## **MEMORANDUM**

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

DATE:

August 27, 2014

TO:

**Board of Adjustment** 

FROM:

Chrissy McNally, Planner

**Community Development Department** 

FILE NO:

VAR2014 0015

PROPOSAL:

Variance request to reduce the front yard setback from 25 feet to

5 feet for the construction of a single family residence in the D3 zoning

Chuffdally

district.

#### **GENERAL INFORMATION**

Applicant:

Raymond Hurley

Property Owner:

Raymond Hurley

Property Address:

14195 Otter Way

Legal Description:

USS 3050 LT 2

Parcel Code Number:

4-B31-0-103-002-0

Site Size:

12,397 square feet

Comprehensive Plan Future

Land Use Designation:

Rural Low Density Residential

Zoning:

D-3(T)D-5

**Utilities:** 

Public water & private sewer

Access:Otter Way

Existing Land Use:

Vacant

Surrounding Land Use:

North - D-3(T)D-5/Single family dwelling

South - Indian Cove

East - D-3(T)D-5/Single family dwelling

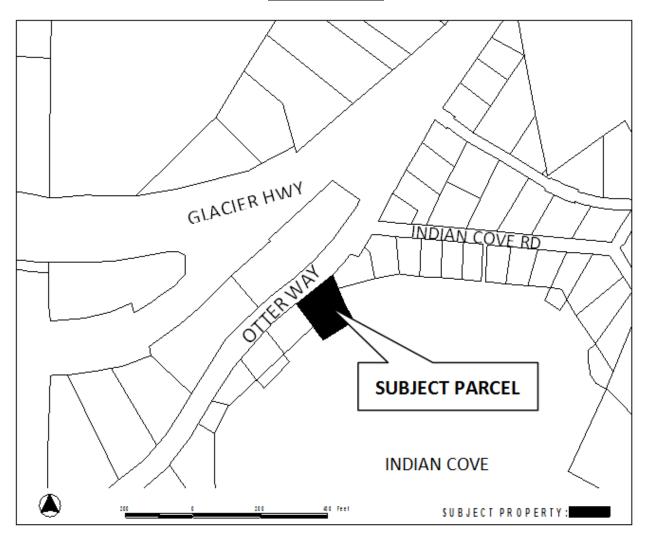
West - D-3(T)D-5/vacant



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#### **VICINITY MAP**



#### **ATTACHMENTS**

Attachment A: Variance application and narrative

Attachment B: Proposed site plan Attachment C: Proposed house design Attachment D: Neighboring lot As-builts Attachment E: Parking on Otter Way ROW

Attachment F: Public notice

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#### PROJECT DESCRIPTION

The applicant proposes to build a two story single family home with attached garage on a vacant lot located on Otter Way along Indian Cove (see Vicinity Map). The applicant requests a reduction to the front yard setback of 25 feet to 5 feet. The reduction will allow for a level driveway to extend from Otter Way to the proposed garage (see Attachment C).

#### **BACKGROUND**

The vacant subject lot is 12,397 square feet in size, with an average depth of 112 feet and a width of 113 feet. The owner accreted 6,299 square feet of tideland in 1986. The lot is bordered to the north and east by single family dwellings and the lot to the west is vacant. The lot is accessed by the State owned Right-of-Way Otter Way. The rear tidal lot line lies along Indian Cove (see Vicinity Map). This area is in a VE, Velocity flood zone with a base flood elevation of 25 feet.

The subject lot is zoned D-3(T)D-5. This zoning designation is restricted to the dimensional standards and permissible uses of the D-3 zoning district, but schedule for transfer to D-5 once public sewer is installed. The minimum lot size in the D-3 zoning district is 12,000 square feet. The minimum lot width and depth is 100 feet. Therefore, the subject lot meets each of these dimensional standards.

#### **ANALYSIS**

#### **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.

A granting of the Variance would give substantial relief to the property owner in that they will be able to construct a driveway that is level with the garage (see Attachment C). The applicants are planning this home for retirement and would like to reduce the amount of slope or stairs necessary to access the house. Further, the subject lot lies within a velocity flood zone with a base flood elevation of 25 feet. Constructing the home closer to the front lot line would reduce proximity to the flood

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zone which reduces the risk of flooding.

A granting of the Variance would also be more consistent with justice to other property owners because the majority of homes along Otter Way have reduced setbacks (see Attachment D). In fact many of the homes that sit close to the Otter Way Right-of Way do not have driveways. Residents park along the street (see Attachment D). The proposed design by the applicant reduces the setback in order to provide for safe off street parking. Maintaining a ROW clear of parked vehicles is consistent with justice to other property owners.

Further, the Otter Way Right-of-Way extends 22 feet from the paved travel way to the property line. There are no plans to develop this portion ROW. Therefore, there is still the perception of a setback from the traveled way to allow for proper sight distance for traffic and pedestrians.

#### Yes. This criterion 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.

In general, the intent of the CBJ Land Use Code is to ensure that growth and development is in accord with the values of its residents, to identify and secure beneficial impacts of growth while minimizing the negative impacts, ensure that growth is of the appropriate type, design and location, to provide open space for light and air, and to recognize the economic value of land and encourage its proper and beneficial use.

Title 49, The Land Use Code and the 2013 Comprehensive Plan both support mitigating measures for development within flood zones. A reduction to the front yard setback will reduce proximity to the flood zone. Ensuring the new dwelling unit is well out of the flood zone and providing safe off street parking secures the benefits to the property and neighborhood and reduces the risks associated with requiring the structure to meet the 25 foot setback.

The Otter Way ROW extends 22 feet from the paved traveled way to the property line and there are no plans to develop this portion of ROW. Therefore, there is still the perception of a setback from the traveled way to allow for proper sight distance for traffic and pedestrians. This is in accord with the provision for open space allowing light and air.

The intent of Title 49 is further observed in that the addition of another dwelling unit to the City's housing inventory recognizes the economic value of the land. Public safety and welfare will be preserved in that the dwelling unit will have reduced flood concerns and a safe level parking area which will discourage on-street parking.

#### Yes. This criterion is met.

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

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The granting of the Variance would provide for safe off street parking. This should ensure there is no additional on street parking. Another design would require a driveway that slopes down to the garage. Icy or snowy conditions in winter may make the driveway unsafe for travel. In that case, the residents may choose to park on the street to avoid an icy or snowy slope. On street parking makes snow removal more challenging, impedes sight distance and would impact adequate space for two-way traffic.

#### Yes. This criterion is met.

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

Single family dwellings are allowed in the D-3 zoning district.

Yes. This criterion is met.

- 5. That compliance with the existing standards would:
  - (A) Unreasonably prevent the owner from using the property for a permissible principal use;

Without approval of the Variance request, the owner would be able to construct a single family home. The design of the driveway would have to be amended and may not be as convenient for the owner. However, the lot would still be developable.

#### NO. This criterion 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 previously mentioned, many houses along Otter Way lie close to the paved traveled way and do not have off street parking. This proposal will meet the parking requirements of Title 49. There are 22 feet of undeveloped ROW between the paved traveled way and the subject property line.

Requiring the applicant to construct the residence to meet the required 25 foot setback would require a redesign of the proposed house or fill material to raise the structure out of the floodway.

#### YES. This criterion is met.

(C) Be unnecessarily burdensome because unique physical features of the property

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#### render compliance with the standards unreasonably expensive;

The applicant would have to raise the lot using either fill or redesign the house to stay out of the flood zone. However, either option is feasible and not unreasonably expensive.

#### NO. This criterion is not 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.

There are no preexisting non-conforming conditions on the vacant subject parcel. The lot is larger than the minimum lot size for the zoning district. The subject lot meets both the minimum lot width and depth.

#### NO. This criterion is not met.

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

A reduction to the front yard setback would result in more benefits than detriments in that safe off street parking would be provided by the proposed design. Less on street parking will benefit residents, pedestrians and vehicles passing along Otter Way.

#### YES. This criterion is met.

#### **FINDINGS**

1. Is the application for the requested Variance complete?

**Yes.** Staff finds 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:

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

Yes. The proposed development complies with Juneau Coastal Management Program.

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

**Yes.** The grounds for a Variance are met for a reduction in the side and rear yard setback. All required criteria have been met.

#### **RECOMMENDATION**

Staff recommends that the Board of Adjustment adopt the Director's analysis and findings and **APPROVE** the requested Variance, VAR2014 0015. The Variance permit would allow for the reduction to the front yard setback from 25 feet to 5 feet for the development of a single family residence in the D-3 zoning district.

### **VARIANCE APPLICATION**

Project Number Pro	oject Name (15	characters)		Case Number		Date Received
TYPE OF VARIANCE	REQUEST	TED:		Mark Sand		Valades
Variance to th Standard	e Sign	(VSG)	U	Variance to Dimens Standards	ional	(VDS)
Variance to Ha	bitat	(VHB)		Variance to Parking Requirements		(VPK)
✓ Variance to Se Requiremen		(VSB)				
DESCRIPTION OF A Request approval to r					ot 2 on O	tter Way.
Previous Variance A	pplication	s? YES	√No	Date of Filing	ı	
Was the Variance Granted	YES	□ NO				
UTILITIES AVAILAB	LE: v	VATER: V Public	On Site	SEWER:	Public	✓ On Site
WHY WOULD A VAR OWNER? Variance would be ne parking in the ROW.						
WHAT HARDSHIP W More vehicle parking service.	OULD RES	SULT IF THE VA	RIANCE V accessibili	/ERE NOT GRA ty by road maint	NTED? enance a	nd emergency
		,				
For more information re- permitting process and the required for a complete please see the reverse side	ne submittals application,	VARIANCE FEES  Application Fees  Adjustment	Fees s 400	Check No.	Receipt	Date
If you need any assistar this form, please contac Center at 586-0770.		Total Fee	400	2144	CND 552	4 07/24/14

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

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#### **DEVELOPMENT PERMIT APPLICATION**

	n Name)					
	ect Description uce front yard setback from 25 feet to 5 feet.					
PRO	DPERTY LOCATION					
Stre	et Address 95 Otter Waay		City/Zip	ty/Zip uneau, AK 99801		
	il Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, IS 3050 LT2	Juneau	AK 9980	11		
Ass	essor's Parcel Number(s)	111				
4E	33101030020					
	IDOWNER/ LESSEE erty Owner's Name	-	Contact Per	'An'	Work Phone:	
Ra	ymond L Hurley	same	12111	907 321 2356		
Box	ing Address 210784, Auke Bay, AK 99821		907 789 03		Fax Number:	
E-ma	ill Address ley@ptialaska.net		Other Contac	Other Contact Phone Number(s):		
		anning Perr	mits, not needed on Buil	ding/ Engine	andra Dormitettt	
x	Landowner/Lessee Signature  Landowner/Lessee Signature			Dan		
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#### Variance Approval Criteria

A variance may be granted after the prescribed hearing and after the Board of Adjustment has determined the following criteria are met. Include your project narrative a detailed description about how your proposal meets each of the criteria listed below:

- (1) The relaxation applied for or a lesser relaxation specified by the board of adjustment would give substantial relief to the owner of the properly involved and be more consistent with justice to other property owners;
  - Approval of the front yard set back from 25 ft to 5 ft, would provide necessary relief for the following:
- Allow construction of a personal resident single family three bedroom two story dwelling with dimensions of 70 ft x 58 ft.
- B) Provide for back in parking to the garage from the public street (Otter Way). This also will keep Otter way ROW clear of parked vehicles that is the common practice today. Attached to this report are three photos of Otter Way at 5:30 pm on July 21, 2014 and four photos taken on July 8, 2014 at 4:49 pm demonstrating vehicle and trailer parking in the ROW.
- C) Provide for house design that includes the access shaft for an elevator to be installed at a future date.
- D) Improves the site distance between Lots 1, 2, 3, 4, & 5.
- E) Attached are "As Built" drawings, when available, for Lots 1, 3, 4, 5, 6, & 7. In every lot, there exists an approved front yard set back variance of various dimensions or the dwelling was grandfathered in when Otter Way was platted.
- F) The road drainage has been engineered and will continue to function without any modifications required by the State of Alaska or the CBJ Public Works. Snow removal will remain as presently conducted.
- G) If the decision were ever made to widen Otter Way the improvements would have to be made on the inland or uphill side of the road.
- (2) Relief can be granted in such a fashion that the intent of this title will be observed and the public safety and welfare preserved;
  - Granting this requested relief will enhance public safety. It will allow for back in parking into the garage and keep vehicles off the ROW. Currently, the neighboring lots do park on the right of way which impedes snow removal and emergency services.
- (3) The authorization of the variance will not injure nearby properly;
  Approving this variance will not injure or impact in any manner the neighboring property.
- (4) The variance does not authorize uses not allowed in the district involved;

Approval of this variance request does not provide for any unauthorized use of the property.

INTAKE REVIEW

Gen Eng.
POC
SS
JUL 2 4 2014

PERMIT CENTER/CDD

Tech.

- (5) Compliance with the existing standards would:
  - (A) Unreasonably prevent the owner from using the properly for a permissible principal use;

Owner would be forced to park vehicles in the ROW and not be able to back onto parking pad.

(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;

Granting the variance would improve the efficient use of the land as well as the features and blending in with other neighborhood dwellings

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

The development plans would have to be extensively reworked and impact the features and amenities of the home. As previous mentioned, being able to provide for vehicle parking off the ROW is a benefit to everyone – especially for winter road maintenance and emergency services.

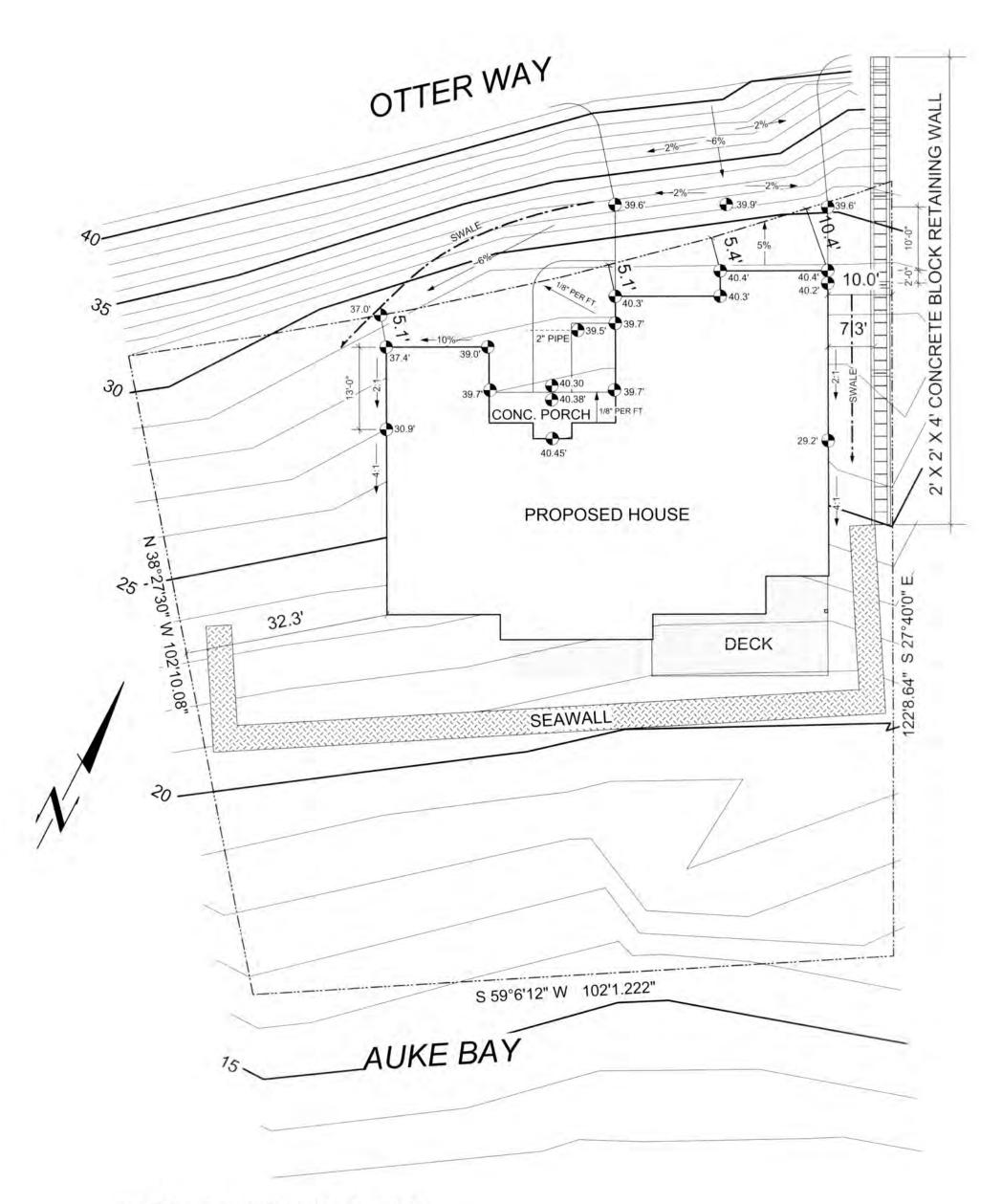
(D) Because of preexisting nonconforming conditions on the subject parcel, the grant of the variance would not result in a net decrease in overall compliance with the land use code, title or the building code, title 19, or both; and

There are no preexisting nonconforming conditions on Lot 2. The property has never been developed.

(6) A grant of the variance would result in more benefits than detriments to the neighborhood.

Granting the variance would result in more benefits than detriments to the property owners on Otter Way.





SITE GRADING PLAN LOT 2 U.S.S. 3050 SCALE: 1" = 10.0'

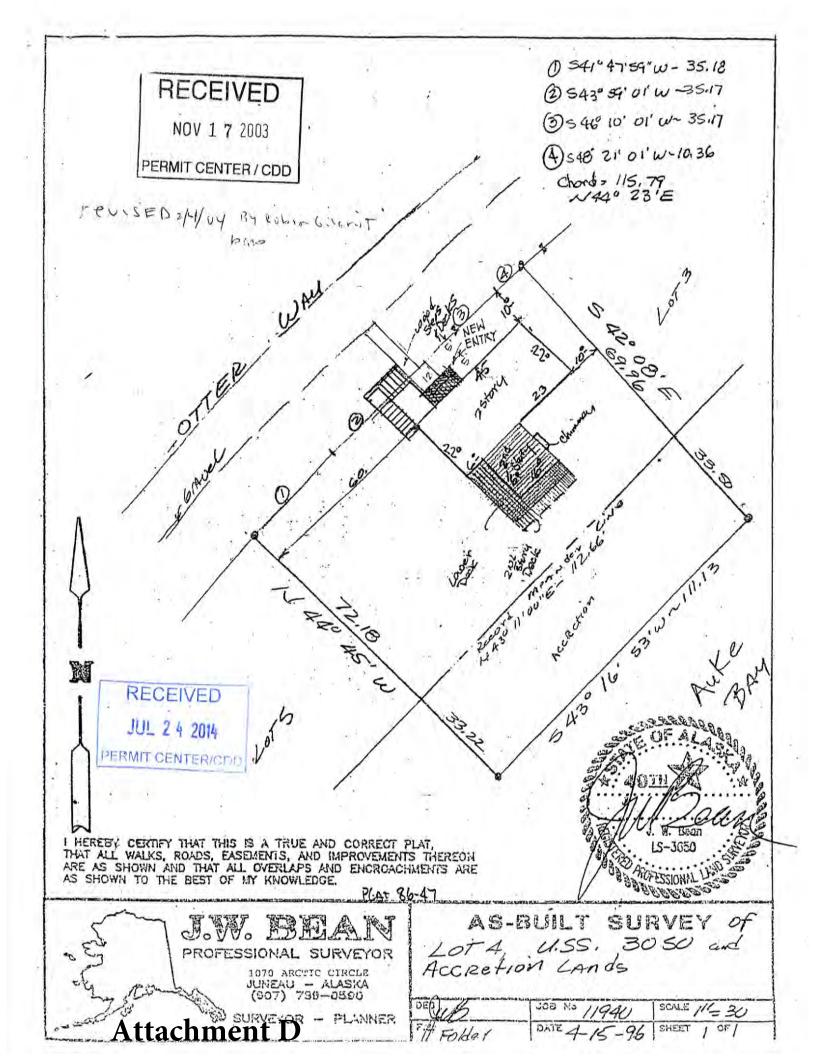
**Attachment B** 

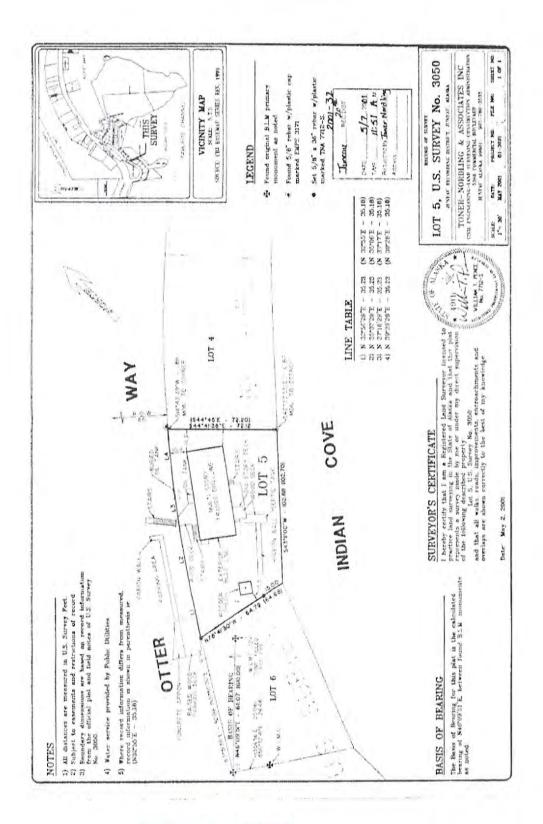




# HURLEY RESIDENCE Attachment C

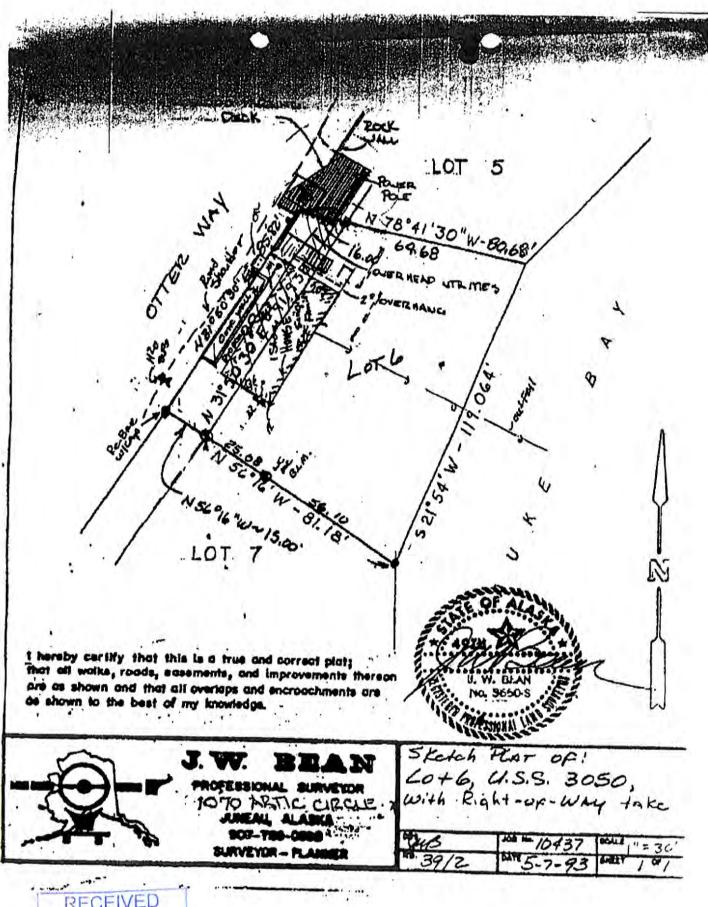








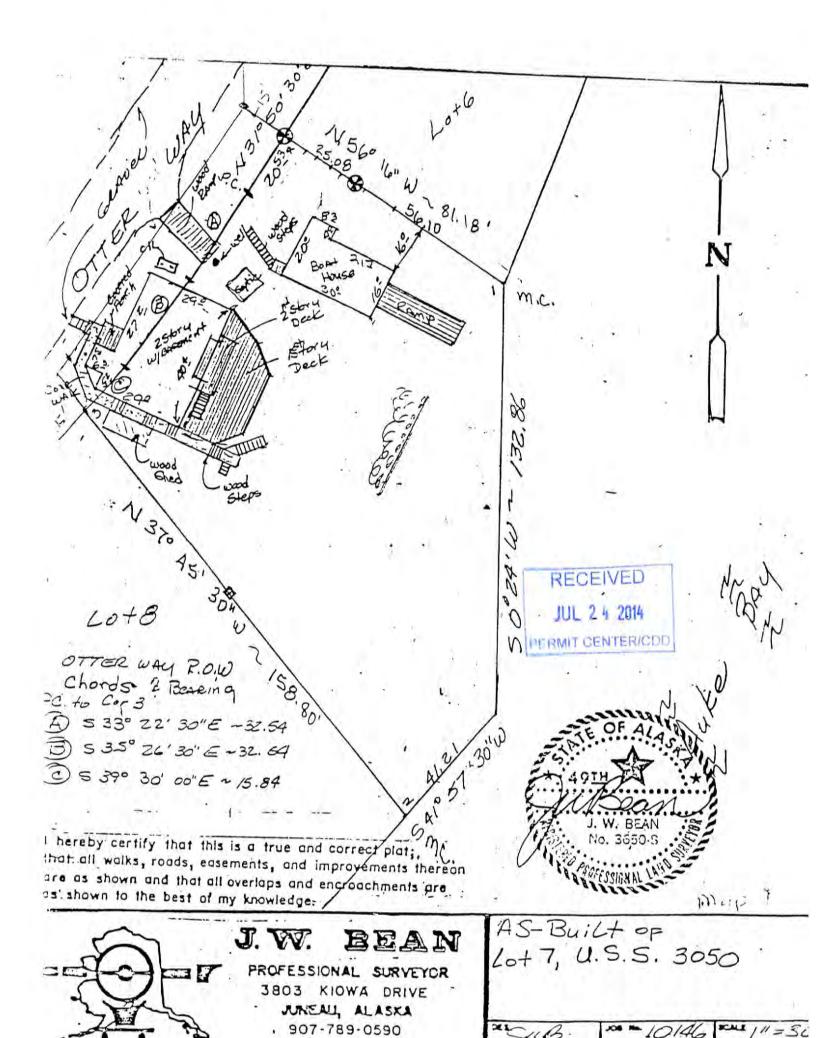
**Attachment D** 



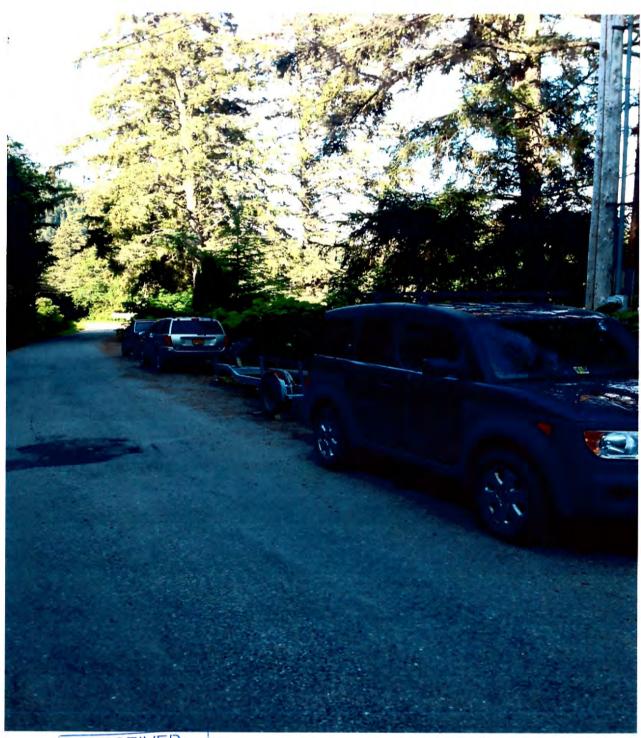
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# VEHICLES PARKED ON EDGE OF OTTER WAY RIGHT OF WAY July 21, 2014 at 5:30 PM & July 8, 2014 at 4:45 PM

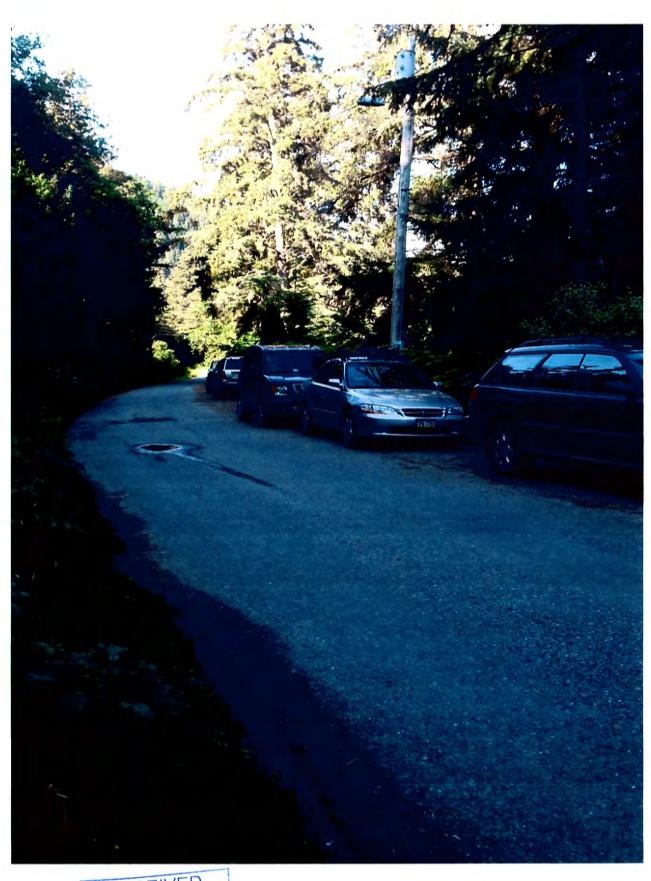


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# **Attachment E**

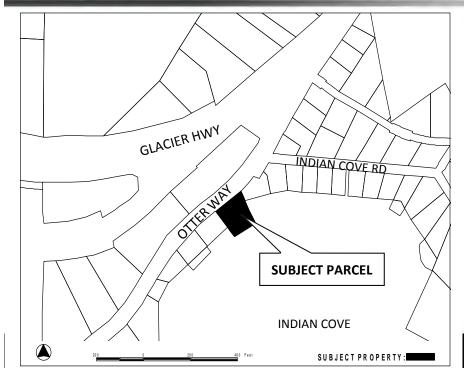


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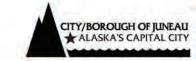
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# NOTICE OF PUBLIC HEARING



City & Borough of Juneau Community Development Department 155 S Seward Street • Juneau, Alaska 99801

SHIP TO:



**PROPOSAL:** Variance request to reduce the front yard setback from 20 feet to 5 feet for the construction of a single family residence in the D3 zoning district.

File No:	VAR2014 0015	Applicant:	Raymond Hurley
То:	Adjacent Property Owners	Property PCN:	4-B31-0-103-002-0
Hearing Date:	September 9, 2014	Owner:	Raymond Hurley
Hearing Time:	7:00 PM	Size:	12,397 Square Feet
Place:	Assembly Chambers	Zoned:	D3
	Municipal Building	Site Address:	14195 Otter Way
	155 South Seward Street	Accessed Via:	Otter Way
	Juneau, Alaska 99801		

#### 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 14 days prior to 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 Chrissy McNally at christine\_mcnally @ci.juneau.ak.us or at 586-0761.

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

Attachment F