

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

- 2. Right of Way Vacation; KPB File 2024-068V
Edge Survey & Design / Wildland Projects, LLC
Request: Vacates the entire 25-foot Hamilton Road ROW &
associated utility easement granted by Taylor-Wright
Subdivision, Plat SW 83-007
Cooper Landing Area / Cooper Landing APC**

Kenai Peninsula Borough
Planning Commission
144 N. Binkley St.
Soldotna, AK 99669



Alaska Wildland
Adventures

RE: Taylor-Wright Subdivision 2024 Replat

Commissioners,

We acknowledge both the State of Alaska Department of Natural Resources' and the State of Alaska Department of Transportation's objections to the proposed vacation of the Hamilton Road right-of-way.

It is understandable that agencies generally oppose such vacation requests by default and even specifically as they work to advocate on the behalf of Alaskan citizens. Vacation requests should not be taken lightly.

We ask that in considering this vacation request you also consider the following:

- the historical context of the parcels,
- the existing physical site constraints that naturally limit access to/from the road,
- the continued access to Tract E provided via the river,
- the limitations and uncertainty that retaining this ROW places on responsible development of our business on private land, especially without clear understanding of the DNR's long-range management objectives for Tract E,
- the potential that retention of this ROW will encourage inadvertent or intentional trespass

We believe the following information provides this additional context and creates a compelling case for vacation.

We hope it can provide you with a more comprehensive assessment to decide if you agree and look forward to attending the July 22 Planning Commission meeting to provide the opportunity to answer any further questions you may have during your consideration.

Sincerely,

A handwritten signature in black ink that reads "Kirk Hoessle". The signature is written in a cursive, slightly slanted style.

Kirk Hoessle
President
Wildland Projects LLC
Alaska Wildland Adventures Inc.

Historical Context for the Origin of Hamilton Road

The existing Hamilton Road ROW came into existence when the founder of our company, Bill Wright, purchased a one-acre parcel from Russ Taylor in or around 1983. That acre purchased by Wright was at the opposing corner from the driveway entrance of Lot 11 (the northwest corner of the existing parcel).

KPB Subdivision requirements mandated providing access to subdivided parcels and subsequently an unnamed ROW was created for Wright to access his acre at the back of the new Taylor-Wright Subdivision.

Our early guests entered the property using the same driveway they do now nearly 40 years later.

This driveway, however, has never entirely aligned with the ROW. The first ~140' of the driveway is outside of the ROW and runs along the eastern edge of Lot 11 aligning with the 20' building setback.

The driveway established on what, at the time, would have been the Taylor's property rejoins the ROW for ~160' before heading west onto Lot 11 again to become the same driveway that delivers guests to the front of our lodge today.

Tract E, the DNR parcel to the north of Lots 10 and 11 existed before the right-of-way was granted as a necessary component of subdivision. Access to Tract E, therefore, was a side-effect of subdivision rather than a management objective of land management or transportation agencies when Tract E was selected.

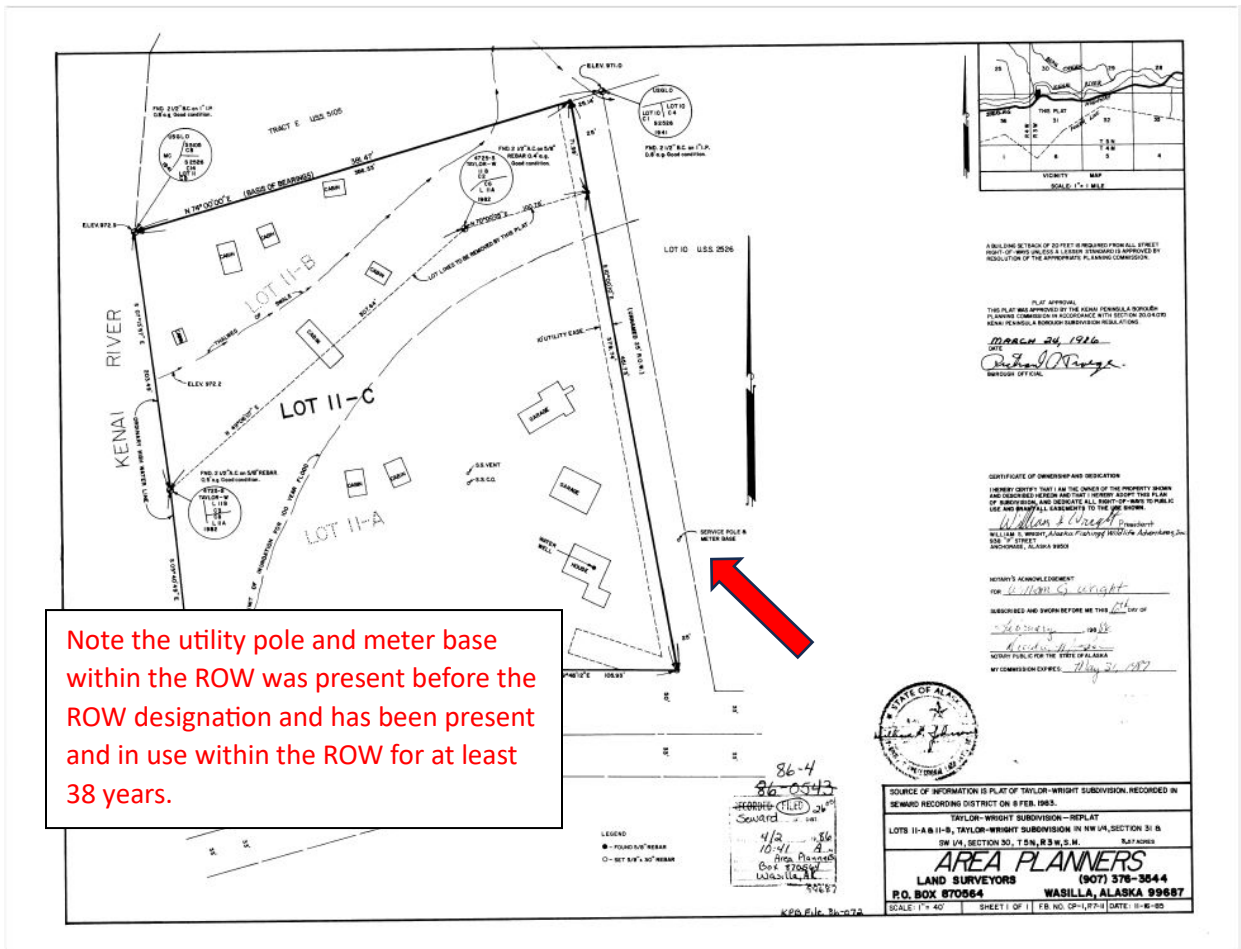
In or around 1986 Bill Wright purchased the remaining acres of the Taylor-Wright Subdivision from the Taylors. At this time, less than four years later, Plat 86-4 vacated the lot lines from Plat 83-07 but left the ROW in place despite the driveway not being aligned with the ROW and the main utility pole and electrical service being identified as within the ROW.

The naming resolution identifying the ROW as Hamilton Rd. was passed in 1997.

In or around 2004 Alaska Wildland Adventures' subsidiary Wildland Projects LLC, formed to hold AWA real estate, purchased the entirety of the Taylor-Wright Subdivision.

The Hamilton Road street sign and stop sign serving only Lot 11 before entering the Sterling Highway was erected subsequent to the 2013 Sterling Highway resurfacing project. It was placed on the west side of the driveway (~25' away from the ROW).

In 2019 Wildland Projects LLC (AWA) purchased Lot 10, the parcel to the east which abuts the Hamilton Rd. ROW making AWA the owner of both parcels abutting the long edges of the ROW. This ROW has never been developed or used by the public.



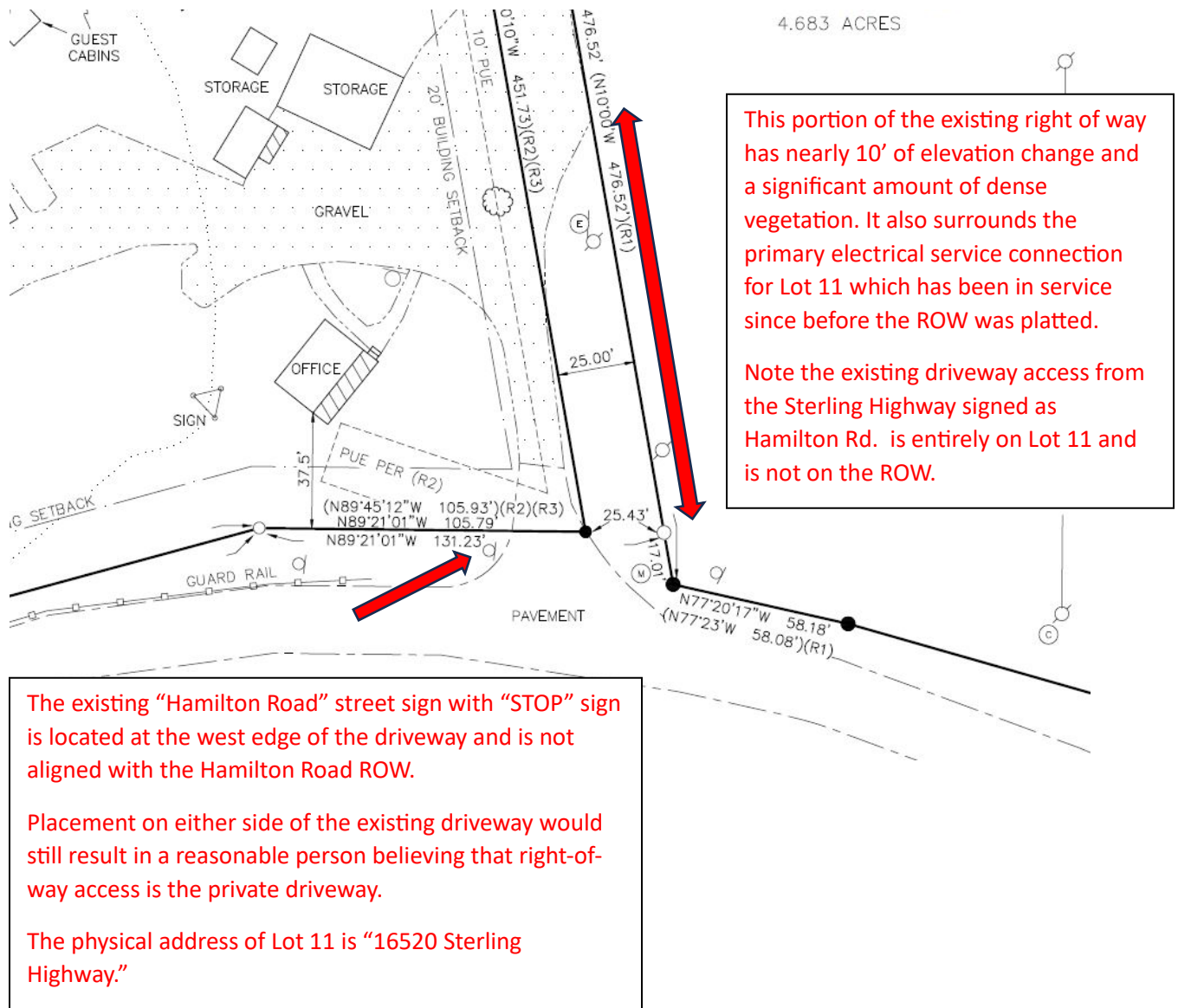
1987 Taylor-Wright Subdivision Plat.

https://www.kpb.us/components/com_papyruslist/document.php?d=1404842

Right of Way Relationship to Primary Physical Access

Although the top of the Kenai Riverside Lodge driveway is signed as Hamilton Road, [the naming resolution took place in 1997 \(1\)](#), its physical address is 16520 Sterling Highway. The KPB has never built or maintained a road on this ROW and the ROW as laid out has never been aligned with the existing driveway which is actually to the west of the ROW. In fact, in the [1986 subdivision plat \(2\)](#) you can see that the utility pole and meter base is in the center of the unnamed ROW. It has remained so for nearly 40 years. Nearly all this ROW remains wooded, unimproved, and/or unsuitable for vehicle access.

1. <https://www.kpb.us/planning-dept/911-street-naming/street-naming-resolutions/939-1997-street-naming-resolutions>
2. https://www.kpb.us/components/com_papyruslist/document.php?d=1404842





Attempts to access Tract E (one of three small parcels in the area combined into Unit 391A in the DNR's Kenai Area Plan) from the road or to access the road from Tract E by foot via the Hamilton Road ROW only irregularly occur (0-5 per year) and typically result in trespass because the ROW is mislabeled, unimproved, and requires traversing difficult terrain through dense vegetation, wetlands and open water while the private property has established and maintained pathways.

To our knowledge, the Alaska Department of Natural Resources has not attempted to designate or inquire about land access to Tract E at any time. To our understanding, no specific management objectives have been stated outside of the basic description of the three small parcels (including Tract E) comprising Unit 391A in the 2001 Kenai Area Plan (excerpted below on pages 15-16).

Alaska Wildland Adventures welcomes and facilitates access from our properties for agency and community purposes regularly. For example, the USFS and Kenai Watershed Forum use our property to access monitoring sensors on Juneau Creek several times each year and Cooper Landing Emergency Services utilizes our property to fill fire tanker trucks or launch river rescue operations as needed. We are very interested in being a good neighbor and partner for such purposes.

Physical Barriers to Accessing Tract E

The northern end of Hamilton Road as laid out crosses the thalweg (the line or curve of lowest elevation within a watercourse) of a pronounced swale extending from the northeast corner of Lot 10 to the west side of Lot 11.



KPB Parcel viewer screenshot with annotations



Swale image – A northeast view of the swale in normal water conditions

The center and deepest part of this swale is almost exactly at the northern end of the Hamilton Road ROW. This area is typically submerged under water during the months of May through October. This swale is pronounced enough that you can see the resulting vegetation change and often the standing water itself even in low resolution overhead imagery.

Additional Considerations

Cultural Sites

We are aware of cultural sites, likely Dena'ina homesites, which exist on Lot 10 and extend into Tract E.

Excerpt from a draft version of the 1978 CULTURAL RESOURCE SURVEY OF THE STERLING HIGHWAY FROM MILEPOST 37 TO MILEPOST 60, by M. Dean Pittenger and Elizabeth A. Thomas

In compliance with federal guidelines for cultural resource management, the Alaska Department of Transportation and Public Facilities funded a cultural resource survey along the route of proposed highway construction from Mile 31 to Mile 60 of the Sterling Highway. This survey was conducted during August-September 1978 by M. Dean Pittenger (archaeologist) and Elizabeth A. Thomas (historian) with assistance being rendered at various points by Douglas R. Reger (State Archaeologist), Ty L. Dilliplane (archaeologist), and Charles J. Utermohle (archaeologist).

SEW-172: This series of 3 definite house depressions (possibly 4) are situated outside of the right-of-way at Mile 50.2 The landowners, Max and Belva Hamilton, allowed us to test at this site; it was one of two places where landowners did give permission to test. Shovel probes around the pit areas revealed firecracked rock about 10-15 cm below the surface in some places; otherwise only sand and gravel were revealed. Two test squares, each measuring 50 x 50 cm, were also placed here. Charles Utermohle tested away from the center of House Depression II where a previous excavation (excavator unknown) was filled with water. He recovered firecracked rock and possible waste flakes, but nothing diagnostic. No stratigraphic data was available due to consequent flooding and slumping of the test square. House Depression I was also tested near the center of the main depression. Firecracked rock was noted at 17 cm below surface datum (the southwest corner of the test square) directly beneath and within brown to black sand with charcoal scattered throughout. This sand/charcoal layer is overlaid by coarse sand/gravel under humus. The sand/gravel layer may represent deposition from previous river flooding. Mr. Hamilton indicated that the area had been flooded a few times (1978:personal communication). Firecracked rock appeared to be concentrated in the northern half of this test square, possibly indicating the perimeter of the hearth. No culturally significant Materials were recovered as a result of these tests (Fig. 2).

Wildlife

Wildlife passage through the ROW and surrounding area is common and our intention is for it to remain a functional corridor allowing moose and brown bear movement.

It is worth noting, however, that these animals also tend to navigate around the swale and wetlands and onto the easier to traverse solid ground of private property on their way to or from Tract E.



This, not the driveway, is the Hamilton Road ROW.

View looking north/northwest from the southwest corner of Lot 10.





Note the property edge stake (past the utility pole guy line) to the right of the red arrow.



Note the topography change between the established drive and the ROW.



Annotated arrows from visible property edge stakes are approximate and illustrative only. Main utility pole and meter base has been in continuous operation since before the ROW was platted.



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Excerpts from the 2001 Alaska Department of Natural Resources Kenai Area Plan

Management intent that applies to many units within the Kenai River Drainage

Introduction

These goal and guidelines apply to areas within the Kenai River drainage within Regions 2, 3, 4, and 5 but are listed only under this region (and cross referenced under other regions) to avoid redundancy. The following guidelines are derived from the Kenai River Comprehensive Management Plan (KRCMP) that was adopted in December 1997. Some guidelines were specifically developed for the KAP. Citations from the KRCMP are provided in brackets after each guideline. Edits to the KRCMP proposed guidelines were made to ensure consistency with the format of this plan and to clarify KRCMP intent. Some KRCMP recommendations were modified or deleted when it was apparent that the recommendation did not apply to state lands or were already addressed by unit-specific intent or Chapter 2 guidelines in this plan.

Goals

The goal of the following guidelines are to provide a quality recreational experience for users of the Kenai River, to protect and perpetuate the fishery and wildlife resources and habitat in the unit and adjacent area, to minimize impacts on habitat and environment, and to ensure public safety.

Kenai Area Plan, Chapter 3-104

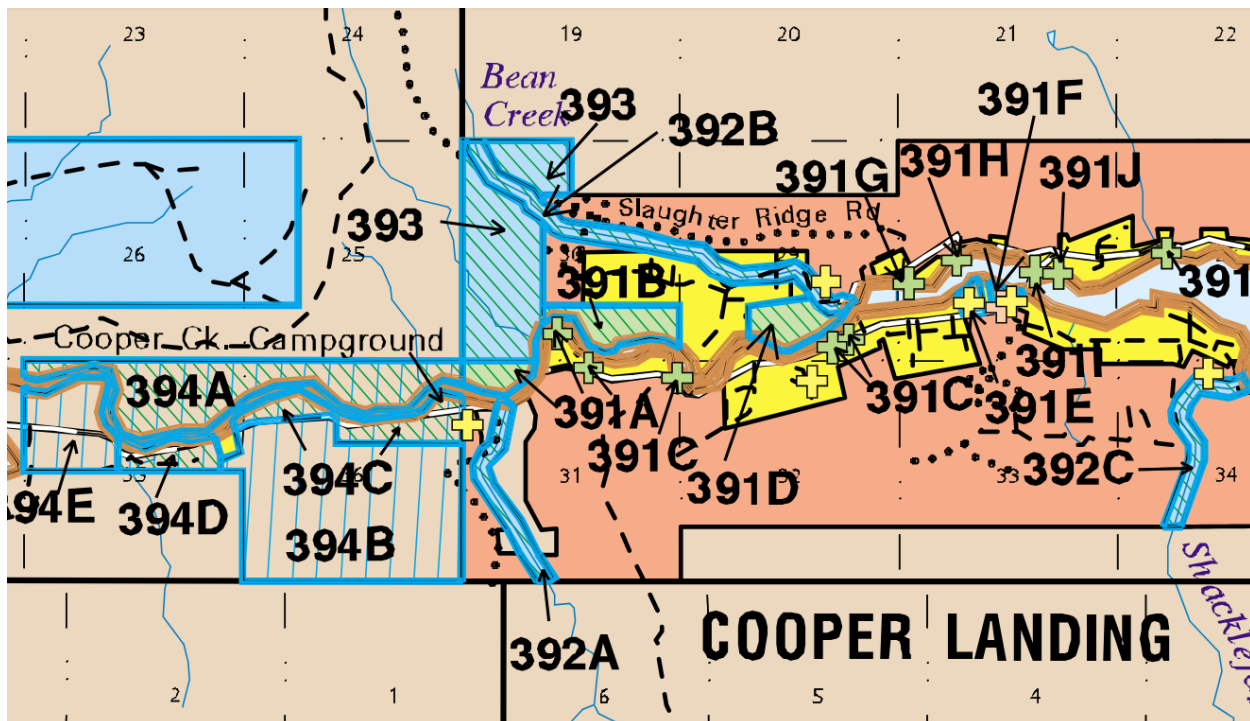
H. Public access study and plan along the Kenai River

An access study and planning process is underway to evaluate access along the Kenai River. This process includes an inventory of easements, rights-of-way, and other forms of access to and along the Kenai River. The outcome of the process should assist in determining which routes are legal access, and of those, which to close, vacate, continue or improve. One of the primary factors under consideration when making these decisions will be the need to protect the river's habitat and fisheries while providing reasonable public access to and along the river. DNR supports this process and a plan amendment will not be necessary to implement actions that are consistent with the proposed access plan.

Kenai Area Plan, Chapter 3-107

Unit Number	Unit Name	Designations	Acres	Map Number	Resource or use for which unit is designated / Management intent	Other resources and uses
391A	One of three small parcels on Kenai River	ha rd	7.67	4A	Important Kenai River habitat and recreation values. Access to Kenai River. Brown bear movement corridor from Juneau Creek mouth south across the Kenai River and up the Cooper Creek and Russian River drainages. / Proposed additions to the Kenai River Special Management Area. These lots were ILMA'd to DPOR in 1994	

Kenai Area Plan, p. 3-112 Table 3.4



Tract E is one of three small parcels identified together as Unit 391A in the 2001 Kenai Area Plan.

Kenai Area Plan Region 4 Map 4A Cooper Landing, p. 3-123