

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION REGULAR MEETING AGENDA

May 8, 2014

7:00pm

Agenda

A. CALL TO ORDER/ROLL CALL

B. AMENDMENTS TO THE AGENDA

C. APPROVAL OF MINUTES: : March 13, 2014 and April 10, 2014

D. PERSONS TO BE HEARD

E. CORRESPONDENCE

1. Public Notice from the Corps of Engineers for application POA-2014-029 for fill on Lot 1, Block 3, USS 1593 on Evergreen, submitted by Todd White.
2. Public Notice from the Corps of Engineers for application POA-2014-109 for fill on submitted by Mark Mitchell (included as part of Agenda Item G5)
3. Letter from Zoning Administrator to Jacquie DeMontigny re. chickens on neighboring property.

F. OLD BUSINESS

1. Comprehensive Plan review and evaluation (defer)

G. NEW BUSINESS

- Pub Hrg 1. Variance permit request for a variance to the front yard setback requirements and a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay.
- Pub Hrg 2. Conditional Use permit request for the temporary placement of mobile home on Lot 7, Block 1, USS 2127, zoned Single Family Residential, requested by Sara and Charles Gadd.
3. Request from Sea Level Seafoods to lease additional tidelands, an unsubdivided portion of ATS 81 adjoining Tract B, ATS 1114, and modify tidelands lease.
 4. Discussion regarding chickens/roosters and potential changes to the Zoning Ordinance regarding "animals".
 5. Request from Mark Mitchell to lease city tidelands, Lot 3, USS 3534.
 6. Discussion regarding final selection of municipal entitlement lands

H. PUBLIC COMMENT

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

J. ADJOURNMENT

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES

March 13, 2014
7:00pm

A. CALL TO ORDER/ROLL CALL

Chairperson Don McConachie called the regular meeting of the Wrangell Planning and Zoning Commission to order at 7:08 pm on March 13, 2014 in the Wrangell Borough Assembly Chambers. Commissioners' Kipha Valvoda, Rudy Briskar, Stan Schnell were present; Commissioners Mark Mitchel, Betty Keegan, Terri Henson were absent.

Recording Secretary Lavonne Klinke was present and Zoning Administrator Carol Rushmore was absent.

B. AMENDMENTS TO THE AGENDA

Item G3 is deferred to a future meeting

C. APPROVAL OF MINUTES: January 9, 2014

Valvoda moves to approve the minutes of January 9, 2014, Briskar seconds, all approved.

D. PERSONS TO BE HEARD None

E. CORRESPONDENCE

Informational Items from the State of Alaska

F. OLD BUSINESS

1. Comprehensive Plan review and evaluation (defer)

G. NEW BUSINESS

1. Preliminary Plat review, a replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (ATS 83) and a portion of the unsubdivided ATS 83 tidelands, creating Lot 1A, requested by Dave Svendsen.
Open Public Hearing
Close Public Hearing.
2. Schnell moves to approve the Preliminary Plat, a replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (ATS 83) and a portion of the unsubdivided ATS 83 tidelands, creating Lot 1A, requested by Dave Svendsen.
Valvoda 2nds. Motion passes by unanimous vote.

DRAFT

3. Request to vacate and/or modify easement adjacent to Evergreen Avenue on Lot 1, Block 3, USS 1593, zoned Single Family Residential, requested by Todd and Catherine White. (DEFER)

H. PUBLIC COMMENT None

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS None

J. ADJOURNMENT 7:15 pm

DRAFT

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES

April 10, 2014

7:00pm

Agenda

A. CALL TO ORDER/ROLL CALL

Chairperson Don McConachie called the regular meeting of the Wrangell Planning and Zoning Commission to order at 7:08 pm on April 10, 2014 in the Wrangell Borough Assembly Chambers. Commissioners' Kipha Valvoda, Rudy Briskar, Stan Schnell were present; Commissioners Mark Mitchel, Betty Keegan, Terri Henson were absent.

Recording Secretary Lavonne Klinke was present and Zoning Administrator Carol Rushmore was absent.

B. AMENDMENTS TO THE AGENDA

None

C. APPROVAL OF MINUTES February 13, 2014 and March 13, 2014

Deferred till next regular meeting of the Planning and Zoning Commission

D. PERSONS TO BE HEARD

Brian O'Conner thanking to being here at the meeting

E. CORRESPONDENCE

F. OLD BUSINESS

1. Comprehensive Plan review and evaluation (defer)

G. NEW BUSINESS

1. Final Plat review, a replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (ATS 83) and a portion of the unsubdivided ATS 83 tidelands, creating Lot 1A, requested by Dave Svendsen.

Schnell moves to approve Final Plat review, a replat of Lots 1 and 2, Block 24A, Wrangell Tidelands Addition (ATS 83) and a portion of the unsubdivided ATS 83 tidelands, creating Lot 1A, requested by Dave Svendsen. Briskar seconds.

Motion passes by unanimous vote

2. Conditional Use Permit application for a home occupation to operate a professional office offering legal services within a residence on Lot 8A, Block 83, Zoned Single Family Residential, owned by Schwehr Revocable Trust, requested by purchaser Michael Nash.

McConachie Recesses meeting.

Open public hearing
Close public hearing

Reconvene the Planning and Zoning meeting.

Briskar moves to approve the Conditional Use Permit application for a home occupation to operate a professional office offering legal services within a residence on Lot 8A, Block 83, Zoned Single Family Residential, owned by Schwehr Revocable Trust, requested by purchaser Michael Nash, McConachie asks Briskar to include the staff recommendations regarding traffic and noise. Schnell and Valvoda second unanimously.

Motion passes by unanimous vote

H. PUBLIC COMMENT

None

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

None

J. ADJOURNMENT 7:05 pm



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RDt
Post Office Box 6898
JBER, Alaska 99506-0898

PUBLIC NOTICE DATE: April 4, 2014
EXPIRATION DATE: May 5, 2014
REFERENCE NUMBER: POA-2014-029
WATERWAY: Zimovia Strait

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Marcia L. Heer at (907) 753-5759, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Marcia.L.Heer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Todd White, P.O. Box 523, Wrangell, Alaska 99929.

LOCATION: The project site is located within Section 24, T. 62 S., R. 83 E., Copper River Meridian; USGS Quad Map Petersburg B-2; Latitude 56.4769° N., Longitude -132.3915° W.; Block 3, Lot 1; USS 1593 in Wrangell, Alaska.

PURPOSE: The applicant's stated purpose is to construct a pad for single family residential housing.

PROPOSED WORK: Placement of 366 cubic yards (cy) of clean shot rock and 428 cy of rip rap material within 0.09-acre below the high tide line (HTL) of Zimovia Strait to construct a fill pad and associated rip rap retaining wall. The lot above the high tide line is steep and does not contain wetlands or other waters of the U.S. All work would be performed in accordance with the enclosed plan (sheets 1-7), dated March 24, 2014.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

- a. Avoidance: This lot was surveyed and platted in 1925. Due to the steepness of the lot, development of a single family residential fill pad and retaining wall would partially encroach into the tidelands.
- b. Minimization: Initially the applicant proposed placement of fill within 0.15-acre below the HTL of Zimovia Strait. The intertidal fill amount has been reduced to 0.09-acre.

c. **Compensatory Mitigation:** The applicant stated that the intertidal areas where fill is proposed consist of solid bedrock and large boulders. As compensatory mitigation they are offering a payment of \$1,000 to the SE Alaska Land Trust in-lieu fee program.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project area is within the known or historic range of the endangered Stellar sea lion Western DPS (*Eumetoplia jubatus*) and the endangered Humpback whale (*Megaptera novaeangliae*).

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. However, any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The project area is within the known range of the juvenile and adult coho (*Oncorhynchus kisutch*), chum (*O. keta*), pink (*O. gorbuscha*), chinook (*O. tshawytscha*) and sockeye salmon (*O. nerka*)

We have determined the described activity would not adversely affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

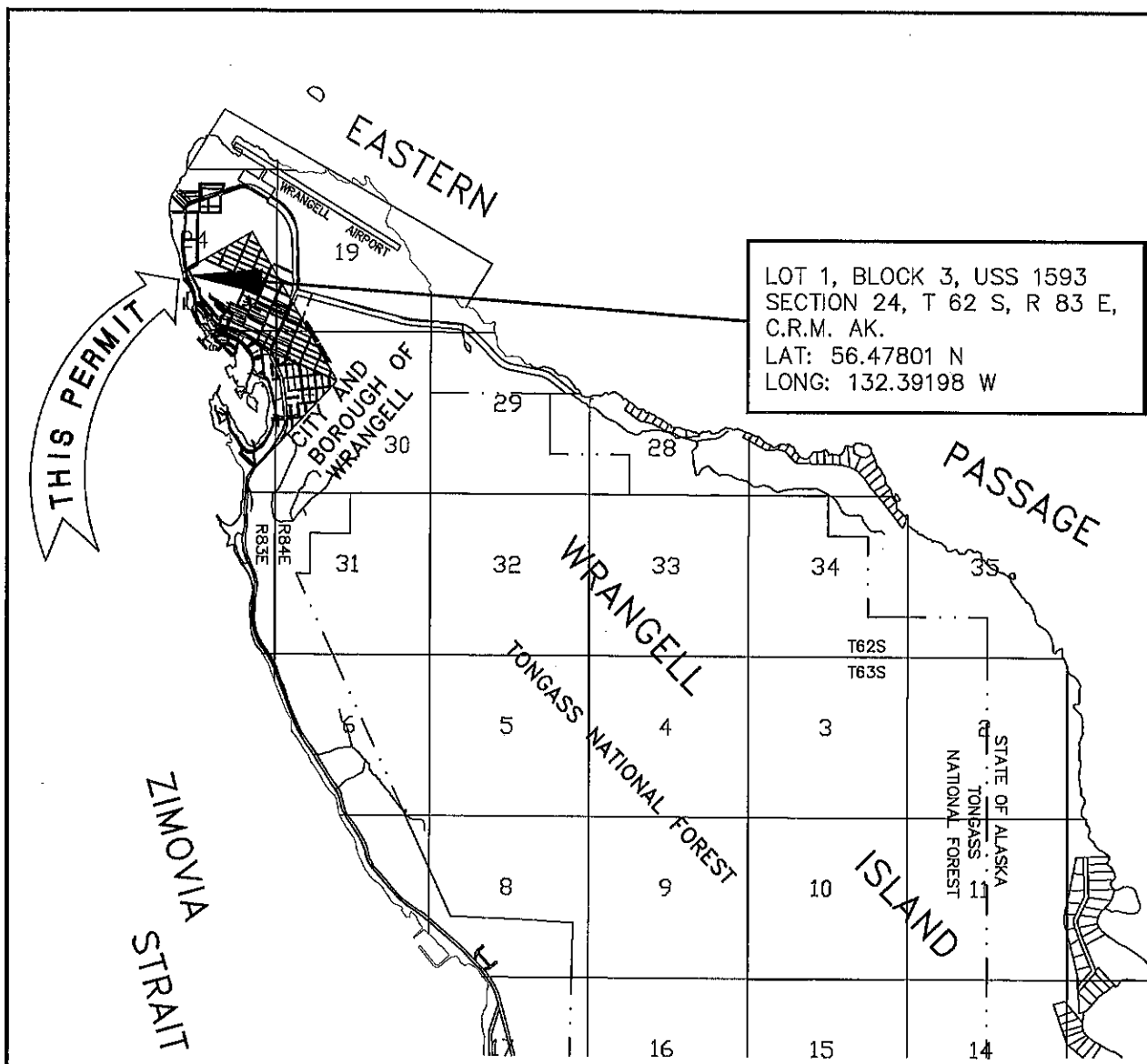
NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. 2014-029, Zimovia Strait serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.



ZONING

SINGLE FAMILY RESIDENTIAL (SFR)

PURPOSE

TO CONSTRUCT A SINGLE FAMILY HOMESITE BUILDING PAD

SURFACE AREA AFFECTED

BUILDING PAD - TOTAL AREA AFFECTED - 8,083 S.F.
BUILDING PAD - JURISDICTIONAL TIDELANDS - M.H.W. (14.7') TO E.H.W. (20.0')- 3,922 S.F.
BUILDING PAD - NON-WETLANDS - E.H.W. (20.0') TO TOP OF FINISH GRADE AT 31.5' (FG) - 4,161 S.F.

TOTAL RIP-RAP AND SHOT ROCK FILL TO BE PLACED - 1,741 C.Y.S

TOTAL RIP-RAP - 476 C.Y.S (319 L.F.)
RIP-RAP PLACED UPON JURISDICTIONAL TIDELANDS - 428 C.Y.S
(PLACED BELOW THE HIGH TIDE LINE (H.T.L.)
TOTAL CLEAN SHOT ROCK - 1,265 C.Y.S
CLEAN SHOT ROCK PLACED UPON JURISDICTIONAL TIDELANDS - 366 C.Y.S
(PLACED BELOW THE HIGH TIDE LINE (H.T.L.)

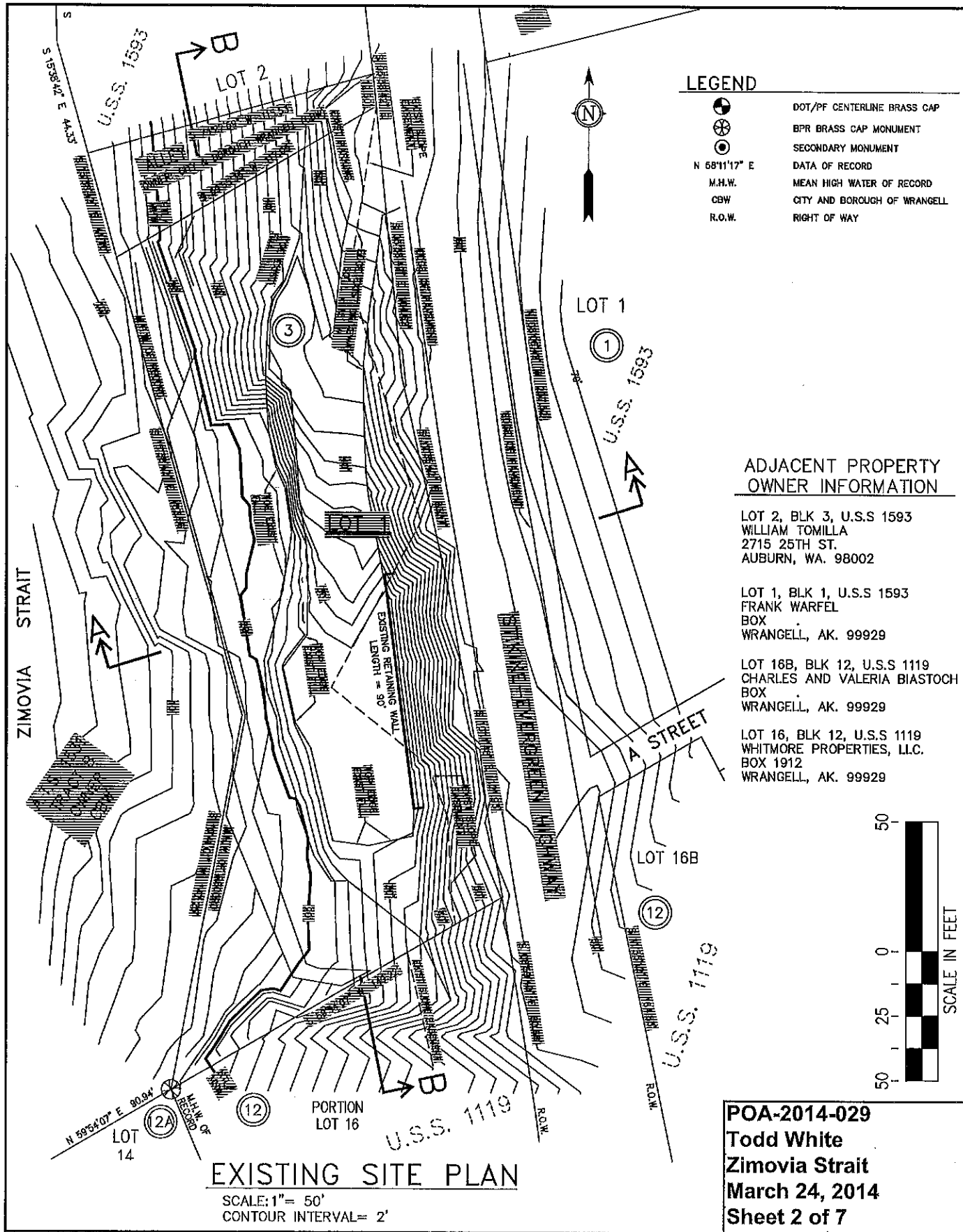
VICINITY MAP

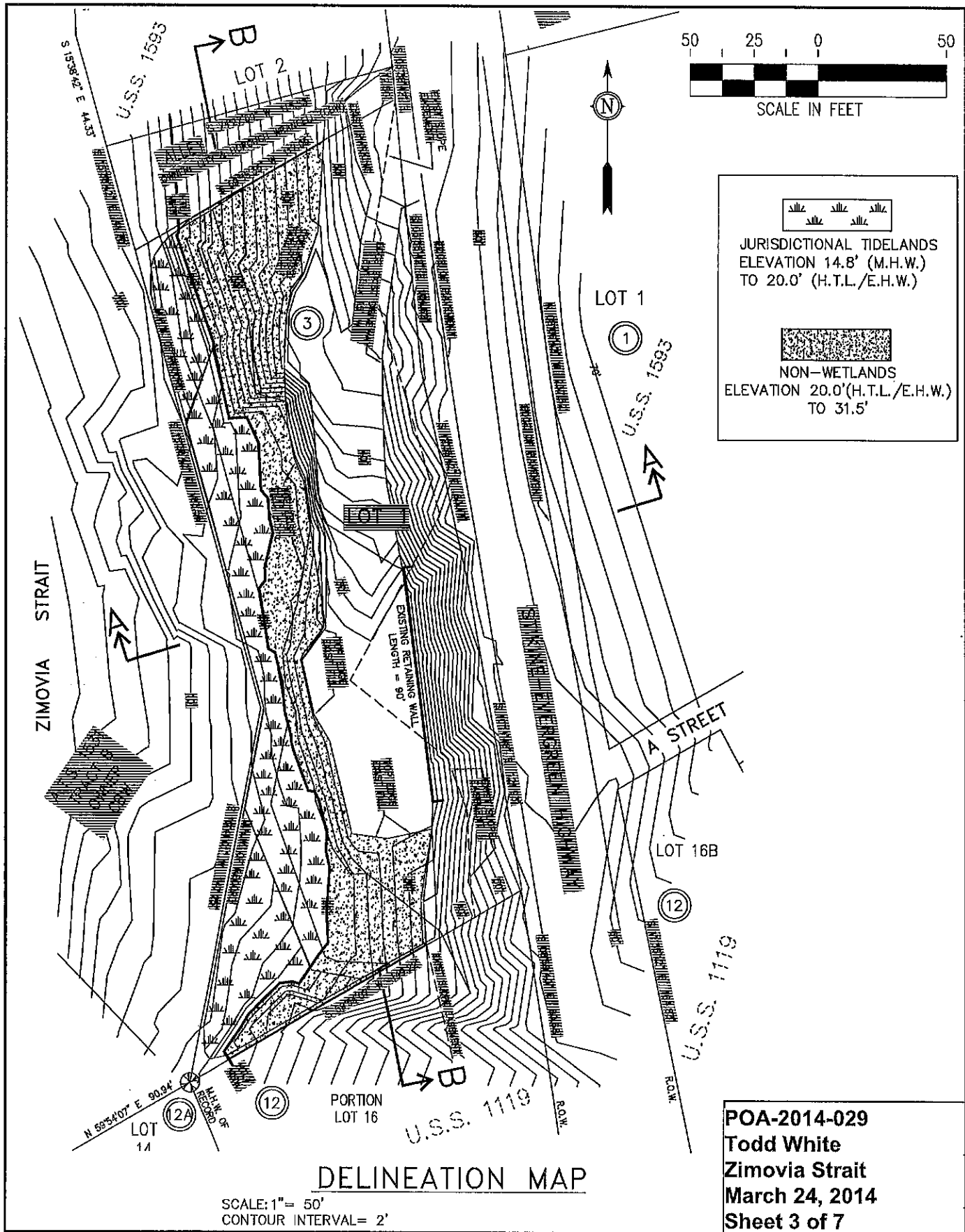
SCALE: 1"=1 MILE

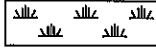
TIDAL DATA


H.T.L.	= 20.0'
M.H.H.W.	= 15.7'
M.H.W.	= 14.8'
M.W.	= 8.2'
M.L.L.W.	= 0.0'
E.L.W.	= -4.5'
SOURCE: NOAA NAUTICAL CHART #17382 1981 REVISION	

POA-2014-029
Todd White
Zimovia Strait
March 24, 2014
Sheet 1 of 7





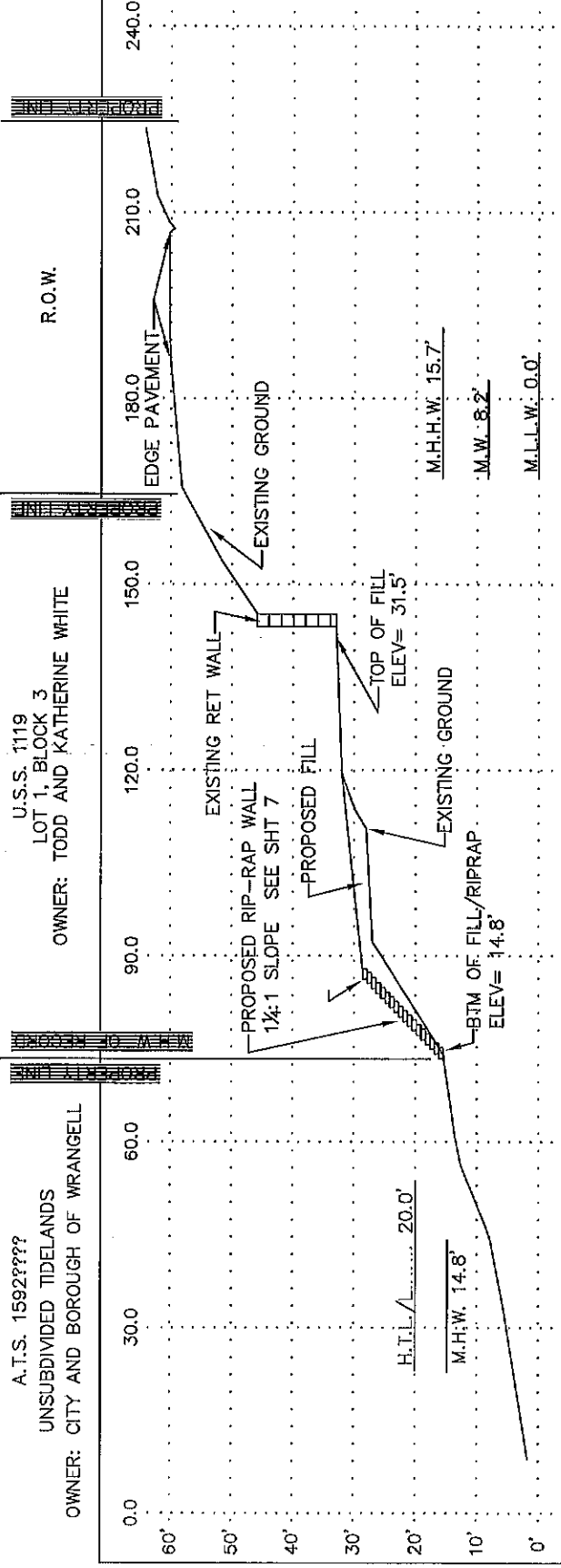

 JURISDICTIONAL TIDELANDS
 ELEVATION 14.8' (M.H.W.)
 TO 20.0' (H.T.L./E.H.W.)


 NON-WETLANDS
 ELEVATION 20.0' (H.T.L./E.H.W.)
 TO 31.5'

POA-2014-029
Todd White
Zimovia Strait
March 24, 2014
Sheet 3 of 7

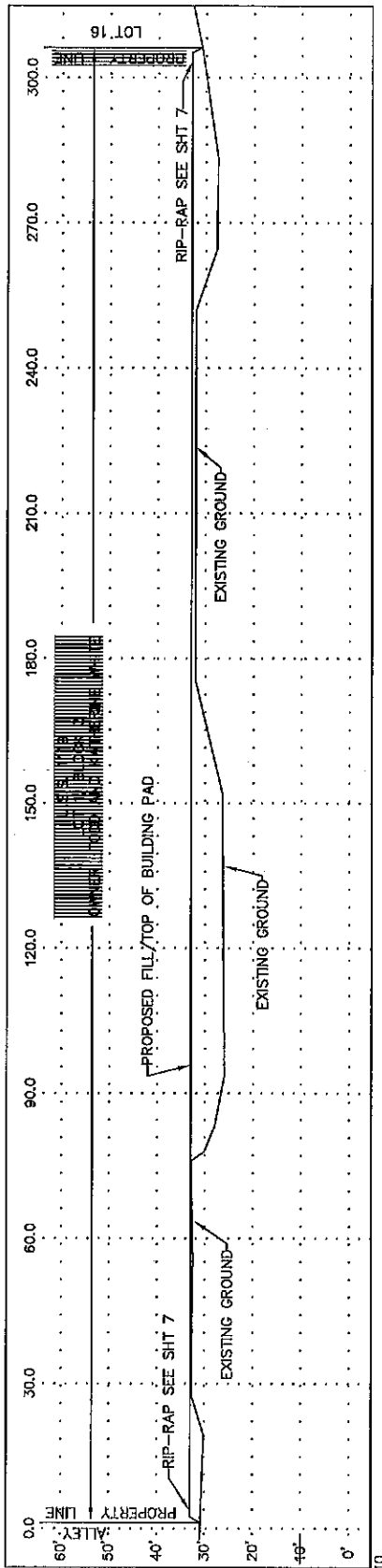
DELINEATION MAP

SCALE: 1" = 50'
 CONTOUR INTERVAL = 2'



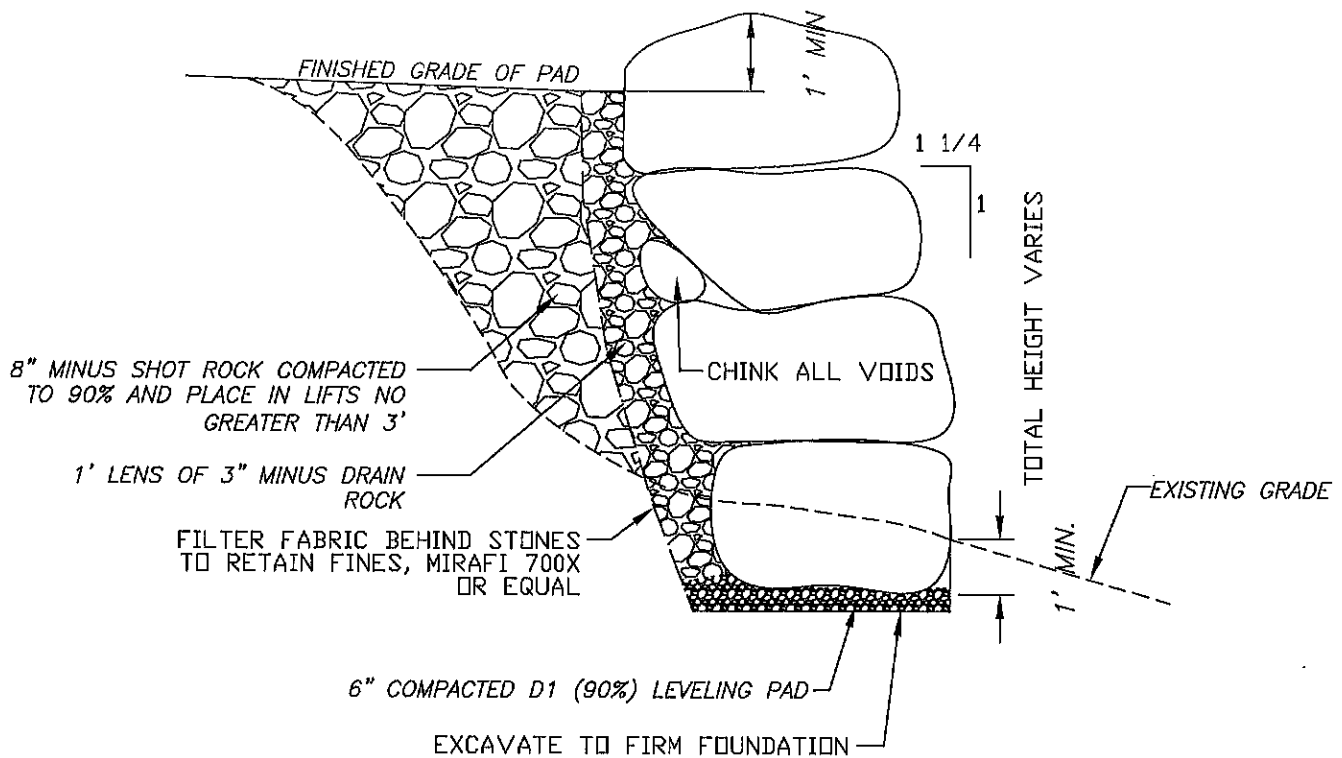
SECTION A-A
BUILDING PAD PROFILE
 NOT TO SCALE

POA-2014-029
Todd White
Zimovia Strait
March 24, 2014
Sheet 5 of 7



SECTION B-B
BUILDING PAD PROFILE
 NOT TO SCALE

POA-2014-029
 Todd White
 Zimovia Strait
 March 24, 2014
 Sheet 6 of 7



ROCKERY RETAINING WALL DETAIL NOTES:

- 1) THE LONG DIMENSION OF THE ROCKS SHALL EXTEND INTO THE EMBANKMENT TO PROVIDE MAXIMUM STABILITY.
- 2) THE ROCK SHALL BE PLACED SO AS TO LOCK INTO TWO ROCKS
- 3) CONSTRUCT ROCKERY OF 5 MAN TO 2 MAN ROCKS WITH DECREASING SIZE FROM BOTTOM TO TOP.

2 MAN ROCKS	300 LBS MIN, 800 LBS MAX, SIZE 13" TO 18"
2 MAN ROCK LOCATION	- TOP 3 FEET
3 MAN ROCKS	800 LBS MIN, 1500 LBS MAX, SIZE 18" TO 24"
3 MAN ROCK LOCATION	- 2 TO 6 FEET FROM TOP
4 MAN ROCKS	1500 LBS MIN, 2100 LBS MAX, SIZE 24" TO 32"
4 MAN ROCK LOCATION	- 4 TO 8 FEET FROM TOP
5 MAN ROCKS	2100 LBS MIN, 3000 LBS MAX, SIZE 30" TO 38"
5 MAN ROCK LOCATION	- BOTTOM TO 8 FEET BELOW TOP

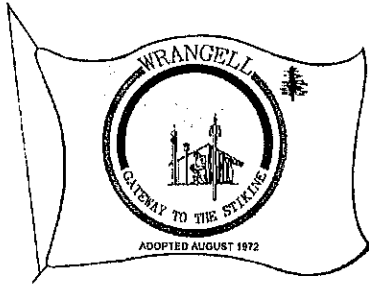
TYPICAL STACKED RIP-RAP RETAINING WALL DETAIL

NOT TO SCALE

POA-2014-029
 Todd White
 Zimovia Strait
 March 24, 2014
 Sheet 7 of 7

CITY AND BOROUGH OF WRANGELL

INCORPORATED MAY 30, 2008



P.O. BOX 531 (907)-874-2381
Wrangell, AK 99929 FAX (907)-874-3952
www.wrangell.com

April 17, 2014

Jacquie DeMontigny
P.O. Box 691
Wrangell, AK 99929

Dear Jacquie,

Last year I spoke with you several times regarding your wandering chicken(s) and complaints from a neighbor regarding the destruction of their garden and yard by your chicken. Once again, a complaint has come in that you are not keeping your chickens within your yard and they are destroying neighbor gardens.

Any use undertaken by a landowner should minimize impacts to adjacent neighbors. While you do not have the number of fowl to be formerly classified as an "animal establishment", one of the requirements for such a classification is that animal establishments shall not cause damage to persons or property by destruction of surface vegetation and soils; or by straying animals.

As I mentioned last year, continued complaints regarding your chickens and damage they are doing, if not resolved between the land owners, warrants a review of the ordinance by the Commission to determine if there should be a modification to the ordinance to prevent similar future problems. At this time, the ordinance review will be on the next Planning and Zoning Commission agenda for May 8.

Please try to contain your chicken within your yard. If you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script that reads 'Carol Rushmore'.

Carol Rushmore
Economic Development Director

Cc: Planning and Zoning Commission
Complainant

City of Wrangell, Alaska

Agenda Items G1

Date: May 5, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Variance permit request for a variance to the front yard setback requirements and a three foot variance to the height requirement on Lot 7B, McCay Subdivision, zoned Single Family Residential, requested by James Brenner, owned by Bert and Tammy McCay.

Background:

Applicant is seeking to construct a residence and is asking for a 10 foot front yard setback reduction and a 2 foot variance to the 25 foot height restriction.

Criteria:

The proposal must comply with the following sections:

Chapter 20.16: Single Family Residential District

Chapter 20.52: Lot Standards

Chapter 20.72: Variances

Findings:

Mr. Brenner will be constructing a two-story house on property owned by his parents-in-law, Bert and Tammy McCay. The lot is 9000 square feet. Because the lot sloped, the property was previously filled to create a building pad. The top of the pad does not cover the entire lot due to slope requirements for the fill. Part of the fill pad is higher than the roadway, as the Zimovia Avenue slopes upward toward the lot. The southern edge of the fill is at road height.

The applicant is requesting a 10 foot front yard setback for a portion of the front of the house. While initially the applicant indicated only a 26' portion of the 63' long roof line would be at 27 feet above fill grade, needing a two foot height variance, he has since indicated the entire roofline would be at 27 feet in order to meet Alaska Housing Finance Corporation requirements for roofing insulation.

A non-conforming yard setback may be granted only if the three conditions outlined in WMC 20.52.110(A)(1 – 3) are met:

20.52.110(A)(1) allows the Commission to approve a nonconforming setback where the proposed structure will not negatively impact adjacent property, existing or future views, road expansion, or the passage of sunlight to adjacent property.

20.52.110(A)(2) assures that the structure will meet applicable fire regulations. The construction method and materials will be reviewed during the Building Permit application stage by the Public Works Director.

20.52.110(A)(3) allows the Commission to approve a nonconforming setback if there are unique design features to warrant the setback request. Due to the sloped nature of the lot, fill was

placed to create a flat buildable surface. Due to fill slope requirements for stabilization, the entire lot is not buildable, therefore the applicant cannot push the structure to the back of the lot. To push it further back on the fill pad would place the house at the top of the fill slope. The applicant's plans meet the side setbacks.

According to 20.52.110(B), Staff has reviewed the application per the three categories above and have determined that the structure as requested will not negatively impact road construction or sunlight to adjacent properties. Morning light may be impacted to Mr. White's property, but the same property should still receive afternoon and evening light. Properties across Zimovia Avenue (40 foot wide street) should not have sunlight effected, except perhaps late evening once the sun drops low on the horizon.

Regarding negative impact of views, the properties across Zimovia Avenue will have their view impacted by the structure. They have enjoyed obstruction free views because of the lack of development on this lot as well as the adjacent lot owned by the Early's, but any construction on those lots will impact the view of Ms. Allen, Mr. Murray, and the Roppels. The question is whether the additional requested two feet in height will significantly impact their views and could the foundation or roof pitch be altered to meet the required height restriction. Staff has had some conversation with the applicant, but the Commission needs to explore in more detail modifications to any construction plans to potentially eliminate or reduce the height encroachment.

A Variance application must meet four criteria.

1. Exceptional Physical Circumstances: The original lot itself did have physical circumstances to warrant a variance. The lot was originally sloped, but the property was filled in order to create a level building construction pad. The fill has created physical circumstances in that the entire lot can no longer be built on, due to the fill slope requirements.
2. Strict application would result in practical difficulties or unnecessary hardships: Strict application to setbacks would require the applicant minimize the add-on living space and require a modification to design, but the front of the house could meet the setback. According to the applicant, to try and meet the height requirement, he has minimized crawl space and foundation footings as much as possible and says that the 5:12 pitch is the least he should go due to snow loads.
3. That the granting of the variance will not result in prejudice to others, or be detrimental to public health, safety or welfare: The granting of the variance will not prejudice others in the area with similar setbacks. The variance will not create a safety issue or be detrimental to public health.
4. Granting of the variance is not contrary to the comp plan for single family residential development.

Staff recommends approval of the variance request for a 10 foot setback (10 foot setback reduction) for the front yard property line and a two foot variance to the 25 foot height restriction, permitting a 27 foot high structure from grade.

APPLICATION FOR VARIANCE

CITY OF WRANGELL
PLANNING AND ZONING
P.O. BOX 531
WRANGELL, AK 99929
Application Fee \$50.00

I. The undersigned hereby applies to the City of Wrangell for a variance.

II. Description: (use additional paper if necessary)

Legal description of the area requested for the variance 519 ZIMOVIA AVE.

Lot (s) size of the petition area 9000 FT²

Existing zoning of the petition area SINGLE FAMILY RESIDENTIAL

Current zoning requirements that cannot be met (setbacks, height, etc.):

SETBACK (FRONT), HEIGHT

Proposed change that requires this variance NEW CONSTRUCTION

RESIDENTIAL

III. Application information: (use additional paper if necessary)

Explain details of the proposed development HOMEOWNER OCCUPIED

PRIMARY RESIDENCE

A variance may be granted only if all four of the following conditions exist:

That there are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which do not apply generally to the other properties in the same zone.

That the strict application of the provisions of this ordinance would result in practical difficulties or unnecessary hardships.

That the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare.

That the granting of the variance will not be contrary to the objectives of the Comprehensive Plan.

Explain how your application meets these conditions: EXPLANATION

ON BACK

Note: A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a zone in which that use is prohibited.

A schematic site plat must be attached showing the type and location of all Proposed uses on the site, and all vehicular and pedestrian circulation patterns relevant to those uses.

I hereby affirm that the above information is true and correct to the best of my knowledge. I also affirm that I am the true and legal property owner or the authorized agent thereof for the property subject herein.

JAMES BRENNER

PRINT PETITIONER'S NAME

[Signature]
SIGNATURE (S) OF THE OWNER (S) OF THE LAND IN PETITION AREA

Box 78 Wrangell, AK 99929
ADDRESS

4/15/14
DATE

425-351-3771
TELEPHONE

I AM REQUESTING A VARIANCE ON
SET BACK IN FRONT BECAUSE THE
HOUSE CAN NOT BE PUSHED BACK ANY
FARTHER DUE TO THE FILL IN BACK.
I WOULD QUESTION THE INTEGRITY IF IT
WERE ANY CLOSER TO THE EDGE.
I WOULD LIKE THE SETBACK TO FRONT
TO BE REDUCED TO 10'.

I AM REQUESTING A VARIANCE ON HEIGHT
BECAUSE THE DESIGN OF HOUSE MAY EXCEED
BY 2'. I DON'T FEEL COMFORTABLE REDUCING
THE ROOF PITCH ANY MORE THAN THE
5:12 PITCH DUE TO SNOW LOAD.

THE RIDGE LINE OF HOUSE IS
63' LONG. THE PORTION THAT WILL
EXCEED 28' HEIGHT IS ONLY 28'
OF THE TOTAL RIDGE.

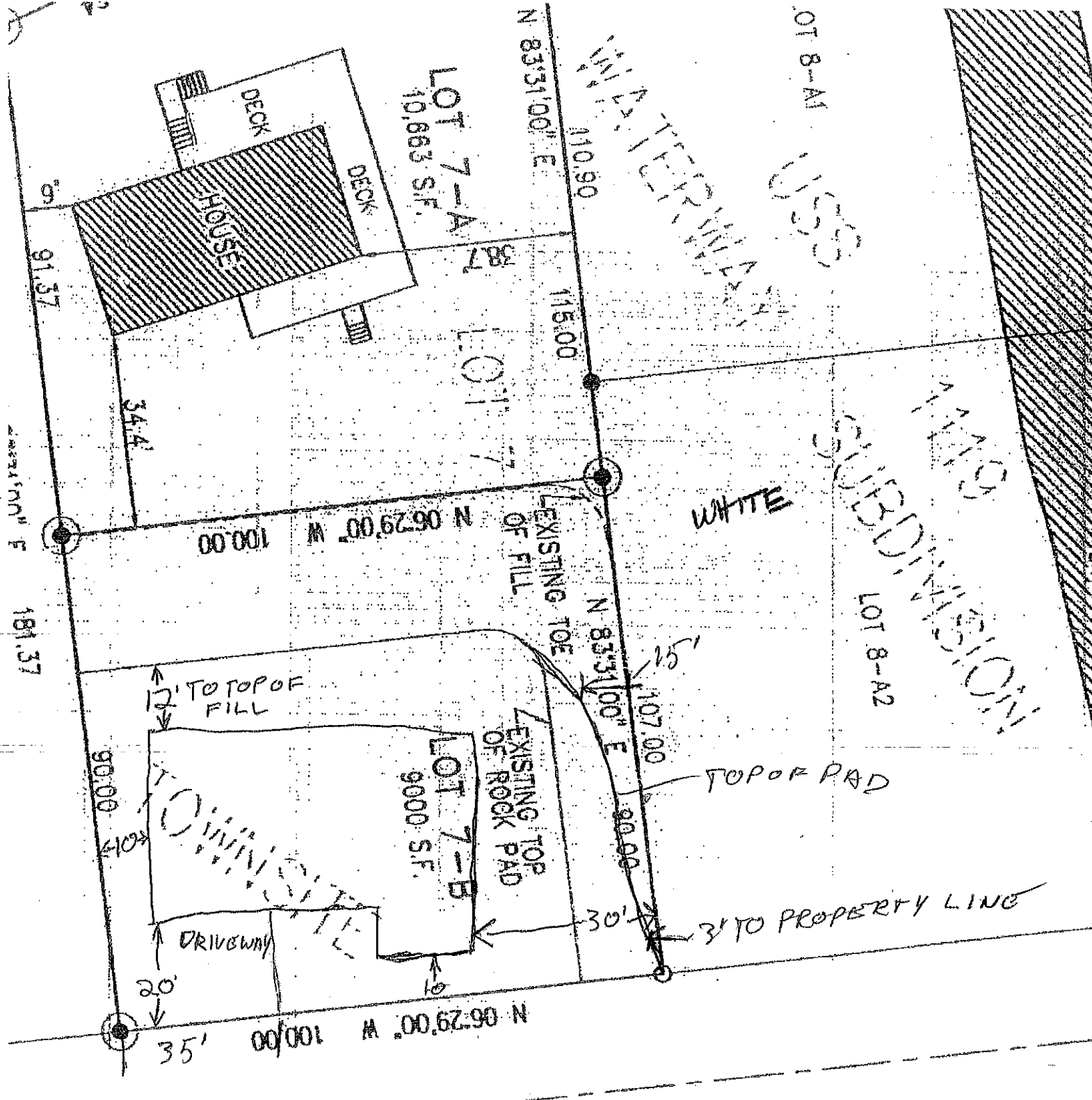
I DON'T BELIEVE THESE VARIANCES
WILL AFFECT ANY TRAFFIC PATTERNS, OR
ANY NEIGHBORING PROPERTIES. ALSO I BELIEVE
THAT THE ADDITIONAL 2' OF HEIGHT WILL
NOT OBSTRUCT ANY VIEW OF NEIGHBORING PROPERTIES
ANY MORE THAN IT WOULD OTHERWISE.

NOTE:
TO ATTC
Requires
whole roof

Call me =

425-351-3771 *

907-723-1260



ZIMOVIA AVE.

Murray

LOT 9

Allen

CITY

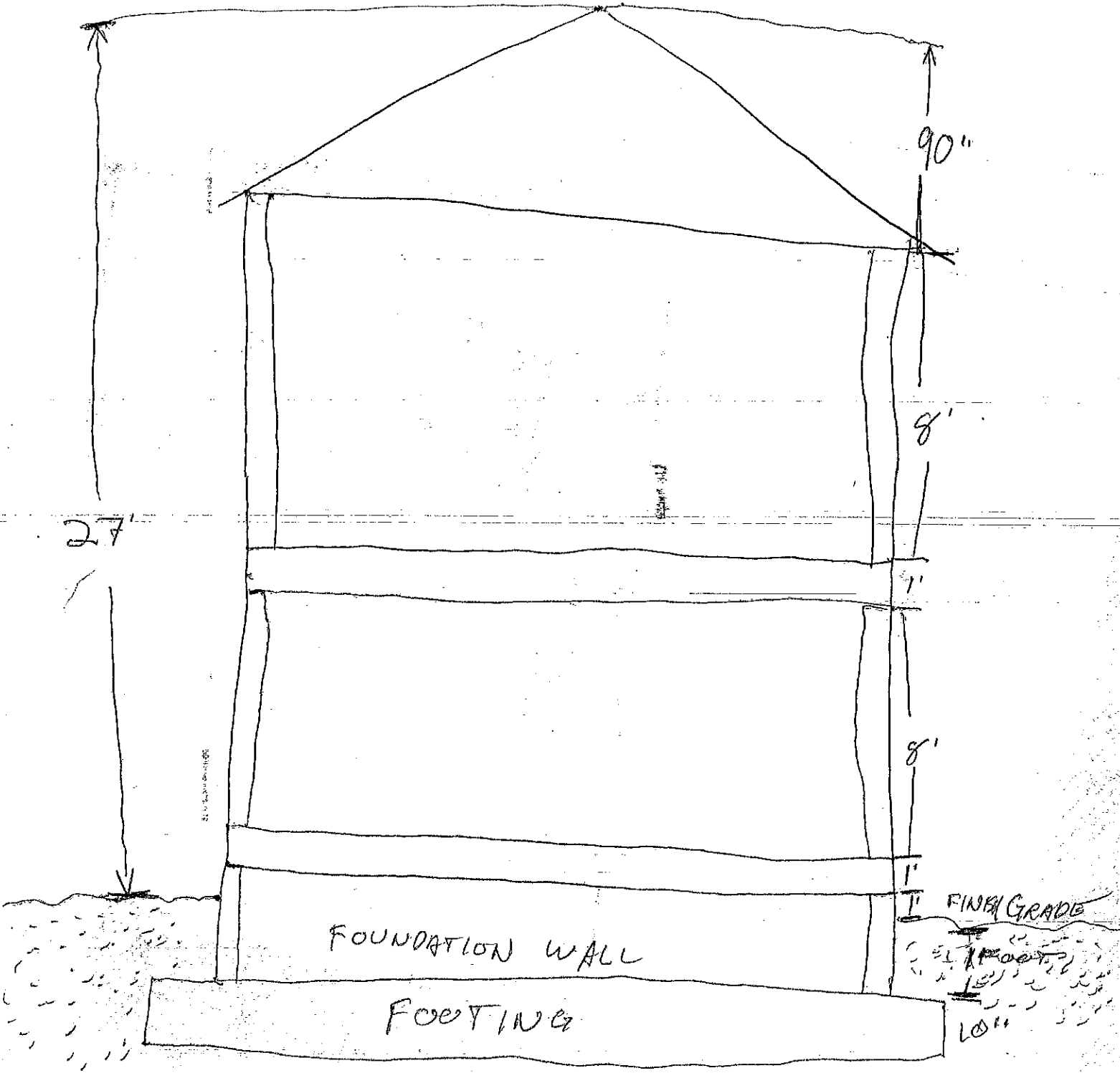
2

LOT 12

LOT 8-A1

150' DIMENSION
 LOT 8-A2

WHITE



90"

27'

8'

1"

8'

1"

FINISH GRADE

FOUNDATION WALL

FOOTING

10"

CITY AND BOROUGH OF WRANGELL, ALASKA



1 inch = 58.333333 feet

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



CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH OUR FULL CONSENT AND THROUGH ALL STREET IS, ALLEYS, WALKS, PAVERS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS SHOWN.

DATE: Oct. 20, 1997

Bert C. McCay Jr.
 (SIGNATURE) BERT C. McCay Jr.
Tammy C. McCay
 (SIGNATURE) TAMMY C. McCay
Bert C. McCay Sr.
 (SIGNATURE) BERT C. McCay Sr.

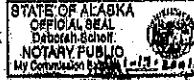
NOTARY'S ACKNOWLEDGMENT

U.S. OF AMERICA
 STATE OF ALASKA
 CITY OF WRANGELL

THIS IS TO CERTIFY THAT ON THIS 20th DAY OF October, 1997, BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED *Bert C. McCay Jr., Tammy C. McCay, Bert C. McCay Sr.* TO ME KNOWN TO BE THE IDENTICAL PERSON(S) MENTIONED AND WHO EXECUTED THE WITHIN PLAT AND *Tammy C. McCay* ACKNOWLEDGED TO ME THAT *Tammy C. McCay* SIGNED THE SAME TRULY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN SPECIFIED.

WITNESS MY HAND AND NOTARY SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST HEREON WRITTEN.

Deborah Schell
 NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA
 MY COMMISSION EXPIRES 1-17-2001



CERTIFICATE STATE OF ALASKA (FIRST JUDICIAL DISTRICT)

I THE UNDERSIGNED BEING DULY APPOINTED AND QUALIFIED, AND AN ACTING ASSESSOR FOR THE CITY OF WRANGELL, HEREBY CERTIFY THAT ACCORDING TO THE RECORDS IN MY POSSESSION, THE FOLLOWING DESCRIBED PROPERTY IS SHOWN ON THE TAX RECORDS OF THE CITY OF WRANGELL, IN THE NAME OF *Bert C. McCay Jr., Tammy C. McCay, Bert C. McCay Sr.* AND THAT ACCORDING TO THE RECORDS IN MY POSSESSION, ALL TAXES ASSESSED AGAINST SAID LANDS ARE PAID IN FULL; THAT CURRENT TAXES FOR THE YEAR 1997 WILL BE DUE ON OR BEFORE AUGUST 15, 1997, DATED THIS 20th DAY OF October, 1997.

James M. Hancock
 ASSESSOR CITY OF WRANGELL

CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY OF WRANGELL PLANNING COMMISSION AND THAT SAID PLAT HAS BEEN APPROVED BY THE COMMISSION BY PLAT RESOLUTION NO. 10-13-97 DATED 10-13-97 AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT MAGISTRATE, EX OFFICIO RECORDER, WRANGELL, ALASKA.

DATE: 10-13-97
Wallace Schuch
 CHAIRMAN, PLANNING COMMISSION
Barbara (Billie) ...
 SECRETARY

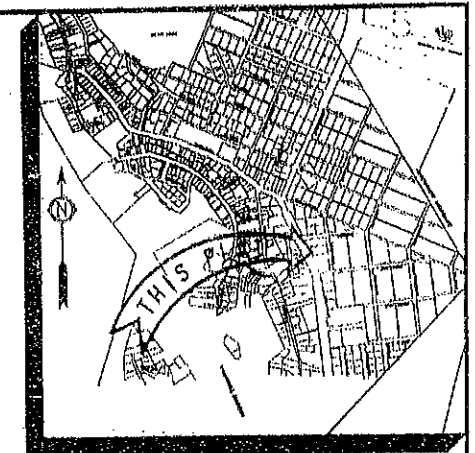
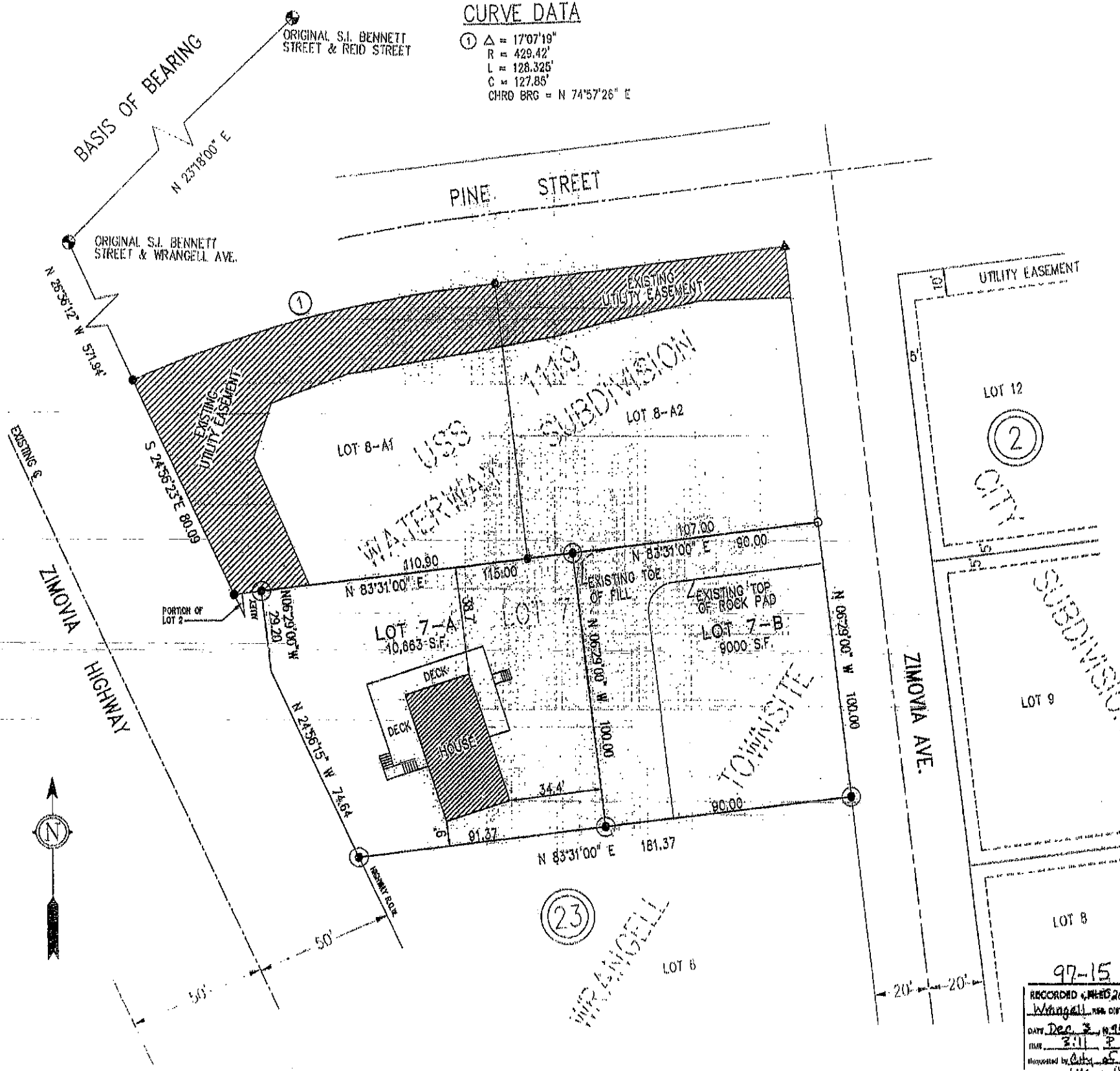
CERTIFICATE OF APPROVAL BY THE COUNCIL

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY OF WRANGELL COUNCIL AS RECORDED IN MINUTE BOOK PAGE DATED 10-13-97 AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT COURT, EX OFFICIO RECORDER, WRANGELL, ALASKA.

DATE: 10-13-97
 ATTEST:
Christine L. ...
 CITY CLERK

CURVE DATA

① Δ = 17°07'19"
 R = 429.42'
 L = 128.325'
 C = 127.85'
 CHRD BRG = N 74°57'26" E



VICINITY MAP
 SCALE 1"=1000'

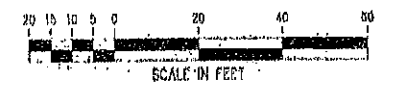
LEGEND

- PRIMARY BRASS CAP RECOVERED
- 5/8" REBAR AND ALUM. CAP SET-LS 6700 SCHEFF
- SECONDARY MONUMENT RECOVERED LS 6700 SCHEFF
- SECONDARY MONUMENT RECOVERED LS 4110 DAVIS
- ▲ PK' NAIL IN TOP OF CMP

PLAT NOTES

1. REFERENCE BOOK 18, PAGE 277, WRANGELL RECORDING DISTRICT, FOR THE DEED TO THIS PROPERTY.

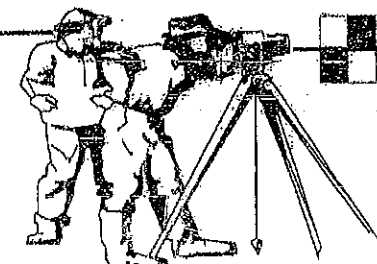
97-15
 RECORDED & FILED
 Wrangell, ALASKA
 DATE Dec 2, 1997
 TIME 3:11 P.M.
 Requested by City of Wrangell



DESIGNER: GGS
DRAWN: TJS
CHECKED: GGS
DATE OF SURVEY: 10/17/97
DATE OF PLAT: 10/17/97
SCALE: 1"=20'
DRAWN BY: GREGORY G. SCHEFF
PROJECT NO. 51396-01-00

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, EMPLOYED BY THE STATE OF ALASKA, AND THAT ON OCTOBER 1997 A SURVEY OF THE WITHIN DESCRIBED LANDS WAS CONDUCTED UNDER MY PERSONAL SUPERVISION AND THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE FIELD NOTES OF SAID SURVEY, AND THAT ALL DIMENSIONS AND OTHER INFORMATION ARE CORRECT ACCORDING TO SAID FIELD NOTES.

DATE: Oct. 20, 1997
B. R. ...
 SURVEYOR



GREG SCHEFF & ASSOCIATES
LAND SURVEYORS

BOX 1331 WRANGELL, ALASKA 99929
 PHONE (907) 874-2177
 FAX (907) 874-2187

PROJECT: McCAY SUBDIVISION
 THE SUBDIVISION OF LOT 7, BLOCK 23
 USS 1119, WRANGELL TOWNSITE,
 CREATING LOT 7A AND 7B
 WRANGELL RECORDING DISTRICT

CLIENT: BERT & TAMMY McCAY, BOX 78, WRANGELL, AK. 99929

City and Borough of Wrangell, Alaska

AGENDA G2

Date: May 2, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Conditional Use permit request for the temporary placement of mobile home on Lot 7, Block 1, USS 2127, zoned Single Family Residential, requested by Sara and Charles Gadd.

Background: Applicants are seeking to place a mobile home on their property until a permanent home is built.

Review Criteria:

Chapter 20.16: Single Family Residential
Chapter 20.52: Lot Standards:
Chapter 20.68: Conditional Use Permits

Findings:

Applicants are seeking to place a 1980 mobile home on their lot until they can build a permanent structure. The Single Family District states that use of mobile homes requires a conditional use permit (WMC 20.15.040(G))

Their lot is 7,500 square feet, approximately 50' X 150'. Utilities do not currently run to the property. The Gadd's have been in contact with both the Electrical Superintendent and the Public Works Director. Utilities have not yet be run to the property, but both departments are working with the applicants to provide service. The property is a corner lot on the corner of Grave Street and Second Ave and an unnamed alleyway.

Conditions of Approval for conditional use applications include:

1) *Minimal impacts on adjacent neighbors from noise, traffic, appearance, yards etc.* The mobile should not impact adjacent neighbors. There is a current mixture of residential structures, muskeg, and large metal storage and/or residential buildings near the property.

2) *Provisions of sewer and water:* The do not currently have connection to City sewer and water but are working with the Public Works and Electrical departments to provide services.

3) *Entrances and off-street parking available without safety issues:* Access is via Third Avenue off of Evergreen/Airport Loop then down an unnamed alley to their lot. Grave

Street is not filled all the way to their lot, nor is Second Avenue off of Evergreen. Off-street parking is available in the driveway created to the lot.

Recommendation:

Staff recommends approval of the proposed temporary mobile home subject to the following conditions:

- 1) Utilities must be installed to the property prior to inhabiting the mobile home.
- 2) Building permit will be required and the mobile home must be set upon a permanent footing and be skirted (WMC 20.52.180(D)).
- 3) The mobile home location on the lot must meet the required setbacks of 20 foot from all property lines.
- 4) The mobile home will be removed once a permanent structure is constructed.



1 inch = 125 feet

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



CITY OF WRANGELL, ALASKA
CONDITIONAL USE APPLICATION

PLANNING AND ZONING COMMISSION
P.O. BOX 531
WRANGELL, ALASKA 99929
Application Fee: \$50

I. Applicant's Name and Address: Sara & Charles Gadd

Applicant's Phone Number: 907 305 0299 or 907 305 0652

II. Owners's Name and Address: Sara & Charles Gadd

Owner's Phone Number: 907 305 0299 or 907 305 0652

III. Legal Description: Lot 7, Block 1, U.S. Survey 2127

Parcel No. _____

IV. Zoning Classification: _____

V. Specific Request: Temporary placement of
55' x 14' ~~20'~~ 1980 Kentwood homes
mobile home on our property until
our permanent home is built.

VI. Site Plan shall be submitted with the application. The plan shall show existing and proposed structures, driveways, roadways, existing and proposed grading. Additional information shall be furnished upon request of the Zoning Administrator.

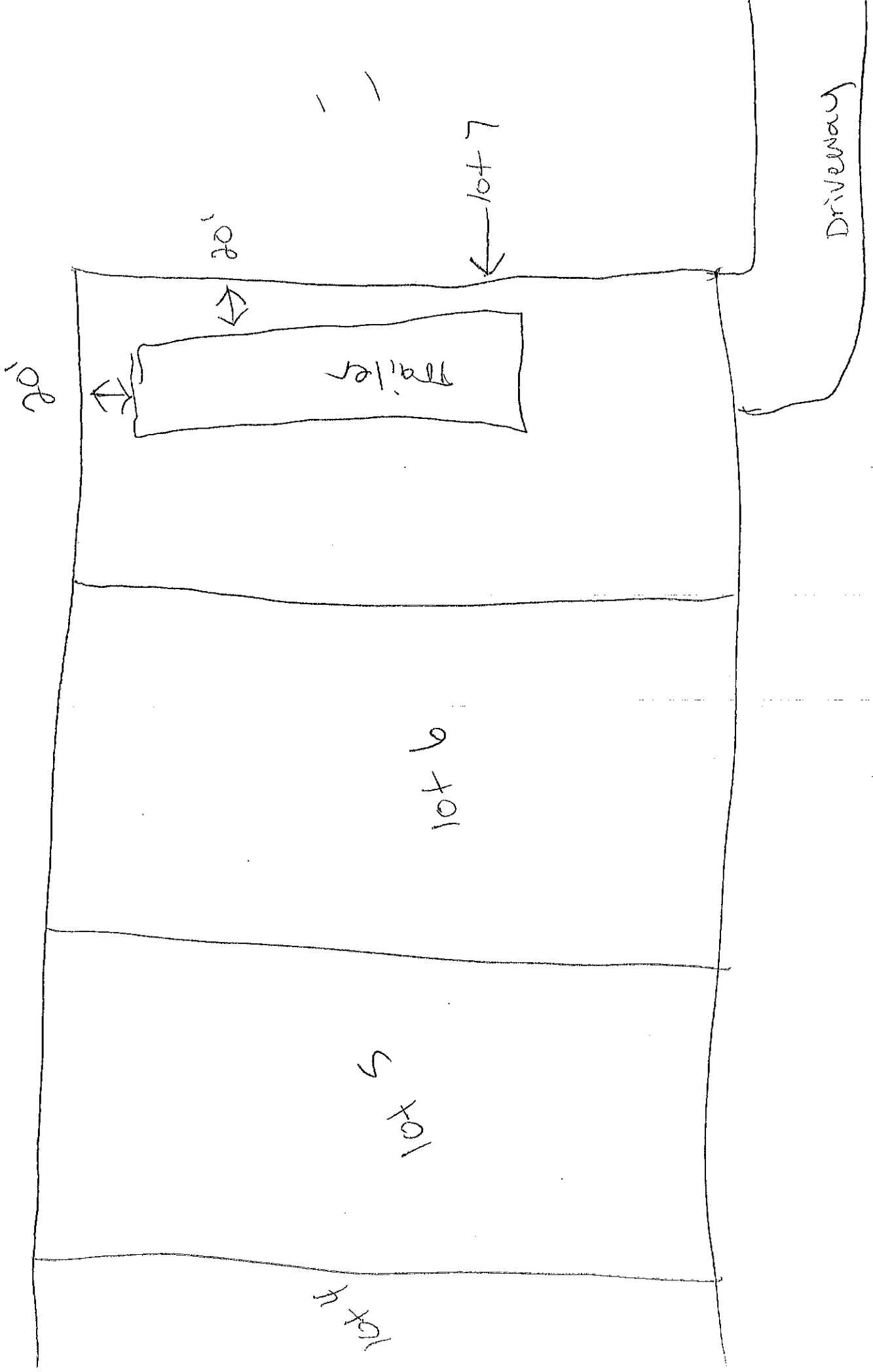
VII. Construction Schedule: BEGIN: _____ END: _____

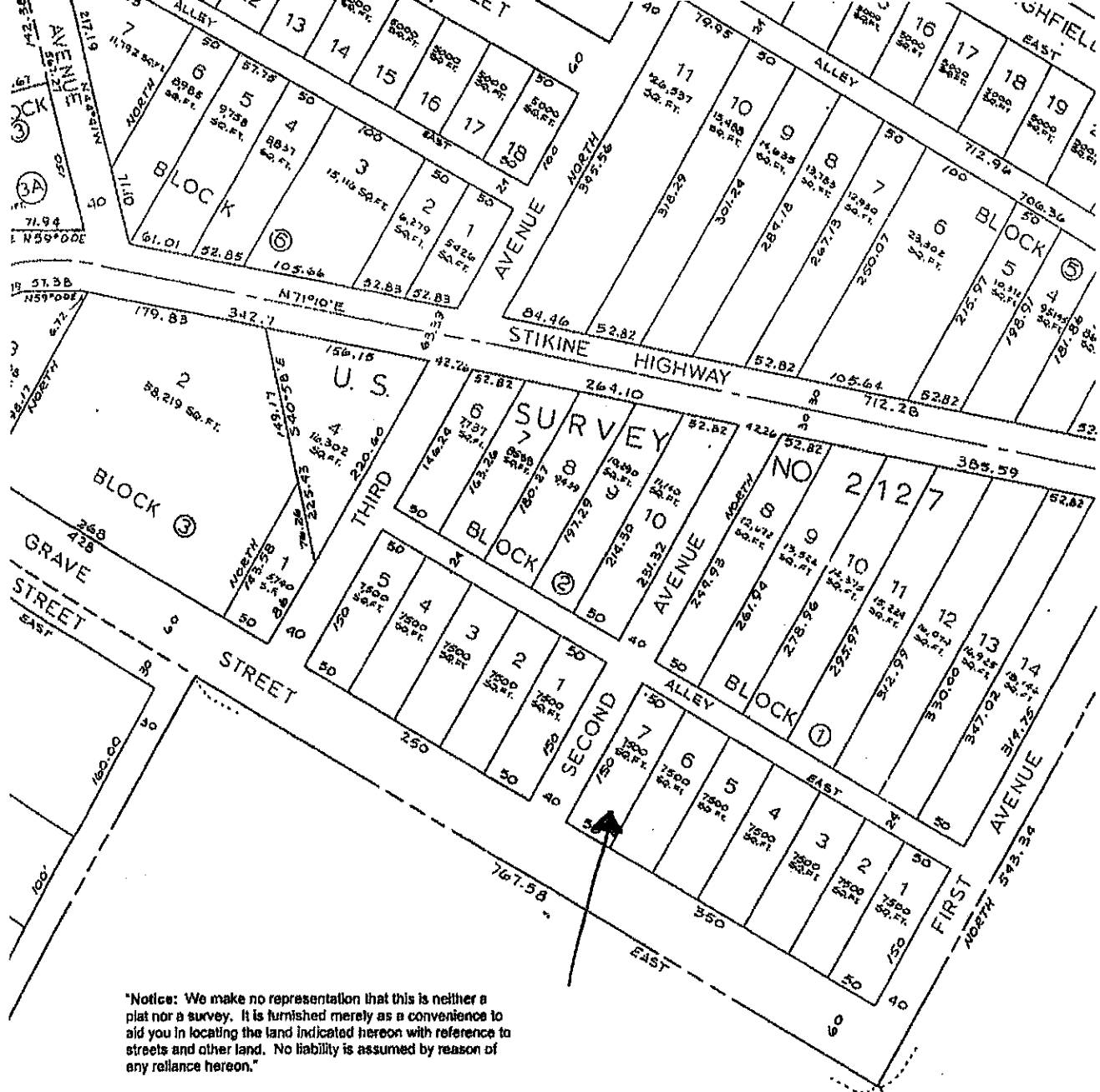
SIGNATURE OF OWNER: [Signature] DATE: 4-23-14

SIGNATURE OF APPLICANT: [Signature] DATE: 4-23-14

If more than one owner or if more than one parcel is involved, attach all signatures on a separate piece of paper identifying which parcels are owned by which persons.

Written authorization of the property owner must be submitted with this application if the applicant is other than the owner.





"Notice: We make no representation that this is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon."

U.S. SURVEY NO. 3753

572.28 ACRES

City of Wrangell, Alaska

AGENDA ITEM G3

Date: May 2, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Request from Sea Level Seafoods to lease additional tidelands, an unsubdivided portion of ATS 81 adjoining Tract B, ATS 1114, and modify tidelands lease.

Sea Level Seafoods is proposing to construct an additional building at their processing plant. Vern Phillips had discussed with the City several years ago during the construction of the harbor parking lot about needing the additional land and is now formally requesting to lease the additional land. The requested property is the filled uplands between his existing property line of Tract B and the edge of pavement of the harbor parking lot.

The Planning and Zoning Commission is making a recommendation to the Assembly. The Port Commission moved forward a recommend to lease to Sea Level the additional land at their meeting on May 1, 2014.

~~A subdivision plat of the lease area and an appraisal establishing the lease price will need to be conducted.~~

Staff recommends the Commission approve the request and recommend to the Assembly to move forward with the necessary steps to lease the tidelands to Sea Level Seafoods and modify the tideland lease agreement.

Wrangell Port Commission

MEMO

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

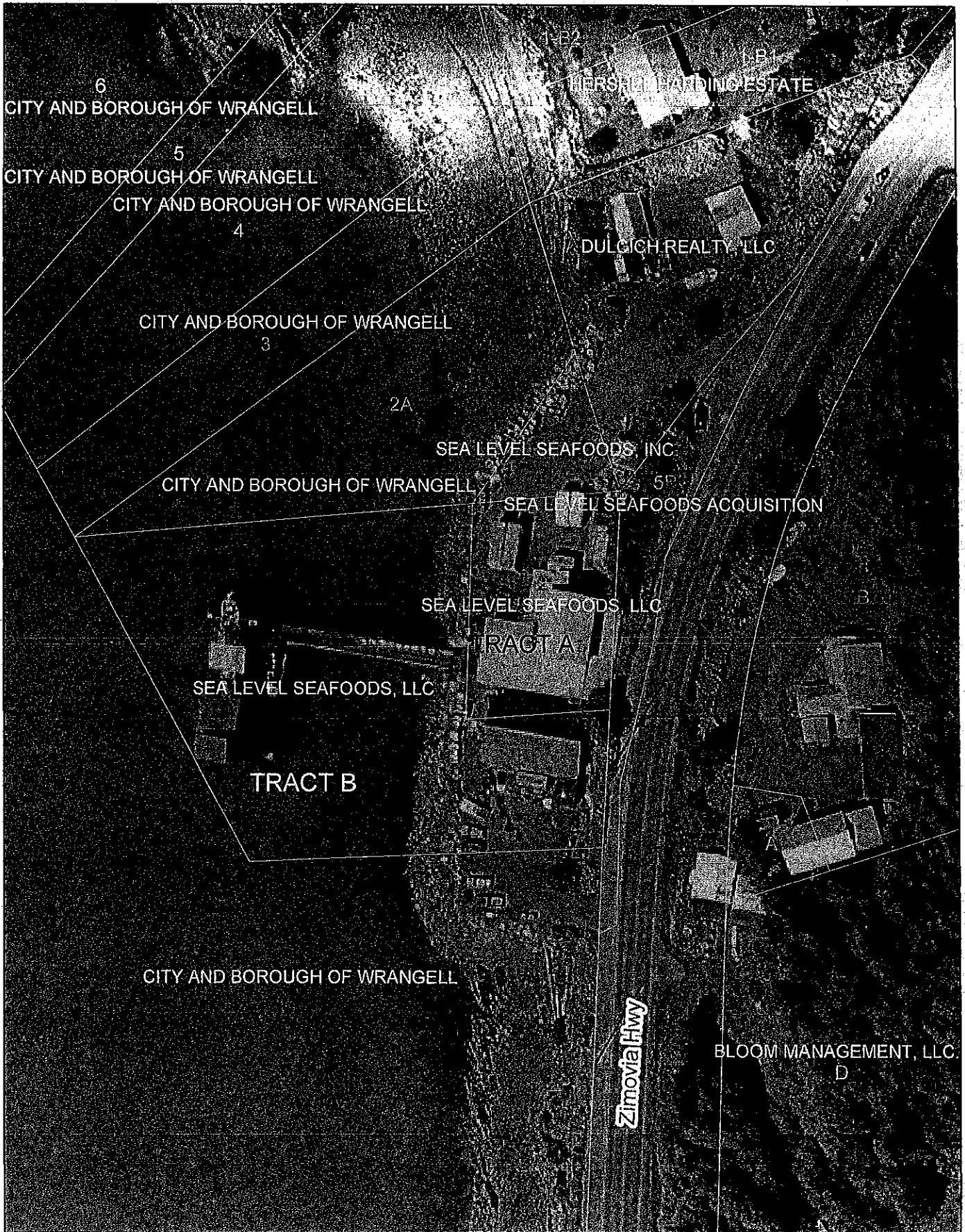
FROM: SHERRI COWAN, PORT RECORDING SECRETARY

SUBJECT: Request for Modification to Tidelands Lease, (legal) as requested by Vern Phillips, Sea Level Seafoods, LLC

DATE: May 2, 2014

At their May 1, 2014 Regular Meeting, the Port Commission approved the request from Vern Phillip's, Sea Level Seafoods, LLC. To modify his lease extend the existing Tideland's Lease to include a portion of ATS 81, adjoining Tract B, which is approximately 1450 square feet.

CITY AND BOROUGH OF WRANGELL, ALASKA



1 Inch = 83.333333 feet

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



MEMORANDUM

TO: Planning & Zoning Commission / Port Commission

FROM: Kim Lane, CMC
Borough Clerk

SUBJECT: Request for Modification to Tidelands Lease, (legal) as requested by Vern Phillips, Sea Level Seafoods, LLC

DATE: April 25, 2014

Background:

2/24/2003 Sea Level Seafoods, LLC entered into a Tidelands Lease Agreement with the City of Wrangell for Tract "B" ATS 114, located within protracted Section 25, Township 62 South, Range 83 East, Copper River Meridian, containing 1.564 acres, more or less.

4/25/2014 Sea Level Seafoods, LLC has requested a modification to extend the existing Tidelands Lease to include a portion of ATS 81, adjoining Tract B, which is approximately 1450 square feet.

~~Please submit your comments and/or recommendations regarding this request to modify the above mentioned City Tidelands Lease to me on or before May 7, 2014. I will then place this on the Agenda for Assembly consideration for the May 13, 2014 meeting.~~

Attached:

1. Request Letter
2. Plat Map showing the area
3. Extension of term for Tidelands Lease from 2002

Sea Level Seafoods, LLC



SHRIMP • SALMON • CRAB • HALIBUT • BOTTOMFISH
FRESH • FROZEN • LIVE



P.O. BOX 2085
WRANGELL, ALASKA 99929

(907) 874-2401, 874-2274, 874-3530
FACSIMILE (907) 874-2158, 874-3526

April 25, 2014

City of Wrangell

PO Box 531

Wrangell, Alaska 99929

Attention: Kim Lane, Borough Clerk

CITY CLERK
APR 25 2014
RECEIVED

Sea Level Seafoods LLC would like to request a lease of a portion of ATS 81 adjoining Tract B. This is located on the south side of Tract B and contains approximately 1450 square feet (exact square footage to be determined by survey). We currently lease Tract B and would like this additional portion to run concurrent with the Tract B lease. Your consideration of this request is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Vern Phillips".

Vern Phillips

General Manager



CC

EXTENSION OF CITY OF WRANGELL TIDELAND LEASES

Extension of term for those certain tideland leases created by the PARTIAL ASSIGNMENT OF LEASE AGREEMENTS, approved March 13, 1968 and serialized as ADL 100835 - Tract A, and ADL 105131 - Tract B for the following described properties:

- (1) Tract "A", Alaska Tideland Survey No. 1114, located within protracted Section 25, Township 62 South, Range 32 East, Copper River Meridian, containing 0.376 acres, more or less.
- (2) Tract "B", Alaska Tideland Survey No. 1114, located within protracted Section 25, Township 62 South, Range 83 East, Copper River Meridian, containing 1.564 acres, more or less.

~~Located in the Wrangell Recording District, First Judicial District, State of Alaska.~~

(Tract A) The above referenced tideland lease was amended March 9, 1987 reducing the term to twenty years ending March 12, 2006, by amendment to partial assignment of tideland lease approved by Alaska Division of Lands on April 7, 1987

(Tract B) The above referenced tideland lease was amended October 25, 1995 reducing the term to twelve years ending March 12, 2006, by amendment to partial assignment of tideland lease approved by Alaska Division of lands November 22, 1995.

Subsequently, on January 7, 1997, title was conveyed by Patent from the State of Alaska to the City of Wrangell to the tidelands, the subject of these leases.

The Lessee, Sea Level Seafoods, Inc., applied for an extension of term for these leases, which was offically approved by the Wrangell City Council in its' meeting on Tuesday the 24th day of September, 2002. The City Council has the authority to modify a tideland lease by the extension of the lease term upon application and a showing of good cause, pursuant to City ordinance 16.08.250. Application having been made, good cause having been shown, the Council voted and approved the extension

of these leases to extend the termination dates from March 12, 2006 to March 12, 2052.

The above referenced Tideland Leases terms are amended as follows:

To have and to hold the said demised premises for a term of Fifty (50) years, commencing on the 24 day of September, 2002 and ending at 12 o'clock midnight on the 12th day of September, 2052, unless sooner terminated as provided in the leases.

All other terms and conditions of the leases remain as written.

LESSEE:
SEA LEVEL SEAFOODS, INC.

LESSOR:
CITY OF WRANGELL, ALASKA

Chris Miller, Vice President
Title

Robert Sprunt
City Manager

9-30-02
Date

9-30-02
Date



ACKNOWLEDGMENT

STATE OF ALASKA)
) SS:
FIRST JUDICIAL DISTRICT)

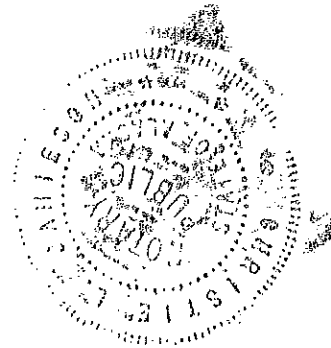
THIS IS TO CERTIFY that on this 30th day of September, 2002, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, as such, personally appeared Vern Phillips known to me and to me known to be the Vice President of Sea Level Seafoods, Inc., the corporation which executed the foregoing instrument, and he acknowledged to me that he executed the same for and on behalf of said corporation, and he acknowledged to me that he signed the same freely and voluntarily on behalf of said corporation by authority of its by-laws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year above written.

Christine Jamison

NOTARY PUBLIC FOR ALASKA

My Commission Expires: 7-2-06



ACKNOWLEDGMENT

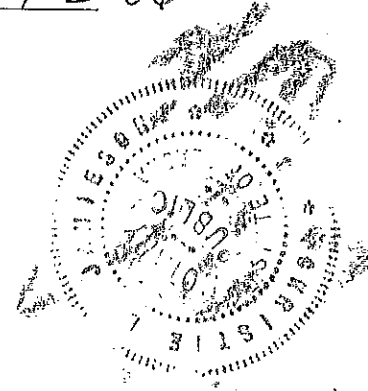
STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 30th day of September, 2002, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared ROBERT S. PRUNELLA of the City of Wrangell, a corporation organized and existing under the laws of the State of Alaska, to me known to be the City Manager, of said corporation, and acknowledged to me that he signed the foregoing instrument freely and voluntarily for and on behalf of said corporation by authority of its' City Council for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Christina Samuelsen
NOTARY PUBLIC FOR ALASKA
My Commission Expires: 7-2-06

Return to:
City of Wrangell
P. O. Box 531
Wrangell, Alaska 99929



City of Wrangell, Alaska

Agenda Items G4

Date: May 5, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Discussion regarding chickens/roosters and potential changes to the Zoning Ordinance regarding "animals".

Background:

In 2005-2006, the Planning and Zoning Commission developed zoning regulations for animals. What started out as a discussion about horses, quickly developed into trying to deal with all animals.

In the last year, we have started receiving complaints regarding animals, some about horses, where they are walking and the horse manure left behind, but mostly are about chickens and roosters.

There is a code enforcement committee that is also reviewing the code for potential changes, one of them being an update to the animal code WMC Chapter 7.

This is on the Commission's agenda because I think there is a need to review and clarify allowable uses and potentially modify the Zoning code relating to animals, but also to review and comment on the Code Enforcement committee effort as well and to make sure there are consistencies.

Attached is some of the information you need to review, I will have more for you at the meeting.

The

APRIL/MAY 2018

WESTERN PLANNER

www.westernplanner.org

**A look into the past,
present & future of
Lead, South Dakota**

**ANIMAL REGULATIONS:
*When planning becomes
most fowl***

ALSO:

**RISKY BUSINESS IN
LOCAL GOVERNMENT**

BARGAIN GIS TOOLS

The Journal for planning in the West since 1979

More than any other facet of planning—possibly even more than private property rights—regulating people's animals can raise public ire. Owners often perceive it as an attack on their family or livelihood.

WHEN PLANNING BECOMES MOST FOWL

by Jason Radtke, Pullman, Washington

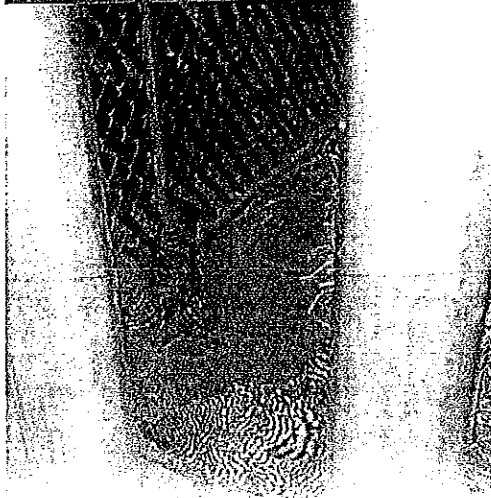
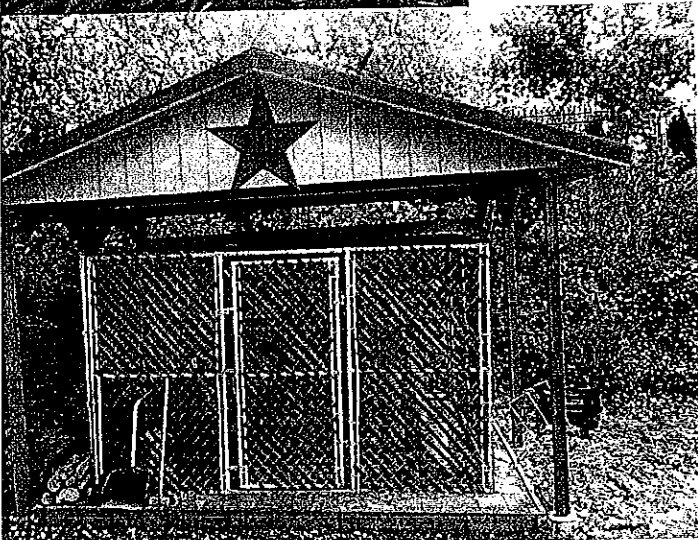
Early in my planning career, I spent a day training in code enforcement procedures. My planning director at the time took me into the field to perform a few site visits, and one of our stops was the home of Dave. (Certain details have been changed to protect individuals' identities.) Dave's particular code violation involved the keeping of a dozen dogs in his small residence (in my particular jurisdiction, a maximum of three dogs is allowed in any residential zone). Two things were immediately apparent: the

smell and the noise. Although I stood only a few feet from the director as he spoke to Dave, I could not hear their conversation.

The director told me later that he explained to Dave the regulations concerning animals. Per our protocol for cases of this type, the director also explained his options (remove the appropriate number of animals from the residence or relocate outside the city boundaries) and the consequences of non-compliance (possible Notice of

Continued on page 5.....

BACKYARD CHICKENS: Some suburban families try to maintain a connection to our society's idealized agrarian roots through hobby farms and backyard chickens. *Photos by Jason Radtke.*



Violation with associated fines and court proceedings regarding abatement of the infraction). That's where this case dipped its figurative toe into surreal waters.

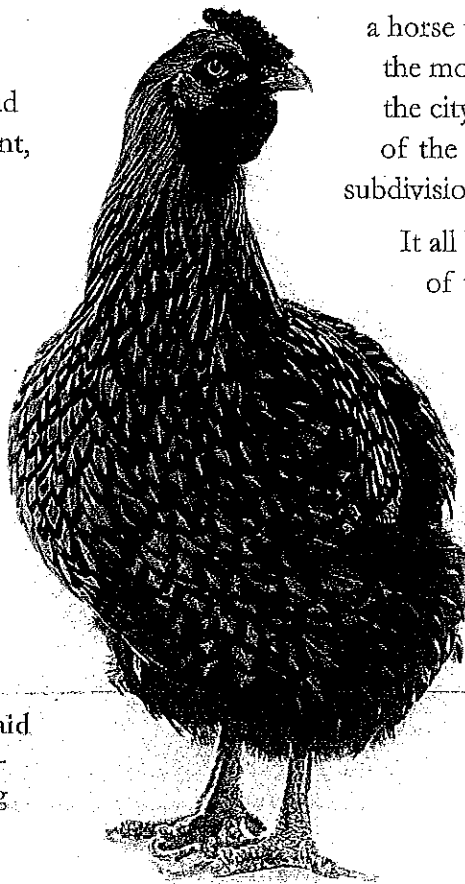
It started with an interview in the local paper. Dave's account painted the planning department in a malicious light; we were the bureaucratic monster forcing the poor retired man to murder his small, defenseless companions and live out his life morose and alone or be driven from the town he had called home for over a decade (we never said either of these things). He then stated that he would never give the dogs up to a shelter because he wouldn't want them destroyed (our local shelter is no-kill). Next came the flyers posted around the city, filled with alliterative and condemning poetry and pictures of his dogs looking sad and frightened. He plastered his car with similar signs and held a one-man march on city hall. He even sued for a preemptory injunction, attempting to utilize a criminal justice student as a lawyer—unsuccessfully, of course.

So what was the outcome of all Dave's effort? After many warnings and deadlines extended due to his beseeching and broken promises, we finally issued a Notice and took him to court. The judge levied a small fine against him and ordered abatement. The day the municipal police arrived to remove the animals, they found the residence abandoned.

Pet Peeves

We humans love our domesticated animals. They offer companionship and solace, provide comfort and amusement, even protect our homes and—in the case of livestock—are a source of nourishment, income, and sometimes transportation. If we are forced to rid ourselves of these creatures that so enrich our lives, it doesn't just upset us, it tears us apart. Cases like Dave's conjure in the public imagination the opening scene in *The Wizard of Oz*, where the nefarious Miss Gulch

EARLY MORNING WAKE-UP CALL: More planners find themselves in the middle between those who want fresh-laid eggs and neighbors annoyed when cock-a-doodle-doo shatters the early morning silence. *Photo from Thinkstock.*



uses legal authority—in the movie, a warrant from the sheriff—to take Toto from Dorothy to have him destroyed.

Indeed, we moved very carefully in our pursuit of compliance with Dave, aware of the potential public relations disaster, attempting to work with him for a mutually satisfactory resolution to this matter, until it was obvious there wouldn't be one. Adding to the difficulty associated with this case were Dave's landlords, who hoped to use his non-compliance with city code as an excuse to evict him. They pressed the city for more aggressive enforcement, and even for the city to bear the financial burden of Dave's relocation. Obviously, cases like these require a plentiful measure of delicacy and diplomacy.

As more people attempt to balance their desire for the convenience of an urban lifestyle and the simplicity of rural living, these issues become more complicated. Suburban families try to maintain a connection to our society's idealized agrarian roots through hobby farms and backyard chickens. They want to operate a kennel or rabbit-breeding business out of their homes to help make ends meet. When this happens, the neighbors usually aren't especially thrilled. So the responsible jurisdiction enacts regulations to prevent these types of situations from occurring. However, those rare individuals who romanticize the notion of riding a horse to work or eating fresh-laid eggs in the morning can become very vocal when the city intervenes to facilitate the removal of the rooster that awakens everybody in the subdivision at 5:30 in the morning.

It all boils down to that fundamental premise of why we implement zoning in the first place: the separation of incompatible uses. Just as a jurisdiction would be reluctant to allow a gravel quarry to locate next to a single-family housing project, so should any particular homeowner not have to worry about the stench and noise of their neighbor keeping swine in the backyard.

Thus, codifying the keeping of animals becomes a balancing act. When and where should people

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be allowed to have cattle, sheep, or a small pack of hounds? Are bees too dangerous to keep in a high-density residential zone? How does a planning official break the news to the local Crazy Cat Lady that she's going to have to choose three of her 34 animals to keep?

Gently but firmly, that's how—just like when I have to tell five college students that their property management company will have to relocate one or two of them, or a particular homeowner that they are going to have to move the storage building they just built within their required yard setback. Of course, people don't quite bond to their roommates or sheds the same way they do to their animals. Losing a beloved pet will most likely cause more anguish and rage than being out a few bucks of rent or construction costs. I've heard an amazing variety of excuses from noncompliant pet owners: the animal (or animals) saved their lives somehow, they're just keeping it for a friend or relative, some other department or agency said it was okay. And this problem is on the rise. I've received calls from outside jurisdictions wondering how we deal with animal problems and how successful we are.

The Truth About Cats and Dogs (and Horses and Chickens)

More and more jurisdictions are enacting legislation regarding animals. I offer the following brief summations of regulatory mechanisms in selected jurisdictions by way of example. Additionally, Table 1 on the next page indicates the existence of animal regulations in other selected municipalities within the *Western Planner* service area, as well as the types of animals so regulated.

PULLMAN, WASHINGTON

Pullman regulates not just livestock and fowl, but also household pets such as dogs, cats and rabbits.

- In residential districts, citizens are limited to three dogs or three cats (or four such animals in some combination) and four rabbits. More are allowed if your lot is 10,000 square feet or larger, with administrative permission.
- The smallest lot size for keeping fowl is 10,000 square feet and 2,000 square feet is required per bird. Coops and other housing must be 20 feet from property lines.

- For livestock, 20,000 square feet of lot area is necessary. For goats or sheep, you will need 5,000 square feet of land per animal; for larger animals, 10,000 square feet per animal. Housing for said animals has to be 40 feet from property lines; grazing areas, 20 feet.
- For fowl and livestock, administrative authorization is also required. Beekeeping is permitted; swine are not. Electric fences are also prohibited.

MOSCOW, IDAHO

In Moscow, you'll need to comply with the following for your animals:

- Twenty-five rabbits are allowed per 5,000 square feet of lot (maximum 50 animals), provided hutches are kept 40 feet from property lines.
- If you plan on selling fowl, six birds are authorized, except for turkeys, which are limited to three. With an additional 1,250 square feet of lot per animal, up to 12 fowl or six turkeys may be kept. If the birds aren't intended for sale, 25 are acceptable. The minimum lot size for keeping fowl is 5,000 square feet. A 20-foot setback is required to the coop (forty for turkeys). Roosters, peafowl, guinea fowl, ostriches and emus are prohibited.
- One horse, cow, goat or sheep is allowed on lots 10,000 square feet or larger. Beyond that, an additional 5,000 square feet per animal is required. Residents may not keep swine.
- Fences to contain fowl and livestock must be constructed so as to prevent the animals from escaping. If a lot is not of sufficient size to meet code specifications, a property owner may receive a permit if 75 percent of the property owners within 200 feet sign a statement of approval and the city council approves said statement.

MESA, ARIZONA

Mesa has this to say on the subject:

- For the first half-acre, 10 rabbits may be kept. Each additional ten require an additional half-acre. Properties over 2 ½ acres have no limit.

Continued on page 7.....

For fowl, regulations are similar to those for rabbits. The keeping of large flightless birds depends upon the size of the property, and is determined by a point system. Lots of 35,000 to 43,560 square feet grant two points; each additional 10,890 square feet grants another

point. For the Lehi sub-area, 35,000 to 43,560 square feet offers four points with additional points given for 10,890 square feet beyond that. Points may be redeemed at a rate of 0.75 points per bird.

Continued on page 8.....

TABLE 1: EXISTENCE OF VARIOUS ANIMAL REGULATIONS IN SELECTED MUNICIPALITIES

	Orem City Utah	Denver Colorado	Henderson Nevada	Rapid City SDakota	Anchorage Alaska	Albany Oregon	Grand Forks NDakota
HOUSEHOLD PETS							
Regulated?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lot Size Restriction?	Yes	No	No	No	No	No	No
Mandated Setbacks?	Yes	No	No	No	No	No	No
Conditions/Exceptions/ Restrictions?	No	No	Yes	No	No	Yes	Yes
FOWL							
Regulated?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lot Size Restriction?	Yes	Yes	No	Yes	No	Yes	No
Mandated Setbacks?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Conditions/Exceptions/ Restrictions?	No	Yes	Yes	No	No	Yes	No
SMALL LIVESTOCK							
Regulated?	Yes	Yes (Dwarf goats)	No	Yes	Yes	Yes	Yes
Lot Size Restriction?	Yes	Yes	No	Yes	No	Yes	No
Mandated Setbacks?	Yes	Yes	No	Yes	Yes	No	No
Conditions/Exceptions/ Restrictions?	No	Yes	No	No	No	Yes	Yes
LARGE LIVESTOCK							
Regulated?	Yes	No	No	Yes	Yes	Yes	Yes
Lot Size Restriction?	Yes	No	No	Yes	No	Yes	No
Mandated Setbacks?	Yes	No	No	Yes	Yes	No	No
Conditions/Exceptions/ Restrictions?	No	No	No	No	No	Yes	Yes
OTHER							
Regulated?	No	Yes	Yes	Yes	Yes	No	No
Lot Size Restriction?	No	No	No	No	Yes	No	No
Mandated Setbacks?	No	No	No	No	Yes	No	No
Conditions/Exceptions/ Restrictions?	No	Yes	Yes	Yes	Yes	No	No

- The point system also applies to livestock. Points are gained at the same rate as for large flightless birds; goats and sheep cost 0.5 points each; horses and cows, one point each; and camelids (such as llamas and alpacas) cost 0.75 points each.
- For all animals, 40-foot setbacks to enclosures and 75-foot setbacks to coops, stables, or other housing are required. Large birds and livestock necessitate a license. Flies, noxious odors, and unsanitary conditions are prohibited.
- Apiaries and non-human primates are also regulated. Primates must be kept in some form of securely-locked containment; said containment must comply with state and federal regulations; and the animals must be sufficiently leashed when not caged. Enclosures must be kept 75 feet from neighbors' houses. Three animals are the maximum allowed. Bee hives are allowed in agricultural or rural zones.

MISSOULA, MONTANA

In Missoula, animals are regulated thusly:

- Only two dogs can be kept at the same residence without a permit. Cats must be altered, unless the owner has a breeder's license. To enable the possession of more than five rabbits, the property on which they reside must be one-fourth acre or larger. Hutches for these rabbits have required setbacks of 30 feet to residences and 20 feet to property lines.
- Six fowl, including urban chickens, may be kept. For all fowl but urban chickens, a one-half acre of enclosure is mandated, unless the property is larger than one acre. This enclosure has to be at least 20 feet from any residence and 50 feet from property lines. Within the enclosure, a coop is required, and the birds are to be kept in the coop from dusk until dawn. These regulations do not apply to urban chickens;

however, such birds must have a coop of two square feet per bird.

- For livestock, the only regulations state that the animals have to have at least one acre of property with a half-acre enclosure.

Plight or Flight

So what happened to Dave? Last I heard he was living in a tent, moving from campground to campground, staying until he was asked to leave. He still has his dogs with him; however, he's down to eight now.

I cite Dave's case to illustrate what an emotionally-charged issue this is. More than any other facet of planning—possibly even more than private property rights—regulating people's animals can raise public ire. Citizens perceive us as attacking their family or their livelihood. In fact, I've heard of only two times people protested city hall in my town. Both involved animals, and both ended with the same result: people giving up their homes rather than giving up their pets. And as the population continues to shift from rural to urban, I expect more people wanting to hang on to that agrarian ideal. That's why it's important for communities to look to implementing animal regulations before prevention becomes confiscation, and irritation over what can't be done becomes anger over what was.

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B. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied." [Ord. 867 § 1, 2013; Ord. 219 § 5, 1969; prior code § 95.80.010.]

20.08.020 Accessory building.

"Accessory building" means a detached building, the use of which is subordinate and customarily incidental to that of the main building or to the main use of the land, and which is located on the same lot as the main building or use. An accessory building shall be considered to be a part of the main building when joined to the main building by a common wall or when any accessory building and the main building are connected by a breezeway. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020.]

20.08.030 Accessory use.

"Accessory use" means a use customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot or parcel of land. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020.]

20.08.040 Alley.

"Alley" means a public way designed and intended to provide only a secondary means of access to any property abutting thereon. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020.]

20.08.050 Alteration.

"Alteration" means any change, addition or modification in the construction, location or use classification. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020.]

20.08.052 Animal.

"Animal" means all nonhuman members of the kingdom Animalia. [Ord. 867 § 1, 2013; Ord. 785 § 1, 2006.]

20.08.054 Animal establishment.

"Animal establishment" means:

- A. Any property wherein or whereon any person engages in the business of regularly selling, training, boarding, or breeding animals for compensation;
- B. Any property used to house or board any horse, mule, donkey, or other livestock;
- C. For animals other than livestock, fish or fowl, any property used to house more than 20 adult animals; or
- D. Any property used to house more than 10 adult fowl. [Ord. 867 § 1, 2013; Ord. 785 § 2, 2006.]

20.08.060 Apartment house.

See WMC 20.08.230, Dwelling, multiple-family. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020.]

20.08.160 Building, principal or main.

"Principal building" or "main building" means a building in which is conducted the principal or main use of the lot on which the building is situated. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.140.]

20.08.170 Centerline.

"Centerline" means the line which is in the center of a public right-of-way. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.150.]

20.08.180 Commercial animal establishment.

"Commercial animal establishment" means an animal establishment as defined in WMC 20.08.054 (A). [Ord. 867 § 1, 2013; Ord. 785 § 3, 2006. Formerly § 20.08.152.]

20.08.190 Commission.

"Commission" means the planning and zoning commission of the borough. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.160.]

20.08.200 Cottage industry.

"Cottage industry" means a small-scale home-based business, similar to a home occupation, allowing up to two employees, involving the on-site manufacture and/or sale of goods or services or the retailing, wholesaling, and renting of real or personal property provided such activities are permitted uses and are not, in the determination of the planning commission, detrimental to surrounding properties. A day sightseeing trip to a remote piece of property is considered a cottage industry. [Ord. 867 § 1, 2013.]

20.08.210 Coverage.

"Coverage" means that percentage of the total lot area covered by the total building area. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.170.]

20.08.220 Dwelling.

"Dwelling" means a building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including any other building wherein human beings may be housed. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.180.]

20.08.230 Dwelling, multiple-family.

"Multiple-family dwelling" means any building containing three or more dwelling units. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.190.]

20.08.240 Dwelling, one-family.

"One-family dwelling" means any detached building containing only one dwelling unit. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.200.]

20.08.250 Dwelling, two-family.

"Two-family dwelling" means any building containing only two dwelling units. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.210.]

20.08.260 Dwelling unit.

"Dwelling unit" means one or more rooms and a single kitchen designed as a unit for occupancy by not more than one family for living or sleeping purposes. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.220.]

20.08.270 Emergency response supply cache.

"Emergency response supply cache" (e.g., firefighting equipment) means a small structure for emergency response and firefighting equipment. [Ord. 867 § 1, 2013.]

20.08.280 Essential service.

"Essential service" means the erection, construction, alteration or maintenance by public utility companies or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems; and collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This definition shall not be interpreted to include public buildings. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.230.]

20.08.290 Family.

"Family" means any number of individuals living together as a single housekeeping unit in a dwelling unit. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.240.]

20.08.300 Fence height.

"Fence height" means the vertical distance between the ground directly under the fence and the highest point of the fence. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.250.]

20.08.310 Floor area.

"Floor area" means the total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.260.]

20.08.320 Fowl.

"Fowl" means all domesticated or domestic members of the order Galliformes, which includes chickens, turkeys, ducks, grouse, quails, pheasants and similar birds. [Ord. 867 § 1, 2013; Ord. 785 § 4, 2006. Formerly § 20.08.262.]

20.08.390 Hotel.

"Hotel" means any building or group of buildings in which there are guest rooms used, designed or intended to be used for the purpose of offering to the general public food or lodging, or both, on a day-to-day basis. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.330.]

20.08.400 Junkyard.

"Junkyard" means any space 100 square feet or more used for the storage, keeping or abandonment of junk or waste material including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.340.]

20.08.410 Loading space.

"Loading space" means an off-street space or berth on the same lot with a building or structure to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.350.]

20.08.420 Livestock.

"Livestock" means domestic animals of the type collected, used, raised or kept on a farm or ranch. The term "livestock" includes, but is not limited to, cattle, sheep, swine, goats, horses, mules and donkeys but does not include cats, dogs, rabbits or fowl. [Ord. 867 § 1, 2013; Ord. 785 § 5, 2006. Formerly § 20.08.352.]

20.08.430 Lot.

"Lot" means a parcel of land occupied or to be occupied by a principal use and having frontage on a public street or private road easement as permitted by a flag lot subdivision. [Ord. 867 § 1, 2013; Ord. 443 § 5, 1983; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.360.]

20.08.440 Lot, corner.

"Corner lot" means a lot situated at the junction of, and bordering on, two intersecting streets. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.370.]

20.08.450 Lot depth.

"Lot depth" means the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.380.]

20.08.460 Lot line, front.

"Front lot line" means a line separating the lot from the street. [Ord. 867 § 1, 2013; Ord. 349 § 5, 1976; prior code § 95.80.020. Formerly § 20.08.390.]

20.08.470 Lot line, rear.

"Rear lot line" means a line that is opposite and most distant from the front lot line and, in case of irregular, triangular or gore-shaped lots, a line not less than 10 feet in length, within a lot, parallel to

B. The structure shall not exceed a height of eight feet and width of eight feet, except in the remote residential mixed-use and rural residential districts. In the remote residential mixed-use district and rural residential districts, the structure shall not exceed a height of 14 feet and there is no limitation on the structure width, provided the structure contains adequate ventilation with a design to prevent spontaneous combustion.

C. The structure shall comply with the requirements of WMC 20.52.020.

D. The structure shall only be used for the storage of firewood, and shall not be used for the storage of fuel, chemicals, construction materials such as studs, beams and siding or similar materials. [Ord. 867 § 1, 2013; Ord. 486 § 4, 1985.]

20.52.270 Animal establishments.

Animal establishments may be located in those districts where such use is allowed, subject to the following:

A. The owner of any animal establishment must provide, according to the needs of the animal:

1. Adequate shelter from the elements;
2. Adequate facilities to keep the animals on the owner's property and prevent straying;
3. Adequate procedures and facilities to avoid unreasonable off-site odor or noise disturbance to adjacent properties;
4. Adequate facilities for keeping the kennels, stables and other animal housing areas clean and free of filth; and
5. Adequate food, water and vaccinations.

B. No animal establishment shall cause any nuisance, hazard or damage to persons or to other property by:

1. Disposal of water and waste products;
2. Risks to health and well-being;
3. Destruction of surface vegetation and soils; or
4. Straying animals.

C. Animal establishments for horses, mules and donkeys shall comply with subsections (A) and (B) of this section and the following:

1. Shelters shall be roofed to allow the animal protection from the elements. Depending on the needs of the animal, the shelter must be divided into stalls large enough for the animal to turn completely around while standing inside. Manure and wet bedding shall be cleaned out regularly.

2. The owner shall prepare and maintain the ground in such a way that the area in which the animals are standing does not retain water and minimizes mud. Wood chips or some other similar porous material that will allow moisture to drain away from where animals are standing is ideal.
3. Adequate corrals must be provided and be enclosed by safe fencing. Barbed wire is not allowed. There must be adequate room in the corral for the animals to move about and self exercise without hurting themselves or others. Corrals shall not be allowed to accumulate a build-up of manure and/or filth.
4. Feed containers should have bottoms to prevent feed from coming in contact with the ground. The feed container should always be located on dry ground areas so that the animals will be forced to stand on the dry ground while feeding.
5. Storage of grain feed shall be in secure, rodent-proof, closed containers.
6. Clean drinking water shall be provided at all times.
7. Manure on any stabling site shall be bermed such that there is no runoff beyond the limits of the site.
8. Manure shall be removed from the site regularly and disposed of in a legal manner.
9. There must be adequate vegetative buffers between stabling areas and adjacent property.
- ~~10. Minimum lot size must be 15,000 square feet for one animal plus an additional 5,000 square feet for each additional animal. In all zoning districts there must be 5,000 square feet of free space for each animal to allow the animal to move. Where the property owner submits a current detailed site plan and can demonstrate that adequate facilities for the exercise of the animals will be provided (for example, a commercial stable with an arena area), a conditional use permit may be granted with less restrictive minimum lot size requirements.~~
11. Corrals shall have a grade allowing water to drain away from the animals. Ditches or channels around the more elevated areas of the corral to catch and direct water away from the corral are recommended. Ditches or channels draining the corral to lower grades shall discharge water in compliance with the Wrangell Municipal Code. [Ord. 867 § 1, 2013; Ord. 785 § 29, 2006.]

20.52.280 Wastewater discharge and drinking water separation.

All domestic wastewater disposal systems shall meet applicable Alaska Department of Environmental Conservation (ADEC) requirements. No person may construct any part of a wastewater disposal system, including a sealed system, within the following areas (horizontal distances): within 100 feet of any surface water or within 100 feet of any ground water used as a private drinking water source; within 200 feet of any surface or ground water used as a Class A or Class B public water system source; or within 150 feet of any surface or ground water used as a Class C public water system source. (ADEC regulations 18 AAC 72 (wastewater, including individual treatment systems such as

Suggested modifications to existing Ordinance

Title 7 ANIMALS

Chapters:

- 7.01 Definitions
- 7.04 General Regulations
- 7.08 Dogs/Cats

Chapter 7.01 DEFINITIONS

7.01 Definitions

The following words and phrases when used in this title shall have the meaning prescribed in this section except in those cases where the context clearly indicates a different meaning.

A. Abandon

To leave an animal for a period in excess of 24 continuous hours without adequate provision for its physical needs

B. Acceptable collar

Any commercial or homemade collar or harness capable of allowing a tag and/or leash to be affixed which does not cause injury to the animal.

C. Altered animal

An animal that has been sterilized.

D. Animal

Domesticated nonhuman members of the kingdom animalia

E. Animal control officer

The person or persons designated by the borough manager to perform the duties described herein

F. Animal Establishments

Is defined in WMC Section 20.52.270.

F. Animal exposed to rabies

An animal that has been bitten by an animal that either has rabies or has been in proximity or contact with an animal that has rabies or has been exposed to an animal that has rabies

G. Animal shelter

Any premises designated by the manager or the manager's designee for the purpose of impounding and caring for animals pursuant to this title.

H. At large

Any animal that is not under restraint

I. Boarding

Keeping an animal overnight in a commercial establishment used for such a purpose

J. Canid hybrid

An owned and domesticated offspring of a wild member of the genus and the family Canidae bred to a member of the genus and species Canis familiaris

M. Confined

Shut within an enclosure. This includes, but is not limited to, a fence in area of the real property of the owner, pet shelter (i.e. pen, dog house, or kennel) and any building on the owner's property, including house or garage

N. Dog

A member of the genus and species Canis familiaris, commonly known as a domestic dog, but does not include other members of the family Canidae such as a fox, coyote, wolf or other game species the taking of which is regulated by the state of Alaska. For the purposes of this title, "dog" includes Canid hybrids unless otherwise specified.

O. Domestic animal

Any animal kept for pleasure or for utility, that has been adapted to life in association with and to the use by human beings, and shall not include animals which normally can be found in the wild.

P. Enforcement agent

Any peace officer, other law enforcement personnel, or an animal control officer or other person specifically authorized by the borough manager to enforce the provisions of this title.

Q. Enclosure

A structure suitable to confine an animal. The structure shall be securely constructed and shall have secure sides, and shall be kept locked at all times. The design and construction shall be adequate to prevent the animal from escaping.

R. Euthanasia

The act of inducing the humane death of an animal.

S. Facility

A building or property other than a private residence in which an animal is maintained

T. Fowl.

All domesticated or domestic members of the order Galliformes, which includes: chickens, geese, roosters, turkeys, ducks, grouse, quails, pheasants and similar birds.

U. Grooming parlor

A commercial operation for the bathing, dipping, cutting, or grooming of animals

V. Humane manner

Care of an animal to include, but not be limited to, adequate heat, ventilation, and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

W. Improperly confined

The confinement of an animal under conditions that endanger the animal's health or safety or the safety of the public.

X. Keeper

Any person, group of persons, partnership, firm, trust or corporation owning, having an interest in, or having control, custody, or possession of any animal and includes any adult member of a family or group of persons sharing a residential unit where another member of the family or group has an interest in, has control, custody or possession of an animal which is kept in or on the premises of the shared residential unit. "Keeper" does not include a person who voluntarily undertakes the temporary care of an animal that is otherwise abandoned or a person who voluntarily undertakes the temporary care of an animal that large violation of (7.09.010).

Y. Kennel

More than two dogs and three cats over the age of ninety days old.

Z. Leash

A chain, leash or rope, not exceeding eight feet in length, and held in such manner as to prevent the attached animal from attacking any person.

AA. Livestock

Cattle, swine, goats, sheep, horses, donkeys, mules, rabbits, llamas, and poultry

BB. Neglected

An animal that has not received the degree of care that a reasonable person would give under the same circumstances. The care must include sufficient food and clean water, adequate shelter and protection from the weather, health care, and clean living conditions

CC. Nuisance animal

Any animal which is doing any of the acts set forth in (7.17.010).

DD. Pet Shop

A separate commercial establishment that offers to sell live animals with the intent that they be kept as pets.

EE. Petting Zoo

A commercial establishment or activity a substantial purpose of which is to permit human beings to come into physical contact with animals.

FF. Physical injury

Physical pain or an impairment of physical condition

GG. Potentially dangerous and dangerous domestic animals

1. A potentially dangerous domestic animal domestic animal is any domestic animal that

a. Without provocation, chases or approaches a person, domestic animal, or livestock in a threatening manner or in an apparent attitude of attack; or

b. Has a known propensity tendency or disposition to attack without provocation, or otherwise threaten the safety of human beings or domestic animals.

DRAFT

Chapter 7.04
GENERAL REGULATIONS¹

Sections:

- 7.04.010 ~~Cruelty—Abandonment—Domestic creature defined,~~ Immunity.
- 7.04.020 ~~Animals at large prohibited,~~ Authority and Purpose.
- 7.04.030 ~~Penalty for violation,~~ Record Keeping.
- 7.04.040 Interference.
- 7.04.050 Entering Private Property.
- 7.04.060 Cruelty Unlawful.
- 7.04.070 Parental Liability.
- 7.04.080 Rescue.
- 7.04.090 Animals at large prohibited.

7.04.010 Immunity

The provisions of this title involve discretionary functions, licensing, permits, approvals, inspection, discovery, abatement, health and safety and other matters as referred to in AS 09.65.070 and determining, or failing to find or determine that a domestic animal is dangerous, or potentially dangerous or the manner of enforcement or nonenforcement of the provisions of this title, shall not constitute an assumption by the City and Borough, or by any of its officers, employees, or agents, of any duty, or be deemed or construed to impose any duty, responsibility, or liability on the City and Borough or any of its officers, employees, or agents regarding such actions or nonaction.

7.04.020 Authority and Purpose

A. The borough manager shall appoint an animal control officer or animal control officers and other employees necessary to carry out the provisions of this title; or, in the alternative, the manager may contract for animal control and protection services to carry out the provisions of this title.

B. Any other law enforcement officer is also authorized to carry out the designated provisions of this title

7.04.030 Record Keeping

The City and Borough shall keep accurate and detailed records of animal licenses, rabies certifications, impoundments, dispositions, and other enforcement actions relating to animals in custody or impoundment. The records shall be retained for three years and be kept at the Wrangell Police Department.

7.04.040 Interference

A. No person shall willfully prevent or obstruct the impounding of any animal in violation of any of the provisions of this title by a police officer, nor shall any person break open an animal shelter, or take or attempt to take any animal out of an animal control facility without the consent of a police officer or enforcement agent, nor shall any person knowingly impound or attempt to impound any animal not legally liable to impoundment.

B. No person shall obstruct or interfere with a police officer or enforcement agent while in the performance of his or her duties as described in this title.

C. A violation of this section is a Class B misdemeanor

7.04.050 Entering Private Property

A. A police officer or enforcement agent may enter onto any property, public or private at all reasonable hours in the performance of his or her duties under this title, except that he or she may not enter any private house without the consent of someone authorized to give consent

B. It shall be a condition of issuance of any permit for an animal establishment that a police officer or other peace officer shall be permitted to inspect all and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for cause, or pending an appeal of such action, the aforementioned officer shall have power of entry on the premises and into all areas where animals are being kept.

7.04.060 Cruelty Unlawful

A. It is unlawful for any person to

1. Neglect an animal by failing to give the animal that degree of care which a person of ordinary prudence would give under the same circumstances. This includes, but is not limited to:

a. Sufficient, wholesome food that is nutritious for the species and size of the animal

b. Fresh, potable drinking water at all times

c. Medical attention to relieve the animal from suffering

d. Shelter that is continually clean and allows the animal to remain dry and protected from the elements. This shelter should be fully enclosed on three of its sides, and roofed. The shelter should be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The structure should be structurally sound and in good repair.

e. Any animal kept on a chain or rope being placed so that the animal cannot become entangled with the restraints of other animals or with any other objects. The chain or rope shall be of sufficient length (a minimum of ten feet) to allow the animal complete access to food, water, and shelter at all times. The chain shall be attached in a manner, to an acceptable collar, so as not to cause injury or discomfort to the animal. No chain, rope, wire, or bandanna shall be used as a collar.

2. Wound, torture, cruelly beat, injure, maim, mutilate, overdrive, overload, unjustly destroy, provoke, or otherwise physically abuse an animal.

3. Knowingly kill or injure any animal, provided that this subsection does not prohibit the humane euthanasia of animals; the harvest of livestock; the hunting of certain animals permitted by state law; and any other destruction of animals as provided for by law.

4. Deprive any animal of food for more than twenty-four hours at a time.

5. Set out, dispose of, or permit to be exposed to any substance, in any open place when such substance is poisonous or capable of causing the death or dangerous illness of any domestic or household animal

6. Abandon an animal.

7. Own, possess, keep, or train an animal with the intent that it be engaged in an exhibition of fighting;

8. Instigate, promote, attend, or have a pecuniary interest in an exhibition of fighting animals; or

9. Engage in sexual contact with an animal.

B. The above provision shall not be construed to prohibit practices that

1. Conform to accepted veterinary or animal husbandry practice;

2. Are part of scientific research governed by accepted standards;

3. Are necessarily incident to lawful hunting or trapping activities

4. Or conform to professionally accepted training and disciplinary methods.

C. Cruelty to animals is a Class B Misdemeanor

7.04.070 Parental Liability

The parent or guardian of any minor claiming ownership of an animal shall be deemed to be the keeper of such animal and shall be charged for all penalties and shelter fees imposed by this title.

7.04.080 Rescue

A. A police officer or enforcement agent finding any animal subjected to cruelty may impound the animal or give the keeper or person causing treatment 72 hours to remedy the violation. If the violation is not remedied within this time period, the animal is taken into custody. Immediately upon impounding the animal, the police officer or enforcement agent shall make a reasonable effort to notify the animal's keeper. Custody of the animal may not be regained by the keeper while a prosecution for cruelty is pending. When in the judgment of a licensed veterinarian, an animal impounded should be euthanized for humane or health reasons, the animal shall be immediately destroyed.

B. The decisions as to whether the animal shall be released back to a person causing maltreatment will then be made by the court upon recommendations of a police officer or other enforcement agent.

~~7.04.010 Cruelty—Abandonment—Domestic creature defined.~~

~~A. Any person who necessarily or without cause overworks, beats, abuses, starves, torments, kills or otherwise mistreats a domestic creature, or cause or procures any such acts to be done, shall be deemed guilty of a misdemeanor. For the purposes of this section, the term “domestic creature” means any tame animal or animal kept as a pet, including, but limited to, dogs, cats, rabbits, monkeys, birds or reptiles.~~

~~B. Any person who intentionally abandons a domestic creature, whether or not it is sick, maimed, infirm, or disabled, where there is not a caretaker to assume responsibility for proper food and water and other needs, shall be deemed guilty of a misdemeanor. [Ord. 234 § 5, 1969; prior code § 9.10.010.]~~

~~7.04.020 Animals at large prohibited.~~

~~It is unlawful for the owner or keeper to permit or allow any chicken, rooster, duck, goose, bull, ox, cow, sheep, goat, hog, dog, or other animal or any domestic fowl to run at large within the borough limits, or to be pastured or headed, or staked or tied for the purpose of grazing, in any of the streets, alleys, squares, or other grounds belonging to or under the control of the borough and within the borough limits of the borough, and it is unlawful for the owner or keeper of any of said animals, or stock of any kind or domestic fowl to tie, stake, pasture, or turn at large any of said animals upon any private property within the limits of the borough, without the consent of the owner of said property. [Ord. 400 § 4, 1980; Ord. 234 § 5, 1969; prior code § 9.10.020.]~~

~~7.04.030 Penalty for violation.~~

~~Any person convicted of violation of any of the provisions of this chapter shall be punished in the following manner: first violation, a \$15.00 fine/penalty; second violation, a \$50.00 fine/penalty; third violation, a \$100.00 fine/penalty; fourth violation, a \$125.00 fine/penalty; fifth violation, a \$150.00 fine/penalty; sixth and subsequent violations, a \$200.00 fine/penalty. The execution of any sentence imposed hereunder may not be suspended nor may imposition of sentence be suspended, except upon the condition that the defendant pay the minimum fine as provided in this section, nor may the punishment provided for in this section be reduced. [Ord. 833 § 61, 2009; Ord. 400 § 4, 1980; Ord. 264 § 5, 1971; prior code § 9.10.030.]~~

¹ For statutory provisions on cruelty to animals, see AS 11.61.140.

Chapter 7.08
DOGS/CATS^(K1)

Sections:

- 7.08.010 Licensing.
 - 7.08.020 Dog vaccination required.
 - 7.08.030 Running at large – Prohibited – Nuisance declared.
 - 7.08.040 Failure to Restrain – Unlawful.
 - 7.08.050 Strict Liability.
 - 7.04.060 Reporting and Enforcement
 - 7.08.070 Off-Premesis Confinement.
 - 7.08.080 Harboring Nuisance Animals Unlawful
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- ~~7.08.040 Impoundment.~~
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 - ~~7.08.140 Penalty for violation.~~
 - ~~7.08.150 Mail-in-bail.~~

7.08.010 Licensing.

~~A. Every [K2] person who owns or keeps a dog within the borough shall report to the borough clerk Wrangell Police Department to obtain a license, not later than the first day of February of each year. The owner shall provide his or her name and address, and shall give the name, breed, color, and sex of each dog owned or kept by such person and shall be required to pay to the clerk Wrangell Police Department the fee of \$510.00 for each neutered male or spayed female dog and \$4045.00 for each intact dog so owned or kept. Upon payment of the fee, the borough clerk Wrangell Police Department shall furnish a receipt thereof, also a metal license tag carrying an identification number that shall be securely fastened to a collar made of leather, metal or other substantial material worn by the dog. The license shall be valid for two years from the date of issuance.~~

~~B. The borough clerk Wrangell Police Department shall keep an accurate record of all licensed dogs. The borough clerk Wrangell Police Department shall cause a notice of the necessity of paying such a license fee to be printed in a paper of general circulation within the borough one time before the tenth day of January in each year. [Ord. 544 § 4, 1988; Ord. 264 § 5, 1971; prior code § 9.20.020.]~~

7.08.020 Dog vaccination required.

~~No license shall be granted for a dog older than six months which does not have a current rabies vaccination. [Ord. 664 § 4, 1999; Ord. 457 § 4, 1984; Ord. 269 § 5, 1975; Ord. 234 § 5, 1969; prior code § 9.20.030.]~~

7.08.030 Running at large – Prohibited – Nuisance declared.

~~A. It is unlawful for any owner or keeper of a dog/cat to permit said animal to run at large on any street, sidewalk, wharf or public place or otherwise become a nuisance within the incorporated borough limits.~~

~~B. A dog will be deemed to be running at large unless confined upon private property with consent of the owner thereof or led or securely tied upon a leash in hands of some responsible person.~~

~~C. All dogs/cats running at large within the borough limits are declared a public nuisance and are subject to immediate impoundment without prior notice. [Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]~~

7.08.040 Failure to Restrain Unlawful

No keeper or custodian of any animal shall allow or fail to prevent such animal from being at large or without restraint as defined in (7.01.010(II)) within the City and Borough.

7.08.050 Strict Liability

The keeper of any animal running at large shall be held strictly liable for a violation thereof.

7.08.060 Reporting and Enforcement

A. Any person who is aware of an animal running at large within the limits of the Borough may report the condition to the Wrangell Police Department. The identity of an informant under this

subsection shall not be disclosed except to employees of the Wrangell Police Department involved in the enforcement of this Title; however, when a person files an affidavit of complaint upon which the issuance of an infraction is based, the affidavit becomes a public record which may be disseminated to the public upon request.

B. Any animal control officer, police officer, or other authorized enforcement agent may pursue any animal at large or running at large and may go upon any premises for impounding the animal at large or running at large. If the animal returns to the premises of its keeper, a police officer or enforcement agent may pursue the animal upon the exterior premises of the keeper. If the keeper or custodian takes the animal with the enclosed interior portion of his or her premises, an enforcement agent may direct the keeper or custodian to surrender the animal for impoundment. Any keeper or custodian, after having been directed by the police officer or enforcement agent to surrender an animal for impoundment, shall surrender the animal. Failure to surrender an animal for impoundment upon demand by a police officer or enforcement agent is a municipal infraction.

C. This section shall not apply to an animal under control of its keeper, custodian or an authorized agent of the keeper or custodian by a leash, cord, or chain, and shall not apply to an animal actually engaged in the sport of hunting in authorized areas while under competent voice control, or while undergoing training to heel on or off a leash, obey on command to come to its keeper, or to sit, lie, or stand until further command.

D. No animal running at large by accident with a person in immediate pursuit of it shall be deemed to be running at large or a stray.

7.08.070 Off-Premises Containment

The leash and domestic animal shall be under the actual physical control of a person suitable to control the domestic animal at all times. Such domestic animals shall not be leashed to inanimate objects such as trees, posts, or bushes. The muzzle must be made in a manner that will not cause injury to the domestic animal or interfere with the domestic animal's vision or respiration, but must prevent the domestic animal from biting any human being or domestic animal.

7.08.080 Harboring Nuisance Animals Unlawful

A: It is unlawful for any person to keep or harbor within the City and Borough any animal that, by barking, howling or otherwise, becomes a nuisance.

B. Any animal which:

1. Scratches, or digs, into any flowerbed, garden, tilled soil, vines, shrubbery or small plants, and in so doing injures the same;
2. Causes an offensive, disagreeable, or noxious smell, stench or odor to the disturbance of the peace of the neighborhood;
3. Habitually prowls around or over any premises not the property of its keeper, to the annoyance of the owner or occupant of such premises;

4. Overturns any garbage can or other vessel for waste products, or scatters the contents of same;
5. Snaps at, runs after, or jumps at vehicles using the public thoroughfares within the City and Borough;
6. Harasses, menaces, jumps at, frightens, or otherwise injures passersby and other domestic animals and livestock provided they are not trespassing;
7. Defecates upon public property or a public thoroughfare or private property without the permission of the property owner;
8. Chases or kills any chicken or other domestic fowl; or
9. Runs at large

D. In addition to definitions used in any other ordinance of the City and Borough declaring when an animal is to be declared a nuisance, any animal which barks, howls, wails, or emits or utters sounds or noises, which cause serious annoyance and disturbs the peace or quietude of any person or persons within the vicinity of the place where the same is being kept or to the neighborhood, is a nuisance.

C. If an animal is found to be a nuisance, a police officer or other enforcement agent shall inform the keeper of the animal's nuisance status. If the keeper does not remedy the condition within twenty-four hours, the animal shall be immediately impounded. If the keeper cannot be located or determined, the animal shall be immediately impounded. If the keeper of such animal remedies the condition, he or she may reclaim the animal from impoundment upon payment of all applicable fines and fees.

7.08.090 Enforcement

A. A person who owns or is in lawful possession of property upon which there is a nuisance animal or who observes a nuisance animal on public property or a public thoroughfare may take the animal into custody and hold the animal in a humane manner pending transfer to a police officer or an enforcement agent; provided no animal may be held in such private custody for more than 24 hours. A person who takes a nuisance animal into custody under this section shall:

1. Immediately call the police department and request that a police officer or an enforcement agent take custody of the animal; and
2. File a written statement to the police department describing the incident. The police officer or enforcement agent shall take custody of the animal and shall take the written statement of the person holding the animal. The police officer shall issue to the keeper of the animal a citation or warning and may impound the animal if the keeper cannot be found immediately.

7.08.100 Duty to Clean off-Premises

- A. No keeper may permit his or her dog to be off of his or her premises unless the keeper has immediately available an instrument which is intended to be used to remove any fecal

matter left by the dog and a suitable container in which the fecal matter is to be stored until properly disposed of.

B. A keeper who permits a domestic animal or livestock to be off of his or her premises must immediately remove all fecal matter left by the domestic animal or livestock.

C. A keeper required to carry an instrument and container under subsection A of this section shall show these items to any police officer or enforcement agent upon demand.

7.08.040-110 Impoundment.

A. Any dog/cat found running at large shall be impounded by the chief of police or his designee or contractor.

B. The chief of police or his designee or contractor shall promptly prepare an impoundment report, which shall include a description of the dog/cat, the name, address and telephone number of the owner or keeper if known, the location where the dog/cat was found running at large and impounded, and the date after which the dog/cat will be disposed of pursuant to WMC 7.08.080, and the procedure (including any charges to be paid) for reclaiming the dog/cat.

C. During the period of impoundment until reclamation or disposal, the chief of police or his designee or contractor shall keep the dog/cat in a suitable kennel facility. [Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]

7.08.050-120 Notice of impoundment.

Within 24 hours after impoundment, the chief of police, his designee or contractor shall give notice of impoundment as follows.

A. In all cases, whether the owner is known or not known, notice of the impoundment shall be publically broadcasted on the radio. A copy of the impoundment report shall be posted in conspicuous places at the post office and City Hall and, if possible, broadcast on radio and/or television.

B. If the legal owner of the dog/cat is known through licensing, the owner shall, in addition to the above, be given verbal notice or notice by certified mail, return receipt requested, to the owner or keeper of the dog at that person's last known address. [Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]

7.08.060-130 Hearing.

A. The owner or keeper of an impounded dog/cat may request a hearing within five days of mailing, verbal notice or first publication of the notice of impoundment, whichever occurs first. If there is no request for a hearing within the time specified, the right to a hearing will be waived.

B. A hearing, if requested, shall be conducted by the borough manager or his designee. The hearing shall be conducted informally.

C. At the conclusion of the hearing, the borough manager shall state his decision, the reasons therefor, and indicate what evidence was relied upon.

D. If the decision sustains the impoundment, or if no hearing is requested and the right is waived, then the borough manager or his designee shall order the chief of police, his designee or contractor to proceed with disposal pursuant to WMC 7.08.080.

E. If the decision overrules the impoundment, the dog/cat shall be promptly returned to its owner or keeper without charge, or if the dog/cat has previously been reclaimed, all charges paid shall be promptly refunded to the ~~payer~~payer.

F. A person aggrieved by the decision of the borough manager may appeal his decision to the borough assembly.

G. No dog/cat shall be disposed of until the hearings, if any, are completed. [Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]

H. Any fees, including but not limited to vet visits, daily impound fees, licensing fee with impounding a dog or cat shall be the responsibility of the pet's owner.

7.08.070-140 Reclamation – Impoundment costs.

A. A person who presents satisfactory proof of ownership or right to possession to the chief of police, his designee or contractor may reclaim an impounded dog/cat any time before the dog/cat has been finally disposed of pursuant to WMC 7.08.080 by payment of all costs specified in subsection (B) of this section, and payment of any current but unpaid license fee pursuant to WMC 7.08.010.

B. Impoundment costs are as follows:

1. Impoundment fee	\$25.00
2. Kennel fee	\$15.00/day
3. Actual cost of postage and publication of notice of impoundment	Variable
4. Actual cost of any emergency veterinarian care, medication or extraordinary expense	Variable

[Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]

7.08.080-150 Disposal.

A. Title to a dog/cat impounded and not reclaimed nor subject to a hearing shall finally vest in the borough of the sixth day following verbal notice, notice by mail or first publication of the notice of impoundment pursuant to WMC 7.08.050.

B. After title in the dog/cat has vested in the borough, the dog/cat may be disposed of in any economical and efficient manner the chief of police, his designee or contractor deems appropriate, including euthanasia. [Ord. 664 § 4, 1999; Ord. 552 § 4, 1990.]

7.08.090-160 Vicious dogs – Harboring – Muzzling.

A. All persons are prohibited from knowingly keeping for themselves or for another any dog known or reported to be a vicious animal dangerous to the public safety.

B. Upon written protest, signed by two or more residents of the borough and filed with the borough assembly, the owner or keeper of any such vicious dog shall be notified and required to have posted upon the premises where such dog is owned or kept a legible painted sign bearing the words "Beware of Dog" in letters not less than three inches high and placed in a conspicuous place upon the premises where it may be plainly seen by all persons entering upon the premises. The owner or keeper of any such dog shall also be required, when said dog is permitted outside the house on a leash, to have said dog adequately muzzled, or, if not muzzled, to be kept in an enclosure so constructed that any person entering upon the premises may not be subject to attack.

C. Upon a second complaint by one or more persons being filed or reported against any owner or keeper of any such vicious dog, it shall be the duty of the chief of police, or some person appointed by him, immediately to impound such dog for such period of time as necessary to conduct an investigation. Thereupon, the chief of police or the person duly appointed by him shall immediately conduct an investigation into the character and propensities of such dog and investigate the grounds of protest and complaint filed against said animal, and thereafter shall take whatever action is justified by the situation, and may decree compliance with the conditions provided in subsection (B) of this section or have the dog destroyed or removed from the borough. [Ord. 552 § 5, 1990; Ord. 264 § 5, 1971; prior code § 9.20.090.]

7.08.100-170 Biting dog – Confinement

A. Whenever any person owning, possessing, or harboring any dog within the borough limits learns that such dog has bitten any human being, such person shall immediately impound the dog in a place of confinement to be designated by the borough. The place of confinement must prevent escape and include facilities placing the dog in total isolation from any human being or other animal. A report of the actions taken shall immediately be reported to the borough clerk who shall notify all responsible officials.

B. Whenever responsible officials of the borough learn that any human being has been bitten by any dog within the borough, the identity of such dog shall be ascertained and the person owning, possessing, or harboring it shall immediately deliver the dog for impounding as required in subsection (A) of this section.

C. Any dog so impounded shall be kept continuously confined for a period of 14 days from the day the dog bit the human being, and the owner, possessor, or person harboring the dog shall be responsible for such charges as may be required for impounding, including but not limited to a fee for isolation of the dog, food for the dog, and special charges required for rabies prevention. [Ord. 552 § 5, 1990; Ord. 234 § 5, 1969; prior code § 9.20.110(a).]

7.08.110-180 Biting dog – Notification of state – Observation.

A. Upon learning that a dog has bitten a human being, the police shall immediately notify the Department of Health and Social Services and inform the state agency of the place where the dog is impounded.

B. The borough shall contract with persons knowledgeable with care and handling of well and sick dogs for inspection of the dog for the 14 days of confinement to determine whether such dog is infected with rabies. For this purpose, persons so designated by the borough shall have access to the premises where the dog is kept at all reasonable hours, and may take possession of the dog and confine it in the designated dog pound of the borough or other suitable place at the expense of the owner.

C. The owner or person in possession or harboring such dog under observation shall immediately notify the Department of Health and Social Services of the state of any evidence of sickness or disease in the dog during its period of confinement and shall promptly deliver its carcass to the appropriate agency in the event of the animal's death during the period.

D. During the period of confinement, the owner, person in possession, or person harboring such dog shall be liable for all expenses of confining such dog in isolation. [Ord. 552 § 5, 1990; Ord. 234 § 5, 1969; prior code § 9.20.110(b).]

7.08.120-190 Proclamation to confine all dogs during epidemic.

Whenever the prevalence of hydrophobia renders such action necessary to protect the public health and safety, the borough manager shall issue a proclamation ordering every person owning or keeping a dog to confine him securely on his premises unless he is muzzled so that he cannot bite. No person shall violate such proclamation, and any unmuzzled dog running at large during the time affixed by the proclamation shall be killed by the police without notice to the owner. [Ord. 552 § 5, 1990; Ord. 234 § 5, 1969; prior code § 9.20.110(c).]

7.08.130 Interference with officers.

It is unlawful for any unauthorized person to break upon the pound or to attempt to do so, or to take or let out any dog/cat therefrom, or to take or attempt to take from any officer any dog/cat taken up by him in compliance with this chapter, or in any manner to interfere with or hinder such officer in the discharge of his duties under this chapter. [Ord. 664 § 4, 1999; Ord. 552 § 5, 1990; Ord. 234 § 5, 1969; prior code § 9.20.120.]

7.08.140-200 Penalty for violation.

A. Except as set forth in subsection (B) of this section, any violation of the provisions of this title shall be punishable as provided for in WMC 120.010.

B. A violation of WMC 7.08.010 and 7.08.030 shall be a regulatory offense for which a maximum fine of \$25.00 shall be imposed. The execution of any sentence imposed hereunder may not be suspended nor may imposition of sentence be suspended, except under the condition that the defendant pay the fine as provided in this section, nor may the punishment provided in this section be reduced. [Ord. 833 § 6, 2009; Ord. 264, 1971; prior code § 9.20.130.]

7.08.150 Mail in bail.

Commission of the offenses described in WMC 7.08.010 or 7.08.030 may be satisfied by payment of the prescribed fine without a court appearance. The person to whom such citation is issued may plead guilty to the offense by signing the appropriate blank and paying either in person or by mail the fine specified on the citation to the Wrangell police department, said payment to be made prior to the court appearance date indicated on the citation. Acceptance and payment of the prescribed fine is complete satisfaction for the offense. [Ord. 552 § 5, 1990; Ord. 536 § 4, 1988; Ord. 532 § 6, 1988.]

7.08.210 Vehicle Strikes

Every person who strikes any animal with a vehicle and injures or kills such animal shall notify the police department immediately after the occurrence and shall give the time and place of the injury or death, a description of the animal, and the name and address of the person making the report. Drivers of emergency vehicles shall notify the police department at the earliest convenient time, but must do so within ten hours.

7.08.220 Proper Disposal of Dead Animals

A. No person shall deposit any dead or fatally sick or injured animal upon any public or private place except as provided in this section, or into any body of water.

B. Excepting as provided in subsections C and D of this section, all persons shall immediately dispose of any dead animal, whether their own or found upon their property, either by proper burial or by incineration at an appropriate facility or proper disposal at the waste transfer station. If there is a tag or other form of identification on the animal, the property owner may contact the keeper or contact the police department who shall make a reasonable effort to locate the keeper of the animal and notify him or her of the animal's death.

C. No carcass of an animal that has died of a dangerous communicable disease or have been killed on account thereof shall be buried within the Borough boundaries.

D. The Police Department shall upon the request of any person pick up dead dogs, cats, and other small domestic animals for disposal.

E. It is unlawful for any person to skin or gut an animal carcass in the public view.

7.08.230 Trapping

Except if done by an agent or employee of the federal, state, or municipal government on official business, it is unlawful for any person to set traps within one-half mile of any public or private street, road, right-of-way, or highway within the limits of the Borough.

7.08.240 Diseased Animals

A. No animal infected with a dangerous communicable disease shall be brought within the limits of the Borough.

B. The keeper of any animal which is known to have a disease contagious to other animals or to human beings, shall not keep such diseased animal within the limits of the Borough, except if confined within the immediate domicile of the keeper or under the control of a licensed veterinarian.

7.08.250 Certain Types Prohibited

It shall be unlawful for any person to keep, harbor, maintain or have in his or her possession or under his or her control within the limits of the Borough, except as provided in (7.24.020), any venomous reptile or other wild animal, insect, or other exotic animal not generally recognized to

be domesticated or which, because of its size, vicious nature, or any other characteristic, presents a danger to human beings or domestic animals, and shall include but not be limited to:

- A. Cougars, lions, panthers, tigers, jaguars, leopards, ocelots, and other wild cat species
- B. Bears and wolverines
- C. Seals, sea lions, and otters
- D. Wolves, coyotes, jackals, dingoes, foxes and other wild dog species
- E. Weasels, martins, minks, badgers, skunks, raccoons, and bats
- F. Sloths, anteaters, armadillos, and elephants
- G. Kangaroos, opossums, and other marsupials
- H. Monkeys, chimpanzees, gorillas, and other primates
- I. Beavers, muskrats, porcupines, and other large and wild rodents
- J. Antelope, deer, bison, moose, and camels
- K. Raptors that are not kept pursuant to federal or state permits
- L. Ostriches, rheas, cassowaries, and emus
- M. Alligators, caimans, and crocodiles
- N. Cobras, sea snakes, vipers, pit vipers, and other venomous snakes

7.08.260 Citations

A. Any police officer or enforcement agent shall, when a person is in violation of this title or when a domestic animal or livestock is found in violation of any provision of this title and when the keeper of the animal is known to the officer or agent, issue a citation or warning to the keeper.

B. A police officer or enforcement agent who cites a person for violation of any provision of this title shall take the name and address of the person together with such pertinent information as may be necessary.

C. If the form of citation issued includes information and is sworn to as required for a complaint charging commission of the offense alleged in the citation, then such citation when filed in the court shall be deemed a lawful complaint for the purpose of prosecution under this title. When a police officer or agent does not know the name of the alleged violator whose animal has been impounded, the officer or agent may issue and sign a "John Doe" citation which may be left at the Wrangell Police Department. When the animal is claimed the person authorized to release the animal shall fill in on the citation the name and address of the person claiming the animal and shall serve the citation on such person before releasing the animal.

7.08.270 Fines and Exceptions

A. Except as otherwise specifically provided in this section, violations of the animal control and protection code are infractions.

B. Except as otherwise specifically provided in this title, any person guilty of an infraction regarding any of the provisions of this title shall be punished in the following manner:

1. A \$50 fine for a first violation, in addition to any applicable fees
2. A \$75 fine for a second violation, in addition to any applicable fees
3. A \$100 fine for a third violation, in addition to any applicable fees
4. A \$150 fine for a fourth violation, in addition to any applicable fees

5. A \$200 fine for a fifth violation, in addition to any applicable fees
6. A \$250 fine for a sixth violation and all subsequent violations, in addition to any applicable fees

C. A violation of [K4] (7.09.010) or (7.08.020) excepting both (7.08.020 (B)(6)) and (7.08.020 (B)(8)) shall be considered a regulatory offense for which the following violations will be applied:

1. A \$25 fine for a first violation, in addition to any applicable fees
2. A \$50 fine for a second violation, in addition to any applicable fees
3. A \$100 fine for a third violation, in addition to any applicable fees
4. A \$125 fine for a fourth violation, in addition to any applicable fees
5. A \$150 fine for a fifth violation, in addition to any applicable fees
6. A \$200 fine for a sixth violation and all subsequent violations, in addition to any applicable fees

D. Payment for fines prescribed under subsection C may be satisfied without a court appearance. The person to whom such citation is issued may plead guilty to the offense by signing the appropriate blank and paying either in person or by mail the fine specified on the citation to the Wrangell police department, said payment to be made prior to the court appearance date indicated on the citation. Acceptance and payment of the prescribed fine is complete satisfaction for the offense.

E. Cruelty to animals is a Class B misdemeanor

F. Interference with a police officer enforcement agent is a Class B misdemeanor [K5]

DRAFT

City of Wrangell, Alaska

AGENDA ITEM G5

Date: May 2, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Request from Mark Mitchell to lease Borough tidelands, Lot 3, USS 3534.

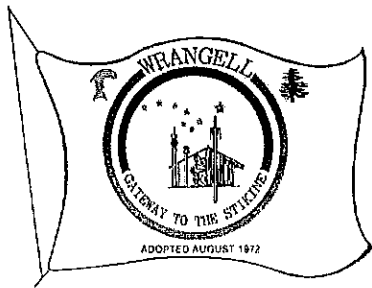
Mr. Mitchell, dba Big Bites Fishing, is proposing to fill a portion of Lot 3, USS 3534 to create a causeway, floats and ramp for boats and float planes. The adjacent uplands is zoned Waterfront Development. Mr. Mitchell recently received a zone change for a portion of his land closer to the Zimovia Highway from Waterfront Development to Rural Residential in order to construct a house near his shop, but the lower portion remained Waterfront Development.

The proposed tideland fill area is currently out on Public Notice with the Corps of Engineers. Staff has written a letter to the Corps in response to the Notice regarding the tideland lease request.

The Planning and Zoning Commission is making a recommendation to the Assembly.

A subdivision plat of the lease area and an appraisal establishing the lease price will need to be conducted if the Assembly approves moving forward to lease the tidelands.

Staff recommends to the Commission to approve the request and recommend to the Assembly to move forward with the necessary steps to lease the requested tidelands.



CITY AND BOROUGH OF WRANGELL

INCORPORATED MAY 30, 2008

P.O. BOX 531 (907)-874-2381
Wrangell, AK 99929 FAX (907)-874-3952
www.wrangell.com

May 5, 2014

Marcia Heer
US Army Corps of Engineers
Regulatory Division (1145)
ECPOA-RD
PO Box 6898
JBER, Alaska 99506-0898

Re: POA-2014-109 Zimovia Strait, Applicant Mark Mitchell

Dear Ms. Heer:

The City and Borough of Wrangell by this letter is responding with comments to the Public Notice of Application for Permit, No. POA-2014-109.

Currently, a portion of the tidelands that Mr. Mitchell is seeking to fill and develop belongs to the City and Borough of Wrangell. The Borough is the owner of Lot 3, USS 3534, the tidelands on the outside of ATS 604 (see attached plat map, modified to show correct ownership). Mr. Mitchell has made an application to the Borough for a tidelands lease and the Borough is working through the process.

The Borough does not object to Mr. Mitchell starting the process to obtain the Corps of Engineer's permit, because we realize the time involved. Should the Corps issue a Permit for fill, however, the Borough requests that it be on condition that Mr. Mitchell successfully leases the requested tidelands from the City and Borough of Wrangell. The Borough will keep the Corps of Engineers informed as to the status of the lease process.

Please do not hesitate to call if you have any questions.

Sincerely,

Carol Rushmore
Economic Development Director

Cc: Mark Mitchell
Planning and Zoning Commission
Greg Meissner, Harbor Master
Kim Lane, Borough Clerk

MEMORANDUM

TO: Planning & Zoning Commission / Port Commission

FROM: Kim Lane, CMC
Borough Clerk

SUBJECT: Request from Mr. Mark Mitchell to Lease City Tidelands

DATE: May 1, 2014

I have received an application from Mr. Mark Mitchell, requesting to lease a portion of the tidelands west of the tidelands that are currently owned by him at 6 Mile Zimovia Hwy., (formerly known as the Krepps property). The purpose of the request by Mr. Mitchell is to construct a causeway and boat dock.

The legal description is: Lot 3, USS 3534.

Mr. Mitchell has applied with the U.S. Army Corps of Engineers for a permit. He is aware that he will not be granted a Corps Permit until the City has granted the Tidelands Lease to him.

Please submit your comments and/or recommendations regarding this request to lease the above mentioned City Tidelands to me on or before June 16, 2014. I will then place this on the Agenda for Assembly consideration for the May 13, 2014 meeting.

Attached:

1. Application from Mr. Mark Mitchell
2. *Map of Proposed Area*

Sheet intentionally blank

CITY CLERK
MAY 01 2014
RECEIVED

May 1, 2014

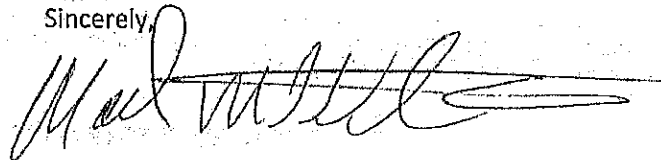
Ms. Carol Rushmore
City and Borough of Wrangell
PO Box 531
Wrangell, AK 99929

Dear Carol:

Please consider my request to lease a portion of the tidelands West of the tide lands owned by Mark and Margaret Mitchell at Six Mile Zimovia Highway (formerly known as the Krepps property) for the purpose of constructing a causeway and boat dock. The legal description is Section 24, T 63 S, R 84 E, Survey # TBD. A diagram will be enclosed along with the Corp. of Engineer application.

Please forward this to the Port Commission and the Planning and Zoning Commission. Thank you.

Sincerely,



Mark Mitchell
PO Box 80
Wrangell, AK 99929
Cell Phone # 907-470-4221

**U.S. ARMY CORPS OF ENGINEERS
APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT**
33 CFR 325. The proponent agency is CECW-CO-R.

OMB APPROVAL NO. 0710-0003
EXPIRES: 28 FEBRUARY 2013

Public reporting for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
--------------------	----------------------	------------------	------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME First - Mark Middle - Last - Mitchell Company - Big Bites Fishing E-mail Address -	8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) First - George Middle - Last - Woodbury Company - Woodbury Enterprise E-mail Address - woodbury@aptalaska.net
6. APPLICANT'S ADDRESS: Address- P.O. Box 80 City - Wrangell State - AK Zip - 99929 Country - USA	9. AGENT'S ADDRESS: Address- Box 1934 City - Wrangell State - AK Zip - 99929 Country - USA
7. APPLICANT'S PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax 907-874-4080 907-470-4221	10. AGENTS PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax 907-874-4140 907-305-0998 907-874-4142

STATEMENT OF AUTHORIZATION

11. I hereby authorize, George Woodbury to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

SIGNATURE OF APPLICANT

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions) Causeway ramp and floats	
13. NAME OF WATERBODY, IF KNOWN (if applicable) Zimovia Strait	14. PROJECT STREET ADDRESS (if applicable) Address Mile 5.5 Zimovia HWY
15. LOCATION OF PROJECT Latitude: +N 56 25 15 Longitude: -W 132 20 21	City - Wrangell State- AK Zip- 99929
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID Municipality Wrangell Borough Section - 24 Township - 63 S Range - 84 E	

17. DIRECTIONS TO THE SITE

From Wrangell A/P Bennett St. to Zimovia HWY to 5.5 mile Mitchell property

18. Nature of Activity (Description of project, include all features)

The project will consist of a causeway that will provide access to a basin to be dredged at the end of the causeway on which will be constructed a ramp leading to floats that will be used for mooring fishing boats and aircraft. The causeway will be constructed with shot rock the core of the wide portion at the end of the of the causeway will be used to deposit the dredge material from the construction of the basin. The ramp will be constructed of aluminum, the floats are concrete, steel piling will be used to stabilize the floats and ramp. The basin will be dredged to -6 tide.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

This project is to construct a causeway with dock and ramp and dredge a basin so that there is sufficient water to moor boats and aircraft on the water for a commercial fishing operation. The plan and profile (Sheet 1 and 2 attached) Shows the location on the Mitchell property of the proposed facility.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

As stated above this will make it possible for Mr. Mitchell to conduct his commercial fishing operation, have gear and pot storage on his property, a place to work on fishing gear and boats and a place to park his aircraft used in the fishing operation.. There are no aircraft slips available in Wrangell so this proposed facility is needed for him to have a place to park his aircraft.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
Shot rock 11,348	Dredge material 3500	

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres 0.93
or
Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

This property that is owned by Mr. Mitchell will work as a location for conducting his business. Other alternatives for the fishing operation are less efficient for taking care of the fishing gear and boats and there are no alternatives for parking his aircraft. The proposed facility is the minimum necessary to do what he must to conduct his business and moor the boats and aircraft. Mitigation will be handled through working with SE Land Trust and the Corps determinations..

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address- Silver Bay logging Inc Dick Buhler

City - 6 mile Zimovia HWY State - Alaska Zip - 99929

b. Address-

City - State - Zip -

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

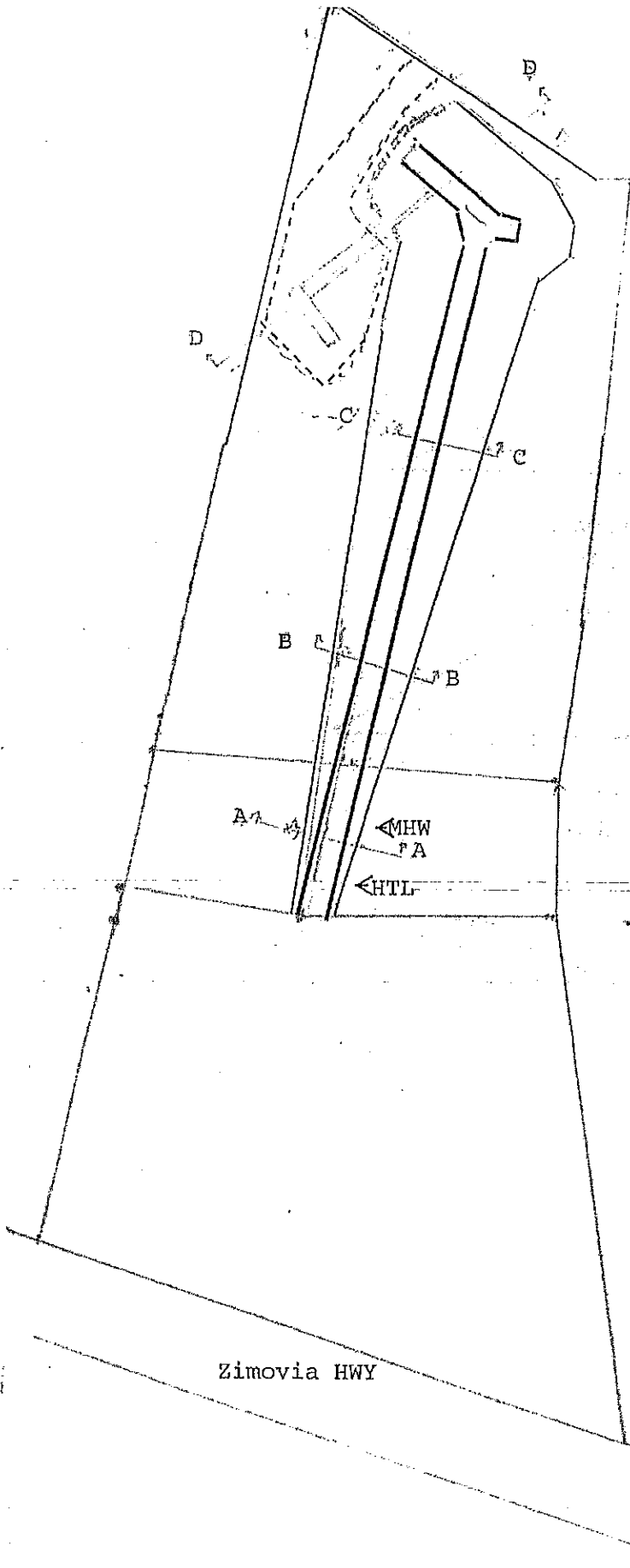
DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Project →

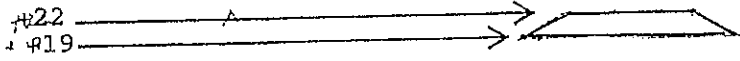
Scale 1"=100'



Zimovia HWY

Causeway Float Project
Wrangell AK
USS 3534 Lot 12
Zimovia Strait
2 5 2014
Sheet 1 of 2

Side



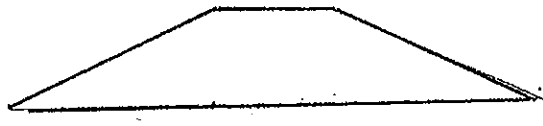
Section A

1"=20'

+22

B

+10



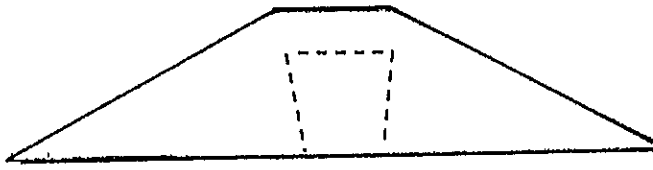
Section B

1"=20'

+22

C

+6+6



Section C

1"=20'

+22

D

+3+3

-6-6



Section D

1"=40'

Handwritten signature



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
JBER, Alaska 99506-0898

PUBLIC NOTICE DATE: April 21, 2014
EXPIRATION DATE: May 20, 2014
REFERENCE NUMBER: POA-2014-109
WATERWAY: Zimovia Strait

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Marcia L. Heer at (907) 753-5759, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at Marcia.L.Heer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Mark Mitchell, Big Bites Fishing, P.O. Box 80, Wrangell, Alaska 99929.

AGENT: Mr. George Woodbury, P.O. Box 1934, Wrangell, Alaska 99929, (907) 305-0998.

LOCATION: The project site is located within Section 20, T. 63 S., R. 84 E., Copper River Meridian; USGS Quad Map Petersburg B-2; Latitude 56.398372° N., Longitude -132.338768° W.; in Wrangell, Alaska.

PURPOSE: The applicant's stated purpose is to construct a causeway, floatplane dock, and ramp and dredge a basin to obtain sufficient water levels to moor boats and aircraft on the water for a commercial fishing operation.

PROPOSED WORK: Placement of 11,348 cubic yards of shot rock and 3,500 cubic yards of dredged material within a 0.93-acre area below the high tide line of Zimovia Strait to construct a causeway. The causeway would vary in length from 508-feet to 604-feet. The shore end of the causeway would be 26-foot wide at the base and beginning at 400 feet from shore the base would be 94-foot wide. The causeway would be used to access a 5-foot by 70-foot aluminum ramp, a 10-foot by 70-foot concrete float, and a 10-foot by 50-foot concrete float supported by (8) 12-inch diameter steel piles. The work would also include a 0.31-acre dredge basin to allow for boats and float planes to float at all tide levels. The current depth is at the +3 tide level and the proposed dredging of 3,500 cubic yards of sand/gravel/clay material would provide a -6 tide level depth for the basin. The material would be dredged with an excavator. The core at the end of the causeway would be used to deposit the dredged material. All work would be performed in accordance with the enclosed plan (sheets 1-6), dated April 17, 2014.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

a. Avoidance: According to the applicant's agent, practicable alternatives to avoid placement of fill material into waters of the U.S. are not available due to lack of float plane slip space in the City of Wrangell and the cost to construct a pile supported pier structure is approximately \$100 per square foot versus \$10-\$15 per square foot for the filled causeway. The inland property adjacent to the proposed project is owned by the applicant and alternative locations for the fishing operation are less efficient for taking care of fishing gear and boats.

b. Minimization: The proposed facility is the minimum necessary to meet the applicant's purpose and need to moor boats and aircraft.

c. Compensatory Mitigation: The applicant is proposing to obtain credits from the S.E. Alaska Land Trust in-lieu fee program to compensate for unavoidable aquatic impacts.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. However, any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The project area is within the known range of juvenile and adult coho (*Oncorhynchus kisutch*), chum (*O. keta*), pink (*O. gorbuscha*), chinook (*O. tshawytscha*) and sockeye salmon (*O. nerka*).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

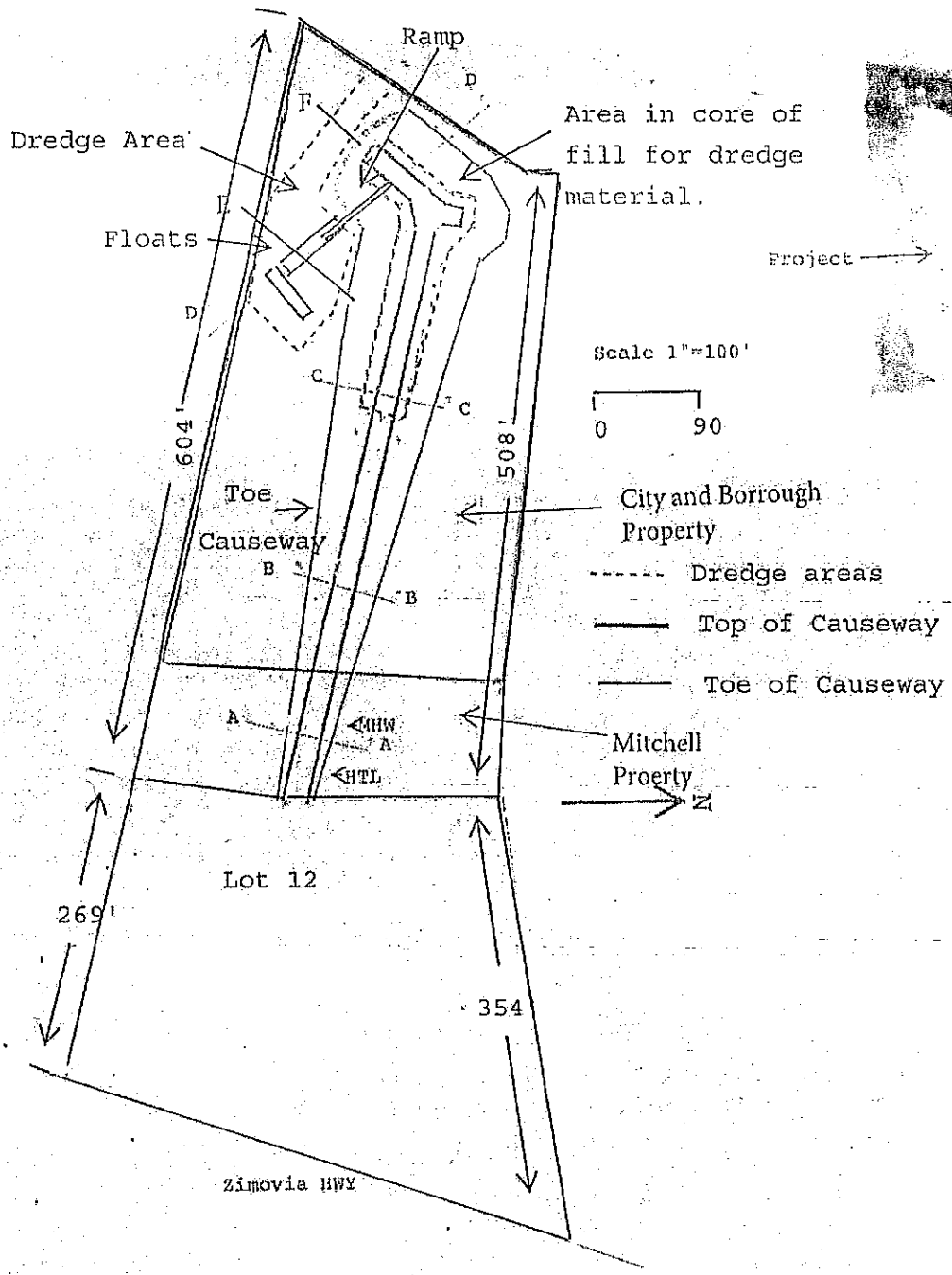
NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. POA-2014-109, Zimovia Strait serves as application for State Water Quality Certification from the Department of Environmental Conservation.

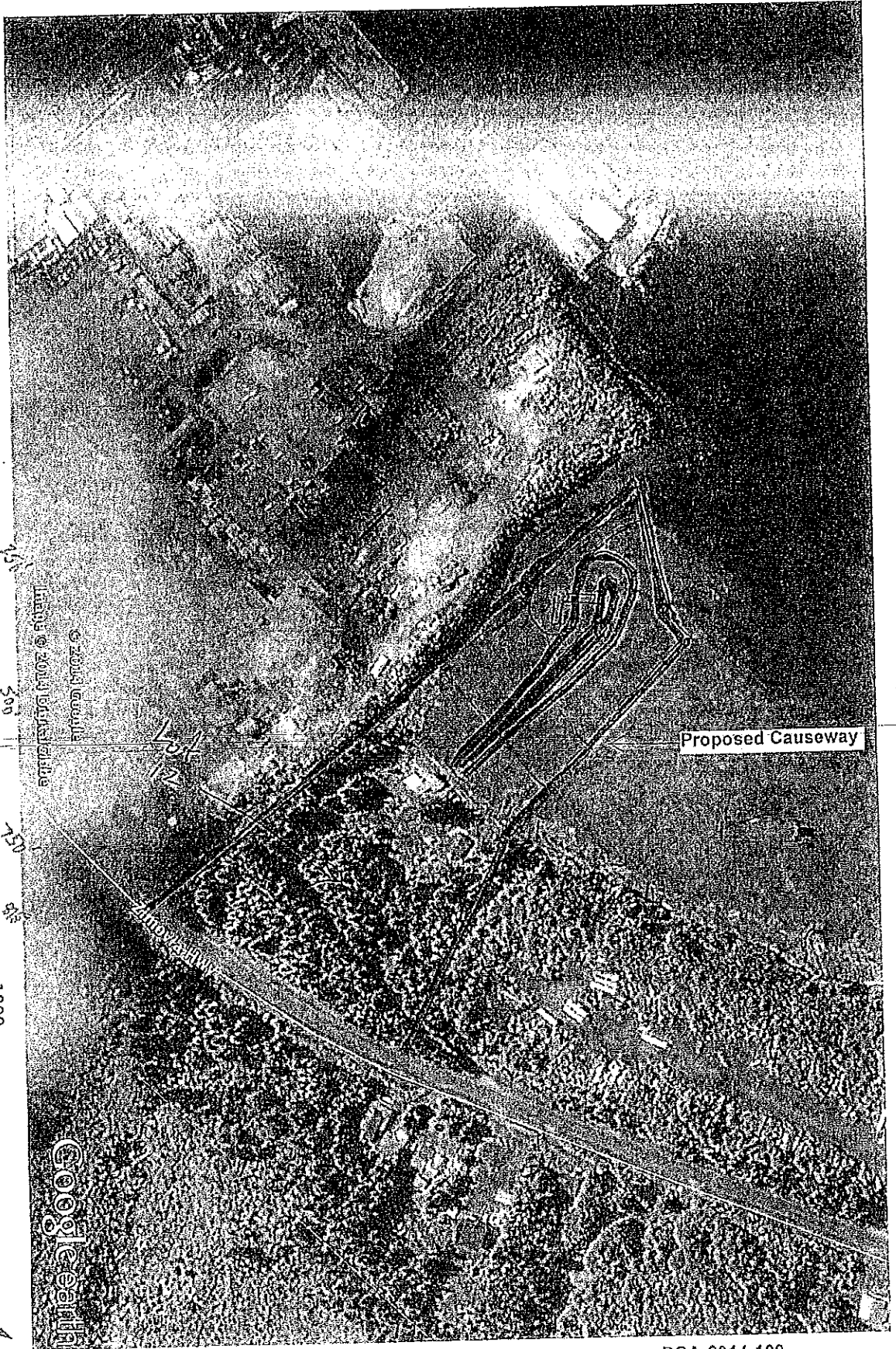
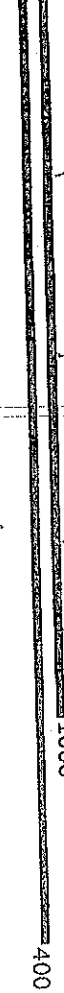
After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.



Google Earth Pro

feet
meters



Proposed Causeway

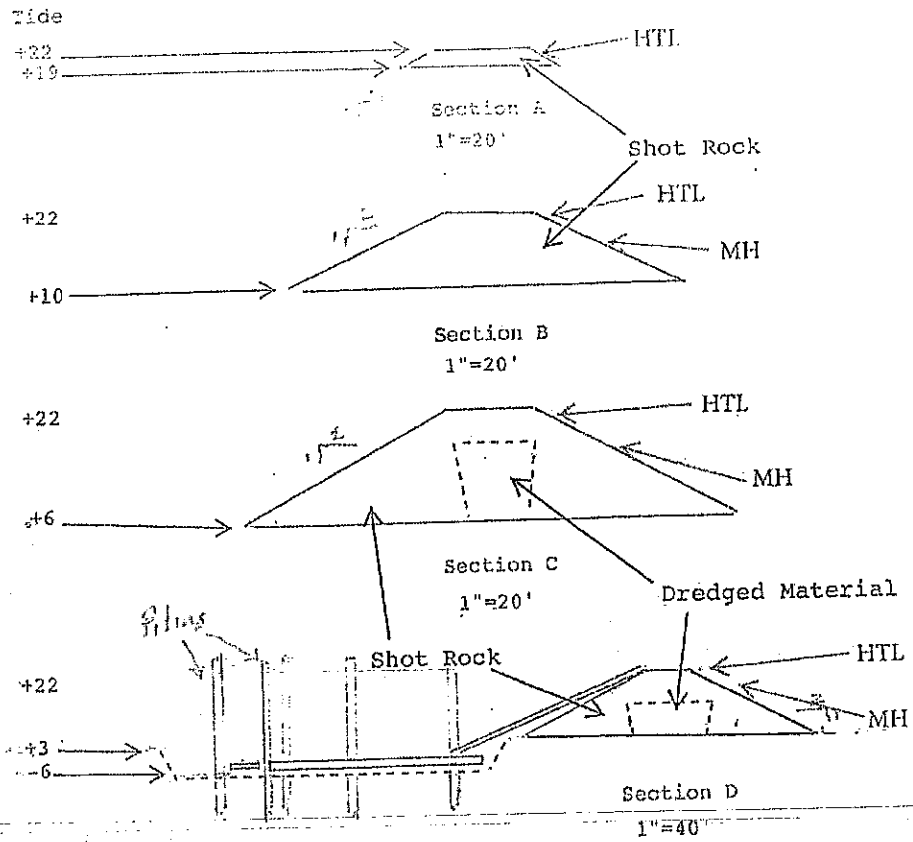
POA-2014-109
Mark Mitchell
Zimovia Strait
April 17, 2014
Sheet 2 of 6

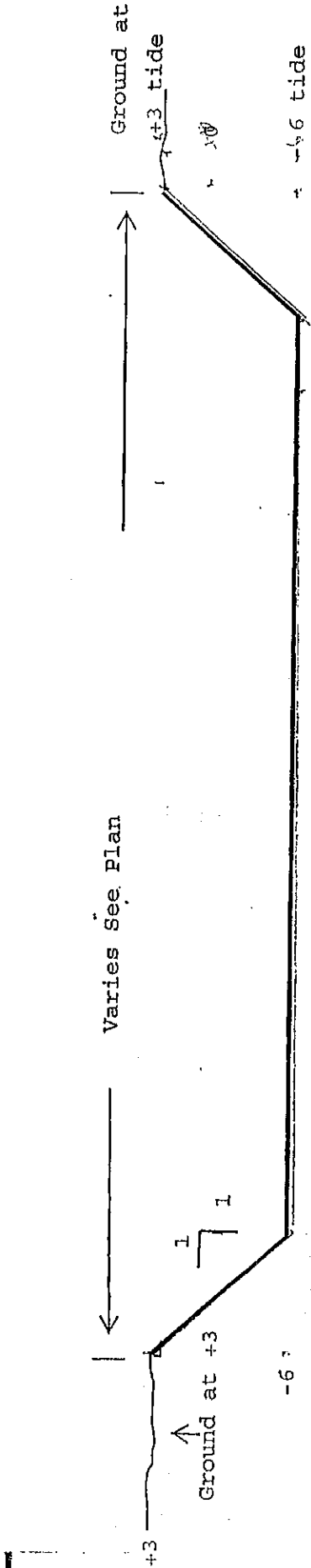


POA-2014-109
Mark Mitchell
Zimovia Strait
April 17, 2014
Sheet 1 of 6

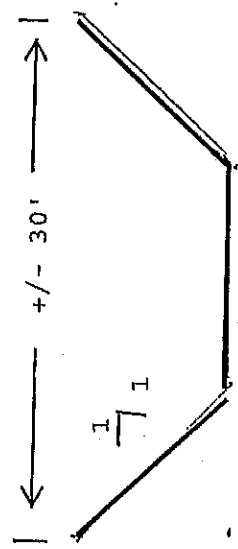
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Section E



Section F

Dredge Basin Profile



City of Wrangell, Alaska

Agenda Items G6

Date: May 5, 2014

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Discussion regarding final selection of municipal entitlement lands

When the Borough was formed in 2008, after legislation was approved, the Borough became eligible to select 9006 acres of certain classified State lands within the borough's new boundaries. The first selection process has been completed and we have 849 acres remaining to select.

The Economic Development Committee has been reviewing the lands still available for selection and have made a recommendation to the Assembly. I am requesting the Planning and Zoning Commission to review their recommendation and the lands available if you have any further comments.

There is not a lot of appropriately classified lands available to select from. There is also not a lot of time remaining for the Borough to submit the next request for selection, and I apologize for the short turn around time. The Borough's request needs to be submitted by the end of June.

I will have colored maps and information from the EDC available at the meeting. What is attached is the Final Approval Decision by the State regarding our first selection of lands.

Links for more information include:

Southeast State Forest <http://forestry.alaska.gov/stateforests.htm#sesf>
Wrangell Borough Final Decision July 9, 2013 (attached)
Central/Southern Southeast Area Plan, DNR, 2000
http://dnr.alaska.gov/mlw/planning/areaplans/cs_southeast/

City of Wrangell, Alaska

Date: April 17, 2014

To: Jeff Jabusch, Borough Manager

From: Carol Rushmore, Economic Development Director

Re: Discussion regarding final selection of municipal entitlement lands

The Economic Development Committee at their meeting of April 16, 2014 recommends to the Assembly to select the final 849 acres remaining of our municipal entitlement land selection land from the following areas by priority:

Thoms Place Section 31 (if allowable, staff needs to confirm mapping with the State)
St. John's area on Zarembo in Section 34
Wrangell East on the road system (as suggested by the State of Alaska)
Earl West Cove

Final acreages in each area are still to be determined based on additional discussions with the State of Alaska.