



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

Date: August 11, 2016

From: Michael Scarcelli, Senior Planner

To: Planning Commission

Re: ZMA 16-01 Zoning Map Amendment of 601-800 Alice Loop

GENERAL INFORMATION

Applicant: Lynne Brandon
705 Alice Loop
Sitka, AK 99835

Property Owner: Various

Property Address: 663-800 Alice Loop

Legal Description: Lots 1-5 of Alice and Charcoal
Island, and Alice Island Planned Unit
Development Phase I, and Lots 1-16
Ethel Staton Subdivision.

Parcel ID Number: 1-9002-000 through 1-9012-016

Size of Existing Lot: Approximately 8.87 Acres

Zoning: Water Front District (WD)

Existing Land Use: Residential/Commercial/Business/Vacant

Utilities: On site – provided by Owner

Access: Alice Loop/Airport Road

Surrounding Use: Residential, Commercial, Business, and Vacant Developable Land

MEETING FLOW

- Report from Staff
- Applicant comes forward
- Applicant identifies him/herself – provides comments
- Commissioners ask applicant questions
- Staff asks applicant any questions
- Floor opened up for Public Comment
- Applicant has opportunity to clarify or provide additional information
- Comment period closed - brought back to the board
- Findings
- Motion of Approval for the replat

ATTACHMENTS

Attachment A: Vicinity Map
Attachment B: Aerial Vicinity Map
Attachment C: Zoning Map
Attachment D: Flood Map
Attachment E: Parcel Pictures
Attachment F: Subdivision Plats
Attachment G: Application
Attachment H: Shee Atika Comments
Attachment I: Mailing List
Attachment J: Proof of Payment
Attachment K: Conditions, Reservations, and Restrictions

PROJECT DESCRIPTION

The request is to rezone an approximate 8.87 acre area consisting of multiple subdivisions and a Planned Unit Development located along 663-800 Alice Loop from Waterfront District (WD) to Single-Family and Duplex Residential District (R-1)

BACKGROUND

Alice Loop has gone through prior subdivision and Planned Unit Development via 4 plats: 1) The Alice & Charcoal Island Subdivision (Plat 2001-20); 2) the Ethel Staton Subdivision (Plat 2007-23); 3) The Sealing Cove Subdivision (Plat 2011-1); and 4) The William Paul Subdivision (Plat 2015-9). The area is currently being developed along the Waterfront District into residential homes, commercial property, and soon to be developed property. Additionally, Sealing Cove Business Center currently utilizes adjacent land for commercial purposes that has been reutilized from its prior use of Mt. Edgumbe Elementary School. There is also existing vacant land available for immediate development.

In the area, there is a mix of Waterfront District (WD) and Public Land District zoned property; however, the request is to change the WD zoned land along 663-800 Alice Loop to a residential zone. Within the Waterfront District, there is a commercial building located at 415 Alice Loop that appears primarily vacant, except for approximately one tenant, which is currently advertised for leasing as "heated storage bays." To the northwest, is a commercial building located at 413 Alice Loop that currently contains radio towers and radio dish with AT&T logos on the equipment (major cell provider of the area). Adjacent to this parcel is more land zoned WD that is currently being developed into a commercial building designed to serve marine business. Around Alice Loop is land zoned WD, developed and held in ownership by Shee Atika, Holdings Alice Island, LLC and various individual owners. Of the residential properties, there are single-family homes: nine that are complete, and three that are being built. There are several

vacant lots ready for further development within the Alice Loop Development. There is the Sealing Cove Business Center located at 601 Alice Loop, which contains tenants that include Eagle Quest Ministries, the Transportation Security Administration, and also is utilized by CBS for meetings until Centennial Hall is completed. It is the former Mt. Edgecumbe Elementary School. Above 415 Alice Loop is Sealing Cove Boat Harbor located within the Public Land District zone (P), served by two parking lots and one boat launch ramp accessed off of Airport Road. To the west, is land also zoned Public Lands District. Immediately adjacent is land within that zone utilized by the Department of Transportation and owned by the State. Over one lot toward the west, is land utilized and owned by the City and Borough of Sitka for a Water Treatment Facility.

All end-user development that requires a building permit will be required to go in front of the Historic Preservation Committee prior to approval of the Building Permit to receive recommendations pertaining to the development.

A significant issue and fact is that the 16 lots associated with the Ethel Staton Subdivision are subject to recorded conditions, reservations, and restrictions (2011 CCRs)¹; and Lots 1-5 of the Alice & Charcoal Island Subdivision are subject to restrictive use CCRs (2001 CCRs)². To sum, those CCRs restrict Lots 1-5 of the Alice and Charcoal Island Subdivision and Lots 1-15 of the Ethel Station Subdivision to residential uses and do not restrict lot 16 (800 Alice Loop) of the Ethel Staton Subdivision to such residential use – this is indicative that the owners of Lots 1-5 and Lots 1-15 were aware or should have been aware that more than residential use was envisioned and possible for lot 16 (800 Alice Loop).

In general, per code, “Many of the permitted and conditional uses in the ... WD zones generate traffic, noise, odor, and general impacts to a higher level and greater degree than permitted and conditional uses in residential districts. Owners of residential uses in the ... WD districts must be aware of and accepting of all the permitted uses in these districts.” [Edited for brevity]³

Further code directs that “the **Waterfront District is intended to be applied to lands** with direct access or **close-proximity** to navigable tidal waters within the urban areas of the city and borough. Uses are intended whenever possible to be water-dependent or water-related with particular emphasis on commerce, tourism, commercial or industrial enterprises which derive major economic or social benefit from a waterfront location”⁴ (emphasis added). Here all the properties, specifically 800 Alice Loop in is close-proximity to tidal waters and significant features and facilities that support water dependent and water-related uses for commerce, tourism, and industrial enterprise exemplified by the Sealing Cove Harbor and surrounding business that cater to that industry and commerce.

¹ Sitka Recording District Document Serial # 2011-001551-0

² Sitka Recording District Document Serial # 2001-002152-0

³ Residential Uses Table 22.16.015-1, Footnote 11.

⁴ 22.16.100 (A), Water Front District, Intent.

The proposed R-1 Single-Family and Duplex Residential District is primarily intended to provide for single-family and duplex residential dwellings at moderate densities plus appropriate conditional uses and is a very restrictive district (22.16.040).

Standing – Ripeness

The Planning and Community Development Department received an email from the initial applicant Lynne McGowan-Brandon dated July 26, 2016 that Steve Atkinson would be sending additional information. From this email and in conjunction with conversations with both parties, it was clear that Mr. Atkinson would be acting as the agent for the application. Therefore, the application can move forward and it have been the policy of the Department to allow modifications of proposals, that Mr. Atkinson, as agent, had standing to make the amendments, and that the application was deemed complete and was thus ripe for consideration.

However, we do feel that support of additional parties to the amended rezone was not made clear. Therefore the supporting documents that were originally presented should not be giving weight with the modified request as it is not clear if the originally support carries over unto the new proposal since there have been material changes to the request (size, area, and designation of new zone).

In regards to the nature of Mr. Atkinson's involvement: The use of legal letterhead was confusing to staff, but it did not appear by any express statement that Mr. Atkinson was acting as a legal representative for the prior applicant or any other property owners. Instead, staff viewed it as unpersuasive use of legal letterhead.

Spot Zoning – Analysis of 3 factors.

The classic legal case is *Griswold v. City of Homer*, 925 P.2d, 1015 (Alaska 1996). In this case three factors are laid out to determine whether unconstitutional spot-zoning occurred: 1) Consistency with the Comprehensive Plan; 2) Effect of small-parcel zoning on owners and community; and 3) Size of rezoned area.

1. Consistency with Comprehensive Plan:

- a. In this case, the Comprehensive Plan identifies the need to support waterfront related land uses and specifically acknowledges that WD zoning districts are mixed uses. Therefore a rezone would not be consistent with the Comprehensive Plan nor the legislative action that resulted in the original zoning as WD.

2. Effect of small-parcel zoning on owners and community:

- a. The effects of this small-parcel zoning would negatively the owners of 800 Alice Loop, and would have mixed impact on the other lots; however, the community would not be benefited. The community's access to water related uses and business would be impacted and they would not derive a direct benefit from the rezone. Therefore, a rezone is not meant to benefit the community at large, but instead private interests at the expense of other private interests and the community at large.

3. Size of rezoned area:

- a. In Griswold, 7.20 acres was not indicative of spot-zoning. Here we have approximately 8.87 acres, which is over 1.5 acres larger than the land in question in Griswold; and while small, it is larger than many other zoning blocks. It is staff's opinion this third factor is not indicative of spot-zoning.

Staff believes that while not all of the factors for spot-zoning have been met, 2 of the factors demonstrate the rezone is not proper here because 1) it does not comply with the Comprehensive Plan, 2) it does not comply with the intent of the WD zoning district, and 3) moreover, it attempts to benefit a special interest group of private owners at the expense of other private owners and the community at large.

ANALYSIS

Project / Site: The proposed area of rezoning includes approximately 8.87 acres of land that is currently zoned WD.

Traffic: The proposal would most likely reduce traffic to the area over time due to the eventual loss of commercial uses that may have higher vehicle and traffic impacts.

Parking: Similarly to the traffic analysis, parking impacts would most likely be reduced as well due to the loss of commercial uses over time.

Noise: Though noise from commercial uses would be reduced on site, off-site noise impacts of a higher degree from the airport would remain.

Public Health or Safety: There are some positive and some negative impacts. Positive impacts to health and safety could occur with rezoning to residential due to less impacts from traffic, and parking; However a rezone that promoted only residential use would promote residential uses adjacent to an airport that could create noise impacts and disharmony of use between residential use and commercial airport use. Commercial use that operate during typical business hours would have less impacts than residential uses in terms of impacts from the nearby airport.

Habitat: Residential uses would be less impactful than potential commercial uses;

Property Value or Neighborhood Harmony: There are several points to consider from all sides.

In terms of supporting the zoning map amendment: the predominant land use that is existing and that will exist for the life of the CCRs will be single family residential for lots 1-15. "High-class" single-family residences subject to strict covenants limited use to residential could see a significant impact of value should their home be located next to automotive repair use for example or any other use permitted in the WD zone.

The arguments against the rezone include:

1. The owners of 800 Alice Loop that developed this entire area are not in support of rezoning their property and when owners object a higher number of City Assembly votes in favor are required at 5 votes⁵.
2. Such a change to the area zoning would negatively impact the owners of 800 Alice Loop. It is arguable they could see a significant impact to the value of the lands since the existing WD zoning would allow a greater number of uses. By limited uses you could reduce the potential value of the land and the amount of interested buyers.
3. The area is very close to the Sealing Cove Harbor and the proximity of the marine facilities supports keeping land appropriate to support those type of uses (water dependent) that are desirable near the harbor.
4. The benefit of the community at large is impacted by less available land zoned for water-dependent uses.
5. Some other land owners are not in support with this rezoning: some because they have been silent; and others object because they feel the rezone would inhibit themselves and potentially future owners from building certain types of docks that are not allowed in the R-1 zone. (Note: Staff has not analyzed this in terms of whether this is a meritorious concern in regards to existing CCRs.)
6. The rezoning may impact the ability to pursue certain types of docks.
7. The zoning is not antiquated or out of line with existing use. The WD use in the Code and Comprehensive Plan specifically acknowledges and identifies that residential uses must be aware of accepting of all permitted uses. Now, after the fact, the residential owners are not accepting of and claim lack of knowledge and now want to impact the owners of land who seek to develop it to its highest and best use.
8. Also, a change in zoning may set a precedent that any time there is mixed use (and there is a lot of mixed use in CBS) it is grounds to rezone. What effect will this have on C-1, C-2, CBD, and other zones that have a mix of commercial and residential uses?

Comprehensive Plan: Section 2.4.12 supports public access to waterfront lands (taking this point more broadly, more lands zoned waterfront would allow a variety of uses to the public to purchase for private use who would then have closer proximate access to waterfront activities and uses); 2.4.13 promotes water dependent uses along the coast (WD zone is intended to support water dependent uses); 2.5.10 identifies residential as acceptable uses within a WD zone (Buyers of 663-800 were aware of or should have been aware through due diligence that the area was zoned WD and that both commercial and residential uses were permissible, existing, and possible for the future; and 2.6.1 seeks to facilitate adequate lands and uses along the waterfront for residential, commercial, and industrial land (Again, the Comprehensive Plan acknowledges that the WD was a mixed zone). Overall, these tend to support the more inclusive WD zone and the denial of the zoning map amendment.

⁵ 22.30.380(E)(1).

CONCLUSION

This requires careful consideration. On one side, the current and future uses of Lots 1-15 and Lots 1-5 are going to be single-family residential homes or townhomes subject to very restrictive CCRs. On the other hand, the surrounding land uses and Sealing Cove Harbor nearly dictate that as much waterfront land be preserved for water-dependent use as possible. In addition, past Assembly action has supported expanding WD zoning in the immediate area. Overall, staff recommends a denial of this request. One option for the land owners is to purchase the lots in question and seek to agree upon CCRs that would be meet their interests. Another option is to amend the request to apply only to Lots 1-15 and Lots 1-5; however, this is almost redundant as the current CCRs already do that as currently enforceable – in addition, that alternative does not appear to meet the intent of the applicant and supporters.

RECOMMENDATION AND SUGGESTED MOTIONS

It is recommended that the Planning Commission adopt the Senior Planner's analysis and recommend denial of the zoning map amendment.

TWO RECOMMENDED MOTIONS:

RECOMMENDED MOTIONS FOR FINDINGS OF FACT

1. That the granting of such zoning map amendment would adversely affect the Comprehensive Plan, and it is inconsistent with *Comprehensive Plan Sections 2.4.12, 2.4.13, 2.5.10, and 2.6.1* by *not providing lands adequate for all intended and desired uses such as commercial and water-dependent uses.*
2. The zoning map change as proposed would **not** be in line with providing waterfront dependent uses that are identified in the Comprehensive Plan and also the intent of the WD zoning district specified in Section 22.16.100(A).
3. The zoning map change may result in adverse effects on public health, safety, and welfare by impacting the ability of lands near the water front and Sealing Cove Harbor to be able to be developed for commercial, industrial, or other marine business type uses that benefit the community as a whole and not just private property interests.

MOTION TO RECOMMEND DENIAL:

Motion to recommend denial of the zoning map amendment filed by Lynne Brandon for 663-800 Alice Loop. The properties are also known as Lots 1-5 of Alice and Charcoal Island and Alice Island Planned Unit Development Phase 1, and Lots 1-16 of Ethel Staton Subdivision.

Attachment A



Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



City & Borough of Sitka, Alaska

Selected Parcel: 601 ALICE ID: 19000001

Printed on 3/30/2016 from <http://www.mainstreetmaps.com/ak/sitka/internal.asp>



This map is for informational purposes only. It is not for appraisal of, description of, or

responsibility for the information contained herein.

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

Attachment D



City & Borough of Sitka, Alaska

Selected Parcel: 601 ALICE ID: 19000001

Printed on 3/29/2016 from <http://www.mainstreetmaps.com/ak/sitka/internal.asp>

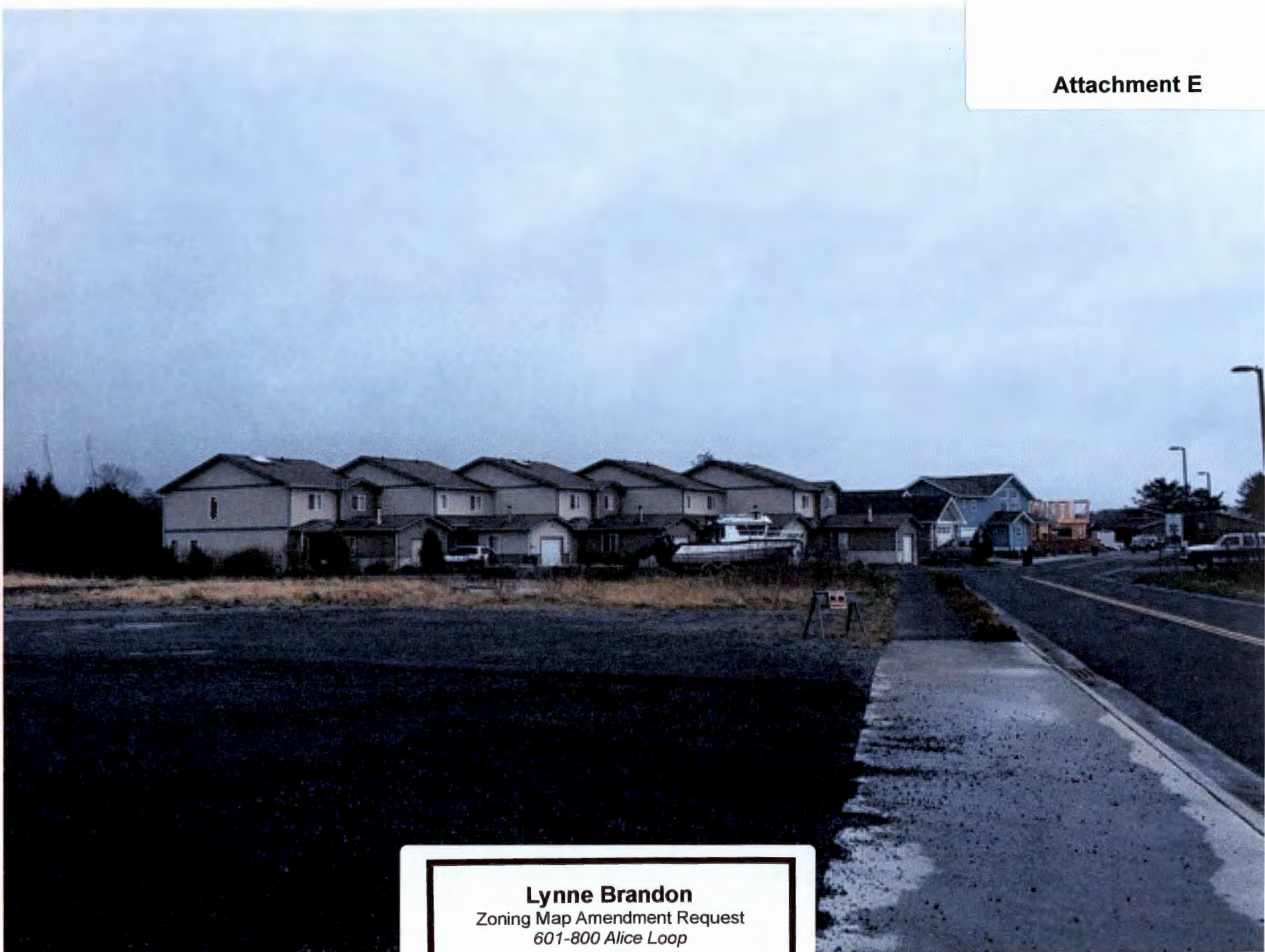
This map is for informational purposes only. It is not for appraisal of, description of, or c



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Legal responsibility for the information contained herein.

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



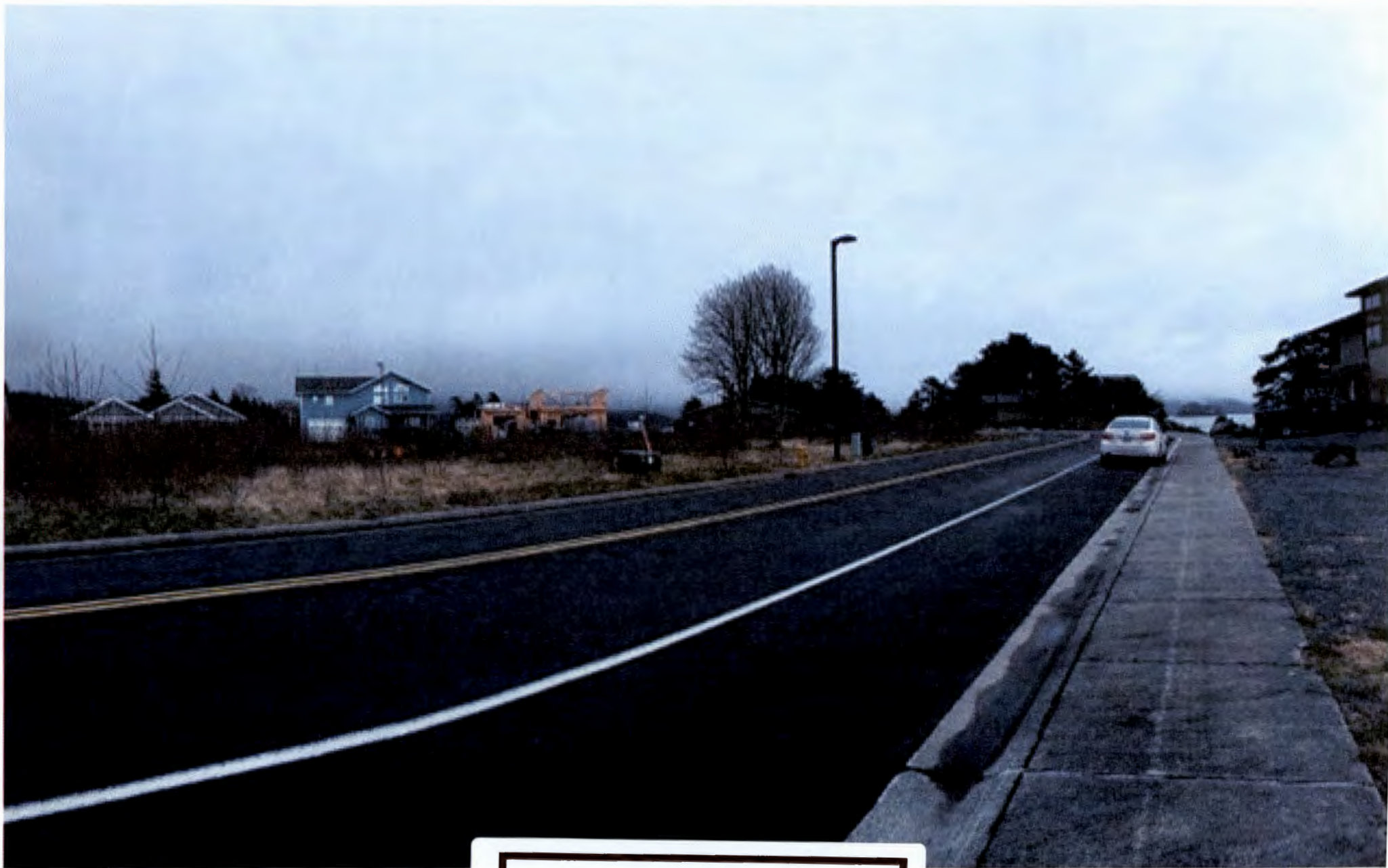
Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



Lynne Brandon
Zoning Map Amendment Request
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Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

EASEMENT DETAIL



WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AND THAT WE HEREBY ASSURE THAT THIS PLAN OF SUBDIVISION WITH OUR FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, WATER, SEWER AND ELECTRICAL UTILITIES TO PUBLIC OR PRIVATE USE AS NOTED, DEDICATION AND TRANSFER OF OWNERSHIP OF RIGHTS OF WAY AND PUBLIC UTILITIES SHALL BECOME EFFECTIVE UPON WRITTEN ACCEPTANCE BY THE MUNICIPALITY OF THOSE FACILITIES.

12/5/01
DATE

Robert A. Rinaldi
CHIEF EXECUTIVE OFFICER, SALT ATHER INC. (SIGNATURE)

U.S. OF AMERICA
STATE OF ALASKA
CITY & BOROUGH OF SITKA

THIS IS TO CERTIFY THAT ON THIS 5th DAY OF December, 1961, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED STAN ALTA, INC.
CHIEF EXECUTIVE OFFICER ROBERT A. LINDALL

TO ME KNOWN TO BE THE IDENTICAL INDIVIDUALS MENTIONED AND WHO EXECUTED THE WITHIN PLAY AND HE ACKNOWLEDGED TO ME THAT HE 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.

BY COMMISSION EXPIRES NOV 18 2015

(FIRST JUDICIAL DISTRICT)

POSSESSION, THE FOLLOWING DESCRIBED PROPERTY IS CARRIED ON THE TAX RECORDS OF THE CITY & BOROUGH OF SITKA, IN THE NAME OF SHEE ALKA INC

AND THAT ACCORDING TO THE RECORDS IN MY POSSESSION, ALL TAXES ASSESSED AGAINST SAID LAND AND IN FAVOR OF THE CITY & BOROUGH OF SITKA ARE PAID IN FULL; THAT CURRENT TAXES FOR THE YEAR 2004 WILL BE DUE ON OR BEFORE AUGUST 31, 2004. DATED THIS 14th DAY OF December 2004.

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREIN HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY & BOROUGH OF SITHKA PLATTING BOARD, AND THAT SAID PLAT HAS BEEN APPROVED BY THE BOARD OF PLAT REGULATION AND

P.O. # 57 DATED March 26, 2009, AND THAT THE PLAT SHOWN
HEREIN HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT
MAGISTRATE, EX-OFFICIO RECORDER, SEVI, ALABAMA.
[Signature]
DATE 10/10/01 CHIEF, PLATTING BUREAU
[Signature]

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY & BOARD OF CITY ASSEMBLY, AS RECORDED IN MINUTE BOOK 17 PAGES 96/97 DATED June 1994 20:40.

AND THAT THE PLAY SHOWN HEREIN HAS BEEN APPROVED FOR RECORDING IN THE
OFFICE OF THE DISTRICT COURT, EX OFFICIO RECORDER, SITKA, ALASKA.

12/15/19 John L. Nelson

DATE

I, THE UNDERSIGNED, BEING DULY APPOINTED AND QUALIFIED, AND FINANCE DIRECTOR FOR THE CITY & BOROUGH OF STUYA, DO HEREBY CERTIFY THAT, ACCORDING TO THE RECORDS

BY THE CITY & BOROUGH OF SITKA, THE FOLLOWING DESCRIBED PROPERTY IS GRANTED ON THE RECORDS IN THE NAME OF:

STEELE HILL INC

CALL OWNERS OF RECORD, AND THAT, ACCORDING TO THE RECORDS IN MY POSSESSION, ALL L.L.E.'S ASSESSED AGAINST SAID LANDS AND IN FAVOR OF THE CITY & BOROUGH OF SITKA ARE PAID IN FULL.

WITNESSED MY HAND AND SEAL OF OFFICE THIS 11th DAY OF DECEMBER, 2010.

APPROVED: _____
SPECIAL AGENT IN CHARGE

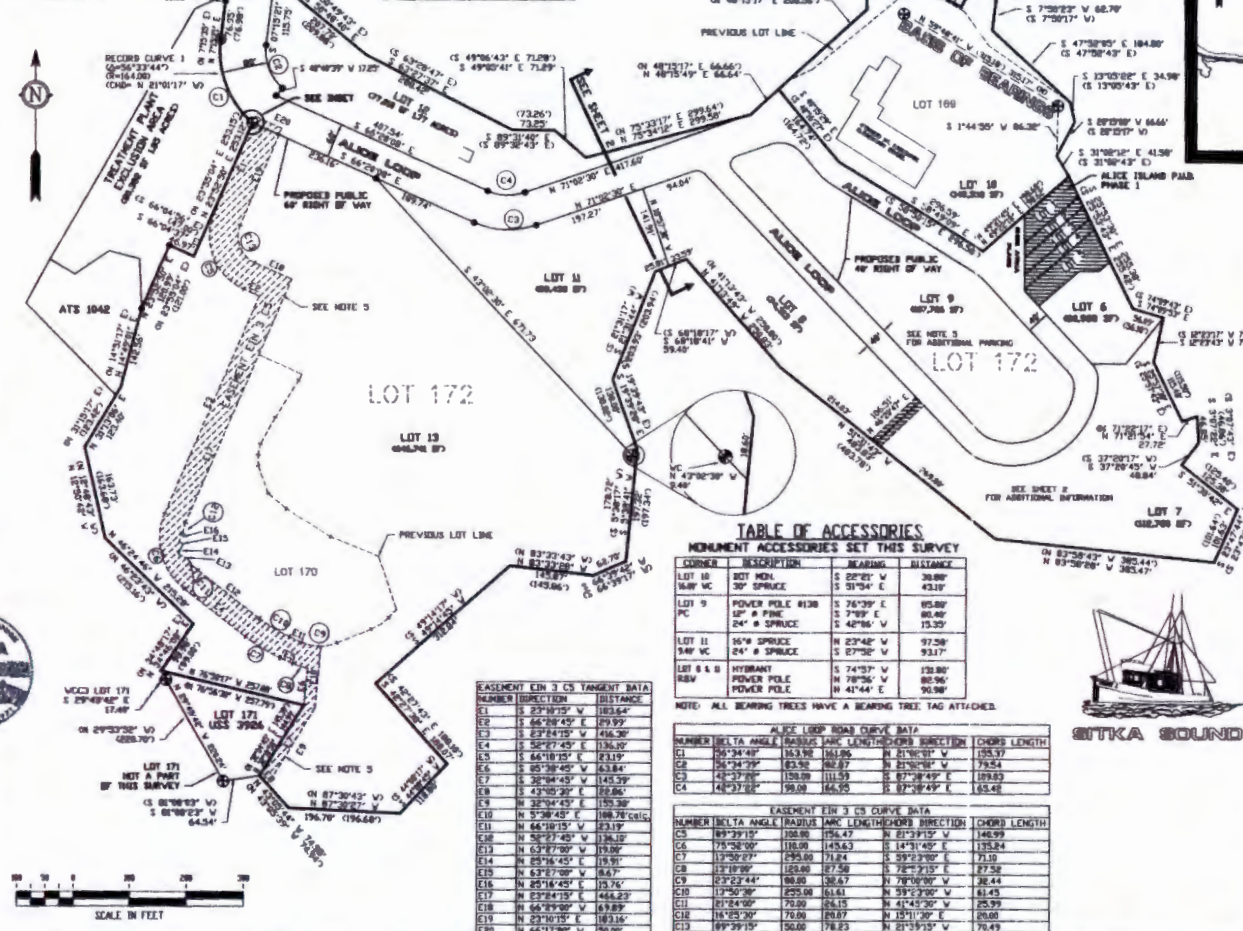
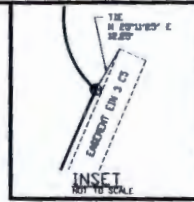
SURVEYING AND ENGINEERING

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FAX: (907) 747-7390
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FAX: (800) 747-1199
EMAIL: advertising@worldnet.att.net

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- ☒ PRIMARY CONTROL ELEMENT (CET)
- ☒ GLOW/BURN PRIMARY BRASS CAP (CB)
- ☒ SECONDARY ELEMENT (CET)
- ☐ ROCK TABLET (CET)
- ☒ REBAR OVERCOVERED
- ☐ RECORDED DATA
- ☐ COMPUTED DATA
- ☐ MEASURED DATA



CORNER	DESCRIPTION	BEARING	DISTANCE
LOT 10 164' W C	DOT MON. 30' SPRUCE	S 22°15' W S 31°34' E	38.89' 43.18'
LOT 9 PC	POWER POLE #130 12" x PINE 24' x SPRUCE	S 76°39' E S 7°69' E S 42°86' W	19.80' 80.40' 15.35'
LOT 11 144' W C	16" x SPRUCE 24' x SPRUCE	N 23°42' W E 27°30' W	97.58' 93.17'
LOT 8 & 8 BAY	HYDRANT HYDR. POLE	S 74°57' W	120.80'

POWER POLE	N 78°36' W	82.98'
POWER POLE	N 41°44' E	90.98'

NUMBER	BELTA ANG	RADIUS	ARC LENGTH	CHORD	DIRECTION	CHORD LENGTH
C1	36°34'48"	163.90	161.06	N 21°00'01" W		155.37
C2	56°34'39"	83.90	80.87	N 21°00'01" W		78.54
C3	43°37'28"	158.09	111.59	S 87°38'49" E		109.83
C4	43°37'28"	98.08	66.95	S 87°38'49" E		65.48

C6	75°50'07"	118.98	145.63	S 14°31'45" E	175.24
C7	73°58'07"	295.00	71.84	S 59°23'00" V	71.10
C8	73°16'09"	123.00	27.58	S 78°23'15" E	27.52
C9	83°23'44"	98.60	38.67	N 70°00'00" V	28.44
C10	72°50'38"	225.00	51.61	N 59°23'00" V	61.45
C11	81°24'05"	70.00	26.15	N 41°45'30" E	25.99
C12	16°25'30"	70.00	28.67	N 15°11'30" E	28.00
C13	89°29'15"	50.00	78.23	N 21°35'15" V	70.49

I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, LICENSED IN THE STATE OF ALABAMA, AND THAT IN 1984, SARAT, ALA., 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 SUNDRIES AND OTHER

LOTS 169, 170, 172 AND 173
OF SUBD. OF LOT 96, US SURVEY 3926

CLIENT: B.G. JONES AND ASSOCIATES, BOX 2106, SITKA, AK 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

SITKA 2001-20

Samantha Pierson

Attachment G

From: Lynne McGowan-Brandon <wildpots@yahoo.com>
Sent: Tuesday, July 26, 2016 7:09 AM
To: Samantha Pierson
Subject: Alice Island rezone

Samantha,
Steve Atkinson will be sending additional information in support of the neighborhood request to rezone the Alice Loop property today for the August 16, 2016 agenda.
Thanks so much.
Best,
Lynne Brandon

From: Steven D. Atkinson <SATkinson@aalrr.com>
Sent: Tuesday, July 26, 2016 10:04 AM
To: Samantha Pierson; Michael Scarcelli
Cc: Lynne McGowan-Brandon (wildpots@yahoo.com); Cathleen M. Siler; 'Carolyn Huestis (carolynhuestis@aol.com)'; Karen E. Gilyard
Subject: FW: Alice Loop Re-zone
Attachments: ltr to Planning Dept - Request for Zone Change.pdf; ALICE LOOP CONCEPTUAL UTILITY LAYOUT (1).pdf; Minutes (3) (1).pdf; RebuttalStaff Report ZMA.pdf

Samantha and Michael I attach a letter requesting a zoning change for 663 Alice Loop to 800 Alice Loop. The residents are no longer requesting a zoning change of the business center which I think is 601 Alice Loop.

I think that the only significant change being requested is to change 800 Alice Loop to R-1 rather than waterfront. For a variety of reasons the residents believe R-1 is the appropriate zoning for 800. 800 is surrounded by single family homes and is not on the waterfront.

It appears based on the conceptual plan that the owner agrees that 800 should be subdivided into single family lots. Accordingly I am not sure if the owner is still opposed to this request.

If you need any further information to move forward with this request please contact me.

Steven D. Atkinson | Partner
Atkinson, Andelson, Loya, Ruud & Romo
12800 Center Court Drive, Suite 300, Cerritos, California 90703
Direct (562) 653-3415 • Main (562) 653-3200 • Fax (562) 653-3333
satkinson@aalrr.com | [vcard](#) | [bio](#) | [website](#) | [subscribe](#)

From: Cathleen M. Siler
Sent: Tuesday, July 26, 2016 10:29 AM
To: Steven D. Atkinson
Subject: Alice Loop Re-zone

ATKINSON, ANDELSON, LOYA, RUUD & ROM

Attachment G

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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CERRITOS, CALIFORNIA 90703-9364
(562) 653-3200 • (714) 826-5480

FAX (562) 653-3333
WWW.AALRR.COM

FRESNO
(559) 225-6700

IRVINE
(949) 453-4260

PASADENA
(626) 583-8600

PLEASANTON
(925) 227-9200

RIVERSIDE
(951) 683-1122

SACRAMENTO
(916) 923-1200

SAN DIEGO
(858) 485-9526

OUR FILE NUMBER:

011345.00018
14243424.1

July 25, 2016

Planning Department:

The neighbors of Alice Loop are working together to get a zoning change to enhance and ensure the residential qualities of our subdivision. This is a formal request to re-zone the Ethel Staton Subdivision as R-1 from the current Waterfront zone. Only two of seventeen Alice Loop residents have reservations regarding the re-zoning. This zoning change would be only applicable to existing properties from 663 Alice Loop to 800 Alice Loop and no longer includes the Sealing Cove Business Center. It also our understanding that Jerry and Mary Helem's proposed dock will be permitted in R-1 Zone, per a phone conversation with Lynne Brandon in April.

Currently the properties in the Alice Loop subdivision have a fairly restrictive set of covenants on the lot deeds. To this end, we all agreed to adhere to the covenants to purchase "building lots for high quality single family homes." The covenants are in-line with the most stringent City zone, R-1 and, actually are even more restrictive.

This request includes three additional items for the packet.

- Michael Scarcelli's 4/11/16 letter with interlineated responses. The text is shown in this way:
 - Black italics is Mr. Scarcelli's support of the rezoning with which there is agreement;
 - Blue text is quoted verbatim from the 2007 Comp Plan or the General Code Title 22;
 - Red underlined italics is a response to Mr. Scarcelli's assertions.
- A map showing the subdivision limits with street numbers that was provided by Shee Atika at the time of lot sale.
- Minutes from the 11/26/2006 Assembly meeting.

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

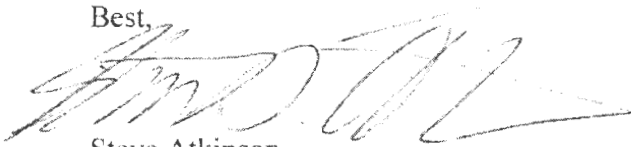
July 25, 2016

Page 2

The City's General Code Title 22 and provides examples of allowable/permissible uses in R-1, R-2 and Waterfront. R-1 is the most appropriate zone for the subdivision. Waterfront, by contrast, is inappropriate since it is one of the most industrial, commercial and development oriented zones. Clearly, this designation was in place prior to the current residential development. The antiquated zoning needs to be revised and updated to match the current use.

Thank you in advance. If you have questions, please call 907-738-2128.

Best,

A handwritten signature in black ink, appearing to read "Steve Atkinson", written over a horizontal line.

Steve Atkinson
Alice Loop Resident



			Designed: RKB	Approved: RKB	 R&M ENGINEERING KETCHIKAN, INC. 353 CARLIANNA LAKE ROAD KETCHIKAN, ALASKA 99901	Client:	Project:	Sheet Description:	Sheet No.
Date	No.	Description	Drawn: RKB	NOT TO SCALE					
REVISION			Checked: TSS	ALICE LOOP SUBDIVISION PROPOSED UTILITY LAYOUT					

Fleet Contract

MOTION by Westover to approve sole source procurement under the state equipment fleet contract for vehicles previously budgeted.

Ozment and Stein questioned the difference between the F350 and Ford Ranger and Dinley said the department upgraded their requirement.

Motion PASSED on a 5-2 roll call vote with Ozment and McAdams opposed.

Item D
Contract

MOTION by Stein to award time and materials contract not to exceed \$95,000 for professional services and design Sawmill Creek Road/Halibut Point Road Intersection water and sewer mains rehabilitation.

Motion PASSED on a 6-1 roll call vote with Ozment opposed.

Item E
RES: 2008-28

MOTION by Cavanaugh to approve Resolution 2008-28 supporting the AMHS restoring direct Sitka-Village service, by upgrading the Angoon Dock to accommodate the Fast Ferry and scheduling direct round trip connections between Sitka, Angoon, Kake and Hoonah.

Cavanaugh explained that this came up at a meeting with the Sitka Tribe. This resolution helps to affirm Sitka's position.

MOTION by Westover to add an additional Whereas to read: the CBS contributed \$15K to promote ridership on the Fast Ferry in 2008.

Motion on the amendment PASSED unanimously.

The main motion PASSED unanimously as amended.

IX. UNFINISHED BUSINESS:

Item F
Ord. 2008-41

MOTION by Westover to suspend the rules and allow Mr. Gatti to give an overview.

Motion PASSED hearing no objection.

Gatti reviewed the Assembly hand out. It consisted of four motions with regard to possible findings. Gatti said with regard to "spot zoning", there is a very succinct explanation or definition for spot zoning which means that there is no legitimate or rational purpose for the determination.

MOTION by Cavanaugh to approve Ordinance 2008-41 on second and final reading.

Rezoning Lot 13 of Alice and Charcoal Island PUD-Phase 1, Lot 171 USS 3926, and, the Municipal Wastewater Treatment Plant parcel from (WD) Waterfront District to (P) Public Lands District.

Mayor read the title.

Cavanaugh explained that this is a housekeeping item.

Motion PASSED on a 7-0 roll call vote.

MOTION by Stein to accept the recommendations of the Planning Commission pertaining to Ordinance Serial Numbers 2008-41.

The recommendations of the Planning Commission are as follows:

MOTION: M/S McNitt/Twaddle moved to recommend approval of the rezoning of Lot 13 of The Alice and Charcoal Island Subdivision and Alice Island Planned Unit Development – Phase 1, Lot 171 USS 3926, and the Municipal Wastewater Treatment Plant Parcel from (WD) Waterfront District to (P) Public Lands District in order to recognize the public ownership of Charcoal Island.

MOTION: M/S McNitt/Twaddle moved that the recommendation to rezone publicly owned properties from Waterfront to Public is merited based on the findings that it is a logical land use pattern that appropriately represents the public ownership of the property and that the rezoning of the Charcoal Island property is consistent with Chapter 2.6 of the Comprehensive Plan that has land use policies that address public lands.

I further move to adopt the following additional finding:

1. Ordinance 2008-41 protects and promotes the public's health, safety and welfare.

Motion on the findings PASSED on a 5-2 roll call vote with Crews and Westover opposed.

The motion on the findings PASSED unanimously.

The following items were taken out of order:

Item H

Ord. 2008-43

MOTION by Cavanaugh to approve Ordinance 2008-43 on second and final reading.

Rezoning Lot 100 of USS 3926 and the intertidal area that connects the property to Lot 97 of USS 3926 from (GI) Island District to (WD) Waterfront District.

Mayor read the title.

Brita Speck, attorney for Paul Schmauss, co-owner of Lot 100 USS 3926, stated she and her client support this ordinance. They would like the same opportunities their neighbors have. They are connected to the mainland, Japonski Island, unlike other islands and therefore it makes sense that they should fall into the same zoning as Japonski Island. She read from Black's Law Dictionary the definition of Spot Zoning.

John DeLong, the other co-owner of Lot 100 USS 3926, also known as No Name Island, encouraged the assembly to approve the ordinance. They desire to be in the waterfront district since all the other surrounding properties are.

Hackett had concerns that the owners may have commercial enterprises on the island in the future and she is concerned with safety issues.

Planning Director, Wells Williams, explained that waterfront district zoning would allow the island to have a full range of commercial activities. This would

also allow for the parcel to be split in half. Westover inquired as to the size of the island. Mr. Williams responded the island is approximately 2,000 square feet. Stein asked about parking requirements. Williams said islands are not required to have parking spaces. Crews asked about the owners of Lot 100 wanting to subdivide and place use restrictions on the subdivision plat. Williams said they would have to agree. Westover inquired if they were to have lodges wouldn't they have to provide parking and Williams responded "Yes." Hackett doesn't have a problem with subdividing, but she does have a problem with zoning the property Waterfront. Cavanaugh has high regards for the Delongs but cannot support the ordinance

Motion FAILED on second reading of Ordinance 2008-43 on a roll call vote of 2-5 with Hackett, Ozment, McAdams, Cavanaugh and Stein opposed.

MOTION, by Cavanaugh to move to recommend that the Assembly adopt the following legislative findings for Ordinance 2008-43 because of public health, safety, welfare and traffic that the Assembly does not recommend this parcel to become Waterfront District (WD) based on the additional legislative findings:

1. Because the rezoning would not further the logical development of islands.
2. It is not consistent with the Comprehensive Plan as outlined in Chapter 2.7 and the property is more appropriately left in the General Island District again, for safety and traffic reasons.
3. Further we do not support commercial activities on the island.

I further move to adopt the following additional finding:

1. Ordinance 2008-43 does not protect nor promote the public's health, safety and welfare.

Motion on the findings PASSED on a 5-2 roll call vote with Crews and Westover opposed.

Item G
Ord. 2008-42

MOTION by Cavanaugh to approve Ordinance 2008-42 on second and final reading.

Removing Tract A of ASLS 88-62, Lot 97A of USS 3926, Lot 97 of USS 3926, Lot 98 of USS 3926, and, the filled tidelands that connect the parcels from (P) Public Lands District to (WD) Waterfront District.

Mayor read the title.

Stein thinks there are compelling reasons to strike Lot 97A of USS 3926 and Lot 98 of USS 3926.

Westover said this should have been taken care of before the lease was adopted. She is supportive of the Maritime Heritage Society (MHS) but she sees this as public land. She also sees it as a bad precedent and not a fair way of doing business.

Cavanaugh reflected that when the Assembly did the Maritime Heritage lease, the Assembly enabled the folks the ability to sublease. At the time, zoning issues were not taken into consideration. She wondered if it is kept public land,

also allow for the parcel to be split in half. Westover inquired as to the size of the island. Mr. Williams responded the island is approximately 2,000 square feet. Stein asked about parking requirements. Williams said islands are not required to have parking spaces. Crews asked about the owners of Lot 100 wanting to subdivide and place use restrictions on the subdivision plat. Williams said they would have to agree. Westover inquired if they were to have lodges wouldn't they have to provide parking and Williams responded "Yes." Hackett doesn't have a problem with subdividing, but she does have a problem with zoning the property Waterfront. Cavanaugh has high regards for the Delongs but cannot support the ordinance

Motion FAILED on second reading of Ordinance 2008-43 on a roll call vote of 2-5 with Hackett, Ozment, McAdams, Cavanaugh and Stein opposed.

MOTION, by Cavanaugh to move to recommend that the Assembly adopt the following legislative findings for Ordinance 2008-43 because of public health, safety, welfare and traffic that the Assembly does not recommend this parcel to become Waterfront District (WD) based on the additional legislative findings:

1. Because the rezoning would not further the logical development of islands.
2. It is not consistent with the Comprehensive Plan as outlined in Chapter 2.7 and the property is more appropriately left in the General Island District again, for safety and traffic reasons.
3. Further we do not support commercial activities on the island.

I further move to adopt the following additional finding:

1. Ordinance 2008-43 does not protect nor promote the public's health, safety and welfare.

Motion on the findings PASSED on a 5-2 roll call vote with Crews and Westover opposed.

Item G
Ord. 2008-42

MOTION by Cavanaugh to approve Ordinance 2008-42 on second and final reading.

Removing Tract A of ASLS 88-62, Lot 97A of USS 3926, Lot 97 of USS 3926, Lot 98 of USS 3926, and, the filled tidelands that connect the parcels from (P) Public Lands District to (WD) Waterfront District.

Mayor read the title

Stein thinks there are compelling reasons to strike Lot 97A of USS 3926 and Lot 98 of USS 3926.

Westover said this should have been taken care of before the lease was adopted. She is supportive of the Maritime Heritage Society (MHS) but she sees this as public land. She also sees it as a bad precedent and not a fair way of doing business.

Cavanaugh reflected that when the Assembly did the Maritime Heritage lease, the Assembly enabled the folks the ability to sublease. At the time, zoning issues were not taken into consideration. She wondered if it is kept public land,

is there anyway that the MHS can have a business there. Williams informed that they could sublease to another nonprofit or a public entity.

Hackett believes this is keeping with the historic use of this property, and it is also her understanding that the City would gain ownership of the tidelands. She supports it for economic development and for the community as a whole.

Cavanaugh reiterated that it would still have to go for a conditional use permit.

Westover stated that an oil tank cannot be buried below flood level.

Crews supports the MHS but suspected that the issue will go to court.

Motion PASSED on a 5-2 roll call vote with Westover and Crews against.

MOTION by Ozment to accept the recommendations of the Planning Commission pertaining to Ordinance Number 2008-42.

The recommendations of the Planning Commission are as follows:

MOTION: M/S McNitt/Twaddle moved to recommend approval of the rezoning of Tract A of ASLS 88-62 (Japonski Island Boathouse), Lot 97A of USS 3926, Lot 97 of USS 3926, and Lot 98 of USS 3926 (all of which are adjacent properties surrounding the O'Connell Bridge on the Japonski Island side), and the filled tidelands that connects the parcels from (P) Public Lands District to (WD) Waterfront District so that the expanded (WD) Waterfront connects and is incorporated with the district that includes Alice Island.

MOTION: M/S McNitt/Twaddle moved to approve the findings in support of the recommendation to incorporate the ASLS Tract A that involves the Japonski Island Boathouse and adjacent properties involving the areas underneath the down-ramp from the O'Connell Bridge into the Waterfront District that includes Alice Island and is supported by the desire for a logical zoning pattern to further the waterfront development and is consistent with policies 2.1.1 and 2.1.2 of the Comprehensive Plan, which are general economic policies.

I further move that the Assembly adopt the following legislative findings in support of the adoption of Ordinance 2008-42 which does not constitute spot zoning.

- I. The Ordinance is consistent with the comprehensive plan as follows:
 - a. Provision of local services/ economic goal and policy 2.1.2. The City and Borough of Sitka will conduct its affairs and will use its resources, powers, and programs to seek, facilitate, maintain, and improve economic activities which provide needed goods and services locally;
 - b. Establishment of Sitka as a regional center- economic goal and policy resources, powers, and programs to seek, facilitate, maintain, and improve economic activities which, in concert with the use of resources, add the highest potential value to the local economy;

- c. Contribute to stable, long-term, local economic base policy 2.1.1. The City and Borough of Sitka will conduct its affairs and will use its resources, powers, and programs to seek, facilitate, maintain, and improve economic activities which contribute to a stable, long-term, local economic base
- d. The proposal is consistent with Comprehensive Plan policy 2.6.10 that recognizes that adequate harbors and support facilities are an integral part of the community by adding important additional fueling and kayak facilities.
- e. The proposal is consistent with the need for a thriving boating and fishing community as described in the Comprehensive Plan. The proposal furthers a thriving boating and fishing community by:
 - 1) adding an additional fuel dock,
 - 2) decreasing the fueling times, and,
 - 3) providing an important additional option for kayak rental operations that are outside of the heavily congested Crescent Harbor.
- f. The rezoning is consistent with Comprehensive Plan policy 2.3.6 that encourages the provision of adequate land commercial, industrial, and residential growth.
- g. Reestablishes a more aesthetically pleasing parcel where the boat house is located and promotes aesthetics which in turn may be a tourism draw, the kayak dock benefits the community as a whole.
- h. On balance the benefits to the property owner, adjacent land owners, and the community far out weigh any detriment associated with the rezoning and promote the public health, safety and welfare.

The 2007 Comprehensive Plan contains a section entitled "How the Comprehensive Plan is Used." This section, contained in the beginning of the document lays out a clear path for how proposals will be reviewed.

The document includes the following language:

"The actual activity of "consulting the Plan" is not a rote exercise like following maintenance manual or recipe. Rather, this is an analytical process where the reviewer first determines which of the Plan's goals, policies and objectives are relevant to the decision or issue at hand. Then, the reviewer examines how the pending decision comports with the relevant plan provisions. This analysis is not conducted on an absolute basis. Indeed, the reviewer may find that one policy appears to conflict with the pending decision while another tends to support it. The analysis should balance the application of relevant policies and seek to select whichever decision or option is the most generally consistent with the Plan overall."

The 2007 Comprehensive Plan policies, referenced ordinances under consideration in these findings, are an out growth of an effort and are

- c. Contribute to stable, long-term, local economic base policy 2.1.1. The City and Borough of Sitka will conduct its affairs and will use its resources, powers, and programs to seek, facilitate, maintain, and improve economic activities which contribute to a stable, long-term, local economic base
- d. The proposal is consistent with Comprehensive Plan policy 2.6.10 that recognizes that adequate harbors and support facilities are an integral part of the community by adding important additional fueling and kayak facilities.
- e. The proposal is consistent with the need for a thriving boating and fishing community as described in the Comprehensive Plan. The proposal furthers a thriving boating and fishing community by:
 - 1) adding an additional fuel dock,
 - 2) decreasing the fueling times, and,
 - 3) providing an important additional option for kayak rental operations that are outside of the heavily congested Crescent Harbor.
- f. The rezoning is consistent with Comprehensive Plan policy 2.3.6 that encourages the provision of adequate land commercial, industrial, and residential growth.
- g. Reestablishes a more aesthetically pleasing parcel where the boat house is located and promotes aesthetics which in turn may be a tourism draw, the kayak dock benefits the community as a whole.
- h. On balance the benefits to the property owner, adjacent land owners, and the community far out weigh any detriment associated with the rezoning and promote the public health, safety and welfare.

The 2007 Comprehensive Plan contains a section entitled "How the Comprehensive Plan is Used." This section, contained in the beginning of the document lays out a clear path for how proposals will be reviewed.

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The 2007 Comprehensive Plan policies, referenced ordinances under consideration in these findings, are an out growth of an effort and are

considered relevant to the cases at hand. Ordinance 2008-42 is consistent with the herein stated Comprehensive Plan goals and policies.

The 2007 Comprehensive Plan goals and policies went through a thorough review as a part of the updating of the 1999 Comprehensive Plan. This recent process, that involved eighteen Planning Commission and four Assembly meetings, provided planning officials with a thorough knowledge of the policies and supports their expertise in applying plan goals and policies to individual cases.

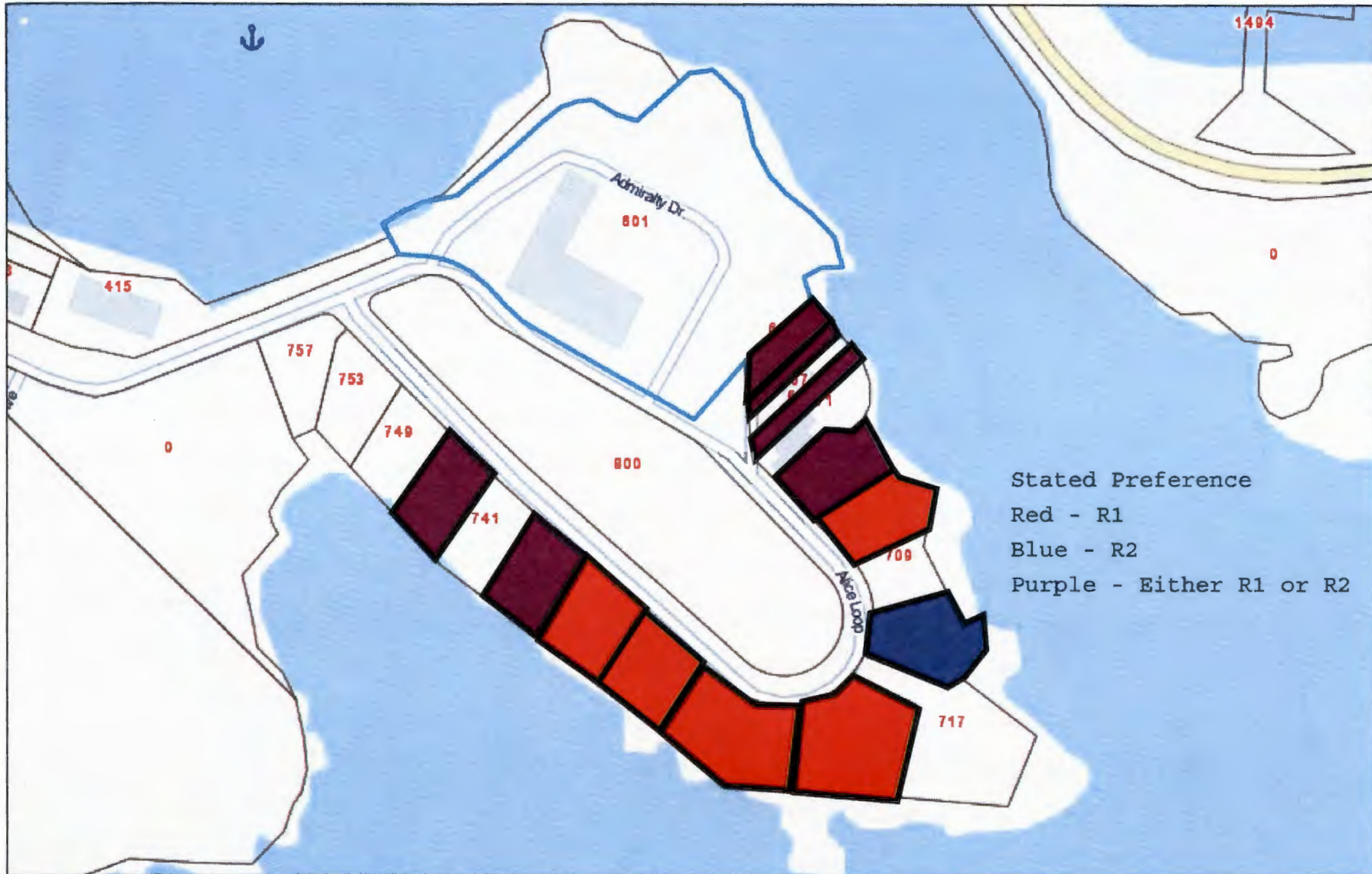
- II. **Benefits and Detriments.** The benefits and detriments to the property owner, adjacent land owners and the community are as follows:

Property Owner

1. The Sitka Maritime Heritage Museum would benefit by: the enhancement of historical preservation, and a revenue stream to enhance the Japonski Island boathouse, an important historical structure where work was performed on the wooden boat fleet that was critical to Sitka's development.
2. The rezone would benefit property owners, lessees, sub-lessees in the waterfront district (WD) since it would allow for bulk fuel storage as a conditional use within the WD.
3. The City and Borough of Sitka would benefit by promoting historical preservation, tourism, community facilities, economic development, implementation of Comprehensive Planning goals and the preservation of the public's health, safety and welfare.

Community

1. The community will benefit as follows by:
 - a) creating ten to fifteen jobs during the construction phase,
 - b) creating five to six permanent jobs during the operation of the facility,
 - c) \$25,000 in additional annual property taxes,
 - d) an additional kayak docking facility that will further tourism,
 - e) the restoration of an important historical facility that further contributes to local tourism that relies, in part, on Sitka's unique role in Alaska's past, and
 - f) by promoting historical preservation, tourism, community facilities, economic development, implementation of Comprehensive Planning goals and the preservation of the public's health, safety and welfare.
2. **Benefits and detriments to the community.** Benefits are listed above. The detriments are the potential for conflict with existing kayak operations.



City & Borough of Sitka, Alaska

Selected Parcel: 601 ALICE ID: 19000001

Printed on 3/30/2016 from <http://www.mainstreetmaps.com/ak/sitka/internal.asp>

This map is for informational purposes only. It is not for appraisal or, descriptive



no legal responsibility for the information contained herein.

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

3/29 4/19



CITY AND BOROUGH OF SITKA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
GENERAL APPLICATION FORM

1. Request projects at least FOURTEEN (14) days in advance of next meeting date.
2. Review guidelines and procedural information.
3. Fill form out completely. No request will be considered without a completed form.
4. Submit all supporting documents and proof of payment.

APPLICATION FOR:

☐

VARIANCE

☐

CONDITIONAL USE

☒

^{MAP}
ZONING AMENDMENT

☐

PLAT

BRIEF DESCRIPTION OF REQUEST: RE-ZONING OF ETHEL STATION
SUBDIVISION TO R-1.

PROPERTY INFORMATION:

CURRENT ZONING: WATERFRONT PROPOSED ZONING (if applicable): R-1

CURRENT LAND USE(S): RESIDENTIAL PROPOSED LAND USES (if changing): RESIDENT

APPLICANT INFORMATION:

PROPERTY OWNER: LYNNE BRANDON - SEE ATTACHED LETTER

PROPERTY OWNER ADDRESS: ~~601~~ - 800⁷⁰⁵ AUCE LOOP

STREET ADDRESS OF PROPERTY: 601 - 800 AUCE LOOP

APPLICANT'S NAME: LYNNE BRANDON

MAILING ADDRESS: 705 AUCE LOOP

EMAIL ADDRESS: WILDPOTS@YAHOO.COM DAYTIME PHONE: 907-738-2128

PROPERTY LEGAL DESCRIPTION:

TAX ID: _____ LOT: _____ BLOCK: _____ TRACT: _____

SUBDIVISION: _____ US SURVEY: _____

OFFICE USE ONLY

COMPLETED APPLICATION		SITE PLAN	
NARRATIVE		CURRENT PLAT	
FEE		PARKING PLAN	

REQUIRED SUPPLEMENTAL INFORMATION:

- ☒ Completed application form
- ☐ Narrative
- ☒ Site Plan showing all existing and proposed structures with dimensions and location of utilities
- ☐ Proof of filing fee payment
- ☒ Proof of ownership
- ☒ Copy of current plat
- ☐ Topographic information (If Pertinent to Application)
- ☐ Landscape Plan (If Pertinent to Application)
- ☐ Drainage and Utility Plan (If Pertinent to Application)
- ☐ Parking Plan (For Conditional Use Permit)
- ☐ Floor Plan (For Conditional Use Permit)
- ☐ Three (3) copies of concept plat (For Plat)
- ☐ Plat Certificate from a title company (For Plat)

CERTIFICATION:

I hereby certify that I am the owner of the property described above and that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application, and does not ensure approval of the request. I understand that public notice will be mailed to neighboring property owners and published in the Daily Sitka Sentinel. I further authorize municipal staff to access the property to conduct site visits as necessary.

LYNNE BRANDON

Owner

3/25/16

Date

Lynne Brandon

Applicant (If different than owner)

Date

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

March 26, 2016

Planning Department:

The neighbors of Alice Loop are working together to get a zoning change to enhance and ensure the residential qualities of our subdivision. This is a formal request to re-zone the Ethel Staton Subdivision as R-1 from the current Waterfront zone. Twelve of seventeen Alice Loop residents have responded to a letter regarding re-zoning and sent back signatures of support of the more appropriate residential zone. This zoning change would be only applicable to subdivided properties from 601 Alice Loop to 800 Alice Loop. We recommend that the Sealing Cove Business Center and any proposed/permitted docks would be "grandfathered" in.

Currently the properties in the Alice Loop subdivision have a fairly restrictive set of covenants on the lot deeds. To this end, we all agreed to adhere to the covenants to purchase "building lots for high quality single family homes". The covenants are in-line with the most stringent City zone, R-1 and, actually are even more restrictive.

The City's General Code Title 22 and provides examples of allowable/permissible uses in R-1, R-2 and Waterfront. R-1 is the most appropriate zone for the subdivision. Waterfront, by contrast, is inappropriate since it is one of the most industrial, commercial and development oriented zones. Clearly, this designation was in place prior to the current residential development. The antiquated zoning needs to be revised and updated to match the current use.

The signatures of neighbor support are included with this request.

Thank you in advance. If you have questions, please call me at 907-738-2128.

Best,



Lynne Brandon

Resident, 705 Alice Loop

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone. The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

[illegible]

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Pam Hudson Date: 11/28/16

Signature: Pam Hudson Tran d/Hean

Address: 701 Alice Loop
Sitka, AK 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Gordon Harang Date: 2/26/16

Signature: G. S. Harang

Address: 669 Alice Loop

mailing address:
1517 SMC
Sitka, AK 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Susan Stanford Date: Feb 28 2016

Signature: Susan Stanford

Address: 663 Alice Loop
Sitka 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

JAN 28 2016

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to _____ R1 or R2 _____ district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Seattle-Tacoma Bar Co. Date: 3/6/2016

Signature: [Handwritten Signature] PRESIDENT

Address: 665 Alice Loop

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Jean + Scott Seaton Date: 2-10-16

Signature: Jean E. Seaton

Address: P.O. Box 6225
Gratka, AK 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: STEVEN D. ATKINSON Date: 2/10/16

Signature: [Signature]

Address: 725 ALICE LOOP
SITKA, AK

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Grace Brooks / Charles P. Morgan Date: January 27, 2016

Signature: Grace Brooks / Charles P. Morgan

Address: 713 Alice Loop

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: ROBERT C. HUNTER Date: 1/26/16
KIMBERLEY B. HUNTER
Signature: Robert C. Hunter Kimberley B. Hunter
Address: 721 Alice Loop, Site A, ME 99835

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

1. To properly answer, you must first identify the issue. The issue is the question that the court must answer. In this case, the issue is whether the defendant's conduct constitutes a crime. To answer this question, you must first identify the elements of the crime. The elements of the crime are the facts that must be proven to establish the crime. In this case, the elements of the crime are: (1) the defendant must have acted with a certain state of mind, and (2) the defendant must have caused a certain result.

2. Next, you must apply the law to the facts. This is done by identifying the relevant legal principles and then applying them to the facts of the case. In this case, the relevant legal principles are the elements of the crime. The facts of the case are that the defendant acted with a certain state of mind and caused a certain result. Therefore, the defendant's conduct constitutes a crime.

3. Finally, you must reach a conclusion. This is done by stating the answer to the question that the court must answer. In this case, the answer is that the defendant's conduct constitutes a crime.

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Stephen Morse Date: 1-28-16

Signature: Stephen Morse

Address: Lot 12 Alice Loop
SWHA, AK.

314 TILSON ST

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to
R-1 or R-2 district zone (single preferred zone). The zoning change would apply to
properties from 157 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support
standardizing in the Sealing Cove Business Center and the townhouses and recommend that any future
Alice Island minor residential subdivisions be zoned R-2 or R-3 as well.

Name: Stephen Morrison Date: June 16

Signature: [Signature]

Address: 157 Alice Loop

Stephen Morrison

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Toby Campbell Date: 2-1-16

Signature: Toby Campbell

Address: 106 Rands Dr. (Property owners of Lot 9 Alice Loop)

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: RUSSELL & LYNNE BRANDON Date: 2-1-16

Signature: Lynne Brandon

Address: 705 ALICE LOOP

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop

We, as Alice Loop property owners, support changing the zoning of Alice Loop from Waterfront zone to R1 or R2 district zone (circle preferred zone). The zoning change would apply to properties from 757 Alice Loop to 601 Alice Loop, including 800 Alice Loop. We also support grandfathering in the Sealing Cove Business Center and the townhouses and recommend that any future Alice Island minor residential subdivisions be zoned R-2 or R-1 as well.

Name: Paul Haavig Date: 1/2/16

Signature: Paul Haavig

Address: 745 Alice Loop Road

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



**RESTATED
DECLARATION AND ESTABLISHMENT OF CONDITIONS,
RESERVATIONS AND RESTRICTIONS FOR
Ethel Staton Subdivision**

Shee Atiká Holdings Alice Island, LLC ("SAHAI") a limited liability company organized under the laws of Alaska, whose address is 315 Lincoln Street, Suite 300, Sitka, AK 99835 ("Declarant") hereby establishes the easements, covenants, conditions, reservations, and restrictions (collectively, the "Covenants") described in this instrument (the "Restated Declaration") concerning the following real property and all improvements thereon:

LOTS 1-15, ETHEL STATON SUBDIVISION, ACCORDING TO THE OFFICAL PLAT THEREOF RECORDED AS PLAT 2007-23, RECORDED OCTOBER 22, 2007, IN THE SITKA RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA.

The foregoing real property together with any other real property and improvements that may become subject to this Restated Declaration hereafter shall be formally known as the "Ethel Staton Subdivision". Each of lots 1 - 15 is referred to herein as a "Lot". this Restated Declaration

1. **Overview.** SAHAI has established a sixteen-lot subdivision on Alice Island in Sitka, Alaska for the purpose of providing building lots for high quality single-family homes. Lots 1 - 15 of the Ethel Staton Subdivision are subject to this Restated Declaration, while Lot 16 of the Ethel Staton Subdivision is not subject to this Restated Declaration. On November 5, 2007 SAHAI recorded that certain Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision under recording number 2007-001778-0, in the Sitka Recording District, First Judicial District, State of Alaska ("Original CCRs"). Section 9 of the Original CCRs permits the Original CCRs to be amended by recording a Restatement of those Original CCRs that incorporates such changes. This Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision is made and recorded to reflect certain amendments to the Original CCRs, as contemplated by Section 9 of the Original CCRs. At the time this Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision is made and recorded, SAHAI owns all lots within the

Ethel Staton Subdivision. From and after the date this Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision is made and recorded, the Original CCRs shall be null and void, of no further force and effect, and the provisions of this Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision shall bind Lots 1 – 15 within the Ethel Staton Subdivision and shall run and pass with such lots in perpetuity, except as is set forth herein. References herein to “these Covenants”, “the Covenants”, and similar nomenclature indicates the covenants, restrictions and conditions imposed by this Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision. References herein to this “Restated Declaration”, “this Restated Declaration”, and similar nomenclature all indicate this Restated Declaration and Establishment of Conditions, Reservation and Restrictions For Ethel Staton Subdivision.

2. Nature of Covenants. These Covenants (a) are hereby imposed upon Lots 1 -15 (including improvements thereon) within the Ethel Staton Subdivision, (b) shall run and pass with the title to Lots 1 – 15 (including improvements thereon) within the Ethel Staton Subdivision and (c) shall bind and benefit Declarant and its successors in interest (herein such successors being referred to as an "Owner") as to Lots 1 – 15 (including improvements thereon) within the Ethel Staton Subdivision. The Covenants shall continue and remain in full force and effect at all times as against and in favor of, as the case may be, the Owner of any of Lots 1 – 15 within the Ethel Staton Subdivision, regardless of how such Owner acquired title.

3. Residential Use. All portions of Lots 1 – 15 (including without limitation, all portions of any improvements erected thereon) within the Ethel Staton Subdivision shall be used at all times for long-term single family residential purposes only. No building or structure intended for or adapted to any business purpose shall be erected, placed, permitted, or maintained on Lots 1 – 15 within the Ethel Staton Subdivision, or on any part thereof. This paragraph shall not apply to a sales office that Declarant (or its agents) may choose to maintain upon any of Lots 1 - 15.

Only single-family residences and out-buildings and structures directly related to a single-family residential use may be constructed on Lots 1 – 15 within the Ethel Staton Subdivision. Manufactured structures (including residential structures) are prohibited on Lots 1 – 15 within the Ethel Staton Subdivision unless such structures have a minimum 4/12 pitch (i.e., 4” in 12”) Lots 1 – 15 within the Ethel Staton Subdivision shall not be used at any time on a short term rental or transient basis, or to provide lodging accommodations, a bed and breakfast, vacation rental or other temporary housing. As used in this Restated Declaration, a short-term rental is any rental for thirty days or less. No zero lot line or other multi-family homes may be constructed on Lots 1 – 15 within the Ethel Staton Subdivision, with the exception that the residential structure upon any of Lots 1 – 15 within the Ethel Staton Subdivision may contain a single “mother-in-law apartment”, of not more than 350 square feet, so long as the mother-in-law apartment is accessible from within the residential structure. Occupancy of such a mother-in-law apartment shall in all events be limited to a single person who is a family member of the Owner. For Lots 1 – 6, the minimum building size of the residence thereon shall be such so as to have 1,500 square feet of interior living space, with garage space not included in such calculation. For Lots 7 – 15, the minimum building size of the residence thereon shall be such so as to have 1,250



square feet of interior living space, with garage space not included in such calculation. When a residential structure is built upon any of Lots 1 – 15 within the Ethel Staton Subdivision, one (1) garage shall also be simultaneously built with no less than 500 square feet of interior space. All garages on any of Lots 1 – 15 within the Ethel Staton Subdivision shall be fully enclosed; car ports are not permitted on any of Lots 1 – 15 within the Ethel Staton Subdivision. Nothing in this Restated Declaration prevents an Owner from having house guests, whether or not related to Owner, that stay without payment of compensation within Owner's residential structure for periods of time that do not exceed ninety (90) days.

No Owner other than Declarant may further subdivide any of Lots 1 – 15 within the Ethel Staton Subdivision. Declarant may further subdivide any of Lots 1 – 15 within the Ethel Staton Subdivision while Declarant owns such Lot.

4. Easements.

(a) **Reservation.** There is hereby reserved to Declarant, each Owner, all applicable utility entities, to the City and Borough of Sitka, and to all emergency vehicles a perpetual easement over, under and upon all portions of Lots 1 – 15 within the Ethel Staton Subdivision designated as rights-of-way, utilities and/or drainage easements (collectively, "Easements") on the plat of the Ethel Staton Subdivision for the installation, maintenance, and repairs of utilities including, but not limited to, power, telephone, water, sewer, drainage, gas, cable television, etc., together with the perpetual right to enter upon Lots 1 – 15 within the Ethel Staton Subdivision as is necessary for such purposes.

(b) **No Structures Within Easements.** Within these Easements upon Lots 1 – 15 within the Ethel Staton Subdivision, no Owner shall place or permit to remain any structure, planting, or other material that may damage or interfere with the installation and maintenance of utilities or which may damage, interfere or change the direction of flow of drainage facilities. The Easement area of any of Lots 1 – 15 within the Ethel Staton Subdivision shall be maintained in an upscale, first-class and aesthetically pleasing fashion by the respective Owner, except for those improvements for which a public authority or utility company is responsible.

5. Obligation to Rebuild, Maintain or Repair.

(a) **All Structures Kept In Good Repair.** All improvements located on any of Lots 1 – 15 within the Ethel Staton Subdivision shall be kept in such repair and condition as is appropriate for an upscale, first-class and aesthetically pleasing development. If all or any portion of any improvement on any of Lots 1 – 15 within the Ethel Staton Subdivision is damaged or destroyed by fire or other casualty it shall be the duty of the respective Owner to promptly rebuild, repair, or reconstruct said improvement in a manner that will restore such improvement substantially to its appearance and condition immediately prior to the casualty.

(b) **Exterior Decoration.** All siding on any structure upon Lots 1 – 15 within the Ethel Staton Subdivision will be wood or cement fiber composite lap or shingle siding or some



combination thereof. No aluminum or vinyl siding is permitted. Exterior paint colors shall be earth tones. "Earth tones" do not include any bright reds, blues or silver hues.

(c) **Landscaping.** Each Owner of Lots 1 – 15 within the Ethel Staton Subdivision shall maintain the landscaping of such Owner's property as is appropriate for an upscale, first-class and aesthetically pleasing development.

(d) **Fences.** No fences higher than six feet may be erected on any of Lots 1 – 15 within the Ethel Staton Subdivision. Fences will be constructed of wood and shall be stained a natural wood color. No chain link or vinyl fencing may be erected.

(e) **Snow Removal.** Snow removal from the sidewalks in front of any of Lots 1 – 15 within the Ethel Staton Subdivision shall be the responsibility of the Owner of such Lot.

6. **Use Restrictions.** The following restrictions apply in the use of any of Lots 1 – 15 within the Ethel Staton Subdivision:

(a) **No Nuisances.** No noxious or offensive activity shall be carried on, in or upon any of Lots 1 – 15 within the Ethel Staton Subdivision nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners.

(b) **No Signage.** No sign of any kind shall be displayed to the public view on any of Lots 1 – 15 within the Ethel Staton Subdivision except customary name and address signs and lawn signs of not more than five square feet in size advertising the property for sale or rent. Notwithstanding this paragraph, until such time as all of Lots 1 – 15 within the Ethel Staton Subdivision are sold, Declarant (or Declarant's Agents) may post project signs of such size and dimensions, and at such locations, as Declarant deems appropriate. Nothing in this paragraph prevents the erection, in Declarant's sole discretion, of permanent signage that identifies the subdivision as the Ethel Staton Subdivision. Such signage, if Declarant elects to erect it, shall be on a Lot then belonging to Declarant and be of such materials as Declarant shall choose.

(c) **Limited Parking.** No one (including without limitation any Owner of Lots 1 – 15 within the Ethel Staton Subdivision) shall park any vehicle at any time anywhere within the Ethel Staton Subdivision except upon or within the Owner's own Lot or in any specifically designated on-street parking area. No one (including without limitation any Owner of Lots 1 – 15 within the Ethel Staton Subdivision) shall park, store or keep any derelict vehicles, vessels, or trailers anywhere in the Ethel Staton Subdivision except within the Owner's own garage.

(d) **No Increase In Risk.** Nothing shall be done or kept on any of Lots 1 – 15 within the Ethel Staton Subdivision Lot which shall increase the rate of insurance on any other of Lots 1 – 15 within the Ethel Staton Subdivision and no Owner shall permit anything to be done or kept on his or her Lot which would result in the cancellation of insurance on any other of Lots 1 – 15 within the Ethel Staton Subdivision Lot, or which would be in violation of any law.



(e) **Only Household Pets.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any of Lots 1 – 15 within the Ethel Staton Subdivision except that dogs, cats and other common household pets may be kept on any such Lot, provided that they are not kept, bred, or maintained for any commercial purposes.

(f) **No Uncontained Garbage.** No rubbish, trash, garbage or other waste material shall be kept, or permitted upon, any of Lots 1 – 15 within the Ethel Staton Subdivision except in sanitary containers located in appropriate areas screened and concealed from view.

(g) **No Visible Storage.** No storage shall be permitted under decks or overhangs or anywhere else on any of Lots 1 – 15 within the Ethel Staton Subdivision that is visible from any point outside the Lot. No laundry or clothing or similar items shall be hung on, or from, any decks or lines, which are visible from any point outside the Lot.

(h) **Satellite Dishes.** All satellite discs on Lots 1 – 15 within the Ethel Staton Subdivision shall be no more than four feet in diameter and shall be positioned to minimize the visual impact on neighboring property, streets and public spaces.

(i-) **Certain Exterior Fires Prohibited.** There shall be no burn barrels upon any of Lots 1 – 15 within the Ethel Staton Subdivision, and there shall be no burning of garbage or any other substance other than clean (non-pressure-treated) wood, firewood, manufactured fire logs, or charcoal briquettes, or in any fashion which emits noxious fumes, odors or black smoke. No fire shall exceed three (3) feet in diameter. Nothing in this Restated Declaration prevents Owners from operating standard charcoal or gas barbecues or freestanding masonry exterior fireplaces using approved fuels as listed herein.

(j) **Limited Additional Lighting.** Additional lighting on any of Lots 1 – 15 within the Ethel Staton Subdivision must be low intensity that does not result in excessive glare to neighboring properties, streets or public spaces.

(k) **No Vehicle Repairs.** No major or extended vehicle repairs shall be performed on any of Lots 1 – 15 within the Ethel Staton Subdivision unless inside the Owner's own garage.

7. **No Other Duties Or Responsibilities.** This Restated Declaration comprises the sole statement of the duties and responsibilities of the Declarant relative to the Ethel Staton Subdivision and no other duties or responsibilities of the Declarant shall be implied herefrom.

8. **Contests.** In the event any of these Covenants shall be declared for any reason, by a court of competent jurisdiction, to be invalid, the remaining Covenants not so expressly held to be invalid shall continue unimpaired and in full force and effect.

9. **Amendments.** Prior to the time that any Lot has been sold to an Owner other than Declarant, Declarant may amend this Restated Declaration by recording a Restatement of this Restated Declaration that incorporates such changes in the records of the Sitka Recording District, First Judicial District, State of Alaska. After one or more Lots have been sold to an



10. Enforcement. This Restated Declaration shall be enforced only in the First Judicial District, State of Alaska, at Sitka. Any Owner may bring an action for enforcement, whether for specific performance or damages or both. Declarant shall also have the right in its sole discretion to bring such an action in its own name, whether or not Declarant then owns any of the Lots. The prevailing party in such action shall be entitled to an award of attorney's fees and costs of suit, whether at trial or on appeal, regardless of whether damages are awarded.

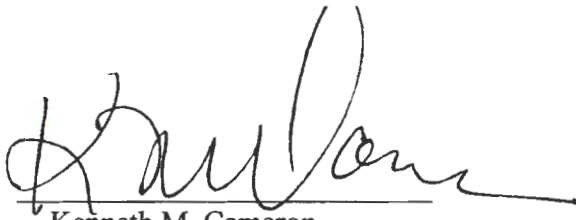
12. **Intended Legal Relationship.** There is no portion of the Ethel Staton Subdivision that has been designated by Declarant as being owned in common, and ownership of a Lot carries with it no other ownership.

14. **Waiver.** The failure to enforce any Covenant contained in this Restated Declaration shall not be deemed a waiver of the right to enforce such Covenant or any other Covenant.

16. **Municipal Ordinances.** These Covenants shall in no way restrict the effect of any ordinance adopted by the City and Borough of Sitka.

SHEE ATIKÁ HOLDINGS ALICE ISLAND, LLC
Declarant

By:



Kenneth M. Cameron
President/CEO; Manager

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 23 day of NOV., 2011, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Kenneth M. Cameron, to me known and known to me to be the President/CEO and Manager of Shee Atiká Holdings Alice Island, LLC, the person that executed the within and foregoing Restated Declaration on behalf of said limited liability company and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

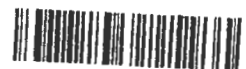
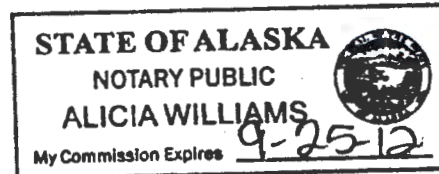


Notary Public, State of Alaska

My commission expires: 9-25-12

When Recorded, Return To:

Kenneth M. Cameron
President/CEO; Manager
Shee Atiká Holdings Alice Island, LLC
315 Lincoln Street, Suite 300
Sitka, AK 99835





315 Lincoln Street, Suite 300
Sitka, Alaska 99835
Tel (907) 747-3534
Fax (907) 747-5727
www.sheeatika.com

August 4, 2016

VIA HAND DELIVERY

Attachment H

Planning Commission
City and Borough of Sitka
100 Lincoln Street
Sitka, AK 99835

Re: Opposition to Amended Rezone Request, 663 – 800 Alice Loop Road

Ladies and Gentlemen:

I am writing to you in my capacity as the President/CEO and Chairman of the Board of Shee Atiká, Incorporated (“Shee Atiká”) to express Shee Atiká’s opposition to the Rezone Request relative to 663 – 800 Alice Loop Road as embodied in the July 25, 2016 letter from Mr. Steve Atkinson (the “Atkinson Rezone Request”). The Atkinson Rezone Request proposes that the indicated lots be changed from their current Waterfront District (“WD”) designation to an R-1 designation. Shee Atiká understands that Planning Commission consideration of the Atkinson Rezone Request is presently scheduled for August 16, 2016.

I.
ABOUT SHEE ATIKÁ

As you may know, Shee Atiká is the corporation organized under the Alaska Native Claims Settlement Act (“ANCSA”) for the Alaska Natives historically residing in the Sitka area and we presently have over 3200 shareholders, most of who reside in Sitka.

II.
EXECUTIVE SUMMARY OF SHEE ATIKÁ’S OPPOSITION

Although the Atkinson Rezone Request on its face seeks the rezone of 21 lots on Alice Island from WD to R-1 status, the true object of the Atkinson Rezone Request is to place just one lot, 800 Alice Loop Road¹, under the restrictions applicable to R-1 zoning. All of the other 20 lots that would be placed into an R-1 designation by the Atkinson Rezone Request are already subject to recorded covenants that are much more restrictive of use than would be the R-1 designation. That is, for these 20 lots, the “new” R-1 designation is essentially irrelevant, and it is only 800 Alice Loop that would be subject to new restrictions by the Atkinson Rezone Request.

¹ 800 Alice Loop Road was originally legally described as lot 9 of Alice & Charcoal Island Subdivision (Plat 2001-20) and is now legally described as Lot 16 of the Ethel Staton Subdivision (Plat 2007-23).

Understood in this manner, it is obvious that Mr. Atkinson lacks the standing to petition for an amendment to the zoning code, because he is not “directly affected by [the] proposal” as required by Sitka General Code (“SGC”) §22.30.380(A)(3). In a similar fashion, Mr. Atkinson’s July 25, 2016 letter does not itself satisfy all of the requirements of SGC §22.30.380(B), and because Mr. Atkinson cannot “bootstrap” off of the earlier rezone request by Ms. Lynne Brandon known as ZMA 16-01, the Atkinson Rezone Request is premature and not presently ripe for consideration, and should therefore be rejected.

To the extent that despite these procedural obstacles, the Planning Commission decides to reach the merits of the Atkinson Rezone Request, the Atkinson Rezone Request should be rejected because it would cause an illegal “spot zone” of 800 Alice Loop Road. Moreover, even if the Atkinson Rezone Request was not illegal spot-zoning, the Atkinson Rezone Request should still not be granted because the Alice Island neighborhood is now and has always been a mix of residential and commercial activity, and this was the condition when Mr. Atkinson and all the other lot owners in the Alice Island neighborhood purchased their lots. This is not the first attempt at a spot rezone of 800 Alice Loop into R-1 status, and this prior rezone attempt was withdrawn earlier this year after the Planning Commission staff recommended against the rezone. There is no reason to reach a different result as to the Atkinson Rezone Request.

Shee Atiká is the sole owner of 800 Alice Loop Road, and makes this opposition because Shee Atiká would be directly affected by the Atkinson Rezone Request.

III.

THE ATKINSON REZONE REQUEST IS NOT AN AMENDMENT TO OR A REVISION OF ZMA 16-01 AND DOES NOT COMPLY WITH SGC §22.30.380

As indicated above, the Atkinson Rezone Request is similar to a rezone request that was reviewed by Planning Commission staff as ZMA 16-01, the Zoning Map Amendment (“Atkinson Rezone Request”) of 601 – 800 Alice Loop. As you may recall, the Planning Commission staff recommended against ZMA 16-01 in a memo from Michael Scarcelli dated April 11, 2016 and thereafter, the proponent of ZMA 16-01, Lynne Brandon, withdrew ZMA 16-01. Because ZMA 16-01 has been withdrawn, ZMA 16-01 is no longer a valid application for purposes of SGC §22.30.380(B).

While it appears that Mr. Atkinson considers his request to be an amendment to ZMA 16-01, Mr. Atkinson was not the proponent of ZMA 16-01. Lynne Brandon was. Thus, Mr. Atkinson does not have the ability acting on his own to amend ZMA 16-01. Only Lynne Brandon can do that. Also, although Mr. Atkinson is apparently an attorney, he is licensed in California, not Alaska. Thus Mr. Atkinson is unable to act as an attorney representing Ms. Brandon (or anyone else) before the Planning Commission and/or to make statements and representations on her behalf (or anyone else’s behalf) without engaging in the unlicensed

practice of law in Alaska. Mr. Atkinson cannot simply piggyback off of the earlier application and submissions by Ms. Brandon because he is not her.

Thus, Mr. Atkinson must submit the formal application and supporting materials necessary per SGC §22.30.380(B) to obtain Planning Commission consideration of the Atkinson Rezone Request, just as does any other proponent of a request for a zoning change. Until this is done, the last sentence of SGC §22.30.080(B) is clear that the Atkinson Rezone Request cannot be processed and is not ripe for consideration by the Planning Commission or its staff. Stated differently, the materials submitted by Ms. Brandon in support of ZMA 16-01 (e.g., written consents by certain adjacent lot owners) should not be assumed to signify consent by those same adjacent lot owners to the Atkinson Rezone Request.

Also, while Mr. Atkinson does own one of the lots that facially would be the subject of the proposed rezone from WD to R-1 status, the reality (as discussed below) is that Mr. Atkinson's lot is already subject to use restrictions that are far more restrictive than R-1 status. As Mr. Atkinson implicitly admits, the real object of the Atkinson Rezone Request is to achieve the rezoning of just one lot, the lot known as 800 Alice Loop Road. Thus, neither Mr. Atkinson nor any of the other lot owners in the Ethel Staton Subdivision are "directly affected by [the] proposal" as required by SGC §22.30.380(A)(3), and thus, neither Mr. Atkinson nor any of the other lot owners in the Ethel Staton Subdivision have standing to initiate an amendment to zoning code.

IV.

THE ATKINSON REZONE REQUEST SHOULD BE DENIED

To the extent that the Planning Commission nonetheless proceeds with the Atkinson Rezone Request, it should be denied for several reasons.

A. The Atkinson Rezone Request Constitutes Illegal "Spot Zoning."

Spot-zoning is per se unconstitutional in Alaska. Griswold v. City of Homer, 925 P.2d 1015, 1020 & n. 6 (Alaska 1996). In Griswold, the Alaska Supreme Court indicated that the "most important factor in determining whether a small-parcel zoning amendment will be upheld is whether the amendment provides a benefit to the public, rather than primarily a benefit to a private owner." 925 P.2d at 1022. Consistent with this constitutional mandate, SGC §22.30.380(B)(1) expressly prohibits any change in district mapping that "would result in spot zoning."

The Atkinson Rezone Request continually references the Alice Island neighborhood as being identical with the "Ethel Staton Subdivision," but it is not. Shee Atiká has platted four

legal subdivisions of Alice Island: (i) the Alice & Charcoal Island Subdivision;² (ii) the Ethel Staton Subdivision;³ (iii) the Sealing Cove Subdivision;⁴ (2011); and (iv) the William Paul Subdivision;⁵ (2015, Plat 2015-9). All of these subdivisions are a part of Mr. Atkinson's neighborhood. However, of these lots, only 21 lots that would be effected by the Atkinson Rezone Request: Lots 1- 5 of the Alice & Charcoal Island Subdivision and Lots 1 – 16 of the Ethel Staton Subdivision (Plat 2007-23). None of the remaining lots on Alice Island are subject to the Atkinson Rezone Request, including the four lots that are a part of the Sealing Cove Subdivision on the north side of Alice Island and that have been built out to commercial use. Similarly, 601 Alice Loop Road (Lot 10 of the Alice & Charcoal Island Subdivision), which was a part of ZMA 16-01 but has now been deliberately omitted from the Atkinson Rezone Request, has an existing commercial use (the Sealing Cove Commercial Center). Finally, the five lots in the William Paul Subdivision are not subject to the Atkinson Rezone Request.

Moreover, and this is telling, of the twenty-one lots that would be changed from the existing Waterfront District designation to an R-1 designation by the Atkinson Rezone Request, twenty lots are already protected by existing stringent recorded conditions, reservations and restrictions and only 1 lot (800 Alice Loop Road) would be subject to new restrictions by virtue of the change from Waterfront District to an R-1 zone. Lots 1-5 of the Alice & Charcoal Island Subdivision (Nos. 663, 665, 667, 669 and 671 Alice Loop Road, the so-called "townhouse lots") are subject to the restrictive covenants recorded December 12, 2001.⁶ Lots 1-15 of the Ethel Staton Subdivision (Nos. 701, 705, 709, 713, 717, 721, 725, 729, 733, 737, 741, 745, 749, 753, and 757) are subject to subject to the restrictive covenants recorded November 29, 2011.⁷ The twenty-first lot, i.e., the only lot that would be subject to new use restrictions by the change from the existing Waterfront District designation to an R-1 designation by the Atkinson Rezone Request, is 800 Alice Loop Road.

Mr. Atkinson does not really dispute that the object of the Atkinson Rezone Request is rezoning of 800 Alice Loop Road, admitting that all of the other lots in "the Ethel Staton

² This plat was recorded in 2001 as Plat 2001-20, Sitka Recording District.

³ This plat was recorded in 2007 as Plat 2007-23, Sitka Recording District.

⁴ This plat was recorded in 2011 as Plat 2011-1, Sitka Recording District.

⁵ This plat was recorded in 2015 as Plat 2015-9, Sitka Recording District.

⁶ These (the "2001 CCRs") were recorded under Serial # 2001-002152-0 at book 0151, page 588, Sitka Recording District and are attached as Exhibit A.

⁷ These (the "2011 CCRs") were recorded under Serial # 2011-001551-0, Sitka Recording District and are attached as Exhibit B.

Subdivision” are subject to restrictive use covenants.⁸ Moreover, the Atkinson Rezone Request includes a copy of the Planning Commission memo authored by Anthony Scarcelli (the “Scarcelli Memo”) recommending against ZMA 16-01. The copy of the Scarcelli memo included with the Atkinson Rezone Request includes comments by Mr. Atkinson intended to challenge certain points of the Scarcelli memo. One of Mr. Atkinson’s comments is that he feels he and others were misled, at the time they purchased their lots in the Ethel Staton Subdivision, that 800 Alice Loop Road was subject to the 2011 CCRs. Mr. Atkinson then argues that because he and these other unnamed lot owners were supposedly misled, that the City should now remedy the situation by placing 800 Alice Loop Road into an R-1 status. Whatever else can be said about the purpose of a rezone request such as this, the purpose cannot legally be to remedy the potential disputes among land owners. That is a judicial function, not a zoning function.⁹

As a final point regarding spot zoning, we also note that the Atkinson Rezone Request does not extend to other immediately adjacent and vacant lands that would logically be a part of the same neighborhood. These lands are the five undeveloped lots within the William Paul Subdivision, Plat 2015-9. These five lots were originally designated as Lot 11 of the Alice & Charcoal Island Subdivision (Plat 2001-20). Mr. Atkinson offers no reason why these immediately adjacent lands are not included in the Atkinson Rezone Request, and this simply reinforces the conclusion that the real object of the Atkinson Rezone Request is to “spot zone” 800 Alice Loop Road.

From Shee Atiká’s perspective all of this conclusively demonstrates that the Atkinson Rezone Request has an impermissible and illegal object, namely the spot zoning of 800 Alice Loop Road.

B. Even If the Atkinson Rezone Request Does Not Result in Illegal Spot-Zoning, the Atkinson Rezone Request Should Still Not Be Approved Because the Alice Island Neighborhood Is Now and Has Always Been A Mix of Residential and Commercial/Industrial.

Mr. Atkinson argues that the character of the Alice Island Neighborhood has now changed from commercial/industrial, with the result that the Waterfront District designation is “antiquated.” However, as the Scarcelli memo correctly describes relative to ZMA 16-01, the

⁸ Mr. Atkinson apparently assumes (incorrectly) that the only use restrictions applicable to the residences on Alice Island are the 2001 CCRs. In fact, the townhouse lots are not subject to the 2011 CCRs recorded relative to Lots 1 – 15 of the Ethel Staton Subdivision. However, the 2001 CCRs do apply to the townhouse lots, and the 2001 CCRs are also more restrictive of use than is the R-1 zoning designation.

⁹ Shee Atiká strongly disputes Mr. Atkinson’s allegation that he and/or other unnamed lot owners in the Ethel Staton Subdivision were somehow misled when he and/or they purchased lots in the Ethel Staton Subdivision. The 2011 CCRs are and were a matter of public record, and under Alaska, are constructive notice to all persons. The 2011 CCRs are clear on their face that they do not extend to Lot 16 of the Ethel Staton Subdivision. At the very least this reference alerts the reader that not all of the Ethel Staton Subdivision lots were subject to these restrictions. This is particularly so with regard to Mr. Atkinson, an attorney.

true character of the immediate area is a mix of residential and industrial/ commercial. This mixed character has existed for numerous years, and the mixed character predates Mr. Atkinson's purchase of his residential lot as well as the purchases by all of the other lot owners in the Ethel Staton Subdivision. Stated differently, Mr. Atkinson and his fellow lot owners knew they were each purchasing their residential lot in a neighborhood with both residential and commercial/industrial use.

Immediately adjacent to applicant's neighborhood on the north side is the former Alice School, which has been converted within the past few years at considerable expense to Shee Atiká into a top quality commercial building (the "Sealing Cove Business Center") housing offices of the City of Sitka and the Transportation Safety Administration, among others. The Alice School lot, of course, is one of the lots that the Atkinson Rezone Request would place into an R-1 or R-2 zoning designation, despite its obvious commercial use. Immediately adjacent to the Sealing Cove Business Center is another commercial building initially built in 2005, which formerly housed West Marine and now houses the Sealing Cove Storage. West Marine chose this location because of its proximity to the water, as did the storage facility. Next to the Sealing Cove Storage building is an AT&T/Alascom Telecommunications Facility, including cell tower, which has stood on this site for a quarter century. This site was selected by AT&T/Alascom at least in part because of the site's proximity to the waterfront which serves to enable better maritime cellular connections. Next to the AT&T Alascom site is a new boat repair facility, which has been constructed in the last 12 months. This boat repair facility would not have been constructed without the WD designation and the proximity to the water. All of these commercial/industrial uses will continue for the foreseeable future and it is simply wrong to describe the character of this neighborhood as purely residential or to declare that the WD designation of Alice Island is "antiquated." All of these commercial/industrial uses other than the new boat repair facility were in place and established well prior to the time that the applicant purchased her lot on Alice Island.

Just past the four commercial sites described above is Sealing Cove Harbor itself, a busy, year around facility that is the home location for numerous fishing and other commercial vessels.

On the west side immediately adjacent to the lands applicant proposes for R-1 designation, are the five lots of William Paul Subdivision, as created by Plat 2015-9. Mr. Atkinson has not proposed the R-1 designation for these lots (which abut the water). As noted above, these five lots were originally designated as Lot 11 of the Alice & Charcoal Island Subdivision (Plat 2001-20) and are designated WD.

Also on the west side, just past the five lots of the William Paul Subdivision lie the PD designated lands for airport expansion (former Lot 13 of the Alice & Charcoal Island Subdivision, Plat 2001-20) as well as the PD designated lands Sitka sewage treatment plant (Lot 171 of USS Survey 3296).

Thus, contrary to what Mr. Atkinson wants to portray, his neighborhood is not a quiet residential neighborhood where there no longer are commercial/industrial uses. Instead, Mr. Atkinson's residence is in an area in which vibrant commercial/industrial use exists alongside a residential use, with a new commercial/industrial use (the boat repair facility) having been established within the past twelve months. The WD designation not only works for this neighborhood, but is vital to continued economic growth. It should be stressed that apart from the Alice Island WD, there is virtually no vacant land within the Sitka downtown area that has the WD designation. Given the importance of waterfront activity to the continued economic well-being of Sitka, and the fact that the WD designation has allowed these Alice Island lands to be put to good commercial/industrial use, continuation of these lands within the Waterfront District zoning designation is of clear benefit to the Sitka community.

C. The Rationale Set Forth in the April 11, 2016 Scarcelli Memo Valid and Is Fully Applicable to the Atkinson Rezone Request.

The principal difference between the Atkinson Rezone Request and ZMA 16-01 is that the Atkinson Rezone Request concerns one lot less than does ZMA 16-01. The single lot that was a part of ZMA 16-01 but which has been dropped from the Atkinson Rezone Request is 601 Alice Loop Road, legally known as Lot 10 of the Alice & Charcoal Subdivision, plat 2001-20. Stated differently, ZMA 16-01 concerned 22 lots on Alice Island (one of which was 601 Alice Loop Road), while the current request by Mr. Atkinson concerns 21 of these same 22 lots (with 601 Alice Loop Road having been deleted).

In support of the Atkinson Rezone Request, Mr. Atkinson has submitted a copy of the April 11, 2016 memo from Mr. Scarcelli of the Planning Staff relative to ZMA 16-01 in which Mr. Atkinson has inserted comments in an attempt to refute portions of Mr. Scarcelli's analysis.

Mr. Atkinson first argues that a Waterfront District designation should not be placed upon the undeveloped lot that is presently numbered as "800 Alice Loop Road" because this lot is in the center of Alice Loop Road and is not contiguous to the water. However, this argument is wrong for several reasons.

Nothing in SGC §22.16.100, which imposes regulations for the WD designation, requires that the lands subject to a WD designation have to abut the water or even to have a water-related or water-dependent use. Instead, this section requires only "close proximity" to navigable tidal waters. 800 Alice Loop Road is within a few feet of "navigable tidal waters" and clearly, could be used for "water-dependent" or "water-related" uses, either alone or in conjunction with the several properties on Alice Island that are already being used for "water-dependent" or "water-related" activities, e.g., the Sealing Cove Subdivision that is located a relatively few feet away. Also, Mr. Atkinson's argument that WD designation for 800 Alice Loop should be changed to R-1 because 800 Alice Loop Road does not abut the water ignores the fact that 800 Alice Loop Road is presently in common ownership with a substantial

waterfront lot (601 Alice Loop Road), so that a common use can be made of both lots that is consistent with the WD designation. Thus, the fact that 800 Alice Loop Road does not itself abut the water is not a reason to change the WD designation for this lot to R-1 or anything else.

Mr. Atkinson also argues that the Scarcelli memo ignores the fact that the character of the neighborhood has changed and that the WD designation is “antiquated” and must be changed because the current use (residential) is inconsistent with the “old” use (water-related or water dependent commercial). This argument fails by the express language of SGC §22.16.015 and Table 22.16.015-2(D), which expressly provides that “upland uses may be non-water-related.” Thus all of the lots within the Ethel Staton Subdivision (including 800 Alice Loop Road) as well as the townhouse lots that are a part of the Alice & Charcoal Island Subdivision may permissibly have a use such as residential that is a “non-water-related use”.

All of the Ethel Staton Subdivision lots and the townhouse lots were zoned WD at the time they were sold by Shee Atiká, as were the adjacent properties on Alice Island. Some of these lots had a water-related commercial use at the relevant times. There has been no change in use here since Mr. Atkinson acquired his lot, and the WD designation is not “antiquated.”

Finally, Mr. Atkinson implicitly argues that the potential of a commercial use of 800 Alice Loop Road will be a nuisance that is inconsistent with the first class character of the residential lots on Alice Island, and that this provides a rationale for the change in zoning of 800 Alice Loop from WD to R-1. This arguably is directly answered by SGC §22.16.015 and Table 22.16.015-1(C) (Residential Land Uses) Footnote 11, which provides as follows:

11. Many of the permitted and conditional uses in the CBD, C-1, C-2, and WD zones generate traffic, noise, odor, and general impacts to a higher level and greater degree than permitted and conditional uses in residential districts. Owners of residential uses in the CBD, C-1, C-2 and WD districts must be aware of and accepting of all the permitted uses in these districts.

Simply put, as described in Note 11 quoted above, anyone acquiring a lot for residential purposes within a WD must expect that there would be some legally permissible activity nearby that would be different from what would be the case if the neighborhood had instead been zoned R-1.

D. The Atkinson Rezone Request Is Clear that the Proposed Rezone to R-1 is Not Supported Unanimously By the Lot Owners in the Ethel Staton Subdivision.

The Atkinson Rezone Request admits that the proposed conversion to R-1 status is not unanimously supported by stating that “[o]nly two of seventeen Alice Loop residents have reservations regarding rezoning.” However, what this really means is unclear, because the Atkinson Rezone Request is not accompanied by any form of written consent. Moreover, because by its terms the Atkinson Rezone Request pertains to “663 to 800 Alice Loop Road,” it

actually encompasses twenty-one lots, not seventeen lots. A reasonable interpretation of this statement is that of the twenty-one properties, the owners of only fifteen are actually in favor of the Atkinson Rezone Requests. Moreover, the Atkinson Rezone Request refers only to “residents,” rather than lot owners, and so it is unclear whether Mr. Atkinson is counting a husband and wife who live together on Alice Loop as one resident or two. It is similarly unclear whether Mr. Atkinson’s representation takes into account the lot owners who are not presently “residents” on Alice Loop, but the math suggests it does not. We simply do not know because the Atkinson Rezone Request does not include any written consents.

Also, although 800 Alice Loop Road would be object of the change from WD to R-1 under the Atkinson Rezone Request, Mr. Atkinson’s representation that only “two of seventeen Alice Loop residents” conveniently ignores the fact that the owner of 800 Alice Loop Road, Shee Atiká, not only has “reservations” about the Atkinson Rezone Request, but directly opposes it.

In any event, in terms of the support for the proposed rezone, all we have is Mr. Atkinson’s bare allegation of “two of seventeen” “residents”. As discussed above, Mr. Atkinson cannot convert the consents that Ms. Brandon provided as to ZMA 16-01 into consents as to the Atkinson Rezone Request. The fact that some of the existing “residents” oppose the rezone is significant, particularly when considered with the fact that Shee Atiká, the owner of 800 Alice Loop Road, the lot that is the true object of the rezone, also opposes the rezone.

V.
Conclusion

For all of these reasons, Shee Atiká requests that the Atkinson Rezone Request should not be granted. Should you have any questions, please do not hesitate to contact me.

Sincerely,
SHEE ATIKÁ, INCORPORATED



Kenneth M. Cameron
President/CEO; Chairman

Cc: Ptarmica McConnell
Chief Operating Officer
Shee Atiká, Incorporated

Bruce N. Edwards, Esq.
Sorensen & Edwards, P.S.

Attachment I

Parcel ID: 19000001

~~SHEE ATIKA HOLDINGS ALICE ISLAND
LL
(OLD MT.EDGE ELEM)
SHEE ATIKA HOLDINGS ALICE
ISLAND, LLC
315 LINCOLN ST, #300
SITKA AK 99835~~

Parcel ID: 19006000

BRYAN/GERALDINE JONES
JONES, BRYAN & GERALDINE
2821 LEEWARD PLACE
ANCHORAGE AK 99516

Parcel ID: 19012001

TRAVIS/PATTI HUDSON
HUDSON, TRAVIS & PATTI
P.O. BOX 2983
SITKA AK 99835-2983

Parcel ID: 19012004

CHARLES/GRACE MORGAN/BROOKS
MORGAN, CHARLES & BROOKS,
GRACE
9 MAKSOUTOFF ST, #B
SITKA AK 99835

Parcel ID: 19012007

ATKINSON FAMILY TRUST
ATKINSON FAMILY TRUST
12800 CENTER COURT DR, STE 300
CERRITOS CA 90703

Parcel ID: 19012010

BARBARA/STEPHEN MORSE
MORSE, BARBARA/STEPHEN
314 TILSON ST
SITKA AK 99835

Parcel ID: 19012013

GERALD/MARY HELEM REVOCABLE
TRUST
HELEM REV. TRUST, GERALD & MARY
P.O. BOX 1811
SITKA AK 99835-1811

Parcel ID: 19012016

SHEE ATIKA HOLDINGS ALICE ISL LLC
SHEE ATIKA HOLDINGS ALICE
ISLAND, LLC
315 LINCOLN ST, #300
SITKA AK 99835

Parcel ID: 19022002

~~SEALING COVE HEATED STORAGE,
LLC
SEALING COVE HEATED STORAGE,
LLC
107-A TOIVO CIRCLE
SITKA AK 99835~~

Parcel ID: 19002000

MARGARET STANFORD
STANFORD, MARGARET, SUSAN
663 ALICE LOOP
SITKA AK 99835

Parcel ID: 19008000

GORDON/EILEEN HARANG
HARANG, GORDON, S./EILEEN, K.
1517 SAWMILL CREEK RD
SITKA AK 99835

Parcel ID: 19012002

RUSSELL/LYNNE BRANDON
BRANDON, LYNNE & RUSSELL
705 ALICE LOOP
SITKA AK 99835

Parcel ID: 19012005

JAMES/JILL DANIELS
DANIELS, JAMES & JILL
P.O. BOX 707
PELICAN AK 99832-0707

Parcel ID: 19012008

SCOTT/JEAN SEATON
SEATON, SCOTT & JEAN
P.O. BOX 6225
SITKA AK 99835-6225

Parcel ID: 19012011

TRAVIS/JENNIFER PETERSON
PETERSON, TRAVIS & JENNIFER
P.O. BOX 2312
SITKA AK 99835-2312

Parcel ID: 19012014

CAPRICE/RONALD PRATT
PRATT, CAPRICE & RONALD
753 ALICE LOOP
SITKA AK 99835

Parcel ID: 19020000

~~SHEE ATIKA, INC.
SHEE ATIKA, INC.
315 LINCOLN ST, STE #300
SITKA AK 99835~~

Parcel ID: 19024000

ALASKA, STATE, OF
DOT/PF AIRPORT DIV
ALASKA STATE OF
ANCHORAGE AK 99501

Parcel ID: 19004000

SEATTLE BOX COMPANY
SEATTLE BOX COMPANY
23400 71ST PLACE SOUTH
KENT WA 98032-2994

Parcel ID: 19010000

SITKA MAKAI, LLC
SITKA MAKAI, LLC
107-A TOIVO CIRCLE
SITKA AK 99835

Parcel ID: 19012003

RICHARD/DEBORAH DOLAND
DOLAND, RICHARD & DEBORAH
P.O. BOX 1714
SITKA AK 99835-1714

Parcel ID: 19012006

ROBERTY/KIMBERL HUNTER
HUNTER, ROBERT & KIMBERLEY
101 JAMESTOWN DR
SITKA AK 99835

Parcel ID: 19012009

TOBY/NORMAN CAMPBELL
CAMPBELL, TOBY & NORMAN
106 RANDS DR
SITKA AK 99835

Parcel ID: 19012012

PAUL HAAVIG
HAAVIG, PAUL
745 ALICE LOOP
SITKA AK 99835

Parcel ID: 19012015

ERIC/JYNAL RADZIUKINAS
RADZIUKINAS, ERIC & JYNAL
800 HALIBUT POINT RD, APT 1
SITKA AK 99835

Parcel ID: 19022000

SEALING COVE HEATED STORAGE,
LLC
SEALING COVE HEATED STORAGE,
LLC
107-A TOIVO CIR
SITKA AK 99835

Parcel ID: 19075000

~~CITY & BOROUGH OF SITKA
SEALING COVE HARBOR
CITY & BOROUGH OF SITKA
203 AIRPORT RD
SITKA AK 99835~~

P&Z Mailing
August 5, 2016

Attachment I

Parcel ID: 19000001
SHEE ATIKA HOLDINGS ALICE ISLAND
LL
~~(OLD MT.EDGE ELEM)~~
~~SHEE ATIKA HOLDINGS ALICE~~
ISLAND, LLC
315 LINCOLN ST, #300
ANCHORAGE AK 99501

Parcel ID: 19006000
BRYAN/GERALDINE JONES
JONES, BRYAN & GERALDINE
2821 LEEWARD PLACE
ANCHORAGE AK 99516

Parcel ID: 19012001
TRAVIS/PATTI HUDSON
HUDSON, TRAVIS & PATTI
P.O. BOX 2983
SITKA AK 99835-2983

Parcel ID: 19012004
CHARLES/GRACE MORGAN/BROOKS
MORGAN, CHARLES & BROOKS,
GRACE
9 MAKSOUTOFF ST, #B
SITKA AK 99835

Parcel ID: 19012007
ATKINSON FAMILY TRUST
ATKINSON FAMILY TRUST
12800 CENTER COURT DR, STE 300
CERRITOS CA 90703

Parcel ID: 19012010
BARBARA/STEPHEN MORSE
MORSE, BARBARA/STEPHEN
314 TILSON ST
SITKA AK 99835

Parcel ID: 19012013
GERALD/MARY HELEM REVOCABLE
TRUST
HELEM REV. TRUST, GERALD & MARY
P.O. BOX 1811
SITKA AK 99835-1811

Parcel ID: 19012016
~~SHEE ATIKA HOLDINGS ALICE ISL LLC~~
~~SHEE ATIKA HOLDINGS ALICE~~
~~ISLAND, LLC~~
315 LINCOLN ST, #300
SITKA AK 99835

Parcel ID: 19022002
~~SEALING COVE HEATED STORGAE,~~
~~LLC~~
~~SEALING COVE HEATED STORAGE,~~
~~LLC~~
107-A TOIVO CIRCLE
SITKA AK 99835

Parcel ID: 19002000
MARGARET STANFORD
STANFORD, MARGARET, SUSAN
663 ALICE LOOP
SITKA AK 99835

Parcel ID: 19008000
GORDON/EILEEN HARANG
HARANG, GORDON, S/EILEEN, K.
1517 SAWMILL CREEK RD
SITKA AK 99835

Parcel ID: 19012002
RUSSELL/LYNNE BRANDON
BRANDON, LYNNE & RUSSELL
705 ALICE LOOP
SITKA AK 99835

Parcel ID: 19012005
JAMES/JILL DANIELS
DANIELS, JAMES & JILL
P.O. BOX 707
PELICAN AK 99832-0707

Parcel ID: 19012008
SCOTT/JEAN SEATON
SEATON, SCOTT & JEAN
P.O. BOX 6225
SITKA AK 99835-6225

Parcel ID: 19012011
TRAVIS/JENNIFER PETERSON
PETERSON, TRAVIS & JENNIFER
P.O. BOX 2312
SITKA AK 99835-2312

Parcel ID: 19012014
CAPRICE/RONALD PRATT
PRATT, CAPRICE & RONALD
753 ALICE LOOP
SITKA AK 99835

Parcel ID: 19020000
SHEE ATIKA, INC.
SHEE ATIKA, INC.
315 LINCOLN ST, STE #300
SITKA AK 99835

Parcel ID: 19024000
~~ALASKA, STATE, OF~~
~~DOT/PF AIRPORT DIV~~
~~ALASKA STATE OF~~
ANCHORAGE AK 99501

Parcel ID: 19004000
SEATTLE BOX COMPANY
SEATTLE BOX COMPANY
23400 71ST PLACE SOUTH
KENT WA 98032-2994

Parcel ID: 19010000
SITKA MAKAI, LLC
SITKA MAKAI, LLC
107-A TOIVO CIRCLE
SITKA AK 99835

Parcel ID: 19012003
RICHARD/DEBORAH DOLAND
DOLAND, RICHARD & DEBORAH
P.O. BOX 1714
SITKA AK 99835-1714

Parcel ID: 19012006
ROBERTY/KIMBERL HUNTER
HUNTER, ROBERT & KIMBERLEY
101 JAMESTOWN DR
SITKA AK 99835

Parcel ID: 19012009
TOBY/NORMAN CAMPBELL
CAMPBELL, TOBY & NORMAN
106 RANDS DR
SITKA AK 99835

Parcel ID: 19012012
PAUL HAAVIG
HAAVIG, PAUL
745 ALICE LOOP
SITKA AK 99835

Parcel ID: 19012015
ERIC/JYNAL RADZIUKINAS
RADZIUKINAS, ERIC & JYNAL
800 HALIBUT POINT RD, APT 1
SITKA AK 99835

Parcel ID: 19022000
SEALING COVE HEATED STORAGE,
LLC
SEALING COVE HEATED STORAGE,
LLC
107-A TOIVO CIR
SITKA AK 99835

Parcel ID: 19075000
CITY & BOROUGH OF SITKA
SEALING COVE HARBOR
CITY & BOROUGH OF SITKA
203 AIRPORT RD
SITKA AK 99835

P&Z Mailing
April 8, 2016

Lynne Brandon
Zoning Map Amendment Request
601-800 Alice Loop



***DECLARATION AND ESTABLISHMENT OF CONDITIONS,
RESERVATIONS AND RESTRICTIONS FOR
Ethel Staton Subdivision***

Shee Atiká Holdings Alice Island, LLC ("Declarant"), a **limited liability company** organized under the laws of Alaska, whose address is 315 Lincoln Street, Suite 300, Sitka, AK 99835 hereby establishes the easements, covenants, conditions, reservations, and restrictions (collectively, the "Covenants") described in this instrument (the "Declaration") concerning the following real property and all improvements thereon:

LOTS 1-16, ETHEL STATON SUBDIVISION, ACCORDING TO THE OFFICAL PLAT THEREOF RECORDED AS PLAT 2007-23, RECORDED OCTOBER 22, 2007, IN THE SITKA RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA.

The foregoing real property together with any other real property and improvements that may become subject to this Declaration hereafter shall be formally known as the "Ethel Staton Subdivision". Each of lots 1 - 16 is referred to herein as a "Lot". In the event Lot 16 is further subdivided, each of the lots resulting from such further subdivision is also a "Lot" within the meaning of this Declaration.

1. **Overview.** Declarant has established a sixteen-lot subdivision on Alice Island in Sitka, Alaska for the purpose of providing building lots for high quality single-family homes. This Declaration is made to help preserve the value of all Lots within the Ethel Staton Subdivision for single-family residential purposes.

2. **Nature of Covenants.** These Covenants (a) are hereby imposed upon all real property (including improvements) within the Ethel Staton Subdivision, (b) shall run and pass with the title to the real property (including improvements) within the Ethel Staton Subdivision and (c) shall bind and benefit Declarant and its successors in interest (herein such successors being referred to as an "Owner") as to the real property (including improvements) within the Ethel Staton Subdivision. The Covenants shall continue and remain in full force and effect at all times as against and in favor of, as the case may be, the Owner of any Lot in such the Ethel Staton Subdivision, regardless of how Owner acquired title.

3. **Residential Use.** All real property (including without limitation, all portions of any improvements erected thereon) within the Ethel Staton Subdivision shall be used at all times for long-term single-family residential purposes only. No building or structure intended for or adapted to any business purpose shall be erected, placed, permitted, or maintained on the Ethel

Staton Subdivision, or on any part thereof. This paragraph shall not apply to a sales office that Declarant (or its agents) may choose to maintain upon any Lot.

Only single-family residences may be constructed on the Lots. No manufactured housing of any type (including without limitation, tents, and trailers) may be placed upon any Lot within the Ethel Staton Subdivision. No Lot within the Ethel Staton Subdivision or any improvement thereon may be used at any time on a short term rental or transient basis, or to provide lodging accommodations, a bed and breakfast, vacation rental or other temporary housing. As used in this Declaration, a short-term rental is any rental for thirty days or less. No zero lot line or other multi-family homes may be constructed, with the exception of a single "mother-in-law apartment", of not more than 350 square feet, within a larger residential structure. Occupancy of such a mother-in-law apartment shall in all events be limited to a single person who is a family member. Minimum building size shall be such so as to have 1,750 square feet of interior living space, with garage space not included in such calculation. Nothing in this Declaration prevents an Owner from having house guests, whether or not related to Owner, that stay without the payment of compensation within Owner's residential structure for periods of time that do not exceed ninety (90) days.

4. Easements.

(a) **Reservation.** There is hereby reserved to Declarant, each Owner, all applicable utility entities, to the City and Borough of Sitka, and to all emergency vehicles a perpetual easement over, under and upon all portions of the Ethel Staton Subdivision designated as rights-of-way, utilities and/or drainage easements (collectively, "Easements") on the plat of the Ethel Staton Subdivision for the installation, maintenance, and repairs of utilities including, but not limited to, power, telephone, water, sewer, drainage, gas, cable television, etc., together with the perpetual right to enter upon the real property within the Ethel Staton Subdivision as is necessary for such purposes.

(b) **No Structures Within Easements.** Within these Easements, no Owner shall place or permit to remain any structure, planting, or other material that may damage or interfere with the installation and maintenance of utilities or which may damage, interfere or change the direction of flow of drainage facilities. The Easement area of any Lot shall be maintained in an upscale, first-class and aesthetically pleasing fashion by the respective Owner, except for those improvements for which a public authority or utility company is responsible.

5. Obligation to Rebuild, Maintain or Repair.

(a) **All Structures Kept In Good Repair.** All improvements located on any Lot shall be kept in such repair and condition as is appropriate for an upscale, first-class and aesthetically pleasing development. If all or any portion of any improvement on a Lot is damaged or destroyed by fire or other casualty it shall be the duty of the respective Owner to promptly rebuild, repair, or reconstruct said improvement in a manner that will restore such improvement substantially to its appearance and condition immediately prior to the casualty.



(b) **Exterior Materials**. All siding will be wood or cement fiber composite lap or shingle siding or some combination thereof. No aluminum or vinyl siding is permitted. Exterior paint colors shall be earth tones. The preferred roof materials shall be wood shake or architectural shingles. No metal roof shall be used on any structure within the Ethel Staton Subdivision unless its color shall be earth tones. "Earth tones" do not include any bright reds, blues or silver hues.

(c) **Landscaping**. Each Owner shall maintain the landscaping of such Owner's property as is appropriate for an upscale, first-class and aesthetically pleasing development.

(d) **Fences**. No fences higher than six feet may be erected. Fences will be constructed of wood and shall be stained a natural wood color. No chain link or vinyl fencing may be erected.

(e) **Snow Removal**. Snow removal from the sidewalks in front of each Lot shall be the responsibility of the Owner of such Lot.

6. **Use Restrictions**. The following restrictions apply in the use of each Lot:

(a) **No Nuisances**. No noxious or offensive activity shall be carried on, in or upon a Lot nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners.

(b) **No Signage**. No sign of any kind shall be displayed to the public view on any Lot except customary name and address signs and lawn signs of not more than five square feet in size advertising the property for sale or rent. Notwithstanding this paragraph, until such time as all Lots are sold, Declarant (or Declarant's Agents) may post project signs of such size and dimensions, and at such locations, as Declarant deems appropriate.

(c) **Limited Parking**. No Owner shall park any vehicle anywhere within the Ethel Staton Subdivision except upon or within his or her Lot or in the designated on-street parking area. No Owner shall park, store or keep any vehicles, vessels, or trailers, that are derelict, anywhere in the Ethel Staton Subdivision (including without limitation, parked upon its streets and shoulders) except within the Owner's garage.

(d) **No Increase In Risk**. Nothing shall be done or kept on any Lot which shall increase the rate of insurance on any other Lot and no Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any other Lot, or which would be in violation of any law.

(e) **Only Household Pets**. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats and other common household pets may be kept on any Lot, provided that they are not kept, bred, or maintained for any commercial purposes.



(f) **No Uncontained Garbage.** No rubbish, trash, garbage or other waste material shall be kept, or permitted upon, any Lot except in sanitary containers located in appropriate areas screened and concealed from view.

(g) **No Other Structures.** No outbuilding, tent, shack, trailer or shed or temporary building of any kind shall be erected either temporarily or permanently on any Lot within the Ethel Staton Subdivision, other than (i) a residential structure and associated garage.

(h) **No Visible Storage.** No storage shall be permitted under decks or overhangs or anywhere else on any Lot that is visible from any point outside the Lot. No laundry or clothing or similar items shall be hung on, or from, any decks or lines, which are visible from any point outside the Lot.

(i) **Satellite Dishes.** All satellite discs shall be no more than four feet in diameter and shall be positioned to minimize the visual impact on neighboring property, streets and public spaces.

(j) **Certain Exterior Fires Prohibited.** There shall be no burn barrels upon any Lot, and there shall be no burning of garbage or any substance other than clean (non-pressure-treated) wood, firewood, manufactured fire logs, or charcoal briquettes, or in any fashion which emits noxious fumes, odors or black smoke. No fire shall exceed three (3) feet in diameter. Nothing in this Declaration prevents Owners from operating standard charcoal or gas barbecues or freestanding masonry exterior fireplaces using approved fuels as listed herein.

(k) **Limited Additional Lighting.** Additional lighting on a Lot must be low intensity that does not result in excessive glare to neighboring properties, streets or public spaces.

(l) **No Vehicle Repairs.** No major or extended vehicle repairs shall be performed unless inside a closed garage.

7. **No Other Duties Or Responsibilities.** This Declaration comprises the sole statement of the duties and responsibilities of the Owners (including without limitation the Declarant), and no other duties or responsibilities of the Owners (including without limitation the Declarant) shall be implied herefrom.

8. **Contests.** In the event any of these Covenants shall be declared for any reason, by a court of competent jurisdiction, to be invalid, the remaining Covenants not so expressly held to be invalid shall continue unimpaired and in full force and effect.

9. **Amendments.** Prior to the time that any Lot has been sold to an Owner other than Declarant, Declarant may amend this Declaration by recording a Restatement of this Declaration that incorporates such changes in the records of the Sitka Recording District, First Judicial District, State of Alaska. After one or more Lots have been sold to an Owner other than Declarant, this Declaration may be amended only upon the consent of all Owners (including



Declarant if Declarant then owns one of the Lots), and then only by recording a Restatement of this Declaration of record as described in the first sentence of this subsection.

10. **Enforcement.** This Declaration shall be enforced only in the First Judicial District, State of Alaska, at Sitka. Any Owner may bring an action for enforcement, whether for specific performance or damages or both. Declarant shall also have the right in its sole discretion to bring such an action in its own name, whether or not Declarant then owns any of the Lots. The prevailing party in such action shall be entitled to an award of attorney's fees and costs of suit, whether at trial or on appeal, regardless of whether damages are awarded.

11. **Declarant's Other Property.** Nothing in this Declaration shall affect in any manner Declarant's rights, or those of any affiliate of Declarant, with regards to its other real property (including improvements) that is not a part of the Ethel Staton Subdivision, whether or not such other real property is adjacent to or in the vicinity of the Ethel Staton Subdivision.

12. **Intended Legal Relationship.** There is no portion of the Ethel Staton Subdivision that has been designated by Declarant as being owned in common, and ownership of a Lot carries with it no other ownership.

13. **Free Assignability of Declarant's Interest.** Declarant may at any time assign some or all of its interests, rights and duties hereunder, with or without consideration, to any person or party whatsoever, without the need to obtain the consent of the Owners.

14. **Waiver.** The failure to enforce any Covenant contained in this Declaration shall not be deemed a waiver of the right to enforce such Covenant or any other Covenant.

15. **Captions.** The captions in this Declaration are inserted only as a matter of convenience and for reference, and in no way describe, define or limit the intent of this Declaration. The captions are not to be used in interpreting this Declaration.

16. **Municipal Ordinances.** These Covenants shall in no way restrict the effect of any ordinance adopted by the City and Borough of Sitka.

17. **Certain Provisions Relative To Lot 16.**

(a) Lots 1-15 constitute Phase I of the Ethel Staton Subdivision. Declarant's present intent is that Lot 16 will be further subdivided at some time in the future and such further subdivision will constitute Phase II of the Ethel Staton Subdivision. However, nothing herein requires (i) any further subdivision of Lot 16 or that if such subdivision occurs, requires that such subdivision occur in any given manner or (ii) any person (including Declarant) to erect any improvement (including without limitation one or more single family homes) upon Lot 16.

(b) Declarant hereby expressly reserves the rights, exercisable in Declarant's sole discretion, (i) to make any disposition of Lot 16 in its current configuration to any person or entity of its choosing, (ii) to subdivide Lot 16 in any manner that Owner chooses, including



without limitation as to lot size, access and configuration, (iii) to dedicate a portion of Lot 16 to use as open space or park or (iv) to retain its ownership of Lot 16 (or in any portion thereof) in perpetuity, without making any further subdivision thereof or improvement thereto. .

(c) Further, in the event that the applicable governmental land use agency or department with planning and/or zoning jurisdiction over developments on Alice Island and/or the City and Borough of Sitka Assembly does not permit or approve the further subdivision of Lot 16 to provide at least 10 units of single-family residences, then Declarant shall have the right to withdraw Lot 16 (or any portion thereof) from this Declaration. Such right shall be exercised by a written instrument signed by Declarant and duly recorded, declaring that thereafter, this Declaration shall have no application to Lot 16 in its entirety or as to any identified portion thereof. Following the recording of any such written instrument, this Declaration shall have no application whatsoever to Lot 16 in its entirety, or, as the case may be, as to any identified portion thereof. To the extent such written instrument declares that only a portion of Lot 16 is no longer subject to this Declaration, the remaining portions of Lot 16 shall continue to be subject to this Declaration. Declarant's rights under this section may be assigned at any time to any affiliate of Declarant.

(d) Whether or not the rights described in subsection (a), (b) or (c) are exercised, Declarant also reserves a right to modify in any fashion the manner in which this Declaration applies to such Lot 16 (or any portion thereof), including without limitation as may be necessary to accomplish a further subdivision of Lot 16. However, no amendment pursuant to this subsection (d) shall permit a use of Lot 16 for any purpose other than single-family residential purposes. A further written instrument signed by Declarant and duly recorded shall accomplish such modification.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 5 day of November, 2007.

SHEE ATIKÁ HOLDINGS ALICE ISLAND, LLC
Declarant

By: 
Robert G. Loiselle
President/CEO

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

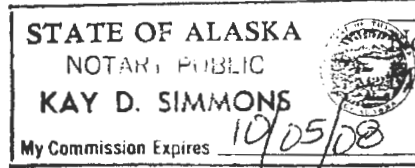
THIS IS TO CERTIFY that on this 5th day of November, 2007, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Robert G. Loiselle, to me known and known to me to be the President/CEO of Shee Atiká Holdings Alice Island, LLC, the person that executed the within and foregoing



Declaration on behalf of said limited liability company, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

647012



Notary Public, State of Alaska
My commission expires: 10/05/08

When Recorded, Return To:

Robert G. Loiselle
President/CEO
Shee Atiká Holdings Alice Island, LLC
315 Lincoln Street, Suite 300
Sitka, AK 99835



When Recorded, Return To:

Robert G. Loiselle
Shee Atiká, Incorporated
201 Katlian Street, Suite 200
Sitka, AK 99835

BOOK **0151** PAGE **588**

***DECLARATION AND ESTABLISHMENT OF CONDITIONS,
RESERVATIONS AND RESTRICTIONS FOR
Shuka Hít at Sealing Cove***

Shee Atiká, Incorporated, a Corporation organized under the laws of Alaska, whose address is 201 Katlian Street, Suite 200, Sitka, Alaska, 99835 ("Declarant") hereby establishes the easements, covenants, conditions, reservations, and restrictions (collectively, the "Covenants") described in this instrument (the "Declaration") concerning the following real property and all improvements thereon:

***LOTS 1-5, ALICE AND CHARCOAL ISLAND SUBDIVISION and ALICE ISLAND-PLANNED
UNIT DEVELOPMENT - PHASE 1, RECORDED AS PLAT 200/-20, SITKA RECORDING
DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA.***

The foregoing real property referred to in this Declaration, together with any other real property and improvements that may become subject to this Declaration hereafter, shall be known as Shuka Hít at Sealing Cove ("Shuka Hít").

1. **Overview.** Shee Atiká has established a general plan for the improvement and development of Shuka Hít, under which townhouses (individually, a "Townhouse") may be constructed on certain adjacent lots of land with only a minimal clearance between the walls of adjacent Townhouses. The portion of Shuka Hít upon which such a constructed Townhouse stands, together with the adjacent real property as indicated on the appropriate subdivision plats, is referred to in this Declaration as a "Lot". It is anticipated that several constructed Townhouses will abut each other in such a fashion as to appear to comprise a single constructed structure (a "Multi-Unit Structure"). There will be one such Multi-Unit Structure for Lots 1-5 as described above, and that if additional real property and improvements become subject to this Declaration, there may be several Multi-Unit Structures within Shuka Hít.

2. **Nature of Covenants.** These Covenants (a) are and each thereof is imposed upon all real property (including improvements) within Shuka Hít, (b) shall run and pass with the title to the real property (including improvements) within Shuka Hít and (c) shall bind and benefit Declarant and its successors in interest (herein such successors being referred to as an "Owner") as to the real property (including improvements) within Shuka Hít. The Covenants shall continue and remain in full force and effect at all times as against and in favor of, as the case may be, the Owner of any Lot in such Shuka Hít, regardless of how Owner acquired title.

3. **Residential Use.** All real property (including without limitation, all portions of all Townhouses) within Shuka Hít shall be used at all times for residential purposes only. No building or structure intended for or adapted to business purposes shall be erected, placed, permitted, or

maintained on Shuka Hit, or on any part thereof. This paragraph shall not apply to a sales office that Declarant (or its agents) may choose to maintain in one or more of the Townhouses or upon any Lot.

4. Easements.

(a) Reservation. There is hereby reserved to Declarant, each Owner, all applicable utility entities, to the City and Borough of Sitka, and to all emergency vehicles a perpetual easement over, under and upon all portions of Shuka Hit designated as rights-of-way, utilities and/or drainage easements (collectively, "Easements") on the plat of Shuka Hit for the installation, maintenance, and repairs of utilities including, but not limited to, power, telephone, water, sewer, drainage, gas, cable television, etc., together with the perpetual right to enter upon the real property within Shuka Hit as is necessary for such purposes.

(b) No Structures Within Easements. Within these Easements, Owner shall not place or permit to remain any structure, planting, or other material that may damage or interfere with the installation and maintenance of utilities or which may damage, interfere or change the direction of flow of drainage facilities. The Easement area of any Lot shall be maintained by the respective Owner, except for those improvements for which a public authority or utility company is responsible.

5. Obligation to Rebuild, Maintain or Repair. If all or any portion of any improvement on a Lot (including without limitation, a Townhouse) is damaged or destroyed by fire or other casualty it shall be the duty of the Owner to rebuild, repair, or reconstruct said improvement in a manner which will restore such improvement substantially to their appearance and condition immediately prior to the casualty.

(a) All Structures Kept In Good Repair. All improvements located on any Lot (including without limitation, a Townhouse) shall be kept in such repair and condition as is appropriate for an upscale, first-class and aesthetically pleasing development. In the event of total or partial destruction of, or damage to, any one of the Townhouses, the Owner of such damaged Townhouse shall promptly restore it at such Owner's sole expense. Such damage shall be repaired or such restoration made in substantial accordance with the architectural plans and finish of the original Multi-Unit Structure.

(b) Drainspouts Kept Clear. Each Owner shall be responsible for keeping drains and drainspouts, to which they control access, free of debris and accumulations that may clog, restrict or otherwise hamper the free flow and drainage of water.

(c) Exterior Decoration. No Owner shall make any material change in the exterior color or configuration of Owner's Townhouse without the written consent of the Owners of all Townhouses within the respective Multi-Unit Structure, and the agreement of such Owners that whatever color or other changes are made will be uniform, consistent, and compatible. In no event shall any individual Townhouse be painted a different color than any other Townhouse within the same Multi-Unit Structure. In the event that the exterior of a Multi-Unit Structure requires repainting, and the Owners cannot agree on a consistent color scheme for such building, the Multi-Unit Structure shall be painted substantially the same as the original color scheme. If repainting of the entire Multi-Unit Structure is required, and an Owner refuses to pay the pro rata share of such repainting, the other

Owners within such Multi-Unit Structure shall repaint the entire Multi-Unit Structure and shall have a continuing lien upon defaulting Owner's Lot for the pro rata share of the defaulting Owner's cost of such repainting plus reasonable interest. Until such time as Declarant has developed and sold all Lots that are subject to this Declaration herein, Declarant also has an independent right to veto all color and configuration changes.

(d) **Maintenance of the Roof.** Maintenance and repair of the roof of each Townhouse shall be the responsibility of each respective Owner. In the event that the entire roof of the respective Multi-Unit Structure requires replacement, the roof shall be replaced with a roof substantially the same as the original roof, and the cost of such replacement shall be borne equally by the Owners of the Townhouses within such Multi-Unit Structure. If replacement of the entire roof is required, and an Owner refuses to pay the pro rata share of such replacement, the other Owners within such Multi-Unit Structure shall replace the entire roof, and shall have a continuing lien upon defaulting Owner's Lot for the pro rata share of the defaulting Owner's cost of such replacement plus reasonable interest.

(e) **Landscaping.** Each Owner shall maintain the landscaping of such Owner's property as is appropriate for an upscale, first-class and aesthetically pleasing development.

(f) **Fences/Decks.** No fences are allowed in the front yard of any Townhouse. Fences, not to exceed a maximum of four feet (4.00') may be erected in the back yards. No decks are permitted.

(g) **Snow Removal.** Snow removal from the sidewalks in front of each Townhouse shall be the responsibility of the Owner of such Townhouse.

6. **Use Restrictions.** The following restrictions apply in the use of each Lot:

(a) **No Nuisances.** No noxious or offensive activity shall be carried on, in or upon a Lot nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners.

(b) **No Signage.** No sign of any kind shall be displayed to the public view on any Lot except customary name and address signs and lawn signs of not more than five square feet in size advertising the property for sale or rent. Notwithstanding this paragraph, until such time as all Lots are sold, Declarant (or Declarant's Agents) may post project signs of such size and dimensions, and at such locations, as Declarant deems appropriate.

(c) **Limited Parking.** No Owner shall park any vehicle anywhere within Shuka Hit except upon or within his or her Lot or in the designated parking area. Designated parking shall be for operable passenger vehicles of the townhouse owners and their guests. No storage of recreational vehicles or boats shall be permitted in the designated parking area. No Owner shall park, store or keep any derelict vehicles anywhere in Shuka Hit except within the garage of the Owner's Townhouse.

(d) **No Increase In Risk.** Nothing shall be done or kept on any Lot which shall increase the rate of insurance on any other Lot and no Owner shall permit anything to be done or kept

on his Lot which would result in the cancellation of insurance on any other Lot, or which would be in violation of any law.

(e) **Only Household Pets.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats and other common household pets may be kept on any Lot, provided that they are not kept, bred, or maintained for any commercial purposes.

(f) **No Uncontained Garbage.** No rubbish, trash, garbage or other waste material shall be kept, or permitted upon, any Lot except in sanitary containers located in appropriate areas screened and concealed from view.

(g) **No Other Structures.** No outbuilding, tent, shack, garage, trailer or shed or temporary building of any kind shall be erected either temporarily or permanently, other than the Townhouse as constructed by Declarant.

(h) **No Visible Storage.** No storage shall be permitted under decks or overhangs or anywhere else on any Lot that is visible from any point outside the Lot. No laundry or clothing or similar items shall be hung on, or from, any decks or lines, which are visible from any point outside the Lot.

(i) **Satellite Dishes.** All satellite discs shall be no more than four feet in diameter and shall be positioned to minimize the visual impact on neighboring property, streets and public spaces.

(j) **No Exterior Fires.** There shall be no exterior fires whatsoever except for barbecues.

(k) **Limited Additional Lighting.** Additional lighting on a Lot must be low intensity that does not result in excessive glare to neighboring properties, streets or public spaces.

(l) **No Vehicle Repairs.** No major or extended vehicle repairs shall be performed unless inside a closed garage.

(m) **No Obstruction of View By Landscaping.** No landscaping shall be placed or maintained by an Owner so as to obstruct the view from any other Lot or Townhouse.

7. **Lien Notice and Foreclosure of Liens.** Whenever this Declaration permits the establishment of a lien relative to an Owner's failure to pay a respective pro rata share of an obligation, such lien shall arise on the date that a Notice of Lien setting forth the relevant facts concerning such lien shall be recorded in the real property records of the Sitka Recording District, First Judicial District, State of Alaska. Without limiting the generality of the foregoing, such Notice of Lien shall be signed by the Owners seeking to receive the benefits of such lien and shall set forth (a) the operative facts giving rise to such lien; (b) the unpaid amount secured by such lien; (c) a statement of how interest will accrue on such unpaid amount; (d) the persons in whose favor the lien exists; (e) the real property that is subject to such lien; and (f) the manner in which such lien may be discharged. If an amount secured by a lien remains unpaid for more than 90 days after the filing of a lien such lien may be foreclosed in the manner set forth in A.S. 34.35.110. Only the Owner against whom the lien is

asserted, and the parties asserting the lien, shall be necessary parties to such a lawsuit. Whether or not a lien is established under this section shall not affect the underlying liability of the defaulting Owner to reimburse the other Owners making advancement on default Owner's behalf as a matter of contract.

8. **Contests.** In the event any of these Covenants shall be declared for any reason, by a court of competent jurisdiction, to be invalid, the remaining Covenants not so expressly held to be invalid shall continue unimpaired and in full force and effect.

9. **Construction and Development Work by Declarant.** Declarant presently intends to undertake the work of developing the Lots. The completion of that work and sale, rental and other disposal of residential units, is essential to the establishment and welfare of said property as a residential community. Nothing in this Declaration shall be understood or construed to prevent Declarant (including without limitation, its contractors, agents, brokers and employees) from performing such work, erecting and maintaining such structures and signs, or conducting such business as they deem necessary, in order to accomplish such purpose. Further, nothing in this Declaration shall obligate Declarant to construct any minimum number of Townhouses or Multi-Unit Structures, to utilize any particular design or location of such structures, or to build such structures by a particular deadline, as all construction as well as its design, manner, and location shall be in the sole discretion of Declarant.

10. **Release of Lots from Declaration.** Notwithstanding anything herein to the contrary, in the event that one or more of the Lots have not had a Townhouse constructed on them by June 30, 2003, Declarant may release such Lots from this Declaration by recording a Release of Declaration in the real property records of the Sitka Recording District, First Judicial District, State of Alaska. Such Release of Declaration (a) shall be executed solely by the Declarant, regardless of whether certain other of the Lots have then been sold to Owners, (b) shall reference this Declaration by its recording information, (c) shall legally describe the Lots to be released, and (d) shall legally describe the Lots that remain bound by this Declaration. Once Lots are released from this Declaration, such Lots shall no longer be subject in any fashion to these Covenants and will be treated the same as Declarant's Other Property pursuant to paragraph 13 below.

11. **Amendments.** Prior to the time that any Lot has been sold to an Owner, Declarant may amend this Declaration by recording a Restatement of this Declaration that incorporates such changes in the records of the Sitka Recording District, First Judicial District, State of Alaska. After one or more Lots have been sold to an Owner, this Declaration may be amended only upon the consent of Declarant and all Owners, and then only by recording a Restatement of this Declaration of record in the same manner.

12. **Enforcement.** This Declaration shall be enforced in the First Judicial District, State of Alaska, at Sitka. Any Owner may bring an action for enforcement, whether for specific performance or damages or both. Declarant shall also have the right to bring such an action in its own name, whether or not Declarant then owns any of the Lots. An award of attorney's fees and costs of suit shall be entitled to the prevailing party in such action, whether at trial or on appeal, regardless of whether damages are awarded.

13. Declarant's Other Property. Nothing in this Declaration shall affect in any manner Declarant's rights with regards to its other real property (including improvements) that is not a part of Shuka Hit, whether or not such other real property is adjacent to or in the vicinity of Shuka Hit.

14. Intended Legal Relationship. Each Townhouse (together with the Lot) shall legally constitute a single-family home, with a legal ownership separate and distinct from that of every other Townhouse and the Lot upon which it stands. There is no portion of any Townhouse or Lot that is owned in common. In addition, there is no portion of Shuka Hit that has been designated by Declarant as being owned in common, and ownership of a Townhouse and Lot carries with it no other ownership.

15. **Free Assignability of Declarant's Interest.** Declarant may at any time assign some or all of its interests, rights and duties hereunder, with or without consideration, to any person or party whatsoever, without the need to obtain the consent of the Owners.

16. **Waiver.** The failure to enforce any Covenant contained in this Declaration shall not be deemed a waiver of the right to enforce such Covenant or any other Covenant.

17. **Captions.** The captions in this Declaration are inserted only as a matter of convenience and for reference, and in no way describe, define or limit the intent of this Declaration. The captions are not to be used in interpreting this Declaration.

18. **Municipal Ordinances.** These Covenants shall in no way restrict the effect of any ordinance adopted by the City and Borough of Sitka.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 5TH day of DECEMBER, 2001.

SHEE ATIKÁ, INCORPORATED
Declarant

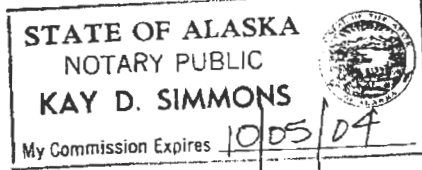
By: Robert G. Loiselle
Robert G. Loiselle
President/CEO

[illegible]

THIS IS TO CERTIFY that on this 5th day of December, 2001, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Robert G. Loiselle, to me known and known to me to be the President/CEO of Shee Atiká, Incorporated, the Corporation that executed the within and foregoing Declaration on behalf of said corporation, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

344195



Kay D. Simmons
Notary Public, State of Alaska
My commission expires: 10/05/04

002152
SITKA
RECORDING DISTRICT
33⁰²
2001 DEC 12 A 10:44
REQUESTED BY SC: TB

Attachment J

CITY & BOROUGH OF SITKA

City and Borough of Sitka, AK
100 Lincoln St
Sitka, AK 99835

Date: 03/29/2016
Receipt: 2016-00049149
Cashier: Front Counter
Received From: LYNNE BRANDON

H OF SITKA

KA ALASKA 99835

PLAN - Planning Permits/Zoning	100.00
STL - Sales Tax 1st quarter CY	5.00
Receipt Total	105.00
Total Other	105.00
Total Remitted	105.00
Total Received	105.00

PAID
MAR 29 2016
CITY & BOROUGH OF SITKA

Customer Copy

-320-3201.002

3

variance.....	
Conditional Use Permit.....	
Minor Subdivision.....	
Major Subdivision.....	
Zoning Map Change.....	100.00
Zoning Text Change.....	
Lot Merger.....	
Boundary Line Adjustment.....	
General Permit.....	
Appeal of Enforcement Action (Pending).....	
Other.....	
Sales Tax.....	5.00
TOTAL.....	105.00

Thank you

Lynne Brandon

Zoning Map Amendment Request
601-800 Alice Loop