



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Jeremy Brantley, Chair – District 5 Sterling/Funny River
Blair Martin, Vice Chair – District 2 Kenai
Pamela Gillham – District 1 Kalifornsky
Virginia Morgan, Parliamentarian – District 6 East Peninsula
John Hooper – District 3 Nikiski
Michael Horton – District 4 Soldotna
VACANT – District 7 Central
David Stutzer – District 8 Homer
Dawson Slaughter – District 9 South Peninsula
Diane Fikes – City of Kenai
Franco Venuti – City of Homer
Charlene Tautfest – City of Soldotna
Troy Staggs – City of Seward
VACANT – City of Seldovia

Monday, July 17, 2023

7:30 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 907 714 2200

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

All items marked with an asterisk () are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

1. Time Extension Request

2. Planning Commission Resolutions

3. Plats Granted Administrative Approval

[KPB-5353](#)

- a. Corea Bend Subdivision 2022 Addition; KPB File 2022-131
- b. Jesse Lee Heights Great Bear Addition; KPB File 2023-008
- c. Moose Range Meadow Frawner Addition; KPB File 2022-104
- d. New Homestead Subdivision; KPB File 2023-007
- e. Pace's Pleasant Haven 2022 Replat; KPB File 2022-168
- f. Petaluma Acres Koonz Addition; KPB File 2022-173
- g. Soldotna Creek Hills Subdivision Martin Addition; KPB File 2020-103
- h. Wahl Subdivision; KPB File 2022-092R1

Attachments:

[C3. Admin Approvals](#)

4. Plats Granted Final Approval (KPB 20.10.040)

[KPB-5354](#)

- a. Lake Salamatof Crescent Nelson Replat; KPB File 2022-114

Attachments:

[C4. Final Approvals](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

[KPB-5355](#) June 26, 2023 Planning Commission Meeting Minutes

Attachments: [C7. 062623 PC Meeting Minutes](#)

D. OLD BUSINESS**E. NEW BUSINESS**

1. [KPB-5356](#) Building Setback Encroachment Permit – KPB File 2023-062
PC Resolution 2023-18
Peninsula Surveying / James
Location: Tract D-1, Quartz Creek Subdivision James Addition, Plat
SW 2005-14
Cooper Landing Area

Attachments: [E1. BSEP Quartz Creek Sub James Addn Packet](#)

2. [KPB-5357](#) Building Setback Encroachment Permit – KPB File 2023-063
PC Resolution 2023-19
Peninsula Surveying / Eicher
Location: Lot 3A, Block 1, Doser Subdivision Eicher 2020 Replat, Plat
KN 2021-61
Sterling Area

Attachments: [E2. BSEP Doser Sub Eicher 2020 Replat Packet](#)

3. [KPB-5358](#) Building Setback Encroachment Permit – KPB File 2023-066
PC Resolution 2023-17
Peninsula Surveying / Robinson
Location: Tract A1, Heaven's View Subdivision 2019 Addition ROW
Vacation, Plat KN 2019-22
Sterling Area

Attachments: [E3. BSEP Heaven's View Sub 2019 Addn Packet.pdf](#)

4. [KPB-5359](#) Conditional Land Use Permit Modification – Materials Extraction
Applicant: Tutka, LLC; Land Owner: State of Alaska
Location: T04N, R01W, SEC 24, S.M., SW Govt Lot 13
Crown Point Area

Attachments: [E4. CLUP Modification - Tutka L Packet](#)

[E4. CLUP Mod-Tutka Desk Packet](#)

F. PLAT COMMITTEE REPORT**G. OTHER****H. PUBLIC COMMENT/PRESENTATION**

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)

I. DIRECTOR'S COMMENTS**J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED**

[KPB-5362](#) APC Meeting Info Packet

Attachments: [Misc Info Packet](#)

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, August 14, 2023 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: planning@kpb.us

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

C. CONSENT AGENDA

***3. Plats Granted Administrative Approval**

- a. Corea Bend Subdivision 2022 Addition; KPB File 2022-131
- b. Jesse Lee Heights Great Bear Addition; KPB File 2023-008
- c. Moose Range Meadow Frawner Addition; KPB File 2022-104
- d. New Homestead Subdivision; KPB File 2023-007
- e. Pace's Pleasant Haven 2022 Replat; KPB File 2022-168
- f. Petaluma Acres Koonz Addition; KPB File 2022-173
- g. Soldotna Creek Hills Subdivision Martin Addition; KPB File 2020-103
- h. Wahl Subdivision; KPB File 2022-092R1



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Corea Bend Subdivision 2022 Addition
KPB File 2022-131
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 26, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, June 23, 2023.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 23 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



Madeleine Quinton
State of Alaska
Notary Public
Commission No. 221011006
My Commission Expires With Office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Jesse Lee Heights Great Bear Addition
KPB File 2023-008
Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 13, 2023. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Friday, June 23, 2023.

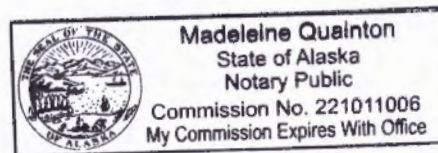
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 23 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Moose Range Meadows Frawner Addition
KPB File 2022-104
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 8, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, June 30, 2023.

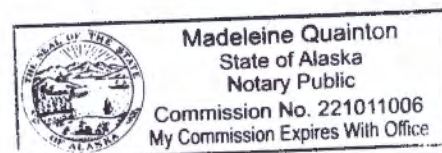
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



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Planning Department

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: New Homestead Subdivision
KPB File 2023-007
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 13, 2023. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, June 29, 2023.

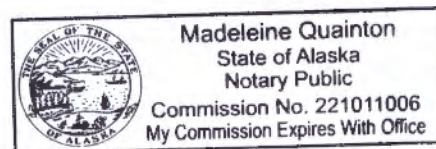
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 29 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



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Planning Department

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Pace's Pleasant Haven 2022 Replat
KPB File 2022-168
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on December 12, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, June 28, 2023.

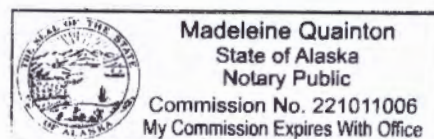
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 28 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Petaluma Acres Koonz Addition
KPB File 2022-173
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on December 12, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, June 30, 2023.

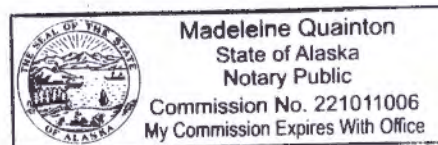
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Soldotna Creek Hills Subdivision Martin Addition
KPB File 2020-103
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 14, 2020. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, June 23, 2023.

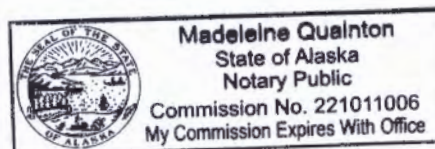
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 23 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Wahl Subdivision
KPB File 2022-092R1
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 26, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, July 6, 2023.

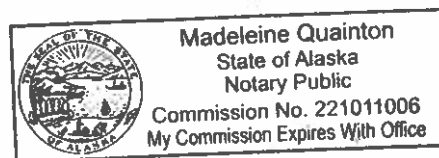
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of July 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

C. CONSENT AGENDA

***4. Plats Granted Final Approval**

- a. Lake Salamatof Crescent Nelson Replat; KPB File 2022-114



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Peter A. Micciche
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

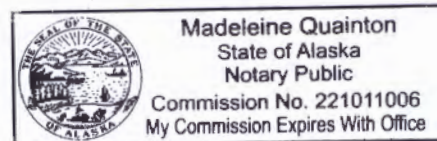
Subdivision: Lake Salamatof Crescent Nelson Replat
KPB File 2022-114
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Wednesday, June 28, 2023.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 28 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

C. CONSENT AGENDA

***7. Minutes**

a. June 26, 2023 PC Meeting Minutes

Kenai Peninsula Borough Planning Commission

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

June 26, 2023

7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. **CALL TO ORDER**

Chair Brantley called the meeting to order at 7:30 p.m.

AGENDA ITEM B. **ROLL CALL**

Commissioners Present

Pamela Gillham, District 1 – Kalifornsky
Blair Martin, District 2 - Kenai
John Hooper, District 3 – Nikiski
Michael Horton, District 4 – Soldotna
Jeremy Brantley, District 5 – Sterling/Funny River
Virginia Morgan – District 6, East Peninsula
David Stutzer, District 8 – Homer
Dawson Slaughter, District 9 – South Peninsula
Franco Venuti, City of Homer
Diane Fikes, City of Kenai
Troy Staggs, City of Seward
Charlene Tautfest, City of Soldotna

With 12 members of a 12-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Vince Piagentini, Platting Manager
Morgan Aldridge, Resource Planner
Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. **CONSENT & REGULAR AGENDAS**

***3. Plats Granted Administrative Approval**

- a. Bosn Landing Subdivision No. 3: KPB File 2021-101
- b. Brown's Acre Estates Addition No. 1: KPB File 2022-170
- c. Clam Gulch Heights 2022 Addition; KPB File 2022-136
- d. Lloyd Race Lot 4 Replat; KPB File 2022-157
- e. Smith-Staton Subdivision; KPB File 2022-178
- f. Spruce Knoll; KPB File 2022-005
- g. The Place Subdivision; KPB File 2022-179
- h. Voznesenka Lot 11 Replat; KPB File 2021-166

***4. Plats Granted Final Approval**

- a. Janousek Subdivision 2023 Replat; KPB File 2023-033
- b. Panoramic Park Subdivision Yancey Replat; KPB File 2023-017

***6. Commissioner Excused Absences**

- a. City of Seldovia, Vacant
- b. District 7 – Central, Vacant

***7. Minutes**

- a. June 12, 2023 Planning Commission meeting minutes.

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. Chair Brantley then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

MOTION: Commissioner Slaughter moved, seconded by Commissioner Stutzer to approve the regular and consent agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
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AGENDA ITEM E. NEW BUSINESS

Chair Brantley asked Ms. Shirnberg to read the public hearing procedures into the record.

ITEM 1 – BUILDING SETBACK ENCROACHMENT PERMIT - GRANROSS GROVE UNIT 1

KPB File No.	2023-058
Planning Commission Meeting:	June 26, 2023
Applicant / Owner:	Kent Baumgardner of Alaska
Surveyor:	Christopher Mullikin / Mullikin Surveys
General Location:	Ester Avenue, Anchor Point

Parent Parcel No.:	165-510-44
Legal Description:	Lot 32 Granross Grove Unit 1 Plat No HM 78-5
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Christopher Mullikin, Mullikin Surveys; P.O. Box 1023, Homer, AK 99603: Mr. Mullikin was the surveyor for this project and made himself available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to adopt PC Resolution 2023-14 granting a building setback encroachment permit to Lot 32 Granross Grove Unit 1, Plat HM 78-5, based on staff recommendations, adopting and incorporating by reference findings 2- 4 & 7 in support of standard one, findings 2-4, 6 & 7 in support of standards two and findings 2-8 in support of standard three, as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
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**ITEM 2 - RIGHT OF WAY VACATION
VACATE PORTIONS OF STEIK AVENUE GRANTED ON NINILCHIK RIGHT-OF-WAY MAP,
PLAT HM 84-115 & ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2023-061V
Planning Commission Meeting:	June 26, 2023
Applicant / Owner:	Caribou Hills Cabin Hoppers of Clam Gulch, Alaska
Surveyor:	None
General Location:	Steik Avenue, Oil Well Road, and Gravel Pit Trail REM SW within Ninilchik, Alaska
Legal Description:	Steik Avenue within Lot 107, Ninilchik Right-Of-Way Map, Plat HM 84-115 in Township 2 South Range 12 West Section 2 and Lots 29 and 30, Clarks' Point of View Estates Phase 1 HM 2001-80, and Lot 24 Clarks' Point of View Estates Phase 5, HM 2005-94 within Township 1 South Range 12 West Section 35

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Sylvia Shelton, Caribou Hills Cabin Hoppers; P.O. Box 375, Clam Gulch, AK 99568: Ms. Shelton is the treasurer for the Cabin Hopper and asked the commission to approve their vacation request.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Slaughter moved, seconded by Commissioner Gillham to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations, and subject to the 4 conditions as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM 3 – CONDITION USE PERMIT
ANADROMOUS WATERS HABITAT PROTECTION DISTRICT OF THE KENAI RIVER**

KPB File No.	2023-13
Planning Commission Meeting:	June 26, 2023
Applicant	Steve Helbock
Mailing Address	1806 Curry Road, Roseburg, OR 97471
Legal Description	T 4N R 10W SEC 2 SM KN 0870100 MOOSE RANGE MEADOWS SUB PHASE II AMENDED LOT 1 BLK 2
Physical Address	33537 KEYSTONE DR
KPB Parcel Number	135-260-02

Staff report given by Resource Planning Morgan Aldridge

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MAIN MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to adopt Planning

Commission Resolution 2023-13 granting a conditional use permit pursuant to KPB 21.18 for the construction of a fence within the 50-foot Habitat Protection District of the Kenai River.

Commissioner Gillham noted the applicant stated that a portion of the fence near the river was going to be on hinges so that it could be opened. She then noted resolution did not include language related to the hinged portion of the fence. She would like that voluntary condition added to the resolution. She also would like noted the timeframe that the hinged portion of the fence would remain open. She suggested it be the same timeframe that floating docks are required to be pulled from the river.

Planner Morgan stated she believed that the timeframe for removing the floating docks was from October 15th through April 15th. She would double check with Alaska State Parks as they are the permitting authority for floating docks on the river.

AMENDMENT MOTION: Commissioner Gillham moved, seconded by Commissioner Martin to add the condition that the 10' portion of the fence on hinges remain open from October 15th thru April 15th.

Hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

Hearing no objection or further discussion, the motion was carried by the following vote:

MAIN MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 1 plat and postponed action on two plats.

AGENDA ITEM G. The plat committee for the July 17, 2023 meeting:

- Commissioner Gillham
- Commissioner Slaughter
- Commissioner Venuti
- Commissioner Hooper

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

Chair Brantley asked if there was anyone from the public who would like to comment on anything not appearing on the agenda. No one wished to comment.

AGENDA ITEM K. ADJOURNMENT

Commissioner Martin moved to adjourn the meeting at 8:24 P.M.

Ann E. Shirnberg
Administrative Assistant

E. NEW BUSINESS

1. Building Setback Encroachment Permit

KPB File 2023-062; PC Resolution 2023-18

Peninsula Surveying / James

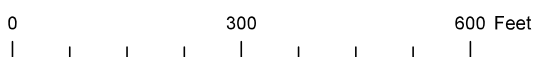
Location: Tract D-1, Quartz Creek Subdivision James
Addition, Plat SW 2005-14

Cooper Landing Area

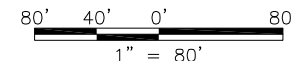
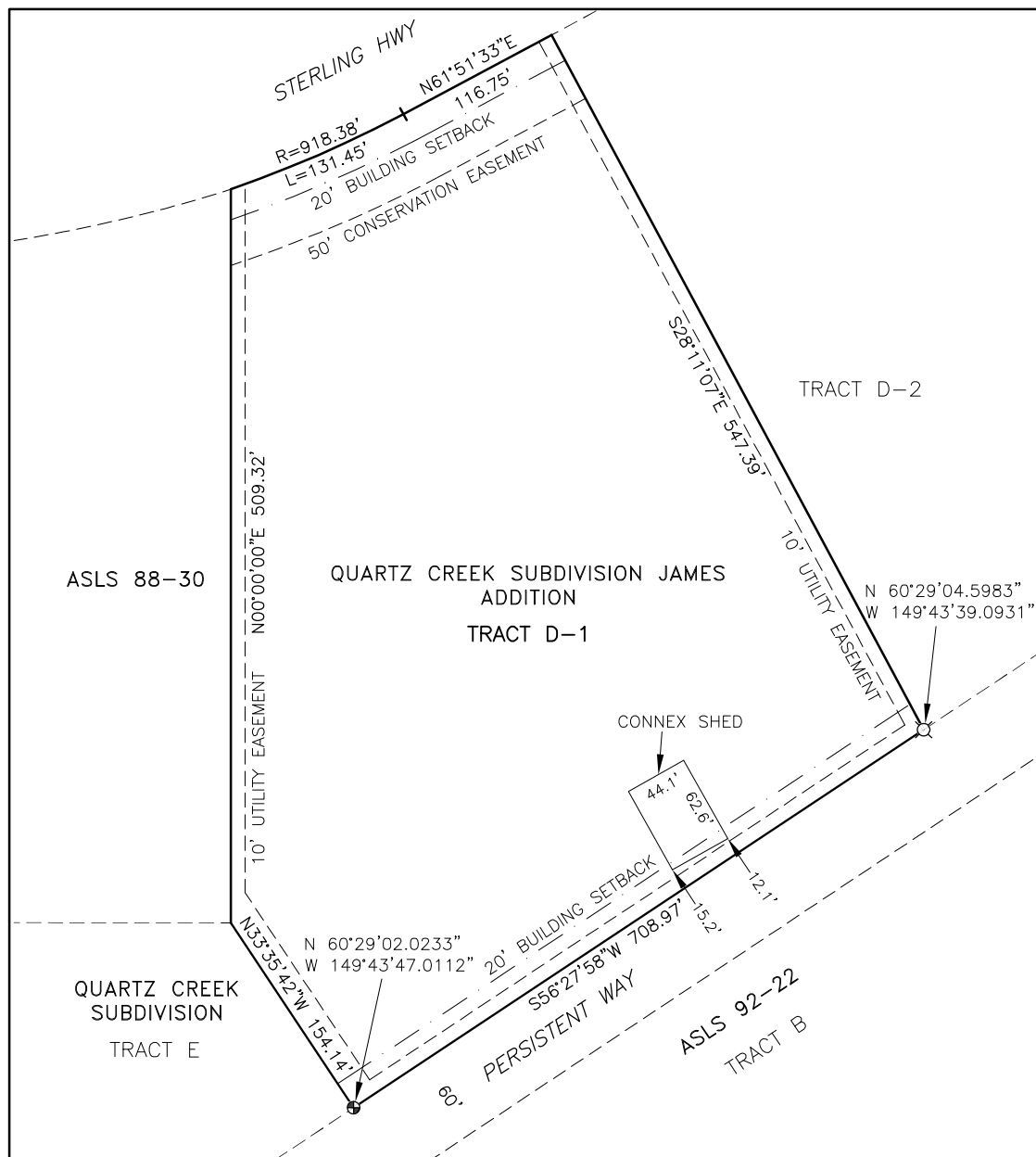


KPB 2023-062
T05N R03W SEC 36
Cooper Landing

6/8/2023







NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE EAVE CORNERS.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT SW 2005-14.
4. ADDITIONAL STRUCTURES AND IMPROVEMENTS THAT DO NOT ENCROACH THE BUILDING SETBACK LINE ARE NOT SHOWN ON THIS AS-BUILT.

LEGEND

- ⊗ FOUND 5/8" REBAR
- ⊕ FOUND 2" ALUMINUM MONUMENT

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 05/10/2023.

Jason L. Schollenberg 05/15/2023

JASON L. SCHOLLENBERG
PLS 14488-S

DATE



PENINSULA SURVEYING, LLC

10535 KATRINA BOULEVARD
NINILCHIK, AK 99639
(907)306-7065

AS-BUILT SURVEY
TRACT D-1, QUARTZ CREEK
SUBDIVISION JAMES ADDITION
NW1/4 SECTION 36, T5N, R3W, SM, AK

SCALE:
1" = 80'

DATE:
05/15/2023

DRAWN:
JLS

SHEET:
1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT – QUARTZ CREEK SUBDIVISION JAMES ADDITION

KPB File No.	2023-062
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Jon James
Surveyor:	Jason Schollenberg \ Peninsula Surveying, LLC
General Location:	Sterling Highway, Persistent Way, Cooper Landing, Cooper Landing APC

Parent Parcel No.:	119-124-20
Legal Description:	Tract D-1 Quartz Creek Subdivision James Addition SW 2005-014
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: Persistent Way undeveloped, encroachment has no effect on general public or local land use. Encroachment is shipping container storage structure.

Site Investigation: Per the as-built survey, there is a connex shed in the 20-foot building setback along Persistent Way on the back side of Tract D-1. Other structures present on the property are not shown as they do not encroach into the setback. The shed at its closest, at the southeast corner, is 12.1 feet from the property line, putting it 7.9 feet into the setback. The southwest corner is 15.2 feet from the property line and 4.8 feet into the setback.

The main access to the lot is Sterling Highway which is state maintained and constructed. The southern portion of the lot is access to Persistent Way which is not constructed. Persistent Way is accessed from Borough maintained Quartz Creek Road to the west.

The structure, being in the back of the parcel and along a straight portion of the lot, poses no issues to sight lines or distance. It does not interfere with view as the road is not constructed at this time.

Staff Analysis: The property was first subdivided by Alaska State Land Survey 92-22 SW 93-8. The plat subdivided several previously unsubdivided sections and created three tracts, of which Tract A was the parent tract for this parcel. Tract A was then subdivided by Quartz Creek Subdivision SW 94-11 creating five tracts. Persistent Way was dedicated out of Quartz Creek Subdivision SW 94-11. Quartz Creek Subdivision SW 94-11 also required a 20 foot building setback along all street rights-of-ways unless a lesser standard is approved by resolution of the appropriate Planning Commission. Tract D of Quartz Creek Subdivision SW 94-11 was further subdivided by Quartz Creek Subdivision James Addition SW 2005-14 into two tracts one being the subject Tract D-1. The 20-foot building setback requirement was carried forward with the subdivision Quartz Creek Subdivision James Addition SW 2005-14.

The terrain for the tract is flat with a slight slope to the southwest, across the subdivision. There are no sight issues with this tract that are apparent. There does not appear to be any traffic issues or maintenance issues on the tract.

Cooper Landing Advisory Planning Commission minutes for the July 12th meeting were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Findings:

1. The 20-foot building setback along Persistent Way was created by Quartz Creek Subdivision SW 94-11 and carried forward on Quartz Creek Subdivision James Addition SW 2005-14.
2. 12.1 feet of the setback will remain open from the connex shed to the property line.
3. There is no steep terrain near the encroaching structure to add issues.
4. Persistence Way is not developed.
5. There does not appear to be any sight issues.
6. The subdivision having preliminary approval on the April 10, 2023 Plat Committee meeting, found the issue during field survey and is cleaning up the problem.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

1. The building setback encroachment may not interfere with road maintenance.

Findings 2-5 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 2-5 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 2-6 appear to support this standard.

- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: No comments
SOA DOT comments	
KPB River Center review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments

	C. State Parks Reviewer: VACANT Comments:
State of Alaska Fish and Game	No objections
Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 21879 STERLING HWY Existing Street Names are Correct: No List of Correct Street Names: STERLING HWY, PERSISTENT WAY Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: NO COMMENT
Code Compliance	Reviewer: Ogren, Eric Comments: Current Code Compliance Cases for encroachment into 20ft setback.
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment
Cooper Landing Advisory Planning Commission	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2023-18, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-18
SEWARD RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR TRACT D-1, QUARTZ CREEK SUBDIVISION JAMES ADDITION (SW 0940011); IN NE 1/4 S36, T05N, R03W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-062

WHEREAS, per KPB 20.30.240 – Building Setbacks, a minimum 20-foot building setback shall be required for fee simple non-arterial rights-of-way in subdivisions located outside incorporated cities; and

WHEREAS, Jon James of Cooper Landing, AK requested a building setback encroachment permit to the 20-foot building setback granted by Quartz Creek Subdivision (SW 0940011); and

WHEREAS, per the petition; Persistent Way is undeveloped, encroachment has no effect on general public or local land use. Encroachment is shipping container storage structure; and

WHEREAS, the encroachment is 12.1 feet from the property line, putting it 7.9 feet into the setback. The southwest corner is 15.2 feet from the property line and 4.8 feet into the setback; and

WHEREAS, the encroaching structure does not affect sight distance along the right-of-way; and

WHEREAS, on Monday, July 17, 2023, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception; and

WHEREAS, the Planning Commission found that granting the building setback encroachment permit will not be detrimental to the public interest; and

WHEREAS, 20.10.110 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish building setback encroachment permits by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. Approved a permit to allow only the encroaching portion of the connex shed that extends 7.9 feet at the most into the 20-foot setback adjoining the Persistent Way right-of-way on the south boundary Tract D1- Quartz Creek Subdivision James Addition SW 0940011.

Section 2. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

Section 3. That the 20-foot building setback limit shall apply to the remainder of said lot.

Section 4. That a current as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the location of the encroachment within the building setback be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 5. That this resolution is void if not recorded in the appropriate Recording District within 90 days of adoption.

Section 6. That this resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fees.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 2023.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shimberg,
Administrative Assistant

Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669

NOTES:

1. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
2. Building setback - A building setback of 20 feet is required from all street right of ways unless a lesser standard is approved by resolution of the appropriate planning commission.
3. All notes on this plat and on the original plat of Quartz Creek Subdivision (Plat file #94-11) will run with and bind the property until changed by resolution by the appropriate planning commission.
4. Both Tract D-1 and Tract D-2 have existing driveways to the Sterling Highway.
5. All covenants and restrictions of record from the plat of Quartz Creek Subdivision file #94-11 are to be carried forward with this plat (Recorded in Book 102, Page 68, Seward Recording District, Alaska). Additional covenants will be recorded simultaneous with this plat.
6. No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.

LEGEND

● FOUND ALUMINUM MONUMENT
DESCRIBED ON PLAT OF A.S.L.S. 88-30

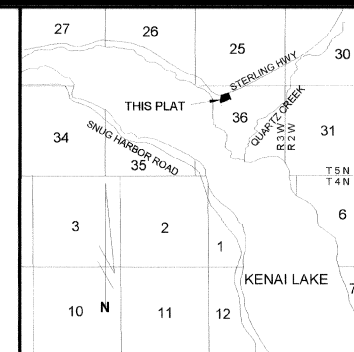
○ FOUND ALUMINUM CAP

● SET 5/8" X 30" REBAR WITH
COOPER & CO PLASTIC CAP THIS SURVEY

() INDICATES RECORD INFORMATION FROM THE
PLAT OF QUARTZ CREEK SUBDIVISION, PLAT
#94-11 SEWARD RECORDING DISTRICT, ALASKA.

■ FOUND SQUARE CONCRETE HIGHWAY MONUMENT

INDICATES ADJUSTED RECORD INFORMATION FROM
QUARTZ CREEK SUBDIVISION, TRACT D WILL NOT
CLOSE MATHEMATICALLY SO THE SLIGHT ADJUSTMENT
WAS PLACED IN THE WEST PROPERTY LINE AND
IN CURVE NUMBER 2.



VICINITY MAP 1" = 1 MILE
USGS SEWARD B-8 (1951)

CERTIFICATE of OWNERSHIP AND DEDICATION

I hereby certify that I am the owner of the real property shown and described hereon and that I hereby adopt this plan of subdivision and by my free consent and grant all easements to the use shown.

Jon James
Jon James

P.O. Box 761
Cooper Landing, Alaska 99572

NOTARY'S ACKNOWLEDGEMENT

For: Jon James

Subscribed and sworn before me this 28th day of Sept., 2005.

Imelda Nestle

Notary Public

My commission expires 8/26/07

BENEFICIARY:

First National Bank of Anchorage
Soldotna Branch
44501 Sterling Highway
Soldotna, Alaska 99572

Michael L. Frost
For: First National Bank of Anchorage
Title VICE PRESIDENT

NOTARY'S ACKNOWLEDGEMENT

Michael L. Frost
For: First National Bank of Anchorage

Subscribed and sworn before me this 28th day of Sept., 2005.

Imelda Nestle

Notary Public

My commission expires 8/26/07

TRACT D-2

217797 576 s.f.
5.000 Acres

TRACT D-1

225959 630 s.f.
5.187 Acres

CURVE CHART

Curve	Delta Angle	Radius	Arc	Chord	Chord Bearing
(1)	(30°00'03")	230.00	120.43	119.06	S 71°23'34"W
1	29°57'46"	230.00	120.28	118.91	S 71°26'53"W
(2)	(8°12'11")	918.38	131.46	131.37	N 85°56'34"E
2	8°11'56"	918.38	131.42	131.30	N 85°57'31"E
(2)	(8°12'03")	918.38	131.45	131.34	N 85°56'31"E

WASTEWATER DISPOSAL:

These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission in accordance with Section 20.04.070 Kenai Peninsula Borough Subdivision Regulations.

Date September 30, 2005

Mayor of Gresham
Borough Official

2005-14
Seward REC DIST

Date Oct. 7 2005
Time 12:03 P.M.
Requested James
Address _____



CERTIFICATE OF SURVEYOR

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.

Date Sept 27, 2005

COOPER & CO
LS 5733

(TYPICAL) SET COOPER & CO
YELLOW PLASTIC CAP
ON 5/8" X 30" REBAR THIS SURVEY

E. NEW BUSINESS

2. Building Setback Encroachment Permit

KPB File 2023-063; PC Resolution 2023-19

Peninsula Surveying / Eicher

Location: Lot 3A, Block 1, Doser Subdivision Eicher 2020

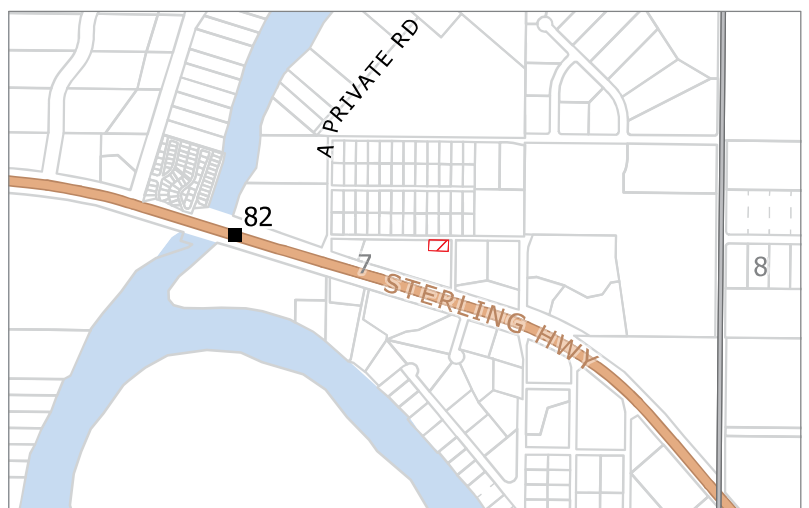
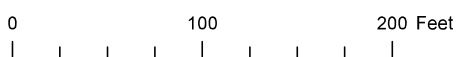
Replat, Plat KN 2021-61

Sterling Area

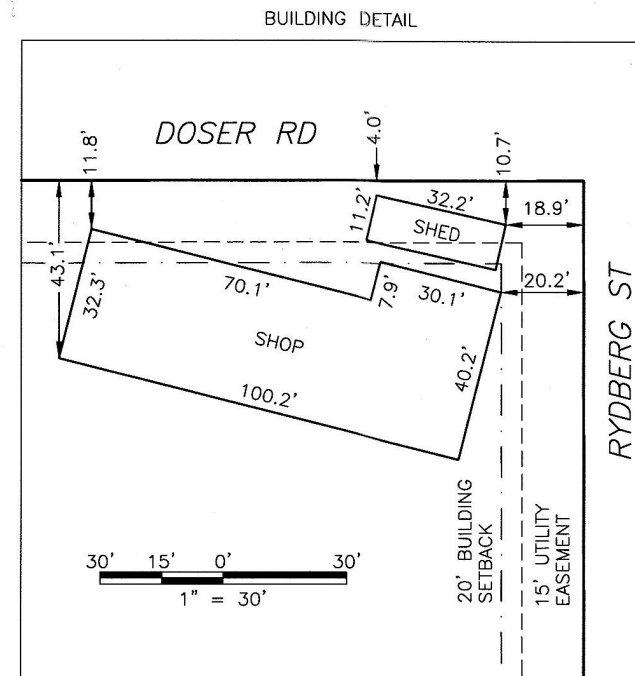
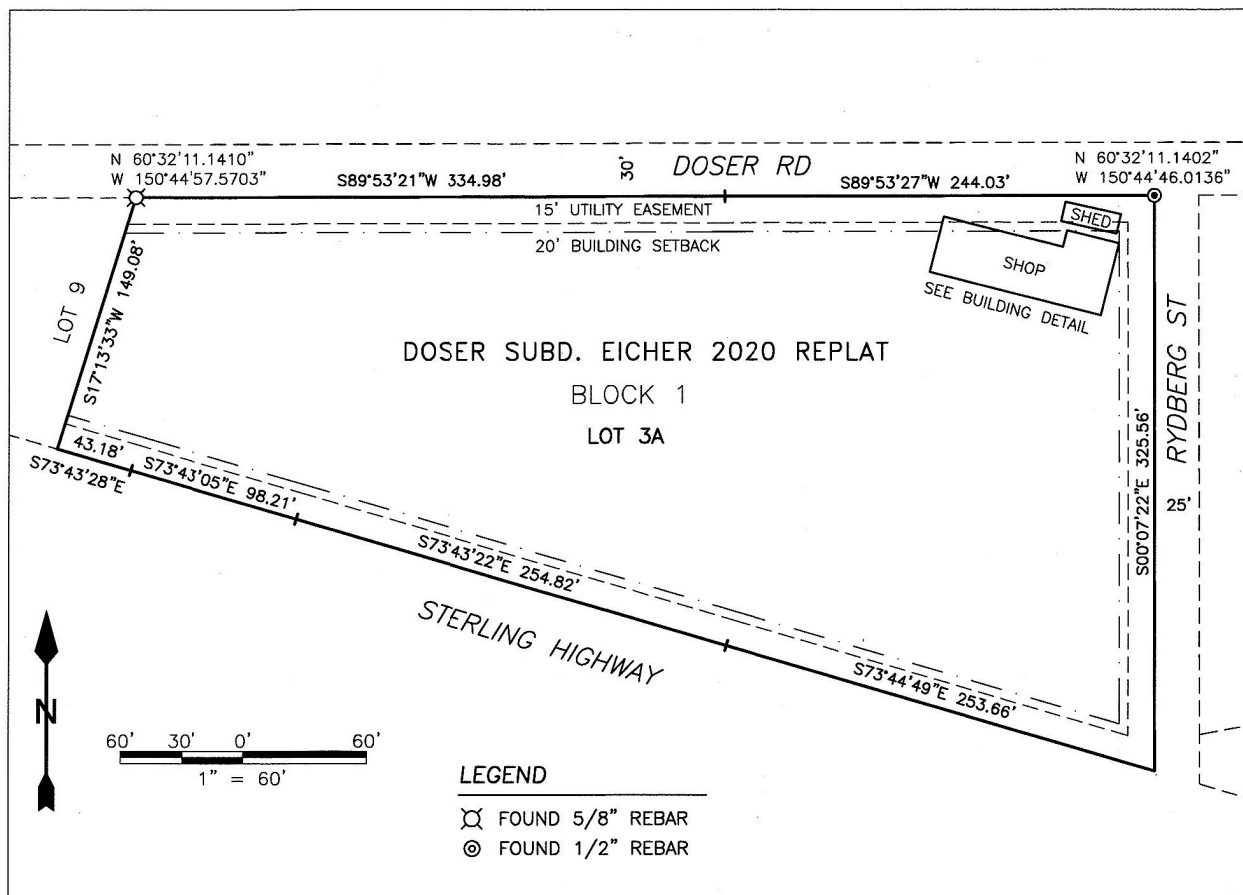


KPB 2023-063
T05N R08W SEC 07
Sterling

6/9/2023







NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE FACE OF THE BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT KN 2021-61.
4. ADDITIONAL BUILDINGS AND IMPROVEMENTS THAT DO NOT ENCROACH THE BUILDING SETBACK LINE ARE NOT SHOWN ON THIS AS-BUILT.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 05/05/2023.

Jason Schollenberg 05/08/2023

JASON L. SCHOLLENBERG DATE
 PLS 14488-S



PENINSULA SURVEYING, LLC

10535 KATRINA BOULEVARD
 NINILCHIK, AK 99639
 (907)306-7065

AS-BUILT SURVEY
 LOT 3A, BLOCK 1, DOSEY SUBDIVISION
 EICHER 2020 REPLAT
 SE1/4 SEC 7, T5N, R8W, SM, AK

SCALE: VARIES	DATE: 05/08/2023
DRAWN: JLS	SHEET: 1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT – DOSER SUBDIVISION EICHER 2020 REPLAT

KPB File No.	2023-063
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Marlin Eicher of Sterling, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Doser Road, Rydberg Street, Sterling

Parent Parcel No.:	065-520-20
Legal Description:	Lot 3A Block 1 Doser Subdivision Eicher 2020 Replat, Plat KN 2021-61 Township 5 North Range 8 West Section 7
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: We built the building in 2016 where it is today, per the as-built we received from Tauriainen Engineering (a copy is attached). Had we known they measured it incorrectly, we would have gladly had it moved, before building the permanent structure ... The second building, the small building behind the permanent structure is just on skids, and can be moved at any time

Site Investigation: Per the as-built and submittal there are two structures within the 20-foot building setbacks of Lot 3A Block 1, Doser Subdivision Eicher 2020 Replat, KN 2021-61. The Dosier Road and Rydberg Street setbacks are the two rights-of-ways with encroachments. As of 07062023 staff has been notified that the shed has been moved, a photo is included in the packet showing the open spot where the shed was.

Doser Road is a 30-foot partially constructed right-of-way. The RSA currently maintains a portion of Dosier Road with maintenance ending at the west end of the lot. Dosier Road provides dedicated access to the subdivision to the north. Rydberg Street, originally dedicated as Cook Street, is a 25-foot right-of-way is currently unconstructed except for a portion connecting to the Sterling Highway that appears to be being used as a driveway for the subject lot and lot 1A, Doser Subdivision No 2, Plat KN 81-145 to the east. Doser Subdivision No 2, Plat KN 81-145 dedicated the 25-foot right-of-way and granted the 20-foot building setback.

According to KPB Imagery there does appear to be objects located within Rydberg Street, but staff is unable to determine if they are permanent or not.

The structure labeled as 'shop' encroaches by 8.2 feet into the setback along Dosier Road.

Street views are available for the area, but are very dated, do not show an accurate representation of the area.

With the flat topography of the area and the current right-of-way configuration the Shop structure doesn't appear to hinder any line of sights, but the shed possibly does. **Staff recommends:** *the shed be removed before adopting the resolution and a new as-built be submitted for recording.*

Staff Analysis: The subject parcel has been resubdivided several times and was originally created from an unsubdivided remainder lying between the Sterling Highway and Gatten Subdivision K-995. The first subdivision

Page 1 of 4

was Doser Subdivision No 2 KN 73-32. This subdivision created lots 1 through 4 and the 20-foot building setback along Doser Road. Lot 4 of Doser Subdivision No 2 KN 73-32 and an unsubdivided parcel to the west were later subdivided by Doser Subdivision 2016 Addition KN 2017-6 into lots 9 through 12. Doser Subdivision Eicher 2020 Replat KN 2021-61 combined Lot 3 Block 1, 10, 11, and 12 into the configuration it is today.

It does appear that both of the structures are within the 15' utility easement of Doser Road. Staff would advise the owners to investigate the utility easement encroachments. If it is determined that a utility provider needs to use the easement any damage or relocation of items or structures would be at the owner's expense.

This location is not within an Advisory Planning Commission boundary.

Due to the requirements to remove the shed, **staff recommends a one-year approval be granted and once all requirements have been met Resolution 2023-19 will be brought back to the planning commission for adoption. If the new as-built depicts additional encroachments not reviewed under this application a new application will be required and a new hearing will be scheduled.**

Findings:

1. A building setback along Doser Road was created by Doser Subdivision No 2, KN 73-32.
2. A building setback along Rydberg Street was created by Doser Subdivision No 2 Lots 1A, 2A, & 1B, KN 81-145.
3. The shed is not a permanent structure and is on skids and is moveable.
4. Doser Road is a 30-foot dedicated right-of-way.
5. Rydberg Street is a 25-foot dedicated right-of-way.
6. There is no steep terrain located near the encroaching improvements.
7. The 'shop' structure was set by a misinterpretation of the site plan layout.
8. Movement of the 'shop' structure would be a hardship on the owner.
9. This will close a KPB Code Compliance case.
10. Doser Road is not maintained at this portion of the road.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

1. The building setback encroachment may not interfere with road maintenance.

Findings 3-6, 7, 8 & 10 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 3-6 & 10 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 3, 6 & 10 appear to support this standard.

- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20-foot building setback from the parcel.
- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	<p>Out of Jurisdiction: No</p> <p>Roads Director: Griebel, Scott</p> <p>Comments:</p> <p>No comments</p>
SOA DOT comments	
KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie</p> <p>Floodplain Status: Not within flood hazard area</p> <p>Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan</p> <p>Habitat Protection District Status: Is NOT within HPD</p> <p>Comments: No comments</p> <p>C. State Parks</p> <p>Reviewer: VACANT</p> <p>Comments:</p>
State of Alaska Fish and Game	
Addressing	<p>Reviewer: Leavitt, Rhealyn</p> <p>Affected Addresses:</p> <p>38335 RYDBERG ST</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</p> <p>DOSER RD, STERLING HWY, RYDBERG ST</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments:</p> <p>NO COMMENT</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: Current code compliance case for encroachment into the 20ft building set back.</p>
Planner	<p>Reviewer: Raidmae, Ryan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments:</p> <p>There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather</p> <p>Comments: No comment</p>

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to grant approval for the portion of the structures within the 20 foot building setback as shown on the as-built survey, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Providing a current as-built to be used as an exhibit drawing prepared, signed, and sealed by a licensed land surveyor.
3. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of the resolution.
4. Failure to provide an as-built so that it may be recorded within one year approval will result in a new application, hearing, and approval.
5. Additional encroachments found on the new as-built will require a new hearing.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

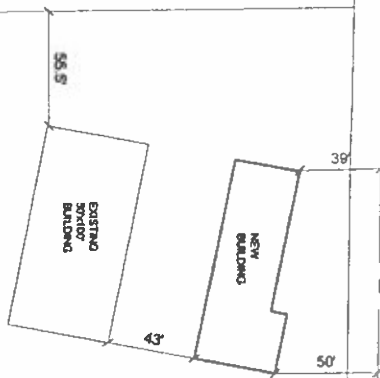
END OF STAFF REPORT



1
EXISTING SITE PLAN
SCALE 1"=80'

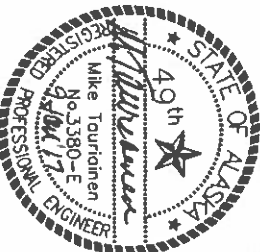
STERLING HIGHWAY

DOSER SUBDIVISION #2
LOT 3 BLOCK 1
EXCLUDING THAT
PORTION PER WD 378/541



DOSER ROAD

RYDBERG STREET



C1

DATE: Jan 2017
DRAWN BY: [Signature]
CHECKED BY: [Signature]
FILED BY: [Signature]
PROJECT: 1128

Sterling Supply LLC
Sterling, Alaska

EXISTING SITE PLAN

35186 Spur Hwy Soldotna, AK 99669 (907)262-4624 FAX 262-5777 engineeringalaska@gtd.net

TAURINEN ENGINEERING & TESTING

LEGEND:

- ⊗ 3 1/4" GLO MONUMENT 1938 RECORD
- ⊙ 3 1/4" BRASS CAP MONUMENT 610-5 1973 RECORD
- 5/8" REBAR w/PLASTIC CAP 1-11795 RECORD
- 1/2" REBAR RECORD
- () RECORD DATUM PLAT 2017-6 KNB
- [] RECORD DATUM PLAT 1973-49 HRS
- C COMPUTED DATUM

NOTES:

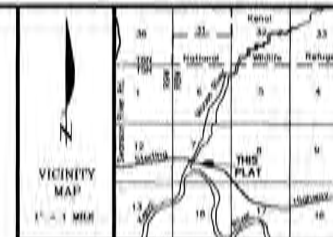
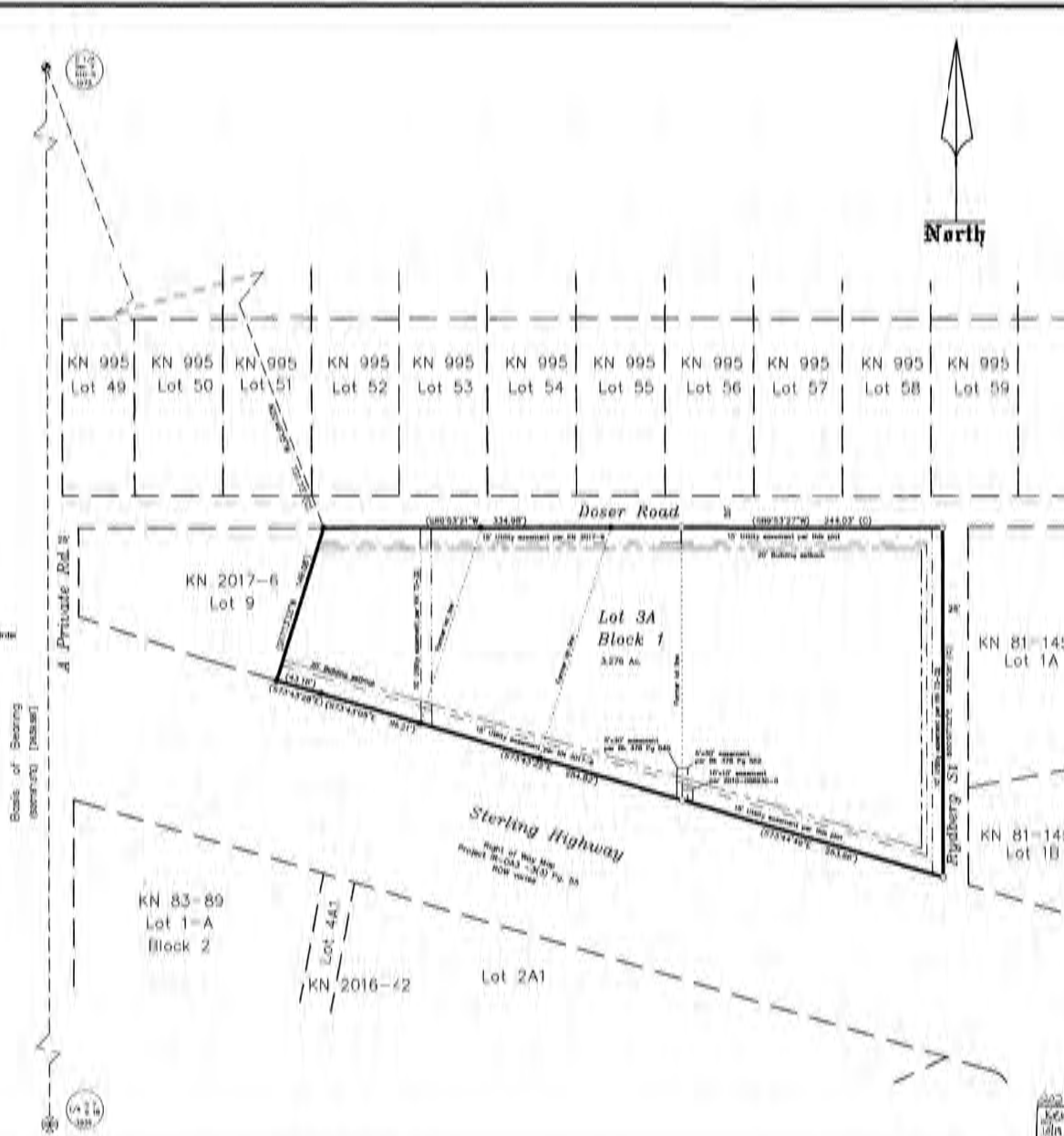
- 1) A field survey was not performed in accordance with RPS 80.60.200(A).
- 2) Basis of bearing taken from Doser Subdivision 2016 Addition, Plat 2017-6, Kenai Recording District.
- 3) Building Setback-A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 4) The parent plat for former Lot 3 Block 1 established a building setback adjoining Doser Road. Any existing improvements may be affected by the building setback of record adjoining Doser Road. This platting action is establishing a 20 foot building setback on Rydberg Street. Any existing improvements along Rydberg Street predate the 20 foot building setback created by this plat and are not subject to the 20 foot building setback adjoining Rydberg Street. Any replacement, or improvements, to the building must comply with the 20 foot building setback as shown on this plat.
- 5) Acceptance of the plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments.
- 6) Exceptions to KPB 20.30.120, Street width requirements for Doser Road and Rydberg Street, were granted by the Plat Committee at the meeting of November 30, 2020.
- 7) This property is subject to a reservation of easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 801, dated August 10, 1984, and amended by Public Land Order Number No. 787, dated October 10, 1988, Public Land Order No. 1613, dated April 7, 1998, Department of the Interior Order Number 2665, dated October 16, 1951, Amendment Number 1 thereto, dated July 17, 1952 and Amendment Number 2 thereto, dated September 15, 1956, filed in the Federal Register.
- 8) No private access to State maintained ROW is permitted unless approved by the State of Alaska Department of Transportation.
- 9) An easement for electric lines or system and/or telephone lines granted to Homer Electric Association, Inc is recorded in Book 31 Page 131 and modified by instrument in Book 303 Page 217 Kenai Recording District.
- 10) This platting action is granting a 15 foot utility easement adjoining Doser Road and the Sterling Highway, excluding the utility easement granted by per KN 2017-6. This platting action is also granting an easement in part utility easement adjoining the 10 foot utility easement per RPS 75.32 for a 15 foot utility easement adjoining Rydberg Street. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
- 11) Parent subdivision (KN 2017-6) for lots resulting from this platting action was approved by the Kenai Peninsula Borough on April 28, 2016. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation. The purpose of this platting action is to combine four lots into one, which will provide greater available wastewater disposal area as described by 20.40.020(A)(2).



SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown herein actually exist in location, and all dimensions and other details are correct.

Date 12-17-20



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREIN AND THAT WE HEREBY ADJUT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Mark Fisher *Karen Fisher*
MARK FISHER KAREN FISHER
3545 RYDBERG ST
STERLING, ALASKA 99672

NOTARY'S ACKNOWLEDGEMENT

FOR *Mark Fisher*
ACKNOWLEDGED BEFORE ME THIS 14th DAY OF *March* 2021.

Brook Karp Platter
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12-31-2024
STATE OF ALASKA
BARBARA KAYE FOSTER
NOTARY PUBLIC
MY COMMISSION EXPIRES 4-1-24

NOTARY'S ACKNOWLEDGEMENT

FOR *Karen Fisher*
ACKNOWLEDGED BEFORE ME THIS 14th DAY OF *March* 2021.

Brook Karp Platter
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12-31-2024
STATE OF ALASKA
BARBARA KAYE FOSTER
NOTARY PUBLIC
MY COMMISSION EXPIRES 4-1-24

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF NOVEMBER 30, 2020.

KENAI PENINSULA BOROUGH
Mark Fisher
AUTHORIZED OFFICIAL

KPB FILE No. 2020-137

Doser Subdivision Eicher 2020 Replat

A resubdivision of Lot 3 Block 1 Doser Subdivision No. 8 Plat 75-52 (excluding therefrom, that portion conveyed to the State of Alaska, Department of Transportation and Public Facilities by instrument recorded February 21, 1991 in Book 278 at Page 581, and Lots 10, 11 and 12 Eicher Subdivision 2016 Addition Plat 2017-6 Kenai Recording District).

Located within the 161/4 Section 7, 100, R0W, S.M., Kenai Peninsula Borough, Alaska.

Containing 3.276 Ac.

Surveyor	Owner
Seckesser Surveys 30480 Reindall St. Soldotna, AK 99688 (907) 988-3900	Mark and Karen Fisher 3545 Rydberg St. Sterling, Alaska 99672
JOB NO. 2020	DRAWN 12-17-20
SURVEYED N/A	SCALE: 1"=50'
FIELD BOOK N/A	SHEET: 1 of 1

Page 1 of 1



E. NEW BUSINESS

3. Building Setback Encroachment Permit

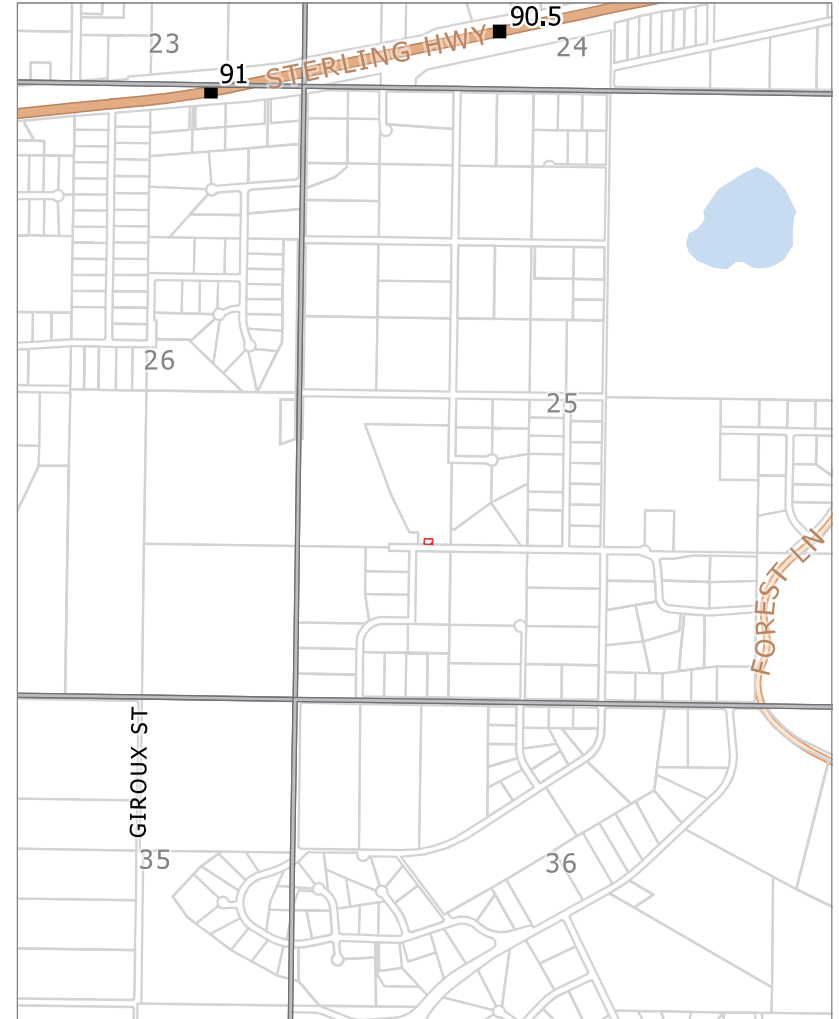
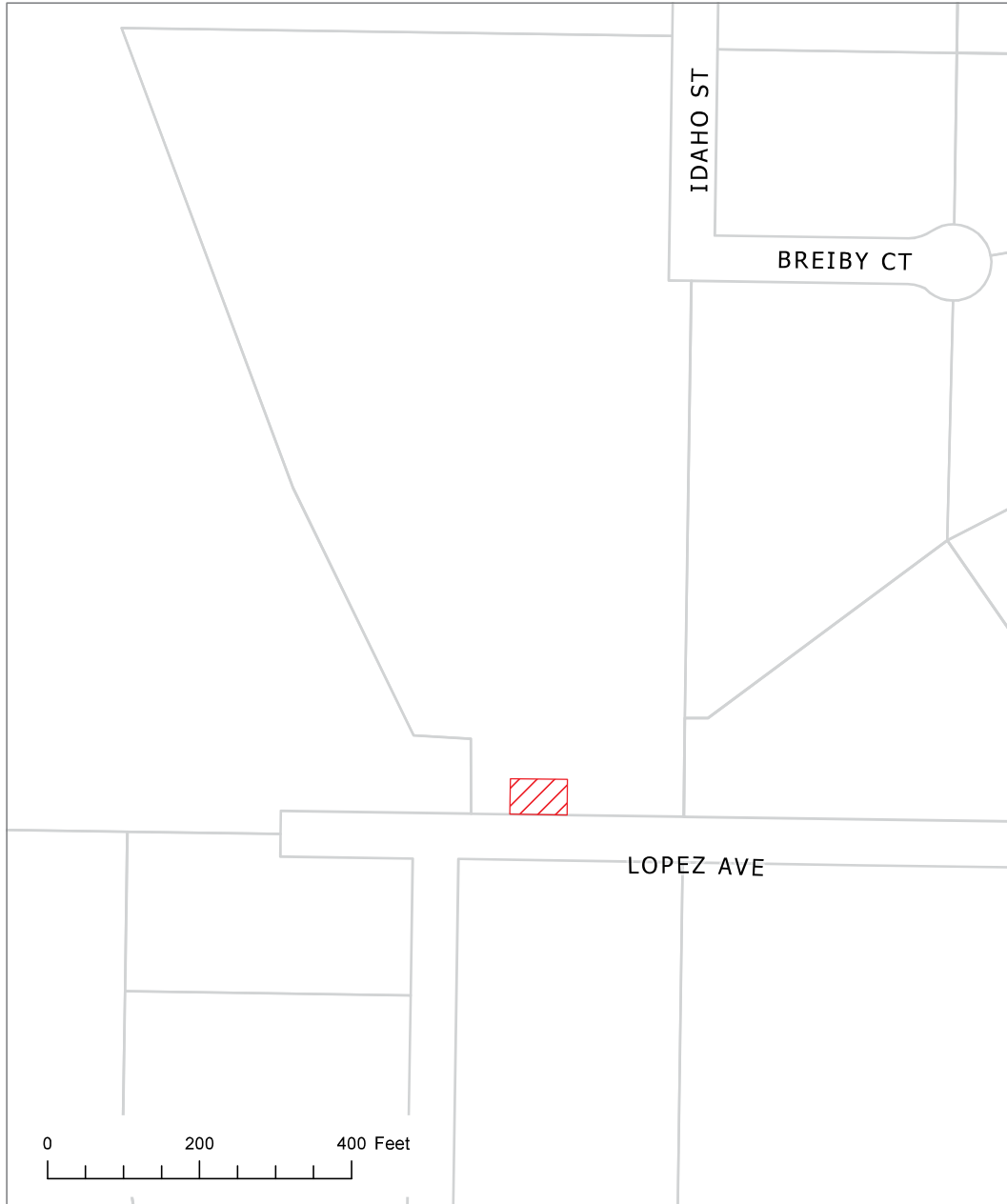
KPB File 2023-066; PC Resolution 2023-17

Peninsula Surveying / Robinson

Location: Tract A1, Heaven's View Subdivision 2019

Addition ROW Vacation, Plat KN 2019-22

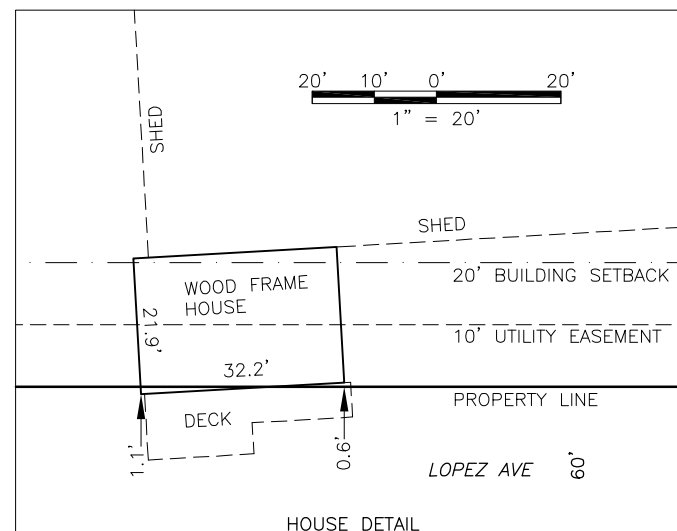
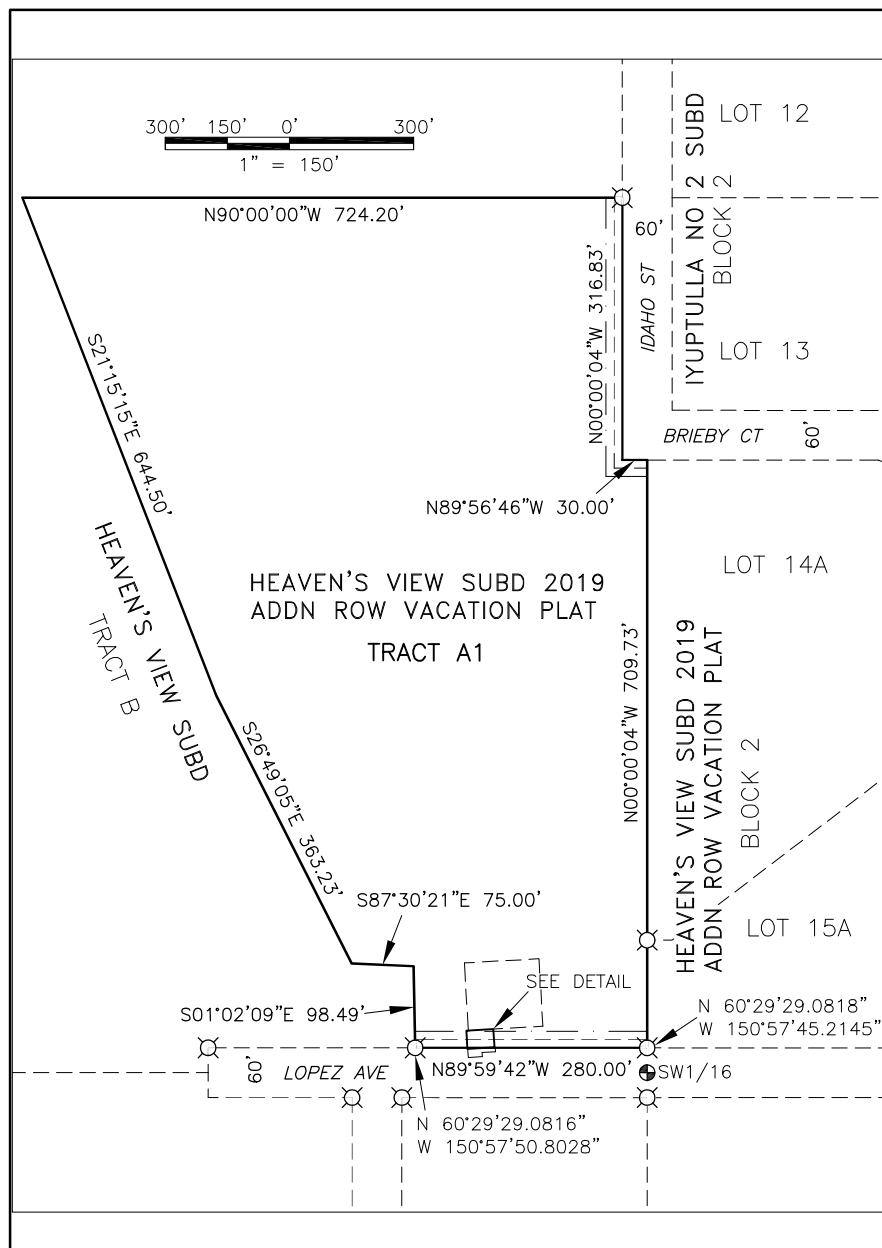
Sterling Area



KPB File 2023-066
T 05N R 10W SEC 25
Sterling



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE FACE OF THE BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT KN 2019-22.

LEGEND

- ⊗ FOUND 5/8" REBAR
- ⊕ FOUND 2 1/2" ALUMINUM CAP

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 05/09/2023.

Jason L. Schollenberg 05/12/2023

JASON L. SCHOLLENBERG DATE
PLS 14488-S



PENINSULA SURVEYING, LLC

10535 KATRINA BOULEVARD
NINILCHIK, AK 99639
(907)306-7065

AS-BUILT SURVEY
TRACT A1, HEAVEN'S VIEW SUB. 2019
ADDN. ROW VACATION PLAT
SECTION 25, T5N, R10W, SM, ALASKA

SCALE:
VARIES

DATE:
05/12/2023

DRAWN:
JLS

SHEET:
1 OF 1

**ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT - HEAVEN'S VIEW SUBDIVISION 2019
ADDITION ROW VACATION PLAT**

KPB File No.	2023-066
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Dean Robinson
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Lopez Avenue, Sterling

Parent Parcel No.:	058-351-28
Legal Description:	Tract A1, Heaven's View Subdivision 2019 Addition Right-of-Way Vacation Plat, KN 2019-22
Assessing Use:	Residential Dwelling
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: My structure is only one on N. side of final 1,000 ft. of dead-end Ave. The encroachment violates none of Section E, no's 1,2,3 (on reverse hereon). I would note that in recent weeks, H.E.A. added a service to the property across Lopez from mine; this overhead line attaches to the pole which is about 30' from my building and 5' or so N. of centerline of R.O.W. Also, note that the photo is off by about 30 ft from what the as-built shows.

Site Investigation: Per the as-built and submittal, there is a wood frame house and a deck encroaching into the setback and the right-of-way of Lopez Avenue. The setback and Lopez Avenue were granted on Haven's View Subdivision KN 2009-55. On that plat a depiction of the barn can be seen within Tract A and is outside of the setback. Tract A, Heaven's View Subdivision, KN 2009-55 was included in a right-of-way vacation of Idaho Street located to the east. The vacation can be seen on parent plat KN 2019-22 and was the last platting action for this parcel. Staff reviewed the vacation file KPB 2019-065 and there was no mention of an encroachment into the setback or right-of-way at the time of the vacation. The encroachment was also not shown in aerial imagery with the date of 2018. The aerial map from KPB 2019-065 is included in the packet.

Beiby Avenue is misspelled on the drawing and needs correcting along with the ROW size.

Line of sight will not be negatively impacted due to the lack of driveways to the west of Tract A1 Heaven's View Subdivision 2019 Addition Right-of-Way Vacation Plat KN 2019-22. The extension of Lopez Avenue is not feasible due to terrain and wetlands located to the west. Several subdivision including immediately to the south received exceptions to KPB Code 20.30.030(A) – Proposed Street Layout in reference to extending Lopez Avenue. With the new dedication, Alicia Road dedicated on KN 2023-9, to the south anyone using Lopez Avenue would be on the southern portion of the road or turning left into the subdivision. Street views are not available for this area.

RSA does maintain Lopez Avenue ending at the west end of the dedication. The Roads Director did provide comment about the road encroaching on to private property. KPB Imagery is not always exact due to lack of control points and when opening the KPB Viewers there is a disclaimer for lack of any inaccuracies. If the imagery is in fact approximately 30 feet off as stated by the petitioner the driving surface of Lopez Avenue would fall within the dedication. **Staff recommends:** the owner contact RSA and apply for a Right-of-Way Encroachment permit for the 1.1-foot encroachment of the house, but relocate the deck from the right-of-way.

Staff Analysis: The property was originally a 40-acre aliquot description parcel. Haven's View Subdivision, KN 2009-55 created two lots and dedicated roads along the north and east the entire length of the parcel. Matching dedications of 30 feet by 500 feet in length was provided for Lopez Avenue and 370.00 feet by 33 feet for Isbell Street. The setbacks and utility easements were not depicted, but plat notes two and four provided widths and locations. The utility easements were granted being 10 feet wide.

Haven's View Subdivision 2019 Addition Right-of-Way Vacation Plat, KN 2019-22 finalized a partial vacation of Idaho Street on the east boundary of Tract A and created today's configuration of Tract A1. This plat increased the utility easement to 15 feet wide along all rights-of-ways and the current as-built does not reflect the increase. Staff recommends the surveyor show the increased utility easement.

It does appear that some of the structures are within the utility easements. Staff would advise the owners to investigate the utility easement encroachments. If it is determined that a utility provider needs to use the easement any damage or relocation of items is at the owner's expense.

Due to the requirements to remove the deck and resolving the 1.1-foot encroachment, **staff recommends a one-year approval be granted and once all requirements have been met Resolution 2023-17 will be brought back to the planning commission for adoption. If the new as-built depicts additional encroachments not reviewed under this application a new application will be required and a new hearing will be scheduled.**

This is not within an Advisory Planning Commission boundary.

Findings:

1. A 20' building setback along Lopez Avenue was created by Heaven's View Subdivision KN 2009-55.
2. Per the as-built there are two encroachments into the right-of-way, the house and the deck.
3. The extension of Lopez Avenue is not feasible due to terrain and wetlands to the west.
4. Lopez Avenue ends at the tract to the west of this tract.
5. Surrounding subdivisions will have multiple points of access.
6. Per KPB Assessing information, the first structure was built in 1985 with the living residence portion being added later.
7. This will close a KPB Code Compliance case.
8. Lopez Avenue is a Borough maintained 60-foot dedicated right-of-way.
9. Lopez Avenue is constructed along this stretch of right-of-way.
10. The lot is 12.494 acres in size.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

1. The building setback encroachment may not interfere with road maintenance.

Findings 3, 4, 5, 8 & 9 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 3, 4, 5, 8 & 9 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 3, 4, 5, 8 & 9 appear to support this standard.

- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20-foot building setback from the parcel.

- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	<p>Out of Jurisdiction: No</p> <p>Roads Director: Griebel, Scott</p> <p>Comments:</p> <p>The request addresses the "building" setback encroachment, but does not mention the ROW encroachment of the deck structure. The placement of the building and the subsequent required support space (parking, approach) has walked the entire Lopez Ave roadway to the south side of the ROW. The as-built does not display the placement of the actual roadway. Question: Does this force the roadway onto private property to the south?</p>
SOA DOT comments	
KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie</p> <p>Floodplain Status: Not within flood hazard area</p> <p>Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan</p> <p>Habitat Protection District Status: Is NOT within HPD</p> <p>Comments: No comments</p> <p>C. State Parks</p> <p>Reviewer: VACANT</p> <p>Comments:</p>
State of Alaska Fish and Game	
Addressing	<p>Reviewer: Leavitt, Rhealyn</p> <p>Affected Addresses:</p> <p>40782 LOPEZ AVE</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names:</p> <p>IDAHO ST, BREIBY CT, LOPEZ AVE</p> <p>Existing Street Name Corrections Needed:</p> <p>BREIBY CT IS MISSPELLED.</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p>

	Comments: NO ADDITIONAL COMMENTS
Code Compliance	Reviewer: Ogren, Eric Comments: Current code compliance case. for ROW and 20 Ft building set back encroachment.
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment

RECOMMENDATION:

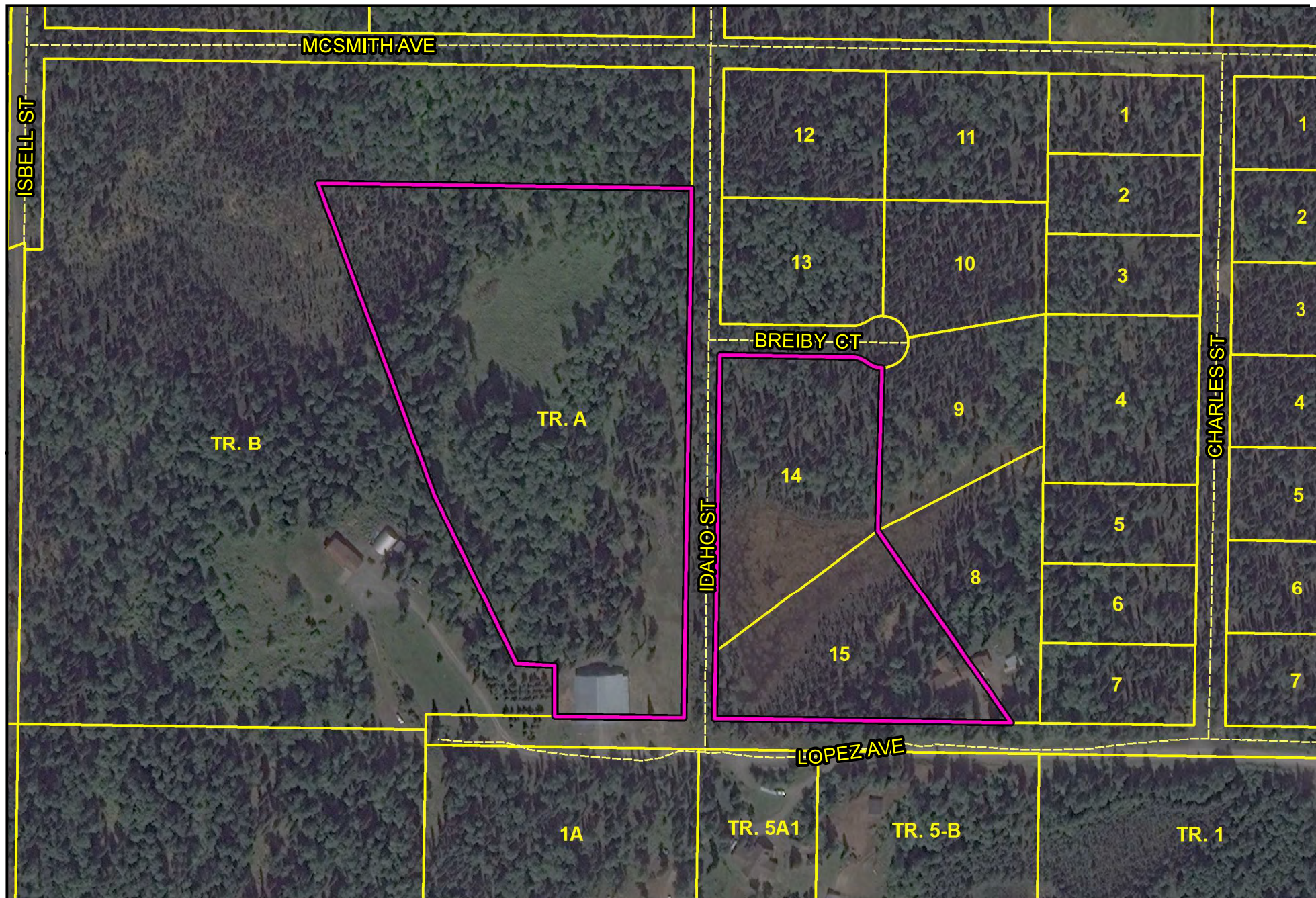
Based on the standards to grant a building setback encroachment permit, **staff recommends** to grant approval for the portion of the structures within the 20 foot building setback as shown on the as-built survey, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Removal of the deck from Lopez Avenue.
3. Providing a current as-built to be used as an exhibit drawing prepared, signed, and sealed by a licensed land surveyor.
4. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of the resolution.
5. Failure to provide an as-built so that it may be recorded within one year approval will result in a new application, hearing, and approval.

NOTE:

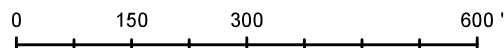
20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View



JReif, KPB
Date: 5/31/2019
Imagery: 2018

LEGEND:

- 1 1/4" ALUM. CAP MONUMENT FOUND
- 1 1/2" ALUM. CAP MONUMENT FOUND
- 5/8" REBAR w/ PLASTIC CAP 157306 FOUND
- 5/8" REBAR FOUND
- 5/8" REBAR w/ PLASTIC CAP 158558 SET
- () RECORD DATUM PLAT 2011-41 KRB

NOTES:

- 1) Date of bearing taken from plat No. 2 Subdivision, Plat 86-109 Kenai Recording District.
- 2) Building Setback: A setback of 30 feet is required from all street rights-of-way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 3) The location of Idaho Street right-of-way and easement utility easement was approved by the Planning Commission at the meeting of May 29, 2018. The PUD Assembly consented to the location at the Assembly meeting of June 19, 2018.
- 4) Covenants, conditions and restrictions which affect Lots 14A and 15A are recorded in Book 353 Page 313 Kenai Recording District.
- 5) An easement for electric lines or system land/or telephone lines granted to Kenai Electric Association, Inc. is recorded in Book 80 Page 65, Kenai Recording District.
- 6) Front 15 feet of the 20 foot building setback and the entire setback within 5 feet of the side lot line is a utility easement. No permanent structure shall be constructed or placed within a utility easement which would interfere with the utility of a utility to use the easement.
- 7) WASTEWATER DISPOSAL: Lots 14A and 15A Block 2 the parcel subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on May 2, 1986. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH IN ACCORDANCE WITH KRS 36.10.030.

KENAI PENINSULA BOROUGH

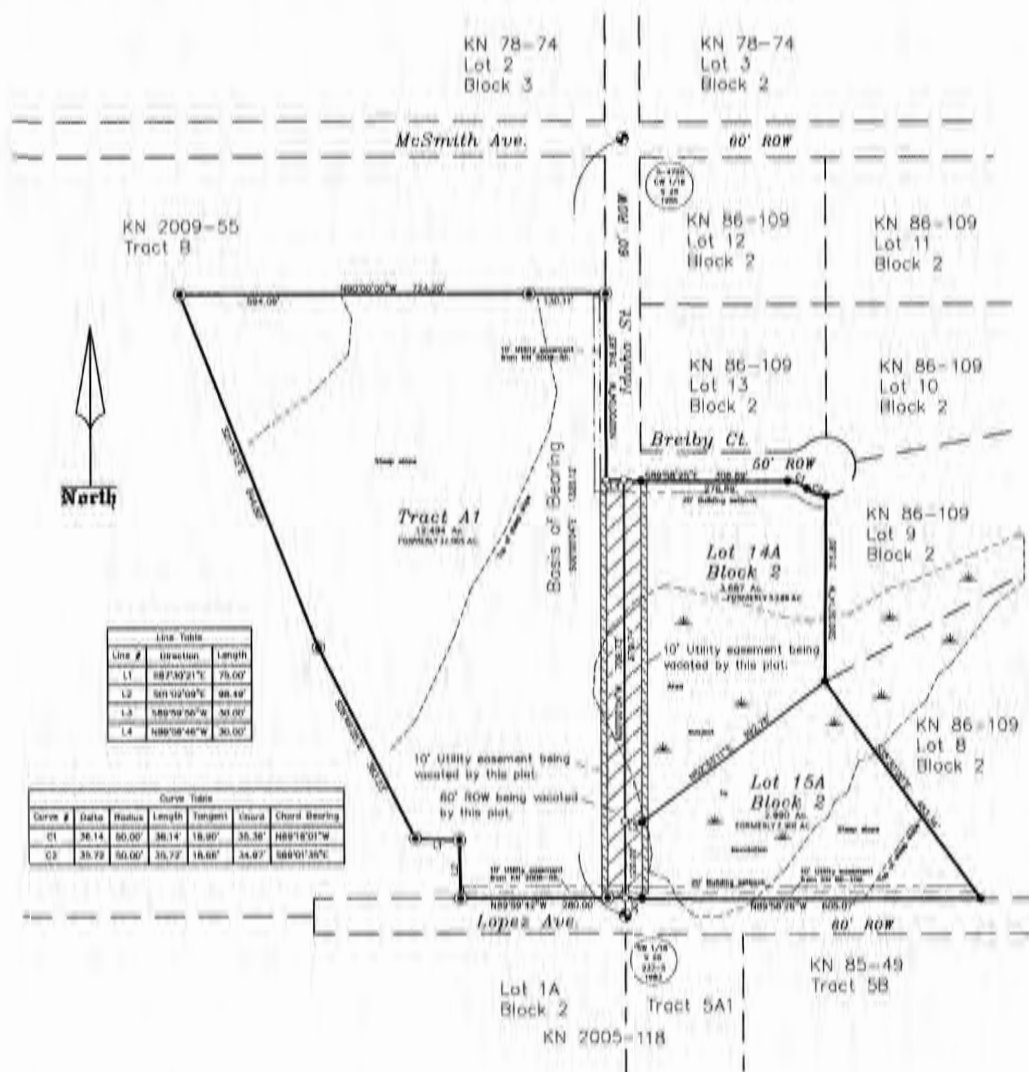
David C. Bradford
AUTHORIZED OFFICIAL



SURVEYOR'S CERTIFICATE

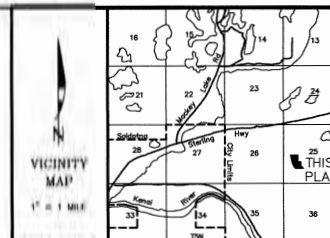
I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska. This plat represents a survey made by me or under my direct supervision. The monuments shown herein actually exist as described, and all dimensions and other details are correct.

Date 6-17-19



Line #	Direction	Length
L1	S87°30'21"E	75.00'
L2	S81°12'08"E	88.49'
L3	S89°59'50"W	50.00'
L4	N89°08'46"W	30.00'

Curve #	Data	Radius	Length	Tangent	Chord	Bearing
C1	36.14	50.00'	36.14	18.90'	36.38'	N89°18'01"W
C2	35.72	50.00'	35.72	18.90'	34.87'	S89°01'26"E



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND IS SHOWN HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

David C. Bradford
DAVID C. BRADFORD
KODIAK, ALASKA 99588
LOTS 14 & 15 BLOCK 2

Dean R. Robinson
DEAN R. ROBINSON
P.O. BOX 1858
SOLDOTNA, ALASKA 99588
(TRACT) A

NOTARY'S ACKNOWLEDGEMENT

FOR *David C. Bradford*
ACKNOWLEDGED BEFORE ME THIS 18th DAY OF June 2019

Ann E. Shinnberg
ANN E. SHINNBERG
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 02-01-2022

STATE OF ALASKA
ANN E. SHINNBERG
NOTARY PUBLIC
My Comm Exp: 2-1-22

NOTARY'S ACKNOWLEDGEMENT

FOR *Dean R. Robinson*
ACKNOWLEDGED BEFORE ME THIS 18th DAY OF June 2019

Ann E. Shinnberg
ANN E. SHINNBERG
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 02-01-2022

STATE OF ALASKA
ANN E. SHINNBERG
NOTARY PUBLIC
My Comm Exp: 2-1-22

NOTARY'S ACKNOWLEDGEMENT

FOR _____
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20____

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES _____

KPB FILE No. 2019-065

Heaven's View Subdivision
2019 Addition
Right-of-Way Vacation Plat

WITH LOTS 14 & 15 BLOCK 2, SUBDIVISION NO. 2, SUBD. AND TRACT A HEAVEN'S VIEW SUBD. A portion of a portion of Idaho Street dedicated by the plats of Subdivision No. 2, Subdivision, Plat 86-109, and Heaven's View Subdivision, Plat 1009-55, Kenai Recording District.

Located within the NE 1/4 SW 1/4 and the NW 1/4 SW 1/4 Section 25, T8N, R10W, S.M., Kenai Peninsula Borough, Alaska.

Containing 18.171 Ac

Surveyor
Reganberry Surveys
50486 Husland St.
Soldotna, AK 99588
(907) 341-8888

Owners
David Bradford Dean Robinson
40688 Lopez Ave. P.O. Box 1858
Soldotna, AK 99588 Soldotna, AK 99588

JOB NO. 18151
SURVEYED: May, 2019
FIELD BOOK: 19-2

DRAWN: 6-17-19
SCALE: 1"=100'
SHEET: 1 of 1

2019-22
KPB FILE
2019-065

Page 1 of 1

E. NEW BUSINESS

4. Conditional Land Use Permit Modification – Materials Extraction

Applicant: Tutka, LLC; Land Owner: State of Alaska

Location: T04N, R01W, SEC 24, S.M., SW Govt Lot 13

Crown Point Area

Conditional Land Use Permit for a Material Site STAFF REPORT

PC MEETING: July 17, 2023

Applicant: Tutka LLC
Landowner: State of Alaska, Department of Natural Resources
Parcel Number: 125-324-13
Legal Description: T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13
Location: Northeast of the Lawing Airport, Seward, AK 99664

BACKGROUND INFORMATION: The applicant wishes to modify their existing Conditional Land Use Permit, Resolution 2022-44, to allow night work between the hours of 8:30pm and 9:30am Sunday through Thursday night. Proposed work would include one (1) Tutka loader with white noise backup alarm, loading riprap/borrow into trucks from stockpile. Night work is requested to match DOT work restrictions and to be able to supply QAP and DOT riprap and borrow materials for the Seward Highway 17-22.5 project.

The existing site plan, which will not change, indicates that the material haul route will exit the subject parcel on the Southwest side and lead to the haul road which will be located on the Eastside of the runway and run parallel with it. At the Southern end of the runway the haul road merges with the existing access and exits onto Rock Ptarmigan Road, a Borough maintained facility. From here, the route turns West and makes its way to the Seward Highway, a State maintained facility.

The site plan and application proposes the following buffers:

North: Greater than 50-foot native vegetation
South: Greater than 50-foot native vegetation
East: Greater than 50-foot native vegetation
West: Greater than 50-foot native vegetation

The subject property is bordered on the North, East and South sides by parcels owned by the State of Alaska, Department of Natural Resources. On the Westside of the property, is the Right of Way for the Alaska Railroad and a parcel that is privately owned and occupied.

The site plan completed by McLane Consulting Inc., states that ground water is not anticipated due to the manufacture of materials from the rock face. Water has also not been encountered during past mining activities. The application states that the proposed vertical excavation will be 30 feet up into the cliff face. Plan notes state that there are no wet lands or surface waters within the proposed excavation area. A central area will be maintained for processing, screening and sorting of riprap. This processing area meets or exceeds the 300-foot setback from the property line. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates that there are no wells located within 100 or 300 feet from the proposed use area.

Plan notes state that reclamation will include leaving the rock face in a safe and stable form, stockpiling any unused materials and re-grading the processing area floor. This site will also be subject to Alaska Department of Natural Resources material site agreement and reclamation standards.

The applicant estimates a life span of 15 years for the site and an annual quantity will be approximately 53,000 cubic yards. This amount of material will make the site ineligible for a Small Operation Exemption pursuant to AS 27.19.050 and therefore will require bonding. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond to cover the anticipated reclamation cost and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

PUBLIC NOTICE: Public notice of the application was mailed on or before June 30, 2023 to the 26 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was sent to the postmaster covering Moose Pass area and requesting that it be posted at the closest Post Office.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on June 29, 2023.

ATTACHMENTS

- Conditional Land Use Permit - application and associated documents
- Aerial map
- Ownership map
- Liar map
- Alaska Department of Natural Resources – Draft Reclamation Documents

FINDINGS OF FACT

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 29, 2023 the applicant, Tutka LLC, submitted a conditional land use permit modification application to the Borough Planning Department for KPB Parcel 125-324-13, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
5. The proposed cumulative disturbed area within the parcel is approximately 6 acres.
6. To meet material site standard 21.29.040(A)(1), the proposed activity must protect against lowering of water sources serving other properties by complying with required permit conditions KPB 21.29.050(A)(4), Water Source Separation; KPB 21.29.050(A)(5), Excavation in The Water Table; KPB 21.29.050(A)(6), Waterbodies.
7. The application indicates that the seasonal high-water table is unknown, but a visual inspection of the rock face, found no evidence of water.
8. The applicants intended depth of excavation will be 30 feet vertically up into the cliff face.
9. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
10. The applicant is required not to dewater either by pumping, ditching or some other form of drainage.
11. The site plan indicates that there are no wells located within 300 feet of the proposed excavation area.
12. The application states that work is not anticipated to be completed in the water table.
13. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
14. To meet material site standard 21.29.040(A)(2), the proposed activity must be conducted in a

manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050 (A)(1), Parcel Boundaries; KPB 21.29.050(A)(2), Buffer Zone; KPB 21.29.050(A)(7), Fuel Storage.

15. The site plan indicates the property boundary within 300 feet of the work area was flagged in 2019.
16. The site plan and application propose the following buffers:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.These buffers shall not overlap an easement.
17. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
18. To meet material site standard 21.29.040(A)(3), the proposed activity must be conducted in a manner which minimizes the off-site movement of dust by complying with required permit condition KPB 21.29.050(10), Dust Control.
19. The applicant is required to provide dust control by the use of water and calcium chloride.
20. The site plan indicates that the material haul route will be to the Southwest of the subject parcel leading to a newly constructed haul road. The haul road will be located on the Eastside of the runway and run parallel with it. At the Southern end of the runway the haul road merges with the existing access and exits onto Rock Ptarmigan Rd., a Borough maintained facility. From here, the route turns West and makes its way to the Seward Highway a State maintained facility.
21. To meet material site standard 21.29.040(A)(4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with required permit conditions KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.
22. The site plan and application propose the following buffers:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.These buffers shall not overlap an easement.
23. The applicant indicates that material processing will take place on the property. Any equipment used for processing, screening and sorting of riprap materials will be operated at least 300 feet from all property lines. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
24. To meet material site standard 21.29.040(A)(5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.
25. The site plan and application propose the following buffers:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.

West: Greater than 50-foot native vegetation.
These buffers shall not overlap an easement.

26. To meet material site standard 21.29.040(A)(6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
27. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
28. The bonding requirement of KPB 21.29.050(12)(b) will apply to this material site, because extraction is expected to be around 53,000 cubic yards of material. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamation costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.
29. A public hearing of the Planning Commission was held on July 17, 2023 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

STAFF RECOMMENDATION

In reviewing the application staff has determined that the six standards contained in KPB 21.29.040 will be met and recommends that the Planning Commission approve the conditional land use permit with listed conditions, and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway, roadway and entry permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.These buffers shall not overlap an easement.
3. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
4. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.

9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
14. The permittee shall update their reclamation plan to include all provisions listed in the State of Alaska Department of Natural Resources reclamation plan. If there are any conflicts between the reclamation plans, the more site-specific provision shall control.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
16. The permittee shall post a bond to cover the anticipated reclamation costs in an amount determined by AS 27.19.040 unless the State of Alaska waives their requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond in the amount to be determined by the planning director and as stated in KPB 21.29.050.
17. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
18. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
19. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
20. This conditional land use permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
21. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

Voluntary Permit Conditions

22. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(4): The permittee shall not detonate explosives or blasting agents between the hours of 5:00 pm and 9:00 am Monday through Friday and will not detonate explosives or blasting agents on Saturday or Sunday.
23. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(2) and 21.29.040(A)(4): The permittee shall notify all residential or commercial properties within one and one-half miles (1.5 miles) of the blasting site prior to each blast.

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A “party of record” is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

KPB 21.29

Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

I. APPLICANT INFORMATION

☐ New

☒ Modification [2022-44]

Applicant Tutka, LLC Landowner State of Alaska Dept. of Natural Resources
Address 2485 E Zak Circle, Suite A Address 550 W 7th Avenue, Suite 1260
City, State, Zip Wasilla, AK 99654 City, State, Zip Anchorage, AK 99501
Telephone 907-357-2238 Cell 907-671-7998 Telephone 907-269-8400 Cell _____
Email kyle@tutkallc.com Email dnr.pic@alaska.gov

II. PARCEL INFORMATION

KPB Tax Parcel ID# 12532413 Legal Description SW Gov't Lot 13 T4N R1W Sec 24 Seward Meridian

If permit is not for entire parcel, describe specific location within parcel to be material site, e.g., "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".

Southwesterly section

III. APPLICATION INFORMATION

☒ "Check" boxes below to indicate items included.

- ☒ \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- ☒ Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
- | | |
|--|--|
| <input type="checkbox"/> parcel boundaries | <input type="checkbox"/> location/depth of testholes, and depth to groundwater, if encountered |
| <input type="checkbox"/> location of boundary stakes within 300 ft. of excavation area (to be in place at time of application) | <input type="checkbox"/> location of all wells within 300 ft. of parcel boundary |
| <input type="checkbox"/> proposed buffers, or requested buffer waiver(s) | <input type="checkbox"/> location of water bodies on parcel, including riparian wetlands |
| <input type="checkbox"/> proposed extraction area(s), and acreage to be mined | <input type="checkbox"/> surface water protection measures |
| <input type="checkbox"/> proposed location of processing area(s) | <input type="checkbox"/> north arrow and diagram scale |
| <input type="checkbox"/> all encumbrances, including easements | <input type="checkbox"/> preparer's name, date and seal |
| <input type="checkbox"/> points of ingress and egress | |
| <input type="checkbox"/> anticipated haul routes | |
- ☒ Site Plan Worksheet (attached)
- ☐ Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050 >> Tutka's Reclamation Plan and Bond are on file with KPB.

Please Note: If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

Kyle Johnson
Applicant

6 / 29 / 2023
Date

Landowner (required if not applicant)

Date

Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant Tutka, LLC Owner State of Alaska DNR

KPB Tax Parcel ID # 12532413 Parcel Acreage 46.06

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) _____ acres
2. Material to be mined (check all that apply): ☐ gravel ☐ sand ☐ peat ☐ other(list) _____
3. Equipment to be used (check all that apply): ☐ excavation ☐ processing ☐ other _____
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

☐ 50 ft. of natural or improved vegetation

☐ minimum 6 ft. earthen berm

☐ minimum 6 ft. fence

☐ other _____

☐ N ☐ S ☐ E ☐ W

☐ N ☐ S ☐ E ☐ W

☐ N ☐ S ☐ E ☐ W

☐ N ☐ S ☐ E ☐ W

5. Proposed depth of excavation: _____ ft. Depth to groundwater: _____ ft.
6. How was groundwater depth determined? _____
7. A permit modification to enter the water table will be requested in the future: ____Yes ____No
8. Approx. annual quantity of material, including overburden, to be mined: _____ cubic yards
9. Is parcel intended for subdivision? ____Yes ____No
10. Expected life span of site? ____years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)

12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)

A. _____

B. _____

C. _____

Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a “non-invasive” plant species.
3. Total acreage to be reclaimed each year: _____ acres
4. List equipment (type and quantity) to be used in reclamation:

5. Describe time schedule of reclamation measures:

6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – ☒ “**check” all that apply to your plan.**

☐ Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

☐ The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

☐ Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

☐ Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

☐ Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

☐ Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

ADDITIONAL APPLICATION COMMENTS

(Please indicate the page and item # for which you are making additional comments.)

MODIFICATION:

Tutka would like to propose a revision to operations that would allow night work between the hours of 8:30 PM and 9:30 AM Sunday night through Thursday night. Work would be limited to one (1) Tutka loader with white noise backup alarm, loading riprap/borrow from stockpile into QAP contracted trucks. Night work is requested to match DOT work restrictions and to be able to supply QAP and DOT riprap materials for the Seward Highway 17-22.5 project.

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

APPLICANT :
TUTKA LLC.
2485 E. ZAK CIRCLE
WASILLA, AK 99654



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-23
SEWARD RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel described T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13, Seward Recording District., Third Judicial District, State of Alaska.

- WHEREAS,** on October 10, 2022, the planning commission approved a material site on the subject property with Resolution 2022-44; and
- WHEREAS,** KPB 21.29.070(D) allows operators to request modification of their permit conditions based on changes in operation; and
- WHEREAS,** on June 29, 2023 the applicant, Tutka LLC, submitted to the Borough Planning Department a conditional land use permit modification application for a portion of KPB Parcel 125-324-13, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on or before June 30, 2023 to the 26 landowners or leaseholders within ½ mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice was sent to the postmaster in the Crown Point area of Moose Pass requesting that it be posted at the nearest Post Office; and
- WHEREAS,** public notice of the application was published in the July 5, 2023 and July 12, 2023 issues of the Seward Journal; and
- WHEREAS,** a public hearing was held at the July 17, 2023 meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

FINDINGS OF FACT

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 29, 2023 the applicant, Tutka LLC, submitted a conditional land use permit modification application to the Borough Planning Department for KPB Parcel 125-324-13, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.

5. The proposed cumulative disturbed area within the parcel is approximately 6 acres.
6. To meet material site standard 21.29.040(A)(1), the proposed activity must protect against lowering of water sources serving other properties by complying with required permit conditions KPB 21.29.050(A)(4), Water Source Separation; KPB 21.29.050(A)(5), Excavation in The Water Table; KPB 21.29.050(A)(6), Waterbodies.
7. The application indicates that the seasonal high-water table is unknown, but a visual inspection of the rock face, found no evidence of water.
8. The applicants intended depth of excavation will be 30 feet vertically up into the cliff face.
9. If water is encountered the applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
10. The applicant is required not to dewater either by pumping, ditching or some other form of drainage.
11. The site plan indicates that there are no wells located within 300 feet of the proposed excavation area.
12. The application states that work is not anticipated to be completed in the water table.
13. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
14. To meet material site standard 21.29.040(A)(2), the proposed activity must be conducted in a manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050 (A)(1), Parcel Boundaries; KPB 21.29.050(A)(2), Buffer Zone; KPB 21.29.050(A)(7), Fuel Storage.
15. The site plan indicates the property boundary within 300 feet of the work area was flagged in 2019.
16. The site plan and application propose the following buffers:
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 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.These buffers shall not overlap an easement.
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19. The applicant is required to provide dust control by the use of water and calcium chloride.
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- route turns West and makes its way to the Seward Highway a State maintained facility.
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 24. To meet material site standard 21.29.040(A)(5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.
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 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.These buffers shall not overlap an easement.
 26. To meet material site standard 21.29.040(A)(6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
 27. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
 28. The bonding requirement of KPB 21.29.050(12)(b) will apply to this material site, because extraction is expected to be around 53,000 cubic yards of material. The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamation costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.
 29. A public hearing of the Planning Commission was held on September 26, 2022 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

SECTION 2. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:

CONCLUSIONS OF LAW

1. Material site standard 21.29.040(A)(1) is met because even though the seasonal high-water table is unknown, a visual inspection of the rock face, found no evidence of water, as set forth in Finding 7.
2. Material site standard 21.29.040(A)(2) is met because the permittee shall maintain a 2:1 slope

- between the buffer zone and pit floor on all inactive site walls and shall not allow buffers to cause surface water diversion too negatively impact adjacent properties.
3. Material site standard 21.29.040(A)(3) is met because the permittee will use water and calcium chloride on the driveways throughout the excavation area to minimize the movement of off-site dust.
 4. Material site standard 21.29.040(A)(4) is met because site plan indicates the following noise buffers:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.
 Material site standard 21.29.040(A)(4) is also met, because any equipment used for conditioning or processing materials will be operated at least 300 feet from the parcel boundaries and any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
 5. Material site standard 21.29.040(A)(5) is met because the site plan indicates the following visual screening buffers:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.
 6. Material site standard 21.29.040(A)(6) is met because the applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a) and (b).

SECTION 3. That the land use and operations are described and shall be conducted as follows:

1. A portion of KPB Tax Parcel Number 125-324-13. The disturbed area within the parcel is approximately 6 acres.
2. Legal Description: **T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13, Seward Recording District.,** Third Judicial District, State of Alaska.
3. The applicant, Tutka, LLC proposes to:
 - a. Extract gravel and sand from the subject parcel;
 - b. Process materials on the subject parcel;
 - c. Reclaim the site to a stable condition upon depletion of material.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - North: Greater than 50-foot native vegetation.
 - South: Greater than 50-foot native vegetation.
 - East: Greater than 50-foot native vegetation.
 - West: Greater than 50-foot native vegetation.
 These buffers shall not overlap an easement.
3. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
4. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall

- take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
 11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
 12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
 13. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
 14. The permittee shall update their reclamation plan to include all provisions listed in the State of Alaska Department of Natural Resources reclamation plan. If there are any conflicts between the reclamation plans, the more site-specific provision shall control.
 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
 16. The permittee shall post a bond to cover the anticipated reclamation costs in an amount determined by AS 27.19.040 unless the State of Alaska waives their requirements. In the case of a waiver the Kenai Peninsula Borough would require the applicant to post bond in the amount to be determined by the planning director and as stated in KPB 21.29.050.
 17. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
 18. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
 19. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 20. This conditional land use permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
 21. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

Voluntary Permit Conditions

22. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(4): The permittee shall not detonate explosives or blasting agents between the hours of 5:00 pm and 9:00 am Monday through Friday and will not detonate explosives or blasting agents on Saturday or Sunday.
23. The Planning commission and the Permittee have agreed to the following voluntary condition to further support Standard 21.29.040(A)(2) and 21.29.040(A)(4): The permittee shall notify all residential or commercial properties within one and one-half miles (1.5 miles) of the blasting site prior to each blast.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS _____ DAY OF _____, 2022.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

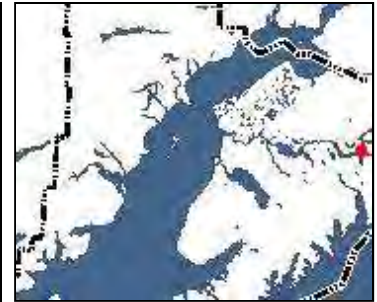
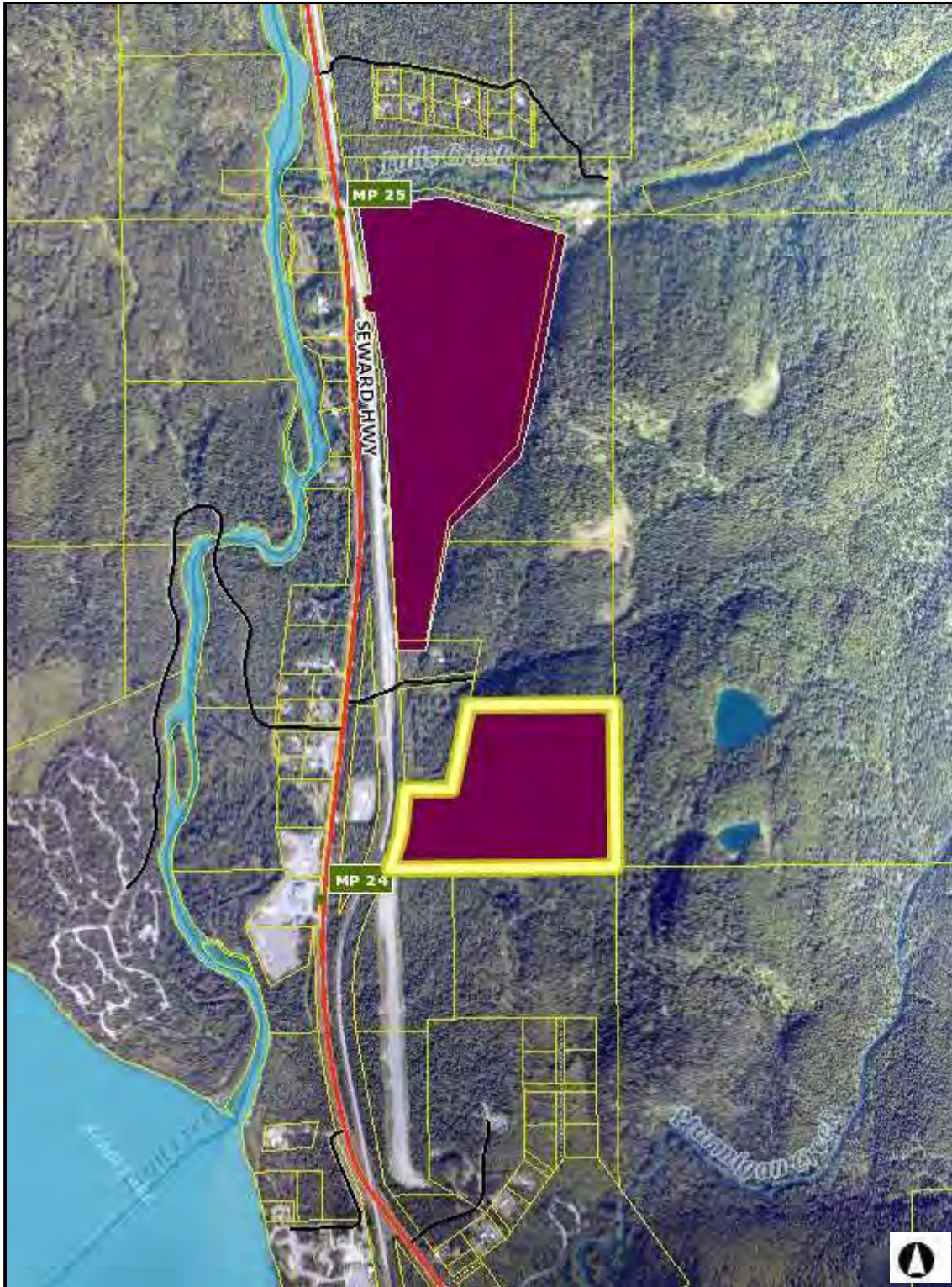
PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

Aerial Map: 125-324-13





Area Land Use Map: 125-324-13



Legend

- Mileposts
- City Limits
- Highways
- Major Roads
- Roads
 - Town Medium Volume
 - Town Low/Seasonal; Other
 - Proposed
- Parcels
- Material Sites
 - Conditional Land Use Permit
 - Counter Permit
 - Dewatered Bar Exemption
 - Prior Existing Use
- Image
 - Red: Red
 - Green: Green
 - Blue: Blue

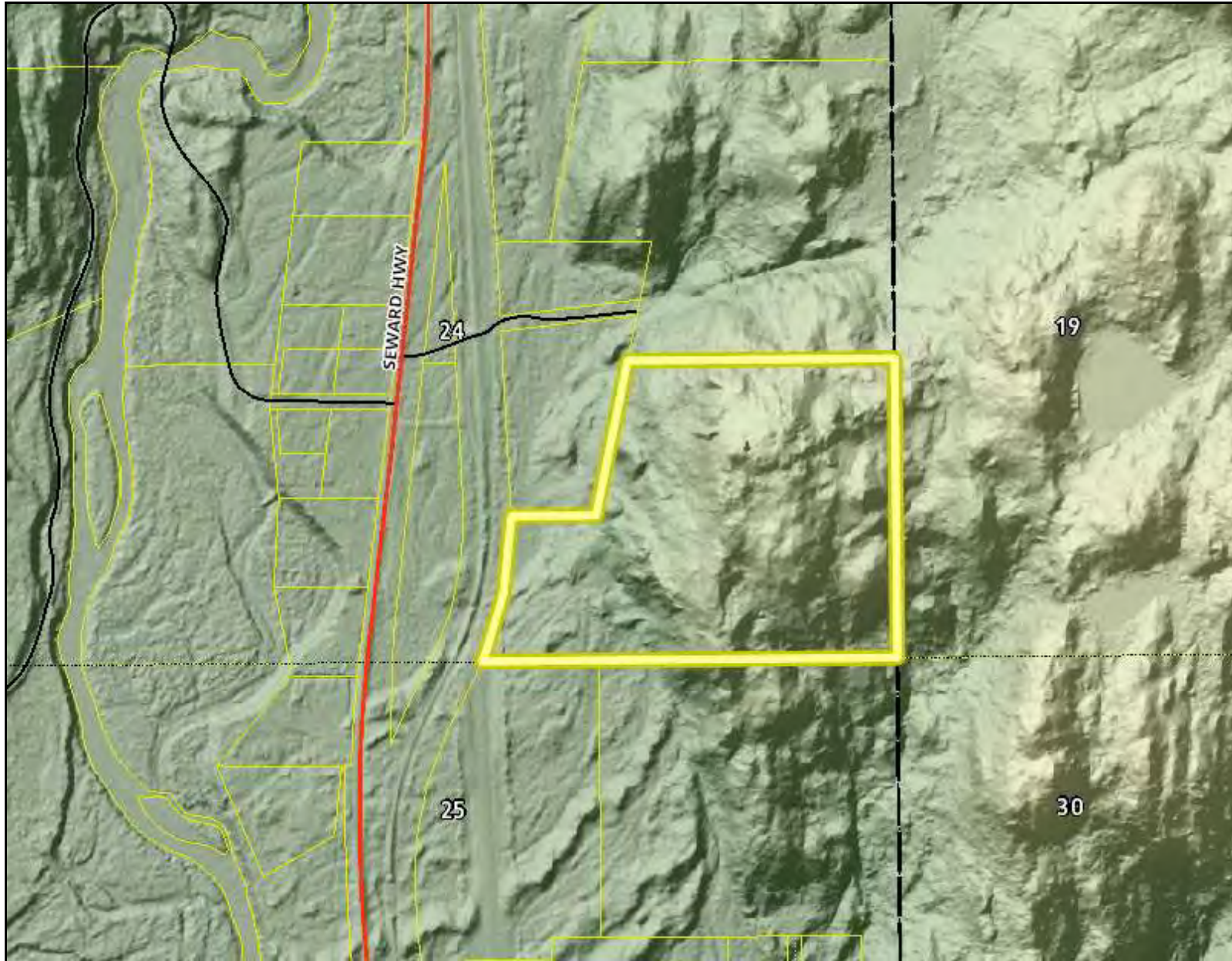
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. It is not to be used for navigation.

Notes

Type any notes here.

DATE PRINTED: 6/30/2023

Lidar Map: 125-324-13



Legend

- Major Roads
- [] Township Lines
- [] Section Lines
- [] Parcels

Click for LiDAR info - Seward

High : 2600

Low : 0

Click for LiDAR elevation info

High : 2600

Low : 0

Hillshade

High : 254

Low : 0

Hillshade Seward


High : 254

Low : 0

HillshadeEast

High : 254

Low : 0

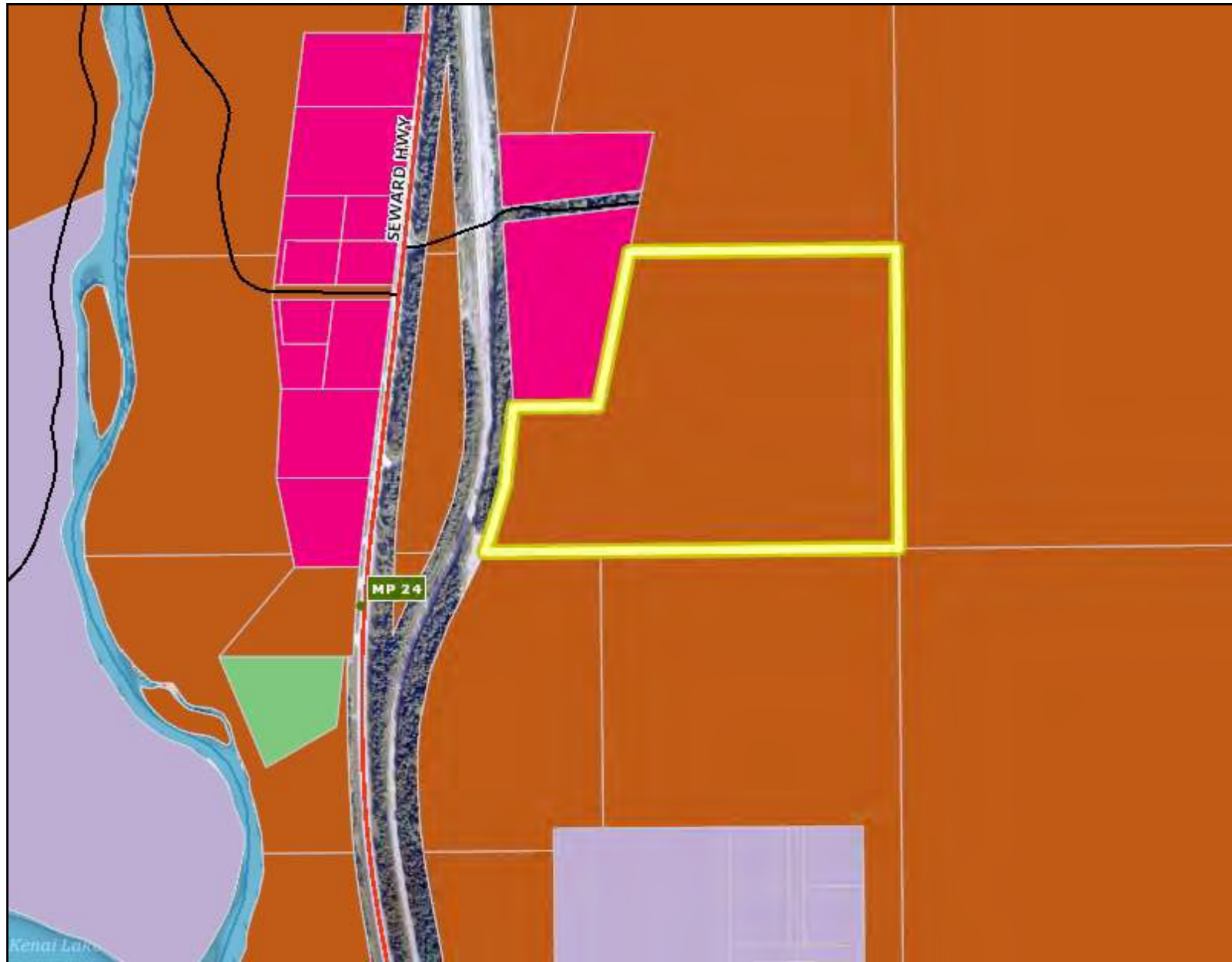
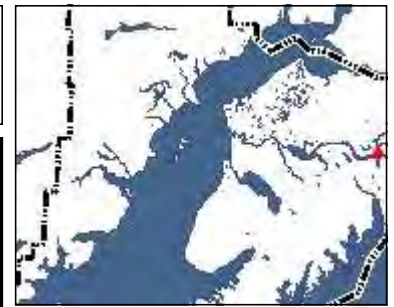


Notes

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Do not use for navigation.

DATE PRINTED: 8/18/2022

Ownership Map:125-324-13



Legend

- Mileposts
- City Limits
- Highways
- Major Roads
- Roads**
 - Town Medium Volume
 - Town Low/Seasonal; Other
 - Proposed
- Ownership**
 - Borough
 - Federal
 - Municipal
 - Native
 - Native Allotment
 - Private
 - State



Notes

Enter map notes here.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Do not use for navigation.

DATE PRINTED: 8/18/2022



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Peter Micciche
Borough Mayor

«OWNER»
«ATTENTION»
«ADDRESS»
«CITY», «STATE» «ZIPCODE»

KENAI PENINSULA BOROUGH PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Public notice is hereby given that a conditional land use permit modification application has been received for materials extraction on a parcel in the Crown Point area of Moose Pass. This notice is being sent to landowners located within 2640 feet of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Tutka, LLC

Please turn over for map.

Landowner: State of Alaska, Department of Natural Resources

Parcel Number: 125-324-13

Legal Description: T 4N R 1W SEC 24 SEWARD MERIDIAN SW GOVT LOT 13

Location: Northeast of the Lawing Airport, Seward, AK 99664

Proposed Land Use: The applicant wishes to obtain a permit modification for an existing conditional land use permit for portion of the parcel listed above.

KPB Code: Conditional land use permit modification applications are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or on the KPB website at: borough.kenai.ak.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday July 17, 2023** commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held in the assembly chambers of the borough administration building located at 144 N. Binkley Street, Soldotna, Alaska and through Zoom, **Meeting ID 907 714 2200**. To attend the Zoom meeting via computer, visit : <https://us06web.zoom.us/j/9077142200>. To attend by telephone call toll free **1-888-788-0099 or 1-877-853-5247**.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to: rraidmae@kpb.us, or faxed to (907) 262-5992. **Written statements must be provided by 1:00 pm Friday, July 14, 2023.** Persons, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

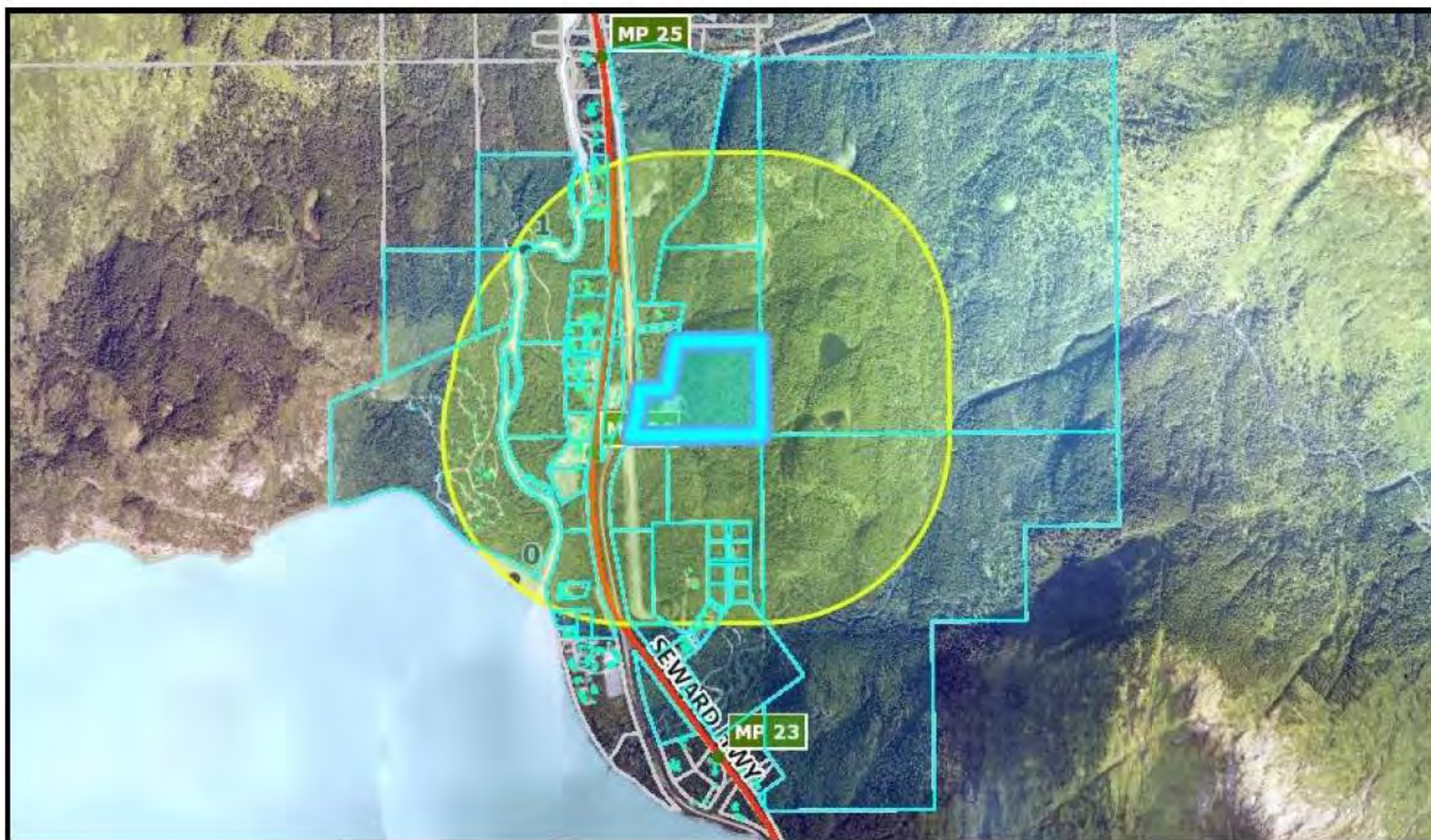
For additional information about this application, please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Kenai Peninsula Borough).

Ryan Raidmae
KPB Planner **Ph:** (907) 714-2462



Kenai Peninsula Borough

Parcels Within 1/2 Mile of Proposed CLUP 6/29/2023 1:00





August 15, 2022

Kenai Peninsula Borough

ATTN: Ryan Raidmae
KPB Planner
(907) 714-2462
Planning Department
514 Funny River Road
Soldotna, AK 99669

Department of Natural Resources

ATTN: Amber-Lynn Taber
Natural Resource Specialist
(907) 269-8560
Div. of Mining, Land & Water-Land Office
550 West 7th Avenue Suite 900c
Anchorage, AK 99501

RE: **MATERIAL SITE RECLAMATION PLAN / ADL 231623 / MS 31-1-016-1 / Parcel 12532413**

Ryan and Amber-Lynn,

Tutka, LLC (Tutka) proposes to use the above referenced site as a material source for the following United States Army Corps. of Engineers project that requires Rock (Riprap) B, & C. Ninilchik Harbor Revetment Replacement (Project No. NIL003 / Solicitation No. W911KB22C00030004).

Additional Owners/Operators: The material site is located within the Kenai Peninsula Borough and Tutka will complete and comply with a KPB Conditional Land Use Permit for mining operations. The ADOT Airport Right-of-Way controls access to the material site across the Lawing Airport property. Tutka has coordinated with the ADOT Airport Leasing office for site access approval via a Boundary Crossing Permit. Advanced Blasting Services will be subcontracted by Tutka to perform rock drilling and shooting.

KPB Contact:	ADOT Airport Leasing Contact:
Ryan Raidmae (rraidmae@kpb.us) Planner 514 Funny River Road Soldotna, AK 99669 907-714-2462	Jarod Urban (jarod.urban@alaska.gov) Airport Leasing Specialist 411 Aviation Ave. Anchorage, AK 99502 907-269-0742
Advanced Drilling Contact (Sub.):	ADOT&PF Contact:
Billy Rosseau (billy@advancedblastingak.com) Superintendent 281 S Conquest Circle Wasilla, AK 99623 907-357-2930	Sean Montgomery (sean.montgomery@alaska.gov) Peninsula District Superintendent M&O P.O. Box 1327 Soldotna, AK 99669 907-262-2199

Maps: A USGS quadrangle map from the DOT&PF Material Site Report is attached depicting the material site location. The material site is located off of the northeast corner of Lawing Airport near Crown Point, AK.

Diagram of Mined Area: The previously mined area and proposed mining area are depicted in an attached layout plan sheet that shows the extraction site, property boundaries of the site, and other pertinent site layout information. No stream diversions or settling ponds are anticipated at the mining location as mining will be performed into an open rock face and no groundwater discharge has been observed in the local geography.

List of Equipment: Equipment listed below will be available for reclamation of the material site.

Equip Type	Qty
Excavator	2
Front End Loader	1
Side Dump	2-4
Rock Truck	1

Mining Schedule:

- | | |
|---|-------------------------------------|
| 1) Haul Road Construction | 20 Sep 22 → 30 Sep 22 |
| 2) Clear and Grub | 20 Sep 22 → 24 Sep 22 |
| 3) Drilling & Blasting | 26 Sep 22 → 30 Sep 22 (& as needed) |
| 4) Sorting & Hauling (Ninilchik Harbor) | 03 Oct 22 → 30 Oct 24 |
| 5) Sorting & Hauling (Future project) | 01 Nov 24 → 30 Oct 26 |
| 6) Final Reclamation | 30 Nov 26 |

Material drilling and blasting will take place through the Fall of 2023. The site will be stabilized by November 2023 for the extent of rock extraction in that year. Rock placement at Ninilchik Harbor may extend into the 2024 season per project specs., depending on 2023 progress. The site will be left clean, with any extra blasted material stockpiled per ADNR requirements and the rock face will be left in a stable condition.

Reclamation of the site at locations along the mining face where rock is depleted will be finished on conclusion of all off-site rock hauling activities including re-spreading of conserved topsoil.

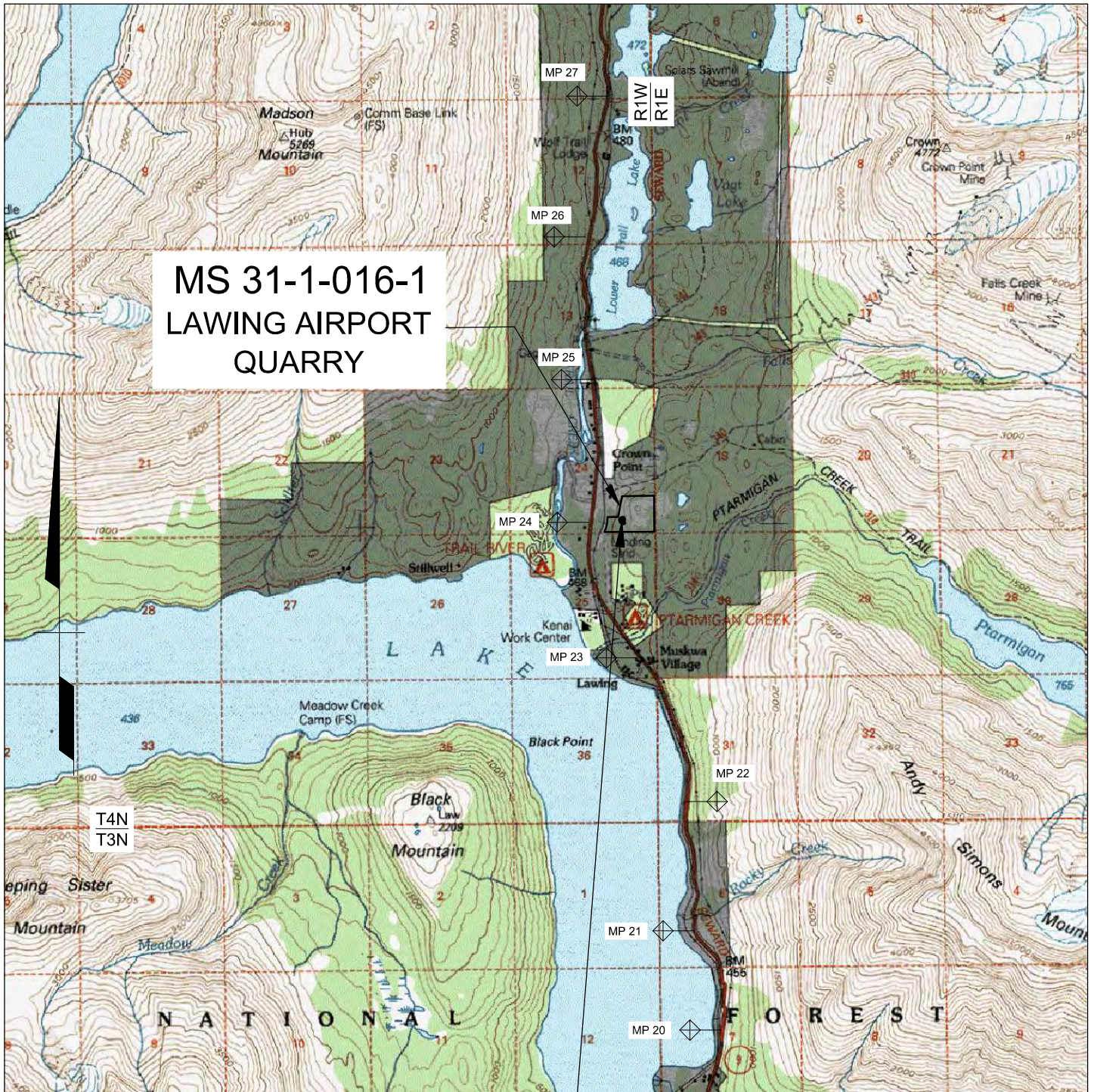
Please call or e-mail if you require additional information or have any questions.

Sincerely,



Kyle Johnson
Environmental Scientist
Tutka, LLC
kyle@tutkallc.com

LOCATION MAP



U.S.G.S. QUADRANGLE: SEWARD (B-7)

GPS COORDINATES FROM GOOGLE EARTH PRO

UTM (WGS84-METERS)
 ZONE 6: N6,700,109 E369,658
 AK STATE PLANE (NAD83-US SURVEY FT)
 ZONE 4: N2,344,573 E1,754,837

ACTIVE - STATUS UNKNOWN



GRAPHIC SCALE IN MILES

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 31-1-016-1			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE MAY 2007	PAGE 2

BASE MAP CREATED WITH TERRAIN NAVIGATOR PRO

E4-27

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

APPLICANT :
TUTKA LLC.
2485 E. ZAK CIRCLE
WASILLA, AK 99654

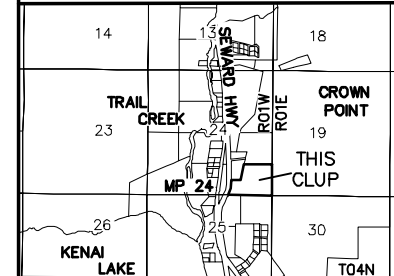


SCALE
0 250 500
FEET



VICINITY MAP

Scale 1" = 1 Mile



CLUP DEVELOPMENT NOTES

1. PERMIT APPLICATION IS FOR KPB PARCEL 12532413, TOWNSHIP 4N, RANGE 1W, SECTION 24 SEWARD MERIDIAN.
2. THE PROPERTY IS OWNED BY STATE OF ALASKA AND MANAGED BY DEPARTMENT OF NATURAL RESOURCES AS A MATERIAL SITE. TUTKA, LLC, THE APPLICANT, HAS PREVIOUSLY UTILIZED THE SITE UNDER A 2019 KPB COUNTER PERMIT.
3. THE PRIMARY MATERIAL SITE USE OF THIS SITE IS AS A ROCK QUARRY FOR RIPRAP MATERIALS. THE MAJORITY OF THE PROPERTY IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED PRIMARY INGRESS/EGRESS IS TO DEPARTMENT OF TRANSPORTATION PROPERTY, EAST OF AND ADJACENT TO THE MOOSE PASS RUNWAY AND THEN PTARMIGAN PASS ROAD TO THE SEWARD HIGHWAY.
4. THE PREFERRED BUFFER IS MAINTAINING GREATER THAN 50' OF NATIVE VEGETATION ON ALL SIDES.
5. THE EXISTING DISTURBED AREA WILL BE UTILIZED FOR SORTING AND STOCKPILING ROCK.
6. THERE ARE NO WELLS LOCATED WITHIN 100' OR WITHIN 300' OF THE WORK AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED.
7. THERE ARE NO WETLANDS OR SURFACE WATERS.
8. TEST HOLES WERE NOT EXCAVATED. NO GROUNDWATER WAS ENCOUNTERED IN THE 2019 USE OF THIS SITE. THIS PROJECT IS UTILIZING A ROCK FACE TO MANUFACTURE MATERIALS, NOT EXCAVATION.
9. NATIVE VEGETATION WILL CONTINUE TO PROVIDE SURFACE WATER PROTECTION OF ANY SITE RUN-OFF BY WAY OF PHYTOREMEDIATION.
10. RECLAMATION WILL INCLUDE LEAVING THE ROCK FACE IN A SAFE AND STABLE FORM, STOCKPILING ANY UNUSED MATERIALS AND RE-GRADING THE PROCESSING AREA FLOOR. THIS SITE WILL ALSO BE SUBJECT TO ADNRR MATERIAL SITE AGREEMENT RECLAMATION STANDARDS.
11. THE PROPERTY BOUNDARIES WITHIN 300' OF THE WORK AREA, AS SHOWN, WERE FLAGGED IN 2019.

LEGEND

- PROPERTY LINE
- - - SECTION LINE
- PRIMARY MONUMENT
- PROPERTY CORNERS
- - - EXISTING DISTURBED
- PROPOSED BUFFER TREELINE
- XX BOUNDARY STAKES (2019)

TUTKA LLC.
MP 24.1 SEWARD HIGHWAY
CONDITIONAL LAND USE PERMIT



McLANE
Consulting Inc.

ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK 99669
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANECO.COM

DRAWN BY: BGB/GMD

CHECKED BY: GMD

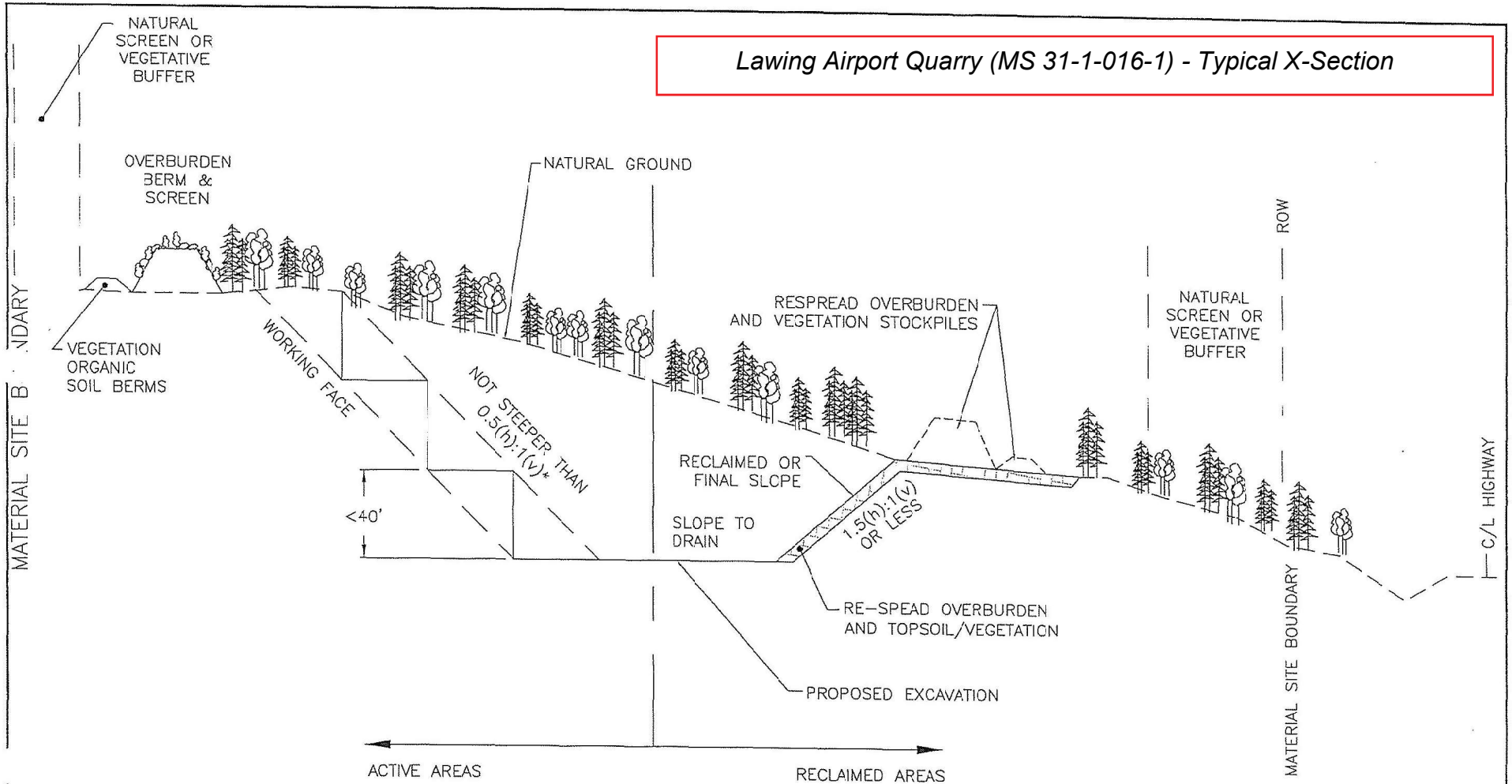
HORZ. SCALE: 1" = 250'

VERT. SCALE: N/A

SHEET:

P1 of 2

Lawing Airport Quarry (MS 31-1-016-1) - Typical X-Section



* MAXIMUM SLOPE ANGLE DEPENDS ON SITE-SPECIFIC PARAMETERS AND SHOULD BE DETERMINED FOR INDIVIDUAL SITES.

TYPICAL CROSS SECTION OF ROCK EXCAVATION

NOT TO SCALE

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

DATA: SM	
DRAWN: RDP	
APPROVED:	
DATE: JAN 2008	Q:\Geo\62622\Drafting\Xsect_rock_excavation-1

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

4. Conditional Land Use Permit Modification

Materials Extraction; PC RES 2023-23

Applicant: Tutka, LLC; Land Owner: State of Alaska

Location: T04N, R01W, SEC 24, S.M., SW Govt Lot 13

Crown Point Area

To: Kenai Peninsula Planning Commission Chairman
Re: Scheduled Public Hearing Monday, July 17, 2023 on Conditional land use permit modification application for Parcel Number 125-324-13

To: KPB Planning Commission Members:

My husband and I own and reside on the residential parcel immediately north and west of Parcel 125-324-13. In September 2022 I opposed the CLUP expansion due to unresolved concerns and questions. In addition to the operator's request for hours of operation extension many of my concerns and questions are now more urgent and are listed below. I would appreciate your consideration of each.

1 – **Night time operations from 8:30 pm to 9:30 am Sunday through Thursday** Riprap loading and incessant alarming back-up beeping violate the intent of the KPB ordinance to prohibit disturbance at night. Crown Point is residential on three sides of the quarry parcel. Crown Point residents should be protected from this intolerable disturbance, especially for a plan to last for the next 15 years.

2 – **Fifty ft Buffer zones.** The property line between our residential parcel and the State of Alaska parcel is a rocky cliff. A 50 ft buffer shows a lack of understanding of the terrain, or willful misleading of that required to protect private property. A more thorough review is needed in light of the incremental encroachment so far advanced and not addressed by the permit.

Special concerns by us, the adjacent property owners:

3- **Quarry Expansion.** Concerns will be magnified if expansion continues. Permitting incrementally, as has happened, will not protect against damage to our property from this CLUP. The map provided indicates the quarry will extend along the complete length of our property on our south and east side. Unless the KPB Planning Commission understands the mountainous nature of the area it will be impossible to understand how the permit buffers, blasting, drainage, hours of operation, hauling, etc. magnify exponentially with expansion.

4 – **Blasting effects.** Previous notification prior to blasting has been inadequate, but worse is the strength of the blasts. Several have felt worse than any earthquake we've had. More information is needed on the potential geological effects on adjacent properties to prevent potential damage to residential structures.

5 – **Slope stability.** The entire property line between the quarry parcel and our private parcel is a rocky, cliff-like foothill of a ridge up to hundreds of feet high. Alaska soils are thin and stability depends on the intact forests currently present. My concern is that blasts and only a "50 ft buffer" will cause instability.

6 – **Water drainage effects.** Water drainage off the mountain ridge cited above would inevitably be changed by quarry operations and blasting. A haul road to our west related to this project already may block drainage of water off our property and is yet to be addressed by permitting.

Conclusion - I request that KPB Planning Commission representative please take my concerns seriously, gather more information including from a site visit and a meeting with my husband and myself about these issues before continuing to approve permit applications for this parcel.

Thank you for your attention,

Ellen O'Brien
33749 Solar Mountain Road, Mile 24 & ¼ Seward Highway, Seward, Alaska 99664
907-288-3614

Jennifer Boyle
PO Box 121
Moose Pass, AK 99631
July 11, 2023

Chairman Jeremy Brantley
Kenai Peninsula Borough Planning Commission
144 N. Binkley Street
Soldotna, AK 99669

Subject: Opposition to Conditional Land Use Permit Modification for Tutka, LLC

Dear Chairman Brantley,

I, as a commissioner on the Moose Pass Advisory Planning Commission, am writing to strongly oppose the proposed modification of the Conditional Land Use Permit for Tutka, LLC, allowing night work in the Crown point area of Moose Pass. This opposition is based on the concerns raised by multiple residents in our community, as well as the potential negative impact on tourism in the borough.

Moose Pass is cherished for its tranquility and scenic beauty, attracting homeowners who specifically choose to live in this rural area for its peaceful environment. Allowing night work with noise and truck activity near residential areas would severely disrupt the rest and enjoyment of our residents' homes. It is our duty to protect their quality of life and preserve the unique character of our community.

Additionally, the daytime work conducted by Tutka is already audible and disruptive at nearby Ptarmigan Creek Campground and Trail River Campground. Granting the modification for night work would further compromise the peaceful environment, negatively affecting the experience of tourists and visitors and will discourage potential visitors from exploring our area. This in turn, negatively impacts local businesses.

Considering the concerns expressed by both residents and the potential consequences for tourism, I strongly urge the Kenai Peninsula Borough Planning Commission to reject Tutka, LLC's proposed modification to allow night work. Thank you for considering the Moose Pass community. I rely on the Planning Commission to make the decision that is in the best interest of the residents of Moose Pass.

Sincerely,

Jennifer Boyle
Moose Pass APC Commissioner

7/10/23

Kenai Peninsula Borough Planning Commission Chairman:

I oppose granting a land-use permit modification to Tutka, LLC on parcel number 125-324-13 with underlying landowner State of Alaska.

I own and reside at 33749 Solar Mountain Road, adjacent to and directly below a steep mountainside that Tutka plans to quarry. Refer to KPB property tax account number 12514022 or Ptarmigan Lake replat and ROW vacation tract 2A. I have reviewed Tutka's plan and proposed mitigation. Nothing in the plan can prevent damage to my property.

Consider the following.

1. Unlike most developed land in the KPB, this parcel lies on extremely steep terrain. Standard buffers and mitigations developed for flat land simply to not work on these slopes of 30, 40 and 50 percent.
2. This proposed quarry expansion has nothing in common with sand and gravel pits common in the flat lands of the KPB. Tutka does not dig sand; it blasts rock.
3. Unlike many land use disputes between adjacent private landowners in the KPB, each with a right to peaceful development, here, the State of Alaska owns the land. Presumably, SOA has some responsibility to not cause undue harm to the peaceful enjoyment of adjacent private land.
4. The land at 33749 and 33746 Solar Mountain Road became private property as a homestead in 1927. First came the residence: then came the quarry.

Before issuing the permit, I urge the commission to take a field trip or at least send staff to observe the on-going work at the quarry. Visit the property line literally 50 feet from my door. See for yourself if the quarry can reasonably operate there.

Rick Smeriglio
Moose Pass, Alaska

7/11/23

KPB Planning Commission Chairman
144 N. Binkley St. Soldotna, AK

I oppose granting Tutka, LLC a modification of its existing CLUP on KPB parcel 125-324-13 near the Lawing airstrip. The existing permit established hours of operation in response to local public demand for quiet hours. This modification ignores those demands by proposing to make loud noises, during sleep hours, in a rural residential area.

My wife and I own 33749 Solar Mountain Road. Our house stands about 1,000 feet from the source of the noise. We hear it incessantly during daytime work hours. It seems unreasonable to allow the noise during sleep hours as well. Although Tutka's request refers to AKDoT's work schedule for a local highway project, once the permit allows all-night operations, that stipulation would then apply to all projects for the 15-year life of the quarry.

The life of the project, its growth, and the incremental nature of the damage concern me most of all. Clearly, the quarry project has grown to include more than just this quarry. Quality Asphalt Paving just finished clearing a haul road that connects a gravel pit on Rail Road property to this quarry. A KPB permit for the pit allows transfer of rock from the quarry to the pit for processing and further transport.

I urge the Commission to broaden the scope of its consideration to include more than just hours of operation. I fear that the project has grown beyond the ability of KPB to manage with inspection and enforcement.

Rick Smeriglio
Moose Pass, Alaska

PLANNING COMMISSION CHAIRMAN

This is in reference to Tutka, LLC application for permit modification for conditional land use at The Lowing airport location. I AM against extending any more land use than Tutka already is permitted for.

I am a property owner in the Crown Point area. The added land area surrounds the east side of private property.

Not one mile worth on railroad property. There will be a new gravel pit with trucks running constantly back and forth along the railroad siding, plus an asphalt batch plant. There are other gravel pits at mile post 33 & 34 plus one at mile 40 Sterling Hwy. The mp. 33 & 34 are USFS the Sterling is State of Alaska. I would like to see another site looked at further away from private property and residences, before we strip away more land.

David W. Lindquist
30495 Seward Hwy

Raidmae, Ryan

From: Dan Mico <danmico@hotmail.com>
Sent: Friday, July 14, 2023 11:08 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Tutka, LLC Permit Modification - Lawing Airstrip

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

As a resident of Crown Point, I oppose granting Tutka LLC's permit modification request for night work at the Lawing Airport extraction site. There are now two active material extraction sites in Crown Point and both are requesting a modification to allow night shifts. If granted, area residents would be subject to constant noise from the operations 24 hours a day, this is unacceptable. Also, the request states white noise backup alarms would be used. While this may help a small amount, the rest of the noise associated with the work cannot be mitigated. We already listen to the noise from this site all day, I urge you to not make it all night as well.

Sent from my Verizon LG Smartphone

Raidmae, Ryan

From: Jennifer Mevissen <jennifermevissen@yahoo.com>
Sent: Friday, July 14, 2023 11:15 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Crown point permit mod. Opposition

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

July 13, 2023

Jennifer Mevissen
29834 Seward Highway
Seward, Highway

Kenai Borough
Planning Department
114 N. Binkley
Soldotna, AK

I am providing the following response to the Planning Commission Agenda July 17, 2023. Specifically, I strongly oppose item number 4 which is proposing a conditional use permit modification for material extraction on a parcel in the Crown Point area of Moose Pass. My residence is on Seward Highway at Mile 23 which is next to Rock Ptarmigan Road. The current permit for material extraction is causing significant damage to Rock Ptarmigan Road. There has been no evidence of keeping the road in drivable condition with just day time use. I would like the Planning Commission to consider the following concerns.

1. I think it unreasonable to provide a 15 year permit for material extraction. Explain why!!!!
2. The area around Rock Ptarmigan Road is a residential area and all residents will be adversely affected by the increased noise of trucks going up and down Rock Ptarmigan Road. Number 21 in the bid states that all the activity will be conducted in a manner which minimizes noise disturbances. Trucks going up and down Rock Ptarmigan Road already create significant noise during the day so having trucks going all night will be very disruptive to me and my family.
3. It is proposed that there will be one loader but there is no limit to the number of trucks that will be loaded. Each and every truck unloaded and loaded will create a disturbance on Rock Ptarmigan Road and Seward Highway
4. I receive my mail on Rock Ptarmigan Road. I am concerned about the safety for me and my son going to get our mail. We have historically walked along this road and that will no longer be possible in the evening.

5. My house is right on Seward Highway and there is already increased noise with construction season on that road but it is less noisy at night. When am I supposed to sleep!!!!
6. My husband works very long days and the increased night noise will be a major problem for me and my family.
7. I own my home and I believe that a 15 year permit will adversely affect my property value especially if the permit allows 24 hour work 365 days a year. Is the company going to compensate me for the decrease in my home value with the kind of noise the company is creating?
8. I have lived in Moose Pass for 25 years and I don't plan to leave but I am very upset by this application as I believe it is disrespectful to the residents and homeowners in the small community that shares Rock Ptarmigan Road and Seward Highway

DO NOT ALLOW THE MODIFICATION TO THE USE PERMIT.

Jennifer Mevissen

[Sent from Yahoo Mail for iPhone](#)

Raidmae, Ryan

From: Lisa Slepetski <lslepets@alumni.colostate.edu>
Sent: Friday, July 14, 2023 11:51 AM
To: Raidmae, Ryan
Subject: <EXTERNAL-SENDER>Re: Public comment on CLUP modification for Tutka in the Crown Point area

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Apologies, I had a typo in my first letter (last sentence of first paragraph). Edited to clarify the two CLUPs are nearly adjacent to each other.

On Fri, Jul 14, 2023, 11:10 AM Lisa Slepetski <lslepets@alumni.colostate.edu> wrote:

KPB Planning Commission,

Please do not permit the CLUP modification for Tutka. A month ago, you granted Coalaska a variance to operate overnight under their CLUP. Now, a month later we have yet another request from a different contractor working nearly adjacent to each other.

Per the KPB Code C:HAPTER 21.05. - PROCEDURES FOR VARIANCE FROM TITLE 21:

The purpose of this chapter is to grant relief from the literal application of this title where unusual individualized situations result in more stringent burdens being placed on some parcels of land than others and to prevent special hardships to individual landowners or deprivation of rights commonly enjoyed by other properties in a district. (Ord. No. 2001-32, § 1, 10-23-01; Ord. No. 97-52, § 1(part), 1997)

- 21.05.020. - Burden of proof: **The situations justifying variances are rare** and the burden of proof that an application meets the standards of this ordinance is on the applicant.

The applicant has not met the conditions outlined. Specifically:

3. The applicant's certification that: a.The variance is not being sought by the person causing the conditions requiring the variance, b. That the variance will not permit a land use in a district where the use is prohibited, and

c. That the variance is not sought solely to relieve pecuniary hardship or inconvenience.

Crown Point residents already contend with the noise from THREE major projects going on - Tutka blasting/material extraction near the Lawing Airport, Coalaska extracting material on the railroad property, and the major Seward Highway construction project. Allowing these variances to the hours of operation exposes residents to constant, chronic noise **literally** around the clock, and negatively affects the value, use, and enjoyment of our properties. This CLUP involves material extraction 30 vertical feet above a cliff face, so normal buffer and berm size may be inadequate to provide relief of exposure to neighboring homes.

This is the second variance in a month for projects within .5 miles of each other. This illustrates the urgent need for KPB to take action on implementing the recommendations from the working group. Decibel limits instead of saying only "rock crushing" is disallowed overnight should be a critical fix. Thank you,

Lisa Slepetski

30391 Seward Hwy

PO Box 51

Moose Pass AK 99631

907-288-2026

MISC. INFORMATION

- **07-12-23 Cooper Landing APC Meeting Minutes**
- **Hope/Sunrise Email**

COOPER LANDING ADVISORY PLANNING COMMISSION
REGULAR MEETING
LOCATION: COOPER LANDING LIBRARY
AND ZOOM TELECONFERENCE
WEDNESDAY, JULY 12, 2023
6:00 PM AGENDA

1. CALL TO ORDER- 6:00 p.m.
2. ROLL CALL – H. Harrison, D. Story, J. Cadieux K. Recken present. C. Degernes attending by Zoom. L Johnson and Y Galbraith known absence.
 - a. Jonathan Tymick – AKDOT&PF; Alice Rademacher – HDR; Alvin Talbert – AKDOT&PF; Shaun Combs – AKDOT&PF; Bryan Gallagher – QAP/Traylor
 - b. Phil Weber, community member
3. APPROVAL OF AGENDA– K. Recken moves to approve the agenda as written. H. Harrison seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for June 7, 2023 – There was not a quorum of commissioners who attended the June 7, 2023 meetings present at this meeting so approval of the June 7, 2023 minutes will wait until the next meeting.
5. BOROUGH BUSINESS
 - a. REPORTS
 - i. PLANNER REPORT (none for this meeting)
 - b. PLATTING
 - i. NEW PLATS – Quartz Creek Subdivision James Addition, Tract D-1, As-built APC review, comment from APC
K. Recken moves to recommend the plat be approved with the variance as described. H. Harrison seconds. Discussion begins.
D. Story moves to amend the motion to read: the CLAPC recommends the plat be approved with the variance as described with the additional recommendation that the variance should be reviewed if and when Persistent Way is developed.
K. Recken seconds the amended motion. All approve by roll call vote.
 - ii. NOTICE OF DECISION ON PLATS- Colaska Inc- QAP, KPB 395
 1. This decision passed in the assembly.
6. PUBLIC COMMENT/PRESENTATION
 - a. PRESENTATIONS ADOT&PF – Jonathan Tymick – AK DOT&PF
 - i. Article on KDLL was helpful to gain notice of the funding issue for the Juneau Creek Bridge phase of the project. When the STIP is released in several weeks there will be more conversation of funding.
 - ii. There will be a need for drainage easements on private properties to allow for storm water passage and conversations with affected land owners are

going well. DOT is responsible for ensuring the flow changes due to the project do not negatively impact properties downhill nor turbidity of any waters (of the Kenai River Special Management Area.)

- iii. Blasting work is going well and will continue throughout the summer.
 1. P. Weber asked about if one can view the work.
 - a. J. Tymick says that Sundays and Holidays are the best opportunity to take a look when there is work stoppage but to remain cautious and aware of hazards.
 2. Shaun Combs said that blasting will likely continue until October and access near MP 47 is limited since blasting activity is moving towards this area. Both Slaughter Gulch and Resurrection Pass Trails will maintain recreational access through delineated paths with flaggers stopping movement as needed for the blasting only.
- iv. J. Cadieux asked about the Phase 1A Archeology work.
 1. J. Tymick said that equipment and ground disturbing work is complete in 1A.
 2. K. Recken asked about the flooding in this area and if it has been addressed.
 - a. J. Tymick said that there had been additional measures installed since those events that KNWR was satisfied with.
 3. J. Tymick said that AKDEC is doing a full site inspection of streams this week and what has been done so far has gone very well.
 4. The Archeologic work is expected to continue for another month.
- v. J. Cadieux asked about the high level of muddy run-off from Juneau Creek this spring and was it just unusual spring run-off turbidity or was there an incident with the project?
 1. J. Tymick indicated they have not impacted Juneau Creek with the project and measures are in place already because the project is required not to impact Juneau Creek.

b. PRESENTATIONS RESPEC Unit 395 (No questions were put forward prior to the meeting so no presentation was made.)

7. COMMISSIONER COMMENTS – none.

8. ADJOURNMENT – H. Harrison moves to adjourn. K. Recken seconds. All approve by roll call vote. 6:29pm.

For more information or to submit comments please contact the Cooper Landing APC at:

- For email visit: <https://www.kpb.us/planning-dept/planning-commissions/cooper-landing-apc/email-cooper-landing-apc>
- Send USPS mail to: Kenai Peninsula Borough Planning Department, Attn: CLAPC 144 N Binkley, Soldotna, AK 99669

From: [Hindman, Julie](#)
To: [Quainton, Madeleine](#); [Piagentini, Vincent](#)
Cc: [Shirnberg, Ann](#)
Subject: Hope/Sunrise APC
Date: Wednesday, July 12, 2023 7:24:22 PM
Attachments: [image001.png](#)

Hope/Sunrise APC was unable to meet due to lack of quorum.

No recommendation will be available for KPB File 2023-067.

Thank you,

Julie Hindman

Planner – Floodplain Administrator
Donald E. Gilman River Center
KPB Planning Department
907-714-2463

KENAI PENINSULA BOROUGH
514 Funny River Road
Soldotna, Alaska 99669

