

1
2 **BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU**
3 **ON APPEAL FROM THE PLANNING COMMISSION**

4 ANDREW HUGHES, TALL TIMBERS)
5 NEIGHBORHOOD ASSOCIATIONS)
6 *Appellants*)

7 v.)

8 CBJ PLANNING COMMISSION,)
9 *Appellee*)

10 and)

11 HAVEN HOUSE, INC.)
12 *Appellee-Intervenor*)

Appeal of:
CDD File: AMD 2013-0015

13 **12/16/14 JOINT STIPULATION OF ISSUES ON APPEAL**

14 Consistent with the December 1, 2014, Pre-Hearing Order, the parties jointly file this
15 statement of issues on appeal. The parties reserve the right to include and argue sub-issues.
16

17 **Issues:**

- 18 1. Whether the unlisted use decision complied with CBJ 49.20.320 as evaluated by CBJ
19 01.50.070. (Appellants' Issues #1-5, 9, and 10).
20 2. Whether the conditional use decision complied with CBJ 49.15.330 as evaluated by CBJ
21 01.50.070. (Appellants' Issues # 7-8).
22

23 The parties agree that the Assembly, acting in its quasi-judicial capacity under CBJ
24 01.50.020 and CBJ 49.20.120, does not have jurisdiction to decide whether a code provision or
25 decision is constitutional. *E.g., Alaska Public Interest Research Group v. State*, 167 P.3d 27, 36

1 (2007) ("Administrative agencies do not have jurisdiction to decide issues of constitutional
2 law."). However, the following issues have been preserved, if necessary, if a party properly
3 commences an action in superior court:
4

- 5 a. Whether CBJ 49.20.320 is constitutional. (Appellants' Issue #6).
6 b. Whether the unlisted use decision is constitutional. (Appellants' Issue #9)
7

8 The Appellants withdraw their Joint Stipulation of Issues on Appeal that was filed on
9 December 15, 2014. The parties sign and approve this form consistent with Hearing Officer's
10 Pre-Hearing Order requiring this joint statement of issues.
11

12 Dated this 16 day of December, 2014.
13

14 By: Approved via email *RF*
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16 Attorney for Haven House
17 Alaska Bar No. 8106035

18 By: *Daniel G. Bruce*
19 Daniel G. Bruce
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22 By: *Robert H. Palmer III* *12/17/14*
23 Robert H. Palmer III,
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Certificate of Service

I hereby certify that on December ^{17^{RP}}~~16~~, 2014, a true and correct copy of the foregoing document was served on the following via Electronic Mail as follows:


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