

September 27, 2016

Petersburg Borough Assembly Members  
P.O. Box 329  
Petersburg, Alaska 99833

Subject: Sale of Lot 10, 919 Sandy Beach Road.

Mayor Jensen and Assembly Members,

We were notified by email at 10:04 and a phone call from Ms. Cabrera at 10:25 AM this morning that the Planning and Zoning Commission meeting scheduled for today at 2:00 would not occur due to the lack of a quorum.

*Also, that "action items related to 919 Sandy Beach Rd are all being forwarded to the Assembly for action as the commission has not met the deadlines as required by ordinance for the rezone and the easement vacation applications."*

*Last, that "Your application to purchase borough property along with the Kris' is also being forwarded so the Assembly can decide whether or not to approve the sale."*

While the potential sale of Lot 10 is of great importance to us, we long ago scheduled a trip out-of-state beginning on September 28, 2016 and ending on October 14. The tickets have been purchased and our travel plans are not reversible at this time. We will not be available to discuss the potential sale of Lot 10 with you in person. Thus, this letter will provide information and our thoughts on the proposed action.

Rather than review all the information presented to various Borough officials and the planning commission since last April, we trust that the information and documentation we have previously provided will be available for you to consider in your deliberations. Some of the more pertinent important information is listed as appendices to this letter. We also trust that our verbal testimony on August 23, 2016 to the Planning and Zoning Commission has been provided to you in transcript format.

#### **Comments and some history:**

1. We purchased Lot 9 from the State of Alaska during a public auction in August 1972. With two exceptions we have permanently resided in Petersburg since September 1974, when Tim transferred to an Alaska Department of Fish and Game position in Petersburg. We have resided on Lot 9 since 1975, constructed our current home in 1978, and rebuilt the home and added the shop/garage in 2005. The two residential exceptions: (i) After September 11, 2001 we resided in Juneau until June 2012 months while Tim supervised the Airport Security checkpoints in SE Alaska, Kodiak, and Anchorage. (ii) In 2003 we resided in Birchwood near Anchorage for five months while Tim supervised planning and organization of the 49<sup>th</sup> Missile Defense Battalion at Fort Greeley. During each absence, we retained our permanent residence at 917 Sandy Beach Road. Petersburg. We have paid our taxes and have no encroachments on Lot 10 or other adjacent lots. We raised three children in Petersburg. Polly was born and raised in Petersburg. We have both served this community in various volunteer positions.

2. We have a substantial investment in our current home and property. We began that investment knowing Lot 10 would most likely not be developed because it lacked access to Sandy Beach Road. Eventual zoning by the City of Petersburg to a "Green Zone" served to reinforce that thought. More recent actions and the lack of solid, long-term strategic planning (outside the harbors), and apparent Borough fiscal needs, now place our substantial investment and future in jeopardy. This issue is only exasperated by real the need for an updated, forward looking, and comprehensive ordinances related to planning and zoning.

3. Lot 10 (919 Sandy Beach Road) was not offered for sale by the State of Alaska with the rest of State land in the August 1972 sale partially because it had no legal access to the originally designed Sandy Beach Road right-of-way. The as-built Sandy Beach Road approaches or meets the outward bounds of the designed Sandy Beach Road right-of-way. This is caused by the significant rock outcropping that exists from the church across the street out into Sandy Beach itself.

4. In 1977 while planning construction we requested to purchase Lot 10 from the State to allow us more options on cutting the large trees on both lots. However, when the City of Petersburg learned of our application, they selected Lot 10 from the State and we eventually received a letter from the State indicating that our request was no longer valid. At the time, we were outside the City limits.

5. The City of Petersburg obtained Lot 10 from the State of Alaska during the discussion, planning and construction of the South Harbor. The intention of the city planner or engineer, Mr. Bill Jones, was to trade Lot 10 to one or more property owners who were being impacted by the South Harbor development. Mr. Jones eventually determined that such "trades" were inconsistent with the existing City ordinances or charter. I am unsure if the City had even annexed beyond Paul Bowen's home (the old City Boundary) at that point in time.

6. At some time after obtaining title to Lot 10, the City zoned Lot 10 as a "Green Zone." We believe this occurred when the southern shore of Sandy Beach itself and the property along Frederick Sound was zoned as a "Green Zone" with the consideration of the Frederick Point subdivision. There were significant public discussions about the Frederick Point subdivision at the time, but to our knowledge as adjacent property owners we did not receive any documentation from the City with respect to the zoning of Lot 10 as "Green Zone".

7. At a later time the zoning was changed from "Green Zone" to "Public Use". As adjacent landowners, we did not receive documentation from the Borough when this change was under consideration. It is very recently that we learned that "Public Use" includes family homes.

8. More recently, when lots J, K, L, and A of USS 3276 were replatted, as adjacent property owners we did not receive information on that change either. These last three comments indicate to us that the existing ordinances have not been adhered to.

9. The potential sale of Lot 10 to help finance the renovation of the Municipal Building, and the actions associated with the sale of Lot 10 have been frustrating, to say the least. The information available to various Borough officials recommending the sale of Lot 10 may not have been adequate to provide meaningful and correct recommendations to the

Assembly to consider in your initial decision making process to sell Lot 10. Planning and Zoning Commission meetings have been scheduled and postponed, now at least twice.

10. In the process of building Sandy Beach Road, state contractors erroneously cut 10-15 trees on our property, Lot 9 (917 Sandy Beach Road). In addition, they began to drill into the bedrock coming down next to our existing driveway. After stopping their actions, meeting, and eventually negotiating with the State, they determined they encroached on Lot 9—our property. They compensated us for the erroneous removal of our trees and their encroachment.

11. Lot 9 (917 Sandy Beach Road) meets the corner of USS 3276 along the northern boundary and the western boundary. Along the northern boundary of USS 3276 for almost 50', and along the northwest corner of USS 3276 for about the same distance. The corner of USS 3276 is not a right angle. Then, the boundary of Lot 9 runs almost true east and west until it meets the Sandy Beach Road right of way. A portion of the questionable "driveway" that runs along the southern side of the northern boundary of USS 3276 encroaches on Lot 9.

### **Conclusion:**

1. We have submitted a request to purchase a portion of Lot 10 that is adjacent to the southern boundary of Lot 9. One of the reasons we desire to purchase that portion of Lot 9 is to remove the dangerous trees on Lot 9. Mr. Karl Hagerman has viewed those trees in the past on at least two occasions. They are very shallow rooted. There are numerous examples on the lot of uprooted trees, rotten trees, large broken limbs, leaning trees due to partial uprooting. The same situation existed on Lot 9 before we started to develop it, and to a degree still exists. A portion of Lot 10 adjacent to Frederick Sound receives heavy winds during storms. We constantly clean our gutters and valleys to prevent water damage to our home. The great majority of the debris is blown from the tall trees on Lot 10.

The second reason we would like to purchase the lot is to retain the current privacy and value of our investment. We are open to a well thought out plan for Lot 10, one that retains the past and current character of the neighborhood, which is what we believe is one responsibility of planning and zoning. We are open to a modification of our request to purchase a portion of Lot 10.

2. Rather than have to invest additional capital by purchasing a portion of Lot 10 to allow the removal of dangerous trees, or the entire lot, we would prefer that Lot 10 be rezoned as it was initially to "Green Zone." Then, develop a plan to address the dangerous trees on the lot. However, the plan to address the proper zonation and dangerous trees is something a good steward of Borough property should be accomplishing in any case. Again, we would be willing to help develop a well thought out plan for Lot 10.

3. The recent Borough survey of Lot 10 identified at least one encroachment and two other planning and zoning issues that should be resolved before the Borough moves forward with rezoning or selling Lot 10, or portions thereof.

a. In the "Existing Site Survey" dated April 2016 there is an obvious encroachment into Lot 10 by a "pullout".

b. In the same survey it appears that the "shop building" from Lot N does not have the proper setback from the property line.

c. Issues "a" and "b" imply that the proper permitting process ordinances have either not been followed or enforced.

4. With respect to "3. a-c" above, it appears a number of problems may have occurred. Proper permits were not obtained prior to building the "pullout" or the "shop building". If permits were issued, the terms were not followed through. It appears the violations were unknown by Borough officials until Lot 10 was surveyed by the Borough, or the violations were known but ignored by Borough officials. Ordinances are in place to protect the Borough who acts as stewards of the citizen's property. They should be followed by the property owners and the Borough officials. If not followed, the ordinances are useless and should be eliminated or modified.

If proper permits were not obtained by the property owner, there should be consequences in the ordinance for fines or other significant measures to ensure the ordinances are followed. Especially, if the improper use of City or Borough land is long-term and the ordinances have truly been ignored. Corrective action should not include allowing the offending property owner a preferential opportunity to simply buy additional adjacent property.

If the situation was not known by Borough officials until the recent survey was completed, then responsible officials should have brought recommendations for corrective action to the Assembly during the past five months during regularly scheduled or special sessions. Any action to sell Lot 10 is premature until the encroachment situation is corrected.

If the situation was known but ignored by Borough officials, there should be consequences to the responsible officials.

Thank you for the opportunity to provide input into your decision process. We apologize for the length of our letter. We have made a significant investment in our home and the community, as have many property owners. Our views should be seriously considered, as intended by ordinance and procedures. We regret we are not available to address the Assembly directly next Monday. Or, to provide answers questions you may have.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Koeneman" and "Polly Koeneman" joined together.

Tim and Polly Koeneman  
917 Sandy Beach Road  
Petersburg, Alaska 99833

Encl. Appendices A-D

#### Appendix A.

Documentation provided to Ms. Jody Tow April 5, 2016 prefaced by a three-page letter includes:

1. Copy of our Patent for Lot 9, 917 Sandy Beach Road, dated March 1978.
2. Copy of the original survey by Mr. Brickey for Lot 9, dated November 1974.
3. Copy of the as-built survey by Mr. Brickey for Lot 9, dated June 1979.
4. Copy of our request to purchase Lot 10 from the State of Alaska, dated April 1977.
5. Survey information on Lot 9 from State of Alaska, dated May 1973.
6. Copy of Information request from State of Alaska, dated April 2016.
7. Copy of as-built survey for Sandy Beach Road from State, dated December 1987
8. Copy of State Right of Way map for project S-0937.
9. Copy of USS 3276, dated May 1953.
10. Copy of State Right-of-Way map for project S-0937 (10).
11. Copy of Sewer stub outs for Lot 9 and adjacent lots, date unreadable.

#### Appendix B.

Letter from Ms. Cabrera dated July 8, 2016 notifying us that the Borough intended to vacate a portion of the public easement on Lot 10, 919 Sandy Beach Road. Incidentally, an easement that does not exist on Lot 10. Documentation includes:

1. A small scale map indicating where the "PROPERTY AREA" was located.
2. A larger scale map indicating the lot. No right of way in the lot is shown.
3. A preliminary survey of Lot 10 dated April 25, 2016.
4. An "Existing Site Survey" of a driveway off of Sandy Beach Road accessing Lot 10, dated April 2016.

#### Appendix C.

A six-page email from us to Ms. Cabrera time dated 5:33 PM July 25, 2016. This is a response to 12:27 PM notification that the scheduled Planning and Zoning Commission meeting would be cancelled.

#### Appendix D.

A copy of our September 6, 2016 application to purchase 75' of Lot 10 running adjacent to our property line, which would allow us to cut and remove the dangerous trees on Lot 10. This application includes a three-page narrative and a map showing the property we wish to purchase and approximate location of existing improvements on Lot 9.