

NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT

Under AMC 21.03.050A, any municipal agency or any party of interest for the application, as defined in AMC 21.14, may appeal a decision of the Planning and Zoning Commission, the Platting Board, or the Urban Design Commission to the Board of Adjustment within **20 days** after the date of service of the decision. To perfect the appeal, the appellant must file a *Notice of Appeal to the Board of Adjustment* with the Municipal Clerk's Office and pay the appeal fee and cost bond.

General Identity of Action Being Appealed:

Planning Department File Number: Date of Action:
Name of Project or Subdivision:

Appellant's Information:

Last Name: First Name:
Address: City: State: Zip:
Phone Number: E-mail:

Relationship to Action: Applicant Agent of Applicant Municipal Agency Party of Interest

Applicant's Information: Same as Appellant

Last Name: First Name:
Address: City: State: Zip:
Phone Number: E-mail:

NOTE: If you are not the applicant or his/her agent, you must include a certificate of service on the applicant with your notice of appeal, appeal fee, and cost bond.

Specifics of Appeal Certification

An appeal may be considered for the following three causes, singly or in combination:

- 1. Procedural Error** - If you allege procedural error, specify those patterns which constitute the error and the manner in which the alleged error resulted in prejudice to your interest.
- 2. Error in Application of Law** - If you allege legal error, specify the manner in which principles of law were incorrectly applied. Include reference to any ordinance, statute, or other codified law upon which the allegation of legal error is based.
- 3. Findings or Conclusions that were Not Supported by Evidence** - If you allege that findings or conclusions are not supported by the evidence that was presented, specify and explain those findings or conclusions which lacked evidentiary support at the time of the action.

An appeal, for any cause, must be explained; and a reason must be given for why the appeal should be granted. Explain what corrective decision is desired by this appeal. A written statement of cause and reason for granting the appeal must accompany this notice to be considered.

I (we) hereby certify that I am (we are) qualified to make this appeal and that my (our) statement of cause and reason is true and correct to the best of my (our) knowledge.

Signature

Date

Statement Attached: Appeal Fee (\$1080): Cost Bond (\$50): Preparation (\$1.70 per page): _____

Date: 5-28-2021 Cash: _____ Check: _____ Credit Card: Receipt: _____ Total Paid: _____

May 28th 2021

To Whom It May Concern:

Opening Statement:

I, Sean Domagalski, owner of parcel number 021-022-28-000, is appealing the decision made by the Platting Board on February 3rd 2021 and adopted on April 7th 2021 regarding approval of the Hultquist Homes Canyon View Estates Development (Case S12545). I, want to start off by saying I appreciate everyone's time regarding this appeal. I know the importance and value of everyone's time with this decision-making process. Technically, I have been involved with this direct situation since April of 2020, when I first received the notice from the Planning Department regarding this land developer and plans that clearly neglected the importance of being considerate and factoring into their planning considerations for safe access through an easement for the adjoining land owners since this proposal actually blocks multiple neighbors. This situation comes down to a very simple concept and that is you have an entire housing developer clearly blocking access to multiple adjacent neighbors and it would be imperative to take action now and guide this land developer with a "condition" to follow such as a dedicated access road easement for those adjoining neighbors who are clearly land blocked tax paying citizens who cannot legally access their properties.

This Housing Developer is blocking the safest route possible on a mountainside from multiple adjacent current neighbors. It is also important to consider the possibility of fires and we know fires continue to increase year after year and the weather elements can become very dangerous. Now is the time to make these decisions before multiple homes with multiple driveways and with potentially many other elements will make it nearly impossible in the future to allow for us tax paying citizens to have the safest access possible.

This has been an ongoing scenario and it needs to be resolved and this land developer is clearly aware but continues to remain at a disconnect from myself purposefully and the Vice President of Hultquist Homes accuses me of trying to "extort the project by manipulating the approval process" by even speaking these words through this appeal. Clearly there is no intention to work with myself or my neighbors as they are clearly blocking access. And that is why I am reaching out to leadership such as yourselves and at one point I thought the Platting Board was truly looking into this concern as evidence by Mr. Cross, Vice Chair's comments from the Platting Board verbal comments (transcript included) he stated during the May 20th 2020 meeting. However, Mr. Cross remained completely silent in regards to this same concern at the February 3rd 2021 Platting Board Meeting, which is surprising considering how much effort he was communicating my legitimate concerns I originally brought forth during the May 20th 2020 Platting Board Meeting. Additionally, with having reached out to the Planning Department multiple times and yes even reaching out to Hultquist Homes, I am still appalled by the lack of direct communication regarding this specific concern which may have potentially prevented this appeal in the first place. Thank you for your consideration in this matter Board of Adjustment Members.

Lastly, included "Areas of Concern" will also stem back from my original appeal. Considering the fact that my original appeal was never voiced at the November 5th 2020 Platting Board meeting with known awareness as evidence by my August 24th 2020 BOA appeal submission date actually being stated by the representative from the Planning Department to the Platting Board that day. Additionally, the new updates to the plan presented at the February 3rd 2021 Platting Board meeting have no direct changes and or discussion relating to the concerns I expressed within the original appeal from the May 20th 2020 meeting. With the Planning Department's awareness of my appeal and with the multiple opportunities this could have been discussed, ALL elements I originally brought up with the original appeal are still valid and technically fall into the realm of the approval of the February 3rd 2021 Platting Board's decisions.

Areas of Concern:

1. False statement provided by Chairman Walker that easement already exists.

Chairman Walker stated during the June 3, 2020 closed meeting starting at 1 hour and 14-minute mark that there was testimony provided that I already have a road easement to my parcel, stating the words "he does actually have legal access." This is false and the Platting Board members should be made aware that Chairman Walker's claim is false or any testimony provided to that effect is false. If the Chairman is taking the word from the Land Developer's representative this is wrong in so many ways as the Chairman and "Staff" should have followed through with due diligence to confirm an easement was already available. On May 20th 2020, I was one of the individuals providing testimony at the Public Hearing. Refer to the recording of the Platting Board Meeting on May 20th at approximately 2 hours and 44 minutes to hear my three minute testimony(Provided in the transcript). My testimony addressed my concern regarding the fact that this new subdivision is completely blocking the SAFEST and most practical access to my land-blocked 10 acre parcel. My testimony was followed up with a question from Board member Becky Lipson, to which I specifically responded that my 10 acres is "completely land-locked" and that I am a tax payer. Board member Kevin Cross then asked Chairman Walker specifically about landowners affected and blocked by this subdivision (Mr. Cross referred to at least three land owners at one point during discussions since he was able to view the parcels from his computer). Mr. Walker could not answer, stating more research would have to be conducted. Going further into the meeting, starting at 3 hours and 53 minutes until 3 hours and 59 minutes, continued discussion regarding my situation did occur with the Board members and what sounded like a representative from Hultquist Homes, "Tom." I appreciate Mr. Cross and his efforts to ask those important questions and advocate for mine and neighbors situation. Any aerial map of the Hultquist Homes property and the surrounding properties would clearly show my land being blocked with no road easement. This discussion reached no conclusion.

The misinformation stated by Chairman Walker to the entire Platting Board and staff of the Planning Department during the June 3rd 2020 meeting regarding my situation, starts at the 1 hour and 14-minute mark. This would have been impactful to the overall decision-making process for the rest of the Platting Board members as they were led to believe by the Chairman Walker that I already had a road easement. As a matter of fact, Chairman Walker

stated in the May 20th 2020 meeting there will have to be some research to determine my situation. Based on the June 3rd 2020 meeting, I must conclude, not only was a false statement given by Mr. Walker regarding my situation, no research or other due diligence occurred between those meetings. Due diligence was more than likely overlooked with this matter, and this lack of due diligence also affected the decision-making process, barring the members of the Platting Board to make a fair and informed decision.

2. Lack of review and no supporting documentation regarding the Governmental parcel Hultquist Homes Development will also block has not been conducted. The Planning Department and Platting Board have neglected to conduct a thorough review of the following 40 acre Parcel: U.S. Department of Interior Parcel # 021-021-03-000. If one reviews the minutes from the Feb 3rd 2021 meeting and the minutes of the May 20th 2020 meeting along with the supporting documentation, nowhere is there consideration for this Governmental property which will also be blocked by the Hultquist Homes Housing Development. The most practical and safest access point to this parcel would also be through this land development going to Canyon Rd. This is concerning and I will also advocate for my Governmental neighbor as well.

3. "Summary of Action" from the Platting Board February 3rd 2021 meeting has multiple areas under the "conditions" that mention essentially 27 lots are still allowed. This does not match the minutes from the Platting Board Meeting for February 3rd 2021 which states only 25 lots will be approved. However, either way the fact of the matter is nothing was changed with lot 9 which completely blocks access to Canyon Rd to my parcel and affects two others. With that being said, the updates and changes to the plan made regarding February 3rd 2021 Platting Board meeting are null and void in consideration for blocking my parcel. The fact of the matter is this new request and updates to the plan for the development in no way changed the fact that this land development is blocking easement access to multiple land owners. Simply said, this new plan presented on February 3rd 2021 continually blocks a safe route from the mountain side for multiple land owners and has NOT been properly addressed.

4. Failure in notification of the original "Public Hearing" meeting, initially scheduled for April 1, 2020. I did not receive any notice of this scheduled meeting. I only became aware of it when I received a postponement notice postmarked 13 days later. See the attached "Notice of Public Hearing" postmarked April 13th, 2020. This is the original notice provided by the Planning Department, which is also my first awareness that this land even had a new owner purchased by Hultquist Homes. I had not been provided any indication of this purchase until that point, despite having placed a "Demand" Statement for notification to the Probate Court of any proceedings involving the previous land owners, now deceased. Thus, I was under the assumption this land was still in probate and was surprised to learn that a land developer had obtained the land formally owned by the Rohaley's. Ultimately, the Planning Department failed to notify me prior to the original meeting for this case which would have been held April 1st 2020 and instead I only received the postponement notice mid-April via mail. They did not meet the 20-day requirement for the original meeting, which ended up limiting my time for me to prepare.

5. Chairman Walker's mischaracterization of me and the intent of my testimony. During the June 3rd 2020 meeting starting at the 1 hour and 14 minute mark, Chairman Walker also stated that I was "entitled" to obtain this "easier" route. As I stated in my verbal testimony on May 20th 2020, my concern for this development to allow easement to my adjoining parcel and other adjoining land-blocked parcels is a matter of SAFETY first and foremost. Please refer to the attached topographical map that clearly shows the steepness of the mountainside where the development and my adjoining property are located above Canyon Road and the relatively much steeper land in all other directions from my parcel. In addition, it is perfectly reasonable to request safe easement to Canyon Road, as this road was improved with grant funding over the past couple of years and should serve to benefit those who already own land in its proximity and pay real estate taxes. This is a matter of a land owner who has been patient and diligent in his attempts to obtain safe easement from the past owner as well as the new owner and who wants to fight for his and his family's safety as this land developer clearly blocks the safest and most practical access considering this area is off a mountain side and safety should clearly be a priority. Using the word that I was "entitled" is a completely false representation of what I was seeking to obtain assistance from the Board. To make such a false mischaracterization in front of the Board and other stakeholders and in public record is a defamation of my character and intent.

6. Chairman Walker's false statement in regards to myself for not negotiating with the land developer, "but has apparently elected not to do so." As stated in my testimony of May 20th 2020, I had tried to contact the developer multiple times. I have spoken to the original Project Manager, Brian Harten, and been in contact with Ashlee LaVigne, Sales Coordinator with Holiquist Homes who clearly stated in her email communication that not only the Project Manager was aware, but Cody Hultquist, the Vice President of Hultquist Homes was also aware. See attached email confirmation from Ashlee LaVigne, dated 04/30/2020 at which Hultquist Homes leadership has my contact information. At this point, based on my brief conversation with the Project Manager prior to the May 20th 2020 meeting, it appears to be in the hands of the Platting Board to make that determination for an easement for myself and other land-locked neighbors. On January 29th 2021 I did receive an email from the VP of Hultquist Homes who acknowledged the awareness of my situation and stated I was "manipulating" the process by appealing. Despite my frequent attempts and provision of my contact information, Hultquist Homes has no intention to fairly work with me. Chairman Walker's false statement that I have not tried to work with the developer indicates the developer is not being truthful to the Board. This is another important reason why I needed the help from the Platting Board to be an advocate for me, but instead my character and honesty has been called into question and I am forced to go to the expense and difficulty of appealing the Board's unfair and misinformed decision.

7. Lack of consideration for the like concern of my neighbor for whom this development also impacts and blocks her safest access to Canyon Road. I wish to also advocate for my neighbor, Sally Compere, whose parcel is also being blocked by this development. Immediately prior to my verbal testimony on May 20th 2020, you will hear the testimony from Joan Travostino, who was representing Sally Compere. The Board posed no

questions or discussion of her situation after her testimony on May 20th 2020. Further, the Board did not address her testimony at the June 3rd 2020 meeting. As such, it appears that her testimony and like concern was not given any consideration. It is not just myself this development is impacting. Sally Compere's parcel and others are also being blocked, as you can see from the maps attached. Again, this is a matter of safety to tax-paying residents and we need the help we requested of the Platting Board to obtain safe access to our land.

8. Failure to provide the Board with information that detailed and supported my concerns. At the start of June 3rd 2020 Platting Board meeting for Case S12545 at the 5 Minute mark, which was closed to the public but recorded, Chairman Walker asked, "staff presentation of any information that has been provided after closing the hearing." And the detailed information that I emailed was not raised in response. I have attached the email I sent to the Platting Board in regards to my testimony at the May 20th 2020 Open Public meeting. I emailed this to the Planning Department the morning before the meeting held on June 3rd 2020. This email apparently was not brought to the Board's attention, which is unfortunate as the information detailed and supported my concern, which was only one of many related to the case, and might have brought the Chairman's false statements into question. Again, the Chair called out for "any information" and the information in my email should have been given to the Platting Board Members.

Conclusion:

The falsehoods presented to the Board and the failure to provide all the Platting Board members pertinent information that support my legitimate concerns and the like concerns of my neighbors, support this appeal of the Platting Board's decision on Case #S12545. The entire Board should be aware that the purpose of my request for easement is first and foremost to obtain the safe access to my parcel and not for just an easier route, that my parcel is not the only parcel that needs safe access to Canyon Road, and that I have attempted multiple times to communicate with the developer to work to obtain easement to my land-locked parcel to no avail. This is a huge concern and the main reason I was seeking the help of the Platting Board was to help guide this land developer to work with us to correct this very legitimate issue affecting the neighboring parcels. The Board has a crucial role in requiring this situation to be addressed. To approve a housing development without first ensuring safe access to existing land owners is a great disservice to the Municipality's tax-paying residents.

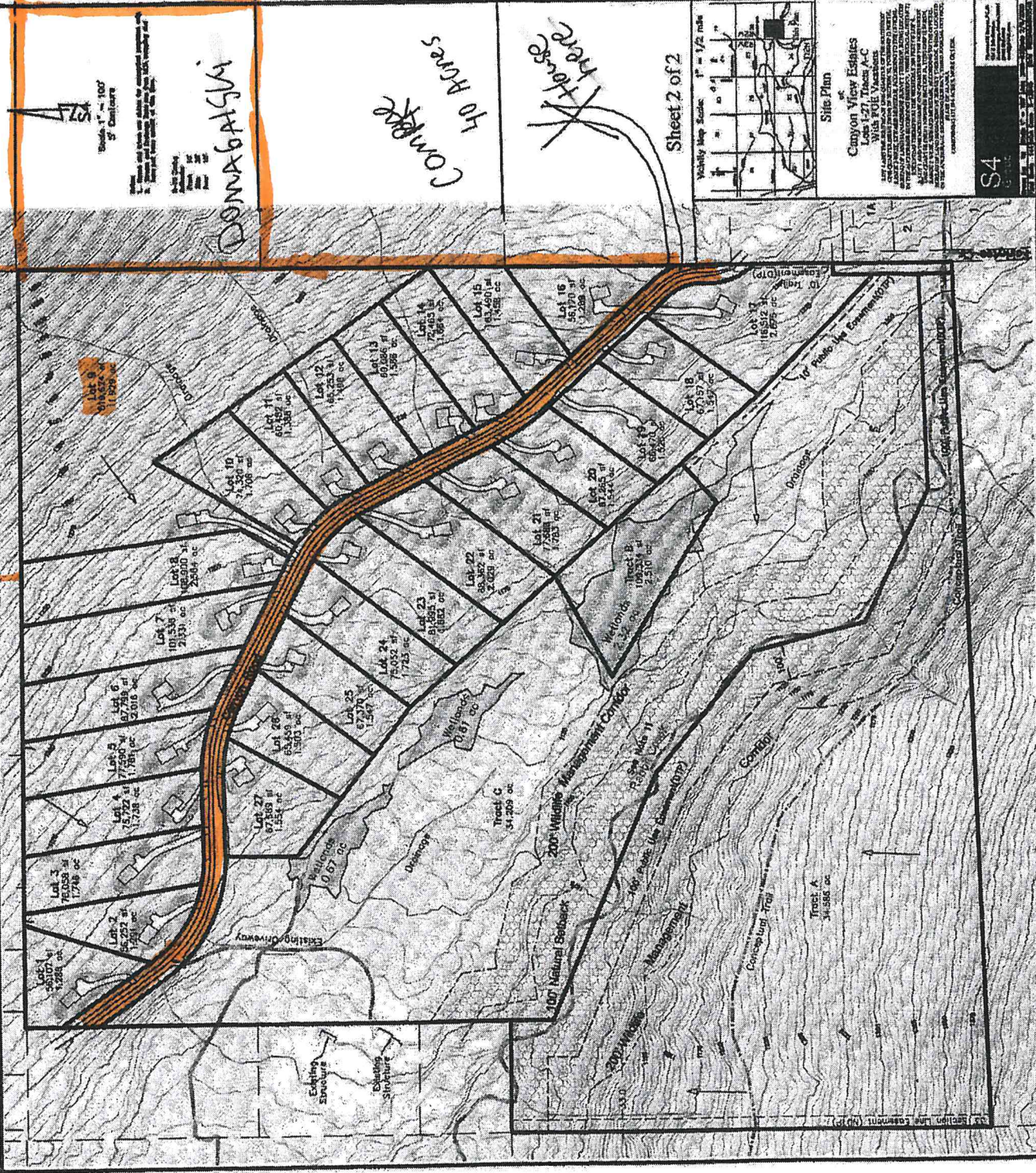
As I have encountered lack of concern, lack of action, and false characterizations of my situation, myself, and my intentions from Hultquist Homes, the Platting Board, and the Planning Department, I truly need the help and guidance of the Board of Adjustment to obtain safe road access to my land-locked parcel. I appreciate your time and efforts to look into this matter. Please advise me of any further information needed and I am happy to discuss further.

Sincerely,



Sean Domagalski

Governmental Parcel



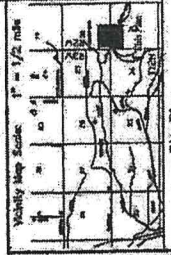
DONAGALGI

COMPRE HO HOSES

Horse here

FLS Home
Parcel is here
aligns with Donagali
Parcel - similar
topography

Sheet 2 of 2



Site Plan
Canyon View Estates
 Lots 1-27, Tracts A-C
 Within the Victorville
 Planning Area
 The City of Victorville, California, is the lead agency for the preparation of this site plan. The site plan is prepared in accordance with the provisions of the California Public Resources Code, Section 14900, and the California Environmental Quality Act, Section 15000. The site plan is intended to provide information to the public and to the City of Victorville regarding the proposed project and its potential impacts on the environment. The site plan is not intended to be a substitute for a full environmental impact report or other detailed study. The site plan is prepared for informational purposes only and does not constitute a guarantee, warranty, or representation of any kind. The City of Victorville and the City Engineer are not responsible for the accuracy or completeness of the information contained in this site plan. The site plan is prepared by the City of Victorville, California, and is subject to the approval of the City Council and the City Engineer.

S4

0210228000
DOMAGALA, DEAN & JENNIFER
7400 E 41ST AVE
ANCHORAGE, AK 99506

POST
MOVED
APR 11 131M

POSTPONED TO MAY 20, 2020

NOTICE OF PUBLIC HEARING - Wednesday, April 1, 2020

The Municipality of Anchorage Planning Board will consider the following:

CASE: S12045 3000005413 0220

PETITIONER: Bulgarelli, James (Brian/Helen)

REQUEST: To subdivide 2 (two) lots and 2 (two) tracts into 27 (twenty-seven) lots and 3 (three) tracts, variance for 21.08 00042 (lot depth-to-width ratio), variance from the requirement to construct trails, pathways, or walkways, and vacation of three Public Use Easements.

TOTAL AREA: 134.42 acres

SITE ADDRESS: 14000 Canyon Road

LOCATION: Generally located east and south of Canyon Road, and west of Bonnetaine Road.

CURRENT ZONE: R105L Low-Density Residential, Alpine/Slope

COM COUNCIL(S): Glen Alps, Bear Valley, Hillside

LEGAL DESCR: T12N R2W SEC 30 LT 4 REM
T12N R2W SEC 30 SE4SW4
T12N R2W SEC 31 LT 1
T12N R2W SEC 31 NE4NW

The Planning Board will hold a public hearing on the above matter at 6:30PM, Wednesday, April 1, 2020, at the Luessac Library Assembly Chambers, 560 Street, Anchorage, Alaska.

The zoning ordinance requires that you be sent notice because your property, residence, or business is within the vicinity of the petition area. This will be public hearing before the commission regarding this case and you are invited to attend and present testimony, if you so desire.

If you would like to comment on the petition, this form may be used for your convenience. Mailing Address: Municipality of Anchorage, Planning Department, Box 156550, Anchorage, Alaska 99510-6650. For more information call 343-7943; FAX 343-7927. Case information may be viewed online at <http://www.muni.org/CityViewPortal>. Written comments on public hearing cases will be accepted up until 1:00 p.m. on the last business day before the date. After that time, anyone wishing to submit comments must attend the meeting to testify at the public hearing.

Name

Address

Comments

Sorry so dark, I cannot find original. Just wanted to point out I never received notice of April 1st 2020 meeting. The "postponed" notice was the first time aware for Housing Dev.

Fwd: Canyon View

From: Jennifer Domagalski (jennidomagalski@gmail.com)

To: seanjohnd@yahoo.com

Date: Thursday, April 30, 2020, 09:43 AM PDT

Jennifer Domagalski

Begin forwarded message:

From: Ashlee Lavigne <ashlee@hultquisthomes.com>
Date: April 30, 2020 at 9:39:21 AM PDT
To: Jennifer Domagalski <jennidomagalski@gmail.com>
Subject: RE: Canyon View

Good Morning Sean,

Thank you for forwarding this information to me. This is very helpful. I've passed this information along to Brian Harten and Cody Hultquist. If you have any additional questions for me please let me know. If you don't hear from either of them in the next week just let me know and I will follow up with them.

Thank you

Ashlee LaVigne

Sales Coordinator

12570 Old Seward Highway, Suite 204

Anchorage, AK 99515

Direct: 907-770-1507

Email: ashlee@hultquisthomes.com

www.hultquisthomes.com

From: Jennifer Domagalski [mailto:jennidomagalski@gmail.com]

Sent: Wednesday, April 29, 2020 7:28 AM

To: Ashlee Lavigne <ashlee@hultquisthomes.com>
Subject: Re: Canyon View

Hello Ashlee,

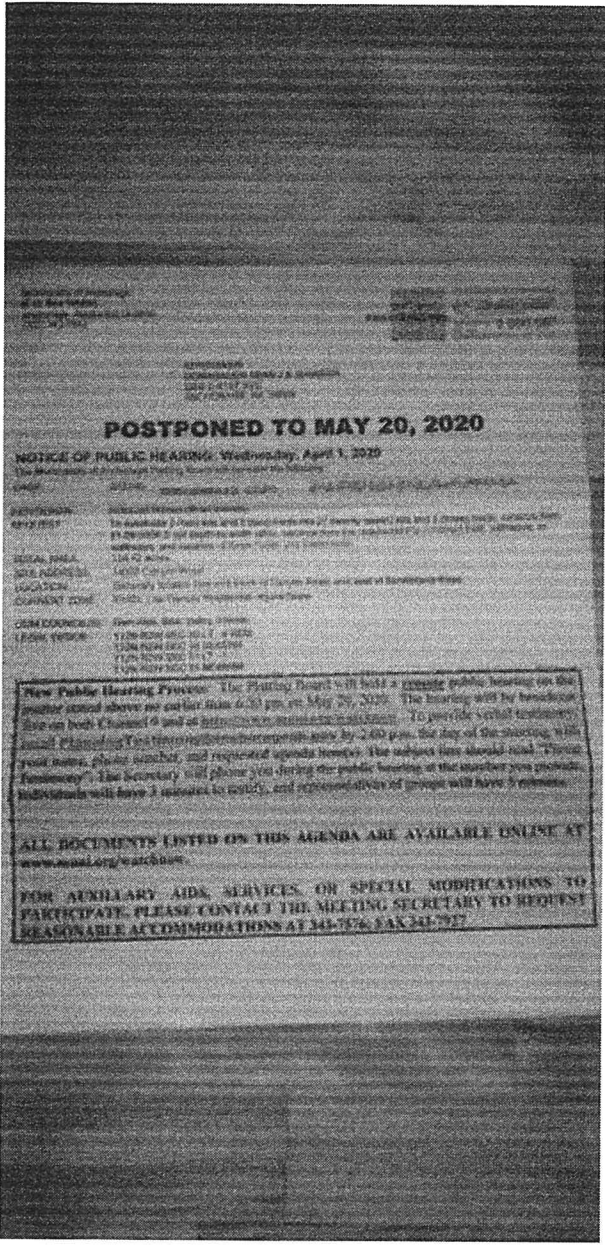
My name is Sean Domagalski. My wife, Jennifer, and I own parcel 021-022-28-000 Legal Description: T12N R2W SEC 30 Parcel 10. This is a 10 acre wooded lot immediately adjacent to parcel 021-021-04-000 Legal Description: T12N R2W SEC 30 SE4SW4, which Mr. Harten is petitioning to subdivide into multiple lots for the purpose of building a Hultquist housing community. The attached documents show that our 10 acre lot lies immediately to the east of the northernmost border of the proposed housing development. It is at a slightly higher elevation than the proposed development and currently has no road access, although we attempted to contact the previous owner of Mr. Harten's land for easement rights.

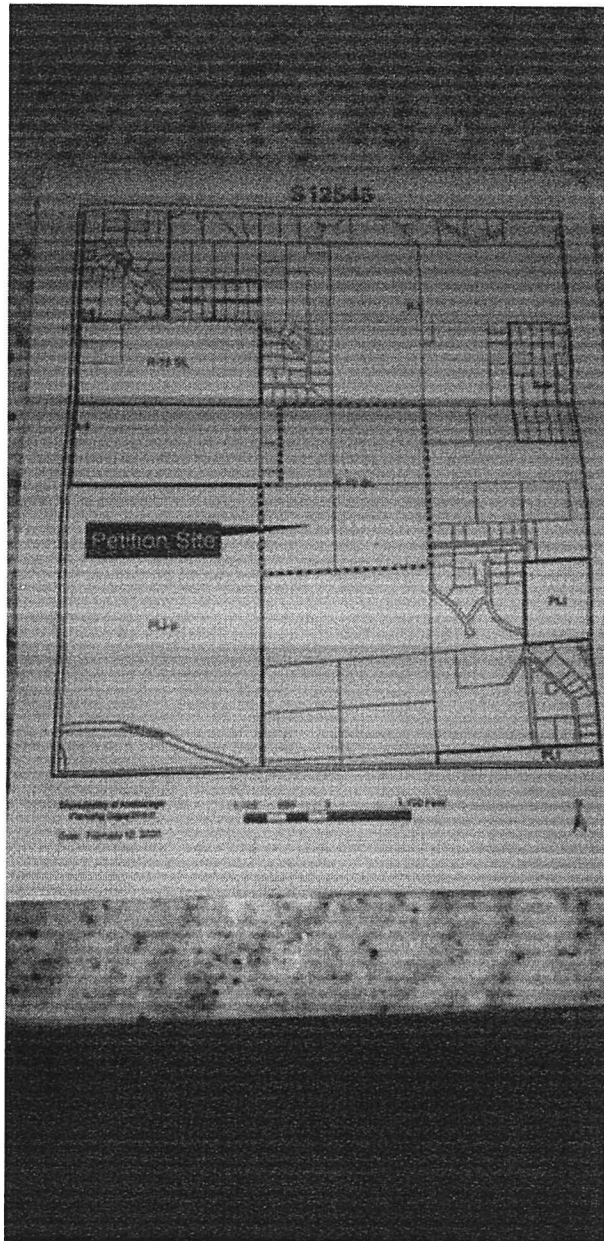
Since we purchased this lot, we've been considering multiple plans for it, including: building a home on the land, subdividing the land for resale, or selling the entire lot out right. We have been watching the local real estate market and know our lot has great potential due to its spectacular views and its proximity to recreational areas.

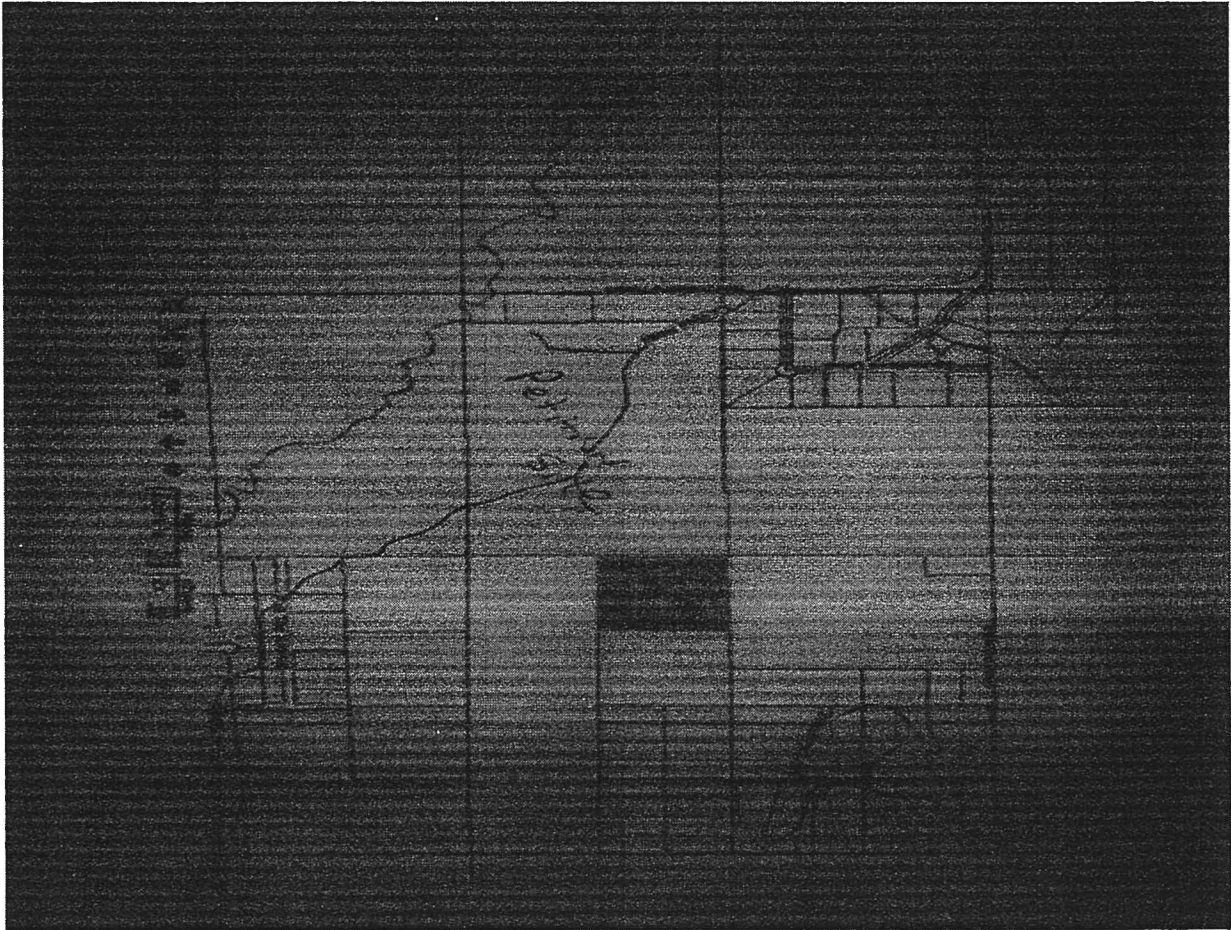
My wife and I having researched your homes and communities and found you have the real estate expertise we need to help us determine the best use of our lot. As such, we would like to consult with you during your petitioning process to determine if we can work with the Platting Board to include our property in the petition for subdivision into 2 acre lots along with yours. We would also like for you to let us know if you are interested in purchasing all or a portion of our land for your development. At minimum, we would like to see your plans for the subdivision of your lots and the road access. Considering the location of our 10 acres, having an easement to Canyon Road would be the safest route possible to our lot.

We would like to speak with Mr. Harten, prior to the "Public Hearing" on May 20th to explore mutual opportunities with respect to our land. Please let us know if you would like additional information on our lot. We appreciate your time and consideration and hope to speak with you and Mr. Harten soon.

Sincerely,
Sean Domagalski
(509) 212-9583







On Apr 28, 2020, at 4:50 PM, Ashlee Lavigne <ashlee@hultquisthomes.com> wrote:

Hi Jennifer,

I apologize I haven't had a chance to touch base with you since last week. I did speak to my general manager about the land you own up by Canyon View. He said they had already submitted all of their information to the platting board for the current land. He would like to see additional information on the land you own for possible future development or if you would like to build on it like you had brought up. If you could forward any information, on your land, to me I can pass it on to him. If you have any additional questions please let me know.

Thank you

Ashlee LaVigne

Sales Coordinator

12570 Old Seward Highway, Suite 204

Anchorage, AK 99515

Direct: 907-770-1507

Email: ashlee@hultquisthomes.com

www.hultquisthomes.com

<image002.jpg>

MUNICIPALITY OF ANCHORAGE



Planning Department
Current Planning Division

Phone: 907-343-7931
Fax: 907-343-7927

Acting Mayor Austin Quinn-Davidson

May 18, 2021

S12545 Canyon View Estates

The Planning Department hereby provides the decision of the Platting Board in Case No. S12545, adopted April 7, 2021. It was brought to the attention of the Planning Department that the previous service of this Platting Board decision did not conform to the requirements set by the Board of Adjustment in its hearing on Board of Adjustment Cases No. 2020-2 & 2020-3. The Board of Adjustment requires that this statement be included:

Any appeal of this decision of the Platting Board must be filed within ten days after the date of service.

If you have already filed a notice of intent to appeal, you do not need to re-file. The deadline for filing the notice of intent to appeal is simply extended to ten days after the date of service of this notice.

Certificate of Service

I hereby certify that on the 28th day of May, 2021 a true and correct copy of the foregoing document (Appeal) was served by electronic mail upon each of the following:

Petitioner:
Hultquist Homes
cody@hultquisthomes.com

Law Office of James H. McCollum LLC
1130 W. 6th Ave, Suite 100
Anchorage, AK 99501
tounds@mccollumlaw.net

Planning Department:
Michelle McNulty, Planning Director
Michelle.mcnulty@anchorageak.gov

Shawn O'Dell, Current Planning Division, Senior Planner
Shawn.odell@anchorageak.gov

Sincerely,



Sean Domagalski
Appellant