor Subdivision permit.

Condition

1. With the recording of the proposed subdivision, the applicant shall record a Maintenance & Access Agreement document ensuring the owners of Proposed Lots 9A & 9B maintain, and provide access to, the existing common driveway within the limits of the subject property.

DEVELOPMENT PERMIT APPLICATION

Project Number VARI3-20	CITY and BOROUGH of JUNEAU	Date Received: 8/13/13
Project Name (City Staff to Assign Name)		

INFORMATION

Project Description Panhandle Subdivision with substandard road frontage

PROPERTY LOCATION

Street Address: 16455 E Lona Ln Rd City/Zip: SEWARD 99801

Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot): L9 L55 3053

Assessor's Parcel Number(s):

LANDOWNER/ LESSEE

Property Owner's Name <u>MITCH FALK</u>	Contact Person: <u>MITCH</u>	Work Phone: <u>907-5252</u>
Mailing Address: <u>318 WILLOWHBY</u>	Home Phone:	Fax Number: <u>907-5254</u>
E-mail Address: <u>butwinkles4@qci.net</u>	Other Contact Phone Number(s):	


PROJECT / APPLICANT

LANDOWNER/ LESSEE CONSENT ****Required for Planning Permits, not needed on Building/ Engineering Permits****

I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows:

A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.

B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.

X  8/13/13
Landowner/Lessee Signature Date

X _____ Date

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

APPLICANT If the same as OWNER, write "SAME" and sign and date at X below

Applicant's Name <u>SAME</u>	Contact Person:	Work Phone:
Mailing Address:	Home Phone:	Fax Number:
E-mail Address:	Other Contact Phone Number(s):	

X _____ Date of Application

-----OFFICE USE ONLY BELOW THIS LINE-----

STAFF APPROVALS

	Permit Type	***SIGN	Date Received	Application Number(s)
<input checked="" type="checkbox"/>	Building/Grading Permit			
	City/State Project Review and City Land Action			
	Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
	Mining Case (Small, Large, Rural, Extraction, Exploration)			
	Sign Approval (If more than one, fill in all applicable permit #'s)			
	Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
	Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
<input checked="" type="checkbox"/>	Variance Case (De Minimis and all other Variance case types)		<u>8/22/13</u>	<u>var 2013 0020</u>
	Wetlands Permits			
	Zone Change Application			
	Other (Describe)			

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

Comments:	Permit Intake Initials <u>CAM</u>
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VARIANCE APPLICATION

Project Number	Project Name (15 characters)	Case Number <i>var 2013 0026</i>	Date Received <i>8/13/13</i>
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TYPE OF VARIANCE REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> Variance to the Sign Standard (VSG) | <input checked="" type="checkbox"/> Variance to Dimensional Standards (VDS) |
| <input type="checkbox"/> Variance to Habitat Setbacks (VHB) | <input type="checkbox"/> Variance to Parking Requirements (VPK) |
| <input type="checkbox"/> Variance to Setback Requirements (VSB) | |

DESCRIPTION OF ACTIVITY WHICH REQUIRES A VARIANCE:

SUBDIVIDE 1 ACRE LOT SUBSTANDARD FRONTAGE

Previous Variance Applications? YES NO Date of Filing: _____

Previous Case Number(s): *VAR 2012 0026*

Was the Variance Granted? YES NO *no staff report written. This new request is based on staff recommendation.*

UNIQUE CHARACTERISTICS OF LAND OR BUILDING(S):

SUBSTANDARD ROAD FRONTAGE

UTILITIES AVAILABLE: WATER: Public On Site SEWER: Public On Site

WHY WOULD A VARIANCE BE NEEDED FOR THIS PROPERTY REGARDLESS OF THE OWNER?

SUBSTANDARD ROAD FRONTAGE (10 feet versus 30 feet that is required)

WHAT HARDSHIP WOULD RESULT IF THE VARIANCE WERE NOT GRANTED?

UNABLE TO SUBDIVIDE 1 ACRE LOT, ZONED D-3

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	VARIANCE FEES				
		Fees	Check No.	Receipt	Date
	Application Fees	\$ <i>400</i>	_____	_____	_____
	Adjustment	\$ _____	_____	_____	_____
	Total Fee	\$ <i>transferred from var 2012 0026</i>			

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

TO BE COMPLETED BY THE APPLICANT

NOTICE OF PUBLIC HEARING



PROPOSAL: A Variance to reduce the minimum ROW frontage width from 30 feet to 10 feet for a future subdivision creating two lots.

File No:	VAR2013 0020	Applicant:	Mitch Falk
To:	Adjacent Property Owners	Property PCN:	8-B33-0-100-007-0
Hearing Date:	October 22, 2013	Owner:	Mitch Falk
Hearing Time:	7:00 PM	Size:	1.51 Acres
Place:	Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801	Zoned:	D-3
		Site Address:	16455 Point Lena Loop Road
		Accessed Via:	Point Lena Loop Road

PROPERTY OWNERS PLEASE NOTE:

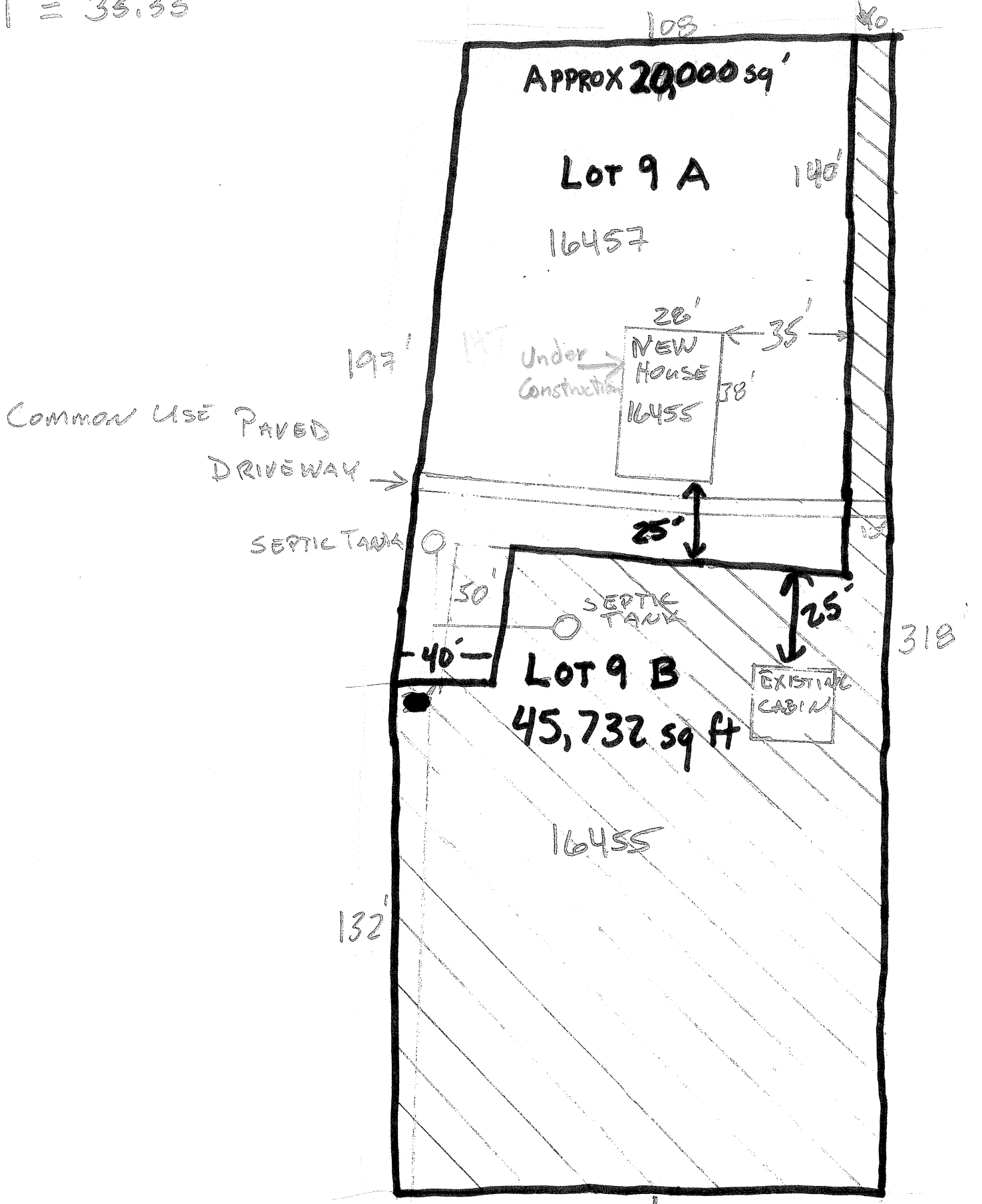
You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Eric Feldt at eric_feldt@ci.juneau.ak.us or at 586-0764.

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

1" = 35.33'

COMMUNITY WATER TREATMENT PLANT LOCATED HERE

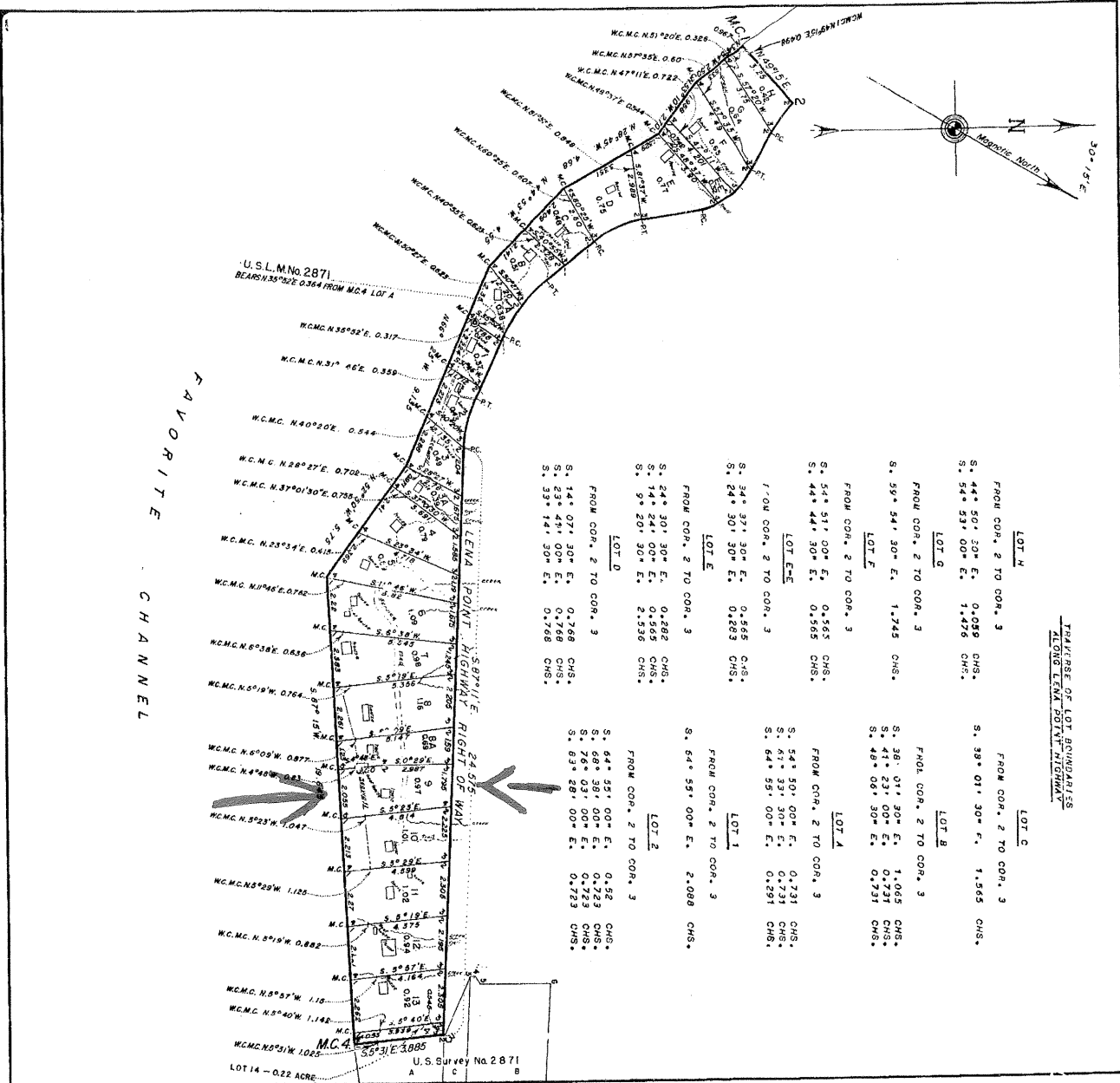


OUTFALL LINE →

VARIANCE CRITERIA:

- 1) THE RELAXATION APPLIED FOR IS NECESSARY AS THE ONE ACRE LOT ONLY HAS 110' OF ROAD FRONTAGE.
- 2) PUBLIC SAFETY AND WELFARE WOULD NOT BE AFFECTED
- 3) THE VARIANCE WOULD NOT ADVERSELY AFFECT NEARBY PROPERTY
- 4) NO UNAUTHORIZED USES ARE INVOLVED
- 5) BECAUSE OF THE DIMENSIONS OF THE LOT, REDUCING THE PANHANDLE FRONTAGE IS THE ONLY WAY TO ACHIEVE THE SUBDIVISION OF THE PROPERTY. THE PROPERTY IS ZONED D-3 BUT WE WOULD RATHER SUBDIVIDE AND HAVE 2 LOTS WITH 1 HOUSE ON EACH LOT.
- 6) A GRANT OF VARIANCE ACCOMPLISHES ADDITIONAL HOUSING, WHICH IS THE DESIRED WAY OF THE CITY WITH NEGLIGIBLE EFFECTS ON THE NEIGHBORHOOD.

TRAIL/PIECE OF LOT BOUNDARIES
ALONG LENA POINT HIGHWAY



U. S. SURVEY
No. 3053, ALASKA

LENA POINT No. 1, SMALL TRACT GROUP
EMBRACING LOTS 1 TO H INCLUSIVE, LOTS E, F,
LOTS I TO 14 INCLUSIVE AND LOTS 3A, 8A
SITUATED

ON THE SOUTHERLY SIDE OF LENA POINT
HIGHWAY, ALONG FAVORITE CHANNEL,
APPROXIMATELY 1 1/2 MILES NORTHWEST OF
JUNEAU, ALASKA

AREA: 17.28 ACRES
LATITUDE 58° 23' 00" N., LONGITUDE 134° 46' 00" W.
AT CORNER NO. 4

SCALE IN CHAINS
0 1 2 3 4 5 6 7 8 9 10 11 12

SURVEYED BY
JACK C. MEANS, CADASTRAL ENGINEER
NOVEMBER 3 TO NOVEMBER 9, 1950

UNDER SPECIAL INSTRUCTIONS
DATED SEPTEMBER 10, 1950 AND
APPROVED SEPTEMBER 26, 1950

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

THIS PLAT IS STRICTLY COMPLIANT TO
THE APPROVED PLAN AND THE SURVEY HAVING
BEEN CORRECTLY EXECUTED, IN ACCORDANCE WITH THE
REQUIREMENTS OF LAW AND THE REGULATIONS OF THIS
BUREAU, IS HEREBY ACCEPTED.

FOR THE DIRECTOR
[Signature]
CHIEF, BRANCH OF SURVEYS

NOTICE OF PUBLIC HEARING



PROPOSAL: A Variance to reduce the minimum ROW frontage width from 30 feet to 10 feet for a future subdivision creating two lots.

<p>File No: VAR2013 0020</p> <p>To: Adjacent Property Owners</p> <p>Hearing Date: October 22, 2013</p> <p>Hearing Time: 7:00 PM</p> <p>Place: Assembly Chambers Municipal Building 155 South Seward Street Juneau, Alaska 99801</p>	<p>Applicant: Mitch Falk</p> <p>Property PCN: 8-B33-0-100-007-0</p> <p>Owner: Mitch Falk</p> <p>Size: 1.51 Acres</p> <p>Zoned: D-3</p> <p>Site Address: 16455 Point Lena Loop Road</p> <p>Accessed Via: Point Lena Loop Road</p>
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PROPERTY OWNERS PLEASE NOTE:

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Attachment D

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NOTICE OF PUBLIC HEARING



Concerns:

- The pie shape properties have a 12ft road in the middle of the lots, (Access to lot 9)
- Very concerned with increased traffic through individual lots.
- Possible option to park on Point Lena loop road.

MONSON
P.O. Box 211542
Anchorage, AK 99521
907-586-3033