



Planning Commission

(907) 586-0715

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www.juneau.org/community-development/planning-commission

155 S. Seward Street • Juneau, AK 99801

PLANNING COMMISSION NOTICE OF RECOMMENDATION

Date: October 31, 2022
File No.: PAD2022 0003

City and Borough of Juneau
CBJ Assembly Members
155 S Seward Street
Juneau, AK 99801

Proposal: Planning Commission Recommendation to the City and Borough Assembly regarding a land disposal of 6,098 square feet to James E. Parise.

Property Address: NHN (Glacier Highway / Auke Bay area)

Legal Description
or ROW name: USS 2909 FS ROW

Parcel Code No.: 4B2801020070

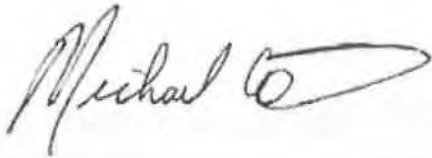
Hearing Date: October 25, 2022

The Planning Commission, at a regular public meeting, adopted the analysis and findings listed in the attached memorandum dated October 17, 2022, and recommended that the Assembly DENY the 6,098 square foot land disposal.

Attachments: October 17, 2022 memorandum from Jennifer Shields, Community Development, to the CBJ Planning Commission regarding PAD2022 0003.

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).

City and Borough of Juneau
CBJ Assembly
File No.: PAD2022 0003
October 31, 2022
Page 2 of 2



Michael LeVine, Chair
Planning Commission

November 6, 2022

Date



Filed With Municipal Clerk

11/7/22

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.



PLANNING COMMISSION STAFF REPORT
PROPERTY DISPOSAL PAD2022 0003
HEARING DATE: OCTOBER 25, 2022

(907) 586-0715

CDD_Admin@juneau.org

www.juneau.org/community-development

155 S. Seward Street • Juneau, AK 99801

DATE: October 17, 2022
TO: Michael LeVine, Chair, Planning Commission
BY: Jennifer Shields, Planner II *Jennifer L. Shields*
THROUGH: Jill Maclean, AICP, Director

PROPOSAL: Applicant requests a Property Disposal Review for the purchase of approximately 6,098 square feet of City & Borough of Juneau-owned land.

STAFF RECOMMENDATION: Denial

KEY CONSIDERATIONS FOR REVIEW:

- The Land Management Plan designates this City property as Retain.
- Land disposal is not in general conformity with the 2013 Comprehensive Plan, the 2016 CBJ Land Management Plan, the 2019-2029 Parks & Recreation Master Plan, or the 2015 Auke Bay Master Plan.
- The Parks and Recreation Advisory Committee (PRAC) does not support the proposed land disposal.
- The Assembly passed a motion to enter into negotiations with the original proposer.

GENERAL INFORMATION		
	Land Disposal Party	Purchasing Party
Property Owners	CBJ	James E. Parise
Applicant		James E. Parise
Property Address	N/A	12005 Glacier Highway
Legal Description	USS 2909 FS ROW	USS 2909 Lot 5A
Parcel Number	4B2801020070	4B2801020060
Zoning	Waterfront Commercial (WC)	
Land Use Designation	Marine Mixed Use (M/MU)	
Lot Size	14,948 square feet	6,098 square feet
Water/Sewer	N/A	Public water & sewer
Access	Glacier Highway	
Existing Land Use	Undeveloped	Residential
Assoc. Applications	N/A	N/A

ALTERNATIVE ACTIONS:

1. **Amend:** amend the recommendation to include conditions and recommend approval to the Assembly.
2. **Approve:** recommend approval of the proposed project. Planning Commission must make its own findings.
3. **Continue:** continue the hearing to a later date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.

ASSEMBLY ACTION REQUIRED:

A Notice of Recommendation will be forwarded to the Assembly for further action.

STANDARD OF REVIEW:

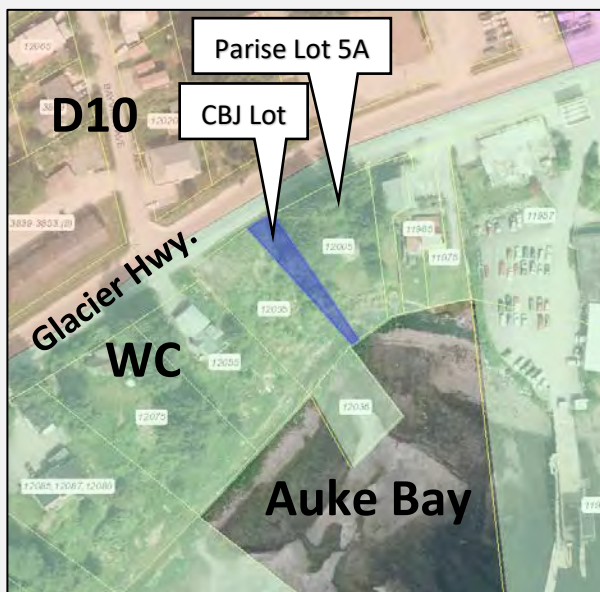
- Quasi-legislative decision
- Requires five (5) affirmative votes for approval
- Code Provisions:
 - CBJ 49.10.170(c) (Land Disposals)
 - CBJ 49.80 (Definitions)
 - CBJ 53.09.200(b) (Land Disposals)
 - CBJ 53.09.260 (Negotiated sales, leases, and exchanges)

The Commission shall hear and decide the case per CBJ 53.09.260 - Negotiated sales, leases, and exchanges:

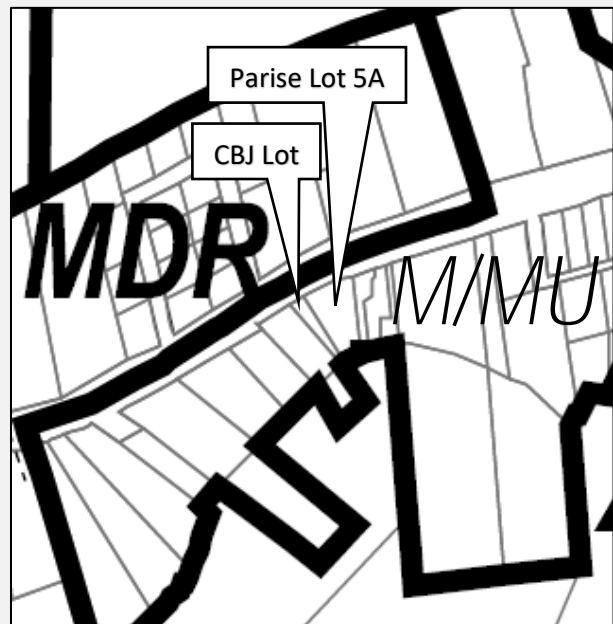
- (a) *Application, initial review, assembly authority to negotiate. Upon application, approval by the manager, and payment of a \$500.00 fee, a person or business entity may submit a written proposal to lease, purchase, exchange, or otherwise acquire City and Borough land for a specified purpose. The proposal shall be reviewed by the Assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals. Upon direction of the Assembly by motion, the manager may commence negotiations for the lease, sale, exchange, or other disposal of City and Borough land.*
- (b) *Review and approval process. Upon satisfactory progress in the negotiation or competition undertaken pursuant to subsection (a) of this section, after review by the Planning Commission for disposals other than leases, after review by the Assembly Lands Committee, and authorization by the Assembly By Ordinance, the manager may conclude arrangements for the lease, sale, exchange, or other disposal of City and Borough land. The final terms of a disposal pursuant to this section are subject to approval by the Assembly unless the minimum essential terms and the authority of the manager to execute the disposal are set forth in the ordinance enacted pursuant to this subsection. The disposal may not be executed until the effective date of the ordinance.*

CBJ 49.10.170(c) Planning Commission Duties: *The commission shall review and make recommendations to the Assembly on land acquisitions and disposals as prescribed by Title 53, or Capital Improvement Project by any City and Borough agency. The report and recommendation of the Commission shall be based upon the provisions of this title, the comprehensive plan, and the Capital Improvements Program.*

CURRENT ZONING MAP



LAND USE DESIGNATION MAP



SURROUNDING LAND USES AND ZONING

Direction	Zoning District	Land Use
North	D10 (Multi-Family Residential)	Residential & Auke Bay Bible Church
South	Waterbody	Auke Bay
East	WC	Residential (under construction)
West	WC	Vacant

BACKGROUND INFORMATION

Project Description – The applicant is seeking to purchase a 6,098 square foot strip of undeveloped, CBJ-owned land with beach access to Auke Bay that is currently managed by the Parks and Recreation Department. The applicant owns the adjacent residential property to the East (Lot 5A) which is currently under reconstruction with a major remodel of the single-family dwelling. The applicant would use the CBJ property to construct a driveway as an alternative access off of Glacier Highway, an Alaska Department of Transportation and Public Facilities (DOT&PF) Right-of-Way (ROW) (Attachment A).

If the disposal is ultimately approved by the CBJ Assembly, the applicant would be required to submit a Minor Subdivision application per CBJ 49.15.401(a)(4): *“Lot line adjustments. The Minor Subdivision process shall be used to review adjustments to any number of lot boundary lines if the subdivision does not result in an increase in the number of lots.”* Minor Subdivisions are approved by the Director.

The current application is solely to obtain a Land Disposal recommendation from the Planning Commission.



Background – CBJ Lot

The table below summarizes relevant history for the CBJ property requested for disposal.

Year	Item	Summary
1951	Plat	U.S. Survey 2909 embracing a Forest Service ROW of 0.14 acres (Attachment B).
1957-1964	Quit Claim Deed	Lot 4 to the west Quit Claim Deed references two Special Use permits and a ROW Permit for access roads (Attachment C).
1965	Easement	Private, non-exclusive easement for public access issued to Fred S. Honsinger through ADL 24304, presumably for a driveway to the adjacent property to the west (Attachment D).
1971	Plat	Plat #652 identifies a parking area, driveway, boathouse, and marine railway on the lot (Attachment E).
1981	Easement	DOT&PF easement encompassing the entire lot for drainage facilities with ADL 100939/F-095-2(6) (Attachment F). The easement was excluded with the 1982 Patent to CBJ.
1982	Patent	State of Alaska Patent to CBJ; subject to ADL 2430 and, a 50-foot wide easement for access from Glacier Highway to the mean high water of Auke Bay. Excluding ADL 100939/F-095-2(6) (Attachment G).
1985	Ordinance	Serial No. 85-76am preserving certain lands for the Juneau Open Space and Park System classifies the lot for public use – beach access (Attachment H).
1996	Ordinance	Serial No. 96-26 re-establishing certain lands for the Juneau Open Space and Park System classifies the lot for public use – beach access (Attachment I).
1998	Parks and Recreation Inventory	Mentions underground storm drains and a use trail; also mentions CBJ Parks and Recreation Advisory Committee (PRAC) meeting held on March 17, 1998 that voted to retain the parcel (Attachment J).
2021	PRAC Meeting	On June 1, 2021 the CBJ PRAC met regarding an <u>easement</u> request on the lot; no action was taken, and they requested more information from the applicant (Attachment K).
2021	Public Comments	Parks and Recreation Department sent out postcard mailers to the neighborhood regarding the easement request (Attachment L).
2021	Memorandum of Agreement (MOA)	On November 14, 2021, an MOA was signed between CBJ and Parise for temporary construction access; the MOA expired on June 1, 2022 (Attachment M).
2022	PRAC Meeting	On April 5, 2022, the CBJ PRAC met regarding a <u>purchase</u> request and voted 3-2 against disposal of the property (Attachment N). (<i>Minutes of the meeting not yet available.</i>)
2022	Lands Meeting	On April 11, 2022, the CBJ Lands, Housing, and Economic Development LHED Committee met regarding the <u>purchase</u> request; after a lengthy discussion, the Committee tabled the request (Attachment O).
2022	Assembly Meeting	On August 1, 2022, the Assembly met to consider the matter and passed a motion to enter into negotiations with the applicant per CBJ 53.09.260 (Attachment P). (<i>Minutes of the meeting not yet available.</i>)

The CBJ lot was originally platted in 1951 with U.S. Survey 2909 as a Forest Service ROW (Attachment B). It appears that from 1957 to 1964, the owner of the property to the west (now vacant Lot 4) was granted two Special Use Permits and Right-of-Way Permit #24304 for access roads through the Forest Service ROW (Attachment C). In 1965, Permit #24304 was transferred to the new owner of Lot 4, Mr. Fred Honsinger (Attachment D).

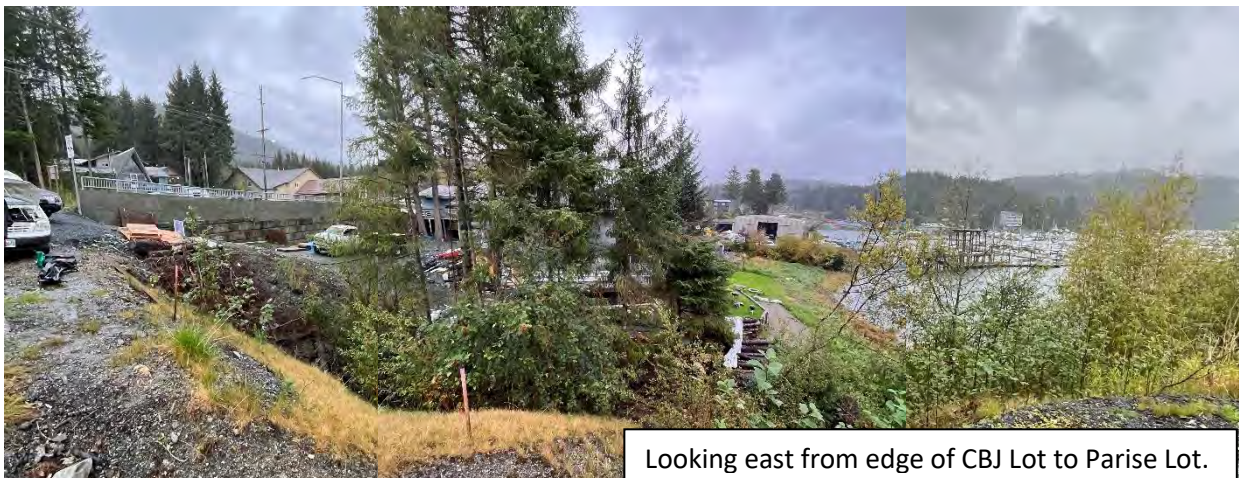
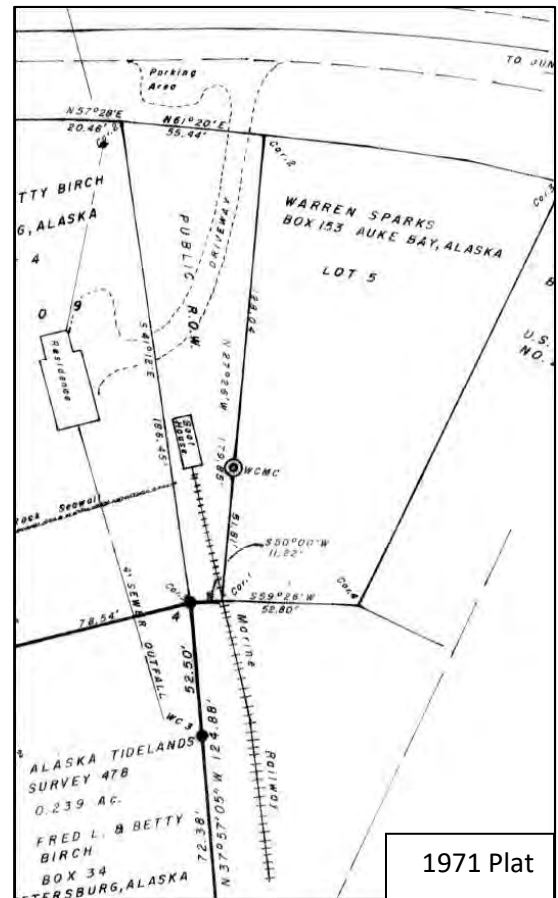
In 1971, Mr. Honsinger acquired tidelands directly south of Lot 4; plat #652 for this acquisition indicates that the Forest Service ROW had a parking area, driveway, boathouse, and marine railway (i.e. inclined tracks extending into the water so that a boat could be hauled up on a cradle or platform for cleaning or repairs) (Attachment E). In 1981, an easement covering the majority of the Forest Service ROW was granted to DOT&PF for drainage facilities (Attachment F).

In 1982, the Forest Service ROW was patented to CBJ by the State of Alaska as a land parcel rather than as a ROW (Attachment G). The patent for the land was subject to the 1965 Honsinger access easement, and a 50-foot wide public access easement from the Glacier Highway ROW to the mean high water line of Auke Bay. These easements are in place today.

In 1985, the CBJ lot was included in Ordinance 85-76am, which preserved certain municipal lands for the Juneau Open Space and Park System, and classified the lot for public use – beach access (Attachment H). In 1996, this system was reestablished with Ordinance 96-26 and categorized the lot as a “Natural Area Park”, meaning a park designed to serve the entire community by providing open space, access to water, and opportunities for passive and dispersed recreation (Attachment I).

Existing Conditions – CBJ Lot

The CBJ lot is 55.44 feet wide along the Glacier Highway ROW and narrows down to 11.22 feet wide at the Auke Bay shoreline. Approximately half of the frontage is inaccessible due to a five-foot high retaining wall that was



constructed by the DOT&PF in 2016. The lot has a steep slope down from the road to a small level bench area in the middle of the lot, and then a gentler slope down to the beach.

According to an older Parks and Recreation inventory, at one time there was a use trail down the side of the lot which veered over onto the vacant lot to the west (Lot 4) towards the beach. In addition, the inventory mentions “an underground storm drain system that includes underground culverts and a station about midway through the lot” (Attachment J). At lower tides, the beach can be walked to the west, and there are views of Statter Harbor and Auke Bay.



Background – Parise Lot 5A

The table below summarizes relevant history for the applicant’s property.

Year	Item	Summary
1950	Assessor	According to Assessor’s records, the structure was built in 1950, prior to the establishment of zoning in the area (Attachment Q).
1951	Plat	The original Lot 5 of U.S. Survey 2909 was platted prior to the establishment of zoning in the area, and shows a log house, shed, garden, and detached garage partially encroaching within the Glacier Highway ROW (Attachment B).
1965	Zoning Permit	Zoning Permit application approved for an office space with a parking garage and a rental apartment (Attachment R).
1992	Plat and Quit Claim Deed	Plat 92-28 and DOT&PF Commissioner’s Quit Claim Deed for project F-093-2(6) adjusting the front lot line to create Lot 5A and removed the detached garage from the Glacier Highway ROW (Attachment S).
2021	Warranty Deed	Property purchased by applicant (Attachment W).
2021	Building Permit	BLD21-328 applied for grading and a retaining wall; application is still under review pending the land disposal determination (Attachment T).
2021	Building Permit	BLD21-569 issued for a major remodel of the existing single-family dwelling (Attachment U).
2021	MOA	On November 14, 2021, an MOA was signed between CBJ and Parise for temporary construction access; the MOA expired on June 1, 2022 (Attachment M).

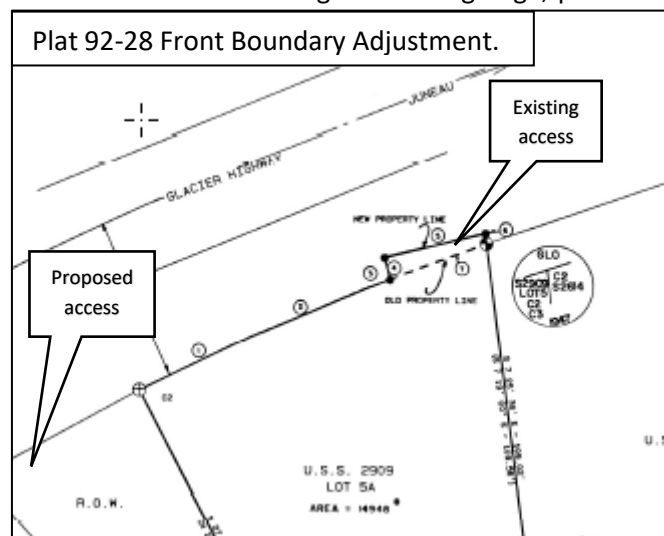
Existing Conditions – Parise Lot 5A

The applicant’s lot is approximately 125 feet wide along the Glacier Highway ROW (taking into account the boundary adjustment created in 1992) and slopes down to 53.06 feet wide at the Auke Bay shoreline. The existing single-family dwelling, currently under reconstruction with a major remodel, is sited in the middle of the lot (Attachments T and U).

In 1992, Plat 92-28 and DOT&PF Commissioner’s Quit Claim Deed for project F-093-2(6) adjusted the front lot line to create the current Lot 5A. This boundary adjustment removed the encroaching detached garage, previously built before 1952, from the Glacier Highway ROW (Attachment S).

The majority of the lot frontage has a five-foot high retaining wall that was constructed by DOT&PF in 2016 as part of a reconstruction project that included changing the roadway grade and rebuilding sidewalks (Attachment V). During the earlier design phase of the highway reconstruction, the owner of the lot at that time declined to work with DOT&PF to redesign and rebuild the existing access and garage to meet current standards.

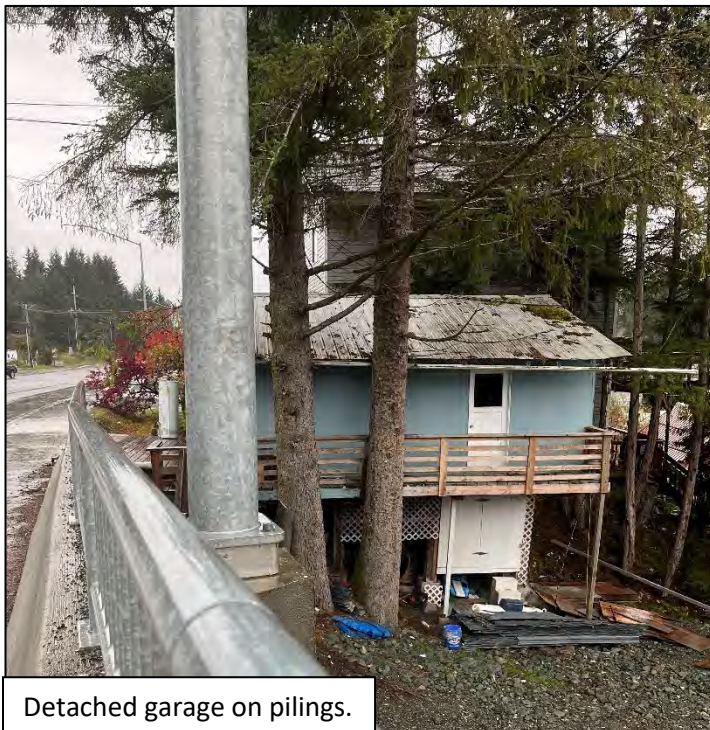
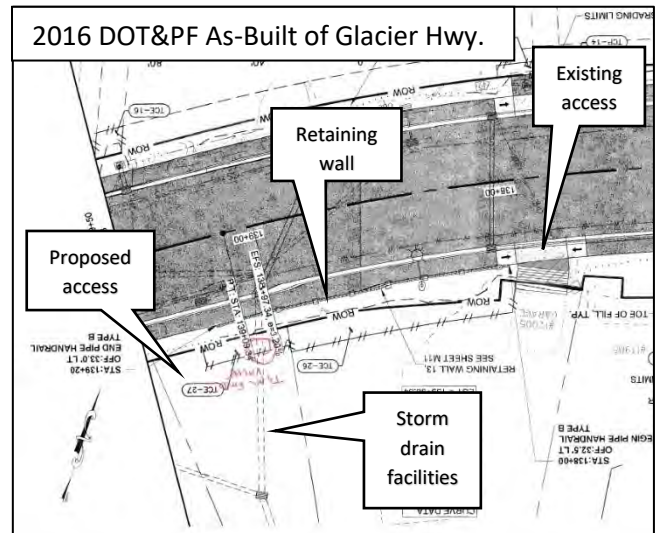
Near the end of the reconstruction project in 2016, the lot changed ownership, and the new owners were



compensated by DOT&PF. This compensation included completed design plans and substantial funding to reconstruct the existing access area on the owner's lot. However, the new owners chose not to use the funding for the purposes of reconstruction, and left the access and garage unimproved. These owners sold the property five years later in its current condition to the applicant in 2021 (Attachment W).

Currently, the only vehicular access and off-street parking available consists of a wooden parking deck and a detached garage on pilings that fronts directly onto the Glacier Highway ROW, on the east side of the lot. The wooden parking deck is 13 feet at its deepest point.

If the Land Disposal is approved, the proposed driveway would start at the ROW on the west side of the combined lot's new frontage (Attachment T). Alternatively, if the land disposal is denied, the applicant could reconfigure the existing access area on site.



Previous Discussions and Meetings – In May 2021, the City received a request from the applicant for an easement across the lot. Since that initial request, the issue of easement or disposal has been discussed at numerous public meetings, as summarized below:

- On June 1, 2021 the CBJ PRAC met regarding an easement request on the lot; no action was taken, and the Committee requested more information from the applicant and that CBJ staff bring forward a more definitive proposal, rather than accept staff's recommendation of denial (Attachment K).
- In August 2021, the Parks and Recreation Department sent out postcard mailers to the neighborhood regarding the easement request; **of 82 total respondents, 49 (60%) were not in favor of granting the easement and 33 (40%) were in favor** (Attachment L).
- Also following the June 2021 meeting, Parks, CDD, Lands, and the City Attorney's Office staff determined that an easement was problematic for following the Land Use Code, and that a disposal and lot consolidation would be more conforming with Code. Specifically, CDD did not support a permanent easement to serve as permanent access to the applicant's Lot 5A side property line since the property currently has access through the lot's frontage. Further, CBJ 49.35.250(b) related to lot and subdivision design addresses access through the frontage, and not through adjacent properties:

CBJ 49.35.250: Public and Private Improvements, Access.

(b) Publicly maintained access within a subdivision. Unless otherwise provided in this section or in CBJ 49.15.420(a)(1), all lots must satisfy the minimum frontage requirement and have direct and practical access to the Right-of-Way through the frontage. The minimum frontage requirement on a Right-of-Way is 30 feet or the minimum lot width for the zoning district or use as provided in CBJ 49.25.400. These requirements for frontage and access can be accomplished by:

- (1) Dedication of a new Right-of-Way with construction of the street to public standards. This street must connect to an existing publicly maintained street;*
- (2) Use of an existing publicly maintained street;*
- (3) Upgrading the roadway within an existing Right-of-Way to public street standards. This existing Right-of-Way must be connected to another publically maintained street; or*
- (4) A combination of the above.*

- On November 14, 2021, an MOA was signed between CBJ and Parise for temporary construction access so that the applicant could start work on improvements to his residence. The MOA expired on June 1, 2022 (Attachment M).
- On April 5, 2022, the CBJ PRAC met to discuss the matter again, this time regarding a purchase request, and voted 3-2 against disposal of the property (Attachment N). (*Minutes of the meeting not yet available.*)
- On April 11, 2022, the CBJ LHED Committee met regarding the purchase request; after a lengthy discussion and two failed motions, the Committee tabled the request (Attachment O).
- On August 1, 2022, the Assembly met to consider the matter and passed a motion to enter into direct negotiations with the applicant per CBJ 53.09.260 (referenced on page 2 of this report) (Attachment P). (*Minutes of the meeting not yet available.*)

CBJ 53.09.200(b) - Purpose and intent. The purpose and Intent of Title CBJ 53.09.200(b) is:

1. Inclusion in Land Management Plan. Except for property acquired by tax foreclosure or Reconveyance agreement, real property should not be conveyed prior to inclusion in a Land Management Plan.

The Land Management Plan designates this city property disposal as retain.

ZONING ANALYSIS

CBJ 49.05.100 - Purpose and intent. The purpose and Intent of Title 49 Land Use Code is:

(1) To achieve the goals and objectives, implement the policies of the Juneau comprehensive plan, and coastal management program;

(2) To ensure that future growth and development in the City and Borough is in accord with the values of its residents;

(3) To identify and secure, for present and future residents, the beneficial impacts of growth while minimizing the negative impacts;

(4) To ensure that future growth is of the appropriate type, design and location, and is served by a proper range of public services and facilities such as water, sewage, and electrical distribution systems, transportation, schools, parks and other public requirements, and in general to promote public health, safety and general welfare;

(5) To provide adequate open space for light and air; and

(6) To recognize the economic value of land and encourage its proper and beneficial use.

Comprehensive Plan Classification – M/MU (Marine / Mixed Use)

These lands are characterized by high density residential and non-residential land uses in areas in and around harbors and other water-dependent recreational or commercial/industrial areas. Typically, neighborhood serving and marine-related retail, marine industrial, personal service, food and beverage services, recreational services, transit, and transportation services should be allowed and encouraged, as well as medium- and high-density residential uses at densities ranging from 10 to 60 residential units per acre. Ground floor retail space facing roads with parking behind the retail and housing above would be an appropriate and efficient use of the land. Float homes, live-aboards, and house boats, if necessary services (such as sewer) are provided to berthing locations, are appropriate for these areas.

Table of Permissible Uses – The proposed purpose of this disposal is to provide more frontage to create an access and driveway for one single-family residential lot. This use is appropriate for the WC zoning district.

Table of Dimensional Standards – The proposed area for disposal encompasses 6,098 square feet of land in the WC zoning district. The detached garage does not meet setback requirements. Prior to future development, a Nonconforming Certification Review would be required.

Roadway Classification – This section of Glacier Highway is classified as an arterial by the CBJ Roadway Classification Map. The applicant may need to apply for an Access Permit to connect a new driveway to Glacier Highway, a State-owned ROW.

Hazard Areas – Using U.S. Geological Survey contour data, the overall slope of the CBJ lot is ~22%; future development would require a Hillside Development Endorsement per CBJ 49.70.200. The lower half of the lot is located within a Special Flood Hazard Area (SFHA) Zone VE; future development in this area would require a Floodplain Development Permit per CBJ 49.70.400.

COMMUNITY SERVICES

Service	Summary
Urban Service Boundary	Within
Water/Sewer	CBJ Water / CBJ Sewer
Fire Service Area	Within
Schools	No CBJ school is directly impacted by this project.
Recreation	1985 Ord. 85-76am preserving certain lands for the Juneau Open Space and Park System classifies the lot for public use – beach access (Attachment H). 1996 Ord. 96-26 re-establishing certain lands for the Juneau Open Space and Park System classifies the lot for public use – beach access / natural area (Attachment I).

ENVIRONMENTAL, CONSERVATION, HISTORIC, AND ARCHEOLOGICAL RESOURCES

The table below summarizes Conservation, Historic, and Archeological Resources which may be affected by the CBJ land disposal.

Resource	Summary
Wetlands	Yes
Anadromous	There are no anadromous streams on or within 50 feet of the land disposal area.
Impaired Waterbodies	No
Historic	Unknown
Archeological	Unknown
Comprehensive Plan View sheds	Yes

CONFORMITY WITH ADOPTED PLANS

2013 COMPREHENSIVE PLAN VISION: *The City and Borough of Juneau is a vibrant State Capital that values the diversity and quality of its natural and built environments, creates a safe and satisfying quality of life for its diverse population, provides quality education and employment for its workers, encourages resident participation in community decisions and provides an environment to foster state-wide leadership.*

2013 COMPREHENSIVE PLAN – The proposed land disposal does NOT conform to the 2013 Comprehensive Plan.			
Chapter	Page No.	Item	Summary
7	78	Natural Resources and Hazards 7.2-IA1	Designate areas for water-dependent uses on the Comprehensive Plan Land Use Maps, the CBJ GIS maps, and the Land Use Code Maps. Identify and designate on these maps publicly owned shoreline areas that are appropriate for publicly-accessible open space/natural areas or recreational use, for fish and wildlife corridors for fishing and hunting, and/or for view corridors.
7	80	Natural Resources and Hazards 7.3-IA9	The CBJ government should designate publicly-owned shoreline areas along the roaded areas of the Borough for public access recreation, stream corridor protection and/or wildlife access protection areas.
9	127	Parks, Recreation, Trails and Natural Area Resources 9.1-IA7	Identify traditional and high quality waterfront access areas , recreational anchorages and beaches, beach trail opportunities, boat launch areas, and waterfront park sites. Coordinate with the CBJ Docks and Harbors, Land & Resources, CDD, and State of Alaska to assure that public access to water is provided.
9	128	Parks, Recreation, Trails and Natural Area Resources 9.3-SOP1	Designate public areas and sites recommended in the 2007 Update of Chapter 8 of the Juneau Parks and Recreation Comprehensive Plan for permanent public access and use . Work toward acquiring privately-owned land through dedication, donation or purchase. Develop legal descriptions and revise the zoning map accordingly.
17		Community Development 17.2-SOP2	Evaluate the opportunities for joint development of CBJ-owned lands with State and private landholders.
17	226	Community Development 17.2-SOP4	Base decisions regarding disposal of CBJ-owned lands on demonstrated market demand and evidence that disposal will be in the public interest and, particularly, for projects that would provide affordable housing or that would create jobs that pay a living wage. Coordinate activities with an orderly system for extending and constructing the public facilities and services called for in the transportation/public facilities and services element of the Plan.
17	226	Community Development 17.2-SOP5	Evaluate land not scheduled for immediate disposal for possible interim uses prior to private development.
17	226	Community Development 17.2-DG1	To the greatest extent practicable, retain shoreline and riparian lands in public ownership. However, where disposal of such lands is deemed by the Assembly to be appropriate, ensure the provision of public access to the shoreline and water including provision of adequate trail head or boat launch areas, and retention of a public access easement along beaches.

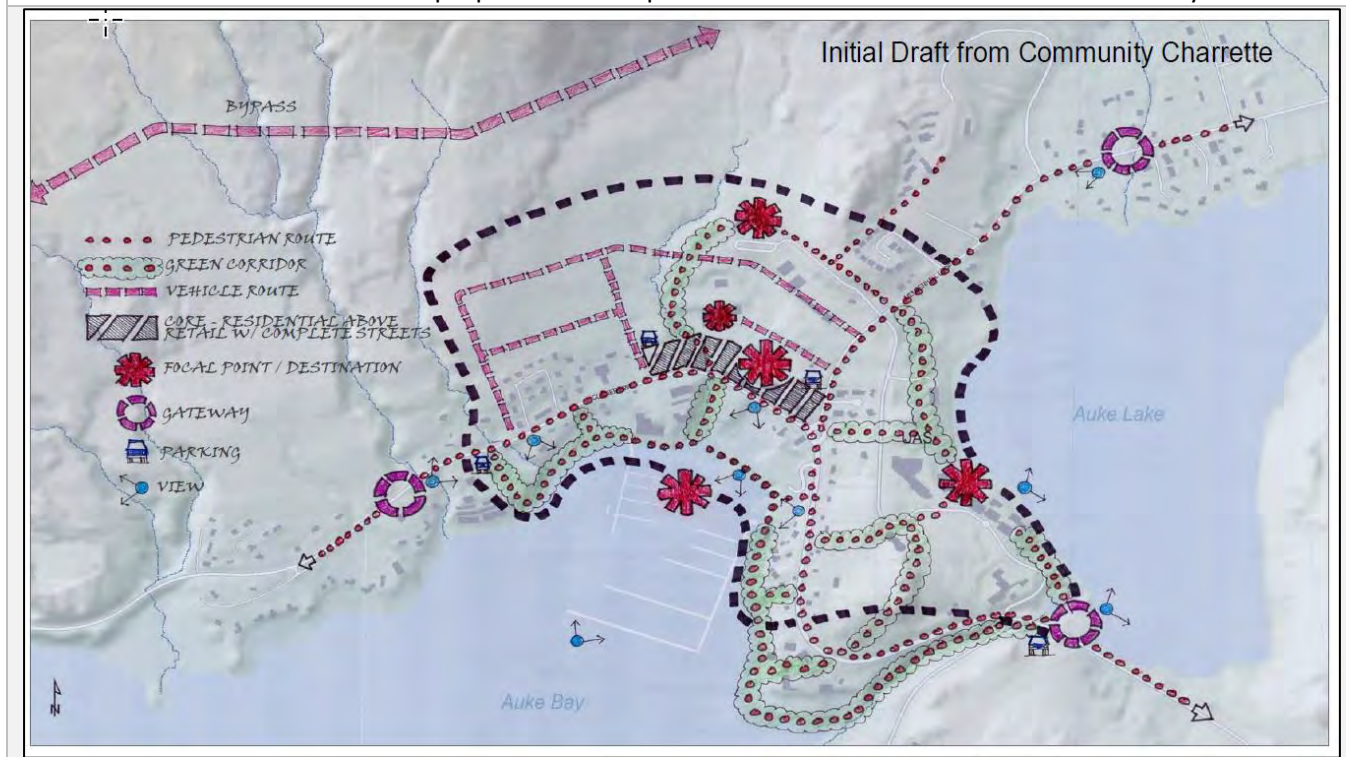
2016 LAND MANAGEMENT PLAN – The proposed land disposal does NOT conform to the 2016 Land Management Plan.			
Chapter	Page No.	Item	Summary
Goals & Objectives	7	Goal 2 Objectives	<p>Provide direction on the best use of CBJ-owned land for both development and preservation.</p> <ul style="list-style-type: none"> • Encourage multiple land uses. • Set aside land for needed transportation, schools, public housing, storage, maintenance yards, and other public facilities & services. • Identify and preserve open spaces to protect lands and shorelines which possess recreational, scenic, wildlife, and other critical habitat qualities. • Retain a significant quantity of land to provide for future land use options. • Maintain sufficient land for future CBJ land needs.
CBJ Land Holdings	50	Auke Bay LND-0302	<p>Retain.</p> <p>“Retain” means land being retained for various public purposes which include parks, harbors, airport, fire stations, schools, the hospital, maintenance shops, etc. These lands are not intended to be sold but may be eased or leased for specific purposes, such as airport related uses, consistent with an adopted plan.</p>

2019-2029 PARKS AND RECREATION MASTER PLAN – The proposed land disposal does NOT conform to the 2019-2029 Parks and Recreation Master Plan.			
Chapter	Page No.	Item	Summary
Parks	34	4.1.2 Natural Area Parks	<p>Natural Area Parks differ from Recreation Service Parks in their underlying purpose. Natural Area Parks are areas of natural quality designed to serve the entire community by providing open space, access to water, and opportunities for more passive and dispersed recreation activities. There are two types of Natural Area Parks, less programmed Semi-Primitive Areas and programmed and staffed Developed Natural Areas.</p>
Parks	44	4.2.1 Parkland Inventory, Distribution	<p>Auke Bay /Back Loop</p> <p>The Auke Bay/Back Loop area contains one mini park, which is located in a development that is not central to the neighborhood's population. There is an Elementary School in the area, but with the construction of the planned Pederson Hill development, it will be important to add more Recreation Service Parkland in the area.</p>
Trails	45	4.3 Trails Classification	<p>Trail, Pathway and Beach Accesses</p> <p>Trails and pathways are found within Recreation Service Parks, Natural Area Parks, and in other areas of the community.</p> <p>Definition: Trails and pathways are designed to provide walking, bicycling and other non-motorized recreation opportunities. They provide linkages to other areas and facilities and offer non-vehicular</p>

2019-2029 PARKS AND RECREATION MASTER PLAN – The proposed land disposal does NOT conform to the 2019-2029 Parks and Recreation Master Plan.			
			options for travel throughout the community. Natural trails provide options for travel to more remote areas or to the waterfront. Trails can be designed for single or multiple types of users. Bike routes for transportation are included in the 2009 Juneau Non-Motorized Transportation Plan.
Parks	100	7.8 Land Acquisition and Disposal	All recreation service parks, special use areas, developed natural areas, semi-primitive areas, and conservation areas are considered valuable parkland and generally are not candidates for disposal.

2015 AUKE BAY AREA PLAN – The proposed land disposal does NOT conform to the 2015 Auke Bay Area Plan.			
Chapter	Page No.	Item	Summary
1	12	Pedestrian Connections	<p>Wherever possible, linkages between properties are encouraged. Establishing these linkages can take a variety of forms including easements and public ROWs. Some of the linkages envisioned by the Auke Bay Area Plan include a sea-walk which builds upon the work that the CBJ Docks and Harbors have identified in their planning processes. Other linkages are designed to tie into residential, commercial, recreational, and trail opportunities.</p> <p>The primary criteria for consideration includes the following:</p> <ol style="list-style-type: none"> 1. The linkage should contribute to connecting residential development to either UAS, the waterfront, or the business community; 2. The location of the linkage should consider view opportunities; 3. The design of the linkage should foster additional opportunities for art, culture, education kiosks; and, 4. Design of the linkage should address all season weather and lighting conditions, consistent with recreation and transportation needs.
4	30	Recreation Goals and Policies	<p>Goal 1: Seek opportunities to connect hiking and biking trails to provide for longer, interconnected loop systems that include connections to Auke Lake and beyond.</p> <p>1.4 Develop a sea-walk that connects Statter Harbor's Sea-walk system to Auke Creek.</p>
5	42	Transportation Goals and Policies	<p>Goal 2: Create an appropriately scaled sea-walk along the waterfront, linking residential, commercial, and recreational uses to the Statter Harbor Facility.</p> <p>2.3 Encourage properties fronting on the sea-walk to connect to the sea-walk and to provide connections from sea-walk to public ROWs for pedestrian cross circulation.</p>

2015 AUKE BAY AREA PLAN – The proposed land disposal does NOT conform to the 2015 Auke Bay Area Plan.



AGENCY REVIEW

CDD conducted an agency review comment period between September 20, 2022 and October 5, 2022.

Agency	Summary
DOT&PF	<p>"Regarding access to the parcel, it is likely DOT&PF would permit a new access on the west end of the retaining wall, however we would also then require removing the existing access into the garage, as our standard does not allow two accesses for that amount of road frontage. As of yet, there is no Driveway Permit application on file.</p> <p>I was not aware of the drainage easement from the U.S. Forest Service and haven't had time to research whether we would have any interest in relinquishing that right or if we would prefer to retain that for future conveyance of water. As long as we hold that easement we would not allow any permanent structures to be placed upon that. The driveway across it is fine, but not a garage or carport, for example."</p>
Lands	No comments received.
Parks & Recreation	Provided several comments on this already over the past year, at this stage no additional comments.
General Engineering	No comments received.
Building	No comments at this time.
Fire	No comments received.
Docks and Harbors	Docks & Harbors does not have a recommendation, as the property is under the management authority of Parks and Recreation. I do note that the CBJ Land Management Plans does call for this property to be retained.

PUBLIC COMMENTS

CDD conducted a public comment period between September 22, 2022 to October 3, 2022. Public notice was mailed to property owners within 500 feet of the proposed development. A public notice sign was also posted on site two weeks prior to the scheduled hearing (Attachment X). No public comments have been received as of the date of this staff report.

FINDINGS

In accordance with CBJ 53.09.260, staff finds that the proposed disposal of land by CBJ does comply with Title 49 Land Use Code; however, the following issues make the land disposal problematic:

- Community: Land disposal of public ownership access to the shoreline and beach is not in general conformity with adopted plans, specifically the 2013 Comprehensive Plan, the 2016 Land Management Plan, the 2019-2029 Parks and Recreation Master Plan, and the 2015 Auke Bay Area Plan.
- Community: Auke Bay has a limited number of public beach access areas.
- CBJ Lot: When transferred to CBJ from the State, subject to a 50-foot wide public access easement from the ROW to Auke Bay.
- CBJ Lot: When transferred to CBJ from the State, subject to ROW Permit ADL 24304.
- CBJ Lot: Appears to have DOT&PF drainage facilities in a recorded easement that may need to be retained.
- CBJ Lot: Parks and Recreation Advisory Board voted to retain in 1998.
- CBJ Lot: Parks and Recreation Advisory Board voted to retain in 2022.
- CBJ Lot: 2016 Land Management Plan designates the lot as retain.
- CBJ Lot: 60% of public comments received on a requested private easement for the lot were not in favor of granting the easement.
- Applicant's Lot: If the land disposal is approved and the two lots are consolidated into private ownership, DOT&PF would only allow one access to the ROW, requiring removal of the existing access.
- Applicant's Lot: Alternative options to redesign the existing driveway area.
- Applicant's Lot: Has an existing detached garage setback encroachment that would need to be corrected prior to future development.

RECOMMENDATION

Staff recommends the Planning Commission adopt the Director's analysis and findings and forward a recommendation of DENIAL to the CBJ Assembly for the land disposal.

STAFF REPORT ATTACHMENTS

Item	Description
Attachment A	Application Packet
Attachment B	1951 USS 2909
Attachment C	1957-1964 QCD Honsinger to Miller
Attachment D	1965 ADL 24304 Honsinger Public Access Easement
Attachment E	1971 Plat 652 and ATS 478
Attachment F	1981 ADL 100939 DOT Drainage Facilities
Attachment G	1982 Patent State of Alaska to CBJ
Attachment H	1985 Ord. 85-76am establishing a Park System
Attachment I	1996 Ord. 96-26 re-establishing the Park System
Attachment J	1998 PRAC Recommendation re. Retain
Attachment K	2021-06-01 PRAC Minutes
Attachment L	2021 Public Comments from PRAC Survey
Attachment M	2021 MOA CBJ and Parise
Attachment N	2022-04-05 PRAC Agenda
Attachment O	2022-04-11 LHED Minutes
Attachment P	2022-08-01 Assembly Agenda
Attachment Q	Assessor Parcel Info
Attachment R	1965 Parise Garage Office and Apartment Approval
Attachment S	1992 QCD and Plat 92-28 for Garage in ROW
Attachment T	2021 BLD21-328 grading permit application for driveway
Attachment U	2021 BLD21-569 major Remodel Permit
Attachment V	2016 DOT&PF Glacier Highway Reconstruction As-Built
Attachment W	2021 WD Smith to Parise
Attachment X	Abutters Notice and Public Notice Sign Photo



DEVELOPMENT PERMIT APPLICATION

NOTE: Development Permit Application forms must accompany all other Community Development Department land use applications. This form and all documents associated with it are public record once submitted.

To be completed by Applicant	PROPERTY LOCATION		
	Physical Address Glacier Highway - Auks Bay		
	Legal Description(s) (Subdivision, Survey, Block, Tract, Lot) USS 2909 FS ROW		
	Parcel Number(s) 4B2801020070		
	<input type="checkbox"/> This property is located in the downtown historic district <input type="checkbox"/> This property is located in a mapped hazard area, if so, which _____		
	LANDOWNER/ LESSEE		
	Property Owner CBJ	Contact Person Dan Bleidorn	
	Mailing Address 155 S. Seward St.	Phone Number(s) 586-5252	
	E-mail Address dan.bleidorn@juneau.org		
	LANDOWNER/ LESSEE CONSENT		
Required for Planning Permits, not needed on Building/ Engineering Permits. Consent is required of all landowners/ lessees. If submitted with the application, alternative written approval may be sufficient. Written approval must include the property location, landowner/ lessee's printed name, signature, and the applicant's name.			
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 the City and Borough of Juneau officials/employees to inspect my property as needed for purposes of this application.			
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Dan Bleidorn Landowner/Lessee (Printed Name) </div> <div style="width: 45%;"> Land Manager Title (e.g.: Landowner, Lessee) </div> </div>			
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> x <u><i>Daniel Bleidorn</i></u> Landowner/Lessee (Signature) </div> <div style="width: 45%;"> <u>8/26/22</u> Date </div> </div>			
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> James E Parise Landowner/Lessee (Printed Name) </div> <div style="width: 45%;"> Home Owner Title (e.g.: Landowner, Lessee) </div> </div>			
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> x <u><i>James E Parise</i></u> Landowner/Lessee (Signature) </div> <div style="width: 45%;"> <div style="border: 1px solid black; padding: 2px; display: inline-block;"><u>8/26/22</u></div> Date </div> </div>			
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours. We will make every effort to contact you in advance, but may need to access the property in your absence and in accordance with the consent above. Also, members of the Planning Commission may visit the property before a scheduled public hearing date.			
APPLICANT If same as LANDOWNER, write "SAME"			
Applicant (Printed Name) James E Parise		Contact Person	
Mailing Address 12005 Glacier Hwy Juneau, AK 99801	Phone Number(s) 907-209-4975		
E-mail Address parisejim@gmail.com			
x <u><i>James E Parise</i></u> Applicant's Signature		<u>8/26/22</u> Date of Application	

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

Intake Initials

JLS

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number

PAD22-003

Date Received

8/26/22



PROPERTY ACQUISITION AND DISPOSAL REVIEW APPLICATION

See reverse side for more information regarding the permitting process and the materials required for a complete application.

NOTE: Must be accompanied by a DEVELOPMENT PERMIT APPLICATION form.

To be completed by Applicant	PROJECT SUMMARY:	
	Purchase City owned lot north of 12005 Glacier Hwy to allow for construction of a driveway to said address.	
	TYPE OF PROJECT REVIEW: <input checked="" type="checkbox"/> Property Acquisition Review <input checked="" type="checkbox"/> Property Disposal Review	
	PROJECT NUMBERS ASSOCIATED WITH PROPOSAL:	
	Is this project associated with any other Land Use Permits? <input type="checkbox"/> YES Case No.: _____ <input checked="" type="checkbox"/> NO	
	Capital Improvement Program # (CIP) _____	
	ESTIMATED PROJECT COST: \$ <u>TBD</u>	
	ALL REQUIRED MATERIALS ATTACHED	
	<input checked="" type="checkbox"/> Complete application	
	<input type="checkbox"/> Pre-Application notes (if applicable)	
	<input checked="" type="checkbox"/> Narrative including:	
	<input type="checkbox"/> Current use of land or building(s)	
	<input type="checkbox"/> Proposed use of land or building(s)	
	<input type="checkbox"/> How the proposed project complies with the Comprehensive Plan	
	<input type="checkbox"/> How the proposed project complies with the Land Use Code (Title 49)	
	Site Plan (details on page 2)	

NOTE: This application is required even if the proposed project is associated with other Land Use permits.

-----DEPARTMENT USE ONLY BELOW THIS LINE-----

PROPERTY ACQUISITION & DISPOSAL FEES	Fees	Check No.	Receipt	Date
Application Fees	\$ <u>-0-</u>			

100.00 Deposit-Sign
50.00 Sign

This form and all documents associated with it are public record once submitted.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

For assistance filling out this form, contact the Permit Center at 586-0770.

Case Number PAD22-003	Date Received 8/26/22
---------------------------------	---------------------------------

Attachment A - Application Packet

Property Acquisition & Disposal Review Information

Property Acquisition & Disposal project review is outlined in CBJ 53.04 and 53.09

Each application for a Property Acquisition & Disposal project is reviewed by the Planning Commission at a public hearing. The permit procedure is intended to provide the Commission the flexibility necessary to make recommendations tailored to individual applications.

Application: An application for a Property Acquisition & Disposal project review will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

1. **Forms:** Completed Property Acquisition & Disposal Project Application, and Development Permit Application forms.
2. **Fees:** No fee required for projects that cost less than \$2.5 million. For projects costing more than this amount, the fee is \$1,600.00. All fees are subject to change.
3. **Project Narrative:** A detailed narrative describing the project.
4. **Plans:** All plans are to be drawn to scale and clearly show the items listed below:
 - a. Plat, site plan, floor plan and elevation views of existing and proposed structures and land;
 - b. Existing and proposed parking areas, including dimensions of the spaces, aisle width and driveway entrances;
 - c. Proposed traffic circulation within the site including access/egress points and traffic control devices;
 - d. Existing and proposed lighting (including cut sheets for each type of lighting);
 - e. Existing and proposed vegetation with location, area, height and type of plantings; and,
 - f. Existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.)

Document Format: All materials submitted as part of an application shall be submitted in either of the following formats:

1. Electronic copies in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf (other formats may be preapproved by the Community Development Department).
2. Paper copies 11" X 17" or smaller (larger paper size may be preapproved by the Community Development Department).

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the permit request the application may be required to be reviewed by other municipal boards and committees. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: Property Acquisition & Disposal project Applications must be reviewed by the Planning Commission. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting. The Planning Commission will make a recommendation based on staff's analysis and forward it to the Assembly for final approval/denial.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

To: Parks & Recreation Advisory Committee

From: James and Kelly Parise
12005 Glacier Hwy, Juneau, AK 99801

Date: June 1, 2021

RE: Easement Request through ROW

My wife and I, through PEAK Construction applied for a permanent easement across an existing Right of Way to construct a driveway to our property adjacent to the ROW. We purchased the home in January and hired PEAK construction to complete a major renovation of the current home including the entire interior/exterior of the structure. One major improvement we would like to complete is a driveway/parking pad on our property to alleviate street parking and give us access to our house that is not safely available currently. We have an existing street level "garage" on stilts that is unsafe to park in and dilapidated. With the addition of the new retaining wall installed by the Alaska DOT in 2016, pulling out of the existing parking structure (the wooden ramp where we currently park) is hazardous because the line sight for us and oncoming traffic is compromised and unsafe. Also, when we park on the existing small wooden ramp, the car blocks the sidewalk to pedestrians and forces them into the oncoming traffic that is also subject to the limited and unsafe sight line along Glacier Hwy.

The Parks Department has recommended that our application be denied. We respectfully disagree with their recommendation and will address each of their concerns below (The highlights are Parks & Rec's):

***Policy 7.2** To preserve and protect fish and wildlife habitat, scenic corridors, and public access to the water, as well as water-dependent uses in planning for use of coastal areas.*

- The current ROW is steep, dangerous terrain with very limited access to the beach. The driveway, as designed will improve access by leveling the steep entrance to the land. The driveway will be built to preserve and protect the scenic corridor and public access.

***Policy 7.3** To protect riparian habitat, including stream corridors and lake shorelines, from adverse effects of development and to provide a higher level of protection for non-urban shorelines in public ownership.*

- The driveway, as designed, will not adversely affect any of the above.

Implementing Action 9: The CBJ government should designate publicly owned shoreline areas along the roaded areas of the borough for public access recreation.

- The driveway only improves access to the shoreline

Policy 9.1 *To provide quality dispersed outdoor recreational opportunities and to acquire and develop sufficient local parks and recreational facilities in locations convenient to all areas of the CBJ.*

Implementing Action 7: Identify traditional and high quality waterfront access areas, recreational anchorages and beaches, beach trail opportunities, boat launch areas, and waterfront park sites. Coordinate with the CBJ Docks and Harbors, Lands & Resources, CDD, and State of Alaska to assure that public access to water is provided.

- I'm not sure what the definition of "high quality waterfront access area" is but I don't think this ROW would currently fall under that category. It is steep, dangerous terrain that is essentially inaccessible. The driveway will provide greater access because it will level and improve entrance to the land from Glacier Hwy. Public access will only improve with the proposed driveway.
- There are currently two other access points within 300 yards of the ROW, both with parking and better access to the beach. The ROW in question does not have any parking and is much steeper and unsafe than the other two ROWs. By installing a driveway on the ROW, we will improve access to the public.

Policy 9.3 *To preserve as public natural areas those publicly owned lands and shoreline areas that possess important recreational, scenic, fish and wildlife, and other environmental qualities, or are subject to natural hazards.*

Standard Operating Procedure 1: Designate public areas and sites ... for permanent public access and use. Work toward acquiring privately owned land through dedication, donation, or purchase.

- Since the AK DOT installed the retaining wall along our property and half-way through the ROW, it could be argued that the natural area has not been preserved. The remaining access to the ROW from Glacier Hwy is steep and dangerous terrain, which will be made more accessible through the driveway.

Policy 17.2 *To hold certain lands in the public trust, and to dispose of certain lands for private use when disposal serves the public interest.*

Standard Operating Procedure 4: Base decisions regarding disposal of CBJ-owned lands on demonstrated market demand and evidence that disposal will be in the public interest and,

particularly, for projects that would provide affordable housing or that would create jobs that pay a living wage.

Development Guideline 1: To the greatest extent practicable, retain shoreline and riparian lands in public ownership. However, where disposal of such lands is deemed by the Assembly to be appropriate, ensure the provision of public access to the shoreline and water including provision of adequate trail head or boat launch areas, and retention of a public access easement along beaches

- The CBJ will not be disposing of the land, only granting permanent easement. CBJ will still retain the land and I believe will serve in the public interest by improving access to the ROW over the driveway by leveling the steep and dangerous terrain.

The following are the concerns of the Parks & Recs department and I will address each below:

PROPOSED EASEMENT

The applicant states that they are remodeling a home located at 12005 Glacier Hwy., next door to the CBJ Beach Access parcel. The permanent easement across CBJ property is requested "to get material and equipment closer to the site than the existing circumstance allows." The proposed easement totals approximately 1,175 square feet, and would occupy more than 20% of the CBJ parcel. A permanent driveway would be constructed within the easement, which would include all of the CBJ parcel's frontage on Glacier Hwy. The home currently has a detached garage that provides direct access to Glacier Hwy.

The application further states that "ADOT/CBJ constructed a retaining wall that runs the length of the property line in front of 12005 Glacier Hwy." This is incorrect: CBJ was not involved in the construction of this retaining wall, which was built by the Alaska Department of Transportation & Public Facilities as part of the Glacier Highway Reconstruction Project (Fritz Cove Rd. to Seaview Ave.). Neither the retaining wall nor the highway encroach on 12005 Glacier Hwy. While the property has a detached garage providing direct access to Glacier Hwy., it has never had a driveway. The DOT&PF project did not alter access to the property.

During the construction project, DOT&PF paid the owners of 12005 Glacier Hwy. \$2,350 for a temporary construction easement. Right-of-Way staff confirmed that the final grade of the highway required a new ramp to access the detached garage. According to DOT&PF, the state designed a ramp and provided an additional cash payment to the homeowners for construction.

- Technically, the proposed driveway takes is less than 20% of the CBJ parcel, not more as stated above.
- The permanent easement is requested to install a permanent driveway to the property, not to "get materials and equipment closer to the site...". We are completely renovating the current house on the property and one major improvement is safe, off-street parking for us, our children and our guests.
- While we do have a detached "garage" with access to Glacier Hwy via a wooden ramp built on stilts, it is unusable as a parking garage. The pilings and support beams hold the garage approximately 30ft off the ground and do not appear able to support a vehicle. The structure is old and dilapidated. We currently park on the wooden ramp but only half of the vehicle fits while the other half blocks the sidewalk along Glacier Hwy.

- Pulling out of onto Glacier Hwy from the wooden ramp can be dangerous to us and oncoming traffic because the newly installed AK DOT retaining wall can make it difficult to see oncoming traffic, pedestrians and cyclists. No one has used the home as a primary residence since the retaining wall was built so the hazardous line of sight was much less of a factor than it is for my family.
- It's true that technically the retaining wall does not encroach on our property (there is a ROW between the wall and our property), in reality, the wall spans the length of our property and half-way through the CBJ ROW.

DISCUSSION & RECOMMENDATION

This property was preserved by the Assembly in 1985 from all other uses in order to provide permanent public access to the shoreline of Auke Bay. Ordinance 85-76am allows "incidental uses" of park lands, including easements; however, the proposed driveway is not incidental to the public's use of the property. The sole purpose of the easement is to provide access to private property to facilitate a remodeling project.

- It is not correct that the sole purpose of the easement is to provide access to facilitate a remodeling project. The sole purpose is to provide safe, off-street parking for us, our children and our guests.

The CBJ Comprehensive Plan requires that disposals of land held in the public trust (i.e. parks) be in the public interest. Granting a permanent easement across public land to remodel a private home does not meet this test. The public would not benefit from this easement and, in fact, it is likely that public access would be restricted or impeded if the easement is granted.

- Again, this easement is not to remodel a private home. It is to provide safe, off-street parking for us, our children and our guests.
- It is incorrect to say it would restrict or impede public access to the already inaccessible ROW. In fact, the driveway would improve access by leveling the steep and dangerous terrain.

Ensuring public access to the shoreline is the essential purpose for which this property was added to the Juneau Open Space and Park System by the Assembly in 1985. Even a non-exclusive easement allowing public access would be very difficult due to the small size of the parcel and steep terrain. The applicant has not demonstrated how public access to the shoreline would be maintained considering that the proposed easement and driveway would occupy more than 20% of the CBJ parcel and all of its road frontage.

- Technically, the proposed driveway takes is less than 20% of the CBJ parcel, not more as stated above.
- By having a permanent easement, the CBJ is assured improved access to the beach because in order to have access to our home, we have to maintain the driveway. We will have to plow in the winter and maintain during the summer. This only improved access to the public.

Disposing of this property by granting a permanent easement is not consistent with the CBJ Comprehensive Plan. It is the explicit policy of the CBJ to prioritize the acquisition and retention of properties that provide public access to the shoreline. The Comprehensive Plan does not support disposing of these properties by sale, lease, easement, or any other manner.

While other Beach Access parcels exist in Auke Bay, they were all preserved by the Assembly in order to provide the public with convenient access to the shoreline. While many Beach Access parcels (including this one) have yet to be fully developed with formal trails, they are still extraordinarily valuable as the community develops additional land for residential or commercial use.

Based on the information provided by the applicant, the Parks & Recreation Department recommends that this application be denied because it is not consistent with adopted plans and would not serve the public's interest.

- The ROW does not currently serve the public's interest because it is not convenient (no parking) or accessible. While the driveway will not solve the parking problem, it will allow better access to the parcel, which is in the public's interest.
- Kelly and I are 20yr residents of Juneau and have raised our four children in the same house since moving to town. We are blessed and excited to be able to purchase and renovate the house at 12005 Glacier Hwy. It will be our new home that we plan to live in for the next 20 years. We chose this house for the location and the Auke Bay revitalization plan that the CBJ has set forth. The "new" house will be a vast improvement over the old one and can be seen as evidence that Auke Bay is being revitalized and people actually believe in the plan. I believe that granting this easement is in the spirit of this revitalization plan and will improve access to the beach over the steep and dangerous terrain that currently exists.
- We request that you approve our request for permanent easement over the CBJ ROW and have included supporting documentation to this packet.

To: Parks & Recreation Advisory Committee

From: James and Kelly Parise
12005 Glacier Hwy, Juneau, AK 99801

Date: July 6, 2021

RE: Easement Request through ROW

My wife and I, through PEAK Construction applied for a permanent easement across an existing Right of Way to construct a driveway to our property adjacent to the ROW. We purchased the home in January and hired PEAK construction to complete a major renovation of the current home including the entire interior/exterior of the structure. One major improvement we would like to complete is a driveway/parking pad on our property to alleviate street parking and give us access to our house that is not safely available currently. We have an existing street level "garage" on stilts that is unsafe to park in and dilapidated. With the addition of the new retaining wall installed by the Alaska DOT in 2016, pulling out of the existing parking structure (the wooden ramp where we currently park) is hazardous because the line sight for us, our children and oncoming traffic is compromised and unsafe. Also, when we park on the existing small wooden ramp, the car blocks the sidewalk to pedestrians and forces them into the oncoming traffic that is also subject to the limited and unsafe sight line along Glacier Hwy.

After speaking to City Staff and the Parks Department Advisory Board, the following issues will be addressed to improve the current ROW and give better access to the public than is currently in place.

- The current ROW is steep, dangerous terrain with no parking and very limited access to the beach. The driveway, as designed will improve access by leveling the steep entrance to the land. It will be much easier for the public to enter the parcel and they will have unfettered access to the corridor. The driveway will be built to preserve and protect the scenic corridor and public access.
- The driveway will be cleared and maintained by us at no cost to the city. This ensures access during the winter months that is not currently available to the public.
- The edge of the driveway, through the ROW, will have a footpath matching the driveway construction, which we will pay to have installed, from the driveway to natural grade to allow for much better access than is currently available.
- The current "garage" and wooden parking pad will be blocked with a railing so parking is not longer available. The "garage", if it remains, will be stabilized and visually improved to be used as storage.

Please see supporting documents attached

1. **Project**
2. **Location**
3. **Owner**
4. **Contract**

5. **Construction**
6. **Construction**
7. **Construction**

8. **Construction**
9. **Construction**
10. **Construction**

11. **Construction**
12. **Construction**
13. **Construction**

14. **Construction**
15. **Construction**
16. **Construction**

17. **Construction**
18. **Construction**
19. **Construction**

20. **Construction**
21. **Construction**
22. **Construction**





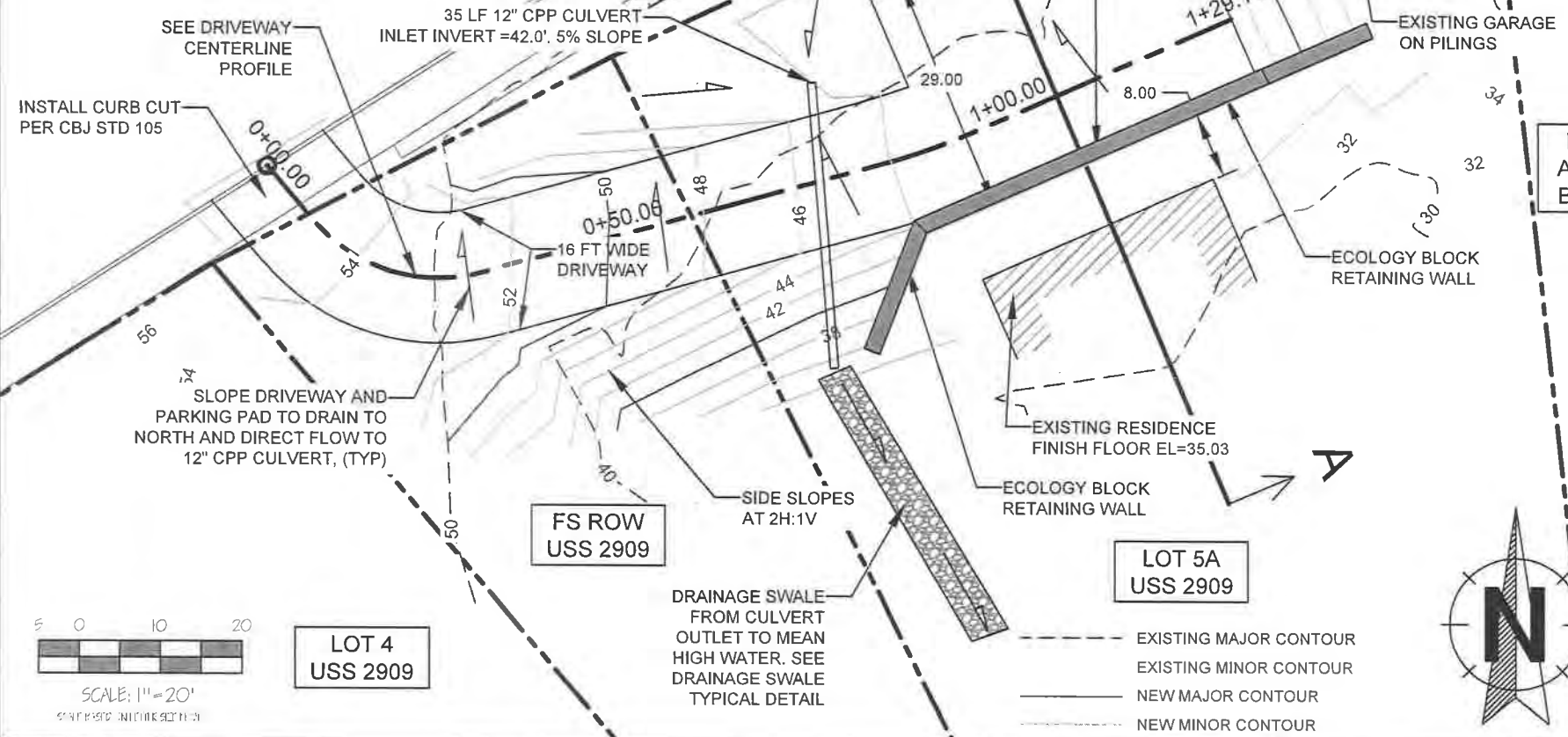
Attachment A - Application Packet



NOTES:

- 1) ALL DEVELOPMENT ACTIVITIES SHALL COMPLY WITH CBJ MANUAL OF STORMWATER BEST MANAGEMENT PRACTICES - AUGUST 2010
- 2) APPROXIMATELY 700 CY OF ROCKFILL ARE TO BE IMPORTED TO SITE FOR USE AS BUILDING PAD ROCKFILL, ASSUMING LESS THAN 12 INCHES OF REJECTED OVERBURDEN.
- 3) ELECTRICAL UTILITIES NOT SHOWN, CONTRACTOR SHALL CALL 907-586-1333 FOR EXISTING UTILITY LOCATES PRIOR TO STARTING ANY WORK WITHIN THE PUBLIC ROW.
- 4) ALL DISTURBED GROUND SHALL BE STABILIZED WITH TOPSOIL AND SEEDING PER CBJ STDS 2709 & 2710 AT THE CONCLUSION OF PROJECT
- 5) WATER AND SEWER SERVICES NOT LOCATED PRIOR TO SITE SURVEY AND ARE NOT SHOWN ON THIS GRADING PLAN. DO NOT DISTURB EXISTING WATER AND SEWER SERVICE TO EXISTING RESIDENCE, CALL CBJ AT 907-780-6808 FOR UTILITY LOCATES PRIOR TO BEGINNING SITE WORK.

GLACIER HIGHWAY



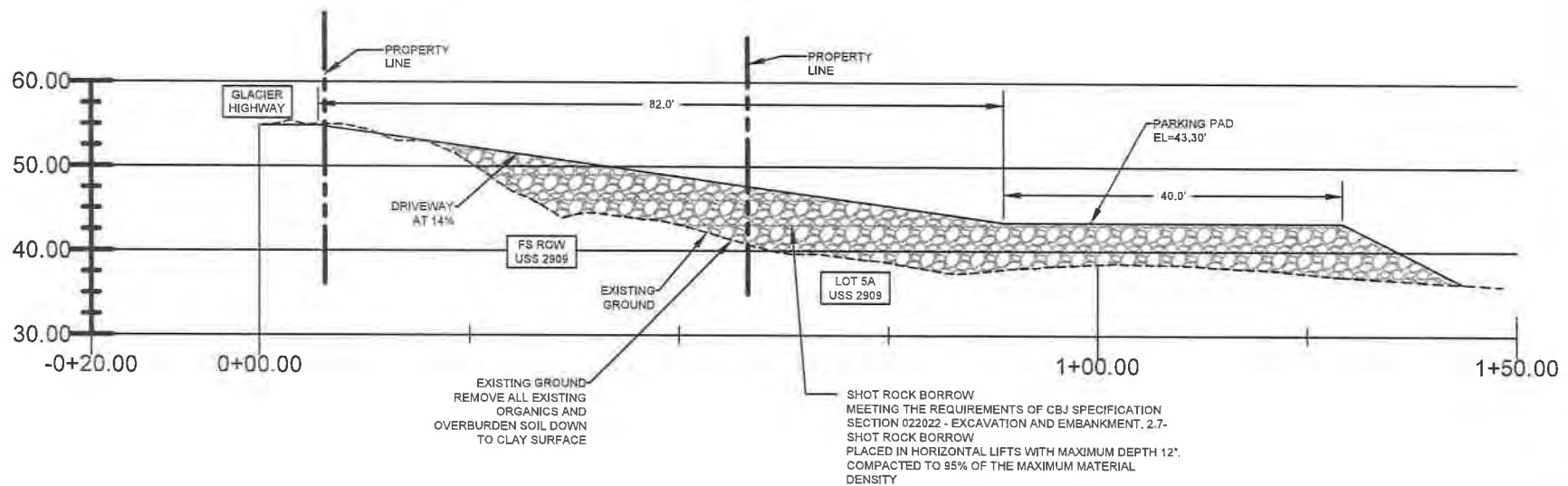
Gabriel Hayden, P.E.
hayden@katabatic.com
(402) 866-9479

Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Site Plan

DRAWN:
3/31/2021
SHEET #
1/5



**DRIVEWAY CENTERLINE
PROFILE**



SCALE: 1"=20'
GRAPHIC CENTERLINE PROFILE



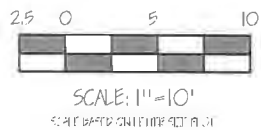
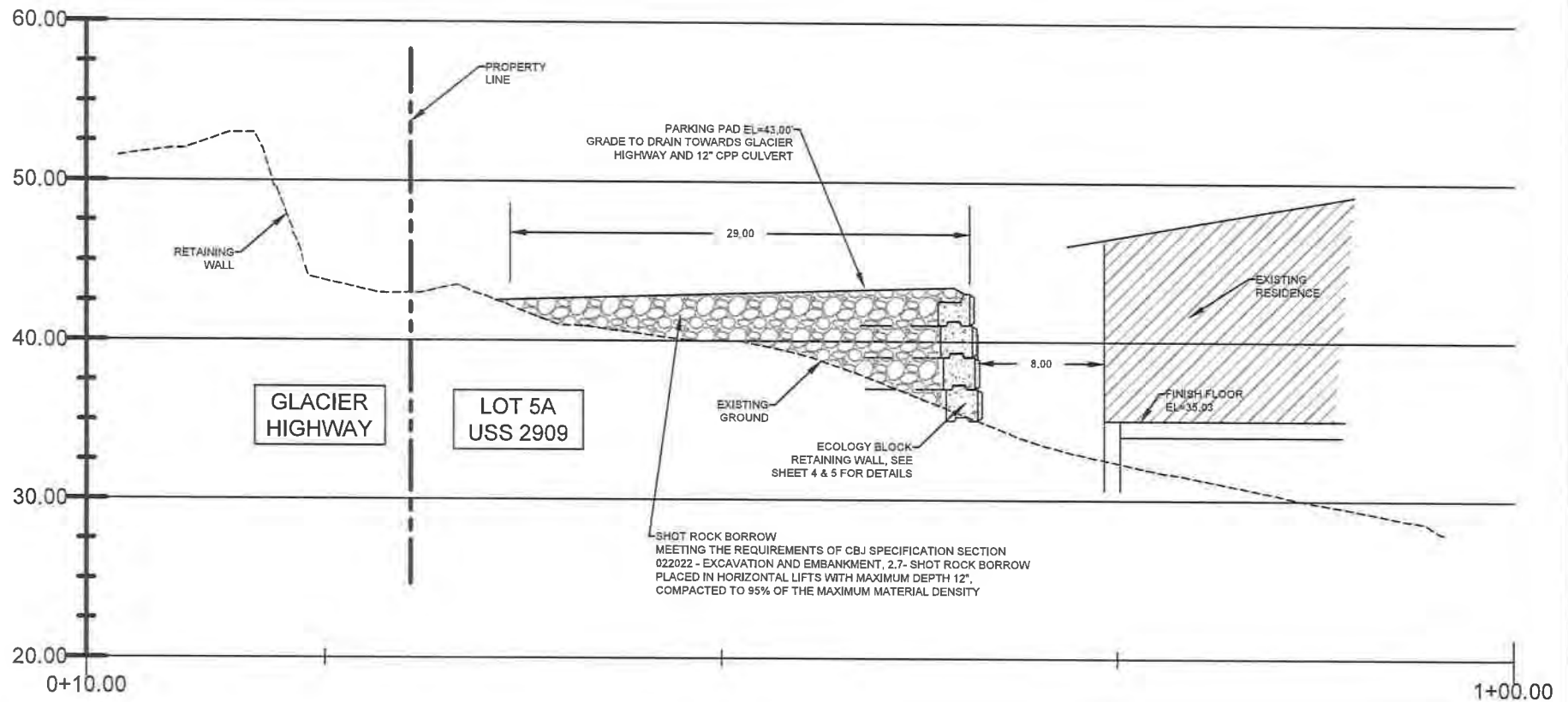
Gabriel Haydon, P.E.
haydon@katabaticeng.com
(907) 586-6679

Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Driveway Profile

DRAWN:
3.31.2021
SHEET #
2/5



SECTION A-A



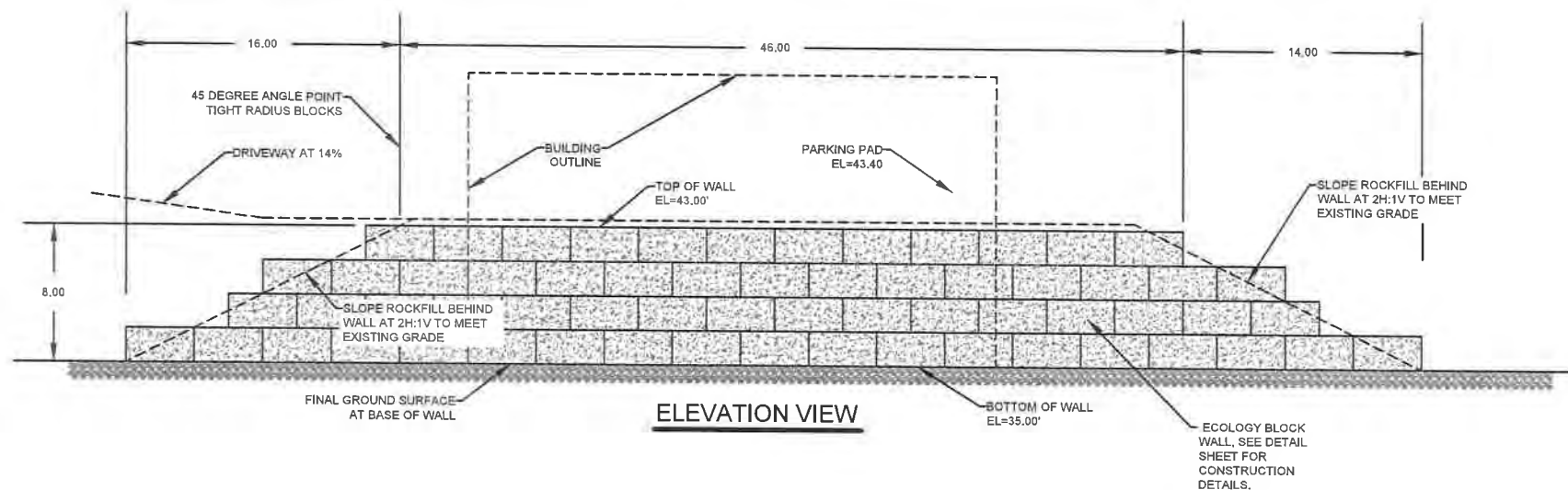
Gabriel Hayden, P.E.
hayden@katabaticeng.com
(907) 866-5579

Grading Plan

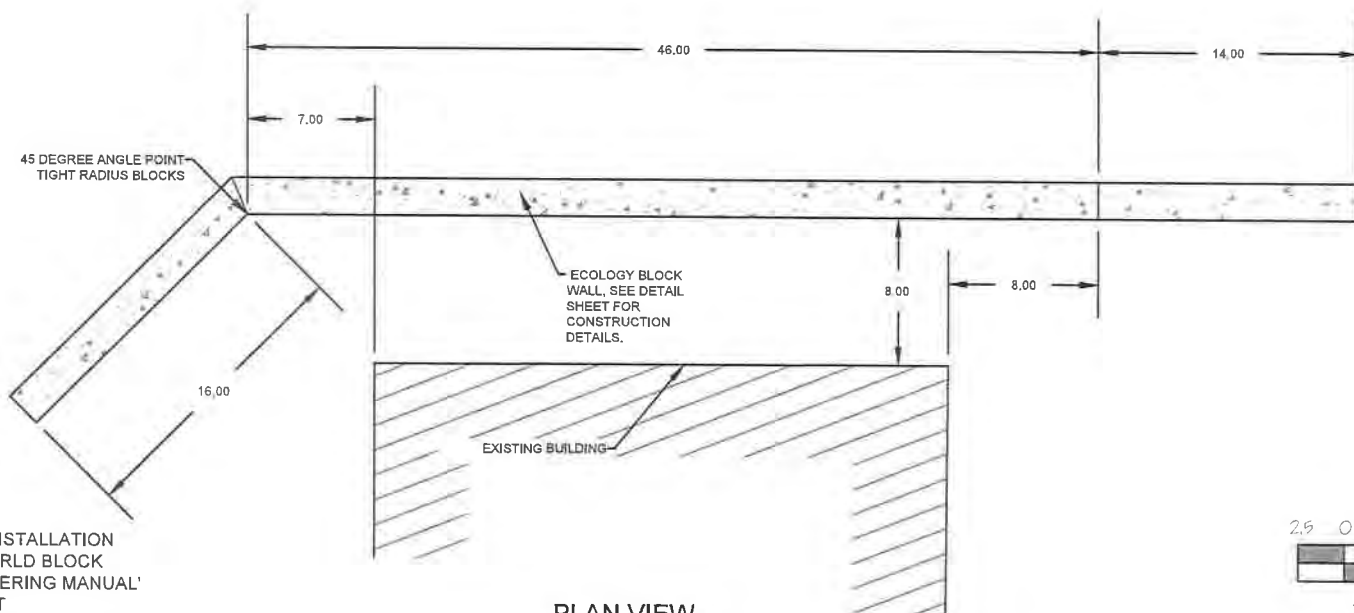
Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Section A-A

DRAWN:
3/31/2021
SHEET #
3/5

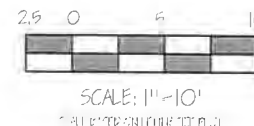


ELEVATION VIEW



PLAN VIEW

NOTES:
 1) INSTALL BLOCKS PER INSTALLATION GUIDELINES GIVEN IN 'WORLD BLOCK INSTALLATION AND ENGINEERING MANUAL' DOCUMENT. AVAILABLE AT <https://www.worldblock.com/world-block-installation-and-engineering-manual.html>



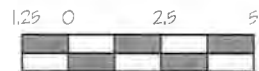
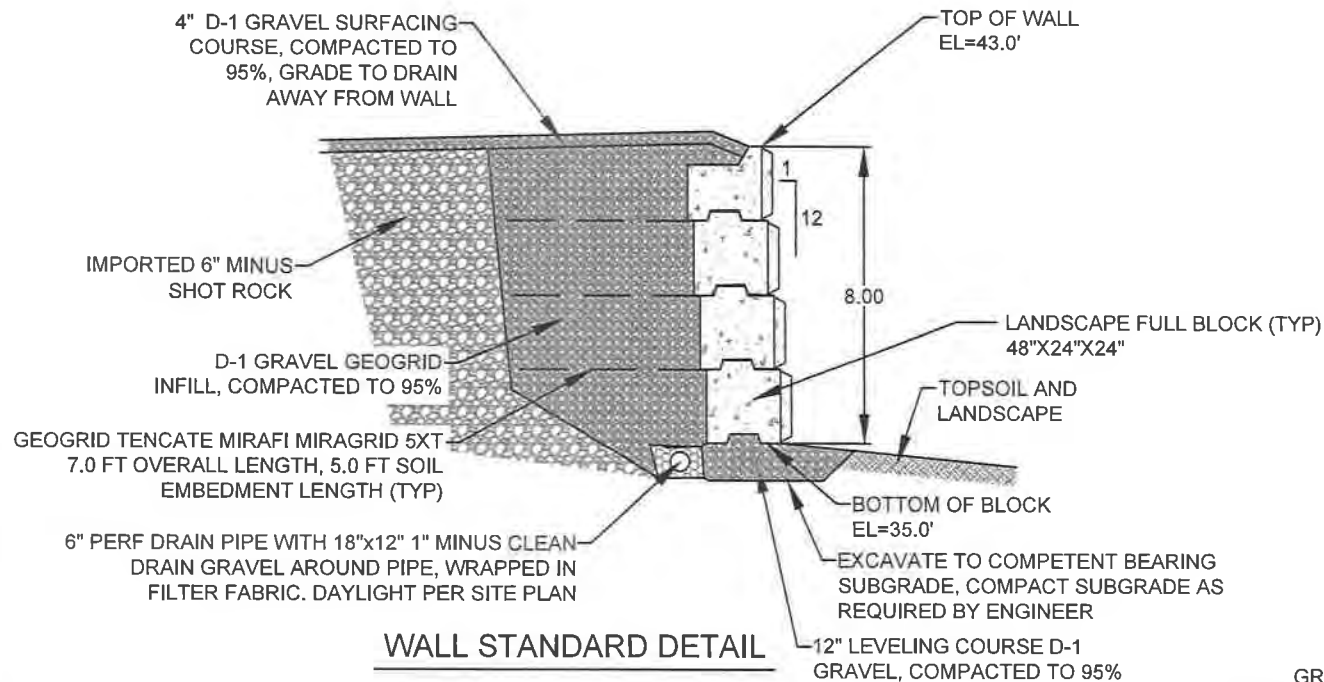
Gabriel Hayden, P.E.
 hayden3@katabaticeng.com
 (402) 566-5449

Grading Plan

Lot 5 A, USS 2909
 12005 Glacier Highway
 Juneau, AK 99801

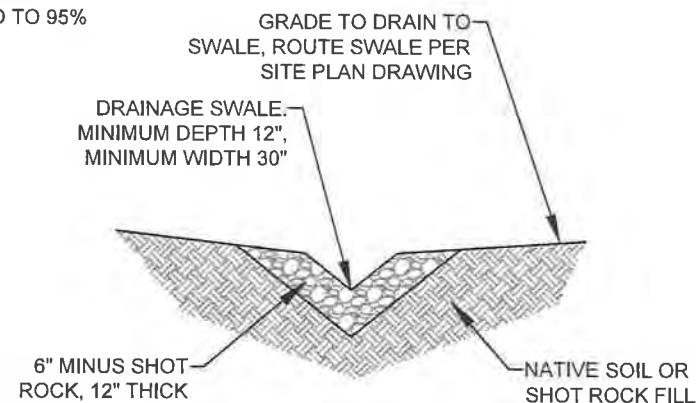
Retaining Wall
 Elevation & Plan

DRAWN:
 3/31/2021
 SHEET #
 4/5



SCALE: 1"=5'
SCALE: 1"=5' (SEE NOTE ON SHEET 10)

NOTES:
 1) INSTALL BLOCKS PER INSTALLATION GUIDELINES GIVEN IN 'WORLD BLOCK INSTALLATION AND ENGINEERING MANUAL' DOCUMENT. AVAILABLE AT <https://www.worldblock.com/world-block-installation-and-engineering-manual.html>



Gabriel Hayden, P.E.
 hayden@katabatic.com
 (907) 866-1119

Grading Plan

Lot 5 A, USS 2909
 12005 Glacier Highway
 Juneau, AK 99801

Details

DRAWN:
 3/31/2021
 SHEET #
 5/5

U. S. SURVEY
No. 2909, ALASKA

TRIANGLE GROUP 3 OF HOMESITES
EMBRACING
Lots 1 to 5 inclusive, and 1 Forest Service R.O.W.

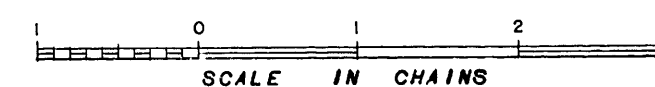
SITUATED

ON THE NORTHERLY SHORE OF AUKE BAY, ON THE
SOUTHERLY SIDE OF THE EAGLE RIVER HIGHWAY APPROX-
IMATELY 13 MILES FROM JUNEAU

AREA: 2.93 ACRES

LATITUDE $58^{\circ}23'13''N.$, LONGITUDE $134^{\circ}39'11''W.$

AT CORNER NO. 1



SURVEYED BY

JOHN M. SHORT, CADASTRAL ENGINEER,

APRIL 5 TO 8, 1949

UNDER SPECIAL INSTRUCTIONS DATED
FEBRUARY 2, 1949 AND APPROVED BY
THE BUREAU OF LAND MANAGEMENT
FEBRUARY 16, 1949

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

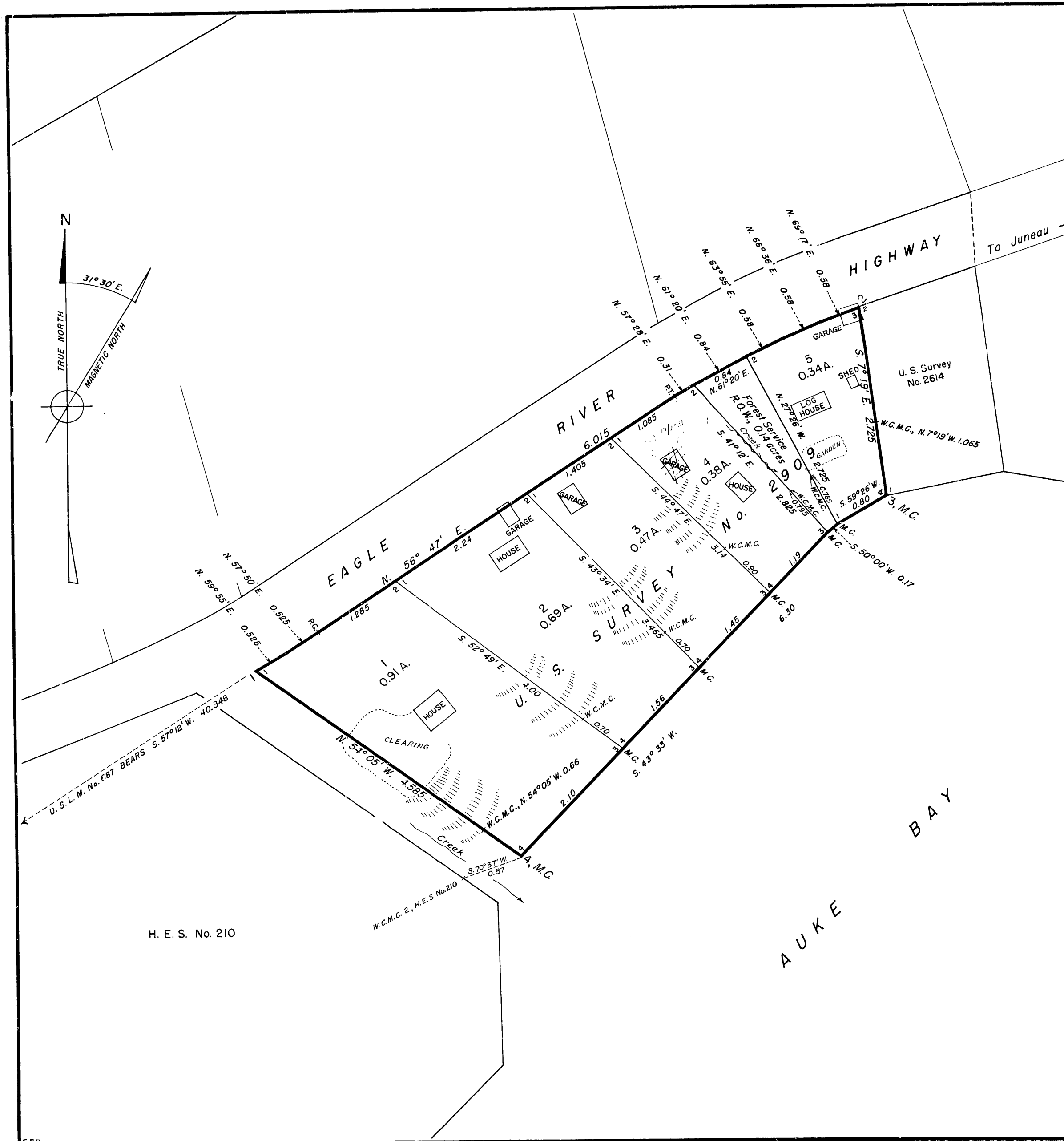
WASHINGTON, D. C., MARCH 20, 1951

THIS PLAT IS STRICTLY CONFORMABLE TO
THE APPROVED FIELD NOTES, 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

William F. Richards

CHIEF, BRANCH OF SURVEYS



CC

A
L
A
S
K
A

2016-002435-0

Recording District 101 Juneau
05/26/2016 02:00 PM Page 1 of 2



WHEN RECORDED RETURN TO:

Name Penny L. Miller
Address PO Box 20490
City State, Zip Juneau, Alaska 99802

Escrow Number

QUIT CLAIM DEED

The Grantor, Honsinger Family Limited Partnership, whose mailing address is PO Box 20490, Juneau, AK, 99802, for and in consideration of \$10.00 dollars, conveys and quit claims to Penny L. Miller & Larry B. Miller, the Grantees, whose mailing address is PO Box 20490, Juneau, AK, 99802, the following described real estate, situated in the Juneau Recording District, First Judicial District, State of Alaska, together with all after acquired title of the grantor therein:

Parcel No. 1:

That certain tract of land described in a tideland patent, Patent No. 257, executed and delivered to Honsinger Family Limited Partnership, known as ATS 478:

Beginning at Corner 1, a point identical with Corner 4, Lot 4, U.S.S. No. 2909; thence S 31°59'E, 124.81 feet to Corner 2; thence N 45°13' E, 91.30 feet to Corner 3; thence N 37°57'05" W, 124.88 feet to Corner 4, a point identical with Corner 3 of said Lot 4 thence along line 3-4 of said lot 4, S 43°33' W, 78.54 feet to Corner 1, the point of beginning. This tract contains 0.239 acres more or less within the City and Borough of Juneau, Juneau Recording District of Alaska.

Parcel No. 2:

Lot 4 of the Triangle Group 3 of Homesites of the land embraced in U. S. Survey No. 2909 situated on the northerly shore of Auke Bay on the southerly side of Eagle River Highway, approximately 13 miles from Juneau, Alaska, containing 0.3 acre according to the official plat of the survey of said land on file in the Bureau of Land Management, subject to the reservations contained in the patent thereto on file and of record in the office of the U.S. Commissioner and Ex-Officio Recorder for the Juneau Recording District, recorded in Vol 47 of Deeds at pages 266 and 267.

Parcel No. 3:

All of the grantors' right, title and estate, lien and interest in and to that certain application and special use permit, if any, dated May 18, 1959, issued to Fred L. Birch by the United States Department of Commerce, Bureau of Public Roads, Juneau Serial No. 2-4-186, dated May 18, 1959;

All of the grantors' right, title, estate, lien and interest in and that certain application and special use permit, if any, dated June 14, 1957, issued to Fred L. Birch by the United States Department of Commerce, Bureau of Public Roads, Juneau Serial No. 2-F-133;

Right-of-way Permit No. ADL 24304, issued by the State of Alaska, Department of Natural Resources, to Fred L. and Betty A. Birch, dated October 26, 1964.

The two Special Use Permits and the Right-of-Way Permit apply to access roads serving the above described real property.

Together with, all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SUBJECT, however, to all reservations, restrictions and easements contained in patent or otherwise of record.

DATED this 2nd of May, 2016.

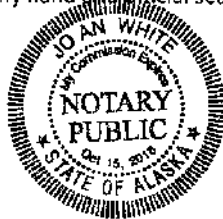
GRANTOR: Honsinger Family Limited Partnership

Penny L. Miller
Penny L. Miller, General Partner

STATE OF ALASKA)
) ss,
First Judicial District)

THIS IS TO ^{ack}CERTIFY that on this 26th day of May, 2016, before me the undersigned Notary Public, personally appeared Penny L. Miller, known to me and to me known to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she signed the same freely and voluntarily for the uses and purposes therein set forth.

WITNESS my hand and official seal.



Jo Ann White
Notary Public in and for Alaska
My commission expires: 10-15-2016

Page 2 of 2



Page 2 of 2
2016-002435-0

We are now accepting payments online for case agreements and mining claims bills! To make a payment by credit card or from your bank account, click [here](#).

Results - Case File Abstract

Summary

File: ADL 24304

Customer: 000138551 HONSINGER, FRED S
P.O. BOX 490
JUNEAU AK 99801

Case Type: 582 PRIVATE EASEMENT **DNR Unit:** 200 LAND MANAGEMENT

File Location: ST STORAGE

Case Status: 80 CLOSED **Status Date:** 08/02/1982

Total Acres: 0.140 **Date Initiated:** 08/03/1964

Office of Primary Responsibility: LSE LAND-SOUTHEAST REG

Last Transaction Date: 07/03/2008 **Case Subtype:** 8705 NON EXCLUSIVE ROW

Last Transaction: ARC ARCHIVED

Land Records

Meridian: C **Township:** 040S **Range:** 065E **Section:** 22 **Section Acres:** 1

Case Actions

08-03-1964 APPLICATION RECEIVED			
03-25-1965 ISSUED			
STATUS 23		23	EASEMENT CREATED
11-20-1979 ASSIGNMENT APPROVED			
RELATION - NEW A		10	OWNER
RELATION - OLD A		10	OWNER
ASSIGNEE A		138551	HONSINGER, FRED S
ASSIGNOR A		130029	BIRCH, FRED L
08-02-1982 CLOSED			
STATUS 45		45	CLOSED
LAND CONVEYED TO CITY			
01-02-2003 STATUS CODE STANDARDIZED			
STATUS CODE		80	CLOSED
***** STATUS CODE STANDARDIZATION *****			
STATUS CODE CHANGED BY BATCH UPDATE			
07-03-2008 ARCHIVED			
BOX NUMBER		619	STORAGE
FILE LOCATION		ST	
BAR CODE NUMBER		08-413619	

Legal Description

METES AND BOUNDS

Attachment D - 1965 ADL 24304 Honsinger Public Access Easement

We are now accepting payments online for case agreements and mining claims bills! To make a payment by credit card or from your bank account, click [here](#).

Results - Case File Detail

Summary

File: ADL 24304

Customer: 000138551 HONSINGER, FRED S
P.O. BOX 490
JUNEAU AK 99801

Case Type: 582 PRIVATE EASEMENT **DNR Unit:** 200 LAND MANAGEMENT

File Location: ST STORAGE

Case Status: 80 CLOSED **Status Date:** 08/02/1982

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Last Transaction Date: 07/03/2008 **Case Subtype:** 8705 NON EXCLUSIVE ROW

Last Transaction: ARC ARCHIVED

Land Records

Meridian: C **Township:** 040S **Range:** 065E **Section:** 22 **Section Acres:** 1

Case Actions

Transaction: <i>INITIATE</i> INITIATE CASE		
Transaction Date: 08-03-1964 Input Date: 12-19-1989 STATUS DATE LOCATION FROM LOCATION TO CASE STATUS OFFICE PRI RESP SPECIAL CODE CUSTOMER NUMBER UNIT CODE RELATIONSHIP CODE TOTAL ACRES C040S065E22Acres: 001	Time: 154659 User: NRSCRPA 08-03-1964 SEDOLD SEDOLD 11 LSE 8705 000130029 200 10 .140000	SubSystem ID: CAS Terminal: NJB2 SEDO LAND SECTION SEDO LAND SECTION APPLICATION LAND-SOUTHEAST REG NON EXCLUSIVE ROW BIRCH,FRED L LAND MANAGEMENT OWNER
Transaction: <i>APR</i> APPLICATION RECEIVED		
Transaction Date: 08-03-1964 Input Date: 12-19-1989	Time: 154717 User: NRSCRPA	SubSystem ID: CAS Terminal: NJB2
Transaction: <i>ADDTEXT</i> CHANGE LEGAL TEXT		
Transaction Date: 08-03-1964 Input Date: 12-19-1989	Time: 154730 User: NRSCRPA	SubSystem ID: CAS Terminal: NJB2
Transaction: <i>IS</i> ISSUED		
Transaction Date: 03-25-1965 Input Date: 12-19-1989 STATUS 23	Time: 154759 User: NRSCRPA 23	SubSystem ID: CAS Terminal: NJB2 EASEMENT CREATED

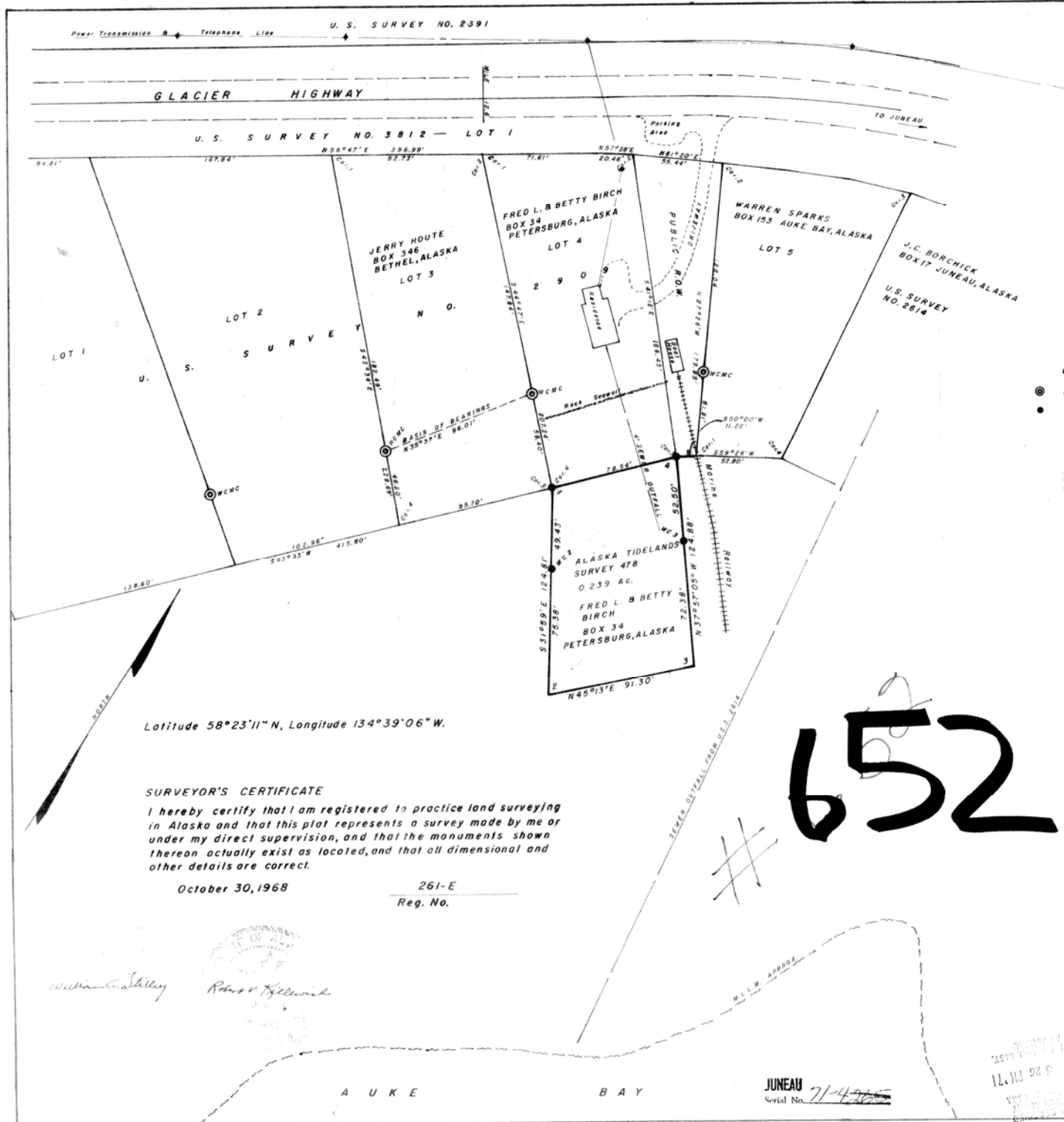
Attachment D - 1965 ADL 24304 Honsinger Public Access Easement

Transaction: ASGN ASSIGNMENT APPROVED		
Transaction Date: 11-20-1979 Input Date: 12-19-1989 RELATION - NEW A RELATION - OLD A ASSIGNEE A ASSIGNOR A	Time: 154915 User: NRSCRPA 10 10 138551 130029	SubSystem ID: CAS Terminal: NJB2 OWNER OWNER HONSINGER, FRED S BIRCH, FRED L
Transaction: CL CLOSED		
Transaction Date: 08-02-1982 Input Date: 12-19-1989 STATUS 45 <i>LAND CONVEYED TO CITY</i>	Time: 155015 User: NRSCRPA 45	SubSystem ID: CAS Terminal: NJB2 CLOSED
Transaction: LOCRECVD FILE LOCATION UPDATE RECEIVED		
Transaction Date: 09-12-1996 Input Date: 09-12-1996 LOCATION RECVD AT	Time: 122911 User: NRSCCLU LWMCLS	SubSystem ID: CAS Terminal: X21L LWM CONT ADM CLOSED
Transaction: CDESTAND STATUS CODE STANDARDIZED		
Transaction Date: 01-02-2003 Input Date: 01-02-2003 STATUS CODE ***** STATUS CODE STANDARDIZATION ***** <i>STATUS CODE CHANGED BY BATCH UPDATE</i>	Time: 24941 User: BATCH 80	SubSystem ID: CAS Terminal: X246 CLOSED
Transaction: ARC ARCHIVED		
Transaction Date: 07-03-2008 Input Date: 07-03-2008 BOX NUMBER FILE LOCATION BAR CODE NUMBER	Time: 93016 User: NRSCCJC 619 ST 08-413619	SubSystem ID: CAS Terminal: X4YH STORAGE

Legal Description

METES AND BOUNDS

Attachment D - 1965 ADL 24304 Honsinger Public Access Easement



LEGEND

- Denotes B. L. M. Brass Monument Recovered this Survey
- Denotes Brass Monument Set this Survey

NOTE

The basis of bearings for this survey were derived between WCMC 4, lot 3 and WCMC 4, lot 4 computed as N 35°37'E

DESCRIPTION, ALASKA TIDELANDS SURVEY NO. 478.

Beginning at Corner 1, a point identical with Corner 4, Lot 4, U.S.S. No. 2909; thence S 31°50'E, 124.81 feet to corner 2; thence N 45°13'E, 91.30 feet to corner 3; thence N 37°57'05"W, 124.88 feet to corner 4, a point identical with corner 3 of said lot 4; thence along line 3-4 of said lot 4, S 43°33'N, 78.54 feet to corner 1, the point of beginning.

This tract contains 0.239 acres, more or less.

BEARING OBJECTS, FOR MONUMENTS, A.T.S. 478

- Cor. 1 - 1. N 40°04'W, 44.8' s.w. end rock sea wall.
2. N 21°53'E, S 6.7' 1 1/2" steel pipe, 1" above ground.
3. S 78°33'W, 15.3' highest point on 1 1/2 c.y. boulder.
- W.C. 2 - 1. N 21°42'W, 136.0' s.w. corner residence.
2. S 54°45'N, 49.5' steel pin 4" above ground.
3. N 12°00'W, 114.2' " " on rock on seawall.
- W.C. 3 - 1. N 2003'E, 26.2', spike in x-brace in track.
2. N 46°02'E, 32.2' high point on 2 C.F. boulder.
- Cor. 4 - 1. S 77°23'W, 83.0' spike in tree.
2. N 39°17'W, 45.3' N.E. end rock sea wall.
3. S 12°53'W " " on sewer pipe.

REVISED 11/3/71 TO SHOW BOUNDARY CHANGES

DATE OF PLAT PREPARATION: JUNE 24-25, 1968

DATE OF SURVEY:	NAME OF SURVEYOR:
Beginning APRIL 25, 1968	Wyllie, Killenwich, Van Doren & Hozard
Ending APRIL 26, 1968	Engineers - Surveyors
	Juneau, Alaska

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS
ANCHORAGE, ALASKA

ALASKA TIDELANDS SURVEY NO. 478
LOCATED WITHIN
PROTRACTED SEC. 22, T40S, R65E, CRM

DRAWN BY:	APPROVAL	RECOMMENDED:
W. C. S.		Chief Industrial Engineer
DATE APPROVED:	APPROVED:	
		Director of Lands
SCALE:	CHECKED:	FILE NO.
1" = 40'		

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Results - Case File Abstract

Summary

File: ATS 478

Customer: 000179559 KILLEWICH, ROBERT V
PO BOX 130
JUNEAU AK 99802

Case Type: 316 AK TIDELAND SURVEY

DNR Unit: 300 SURVEY

File Location: CSS CADASTRAL SURVEY SEC

Case Status: 96 PLAT FILED/APPROVED

Status Date: 12/26/1971

Total Acres: 0.240

Date Initiated: 12/22/1971

Office of Primary Responsibility: LSU LAND-SURVEY

Last Transaction Date: 12/31/2002

Last Transaction: CDESTAND STATUS CODE STANDARDIZED

Land Records

Meridian: C **Township:** 040S **Range:** 065E **Section:** 22 **Section Acres:** 0

Case Actions

12-22-1971 SURVEY INITIATED		
ADL #	24000	
12-22-1971 FIRST PLAT SUBMITTAL REVIEWED		
STATUS 71	71	PLAT REVIEWED
12-26-1971 PLAT FILED		
STATUS 96	96	PLAT FILED
RECORDING DISTRICT	R101	Juneau
RECORDER'S FILE NO	652	
04-09-1986 CONVERTED FROM SURVEY TRACKING AND MONITORING SYST		
08-02-1986 CASEFILE CUSTOMER DOCUMENTED		
CUSTOMER NUMBER	000179559	KILLEWICH,ROBERT V
UNIT CODE	300	SURVEY
RELATIONSHIP CODE	22	SURVEYOR
THIS TRANSACTION WAS GENERATED BY THE CONVERSION TO THE NEW CUSTOMER SYSTEM TO DOCUMENT THE UNIT AND RELATIONSHIP CODES		
12-31-2002 STATUS CODE STANDARDIZED		
STATUS CODE	54	PLAT REVIEWED
***** STATUS CODE STANDARDIZATION *****		
STATUS CODE CHANGED BY BATCH UPDATE		

Legal Description

No legal description found.

Attachment E - 1971 Plat 652 and ATS 478

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Results - Case File Detail

Summary

File: ATS 478

Customer: 000179559 KILLEWICH, ROBERT V
PO BOX 130
JUNEAU AK 99802

Case Type: 316 AK TIDELAND SURVEY

File Location: CSS CADASTRAL SURVEY SEC

Case Status: 96 PLAT FILED/APPROVED

Total Acres: 0.240

Office of Primary Responsibility: LSU LAND-SURVEY

Last Transaction Date: 12/31/2002

Last Transaction: CDESTAND STATUS CODE STANDARDIZED

DNR Unit: 300 SURVEY

Status Date: 12/26/1971

Date Initiated: 12/22/1971

Land Records

Meridian: C **Township:** 040S **Range:** 065E **Section:** 22 **Section Acres:** 0

Case Actions

Transaction: <i>INITIATE</i> BATCH CASE INITIATE		
Transaction Date: 12-22-1971 Input Date: 04-09-1986 STATUS DATE LOCATION FROM LOCATION TO CASE STATUS OFFICE PRI RESP CUSTOMER NUMBER TOTAL ACRES C040S065E22	Time: 192344 User: BATCH 12-22-1971 CSS CSS 71 LSU 179559 .240000	SubSystem ID: CAS Terminal: CONV CADASTRAL SURVEY SEC CADASTRAL SURVEY SEC PLAT REVIEWED LAND-SURVEY
Transaction: <i>SI</i> SURVEY INITIATED		
Transaction Date: 12-22-1971 Input Date: 04-10-1986 ADL #	Time: 230001 User: BATCH 24000	SubSystem ID: CAS Terminal: CONV
Transaction: <i>FPRV</i> FIRST PLAT SUBMITTAL REVIEWED		
Transaction Date: 12-22-1971 Input Date: 04-10-1986 STATUS 71	Time: 230002 User: BATCH 71	SubSystem ID: CAS Terminal: CONV PLAT REVIEWED
Transaction: <i>PF</i> PLAT FILED		
Transaction Date: 12-26-1971 Input Date: 02-27-2014 STATUS 96 RECORDING DISTRICT	Time: 141737 User: BATCH 96 R101	SubSystem ID: CAS Terminal: X129 PLAT FILED Juneau

Attachment E - 1971 Plat 652 and ATS 478

RECORDER'S FILE NO 652		
Transaction: CONV CONVERTED FROM SURVEY TRACKING AND MONITORING SYST		
Transaction Date: 04-09-1986 Input Date: 04-09-1986	Time: 192345 User: BATCH	SubSystem ID: CAS Terminal: CONV
Transaction: CFCD CASEFILE CUSTOMER DOCUMENTED		
Transaction Date: 08-02-1986 Input Date: 08-02-1986 CUSTOMER NUMBER UNIT CODE RELATIONSHIP CODE <i>THIS TRANSACTION WAS GENERATED BY THE CONVERSION TO THE NEW CUSTOMER SYSTEM TO DOCUMENT THE UNIT AND RELATIONSHIP CODES</i>	Time: 100 User: BATCH 000179559 300 22	SubSystem ID: CAS Terminal: CONV KILLEWICH,ROBERT V SURVEY SURVEYOR
Transaction: CDESTAND STATUS CODE STANDARDIZED		
Transaction Date: 12-31-2002 Input Date: 12-31-2002 STATUS CODE ***** STATUS CODE STANDARDIZATION ***** STATUS CODE CHANGED BY BATCH UPDATE	Time: 70721 User: BATCH 54	SubSystem ID: CAS Terminal: X246 PLAT REVIEWED

Legal Description

No legal description found.

APPLICATION FOR RIGHT-OF-WAY PERMIT

E-12

F-095-2(6)

Date: July 18, 1979

The undersigned Department of Transportation & Public Facilities residing at _____

P.O. Box 3-1000, Juneau, Alaska 99811

hereby applies

to the Director of the Division of Lands, Department of Natural Resources, for
right-of-Way variable feet in width and variable feet in length located in
section 22, Township 40 S., Range 65 E., C.R. Meridian,
containing an area of 0.131 acres as shown on the plat attached hereto in triplicate
copies, for the purpose of constructing and maintaining thereon & drainage
facilities for private, public, ~~intermittent~~, yearlong use (strike inappli-
able words).

State briefly the standards of construction of proposed improvements:

AASHTO Standards for Federal Aid Highways

Constructed Construction to begin within 3 months

to be completed 9/30/80

If this application is approved, I agree to construct and maintain the improvements authorized in a workmanlike manner, to keep the area in a neat and sanitary condition; if said right-of-way is to be constructed across leased lands, I agree to reimburse the lessee for all damages to crops and improvements, to the extent of the fair market value thereof, which may be damaged or destroyed as the result of the construction of said right-of-way, and to comply with all the laws, rules and regulations pertaining thereto; and provided further that upon termination or relocation of the right-of-way for which application is herein made, I agree to remove or relocate the improvements and restore the area without cost to the State and to the satisfaction of the Director.

ALASKA DIV. OF LANDS

DEC 03 1979

John L. Jordan

Right of Way and

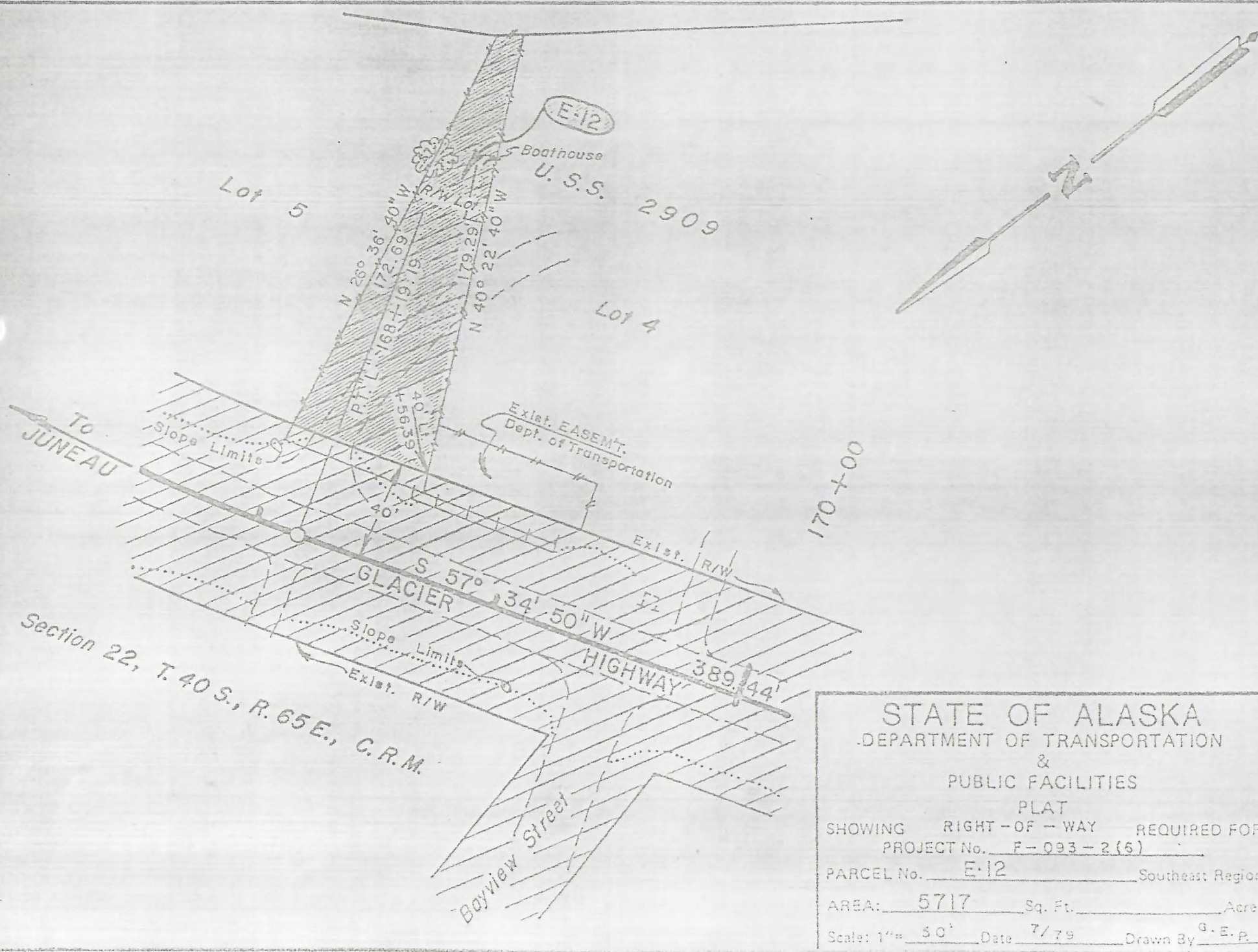
Land Acquisition Agent

Instructions for preparation of plat: Attach triplicate copies of letter-size plat, show centerline and boundaries of right-of-way, show ties from centerline to establish monuments and section corners, show conflicts with other rights-of-way, if any, scale 6" to 8" per mile, type of survey.)

LS 12-26-74

C-41

40C



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Results - Case File Abstract

Summary

File: ADL 100939

Customer: 000154293 DOTPF SOUTHCOST REGION
6860 GLACIER HIGHWAY
JUNEAU AK 99801

Case Type: 581 PUBLIC EASEMENT **DNR Unit:** 200 LAND MANAGEMENT

File Location: SEDOLD SEDO LAND SECTION

Case Status: 35 ISSUED **Status Date:** 11/20/1981

Total Acres: 0.140 **Date Initiated:** 12/03/1979

Office of Primary Responsibility: LSE LAND-SOUTHEAST REG

Last Transaction Date: 03/07/2018 **Case Subtype:** 8003 ACCESS

Last Transaction: COMMENTS COMMENTS

Land Records

Meridian: C **Township:** 040S **Range:** 065E **Section:** 22 **Section Acres:** 0

Case Actions

12-03-1979 APPLICATION RECEIVED		
APPLICATION RECEIVED		
11-20-1981 ISSUED		
STATUS 23	23	EASEMENT CREATED
ISSUED FOR TERM OF USE		
08-02-1986 CASEFILE CUSTOMER DOCUMENTED		
CUSTOMER NUMBER	000154293	DIV D&C ROW SE REGIO
UNIT CODE	200	LAND MANAGEMENT
RELATIONSHIP CODE	10	OWNER
THIS TRANSACTION WAS GENERATED BY THE CONVERSION TO THE NEW CUSTOMER SYSTEM TO DOCUMENT THE UNIT AND RELATIONSHIP CODES		
03-20-1992 CUSTOMER CHANGED NAME		
NEW NAME: ALASKA DOT/PF, SOUTHEAST REGION, DESIGN & CONSTRUCTION		
OLD NAME: DIV D&C ROW SE REGION, DOTPF		
03-20-1992 CUSTOMER CHANGED NAME		
NEW NAME: ALASKA DOT/PF, SOUTHEAST REGION DESIGN & CONSTRUCTION		
OLD NAME: ALASKA DOT/PF, SOUTHEAST REGION, DESIGN & CONSTRUCTION		
01-02-2003 STATUS CODE STANDARDIZED		
STATUS CODE	35	ISS/APPRV/ACTV AUTH
***** STATUS CODE STANDARDIZATION *****		
STATUS CODE CHANGED BY BATCH UPDATE		
03-07-2018 COMMENTS		
SUBTYPES WERE RESTRUCTURED ON 3.7.2018 FOR 581 AND 582 EASEMENTS		

Attachment F - 1981 ADL 100939 DOT Drainage Facilities

TO SIMPLIFY LAS REPORTING. NO AFFECT ON MANAGEMENT IS INTENDED.

Legal Description

WITHIN R.O.W. LOT, U.S. SURVEY 2909, PROTRACTED
SECTION 22, TOWNSHIP 40 SOUTH, RANGE 65 EAST,
COPPER RIVER MERIDIAN AND INDICATED AS PARCEL
E-12, PROJECT F-093-2(6) ON ATTACHED PLAT.
THIS PERMIT IS SUBSERVIENT TO ADL #24304 ISSUED
PERMIT TO FRED S. AND LENORE HONSINGER.

State of Alaska



Patent

No. 6163

Know All Men By These Presents that the State of Alaska, in consideration of the sum of TEN AND NO/100----- DOLLARS

lawful money of the United States, and other good and valuable considerations, now paid, the receipt whereof is hereby acknowledged, does hereby grant to _____

CITY AND BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801 and to

its successors and assigns, all that real property situated in the ~~Borough of~~ City and Borough of Juneau, State of Alaska, and described as follows:

U.S. SURVEY NO. 2909, ALASKA

FOREST SERVICE RIGHT-OF-WAY LOT, containing 0.14 acres.
Excluding the Glacier Highway Right-of-Way (Alaska Project No. F-095-2(6), Right-of-Way Permit ADL 100939).
Subject to Right-of-Way Permit ADL 24304.

ACCORDING TO U.S. SURVEY NO. 2909, ALASKA, TRIANGLE GROUP 3 OF HOMESITES EMBRACING LOTS 1 TO 5 INCLUSIVE, AND 1 FOREST SERVICE R.O.W., ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C., ON MARCH 20, 1951.

Subject to a maximum 50 foot wide easement pursuant to A.S. 38.05.127(a)(2) for access from the Glacier Highway Right-of-Way to the line of mean high water of Auke Bay. The reservation for access along Auke Bay is waived.

U.S. SURVEY NO. 2515, ALASKA

FOREST SERVICE RIGHT-OF-WAY LOT, containing 0.03 acres.
Excluding the Fritz Cove Road Right-of-Way (Alaska Project No. S-0970(2), Parcel No. 31, Right-of-Way Permit ADL 21891).
Subject to Right-of-Way Permit No. ADL 51426.

ACCORDING TO THE PLAT OF U.S. SURVEY NO. 2515 OF THE FRITZ COVE GROUP OF HOMESITES EMBRACING LOTS 17 AND 18 AND F.S.R.O.W., ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE IN WASHINGTON, D.C., ON APRIL 17, 1943.

Subject to a maximum 50 foot wide easement pursuant to A.S.
 38.05.127(a)(2) for access from the Fritz Cove Road Right-of-Way to
 the line of mean high water of Auke Bay.

U.S. SURVEY NO. 2670, ALASKA

FOREST SERVICE RIGHT-OF-WAY LOT, containing 0.38 acres.
 Excluding the Fritz Cove Road Right-of-Way (Alaska Project No.
 S-0970(2), Parcel No. 11, Right-of-Way Permit ADL 21900).

ACCORDING TO U.S. SURVEY NO. 2670, ALASKA, FRITZ COVE GROUP OF
 HOMESITES EMBRACING LOTS 3C, 4, 5, 6 AND ONE R.O.W., ACCEPTED BY THE
 UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT
 IN WASHINGTON, D.C., ON JULY 7, 1948.

Subject to a maximum 50 foot wide easement pursuant to A.S.
 38.05.127(a)(2) for access from the Fritz Cove Road Right-of-Way to
 the line of mean high water of Auke Bay.

U.S. SURVEY NO. 3817, ALASKA

LOT 2, containing 0.58 acres.

ACCORDING TO U.S. SURVEY NO. 3817, ALASKA, EMBRACING LOTS 1 AND 2,
 ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF
 LAND MANAGEMENT IN WASHINGTON, D.C., ON OCTOBER 12, 1962.

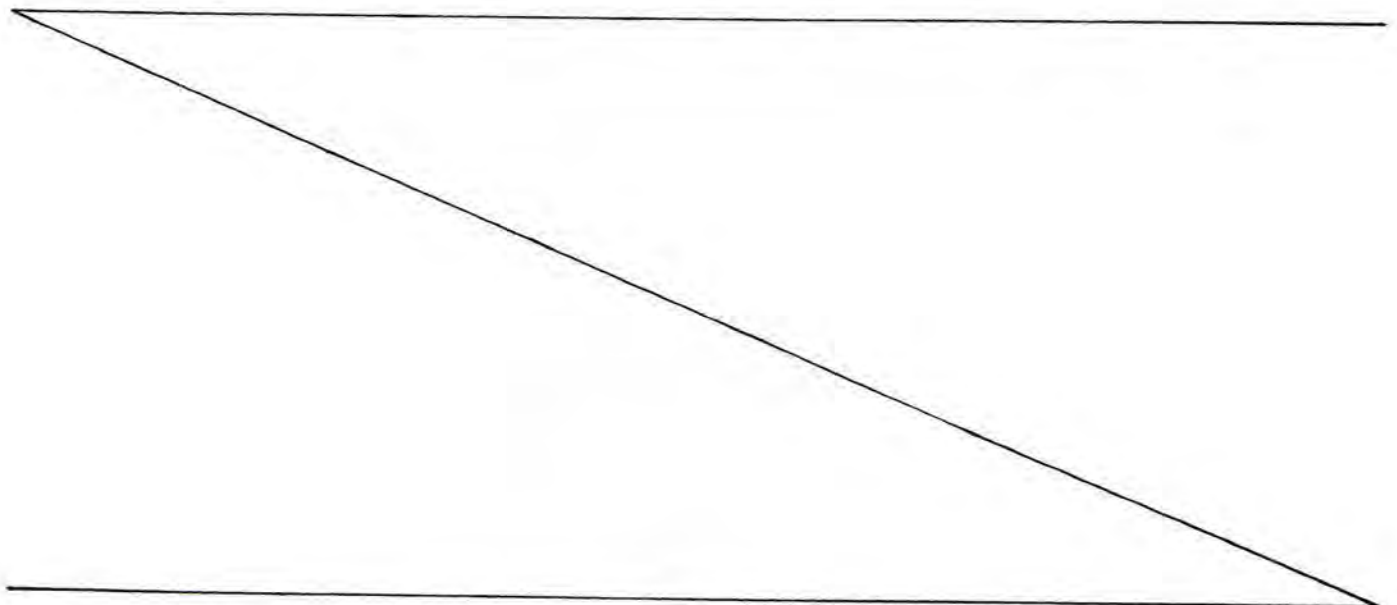
Pursuant to A.S. 38.05.127(a)(2) reservation of an easement for
 public access is retained 50 feet upland from the line of mean high
 water along Auke Bay.

CONTAINING AN AGGREGATE OF 1.13 ACRES, MORE OR LESS.

Subject to valid existing trails, roads and easements.

The Grantee may manage all easements pursuant to A.S. 38.05.127(a)(2)
 stated above, including but not limited to authorizing the placement
 of improvements within the easements, the expansion, relocation or
 reduction of the easement widths stated above to not less than 10
 feet, or other modification of the easements as long as the purpose
 of the easements is not substantially impaired and the need of the
 public for the easements is met.

Net chargeable acreage under A.S. 29.18.201 is 1.07 acres.



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 Page 63
 ADL No. 101081
 Patent No. 6163

82-003640

14.00

RECEIVED FILED
JUN 9 8 37 AM '82
REC'D BY JC+B
ADDRESS _____

Township 40 SOUTH, Range 65 EAST, COPPER RIVER Meridian,
Alaska, according to the official survey thereof numbered USS 2909, 2515, 2670, 3817

Save And Except those restrictions appearing in the Federal Patent or other conveyance by which the Grantor acquired title;

And Further, Alaska, as Grantor, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

To Have And To Hold the said land, together with the tenements, hereditaments, and appurtenances thereunto appertaining, unto the said Grantee and its successors and assigns forever.

In Testimony Whereof the State of Alaska has caused these presents to be executed by the Director of the Division of Technical Services, Department of Natural Resources, State of Alaska, pursuant to delegated authority, this 18th day of March, A.D., 1982.

Warner T. May
For Director, Division of Technical Services

State of Alaska)
) ss.
THIRD Judicial District)

This Is To Certify that on the 18th day of March, 1982, appeared before me
Warner T. May

who is known to me to be the Director of the Division of Technical Services, Department of Natural Resources, State of Alaska, or the person who has been lawfully delegated the authority of said Director to execute the foregoing document; that he executed said document under such legal authority and with knowledge of its contents; and that such act was performed freely and voluntarily upon the premises and for the purposes stated therein.



Notary Public in and for Alaska
My Commission expires July 29, 1984
State Record of Patents
Vol. LXII
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ADL No. 101081
Patent No. 6163



- Sec. 18 U.S.S. 3056, Lot DD (U.S. Pat. #1226913) 0.23 acres ±
 Subject to:
 Right-of-Way for Federal Aid Highway under 23 USC Sec. 317;
 ADL #42541, Water Right, J. Frank Field;
 ADL #55160, Water Right, Frank & Judith Mayer.
- Sec. 19 U.S.S. 3054, Lot 18A (U.S. Pat. #1226913) 0.73 acres ±
 Subject to:
 A061617, Right-of-Way, 44LD-513;
 Right-of-Way ACS Cable Pole;
 Right-of-Way for Federal Aid Highway under 23 USC Sec. 317.
- U.S.S. 3054, Lot 25A (U.S. Pat. #1226913) 0.32 acres ±
 Subject to:
 Right-of-Way for Federal Aid Highway under 23 USC Sec. 317.
- U.S.S. 3055, Lot 3A (U.S. Pat. #1226913) 0.14 acres ±
 Subject to:
 Right-of-Way for Federal Aid Highway under 23 USC Sec. 317.
- U.S.S. 3266, Lot 28 (U.S. Pat. #1226913) 3.82 acres ±
 Subject to:
 Right-of-Way ACS Cable Pole;
 Right-of-Way for Federal Aid Highway under USC Sec. 317.
- U.S.S. 3266, Lot 29 (U.S. Pat. #1226913) 3.20 acres ±
 Subject to:
 Right-of-Way ACS Cable Pole;
 Right-of-Way for Federal Aid Highway under 23 USC Sec. 317.
- Sec. 21 U.S.S. 2389, Lot A-1 (U.S. Pat. #1235056) 2.41 acres ±
 Subject to:
 Right-of-Way for Material Site under 23 USC Sec. 317.
- Sec. 22 U.S.S. 3812, excluding the Glacier Highway, 44LD-513 (U.S. Pat. #1233779) .36 acres ±
 Subject to:
 Platted Easements.
- U.S.S. 2909, Forest Service R.O.W. Lot .014 acres ±
 Subject to:
 ADL #100939, Right-of-Way, DOT/PF (F-095-2(6));
 ADL #24304, Right-of-Way, Fred S. Honsinger;
 A reservation 50' wide for access to and along public or navigable waters along Auke Bay.

Presented by: Lands Committee
Introduced: 10/07/85
Drafted by: Lands Committee

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 85-76am

AN ORDINANCE PRESERVING CERTAIN MUNICIPAL LAND
FOR THE JUNEAU OPEN SPACE AND PARK SYSTEM.

WHEREAS, the establishment of a municipal open space and park system would permit the more efficient and effective management and use of land classified for such purposes, and

WHEREAS, in accordance with CBJ 53.09, the Planning Commission has previously classified as "public use" those lands included in the list attached hereto as Appendix 1 and the maps attached hereto as Appendix 2, and

WHEREAS, such lands appear to be well suited for inclusion in an open space and park system, and

WHEREAS, the Planning Commission has reviewed and concurs with the objectives of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

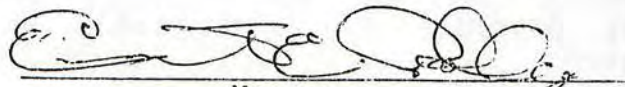
* Section 1. Classification. This ordinance is a non-code ordinance.

* Section 2. Preservation of Land. (a) Those parcels of land listed in Appendix 1 and depicted in Appendix 2 are preserved from all other uses for the purpose of inclusion in the Juneau Open Space and Park System; provided, however, waterlines, utilities, access, roads, easements and similar incidental uses may be allowed, and provided further that appropriate present uses and adequate future space for major right-of-way alignments shall be maintained in those parcels designated in Appendix 1 as 0412B and 0520A.

(b) The manager or his designee, upon a finding that circumstances so warrant, may by regulation issued pursuant

to CBJ 67.01.045 subject any of the aforesaid parcels to the application of CBJ 67.01, and such action shall be regarded as a dedication for the purposes of CBJ 67.01.030.

Adopted this 3rd day of March, 1986.



Mayor

Attest:



Clerk

PARK AND OPEN SPACE STATISTICAL SHEETS

General Location	CBJ Parcel Number	Property Description	Approx. Acreage	Classification	Comprehensive Plan Designation	Legal Description
Auke Nu Cove	0202	Indian Cove Island	1.54	Public Use - Waterfront Recreation	Open Space	Lot 2, USS 3810
	0203	Indian Point Shoreline	24.02	Public Use - Open Space Preserve	Existing Park	Lots 3 and 4, USS 3811
Auke Bay	0301	Auke Bay Shoreline Access	.36	Public Use - Beach Access	Urban Low Density Residential	Fraction of USS 3812
	0302	Auke Bay Shoreline Access	.14	Public Use - Beach Access	Beach Access	ROW, USS 2909
	0305	Spaulding Trailhead & Corridor	1.39	Public Use - Trail Access	Trail Corridor	Lot 1, USS 2391
Auke Lake	0400A	Spaulding Trail Corridor	4.10	Public Use -	Trail Corridor	Fraction of Lot 3, USS 3820, 50 feet each side of Spaulding Trail centerline
	0400B	Auke Lake Shoreline	1.50	Public Use -	Urban Low Density Residential	Fraction of Lot 3, USS 3820 south of Back Loop Road
West Mendenhall Valley	0404	Auke Lake Access	.67	Public Use -	Urban Low Density Residential	Lot 1, Tract A, USS 2392

* Future road corridor will cross this parcel.

NOTE: Greenbelts for stream corridors are measured from HWL.

EXCERPT

CBJ Open Space and Park System

Map 3
Auke Bay
Sept.1,1985

LEGEND

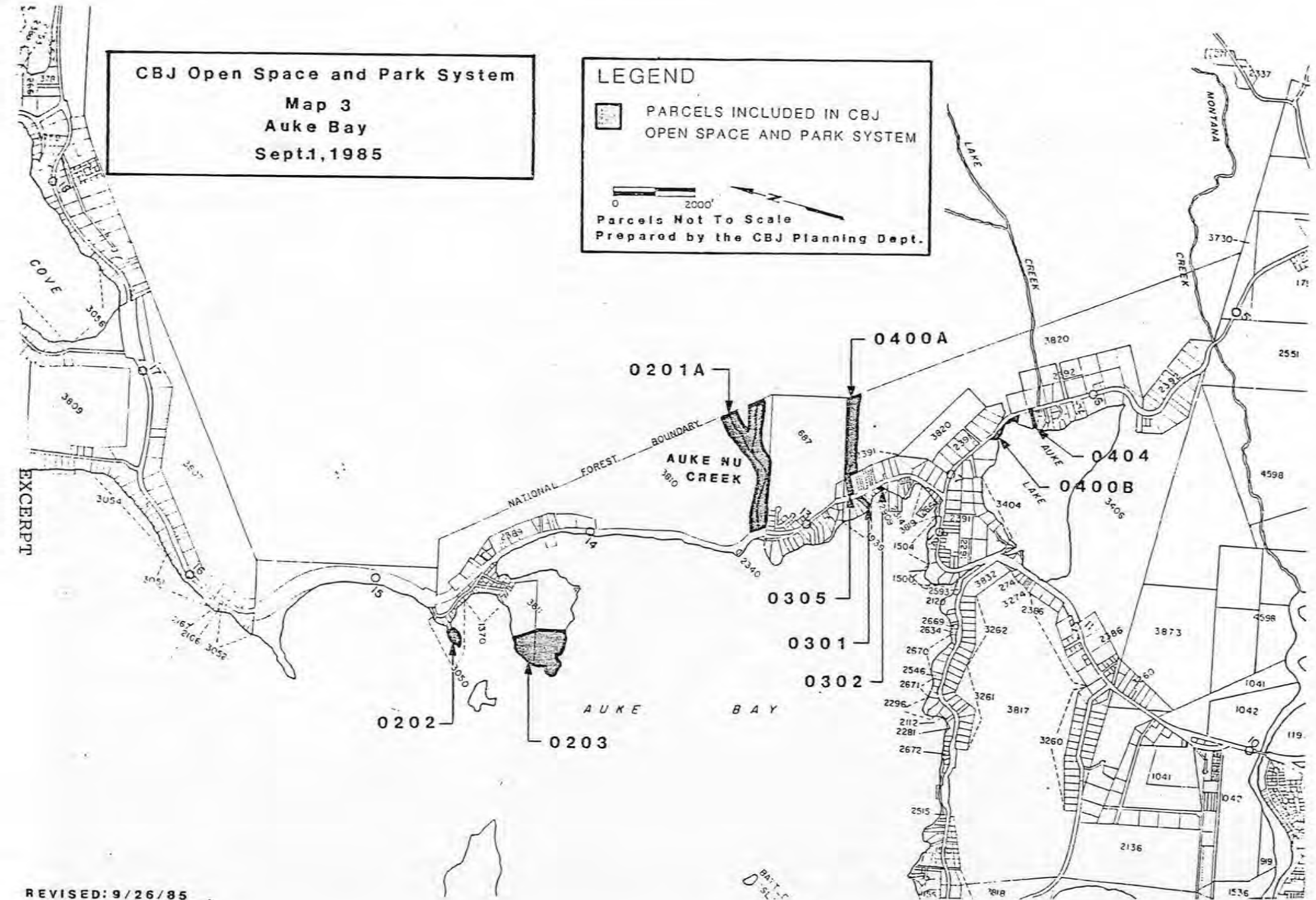


PARCELS INCLUDED IN CBJ
OPEN SPACE AND PARK SYSTEM

0 2000'

Parcels Not To Scale

Prepared by the CBJ Planning Dept.



Presented by: The Manager
Introduced: 07/08/96
Drafted by: J.R.C.

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 96-26

An Ordinance Reestablishing the Juneau Parks System.

WHEREAS, the Assembly by Ordinance 85-76am identified certain parcels of municipal land as preserved from other uses for the purpose of inclusion in the Juneau Open Space and Park System, and

WHEREAS, changes in municipal land holdings, changes in the activities of people who use the park system, and changes in community views of recreation and development all warrant a reassessment of the Open Space and Park System, and

WHEREAS, the Manager has proposed, and the Parks and Recreation Advisory Committee and the Planning Commission have reviewed and approved the list attached hereto as Appendix 1 as establishing the new Juneau Open Space and Park System.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This is a noncode ordinance.

Section 2. Management of Land. Those parcels of land listed in Appendix 1 are preserved from other uses for the purpose of inclusion in the Juneau Open Space and Park System; provided, however, that waterlines, utilities, access, roads, docks, launch ramps, easement, and similar incidental uses may be allowed provided further that appropriate present uses and adequate future space for major right-of-way alignments shall be maintained in those parcels designated as 0412B and 0520A.

Section 3. Definitions. For purposes of Appendix 1, the following abbreviations used therein shall have the meanings here ascribed:

"Recreation Service Park" (RSP) means a park that is intended to serve a neighborhood or community-wide population by providing opportunities for intensive active recreation and programmed use, and may also accommodate unprogrammed uses.

"Natural Area Park" (NAP) means a park designed to serve the entire community by providing open space, access to water, and opportunities for passive and dispersed recreation.

"Conservation Area" (CA) means environmentally valuable land set aside by the Parks and Recreation Department for the protection and management of the natural environment, with recreation as a secondary objective. Conservation Area lands include but are not limited to Class A & B wetlands and anadromous stream corridors.

Section 3. Repeal of Ordinance. Ordinance 85-76am is repealed.

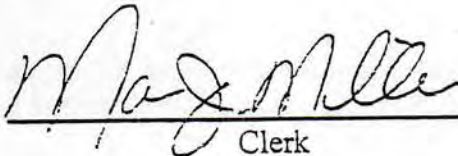
Section 4. Effective Date. This ordinance shall be effective thirty days after its adoption.

Adopted this 15th day of July, 1996.



Mayor

Attest:



Clerk

PARK AND OPEN SPACE STATISTICAL SHEETS

General Location	CBJ Parcel Number	Property Description	Approx. Acreage	Classification	Comprehensive Plan Designation	Legal Description
Auke Nu Cove	0202	Indian Cove Island	1.54	Public Use - Waterfront Recreation	Open Space	Lot 2, USS 3810
	0203	Indian Point Shoreline	24.02	Public Use - Open Space Preserve	Existing Park	Lots 3 and 4, USS 3811
Auke Bay	0301	Auke Bay Shoreline Access	.36	Public Use - Beach Access	Urban Low Density Residential	Fraction of USS 3812
	0302	Auke Bay Shoreline Access	.14	Public Use - Beach Access	Beach Access	ROW, USS 2909
	0305	Spaulding Trailhead & Corridor	1.39	Public Use - Trail Access	Trail Corridor	Lot 1, USS 2391
Auke Lake	0400A	Spaulding Trail Corridor	4.10	Public Use -	Trail Corridor	Fraction of Lot 3, USS 3820, 50 feet each side of Spaulding Trail centerline
	0400B	Auke Lake Shoreline	1.50	Public Use -	Urban Low Density Residential	Fraction of Lot 3, USS 3820 south of Back Loop Road
West Mendenhall Valley	0404	Auke Lake Access	.67	Public Use -	Urban Low Density Residential	Lot 1, Tract A, USS 2392

* Future road corridor will cross this parcel.

NOTE: Greenbelts for stream corridors are measured from HWL.

EXCERPT

Parcel # 0302

Map: # 9 Auke Bay

Acreage: .14 acres

Approximate Width: 35' at road
10' waterfront

Availability of parking: Along the highway during the summer months. During winter there is no public place to park nearby.

Physical Characteristics: Steep slope down from the road. There is a small level bench area in the middle of the parcel, and then a slope down to the beach. There is a narrow swath of large trees along the east property line, some of which may be on this parcel. The other part of the lot is grassy. There is a use trail down the side of this lot which veers over onto the vacant lot to the west towards the beach area. The large trees along the property line block the view of the house to the east. The lot to the west is vacant, and the house on the lot next to that sits high on a bluff.

Beach Amenities: At lower tides the beach can be walked to the west. There are views of the docks and Auke Bay harbor.

Other beach access nearby: Auke Bay harbor is approximately .4 miles away. CBJ Parcel # 0301, Auke Nu Beach Access is approximately .2 miles to the east.

Potential for accessibility: None

Public Use: Low

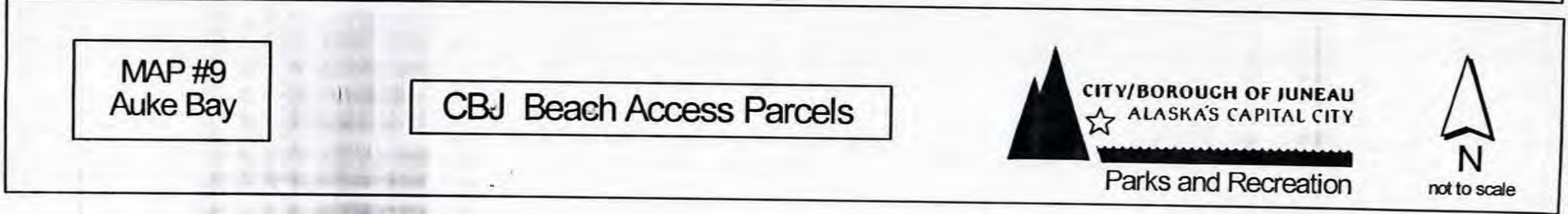
Cost to Improve: Low

Special Conditions: There is a storm drain grate in the roadway immediately adjacent to this lot. There is an underground storm drain system that includes underground culverts and a station about midway through the lot.

Analysis: Access and parking for this parcel are fairly easy most times. There is a trail that is easy to follow that has just been worn down through use. The views are good, as is beach walking at lower tides. There is a lot of upland development in the area and not many beach access areas in the immediate area. There is a storm drain system located on site.

Recommendation: I recommend that the CBJ Parks and Recreation Department retain this parcel as a Natural Area Park.

Action Taken: The CBJ Parks & Recreation Advisory Committee voted to retain parcel on March 17, 1998.





MEETING MINUTES
PARKS & RECREATION ADVISORY COMMITTEE
TUESDAY, JUNE 1, 2021 – 5:30 PM
Zoom Webinar

I. Call to Order at 5:32 p.m. – C. Mertl, Chair

Present: Alex Beebe-Giudice, Edric Carrillo, Ron Crenshaw, Kirk Duncan, Emily Haynes, Chris Mertl, Will Muldoon

Absent: Josh Anderson, Makayla Chappell

Staff Present: George Schaaf, Director; Michele Elfers, Deputy Director; Lauren Verrelli, Recreation & Public Services Manager; Dan Bleidorn, Lands Manager; Kristi West, EVC Manager

II. Agenda Changes – None

III. Approval of Meeting Minutes –

- A.** From May 4, 2021 – W. Muldoon moves to approve minutes; no objection. ***Minutes adopted.***

IV. Public Participation on Non-Agenda Items – None

V. New Business –

A. Chair & Liaison Elections

W. Muldoon moves to elect Chris Mertl as Chair of the PRAC. *Passes unanimously.*

C. Mertl moves to elect Will Muldoon as Co-Chair of the PRAC. *Passes unanimously.*

C. Mertl moves to elect Josh Anderson as 2nd Chair of the PRAC. *Passes unanimously.*

Liaisons: A. Beebe-Giudice, Eaglecrest; W. Muldoon, Aquatics; J. Anderson, YAB; E. Carrillo, JOAAB; C. Mertl, Lands & Park Foundation; K. Duncan, TAAB; R. Crenshaw, Trail Mix

B. Cope Park Easement Application

M. Elfers: In the fall of 2019, there was a landslide that initiated on private property and ended up in Cope Park near the sledding hill. The property owner has been working with our Risk Dept. on how to move forward with stabilizing that slope. There is an easement request the property owner worked on with staff that would allow them to do stabilization work on their property and some CBJ property as needed. Parks & Recreation created a Memorandum of Understanding (MOU) for the work, which has been reviewed by Law and the property owner. This MOU includes site access during construction, consideration for public safety and specific conditions of the park once work is complete. Staff sees the benefit to the public and the department because it will stabilize the slope and prevent future slides into the park.

W. Muldoon: Would CBJ and the property owner split the cost for this work?

M. Elfers: No, the cost is the responsibility of the property.

E. Hayes: It sounds like Parks & Rec is intending to do subsequent authorizations, are you going to be issuing future MOU's? I would recommend adding something about future coordination with CBJ regarding work into the existing MOU.

M. Elfers: This easement allows for additional work later. The MOU was specifically

written for work that is going to happen this summer if approved. If in two years the owners comes back and needs maintenance work, we would work with them.

Helen Clough (Property Owner): We appreciate your approval. The slope is at great risk right now, if we do not move forward with this project. Thank you for your time.

E. Hayes: I move the PRAC recommend that the Assembly approve the request by Helen & Albert Clough to acquire an easement within Cope Park.

Motion passes unanimously.

C. Auke Bay Beach Access Easement Application

G. Schaaf: Peak Construction has submitted an application for a permanent easement to construct a driveway on a Beach Access parcel in Auke Bay. We did receive some additional information from the applicant today a couple minutes before close of business. This was emailed out to you all. The information we received from the applicant today states a new purpose and need for the project, which is different from what their original application contained. From staffs perspective, this doesn't change our recommendation that this is not in the best interest for the public and is not consistent with the Parks & Rec Master Plan.

W. Muldoon: I am concerned about the public beach access piece of this request.

M. Schaaf: The information we received from the applicant did not really address public access to the shoreline, which is the chief concern of ours. This parcel was dedicated by the Assembly 30 years ago to maintain public access to the shoreline. The impact of granting a permanent easement that covers the entire road frontage of this parcel is not explored in their proposal. As our community develops in the future, these type of beach access points for the public will be more important and we will be seeing these access points developed more fully in the future.

R. Crenshaw: I wouldn't mind this request being delayed until the property owners can show that the public parking and access would not be diminished from what it is now.

A. Beebe-Giudice: Mr. Schaaf you mentioned that in the future this area might be improved to enhance the existing informal access that this parcel provides to the beach. Could you give more details on improvements, what that would look like and when would these happen?

G. Schaaf: The Department does not have a definitive timeline on when improvements to this particular parcel would happen. I do know that this is not currently in our Capital Improvement Plan, which has a five-year horizon.

A. Beebe-Giudice: At what point does public comment come into play here since this would drastically change the area.

G. Schaaf: This is an opportunity for public comment here at the PRAC. This easement proposal will go to the Lands Committee and then to the Assembly. The Department could go out to seek public comment as well.

W. Muldoon: Can there be an explanation about a land disposal versus a permanent easement? A driveway seems like a permanent fixture in my mind.

Dan Bleidorn: Easements are covered under the disposal code. The difference between a sale and an easement would be a full on sale would go to the Assembly by ordinance and an easement would be passed through by a resolution at the Assembly level.

C. Mertl: Maintaining beach access is a high priority and we should avoid disposal because they are a high value to the community. I do not support this because we are

taking away a public parking area that provides access. Is there a way to work with the applicant to create some sort of parking pad on the waterside of the driveway and a set of stairs that actually gives public access to the water?

Dan Bleidorn: The board could put in conditions on this easement stating that they would be in favor with certain conditions such as providing parking and making access more accessible.

Jim Parise (Applicant): Thank you for letting me speak. I wanted to clarify that the parking pad in the pictures provided is actually private property and the CBJ land is currently blocked by a retaining wall. There really is not any access except steep dangerous terrain. In addition, within 300 yards in either direction there is other public access or parking. This is our dream home because we are moving onto the water and the reason we picked this spot is the revitalization plan for Auke Bay. Our improvements would create beach access for this area since there currently really is not any access.

W. Muldoon: Do you think it is feasible or unfeasible to look more towards leasing versus an easement?

Jim Parise: An easement is better because then we do not have to worry every five years whether or not we're going to get our lease renewed.

E. Hayes: You had noted this easement, if constructed, would actually provide more access to the waterfront property but that is not clear in your drawings.

Jim Parise: What we would be doing is improving the land to get to my land so that anybody can walk across it. Would not be enough room to have public parking though.

A. Beebe-Giudice: Can we get clarification on the existing garage? The easement request is for a driveway, is this the only solution for the parking problem on your property is this easement? What about demoing the current garage and creating something that works for you there not on parkland?

Jim Parise: This is what we have come up with so far since our desire is to drive up to the house and not have to access it by stairs, especially as we age.

C. Mertl: I would like to see if the Department can find common ground and see if this is something the Department wants to pursue.

G. Schaaf: Staff had very little time to work on this and have already absorbed a significant amount of staff time reviewing the limited information we had.

K. Duncan: We should not rush into anything. The applicant needs to address all the concerns they heard tonight, present it to staff, refine the proposal, and then bring it back to PRAC.

R. Crenshaw: I support what Mr. Duncan suggested. We take no action on this tonight and refer to the applicant and staff to bring back a more definitive proposal.

D. Memorial Bench Policy

M. Elfers: This policy has been more-or-less in effect for many, many years since we get a lot of request for memorial benches. We see this policy as having a public benefit for people who would like to learn how to recognize and remember a person, which also provides a very nice public value in areas where we might not have resources to install a bench. The individual is required to pay all the costs of purchasing, shipping and installing the bench.

W. Muldoon: I move the PRAC recommend that the Department adopt Policy No. 700-

001 Memorial Benches.

Motion passes unanimously.

E. Juneau Capitol Fund Grant

M. Elfers: The Department has been working towards a Capital School Park reconstruction project for many years. Work includes major repairs to the retaining wall, old play equipment, drainage issues, accessibility issues and more. We have been building funding through sales tax and temporary sales tax and most recently, voters passed bond funding last fall. The park is situated within the capital complex where the Juneau Park Foundation (JPF) recognized that Capital School Park is an important facility within the capitol and serves legislative staff. The JPF approached the Juneau Community Foundation (JCF) about their Juneau Capitol Fund to request a consideration of funding towards the park and some improvements including lighting, turfed area, etc. that would not have been able to afford under the sales tax and bond funding. The Juneau Capitol Fund committee has approved up to \$550,000 donation, which is based on engineer's estimates for the project. The next step is for the PRAC to recommend the appropriation of these funds.

W. Muldoon: I'm wondering why we're prioritizing safety lighting for this park when we didn't prioritize it in other parks?

M. Elfers: This additional funding is available for Capital School Park since it is linked to the Capitol Fund. Originally, we had not prioritized lighting with the funding we had but with this opportunity for additional funding through the grant we can get lighting which will help with any bad/criminal behavior in the area.

R. Crenshaw: I would like to endorse this plan it is fabulous. Do you have any plans for the cottonwood tree?

M. Elfers: Yes, we know this is a loved tree but it will be removed as part of the project since it has grown up against the retaining wall that has to be replaced.

C. Mertl: Is there an expectation for an increase in construction costs due to COVID? I'm hoping the \$500K from the JCF doesn't have to be used for the high construction costs now but actually goes towards the improvement discussed tonight.

M. Elfers: Escalating construction costs are a concern and we will have to see what the bids are. Engineering's estimates are not intended to be the minimum, they're intended to be a little high so we're not surprised when higher bids come in.

W. Muldoon: I move the PRAC recommend that the Assembly accept up to \$550,000 from the Juneau Capitol Fund, a fund of the Juneau Community Foundation, and appropriate these funds to the Capital School Park Capital Improvement Project.

Motion passes unanimously.

VI. Unfinished Business – None

VII. Information Items –

A. EVC and Amalga Meadows Update

K. West: From the beginning, ABAK reached out to offer tours out of Kayak Beach and then JIRP reached out to use the lower level of the facility as their headquarters in town. Then most recently, SAIL reached out to open back up the challenge course, which is happening this summer. Trail Mix has been a great partnership, building and updating

our trails, which include the Horse Tram trail, the new trail to the Amalga Cabin and improvements to challenge course trail. It has been so heartwarming for me to see the support of the community, their respect and care that everyone has done to continue celebrating different events, and still abide by the COVID mandates. We had 92 rentals in FY21, which is amazing.

VIII. Committee, Liaison, and Board Member Reports

A. Chair Report—None

B. Liaison to the Assembly Report— Finished the budget; AGB is receiving full funding for renovation. Passed a fireworks ordinance. Working on clarifying liaison rules.

C. Liaison Reports—

Aquatics – W. Muldoon: AGB got full funding for renovations to move forward starting in 2022.

YAB – J. Anderson: None.

Eaglecrest – None.

Jensen-Olson Arboretum— E. Carrillo: Working on devils club mitigation.

Lands – C. Mertl: Talked about Montana Creek Master Plan and ORV working group.

Park Foundation— C. Mertl: None.

Treadwell Arena Board – K. Duncan: Presented annual report to HRC.

Trail Mix— R. Crenshaw: None.

1% for Art— J. Anderson: None.

Other Member Business – None.

Adjournment – 7:40 p.m. *Having no other business before the board.*

Respectfully submitted by Lauren Verrelli, Recreation & Public Services Manager, 9/28/21

Timestamp	Should the City & Borough of Juneau grant a permanent easement across a 0.14-acre public Beach Access to allow an adjacent property owner to build a new driveway?	Comments:	First and last name:	Email address:	Residence location:
2021/08/18 11:47	Yes		Arthur Drown	arthur.drown@juneau.org	Douglas
2021/08/18 11:47	Yes		Sara Murray	saracrearick@gmail.com	Downtown
2021/08/18 11:55	Yes		Jeff Hedges	jthedges76@gmail.com	Douglas
2021/08/18 12:08	Yes		Michelle Brown	akgal57@gmail.com	Out the road
2021/08/18 12:20	No	According to Ordinance No. 85-76am, PRESERVING CERTAIN MUNICIPAL LAND FOR THE JUNEAU OPEN SPACE AND PARK SYSTEM, this land was protected so that the general public can access public land, including shorelines, islands, etc. I fear that granting a permanent easement would unlock this possibility for more land owners and slowly remove access to public spaces. The reason many of us choose to live in Juneau is for free, easy, and equitable access to beautiful spaces such as our shorelines. Projects like this make public land access less accessible, even with the addition of the public use path proposed.	Kaitlyn Conway	kaitlynconway0123@gmail.com	Downtown
2021/08/18 1:22	No	The City should maintain complete and unfettered ownership of all their dedicated park lands for the long term benefit of the public. By granting a PERMANENT easement for a driveway across these park lands, the current Assembly will be severely limiting future options for public use (or development) of this parkland parcel. The proposed driveway location will occupy the parcel's only easily accessible entry point from Glacier Hwy as half the parcel's Hwy frontage is occupied by a ADOT retaining wall and concrete traffic barrier wall. The proposed driveway easement access point between the end of the wall and the NW corner of the parcel corner is the only "flat" area suitable for construction of a dedicated P&R "trailhead", and the only place the city could construct public off-street parking on the parcel's Glacier Hwy frontage. By dedicating the proposed driveway easement CBJ will lose options for future access improvements.	Alan Steffert	Asteffert@gmail.com	Douglas
2021/08/18 3:25	No	And the reason he can't use his own land is? It looks like he can do it on his own property. Do we not have a street view of this to see why he can't build on his own land?	Melinda Campbell	Mybella_13@msn.com	Lemon Creek
2021/08/18 3:53	No	Why are they asking for more space when they could keep it all on their already owned property? Seems wrong to be asking for more of this stolen land ðŸ™–	Kaasgiteen Jalynn Gregory	jalynnakins@gmail.com	Auke Bay
2021/08/18 4:11	Yes		David Miller	millerdavem@gmail.com	Valley
2021/08/18 4:41	No	Allowing neighbors to buy the few slices of public access to the beach/water is a slippery slope. I wouldn't have any problem if it wasn't already so limited or if the city was expanding access, but I don't see that happening. I feel for the owner, but this would be a bad precedent.	Kevin Siwicke	kswicke@gmail.com	Lemon Creek
2021/08/18 4:47	Yes	Let the man do his thang	Rex Paden	jsphpaden21@gmail.com	Auke Bay
2021/08/18 5:45	No		AshLee Peterson	Ashleeann1015@hotmail.com	Valley
2021/08/18 5:45	No		Josh Campbell	Josh_campbell386@hotmail.com	Valley
2021/08/18 5:51	Yes		Karla Bush	kgbush@gmail.com	Douglas
2021/08/18 6:16	No			Jonheifetz@yahoo.com	Douglas
2021/08/18 6:22	No	This needs to be reserved for public access to the beach.	Marrisa Peterson	Marrisapeterson@yahoo.com	Valley
2021/08/18 6:38	No	There needs to be parking constructed at the location to accommodate the vehicles of people using this location to access Auke lake. The granting of this access will forever have there be no parking available at this location. There are more and more people using this location and the parking along glacier Hwy is not adequate or safe.	Anonymous Juneau resident	Anonymous Juneau resident	Auke Bay
2021/08/18 7:38	Yes	There is not enough parking, so it infringes on the bike path and side walk. It will be much safer for the home owners and people driving in from out the road on that busy stretch of highway, especially when the homeowners have to back out into traffic.	Mary Frances Griggs	maryfgriggs@hotmail.com	Auke Bay
2021/08/18 7:47	No	If this application is granted, I would recommend a requirement to mark the pedestrian footpath as "Public Beach Access" at the highway and at the beach. I've seen multiple cases (in Juneau and elsewhere) where residents of adjacent properties try to obscure, block, or otherwise impede the public from using access easements as intended. This proposed easement would eliminate any reasonable possibility for parking near the beach access. It would be a shame if it turned into one beachfront property owner taking away public access from the majority.	Tom Wilson	Tomtom69@yahoo.com	Auke Bay
2021/08/18 7:47	No		Nicole Garmon	nikkigarmon1@gmail.com	Valley
2021/08/18 7:58	No	If granted it will set precedence for water front land owners to block public access as has happened in California and Hawaii. Do not go down this road please.	Patricia Jouppi	Pjouppi.art@gmail.com	Valley
2021/08/18 8:15	No	Public access has great present and future value and should not be given up. As Auke Bay is more densely developed (per the Auke Bay Plan) this access will have even greater value. The trail/easement approach does not serve public purpose in the long-term.	Karla Hart	karlahart@gmail.com	Valley
2021/08/18 8:43	No	I believe the original protection put in place in 1986 is still a good standard. Public access is critical in Juneau to individuals wanting to recreate.	Sarah Rauchenstein	Skatrauch@gmail.com	Valley

2021/08/18 8:59:	Yes	Safety and value. Plus additional income for the city in a time Of need. Also should increase the value of the property thereby increasing the property tax long term.	Robert Griggs	brucegriggs@hotmail.com	Auke Bay
2021/08/18 9:17:	No	Why would we give up an access point to the beach?	Robert Marvelle	rmarvelle@hotmail.com	Valley
2021/08/18 9:59:	Yes		Erica	ericax235@gmail.com	Valley
2021/08/18 10:03:	No		Monica Hinson-Wilson	mhinsonwilson@gmail.com	Valley
2021/08/18 10:24:	Yes		Mari Meiners	Mkdyson@gci.net	Douglas
2021/08/18 10:28:	No		Randy Host	host_randy@yahoo.com	Lemon Creek
2021/08/18 10:32:	No		Patricia Lamson	P.lamson@lsw-family.us	Valley
2021/08/18 11:04:	No	This sale would limit future public access, I am opposed because of that reason. Road/driveway needs to be accessible by public, not just footpath.	Monika Kunat	Mkumat@gmail.com	Douglas
2021/08/19 5:46:	No	The plans should not be approved as is. Having access for vehicles to enter the parcel in the future for parking is in the publics best interest for access. An improved plan might include shared access that allows the proposed driveway split to the owners property as well as public vehicular access to the property that could one day be developed to public parking. This would satisfy both needs, albeit with an overall reduced parking lot footprint.	James Marks	J.t.marks0@gmail.com	Auke Bay
2021/08/19 7:15:	Yes		Greg Anderson	Gregorama99@hotmail.com	Out the road
2021/08/19 10:03:	Yes		Rachel Kelly	rachelangelinekelly@gmail.com	Valley
2021/08/19 10:22:	No	Deny public beach access for a private driveway? No way!	Jon pond	Jpgkak@gmail.com	Downtown
2021/08/19 10:34:	Yes	As long as public beach access is guaranteed, I see no problem with letting them use a piece of public land to improve their property. The city can benefit from the sale and the public can continue to access that part of Auke Bay.	Morgan Stonecipher	morgan.d.stonecipher@gmail.com	Douglas
2021/08/19 11:17:	No	Since your request for comments gives no reasoning for why the application is made, I cannot support it. Why can't the applicant just install a driveway on their own property? Is that impossible? If so, why? Is the purpose of their application only to save them money? What value are public comments when such fundamental information is omitted?	Wayne Coogan	wdc@cooganalaska.com	Auke Bay
2021/08/19 2:39:	No		Bobby	Porter	Valley
2021/08/19 2:40:	No		Ticket Seslar	Seslar@gci.net	Douglas
2021/08/19 5:37:	Yes	There will be better access to beach than currently, and CBJ currently doesn't have funds to do it themselves.	Catherine Sayre		Downtown
2021/08/20 9:25:	No	Public property is becoming less and less in Juneau. The way the design looks to me, this might give the property owner rights over the access as it would sit on his property. I believe when the access was provided for the public, they were correct in there thinking and it should stay that way. The homeowner already has access to his home and garage and the idea that he needs public property for another access isn't 100% necessary but rather a perk. Please leave it the way it is.	Christopher Wingo	chrisdwingo@gmail.com	Douglas
2021/08/21 3:27:	No	It is hard to tell from the drawing if there is a drastic problem with the site that forces someone with significant street frontage to have to grab additional street frontage to make a driveway. The properties on either side of the residence have driveways that go straight from the roadway to the house so what is the reason for this long driveway? The person bought the property knowing the terrain and the constraints of the site so denying the easement should not be an unanticipated and devastating outcome. Granting the easement means the public has to walk up the private driveway to get to the beach access, which is confusing and a barrier to going to that beach access. The location of the proposed public path squashed over to the side farthest from the residence and what looks like a privacy wall makes me wonder if part of the design is to move the public as far from the residence as possible. Lastly, I am having a hard time comparing the drawing in the application to the photo. In the photo it appears that the residence is smaller and further from the street and beach access. Is that an old photo and the house is much larger or is the drawing not to scale giving a false impression of the site?	Carole Bookless	sealettuce-1@yahoo.com	Douglas
2021/08/21 3:40:	No	The owner can do the driveway on their own property. Granting this access will degrade the CBJ parcel to nearly being unusable under normal circumstances. I agree with P&R that access to the parcel will be severely limited. Please do not grant this request.	Jim Preston	jim.preston49@gmail.com	Auke Bay
2021/08/21 6:16:	No	Put the land up for Auction.	Marciano Duran	mduran@acsalaska.net	Valley
2021/08/21 6:52:	Yes		Linda Biefgen	lindablefgen@gmail.com	Auke Bay
2021/08/21 6:54:	Yes	I approve of this, but would recommend that this not set a precedent for future applicants.	Scott McPherson	Dsmac@ak.net	Auke Bay
2021/08/21 7:12:	No	It appears that the applicants already have a driveway with a garage so I don't see any need to acquire CBJ land that offers tideland access for Juneau and it's residence. This CBJ property presently provides tideland access and may provide additional valuable needs in the future for the residence of Juneau.	Larry Holland	elsaholl79@hotmail.com	Auke Bay
2021/08/23 2:06:	Yes	Grant permission ,steep lot not good for access. Get that lot on the tax rolls. Path will still provide access.	George Fisher	glmfisher@gmail.com	Auke Bay
2021/08/23 8:08:	No	Why 16&€™ not 8 for just driveway. Concerned future commercial development with increased tourism and cruise ships currently occurring in Auke Bay	Gale Good	galegood3@gmail.com	Auke Bay
2021/08/23 2:46:	Yes		Mitch Falk	bullwinkies1@gci.net	Auke Bay

2021/08/24 8:18:	Yes	This is a win/win for everyone. The city gives up a tiny bit of land and gets a path to the beach that would probably never be built with city funding. I live in Auke Bay and these kind of improvements need to be made. I do not know the family, but why deny them the ability to use their own property?	Kathleen Samalon	ksamalon@yahoo.com	Auke Bay
2021/08/24 11:24:	No		Kimberly Klein	kimberly.klein@wsialaska.com	Valley
2021/08/25 9:38:	Yes		George Reifenstein	reifentak@icloud.com	Auke Bay
2021/08/25 11:50:	Yes	I would like to know where would parking be for individuals that would use the foot path?	Ashley Aemmer	aemmerad@gmail.com	Auke Bay
2021/08/25 3:00:	No		rebecca charles	beccy01@tbom.com	Auke Bay
2021/08/25 3:39:	No	I am opposed to decreasing public beach access that has been preserved since 1986. This private driveway does not conserve, or protect natural resources utilized by the public within the jurisdiction of the CBJ. I am opposed to the granting of a permanent easement across 0.14 acre of public beach access to allow an adjacent property owner to build a new driveway.	Jerry Medina	akpescador@gci.net	Auke Bay
2021/08/25 5:58:	Yes	CBJ should sell them the entire parcel. Nobody ever uses it for beach access and it has no other potential use.	Craig Loken	craigloken@ak.net	Auke Bay
2021/08/25 7:49:	Yes		Therese Elliott-Harvey	pensalaska@gmail.com	Auke Bay
2021/08/26 2:58:	Yes		PEGGY CHANDLER	chandlerpeggy@aol.com	Auke Bay
2021/08/26 8:48:	No	Public access is prized especially to waterfront locations. As Auke Bay (my neighborhood) expands, this access becomes more important than ever. Please preserve it for everyone.	Laurie Craig	Lauriecraig@gmail.com	Auke Bay
2021/08/26 9:20:	Yes	This seems like a reasonable accommodation to benefit the property owner that should not adversely impact the city's land. This is land the city hasn't done anything with and is seems like the state's recent improvements to Glacier Highway in that spot may have adversely impacted the property owner's existing garage.	Kevin	kevinhenderson56@gmail.com	Auke Bay
2021/08/26 2:27:	No	The likelihood that CBJ will actually develop this access is extremely low. For this reason the CBJ should instead sell the entire parcel or portions thereof to either of the adjacent landowners rather than granting an easement to just one of the adjacent landowners that will diminish the value of the whole parcel. Let the landowner who wants the easement buy the road side portion where they have requested an easement. That sale should be contingent on the concurrent sale of the remaining beachside portion to one of the two adjacent landowners. Not only will this bring in immediate revenue, it will put the entire parcel back on the property tax roles. Thanks for the opportunity to comment.	Tom Williams	tcw-ak@gci.net	Auke Bay
2021/08/26 10:04:	No	Public Access to the beach is highly valued and in very limited supply. The adjacent property owner should use their own land to access their property and not take away public beach access with a driveway on public land. This public beach access may be improved in the future with parking and better public access. The adjacent owner's driveway would impede this.	Theresa Svancara	tjsvancara@hotmail.com	Auke Bay
2021/08/27 11:07:	Yes	I live in Auke Bay and am the neighbor of the property owner. This states that in 1986 Parks & Rec set aside this space to allow access. However, there currently is no access to the beach via the CBJ property. The city hasn't developed this land to allow public access for 35 years and I don't expect they will fund this project in the foreseeable future. The proposed driveway would not impeded anyone from accessing the beach (as there is no current access point). With the owners proposal to add a foot path a footpath to improve access, this seems to be a win-win for the owner and the community.	Adam Dordea	Adamdordea@gmail.com	Auke Bay
2021/08/27 1:01:	Yes		Steve Strickler	drstrickler@gmail.com	Auke Bay
2021/08/27 1:36:	No	Why give away free land to land owners? It doesn't make any sense	Abby	Bowman	Douglas
	No		Zoe	Bollingzm@gmail.com	Valley
2021/08/28 1:58:	No	Because this easement would block future public access to the waterfront and property owners already have highway access on their own property.	Dan Palicka	danpalicka@hotmail.com	Out the road
2021/08/28 9:29:	Yes		Eric W. Cole	ericw.cole@hotmail.com	Douglas
2021/08/29 9:19:	No	Public access should be increased not sold off to private ownership,	Mike and Astrid Bethers	mikebethers@gmail.com	Out the road
2021/08/29 11:58:	No	The homeowners have sufficient land to have a driveway developed on their property rather than buying some of the set aside land. This sale/easement would limit what could happen with this public property in future. The proposed path is insufficient. They have to pay like the rest of us to have a driveway on their property.	Nicole whitesides	Netheridge1978@gmail.com	Valley
2021/08/29 6:40:	No	I am opposed to the granting of this easement because the proposed 5' wide access would limit public parking and maintenance access in the future.	Alice Taff	alictaff@gmail.com	Auke Bay
2021/08/30 9:31:	No	The Assembly in 1986 decided to preserved this property for the enjoyment of public beach access in Auke Bay. As described by this announcement, the message is clear. We should all respect the current distribution of lands.	Schery Umanzor	scheryur@gmail.com	Auke Bay
2021/08/30 12:30:	No	I think the city should retain waterfront for public use. Its not apparent from either shore or road that this area is for public access because it is not brushed or marked. I driveway would further discourage access. I think CBJ should do some grooming and brushwork and add signage so that people could enjoy this area of the waterfront. It would be great for shore fishing or small craft launch.	Frances Schrup	Francieland@hotmail.com	Auke Bay
2021/08/30 1:12:	Yes		Kris	iona	Douglas
2021/08/30 3:47:	Yes		Stephen Drake	drakeslanding@gci.net	Auke Bay

2021/08/31 8:34:	No	CBJ should maintain the current preservation of this land as public beach access to Auke Bay and not allow a permanent easement through this tract for private use ingress/egress. Public accesses are very limited in Auke Bay and once a permanent easement is granted this public access will no longer be available for use with exception of a 5' wide path that overlaps with the requested permanent ingress/egress easement. The granting of a permanent easement for the benefit of a residential driveway is not in the best interests of the community of Juneau as future plans for using this dedicated historic public beach access for public parking or other waterfront land uses would be lost.	Mark Pusich	markpusich@pdceng.com	Auke Bay
2021/08/31 10:48:	Yes	I am hoping that the path actually leads to some usable beach for the public.	Ron flint	Ron@nuggetoutfitter.com	Auke Bay
2021/09/01 9:23:	No		Micki Minsch	mickiminsch@gmail.com	Auke Bay
2021/09/01 12:43:	No	Granting a permanent easement is essentially giving away very valuable public access in Auke Bay. There is very little public access and the community would benefit from greater public access. People are often coming into our private driveways looking for beach access. If the City were to grant this permanent easement it would limit options for creating good access for the public. It is not in the public's best interest to tie up valuable public access in an area where there is such limited access already, for the benefit of one property owner. Also, I think the lot is zoned commercial which means that even if the intent is to use for private use now, it could be used commercially for benefit of paying customers instead of the general public. So those who didn't have the means would be limited.	Karen Forrest	kforrest@gci.net	Auke Bay
2021/09/01 1:24:	Yes	Howdy! While at first glance it looks like this should be denied, when one actually goes to the site and looks at the requestor's lot and situation this should be approved as proposed. Additionally, it should be noted that CBJ Lands and Resources parcel (Tax ID 4B2801020130) would be better suited to general public access than this parcel (TAX ID 4B2801020070). Rob Roys 315 W 11th		Robroys@gmail.com	Downtown
2021/09/01 3:52:	No	I am opposed to granting a permanent easement for this purpose. I'm concerned that by giving this easement, it would prevent any future development of the area by CBJ. For example, there would be no place to put a parking spot. Rather than passing public land over to private individuals, I would encourage CBJ to consider marking public right of ways better, and perhaps making a map of public right of ways available online. People are hesitant to go clambering around without a well identified right of away.	Brita Bishop	britab@ak.net	Valley

**MEMORANDUM OF AGREEMENT
BETWEEN OWNER AND
THE CITY AND BOROUGH OF JUNEAU**

PARTIES

This Memorandum of Agreement (“MOA”) is between Jim Parise, property owner at 12005 Glacier Highway Lot 5A, USS 2909, Juneau, Alaska 99801 (“Property owner”) and the City and Borough of Juneau (“CBJ”).

PURPOSE

Property owner requires access to CBJ Property, specifically portions of Park managed property, USS 2909 FS ROW, for the purpose of constructing a temporary access to their property for improvement to their home.

MEMORANDUM OF AGREEMENT

Property Owner agrees as follows:

1. Property Owner will primarily control the work. Property owner is not considered to be an agent or employee of the CBJ for any purpose, and any contractors retained to perform the work on behalf of property owner are not entitled to any benefits that CBJ provides for CBJ employees. Property Owner is not a contractor of the CBJ and nothing in this agreement shall be construed as creating a contractual relationship regarding the temporary access construction.
2. The work is shown on the attached Site Plan dated 3/31/21. No additional work on Park property will be allowed unless permission is granted in writing by CBJ.
3. All work associated with the temporary access construction will be carried out in a professional and prudent manner by licensed and bonded contractors.
4. Property Owner is solely responsible to obtain all federal, state, or local permits required to perform the scope of work subject to this MOA.
5. Property Owner or their designee shall communicate with the Parks and Landscape Maintenance supervisor and provide updates on the project upon request.
6. Provide a project timeline and any updates to that timeline to the CBJ’s designee. Property Owner will provide notice to the CBJ no less than 48 hours before commencing work.
7. Property Owner acknowledges and agrees that the CBJ Property is a park open to public use and it is of critical importance that the scope of work be completed in a timely and safe manner. Property Owner represents they have sufficient resources to complete the scope of work prior to commencing construction.
8. Property Owner shall manage construction traffic and public access safely and install fencing as needed to prevent public from accessing the construction area if it is not safe for pedestrian use. Pedestrian access from the road through the park property must be maintained at all times.
9. Property Owner or their contractors may not use other areas of the park outside of the temporary access project area for storage of materials or equipment with the exception of soil material removed from the park property. Soil may be stored on park property

during construction if it is to be used for revegetation. If invasive plants are found in the material, all the organic material shall be removed and disposed of and new imported soil free of invasive plant material shall be used for revegetation.

10. Property Owner will remove all material placed as part of the temporary access construction at the conclusion of the project. Property Owner will revegetate the slope and all disturbed construction areas subject to the scope of work with topsoil and native vegetation including grass. The grass seed mix shall be 50-75% Red Fescue, 25-45% *Deschampsia cespitosa* and 5% annual rye. Other types of native plants shall be approved by CBJ. A thick, healthy mat of grass with 80% coverage is required by September 1, 2022. If this coverage is not obtained, Property owner will be required to revegetate and obtain this standard in the following season.
11. Property Owner will install appropriate BMP's during construction to manage stormwater and prevent drainage or sediment accumulation from entering the park area.
12. Project work may begin as soon as this agreement is signed and 48 hours notice is given to CBJ. Project work and site restoration including seeding shall be complete by June 1, 2022. Plant establishment shall be complete by September 1, 2022

The CBJ agrees as follows:

13. The CBJ will maintain communication with Property Owner in a timely and reasonable manner regarding this MOA and scope of work.

Additionally, the Parties agree as follows:

Property Rights: This MOA does not create any new or additional property rights for Property Owner. This MOA does not create an easement for Property Owner.

Notices: The CBJ's primary representative for this agreement shall be the Parks and Landscape Supervisor. The Deputy Director of Parks and Recreation shall be an alternate representative. The Property Owner's primary representative for this agreement shall be Jim Parise. Any reliance on a communication with a person other than that listed below is at the party's own risk.

1. The contact for the CBJ is: Colby Shibler, Parks and Landscape Supervisor, (907) 364-2800, Colby.Shibler@juneau.org. The alternate contact is Michele Elfers, Deputy Director of Parks and Recreation, (907)364-2390, Michele.Elfers@juneau.org.
2. The contact for OWNER is: Jim Parise, parisejim@gmail.com, 907-209-4975. The alternate contact during construction is Seth Cayce, seth@peakconstruction-inc.com, 907-321-7792.

Termination: The CBJ may, by prior written notice, terminate this MOA, in whole or in part, if it deems the Property Owner are in material breach of the MOA or if the scope of work is performed in a manner that creates an unreasonable hazard.

Property Owner Insurance Requirements: Property Owner, or any contractor Property Owner retains for the scope of work contemplated for this project or for ongoing maintenance of the project area, shall maintain the following insurance coverage:

1. **Commercial General Liability Insurance.** Commercial General Liability Insurance in an amount it deems reasonably sufficient to cover any suit that may be brought against the Contractor. This amount must be at least \$1,000,000 per occurrence, and \$2,000,000 aggregate. **This insurance policy is to contain, or be endorsed to contain, additional insured status for the CBJ, its officers, officials, employees, and volunteers.**
2. **Workers Compensation Insurance.** If required by Alaska Statute (*see* Alaska Statute 23.30), Property Owner shall ensure that any Contractor must maintain Workers Compensation Insurance to protect the Contractor from any claims or damages for any bodily or personal injury or death which may arise from services performed under this contract. This requirement applies to the Contractor's firm, the Contractor's subcontractors and assignees, and anyone directly or indirectly employed to perform work under this contract. The Contractor must notify the City as well as the State Division of Workers Compensation immediately when changes in the Contractor's business operation affect the Contractor's insurance status. Statutory limits apply to Workers Compensation Insurance. The policy must include employer's liability coverage of \$100,000 per injury and illness, and \$500,000 policy limits. **If the Contractor is exempt from Alaska Statutory Requirements, the Contractor must provide written confirmation of this status in order for the CBJ to waive this requirement.**
3. **Comprehensive Automobile Liability Insurance.** The coverage shall include all owned, hired, and non-owned vehicles \$1,000,000 combined single limit coverage.

Indemnification: Property Owner agrees to defend, indemnify, and hold harmless CBJ, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of or related to the Property Owner's performance of the scope of work subject to this MOA, without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and includes the award of any attorneys' fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies to the fullest extent permitted by law and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CBJ relating to this MOA. The obligations of OWNER arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CBJ shall notify OWNER in a timely manner of the need for indemnification, but such notice is not a condition precedent to OWNER's obligations and is waived where OWNER has actual notice.

Choice of Law: The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska shall be the exclusive jurisdiction for any action of any kind and any nature arising out of or related to this MOA. Venue for trial in any action shall be in Juneau, Alaska. The laws of the State of Alaska shall govern the rights and obligations of the parties.

Severability: If a court of competent jurisdiction renders any part of this MOA invalid or unenforceable, that part will be severed and the remainder of this MOA will continue in full force and effect.

Waiver: Failure or delay by the CBJ to exercise a right or power under this MOA will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the CBJ. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

Agreement. All parties mutually agree to the terms of this MOA.

This Memorandum of Agreement is entered into as of the date signed by the Director of Parks and Recreation below.

CBJ, Parks & Recreation:

Date: 10/14/2021

By: _____

George Schaaf, Director

Property Owner:

Date: 10/14/21

By: _____

James E Parise

NOTES:

- 1) ALL DEVELOPMENT ACTIVITIES SHALL COMPLY WITH CBJ MANUAL OF STORMWATER BEST MANAGEMENT PRACTICES - AUGUST 2010
- 2) APPROXIMATELY 700 CY OF ROCKFILL ARE TO BE IMPORTED TO SITE FOR USE AS BUILDING PAD ROCKFILL, ASSUMING LESS THAN 12 INCHES OF REJECTED OVERBURDEN.
- 3) ELECTRICAL UTILITIES NOT SHOWN, CONTRACTOR SHALL CALL 907-586-1333 FOR EXISTING UTILITY LOCATES PRIOR TO STARTING ANY WORK WITHIN THE PUBLIC ROW.
- 4) ALL DISTURBED GROUND SHALL BE STABILIZED WITH TOPSOIL AND SEEDING PER CBJ STDS 2709 & 2710 AT THE CONCLUSION OF PROJECT
- 5) WATER AND SEWER SERVICES NOT LOCATED PRIOR TO SITE SURVEY AND ARE NOT SHOWN ON THIS GRADING PLAN. DO NOT DISTURB EXISTING WATER AND SEWER SERVICE TO EXISTING RESIDENCE, CALL CBJ AT ~~907-780-6808~~ FOR UTILITY LOCATES PRIOR TO BEGINNING SITE WORK.

586-1333

SEE DRIVEWAY
CENTERLINE
PROFILE

INSTALL CURB CUT
PER CBJ STD 105

Need to follow ADOT
Driveway Permit
Requirements

GLACIER HIGHWAY

35 LF 12" CPP CULVERT
INLET INVERT =42.0', 5% SLOPE

PARKING PAD, EL=43.40'
CAP W/ 4" D-1 AGGREGATE

EXISTING GARAGE
ON PILINGS

**LOT 1
ALEXIS
BEACH**

ECOLOGY BLOCK
RETAINING WALL

EXISTING RESIDENCE
FINISH FLOOR EL=35.03

ECOLOGY BLOCK
RETAINING WALL

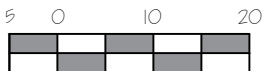
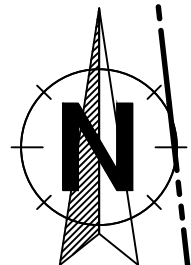
**FS ROW
USS 2909**

SIDE SLOPES
AT 2H:1V

DRAINAGE SWALE
FROM CULVERT
OUTLET TO MEAN
HIGH WATER. SEE
DRAINAGE SWALE
TYPICAL DETAIL

**LOT 5A
USS 2909**

- EXISTING MAJOR CONTOUR
- ... EXISTING MINOR CONTOUR
- NEW MAJOR CONTOUR
- NEW MINOR CONTOUR



SCALE: 1" = 20'

SCALE BASED ON LETTER SIZE PLOT

**LOT 4
USS 2909**



Gabriel Hayden, P.E.
hayden@katabaticeng.com
(907) 866-5579

Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Site Plan

DRAWN:
3/31/2021
SHEET #
1/5



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/11/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Shattuck and Grummett Insurance 301 Seward St. Juneau AK 99801		CONTACT NAME: Debora Roberts PHONE (A/C, No, Ext): (907) 586-2414 E-MAIL ADDRESS: debbie@sginc.com FAX (A/C, No): (907) 586-3770	
INSURED Peak Construction, Inc. PO Box 33515 Juneau AK 99803		INSURER(S) AFFORDING COVERAGE INSURER A: Umialik Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 40126	

COVERAGES**CERTIFICATE NUMBER:** 21/22 GL, AU, WC**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		CPP109825307	09/02/2021	09/02/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CPP110091107	09/02/2021	09/02/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	WCV101290807	09/02/2021	09/02/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)Project # 2106 - Jim Parise
Residential Home Remodel

Seth Koch is excluded from Workers Compensation Coverage.

This Certificate is a representation of the named insured's coverage as of the date shown. Shattuck & Grummett Insurance makes no representation that these coverages comply with or fully satisfy any insurance or indemnity requirements in any contract, written, oral, or implied.

CERTIFICATE HOLDER**CANCELLATION**

City & Borough of Juneau 155 S. Seward St. Juneau AK 99801	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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**PARKS & RECREATION ADVISORY COMMITTEE
MEETING AGENDA
TUESDAY, APRIL 5, 2022
5:30 P.M.
ZOOM WEBINAR**

This meeting will take place virtually via **Zoom Webinar**. To join the Zoom Webinar, go to <https://juneau.zoom.us/j/94184441385> or call: 1 253-215-8782. **Webinar ID: 941 8444 1385**. Members of the public wishing to provide public comment during the meeting can do so by clicking the “Raise Hand” button (online Zoom Webinar) or press *9 (telephone).

Agenda Item	Presenter	Action Requested
I. Call to Order	C. Mertl	
II. Approval of Agenda Agenda Changes	C. Mertl	<i>If no changes:</i> Motion to approve
III. Approval of Minutes		
IV. Public Participation on Non-Agenda Items	C. Mertl	
V. New Business Urban & Community Forestry Program Kaxdigoowu Trail Rehabilitation Auke Lake Temporary Closure 35 Mile ORV Riding Park	Liz Graham AK-DOT&PF G. Schaaf M. Elfers	None None Recommendation Recommendation
VI. Unfinished Business Disposal of Park Land (Parcel No. 4B2801020070)	G. Schaaf	Recommendation
VII. Staff Reports		
VIII. Committee, Liaison, and Board Member Reports Chair Report Liaison to the Assembly Board Member Liaisons Other Board Member Business	C. Mertl Alicia Hughes-Skandijs Liaisons All	
IX. Adjournment	C. Mertl	

Attachment N - 2022-04-05 PRAC Agenda

Auke Lake is a navigable lake that is regulated by both the State of Alaska and CBJ. The Alaska^{3 of 21} Dept. of Natural Resources has reviewed the closure and provided a Letter of No Objection.

SUGGESTED MOTION:

The Parks & Recreation Advisory Committee recommends that the Assembly adopt the ordinance temporarily closing Auke Lake during the IRONMAN Alaska triathlon.

D. 35-Mile ORV Riding Park – Presented by M. Elfers [Page 14]

The Parks and Recreation Department has been working with an informal group of off road vehicle enthusiasts to plan for riding opportunities in Juneau since 2019. Using past CBJ studies and evaluations of various sites around the community, the group has identified the 35 mile CBJ property as a potential location for a riding park. An initial concept layout has been developed for the riding park and includes a secure entry with a kids training area, a loop trail, mud bog area, and cross country area. Staff is in initial talks with the Juneau Off-Road Association (JORA) to take the lead as the community non-profit organization on the planning of the park.

SUGGESTED MOTION:

The Parks and Recreation Advisory Committee recommends that the Assembly support the manager to negotiate an agreement with JORA to permit, design, construct, operate and maintain an off road vehicle riding park at 35 mile.

UNFINISHED BUSINESS

A. Disposal of Park Land – Requested by CBJ Lands & Resources [Page 15-21]

James Parise previously applied for an easement to construct a driveway across CBJ land dedicated as a Natural Area Park in Auke Bay (Parcel No. 4B2801020070). For a number of reasons, the Departments of Law and Community Development determined that it is not possible to grant an easement. To accommodate Mr. Parise's renovation project, the Parks & Recreation Department provided Mr. Parise with a Memorandum of Agreement allowing temporary access across the park to facilitate a home renovation project. Mr. Parise has now applied to purchase the entire CBJ parcel; this application is included in the packet for tonight's meeting.

According to the Juneau Comprehensive Plan, it is the policy of CBJ to "hold lands in the public trust, and to dispose of certain lands for private use when disposal serves the public interest" (Policy No. 17.2). The Plan goes on to state:

"To the greatest extent practicable, retain shoreline and riparian lands in public ownership. However, where disposal of such lands is deemed by the Assembly to be appropriate, ensure the provision of public access to the shoreline and water including provision of adequate trail head or boat launch areas, and retention of a public access easement along beaches" (Development Guideline 17.2 – DG1).

This parcel holds significant value because it provides public access to Auke Bay. While the Department has no plans or funding to develop this access in the immediate future, this access will become more important in the future as Auke Bay continues to grow. The Department also appreciates the applicant's desire to improve access to their private property. Given the unique

circumstances of this particular situation, the Department does not oppose disposing of this^{4 of 21} parcel if public access to the water is maintained through a permanent easement that runs with the land. I also recommend that, if the park is sold, any proceeds deposited in the Lands Fund be used to acquire additional park land in the future.

SUGGESTED MOTION:

The Parks & Recreation Advisory Committee recommends that the Assembly dispose of the Beach Access parcel adjacent to 12005 Glacier Hwy. (Parcel No. 4B2801020070), provided that CBJ retain a permanent easement across the property to maintain public access to Auke Bay.

The Committee also recommends that any proceeds from the sale of the property to acquire park land in the future.

STAFF REPORTS

None.

**ASSEMBLY STANDING COMMITTEE
LANDS, HOUSING & ECONOMIC DEVELOPMENT COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

April 11, 2022, 5:00 PM.

Assembly Chambers & Zoom Webinar

5:00pm: Assembly Lands Housing and Economic Development Committee

<https://juneau.zoom.us/j/94215342992> or 1-253-215-8782 Webinar ID: 942 1534 2992

AGENDA

I. CALL TO ORDER

II. LAND ACKNOWLEDGEMENT

III. ROLL CALL

IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES

A. March 07, 2022 Draft Minutes

VI. AGENDA TOPICS

A. Parise Request to Purchase City Property

B. Ordinance 2022-23 An Ordinance Temporarily Closing Auke Lake for the 2022 IRONMAN Alaska Triathlon and Providing a Penalty.

Juneau is set to host the first IRONMAN Alaska triathlon on August 7, 2022, with 1,500 race participants. The race's swimming course consists of a 2.4-mile loop around Auke Lake, which is normally open to motorized vessels each day during the summer and other public uses. This ordinance would temporarily close Auke Lake to motorized vessels and other public uses on August 6-7, 2022 to minimize user conflicts related to the race.

C. 35 Mile ORV Riding Park

D. Draft Travel Juneau MOA for Lands, Housing, and Economic Development Committee Review

VII.COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

VIIISTANDING COMMITTEE TOPIC

A. 2022 LHED Committee Goals

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
Dan.Bleidorn@juneau.org
(907) 586-5252

TO: Michelle Hale, Chair of the Assembly Lands Housing and Economic Development Committee

FROM: Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*

SUBJECT: Parise Request to Purchase City Property

DATE: April 8, 2022

The Lands and Resources Division received an application to purchase City Property from James Parise, the owner of 12005 Glacier Highway who recently purchased the property in its current condition. The City property is managed by the Parks Department, and the 2016 Land Management Plan states that this property is to be retained for public access to the shoreline and as a stream corridor. The property is 0.14 acres with road frontage on Glacier Highway and was granted to the City by the State in 1982. The City has ownership of many similar properties that provide neighborhood access to the shoreline throughout the Borough all of which are designated as "retain". One thing that makes this



property unique is that prior to CBJ ownership the parcel was undeveloped ROW. When the CBJ received ownership, it was not as ROW, but as a land parcel.

In 2021, the City received a request from PEAK Construction for an easement across this property. Parks staff recommended denial of the easement to the Parks and Recreation Advisory Committee (PRAC) stating that this is not in the best interest for the public and is not consistent with the Parks & Rec Master Plan. The PRAC requested that City staff work with the applicant and bring forward a more definitive proposal rather than accept staff's recommendation of denial. Parks, CDD, Lands, and the City Attorney determined that an easement was problematic

for following the Land Use Code, and that a disposal and lot consolidation would be more conforming with Code. As a condition of the sale, the City can plat a public access and utility easement from Glacier Highway to the shoreline in order to retain public access, thus complying with the Land Management Plan.

The new application was reviewed by the PRAC on April 5, 2022, and they passed a motion, 3 to 2, recommending against the disposal of this property. City code states, "the proposal shall be reviewed by the assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals." If the LHEDC determines to continue to evaluate this property for disposal or easement it may be beneficial to have the CDD weigh in on the proposal to insure that the proposed direction conforms to the Land Use Code.

Staff request that the Lands, Housing and Economic Development Committee forward this to CDD to review the disposal/easement application prior to the LHED providing direction on if to proceed.

Attachments:

1. James and Kelly Parise RE Easement Request through ROW
2. Parise Application
3. City Code 53.09.260 Negotiated sales, leases, and exchanges
4. Ordinance 87-76am An Ordinance Preserving Certain Municipal Land for the Juneau Open Space and Park System.
5. Minutes from the 06-01-21 PRAC meeting

**ASSEMBLY STANDING COMMITTEE MINUTES
LANDS HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

April 11, 2022, 5:00 P.M.

- I. CALL TO ORDER**
- II. LAND ACKNOWLEDGEMENT**
- III. ROLL CALL** - Chair Hale called the meeting to order at 5:05 pm.
Members Present: Chair Michelle Hale, Greg Smith, Wade Bryson, Wáahlaal Gíidaak
Members Absent: none
Liaisons Present: Chris Mertl, Parks and Recreation; Mandy Cole, Planning Commission
Liaisons Absent: Lacey Derr, Docks and Harbors
Staff Present: Dan Bleidorn, Lands Manager; Jill Maclean, CDD Director; Michele Elfers, Parks & Recreation Deputy Director; Di Cathcart, Deputy City Clerk
- IV. APPROVAL OF AGENDA** – The agenda was approved as presented.
- V. APPROVAL OF MINUTES** – March 7, 2022 Draft Minutes were approved as presented.
- VI. AGENDA TOPICS**

A. Parise Request to Purchase City Property

Mr. Bleidorn discussed this topic. Mr. Bryson asked if any area of this property is designed to encourage public use. Mr. Bleidorn replied that there is no direct or manicured access to the shoreline. This property was acquired from the State.

Mr. Smith asked if CDD reviewed this before it went to the PRAC and what type of information would we expect from CDD. Mr. Bleidorn replied that the PRAC is the first step and CDD would be involved after initial support to work with the original proposer. Chair Hale noted that we do not have a positive proposal from the PRAC to move this forward, they didn't recommend this proposal and moved that this property was to be retained.

Mr. Mertl commented that he's available as a resource. PRAC spent a fair bit of time talking about this last week and denied it. Back in 2021 Parks and Recreation did send out postcards mailers to the neighborhood and 60 of those that responded said that there should not be an easement granted, this was when the original proposal was for an easement, not for a purchase. The other thing that I want to follow up on is that the department is seeing more applications to purchase parkland and if you look at policy we're supposed to hold lands in public trust and dispose certain lands for private use when disposal serves the public interest. One of the main reasons why we did deny the purchase of the property, keeping in mind that it is part of the larger Auke Bay neighborhood plan, is that there are limited public access points to the waterfront.

Mr. Bryson asked how we can help this citizen correct their driveway problem. Mr. Bleidorn replied that this is a complex question. A few years ago the State DOT worked with the previous owner when they redid the highway. The DOT paid them for the land they needed to fix the property and work on the right-a-way, similar to what they did with the city in Auke Bay. In theory that payment could have gone to correct the driveway access. We're in a situation now where there's some type of non-conforming issue, or a driveway access safety issue, and it is next to vacant city property, which is vacant city open space park property. We want to be careful with the disposal of this property. Since this application has come forward we've heard from the adjacent neighbor because that property just sold and they may be

interesting in trying to acquire part of this property, if the Assembly decides to move forward from it. There's a very similar waterfront access out at Tee Harbor where, if this moves forward, I wouldn't be surprised if we have an application for that as well. When we talk about disposing of property, we should consider the long term effects and the precedent that it could set. I think the answer to your question is I'm not certain that Park property should be the go-to way to resolve driveway accesses from adjacent property owners. That being said, if the Assembly chooses to work with this applicant and dispose of this property, we can go through the process. It's difficult for staff to recommend in favor when the adopted plans recommend against.

Mr. Smith asked that Ms. Maclean speak on the non-confirming issues. Ms. Maclean commented that she's not certain whether it is non-conforming without conducting a non-conforming situation review. Mr. Bleidorn did mention that the previous owner was reimbursed by the DOT, they laid out the improvements that they made to Glacier Highway out there, they would have to meet code and federal highway standards to do so and use the funding that they do to complete that work. I would imagine and trust that that work was done to code. As far as being non-compliant, I can't say, but what I can say is that the access that they have today would most likely be legal, because it existed previously. Where CDD and the land use code runs into trouble is that access for a lot is to be through your frontage, which is what exists today. If they were granted an easement from the other property I don't know that we could legally permit that through the land use code. Right now, with the information I have available it's either to not grant the easement, sell the land, which is against PRAC's recommendation and may not meet the adopted plans, or allow the situation to remain as is, which is the condition in which the current owners purchased the property. I don't see a good way forward with the easement itself. Mr. Smith asked about the backup documents were for an easement and this is now for a disposal and should we consider different things between these two. Ms. Maclean commented that the applicant was wondering if this would be possible and looking at the code for the easement itself I kept running into the roadblock that this needed to be frontage. This initially started as an easement, as that was thought of as the easiest way forward and when that didn't pan out the applicant pivoted to try and purchase the property.

Chair Hale commented to Mr. Bryson's question about what the applicant can do. One question from a PRAC member was why the applicant can't rebuild the garage so that it's a usable garage. Ms. Hale understands that that is a possibility in this situation. Chair Hale did drive by the location and noted that the garage appears to be on pilings because the land is steep, which can be workable toward a solution.

Chair Hale noted there was two options; forward this to CDD to review and come back to the LHED committee or retain the property, which would stop the process. Mr. Bleidorn requested that the committee approach CDD to confirm the proposals meet the land use code.

Planning Commissioner Cole noted that the CBJ comp plan clearly advises against this type of disposal. While still having sympathy for the property owner, this issue is more about the City disposing of lands that don't meet the criteria in the comp plan, which has implications across the community.

Mr. Bryson asked if it would be possible to grant a small easement in the corner of this land if we are not able to dispose of it to allow this individual to make a correction to their driveway. Mr. Bleidorn replied that that is how we got started with this, granting an easement and retaining ownership for its intended purposes and then we started to hit roadblocks on allowing access with adjacent property. If this is the direction we want to go then want to make sure we are following city code.

Wáahlaal Gíidaak commented that she is leaning toward the idea that this would create a dangerous precedence with these requests and asked if the city grant that offers the ability for people to build an apartment would apply in this situation if they did want to rebuild their garage. Ms. Maclean replied that the accessory apartment grant is specifically to create accessory apartment units and it's about \$6,000, which this garage work would exceed that amount. But the grant is just strictly to build an accessory apartment. Wáahlaal Gíidaak followed up and noted her question wasn't for the applicant to use that grant to build a garage but if he wanted to build an apartment on top of a new garage then he could possibly access this grant. Ms. Maclean confirmed.

Mr. Smith comment on the lack of access now, are there plans from the city to provide that access. Mr. Bleidorn replied that no, this is a DOT right-a-way and we are a neighbor to this property. Mr. Smith replied that he understands this has been marked as retained as parkland access to the beach. Mr. Bleidorn confirmed that it is part of the open space city property and is listed as retained in the land management plan for shoreline access, a street border and the city only has a few dozen of them. Mr. Smith asked if there was some way that the city could require a condition on this lot to provide access to the waterfront if this land were to be disposed of and would this be part of CDD review. Mr. Bleidorn replied that if the assembly gives the approval to negotiate the sale of this property then during those negotiations Lands would work with Parks to try and meet their demands for this property to continue to utilize it, which is why an easement would be added to allow access to the shoreline if the property were to be sold. Mr. Smith commented that if the point of this lot is to provide access to the shoreline but there is no shoreline access then the city could potentially work with the property owner and provide shoreline access.

Smith moved that Staff request that the Lands, Housing and Economic Development Committee forward this proposal to CDD to review the disposal/easement application prior to the LHED providing direction on if to proceed.

Wáahlaal Gíidaak objected and spoke to her objection. She felt we are setting a dangerous precedent, we have the recommendation from the PRAC and what this means to continue to shuffle this down the road if the intent is not to pass it and we are just getting people's hopes up that this is something that we would pass and she would like to see this committee stop this now rather than shuffle this along.

Mr. Bryson objected for a comment, he agrees with the comp plan and city staff is required to go by the operating plan, they do not have a choice and must abide by that, whereas the assembly are asked to rule by common sense and sometimes those two things are contradictory. Mr. Smith helped sway his decision by pointing out that we have land that is not in the plans to be used, doesn't have the access it needs, and is not developed. We have a situation where a private individual wants to use this land, add to the tax rolls, and it's the right thing to do to make his driveway safer and the city would maintain the easement on this land. We do follow recommendations and have denied other land requests but in this situation it is the right thing to vote in favor.

Ms. Cole commented that even if CDD determines the legality of this disposal, there may be an adjacent neighbor who would be interested in this land if it were for sale. I imagine the city in consideration of disposing of this land was careful with public interest, if the land was up for grabs there may be additional steps rather than going to the original proposer. Mr. Bleidorn commented that staff has had 2 phone calls about this property, one from the neighbor and about access points out at Tee Harbor.

Mr. Smith commented that he hopes this is something that CDD would consider and made this motion to give CDD a chance to look at this and could it have another public use, such as room for parking.

Mr. Mertl commented that there is limited public access at Auke Bay. This sliver of land is important and part of the Auke Bay neighborhood plan and believes there is long term plans for some sort of a sea walk. With a large majority of Auke Bay being in private ownership these access points are critical even though they are not developed now. Same with a future road easement that we may have into a steep terrain. We have been able to put in roads and offer new housing in some of these locations. If we give up this right then there are some concerns. Another point is that Mr. Mertl spoke with P&R director Schaaf last week after the PRAC denied this and confirmed that disposal of parkland is unusual and was concerned that we need to retain parkland for public interest.

Chair Hale commented that this is not a recommendation from staff, but from PRAC that this property to be retained. Having lived previously on a staircase, this is not a unique situation and there are a lot of steep places in Juneau. We have seen a picture of a car parked in front of the garage but not in it, so there is a garage at this location with the possibility that the car not be parked illegally on the sidewalk.

Motion vote: Mr. Bryson – yes, Wáahlaal Gíidaak – no, Mr. Smith – yes, Chair Hale – no

Motion fails 2:2

Chair Hale noted that the failed motion leads to a question that now we need to know what happens to this situation. Mr. Bleidorn replied that this would be a great question for the city attorney office. We could also ask the committee if they want this back with more information or try for another motion or to keep it how it is now.

Mr. Smith commented that we should hear what the options for a motion would be and we should hear from attorney's office. Chair Hale replied that there are two options for motions, one would be to retain, which would mean that the city would retain the property and any further action would stop; and the other motion could be that we move this on to the assembly. Mr. Bleidorn replied that the motions would be to retain the property, work with the original proposer on the disposal of this property or to solicit additional bids. If requested to work with the original proposer this is the first step in a long process, we next go to CDD and would we put a big, red notice signs along the property. At that point we might come back to LHED after PC review and determine that we want to work with both property owners if the other adjacent neighbor was interested.

Wáahlaal Gíidaak moved retain the property and do not seek disposal.

Motion vote: Wáahlaal Gíidaak – yes, Mr. Bryson – no, Mr. Smith – no, Chair Hale – yes

Motion fails 2:2

Mr. Bleidorn suggested to table this topic and have staff meet with applicant one more time to gather more information for the committee.

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

August 1, 2022 7:00 PM

Assembly Chambers/Zoom Webinar

Meeting No. 2022-18 <https://juneau.zoom.us/j/91515424903> or 1-253-215-8782 Webinar
ID: 915 1542 4903

Submitted By:

Duncan Rorie Watt, City and Borough Manager

I. FLAG SALUTE

II. LAND ACKNOWLEDGMENT

III. ROLL CALL

IV. SPECIAL ORDER OF BUSINESS

A. Special Recognition: First Juneau-Based Ukrainian Refugees

B. Instruction for Public Participation

The public may participate in person or via Zoom webinar. Testimony time will be limited by the Mayor based on the number of participants. **Members of the public that want to provide oral testimony via remote participation must notify the Municipal Clerk prior to 4pm the day of the meeting by calling 907-586-5278.** For in-person participation at the meeting, a sign-up sheet will be made available at the back of the Chambers and advance sign-up is not required. Members of the public are encouraged to send their comments in advance of the meeting to BoroughAssembly@juneau.org.

V. APPROVAL OF MINUTES

A. June 13, 2022 Regular Assembly Meeting 2022-13 DRAFT Minutes

B. June 14, 2022 Special Assembly Meeting 2022-14 DRAFT Minutes

C. June 15, 2022 Special Assembly Meeting 2022-15 DRAFT Minutes

D. June 27, 2022 Special Assembly Meeting 2022-16 DRAFT Minutes

VI. MANAGER'S REQUEST FOR AGENDA CHANGES

VII. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Committee of the Whole meeting. This ordinance would appropriate \$25,000 for the Assembly and appointed officials to advocate for this proposition and educate the public of the merits of construction of a new city hall prior to the October election.

Whether or not to authorize the construction of a new city hall is an important long-term decision for the community. In accordance with AS 15.13.145, this ordinance will allow staff to properly and accurately convey information to the public and will allow staff to participate in debates regarding the merits of the proposal.

Absent municipal participation in this important public decision, voters are likely to not have access to the facts or best arguments in favor of the proposal for a new City Hall.

The Systemic Racism Review Committee reviewed this request at the July 12, 2022 meeting and forwarded it to the full Assembly for public hearing.

The City Manager recommends the Assembly adopt this ordinance.

X. UNFINISHED BUSINESS

XI. NEW BUSINESS

A. Hardship and Senior Citizen/Disabled Veteran/Non-Profit Late-Filed Real Property Tax Exemption Applications

There are ten property owners that have requested the Assembly authorize the Assessor to consider a late-filed exemption for their property assessment.

The Assembly should consider each request separately and determine whether the property owner was unable to comply with the April 30 filing requirement. A.S. 29.45.030(f); CBJC 69.10.021(d). The burden of proof is upon the property owner to show the inability to file a timely exemption request. If the Assembly decides to accept one or more late-filed exemption requests, those applications will be referred to the Assessor for review and action.

The City Manager recommends the Assembly act on each of these applications individually.

B. Regulation 20 CBJAC 40.520 Class A Endorsement Taxi Rate Change

The Commercial Passenger Vehicle (CPV) regulations provide for Class A endorsement (taxi rates and fees). The proposed regulations provide for an increase in the two discrete rates, the flag drop and the mileage rate. The flag drop rate would increase from \$3.40 to \$4.00 and the mileage rate would increase from \$0.22 per one-tenth mile to \$0.25 per one-twelfth mile. The proposed regulations would also eliminate two discrete additional fees, the \$1.00 Airport to and from fee and \$1.50 Cruise Ship Dock fee. Finally, the proposed regulations would replace the existing language describing the taxi cleaning fee, but would not change this rate.

The Manager recommends the Assembly adopt this regulation.

C. Parise Request to Purchase City Property

D. L3Harris Request to Lease City Property at the JPD Station for Communications Equipment

In June 2022, the City Manager received an application from L3Harris to lease space at the Juneau Police Station located at 6255 Alaway Avenue. The CBJ has a signed MOA with the Federal

MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office
155 S. Seward St., Juneau, Alaska 99801
Dan.Bleidorn@juneau.org
(907) 586-5252

TO: Mayor Beth Weldon and the Juneau Assembly
FROM: Dan Bleidorn, Lands and Resources Manager *Daniel Bleidorn*
SUBJECT: Parise Request to Purchase City Property
DATE: July 25, 2022

In May 2021 the Lands Office received an application to purchase City Property from James Parise, the owner of 12005 Glacier Highway. The City property is managed by the Parks Department and the 2016 Land Management Plan states that this property is to be retained for public access to the shoreline and as a stream corridor. The property is 0.14 acres with road frontage on Glacier Highway and was granted to the City by the State in 1982. In 1985 this property was included in Ordinance 89-76am which preserved certain municipal land for the Juneau open space and park system.

The City has ownership of many similar properties that provide neighborhood access to the shoreline throughout the Borough all of which are designated as "retain" in the Land Management Plan. One thing that makes this property unique is that prior to CBJ ownership the parcel was undeveloped ROW. When the CBJ received ownership, it was not as ROW, but as a land parcel.

In 2021, the City received a request from PEAK Construction for an easement across this property. Parks staff recommended denial of the easement to the Parks and Recreation Advisory Committee (PRAC) stating that this is not in the best interest for the public and is not consistent with the Parks & Rec Master Plan. At the June 6, 2021 meeting the PRAC requested that City staff work with the applicant and bring forward a more definitive proposal rather than accept staff's recommendation of denial.

Parks, CDD, Lands, and the City Attorney 's Office staff determined that an easement was problematic for following the Land Use Code, and that a disposal and lot consolidation would be more conforming with Code. As a condition of the sale, the City can plat a public access and utility easement from Glacier Highway to the shoreline in order to retain public access, thus complying with the Land Management Plan and accomplishing the direction from the PRAC. The new application was reviewed by the PRAC on April 5, 2022, and the PRAC passed a motion, 3 to 2, recommending against the disposal of this property.

The LHEDC reviewed this application at the April 4, 2022 meeting. At this meeting Assembly member Smith moved that the Lands, Housing and Economic Development Committee forward this proposal to CDD to review the disposal/easement application prior to the LHED providing direction on if to proceed. This motion failed 2:2. Assembly member Wáahlaal Gíidaak moved to retain the property and not seek disposal. This motion also failed 2:2. Prior to this meeting the neighbor on the opposite side of this City property called and said they have some interested in this property but never filled out an application or provided any additional detail.

City code 53.09.260 states, "the proposal shall be reviewed by the Assembly for a determination of whether the proposal should be further considered and, if so, whether by direct negotiation with the original proposer or by competition after an invitation for further proposals."

In accordance with 53.09.260 the Assembly has three options for processing this applicant:

Option 1: Retain this property for public use

Option 2: Enter into direct negotiates with the applicant

Option 3: Solicit additional proposals from other interested Parties

This issue needs to be brought to resolution, the LHED was unable to move a recommendation to the Assembly. The applicant, staff and the neighborhood need direction. The Assembly can provide direction tonight or refer the matter to Committee. No action by the Assembly will result in Option 1 – the property will be retained for public use.



From: [Beth McEwen](#)
To: [Directors Plus: Borough Assembly](#)
Subject: 8/1/22 Assembly Meeting Action Recap
Date: Tuesday, August 2, 2022 4:30:59 PM
Attachments: [2022-08-01 Notice of Adoption.pdf](#)
[2022-08-22 Notice of Public Hearing.pdf](#)
[image004.png](#)

Good afternoon everyone!

Below is a quick recap of the action taken at last night's Assembly meeting. The Agenda/packet is linked online at <https://juneau.org/assembly/assembly-minutes-and-agendas>

Please see the attached Notice of Adoption and Notice of Public Hearing for additional details.

IV. Special Order of Business: the Assembly welcomed Juneau's first Ukrainian refugees: Iryna Hyrnchenko (mother), Ivan Hyrnchenko (son)

VIII. Consent Agenda: The Consent Agenda was adopted by unanimous consent with no changes (See attached Notice of Public Hearing for Ordinances that were introduced and set for public hearing at the 8/22 Assembly meeting.)

IX. Ordinances up for Public Hearing: See attached Notice of Adoption. Please note the following Ordinances **did NOT** pass:

Item G. Ordinance 2022-06(b)(C) *An Ordinance Appropriating \$25,000 to the Manager to Publicly Oppose the Repeal of Mandatory Real Estate Price Disclosure; Funding Provided by General Funds.*

Item H. Ordinance 2022-06(b)(D) *An Ordinance Appropriating \$25,000 to the Manager to Publicly Support a General Obligation Bond for the Construction and Equipment of a New City Hall; Funding Provided by General Funds.*

XI. New Business:

A. The Assembly passed a motion to accept the Hardship & Senior Citizen/Disabled Veteran Late-Filed Real Property Tax Exemption appeals for the following individuals and referred them to the assessor's office for processing. (They did not take action on the application from The Glory Hall.



New Business cont...

B. Regulation 20 CBJAC 40.520 Class A Endorsement Taxi Rate Change – The Assembly passed a motion adopting these regulations

C. Parise Request to Purchase City Property – The Assembly passed a motion to enter into negotiations with the original proposer in accordance with Option 2 found in the memo on

D. LHarris Request to Lease City Property at JPD Station for Communications Equipment –

The Assembly passed a motion in support of working with the original proposer per CBJ 53.09.260.

E. Goldstein Improvement Company appeals for 110 Seward Street (2022-AA01) and 122

Front Street (2022-AA02) – The Assembly passed a motion to accept these two appeals for hearing the jurisdictional issues only and to appoint a Hearing Officer if a good one could be located. (No other appeals were addressed with that motion)

XII. Staff Reports

A. Telephone Hill – This one had lots of discussion and a motion was passed to use a “soft

landing” approach with this property. At this time, the State Dept. of Transportation and the Dept. of Natural Resources still have ownership and custody of the property.

XV. Labor Negotiations

A. The Assembly convened in Executive to discuss labor negotiations.

The Assembly meeting finished at 10:46p.m. and anyone wishing to access a copy of it can go to our CBJ YouTube at <https://www.youtube.com/channel/UCbC3ZygkTn7MdlladY92kaQ>

Clerk's Note: I will be working with our ballot programmers this week and next to determine the placement of questions and size (letter, legal, or larger) of the Oct. 4, 2022 election ballot and once we determine the layout, I will be able to provide “Proposition Numbers” for each of the questions on the ballot.

Beth McEwen, MMC

CBJ Municipal Clerk/Election Official * 155 S. Seward Street, Juneau, AK 99801

907-586-5278 ext. 4175 desk phone

Beth.McEwen@juneau.org * www.juneau.org



PUBLIC RECORDS LAW DISCLOSURE: This email, including any attachments, may be subject to disclosure under the law.



Assessor's Database

Current Owner

JAMES E PARISE II & KELLY C PARISE
9017 NINNIS DR, JUNEAU AK 99801

Parcel #: 4B2801020060 ([Map](#))

Prev. Owner: JAMES E SMITH

Use Code: Residential

No. of Units: 001

Garage: Yes

City Water: Yes

Exempt Land: 0

Address: 12005 GLACIER HWY

Site Value: \$386500.00

Exempt: No Data

Year Built: 1950

Garage Area: 000480

City Sewer: Yes

Exempt Building: 0

Legal Desc. 1: USS 2909 LT 5A

Building PV: \$291000.00

Zoning: Waterfront - Commercial

Lot Size: 14948.00

Exempt Total: 0

Legal Desc. 2:

Total PV: \$677500.00

Tax Year: 2022

Gross Liv. Area: 001748 sqft

Last Trans: 20210224

Road/No Road: Roaded

Search the Database

Search the database using the search box below. The field accepts any search parameter (owner's name, address, parcel number, year built, etc.).

4-2-173-cc-cc 5-29-69

Permit No. _____

Date _____

GREATER JUNEAU BOROUGH

APPLICATION FOR ZONING PERMIT

Application is hereby made for a permit for use of the land described below in conformance with Ordinance No. 64-18, Sections 49.20.010 through 49.25.070, inclusive.

Location of Property:

Juneau _____ Douglas _____ Outside incorporated limits X

Property Description:

Lot No. 5, U.S.S. No. 2909
Lot No. _____ Block No. _____ Addition _____
Address Auke Bay, Alaska

Size of Structure: 784 sq. ft; Lot Coverage 5.3 %

Setbacks:

Front 0'-0" Rt. side line 0'-0"
Rear NA Lft. side line NA

Note: see attached plat

Use: Office space with parking garage and rental apartment

Name of Owner: David L. Peterson

Address: Box 37, Auke Bay, Alaska

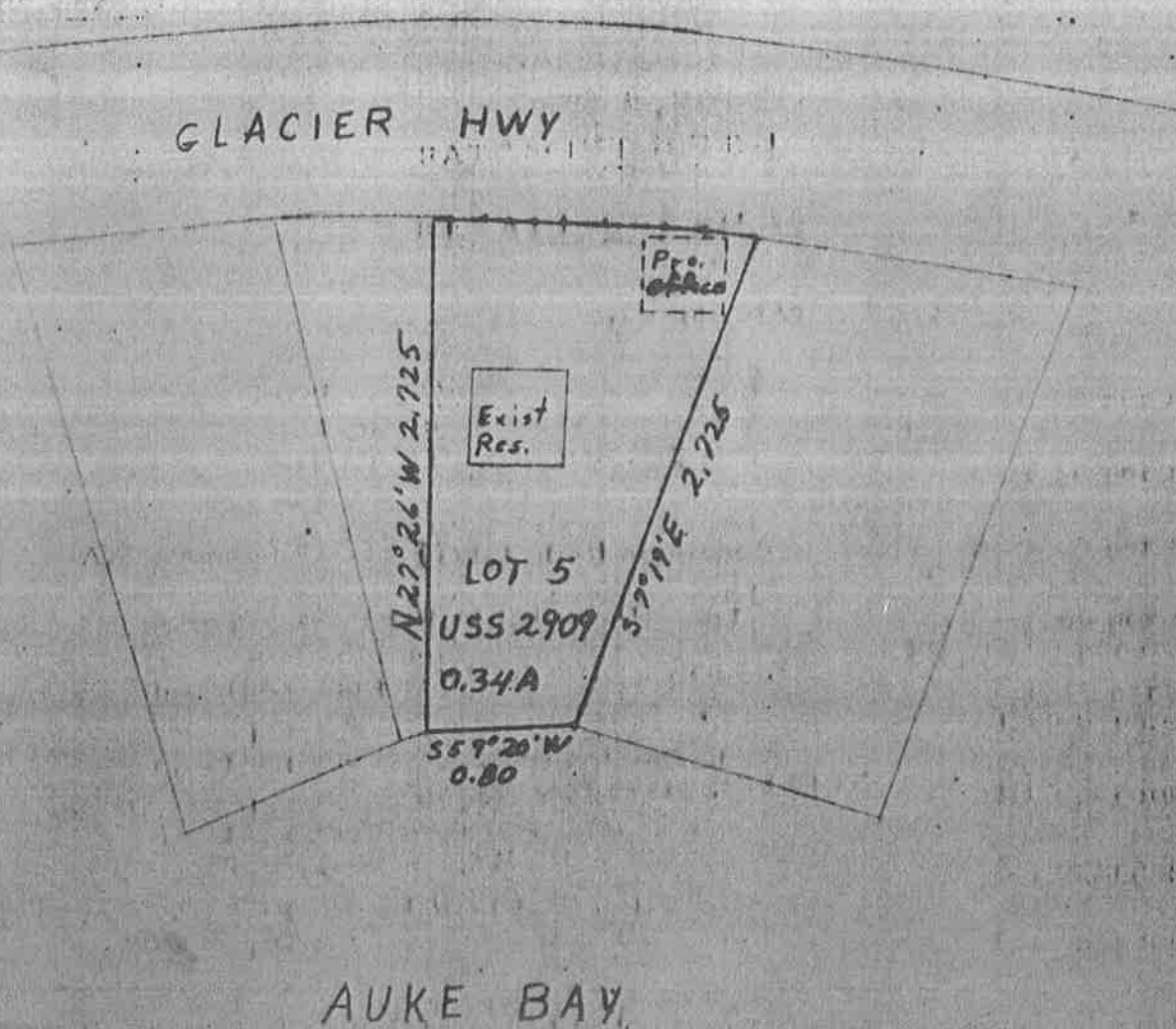
Application made by: David L. Peterson *David L. Peterson*

Address: Box 37, Auke Bay, Alaska

Zoning Action:

Approved ✓ Denied _____ Date May 24, 1965

Comments: _____



Proposed Office Bldg
for
David L. Peterson
PLOT PLAN

Scale: 1" = 1 chain

Drawn: 5/68 DLP

Reference: USS 2902 Triangle, 3

WASTEWATER DISPOSAL

The Alaska Department of Conservation has reviewed plans for this subdivision's wastewater disposal, and approves this subdivision for platting.

R. Flinn EMT 7-2-92

Name and Title of
Alaska Department of Environmental Conservation
Approving Official

Date

CERTIFICATE OF OWNERSHIP

We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt this plat of subdivision with free consent, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted:

Dated 7/2 1992
 Witness Banq. M. Mello
 Witness Guarita M. Mello

Witness _____
 NOTARY ACKNOWLEDGEMENT

United States of America)
) ss.
State of Alaska)

This is to certify that on this 2nd day of July 1992, before the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn appeared Gary E. McCallum, Linda E. McCallum to me known to me to be the persons described in and who executed the foregoing instrument, and acknowledged to me that 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: 3/1/02

STATE OF ALASKA
OFFICIAL SEAL
Martyn R. McDowell
NOTARY PUBLIC

CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION

I hereby certify that the plat shown hereon has been found to comply with Title 4 Community Development Regulations and Title 49 of the Code of the City and 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 7/6 1992
 Director
 City and Borough of Juneau
 Department of Community
 Development

This plat accurately reflects a change in the right of way line for Lot 5, U.S. Survey 2908, as deeded to Gary P. and Juanita M. McCallon by the Alaska Department of Transportation.

John J. Jordan
John J. Jordan, Chief S.E. Right of Way

TYPICAL MONUMENT

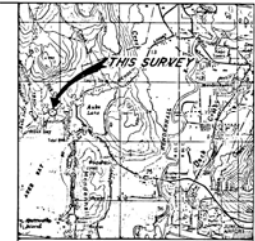


1-1/2" ALUMINUM CAP
ON 5/8" x 36" REBAR.

SURVEYOR'S CERTIFICATE

I hereby certify that I am a professional Land Surveyor registered in the State of Alaska, and that this plat represents the survey made by me or under my direct supervision, that the accuracy of the survey is within the limits required by Title 4 Community Development Regulations and Title 49 of the Code of the City and Borough of Juneau, that all dimensional and relative bearings are correct and that monuments are set in place and noted upon this plat as presented.

Robert J. Hungenford LS-5453



VICINITY MAP
USCGS QUAD JUNEAU B-2

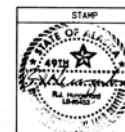
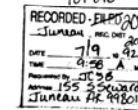
GENERAL NOTES

1. THE BASES BEARING FOR THIS SURVEY WAS THE LINE OF SIGHT BETWEEN THE RECOVERED GENERAL LAND OFFICE MONUMENTS FOR WMC 4 LOT 5 U.S.S. 2909 AND WMC 1 LOT 5 U.S.S. 2909 WITH A RECORD BEARING OF S 50°01'06" W
2. WHERE RECORD SURVEY COURSES DIFFER FROM FIELD MEASURED AND/OR COMPUTED COURSES, THE RECORD SURVEY COURSE IS SHOWN IN PARENTHESES
3. THE RECORD MEANDER LINE WAS ESTABLISHED USING ADJUSTED BEARINGS FOR THE SLOOT LINES AND RECORD DISTANCES FROM THE RECOVERED WMC MONUMENTS

LINE TABLE				
RECOVERED			RECORD	
LINE	BEARING	DISTANCE	BEARING	DISTANCE
1	N 64° 00' 22" E	38.28'	N 63° 55' E	38.28'
2	N 66° 41' 28" E	38.28'	N 66° 36' E	38.28'
3	N 69° 22' 33" E	6.89'	N 69° 17' E	38.28'
4	N 13° 59' 04" W	6.79'		
5	N 76° 00' 56" E	21.54'		
6	S 7° 25' 30" E	3.18'		
7	N 69° 22' 33" E	31.39'	N 69° 17' E	38.28'
8				
9				
10				

LEGEND

- FOUND GLO MONUMENT
- ⊕ RECORD GLO MONUMENT, REPLACED THIS SURVEY.
- SECONDARY MONUMENT SET THIS SURVEY



A REPLAT OF
LOT 5 U.S. SURVEY 2909
LOT 5A U.S. SURVEY 2909
CITY AND BOROUGH OF JUNEAU
JUNEAU, ALASKA

CHECKED <u>rhj</u>	DRAWN <u>dri</u>	DATE <u>5/8/92</u>
SURVEYOR: <u>R. HUNGERFORD</u>	SHEET <u>1</u> OF <u>1</u>	SCALE <u>1"=20'</u>

Juneau Plat 92-28

COMMISSIONER'S QUITCLAIM DEED

THE GRANTOR: State of Alaska, Department of Transportation and Public Facilities, P.O. Box 240369, Douglas, AK 99824-0369, in consideration of Ten and No/100 (\$10.00) Dollars
and other valuable considerations

conveys and quitclaims to; Gary P. McCallon and Juanita M. McCallon (husband and wife)
 whose address is: P.O. Box 210162 Auke Bay, Alaska 99821

All interest which it has, if any, and all interest it may hereinafter acquire in the following described real estate located in the State of Alaska, excepting any utility easements, to wit:

All that part of the following described tract of land:

Beginning at corner 3, Lot 5, U.S. Survey 2909, the true point and place of beginning, Juneau Recording District, thence N. 7° 25' 36" W. for a distance of 3.18 feet, along the extension of line 4-3, Lot 5, U.S. Survey 2909, thence S. 76° 00' 55" W. for a distance of 31.54 feet, thence S. 13° 59' 04" E. for a distance of 6.79 feet to a point on the existing lot line of Lot 5, U.S. Survey 2909, thence N. 69° 22' 33" E. for a distance of 31.39 feet along said lot line to the true point and place of beginning. Containing 155.6 square feet more or less, Juneau Recording District, First Judicial District, State of Alaska,

which lies within the right of way lines of Alaska Project No. F-093-2(6)

L.D. No. 296000-92-08

said parcel containing 155.6 sq. ft. more or less; in addition to existing right of way, is hereby conveyed by the State of Alaska, Department of Transportation and Public Facilities.

Dated this 8th day of MAY, 1992.

State of Alaska, Department of
Transportation and Public Facilities

BY: [Signature]
 Southeast Regional Director of
 Transportation and Public Facilities

ACKNOWLEDGEMENT

STATE OF ALASKA }
 FIRST JUDICIAL DISTRICT } ss.

BE IT REMEMBERED THAT on this 8th day of MAY, 1992, before me, the undersigned, a notary public of the State of Alaska, personally appeared NATHAN W. SCRIBNER, Southeast Regional Director of Transportation and Public Facilities, known to me to be the identical person who executed the foregoing instrument and he acknowledged to me that he executed the same for and on the behalf of the State of Alaska, Department of Transportation and Public Facilities, with full authority so to do, and for the uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Peggy L. Jackson
 Notary Public

My Commission Expires: 11/14/92



BUILDING PERMIT APPLICATION

NOTE: THIS IS NOT A BUILDING PERMIT

* NOTE: "Building Permit" is a generic term which includes Building Safety Inspections, Grading Permits, and permits for Electrical, Plumbing and Mechanical work.

Case No: **BLD20210328**

Case Description: Grading permit to add retaining wall

Site Address: **12005 GLACIER HWY**

Check No. of Existing Dwelling Units: **1**

Parcel No: 4B2801020060

No. of New Dwelling Units: **0**

Legal Description: USS 2909 LT 5A

No. of Removed Dwelling Units: **0**

Applicant : PEAK CONSTRUCTION
PO BOX 238
GUSTAVUS AK 99026

e-mail: seth@peakconstruction-inc.com

PRI 321-7792

Owner: JAMES E PARISE II
KELLY C PARISE
12005 GLACIER HWY
JUNEAU AK 99801

Contractor: PEAK CONSTRUCTION
PO BOX 238
GUSTAVUS AK 99026

PH: _____ FAX: _____

Valuation for Permit Fee Calculations:

S.F.	Type	Rate	Amount
			8,000.00
Total Valuation:			\$8,000.00

Associated Cases:

None.

Parcel Tags:

Notes and Conditions:

Applicant's Signature

(Owner, Contractor or Authorized Agent)

Date

Staff Acceptance

I hereby certify that I have read and examined this application and know the same to be true and correct. I further certify that all provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I understand that the granting of a permit does not presume to give authority to violate or cancel the provisions of any other federal, state or local law regulating construction or the performance of construction.

Attachment T - 2021 BLD21-328 grading permit application for driveway

NOTES:

- 1) ALL DEVELOPMENT ACTIVITIES SHALL COMPLY WITH CBJ MANUAL OF STORMWATER BEST MANAGEMENT PRACTICES - AUGUST 2010
- 2) APPROXIMATELY 700 CY OF ROCKFILL ARE TO BE IMPORTED TO SITE FOR USE AS BUILDING PAD ROCKFILL, ASSUMING LESS THAN 12 INCHES OF REJECTED OVERBURDEN.
- 3) ELECTRICAL UTILITIES NOT SHOWN, CONTRACTOR SHALL CALL 907-586-1333 FOR EXISTING UTILITY LOCATES PRIOR TO STARTING ANY WORK WITHIN THE PUBLIC ROW.
- 4) ALL DISTURBED GROUND SHALL BE STABILIZED WITH TOPSOIL AND SEEDING PER CBJ STDS 2709 & 2710 AT THE CONCLUSION OF PROJECT
- 5) WATER AND SEWER SERVICES NOT LOCATED PRIOR TO SITE SURVEY AND ARE NOT SHOWN ON THIS GRADING PLAN. DO NOT DISTURB EXISTING WATER AND SEWER SERVICE TO EXISTING RESIDENCE, CALL CBJ AT ~~907-780-6808~~ FOR UTILITY LOCATES PRIOR TO BEGINNING SITE WORK.

586-1333

SEE DRIVEWAY
CENTERLINE
PROFILE

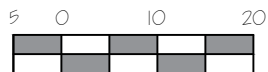
INSTALL CURB CUT
PER CBJ STD 105

Need to follow ADOT
Driveway Permit
Requirements

SLOPE DRIVEWAY AND
PARKING PAD TO DRAIN TO
NORTH AND DIRECT FLOW TO
12" CPP CULVERT, (TYP)

FS ROW
USS 2909

DRAINAGE SWALE
FROM CULVERT
OUTLET TO MEAN
HIGH WATER. SEE
DRAINAGE SWALE
TYPICAL DETAIL



SCALE: 1" = 20'

SCALE BASED ON LETTER SIZE PLOT

LOT 4
USS 2909

GLACIER HIGHWAY

35 LF 12" CPP CULVERT
INLET INVERT = 42.0', 5% SLOPE

16 FT WIDE
DRIVEWAY

SIDE SLOPES
AT 2H:1V

PARKING PAD, EL=43.40'
CAP W/ 4" D-1 AGGREGATE

EXISTING GARAGE
ON PILINGS

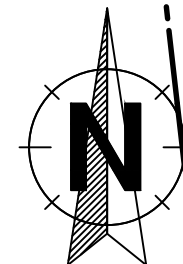
ECOLOGY BLOCK
RETAINING WALL

EXISTING RESIDENCE
FINISH FLOOR EL=35.03

ECOLOGY BLOCK
RETAINING WALL

LOT 5A
USS 2909

- EXISTING MAJOR CONTOUR
- ... EXISTING MINOR CONTOUR
- NEW MAJOR CONTOUR
- NEW MINOR CONTOUR



LOT 1
ALEXIS
BEACH



Gabriel Hayden, P.E.
hayden@katabaticeng.com
(503) 866-5579

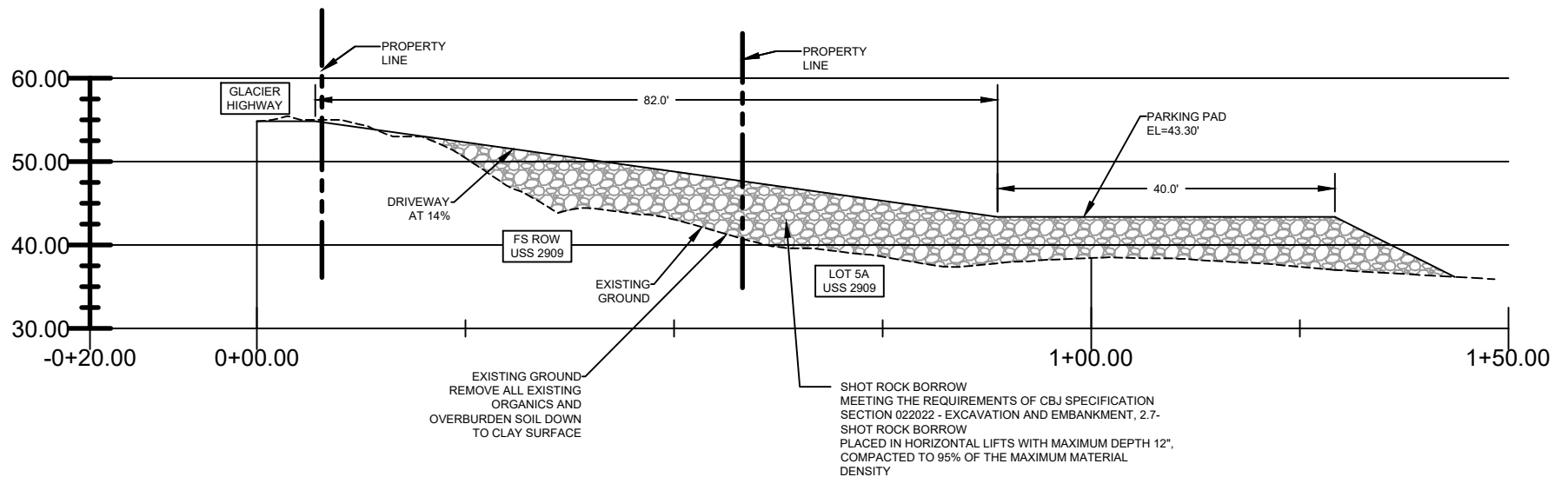
Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Site Plan

DRAWN:
3/31/2021
SHEET #
1/5

Attachment T - 2021 BLD21-328 grading permit application for driveway



**DRIVEWAY CENTERLINE
PROFILE**



SCALE: 1" = 20'

SCALE BASED ON LETTER SIZE PLOT



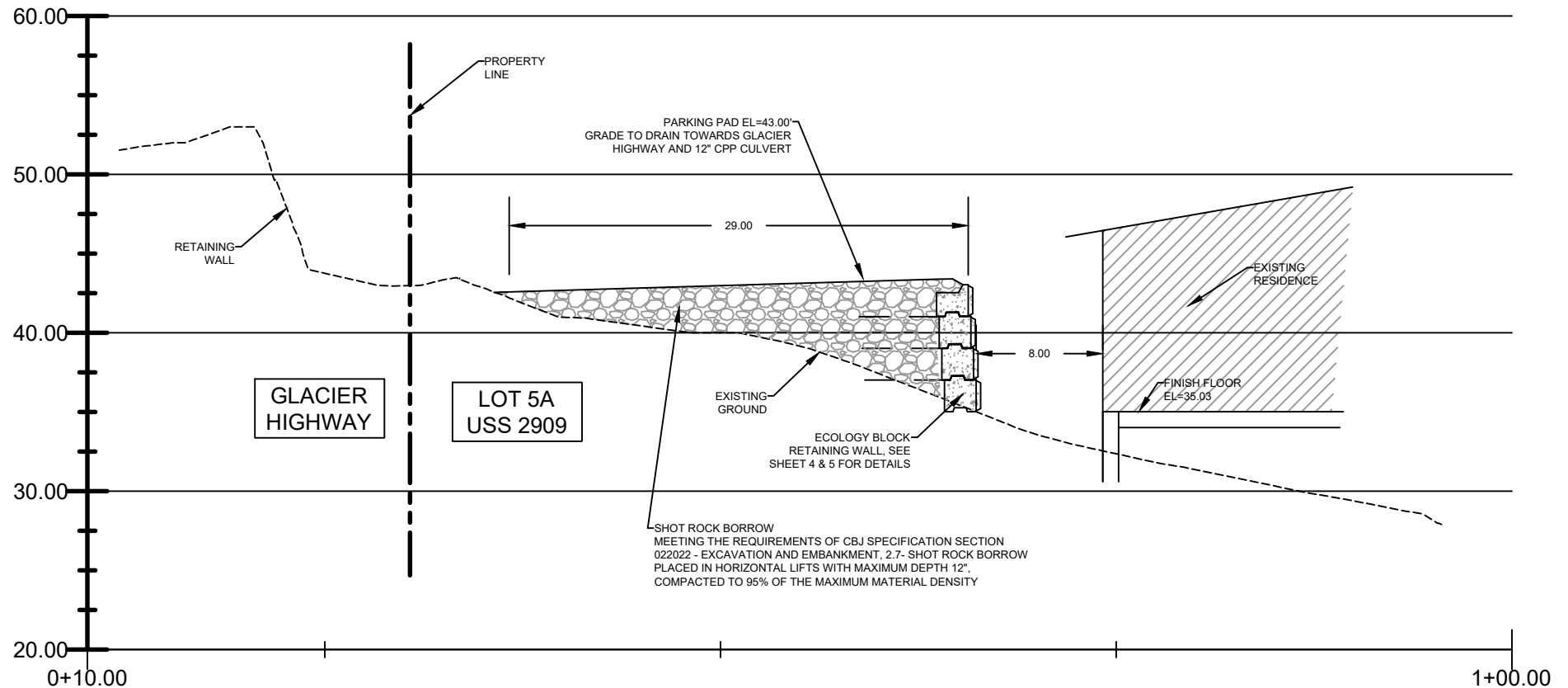
Gabriel Hayden, P.E.
hayden@katabaticeng.com
(907) 866-5579

Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Driveway Profile

DRAWN:
3/31/2021
SHEET #
2/5



SECTION A-A



Gabriel Hayden, P.E.
hayden@katabaticeng.com
(503) 866-5579

Grading Plan

Lot 5 A, USS 2909
12005 Glacier Highway
Juneau, AK 99801

Section A-A

DRAWN:
3/31/2021
SHEET #
3/5

8.00

16.00

46.00

14.00

45 DEGREE ANGLE POINT
TIGHT RADIUS BLOCKS

DRIVEWAY AT 14%

BUILDING
OUTLINE

TOP OF WALL
EL=43.00'

PARKING PAD
EL=43.40

SLOPE ROCKFILL BEHIND
WALL AT 2H:1V TO MEET
EXISTING GRADE

FINAL GROUND SURFACE
AT BASE OF WALL

BOTTOM OF WALL
EL=35.00'

ECOLOGY BLOCK
WALL, SEE DETAIL
SHEET FOR
CONSTRUCTION
DETAILS

ELEVATION VIEW

PLAN VIEW

STALLATION
RLD BLOCK
ERING MANUAL

16.00

45 DEGREE ANGLE POINT
TIGHT RADIUS BLOCKS

7.00

46.00

14.00

8.00

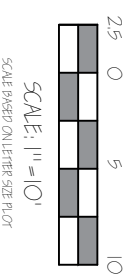
8.00

EXISTING BUILDING

ECOLOGY BLOCK
WALL. SEE DETAIL
SHEET FOR
CONSTRUCTION
DETAILS.

25 0

PLAN VIEW



KATABATIC
ENGINEERING

Gabriel Hayden, P.E.
hayden@katadaticeng.com
(503) 866-5579

Grading Plan

Lot 5 A, US5 2909
12005 Glacier Highway
Juneau, AK 99801

Retaining Wall Elevation & Plan

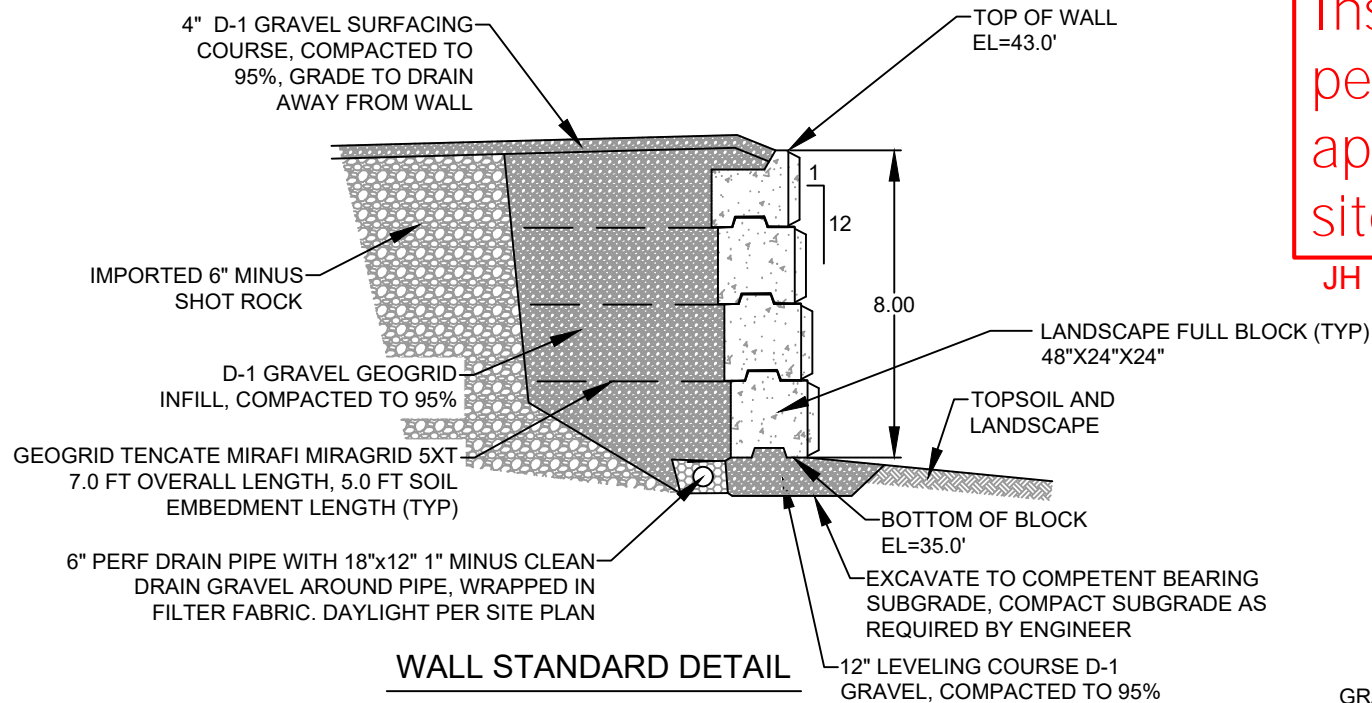
DRAWN:
3/31/2021
SHEET #
4/5

Reviewed for Code Compliance

Inspections will not be performed without CBJ approved plans on site.

JH

06/01/2021



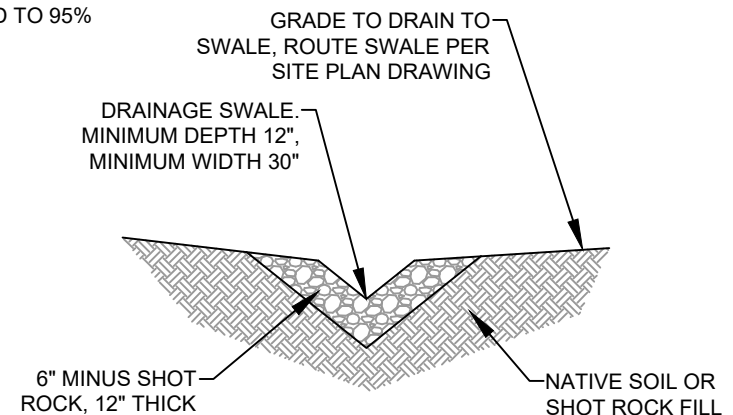
SCALE: 1"=5'

SCALE BASED ON LETTER SIZE PLOT

NOTES:

1) INSTALL BLOCKS PER INSTALLATION GUIDELINES GIVEN IN 'WORLD BLOCK INSTALLATION AND ENGINEERING MANUAL' DOCUMENT. AVAILABLE AT

<https://www.worldblock.com/world-block-installation-and-engineering-manual.html>



Gabriel Hayden, P.E.
hayden@katabaticeng.com
(907) 866-5579

Grading Plan

Lot 5 A, U55 2909
12005 Glacier Highway
Juneau, AK 99801

Details

DRAWN:
3/31/2021
SHEET #
5/5



BUILDING PERMIT

Permit No.
BLD20210569

* NOTE: "Building Permit" is a generic term which includes Building Safety Inspection, Grading Permits, and permits for Electrical, Plumbing and Mechanical work.

Your special attention is called to the following:

This permit is granted on the express conditions that the construction shall, in all respects, conform to the ordinances of the City and Borough of Juneau. It may be revoked at any time upon violation of any of said ordinances.

The granting of this permit does not authorize the violation of any federal, state or local law regulating construction for the violation of the terms of any deed or covenant or any zoning or other regulation.

If plan review was required, this permit must be attached to the approved drawings. The permit, plans and record of inspections must be available on site at all times while the construction is in progress and before final inspection.

The yellow posting notice must be prominently displayed to show a permit has been issued and to assist the inspectors in location of the project. This permit becomes null and void if work or construction authorized is not commenced within one year or if work or construction is suspended or abandoned for a period of one year at any time after work has commenced.

Note: City Ordinances REQUIRE a Final Inspection be approved for every Building Permit.

Inspections

Inspections can be arranged by telephoning **586-1703** or by written or by online form or Email.

The Online Building Inspection Request Form is at: www.juneau.org/community-development/cdd-inspection-request.

Work shall not proceed until the inspector has approved the various stages of construction. An approved Final Inspection is required.

All inspections must be requested before noon the business day prior. Same day inspections must be requested by calling 586-0770

Please provide the following information: 1 Permit Number, 2 Address, 3 Type of Inspection, 4 Date and Time and 5 Contact Name and Phone Number.

Job Address: **12005 GLACIER HWY**Permit Number: **BLD20210569**Project Description: **Major remodel**Issued Date : **10/07/2021**Parcel No: **4B2801020060**Parcel Information : **USS 2909 LT 5A**

Setbacks: Zone: WC:
Front: 10.00 Ft. N Side 1: 10.00 Ft. E
Rear: 10.00 Ft. S Side 2: 10.00 Ft. W
Street Side: 10.00 Ft.

Comments:

Owner : JAMES E PARISE II
KELLY C PARISE
9017 NINNIS DR
JUNEAU AK 99801

Applicant : PEAK CONSTRUCTION INC
5719 CONCRETE WAY
JUNEAU AK 99801

Fee Type	Date	Receipt	Amount Paid
BLD- Res Plan Review	08/17/2021	10330	\$762.57
BLD- Bldg Permit Fee	08/17/2021	10330	\$1,525.14
Total Fees Paid:			\$2,287.71

Valuation for Permit Fee Calculations:

S.F.	Type	Rate	Amount
			240,000.00
Total Valuation:			\$240,000.00

Project Conditions and Holds:

Approved Fasteners - Fasteners hangars and brackets used on the exterior of the building and or used with pressure-preservative or fire retardant-treated woods shall be listed and approved products for such use.

Approved Plans On Site - CBJ approved plans must be on site and available to the inspector. Inspections will not be performed and additional fees may apply if approved plans are not available to the inspectors.

EGRESS WINDOWS - Verify egress windows.

Fuel Burning Appliance Instructions - Listed fuel burning appliances must be installed in accordance with the listed installation and operating instructions provided by the manufacturer. These instructions must be onsite and available to the inspector at time of inspection.

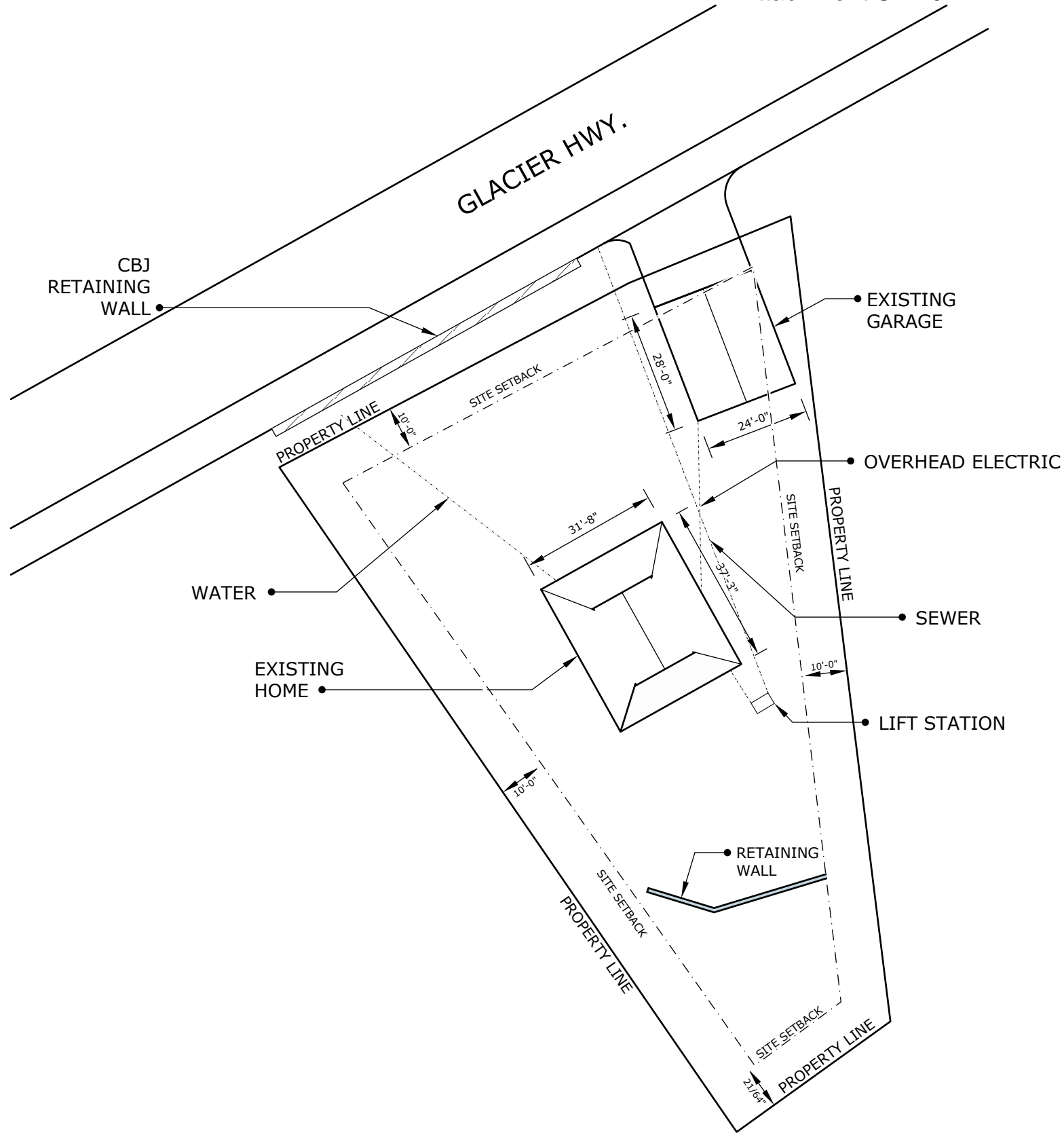
WATER FIXTURE COUNT - 3/4" line approved per Engineer's letter. 3/4"=17wfu, 1/2"=5wfu.

Locking Caps - Refrigerant circuit access ports located outdoors shall be fitted with locking-type tamper-resistant caps or shall be otherwise secured to prevent unauthorized access.

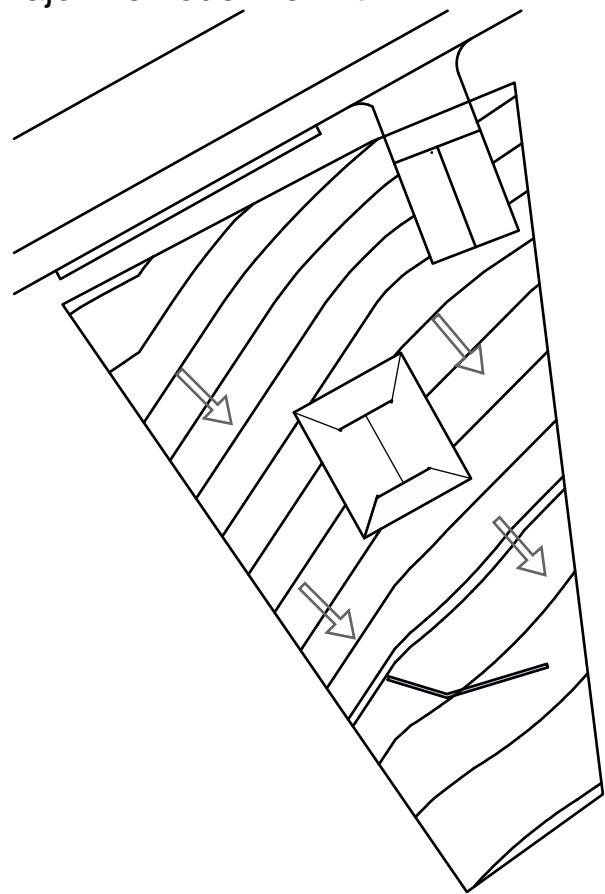
Chimney Clearance - Chimney Clearance: If roof sheathing is replaced at a chimney or chimney flashing is detached, call for inspection to verify proper clearance to combustibles before cover. Alternately a licensed contractor or owner-builder may provide written confirmation stating proper clearances are met.

Shower Anti-scald Valve - Showers and tub-shower combinations shall be provided with a control valve installed at the point of use that conforms to ASSE 1016 or ASME A112.18.1/CSAB125.1.

JUNEAU PERMIT CENTER - 230 S. Franklin Street - 4th Floor, Marine View Center - Mail: 155 S. Seward Street, Juneau, AK 99801
Phone: 586-0770 - FAX: 586-4529 - Inspection Requests: 586-1703, Inspections@Juneau.org - Questions, Email: permits@juneau.org
Web Site: www.juneau.org/community-development

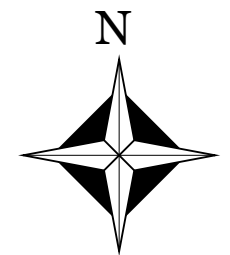


PARISE - SITE PLAN
scale: 1"=30'
Site 01



PARISE - GRADING & DRAINAGE
scale: 1"=50'
Site 02

PROPERTY INFORMATION:
TAX ID: 4B2801020060
LEGAL DESCRIPTION - USS 2909 LT 5A
ZONING - (WC) WATERFRONT COMMERCIAL
LOT SQFTG - 14,948



PO Box 33515
Juneau, AK 99803
907.321.7792

PARISE - HOME REMODEL

12005 N Glacier HWY. Juneau, AK. 99801

Job# 1206

DAVID M PETERSON

March 10, 2021

March 11, 2021

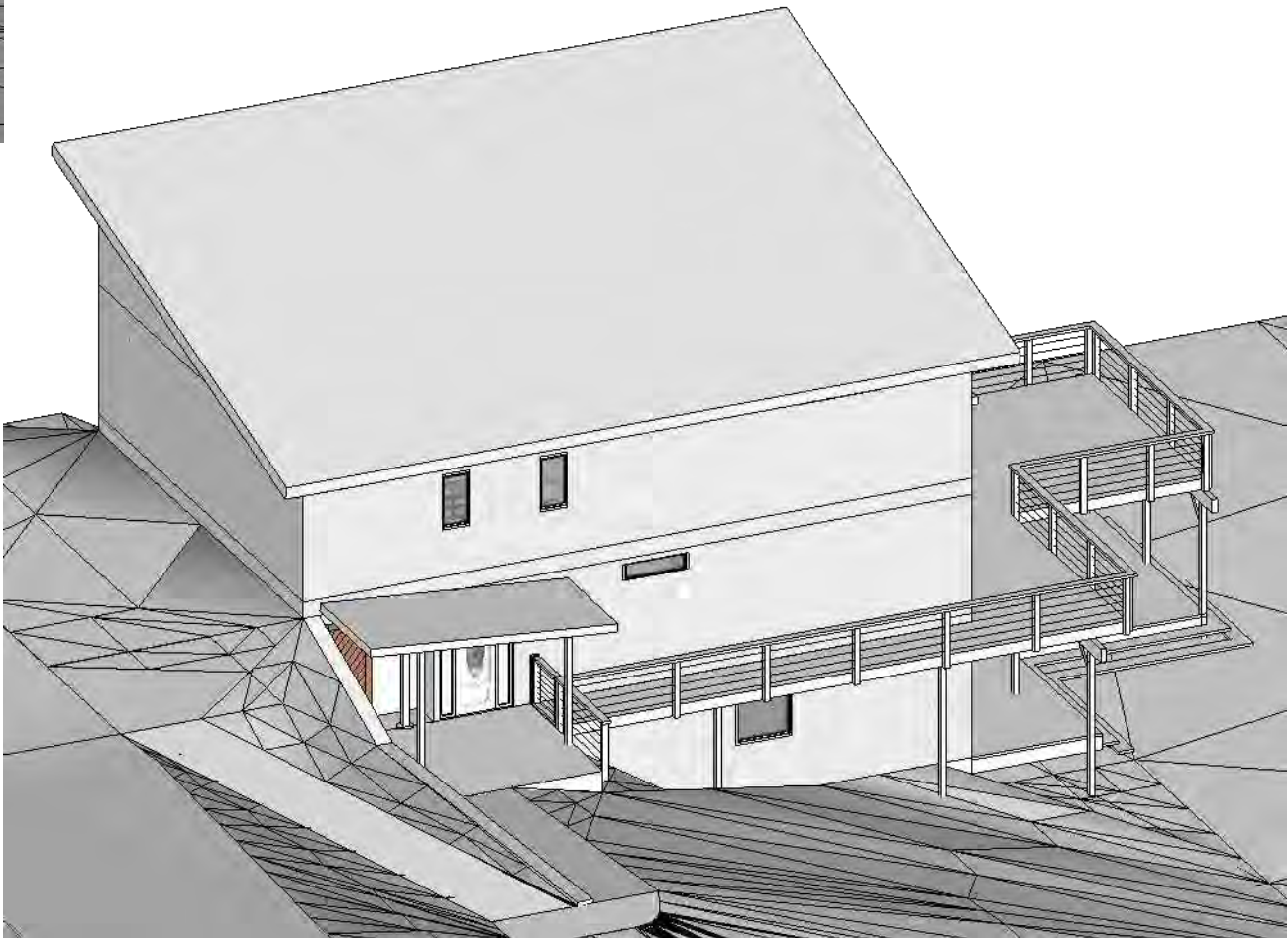
SHEET

Site- 1



SW PERSPECTIVE
scale: 3/32"=1'

A
1.0



NW PERSPECTIVE
scale: 3/32"=1'

A
1.1



PO Box 33515
Juneau, AK 99803
907.321.7792

Parise - Remodel

12005 N Glacier HWY. Juneau, AK. 99801

Job#2106

David Matthew Peterson

July 30, 2021

August 4, 2021

SHEET

A- 1



PO Box 33515
Juneau, AK 99803
907.321.7792

Parise - Remodel
12005 N Glacier HWY. Juneau, AK. 99801

Job#2106

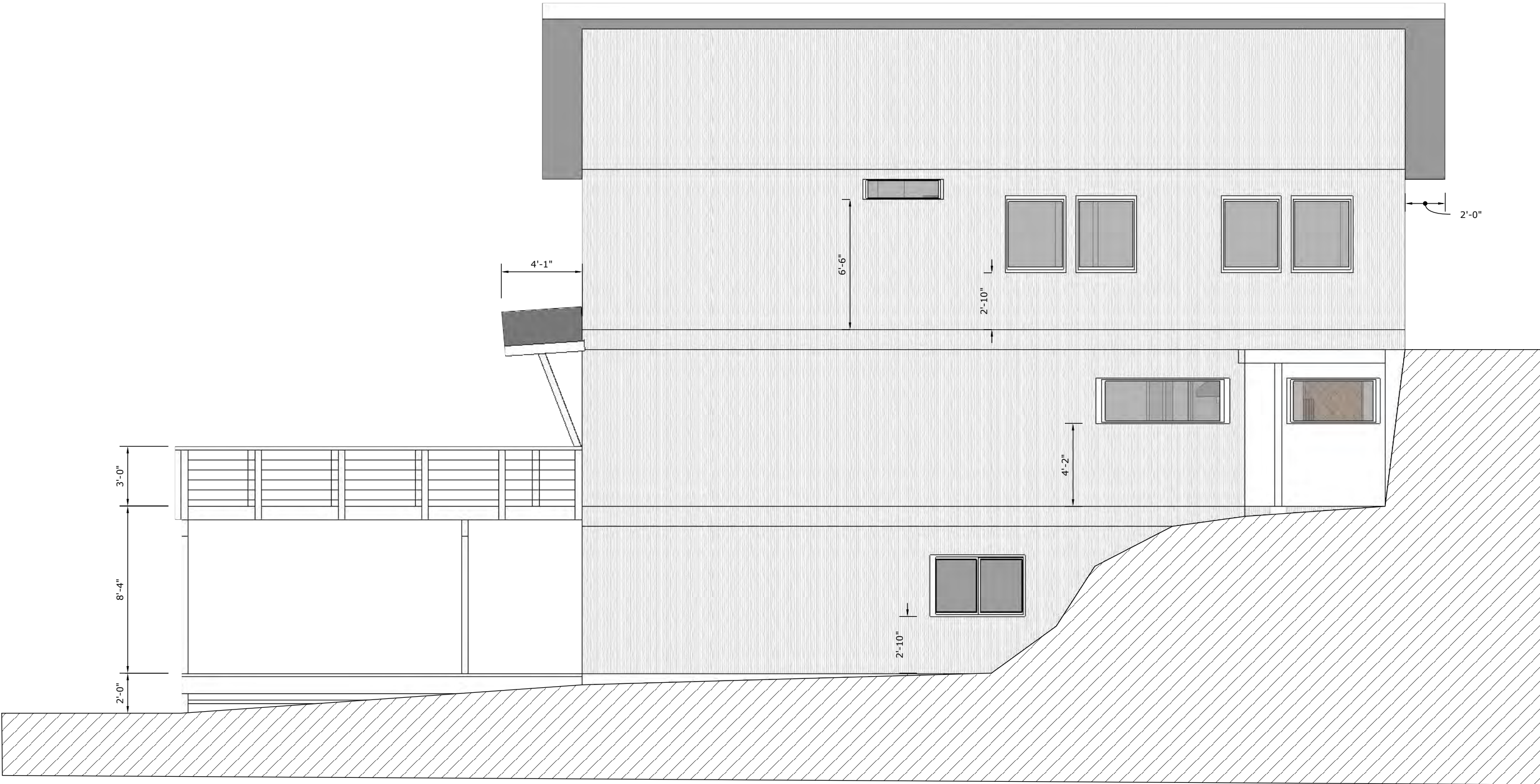
David Matthew Peterson

July 30, 2021

August 4, 2021

SHEET

A- 4



EAST ELEVATION

scale: 3/16"=1'

A
4.0

00 01 02 04



PO Box 33515
Juneau, AK 99803
907.321.7792

Parise - Remodel
12005 N Glacier HWY. Juneau, AK. 99801

Job#2106

David Matthew Peterson

July 30, 2021

August 4, 2021

SHEET

A- 5



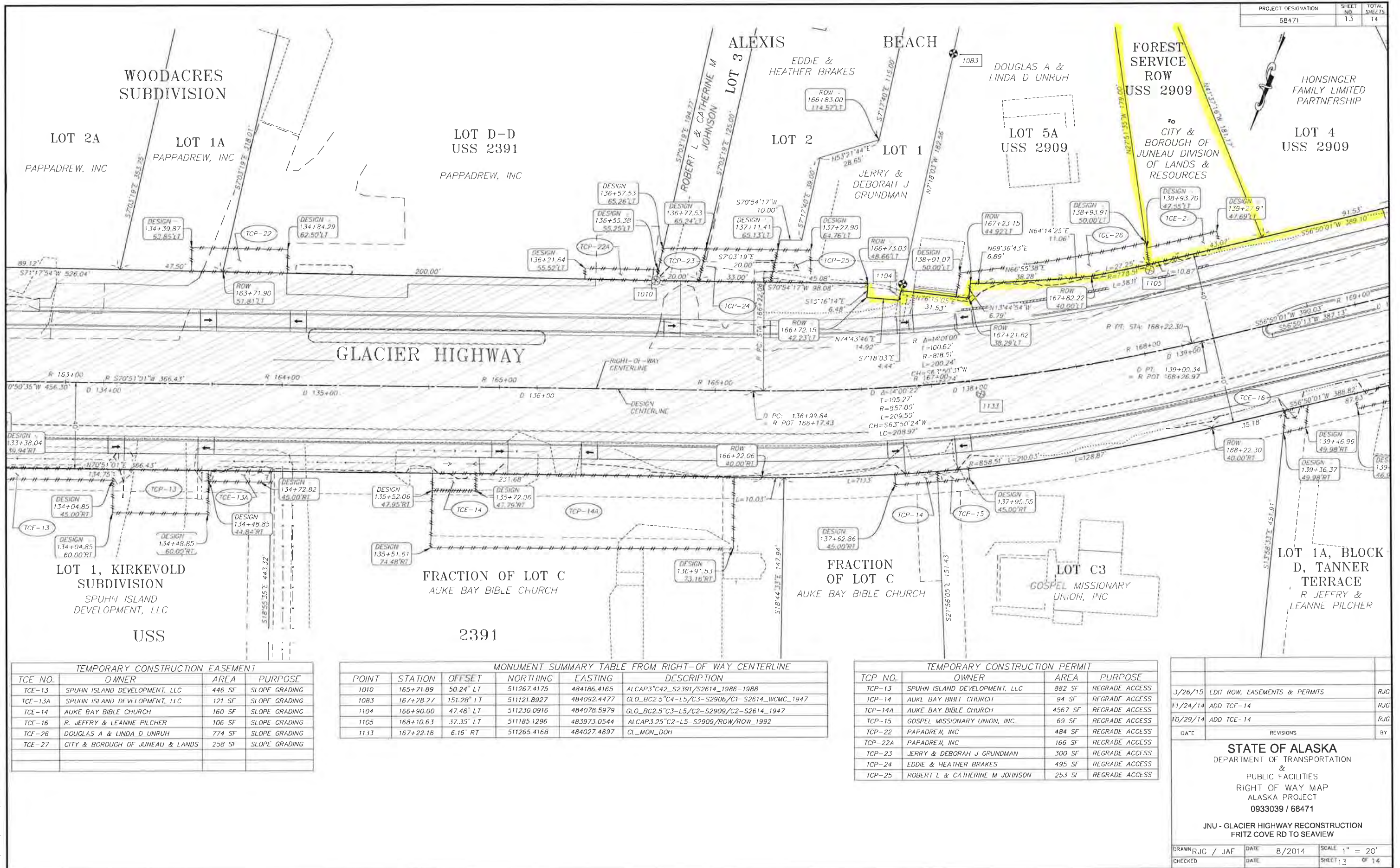
WEST ELEVATION

scale: 3/16"=1'

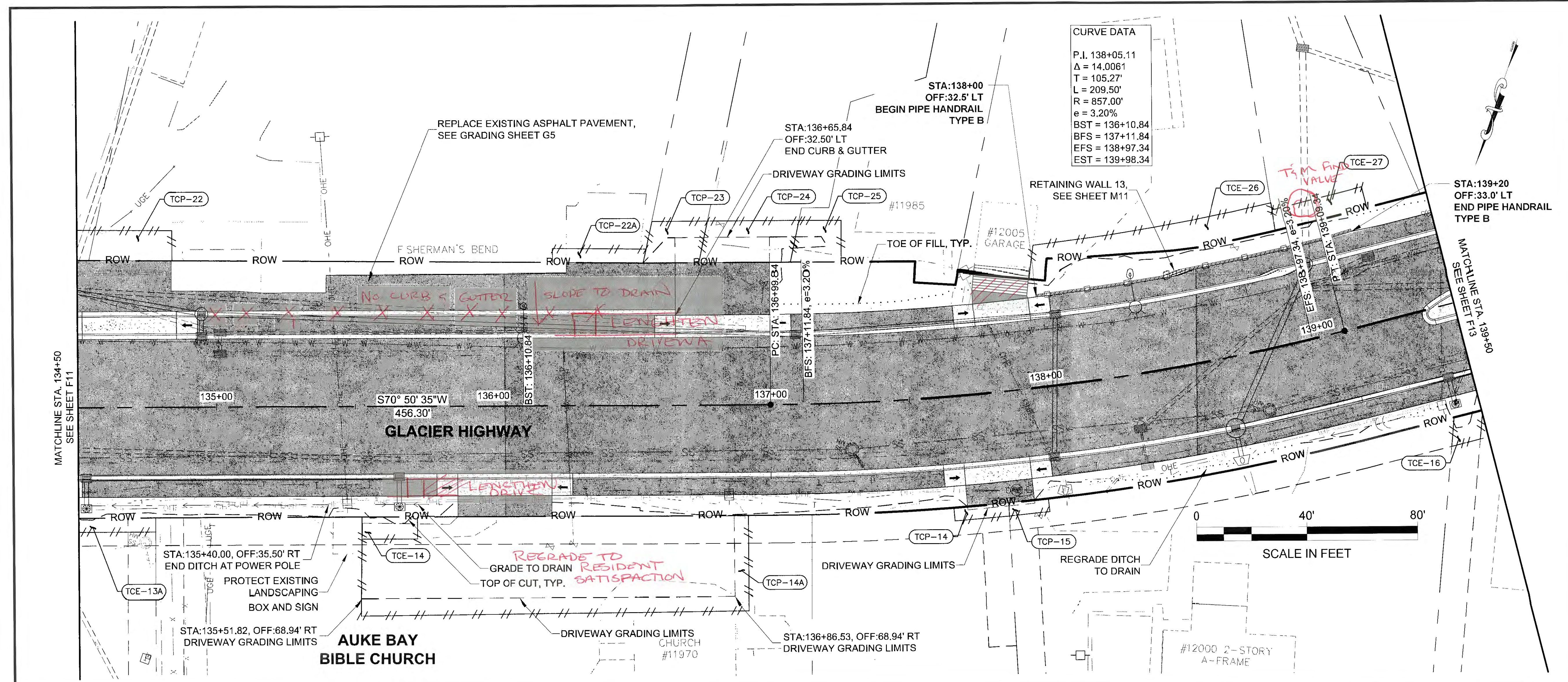
A
5.0

00 01 02 04

Q:\JUN\68471\RW\FRITZ-SEAVIEW SOURCE DWGS\RIGHT-OF-WAY\68471-PLANSET.DWG



Attachment V - 2016 DOT&PF Glacier Highway Reconstruction As-Built



PLANS DEVELOPED BY:
STANTEC CONSULTING SERVICES, INC.
725 EAST FIREWEED LANE, SUITE 200
ANCHORAGE, AK 99503-2245
907-276-4245
C.A. #126386

TAB: F12

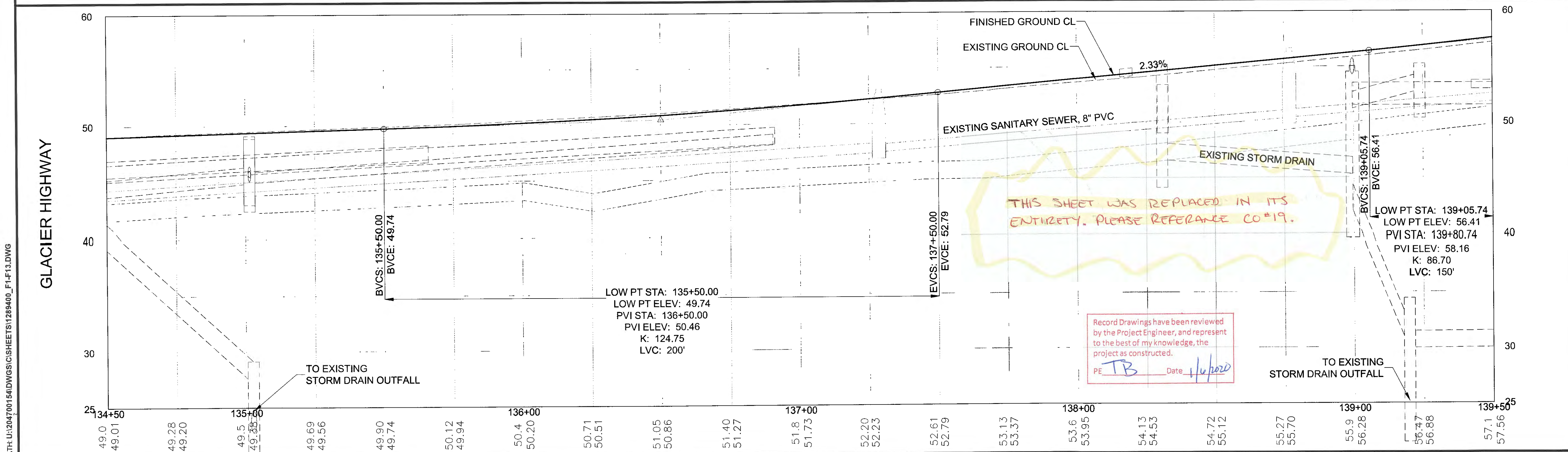
ADDENDUM NUMBER

ATTACHMENT NUMBER

RECORD OF REVISIONS

No.	DATE	DESCRIPTION
-----	------	-------------

PLAN LEGEND



CHECKED BY: S. KARI

DESIGNED BY: B. PADDOCK

DRAWN BY: B. PADDOCK

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
& PUBLIC FACILITIES
SOUTHCOST REGION

GLACIER HIGHWAY
RECONSTRUCTION
FRITZ COVE ROAD TO
SEAVIEW AVENUE

GLACIER HIGHWAY
PLAN & PROFILE

PROJECT DESIGNATION

0933039/Z684710000

STATE	YEAR
ALASKA	2016

SHEET NUMBER	TOTAL SHEETS
F12	145



AFTER RECORDING, RETURN TO:

James E. Parise II
Kelly C. Parise
12005 Glacier Hwy
Juneau, AK 99801

AETIA 61259

WARRANTY DEED
A.S. 34.15.030

The Grantor, **JAMES E. SMITH, a married person**, whose address is PO Box 1003, Riverton, UT 84065, for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, conveys and warrants to **JAMES E. PARISE, II and KELLY C. PARISE, husband and wife, as tenants by the entirety with full right of survivorship**, Grantees, whose mailing address is 12005 Glacier Hwy., Juneau, AK 99801, the following-described real estate:

**Lot 5A, U.S. Survey No. 2909, according to Plat No. 92-28, Juneau
Recording District, First Judicial District, State of Alaska**

SUBJECT TO reservations, exceptions, easements, covenants, conditions and restrictions of record, if any.

The Grantor and the Grantor's spouse have used the above described real property as a family home, and said spouse hereby transfers and conveys any interests he may have, if any, as defined in A.S. 34.15.010, in the above-described real property.


WARRANTY DEED
A4350\8688\Warranty Deed

Page 1

DATED this 19 day of Feb, 2021.

GRANTOR:


JAMES E. SMITH



KRISTY SMITH, as to the marital estate only

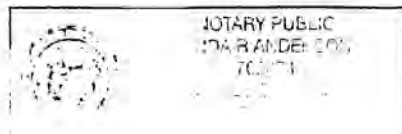
State of Utah

County of Salt Lake

On this 19 day of February, in the year 2021, before me, Linda R Anderson, a notary public, personally appeared **JAMES E. SMITH and KRISTY SMITH**, proved on the basis of satisfactory evidence to be the persons whose names are subscribed to this instrument, and acknowledged they executed the same.

Witness my hand and official seal.


Notary Name Signature



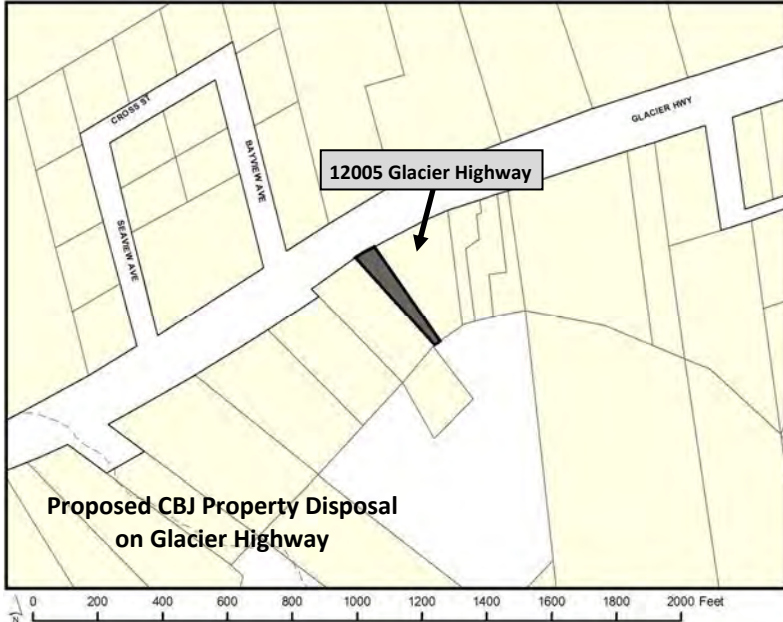
WARRANTY DEED
A4350\8688\Warranty Deed

Page 2



Invitation to Comment

On a proposal to be heard by the CBJ Planning Commission
Your Community, Your Voice



155 S. Seward Street Juneau, Alaska 99801

TO:

An application has been submitted for consideration and public hearing by the Planning Commission for a **CBJ Property Disposal next to 12005 Glacier Highway in a Waterfront Commercial Zone.**

PROJECT INFORMATION:

Project Information can be found at:

<https://juneau.org/community-development/short-term-projects>

PLANNING COMMISSION DOCUMENTS:

Staff Report expected to be posted **Monday October 17, 2022** at

<https://juneau.org/community-development/planning-commission>

Find hearing results, meeting minutes, and more here, as well.

Now through Oct. 3

Comments received during this period will be sent to the Planner, **Jennifer Shields**, to be included as an attachment in the staff report.

Oct. 4 — noon, Oct. 21

Comments received during this period will be sent to Commissioners to read in preparation for the hearing.

HEARING DATE & TIME: 7:00 pm, Oct. 25, 2022

This meeting will be held in person and by remote participation. For remote participation: join the Webinar by visiting <https://juneau.zoom.us/j/83425441349> and use the Webinar ID: 834 2544 1349 OR join by telephone, calling: 1-253-215-8782 and enter the Webinar ID (above).

You may also participate in person in City Hall Assembly Chambers, 155 S. Seward Street, Juneau, Alaska.

Oct. 26

The results of the hearing will be posted online.

FOR DETAILS OR QUESTIONS,

Phone: (907)586-0753 ext. 4139 ♦

Email: pc_comments@juneau.org

Mail: Community Development, 155 S. Seward Street, Juneau AK 99801

Case No.: PAD2022 0003

Parcel No.: 4B2801020070

CBJ Parcel Viewer: <http://epv.juneau.org>

Attachment X - Abutters Notice and Public Notice Sign Photo



Additional Materials

Regular Planning Commission Meeting

Assembly Chambers
7:00 p.m.
Meeting Date: October 25, 2022

1. USE2022 0013:

- a. Public Comment – Lucid Reverie, received 10-14-2022 (page 2)
- b. Public Comment – Laura Lucas, received 10-17-2022 (page 3-6)
- c. Public Comment – Olivia Sinaiko, received 10-17-2022 (page 7)
- d. Public Comment – C. Kiel Renick, received 10-17-2022 (page 8)
- e. Public Comment – Piper Haney, received 10-19-2022 (page 9)
- f. Public Comment – Sydney Hughes, received 10-19-2022 (page 10)
- g. Public Comment – Margo Waring, received 10-19-2022 (page 11)
- h. Public Comment – Kelsey Dean, received 10-20-2022 (page 12)
- i. Public Comment – Hannah Wilson, received 10-20-2022 (page 13)
- j. Comments from The Glory Hall, received 10-21-2022 (page 14-85)

2. PAD2022 0003:

- a. Public Comment – John Crabill, received 10-17-2022 (page 86)
- b. Public Comment – John Crabill, received 10-19-2022 (page 87-89)
- c. Comments from Murray Walsh & James Parise, received 10-21-2022 (page 90-95)
- d. Public Comment – Karla Hart, received 10-21-2022 (page 96)

October 14, 2021

Dear CBJ CDD Staff,

I've lived and worked in downtown Juneau since the 80's. My grandma used to volunteer at the old visitor kiosk and one of my first summer jobs was at the old Boarding House Bakery. The Glory Hall and former Glory Hole have been a big part of providing services for folks in the area for as long as I can remember.

Today I'm writing in support for the Glory Hall's 247 S. Franklin Street Affordable Housing Downtown project. The Glory Hall's affordable housing efforts come at an important time. I've had friends and colleagues leave town in recent years simply because they couldn't find reasonable housing. Housing is a major problem right now and the city needs to be supporting every effort to open up more affordable housing. Especially this one from a longtime and well trusted community non-profit.

Lack of downtown housing, especially affordable downtown housing has been a topic of discussion for many years, and I am glad to see this step toward decreasing the scope of the problem.

I encourage you to approve this application and to support their efforts to put people into affordable workforce housing.

Pat Race

Lucid Reverie / Alaska Robotics

175 S. Franklin St. Suite 312

Juneau, AK 99801

From: [Laura Lucas](#)
To: [Jennifer Shields](#)
Subject: Re: The Glory Hall 247 S Franklin St Apartment Conversion Project
Date: Friday, October 21, 2022 10:02:11 AM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear Jennifer

I reread my letter and noticed a typo that unfortunately declares the opposite of what I meant to say. ("apart of the solution" vs "a part of the solution"— what a difference a space can make!)

If you haven't already put the letter in the packets, If you could replace it with below, I would appreciate it.

If you've already done it, no worries, I think my opinion is understood in either case.

Thanks much,

Laura

From: Laura Lucas <laurajlucas88@gmail.com>
Sent: Monday, October 17, 2022 12:06 PM
To: Jennifer Shields <Jennifer.Shields@juneau.org>

Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project

Dear CBJ Community Development

I am writing in regards to the Glory Hall's application to repurpose the former shelter on South Franklin St into affordable housing units.

The argument presented by CBJ Community Development staff at a recent Planning Commission that the proposed additional apartments would increase density and therefore violate CBJ code struck me as lacking common sense. How can a plan that proposes to create a half dozen or so apartments housing about a dozen people represent an increase in density of a property that once sheltered 40-60 individuals nightly?

In their opposition brief, CDD stated that their denial was based on a "straightforward application of the CBJ code.... [A code] that beyond representing the will of the community provides guidance and places guardrails." As a community member, I would suggest that their interpretation of the Code creates not a guardrail but an unfortunate barrier to the goals of the CBJ Housing Action Plan to reduce downtown's critical housing shortage.

Looking around downtown, I mourn the loss of buildings that once provided housing that now are empty, languishing and deteriorating. (Twentieth Century Theater comes to mind). CBJ's Comprehensive Plan acknowledges this problem of dwelling units that have been vacated by the owner and are being kept off

the market. By The Glory Hall's proposal to convert a portion of their property on South Franklin to affordable housing, they are acting as a community-minded landlord and accordingly become a part of the solution to reducing the housing shortage downtown.

I recognize and applaud CBJ's ongoing effort to increase access to affordable housing such as the use of the Juneau Affordable Housing Fund to fund worthy housing projects. I supported the new City Hall funding proposition because I looked forward to the possibility of returning the CBJ offices in the Marine View Apartments back to their original housing purpose. Obviously, as with the latter failed vote, there will be times when there are setbacks to these efforts. For this reason, I think it's all the more important to recognize that each step towards reaching our goal, however small, should not be ignored.

I urge you to approve the conditional use permit for The Glory Hall's conversion project on South Franklin.

Sincerely,

Laura Lucas

6615 North Douglas Hwy

On Wed, Oct 19, 2022 at 11:28 AM Jennifer Shields <Jennifer.Shields@juneau.org> wrote:

Hi Laura,

Thank you for your email in support of a Conditional Use Permit for the Glory Hall at 247 S. Franklin Street. I will be sure to include it in the written record, and I will present it to the Planning Commission in an "Additional Materials" packet when they review this application on October 25, 2022. In the meantime, please feel free to contact me if you have any other comments or questions.

Sincerely,

Jennifer L. Shields | Planner II

[Community Development Department](#) | City & Borough of Juneau, AK

Location: 230 S. Franklin Street, 4th Floor Marine View Building

Office: 907.586.0753 ext. 4139



Fostering excellence in development for this generation and the next.

From: Laura Lucas <laurajlucas88@gmail.com>
Sent: Monday, October 17, 2022 12:06 PM
To: Jennifer Shields <Jennifer.Shields@juneau.org>
Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear CBJ Community Development

I am writing in regards to the Glory Hall's application to repurpose the former shelter on South Franklin St into affordable housing units.

The argument presented by CBJ Community Development staff at a recent Planning Commission that the proposed additional apartments would increase density and therefore violate CBJ code struck me as lacking common sense. How can a plan that proposes to create a half dozen or so apartments housing about a dozen people represent an increase in density of a property that once sheltered 40-60 individuals nightly?

In their opposition brief, CDD stated that their denial was based on a "straightforward application of the CBJ code.... [A code] that beyond representing the will of the community provides guidance and places guardrails." As a community member, I would suggest that their interpretation of the Code creates not a guardrail but an unfortunate barrier to the goals of the CBJ Housing Action Plan to reduce downtown's critical housing shortage.

Looking around downtown, I mourn the loss of buildings that once provided housing that now are empty, languishing and deteriorating. (Twentieth Century Theater comes to mind). CBJ's Comprehensive Plan acknowledges this problem of dwelling units that have been vacated by the owner and are being kept off the market. By The Glory Hall's proposal to convert a portion of their property on South Franklin to affordable housing, they are acting as a community-minded landlord and accordingly become apart of the solution to reducing the housing shortage downtown.

I recognize and applaud CBJ's ongoing effort to increase access to affordable housing such as the use of the Juneau Affordable Housing Fund to fund worthy housing projects. I supported the new City Hall funding proposition because I looked forward to the possibility of returning the CBJ offices in the Marine View Apartments back to their original housing purpose. Obviously, as with the latter failed vote, there will be times when there are setbacks to these efforts. For this reason, I think it's all the more important to recognize that each step towards reaching our goal, however small, should not be ignored.

I urge you to approve the conditional use permit for The Glory Hall's conversion project on South Franklin.

Sincerely,

Laura Lucas

6615 North Douglas Hwy

From: [Olivia Salisbury Sinaiko](#)
To: [Jennifer Shields](#)
Cc: [Chloe Papier](#)
Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project
Date: Monday, October 17, 2022 12:59:51 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear The City and Borough of Juneau,

I am a Juneau homeowner who both lives and works downtown. I am writing in whole-hearted support of The Glory Hall's conditional use permit application to convert their downtown building and former shelter to 7 units of affordable housing. Juneau is in the midst of a housing crisis and people are suffering, and converting this building into 7 units would be a meaningful step towards alleviating that suffering. My hope is that the City will do everything it can to support those who are willing to step forward to help solve the problem, including approving The Glory Hall's application for a conditional use permit. I urge you to approve this project without burdensome conditions.

Thank you,

Olivia Sinaiko

From: [Kiel Renick](#)
To: [Jennifer Shields](#)
Subject: Support for The Glory Hall Affordable Housing project
Date: Monday, October 17, 2022 1:09:07 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Good Afternoon Jennifer,

I'm writing you and the greater CBJ in support of The Glory Hall's plan to develop its former shelter into 7 units of affordable housing.

Juneau is facing a housing crisis at all levels of income, and these 7 housing units could bring folks from houselessness to being housed. That is life changing for those people, and also important for Juneau's overall economy.

Having observed the ongoing debate regarding this issue, I would hope that CBJ can be solution oriented to help the people of Juneau attain needed housing instead of digging in to defend bureaucratic technicality.

Please be helpful in addressing our community needs, especially at this trying time.

Thank you,
C. Kiel Renick
615 Basin Rd.
Juneau AK 99801

From: [Piper Haney](#)
To: [Jennifer Shields](#)
Subject: Glory Hall's Conditional Use Permit
Date: Wednesday, October 19, 2022 8:57:19 AM
Attachments: [Outlook-yaau4cmw.png](#)

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear The City and Borough of Juneau,

My name is Piper Haney and I am a mental health clinician for Front Street Clinic that is based at the Glory Hall emergency shelter. I am writing in full support of The Glory Hall's conditional use permit application to convert their downtown building and former shelter to 7 units of affordable housing. Juneau is clearly in the midst of a housing crisis and the City should be doing everything it can to support those who are willing to step forward to help solve the problem. Living without stable housing can drastically worsen mental and physical health symptoms and contribute to substance abuse. By creating more affordable housing units in Juneau we have the opportunity to provide community members with stable and affordable housing, one of the basic needs necessary to reach self-sufficiency and improve mental and physical health. I urge you to approve this project without burdensome conditions.

Sincerely,
Piper Haney

Piper Haney, LMSW

Behavioral Health Clinician - Unlicensed

Front Street Clinic/ The Glory Hall

P: 907.364.4429

E-mail: phaney@searhc.org

225 Front Street Ste. 202 | Juneau, AK, 99801



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From: [Sydney Hughes](#)
To: [Jennifer Shields](#)
Cc: cpapier@juneauhfc.org
Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project
Date: Wednesday, October 19, 2022 11:19:13 AM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear The City and Borough of Juneau,

I am writing in full support of The Glory Hall's conditional use permit application to convert their downtown building and former shelter to 7 units of affordable housing. Juneau is clearly in the midst of a housing crisis and the City should be doing everything it can to support those who are willing to step forward to help solve the problem. I urge you to approve this project without burdensome conditions.

Sincerely,
Sydney Hughes

From: [Margo Waring](#)
To: [Jennifer Shields](#)
Subject: Glory Hall apartments
Date: Wednesday, October 19, 2022 9:05:05 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

I am writing to let the Planning Commission know my opinion about efforts to convert the former Glory Hall into seven affordable apartments.

I read in the Juneau Empire that CDD is still opposing 7 new units and has recommended denial of the conditional use permit because it says that the project would increase density of the parcel because the prior residents of the shelter did not have individual cooking, sleeping and bathroom facilities and the residents of the apartment would.

To me, this is silly. The fact is that upwards to 53 people lived in the GH at any one time and CBJ considered it safe for them to be there, sleep, use bathrooms and meals cooked for 53+ everyday. The new units will house up to 14 people which seems a safer number. If the concern is fire protection, perhaps a permit can insist on extra fire extinguishers in each unit. I am sure that prospective tenants will be screened for suitability. And the fact that the apartments are affordable and will accept Section 8 vouchers will make a significant addition to Juneau's supply of this type of rental unit.

I encourage the Planning Commission to look beyond narrow definitions used by CDD and see that this project deserves their support.

By the way, I was a frequent cook at the GH(s) and its kitchens for more than 30 years and am familiar with patrons and staff and feel that everyone will do what they can to make the conversion a success.

Sincerely,

Margo Waring
11380 N. Douglas Hwy
Juneau, AK 99801

From: [Kelsey Dean](#)
To: [Jennifer Shields](#)
Cc: cpapier@juneauhfc.org
Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project
Date: Thursday, October 20, 2022 7:16:20 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear The City and Borough of Juneau,

I am writing in full support of The Glory Hall's conditional use permit application to convert their downtown building and former shelter to 7 units of affordable housing. Juneau is clearly in the midst of a housing crisis and the City should be doing everything it can to support those who are willing to step forward to help solve the problem. I urge you to approve this project without burdensome conditions.

Sincerely,
Kelsey Dean

From: [Hannah Wilson](#)
To: [Jennifer Shields](#)
Cc: cpapier@juneauhfc.org
Subject: The Glory Hall 247 S Franklin St Apartment Conversion Project
Date: Thursday, October 20, 2022 7:16:48 PM

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear The City and Borough of Juneau,

I am writing in full support of The Glory Hall's conditional use permit application to convert their downtown building and former shelter to 7 units of affordable housing. Juneau is clearly in the midst of a housing crisis and the City should be doing everything it can to support those who are willing to step forward to help solve the problem. I urge you to approve this project without burdensome conditions.

Sincerely,

Hannah Wilson

Sent from my iPhone

Mary Alice McKeen
 Attorney, Alaska Bar # 8106035
 212 West 9th Street
 Juneau, Alaska 99801
 907-957-6170
 ottokeen@gmail.com

BEFORE THE PLANNING COMMISSION
 OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU FIRST HOUSING)	USE 2022 013:
COLLABORATIVE,)	TGH's Application for a
dba THE GLORY HALL (TGH) -)	Conditional Use Permit to create
)	seven affordable apartments in the
Applicant)	Mixed Use District in
)	Downtown Juneau

TGH's Application for a CUP to create seven affordable apartments in the Mixed Use District in Downtown Juneau should be granted.

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BEFORE THE PLANNING COMMISSION
 OF THE CITY AND BOROUGH OF JUNEAU

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Introduction

The Juneau Housing First Collaborative doing business as The Glory Hall (TGH) submits these comments in support of its application for a conditional use permit to create seven affordable rental units in its building located at 247 South Franklin Street. TGH responds to points made by CDD in its Staff Report submitted to Michael LeVine, Chair, Planning Commission on October 17, 2022.¹ TGH will refer to that document as the “CDD Staff Report.” With the CDD Staff Report, CDD Planner submitted 304 pages of attachments, which TGH will cite by Attachment Letter A through Z 2 and sometimes also by page number in the Planning Commission packet.

TGH received the CDD Staff Report on Monday, October 17, 2022, at 5:07 p.m. It was 26 pages and had 304 pages of attachments. Frankly it was a surprise that CDD continued to argue that the conditional use permit should be denied on the grounds of CDD's conclusion that the project would increase density of the parcel.² This was surprising in light of the arbitrary and absurd results of that position – this building can

¹ CDD Staff Report to Michael LeVine, Chair, Planning Commission by Jennifer Shields, Planner II, through Jill Maclean, CDD Director.

² CDD Staff Report at pages 9- 11.

house over 50 persons a night in several dormitories, seven shared bathrooms, and one large kitchen but cannot house 7 to 14 people because these residents will have their own sleeping, bathroom and cooking facilities -- and in light of CDD's acknowledgment in the Building Permit appeal that *in this case, for this project*, the interpretation of density in the Proposed Decision of the Planning Commission "supports TGH's conversion *and* the intent of CBJ 49.70.300(b)(1), which is to minimize risk to people and property."³ TGH elaborates on this in Point 2 B below. But CDD has put before the Commission *again* the legal issues that were the subject of extensive briefing and legal argument in the Building Permit appeal.

TGH has done its best to respond to the CDD Staff Report in the two and a half days it had to prepare these comments. At the hearing, TGH has only ten minutes to make its opening comments and five minutes for response. TGH hopes that the Commissioners ask questions if any of TGH's argument need clarification or give TGH time to submit additional written comments for any points that require a written response.

Summary

Under CBJ 49.15.330, the Planning Commission has exclusive authority to issue a conditional use permit.⁴ The Planning Commission shall reject the CDD Director's determination regarding a conditional use permit if it finds, by a preponderance of evidence, that the Director's determination was in error. This project is allowed by the Table of Permissible Uses. This parcel is in the Mixed Use District, which has no

³ CDD's Objections to the Proposed Decision at 5 (*italics in original*) (June 8, 2022).

⁴ A Planning Commission's decision may be appealed to the Assembly under Chapter 01.50 of the Municipal Ordinances.

maximum number of dwelling units per acre. This project implements a priority of the Juneau Comprehensive Plan, which recognizes that Juneau has a “housing crisis.”

The Director, however, recommended that the Planning Commission simply deny outright the conditional use permit for these seven affordable rental units. The Director determined that a grant of this permit was prohibited by CBJ 49.70.300(b)(1), which states that “no development . . . within a severe avalanche area shall . . . increase the density of that parcel.” This is error for two reasons. First, the parcel is not in a “severe avalanche area.” The parcel is in a potential avalanche hazard area, based on Map 4, 1987 Hazard Study Maps, which are still the official CBJ maps. The parcel is in a low (negligible) avalanche hazard zone on the more recent Tetra Tech maps.

Second, the project does not increase density of the parcel by any reasonable measure of density. The project does not increase the density of structures: it converts the inside of the building into seven small apartments and does not change the footprint of the building. The project changes the use of the building from housing 43 to 53 people with shared sleeping, cooking, bathroom and living facilities to housing 7 to 14 people in seven small apartments with their own sleeping, cooking, bathroom and living facilities. Finally, the project decreases the maximum number of persons that can occupy the space by 75% because the allowable space per resident of an apartment is much greater than the allowable space per resident of a homeless shelter.

The Director determined that the project would materially endanger the public health, safety or welfare. The Director stated that TGH had not proven that it met the requirements of the conditional use permit it received in 1990 to construct the shelter. This is error. An applicant is entitled to rely on the “presumption of regularity” that a government agency is presumed to have properly discharged its official duties. It would

be a nightmare if every time a property owner wanted a new permit, it had to go back years and show that it, or prior owners, had met the conditions for prior permits. CDD's own records show that TGH met the conditions of the 1990 conditional use permit and CDD issued an Occupancy Permit "certifying at the time of issuance this structure was in compliance with the various ordinances of the City and Borough of Juneau regulating building construction or use [for a Group Shelter]," attached as Exhibit 2.

Furthermore, the City authorized construction and use of the building as a homeless shelter in 1990 and TGH still has a valid conditional use permit for that use. The record does not show by a preponderance of evidence that conversion of the building to seven small apartments would materially endanger the public health, welfare or safety. The conversion does not change the footprint of the building. TGH submitted detailed engineering plans from Stan Tech for the structural changes in the building required for the conversion. The internal agency review of the application yielded no concerns from CBJ Engineering or Building. No neighbors of the building have raised safety concerns. And the public comment, including comments from several downtown business owners, was unanimous in favoring development which would lead to more affordable rental housing and more people living in the Downtown area. The only entity opposed to this project is CDD.

Exhibits attached to these Comments

Exhibit 1: CBJ 49.70.300 – Landslide and avalanche areas (full text of ordinance).

Exhibit 2: Certificate of Occupancy issued for TGH Building "certifying at the time of issuance this structure was in compliance with the various ordinances of the City and Borough of Juneau regulating building construction or use" for a Group Shelter, Attachment N to CDD Staff Report.

Exhibit 3: Sheet 4, 1987 Hazard Study Maps, showing TGH parcel in "potential avalanche area."

Exhibit 4: CDD references in Building Permit Appeal to TGH parcel being located in “a moderate avalanche area.”

Exhibit 5: CBJ 49.25.500, Density: “The maximum number of dwelling units per acre shall be as provided in the following table.” Mixed Use District has no maximum density of dwelling units per acre.

Exhibit 6: Opening Brief of TGH in Building Permit Appeal: sections addressing whether the project would increase density.

Exhibit 7: Reply Brief of TGH in Building Permit Appeal: sections addressing whether the project would increase density.

Exhibit 8: Affidavit of Mariya Lovishchuk re Engineering Firms (June 30, 2022)

Minor correction in application: the first floor will be used as a commercial rental; it may or may not be a restaurant.

The application incorrectly stated the first floor will be used as a restaurant. The first floor has a commercial kitchen. In other parts of the application, TGH stated that the first floor will be used as a commercial rental. It may or may not be used as a restaurant. There are other possible uses, such as, for example, a training space for a nonprofit or tribal organization to train persons for work in the culinary or hospitality fields. If a restaurant, the venture will have some elements of a mission-aligned use, that is a use compatible with the mission of The Glory Hall. The first floor rental will be decided after the apartment conversions are completed or near completion.

Standard of Review

The Planning Commission has exclusive authority to issue a conditional use permit (CUP) under CBJ 49.15.330. The CDD Director reviews the application for a CUP.⁵ The Planning Commission reviews the CDD Director’s and shall adopt the CDD Director’s determination unless it finds, by a preponderance of evidence, that the

⁵ CBJ 49.15.330(d).

determination was in error.⁶ The Planning Commission may also take action based on its independent review of the evidence before it.⁷

1. The Glory Hall Building is not located in a severe avalanche area.

CBJ 49.70.300(b)(1) states:

Notwithstanding any other provision, *no development or any part of a development, which is within a severe avalanche area shall*, by the addition of bedrooms, conversions of buildings, or otherwise, *increase the density of that parcel*; provided, however, that a single-family house may be constructed on a vacant lot. [emphasis added]

TGH maintains in the strongest possible terms that this project does not increase density. But this ordinance only applies to development “within a severe avalanche area” and the record shows that this parcel is not in a severe avalanche area. If the parcel is not in a severe avalanche area, this part of the ordinance does not apply to TGH’s request for a conditional use permit.

This parcel is not in a severe avalanche area and CDD admits that this parcel is not in a severe avalanche area. Based on the Hazard Study Map Sheet # 4, attached as Exhibit 3, this property is in a “potential hazard” for Snow Avalanche Hazard Classification. This is equivalent to a “moderate avalanche area.”⁸ Based on the 1987 maps, the Glory Hall parcel is in a severe landside area and that is why in 1989, TGH submitted the R & M analysis of landslide risk and why the Planning Commission required mitigating measures for landslides as part of construction of the building that is

⁶ CBJ 49.15.330(e)(2).

⁷ See CBJ 49.15.330(f) (providing that based on its independent review of the evidence, the Commission may deny or condition a permit if it finds that the development will more probably than not [1] materially endanger the public health or safety, [2] substantially decrease the value of the property or be out of harmony with the neighboring area, [3] lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans).

⁸ CDD Staff Notations in Building Permit Appeal, Exhibit 4 to these Comments.

there today. The recent Tetra Tech maps put the TGH property in a low avalanche hazard designation – not moderate, not severe – which the maps explain mean a return period of greater than 300 years.⁹

Further, the record of the appeal for the Building Permit for this property shows CDD staff as noting “this parcel is located in the moderate avalanche area.”¹⁰

It is also noteworthy that the extensive record of TGH’s application for a conditional use permit in 1990 has no indication that CDD treated this parcel as in the severe avalanche area and as subject to the restriction on development in CBJ 49.70.300(b).¹¹

In fact, CDD admits that this parcel is not in a severe avalanche area. CDD has made the decision on its own to apply the limitation in CBJ 49.70.300(b) to parcels in either a severe avalanche area or a severe landslide area. CDD does this because it concluded that the Assembly use of the term “severe avalanche area” in CBJ 49.70.300(b) was unintentional. The CDD Staff Report states that because CBJ 1987 maps were based in part on 1970 maps that combined landslide and avalanche, “staff believe that the heading of CBJ 49.70.300(b) labeled, ‘Severe Avalanche Areas’ – but not landslide – was not intentional.”¹²

This is an unreasonable interpretation of Assembly intent for numerous reasons:

⁹ Figure 2.4d, <https://juneau.org/community-development/special-projects/landslide-avalanche-assessment>. CDD notes that these maps are for informational purposes at this time.

¹⁰ Exhibit 4 to these Comments.

¹¹ Attachments F – N, CDD Staff Report.

¹² CDD Staff Report at page 16.

- It was not only the heading of CBJ 49.70.300(b) that used the term “severe avalanche area” or “severe avalanche areas.” The Assembly used that term in the heading AND in two places in CBJ 49.70.300(b), as noted below.¹³
- The ordinance shows the Assembly understood that there were both landslide and avalanche areas. It used the term “severe avalanche areas” five times in the entire CBJ 49.70.300 and “landslide areas” six times.¹⁴ It applied some parts of CBJ 49.70.300 to landslide and avalanche areas.
- CBJ 49.70.300(a)(2) specifically states that “Boundaries of potential and severe avalanche areas will be as shown on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1-8, as the same may be amended from time to time by the assembly by ordinance.” There would be no point to that provision if it didn’t matter whether a parcel was in a severe landslide or a severe avalanche area.
- CBJ 49.70.300(a)(2) states the boundaries will be as shown on “sheets 1-8.” It does not say “except for Sheet 4.” It is true that on some sheets, the Assembly adopted composite maps: Sheets 1, 5, 7. But Sheet 4 has separate boundaries and the Assembly adopted that sheet in 1987 and has not amended it. So for the

¹³ (b) *Severe avalanche areas.*

(1) Notwithstanding any other provision, no development or any part of a development, *which is within a severe avalanche area shall*, by the addition of bedrooms, conversions of buildings, or otherwise, increase the density of that parcel; provided, however, that a single-family house may be constructed on a vacant lot.

(2) No subdivision shall be approved which creases a lot lacking sufficient building space *outside a severe avalanche area.* [emphasis added]

¹⁴ These mentions are noted on Exhibit 1.

purposes where the statute treats avalanche and landslide areas differently, the Assembly adopted maps with separate boundaries. CDD points to statutory provision where the Assembly stated that it was combining for all purposes avalanche and landslide areas together.

The Assembly adopted this language in 1987 and amended the statute in 1990 and in 2006 and left the references to “severe avalanche areas” in place.¹⁵ CDD is rewriting the ordinance and is rewriting it in a way that enlarges the restrictions on property owners. If CDD thinks the Assembly made a mistake, it can work with the City Manager or the Legal Department to request that the Assembly change the ordinance. But it is not CDD’s role to rewrite ordinances and fix mistakes that it thinks the Assembly made.

This parcel is not and never has been in a severe avalanche area. CBJ 49.70.300(b) does not limit the development of TGH property in any way.

2. The Director’s finding that this project increases density is clear error and is in no way supported by a preponderance of evidence in the record.¹⁶

In addition to the fact that the parcel is not in a severe avalanche area, the Director erred by finding that the project increased density. TGH maintains that since the Assembly did not specifically define “density,” the Planning Commission should make a fact-specific determination whether a particular development would increase the density of a parcel by looking at all the facts about a development: whether the development increases structures on the parcel; whether it increases dwelling units, whether it increases the persons occupying the parcel; whether it increases the persons that can

¹⁵ Serial No. 87-49, § 2, 1987; Serial No. 90-03, § 1, 1990; Serial No. 2006-15, § 23, 6-5-2006.

¹⁶ For a more detailed analysis of this issue, TGH’s arguments on this point from the Building Permit Appeal are contained in Exhibits 6 and 7 to these Comments.

legally occupy the premises. The Planning Commission should look at all relevant facts. If it does, this project does not increase density.

CDD states that the Planning Commission can only look at one fact, namely whether the proposed development increases the number of dwelling units, which are residential uses where persons have their own “cooking, living, sleeping and toilet facilities.”¹⁷ This approach is in error. CDD’s interpretation of density was not adopted by the Assembly either in the ordinance itself or as a general definition. CDD’s interpretation leads to unreasonable, arbitrary and absurd results that do not comport with a reasonable construction of Assembly intent in adopting CBJ 49.70.300. It is far more reasonable that the Assembly intended CDD and the Planning Commission to look at all the facts related to a project to determine whether the project would increase the density of a parcel.

A. The issue is whether this project increases density of this parcel; it does not.

The issue is whether this project increases the density of this parcel. The Assembly did not adopt a definition of “density” in CBJ 49.70.300(b). The Assembly did not adopt a definition of “density” in the definition section for Title 49, which is where the Assembly defines terms that it intends to have a common definition throughout Title 49.¹⁸ The Assembly knows how to do this. It has adopted definitions of 402 terms in CBJ 49.80.120 to use throughout Title 49. “Density” is not one of them.

Since the Assembly did not adopt a “one-size-fits-all” definition of density, TGH maintains that the proper interpretation of Assembly intent in CBJ 49.70.300(b) is that

¹⁷ CBJ Staff Report at 8 – 10. This is the definition of “dwelling unit” in CBJ 49.80.120.

¹⁸ CBJ 49.80.120.

CDD would determine whether a project increased density of a parcel by considering all relevant facts about the project including whether the project enlarges or adds a structure to the parcel, whether the project adds dwelling units on the parcel, whether the project increases the number of persons residing or using the parcel and whether the project increases the number of persons that can potentially occupy the building. And any conclusion that the government arrives at regarding whether a project increases density should be reasonable and not produce an absurd result.

This conversion of a homeless shelter to seven small apartments does not increase density by any reasonable measure:

- The building conversion does not add structures or change the footprint of the building.
- The project does not increase the density of people who have or will use the building. The project significantly decreases the occupants of the building. The project changes the use of the building from housing 43 to 53 homeless people for decades, who shared bathroom, sleeping, and cooking facilities, to housing 7 to 14 people in seven small apartments with their own bathroom, sleeping and cooking facilities.
- The project significantly decreases the number of people that can occupy the parcel. A shelter resident in a dormitory has to have 50 gross square feet per person. A resident of an apartment has to have 200 gross square feet per person. The project decreases the maximum allowable occupancy on the parcel by 75%.

Why and how does CDD conclude that this project increases density? CDD defines “density” to mean one and one fact only: whether the project increases the number of dwelling units. Dwelling units are a residential use providing “independent

and complete cooking, living, sleeping and toilet facilities for one family.”¹⁹ CDD states that the homeless shelter had “0” dwelling units and that the project will have “7” dwelling units and therefore the conversion project increases density and is prohibited.

CDD does not provide a reasonable basis for its adoption of an across-the-board definition of density as dwelling units in CBJ 49.70.300(b). The Assembly did NOT adopt it in the ordinance itself or in the general definition section. And CDD’s “one-size-fits-all” definition of density leads to an absurd result. It is a result that does not meet the “red face” test of a plausible or coherent statement of Assembly intent. Why would the Assembly intend to allow development of this property for homeless persons, who share sleeping, cooking and bathroom facilities, to live in a mapped hazard area but not for renters, who have their own sleeping, cooking and bathroom facilities? And why on earth would the Assembly intend this result *precisely because* homeless persons share sleeping, cooking and bathroom facilities and renters do not?

CDD asserts that density in other sections means the number of dwelling units.²⁰ The references to density as meaning dwelling units comes almost exclusively from CBJ 49.25.500, attached as Exhibit 5, and related ordinances. CBJ 49.25.500 specifies density for establishing the “maximum number of dwelling units per acre” by different zoning districts. CBJ 49.25.520 specifies in close-to-excruciating detail how to apply the rules for counting up to the maximum. CBJ 49.60.140, cited in the CDD Staff Report, establishes a “residential density bonus,” for when a developer can exceed the allowable maximum density in CBJ 49.25.500.

¹⁹ CBJ 49.80.120.

²⁰ CDD Staff Report at 8 – 9.

These ordinances provide no support for CDD's conclusion that the Assembly intended to determine an increase density in CBJ 49.70.300 by the sole fact of whether the project increased dwelling units.

- The Assembly specified unequivocally in CBJ 49.25.500 – 520: count dwelling units to determine density. CBJ 49.25.500 is what an ordinance looks like when the Assembly establishes a standard for density for a particular purpose. The Assembly specified the allowable density for cottage housing development, namely the maximum number of dwellings in a cottage housing development is 12 units, except in a D-10 zoning district the maximum is 14 units.²¹ These are what ordinances look like when the Assembly establishes a maximum density and then exceptions to it. The Assembly did not tell CDD to count dwelling units to determine an increase in density in CBJ 49.70.300(b).
- The density standard for maximum dwelling units in the CBJ code has no applicability to this parcel. This parcel is in a Mixed Use District. The table in CBJ 49.25.500 states there is no maximum for the number of allowable dwelling units.
- CBJ 49.70.300(b) is not a zoning provision. It is a Land Use provision but not a zoning provision. This ordinance is in Chapter 49.70, which is “Specified Area Provisions.”
- The definition of “density” as “dwelling units” in CBJ 49.25.500 – 520 and related ordinances does not lead to arbitrary and absurd results. The definition of “density” as “dwelling units in these ordinances does not undermine Assembly

²¹ CBJ 49.15.760(b)(1) & (2)(establishing maximum number of dwellings in a cottage housing development)

intent because the Assembly adopted that measure of density for determining the maximum density of dwelling units in zoning districts. CDD's adoption of "density" as dwelling units in CBJ 49.70.300(b) leads in this instance to unreasonable and arbitrary results, which are inconsistent with any reasonable statement of Assembly intent.

Despite all the ink spilled in this case, this is not a hard case. TGH agrees that CDD can look at dwelling units as one fact in determining whether a project increases density. But when, as here, there is one large dwelling that housed 43 to 53 persons a night and the new use will house 7 – 14 persons per night and the new uses decreases the potential occupancy by 75%, CDD erred by not looking at other facts. CDD arrived at an absurd, unjust and arbitrary result. And CDD is telling the Planning Commission that it *must* tell this non-profit corporation that it cannot convert its building to seven small apartments because it served the community for over thirty years by operating a homeless shelter in this building. This is clear error. The Planning Commission can look at the actual facts of this project and reach the obvious conclusion that this project does not increase density of this parcel.

B. CDD conceded in the Building Permit Appeal that this Project does not increase density of this parcel; it only argued against a general redefinition of density for all projects.

After oral argument on the appeal on May 24, 2022, the Planning Commission issued a proposed decision on June 1, 2022, and made two findings:

1. CDD acted in error by not incorporating previous engineering work in their analysis under CBJ 49.70.300(a)(5). CBJ Engineering accepted the site specific 1989 R&M Geophysical Hazard Assessment. The assessment established that the Glory Hall was not in a severe hazard zone. The assessment amends the 1987 CBJ hazard maps for this property.

2. The Planning Commission has determined the intent of CBJ 49.70.300 is to provide for the safety of occupants within a structure, regardless of use. As density is not specifically defined in Title 49, according to CBJ 49.20.300, the Planning Commission hereby provides the following interpretation: For the purposes of CBJ 49.70.300(b)(1), the phrase “shall not increase density” shall be interpreted to mean, “shall not increase the total quantity of people in a structure.”

In CDD’s Objections to the Proposed Decision, it is important to note that CDD acknowledged that TGH’s project does not increase the density of this parcel. These are CDD’s words:

Thus, in this case, TGH’s conversion will lead to fewer people living in a designated severe hazard area *even though* this same conversion will increase dwelling units. Thus, in this case, the Proposed Decision’s definition for CBJ 49.70.300(b)(1)’s density supports TGH’s conversion *and* the intent of CBJ 49.70.300(b)(1), which is to minimize risk to people and property.²²

CDD conceded that the Planning Commission’s definition of “density” in the Proposed Decision “supports TGH’s conversion *and* the intent of CBJ 49.70.300(b)(1).” CDD in essence acknowledges that the proposed definition of “density” works for this project.

Read fairly, what CDD objected to in the proposed decision and in the CDD Staff Report is that it did not want a general redefinition of “density” and it did not want a general redefinition of “density” as meaning only “occupancy.”²³ The Planning Commission withdrew the Proposed Decision. The Planning Commission does not need to, and probably should not, adopt a general redefinition of “density” for all projects. And TGH does not advocate that the Planning Commission adopt a definition of

²² CDD’s Objections to the Proposed Decision at page 5 (italics in original).

²³ CDD’s Objections to the Proposed Decision at 3 – 7 and specifically page 3 (“CDD Objects to the Commission’s Finding Density Should Be Defined As Occupancy for CBJ 49.70.300(b)(1) Purposes.”); CDD Staff Report at 9 (“if the Commission renders CBJ 49.70.300(b)(1) to mean occupancy, the Commission will open the door to substantial development within Severe Landslide and Avalanche areas.”)

“density” as meaning only occupancy. This avoids the concerns of CDD that it will have to define “density” as meaning only occupancy.

The Planning Commission can and should state that it will determine density based on all relevant facts about a proposed development. The Planning Commission can easily find that this development does not increase density of this parcel. If there is a dispute, the Planning Commission can and should evaluate whether a future project increases density based on the facts of this future projects.

3. The Director’s finding that the proposed development will materially endanger the public health, safety, or welfare is in error and not supported by a preponderance of the evidence.

A. The Director’s assertion that this conditional use permit should be denied because TGH did not present evidence beyond what is in CDD’s records that TGH complied with the conditions of the 1990 conditional use permit 1990 is error.

CDD Staff Report states: “In 1989, the applicant received Conditional Use Permit approval to operate an Emergency Shelter in a Mapped Hazard Area, based on conditions outlined in a 1989 R & M Engineering Report. **Those conditions have not been confirmed as completed.**”²⁴ The CDD Director’s Report says the same thing, “Those conditions [in the 1989 R & M Engineering Report] have not been confirmed as completed.” CDD is actually suggesting that to receive a conditional use permit in 2022, the applicant must prove affirmatively that it met the conditions that led it to receive a conditional use permit, building permit and Certificate of Occupancy thirty-one years ago.

²⁴ CDD Staff Report at page 2 (emphasis in original).

1. This standard is unreasonable and arbitrary on its face.

It would be a nightmare if every time an applicant wanted a conditional use permit, CDD could require it to prove that CBJ properly issued and enforced prior permits. This permit was issued thirty-one years ago. How long could CDD reach back? The same property owner received the prior CUP and is applying for this. But that is not necessarily the case.

2. This standard contradicts the presumption of regularity that applies to the Planning Commission's and CDD's actions that led to the Certificate of Occupancy Permit issued to The Glory Hall on August 14, 1991.

An applicant is entitled to rely on the "presumption of regularity" for official acts including that CDD in 1990 did its job and ensured compliance with the conditions in the CUP before it issued a Certificate of Occupancy for the Building.²⁵ The preeminent statement of this principle in American law was made by the United States Supreme Court in 1926 in *United States v. Chemical Foundation*:

The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties.²⁶

The presumption has been applied to government actions in many different situations.²⁷ It enables citizens to rely on the sufficiency of past actions taken by government agencies; saves reviewing bodies time because they do not have to endlessly go back to prior acts to see if the government did its job, unless there is clear reason to

²⁵ Exhibit 2 to these Comments: Certificate of Occupancy (August 14, 1991), issued by Christian T. Roust, Building Official.

²⁶ *United States v. Chem. Found.*, 272 U.S. 1, 14 – 15 (1926).

²⁷ E.g., *Jud. Watch, Inc. v. U.S. Dep't of State*, 282 F. Supp. 3d 338, 345 (D.D.C. 2017) ("[a]gencies are entitled to a presumption that they complied with the obligation to disclose reasonably segregable material" under the Freedom of Information Act) (citations and punctuation omitted); *Bold All. v. U.S. Dep't of the Interior*, 572 F. Supp. 3d 943, 947 (D. Mont. 2020) ("The government's designation of an administrative record is entitled to a presumption of completeness.").

think it did not; reduces the possibility of a government agency selectively asking only certain applicants to dig back twenty, in this case, thirty-one years, to prove something that the same government agency said an applicant had already complied with.

3. CDD's records show that CDD admirably performed its job in 1990 – 1991.

The Planning Commission approved a conditional use permit on January 23, 1990, for construction of The Glory Hole Building subject to the following condition:

For the new building the developer shall include R & M Engineer's construction recommendations listed in the project's hazard analysis report.²⁸

R & M Engineers concluded that the "potential for mass wasting is minimal," particularly if its recommendations were followed:

1. Machine grade the entire surface upslope of the existing concrete retaining wall to a relatively uniform slope angle (Shallow terracing may be more aesthetically pleasing.)
2. Found the deck support footing at least 4' below the slope surface as measured on the slope's low side. Footings may be designed for a soil bearing value of 1,500 PSF.
3. Relocate the fuel oil tank so it does not bear against the upslope slide of the retaining wall.
4. Hydroseed the slop soils exposed by grading and handplant with salmonberry, alder, or other native, hardy plants.
5. Intercept sheet flow water at the upslope property line by excavating a 2" (minimum) depth ditch sloped to drain without eroding the ditch bottom. The ditch should discharge into a conduit leading to the municipal storm drain system.²⁹

²⁸ Attachment F to CDD Staff Report, Notice of Decision, Letter from David Goade, Planner II to The Glory Hole (Jan. 26, 1990).

²⁹ R & M Engineering Report at page 2 (December 28, 1989), Attachment F to CDD Staff Report.

CDD then issued a building permit to construct the new building and the building permit incorporated the conditions.³⁰ CDD records show that two engineering firms – R & M Engineering and Wilson Engineering – were involved in monitoring the demolition of the old building and the construction of the new building.³¹ The Certificate of Occupancy issued by a former building official, Christian (Chris) T. Roust on August 14, 1991, is attached to these comments as Exhibit 1. The Certificate of Occupancy states: “*This certificate issued pursuant to the requirements of Section 306 of the Uniform Building Code, as amended, certifying that at the time of issuance this structure was in compliance with the various ordinances of the City & Borough of Juneau regulating building construction or use for the building.*” These were all records within CDD’s custody and control.

B. The preponderance of evidence does not support the Director’s finding that the conversion of The Glory Hall building to seven small apartments will materially affect public health, safety or welfare.

The Director found that the project will materially endanger the public health, safety or welfare.³² This is a serious finding to make about a project. It is not supported by the record.

First, to deny a conditional use permit, the finding that the Director or the Commission must make is that proposed development “will materially endanger the

³⁰ Attachment K to CDD Staff Report, Building Permit (May 3, 1990). The copy is a little blurry but the bottom half says “Project Permit” then lists “Conditional” and lists the conditions. There was also a separate demolition permit for removal of the old building. Attachment J to CDD Staff Report.

³¹ Attachment K to CDD Staff Report: *see, e.g.*, Letter from R & M to CBJ (May 14, 1990)(discussions with Coogan Construction re vibration from sheet pile installation); Wilson Engineering Compaction Report (May 30, 1990); Letter from Lars Gregovich, PE, Wilson Engineering to John Egan, Glory Hole Director (Dec. 12, 1990)(“To the best of my ability and knowledge, all work which we inspected confirmed to the approved plans and specifications for this job.”)

³² CDD Staff Report at 25.

public health or safety.”³³ Although the Director made a finding of “yes,” the explanation of the finding was as follows: “There is evidence to suggest that the requested multi-family dwelling, in a Mapped Severe Landslide and Avalanche Hazard area, will materially endanger the public health or safety.”³⁴ The Director must weigh the evidence and conclude how the preponderance of evidence supports that finding and explain the basis for that conclusion. Simply saying there is “evidence to suggest” does not meet the statutory standard.

Second, the CDD Staff Report and the Director’s Report rely on what it termed the failure by TGH to prove that CDD did its job in 1990 – 1991. As discussed above, this is not valid “evidence.” This Commission can presume, and the CDD records bear it out, that this applicant received a conditional use permit with conditions “necessary to mitigate external adverse impacts,” as required by CBJ 49.15.330(a). The possibility of landslides and mass wasting was analyzed and the Commission put conditions to address any risk and CDD issued a Certificate of Occupancy that all requirements in CBJ ordinances had been met.

Third, TGH is not seeking a conditional use permit to construct this building but only to convert it. The building was deemed safe to construct in 1991. The building still has a conditional use permit and a certificate of occupancy that allows it to operate as a shelter. If the building is safe to house homeless persons, it should be presumed safe to house renters. The only change made by the conditional use permit is conversion of the building into seven small apartments. And for this work, TGH submitted detailed

³³ CBJ 49.15.330(d)(5)(A)(Director’s determination); CBJ 49.15.330(f)(1)(Commission determination).

³⁴ CDD Staff Report at 25.

operating plans from Stan Tech Engineering.³⁵ The plans were 35% drawings and cost \$35,000. The plans show load bearing walls and other data that is necessary for the conversion. What evidence is CDD relying on to show that the *conversion* of this building to seven small apartments will materially affect public health and safety?

Fourth, the internal review of this project by other CBJ agencies yielded no concern from CBJ Engineering or Building and an affirmative comment from Fire that there are no issues with this project.³⁶

Fifth, unlike many housing projects, this project has elicited no concern from any neighbors – residential or business. The comments have been uniformly in favor of this proposed development. The only entity opposed to this project is CDD.

C. The treefall event on Gastineau Avenue in September 2022 does not support denial of this conditional use permit.

CDD points to the treefall event on Gastineau Avenue last month and puts in pictures of the event.³⁷ This, of course, was extremely unfortunate for the property owners involved but it does not support denial of this conditional use permit.

First, it was a tree fall event rather than primarily a mudslide. TGH bases this on the pictures themselves and on public comments reported by CBJ officials:

Juneau, Alaska (KINY) - Drone footage is revealing that the slide on Gastineau Avenue was more of a treefall than a large mudslide.

That's according to the CBJ's Tom Mattice. He spoke to News of the North on Wednesday.

³⁵ Stan Tech Engineering Plans, Attachment A to CDD Staff Report, pages 43 – 66 of Planning Commission packet.

³⁶ CDD Staff Report at page 22.

³⁷ CDD Staff Report at 21.

"What's really interesting is it's really more of a treefall event than it was a mudslide," Mattice said. "As we started looking at the drone footage yesterday, and started to look at the debris, we have we have a tremendously large tree that fell and it took out a whole bunch of other small trees. The amount of mud is actually pretty minimal. It's amazing how much more of a treefall than it is than the actual mudslides, like we're traditionally used to."³⁸

The Glory Hall Building has no trees upslope from it. In fact, upslope of The Glory Hall is a garden for which TGH received a permit from CDD.³⁹

Second, this does not change the statutory framework for what a property owner can do on this parcel. The ordinance (CBJ 49.70.300(b)) prevents development in a severe avalanche area and only if it increases density. This parcel is neither in a severe avalanche area and does not increase density.

Third, to construct the building, R & M Engineering analyzed the slope angle and soil and concluded "that the potential for damage from mass wasting in minimal," particularly if its recommendations were implemented, which they were.⁴⁰

Fourth, CDD does not point to anything specific that shows the building is still not safe for occupancy except to point to "subsequent upslope development, including the reconstruction of Gastineau Avenue and associated drainage improvements above the site."⁴¹ Any upslope development is approved by the City. In particular, the reconstruction of Gastineau was a significant project undertaken by the City. It is unreasonable to require a private landowner to get an engineering study to analyze whether this large City project adversely affected its property. Will every property owner

³⁸ <https://www.kinyradio.com/news/news-of-the-north/mattice-gastineau-avenue-slide-more-likely-a-large-treefall-rather-than-mudslide/>

³⁹ CHLOE: IS THERE A REFERENCE TO THIS ON THE CDD Staff Report? What page?

⁴⁰ R & M Engineering Report (December 28, 1989), Attachment F to CDD Staff Report, pages 101 - 107 of Planning Commission Packet.

⁴¹ CDD Staff Report at page 17.

on South Franklin and any “mapped hazard area” who wants to develop its property have to hire an engineer to prove that the City’s Gastineau Reconstruction project did not affect its property?

Finally, 43 – 53 people a night have lived there and could live there again under the conditional use permit that still applies to this property. TGH is completely willing to provide engineering plans to show that conversion of this building to seven small apartments will not adversely affect the structural integrity of the building. This is the engineering analysis that should be required and that TGH has complied with.

D. The conditions hinted at by CDD are not reasonable.

CDD did not recommend any conditions but simply recommended that the Planning Commission deny the conditional use permit. But it has hinted at some conditions:

- As a condition to receive a permit in 2022, TGH should show in 2022 that it met the conditions when it received its 1990 conditional use permit: this is unreasonable and unwarranted for reasons discussed above.
- TGH should get a study that meets the requirements of CBJ 49.70.300(a)(4): TGH is not asking for a change in the boundary lines so this would not be appropriate.
- As part of that idea, TGH must obtain a study by an engineer experienced in avalanche analysis: Exhibit 8 is an affidavit from Mariya Lovishchuk, that she prepared before she started her no-contact sabbatical. Ms. Lovishchuk did a full-court press and made contacts with 10 engineering firms and 4 other

organizations. None of the engineering firms were available to do an analysis but six engineering firms did not have avalanche experience or were otherwise not qualified to perform the work.⁴² The only engineering firm with avalanche experience that at that time was willing to consider the work was Tetra Tech, but they could not perform an analysis because it needed permission from CBJ because CBJ was Tetra Tech's prior client and CBJ would not give permission for Tetra Tech to perform the analysis for TGH. A requirement for an engineer with avalanche experience is unnecessary because the parcel is not in a severe avalanche zone, the parcel has no history of avalanches, it will likely be impossible to find such an engineer.

- Applicant should prove that CBJ's Gastineau Reconstruction Project did affect its property: as discussed above, this is a completely unreasonable suggestion by CDD for an obligation to be placed on a private landowner as a condition for developing their property.

Conclusion

It is not reasonable to interpret the Assembly intent in adopting AS 49.70.300 in 1987 to undermine efforts to create new housing, especially new rental housing, on South Franklin Street. CDD's radical new approach would have prevented the numerous buildings that housed people: the Glory Hall shelter itself; the numerous buildings owned by companies that have commercial establishments on the first floor and work

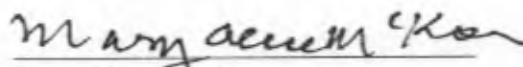
⁴² Mark Pusich with PDC Engineers; Don Larson; two more local engineering firms; StanTech Engineers; Shannon & Wilson Engineering. Alan Jones was conflicted out due his work on the Tetra Tech and also the scope of the project exceeded his ability.

force housing on the second floor, the Strasbaugh Apartments on Gastineau Avenue, and the Channel View Apartments on Gastineau Street.

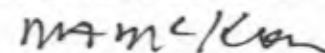
Title 49 has several purposes. One is to “recognize the economic value of land and encourage its proper and beneficial use.” Every action by CDD and then the Planning Commission must take that into account. CDD’s recommendation to deny this CUP means that TGH can operate a shelter on this parcel or try to rent the three floors for retail and office space, for which there is a glut on the market so the upstairs floors will likely be at least partly vacant.

With the CBJ’s blessing, this building has been authorized to house homeless persons since TGH received its Occupancy Certificate in 1991. TGH believes that the “proper and beneficial use” of this building is to continue to house persons but now in seven units of permanent affordable rental housing to the housing stock of Juneau. It is well within the Planning Commission’s authority to grant a conditional use permit for this beneficial project. Every unit matters.

Dated: 10-21-2022


Mary Alice McKeen
Attorney for The Glory Hall

I certify that on October 21, 2022, I served this document on the following persons: Jennifer.Shields@juneau.org; Sherri.Layne@juneau.org; Chelsea.Wallace@juneau.org.


Mary Alice McKeen

①
49.70.300 Landslide and avalanche areas. 1

(a) Generally. ②

- (1) Development in all landslide and avalanche areas shall minimize the risk of loss of life or property due to landslides and avalanches. ①
- (2) Boundaries of potential and severe avalanche areas will be as shown on the landslide and avalanche area maps dated September 9, 1987, consisting of sheets 1-8, as the same may be amended from time to time by the assembly by ordinance. ③
- (3) Notwithstanding any other provision, all subdivision other than a boundary line relocation and all development greater than a single-family dwelling within landslide or avalanche areas shall require a conditional use permit. ④
- (4) If a developer disagrees with the boundaries shown on the maps, the developer may seek departmental relocation of the boundaries by submitting site specific studies prepared by a civil engineer experienced in avalanche and landslide analysis. Such studies shall include detailed analyses of topography, vegetation, potential snow accumulation, and other factors. The results should indicate actual hazard area boundaries and potential debris flow direction, time, distance and mass. If, in the opinion of the city engineer, the studies clearly establish that the map boundaries are inaccurate and the proposed development is outside a severe avalanche area or outside any avalanche or landslide area, the department shall proceed accordingly. ②
- (5) The commission may require mitigating measures certified as effective by a professional engineer for development in landslide and avalanche areas. Such measures may include dissipating structures or dams, special structural engineering, or other techniques designed for the site. Mitigating measures may also include reduction in the proposed density. ⑤

(b) Severe avalanche areas. ③

- (1) Notwithstanding any other provision, no development or any part of a development, which is within a severe avalanche area shall, by the addition of bedrooms, conversions of buildings, or otherwise, increase the density of that parcel; provided, however, that a single-family house may be constructed on a vacant lot. ④
 - (2) No subdivision shall be approved which creates a lot lacking sufficient building space outside a severe avalanche area. ⑤
- (c) *Warning and disclaimer of liability.* Avalanches and landslides may occur outside hazard areas in excess of engineering expectations. The location and severity of the event may be increased by manmade or natural causes. This article does not imply that land outside of designated hazard areas, or uses permitted within such areas, will be free from danger or damage. This article shall not create liability on the part of the City and Borough of Juneau or any officer or employee thereof for any damages that result from reliance of this article or any administrative decision lawfully made under this article.

(Serial No. 87-49, § 2, 1987; Serial No. 90-03, § 1, 1990; Serial No. 2006-15, § 23, 6-5-2006)

*KEY:

* SEVERE AVALANCHE AREA = ———, ⑤ MENTIONS.
* LANDSLIDE AREA = mmmmm, ⑥ MENTIONS.

Exhibit 1 page 1 of 1

Created: 2022-02-21 09:03:47 [EST]

(Supp. No. 136)

Page 1 of 1

Record, APL2021 0006 - 247 S. Franklin St./The Glory Hall
Page 2 of 169

Certificate of Occupancy

City & Borough of Juneau, Alaska

This Certificate issued pursuant to the requirements of Section 306 of the Uniform Building Code, as amended, certifying that at the time of issuance this structure was in compliance with the various ordinances of the City & Borough of Juneau regulating building construction or use for the following:

Use Classification GROUP SHELTER

Bldg. Permit No. 4775.01

Occupancy Group R-1-A-3

Construction Type V-lhr.

Owner of Building Christian Juneau Cooperative

Owner Address P.O. Box 186 Juneau, AK 99801

Building Address 247 S. Franklin St.

Legal Description of Building Lot Tract M, Lot 4 2

Townsite of Juneau


Christian T. Roust

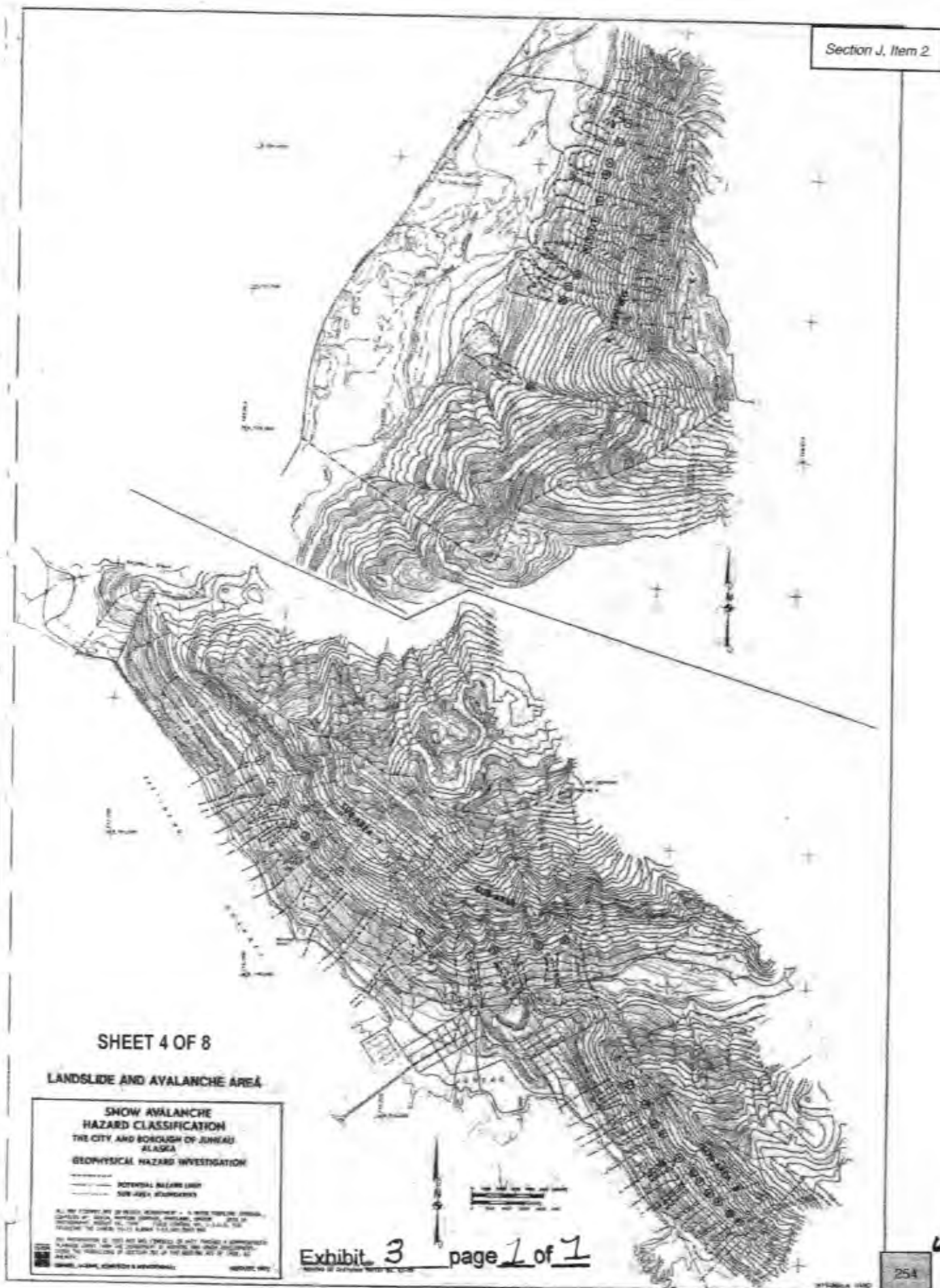
Building Official

File No. 1-C07-0-BOM-001-0

Date August 14, 1991

Post this Certificate and all identified attachments in a conspicuous place.

Page 165
IN PACKET



Attachment W - 1987 Hazard Study Map Sheets 1, 4, 5, 7

Planning Commission
Packet - p. 254

BUILDING PERMIT APPLICATION

NOTE: THIS IS NOT A BUILDING PERMIT

* NOTE: "Building Permit" is a generic term which includes Building Safety Inspections, Grading Permits, and permits for Electrical, Plumbing and Mechanical work.

Case No: **BLD20210765**

Case Description: **Convert emergency shelter and soup kitchen into 7 apartments**

Site Address: **241 S FRANKLIN ST**

Check No. of Existing Dwelling Units: **0**

Parcel No: **1C070B0M0010**

No. of New Dwelling Units: **7**

Legal Description: **JUNEAU TOWNSITE BL M LT 2 FR**

No. of Removed Dwelling Units: **0**

Applicant : JUNEAU COOPERATIVE CHRISTIAN MINISTRY
DBA THE GLORY HALL
247 S FRANKLIN ST
JUNEAU AK 99801

e-mail: brucecdenton@gmail.com
e-mail: lovishchuk.mariya@gmail.com

CEL 907-723-2259
PRI 907-957-2885

Owner: JUNEAU COOP CHRISTIAN MINISTRY
PO BOX 021997
JUNEAU AK 99802-1997

Contractor: CARVER CONSTRUCTION LLC
PO BOX 240475
DOUGLAS AK 99824

PH: _____ FAX: _____

Valuation for Permit Fee Calculations:

S.F.	Type	Rate	Amount
			1,100,000.00
Total Valuation:			\$1,100,000.00

Associated Cases:

None.

Parcel Tags:

This parcel is located within the Downtown Historic District.

This parcel is located in the moderate avalanche area and severe landslide area. 9/28/2009 JLW

Glory Hole Remodel 1990

Notes and Conditions:

Waiting for payment

Applicant's Signature
(Owner, Contractor or Authorized Agent)

Date

Staff Acceptance

I hereby certify that I have read and examined this application and know the same to be true and correct. I further certify that all provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. I understand that the granting of a permit does not presume to give authority to violate or cancel the provisions of any other federal, state or local law regulating construction or the performance of construction.

Exhibit **4** page **1** of **2**

JUNEAU PERMIT CENTER - 230 S. Franklin Street - 4th Floor, Marine View Center - Mail: 155 S. Seward Street, Juneau, AK 99801

Phone: 586-0770 • FAX: 586-3355 • Inspection Requests: 586-1743 • Email: permits@ci.juneau.ak.us
Record, APL2021-0006 - 247 S. Franklin St. The Glory Hall

Page 37 of 169
COD application filed out for TSH Building Permit
11-23-2021

Case No: **BLD20210765**Site Address: **241 S FRANKLIN ST**Parcel No: **1C070B0M0010**

Desc: Convert emergency shelter and soup kitchen into 7 apartments

Commercial REPI New Dwelling Units: 7
 FCC Code: 437 Existing Dwelling Units: 0
 Type of Construction: _____ Occupancy Class: R-2
 Sprinkler Substitute for Type A Construction: YES NO
 Sprinkler System: FULL PARTIAL NONE Required: YES NO
 Alarm System: FULL PARTIAL NONE Required: YES NO
 Code Edition: _____ Code Review by: _____ Date: _____

Valuation for Permit Fee Calculations:

S.F.	Type	Rate	Amount
			1,100,000.00
Total Valuation:			\$1,100,000.00

LAND USE ZONE/UNITS MU / 0 WETLAND _____ FLOOD ELEV. <u>23.00</u> FIRM ZONE <u>X</u> FIRM MAP _____ LOT SIZE <u>3,196 SF</u> <u>0.1 ACRES</u> SETBACKS Front <u>0</u> Rear <u>0</u> Side <u>0</u> Other _____ PARKING _____ ANADROMOUS _____ EAGLES NEST _____ Coverage <u>Permissible/Conditional</u> HEIGHT _____ VEGETATION _____ HAZARD _____	ENGINEERING/PUB WORKS Dwelling Units: _____ CITY WATER: _____ Permit #: _____ Use: _____ Assessment: _____ Service Size: _____ Line Size: _____ Meter Size: _____ CITY SEWER: _____ Permit #: _____ Use: _____ Assessment: _____ Fixture Units: _____ LAND USE PERMITS ADR Case #: _____	PLAN REVIEW APPROVALS <table border="1"> <thead> <tr> <th></th> <th>Initials</th> <th>Date</th> </tr> </thead> <tbody> <tr><td>Fire</td><td></td><td></td></tr> <tr><td>Zoning</td><td></td><td></td></tr> <tr><td>Engineering</td><td></td><td></td></tr> <tr><td>Water</td><td></td><td></td></tr> <tr><td>Sewer</td><td></td><td></td></tr> <tr><td>Architectural</td><td></td><td></td></tr> <tr><td>Structural</td><td></td><td></td></tr> <tr><td>Plumbing</td><td></td><td></td></tr> <tr><td>Mechanical</td><td></td><td></td></tr> <tr><td>Electrical</td><td></td><td></td></tr> <tr><td>Access</td><td></td><td></td></tr> <tr><td>Spcl Insp Form</td><td></td><td></td></tr> </tbody> </table> APPROVED FOR ISSUANCE _____ Signature _____ Date		Initials	Date	Fire			Zoning			Engineering			Water			Sewer			Architectural			Structural			Plumbing			Mechanical			Electrical			Access			Spcl Insp Form			PERMIT ISSUANCE FEES Grading Plan Review Fee \$ _____ Adjusted Plan Review Fee \$ _____ Fast Track Fee \$ _____ Early Start Fee \$ _____ Building Permit Fee \$ _____ Water Assessment Fee \$ _____ Sewer Assessment Fee \$ _____ Sewer Inspection Fee \$ _____ Grading Permit Fee \$ _____ Driveway Permit Fee \$ _____ Bond for \$ _____ Other \$ _____ Total Issuance Fees \$ _____ PERMIT ISSUANCE PAYMENTS <table border="1"> <thead> <tr> <th>Date</th> <th>Receipt</th> <th>Check</th> <th>Amount</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td><td>\$ _____</td></tr> <tr><td></td><td></td><td></td><td>\$ _____</td></tr> <tr><td></td><td></td><td></td><td>\$ _____</td></tr> </tbody> </table>	Date	Receipt	Check	Amount				\$ _____				\$ _____				\$ _____
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Parcel Tags:

This parcel is located within the Downtown Historic District.

This parcel is located in the moderate avalanche area and severe landslide area. 9/28/2009 JLW

Glory Hole Remodel 1990

CONDITIONS AND HOLDS ON PERMIT: (Continued on back of sheet)

Exhibit 4 page 2 of 2

Record, APL2021 0006 - 247 S. Franklin St./The Glory Hall

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Staff Review of Building Permit Application.
3-4-2022

The maximum number of dwelling units allowed per acre shall be as provided in the following table:

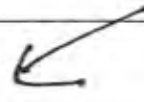
Zoning District	<u>Maximum Dwelling Units/Acre</u>
RR	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u> .
D-1	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u> .
D-3	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u> .
D-5	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u> .
D-10	10 units per acre
D-10 SF	Density determined by minimum lot size in <u>section 49.25.400</u> and special density requirements in <u>section 49.25.510</u> .
D-15	15 units per acre
D-18	18 units per acre
MU	No maximum density 
MU2	80 units per acre
MU3	30 units per acre
NC	15 units per acre
LC	30 units per acre

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GC	50 units per acre
WC	18 units per acre

(Serial No. 87-49, § 2, 1987; Serial No. 98-02, § 2, 1998; Serial No. 98-09, § 6, 1998; Serial No. 2007-39, § 10, 6-25-2007; Serial No. 2010-22, § 4, 7-19-2010; Serial No. 2012-24, § 4, 5-14-2012, eff. 6-14-2012; Serial No. 2021-35(am), § 6, 2-7-2022, eff. 3-10-2022)

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BEFORE THE PLANNING COMMISSION
OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU COOPERATIVE CHRISTIAN
MINISTRY, dba THE GLORY HALL,

Appellant,

vs.

CBJ COMMUNITY DEVELOPMENT,

Appellee.

APL2021-06

Appeal of:

BLD2021-0765

CDD Director's Decision dated
December 1, 2021

Opening Brief of The Glory Hall (TGH) -
[corrected]

*selected portions
as marked,
April 2, 2022*

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A. The project does not increase the density of this parcel based on structures: there was one building when it was a shelter and there will be one building if the building is converted into seven small apartments.	12	✓
B. The project decreases density of this parcel based on usage by people: 43 – 53 persons were regularly housed in the Shelter and 7 - 14 persons will be housed in seven small apartments.	12	✓

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Summary of Basis for Appeal and Reasons to Grant the Building Permit to TGH.

The Glory Hall (TGH) applied for a building permit to convert the second and third floors of the former emergency shelter at 247 South Franklin Street into seven rental units of affordable housing – six efficiencies and one one-bedroom – which would house between 7- 14 persons. When the Glory Hall Building was used as an emergency shelter, 43 – 53 people slept there at night and about 100 people used the Day Room on the ground floor during the day.

The Glory Hall Building has been in use as an emergency shelter since 1990 until this past summer when the shelter relocated to the Valley. The building is on a parcel designated as a severe avalanche area based on low resolution hazard maps that the Assembly adopted in 1987, maps that are currently under intense review. A 2019 assessment conducted by Tetra Tech using modern technologies places the parcel in a low avalanche zone. An ordinance (CBJ 49.70.300) prevents development in this area *if the development increases density of the parcel*.

This project does not increase the density of this parcel. The project decreases density because it decreases the persons who will live on the parcel from 43 – 53 a day to a maximum of 14 persons in seven small apartments. The project furthers the Assembly's high priority to increase the stock of affordable housing in Juneau. The Planning Commission should grant this project a building permit.

CDD denied a building permit on the grounds that the project would increase density of this parcel because it puts seven dwelling units in the building. CDD's decision should be set aside for many reasons including the following:

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- CDD's Decision did not explain why it defined "density" of a parcel as "the number of dwelling units" on a parcel when CDD's definition of "density" is not in any CBJ ordinance or any authority cited by CDD.
- CDD's Decision did not address TGH's arguments that the project decreases density on the parcel based on how many people would be using the parcel under the new use, namely a maximum of 14 persons in seven small apartments.
- CDD's definition of "density" is mechanistic and bureaucratic, namely count the number of dwelling units before and after a project without considering any other facts about the project.
- CDD's definition of "density" precluded it from examining the specifics of this project and precluded it from recognizing an unusual situation, such as here, namely a project dividing one large building that housed 43 to 53 persons into seven small rental units that will house 7 – 14 persons.
- CDD's definition of "density" attributes an intent to the Assembly to allow housing for homeless persons in an emergency shelter for over 30 years on this parcel but to prevent housing for renters on the same parcel.
- CDD's definition of "density" is inconsistent with Juneau's Comprehensive Plan and the CBJ Housing Action Plan because it prevents this much needed project of seven modest but nicely remodeled small apartments in the Downtown core.

Issues on Appeal

1. Under CBJ 49.70.300(b)(1), a development may not occur on a parcel in a severe avalanche area, as designated on 1987 CBJ Hazard Maps, if the development would "increase the density of that parcel." When used as an emergency shelter, the Glory Hall Building housed 43 – 53 people per night and had 100 people there during the day. Under the proposed development, the Glory Hall former building will house a maximum of 14 people in 7 small apartments. Did CDD err when it denied a building permit for this project on the grounds that the project increased the density of this parcel?
2. Assuming for the sake of argument that CDD's definition of density is correct, TGH maintained before CDD that the Glory Hall Building, when used as a shelter, had seven distinct areas with basic facilities for independent and complete cooking, living, sleeping and toilet

The Planning Commission should grant a building permit for this excellent project that is allowed by the Table of Permissible Uses and that will bring seven rental units of affordable housing to Downtown Juneau.

1. The project does not increase the density of this parcel within the meaning of CBJ 49.70.300(b)(1); the project significantly decreases density of the parcel.

CBJ 49.70.300(b)(1) states “no development or any part of a development, which is within a severe avalanche area shall, by the addition of bedrooms, conversions of buildings, or otherwise, increase the density of that parcel.” The issue before the Planning Commission is the interpretation of the term “density” and whether the building permit was correctly denied on the grounds that the project would “increase the density of [this] parcel.”

The Assembly did not prohibit all development in a parcel located in a severe avalanche area on the 1987 CBJ hazard maps. The Assembly prevented development only if it would “increase the density” of the parcel. CBJ 49.70.300 itself does not define “density.” The definition section in Title 49, with its hundreds of definitions, does not define “density.”²⁷ The International Building Code of 2012 does not define “density.”²⁸

Since there is no preset definition of “density” in the ordinance, the Planning Commission must interpret “density” and “increase density” based on the text of the ordinance construed in light of the purpose of the ordinance and related ordinances and Assembly actions.

Words in an ordinance should be interpreted according to their common meaning unless it is a technical term that has acquired a specific technical meaning.²⁹ The common understanding of “density” is something like the definition in Collins English Dictionary, which defines density as “the extent to which something is filled or covered with people or things.”³⁰

²⁷ CBJ 49.80.120.

²⁸ Chapter 2, Definitions, International Building Code, 2012 Ed.

²⁹ AS 01.10.040(a)(statutes).

³⁰ <https://www.collinsdictionary.com/us/dictionary/english/density>

If this project increased density of this parcel, it would have to increase the extent to which this parcel is filled with people or things. It does not. The project does not increase the number of big "things" on this parcel, that is, structures or buildings. The project significantly decreases the number of people residing on the parcel. The project decreases the number of people that can occupy the parcel.

A. The project does not increase the density of this parcel based on structures: there was one building when it was a shelter and there will be one building if the building is converted into seven small apartments.

The project does *not* increase the extent to which this parcel is filled with people or things. As for things that would be relevant in the context of a building permit, the project does not increase the buildings and structures on the parcel. There is one building now and there will be one building on this parcel after the project is completed. The project does not even change the footprint of the building.

B. The project decreases density of this parcel based on usage by people: 43 – 53 persons were regularly housed in the Shelter and 7 - 14 persons will be housed in seven small apartments.

As for people, the project decreases, rather than increases, the density of this parcel, as measured by the people living there and using the parcel. When the Glory Hall was used as a shelter, it provided housing for 43 – 53 persons who slept there at night. It provided space during the day for 100 persons – Shelter residents and other people – in the large room on the ground floor known as the "Day Room." After the proposed development, the building will house between 7 to 14 persons in seven small apartments. The first floor will be a mission-aligned commercial space. The density of persons using this parcel is going from 43 – 53 persons, who were Shelter residents, to 7 – 14 persons, who are paying renters. This project

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dramatically decreases the density of the number of persons using this parcel and therefore the number of persons who are exposed to whatever risk of avalanche exists on this parcel.

C. The project decreases density of the parcel based on occupancy: under the new use of seven small apartments, fewer occupants and more space per occupant.

If density is measured by how crowded the occupants of the space may be, the project decreases density by that measure. The project decreases the density of this parcel based on the maximum number of persons that can occupy the space as set forth in the International Building Code.³¹ Table 1004.1.2 has an "Occupant Load Factor" for spaces within a building. It is attached as Exhibit 1 to this Brief with the relevant spaces marked.

For the second and third floor of the Glory Hall Building:

- Old use: when used as a shelter, there were three dormitories on the third floor and two dormitories on the second floor.³²
- For dormitory space, each occupant must have at least 50 gross square feet per person.
- New use: if this space can be converted to seven small apartments, each occupant in a residential space must have 200 gross square feet per person.
- Change: Under the new use, each occupant is guaranteed four times more space than each occupant under the old use: 50 square feet increased to 200 square feet.

For the ground floor (1st floor) of the Glory Hall Building:

- Old use: when used as a shelter, there was a large day room on the ground floor with movable tables and chairs where people sat during the day.

³¹ International Building Code, 2012 Edition. All references to the IBC are to the 2012 Edition.

³² TGH submitted the Glory Hall's existing floor plan to CDD. [R. 6- 8] TGH also let the City know there were sleeping spaces in addition to the five dormitories, namely a bedroom for folks with medical issues and an apartment (where night staff or a live-in staff person – the Glory Hall has had both – slept) [R. 170].

- For this use, each occupant must have at least 15 net square feet.
- New use: if the project is approved, this space will be a commercial space.
- Each occupant in a mercantile space that is not a basement or grade floor area must have at least 60 square feet.
- Change: Under the new use, each occupant has a minimum of four times more space than each occupant under the old use: 15 square feet increased to 60 square feet.

This Table lays out the same information:

Table 1: Comparison of Occupant Load Factors in Glory Hall Building as Currently Configured and Glory Hall Building if Project Goes Forward

	Occupant Load Factor for Space in Table 1004.1.2	Occupant Load Factor for Space in Table 1004.1.2	Occupant Load Factor for Space in Table 1004.1.2
Glory Hall Building as currently configured	Dormitory spaces on 2d and 3d floor: one occupant per 50 gross sq. ft.	Day Room on 1st floor: Assembly without fixed seats; unconcentrated (tables & chairs): one occupant per 15 net sq. ft.	Kitchen, commercial: one occupant per 200 gross sq. ft.
Glory Hall Building if project goes forward	Residential space – 7 small apartments: one occupant per 200 gross sq. ft.	Mercantile space on first floor: one occupant per 60 gross sq. ft.	Kitchen, commercial: one occupant per 200 gross sq. ft.
Change in Occupant Load under new use	Occupant Load: new use gives each occupant at least four times more space than the old use.	Occupant Load: new use gives each occupant at least four times more space than the old use.	Occupant Load: no change

Source: Table 1004.1.2, IBC, Maximum Floor Area Allowances per Occupant [Exhibit 1 to this Brief]

By this measure, the project significantly decreases density because the minimum space per occupant under the new uses is four times greater – 400% greater -- than the minimum space per occupant in the old use. This is reasonable. If a person is living in something represented as a residential space, the building code guarantees them more space than a person who is sleeping in a dormitory. If a person goes into a commercial retail establishment, the building code guarantees them more space than a person in an assembly room with tables and chairs. But

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what is unreasonable is for CDD to say that the project increases density when, by this objective measure in the IBC, the project decreases density. Under the new use, fewer occupants, more space per occupant.

D. TGH's interpretation furthers the purpose of CBJ 49.70.300(b).

TGH's interpretation of density furthers the purpose of CBJ 49.70.300(b). It is worth repeating that, with this ordinance, the Assembly did not prevent all development of property within a severe avalanche area on the 1987 CBJ Hazard Area maps. The Assembly balanced the goal of encouraging property owners to develop and improve their property in this area with the goal of minimizing the risk of loss of life and property from an avalanche. The balance it struck was that property owners in a severe avalanche zone could develop their property as long as the development did not increase density of the parcel. If the development did not increase density, the Assembly wanted it to happen. The Assembly did not mandate stagnation of all properties mapped within a severe avalanche area.

The project will significantly decrease the number of people who use this property. It will go from emergency housing for 43 to 53 people to rental housing for 7 to 14 people. The project will significantly decrease the number of people that can occupy the property based on the IBC requirements for minimum space, discussed in the prior section. The project improves the property *and* exposes *fewer* people to whatever risk of avalanche exists on this parcel. Therefore it makes no sense to say that CBJ 49.70.300(b) should be interpreted to prevent this major improvement that a downtown owner wants to make to a major downtown building.

E. TGH's interpretation of CBJ 49.70.300(b) furthers the Comprehensive Plan and the Juneau Housing Action Plan.

This requires little explanation. As discussed earlier, in the Comprehensive Plan and the CBJ Housing Action Plan, the Assembly has made it a high priority to try to come to terms with

the longstanding critical housing shortage in Juneau.³³ The Glory Hall's interpretation of CBJ 49.70.300(b) furthers the goals of the Comprehensive Plan and the CBJ Housing Action Plan because it allows the construction of seven new affordable rental units in Juneau. This may seem small and unimportant but the Comprehensive Plan concluded that every single habitable dwelling in our community is needed: "Unless and until the community achieves a healthy vacancy rate, all habitable dwellings are valued and needed and uninhabitable units should be rehabilitated or replaced."³⁴ And it would mean the world to the 7 to 14 persons who would gain affordable housing in seven modest apartments also known as dwelling units in Downtown Juneau.³⁵ But ironically it is precisely *because* The Glory Hall seeks to put "dwelling units" in the old Glory Hall Building that CDD denied this building permit.

2. CDD's interpretation of CBJ 49.70.300(b) is clear error.

A. CDD's definition of "density" as equal to "the number of dwelling units" is not found in the text of this ordinance, any other CBJ ordinance or any authority cited by CDD.

To have it before us, the text of the ordinance at issue, CBJ 49.70.300(b)(1), states in full:

Notwithstanding any other provision, *no development or any part of a development, which is within a severe avalanche area shall*, by the addition of bedrooms, conversions of buildings, or otherwise, *increase the density of that parcel*; provided, however, that a single-family house may be constructed on a vacant lot. [emphasis added]

CDD denied a building permit in a one-paragraph decision:

Please accept this email as an official denial of your request to convert the old Glory Hall shelter into 7 apartments. According to the CBJ adopted hazard maps the Glory Hall is located in a sever [sic] avalanche zone. *Increasing the number of dwelling units is prohibited by code in this hazard zone.* The code language is below for your reference [CBJ 49.70.300]. Please feel free to contact me via

³³ See "Juneau's Housing Crisis and Assembly Response" at pages 4 -6 *supra*.

³⁴ Juneau Comprehensive Plan at p. 32.

³⁵ It will probably be much less than 14 because most of the efficiencies will probably not have two people living in them.

email if you have any questions about the code, this denial or your option moving forward. [emphasis added] [R. 106]

It did not explain this in its decision but CDD's step were these. It said that the emergency shelter had "0" dwelling units; this project would create "7" small apartments or dwelling units; "7" is greater than "0", so permit denied. [R. 37, R. 90]

TGH's immediate reaction to CDD's assertion that "Increasing the number of dwelling units is prohibited by code in this hazard zone" was that CBJ 49.70.300(b) does *not* prohibit increasing the number of dwelling units in this hazard zone. You can look at the text above. It does not have the words "dwelling units" in it. CBJ 49.70.300(b) does prohibit some development in a severe avalanche area, as defined by CBJ 1987 Hazard Maps, but *only* if the development would "increase the density of that parcel."

CDD *interpreted* the word "density" to mean "dwelling units." CDD's Decision did that *sub silentio*. CDD did not explain that is what it was doing. CDD did not explain why it was doing that. CDD did not provide any authority for defining "density" to mean "dwelling units." And it was under an obligation to do that: both to provide an explanation to the property owner and to this body as the appeal agency. This by itself is grounds to set aside CDD's Decision.³⁶

CDD's definition of "density on a parcel" to mean "the number of dwelling units on a parcel" is not in the ordinance itself. CDD's definition is not in the definition section of Title 49.³⁷ CDD did not provide any authority for its definition of "density" as equal to "dwelling units."

³⁶ CBJ 01.50.070(a)(2) provides that the appeal agency may set aside the decision being appealed if the decision "is not supported by adequate written findings or the findings fail to inform the appeal agency or the hearing officer of the basis upon which the decision appealed from was made; . . ."

³⁷ CBJ 49.80.120. Title 49 has no definition of density.

It is true that Title 49 defines “dwelling units.”³⁸ But the question is why CDD interpreted density in CBJ 49.70.300(b) to mean the same as the number of dwelling units on a parcel.

Despite being asked [R. 97], it gave no answer.

B. CDD’s “dwelling unit” interpretation of CBJ 49.70.300(b) frustrates the Mixed Use District, the Comprehensive Plan and the CBJ Housing Action Plan.

CDD interprets CBJ 49.70.300(b) to prevent this project because this project will create seven small apartments or “dwelling units” in a building that used to be an emergency shelter and the emergency shelter, according to CDD, should be treated as having no dwelling units. This interpretation is inconsistent with the purpose of the Mixed Use District, where this parcel is located. By ordinance, the Mixed Use District “reflects the existing downtown development pattern and is intended to maintain the stability of the downtown area. Multifamily residential uses are allowed and encouraged.”³⁹ But CDD’s interpretation means this building cannot contain any residential dwelling units.

CDD’s interpretation undermines a high priority of the Assembly as formally expressed in the Juneau Comprehensive Plan and the CBJ Housing Acting Plan because it prevents this large downtown building from being converted to seven units of affordable rental housing, even though the property owner has detailed engineering and architectural plans to do this and the project is allowed within the Table of Permissible Uses.

CBJ 49.05.100 specifies six purposes of Title 49, the Land Use Code. One purpose is to “recognize the economic value of land and encourage its proper and beneficial use.”⁴⁰ TGH believes that the “proper and beneficial use” of this property – that has housed people since at

³⁸ CBJ 49.80.120 defines “dwelling unit” as “a residential use consisting of a building or portion thereof, providing independent and complete cooking, living, sleeping and toilet facilities for one family.”

³⁹ CBJ 49.25.220.

⁴⁰ CBJ 49.05.100(6).

least 1990 – is to continue to house people. What use does CDD say is the “proper and beneficial use” of this large 4500 square foot building? Only an emergency shelter? A vacant building? An unimproved building? Retail on the first floor but vacant second and third floors like other downtown buildings? Under CDD’s interpretation, anything *but* housing because, under CDD’s interpretation, the owner of this building cannot put any “dwelling units “ in this building *because* it used to be an emergency shelter. That is perverse in light of this parcel’s location in the Mixed Use District and the Assembly’s strenuous efforts to encourage affordable “dwelling units” through the Borough and especially in the Downtown core.

C. CDD’s interpretation of “density” is unreasonable and arbitrary.

CDD’s interpretation of “density” results in it finding and concluding that a conversion of 1 large dwelling that housed 43 to 53 people into seven small apartments that will house 7 to 14 people actually increases the density of this parcel! On its face, this is an unreasonable finding and an unreasonable conclusion.

CDD’s interpretation of “density” resulted in it finding and concluding that the downtown emergency shelter had “0,” as in zero, dwelling units. [R. 37, R. 70] This treats the downtown shelter as having no one living there. This is unreasonable.

CDD’s interpretation of “density” took no account of the definition of dwelling in the Title 49: “dwelling means a building or portion thereof, used exclusively for human habitation.” Putting aside our argument that the downtown shelter did have seven spaces that qualify as seven dwelling units, the downtown shelter was a “dwelling.” Whatever category you want to put the shelter in, it had people dwelling there for 30 years and CDD should take that into account in its definition of “density.”

CDD's interpretation of CBJ 49.70.300 leads to an unreasonable conclusion, namely that the Assembly intended to allow homeless persons who slept in dormitories to live in this building for over 30 years but intended to prevent renters from living in this building because renters have individual dwelling units. In denying this building permit to remodel the building into seven small apartments, CDD is saying the building was okay for homeless persons but not okay for renters. This is unreasonable and has the effect of devaluing homeless persons as a category and the 43 to 53 homeless persons who regularly were housed at the downtown shelter.

D. CDD's interpretation of its authority under CBJ 49.70.300(b) is a policy error and an abuse of discretion.

CDD's interpretation of "increase density" in CBJ 49.70.300(b) is that the Assembly intended to adopt a mechanistic, cookie cutter approach to whether a project would "increase density:" namely count the dwelling units before the project, count the dwelling units after the project, and if the number goes up, deny the building permit. This is a policy error and an abuse of discretion because it denies CDD any discretion to look at the particulars of the project.

TGH provided CDD with detailed architectural and engineering plans of the proposed renovation. TGH provided CDD with information on the number of persons that lived at the Glory Hall Building, when it was used as a shelter, and the number of persons that would live there, if the building was converted to seven small apartments. [R. 91] CDD acknowledged this information. [R. 89 – 90]. In denying the building permit, CDD did not consider any of that relevant. All that was relevant to CDD was CDD's conclusion that the Glory Hall Emergency Shelter contained "0" dwelling units and that Glory Hall Building after the remodel would contain "7" dwelling units. Once it checked those boxes, it denied the permit. [R. 37, R. 106]

This was error. First and foremost, the Assembly did not tell CDD to do that. It did not tell CDD to count dwelling units and deny a permit if the project increased dwelling units. It

told CDD to evaluate whether a development increased the density of the parcel. It is far more reasonable to conclude that the Assembly wanted CDD to do a project-specific evaluation of this request for a building permit. It is certainly reasonable to conclude that the Assembly wanted CDD to consider information about the number of dwelling units but it is unreasonable to conclude that the Assembly wanted CDD to consider *only* that information. It is far more reasonable to conclude that the Assembly gave CDD the discretion to take into account what is probably an unusual situation, namely one very large dwelling providing emergency housing for 43 – 53 people converting to seven small units of rental housing for housing 7 –14 people.

CDD did not look at the facts of this specific situation when it denied a building permit for this project. But the Planning Commission can and should. Based on the specific facts of this project, TGH believes that the Planning Commission will easily conclude that this project does not increase the density of this parcel and should receive a building permit so the project can go forward – full speed ahead!

E. CDD's denial of this building permit may have relied on irrelevant factors and inaccurate assumptions.

CDD's interpretation of "increase density" may have relied on irrelevant factors. TGH refers the Commission to an email in the record with comments by Allison Eddins, the CDD Planner, who issued the CDD Decision in this case on behalf of Jill Maclean, CDD Director. In an email to the CBJ Fire Marshal about this permit application, Ms. Eddins states that Ms. Maclean "is mostly concerned with the political issues around the draft hazard maps. The Starr Hill and Highlands neighborhood don't want the maps adopted and the Assembly almost certainly won't adopt the maps without amending the existing regulations." After that, Ms. Eddins wrote: "Plus, it doesn't look very good for CBJ to be encouraging housing in mapped

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hazard areas.” [R. 75] These factors were not mentioned in CDD’s one-paragraph decision. [R. 106]

As for the draft hazard maps, there are political issues, to be sure, around adopting the draft hazard maps but the question of whether this project increases the density of this parcel is separate from whether this parcel should be in a severe avalanche area and whether the designation, city-wide, for hazard areas should be changed.⁴¹

As for whether “it doesn’t look very good for CBJ to be encouraging housing in mapped hazard areas,” it is hard to unpack that one. The Assembly most definitely has encouraged development of housing in Downtown Juneau and part of Downtown Juneau is in a severe avalanche area, as that is described on the 1987 hazard maps. It is an unwarranted assumption that the controversy over the maps should be taken by CDD as a reason to discourage housing generally in mapped areas. To the extent that the Assembly has discouraged housing development in a severe avalanche area, it is only development that increases density within the meaning of CBJ 49.70.300(b)(1).

3. In the alternative, the project will not increase density because the Glory Hall Building, when used as an emergency shelter, had seven dwelling units within it.

As soon as Ms. Lovishchuk received the pre-conference report, she informed CDD that she believed there were seven dwelling units within the Glory Hall building: one apartment, three dormitories, one bedroom for folks with mobility issues and two overflow dorms. [R. 170] CDD did NOT address this issue in its decision and did not ask Ms. Lovishchuk for any further

⁴¹ As noted, on the Tetra Tech maps, this parcel is not in the severe or moderate avalanche hazard zone. It is in a low hazard zone. Figure 2.4, Tetra Tech, Downtown Juneau Landslide and Avalanche Assessment (May 28, 2021) (Issued for Review) available on CDD website: <https://juneau.org/community-development/special-projects/landslide-avalanche-assessment>.

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BEFORE THE PLANNING COMMISSION
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JUNEAU COOPERATIVE CHRISTIAN
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APL2021-06

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Reply Brief of The Glory Hall (TGH) - *Selected portions,
 as marked,
 May 12, 2022*

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Introduction

The Juneau Cooperative Christian Ministry dba The Glory Hall appeals the denial of a building permit to convert the second and third floors of the former emergency shelter at 247 South Franklin Street, which housed between 43 – 53 persons, into seven small rental units of affordable housing, which would house between 7- 14 persons.¹ CDD denied the permit because CDD said the project would "increase the density" of the parcel within the meaning of CBJ

¹ TGH noticed a mistake in its Opening Brief at page 6. Under the project, the second floor will have two efficiency apartments and the third floor will have four efficiency apartments (*not three*) and one one-bedroom apartment. The project will provide six efficiency apartments and one one-bedroom.

49.70.300(b). Under that ordinance, this project may not occur if it would “increase the density” of the parcel.

TGH maintains that CDD wrongly denied the permit because the project does not “increase the density” of the parcel within the meaning of that ordinance and because the undisputed facts in the record show that the project decreases the density of the parcel.

If the Planning Commission concludes that the project does not increase the density of the parcel within the meaning of CBJ 49.70.300(b), there is no dispute that CDD wrongly denied the building permit and the Planning Commission should grant it.

Undisputed facts

The undisputed facts include these facts:

- The Glory Hall Building at 247 South Franklin has been in use as an emergency shelter since 1990. [R. 116 – 118]
- When the Glory Hall Building was used as an emergency shelter, it provided housing to 43 to 53 homeless persons and about 100 persons would use the Day Room on the ground floor. [TGH Opening Brief at 6]
- Under the proposed use, 7 – 14 renters would reside in the building. [R. 4, 71]
- Under the proposed use, the number of people residing in the building would decrease from 43 – 53 persons to 7 – 14 persons with 14 being a hard maximum.²
- When the Glory Hall Building was used as an emergency shelter, each occupant in a dormitory space had to have 50 gross square feet per person. [TGH Opening Brief at 13 – 15 & Exhibit to Brief with IBC Table 1004.1.2]
- Under the proposed use, each occupant in a residential space must have 200 gross square feet per person. [same]
- Under the proposed use, the maximum allowable occupancy on the parcel decreases by 75% over the prior use. [same]

² The number of residents would likely not be 14 because most efficiencies would have one, not two, persons, although two persons would be allowed.

- The former emergency shelter was “a dwelling,” as that term is defined in Title 49, namely “a building or portion thereof, used exclusively for human habitation.” [CBJ 49.80.120]
- The former emergency shelter was not a “dwelling unit,” and did not contain any dwelling units, as that term is defined in Title 49, namely “a residential use consisting of a building or portion thereof, providing independent and complete cooking, living, sleeping and toilet facilities for one family.” [CBJ 49.80.120]³
- The former emergency shelter was a residential occupancy and the specific type of residential occupancy was a “congregate living facility,” as defined by the IBC, namely, “a building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities.” [CDD Opposition Brief at 9 – 10]
- The Glory Hall Building is located in MU, Mixed Use Zoning District. [R. 33]
- The Glory Hall Building is in an area designated as a severe avalanche area based on low resolution hazard maps adopted by CBJ in 1987. These maps were based on data created in the 1970’s. [TGH Opening Brief at 7]

Ordinance to be interpreted: CBJ 49.70.300(b)

CBJ 49.70.300(b) *Severe avalanche areas.*

(1) Notwithstanding any other provision, *no development or any part of a development, which is within a severe avalanche area shall*, by the addition of bedrooms, conversions of buildings, or otherwise, *increase the density of that parcel*; provided, however, that a single-family house may be constructed on a vacant lot. [emphasis added]

This statute is ambiguous. It states no development may “increase the density of that parcel” but it does not define density. The parties to the appeal have different interpretations of that phrase.

The key principle in interpreting an ordinance is adopting an interpretation that carries out the intent of the legislative body that adopted it, in this case, CBJ Assembly. The Planning

³ The IBC has a slightly different definition in Section 202: a “dwelling unit” is “[a] single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.” We accept that the former emergency shelter did not have dwelling units under the Title 49 definition *and* the IBC definition. TGH withdraws the appeal point that the former emergency shelter was a “dwelling unit” or had “dwelling units” as defined by Title 49 or the IBC. TGH Opening Brief at 3 – 4, 22 – 23.

Commission uses the same principles to determine Assembly intent as a court: "Interpretation of a statute is a question of law to which we apply our independent judgment; we interpret the statute according to reason, practicality, and common sense, considering the meaning of the statute's language, its legislative history, and its purpose."⁴ An ordinance should be construed in accord with what the leading text on statutory construction calls the "golden rule of statutory interpretation." The golden rule of statutory construction is "when one of several possible interpretations of an ambiguous statute produces an unreasonable result, that interpretation should be rejected in favor of another which produces a reasonable result."⁵ The Assembly is presumed to have intended reasonable results consistent with the purpose of the ordinance that it adopted.

TGH's interpretation and CDD's interpretation of CBJ 49.70.300(b): how to determine whether a development would "increase the density of that parcel."

The Planning Commission has the responsibility to interpret provisions of Title 49, the Land Use Code.⁶ The Planning Commission makes an independent judgment on the meaning of the ordinance. The Planning Commission has before it two interpretations of CBJ 49.70.300(b)(1), which is part of Title 49.

TGH's interpretation of CBJ 49.70.300(b) is that CBJ should determine whether a project increases density of a parcel by considering all relevant facts including whether the project increases buildings on the parcel, whether the project increases dwelling units on the parcel, whether the project increases the number of persons residing on the parcel and whether the

⁴ *Daggett v. Feeney*, 397 P. 3d 297, 304 (Alaska 2017) quoting *Adamson v. Municipality of Anchorage*, 333 P. 3d 5, 11 (Alaska 2014). To date, neither party has cited any legislative history of the ordinances involved in this appeal.

⁵ N. Singer & S. Singer, *Sutherland Statutes and Statutory Construction* § 45.12 at 103 – 106 (7th ed, rev. April 2014).

⁶ CBJ 49.20.300.

project increases the number of persons that can potentially occupy the buildings on the parcel. TGH interprets the purpose of CBJ 49.70.300(b) as preventing development which subjects more people to whatever risk of avalanche exists on the parcel and allowing development which does not subject more people to the risk of avalanche and certainly allowing the development when, as here, the project subjects significantly less people to whatever risk of avalanche exists on the parcel.

CDD's interpretation of CBJ 49.70.300(b) is that "density of a parcel" means "the number of dwelling units on a parcel." Under CDD's interpretation, the only relevant fact in determining whether a development would increase density of the parcel is the number of "dwelling units" – units with "independent and complete cooking, living, sleeping and toilet facilities for one family"⁷ – on the parcel before the development and the number of dwelling units after the development. If the number of "dwelling units" goes up, CDD states that the property owner cannot undertake the development, unless the property owner obtains a study that the parcel is outside a severe avalanche area.⁸ CDD attributes to the Assembly the intent to prevent development that would increase the number of individual cooking, living, sleeping and toilet facilities on parcels in severe avalanche areas, irrespective of whether the development would increase or, as here, significantly decrease the number of persons exposed to whatever risk of avalanche exists on the parcel.

⁷ CBJ 49.80.120 (definition of "dwelling unit" in Title 49).

⁸ CBJ 49.70.300(a)(4).

2. CDD's interpretation that "density" in CBJ 49.70.300(b) means "the number of dwelling units" is not supported by substantial evidence, is an abuse of discretion, and is arbitrary and unreasonable.

This appeal concerns the proper interpretation of CBJ 49.70.300(b)(1):

Notwithstanding any other provision, *no development or any part of a development, which is within a severe avalanche area shall*, by the addition of bedrooms, conversions of buildings, or otherwise, *increase the density of that parcel*; provided, however, that a single-family house may be constructed on a vacant lot. [emphasis added]

CDD's stated position is that "density" is equal to "the number of dwelling units."¹⁴

CDD is reading CBJ 49.70.300(b) as if it were written this way:

Notwithstanding any other provision, no development or any part of a development, which is within a severe avalanche area shall, by the addition of bedrooms, conversions of buildings, or otherwise, ~~increase the density of that parcel~~ *increase the number of dwelling units on that parcel*; provided, however, that a single-family house may be constructed on a vacant lot. [emphasis added]

That fact, alone, is a red flag: CDD is in effect crossing out the words used by the Assembly and using different ones. That fact suggests that CDD is rewriting the ordinance rather than interpreting it. But in its Opposition Brief, CDD defends its "interpretation" by saying that in the CBJ code, "density is measured by dwelling units."¹⁵ CDD asserts that "this definition of density [as dwelling units] comes directly from CBJ code."¹⁶ CDD asserts, "As shown by CBJ 49.25.500-520, density is measured in dwelling units."¹⁷ CDD's assertions and interpretation do not withstand scrutiny.

¹⁴ CDD Opposition Brief at 7, 16 – 17.

¹⁵ CDD Opposition Brief at 7.

¹⁶ Opposition Brief at 15.

¹⁷ Opposition Brief at 15 – 16.

A. CDD does not show that the Assembly intended to define “density” as “dwelling units” in CBJ 49.70.300(b).

1) The Assembly did not define “density” as meaning only “dwelling units” in CBJ 49.70.300(b).

To state the obvious, the Assembly did not say in CBJ 49.70.300(b), “no development . . . shall increase the number of dwelling units on that parcel.” It said, “no development . . . shall increase the density on that parcel.” As CBJ 49.25.500 – 520 shows, when the Assembly wants to direct CDD to count dwelling units and take action based on that calculation – in those ordinances it is to enforce the maximum number of dwelling units per acre – the Assembly does that explicitly. The fact that the Assembly did not do that in CBJ 49.70.300(b) is strong evidence that it did not intend to do that.

2) The Assembly did not adopt a global or general definition of density applicable throughout Title 49, the Land Use Code.

When the Assembly wants to adopt a definition of a term that is to be used across the Title 49, it does that in CBJ 49.80.120, the definition section of Title 49. CBJ 49.80.120 begins with this statement: “The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.” Title 49 is divided into 17 chapters. The Assembly is not reluctant to define terms that are to be used across different chapters of Title 49. The Assembly has defined hundreds of terms in CBJ 49.80.120.

The Assembly, however, did *not* adopt a global definition of “density” for Title 49.¹⁸ The IBC of 2012 does not contain a general definition of density.¹⁹ So when CDD categorically asserts that “the Code” defines density as dwelling units, that is not true. The Code has no

¹⁸ CBJ 49.80.120(definition section).

¹⁹ Section 202 (definition section) of IBC of 2012.

general definition of density. If, as CDD claims, the Assembly really wanted “density” to be defined throughout Title 49 as “dwelling units,” that definition would be in the general definition section for Title 49.²⁰ But it is not there.

3) The Assembly did not incorporate the definition of “density” in CBJ 49.25.500 – 520 into CBJ 49.70.300(b).

In CBJ 49.70.300(b), the Assembly did not incorporate by reference the definition of “density” in CBJ 49.25.500 – 520. Thus, the Assembly had many ways it could have adopted CDD’s definition of density for CBJ 49.70.300(b) but it did not. The Assembly did not do it explicitly in the ordinance. The Assembly did not do it by way of a global definition. The Assembly did not do it by incorporating by reference the measure of density in CBJ 49.25.500 – 520.

4) The use of “dwelling units” to measure density in Chapter 49.25, Zoning Districts, provides no support for CDD’s interpretation of density in CBJ 49.70.300(b)

CDD repeatedly asserts that density is measured by dwelling units “in CBJ code.”²¹ CDD asserts: “That density is measured in dwelling units is repeatedly and reliably shown in Code.”²² CDD repeats like a mantra: “CDD’s decision is supported by substantial evidence – CBJ code.”²³ CDD never specifies what it means by “CBJ Code” but it is Title 49, the Land Use Code. Title 49 is vast. It is organized into 17 chapters and each chapter has many ordinances. So although CDD says density is measured by dwelling units in “the Code,” to understand what

²⁰ CBJ 49.80.120.

²¹ CDD Opposition Brief at 7, 8.

²² CDD Opposition Brief at 8, citing CBJ 49.25.510(a)-(c) and CBJ 49.25.520.

²³ CDD Opposition Brief at 13. CDD repeats these exact words or very similar ones at pages 15, 16 and 17 of its brief.

that could possibly mean, you have to look at what specific provisions of "the Code" that CDD cites to support its assertions.

CDD cites CBJ 49.25.500 – 520, which are in Chapter 49.25 of Title 49.²⁴ Chapter 49.25 is Zoning Districts. CBJ 49.25.500 provides the basic rule: "The maximum number of dwelling units allowed per acre shall be provided in the following table," and then follows a table with the "maximum dwelling units/acre" in each of 15 zoning districts in Juneau. So for example, in D-10, there is allowed "10 units per acre." But in D-18, there is allowed "18 units per acre." CDD is absolutely correct that CBJ 49.25.510 - CBJ 49.25.520 provides detailed rules for how to determine density in this context. CDD is correct that these ordinances establish how to determine whether a developer has exceeded the maximum allowable dwelling units per acre and address questions such as how to count duplexes, how to deal with accessory apartments, and how to count single-room occupancies with private facilities.²⁵ CDD states, "For density calculations, single-room occupancies with private facilities count as one-half of a dwelling unit," and correctly cites CBJ 49.25.510(j)(2) for that statement.²⁶

What CDD shows is not that "density" is determined by "dwelling units" throughout "the Code." What CDD shows is that "density" is determined by dwelling units throughout Chapter 49.25, Zoning Districts. Again, it is simply not true that "the Code" has a general definition of density or a general approach to measuring density.

²⁴ CDD Opposition Brief at 7 – 8 & 16. The only other citation CBJ provides to support its claim that "the Code" defines density as dwelling units is CBJ 49.60.140. CDD Opposition Brief at page 16 note 62. This ordinance is closely related to the Chapter 49.25 provisions because it provides a "residential density bonus" and specifies when "the allowable density of dwelling units per acre" specified in CBJ 49.500 – 520 may be increased by ten percent.

²⁵ CBJ 49.25.510(d)(1)(duplexes), CBJ 49.25.510(k)(an extremely detailed section on accessory apartments), CBJ 49.25.510(j)(2)(single room occupancies with private facilities).

²⁶ CDD Opposition Brief at page 8 & note 31.

The density determinations in Chapter 49.25 are fundamentally different from the density determination in CBJ 49.70.300(b):

- The Assembly specified unequivocally in CBJ 49.25.500 – 520: count dwelling units to determine density. The Assembly did not tell CDD to count dwelling units to determine density in CBJ 49.70.300(b).
- The purpose of CBJ 49.25.500 – 520 is to establish clear-cut rules for the use of property. The purpose of CBJ 49.70.300(b) is to limit development that might increase danger to people.
- CBJ 49.70.300(b) is not a zoning provision. It is a Land Use provision but not a zoning provision. This ordinance is in Chapter 49.70, which is “Specified Area Provisions.”
- The definition of “density” as “dwelling units” in CBJ 49.25.500 – 520 does not lead to unreasonable and arbitrary results, does not undermine the objectives of the Comprehensive Plan and the Housing Action Plan, and does not undermine the purpose of Title 19 “[t]o recognize the economic value of land and encourage its proper and beneficial use.” But all these consequences flow when CDD chooses to define “density” as “dwelling units” and engrafts the definition of density in CBJ 49.25.500 – 520 onto the ordinance in this appeal, CBJ 49.70.300(b).²⁷

5) TGH is not confused; TGH simply disagrees with CDD on what facts are relevant to determine whether a project increases the density of a parcel in CBJ 49.70.300(b).

CDD states that the applicant is confused and befuddled and does not understand the difference between “occupancy” and “density,” despite CDD “repeatedly” attempting to explain these terms to the applicant.²⁸ In fact, CDD has found the applicant so confused that CDD

²⁷ See Points 2 D, E & F at pages 18 - 21 *infra*.

²⁸ CDD Opposition Brief at 11, 13.

believes this shows that TGH “is not a credible source on code interpretation or risk assessment.”²⁹

The applicant understands that CDD believes the definition of “density” in CBJ 49.70.300(b) should be exclusively defined by the number of dwelling units. The applicant disagrees that is the only fact to be considered in determining density of a parcel in this ordinance.

As for occupancy, the applicant understands occupancy and believes it did a credible job explaining the occupancy provisions in IBC Table 1004.1.2 in its Opening Brief.³⁰ CDD did not disagree with the fact that under the proposed use of the building as seven small apartments, each occupant has 400% more space than the occupants under the prior use of the building as an emergency shelter.

CDD and TGH disagree on whether these facts are relevant to decide whether to deny TGH a building permit on the grounds that the project increases density of the parcel. TGH thinks the occupancy numbers are relevant because they are objective standards that are attached to the space and provide relevant data to evaluate whether the development will expose more or less people to whatever risk of avalanche exists on the parcel. CDD thinks they are irrelevant because all it needs to know is how many “dwelling units,” as defined by Title 49, were on the parcel before the development and how many “dwelling units,” as defined by Title 49, will be on the parcel after the development.

To support its contention that “occupancy” is irrelevant to TGH’s building permit application, CDD refers to several ordinances in Title 49 that use the word “occupancy:” one about off-street parking spaces, one about recreational vehicles and park occupancy, and two

²⁹ CDD Opposition Brief at 13 note 49.

³⁰ TGH Opening Brief at 13 – 15 & Exhibit to Brief, IBC Table 1004.1.2.

about calculating the maximum allowable number of dwelling units per acre in CBJ 49.25.500 – 520, the ordinances just discussed.³¹ Each of those ordinances have a specific context and problem they sought to address. CDD does not show how they are relevant to determining the Assembly intent regarding “density” in this code provision, CBJ 49.70.300(b), as applied to this building permit request. CDD does not show that they support its interpretation of CBJ 49.70.300(b) that it is irrelevant whether the proposed development results in a use which decreases the number of persons that will occupy and that can occupy this parcel.

B. CDD’s definition of “density” as “dwelling units” is contradicted by the text of CBJ 49.70.300(b) because the addition of bedrooms in a dwelling unit increases the density of the parcel even though the addition of bedrooms in a dwelling unit would not increase the number of dwelling units.

CDD’s definition of “density” as dwelling units is contradicted by the text of CBJ 49.70.300(b). The ordinance states that “no development or any part of a development, which is within a severe avalanche area shall, *by the addition of bedrooms*, conversions of buildings, or otherwise, increase the density of that parcel.” (emphasis added). By the clear terms of the ordinance, the addition of bedrooms to a dwelling unit or other structure is an action that can increase the density of that parcel. A dwelling unit is “a residential use consisting of a building or portion thereof, providing independent and complete cooking, living, sleeping and toilet facilities for one family.”³² A dwelling unit does not have a specified number of bedrooms. The addition of bedrooms to a dwelling unit does not increase the number of dwelling units but it does increase the density of the parcel.

³¹ CDD Opposition Brief at 8 & notes 28 - 31: CBJ 49.40.200(2)(off-street parking); CBJ 49.65.460 (park occupancy and recreational vehicles); CBJ 49.80.120 (defining “single-room occupancy with private facilities” and “single-room occupancy with shared facilities”); CBJ 49.25.510(j)(2)(for density calculations of maximum units per acre, single-room occupancies with private facilities count as one-half of a dwelling unit).

³² CBJ 49.80.120.

This is significant for two reasons. One, it shows that the Assembly did not intend that an increase or decrease in dwelling units is the sole criterion for whether a project increases density because with the addition of bedrooms to a dwelling unit, density increases but the number of dwelling units does not. Two, it shows that the Assembly was concerned with whether a development would increase the number of persons exposed to whatever avalanche risk exists on a parcel because, with the addition of bedrooms, the number of persons potentially exposed to an avalanche risk would increase but the number of dwelling units would not.

C. CDD's definition of density undermines the purpose of CBJ 49.70.300(b).

TGH maintains that the purpose of CBJ 49.70.300(b) is to prevent development which puts more people at risk of whatever avalanche risk exists on the parcel and to allow development which does not. This project, as a matter of undisputed fact, puts less people at that risk than the prior use of the property. CDD's interpretation prevents a development that puts less people at risk and therefore frustrates the purpose of CBJ 49.70.300(b).

Every interpretation of an ordinance has a purpose implicit in the interpretation. CDD's interpretation of density is that it is irrelevant that TGH's proposed development both improves the property significantly *and* exposes significantly less people to whatever risk exists on this parcel compared to the prior use. CDD says the only relevant fact is whether the development puts more stoves, refrigerators and toilet facilities, the things that make up an individual dwelling unit, at risk. This is an unreasonable interpretation of the purpose of this ordinance.

D. CDD's interpretation of density leads to a profoundly unreasonable and arbitrary result: the property owner cannot convert its building to seven units of affordable housing because the prior use of the building was an emergency shelter where people shared kitchen and bathroom facilities.

In analyzing the results of CDD's interpretation, the key thing to remember is that a dwelling unit is a residential use "providing independent and complete cooking, living, sleeping and toilet facilities for one family."³³ CDD's interpretation of "density" in CBJ 49.70.300(b) as meaning "dwelling units" produces profoundly unreasonable and arbitrary results that are incompatible with any reasonable conception of Assembly intent or statutory purpose.

The result of CDD's interpretation is that the property owner can house 43 – 53 people on this property in an emergency shelter but not 7 – 14 people, far fewer people, in seven small apartments. On its face, that would seem unreasonable even if that was the only fact known to the Planning Commission.

But what is profoundly unreasonable is the reason *why* CDD states that the property owner cannot do that. CDD has denied this property owner a building permit to convert its building into seven small apartments, where the residents will have individual facilities, because the building used to be an emergency shelter, which meant the residents shared kitchen and bathroom facilities, which meant they did not have "independent and complete cooking, living sleeping and toilet facilities," which meant, according to CDD, that they were not living in a dwelling unit, and which meant, according to CDD, that the property owner would be denied a building permit to convert the former emergency shelter into seven small apartments.

It is convoluted. And it is the consequence of CDD choosing to define "density" as "dwelling units." It is not obvious at first but the cardinal sin in CDD's approach to this situation is choosing a definition of "density" that results in characterizing the former emergency shelter

³³ CBJ 49.20.180.

as a “zero” and characterizing it as a “zero” because the residents – homeless persons – shared facilities and did not have their own “independent and complete cooking, living, sleeping and toilet facilities.”

The bottom line is that, unless CDD’s decision is reversed, this property owner cannot convert this building into seven affordable apartments because the prior residents were homeless persons who shared bathroom and kitchen facilities.

This is profoundly arbitrary and unreasonable. There is no reasonable basis for saying this result is consistent with Assembly intent. There is no basis for CDD to say that the Assembly intended to prevent converting this building into seven badly needed modest affordable rental housing units because the building provided emergency housing in the past where residents had to share kitchen and bathroom facilities.

E. CDD’s definition of density is inconsistent with purpose of Title 49 to achieve the objectives of the Comprehensive Plan.

The first purpose of Title 49, or the Code as it is referred to by CDD, is “[t]o achieve the goals and objectives, and implement the policies of the Juneau Comprehensive Plan.”³⁴ The Comprehensive Plan is properly viewed as part of the Code. The Juneau Housing Action Plan is properly viewed as part of Title 49.

In evaluating competing interpretation of CBJ 49.70.300(b), if one interpretation furthers the Comprehensive Plan and the Juneau Housing Action Plan and one does not, that is a reason to chose the one that furthers the Comprehensive Plan and the Housing Action Plan. Juneau faces a housing crisis. This is not a theoretical statement. It means that people cannot find places to live or rent, especially lower income folks.

³⁴ CBJ 49.05.100(1).

CDD's actions here undermine both the Comprehensive Plan and the Housing Action Plan. The Comprehensive Plan states: "Unless and until the community achieves a healthy vacancy rate, all habitable dwellings are valued and needed and uninhabitable units should be rehabilitated or replaced."³⁵ CDD is preventing seven units of badly needed affordable rental housing in downtown Juneau.

CDD states: "While CDD appreciates the importance of increasing housing, these plans do not excuse compliance with CBJ code – especially those code provisions concerning public safety."³⁶ CDD's denial of the building permit was not based on safety. CDD denied the building permit because it defined "density" as dwelling units and because it concluded this project increased density. As discussed, this means that CDD denied the building permit because the prior use was an emergency shelter where people shared kitchen and bathroom facilities, that is, they did not have individual dwelling units.

CDD also states that denying TGH a building permit to convert this building into seven small affordable rental units is no loss to the housing stock of Juneau because it never was part of Juneau's housing stock. CDD states that its action "insures 247 South Franklin Street will not be 'housing stock' unless and until it is shown to be sufficiently safe."³⁷ The Glory Hall Shelter at 247 South Franklin Street is part of Juneau's "housing stock." For 30 years, homeless people lived there safely. Forty-three to fifty-three people a night lived there. It would be a tremendous loss to Juneau if this landmark of Juneau's care and compassion cannot continue to house people. This relates to the next problem with CDD's interpretation of CBJ 49.70.300(b).

³⁵ Juneau Comprehensive Plan at p. 32.

³⁶ CDD Opposition Brief at 13.

³⁷ CDD Opposition Brief at 15.

F. CDD does not address that its interpretation of density undermines the purpose of Title 49 “[t]o recognize the economic value of land and encourage its proper and beneficial use.”³⁸

CDD’s interpretation of “density” means that this property can be used to operate a homeless shelter, because that is not a dwelling unit, but it cannot be used to provide rental housing, because they are dwelling units. But the property owner believes, and CBJ actions to implement the Comprehensive Plan and the Housing Action Plan suggest that the City agrees, that the need in downtown Juneau is for affordable rental housing. If that is foreclosed to this property owner, it will be foreclosed to any subsequent owners of this property. Therefore, the options for this prime real estate in downtown Juneau – that has housed persons for over 30 years – is to be used as a homeless shelter, a vacant or partly vacant building, or commercial rentals, if tenants can be found.

TGH’s interpretation of density avoids these results and should be adopted by the Planning Commission. TGH’s interpretation allows the property to be used for its “proper and beneficial use,” which is rental housing.

3. TGH’s interpretation of CBJ 49.70.300(b) is proper: CBJ should determine whether a project increases density of a parcel by considering all relevant facts including whether the project significantly decreases the number of persons residing on the parcel.

TGH’s interpretation of CBJ 49.70.300(b) is that CBJ should determine whether a project increases density of a parcel by considering all relevant facts including whether the project increases buildings on the parcel, whether the project increases dwelling units on the parcel, whether the project increases the number of persons residing on the parcel and whether the project increases the number of persons that can potentially occupy the buildings on the parcel. TGH interprets the purpose of CBJ 49.70.300(b) as preventing development which

³⁸ CBJ 49.05.100(6); TGH Opening Brief at 18 – 19.

subjects more people to whatever avalanche risk exists on the parcel and allowing development which does not subject more people to the risk of avalanche and certainly allowing development where, as here, the undisputed fact is that the project subjects significantly less people to the risk of avalanche: 43 – 53 residents under the prior use versus 7 – 14 residents under the proposed use.

TGH's interpretation is the proper interpretation of CBJ 49.70.300(b) for close to innumerable reasons. This is a partial list:

- TGH does not rewrite the ordinance and substitute “increase the number of dwelling units” on the parcel for “increase the density of the parcel” when the Assembly chose “density,” a more general term.
- TGH does not take the measure of density from one part of the code – the zoning district provisions in Chapter 49.25 – and transplant that measure to CBJ 49.70.300(b) when the Assembly could have done that but did not.
- TGH's interpretation takes into account the actual, undisputed, facts, namely that this project decreases significantly the number of persons who will be residing on this parcel and who can reside on this parcel.
- TGH's interpretation does not stop a project that demonstrably decreases the persons exposed to whatever avalanche risk exists on this parcel while simultaneously telling the property owner that the permit is being denied to protect persons from avalanche risk.
- TGH's interpretation treats the former emergency shelter as part of the “housing stock” and worthy to be preserved as part of Juneau's housing stock by being turned into seven small apartments.
- TGH's interpretation does not deny this landowner the right to convert its building into seven small apartments, which will house 7 – 14 persons, on the unreasonable and

arbitrary grounds that the prior use was an emergency shelter, which housed 43 – 53 persons.

- TGH's interpretation does not deny this property owner the right to convert its building into seven small apartments, which will house 7 – 14 persons, on the unreasonable and arbitrary grounds that the residents of the prior emergency shelter shared bathroom and kitchen facilities and did not have their own "independent and complete cooking, living, sleeping and toilet facilities for one family."³⁹
- TGH's interpretation allows this landowner to use the property in a way that is allowed by the Table of Permissible Uses, a use which is presumptively allowed.
- TGH's interpretation allows this landowner to use this property for rental housing, a use which is encouraged in the Mixed Use District.⁴⁰
- TGH's interpretation allows this property owner to take private action which furthers the goal of the Comprehensive Plan and the Housing Action Plan, namely providing seven units of affordable rental housing, which is desperately needed in light of Juneau's Housing Crisis.
- TGH's interpretation is not influenced by "political issues around the draft hazard maps," [R. 75] which are irrelevant to whether the project would increase density.⁴¹
- TGH's interpretation is not influenced by the political perception that "it doesn't look very good for CBJ to be encouraging housing in mapped hazard areas" when the grant or denial of this building permit should not be influenced by what "looks very good" or

³⁹ CBJ 49.80.120 (definition of "dwelling unit" in Title 49).

⁴⁰ CBJ 49.2.220(a).

⁴¹ [R. 75] is an email from CBJ Planner Allison Eddins to Dan Jager and Edward Quinto (Nov. 17, 2021). Ms. Eddins signed the CDD Decision under appeal, which is identified in the record as the "official permit denial." [R. 106]

what doesn't. [R. 75] This property is in an area currently mapped as a severe avalanche area and this property owner should be able to build seven small apartments unless this development would "increase the density of this parcel," as that term is properly defined.

4. CDD has opened the door to evidence that TGH cannot obtain a site-specific study showing that the parcel is located outside of a severe avalanche zone.

"Under [Alaska] case law, a party may open the door to evidence on a subject by putting that subject at issue in the case."⁴² The Court in *Worthy v. State* found that the State had "interjected" an issue into the case and therefore opened the door to evidence on that issue.⁴³ A party may open the door through argument of counsel.⁴⁴ As Justice Fabe observed in *Worthy*, "[I]t is not unusual for a party to render the previously excluded evidence relevant and admissible by some action of its own during trial."⁴⁵ The same principles should apply in an administrative hearing.

Before briefing, TGH asked to supplement the record with material including documentation showing that Ms. Lovishchuk contacted six engineering firms and Bill Glude, Alaska's premier avalanche scientist, to try to submit a study to show that the subject parcel is outside the severe avalanche area.⁴⁶ TGH did not think a study is necessary because a study is only necessary if the project increases density. But in the interests of getting the building conversion underway as soon as possible, Ms. Lovishchuk tried unsuccessfully to locate an

⁴² *Loncar v. Gray*, 28 P. 3d 928, 932 (Alaska 2001).

⁴³ *Worthy v. State*, 999 P. 2d 771, 775 (Alaska 2000).

⁴⁴ *Harned v. Dura Corp.*, 665 P. 2d 5, 7 – 10 (Alaska 1983).

⁴⁵ 999 P. 2d at 777 (Fabe, J., dissenting).

⁴⁶ Motion to Supplement Record (March 18, 2022); Memorandum in Support (March 18, 2022); Submission of Material Sought to be Supplemented to Record on Appeal with Exhibits 1 - 6 (March 18, 2022). Exhibit 2 is the email between TGH and the City regarding this subject. Exhibit 2 at page 11 contains a list of six engineers that Ms. Lovishchuk had contacted as of March 2, 2022 and that was provided to CDD. Exhibit 4 is Ms. Lovishchuk's statements about her contact with Mr. Glude. Exhibit 5 is Mr. Glude's resume, which summarizes his work with Alaska Avalanche Specialists, LLC, from 1990 to the present. Exhibit 6 is Mr. Glude's statement concerning the project.

BEFORE THE PLANNING COMMISSION
OF THE CITY AND BOROUGH OF JUNEAU
AFFIDAVIT OF MARIYA LOVISHCHUK RE ENGINEERING FIRMS

Mariya Lovischuk, being duly sworn, states:

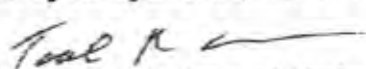
1. I am the executive director of the Juneau Housing First Collaborative dba the Glory Hall, formerly Juneau Cooperative Christian Ministry dba the Glory Hall
2. I reached out to the following engineering firms to perform an engineering study to speed up making improvements to the 247 S. Franklin Street building.
 - I contacted and PND Engineers. PND Engineers stated that the R&M report TGH presented to CDD is all that is needed, that asking for more information is an incorrect way for CDD to proceed, and that the building permit should be issued based on R&M report presented. In a follow-up contact by our attorney with PND, they stated unequivocally that they would not conduct a study for this project.
 - I contacted J Mark Pusich with PDC Engineers. Mr. Pusich indicated that his firm does not have expertise in avalanche analysis and that he could not think of anyone else locally who does.
 - I contacted Don Larsen, an Civil Engineer. Mr. Larsen indicated that he would love to help but does not have expertise in avalanche analysis.
 - I reached out to two more local engineering firms who did not wish to engage with the project because they are concerned about working on an issue which to them appeared to be contentious with CDD and because they did not have expertise in avalanche analysis.
 - I contacted StanTech Engineers. They did not have avalanche expertise.
 - I contacted Shannon and Wilson Engineering. They also did not have avalanche expertise to proceed.
 - I contacted TetraTech because they had expertise in avalanche hazard determinations. TetraTech was willing to work with TGH but needed permission from CBJ to do so because CBJ was the initial client. CBJ declined to provide such permission.

Exhibit 8 page 1 of 2

- I contacted StanTec again and Stantec reached out to engineers internally as well as throughout the State. There was no one available/qualified to perform the work.
- I reached out to Agnew Beck, a firm that specializes in non-profit development projects and asked for recommendations for a qualified civil engineer. Agnew Beck recommended that Arete LLC and CWR Engineering group. After a lengthy conversation with both Arete and CWR, no one had required qualification/ability to work on a project of this scope.
- To help with the project Arete LLC, reached out to Dave Hamre, a foremost expert on Alaskan avalanche hazards. Even though Dave is a foremost avalanche expert, just as in case of Bill Glued, Dave did not meet the CDD required qualification because he is not an engineer. Dave referred TGH to Chris Wilbur and Alan Jones.
- I reached out to Chris Wilbur. Mr. Wilbur's workload does not allow him to assist with the project.
- I reached out to Alan Jones, who also worked on the TetraTech studies. Mr. Jones was not able to assist due to his prior contact with the City and also because of the project scope.
- I reached to Alaska Housing and Finance Corporation to inquire if they know of any engineers who might be able to help and while we discussed the housing crisis, the merits and the need for the project, the conversation did not yield any engineers.
- Similarly, I reached out to Alaska Mental Health Trust Authority but did not get results.


Mariya Lovishuk

Subscribed and sworn to or affirmed before me by Mariya Lovishchuk on the 30 day of June, 2022, at Juneau, Alaska.


Notary Public, State of Alaska
My commission expires 12/03/2025

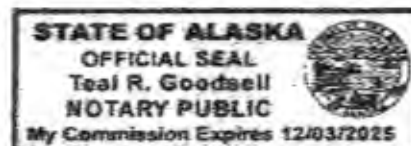


Exhibit 8 page 2 of 2

From: John Crabill <johncrabill@icloud.com>
Sent: Monday, October 17, 2022 1:45 PM
To: PC_Comments
Cc: Dan Bleidorn; Joseph Meyers; Jill Maclean
Subject: Case 2022-0003

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hello,

My name is John Crabill and I am the owner of parcel 4B2801020080 currently held in the operating entity of Great View LLC.

It was brought to my attention on Friday, October 14th, 2022 that a sign has been posted on the adjacent property. The sign posted had a notice of hearing dated October 25th concerning parcel 4B2881020070 , case #2022-0003, disposal of CBJ property.

It is my opinion that property in question should be sold to Great View, LLC as it has historically been deeded a ROW easement with special use permits granted from the city of Juneau and state of Alaska.

Thank you,
John Crabill
253-732-1772

Sent from my iPhone

From: John Crabill <johncrabill@icloud.com>
Sent: Wednesday, October 19, 2022 3:09 PM
To: PC_Comments
Cc: JG Construction
Subject: Fwd: PAD22-03 CBJ Land Disposal request from Parise

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

To whom it may concern:

I wanted to forward this email chain because as the land owner adjacent to the land disposal request I never received proper notification of the hearing on October 25th 2022 until my contractor Jon Geary informed me via text on October 14th, 2022

Thank you,
John Crabill

Sent from my iPhone

Begin forwarded message:

From: Jennifer Shields <Jennifer.Shields@juneau.org>
Date: October 19, 2022 at 11:48:29 AM PDT
To: johncrabill@icloud.com
Cc: jgconstruction@live.com, Scott Ciambor <Scott.Ciambor@juneau.org>, Jill Maclean <Jill.Maclean@juneau.org>, Dan Bleidorn <Dan.Bleidorn@juneau.org>, Roxie Duckworth <Roxie.Duckworth@juneau.org>
Subject: PAD22-03 CBJ Land Disposal request from Parise

Good morning Mr. Crabill,

Thank you for your email regarding CBJ land disposal request PAD2022-0003 made by Jim Parise. A few things to note:

Public Comments

At this point, since the Staff Report is complete and posted for this case, we can't amend it and it will need to move forward with the Planning Commission. However, **I will include your email comment in an "Additional Materials" packet that will be given to the Planning Commission later this week.** I'm also including your contractor, Jon Geary, on this email. He had reached out to others regarding the project and they forwarded his email to me (see below). The last day for written comments is October 21, 2022 at Noon.

Great View LLC Lot 4

The Staff Report does mention that special permits were granted to Great View LLC's Lot 4 on page 5: *"It appears that from 1957 to 1964, the owner of the property to the west (now vacant Lot 4) was granted two Special Use Permits and Right-of-Way Permit #24304 for access roads through the FS ROW (Attachment C). In 1965, Permit #24304 was transferred to the new owner of Lot 4, Mr. Fred Honsinger (Attachment D)."*

In my research for the project, I wasn't able to find an actual Deed or clear drawing of what specific area the special use permits cover for Lot 4, so if you have that information it would be helpful.

Final Decision

The Planning Commission will be giving a recommendation on the land disposal to the **Assembly for a final decision**. If the Assembly's final decision is to dispose of the property, Dan Bleidorn at the Lands Department would be handling the disposal process (appraisal, who to dispose to, etc.).

Planning Commission Hearing

The Hearing before the Planning Commission is scheduled for October 25, 2022. It will be a "hybrid" meeting, meaning the public may attend either in person or via Zoom. **The Staff Report packet can be found [HERE](#)**. The Zoom information for the meeting is as follows:

When: Oct 25, 2022 07:00 PM Alaska

Topic: Regular Planning Commission

Please click the link below to join the webinar:

<https://juneau.zoom.us/j/83425441349>

Or dial: +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 719 359 4580 or +1 253 215 8782 or +1 360 209 5623 or +1 386 347 5053 or +1 564 217 2000 or +1 646 931 3860 or +1 929 436 2866 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799 or 888 475 4499 (Toll Free) or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 834 2544 1349

I hope that this information is helpful. Please feel free to contact me if you have any other comments or questions.

Sincerely,

Jennifer L. Shields | Planner II

[Community Development Department](#) | City & Borough of Juneau, AK

Location: 230 S. Franklin Street, 4th Floor Marine View Building

Office: 907.586.0753 ext. 4139



Fostering excellence in development for this generation and the next.

-----Original Message-----

From: John Crabill <johncrabill@icloud.com>

Sent: Monday, October 17, 2022 1:45 PM

To: PC_Comments <PC_Comments@juneau.org>

Cc: Dan Bleidorn <Dan.Bleidorn@juneau.org>; Joseph Meyers <Joseph.Meyers@juneau.org>; Jill Maclean <Jill.Maclean@juneau.org>

Subject: Case 2022-0003

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hello,

My name is John Crabill and I am the owner of parcel 4B2801020080 currently held in the operating entity of Great View LLC.

It was brought to my attention on Friday, October 14th, 2022 that a sign has been posted on the adjacent property. The sign posted had a notice of hearing dated October 25th concerning parcel 4B2881020070 , case #2022-0003, disposal of CBJ property.

It is my opinion that property in question should be sold to Great View, LLC as it has historically been deeded a ROW easement with special use permits granted from the city of Juneau and state of Alaska.

Thank you,
John Crabill
253-732-1772

Sent from my iPhone

From: JG Construction LLC <jgconstruction@live.com>
Sent: Friday, October 14, 2022 11:03 AM
To: dan.bleidon@juneau.org; Jill Maclean <Jill.Maclean@juneau.org>; Katie Koester <Katie.Koester@juneau.org>
Subject: 12005glacier Hey

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Hello,

Quick question, who would I speak with in regards to (public notice sign for land disposal) at 12005 glacier Hwy? I'm the contractor for folks that purchased the neighboring property. They have deeded access over the cbj parcel in question. Please see attached.

They are looking at building this summer. In past to speaking with neighbors they had understanding that if there was a sale of property it would be split between the two land owners. Which they would like to purchase all of it to keep green zone. Also not sure how so many trees got cut down in the ROW as well. They were planning on planting new ones.

There are already a bunch of cars going on road out front of lot so our plans are to build accordingly but cars driving up and down beside will be quite a nuisance (lights shining through bedroom windows etc). We have received no notice of this and I just so happened to drive by this morning and could barely see the sign and turned around to read.

Owners of neighboring property are from Washington and will be out of town at the date stated on sign and are as you can imagine concerned.

Please advise

Respectfully

Jon Geary



2974 Foster Ave., Juneau, AK 99801
907-723-8444

October 21, 2022

Mr. Michael LeVine and the CBJ Planning Commission
c/o CBJ Community Development Department
155 South Seward St.
Juneau, Alaska 99801

RE: PAD22-03 CBJ Land Disposal request from Parise

Greetings Chair LeVine and Commission Members:

It should be no surprise that we are stunned and disappointed in CDD's recommendation for denial of this application. Even more stinging is the reason that this application is in front of you is because Director Maclean asked us to make this application. In mid-2021, we initiated an effort to use the city land next to our property for a new driveway to replace the existing, very dangerous, means of vehicle access to the home at 12005 Glacier Highway. We wanted a permanent easement but Director Maclean said this was not possible. This issue is addressed at length below. The Director said an expansion of the property to extend the front lot line was the only way to accommodate the new driveway plan.

This matter was addressed by the Assembly earlier this year. They directed that city staff negotiate with us to facilitate the new driveway either with a land sale or easement. But staff would only bring forward the land sale option. We tried to bring the issue to the Planning Commission through the appeal option and the code interpretation route but the Director would not accept either application, so now we have to bring the matter to you as commentary on the pending sale application.

We assert that Director Maclean has applied a provision in the Land Use Code – that is meant to guide how lots and subdivisions are to be designed – to an entirely unrelated matter and that she has done so incorrectly. The code section is CBJ 49.35.250(b) and it was applied to a post-platting proposal to re-locate a driveway from the frontage to enter the existing lot from the side.

Background

The existing residence is well below street level, situated to maximize the benefit of its shoreline location. Vehicular access is very limited and consists of an unattached street-level garage that fronts directly on the ROW. The garage is untrustworthy to park cars in, so the cars are parked on the small wooden ramp leading to it with the cars partially blocking the sidewalk. There is no driveway or other off-street parking. Backing out to leave is even more dangerous because the highway begins to curve just before oncoming traffic enters the blocked sightline caused by the DOT retaining wall. It is dangerous for my family and oncoming traffic.

In mid-2021, we began an effort to develop a new approach to providing vehicular access and obtained permission to build a temporary driveway that begins on the adjacent CBJ-owned parcel. The new driveway starts at the ROW and turns to enter the our property from the side. See Reference A, attached. This permission was obtained through CBJ Parks, which manages the parcel, and CBJ Lands and Resources (L&R). This permission was temporary so that we could start work on the driveway and other improvements to the property and the residence.

The Director's Interpretation

We set about to settle the access issue on a permanent basis and were told, rather inadvertently, that a permanent access across the side property line would not be allowed. This was in a quote from CDD that appeared in an e-mail from the CBJ's L&R Director, Dan Bleidorn dated August 30, 2021 (Reference B, available on request.):

CDD supports a temporary easement across the CBJ property (parcel ID 4B2801020070) for the reconstruction of the existing access at 12005 Glacier Hwy. CDD does not support a permanent easement to serve as permanent access to 12005 Glacier Hwy. As the property has access

through the lot's frontage currently, allowing the lot to change to the adjacent (CBJ) lot, may make the lot nonconforming and isn't supported by the land use code. Further, 49.35.250 also addresses access through the frontage, and not through adjacent properties.¹

We initiated an e-mail exchange chain with Director Maclean in December to see if there was a way to clear this up, and at one point in the chain my consultant, Murray Walsh, gave his analysis of her interpretation, saying this (Reference C, available on request.):

The operative part says: "all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage." But, this is one of the requirements for *lot and subdivision design*. This is not a prohibition of providing driveway access by alternate means or route. Try this out with Law if you would. Again, the rule is in place to make sure the lot has direct access via the front side and the subject lot does, but the language does not prevent alternatives by insisting that actual access be only through the front lot line.

The exchange ended on February 24, 2022 when the Director suggested we seek to purchase the city land, add it to our parcel, and thus extend the front property line. We considered appealing the determination at that time but we decided to pursue the acquisition route instead and did so. The pursuit was challenging. The prospect drew some negative attention from the PRAC and the Assembly Lands Committee but it was clear members on both bodies wanted to see a positive outcome for Mr. Parise.

The matter was finally presented to the full Assembly on August 1, 2022. Walsh wrote a letter (Reference D. available on request) to the Assembly for consideration at their meeting. That letter sets forth the basis for disagreeing with the Director's view of how 49.35.250(b) applies in this situation and also asked that the Assembly allow us to proceed with both options, sale outright or a permanent easement.

The Assembly did indeed hear the matter on August 1, and *gave authority to enter into direct negotiations with the applicant to enable the driveway by sale or easement*.

¹ Emphasis by this writer. See page 4 for a discussion of the significance of the emphasized fragment.

The Assembly did not make a separate finding as to the appropriateness of the Director's stance on the access matter but it certainly seemed clear that the Assembly is willing to accept access across the side property line or it would not have authorized the easement option. On the strength of this, we sent a request to the Director to re-consider her position. That request, and her re-determination, dated August 11, 2022 is Reference E, available on request. She refused to alter her stance in the matter.

The Argument

CBJ 49.35.250(b) is part of a section of the Land Use Code that gives instructions for how to design subdivisions. The relevant part of the section specifies as follows:

...all lots must satisfy the minimum frontage requirement and have direct and practical access to the right-of-way through the frontage.

Again, this is an instruction for how to lay out lots in a subdivision. It is not a requirement that all lots **MUST** have driveway access across **ONLY** the front lot line. The subject lot does indeed have direct access to the right-of-way and maybe it was *practical* in 1950 but it surely is not practical now and had not been for decades. Nobody at the CBJ has disagreed with this assertion.

Regulators are sometimes faced with situations that their codes do not address. This is such a situation. We are not proposing a new subdivision. We are trying to deal with defects in an existing subdivision. Nowhere in the code is there a set of instructions or limitations on how to deal with a lot that was legally platted at the time of its creation but now needs an alternative access solution.

The regulator should not take a rule that is used for one purpose and apply it to a situation that is not related to the purpose for which the rule was created. Nor should the regulator assume that the code will always supply guidance on a matter if you just look for it hard enough. Again, in this instance, the code gives no guidance.

Also in such an instance as this, the parties involved can only use their experience, common sense, and sense of community service to resolve a problem. All parties agree that the current vehicular access for 12005 Glacier Highway is a problem for the homeowner and the public. All parties agree that access to the side is the best option for solving the problem.

Finally, let me repeat a snippet of the CDD message quoted in Mr. Bleidorn's e-mail:

...allowing the lot to change to the adjacent (CBJ) lot, may make the lot nonconforming and isn't supported by the land use code. (Emphasis mine.)

The underlined phrase seems to suggest that any development activity must have some form of permission expressed in the Land Use Code. In other words, the assertion seems to be "If it not in the code, you can't do it." This is not the way law works in America. The more correct approach is to say: "You can do whatever you want *unless* the code says not or puts limits on it."

Matter Pending and Relief Requested

We tried to bring this easement vs. sale issue to the Commission earlier so it could be resolved before action on PAD 22-03 but Director Maclean would not allow it. We decided to proceed but the denial recommendation has forced us to bring it back up so that the Commission has the whole picture.

We note that the reason for the denial recommendation is the assertion that the land sale does not conform with various plans adopted by the city. We think the project to build a safe driveway does conform with city policy overall and that the Commission should do what it can to enable this driveway to become permanent.

We are not sure what the most efficient way to proceed might be. One approach could be to declare that the Director was wrong to apply CBJ 49.35.250(b) as she did and ask PAD 22-03 to be re-submitted with both the sale and easement options.

If the Commission needs more time or a different process to decide on the easement option, then please tell us what we can do to facilitate such a process.

If the Commission wants to take time to develop alternative findings so that a positive recommendation can go forward to the Assembly, we would be glad to assist.

Finally, please know that we appreciate the time and attention you are giving to this matter. Our only goal is to establish a permanent driveway. We believed at the outset that an easement would be easier to achieve and we still do but if an outright sale is the only way, then please help us make it so.

We thank you for your attention and consideration.

Respectfully Submitted:

Murray Walsh
James Parise

Reference A: a drawing of the proposed driveway, attached in CDD Packet

Reference B: e-mail exchange between Bleidorn and Parise*

Reference C: e-mail exchange between Maclean and Walsh 12/21-2/22*

Reference D: WPDS letter to Assembly*

Reference E: e-mail exchange between Maclean and Walsh 8/3/22-8/11/22*

Reference Items B, C, D, and E are available on request.

From: Karla Hart <karlahart@gmail.com>
Sent: Friday, October 21, 2022 11:50 AM
To: PC_Comments
Subject: PAD2022 0003: A CBJ Property Disposal next to 12005 Glacier Highway

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear Planning Commission,

I am writing in support of the staff recommendation to NOT dispose of the public beach right of way (PAD2022 0003: A CBJ Property Disposal next to 12005 Glacier Highway). I commented the same at some point in writing to someone in the city in response to a public notice, perhaps a year ago. And, I was involved in developing the Auke Bay Plan.

This right of way may not be developed and used for public beach access at this time; however, as development proceeds in Auke Bay, it one day will be, if we maintain ownership. I reference the beach access purchased and developed by SEALtrust on North Douglas at great cost. Buying land from private ownership in the future will be a much greater barrier than keeping it now.

The value to the public in the future far exceeds any money that the city will get today.

Also, the precedent of disposing of these “unused” public beach right of ways is very bad. Look at Seattle and many other location where beachfront is owned by people who can afford and others are excluded from many areas. While Juneau has lots of public beachfront, neighborhood access is extremely valuable and should absolutely be preserved.

Regards,

Karla Hart