

**BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU**

ANDREW HUGHES and TALL TIMBERS  
NEIGHBORHOOD ASSOCIATION,

Appellants,

vs.

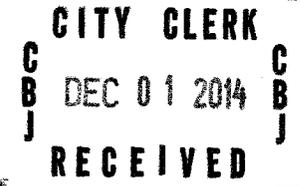
CBJ PLANNING COMMISSION,

Appellee,

and

HAVEN HOUSE,

Appellee-Intervenor.



Appeal of: Planning Commission  
Notice of Decision: USE 2014-0008 &  
UNL 2014-0001

**PRE-HEARING ORDER**

The parties met for a pre-hearing conference on December 1, 2014. The following shall be the order of the Assembly:

1. **Parties.** The Appellants are Andrew Hughes and Tall Timbers Neighborhood Association. The Appellee is the CBJ Planning Commission. On October 31, 2014, Haven House moved to intervene. That motion is granted. As to any other requests, the deadline for filing a motion to intervene is **December 10, 2014**.

A motion to intervene must set forth the grounds for intervention (be it permissive intervention or intervention of right, as defined by Alaska Rule of Civil Procedure 24(a) and (b)), as well as the claim or defense for which intervention is sought. No other parties may appear after December 10, 2014.

2. **Representatives.** Appellants are represented by attorney Dan Bruce of Baxter, Bruce & Sullivan. Appellee CBJ Planning Commission is represented by Assistant Municipal

Attorney Robert Palmer, III, and Appelle-Intervenor Haven House is represented by Mary Alice McKeen. Each party shall communicate through their attorney.

3. **Joint Stipulation of the Issues on Appeal.** The parties are required to file a Joint Stipulation of Issues on Appeal, clarifying and simplifying the issues listed in the Notice of Appeal submitted on October 30, 2014. The deadline for filing the Joint Stipulation of Issues on Appeal is **December 15, 2014**.

One of the issues on appeal as filed by Tall Timbers Neighborhood Association is whether the “Unlisted Uses” code provision (CBJ 49.25.300) is constitutional. As part of the parties’ discussion concerning the issues on appeal, the parties must specifically address that point. If the parties do not come to an agreement about whether the CBJ Assembly can properly decide the constitutional issue, the issue shall be briefed. The deadline for briefing as to whether the CBJ Assembly may properly decide the constitutional issue raised as a point on appeal is **December 29, 2014**.

4. **The Record.** The Municipal Clerk, with the assistance of the Commission, shall prepare the record and an index of the record, in accordance with CBJ 01.50.030(g). The record must be available to the parties in the Clerk’s office, or electronically if it is practicable for the Clerk, by 4:00 p.m. on **January 5, 2015**.

Any motion to supplement or object to the record in accordance with CBJ 01.50.110(e) and CBJ 01.50.030(f), must be filed **January 19, 2015**. A party seeking to supplement the record with witness testimony must specify as to each witness proposed whether the testimony will be by deposition, affidavit, or elicited in-person at the hearing. Objections to such motions must be filed by **February 2, 2015**, and replies by **February 17, 2015**.

If a party successfully seeks to supplement the record pursuant to CBJ 01.50.110(e), and the supplementation includes witnesses, a scheduling order for witness lists and objections shall be provided.

5. **Form of Motions.** To be considered, any motion must be on a separate document, typed, double-spaced, and signed by the party submitting. Inquiries, comments, and informal

motions may be disregarded. Unless otherwise specified, the sequence of documents for any motion shall be motion, opposition, and, if allowed, reply. Opposition and reply briefs shall meet the same requirements as motions.

6. **Briefing Schedule.** Appellants' opening brief shall be filed with the Clerk by 4:00 p.m. on **March 2, 2015**. Opposition briefs shall be filed by 4:00 p.m. on **March 23, 2015**. Appellants may file a reply brief by 4:00 p.m. on **March 30, 2015**. No new issue may be raised in the reply brief.

7. **Filing.** All documents specified herein shall be filed electronically by e-mailing a PDF document of the filing to the Clerk at [City.Clerk@juneau.org](mailto:City.Clerk@juneau.org), unless a different format is specified by the Clerk. A party filing a document by electronic mail shall retain the original and produce it for inspection upon request of another party or as ordered by the prehearing officer. Documents filed by electronic mail received by 4:00 p.m. are deemed to have been filed on that business day; documents filed by electronic mail that are received by the Clerk after 4:00 p.m. are deemed to have been filed on the next day that is not a Saturday, Sunday, or holiday observed by the City and Borough of Juneau Administration Department.

If a document is too large to be electronically mailed to the Clerk, service may be made by delivering an original and five copies to the office of the Municipal Clerk no later than 4:00 p.m. on the date specified. It is the obligation of the parties to check with the Clerk and pick up briefs and other materials from the Clerk, as the Clerk will not notify parties, copy, or deliver materials.

8. **Service.** All documents filed electronically in accordance with this order must also be served by electronic mail on all parties, and the Assembly's Attorney Advisor, Amy Mead, as follows:

Dan Bruce for the Appellants:	<a href="mailto:dbruce@baxterbrucelaw.com">dbruce@baxterbrucelaw.com</a>
Robert Palmer, III for Appellee:	<a href="mailto:Robert.Palmer@juneau.org">Robert.Palmer@juneau.org</a>
Mary Alice McKeen for Intervenor:	<a href="mailto:ottokeen@gmail.com">ottokeen@gmail.com</a>
Amy Mead, Municipal Attorney:	<a href="mailto:Amy.Mead@juneau.org">Amy.Mead@juneau.org</a>

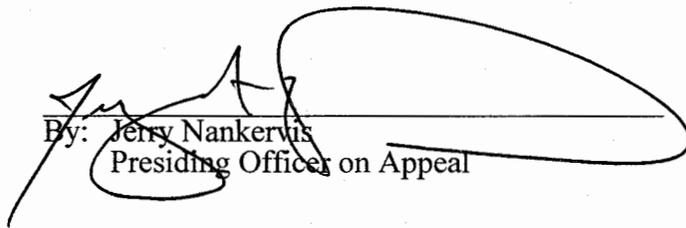
As to any document filed by a method other than electronic mail, the party filing must submit with the filing an affidavit stating that all other parties and the Attorney Advisor (Amy Mead) have been notified by electronic mail of the filing.

9. **Hearing.** The appeal hearing is set for **5:00 p.m. on April 13, 2015**, in Assembly Chambers. Appellants shall have 30 minutes to present their argument and Appellee and Appellee-Intervenors shall have a total of 30 minutes to present their arguments. The time allocated to each side includes time used by the Assembly for questions and the examination of witnesses (if any). The Appellants may reserve a portion of their time for rebuttal, but no new issue shall be raised during rebuttal.

10. **Assembly Contact.** No party shall discuss the merits of this appeal with any member of the Assembly.

DATED this 1st day of December, 2014.

ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

  
By: Jerry Nankervis  
Presiding Officer on Appeal