

**WHITTIER CITY COUNCIL
WILL HOLD
A SPECIAL MEETING
MONDAY, APRIL 30, 2018
AT 6:00 PM
COUNCIL CHAMBERS
PUBLIC SAFETY BUILDING**

AGENDA

- 1. CALL TO ORDER**
- 2. OPENING CEREMONY**
- 3. ROLL CALL**
- 4. APPROVAL OF SPECIAL MEETING AGENDA**
- 5. CITIZEN COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING**
- 6. PRESENTATIONS**
 - A. Delong Dock Update
- 7. EXECUTIVE SESSION**
 - A. **Delong Dock Agreement Negotiations** – Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310(1)
 - B. **Discussion of Potential Legal Matter** – Matters that, if immediately disclosed, would tend to adversely affect the finances of the City. AS 44.62.310(1)
 - C. **Discussion of City Manager Contract** – Matters that, if immediately disclosed, would tend to adversely affect the finances of the City. AS 44.62.310(1)
- 8. ORDINANCE
(2nd Reading)**
 - A. **Ord #08-2017** – Ordinance authorizing the City Manager to execute an agreement with the ARRC transferring Tract A-1 to the Alaska Railroad in exchange for Tract W and the DeLong dock subject to specific essential terms and conditions executed by the parties.
 - D. **Ord #01-2018** – Ordinance Approving ARRC Railroad’s request to rezone lots 3 & 5, Block 10 of Whittier Subdivision Phase II
 - C. **Ord. #02-2018** – An Ordinance of the City of Whittier Alaska Approving the 1 year contract for City Manager Annie Reeves.
- 9. RESOLUTION**
- 10. NEW BUSINESS**
 - A. May Regular Meeting Date Adjustment
 - B. Comprehensive Plan Summer Sessions
- 11. COUNCIL DISCUSSION**
- 12. CITIZEN DISCUSSION**
- 13. ADJOURNMENT**

Memo

To: Whittier City Council
From: Annie Reeves, City Manager
Date: April 30, 2018
Re: Delong Dock Management Plan

Kyle Sinclair, Harbormaster, Scott Korbe, Director of Public Works, and I met with Paul Farnsworth, ARRC Director of Facilities & Energy Management. After considering several alternatives for how to proceed given the uncertainty of the situation and the timeframe we have to work within, we all agreed the Dock should be set up as if the HB320 requirements have come into play. This means each party will operate "its" half of the Dock and each will retain their resulting revenues. We will enter into a simple agreement on cost-sharing; Paul envisions ARRC paying 2/3 and the City paying 1/3 of basic expenses and routine maintenance based on the differing areas on the two sides of the Dock.

Why this strategy?

If negotiations fail, there **will** not be an upheaval for the fishing companies since the HB 320 approach will already be effectively in place.

If negotiations succeed, then we will already be on the Dock and can expand our operations to the rest of the Dock once the deal closes.

Please know staff is preparing as though we will eventually have control of the entire dock. This entails working through more concrete issues such as maintenance, signage, and safety equipment. If you would like to see our ongoing list of items, please let me know and I will get that to you right away.

**CITY OF WHITTIER, ALASKA
ORDINANCE #08-2017**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH
THE ALASKA RAILROAD CORPORATION TRANSFERRING TRACT A-1 TO
THE ALASKA RAILROAD CORPORATION IN EXCHANGE FOR TRACT W AND
THE DELONG DOCK, SUBJECT TO SPECIFIC ESSENTIAL TERMS AND
CONDITIONS EXECUTED BY THE PARTIES**

WHEREAS, in 2000, the Alaska Legislature passed CSHB 320, a bill that authorized and directed the Alaska Railroad Corporation (“ARRC”) to receive Tract W, including the DeLong Dock, from the United States, and further directed ARRC to reconvey Tract W, excluding the DeLong Dock, to the City of Whittier (“City”); and

WHEREAS, CSHB 320 stated, “the corporation [ARRC] and the City of Whittier shall agree to diligently work together in good faith to resolve disputes and to collaborate with each other in developing a management agreement for operation of the DeLong Dock facility with the goal of operating the facility as a single entity for economic development purposes”; and

WHEREAS, it has been seventeen years since the 2000 legislation, during which time ARRC has held exclusive use of the DeLong Dock, refused to allow the City access to the Dock, shared no revenues from the Dock, and used the Dock unilaterally to support the financial interest of ARRC, while causing significant detriment to the City and the Prince William Sound region; and

WHEREAS, in May of 2017, the United States quitclaimed Tract W and the DeLong Dock to ARRC; and

WHEREAS, ARRC must reconvey Tract W, excluding the DeLong Dock, to the City as directed in CSHB 320; and

WHEREAS, it is in the best interest of and advantageous to the City to enter into an agreement with ARRC whereby ARRC will convey Tract W and the DeLong Dock to the City, in exchange for City-owned Tract A-1; and

WHEREAS, Whittier Municipal Code 3.36.150.E. allows the City to exchange a parcel of City property with property owned by another party, after City Council approval and public notice of the exchange, and subject to conditions imposed by the City Council; and

WHEREAS, the City Manager has negotiated and agreed with ARRC a Joint Statement of Essential Terms of the proposed agreement to exchange Tract W and the DeLong Dock for Tract A-1 to be presented to the City Council for approval; and

WHEREAS, upon the City Council's approval of the essential terms of the agreement, the City must negotiate the non-essential terms of the agreement and all the conveyance documents, and execute the final agreement and conveyance documents.

NOW, THEREFORE, the Whittier City Council ordains:

Section 1. The form and content of the Joint Statement of Essential Terms Between the Alaska Railroad Corporation and the City of Whittier, Alaska, signed on August 22, 2017 by the City and on August 18, 2017 by ARRC (attached as exhibit A), now before this meeting, are in all respects authorized, approved and confirmed by this ordinance.

Section 2. The City Council authorizes, empowers, and directs the City Manager to negotiate the non-essential terms of the agreement between the City and ARRC for the exchange of Tract W and the DeLong Dock with Tract A-1. The City Council also authorizes, empowers, and directs the City Manager to execute and deliver on behalf of the City a final agreement for the exchange of Tract W and the DeLong Dock with Tract A-1, containing the essential terms as approved in Section 1 and the non-essential terms as negotiated by the City Manager with ARRC, with such changes, modifications, additions and deletions therein as he shall deem necessary, desirable or appropriate.

Section 3. The City Council further authorizes, empowers, and directs the City Manager to do all acts and things and to execute all documents as may be necessary to carry out and comply with the provisions of the final agreement as executed, including any and all property conveyance documents.

Section 4. Effective date. This ordinance shall be effective immediately upon adoption.

1st reading: _____, 2017

2nd reading and public hearing: _____, 2018

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council
on this ____ day of April, 2018.

Daniel Blair
MAYOR

ATTEST:

Naelene Matsumiya
CITY CLERK

Ayes:

Nays:

Absent:

Abstain:

JOINT STATEMENT OF ESSENTIAL TERMS BETWEEN THE ALASKA RAILROAD
CORPORATION AND THE CITY OF WHITTIER, ALASKA

1. Representatives of the Alaska Railroad Corporation ("ARRC") and the City of Whittier ("City") met on June 2, 2017 to discuss management/ownership of the DeLong Dock and other related land management issues.
2. Bill O'Leary, James Kubitz, Tim Sullivan, Jr., and Andy Behrend attended the meeting on behalf of ARRC and Daniel Blair, Mark Lynch, and Holly Wells attended the meeting on behalf of the City (hereafter collectively referred to as the "Representatives").
3. The Representatives negotiated the essential terms of an agreement.
4. Ms. Wells was directed to memorialize the essential terms agreed upon by the parties.
5. Mr. Behrend was directed to draft an agreement incorporating the agreed upon essential terms while both legal representatives would work together to finalize an agreement acceptable to both parties as soon as practicable so that such agreement could be presented to the Whittier City Council and ARRC Board of Directors for approval.
6. Both parties recognize that the essential terms agreed upon by the Representatives are as follows:
 - A. The City conveys all of Tract A to ARRC;
 - B. ARRC shall convey its full interest in the Delong Dock, Tidelands, and Uplands for all of Tract W to the City on an As Is-Where Is basis;
 - C. The City shall lease the mooring facility that services the ITB/Cordova Provider that is adjacent and attached to the Delong Dock, along with legal non-public access to said mooring facility, to ARRC for 20 years with two options to renew, that may be exercised by ARRC after receiving written consent by the City Council;
 - D. The lease for the ITB/Cordova Provider facility that is adjacent and attached to the Delong Dock shall be in exchange for 8% of the gross revenues generated by wharfage and moorage fees at the ITB/Cordova Provider facility;
 - E. Under the lease for the ITB/Cordova Provider facility, ARRC shall be responsible for maintaining the leased area but the City shall be responsible for any large improvements to the Dock and ARRC shall provide the City

access as needed to install any such improvements and shall agree to maintain them as described in the terms of the lease;

- F. ARRC shall provide the City 40% of net revenues in wharfage and moorage generated on the DeLong Dock for 2017, excluding those revenues generated by the ITB/Cordova Provider facility;
- G. ARRC recognizes that Smitty's Cove is a popular recreation spot for scuba divers and Whittier visitors and agrees to provide legal public vehicular, ramp and pedestrian access to Smitty's Cove for public use;
- H. ARRC also agrees to provide legal public vehicular and pedestrian access across ARRC property to permit the City and the public to access the City-owned DeLong Dock; and
- I. Both parties agree that any agreement between the parties is not effective unless and until the City issues a mining permit to ARRC allowing it to recontour ARRC-owned land adjacent to Tract A and rezones ARRC-owned parcels adjacent to Tract A from commercial to industrial use; and
- J. The City agrees to provide legal access across the southwest corner of Tract W to permit ARRC to access Tract A from existing ARRC property located to the west of Tract W.
- K. The City recognizes that ARRC's development of Tract A and adjacent ARRC-owned parcels for industrial use will require the placement of railroad tracks onto Tract A and that routing such tracks from existing ARRC property to Tract A will require ARRC either to retain ownership of or to have exclusive use rights over a portion of Tract W at its southwest corner. The City is willing to provide ARRC with exclusive rights to such portion of Tract W and will continue to discuss potential ownership rights to the portion at issue, for the sole purpose of allowing safe and unimpeded operation of trains upon said tracks; and
- L. Both parties agree that if both of the actions listed in Item I and a decision by the City as to whether ARRC's rail access across Tract W will be in the form of fee simple ownership or exclusive use rights, as described in Item K, above, have not occurred on or before January 1, 2018, the agreement evidenced by this statement of terms shall terminate, provided that said deadline can be extended upon the mutual written agreement of the parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

I, hereby attest that the essential terms identified above are an accurate reflection of the terms agreed upon by the parties for presentation and approval by the Whittier City Council and the ARRC Board of Directors.

Daniel Blair

Date: 8/22/17

Daniel Blair, Whittier Mayor

Bill O'Leary

Date: 8/10/17

Bill O'Leary, ARRC President and CEO

**City of Whittier
Ordinance #01-2018**

**An Ordinance Of The Whittier City Council Approving Alaska Railroad’s Request To Rezone
Lots 3 and 5, Block 10 Of Whittier Subdivision Phase II From Commercial to Industrial.**

Whereas, WMC 17.32.010 states that the City Council may, from time to time, amend, supplement or repeal the regulations and provisions of this title, and

Whereas, the Whittier Planning Commission held a Public Hearing on December 6, 2017, and

Whereas, the Planning Commission referred the decision to the Whittier City Council for final review, and

Whereas, the Acting City Manager hereby recommends the approval of the rezone request submitted by the Alaska Railroad.

Now, therefore The Whittier City Council Ordains:

Section 1. Classification. This is a non-code ordinance.

Section 2. Approving Rezone Request. The City Council approves the rezone request submitted by the Alaska Railroad to rezone lots 3 & 5, Block 10, of Whittier Subdivision Phase II from Commercial to Industrial. The zoning map will be updated accordingly.

Section 3. Effective date. This ordinance shall take effect upon adoption by the Whittier City Council.

Adopted by the Whittier City Council on April 30th, 2018.

ATTEST:

**Naelene Matsumiya
City Clerk**

**Daniel Blair
Mayor**

Yes:
No:
Absent:



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 427-2327 • Fax (907) 472-2404

**PLANNING COMMISSION
REGULAR MEETING
WEDNESDAY, DECEMBER 6, 2017
Homeowners' Lounge, BTI Building
6:00 p.m.**

MINUTES

1. CALL TO ORDER

Charlene Arneson called the meeting to order at 6:03 pm.

2. ROLL CALL

Charlene Arneson, Dyanna Pratt, Lindsey Erk and Jean Swingle

COMMISSION MEMBERS ABSENT

Ed Hedges

MOTION: Dyanna Pratt made a motion to excuse Ed Hedges from tonight's meeting

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Motion Passed

3. ADMINISTRATION PRESENT

Naelene Matsumiya, Office Assistant

John Janik, Finance Officer

Scott Korbe, Public Works Director

PUBLIC PRESENT

Paul Farnsworth, Doug Stephens, Ron Noland

4. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Dyanna Pratt made a motion to approve the December 6, 2017 Regular Meeting Agenda as is.

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Passed Unanimously

5. APPROVAL OF MINUTES

MOTION: Dyanna Pratt made a motion to approve the Regular Meeting Minutes of November 1, 2017, with amendments.

SECOND: Jean Swingle

DISCUSSION: Change typo regarding term date for newly appointed members.

VOTE: Passed Unanimously

6. CORRESPONDENCE

None

7. NEW BUSINESS:

A. ARR Public Hearing – A Public Hearing for ARR’s Rezone Request

Charlene Arneson closed the regular meeting and opened up the Public Hearing for Alaska Railroad’s Rezone request at 6:07 pm.

Charlene Arneson called to order the Public Hearing to allow the rezoning of lots 3 & 5 of Whittier Subdivision Phase II from commercial to industrial to allow truck and rail traffic to support the development of the Del Long Dock and ITB Facilities and other Alaska Railroad barge and rail operations.

Charlene called for any Planning and Zoning Commission members who would like to abstain from the hearing. Seeing none, she continued. She asked if any members of the audience would like to challenge the jurisdiction of the Planning and Zoning Commission for hearing the matter. Seeing none, she continued.

She then called for any City of Whittier Staff who could share information on the project before turning the public hearing over the Paul Farnsworth and Doug Stephens of the Alaska Railroad. Seeing none, she allowed Mr. Farnsworth and Mr. Stephens to begin their testimonies and present their proposal.

Mr. Farnsworth explained that an application for this rezone was submitted a few years ago, but he was more than willing to refresh the Commission. He told the Commission that the Alaska Railroad acquired lots in the hopes of creating more land in the Smitty’s Cove area. He described that the idea was to purchase the lots and take the rock out of there to take the lots down to the same grade as Tract 1A and the roads around them. He clarified that one of the reasons to have more land down in the area was more than just for work. Mr. Farnsworth stated that there is a plan to put a designated road directly to the boat ramp because right now, the road crosses paths with commercial vehicles and it can be dangerous to civilians.

Mr. Farnsworth continued by saying their plan is to bring the cliffs in the area down to the same elevation as the existing lands in Smitty’s Cove. Charlene stated that they can go forward with that without a rezoning request. Mr. Farnsworth clarified that according to the City’s code, they cannot. He explained that if the land has to be zoned industrial before they can begin extraction activities.

Director of Public works, Scott Korbe commented that if the Alaska Railroad were grading and mining rocks for their own purposes, they would not need to have the lots rezoned, however, if they were going to use it as commercial operations to sell it for profit, it would be deemed as a mineral source for sale, then they would have to have it rezoned.

Paul Farnsworth advised that he does not know what the future plans will be other than maybe selling some of the product to the Department of Transportation. He reminded that since there aren’t any projects for the product as of yet, but there are potential projects they are looking at. Mr. Farnsworth said that if they are going to grade the cliff to the same level as the parking lot at Smitty’s cove, a great amount of product will come out of that and if someone requested the material, it would expedite the project.

Doug Stephens added that there are several reasons to rezone and one of those reasons was to allow the potential of selling material removed from the sight to another party. Another reason was for future land uses. He mentioned that if they succeed in bringing the cliff to grade with the lot, it is most likely going to be used for railroad purposes. He stated that there aren’t any specific plans yet, but the land can be used as a yard for railroad activity. He mentioned the leasing of the lot to clients just as they are doing in some of their other properties.

Charlene Arneson expressed that whatever configuration the land is, it is of no real issue when rezoning. Mr. Stephen clarified that in order to sell it, the lands must be rezoned for industrial. Scott Korbe commented that if the Alaska Railroad was opening up a mine for retail sales, they’d become an industrial operation. He said if the

Alaska Railroad has a grading plan to bring the elevation down, how to dispose of extra material is up to them, but if their sole purpose is to drill and resale, it becomes a mine operation.

Mr. Farnsworth understood. He replied that they will be removing the material to create property for railroad use and purposes. Charlene Arneson asked Paul Farnsworth if there is a plan in place for the lots. She expressed her concerns about the vagueness of their proposal. Mr. Farnsworth replied that once it is zoned to industrial, that's when they can begin setting a plan in motion to put things on top of the lots. He stated that the main concern was moving the access road to Smitty's Cove away from the road that the Commercial vehicles use. He reminded the Commission that the safety of the civilians and the people working around the area, are what they're thinking about during this early stage.

Doug Stephens mentioned that there isn't a specific plan yet, but the land is a Commercial/Industrial checkerboard, and it would be appropriate if the land be zoned as, just and only, industrial.

Commission recessed at 6:25 – 6:26

Charlene Arneson opened the Public Hearing up to those who would like to testify against the proposal. Seeing none, she closed that portion of the public hearing and opened it up for those who are neutral.

Terry Bender came forward and testified as neutral for the proposal. She introduced herself and inquired about the road. She asked if a road is going to be built in the part that will be blasted in exchange for the already existing road. Charlene clarified that in the Ordinance, an alternate road must be available if the main roadway will be vacated.

Terry Bender also mentioned the noise that this project will generate. Paul Farnsworth assured that the blasting will be small and very well contained in the early stages. He commented that it will take a while for it to reach the later stages. Terry asked about the traffic that the construction will generate. Mr. Farnsworth replied that most of the material that will be removed from the site will be transported by train. He hopes that the project will not generate as much traffic. Terry Bender was satisfied with Mr. Farnsworth's answers.

Scott Korbe asked if the Railroad ran a theoretical gross *unintelligible*. Mr. Farnsworth stated that there was some core drilling and the rocks that came back were better than what they were expecting. He was expecting subgrade material and rocks that had to be processed, but it was not bad at all. Mr. Farnsworth continued saying that depending on the slope, the yield is going to be somewhere between 100,000-200,000 yards. He anticipates that what he'd really like to do is have a grade separated road from the yard going down to Smitty's Cove. He reassured that a guard rail will go along the road.

Mr. Stephens reminded the Commission that there isn't a preliminary plan, let alone a design in place for this.

Charlene asked who will maintain the road and be responsible for snow removal. She admitted that her mind is beginning to wrap about the issue. Scott Korbe stated that he cannot speak to that as of yet. Charlene asked if it would become a new issue. Scott replied that it can possibly become a new issue.

Mr. Farnsworth stated that there is a contract with the City and the Railroad stating that the Railroad will maintain access to Smitty's Cove. He assures that it will remain that way for years until they agree on a different route.

Charlene closed the Public Hearing for the audience at 6:47 pm and opened it up for the Commission.

MOTION: Dyanna Pratt made a motion to approve the re-proposed rezoning of lots 3 and 5 on Block 10 of Whittier Subdivision Phase II from Commercial to Industrial.

SECOND: Jean Swingle

DISCUSSION: Jean Swingle stated that the more the City does for the railroad, the more they don't take the community into account. She said that she was concerned about the only access across town. She mentioned that

the railroad does not take tunnel times into consideration and the tourists that are trying to make the tunnel.

Mr. Farnsworth stated that one of the options that they're looking at is extending the tracks at Smitty's Cove so that more of the train will be south. He mentioned that he'd have to be careful in not blocking Smitty's Cove. He stated that most of their freight duties have been moved to when the tunnel is closed and midnight to accommodate the City. He reminded that it is the success with the cruise line that's obstructing the access way.

Charlene stated that the railroad has always been very good at accommodating the City's Emergency Response Team. Charlene said that it was a lot to wrap her head around because unlike their proposal last time, this one was different. She said she did not feel comfortable with the vagueness of their proposal.

Mr. Farnsworth stated that before anything can be done, the lots have to be zoned as industrial so that the yard is a uniformed industrial yard. He said it makes it very difficult to operate business when the yard is an industrial/commercial checkerboard.

Mr. Stephens indicated that if it remains commercial and they did lower the grade to match the yard, they are still not permitted to park trucks on the lot. Charlene replied saying that they can because it is their lot. Mr. Stephens pulled up the code in which it states that it is prohibited. Charlene referenced a chart that shows allowance for commercial and Industrial activity in 17.16.230.

Paul Farnsworth indicated that on the chart that is being referenced, natural resource storage, extraction and transportation is listed under retail, and it does not state if it is permitted on a commercial lot or not. He said that the process can begin without the lot being rezoned. Mr. Farnsworth explained to Charlene that he believes that rezoning the lots to industrial will be the best use of the property in order to bring the area down to grade. He reminded the Commission that it will open up land that can be used to service the existing marine industrial uses in the area.

Lindsey Erk referenced title 17.16.040 and stated the different facilities allowed on industrial lots and commercial lots.

Charlene indicated that their proposal was unclear. She commented that she was used to having a plan that was set in stone whenever applicants presented their proposals during public hearings.

Mr. Stephens reiterated with an apology saying that there is no distinct plan as of yet, but rezoning the lots will open up options to what they can be used for in the future. Mr. Stephens explained that the land can be leased out during heavy fishing seasons. He said that they tend to respond more to needs than having a plan.

Charlene replied that even so, there is the possibility of more rail traffic and it won't be good for the tourism that Whittier has now. She reassured that she wasn't trying to stop production; she was directing it in the right way so that it benefits everyone. She asked once more if there was a plan.

Mr. Farnsworth was willing to withdraw the application for the time being and return with a concrete plan.

Charlene stressed that she was not opposed to the proposal. She clarified that she was just considering the people of Whittier. Mr. Farnsworth replied that he understands.

Charlene listed options and said that we can either table this rezone for now until they have more conversations with Public Works Director Scott Korbe, or the Commission can approve this to go in front of Council. She recommended the latter. She commented that she would feel more comfortable if it were taken into the care of the City Council.

Mr. Farnsworth agreed to have the approval go in front of the City Council and apologized for not having a plan as of yet.

Jean Swingle mentioned that the proposal is more than reasonable and she agrees that it should go to Council for final approval.

Lindsey Erk communicated that what was presented in front of the Commission was a zoning issue, not a building permit proposal.

Charlene asked if there was any more discussion.

VOTE: Motion failed.

Dyanna Pratt amended her motion.

MOTION: Dyanna Pratt made a motion to send the approval of the rezoning of lots 3 & 5 of Whittier Subdivision Phase II from Commercial to Industrial to the City Council for final review.

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Dyanna Pratt, Yes; Jean Swingle, Yes; Lindsey Erk, Yes; Charlene Arneson, Yes.

Commission recessed at 7:08-7:10

B. Passage Canal Development Parcels for Final Plat Procedures

MOTION: Dyanna Pratt made a motion to move the Passage Canal Development Parcels for Final Plat Procedure to Non-Action items.

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Motion Passed Unanimously

C. Whittier Seafood LLC's Variance Request Application Introduction

Ron Noland, Whittier Seafood LLC's representative, introduced the Variance Request Application. He explained that for better processing, Whittier Seafood LLC wants to expand their freezer capacity and to do so, they had to apply for a Variance. Mr. Noland showed a photo of the desired area for these freezers to the Commission. Scott Korbe told the Commission that he and Mr. Noland were able to sit down and discuss this and he did not object to the expansion.

Charlene Arneson explained to Mr. Noland that a representative from Alaska Railroad may need to attend the meeting as they are the owners of the land. Mr. Noland said that he can send out a letter requesting they participate in the Public Hearing. Charlene stated that she will clarify with the City's attorney.

Charlene stated that the Public Hearing will be held at the Planning Commissions regular meeting on January 3rd of next year (2018).

8. MISCELLANEOUS BUSINESS

None

9. PUBLIC COMMENTS

None

10. COMMISSION COMMENTS

None

11. NEXT MEETING AGENDA ITEMS

Public Hearing for Whittier Seafood LLC's request for a variance.

12. NEXT MEETING ATTENDANCE PLANS
None

13. ADJOURNMENT:

MOTION: Ed Hedges made a motion to adjourn the meeting

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Unanimous

Charlene Arneson adjourned the meeting at 8:18 pm.

ATTEST:



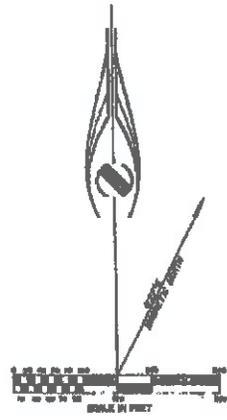
Naclene Matsumiya
Office Assistant



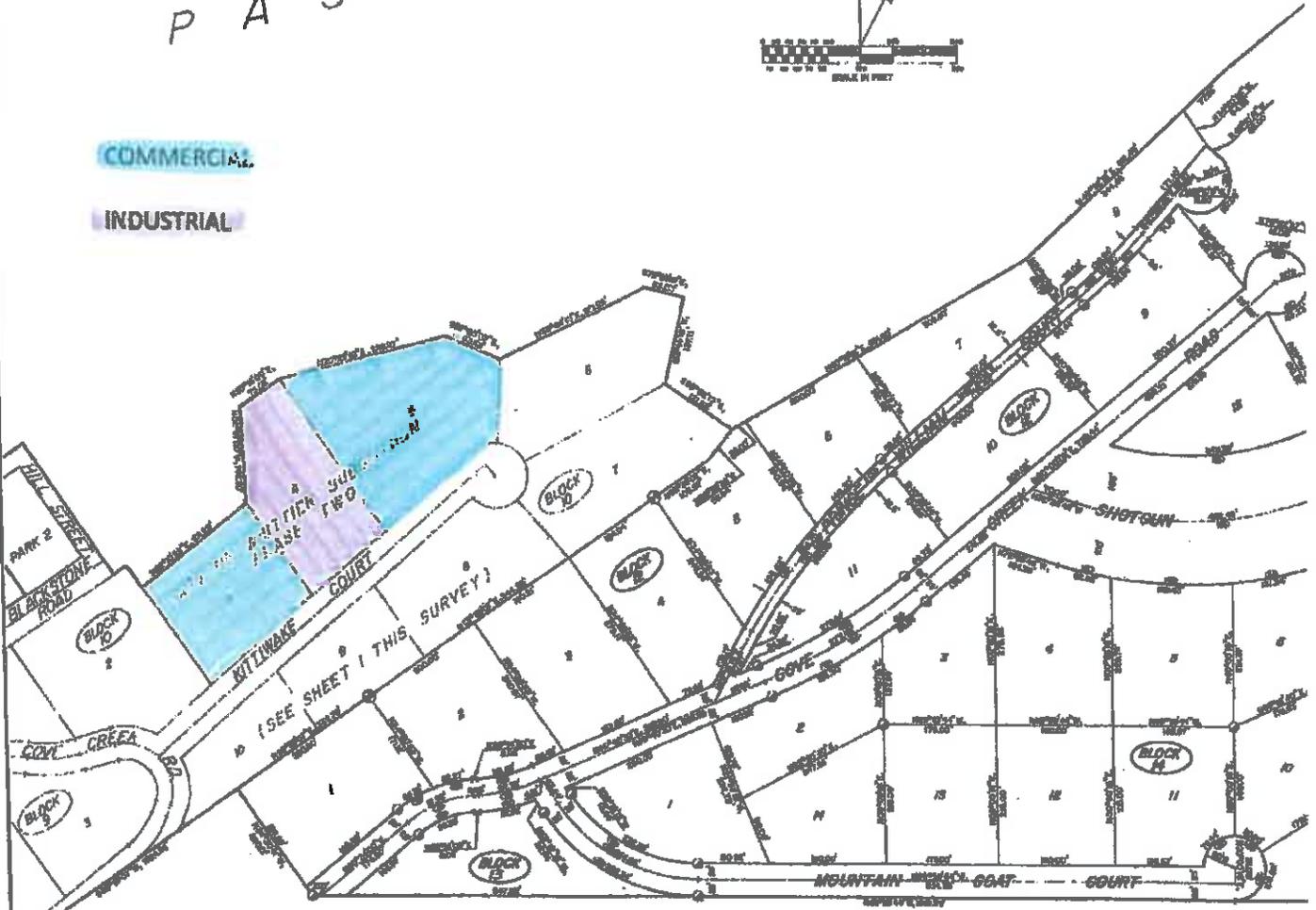
Charlene Arneson
Commission Chairperson

PASSAGE

CAN



COMMERCIAL
INDUSTRIAL



CHUGACH NATIONAL FOREST

CITY OF WHITTIER SUBDIVISION PHASE TWO

ALASKA RAILROAD

Parcel F
U.S.S NO 9008

LOT 8

Access
11,790 sq ft ±

Proposed 17.5 Lease
Access to 11,790 sq ft

Proposed
Full Corridor Parcel
Access to 11,790 sq ft

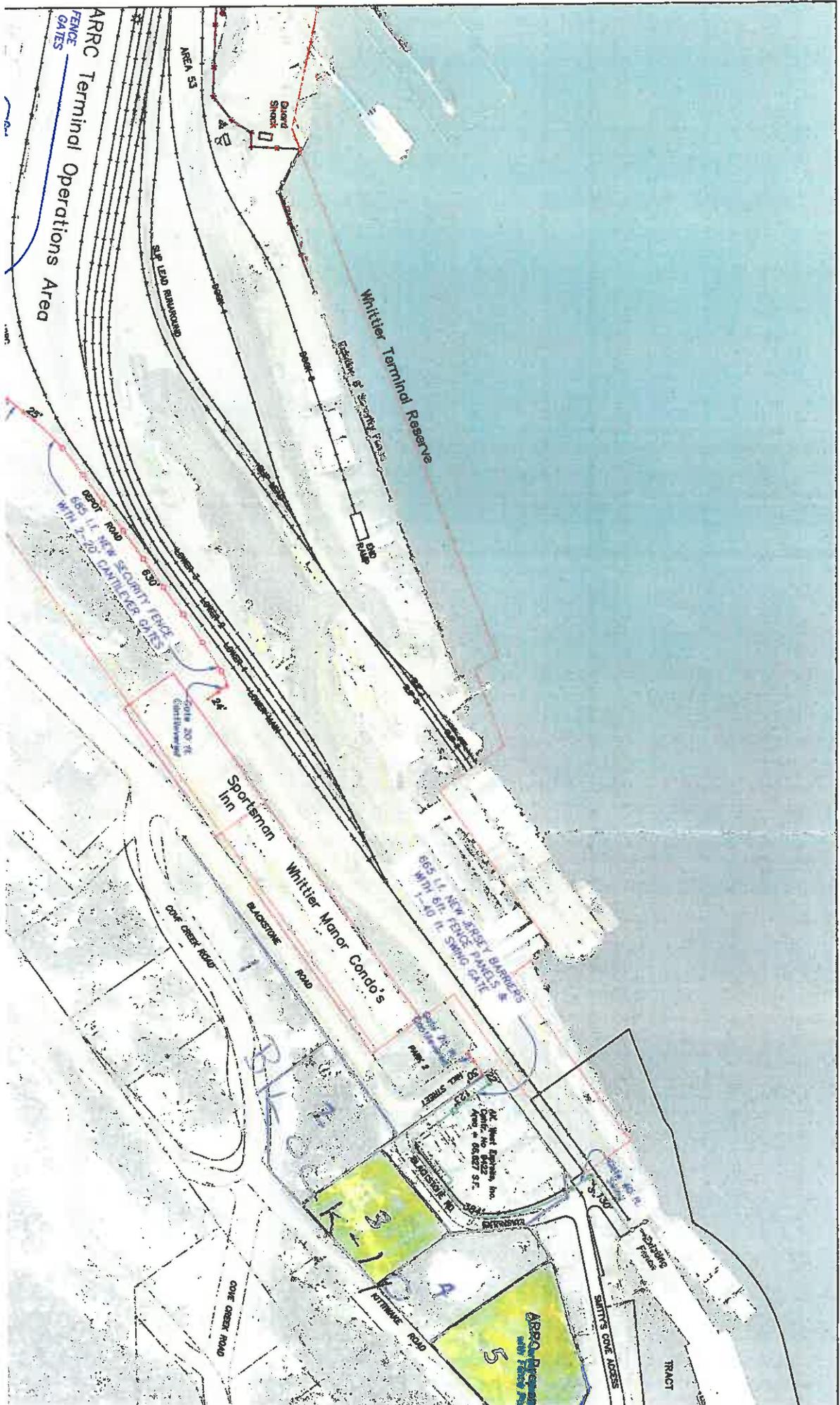


ALASKA RAILROAD CORPORATION
REAL ESTATE DEPARTMENT, LAND SERVICES
100 WEST 12TH AVENUE, ANCHORAGE, ALASKA 99501-2000

Exhibit A
City of Whittier Access Agreement
Showing proposed Delong Dock
Access and proposed Truck Turnaround
Prior to ARRC Track Extension

DRAWN BY:	DATE:	SCALE:	DATE:
DESIGNED BY:	DATE:	1" = 100'	DATE:
CHECKED BY:	DATE:		DATE:
APPROVED BY:	DATE:		DATE:

AlaskaRailroad.com



ARRC Terminal Operations Area
FENCE
GATES

Whittier Terminal Reserve
Rudolph S. Scarth Park

AREA 53

S. LEAD HARBOR RD

Sparteman Inn
Whittier Manor Condo's

665 ft NEW PERIMETER BARRIERS
WITH 6-6 ft FENCE PANELS &
1-50 ft SLAM GATE

665 ft NEW SECURITY FENCE
WITH 2-20 CONTINUOUS GATES

665 ft NEW SECURITY FENCE
WITH 2-20 CONTINUOUS GATES

COVE CREEK ROAD

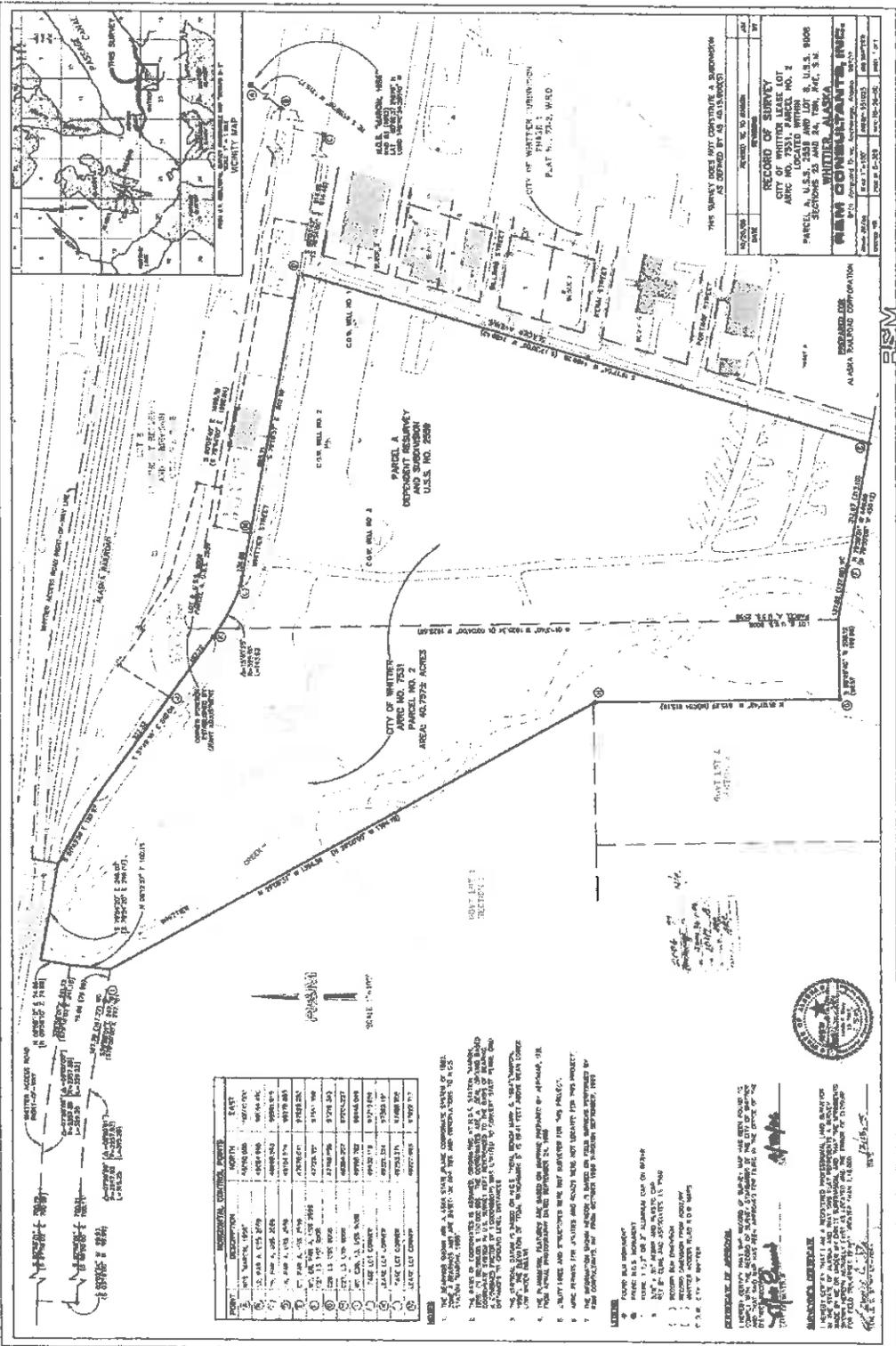
BUCKINGHAM ROAD

12 West Business Inc.
Office No. 6607 S.F.
Area = 66,027 S.F.

ARRC Reserve
with Fence

SMITH'S CONE ACCESS

TRACT



THIS SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR
AS ORDERED BY AN ADJUDICATED

DATE: 1958-11-15
BY: [Signature]

SECTION OF SURVEY
CITY OF WHITTIER ALASKA LOT
ARCC NO. 7531, PARCEL NO. 2
PARCEL A, U.S.S. 2528 AND LOT 8, U.S.S. 8008
SECTIONS 25 AND 24, T9N, R4E, S.8

PIERCE CONSULTANTS, INC.
WHITTIER, ALASKA
1000 W. 11th St. Whittier, Alaska 99591
PHONE: 541-2101

POINT	DESCRIPTION	ADJUSTED COORDINATES	EAST	NORTH
1	WATER ACCESS ROAD	10000.00	10000.00	0.00
2	WATER ACCESS ROAD	10000.00	10000.00	0.00
3	WATER ACCESS ROAD	10000.00	10000.00	0.00
4	WATER ACCESS ROAD	10000.00	10000.00	0.00
5	WATER ACCESS ROAD	10000.00	10000.00	0.00
6	WATER ACCESS ROAD	10000.00	10000.00	0.00
7	WATER ACCESS ROAD	10000.00	10000.00	0.00
8	WATER ACCESS ROAD	10000.00	10000.00	0.00
9	WATER ACCESS ROAD	10000.00	10000.00	0.00
10	WATER ACCESS ROAD	10000.00	10000.00	0.00
11	WATER ACCESS ROAD	10000.00	10000.00	0.00
12	WATER ACCESS ROAD	10000.00	10000.00	0.00
13	WATER ACCESS ROAD	10000.00	10000.00	0.00
14	WATER ACCESS ROAD	10000.00	10000.00	0.00
15	WATER ACCESS ROAD	10000.00	10000.00	0.00
16	WATER ACCESS ROAD	10000.00	10000.00	0.00
17	WATER ACCESS ROAD	10000.00	10000.00	0.00
18	WATER ACCESS ROAD	10000.00	10000.00	0.00
19	WATER ACCESS ROAD	10000.00	10000.00	0.00
20	WATER ACCESS ROAD	10000.00	10000.00	0.00

NOTES:

1. THIS SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
2. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
3. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
4. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
5. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
6. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
7. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
8. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
9. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
10. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
11. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
12. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
13. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
14. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
15. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
16. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
17. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
18. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
19. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.
20. THE SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.

LEGEND:

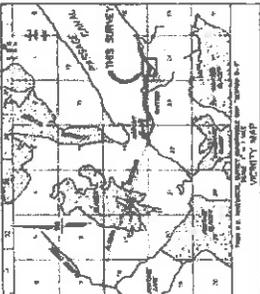
- 1. BOUNDARY LINE
- 2. 1/2" = 100' SCALE
- 3. 1/4" = 100' SCALE
- 4. 1/8" = 100' SCALE
- 5. 1/16" = 100' SCALE
- 6. 1/32" = 100' SCALE
- 7. 1/64" = 100' SCALE
- 8. 1/128" = 100' SCALE
- 9. 1/256" = 100' SCALE
- 10. 1/512" = 100' SCALE
- 11. 1/1024" = 100' SCALE
- 12. 1/2048" = 100' SCALE
- 13. 1/4096" = 100' SCALE
- 14. 1/8192" = 100' SCALE
- 15. 1/16384" = 100' SCALE
- 16. 1/32768" = 100' SCALE
- 17. 1/65536" = 100' SCALE
- 18. 1/131072" = 100' SCALE
- 19. 1/262144" = 100' SCALE
- 20. 1/524288" = 100' SCALE

GENERAL INFORMATION:

THIS SURVEY WAS MADE BY CONTRACTOR'S SURVEYOR AS ORDERED BY AN ADJUDICATED COURT ORDER.

PIERCE CONSULTANTS, INC.
WHITTIER, ALASKA





NOTES

1. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
2. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
3. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
4. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
5. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
6. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
7. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
8. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
9. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.
10. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.



GENERAL INFORMATION

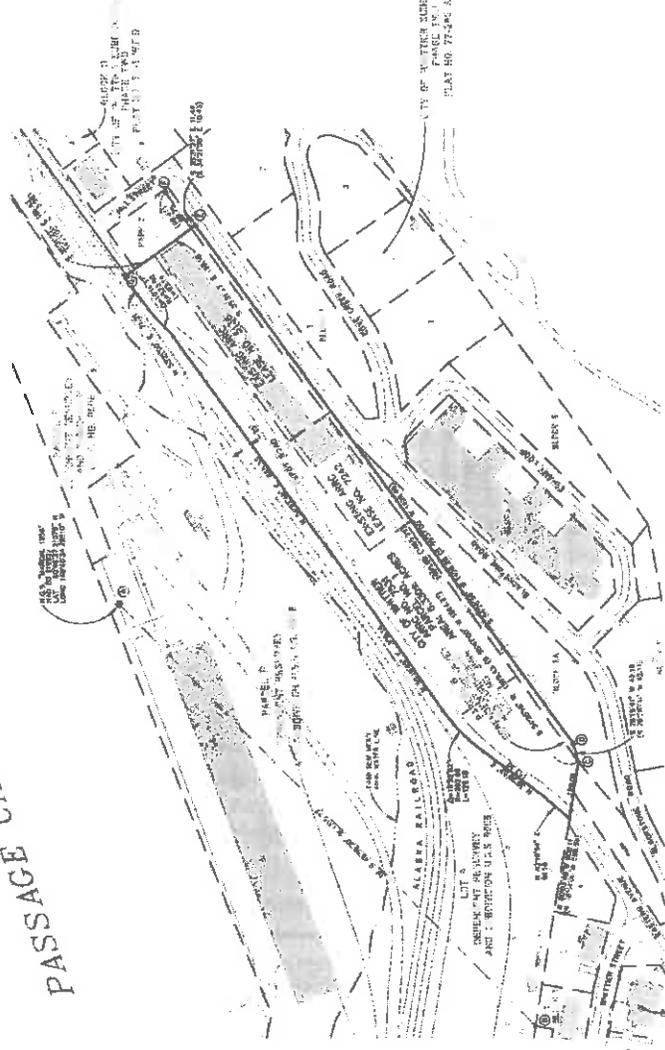
THIS SURVEY WAS NOT CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1946 (AS AMENDED BY AS 42.15.001).

RECORD OF SURVEY

ALBERT B. BROWN, REGISTERED PROFESSIONAL SURVEYOR, HAS LOCATED AND MEASURED THE BOUNDARIES OF THE SURVEY AREA SHOWN ON THIS PLAN. THE SURVEY WAS CONDUCTED ON 10/15/77. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.

ALBERT B. BROWN
REGISTERED PROFESSIONAL SURVEYOR
1015 1/2 ST. ALBANY, ALASKA 99571
PHONE 485-1111

SCALE 1"=100'



LEGEND

• POINT OF INTERSECTION
○ POINT OF BEGINNING

POINT	COORDINATE	HEIGHT	DATE
1	1000000.00	1000.00	10/15/77
2	1000000.00	1000.00	10/15/77
3	1000000.00	1000.00	10/15/77
4	1000000.00	1000.00	10/15/77
5	1000000.00	1000.00	10/15/77
6	1000000.00	1000.00	10/15/77
7	1000000.00	1000.00	10/15/77
8	1000000.00	1000.00	10/15/77
9	1000000.00	1000.00	10/15/77
10	1000000.00	1000.00	10/15/77

THIS SURVEY WAS NOT CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1946 (AS AMENDED BY AS 42.15.001).

RECORD OF SURVEY

ALBERT B. BROWN, REGISTERED PROFESSIONAL SURVEYOR, HAS LOCATED AND MEASURED THE BOUNDARIES OF THE SURVEY AREA SHOWN ON THIS PLAN. THE SURVEY WAS CONDUCTED ON 10/15/77. THE SURVEY AREA IS SHOWN IN RED ON THE VICINITY MAP.

ALBERT B. BROWN
REGISTERED PROFESSIONAL SURVEYOR
1015 1/2 ST. ALBANY, ALASKA 99571
PHONE 485-1111

PSM

10/15/77

MEMORANDUM

**TO: WHITTIER CITY COUNCIL
ANNIE REEVES, CITY MANAGER**

**FROM: ANMEI GOLDSMITH
HOLLY WELLS**

RE: CITY'S ZONING POWERS ON ARRC OWNED LOTS

CLIENT: CITY OF WHITTIER

FILE NO.: 507,456.6

DATE: APRIL 27, 2018

ATTORNEY-CLIENT PRIVILEGED

You have asked for advice regarding the City's general zoning authority, the rezoning process, and the City's ability to use its zoning power to regulate land uses and structures on lots owned by ARRC in the east end of the City, near Smitty's Cove. You have also asked about the City's authority to prevent the closure of Depot Road.

1. *Ordinances Regarding Zoning in Whittier.*

The City's zoning powers are derived from state law. AS 29.40.030 requires that before it may exercise its zoning powers, a municipality must adopt a comprehensive plan. The Whittier Municipal Code therefore requires the City to adopt a comprehensive plan. A copy of the Whittier Comprehensive Plan, adopted in 2012, is attached to this memo. Among the purposes of the zoning code are to promote the health, safety, and welfare of the community, to regulate the use of land primarily on the basis of the impact on the community, and to provide a planned and orderly use of land and protection of the environment.¹ The City's zoning powers apply to all public bodies of the Federal, State, and local government, except where as otherwise permitted by law.² Only certain uses of land are allowed in each zoning district. The City maintains a zoning map that is part of the Code and depicts the various designations of use categories or districts within the City.³ Any amendment to this zoning map must be made by ordinance and incorporated into the official copy of the zoning map that is kept in the City offices.

¹ WMC 17.04.020.

² WMC 17.12.070.

³ WMC 17.12.030.

Zoning power is one of the most powerful tools a municipal government has to control use of lands within its boundaries. The comprehensive plan serves as the long-range policy document that is intended to guide development of the municipality as a whole. The plan is then implemented through zoning decisions. The purpose of the comprehensive plan is to "guard against prejudice, arbitrary decision-making, and improper motives" by providing substantive standards against which to measure individual zoning decisions.⁴ Consequently, when considering rezoning recommendations and/or requests, the decision regarding whether or not to rezone should be based upon the uses intended on the property and whether or not such uses fit within the current zoning district or the proposed zoning district.

2. *Zoning Ordinances Are Applicable to ARRC-Owned Property.*

Municipalities have the power to zone all land within municipal boundaries under state law.⁵ This land includes property owned by ARRC. However, ARRC does have some rights regarding its land use that non-government entities do not. A public entity that owns property in a municipality may seek an exemption from local zoning regulations by going to court to ask for a judicial review of the exemption. The right of a state entity to ask for judicial review was adopted in a case involving ARRC's development of quarries in Eklutna.⁶ ARRC maintained that it was exempt from local zoning ordinances. The court disagreed, concluding that "Alaska law does not presume state immunity to local zoning,"⁷ and establishing a "balancing of the interests" test.⁸

Therefore, ARRC is first obligated to make a good faith effort to comply with the City's zoning ordinances. By its actions in bringing a rezoning application to the Planning Commission, ARRC is demonstrating that it believes itself to be subject to the City's zoning authority and is making an effort to comply with the zoning permitted and conditional uses. ARRC's participation is evidence of its good faith attempt to comply with City zoning. If ARRC were to adopt a different tactic and apply for an exemption in court, the court would likely apply the balancing test described in the Eklutna case and weigh the City's position against ARRC's.

4. *Process for Considering a Rezoning Application*

An application for rezoning is essentially a request for the City to amend its code to change the zoning map, which is adopted as a part of the code. It is therefore a request for the City to make a legislative change to City code.⁹ Council has the authority

⁴ *Lazy Mtn. Land Club v. Matanuska-Susitna*, 904 P. 2d 373 (Alaska 1995).

⁵ AS 29.40.040.

⁶ *Native Village of Eklutna v. Alaska RR*, 87 P.3d 41 (2004).

⁷ *Id.* at 45.

⁸ *Id.* at 54.

⁹ This makes rezoning different from granting conditional use permits or variances, neither of which are legislative changes to code provisions.

to rezone just as it has the authority to amend any other ordinance or provision of City code.¹⁰ A zoning amendment may be initiated by the Council, the Planning Commission, or any property owner in the area.¹¹ The Planning Commission must hold a public hearing and make a recommendation to the Council.¹² The Council holds the ultimate decision-making authority and may make its decision to approve or deny the rezoning application in the same way that it decides to pass or not pass an ordinance.

Because rezoning is a legislative action, any decision Council makes to rezone should be rational, related to a legitimate government purpose, and based on the best interests of the entire City. A decision to rezone should also be made in compliance with and in furtherance of the goals identified in the comprehensive plan. The 2012 comprehensive plan includes "Chapter Six: Land ownership, use and management," which describes in detail the City's plan for future land use. The chapter includes two maps depicting future and current land use and zoning. Figure 8, the "Whittier Core Area Future Land Use / Zoning," shows the plan's intent for the City's land uses in the future. Figure 9, "Whittier Core Area Existing Zoning," shows the zoning in 2012 when the plan was created.

The comprehensive plan also includes Chapter Nine, titled "Community Goals, Policies and Actions," which presents guidelines for the City to use in decision making and long range planning. All goals, policies, and actions were approved by the Planning Commission. The goals, policies, and actions are sorted into seven general categories, described in further detail, and given priority rankings. These are the goals that the City has identified and intended to use to guide future decision-making. The Council should ensure that discussion of these and any other important sections of the comprehensive plan are included in its decision-making process on a rezoning application.

The Council should be careful not to engage in "spot zoning." Spot zoning is when a small parcel of land is singled out for a use classification totally different from that of the surrounding area, for the benefit of the owner of that small parcel and to the detriment of others.¹³ It is illegal because it is considered an arbitrary exercise of legislative power that only affects a small area and one property owner.¹⁴ A rezoning decision may also be found invalid if it results from prejudice or improper motives.¹⁵ A rezoning decision that is in compliance with the City's comprehensive plan and is based on fact and rational decision-making will be insulated from an claim of illegal zoning.

Finally, the Council should keep in mind that its comprehensive plan and its zoning ordinances are not set in stone. The comprehensive plan is intended to be updated on a regular basis, and the goals, policies, and priorities within may change

¹⁰ WMC 17.32.010.

¹¹ WMC 17.32.020.

¹² WMC 17.32.050.

¹³ *Griswold v. City of Homer*, 925 P. 2d 1015 (Alaska 1996).

¹⁴ *Id.*

¹⁵ *Id.*

over time as the City grows and evolves. Similarly, the Council can amend the zoning code at any time to ensure that the code evolves along with the comprehensive plan. The Council could change the permitted uses in a particular district, or could change the districts entirely. It could redefine boundaries of the districts, or change permitted to conditional uses (or vice versa). Zoning a parcel of land as commercial or industrial today does not mean that it must remain so if the City's goals and needs change.

5. *ARRC's Request to Rezone Lots 3 and 5*

ARRC already owns the lots surrounding Tract A1 near Smitty's Cove – Lots 3, 4, 5, and 6 of the City of Whittier Subdivision, Phase Two. ARRC has applied to the Planning Commission to rezone Lots 3 and 5 from commercial to industrial. Lot 4 is already zoned industrial while Lot 6 (closest to the water) is zoned commercial and is not part of ARRC's current application.

Commercial districts are intended to “foster a concentrated area of shopping, entertainment, office facilities and tourist-oriented development in a compact, convenient and pleasant pedestrian-oriented community center.”¹⁶ Industrial districts are intended to “provide an area for manufacturing, storage, shipping terminals and railroad-related uses.”¹⁷ Industrial use is typically incompatible with commercial (and residential) use because of vehicle traffic, noise, dust, and danger. Industrial areas may have loading docks, railroad yards, and wholesale commercial enterprises, whereas commercial areas have retail shopping areas, offices, restaurants, and other types of commercial businesses open to the public.

ARRC's application asks to rezone its Lots 3 and 5 to conform to the industrial zoning status that already exists on Lot 4. As things stand now, ARRC can use Lot 4 for any industrial use, such as a rail yard, ship yard, warehousing, storing heavy equipment, bulk fuel storage, refuse storage, hazardous materials storage, or natural resource extraction. The list of permitted uses on commercial and industrial lots is attached at the end of this memo. ARRC's industrial use of Lot 4 is limited only by the size and shape of the lot and any other geographic or economic factors. None of these types of uses are currently possible on Lots 3 and 5. The fact that Lot 4 is sandwiched between Lots 3 and 5 and all three lots include the side of a cliff likely means that many of the industrial uses of Lot 4 are impractical.

ARRC's request to rezone Lots 3 and 5 suggests that they seek to use the entire combined area of Lots 3, 4, and 5 for industrial purposes. ARRC does not seek to rezone Lot 6. If the City decides to rezone Lots 3 and 5, they will become industrial and ARRC will be able to develop and use these lots for any industrial purpose listed in the code. ARRC will not be required to apply for a permit to the City or notify neighbors before conducting industrial uses such as resource extraction. If the City decides not to

¹⁶ WMC 17.16.040.

¹⁷ WMC 17.16.050.

rezone these lots, then the status quo will remain and ARRC will only be able to use Lots 3 and 5 for a commercial purpose.

Although this rezoning application has originated in a single private property owner, the Council should remain aware that rezoning affects the entire community, and the decision must be made in light of the overall benefit to the City. The Council should review the comprehensive plan and use it as a guide to determine whether rezoning Lots 3 and 5 to industrial will serve the City's overall long-term goals.

6. Depot Road

At the April 17, 2018 City Council meeting there was concern about the status of Depot Road. Depot Road is a hybrid road – it is partly public and partly private. The public part of Depot Road is the approximately 500 feet of road that leads up to the entrance of the DeLong Dock. This part of Depot Road was dedicated to the public and accepted by the City on Plat 2001-156 (attached).

The private part of Depot Road extends westward from the public part of Depot Road, across a parcel owned by ARRC, also known as Parcel 1 of the Master Lease, passing in front of the Whittier Manor. This part of Depot Road is depicted on Record of Survey 2006-77 (attached). The Record of Survey does not dedicate Depot Road to public use or otherwise convert it to a public right of way.

Despite this hybrid ownership, the entire length of Depot Road is open to public use and maintained by the City. Members of the public use this road every day. We understand the Council's concern to be that ARRC could shut down the private part of Depot Road at any time. Technically, this is true. As a private road, ARRC could put up fences and block the public access.

However, it is very likely that if ARRC attempted to block off Depot Road, the City would be able to file a lawsuit, obtain a temporary court order to reopen the road, and successfully argue to a judge that the public has an implied easement. An implied easement is an easement that was never formally dedicated, but rather arises from the parties' actions and the circumstances. For example, an implied easement may exist when the easement is "reasonably necessary for the enjoyment of the land," as when there is a land-locked parcel where only one reasonable access point exists.¹⁸ A public easement can arise when there is an oral grant that the public then relies on to use the easement area.¹⁹ There would undoubtedly be other arguments that the City could marshal in support of keeping Depot Road open if the situation were to arise. Any litigation over Depot Road would be expensive and politically unwise for ARRC. In a dispute over Depot Road, ARRC would likely appear to be the unreasonable party.

¹⁸ *Demoski v. New*, 737 P. 2d 780 (Alaska 1987).

¹⁹ *Swift v. Kniffen*, 706 P. 2d 296 (Alaska 1985).

Given ARRC's continued willingness at this time to keep the "private" part of Depot Road open to the public, closure of this part of the road seems unlikely. Nevertheless, the City should continue to pursue the goal of securing public dedication of all streets within the City's boundaries, and working to persuade ARRC to plat and dedicate those streets that are on ARRC property.

EXCERPTS OF RELEVANT WHITTIER MUNICIPAL CODE

17.16.040 C – Commercial district.

This district is intended to foster a concentrated area of shopping, entertainment, office facilities and tourist-oriented development in a compact, convenient and pleasant pedestrian-oriented community center.

17.16.050 I – Industrial district.

This district is intended to provide an area for manufacturing, storage, shipping terminals and railroad-related uses. This is an area of development which is generally not compatible with residential and commercial uses because of conflicts from vehicle traffic, noise, dust and danger. The area is characterized by loading docks, railroad yards, storage buildings, and wholesale commercial enterprises. This is an area which provides for those marine uses which are not compatible with the small boat harbor. Campgrounds, public use areas and recreational uses may be allowed in industrial zoned districts by conditional use. Campground, public use areas and recreational uses existing as of March 1, 2015, shall be considered a permitted use but may not be enlarged upon, expanded or used as grounds for adding additional structures or uses without applying for and obtaining approval as a conditional use.

17.16.230 Table of allowed uses.

Table 1, allowed uses, shall be as follows:

P = Permitted

C = Conditional

Table of Allowed Uses [EXCERPTED]

	Commercial	Industrial
Accessory Residential ¹		P
Airport		P
Banks and financial institutions	P	
Barge operations		P
Bulk fuel storage and transfer		P

Campgrounds		C
Churches	P	
Clubs, meeting halls	P	
Commercial animal kennel and services	P	
Commercial fishing operations	P	
Commercial garages, auto body shops	C	P
Day care and elderly centers	P	
Duplexes	C	
Ferry terminal		C
Freight terminal		P
Garbage and/or refuse transfer storage and disposal	C	P
Hazardous or noxious materials storage		P
Heavy equipment storage and repair		P
Heliport and terminals		P
Home occupation ²	P	
Hospitals and health care facilities	P	
Hotel	P	
Indoor recreation		
Junkyard		C
Houseboat		

Lumber and building material storage yard	P	P
Manufacturing and wholesaling		P
Marine services	P	P
Mobile home		
Mobile vendor	C	
Movie hall and theater	P	
Multifamily		
Museum and libraries		
Natural resource extraction storage and transfer		P
Neighborhood commercial ⁹		
Parking lots and garages: commercial or private	P	P
Parks, playgrounds, public use areas	P	C
Police, fire stations and municipal offices	P	C
Post office	P	
Private garage storage, and related accessory structures		
Professional offices	C	
Recreational use	C	C
Restaurant and cafe	P	
Retail fuel sales	P	
Retailing of merchandise and services	P	

Retail liquor sales and bars	P	
Roominghouse	C	
Sawmills, log transfer		P
Seafood processing		P
Schools and educational uses	C	
Shipyards		P
Signs	P	P
Single-family attached, condominiums		
Single-family residential	C	
Temporary storage: building materials	C	C
Utility facilities and structures	C	C
Visitor center	C	
Warehouses		P

**CITY OF WHITTIER, ALASKA
ORDINANCE #02-2018**

**AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA APPROVING THE ONE
YEAR CONTRACT FOR CITY MANAGER ANNIE REEVES**

WHEREAS, the City Council of Whittier, Alaska (“City”) has determined that it is in the City’s best interest to employ Annie Reeves as the Whittier City Manager for a one (1) year term; and

WHEREAS, pursuant to Whittier Municipal Code 3.32.130(b), multi-year contracts shall be approved by ordinance;

THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. The City of Whittier hereby approves the one (1) year contract between the City of Whittier and Annie Reeves hiring Ms. Reeves to serve as the City Manager of Whittier for a one-year term and subject to the terms and conditions identified in the agreement.

Section 2. Classification. This ordinance is a non-code ordinance.

Section 3. Severability. If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this ____ day of _____, 2018.

Introduced by: _____

1st reading: _____, 2018

2nd reading and public hearing: _____, 2018

Daniel Blair
MAYOR

ATTEST:

Naelene Matsumiya
CITY CLERK

Ayes:

Nays:

Absent:

Abstain:

Ord. #02-2018

Page 1 of 1

507456\25\00711014