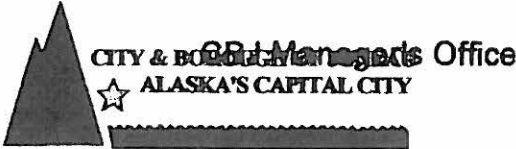


**Neighborhood Associations  
Registered with the City Borough of Juneau**

Name of Association	Contact Person	Address	Phone Number	Fax Number	E-mail Address	Alternate Contact
Blueberry Hills Neighborhood Association	Paul Dick	2906 Blueberry Hills Rd., Juneau, AK 99801	586-3469		akpauldick@hotmail.com	
Douglas Indian Association	Linda Snow	811 W. 12th Street, Juneau, AK 99801	364-2916	364-2917	lsnow-dia@gci.net	Andrea Candiente-Laiti: alaiti- dia@gci.net
Douglas Advisory Board	John Delgado	1300 1st St., Douglas, AK 99824	(h)364-3626, (w)796-3626	500-7326	urbaneskimo@hotmail.com	
Downtown Neighborhood Association	Emily Ferry	836 Calhoun Ave., Juneau, AK 99801	463-5145		emily.ferry@gmail.com	
Fritz Cove Neighborhood Association	Cody Salter	2770 Fritz Cove Rd., Juneau, AK 99801	(cell) 209-9240, (w) 789-3717		eric.salter3@acsalaska.net	
Indian Point Neighborhood Association	Jim Parr	P.O. Box 210567, Auke Bay 99821	321-2060		panhan7@ptialaska.net	
Lemon Creek Neighborhood Association	Daniel Collison	5980 Mountain Ave., Juneau, AK 99801				
Lena Extended Neighborhood Association	Kirk Miller	P.O. Box 210945, Auke Bay 99821	790-8557	790-8557	krjmillier@gci.net	
Mountainside Estates Neighborhood Association	Dale Staley	4481 Mountainside Dr., Juneau, AK 99801	(h)780-4658, (w)523-1588		Staleys@alaska.com	
North Douglas Neighborhood Association	Anne Fuller	7943 N. Douglas Highway, Juneau, AK 99801	(h)586-4422, (w)465-6558		fernleaf@t@yahoo.com	Ellen Ferguson, 463-3532
North Tee Harbor Neighborhood Association	Gary Miller	20135 Cohen Drive, Juneau, AK 99801	789-3757		gmiller_juneauak@hotmail.com	
Norway Point Neighborhood Association	Russell Strandtmann	1401 Glacier Hwy., Juneau, AK 99801	586-4856		r_strandtmann@hotmail.com	
Riverwood Homeowners	Lorilyn Swanson	3101 Riverwood Dr., Juneau, AK 99801	789-7290, (w)586-5000		paulswan@gci.net	
Pt. Stephens Neighborhood Association	Russ Senkovich	18610 Trails End, Juneau, AK 99801	(h)789-0115, 723-1150		vich@gci.net	
Shelter Island Neighborhood Association	Karen & Rick Bierman	P.O. Box 211156, Auke Bay 99821			whaleseye@starband.net	
Sunny Point Neighborhood Association	Mary Lou King	1700 Branta Rd., Juneau, AK 99801	789-7540		kingfarm@ptialaska.net	
Tall Timbers Neighborhood Association	Guy Holt	8610 Gail Ave., Juneau, AK 99801	586-6844		guy@akbonfire.com	Dan Hubert, 8597 Marilyn Ave, 523-9719, danhubert@gmail.com
Telephone Hill Neighborhood Association	Maureen Connerton	214 Dixon St., Juneau, AK 99801			jbrown@alaska.net	
Thane Neighborhood Association	Larri Irene Spengler	4545 Thane Road, Juneau, AK 99801	586-9768	586-9768	lspengler@ak.net	
Tongass Park Neighborhood Association	Timothy R. Frowley	2335 Ka-See-An Drive, Juneau, AK 99801	209-4989, (h)790-2848, (w)465-4092		association@longasspark.org	Bill Jackson, 9096 Sheiye Way 99801, 789-5127, 209-9437, billja@gci.net
West Mendenhall Valley Neighborhood Association	Michelle Kaelke	9723 Trappers Lane, Juneau, AK 99801	789-5550		flvfish@ak.net	

JAN 23 2014

**City & Borough of Juneau  
NEIGHBORHOOD ASSOCIATION  
REGISTRATION FORM**



**YOUR ASSOCIATION:** Tell us about your organization, your neighborhood and attach a copy of any bylaws.

Name of Association: TALL TIMBERS NEIGHBORHOOD ASSOCIATION  
Geographic Area of Concern: MARILYN AVE, GAIL AVE, MALISSA DR.  
Estimated Population of Area: 85  
Issues of Concern: TRAFFIC - LIGHTING - FUTURE DEVELOPMENT AND USAGE.

**YOUR MEMBERSHIP:** Please provide the names and addresses of your members. Attach extra pages as necessary.

PLEASE SEE ATTACHED

**HOW WE CAN REACH YOU:** Please list a primary and secondary contact person for your Neighborhood Association along with their contact information. This information is included in the Neighborhood Association Masterlist on the CBJ website so please indicate if you do not wish any of the below information posted online.

	<u>Primary Contact:</u>	<u>Alternate Contact:</u>
Mailing Addresses:	<u>GUY HOLT</u>	<u>DAN Hubert</u>
Contact Numbers (day, evening, cell, & fax):	<u>8610 GAIL AVENUE</u>	<u>8597 Marilyn Avenue</u>
	<u>JUNEAU, AK 99801</u>	<u>JUNEAU, AK 99801</u>
	<u>907-586-6844</u>	<u>907-523-9719</u>
Email addresses:	<u>guy@AKBONFIRE.COM</u>	<u>danhubert@gmail.com</u>

**SPECIAL NOTES:** Tell us anything else you would like us to know about your association.

Please keep membership records private. \* See Note on Back B.M. Even

In order to register your Neighborhood Association in accordance with CBJ Code 11.35, your completed registration form along with any attachments need to be submitted to the Clerk's Office at the following address:

**OFFICE OF THE MUNICIPAL CLERK, 155 S. Seward St., Room 202**  
Phone: (907)586-5278 Fax: (907)586-4552 e-mail: [City\\_Clerk@ci.juneau.ak.us](mailto:City_Clerk@ci.juneau.ak.us)

Agendas, Minutes, and Notices about Planning Commission, Assembly, and Assembly Standing Committee Meetings can be found on the City & Borough of Juneau website at [www.juneau.org](http://www.juneau.org).

5/14/14 I call Guy Holt's phone # & i, she w/ his wife who answered the phone & I explained to her that the note on the application "Please keep membership records private" could not be followed since the registration form & its attachments are considered public documents & would be provided to the public upon request.

Beth McEwen

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**Bertoni, Sam**

Home bmas@ptialaska.net  
Mobile 907-789-3786  
Home POB 32993  
Juneau, AK 99803  
Work 8614 Gail Avenue

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**Denton, Susie - Terry Kullander**

Home denton.kullander@gmail.com  
Mobile 907-723-7522  
Home 907-789-1779  
Home 8618 Gail Avenue

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**Duran, Paul & Lolita**

Home pauld2839@live.com  
Mobile 907-796-2839  
Home 3208 Malissa Drive

---

**Fenumiai, Julie**

Home amazongirl513@yahoo.com  
Mobile 907-789-0436  
Home 8609 Marilyn Avenue

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**Hearn, Joe & Kim**

Home kimberly.hearn@yahoo.com  
Work joehearn56@yahoo.com  
Mobile 907-957-4850  
Home 8611 Gail Avenue

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**Hoff, Brandon & Caroline**

Home bphoff@mac.com  
Mobile 907-229-7684  
Home 8595 Marilyn Avenue

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**Hubert, Dan & Paula**

Home danhubert@gmail.com  
Home 907-523.9719  
Home 8597 Marilyn Avenue

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**Hughes, Andy**

Home andyhughesusa@hotmail.com  
Mobile 907-723-5203  
Home 3200 Malissa Drive

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**Judy, Will**

Home will@alaskatechguys.com  
Mobile 907-723-9199  
Home 8609 Gail Avenue

EXHIBIT 3 PAGE 4 OF 5 PAGES

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**Lager, Noah & Shelly**

Home lager\_house@msn.com  
Mobile 907-209-0274  
Home 8607 Marilyn Avenue

---

**Larson, Eddie & Samantha**

Mobile 907-780-2206  
Home 8613 Marilyn Avenue

---

**Legg, Sammy**

Home sammy\_legg6@hotmail.com  
Mobile 907-723-5293  
Home 3200 Malissa Drive

---

**Marvel, David & Lynn**

Home david.marvel@uas.alaska.edu  
Home 8616 Gail Avenue

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**Nelson, Dan & Becky**

Home akadventure@yahoo.com  
Work beccahi@hotmail.com  
Mobile 907-723-2634  
Home 8606 Marilyn Avenue

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**Reid, Scott**

Home scottareid@live.com  
Mobile 907-723-9993  
Home 8619 Gail Avenue

---

**Sullivan, Tom**

Home thomascullivan@hotmail.com  
Mobile 907-957-0477  
Home 3704 Malissa Drive

---

**VanKirk, Brian & Michelle**

Home 8707 Gail Avenue

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**Wilson, Debe & Ted**

Home debewilson65@gmail.com  
Mobile 907-321-5252  
Home 8612 Marilyn Avenue

EXHIBIT 3 PAGE 5 OF 5 PAGES

## Juneau Neighborhood Associations


City and Borough of Juneau | 155 S. Seward Street | Juneau, Alaska 99801

Juneau's Neighborhood Associations provide a direct and continuing means of citizen participation in local government decisions about neighborhoods through the use of neighborhood associations recognized as advisory to the municipal government. These associations are intended to improve the ability of local government to elicit opinions and recommendations, to assess the priorities of residents, property owners, and businesses and to formulate its basis for decisions regarding community development programs, and crime prevention programs, including neighborhood watch programs, and other issues.


The links below provide additional information such as: who to contact in your neighborhood if you would like to become involved in a registered neighborhood association, how to register a new neighborhood association, and what the CBJ Code says about neighborhood associations. Anyone wishing additional assistance should contact the **Municipal Clerk's Office** at 586-5278 or send an email to [City\\_Clerk@ci.juneau.ak.us](mailto:City_Clerk@ci.juneau.ak.us).

**WHO:** [Neighborhood Associations and Contacts List](#)

**WHAT:** [Neighborhood Association Ordinance](#)

Adobe Acrobat (PDF) file 

**HOW:** [Register Your Neighborhood Association](#)

Adobe Acrobat (PDF) file 

For general information on how to keep in touch with your local government, please [click here for the "Your Municipality" Brochure](#).

We encourage neighborhood association members and anyone from the public interested in items coming before the Assembly and the Assembly Standing Committees to sign up for one or more of the CBJ RSS Feeds. Additional information on the RSS Feeds can be found on the following web page: <http://www.juneau.org/about/rss.php>

 [Get FREE Adobe Acrobat Reader](#)

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[Return to City Government and Services page](#)

Last updated 2014-05-14 bjm  
[www.juneau.org](http://www.juneau.org)

[webmaster@juneau.lib.ak.us](mailto:webmaster@juneau.lib.ak.us)

EXHIBIT 4 PAGE 1 OF 1 PAGES

BYLAWS

for

TALL TIMBERS NEIGHBORHOOD ASSOCIATION

ARTICLE 1  
NAME

The name of this organization shall be the Tall Timbers Neighborhood Association, hereinafter "Association".

ARTICLE 2  
MEMBERSHIP BOUNDARIES AND SCOPE

The Association is primarily concerned with issues that affect the Juneau, Alaska neighborhood including but not limited to properties along Marilyn Ave, Gail Ave, and Malissa Dr. ("the neighborhood").

ARTICLE 3  
DEFINITION

The Association is a non-profit, voluntary, self-governing association composed of residents, property owners, business owners, and representatives from non-profit associations and other entities physically located within the Association's membership boundaries. The Association is not a branch or layer of government. The Association is not a regulatory or legislative body. Upon motion of its membership, it may file Articles of Incorporation as a State of Alaska Domestic Nonprofit Corporation.

ARTICLE 4  
MEMBERSHIP

- A. Any person 18 years or age or older who is a homeowner, tenant, resident, property owner, business owner, or a designated representative of a corporation or non-profit association physically located within the membership boundary described in Article 2 is to be treated as and may act as a member, whether or not that person has attended a meeting or paid dues.

- B. Annual dues may be set by the members at an annual meeting; payment is optional, and is not a prerequisite for membership.
- C. A mailing list of members will be maintained by the secretary and an e-mail list of members e-mail addresses will be maintained by the President and at least one other Board member. The mailing lists will remain confidential and will not be distributed to any individual or entity for any purpose.

ARTICLE 5  
PURPOSE

The Association is primarily concerned with issues affecting the neighborhood including but not limited to preserving harmony of the neighborhood, protecting public health and safety, and preserving property values. The purpose of the Association is to provide a direct and continuing means of citizen participation in the neighborhood. The Association exists to afford citizens an opportunity for maximum involvement and self-determination.

This Association is intended to give:

- A. Local people a method by which they can work together for expression and discussion of their opinions, needs, and desires in a manner that will have an impact on their neighborhood's development and services;
- B. Governmental agencies a method for receiving opinions, needs, desires and recommendations of the neighborhood; and
- C. Local governing bodies such as the Juneau Assembly and Planning Commission an improved basis for decision making and assignment of priorities for all programs affecting the neighborhood.

ARTICLE 6  
FUNCTION

The Association has a policy and practice of open participatory membership.

ARTICLE 7  
MEMBERSHIP MEETINGS

- A. Membership meetings shall be held as needed.



- B. Notices shall be sent, distributed, posted, or otherwise conveyed by email, social media, telephone, or such other means as is reasonable.
- C. Meetings shall be run in a manner intended to increase the public expression and discussion of opinions held by Association members.
- D. Meetings shall be conducted as informally as the number of participants will allow.

ARTICLE 8  
MEMBERSHIP VOTING

- A. Each member of the Association shall have only one vote.
- B. If a vote is taken during a membership meeting, each member must be present at the time of the vote in order to cast a vote. There will be no proxy voting.
- C. A member who is absent may send personal correspondence to the Association detailing his or her position on the question to be voted on which shall be read to the Association prior to the vote.

ARTICLE 9  
BOARD

Section 1: Board

The Board of the Association shall be the President and Treasurer. They two shall be elected at an annual member meeting.

A. The President shall:

1. Be the principal presiding officer and shall in general supervise the affairs of the Association and shall also ensure that these bylaws are followed and enforced;
2. Establish meeting agenda; and
3. Ensure the proper distribution of meeting notices and agendas.
4. Accept service of process.

B. The Treasurer shall:

1. Have charge and custody of and be responsible for all funds of the Association;
2. Make disbursements as necessary upon authorization by the membership or Board; and
3. Report at each annual membership meeting all receipts and expenditures since the preceding annual meeting, including a statement of the current balance of funds.

C. Removals, resignations, and vacancies can be filled temporarily by appointment by vote of the remaining Board members until an election is held by the voting membership at the next annual membership meeting.

#### Section 5: Board Meetings

A. The Board shall meet as needed.

B. All Board meetings will be open to the membership. Notice of a Board meeting will be sent, posted, distributed, posted, or otherwise conveyed to the membership as far in advance as feasible.

### ARTICLE 11 COMMITTEES

Committees are optional, and may be established by a vote of the membership or by the Board or President at any time for whatever purpose deemed necessary. The nature and duties of the committees shall be determined by the President.

### ARTICLE 12 FINANCES

A. The Association may receive voluntary contributions from each member as needed to meet the costs of its operation.

B. The Treasurer and the President shall have the authority to expend money. The Treasurer on his or her own, or, if the Treasurer is unavailable, the President on his or her own, may make such expenditures.

ARTICLE 13  
AMENDMENTS

These bylaws may be altered, amended or repealed by a vote of the members present at a membership meeting.

ARTICLE 14  
DISSOLUTION

The Association may be dissolved by a vote of the members present at a membership meeting.

ARTICLE 15  
FORMATION OF A STATE OF ALASKA DOMESTIC NONPROFIT CORPORATION

Upon a majority vote of the members present at a membership meeting, the Association may elect to become a nonprofit corporation. In this event, the incumbent officers of the Association also serve as directors of the corporation. These bylaws shall serve as the bylaws of the corporation. The name and address of the initial registered agent and office shall be that of the incumbent President and the names and addresses of the incorporators are the incumbent officers.

Adopted hereby on 13 June 2014



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Dan Hubert  
Treasurer

**BEFORE THE PLANNING COMMISSION OF  
THE CITY AND BOROUGH OF JUNEAU**

HAVEN HOUSE, INC,

Appellant,

v.

CBJ COMMUNITY DEVELOPMENT,

Appellee,

Appeal 2014 0004 of:  
CDD Directors Decision in  
BLD20130767

STATEMENT OF ANDREW HUGHES

1. I reside at 3200 Malissa Drive, Juneau, AK 99801
2. I have resided at that address for almost 40 years.
3. My house was one of the earliest in the Tall Timbers neighborhood.
4. In the early years of the neighborhood, the neighbors organized the Tall Timbers Neighborhood Association.
5. The Association was organized to (i) identify neighborhood concerns and interests, and (ii) so the neighbors would get to know each other so the neighborhood would be safer and more peaceful since the residents would know each other.
6. The Association worked to secure additional street lights, which lead to streets lights being installed along Tongass Boulevard.
7. The Association met regularly and had progressive dinners and block parties.

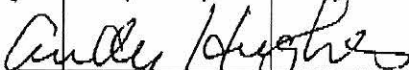
To: Andrew Hughes @ 907-486-4116

From: Dan Hubert

Pg 3/ 3 06/23/14 1:10 pm

8. In later years, with neighborhood turnover, the Association's activities waned, until the present Haven House issue arose.

DATED this 23 day of June, 2014, at Juneau, Alaska.



Andrew Hughes

**CERTIFICATION**

I HEREBY CERTIFY that on June 24, 2014, a copy of the foregoing of the foregoing was emailed to:

Brenwynne Grigg, CDD Administrative Officer  
Brenwynne\_Grigg@ci.juneau.ak.us



Robert S. Spitzfaden

*In re,* Tall Timbers Neighborhood  
Association Notice of Appeal  
Planning Commission  
City & Borough of Juneau

**Opposition Brief**  
Community Development Department



1 **BEFORE THE PLANNING COMMISSION OF THE CITY AND BOROUGH OF JUNEAU**

2  
3 *In re*

4 TALL TIMBERS NEIGHBORHOOD  
5 ASSOCIATION NOTICE OF APPEAL  
6 Re: CDD Directors Decision in  
7 BLD20130767

CDD Opposition Brief

8  
9 **Tall Timbers Neighborhood Association Did Not and Does Not Have the Right to**  
10 **Appeal the March 18, 2014, Director’s Decision.**

11 Tall Timbers Neighborhood Association (“Tall Timbers”) jumped the gun. Tall Timbers  
12 jumped the gun by filing an appeal before Tall Timbers had the legal capacity to appeal. Tall  
13 Timbers jumped the gun by filing an appeal before the use not listed hearing. Tall Timbers jumped  
14 the gun by filing an appeal before the Board of Adjustments issued a final decision. Because Tall  
15 Timbers jumped the gun, the Planning Commission (“Commission”) should dismiss the Tall  
16 Timber’s appeal and conduct the use not listed hearing. The use not listed hearing resolves the need  
17 for this appeal because it provides for a full public hearing where people for and against Haven  
18 House can express their concerns without the restrictions imposed by law in an appeal. Ultimately,  
19 Tall Timbers jumped the gun by filing a premature appeal.  
20  
21  
22  
23  
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25

City & Borough Attorney  
City & Borough of Juneau, Alaska  
155 South Seward Street, Juneau, Alaska 99801  
voice: 907-586-5242 /fax: 907-586-1147

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## I. FACTUAL SUMMARY

Haven House is a not for profit organization that wants to use an existing house on Malissa Drive in a D-5 zone for transitional housing for women coming out of prison.<sup>1</sup> Tall Timbers does not want Haven House to operate in Tall Timbers' subdivision.<sup>2</sup>

On December 23, 2013, Haven House applied for a change of use permit from a single family to a transitional group home. A permit was not issued, but the application was assigned the following number, BLD 2013-0767.

On January 24, 2014, the Director issued a decision ("Decision #1"). Decision #1 stated that in a D-5 zone, group homes are allowed outright but halfway houses are not generally permitted. Decision #1 concluded that "because operating a halfway house is not a permitted use in this zoning district; Haven House cannot operate as described in the business plan in this location."

On February 11, 2014, Haven House appealed Decision #1. It was assigned the following case number APL 2014-0001.

On March 10, 2014, Haven House presented supplemental information and legal argument to clarify and explain the proposed use.

On March 18, 2014, the Director issued a second decision ("Decision #2"). Decision #2 concluded, after receiving the supplemental information and upon legal guidance, the Title 49 provisions regarding halfway houses and group homes are likely unenforceable as applied to Haven House. The Director concluded the proposed use was not a single family residence. The Director also concluded that the proposed use is a "use not listed," and it is or is most similar to a

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<sup>1</sup> Haven House Supplemental information to the building permit application (Dec. 23, 2013, and March 10, 2014).

<sup>2</sup> Tall Timbers Notice of Appeal (April 1, 2014).



1 boardinghouse and rooming house. A boardinghouse and rooming house is allowed in a D-5 zone  
2 pursuant to a conditional use permit. The Director recommended that Haven House file  
3 applications for a “use not listed” and conditional use permit.

4  
5 On April 1, 2014, Tall Timbers filed an appeal of Decision #2. Tall Timbers requests the  
6 Commission adopt Decision #1 and conclude Haven House cannot operate in the D-5 zone.

7 On April 4, 2014, Haven House withdrew its appeal of Decision #1 and filed an appeal of  
8 Decision #2. Haven House requested the appeals be continued until after the use not  
9 listed/conditional use permit hearing. Haven House also challenges whether Tall Timbers has a  
10 right to appeal Decision #2. Implicitly, Haven House requests the Board of Adjustments find that  
11 the proposed use is a listed use, namely a single family home or group home.

12  
13 On April 19, 2014, Tall Timbers requested to be an Intervenor in the Haven House Appeal.

14 Staff and Haven House have had two pre-application conferences, April 1 and April 28,  
15 regarding the submittals for the unlisted use and, if applicable, the conditional use permit. Haven  
16 House requested the unlisted use hearing and the conditional use permit hearing occur at the same  
17 time.

18 On May 2, 2014, Haven House filed a use not listed application.

19 On May 13, 2014, the appeals filed by Haven House and Tall Timbers were introduced at  
20 the regular Commission meeting. Tall Timbers did not appear; only Mr. Dan Hubert appeared in  
21 his personal capacity.<sup>3</sup>

22  
23 On May 27, 2014, Community Development Department (“CDD”) staff conducted a  
24 neighborhood meeting to describe the use not listed process.  
25

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<sup>3</sup> E.g., May 13, 2014, Planning Commission minutes at 17 of 29.

1 On May 28, 2014, the Presiding Officer held a prehearing conference. The following day,  
2 the Presiding Officer issued a stay for the Haven House appeal and requested briefing on whether  
3 Tall Timbers has a right to appeal Decision #2.

4 Since May 28, 2014, Mr. Spitzfaden has filed a plethora of motions to intervene and entries  
5 of appearance, even on the Haven House appeal, which was stayed.<sup>4</sup>  
6

7 In summary, Decision #1 was rescinded and Haven House's first appeal was withdrawn.  
8 Haven House's second appeal has been stayed. The Commission requested briefing whether Tall  
9 Timbers has a right to appeal Decision #2.  
10

## 11 II. DISCUSSION

12 This brief demonstrates the Commission should dismiss the Tall Timbers appeal and  
13 proceed with the use not listed process.  
14

### 15 A. Tall Timbers jumped the gun by filing an appeal before the Board of Adjustment 16 conducted the use not listed hearing and issued an appealable decision.

17 While not specifically requested by the Commission, the doctrine of finality implicates both  
18 issues that the Commission requested briefing on. The doctrine of finality requires that a final  
19 appealable decision is issued, which ensures adjudication of actual cases and controversies.<sup>5</sup> The  
20 doctrine of finality also helps frame the context to determine whether a sufficient adversity exists,  
21

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22 <sup>4</sup> Motion to Intervene on behalf of Andrew Hughes in the Haven House appeal (May 28, 2014);  
23 Motion to Intervene on behalf of Andrew Hughes in the appeal filed by Tall Timbers (May 30, 2014);  
24 Motion to Intervene on behalf of Tall Timbers in the Haven House appeal (May 28, 2014);  
25 Entry of Appearance on behalf of eighteen people in the Haven House appeal (June 20, 2014); and  
Entry of Appearance on behalf of eighteen people in the appeal filed by Tall Timbers (June 24, 2014).

<sup>5</sup> CBJ 01.50.020(b) (imposing the doctrine of finality); CBJ 49.20.320 (describing that the Board of Adjustments makes the final decision on use not listed applications).

1 which is the predicate for determining standing. Here, Tall Timbers jumped the gun by appealing  
2 an intermediary decision that is not ripe for review because Haven House cannot operate as  
3 intended without a permit.

4  
5 The Commission can dismiss Tall Timbers' appeal because the use not listed has not  
6 occurred and because the Decision #2 is not a final decision. Unlike a permit denial or a permit  
7 approval, Decision #2 is not a final decision subject to appeal by Tall Timbers because it is merely  
8 the Director's recommendation that Haven House should submit an application for the use not  
9 listed process. Because the Director concluded that the intended use of Haven House was a use not  
10 listed, the Director did not have authority to make the final use not listed decision or issue a  
11 permit.<sup>6</sup> Further, the use not listed process provides the appropriate public forum for public  
12 comment and provides a final appealable decision. If the Board of Adjustment, and the  
13 Commission if the Board of Adjustment concludes the intended use is requires a conditional use  
14 permit, authorizes Haven House to operate as intended, then aggrieved parties would be given the  
15 opportunity to appeal that final decision.<sup>7</sup> Moreover, the Board of Adjustment/Commission could  
16 determine in the use not listed process that the intended use of the Malissa Drive property is not  
17 allowed, which would defeat the need for Tall Timbers' appeal. Thus, Tall Timbers jumped the  
18 gun by appealing a final decision can be issued.

19  
20  
21 In addition to Title 49, City and Borough of Juneau's ("CBJ") appellate procedures also  
22 preclude Tall Timbers from filing an appeal because Decision #2 was not a final decision. In the

23  
24 <sup>6</sup> CBJ 49.15.310(d)(1)(B) (stating that the Director cannot issue a permit beyond the Director's authority); CBJ  
25 49.20.320 (stating that only the Board of Adjustments has authority to hear and decide use not listed applications);  
Table of Permissive Uses CBJ 49.25.300 at 1.610 (describing that a rooming and boarding house is a conditional use  
permit); CBJ 49.15.330 (describing that a conditional use permit can only be approved by the Commission).

<sup>7</sup> Tall Timbers mischaracterizes the effect of the procedural history and purpose of this briefing. Tall Timbers  
Opening Brief at 3 of 9. The issue is not mootness but ripeness and standing. By requiring briefing on whether Tall  
Timbers has a right to appeal, the Commission has not waived ripeness and standing.