

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION

RESCHEDULED for August 23, 2018

7:00pm

Agenda

A. CALL TO ORDER/ROLL CALL

B. AMENDMENTS TO THE AGENDA

C. APPROVAL OF MINUTES: July 12, 2018

D. PERSONS TO BE HEARD

E. CORRESPONDENCE

F. OLD BUSINESS

G. NEW BUSINESS

- Pub Hrg
1. Preliminary Plat review of the Bay Company Replat and Alley Vacation II, a replat of Lots A and C, Bay Company Replat, owned by Chet and Bejay Powell, and Lots 1 and 2, Block B, Sortyard Subdivision, owned by the City and Borough of Wrangell, and the vacation of a public alley, all zoned Waterfront Development, requested by Dave Powell, The Bay Company.
 2. Final Plat review of of Massin/Industrial Replat, a replat of Lots 6, 7 and 8, Block 59B, Industrial Subdivision, Plat 82-1, creating Lot 6A and Lot 8A, zoned Industrial, requested by Bernard Massin, owner, and Alaska Power and Telephone.

Pub Hrg

 3. Conditional Use permit application for short term B&B or AirB&B rental as well as long term rentals on Lot 3, RAL Subdivision Easement Vacation, zoned Multi-Family Residential, owned and requested by Kay Larson.
 4. Discussion of potential code changes to address nuisance activities.

H. PUBLIC COMMENT

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS

J. ADJOURNMENT

City and Borough of Wrangell, Alaska

WRANGELL PLANNING AND ZONING COMMISSION

July 12, 2018

7:00pm

Minutes

- A. CALL TO ORDER/ROLL CALL:** Vice Chair Don McConachie called the meeting to order at 7:00 pm. Commissioner Charles Haubrich were present. Commissioners Terri Henson, Apryl Hutchinson, and Duke Mitchell were absent. Also present were staff Carol Rushmore and Aleisha Mollen. **Due to a lack of quorum, Vice Chair McConachie recessed the meeting until 1:00 p.m. on Tuesday, July 17, 2018.**

July 17, 2018

1:02pm

CALL TO ORDER/ROLL CALL: Vice Chair Don McConachie called the meeting to order at 1:00 pm. Commissioners Apryl Hutchinson and Charles Haubrich were present. Commissioners Terri Henson and Duke Mitchell were absent. Also present were staff Carol Rushmore and Aleisha Mollen.

- B. AMENDMENTS TO THE AGENDA:** None

- C. APPROVAL OF MINUTES: June 18, 2018**

M/S: Haubrich/Hutchinson moved to approve the minutes as presented. Motion approved unanimously by polled vote.

- D. PERSONS TO BE HEARD:**

Haig Demerjian stated that noise codes should be updated, just because you own property does not mean you can do anything you want, must be appropriate. Nuisance code must be enforced. Called police because activities were occurring past the 8:00pm time limit.

Keith Appleman stated that he has lived in the area for roughly 40 years and knows both parties without bias. He lives about 300feet down the road. There is intermittent noise that can be loud and not necessarily appropriate. Storage of equipment not an issue to him. Reading the report from Rushmore, he would concur and urge the Commission to move forward on the findings and recommendations in the report.

Bernie Massin was given an opportunity to speak as an industrial owner and reported that he has had complaints on his lots over the years. The items on the lot happen in a commercial/industrial area and noise happens as well. There are very few areas available for these kinds of areas.

Scott Eastaugh was given the opportunity to speak as well. Eastaugh reported that the boat has not been worked on since the original complaint.

E. CORRESPONDENCE: None.

F. OLD BUSINESS:

1. Report to the Commission regarding the Demerjian complaint on neighbor Eastaugh

McConachie asked the Commissioners to review all information and staff to present all of the ordinances affected, suggestions, and attorney review by the next meeting. In the meantime, he asked that all ordinances be held to.

Haubrich asked for clarification on the decibel limit. Rushmore stated that at the current limit it should not exceed 90 decibels at the boundary line until 8 p.m. weekdays and during certain weekend hours for industrial activities adjacent to residential and 40 decibels at other hours.

G. NEW BUSINESS

1. Preliminary Plat review of Massin/Industrial Replat, a replat of Lots 6, 7 and 8, Block 59B, Industrial Subdivision, Plat 82-1, creating Lot 6A and Lot 8A, zoned Industrial, requested by Bernard Massin, owner, and Alaska Power and Telephone.

Public Hearing was opened for this item at 1:26 pm.

Bernie Massin spoke to this item stating that he is selling 2 lots to AP&T and the lot lines were changed to avoid moving the trailer.

Public Hearing was closed at 1:28 pm.

M/S: Hutchinson/Haubrich moved to approve the Preliminary plat of the Massin/Industrial Replat, a replat of Lots 6, 7 and 8, Block 59B, Industrial Subdivision, including Lot 3 and Lot 4 along with Lot 8 and portion of Lot 7 as part of the newly created Lot 8A with the findings.

Rushmore clarified that there are 2 structures encroaching on property lines in the preliminary plat and there will be a smaller lot and larger L-shaped lot.

Massin had some questions about the existing lots, stating it doesn't matter that buildings encroach as he owns both lots. He had a preference to change the configuration by not removing one lot line, just shifting it. Rushmore gave her recommendations regarding the need to address encroachments now. Haubrich suggested a different move of the property line.

M/S: Hutchinson/Haubrich moved to amend the Preliminary plat of the Massin/Industrial Replat, to remove the lot line between 3 & 8A and

move the lot line between Lots 3 and 4 extending the new lot line of Lot 6A to Howell Avenue.

**Amended Motion approved unanimously by polled vote.
Motion approved unanimously by polled vote.**

2. Preliminary Plat review of Good/Edgley Subdivision, a replat of Lots 7-K and 7-R Block 67, creating Lot AA and Lot BB, zoned Single Family Residential, requested by Jeffrey Good.

Public Hearing was opened for this item at 1:43 pm. No one was present to speak on this item. Public Hearing was closed at 1:43 pm.

M/S: Haubrich/Hutchinson moved to approve the Preliminary plat of the Good/Edgley Subdivision, a replat of Lots 7-K and 7-R Block 67, creating Lot AA and Lot BB.

Amended M/S: Haubrich/Hutchinson amended the motion for continuing the easement the full width of Lot BB on Third Street.

**Amended Motion approved unanimously by polled vote.
Main Motion approved unanimously by polled vote.**

3. Variance application for a front yard and side yard setback for a carport on Lot 11A, Block 24, of CDH Subdivision, Plat 92-4, zoned Multi Family Residential, requested by Michael Kurth, owner.

Public Hearing was opened for this item at 1:46 pm. No one spoke on the item, although Kurths indicated they were present for questions. Public Hearing was closed at 1:46 pm.

M/S: Hutchinson/Haubrich moved to approve the request for a front yard setback of 3.5 feet from Case Avenue property line, to extend no closer than parking area side cement wall perpendicular to Case Avenue closest to the house, and for a side yard setback to be 1 foot from the northern property line, for an open sided carport only, and staff's findings of fact included.

McConachie asked about the car port posts and Kurth stated that he had reviewed that with a local contractor and they would be set at the end of the cement wall or slightly in.

Motion approved unanimously by polled vote.

H. PUBLIC COMMENT: None

I. COMMISSIONERS' REPORTS AND ANNOUNCEMENTS: None

J. ADJOURNMENT: 1:50 pm.

CHAIRPERSON

SECRETARY

City and Borough of Wrangell, Alaska

Agenda G1

Date: August 6, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Preliminary Plat review of the Bay Company Replat and Alley Vacation II, a replat of Lots A and C, Bay Company Replat, owned by Chet and Bejay Powell, and Lots 1 and 2, Block B, Sortyard Subdivision, owned by the City and Borough of Wrangell, and the vacation of a public alley, all zoned Waterfront Development, requested by Dave Powell of the Bay Company.

Recommendation:

Staff recommends approving the Preliminary plat.

Motion:

Move to approve the Preliminary plat of the Bay Company Replat and Alley Vacation II, a replat of Lots A and C, Bay Company Replat, owned by Chet and Bejay Powell, and Lots 1 and 2, Block B, Sortyard Subdivision, owned by the City and Borough of Wrangell, and the vacation of a public alley, all zoned Waterfront Development, requested by Dave Powell of the Bay Company.

Background:

In 2014, the Bay Company began the process to request to vacate the alley and purchase City lands up to the Port Fence of the Marine Service Center. There were a number of meetings and hearings over a two year period pertaining to the complexity of the request.

Findings:

Prior to the Downtown Revitalization project, the Bay Company requested and received the approval to vacate 5 feet of the Alley located to the north of their property and adjacent to Borough owned port property. It was agreed that once that Front Street project was complete, and the asbuilt to Front Street was complete, the survey would be finalized. At that time, they came forward to request to purchase Borough land including the alleyway and portions of the two lots up to the fence surrounding the Marine Service Center on the north and the platted Silvernail Work Road Right-of-way from their property line to the fence/gate of the Marine Service Center to the west.

After numerous discussion and deliberations, it was approved by the Assembly to vacate the alley, sell the public land up to the Marine Service Center fence line adjacent to the northern Bay Company property line, but not vacate and sell a portion of the Silvernail Work Road ROW to the fence line. It was agreed however, to vacate the platted Silvernail Right-of-way through the yard, because that ROW was not actually the driving path of the Marine yard, and replace it with the access easement that was actually being utilized. The vacation of the Silvernail ROW will be part of a subsequent plat of the Marine Service Center Yard.

There were additional easement issues for the City Sewer/water through the utility easement to assure future delivery of utilities within this route. Because of the depth and location of the pipes in Front Street, there was a delay in determining the final utility easement necessary required. The plat presented should provide the Borough with the necessary utility easements for any future service needs.

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 FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: _____
 CHET A. POWELL
 BELAY A. POWELL

NOTARY'S ACKNOWLEDGMENT

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

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____ 20____ BEFORE ME, THE UNDERSIGNED AND NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN PERSONALLY APPEARED _____ TO ME KNOWN TO BE THE IDENTICAL INDIVIDUAL(S) MENTIONED AND WHO EXECUTED THE WITHIN PLAT AND _____ ACKNOWLEDGED TO ME THAT _____ SIGNED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN SPECIFIED.

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

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 FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: _____
 CITY & BOROUGH OF WRANGELL

NOTARY'S ACKNOWLEDGMENT

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

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____ 20____ BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED _____ TO ME KNOWN TO BE THE IDENTICAL INDIVIDUAL(S) MENTIONED AND WHO EXECUTED THE WITHIN PLAT AND _____ ACKNOWLEDGED TO ME THAT _____ SIGNED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN SPECIFIED.

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

PLAT NOTES

1. REFERENCE THE FOLLOWING WITHIN THE WRANGELL RECORDING DISTRICT:
 - A. SORTYARD SUBDIVISION, PLAT #2001-3
 - B. BAY COMPANY REPLAT, PLAT #2009-3
 - C. AITS #83, WRANGELL TIDELANDS ADDITION
 - D. NOLAN SUBDIVISION, PLAT #2003-2
 - E. W.S.L. SUBDIVISION II, PLAT #2003-9
 - F. PE PARCEL A-B-5A, EXHIBITS, DOCUMENT #2011-000103-0
 - G. WRANGELL FRONT STREET RECORD OF SURVEY, PLAT #2013-2
2. AREA'S:
 - A. 1799 SQ. FT. OF ALY VACATED THIS PLAT ON PROPOSED LOT AA
 - B. 1409 SQ. FT. OF ALY VACATED THIS PLAT ON PROPOSED LOT CC
 - C. 3366 SQ. FT. OF UTILITY EASEMENT CREATED THIS PLAT ON PROPOSED LOT AA
 - D. 3146 SQ. FT. OF UTILITY EASEMENT CREATED THIS PLAT ON PROPOSED LOT CC
3. CENTERLINE MONUMENTS WERE USED TO CONTROL THE FRONT STREET ROW WIDTH. THE SECONDARY MONUMENTS ALONG THE WESTERN ROW LINE DID NOT AGREE AND WERE NOT HELD. SEE TABLE BELOW FOR LOCATION INFORMATION.

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 AND BOROUGH OF WRANGELL PLANNING COMMISSION, AND THAT SAID PLAT HAS BEEN APPROVED BY THE COMMISSION BY PLAT RESOLUTION NO. _____ DATED _____ 20____ AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT REGISTRAR, EX-OFFICIO RECORDER, WRANGELL, ALASKA.

DATE: _____
 CHAIRMAN, PLANNING COMMISSION
 SECRETARY

CERTIFICATE OF APPROVAL BY THE ASSEMBLY

(FIRST JUDICIAL DISTRICT)

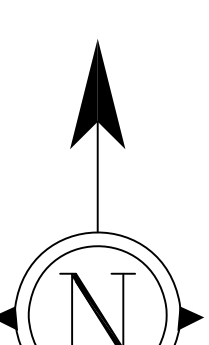
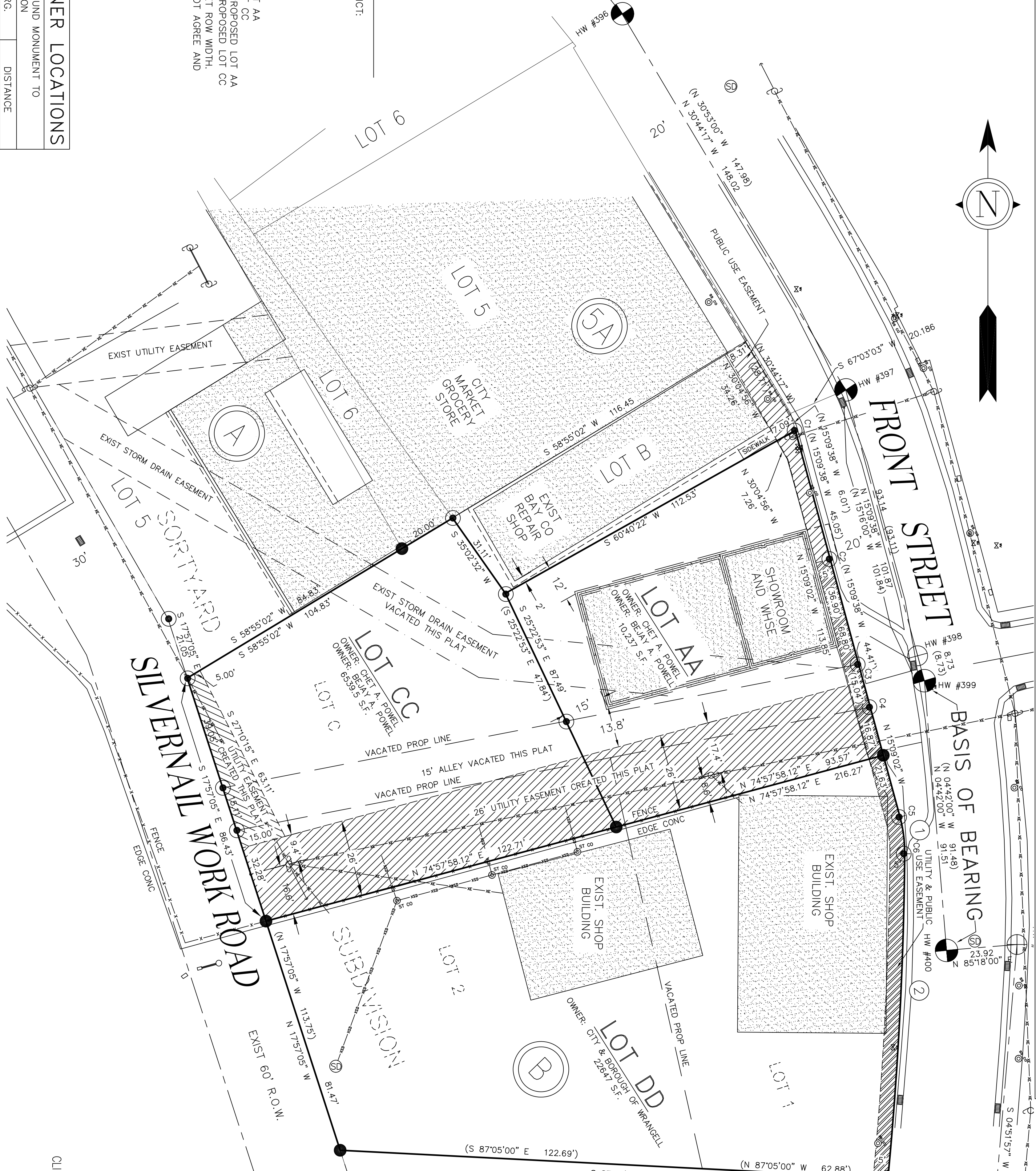
I THE UNDERSIGNED, BEING DULY APPOINTED AND QUALIFIED, AND AN ACTING ASSESSOR FOR THE CITY AND BOROUGH OF WRANGELL, HEREBY CERTIFY THAT ACCORDING TO THE RECORDS IN MY POSSESSION, THE FOLLOWING DESCRIBED PROPERTY IS OWNED ON THE TAX RECORDS OF THE CITY AND BOROUGH OF WRANGELL, IN THE NAME OF _____ AND THAT ACCORDING TO THE RECORDS IN MY POSSESSION, ALL TAXES ASSESSED AGAINST SAID LANDS ARE PAID IN FULL. THAT CURRENT TAXES FOR THE YEAR 20____ WILL BE DUE ON OR BEFORE OCTOBER 15, 20____ DATED THIS _____ DAY OF _____

ASSESSOR CITY AND BOROUGH OF WRANGELL

CERTIFICATE OF APPROVAL BY THE ASSEMBLY

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

DATE: _____
 TANNER, CITY AND BOROUGH OF WRANGELL
 ATTEST:
 CITY CLERK



FOUND CORNER LOCATIONS

BEARINGS ARE FROM FOUND MONUMENT TO ACTUAL CORNER LOCATION	MONUMENT #	CHD. BRG.	DISTANCE
	1	N 82°27'28" E	0.26'
	2	N 88°34'42" E	0.29'
	3	N 78°59'42" E	0.32'
	4	S 89°50'30" E	0.29'
	5	N 85°03'59" E	0.32'
	6	N 87°48'17" E	0.33'
	7	S 89°21'09" E	0.42'

CURVE DATA

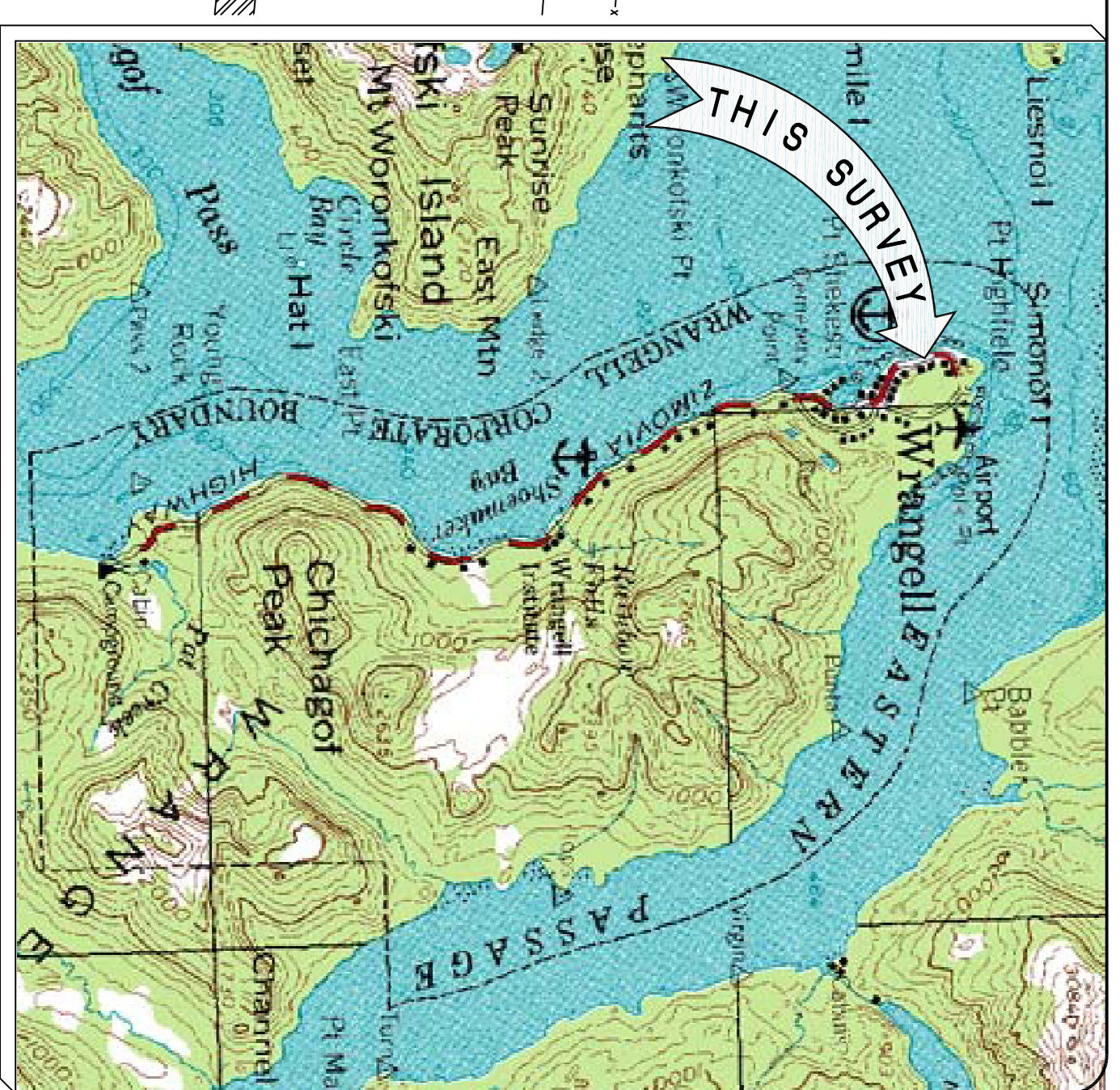
①	Δ = 15°39'06"	②	Δ = 4°55'12"
	R = 46.01'		R = 1280.26'
	L = 12.57'		L = 109.94'
	C = 12.53'		C = 109.90'
	CHD. BRG. = S 07°19'29" E		CHD. BRG. = S 02°57'40" W



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, LICENSED IN THE STATE OF ALASKA, AND THAT IN _____ 2017 _____ A SURVEY OF THE HEREIN DESCRIBED LANDS WAS CONDUCTED UNDER MY DIRECT SUPERVISION AND THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE FIELD NOTES OF SAID SURVEY, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT ACCORDING TO SAID FIELD NOTES.

CHRISTOPHER G. PIBURN LS 107552



VICINITY MAP:
 SCALE: NOT TO SCALE

LEGEND

- PRIMARY 2" BRASS CAP PIPE MONUMENT RECOVERED THIS SURVEY
- SECONDARY MONUMENT RECOVERED THIS SURVEY
- 5/8" REBAR 30" LONG WITH 2" ALUM CAP WITH PLASTIC INSERT SET THIS SURVEY
- (86.09) DATA OF RECORD
- 88.09 DATA MEASURED OF COMPUTED
- OVERHEAD ELECTRICAL
- POWER POLE & GUY ANCHOR
- EXISTING UNDERGROUND STORM PIPE
- ROADWAY CENTERLINE

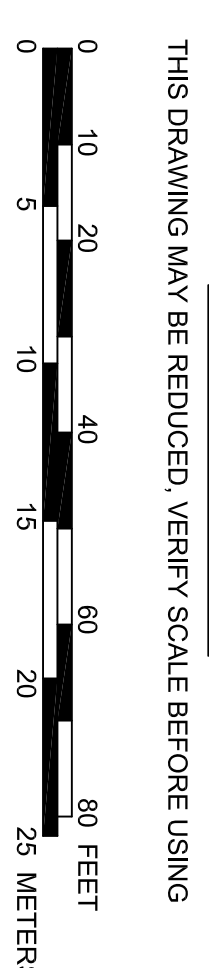
OWNERSHIP STATUS

1. LOT A (CHET & BELAY POWELL)
2. LOT C (CHET & BELAY POWELL)
3. LOT 1 (CITY & BOROUGH OF WRANGELL)
4. LOT 2 (CITY & BOROUGH OF WRANGELL)

PROPOSED OWNERSHIP

1. LOT AA (CHET & BELAY POWELL)
2. LOT CC (CHET & BELAY POWELL)
3. LOT DD (CITY & BOROUGH OF WRANGELL)

SCALE 1"=20'



WRANGELL RECORDING DISTRICT

No.	Date	Description	Revisions

CLIENT: CHET A. POWELL
 BOX 797
 WRANGELL, ALASKA 99929



PROJECT:
BAY COMPANY REPLAT & ALLY VACATION II

18&M ENGINEERING-KCTO™
 355 Catalina Lake Road
 Ketchikan, AK 99901
 Phone: (907) 526-2294

City and Borough of Wrangell, Alaska

Agenda G2

Date: August 6, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Final Plat review of Massin/Industrial Replat, a replat of Lots 3, 4, 6, 7 and 8, Block 59B, Industrial Subdivision, Plat 82-1, creating Lot 4A, Lot 6A and Lot 8A, zoned Industrial Development, requested by Bernard Massin, owner, and Alaska Power and Telephone

Recommendation:

Staff recommends approving the Final plat.

Motion:

Move to approve the final Plat review of Massin/Industrial Replat, a replat of Lots 3, 4, 6, 7 and 8, Block 59B, Industrial Subdivision, Plat 82-1, creating Lot 4A, Lot 6A and Lot 8A, zoned Industrial Development, requested by Bernard Massin, owner, and Alaska Power and Telephone

Background:

Alaska Power and Telephone is seeking to purchase Lot 6 and a portion of Lot 7, Block 59B, in the Industrial Park, owned by Bernard Massin.

Findings:

The preliminary plat was presented to the Commission in July. Due to two structures being located across lot lines, staff recommended that the Lots 3, 4 and 8 be reconfigured in order to eliminate two structures that crossed property boundary lines. During discussions with Mr. Massin at the meeting, the configuration as presented here was agreed to by Mr. Massin and approved by the Commission.

City and Borough of Wrangell, Alaska

Agenda G1

Date: July 9, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Preliminary Plat review of Massin/Industrial Replat, a replat of Lots 6, 7 and 8, Block 59B, Industrial Subdivision, Plat 82-1, creating Lot 6A and Lot 8A, zoned Industrial Development, requested by Bernard Massin, owner, and Alaska Power and Telephone

Recommendation:

Staff recommends approving the Preliminary plat with modifications to lot lines as shown in the preliminary plat due to structures being located across property lines.

Motion:

Move to approve the Preliminary plat of the Massin/Industrial Replat, a replat of Lots 6, 7 and 8, Block 59B, Industrial Subdivision, including Lot 3 and Lot 4 along with Lot 8 and portion of Lot 7 as part of the newly created Lot 8A.

Background:

Alaska Power and Telephone is seeking to purchase Lot 6 and a portion of Lot 7, Block 59B, in the Industrial Park, owned by Bernard Massin.

Findings:

Due to two structures being located across lot lines, staff is recommending that lot lines between Lots 8, 3 and 4 be eliminated. Mr. Massin can subdivide at a future date with the buildings all on a single lot should he seek to sell portions of the larger lot. There is no minimum lot size or setback requirements in the Industrial district.

City and Borough of Wrangell

Agenda Item G3

Date: August 6, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Conditional Use permit application for short term B&B or AirB&B rental as well as long term rentals on Lot 3, RAL Subdivision Easement Vacation, zoned Multi-Family Residential, owned and requested by Kay Larson.

Background: The applicant is seeking to operate either a transient short term Bed and Breakfast rental in the downstairs of her home or for a long term rental unit.

Review Criteria:

Multi-Family Residential: Chapter 20.20
Standards: Chapter 20.52

Findings of Fact:

The Bed and Breakfast/short term rental is considered a home occupation, which requires a conditional use permit review.

The home is located on Etohin Avenue, is 22,025 square feet, on sewer and Water and zoned Multi-Family. The downstairs is currently proposed for the rental space as a single unit.

Conditions of Approval for conditional use applications include:

1) *Minimal impacts on adjacent neighbors from noise, traffic, appearance, yards etc.*

The property is zoned Multi Family Residential which allows single family residences, duplexes and apartment units as a permitted use.

Uses which are incidental to the primary use and will not create a nuisance are allowed as an accessory use within the home. Cottage Industry (WMC 20.08.200) requires a conditional use permit and is for uses that are compatible with the underlying zone but could potentially have impacts to the adjacent property owners. A Bed and Breakfast type facility of short term transient duration (under 30 days) could see an increase in noise or traffic to the neighborhood as visitors come and go from their overnight stay. However, the traffic may be no different than a typical resident. Many visitors will not have a vehicle and will be on foot, but some will have vehicles. The increase in traffic is likely to be minimal. A single long term rental is allowed as a permitted use based on the definition of dwelling unit (WMC 20.08.260) with the residence utilized for residential living. If the residence is used as a vacation rental, where the whole house is rented for short term duration, again, there may be more traffic or noise by the visitors, but it likely would not vary too much from traffic generated by a residential use only.

Noise could be more than typical if the unit is rented by vacationers interested in partying. City Hall has not yet received any complaints by neighbors of B&B's and the owner can provide rules and reminders to all guests to minimize potential issues.

2) Provisions of sewer and water: The property is connected to sewer and water.

3) Entrances and off-street parking available without safety issues:

Access to the residence is from Etolin Avenue. The short term or long term rental of the downstairs is required to have at least one off street parking place. The residence is also required to have at least one off street parking place for a total of 2 off street parking places. Many visitors will not have a vehicle and will be on foot, but some will have vehicles. The property has more than the two required spaces.

Recommendation:

After review and evaluation of the facts listed above, Staff recommends approval of the conditional use request for a single short term transient Bed and Breakfast rental and as a longer term rental, subject to the following condition:

- 1) A minimum of two off-street parking places are dedicated onsite for the resident and the rental unit.
- 2) Provide Guest Guidance/ House Rules or similar document to encourage respect for the residential district and neighbors.

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: Kay Larson
2612 Etolin St.
Wrangell, AK, 99929

Applicant's Phone Number: 907-209-9117

II. Owners's Name and Address: Kay Larson
[Signature]

Owner's Phone Number: _____

III. Legal Description: Lot 3, Block 36, U.S. Survey 1119
Parcel No. Wrangell Townsite, RAH.

IV. Zoning Classification: Multi-Family

V. Specific Request: The plan is to utilize my
downstairs as a rental unit,
perhaps transient or long term.
No construction needed at this time.

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: Kay Larson DATE: 7/12/18

SIGNATURE OF APPLICANT: Kay Larson DATE: 7/12/18

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.

(see attached)
P. 2 of 2

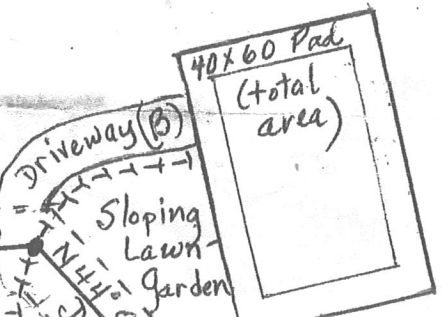
#4 ~~Jointly owned
Screener's Corp./
Larson~~

Existing
Etolin
Street
(Existing
Gravel Rd.)

N 83° 31' 00" E 240.00

#3
22,025 S.F.

N 83° 31' 00" E 100.00
Driveway (A)



Driveway (B)
Sloping
Lawn
Garden

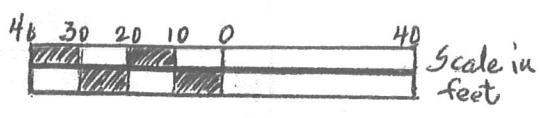
N 44° 03' 06" E 82.01
Driveway (A)

Parking
Area

N 5° 27' 44" E 102.96

#1
Adj. lot owned by
~~Dan & Kris Reed~~
Adam & Tasha Morse

#2
Adj. lot owned
by ~~Screener's Corp.~~



TITLE BLOCK
NAME: Charles & Kay Larson
WATERWAY:
LOCATION: Blk. 36, Lot 3, RAL
Subdivision, Wgl. Townsite, USS 1119
Sheet 1 of 2 Date 10/19/00

D-2000-1240
Zimonea Street

ORDERED
ENT
ES TO

ME,
DULY

THE
SAME

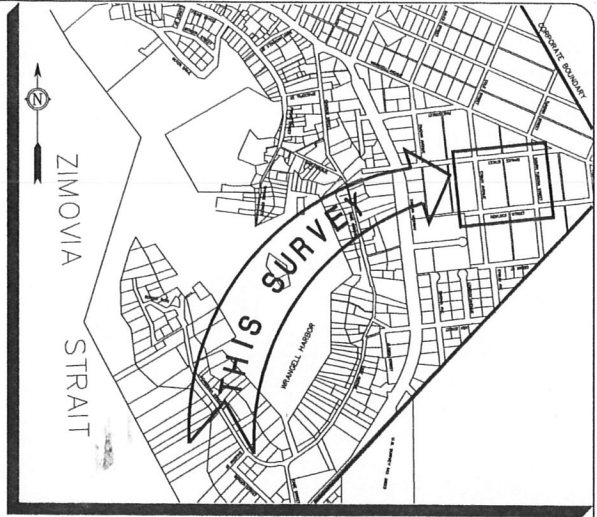
RST



(UNDEVELOPED)

SOUTH TUNDRA STREET

(N 06°29'00" W)

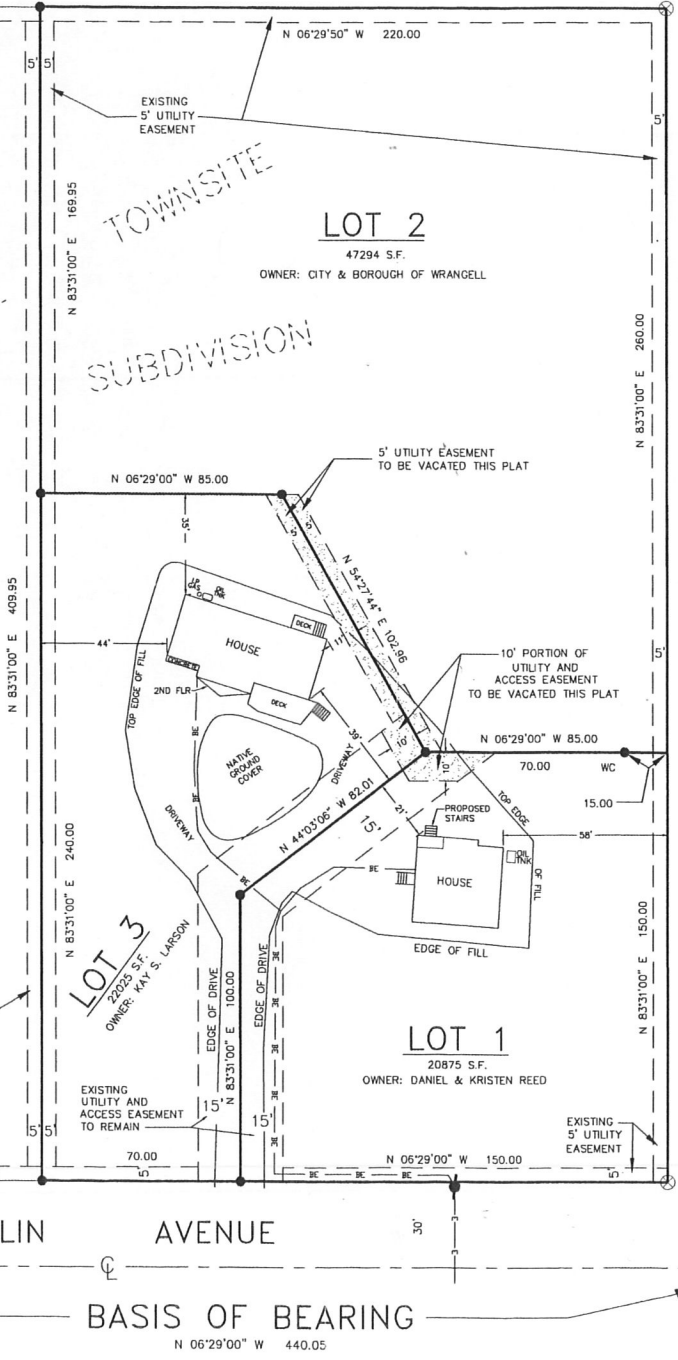


VICINITY MAP

NOT TO SCALE

PLAT NOTES

1. ETOLIN AVENUE RIGHT-OF-WAY IS 60' IN WIDTH AS PER CITY SUBDIVISION PLAT.
2. REFERENCE R.A.L. SUBDIVISION, RECORDED WITHIN THE WRANGELL RECORDING DISTRICT AS PLAT NO. 99-4
3. REFERENCE BOOK 30, PAGE 847, WRANGELL RECORDING DISTRICT FOR THE DEED TO THE PROPERTY IN QUESTION.
4. OFFSET DISTANCES ARE SHOWN TO THE NEAREST FOOT FROM THE PROPERTY LINE TO THE IMPROVEMENT.



STREET

(N 83°31'00" E)

HEMLOCK

2012-5
Plat #
Wrangell
Rec. Dist.
Dec. 10, 2012
Date
Time 1:50 P.M.

WRANGELL RECORDING DISTRICT

Revisions	
No.	Date

R&M
R&M ENGINEERING-KETCHIKAN, INC.
355 Carlanna Lake Road
Ketchikan, AK 99901
Phone: (907) 225-7917
Fax: (907) 225-3441

WRANGELL OFFICE
P.O. BOX 1331
Wrangell, AK 99929
Phone: (907) 874-2177
Fax: (907) 874-2187

PROJECT:
R.A.L. SUBD. EASEMENT VACATION
WITHIN LOTS 1, 2, & 3, R.A.L. SUBDIVISION,
BLOCK 36, WRANGELL TOWNSITE
U.S. SURVEY 1119



ETOLIN AVENUE

BASIS OF BEARING

(N 06°29'00" W 440.05

CITY AND BOROUGH OF WRANGELL, ALASKA



Public Map



1 inch = 125 feet
Date: 7/30/2018

**DISCLAIMER: THESE MAPS ARE FOR PLANNING PURPOSES ONLY.
PROPERTY LINES ARE APPROXIMATE.**

City and Borough of Wrangell, Alaska

Agenda G4

Date: August 16, 2018

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Discussion of potential code changes to address nuisance activities.

Background:

Last fall, the Manager and Assembly began discussing ways to clean-up properties from Junk that seems to be more than typical for residence. More recently, there was a complaint by a land owner regarding activities on an adjacent property that he deems are inappropriate and a nuisance.

The Borough Manager recently presented to the Assembly an initial DRAFT ordinance that would replace WMC Chapter 9 Nuisance with a completely new code. Attached is the draft code, much of it taken from the Valdez Nuisance code that she helped develop. It is still being modified, as my recent conversation with the Manager indicated she had found sections from other codes or other ideas that might work better in Wrangell. Also because of the recent complaint and issues regarding that complaint, staff is reviewing potential changes to the zoning code to help clarify and address similar situations.

Zoning Code Changes:

In reviewing the zoning ordinance, to address the specific complaint and issues presented by the Demerjians, changes to Chapter 20 zoning code would need to occur either in each Zoning district as types of uses allowed or not allowed, or allowed by conditional use, or in the Noise Standard. At this time, I have been reviewing potential changes to the Noise Standard.

The existing Noise Standard WMC 20.52.060 is:

20.52.060 Noise.

The noise emanating from a premises used for industrial activities shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness. Where the use adjoins a residential district (SF, MF, RR-1, RR-2, and RMU), the noise loudness measured at the boundary line of the premises used for industrial activities shall not exceed 90 decibels between the hours of 7:00 a.m. and 8:00 p.m. weekdays and the hours of 10:00 a.m. and 8:00 p.m. weekends and holidays, and 40 decibels at other hours. [Ord. 867 § 1, 2013; Ord. 462 § 6, 1984.]

Below are excerpts that have merit from zoning codes of other communities. These are just a few that I have pulled for your review.

The following language is from the Valdez ordinance and pertains to “any use” rather than just “noisy” uses:

Any use which causes or may reasonably be expected to cause excessive noise, vibration, odor, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which it is located. “Excessive” is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

If you modify the above and Wrangell’s existing code just for the noise standard, one version could read:

- 1) In the SF, MF, RR, RMU and Commercial districts, any use which causes or may reasonably be expected to cause excessive noise, vibration, or sounds objectionable due to intermittent beat, frequency or shrillness beyond any lot line of the lot on which it is located is prohibited. “Excessive” is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

In this sample version, the decibel level is eliminated, the interpretation becomes more subjective than it is currently, and it prohibits any loud use. If loud uses are prohibited, a literal reading could impact construction activities, unless it is clearly specified.

Another version could read:

- 2) The noise emanating from a premises in the SF, MF, RR, RMU and Commercial districts shall be muffled so as not to become objectionable due to intermittent beat, frequency or shrillness, repetition or type of equipment. The noise loudness measured at the boundary line of the premises from which the noise originates in the SF, MF, RR, RMU and Commercial districts shall not exceed 90 decibels between the hours of 7:00 a.m. and 8:00 p.m. weekdays and the hours of 10:00 a.m. and 8:00 p.m. weekends and holidays, and 40 decibels at other hours.

Adding in decibel readings or time restrictions, provides two measurable parameters. Dealing with unexpected or temporary activities is unclear.

From Juneau’s code, the following was found as it relates to noise:

- (1) It is unlawful for any person to make or continue, or cause or permit to be made or continued, any unreasonable noise.
- (2) As used in this section, "unreasonable noise " means noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of a reasonable person of ordinary sensibilities in the vicinity. The factors which will be considered in determining whether a noise is unreasonable will include, but not be limited to, the following:
 - (A) The volume of noise;
 - (B) The intensity of the noise;
 - (C) Whether the nature of the noise is usual or unusual;
 - (D) Whether the origin of the noise is natural or unnatural;
 - (E) The volume and intensity of the background noise, if any;
 - (F) The proximity of the noise to residential sleeping facilities;
 - (G) The nature and zoning of the area within which the noise emanates;
 - (H) The density of the inhabitation of the area within which the noise emanates;
 - (I) The time of the day or night the noise occurs;
 - (J) The duration of the noise;
 - (K) Whether the noise is recurrent, intermittent or constant;
 - (L) Whether the noise is produced by a commercial or noncommercial activity; and

(M)Whether the noise contains pure tones.

This provides more guidance and criteria to determine excessive or unreasonable.

From Anchorage code, the following *excerpts* on noise restrictions may want to be considered for inclusion in a noise standard:

15.70.060 Prohibited acts and conditions. A. No person shall unreasonably make, continue or cause to be made or continued any noise disturbance.

Animals. No person shall own, possess or harbor any animal that frequently or for continued duration makes sounds common to its species.

Construction. No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work:

a. So that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise-sensitive zone between the hours of 10:00 p.m. and 6:00 a.m. during the construction season, between the hours of 10:00 p.m. and 7:00 a.m. during other months, or at any time on Sundays or state holidays;

b. So that the sound level therefrom exceeds an Leq of 80 dB(A) at or within a residential real property boundary or within a noisesensitive zone during any one hour of the daily period from 6:00 a.m. to 10:00 p.m. during the construction season or from 7:00 a.m. to 10:00 p.m. during other months;

or c. So that the sound level therefrom exceeds an Leq of 80 dB(A) at or within a commercial or industrial real property boundary during any one hour of the daily period from 6:00 a.m. to 10:00 p.m. during the construction season or from 7:00 a.m. to 10:00 p.m. during other months.

The restrictions of subsection B.3 of this section do not apply to emergency work of public service utilities as provided in Section 15.70.020.B, the use of domestic power tools as permitted in subsection B.4 of this section or construction work for which a permit has been issued pursuant to Section 15.70.070.A.

Domestic power tools. No person shall operate or permit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower or similar device used in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

Motor vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify, idle, run, accelerate or test any motor vehicle or any auxiliary equipment attached to such vehicle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone.

15.70.080 Property line noise emission standards.

- A. Except as otherwise provided in subsections B and C of this section, no person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level that exceeds the limits set forth for the receiving land use category in table 1 when measured at or within the property boundary of the receiving land use.

TABLE 1. SOUND LEVELS BY RECEIVING LAND USE

Receiving Land Use Category	Time	Sound Level Limit (dB(A))
Residential area	7:00 a.m.--10:00 p.m.	60
	10:00 p.m.-- 7:00 a.m.	50
Commercial area	7:00 a.m.--10:00 p.m.	70
	10:00 p.m.-- 7:00 a.m.	60
Industrial area	At all times	80

- B. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level measured at any location on a boundary between two receiving land use categories that exceeds the arithmetic mean of the respective sound level limits set forth for such receiving land use categories in table 1.

Within the draft proposed ordinance submitted by the Manager, there is a section on Noise. That section would either replace or need to be compatible with whatever is included within the zoning code. After talking with the Manager, I suggested that the Noise section in the draft code she presented might be modified using language from some of the codes I have been looking at or even included here. The Planning and Zoning Commission can certainly make a recommendation one way or the other regarding the Noise section and zoning standard, and any other comments related to the draft code.

The City and Borough of Wrangell's current Nuisance Code can be found online <http://www.codepublishing.com/AK/Wrangell/> Chapter 9.08 Nuisances.

CITY & BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 18-08-xxxx

AN ORDINANCE OF THE ASSEMBLY OF THE CITY & BOROUGH OF WRANGELL, ALASKA REPEALING AND REENACTING CHAPTER 9.08 OF THE WRANGELL MUNICIPAL CODE RELATED TO NUISANCES

WHEREAS, the Assembly of the City & Borough of Wrangell, Alaska has determined nuisance abatement to be a community priority; and

WHEREAS, consistency and due process should be afforded to property owners when remedies related to offenses against property are sought; and

WHEREAS, Borough staff requires a codified process related to nuisance abatement to provide fair and consistent enforcement; and

WHEREAS, Chapter 9.08 (Nuisances) of the Wrangell Municipal Code does not include a clearly defined enforcement process; and

WHEREAS, a revision of Chapter 9.08 is necessary to adopt a defined enforcement process.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY & BOROUGH OF WRANGELL, ALASKA THAT CHAPTER 9.08 OF THE WRANGELL MUNICIPAL CODE IS HEREBY REPEALED AND REENACTED AS FOLLOWS:

Section 1.

CHAPTER 9.08
NUISANCES

Sections:

- 9.08.010 Public nuisances designated—Acts prohibited.
- 9.08.020 Enumerated—Acts prohibited in all zones.
- 9.08.030 Enumerated—Acts prohibited in all zones except Timber Management, Industrial, Light Industrial, Waterfront Development and Shoemaker Bay-Waterfront Development.
- 9.08.040 Junk vehicles.
- 9.08.050 Noise.
- 9.08.060 Emission of dense smoke.
- 9.08.070 Escape of soot, cinders, etc.
- 9.08.080 Abatement—Commencement of proceedings.
- 9.08.090 Abatement—Standards to be followed.
- 9.08.100 Abatement—Notice and order.
- 9.08.110 Abatement—Notice and order—Recordation.
- 9.08.120 Abatement—Notice and order—Extension of time limit.
- 9.08.130 Abatement—Notice and order—Posting.
- 9.08.140 Abatement—Enforcement of order—Generally.
- 9.08.150 Abatement—Enforcement of order—Procedure—Costs.
- 9.08.160 Abatement—Enforcement of order—Interference prohibited.
- 9.08.170 Abatement—Recovery of costs.
- 9.08.180 Abatement—Appeal.

- 9.08.190 Appeal to the planning and zoning commission.
- 9.08.200 Appeal to the board of adjustment.
- 9.08.210 Appeal to superior court.
- 9.08.220 Summary abatement in emergency.
- 9.08.230 Remedies.

9.08.010 Public nuisances designated—Acts prohibited

- A. Public nuisances shall include but not be limited to whatever is forbidden by any provision of this chapter.
- B. It is unlawful for any person to commit, create or maintain any public nuisance enumerated in this chapter.

9.08.020 Enumerated—Acts prohibited in all zones

The following acts and conditions shall constitute a public nuisance in all zones:

- A. Whatever injures or endangers the safety, health, comfort or repose of the public, offends public decency, interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream, or in any way renders the public insecure in life or property;
- B. Noise exceeding the prescribed decibel levels set forth in Section 9.08.050;
- C. Disposing of any refuse, garbage, manure, waste or other materials except at refuse disposal sites which have been approved and are supervised by the state health officer, or borough manager, and which are clearly marked for such purpose;
- D. Dumping, abandoning, throwing, scattering or transporting anything in such manner as to cause the littering of any street, alley or public place, or of any private property not his/her own, or as to cause the obstruction of any ditch, drain or gutter, except as permitted in refuse disposal sites under subsection C of this section;
- E. Knowingly or wantonly operating or causing to be operated any machine, device or apparatus of any kind whatsoever within the boundaries of the City & Borough of Wrangell between the hours of ten a.m. and twelve midnight, the operation of which shall cause reasonably preventable electrical interference in the operation of any radio or television receiving set or with radio or television reception within the borough, except that X-ray pictures, examinations or treatment may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with such radio or television reception, and are not negligently operated;
- F. Any well, swimming pool or other dangerous excavation in the earth not completely covered, or guarded by a fence at least eight feet high of either solid panel or heavy woven-wire construction or by other means of protection, including use of watchmen which shall be fully effective at all times, including night hours;
- G. Buildings which are unoccupied and open to ingress and egress and which should be locked up, boarded up or otherwise secured from ingress or egress;

- H. Unoccupied buildings in a rotten or warped condition;
- I. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- J. Overgrown vegetation causing detriment to neighboring properties or property values;
- K. Dead trees, weeds or debris:
 - 1. Constituting unsightly appearance, or
 - 2. Dangerous to public safety and welfare, or
 - 3. Detrimental to nearby property or property values;
- L. Attractive nuisances dangerous to children in the form of:
 - 1. Abandoned and broken equipment, or
 - 2. Hazardous pools, ponds and excavations, or
 - 3. Neglected machinery, or
 - 4. Abandoned refrigerators, or
 - 5. Abandoned automobiles or cabinets;
- M. Broken or discarded furniture and household equipment in yard areas for unreasonable periods, seven days being prima facie evidence of an unreasonable period;
- N. Clotheslines in front yard areas;
- O. Neglect of premises:
 - 1. To spite neighbors, or
 - 2. To influence zone changes, or
 - 3. To cause detrimental effect upon nearby property of property values;
- P. Property including but not limited to building exteriors which is maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that such property causes appreciable diminution of the property values of surrounding property or is materially detrimental to nearby properties and improvements. This includes but is not limited to the keeping or disposing of or scattering over the property or premises of any of the following:
 - 1. Lumber, junk, trash or debris, or
 - 2. Abandoned, discarded or unused objects of equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers, or
 - 3. Stagnant water or excavations, or
 - 4. Any device, decoration, design, fence, structure, clothesline or vegetation which is unsightly by reason of its condition or its inappropriate location;
- Q. Dumping, pumping, placing, throwing or discharging any oil, bilge waters, refuse, garbage, or debris in Inner Harbor, Heritage Harbor, or Shoemaker Bay Harbor or the waters within the boundaries of the City & Borough of Wrangell;
- R. Any discarded, abandoned, unattended or used refrigerator, icebox or similar container equipped with an airtight door or lid, snap locks or other locking device which cannot be released from the inside, in

a location accessible to children, either outside any building or dwelling or within an unoccupied or abandoned building, dwelling or other structure, without first having removed the door, lid or locking device. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

9.08.03 Enumerated—Acts prohibited in all zones except Timber Management, Industrial, Light Industrial, Waterfront Development and Shoemaker Bay-Waterfront Development.

The following acts and conditions shall constitute a public nuisance in all zones except Timber Management, Industrial, Light Industrial, Waterfront Development, and Shoemaker Bay-Waterfront Development:

- A. Trailers, campers, boats and other mobile equipment stored for unreasonable periods in unsheltered front yard areas, thirty days being prima facie evidence of an unreasonable period;
- B. Packing boxes and other debris stored in yards and visible from public streets for unreasonable periods, seven days being prima facie evidence of an unreasonable period.

9.08.040 Junk vehicles

- A. It is unlawful for any person to place upon public property not set aside by law as a refuse disposal, or upon any private property, except licensed junk yards, any wrecked, junked or abandoned vehicle.
- B. It is unlawful for any owner, lessee, agent, tenant or occupant to allow or permit to remain on any property owned or controlled by him, except licensed junk yards, any wrecked, junked or abandoned vehicle.
- C. Any violation of subsection A or B of this section shall constitute a public nuisance. The costs of abatement may be charged or assessed by the assembly as provided by Section 9.08.150(B) against any or all of the following:
 - 1. The vehicle;
 - 2. The registered owner of the vehicle;
 - 3. Any person who has acquired the right to possession of the vehicle from or through the registered owner;
 - 4. Any person in violation of subsection A or B of this section;
 - 5. The owner, lessee, agent, tenant or person in control of the property where the vehicle was situated at the time of the notice to abate.
- D. As used in this section:
 - 1. The term “abandoned” includes any vehicle which, at the time of the notice of abandonment, cannot be operated as a motor vehicle in compliance with the laws of the state because of mechanical failure or condition.

2. The term “vehicle” means any motor vehicle as defined in this code and includes any body or part of any such motor vehicle.

E. A person having upon his premises an abandoned vehicle which is in need only of reasonable repairs and is without available funds to obtain the required license or to make such repairs may apply to the borough manager for a permit to keep the vehicle upon the premises.

9.08.050 Noise

A. Intent. It is the intent of this section to endeavor to provide citizens with an environment free from such excess sounds or noise as may jeopardize their health, welfare and safety, or degrade the quality of life.

B. Definitions. For the purposes of this chapter:

“dB(A)” shall mean a measure of sound pressure level in decibels on the A-weighted scale.

“Decibel meter” shall mean an instrument to measure decibels which meets or exceeds American National Standards Institute (ANSI) Section 1.4 or the latest approved revision thereof.

“Device” shall mean any mechanism which is intended to produce or which actually produces sound when operated or handled.

“Noise” shall mean any sound which exceeds the prescribed decibel levels at a time and location described in this section.

“Sound-amplifying equipment” shall mean any machine or device for the amplification of the human voice, music or any other sound or noise.

C. Noise in Residential Districts.

1. General Restriction. It shall be unlawful for any person to use, operate, or emit or permit to be used, operated or emitted any source of sound which produces or reproduces sound either stationary or mobile in such a manner so as to create any sound or noise which exceeds sixty dB(A) during the hours of seven a.m. until eight p.m. on weekdays or ten a.m. until eight p.m. on weekends and holidays or which exceeds fifty dB(A) from eight p.m. until seven a.m. when measured at or within the boundary of the property on which the sound is received.

2. Responsibility for Creation of Noise. Any person creating any such sound or noise as described in this section and/or anyone permitting such a sound or noise to be created in, or emanate from, any premises under his care, custody and control shall be presumed responsible for any such sound or noise.

D. Exceptions.

1. Emergency and Public Work. Noise or sound created in the performance of public service by governmental agencies or their contractors while performing construction, repair, maintenance or snow removal services; or emergency work engaged in by persons for the public safety, health or welfare; or to restore property to a safe condition following a public emergency; or work to restore

essential public services, including construction activities directly related to the abatement of any emergency, shall not be subject to the provisions of this section.

2. Noises from Authorized Activities. The prohibitions of this section shall not apply to air traffic, parades, cultural events, athletic games, fairs, or functions approved by the borough.

3. Sirens, Horns and Whistles. The provisions of this section shall not apply to any siren, whistle, horn or bell used by emergency vehicles or civil defense or used by motor vehicles as warning devices to avoid collisions.

4. Bells or Chimes. The provisions of this section shall not apply to any bell or chimes, or any device for the production or reproduction of the sound thereof, which are associated with a clock or time-keeping device, church or school.

5. Burglar Alarms. The provisions of this section shall not apply to any burglar alarm or security device; provided, however, no burglar alarm or security device shall sound for more than fifteen minutes after being activated.

6. Construction Activity or Equipment. The provisions of this section shall not apply to any construction activity or equipment operated between the hours of seven a.m. and eight p.m. weekdays; and ten a.m. and eight p.m. weekends and holidays.

7. Residential Power Tools and Equipment. The provisions of this section shall not apply to any residential power tools and equipment operated between the hours of seven a.m. and ten p.m.

8. Vessels. The provisions of this section shall not apply to the operation of any boat or vessel.

9. Motor Vehicles. The provisions of this section shall not apply to the normal and usual operation of motor vehicles.

10. Residential/Commercial Snow Removal Activity or Equipment. Noise or sound created in the performance of residential/commercial snow removal by property owners or their contractors.

E. Noise on Public Streets Generally. It shall be unlawful for any person to use, operate, or permit to be used or operated in or on a parked or moving motor vehicle any sound-amplifying equipment producing sound that is clearly audible at twenty-five feet or more from the motor vehicle on any public street or right-of-way within the boundaries of the City & Borough of Wrangell.

F. Temporary Waiver Permits. If the applicant can show to the borough manager or his designee that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, up to six months, but renewable upon a showing of good cause, and shall be conditioned by a schedule for compliance and details of methods therefor in appropriate cases. Any person aggrieved with the decision of the borough manager or his designee may appeal to the borough assembly.

9.08.060 Emission of dense smoke

A. Prohibited—Exceptions. It is unlawful for any person to permit the emission of any smoke from any source whatever of a density equal to or greater than that density described as No. 2 on the Ringlemann Chart. The emission of any such dense smoke is declared to be a public nuisance and may be summarily abated by the abatement official. This section shall not apply to:

1. The circumstance when a firebox, furnace, boiler, locomotive or other fuel-consuming device is being cleaned out and a new fire is being built therein, in which event the smoke of a density greater than that described on the Ringlemann Chart shall be permitted for a period of not to exceed six minutes in any single period of sixty minutes;
2. Smoke from fires set by or permitted by any official if such fire is set or permission given in the performance of the official duties of such officer, and such fire in the opinion of such officer is necessary:
 - a. For the purpose of the prevention of a fire hazard which cannot be abated by any other means,
 - b. For the instruction of public employees in the methods of firefighting.

B. Ringlemann Chart.

1. The Ringlemann Chart is a chart which is described in the U.S. Bureau of Mines Information Circular 6888, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring smoke density.
2. The Ringlemann number is the number appearing on the Ringlemann Chart described by the observer to the density of smoke emission.
3. The use of the chart will be made by placing it at such distance from the observer so that the smoke appears as even shades of coloring or when no white spaces between the lines are visible. Measurements shall be taken at the point of greatest density, which will usually be at the point of emission. Comparison of the smoke and observation with the various shades of the chart will then indicate the density of the smoke. Observation distances shall be not less than one hundred feet nor more than one-quarter mile from the smoke observed.
4. Where the density or opacity of the smoke as observed falls between two consecutive Ringlemann numbers, the lower Ringlemann number shall be considered the density of the smoke observed.

9.08.070 Escape of soot, cinders, etc.

A. Dangers to Public Health.

1. It is unlawful for any person to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner as to:
 - a. Be detrimental to any person or the public;

- b. Endanger the health, comfort and safety of any such person or of the public;
 - c. Cause or have a tendency to cause injury or damage to property or business.
2. The escape of such matter is declared to be a public nuisance and may be summarily abated by the abatement official.

B. Definitions. "Cinders," "dust," "fly ash," "noxious acids," "fumes" and "gases" as used in this section shall be considered to be all matter other than dense smoke, including smoke, cinders, dust and soot formed as the result of the combustion of fuels which are carried in the gas streams so as to reach the external air and which have not been completely consumed by the combustion process.

9.08.080 Abatement – commencement of proceedings

The borough manager, or any designee, is authorized to enforce the provisions of this chapter. When used in this chapter, "abatement official" shall include these officials or their designated representatives.

Whenever the abatement official has inspected any activity, condition or property and has found and determined that such activity, condition or property constitutes a public nuisance, he shall commence proceedings to have the public nuisance abated by rehabilitation, repair or other appropriate action. The procedures set forth in this chapter shall not in any manner limit or restrict the borough from enforcing borough ordinances or abating public nuisances in any other manner provided by law or by the common law.

9.08.090 Standards to be followed

The abatement official, and the board of appeals if an appeal is taken, shall order the means best calculated to abate wholly the nuisance with the least costs of abatement, and demolition shall not be ordered if repair or removal may accomplish the abatement.

9.08.100 Abatement – Notice and order

A. Issuance—Contents. The abatement official shall issue a notice and order directly to the record owners of the affected property, or the person committing, creating or maintaining the public nuisance.

The notice and order shall contain:

1. The street address and legal description sufficient for identification of the affected property;
2. The statement that the abatement official has found the property affected with a public nuisance with a brief and concise description of the public nuisance as defined in this chapter;
3. A statement of the action required to be taken as determined by the abatement official to abate the public nuisance by rehabilitation, repair, demolition or other action sufficient to cause the nuisance to be wholly abated;

4. A statement advising that if any required abatement is not commenced or completed within the time specified, the abatement official may either:
 - a. Proceed to cause the necessary work to be done and charge the cost thereof against the property or its owner; or
 - b. As provided by AS 29.25.070, submit to the court an application for action to enjoin the violation. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.

5. Statements advising:

- a. That any person having record title or legal interests in the property may appeal from the notice and order by filing with the borough clerk within fifteen days (unless such abatement will materially affect a building or structure permanently attached to real property, in which case thirty days shall be allowed) from the date of service of such notice and order an appeal in writing in accordance with the appeal procedure as provided in Sections 9.08.180 through 9.08.210; and
- b. Failure to appeal will constitute a waiver of all right to administrative hearing and determination of the order, and will result in the abatement official proceeding with the remedies provided in subsections (A)(4)(a) and (b) of this section.

B. Service of Notice and Order.

1. The notice and order and any amended or supplemental notice and order shall be served upon the record owner and posted on the property affected by the public nuisance, and one copy thereof shall be served on each of the following if known to the abatement official or disclosed from official public records:
 - a. The holder of any mortgage or deed of trust or other lien or encumbrance of record;
 - b. The owner or holder of any lease of record;
 - c. The owner of any other estate or legal interest of record in or to the property affected by the public nuisance.
2. The failure of the abatement official to serve any person required to be served shall not invalidate any proceedings herein as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section. No notice is required for abatement of a public nuisance occurring on the public streets and rights-of-way, borough properties and parks, or for summary abatement when permitted.

C. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by registered or certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last equalized assessment roll of the borough or as known to the abatement official. If no address of any such person so appears or is known to the abatement official, any copies of notice or order shall be so mailed addressed to such person, at the address of the property involved in these proceedings. The failure of any such

person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified or registered mail in the manner provided in this section shall be effective on the date of mailing.

D. Proof of Service. Proof of service of the notice and order shall be certified to at the time of the service by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned as acknowledgement of receipt by certified or registered mail, shall be affixed to the copy of the notice and order retained by the abatement official.

9.08.110 Abatement – Notice and order - Recordation

A. If compliance is not had with the order within the time specified therein, and no appeals are properly and timely filed, the abatement official shall have filed in the office of the Wrangell recording district a certificate describing the property and certifying:

1. That the property is affected by a public nuisance;
2. That the owner has been so notified.

B. Whenever the public nuisance has been abated on a property described in the certificate, the abatement official shall file a new certificate with the office of the Wrangell recording district certifying that the public nuisance has been abated.

9.08.120 Abatement – Notice and order – Extension of time limit

Upon receipt of an application from the person required to conform to the order and agreement in writing by such person that he will comply with the order if allowed additional time, the abatement official may, at his discretion, grant an extension of time within which to abate the public nuisance, if the abatement official determines that such an extension of time will not create or perpetuate a situation dangerous to life or property. The abatement official's authority to extend time is limited to the abatement of the public nuisance and will not in any way affect or extend the time to appeal his notice and order.

9.08.130 Abatement – Notice and order - Posting

A. Required. Every order of compliance shall, in addition to being served as provided in Section 9.08.100(B), be posted in a conspicuous place upon the affected property.

B. Compliance. No person shall remove or deface any such notice after it is posted until the required abatement has been completed. Any person violating this subsection shall be guilty of a misdemeanor.

9.08.140 Abatement – Enforcement of order - Generally

A. Violation. After any order of the abatement official or the assembly, acting as a board of appeals, shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey

any such order. Any such person who fails to comply with any such order shall be guilty of a misdemeanor.

B. Failure to Obey Order. If, after any order of the abatement official or the assembly acting as a board of appeals has become final, any person to whom such order is directed shall fail, neglect or refuse to obey such order, the abatement official may:

1. Cause such person to be prosecuted under subsection A of this section;
2. Institute any appropriate action to abate such public nuisance under Section 9.08.100(A)(4)(a) and (b);
3. Do both 1 and 2.

C. Failure to Commence Work. Whenever the required abatement is not commenced within fifteen or thirty days, as provided in Section 9.08.100(A)(5)(a), after the notice and order issued under this code becomes effective, the abatement official may, in addition to any other remedy herein provided, cause the public nuisance to be abated with the cost of such abatement to be paid and recovered in the manner and method provided in Section 9.08.170.

9.08.150 Abatement – Enforcement of order – Procedure - Costs

A. Procedure. When any abatement of a public nuisance is to be done pursuant to Section 9.08.140(C) of this chapter, the abatement official shall issue his order therefor to the director of public works or the director of capital facilities and the work shall be accomplished by borough personnel or by private contract under the direction of such director.

B. Costs. The costs, including incidental expenses of abatement of such public nuisance, shall be a lien against the property involved or may be made a personal obligation to the property owner, whichever the borough shall determine is appropriate.

9.08.160 Abatement – Enforcement of order – Interference prohibited

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the borough or with any persons who own or hold any estate or interest in the premises affected by the public nuisance which has been ordered abated, whenever such officer, employee, contractor or authorized representative of the borough, or person having any interest or estate in the affected premises, is performing the necessary acts preliminary or incidental to such work authorized or directed pursuant to Section 9.08.140.

9.08.170 Abatement – Recovery of Costs

A. The abatement official shall keep an account of the costs, including incidental expenses, of abating each public nuisance, including each separate lot or parcel of land where the abatement is done, and

shall render an itemized report in writing to the assembly showing the costs of abatement and manner of abatement of each public nuisance, including any salvage value relating thereto.

B. Upon the completion of the abatement work, the abatement official shall prepare and file with the borough clerk a report specifying the work done, itemizing the total cost of the work, the description of the property affected by the public nuisance and the names and addresses of the persons entitled to notice pursuant to Section 9.08.100(B). Before the report is submitted to the assembly, a copy of a report shall be posted for at least five days upon the affected premises, together with a notice of the time when the report shall be heard by the assembly.

C. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the borough in the preparation of notices, specifications, contracts, overhead and inspection of the work and the cost of printing and mailing required hereunder.

D. The costs shall be recovered as provided in Section 9.08.150(B). All monies recovered for the costs of the abatement shall be paid into the general fund.

9.08.180 Abatement - Appeal

Any person entitled to service under Section 9.08.100(B) may appeal from the notice and order or any action of the abatement official concerning abatement of a public nuisance.

9.08.190 Appeal to the planning and zoning commission

A. Filing Limit. An appeal from the notice and order or action of the abatement official in enforcement of this title may be taken to the planning and zoning commission by any person entitled to service under Section 9.08.100(B). The written appeal must be filed within fifteen days (unless such abatement will materially affect a building or structure permanently attached to real property, in which case thirty days shall be allowed) of the notice and order. The appeal must be filed with the office of the borough clerk.

B. Report. A report concerning each case appealed to the planning and zoning commission shall be prepared by the abatement official and filed with the borough clerk. Such report shall state the decision and recommendations of the commission together with reasons for the decision and recommendations. All data pertaining to the case shall accompany the report.

C. Stay of Proceedings. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the planning and zoning commission, unless the court issues an enforcement order based on a certificate of imminent peril to life or property.

9.08.200 Appeal to the board of adjustment

A. Filing Limit. An appeal from any action or decision of the planning and zoning commission may be taken by any person or persons entitled to service under Section 9.08.100(B). The appeal shall be in the form of a written statement, and state how the appellant will be affected or aggrieved by the action. The

appeal must be filed within ten days of the date of the action or decision by the planning and zoning commission. The notice of appeal must be filed with the borough clerk.

B. Report. A report concerning each case appealed to the board of adjustment shall be prepared by the planning and zoning commission and filed with the borough clerk. Such report shall state the decision and recommendations of the commission together with reasons for the decision and recommendations. All data pertaining to the case shall accompany the report.

C. Stay of Proceedings. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the board of adjustment, unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property.

9.08.210 Appeal to superior court

An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons entitled to service under Section 9.08.100(B), or any officer, commission or board of the borough, to the superior court by filing with the court, with a copy to the borough clerk, within thirty days from the date of the action appealed from, a notice of appeal which shall specify the grounds of such appeal. Failure to file the notice of appeal in the manner and time specified shall forfeit any right to appeal. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the court, unless the court issues an enforcement order based on a certificate of imminent peril to life or property.

9.08.220 Summary abatement in emergency

The abatement official may abate any public nuisance without notice in an emergency where the public safety, comfort or repose is seriously annoyed, injured or endangered to the point where immediate action is necessary and notice cannot be timely given. All other abatement proceedings, except the necessity and the manner and method of giving notice, shall apply to the nuisance summarily abated, including the recovery of the costs of the summary abatement.

9.08.230 Remedies

The remedies provided for in this chapter shall be cumulative and in addition to other remedies or procedures provided elsewhere in this code or by common law. In addition, a public nuisance may be abated by the borough in a civil action.

Section 2. This ordinance will take effect immediately upon passage and approval.

PASSED AND APPROVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF
WRANGELL, ALASKA THIS _____ DAY OF _____, 2018.

CITY & BOROUGH OF WRANGELL

David L. Jack, Mayor

ATTEST:

Kim Lane, Borough Clerk

August 17, 2018

Box 1762
Wrangell, AK 99929

Economic Director
City and Borough of Wrangell
Box 551
Wrangell, AK 99929

Dear Ms. Rushmore:

We are writing to express our support for the proposed nuisance codes you are considering. We live on Evergreen Avenue in a residential zone. Over many years we have complained to the city and police about gross zoning violations in our neighborhood that directly affect our quality of life, our property value and that of others in the neighborhood. We feel that our rights as property owners in Wrangell have been substantially violated over a long period.

The city has always been sympathetic to our complaints but has said over and over that there are no codes to enforce existing zoning regulations. Our request is that you remedy this so that all property owners know what to expect when they buy property in a particular zone. It is our firm belief that having zoning regulations without the ability to enforce them encourages non-compliance, disrespect for the law and conflict between neighbors.

It is our hope that with your leadership on this issue we can improve our quality of life in Wrangell for everyone. Thanks for your consideration of this important matter.

Sincerely,

Haig Demerjian

Bonnie Demerjian