



**CITY & BOROUGH OF WRANGELL  
PUBLIC HEARING AGENDA  
Tuesday, January 28, 2014  
6:30 p.m.**

1. Call to Order
2. Roll Call
3. Public Hearing Items:
  - a. PROPOSED ORDINANCE No. 873: AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 6.04 OF THE WRANGELL MUNICIPAL CODE RELATING TO ALCOHOLIC BEVERAGES TO AMEND SECTION 6.04.100 ON HOURS OF SALE (second reading)
  - b. Proposed Zone Change from Waterfront Development to Rural Residential for a portion of Lot 12, USS 2589 and a portion of Lot 5, USS 2589 owned by Mark and Margaret Mitchell, and Lot 19, USS 2589 owned by the State of Alaska, Department of Natural Resources, requested by Mark and Margaret Mitchell
4. Written Testimony
5. Oral Testimony
6. Adjournment

# Agenda Item 3a

## CITY & BOROUGH OF WRANGELL

**BOROUGH ASSEMBLY  
PH AGENDA ITEM  
January 28, 2014**

### INFORMATION:

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 6.04 OF THE WRANGELL MUNICIPAL CODE RELATING TO ALCOHOLIC BEVERAGES TO AMEND SECTION 6.04.100 ON HOURS OF SALE  
(*second reading*)

### Attachments:

1. Memorandum from Clerk Lane, dated January 17, 2014
2. *Revised* Proposed Ordinance No. 873
3. Proposed Ordinance No. 873, passed in its first reading on Jan. 14, 2014

## **MEMORANDUM**

**TO: HONORABLE MAYOR AND MEMBERS OF THE ASSEMBLY  
CITY AND BOROUGH OF WRANGELL**

**FROM: KIM LANE  
BOROUGH CLERK**

**SUBJECT: ORDINANCE NO. 872  
AMENDING CHAPTER 6**

**DATE:** January 17, 2014

### **BACKGROUND:**

On December 10, 2013, the Borough Assembly approved Ordinance No. 872 which amended section 6. Specifically, the ordinance amended chapter 6.04 relating to alcoholic beverages, amending section 6.04.100 on hours of sale and section 6.04.110 on sales on election days, and repealed section 6.04.120 on clearing the premises.

Since the adoption of Ordinance No. 872, I have received input from the Wrangell Police Department. Their concern is: if an individual has consumed alcohol in a bar, and its 2:00 am (or 3:00 a.m. on Saturday or Sunday) and can no longer consume alcohol, the new ordinance language allows for that person to still be able to **remain** on the premises. The newly adopted ordinance says that a person may not enter the premises; it does not speak to if a person can remain on the premises.

The purpose of this ordinance was to be consistent with other Alaska communities while remaining in compliance with Alaska State Law.

### **FURTHER INFORMATION**

On January 16, 2014, a bar owner came into my office and expressed his concern on the same issue that Assembly Member Stough had brought up at the Assembly meeting on January 14, 2014. That the Proposed Ordinance did not allow for time to "clear the premise" after closing time. He requested that we add the section on "Clearing the Premises" back into the Proposed Ordinance. His reasoning is that if the bar closes at 2:00 am, according to the code, everyone must be out by that time. This does not allow for the one taxi service to pick everyone up and get them home in a timely manner. So basically, people would be forced to stand out in the cold or rain until the taxi can get back to the bar to pick them up.

He understands (according to the code), that no alcoholic beverages could be served after 2:00 am and 3:00 am on the weekends.

I ran this by the Borough Attorney's office, and they made some modifications to the proposed ordinance so that the section could fit appropriately.

### **Recommended Action:**

Move to approve Ordinance No. 873 with the change to add Sections B and C on "Clearing the premises".

**\*\*Revised to include Sections B and C on "Clearing the premises"**

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 873

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 6.04 OF THE WRANGELL MUNICIPAL CODE RELATING TO ALCOHOLIC BEVERAGES TO AMEND SECTION 6.04.100 ON HOURS OF SALE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

SEC. 1.        Action. The purpose of this ordinance is to amend Chapter 6.04 of the Wrangell Municipal Code relating to alcoholic beverages to modify the sections on hours of sale; presence on licensed premises during closing hours.

SEC. 2.        Amendment. Section 6.04.100 of the Wrangell Municipal Code is amended to read:

6.04.100 Hours of sale; presence on licensed premises during closing hours.

A. Hours of Sale.

1. A person may not sell, offer for sale, give, furnish, deliver, or consume an alcoholic beverage on premises licensed under Title 4 of the Alaska Statutes between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Friday of each week.
2. A person may not sell, offer for sale, give, furnish, deliver, or consume an alcoholic beverage on premises licensed under Title 4 of the Alaska Statutes between the hours of 3:00 a.m. and 8:00 a.m. on Saturday and Sunday of each week.

B. Clearing the premises. Beverage dispensary establishments shall be cleared of customers and patrons no later than 30 minutes after closing time; a 15 minute period shall similarly apply to retail liquor sales establishments. No alcoholic beverages may be sold or dispensed during the respective clearing periods.

C. Presence on licensed premises during closing hours. Except for the clearing periods set forth in subsection B of this section, a ~~A~~ licensee, an agent, or

employee may not permit a person to enter or remain on the premises [**and a person may not enter**] of the licensed premises between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Friday of each week, and between the hours of 3:00 a.m. and 8:00 a.m. on Saturday and Sunday of each week. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under Title 4 of the Alaska Statutes to consume food or nonalcoholic beverages.

SEC. 3.        Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4.        Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 5.        Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING:    January 14, 2014.

PASSED IN SECOND READING: \_\_\_\_\_, 2014.

Attest: \_\_\_\_\_

Kim Lane  
Borough Clerk

\_\_\_\_\_  
David L. Jack  
Mayor

**\*\*Passed in its first reading on January 14, 2014\*\***

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 873

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2. A person may not sell, offer for sale, give, furnish, deliver, or consume an alcoholic beverage on premises licensed under Title 4 of the Alaska Statutes between the hours of 3:00 a.m. and 8:00 a.m. on Saturday and Sunday of each week.

B. Presence on licensed premises during closing hours. A licensee, an agent, or employee may not permit a person to enter or remain on the premises **[and a person may not enter]** of the licensed premises between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Friday of each week, and between the hours of 3:00 a.m. and 8:00 a.m. on Saturday and Sunday of each week. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under Title 4 of the Alaska Statutes to consume food or nonalcoholic beverages.

SEC. 3.       Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4.       Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 5.       Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING:   January 14, 2014.

PASSED IN SECOND READING: \_\_\_\_\_, 2014.

Attest: \_\_\_\_\_

Kim Lane  
Borough Clerk

\_\_\_\_\_  
David L. Jack  
Mayor

# **Agenda Item 3b**

## **CITY & BOROUGH OF WRANGELL**

**BOROUGH ASSEMBLY  
PH AGENDA ITEM  
January 28, 2014**

### **INFORMATION:**

Proposed Zone Change, requested by Mark and Margaret Mitchell

### **Attachments:**

1. Memorandum from Lavonne Klinke, P&Z Secretary, dated January 10, 2014
2. Letter from Mark & Peggy Mitchell requesting the zone change
3. Letter from Carol Rushmore, Economic Development Director, dated January 6, 2014
4. Maps of proposed area (existing & proposed)



# Memo

CITY CLERK

JAN 10 2014

RECEIVED

**To:** Borough Mayor Dave Jack, Assembly Members

**From:** Lavonne Klinke, Planning & Zoning Secretary

**CC:** Jeff Jabush, Borough Manager

**Date:** 1/10/2014

Proposed Zone Change from Waterfront Development to Rural Residential for a portion of Lot 12, USS 2589 and a portion of Lot 5, USS 2589 owned by Mark and Margaret Mitchell, and Lot 19, USS 2589 owned by State of Alaska, Department of Natural Resources, requested by Mark and Margaret Mitchell.

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The Planning and Zoning Commission at their regular meeting of January 9, 2014 voted unanimously to recommend to the Assembly to approve the proposed zone change from Waterfront Development to Rural Residential for a portion of Lot 12, USS 2589 and a portion of Lot 5, USS 2589 owned by Mark and Margaret Mitchell, and Lot 19, USS 2589 owned by State of Alaska, Department of Natural Resources, requested by Mark and Margaret Mitchell.

December 11, 2013

Planning and Zoning Commission  
City of Wrangell, Alaska  
P.O. Box 531  
Wrangell, AK 99929

Dear Zoning Commission Members:

RE: Rezoning and classification the property (Lot 5 & 12) at Six Mile Zimovia Hwy.

As the owner of Lot 5 & 12, I would like to adjust the Lot lines creating a new lot and rezone the new lot. It is my intention to build a residence on the Eastern portion of Lot 12. However, this land has been zoned as Waterfront Development. I would like to change Lot 5 by combining the west side (which is separated by the Zimovia Hwy and the old Wrangell Hwy--a pie shape) with the East half of Lot 12 making a new lot and zoning it as rural residential. See attached plat.

We are currently building a shop on the Western portion of Lot 12 for our fishing business and float plane access. The existing structures on the land, the home and the shop, will be replaced and future plans include a dock.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mark and Peggy Mitchell', written over a horizontal line.

Mark and Peggy Mitchell  
P.O. Box 80  
Wrangell, AK 99929  
907-470-4221

# *City and Borough of Wrangell*

## Agenda G1

Date: January 6, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Proposed Zone Change from Waterfront Development to Rural Residential for a portion of Lot 12, USS 2589 and a portion of Lot 5, USS 2589 owned by Mark and Margaret Mitchell, and Lot 19, USS 2589 owned by State of Alaska, Department of Natural Resources, requested by Mark and Margaret Mitchell.

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### **Background:**

Lots 5 and 12 have recently been purchased by the Mitchell's. Lot 12 and a portion of Lot 5 have been zoned Waterfront Development since the area was last zoned in the early 1980's, but the use has always been a nonconforming use - Residential. Lot 19 is a state owned parcel that used to be the old Wrangell Highway.

### **Review:**

Rural Residential	Chapter 20.28
Waterfront Development	Chapter 20.50
Nonconforming Uses	Chapter 20.64
Amendments	Chapter 20.76

### **Findings:**

Lot 12 is a 2.4 acre. waterfront lot sandwiched on each side between waterfront development zoned property currently owned by Silver Bay Logging. Lot 5, is actually split into two pieces by Zimovia Highway. The portion of Lot 5 on the uphill side of Zimovia Highway is zoned Rural Development. The portion waterward of the Highway is approximately 1.5 acres and zoned Waterfront Development. Lot 19 is a State owned parcel that used to be the Wrangell Highway and it is located between Lot 5 and Lot 12 and is zoned Waterfront Development. It is likely that when the area was zoned Waterfront Development, because of the industrial nature of the land on either side of this sole residential parcel, the parcel was included as waterfront development because of potential conflicting uses on either side. The parcels above the Highway however were zoned Residential

The previous owner of Lots 5 and 12 (William Krepps) maintained the use of the property as residential and started the process to purchase Lot 19 from the State, but never paid for the lot. The new owner is expressing an interest to pursue this land purchase possibility, as the narrow lot is their driveway access to Lot 12..

The Mitchell's are seeking to use Lot 12 for multiple uses – continuing the long term residential use of the property, but also to use the property for marine uses, adding water dependent and related uses. Lot 12 slopes toward the shoreline. The Mitchell's are proposing to let the lower

portion of Lot 5 on the waterward side of Zimovia Highway remain undeveloped as a buffer between their proposed development and the Highway. They would like to build a house on the upper portion of Lot 12, with a shop, dock and float plane ramp on the lower portion of Lot 12.

Residential uses within the Waterfront Development District is a nonconforming use (WMC 20.64). Nonconforming uses cannot be enlarged or increased (WMC 20.64.060A).

The applicants are proposing to tear down the existing residence located on the immediate shoreline, and construct a large shop and storage area for the float plane and fishing business. They are seeking to construct a residence on the upper portion of Lot 12. At this time, they are requesting to rezone the upper portion of Lot 12, Lot 19 and the lower portion of Lot 5 from Waterfront Development to Rural Residential. The lower portion of Lot 12 would remain Waterfront Development to accommodate the marine oriented businesses.

The applicants have also discussed with staff a proposed subdivision of the property, separating the waterfront development portion and residential portion into two separate lots. They are seeking the zone change first while they work with Alaska Department of Natural Resources on potential purchase of Lot 19, USS 2589. The Subdivision layout would be affected by the zone change and whether they are able to purchase Lot 19. The Zone change however, is not affected by the proposed Subdivision.

For any zone change, the Planning and Zoning Commission must hold a public hearing and must report findings to the Assembly on the following: (WMC 20.76.030(C)).

1. Findings as to need and justification for the proposed change including findings as to the effect which the proposed change would have on the objectives of the comprehensive plan;
2. Findings as to the effect which the proposed change would have on property owners in the area of proposed boundary changes, including changes in traffic flow, population, density, off-street parking, sewer and water services; and
3. Recommendation as to the approval or disapproval of the change.

The Assembly will hold their own hearing and make a final decision.

Effect on objectives of the Comprehensive Plan: Currently the whole stretch of waterfront land from the Shoemaker Bay Loop Road through the former mill site property is zoned Waterfront Development. This area is the last deepwater area zoned for marine industrial uses. A nonconforming residential enclave in the center of this stretch has existed since before the mid 1980's. Land use conflicts between the industrial activity and residence might have included noise, air quality, water quality issues. The applicant for the zone change is seeking to conduct some waterfront development activities but would also like to live on-site. By rezoning the upper portion of the property to the same zone that occurs directly across Zimovia Highway would allow them to construct a residence and develop their marine oriented business activities.

The Comprehensive Plan (p130-133) identifies the 6 mile mill site as a Waterfront development opportunity, but at the writing of the Comp Plan in 2009-10, the Silver Bay Mill was still on-site although inactive. There are no policies that directly address short term or long term goals/uses for this stretch of waterfront development district, although in the last couple of years discussions of potential reuse activities for the mill site have been discussed by the Economic Development Committee. Staff does not believe that the proposed action negatively affects objectives of the Comprehensive Plan.

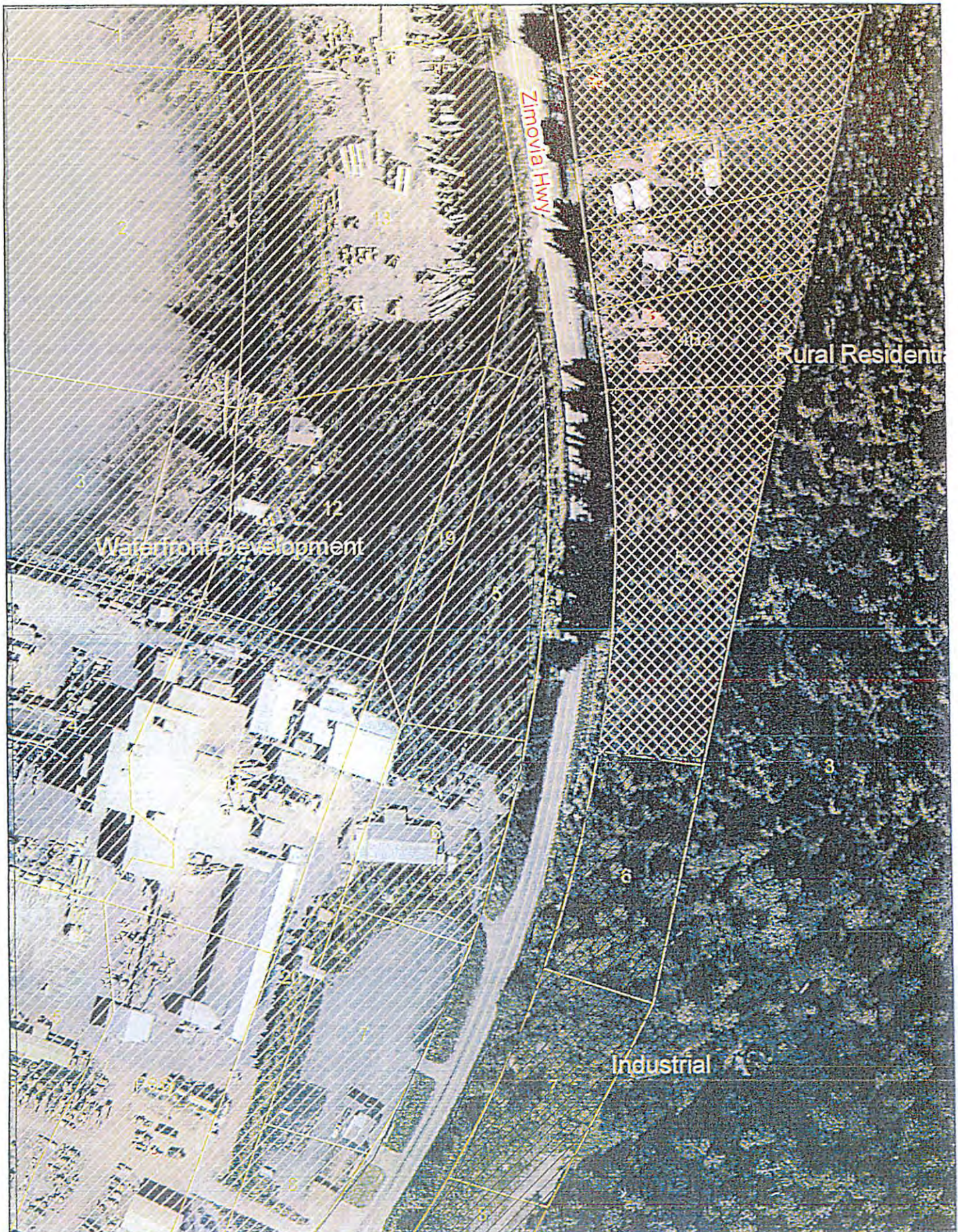
Effect on property owners in the area, including traffic flow, density, off-street parking and utilities: The proposed rezone should have no effect on adjacent landowners – including both Silver Bay Logging who owns the waterfront development property on either side and the residents who live across the highway from proposed rezone area. The proposed uses of the property would remain consistent with the current uses. The Lots 5, 12 and 19 are currently used for residential so rezoning a portion of this parcel to allow the continued residential use meshes with the Rural residential development district across the highway. The property on either side of Lots 5 and 12 and 19 are Waterfront Development having had an active mill and mill yard at this site for at least 20 years. The shoreline portion of the property that would remain as waterfront development would continue marine oriented uses of the adjacent parcels. One difference would be the use of a float plane at the site, but the noise is not a continual or daily occurrence and should not affect the quality of life of the nearby residences. Sewer and water are available to the site and actually end in this vicinity. Electrical currently extends to the property. There should not be an increase in utility service that would impact the City's service.

Recommendation:

Staff recommends approval of the proposed request.

A draft proposed zoning map change is attached for review.





1 inch = 182.99452 feet

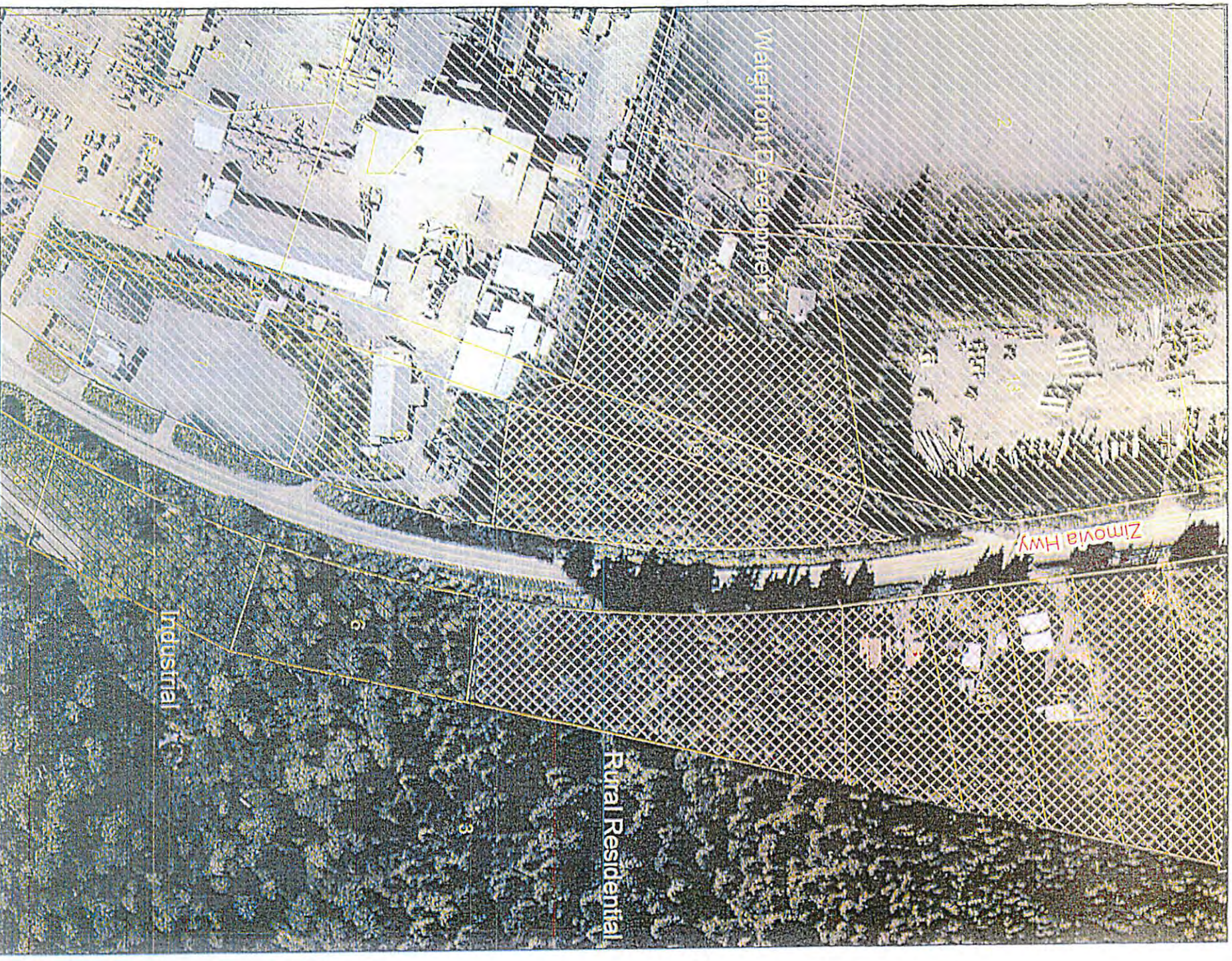
DISCLAIMER: THESE MAPS ARE FOR PLANNING PURPOSES ONLY.  
PROPERTY LINES ARE APPROXIMATE. UPDATED MARCH 2013.  
AERIAL PHOTO 2002.





# Proposed Zoning

CITY AND BOROUGH OF WRANGELL, ALASKA



1 inch = 182.90452 feet

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PROPERTY LINES ARE APPROXIMATE. UPDATED MARCH 2013.

AERIAL PHOTO 2002.

