



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, June 26, 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-5312

- 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

Attachments:

[C3. Plat Administrative Approval](#)

4. Plats Granted Final Approval (KPB 20.10.040)

KPB-5313

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

Attachments:

[C4. Plat Final Approval](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

[KPB-5314](#) June 12, 2023 Planning Commission Meeting Minutes

Attachments: [C7. 061223 PC Minutes](#)

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

- 1 [KPB-5315](#) Building Setback Encroachment Permit; KPB File 2023-058
Mullikin Surveys / Baumgardner
Request: Permits a shop, building & house to remain in the building setback on Lot 32, Granross Grove Sub Unit 1, Plat HM 0780005
Anchor Point Area / Anchor Point APC

Attachments: [E1. BSEP_Granross Grove Sub Unit 1_Packet](#)

- 2 [KPB-5316](#) Right-of-Way Vacation; KPB File 2023-061V
No Surveyor / Caribou Hills Cabin Hoppers
Request: Vacates approximately a 30' by 1000' portion of Steik Avenue dedicated by Ninilchik ROW Map, Plat HM 84-155
Ninilchik Area

Attachments: [E2. ROWV Ninilchik ROW Map_Packet](#)

- 3 [KPB-5317](#) Condition Use Permit; PC Resolution 2023-13
Request: Permits a fence within the 50-foot Habitat Protection District of the Kenai River
Location: 33537 Keystone Drive; Parcel ID 135-260-02
Petitioner/Landowner: Helbock
Soldotna Area

Attachments: [E3. CUP_Helbock_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-5318](#) PUBLIC REVIEW DRAFT: UNIT 395 LAND PLAN (Cooper Landing)

Attachments: [Misc. Info](#)

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, [INSERT DATE] 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. 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**



Planning Department

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

Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Bosn Landing Subdivision No. 3
KPB File 2021-101
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 9, 2021. 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 Tuesday, June 13, 2023.

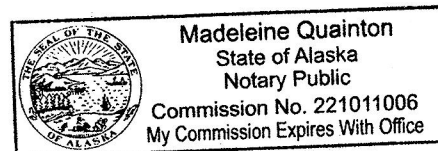
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 13 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: Brown's Acre Estates Addition No 1
KPB File 2022-170
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 9, 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 16, 2023.

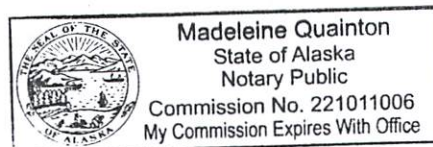
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 16 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Clam Gulch Heights 2022 Addition
KPB File 2022-136
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 10, 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 Tuesday, June 6, 2023.

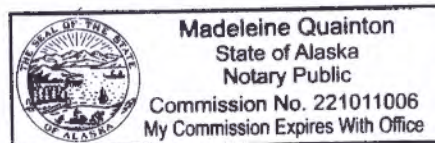
Robert Ruffner
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of June 2023 by
Robert Ruffner.

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: Lloyd Race Lot 4 Replat
KPB File 2022-157
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 14, 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 14, 2023.

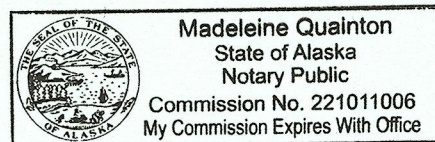
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 14 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: Smith-Staton Subdivision
KPB File 2022-178
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 9, 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 Tuesday, June 13, 2023.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 13 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



Madeleine Quainton
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: Spruce Knoll
KPB File 2022-005
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 14, 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 Tuesday, June 13, 2023.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 13 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

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: The Place Subdivision
KPB File 2022-179
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 9, 2023. Approval for the plat is valid for two years from the date of approval.

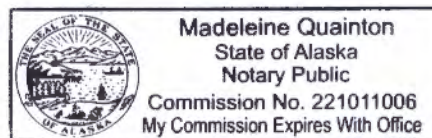
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, June 13, 2023.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 13 day of June 2023 by
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: With office

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Peter A. Micciche
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Voznesenka Lot 11 Replat
KPB File 2021-166
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 10, 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 Tuesday, June 6, 2023.

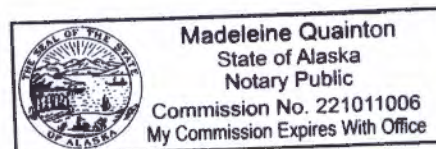
Robert Ruffner
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of June 2023 by
Robert Ruffner.

Notary Public for the State of Alaska

My commission expires: With office



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C. CONSENT AGENDA

- *4. Plats Granted Final Approval**
 - a. Janousek Subdivision 2023 Replat; KPB File 2023-033**
 - b. Panoramic Park Subdivision Yancey Replat; KPB File 2023-017**



Planning Department

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Peter A. Micciche
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Janousek Subdivision 2023 Replat
KPB File 2023-023
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 Tuesday, June 6, 2023.

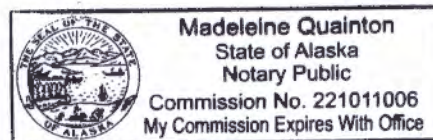
Robert Ruffner
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of June 2023 by
Robert Ruffner.

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

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Panoramic Park Subdivision Yancey Replat
KPB File 2023-017
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 Tuesday, June 6, 2023.

Robert Ruffner
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of June 2023 by
Robert Ruffner.

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.

C. CONSENT AGENDA

***7. Minutes**

a. June 12, 2023 PC Meeting Minutes

Kenai Peninsula Borough Planning Commission

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

June 12, 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
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 11 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
Madeleine Quainton, Platting Specialist
Marcus Mueller, Land Management Officer
Ryan Raidmae, Resource Planner
Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

- *2 Planning Commission Resolution**
 - a. PC Resolution 2023-08

- *3. Plats Granted Administrative Approval**
 - a. Jack Gist Subdivision No. 3 Phase 1; KPB File 2020-107P1
 - b. Mountain Vista Estates 2022 Replat; KPB 2021-147
 - c. Wales Subdivision; KPB File 2022-061
 - d. Windhaven Estates Phase 4; KPB File 2021-063
 - e. Yoder Subdivision; KPB File 2022-113

- *6. Commissioner Excused Absences**
 - a. Virginia Morgan – District 6, East Peninsula
 - b. City of Seldovia, Vacant
 - c. District 7 – Central, Vacant

***7. Minutes**

- a. May 22, 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 Staggs moved, seconded by Commissioner Slaughter 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 - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Morgan

AGENDA ITEM E. NEW BUSINESS

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

ITEM #1 - SECTION LINE EASEMENT VACATION**VACATE THE 66 FOOT SECTION LINE EASEMENT ALONG THE EAST LOT BOUNDARY OF LOT 1, HOLLYWOOD KENNEDY GIBBONS 2006 ADDITION, PLAT HM 2007-108**

KPB File No.	2023-053V
Planning Commission Meeting:	June 12, 2023
Applicant / Owner:	Stephen Smith / Geovera, LLC
Surveyor:	Emmitt & Mary Trimble Joint Revocable Trust
General Location:	Sterling Highway, Anchor Point, Anchor Point APC
Legal Description:	Lot 1 Hollywood Kennedy Gibbons 2006 Addition HM 2007-108, NW1/4 Section 22, Township 4 South, Range 15 West SM

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Todd Travis; 31150 Sterling Highway, Anchor Point, AK 99556: Mr. Travis is a neighboring landowner and wanted to know exactly how much of the section line easement in the area was going to be vacated. He wasn't opposed to the vacation but he was concerned that it might affect the view on his property.

Platting Manager Piagentini replied section line easements belong to the State and they will determine how much of the section line would be vacated which could be different that what is being requested by the applicant.

Mr. Travis then asked how would the land from the section line easement vacation be allotted, would it be split between himself and the other landowner? Planner Julie Hindman replied section line easements are easements that the land is subject to. The determination of who gets the use of that land back is the location of the easement on the property. It appears that this section line easement vacation request is encumbered by the applicant's parcel, which is Lot 1.

Hugh (Unclear); P.O. Box 1118, Anchor Point, AK 99556: Hugh asked for clarification on the approval process. Chair Brantley explained the approval process for section line easements.

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 Venuti 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 5 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 - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Slaughter, Staggs, Stutzer, Tauffest, Venuti
Absent - 1	Morgan

**ITEM 2. CONDITIONAL LAND USE PERMIT – MATERIALS EXTRACTION
30986 SEWARD HIGHWAY, MOOSE PASS, AK**

KPB File No.	2023-15
Planning Commission Meeting:	June 12, 2023
Applicant	Colaska Inc. - QAP
Landowner	Alaska Railroad Corporation (ARC)
Parcel Number	125-141-01
Legal Description	T04N, R01W, SEC13, S.M., SW 0007391 USS 7391 Lot 2
Location	30986 Seward Hwy., Moose Pass Alaska

Staff report given by Planner Ryan Raidmae.

Chair Brantley opened the item for public comment.

Darrel Belanger, QAP Project Contact; 240 W. 68th Ave., Anchorage, AK 99518: Mr. Belanger is the project contact and made himself available for questions. He also noted that they are working on developing a different site access with ARC to build a road along the eastern boarder of the railroad right-of-way.

Commissioner Fikes asked if they had any noise concerns with processing happening after 8:00 PM. Mr. Belanger noted that any processing after those hours would not involve rock crushing, only the screening of materials. Commissioner Fikes then asked if they were planning to work in the pit after 8:00 PM. Mr. Belanger replied the only work would be the screening of materials. If the neighboring residents complain of noise issues, they do have some flexibility. For instance they could limit the type of activities to only hauling of materials after 8:00 PM.

Chair Brantley stated it was his understanding that screening is a form of processing. Planner Raidmae replied that yes, screening is a form of processing. He noted that code only addresses limiting rock crushing between the hours of 10:00 PM and 6:00 AM. All other types of material processing are allowable during operational hours.

Commissioner Gillham noted the Moose Pass APC requested that the test holes be drilled to a depth of 10'. Could staff address the reasoning behind this request. Planner Raidmae stated that the APC was not happy with the test holes being only drill to a depth of 7' while QAP's proposal was to excavate to a depth of 10'. The APC wanted QAP to drill test holes to the depth they were requesting to excavate to. The APC had concerns since the water depth in the area was unknown the applicant should be required to dig test holes to the depth they planned to excavate.

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 Fikes to adopt PC Resolution 2023-15 granting a conditional land use permit to operate a sand, gravel, or material site based on staff recommendations and subject to the conditions listed in the resolution.

Chair Brantley noted that code states with CLUPs that the operator must stay two feet above the water table. This is not difficult to do. Should an operator hit water while they are excavating they just stop immediately and go back up from that depth. He knows that water table issues are an area of concern

with the public but it can be easily managed by the operator.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Morgan

**ITEM 3. CONDITIONAL LAND USE PERMIT – MATERIALS EXTRACTION
0.5 MILES DUE NORTH OF MP 53 OF THE STERLING HIGHWAY, COOPER LANDING, AK**

KPB File No.	2023-16
Planning Commission Meeting:	June 12, 2023
Applicant	Colaska Inc. – QAP
Landowner	Kenai Peninsula Borough
Parcel Numbers	119-010-30
Legal Description	T 5N R 4W SEC 25 26 27 SEWARD MERIDIAN SW W1/2 NW1/4 & NW1/4 SW1/4 IN SEC 25 & N1/2 & N1/2 S1/2 IN SEC 26 & N1/2 & N1/2 S1/2 IN SEC 27
Location	0.5 Miles Due North of MP 53 of the Sterling Highway, Cooper Landing, AK

Staff report given by Planner Ryan Raidmae.

Chair Brantley opened the item for public comment.

Jake Hinkle, QAP Project Contact; 240 W. 68th Ave., Anchorage, AK 99518: Mr. Gallagher is the project contact and made himself available for question.

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 2023-16 granting a conditional land use permit to operate a sand, gravel, or material site based on staff recommendations and subject to the conditions listed in the resolution.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Morgan

**ITEM 4. PLANNING COMMISSION RESOLUTION 2023-12
RECOMMENDING AN ASSEMBLY ORDER OF CONDEMNATION AND FOR REMOVAL OF A
HAZARDOUS & DANGEROUS BUILDING**

Staff report given by Planning Director Robert Ruffner.

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.

MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to adopt PC Resolution 2023-12 recommending an assembly order of condemnation and for removal of a hazardous and dangerous building.

Commissioner Slaughter asked staff if the borough was going to be liable for the clean up of the fuel contamination in the water table and soil.

Deputy Borough Attorney Steinhage replied the resolution deals with the recommendation for the condemnation and cleanup of the building down to the concrete pad. He then referred the commission to page E4-8 of the meeting packet materials which is the memorandum of agreement (MOA) between the Alaska Department of Environmental Conservation (DEC) and the Kenai Peninsula Borough. The MOA lays out the steps that the borough is going to take and the steps that the DEC will take in relation to the site cleanup. In accordance with Alaska Statute (AS) 46.03.822(k)1 - in the event that the borough forecloses on the property, the DEC will not consider the borough liable for the environmental contamination at the site that was present prior to the borough taking ownership. He then noted that the DEC has been aware of this situation for some time.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Morgan

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 8 plats.

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 J. COMMISSIONER COMMENTS

Commissioner Tautfest noted that she will out of town for the next meeting. She will try to Zoom in for the meeting but if there are connectivity issues she might be absent.

AGENDA ITEM K. ADJOURNMENT

Commissioner Venuti moved to adjourn the meeting at 9:06 P.M.

Ann E. Shirnberg
Administrative Assistant

E. NEW BUSINESS

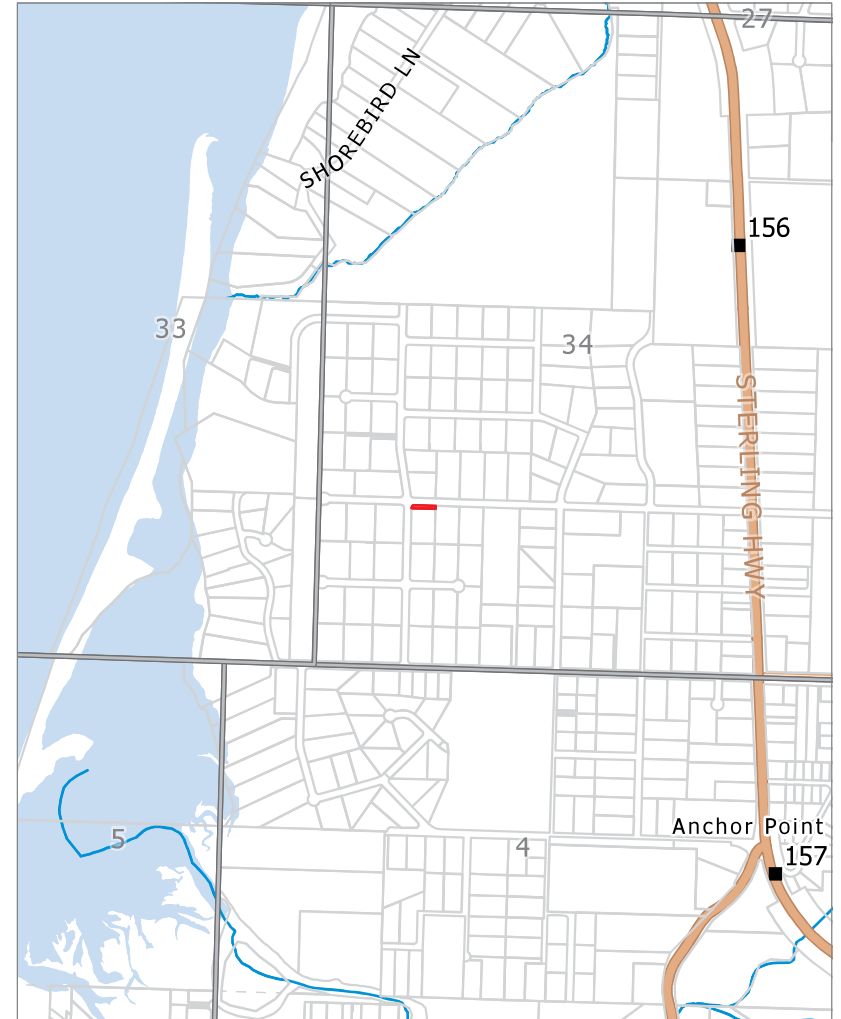
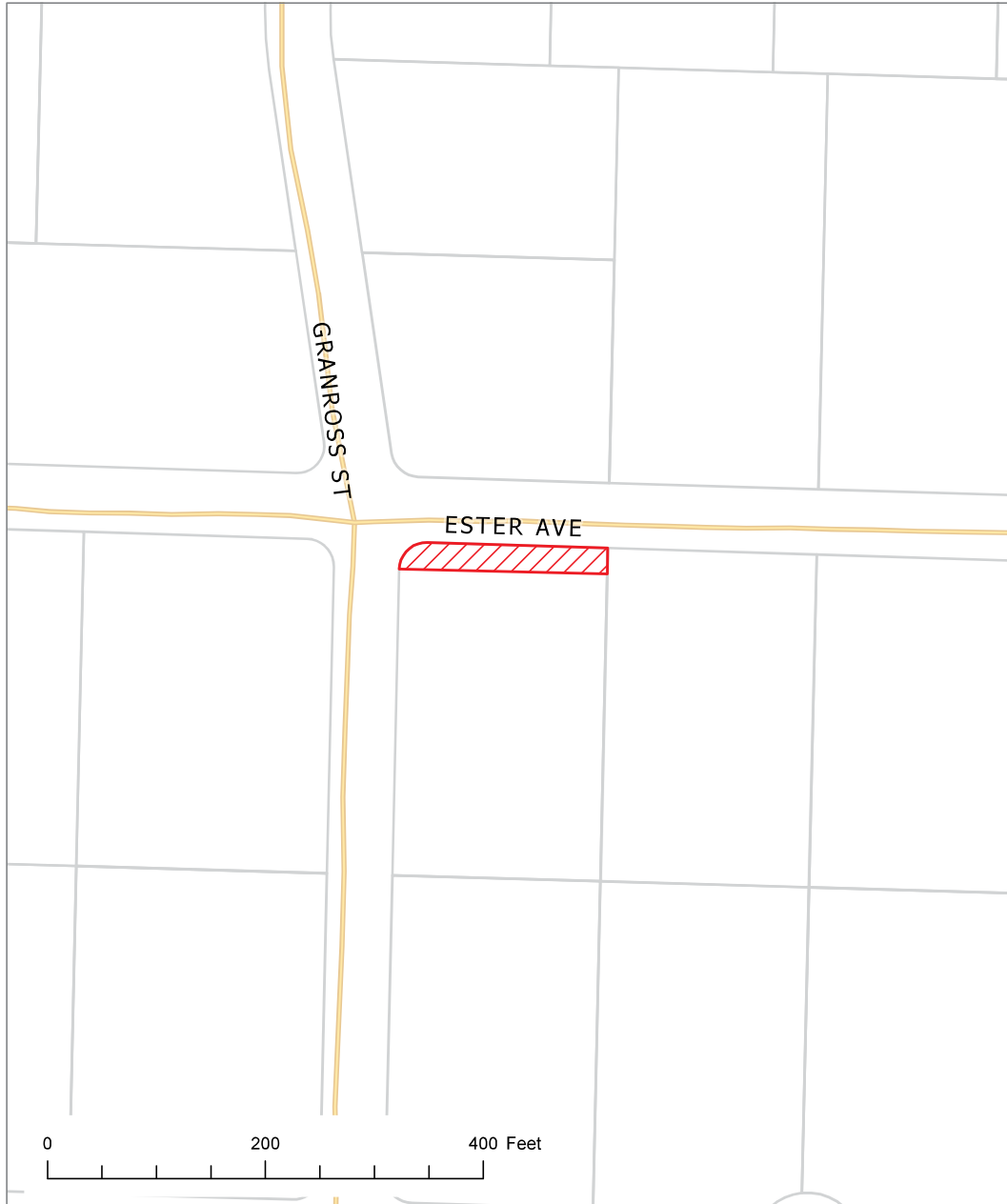
1. Building Setback Encroachment Permit

KPB File 2023-058

Mullikin Surveys / Baumgardner

Request: Permits a shop, building & house to remain in the building setback on Lot 32, Granross Grove Sub Unit 1, Plat HM 0780005

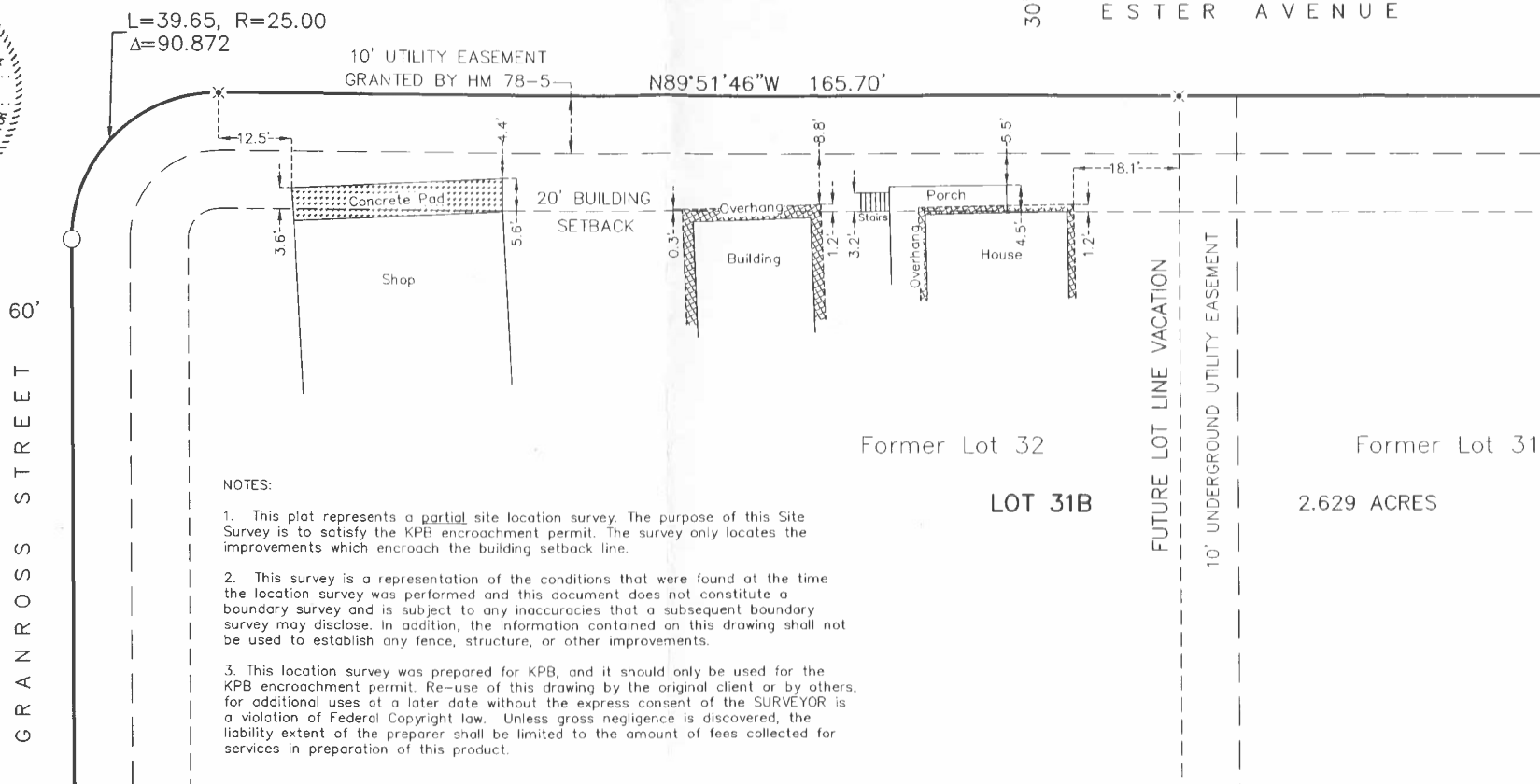
Anchor Point Area / Anchor Point APC



KPB File # 2023-058
S34 T05S R15W
Anchor Point



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.

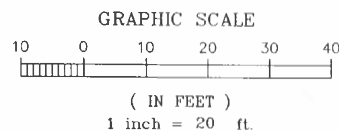


NOTES:

1. This plot represents a partial site location survey. The purpose of this Site Survey is to satisfy the KPB encroachment permit. The survey only locates the improvements which encroach the building setback line.
2. This survey is a representation of the conditions that were found at the time the location survey was performed and this document does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose. In addition, the information contained on this drawing shall not be used to establish any fence, structure, or other improvements.
3. This location survey was prepared for KPB, and it should only be used for the KPB encroachment permit. Re-use of this drawing by the original client or by others, for additional uses at a later date without the express consent of the SURVEYOR is a violation of Federal Copyright law. Unless gross negligence is discovered, the liability extent of the preparer shall be limited to the amount of fees collected for services in preparation of this product.

LEGEND

- FOUND 5/8" REBAR
- ✕ FOUND SPIKE
- EASEMENT LINES NOT SURVEYED
- BUILDING SETBACK LINE



Site Survey

OF LOTS 31 & 32, GRANROSS GROVE UNIT 1
(PLAT No. 78-5, H.R.D.),

BOTH LOCATED WITHIN
THE SW 1/4 SW 1/4 OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE
15 WEST,
SEWARD MERIDIAN, THIRD JUDICIAL DISTRICT,
KENAI PENINSULA BOROUGH,
HOMER RECORDING DISTRICT, ALASKA.

CONTAINING 2.629 ACRES, MORE OR LESS

MULLIKIN SURVEYS
P.O. BOX 1023
HOMER, ALASKA 99603
(907) 299-2289

Page 1 of 1

Drawn By: MRS	FB: NA	Drawing Name:
Date: 5-3-23		Granross Grove Site Survey
Scale:	Checked:	Survey Date:
HOR: 1"=20'	CLM	NA

KPB 2023-058

AGENDA ITEM E. NEW BUSINESS

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

Specific Request / Purpose as stated in the petition: The structures shown on the site survey (concrete pad, roof overhang, stairs, porch) that encroach into the building setback do not impact the sight distance or safety of the drivers at the street intersection. They do not impact the road maintenance. These structures do not encroach on the utility easement. According to the owner, the shop has been there about 20 years and the house for about 40 years.

Site Investigation: Per the as-built and submittal there are several structures and improvements encroaching into the 20-foot building setback along Ester Avenue all within Lot 32, Granross Grove Unit 1 HM 78-5. This is a corner lot, but there are no encroachments into the setback along Granross Street. The “Shop” structure is not encroaching into Ester Avenue, but has a concrete pad that extends 5.6 feet on the east and 3.6 feet on the west side of the pad into Ester Avenue. The length of the concrete pad is 36 feet. The “Building” structure encroaches only with the overhang into the building setback. The largest encroachment shown as 1.2 feet and the smallest 0.3 feet with the entire length measuring at 24 feet. The “House” structure encroaches into the setback with the overhang of the structure and improvements labeled as “Porch” and “Stairs”. The overhang is 1.2 feet, the porch is 4.5 feet on the east (being the maximum for the improvements), and the stairs are 3.2 feet. The length of all of the encroachments is 37 feet.

Ester Avenue is a 60-foot-wide dedicated right-of-way and is currently borough maintained. The owner is in the process of combining his adjacent lot to the east with Lot 32 and in that process the encroachments were discovered. A condition of the approval was that all possible encroachments be identified and resolved prior to the plat being finalized. The plat was heard and granted conditional approval by the Plat Committee at the September 26, 2022 meeting.

Street views are available for the area and there do not appear to be any line-of-sight issues from the intersection in any of the four directions.

According to KPB GIS information there are no classified wetlands that affect this area.

Staff Analysis: The property was subdivided by Granross Grove Unit 1 HM 78-5. The plat subdivided several aliquot quarter quarter sections into 53 lots. The plat granted several rights-of-ways within the subdivision including Ester Avenue. The 20-foot setbacks were not depicted, but a plat note stated “A 20’ building setback line exists along all rights of ways.”

The plat also granted 10 utility easements along all rights-of-ways. There are no notes, but they are depicted with dashed lines.

Ester Avenue is used by several other owners in the area and is a KPB maintained through road.

Anchor Point Advisory Planning Commission minutes 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. A building setback along Ester Avenue was created by Granross Grove Unit 1, HM 78-5.
2. 14.4 feet of setback will remain for the "Shop".
3. 18.8 feet of setback will remain for the "Building".
4. 15.5 feet of setback will remain for the "House".
5. There is no steep terrain located near the encroaching improvements.
6. There does not appear to be any sight issues.
7. The structure footings are inside the 20-foot building setbacks, improvements and overhangs are the issue.
8. The subdivision having preliminary approval on the September 26, 2022 Plat Committee, found and is cleaning up this problem.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications:

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

Findings 2-4 & 7 appear to support this standard.

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

Findings 2-4, 6 & 7 appear to support this standard.

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

Findings 2-8 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	
Addressing	
Code Compliance	Reviewer: Ogren, Eric Comments: It appears there are encroachments in to 20ft building set back that need to be address with application for a permit.
Planner	
Assessing	Reviewer: Windsor, Heather Comments: No comment
Anchor Point Advisory Planning Commission	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2023-14, 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



- LEGEND
- FOUND OLD B.C. MON 198
 - FOUND B.C. MON, 1986-5, 1977
 - FOUND GRANITE STONE, 248-5, 1955, REPLACED WITH BRASS CAP THIS SURVEY
 - SET B.C. MON
 - FOUND STAKE, REPLACED WITH B.C. THIS SURVEY
 - 6" UNDERGROUND UTILITY EMBT

- NOTES
1. THE STATE OF ALASKA, REQUIRES ALL WASTEWATER DISPOSAL SYSTEMS TO BE A MINIMUM OF 100' FROM ANY WATER SOURCE.
 2. A 20' BUILDING SETBACK LINE EXISTS ALONG ALL RIGHTS OF WAY.
 3. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAW AT TIME OF CONSTRUCTION.
 4. 1/2" V. 2" 4" HUBS WITH PLASTIC CAPS SET AT ALL LOT CORNERS.
 5. ALL RIGHTS OF WAY RETURNS ARE 25' RADII.
 6. LOTS 1-16 ARE FOR COMMERCIAL USE ONLY.
 7. BARE BEARING IS THE OLD BEARING EAST, BETWEEN THE 1/4 COR. COMMON TO SECTIONS 26 & 33, AND THE 1/4 COR. COMMON TO SECTIONS 25 & 36, T. 4 S., R. 15 W., S. 16 W. WAS CARRIED TO THIS SURVEY BY PREVIOUS SURVEYS IN THE AREA.

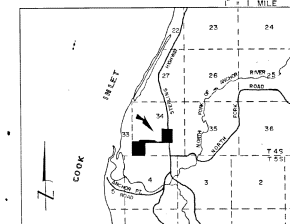
CERTIFICATE OF OWNERSHIP
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON. I HEREBY REQUEST APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES AND ROADWAYS, DEDICATED IN ME FOR PUBLIC USE.

John J. Anderson, Jr.
JOHN J. ANDERSON, JR. 187 JAMES ST. JACOBUS
BOX 619
50,00740, AK 99609

NOTARY'S ACKNOWLEDGMENT
SUBSCRIBED AND SWORN BEFORE ME THIS 28th DAY OF DECEMBER 1977
Virginia P. Williams
NOTARY PUBLIC FOR ALASKA
NOTARIAL COMMISSION EXPIRES 12-31-80

SURVEYORS' CERTIFICATE
I, THE UNDERSIGNED REGISTERED SURVEYOR HEREBY CERTIFY THAT A LAND SURVEY HAS BEEN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT CORNERS AND MONUMENTS HAVE BEEN LOCATED AND ESTABLISHED AND THAT DIMENSIONS SHOWN ARE TRUE AND CORRECT.
John J. Anderson, Jr.
DATE 12-27-77

PLAT APPROVAL
THIS PLAT HAVING BEEN APPROVED BY THE VENAL PENINSULA BOROUGH PLANNING COMMISSION AS RECORDED IN THE OFFICIAL MINUTES OF THE MEETING OF DECEMBER 14, 1977, I HEREBY ACKNOWLEDGE AND ACCEPTED AS THE OFFICIAL PLAT SUBJECT TO ANY AND ALL CONDITIONS OF REQUIREMENTS AND ORDINANCES APPERTAINING THERETO.
KENAI PENINSULA BOROUGH
Philip Waring
BY



DATE: NOVEMBER, 1977

SCALE: 1" = 100'

DESIGNED BY: J.A.

CHECKED BY: J.J.

DRAWN BY: S.W.

FLD BK NO: 24

GRANROSS GROVE UNIT

BEING THE SW 1/4, SW 1/4, A PORTION OF THE NW 1/4, SE 1/4, AND A PORTION OF THE S 1/2, N 1/2, SW 1/4, S 34, T. 4 S., R. 15 W., S. 16 W.

CONTAINING 90.557 ACRES

ABILITY SURVEYS

JERRY ANDERSON, R.L.E. BOX 1263 HELEN, ALASKA

78-5
RECORDED BY 756
DATE 1-17-78
TIME 4:15 P.M.
REMARKS: KPA
ADDRESS: Seldovia



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-14
HOMER RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK ADJOINING THE NORTH BOUNDARY OF LOT 32, GRANROSS GROVE SUBDIVISION (HM 0780005); IN SE 1/4 S34, T04S, R15W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-058

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, Kent Baumgardner of Anchor Point, AK requested a building setback encroachment permit to the 20-foot building setback granted by Granross Grove Subdivision (HM 0780005); and

WHEREAS, per the petition; a shop has been in place for 20 over years, a building, and a house with attached improvements located on said lot have been in place for 40 over years; and

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

WHEREAS, on Monday, June 26, 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. That the 20-foot building setback limit on HM 0780005 Lot 32 is hereby excepted to accommodate only the encroaching portion of a shop concrete approach pad 5.6 feet by 36 feet, a building overhang 1.2 feet by 24 feet, and a house with stairs, overhang and porch 5.5 feet by 37 feet.

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 26th DAY OF JUNE, 2023.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg,
Administrative Assistant

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

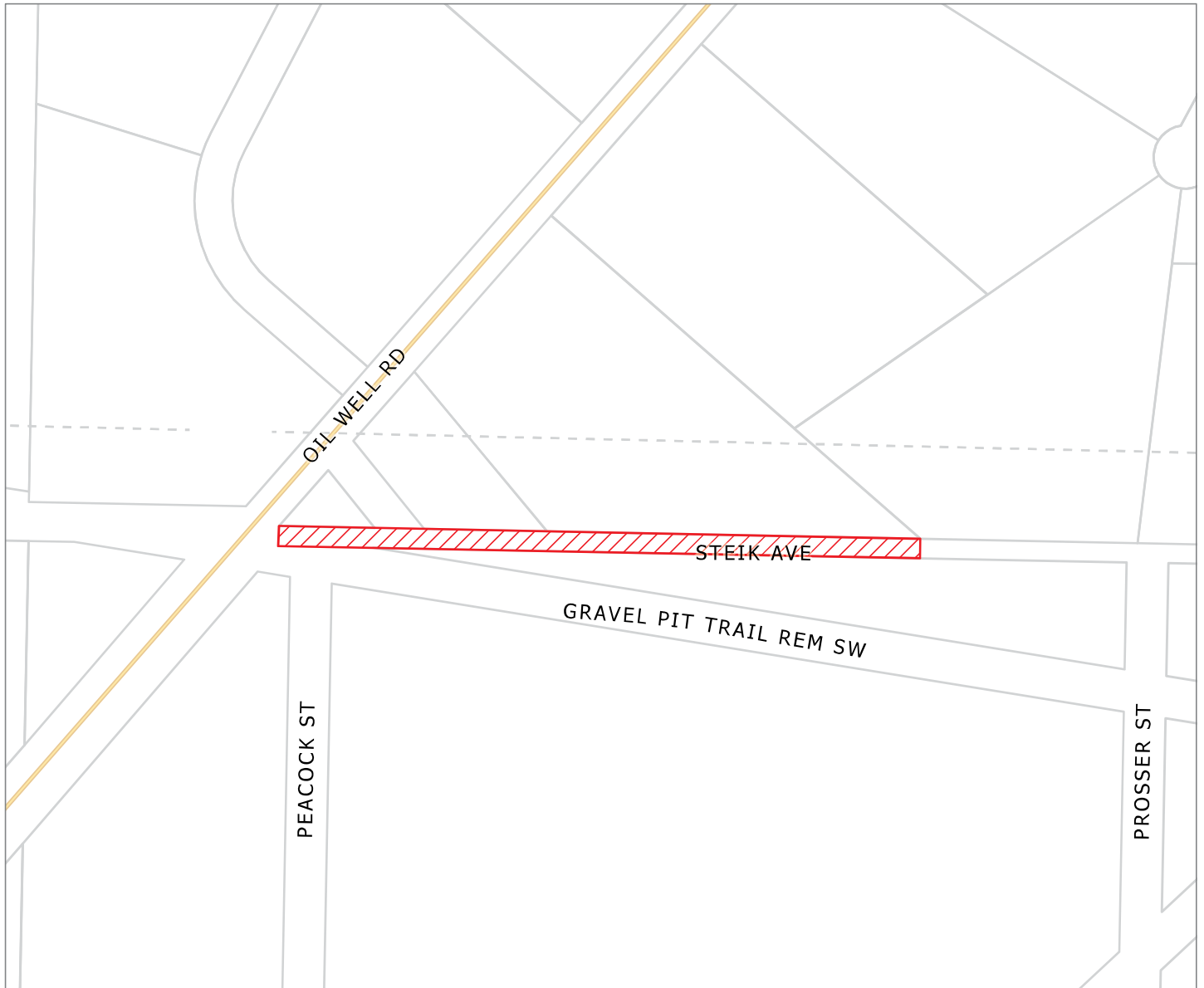
E. NEW BUSINESS

2. Right-of-Way Vacation; KPB File 2023-061V

No Surveyor / Caribou Hills Cabin Hoppers

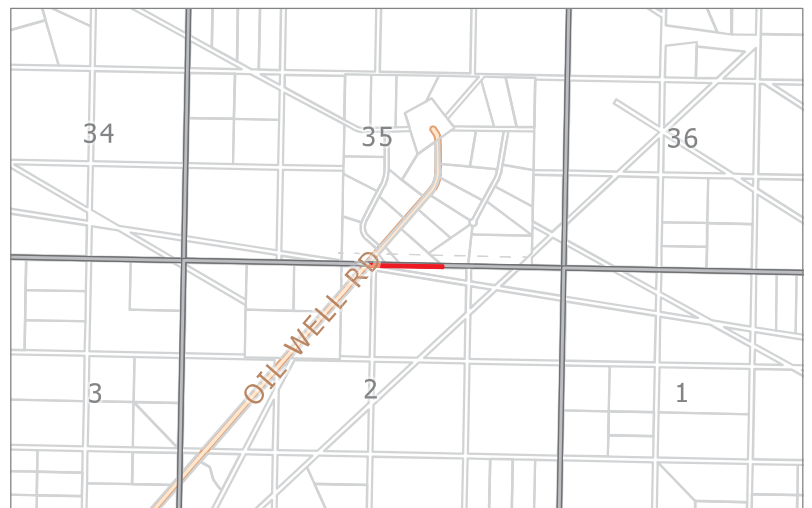
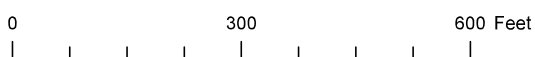
**Request: Vacates approximately a 30' by 1000' portion
of Steik Avenue dedicated by Ninilchik ROW Map, Plat
HM 84-155**

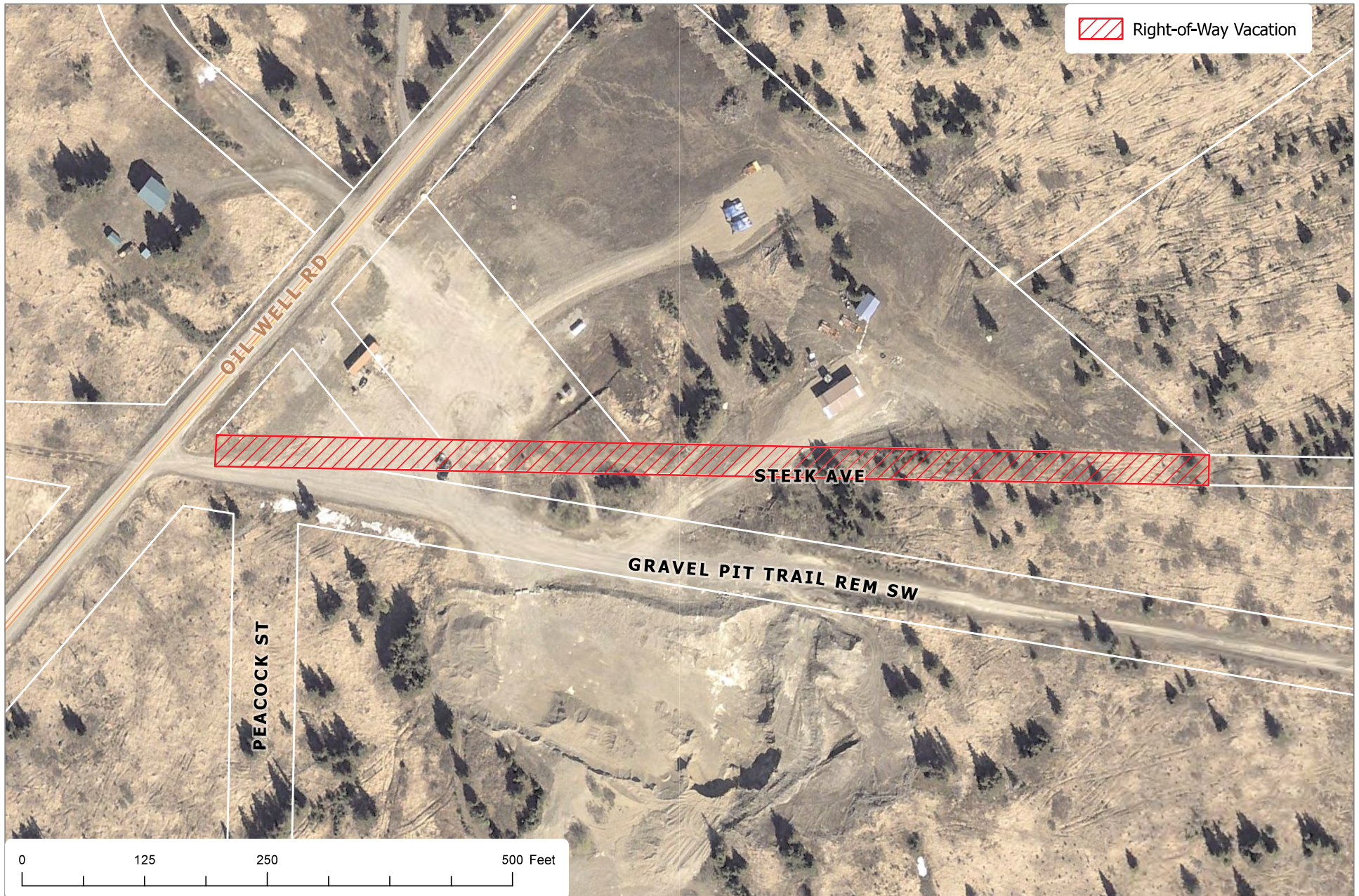
Ninilchik Area



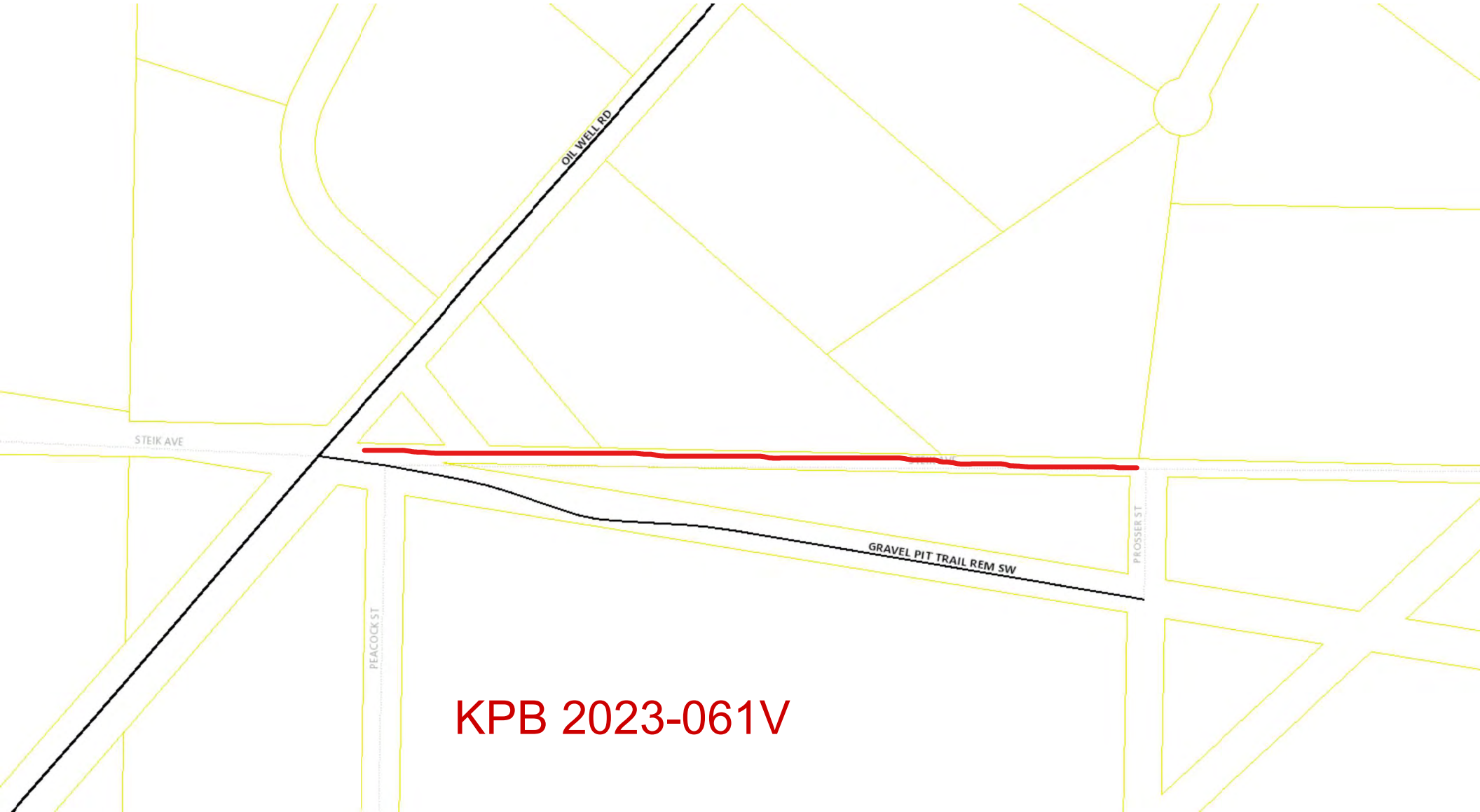
KPB File 2023-061V
T 02S R 12W SEC 02
Ninilchik

6/5/2023





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.



KPB 2023-061V

AGENDA ITEM E. NEW BUSINESS

**ITEM #2 - RIGHT OF WAY VACATION
VACATE PORTIONS OF STEIK AVENUE GRANTED ON NINILCHIK RIGHT-OF-WAY MAP, PLAT HM 84-115
and 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

Specific Request / Purpose as stated in the petition: Caribou Hills Cabin Hoppers are requesting a partial vacate of Steik Ave. The reason for the ROW vacation is we own the parcels on each side of Steik and would prefer no trails or roads to be created between the parcels. Parcel 18550814 we just acquired, we own the adjoining Parcels 18550851, 18550852 and 18550871. Parcel 18550871 has the physical address of 49545 Oilwell Rd, Ninilchik Ak 99639. CHCH requested vacate will NOT affect access to these parcels. Parcel 18550870, 18550757, 18550815 have access via Gravel Pit Trail REM SW, Prosser, Steik Ave, and Lobo Lane Seismograph Trail not listed on KPB parcel viewer page. CHCHs plan is to utilize our parcels for new construction of a facility to house the Groomers with facility access, from Gravel Pit Trail REM SW. Our parcels are also used for access points to the over 120 miles of trails in the Caribou Hills. We currently use our property to host community events and it provides a safe landing location for Central Emergency Services Helicopters. CHCH plans to improve the parcel for future community use. This vacate would affect only parcels owned by CHCH, there is NO use of Steik Ave at this time. Thank you for your consideration.

Notification: The public hearing notice was published in the June 22nd issue of the Homer News as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Ninilchik

Post Office of Ninilchik

Sixteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Zero receipts had been returned when the staff report was prepared.

Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Emergency Services of Ninilchik

Kenai Peninsula Borough Homer Office
Kenai Peninsula Borough Land Management
Ninilchik Traditional Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas

Legal Access (existing and proposed): The proposed vacation is within the area known as Caribou Hills. Access is provided by Oil Well Road off of Sterling Highway. State maintenance ends at mile post six and is continued by borough maintenance the rest of the length of Oil Well Road. The portion of Steik Avenue that is proposed to be vacated was granted by Ninilchik Right-Of-Way Map, Plat HM 84-115 and is a 36 foot wide dedication at this portion. According to KPB imagery Steik Avenue's use appears to be cutting across properties owned by the petitioners instead of the intended use of east to west travel.

Ninilchik Right-Of-Way Map, Plat HM 84-115 also granted a seismograph trail currently named Gravel Pit Trail REM SW and is a 66 foot wide right-of-way. Gravel Pit Trail is constructed, but not borough or state maintained.

There is a 60 foot dedicated right-of-way in between Lots 29 and 30 granted by Clarks' Point of View Estates Phase 1 HM 2001-80. The dedication was named Tatiana Lane and provides a connection between Oil Well Road and the Gravel Pit Trail and Steik Avenue intersection.

Parcels 185-508-51, 52, and 71 will all still have access to Oil Well Road. 185-508-51 and 52 will have access to Tatiana Lane. 185-508-71 will have access via Gravel Pit Trail along the southern boundary and Prosser Street along the east boundary of the parcel. 185-508-71 will have the only access being Oil Well Road.

Currently the angle of the intersection of Steik Avenue and Gravel Pit Trail doesn't comply with KPB 20.30.150 and this vacation will improve the alignment.

Staff research indicates there is a 50 foot section line easement running east to west, but the vacation is taking place outside of that. The Planning Department has not received any other petitions for different platting actions.

The block is closed. Some portions are currently smaller than allowed by code, but the proposed vacation will bring the blocks into compliance.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: No objections. Notes: 1) The section line distinction will remain and DNR will retain access authority therein. 2) Tatiana Lane ROW would seem moot as a result.
SOA DOT comments	

Site Investigation: According to KPB GIS information there are some classifications from the Kenai Watershed Forum of Wetland / Upland Complex. These appear to be in the western and eastern portions of the proposed vacation.

There are some gradual slopes that gain in elevation heading east with the steepest portions outside of the proposed vacation.

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
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	Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: VACANT Comments:
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Staff Analysis: The proposed vacation is within the Caribou Hills recreational area. The plat that dedicated the rights-of-way created various lots that were not surveyed but were aliquot descriptions that excluded dedications. The map did however indicate numbers to help tell the lots apart on the plat due to the scale. The area proposed for vacation is within the NE1/4 NW1/4 of Section 2 Township 2 South Range 12 West.

The parcels involved with the vacation are all of varying sizes at .16, .84, 2.31, and 4.59 acres. The smallest of the four is a substandard lot by current KPB code, but at creation was not. **Staff recommends:** *a reconfiguration be done in the future to add square footage to Lot 30 which could be done through a possible right-of-way vacation of Tatiana Lane, and a subdivision to either combine lots or realign lines.*

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: No use of the easement is currently being done.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: Alternative access has been provided by Gravel Pit Trail REM SW
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: It appears a majority of use is done by the petitioners who own all of the parcels surrounding the proposed vacation. In their justification it is stated they host community events and will continue to allow members access.
 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: The area is a recreation area and the vacation does not affect the usage.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: Adjacent access is not prohibited.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Vacating this portion of Steik Avenue will bring the intersection angle into compliance.
 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests,

and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.

Staff comments: All parcels will still have utilities easements along Oil Well Road and Gravel Pit Trail granted by parent plats.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

Staff comments:

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled July 11, 2023 meeting.

If approved, submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB department / agency review:

Addressing	
Code Compliance	Reviewer: Ogren, Eric Comments: There appears to be a Conex or structure in the ROW of Steik Ave. if denied the structure would need to be moved.
Planner	
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	HEA does not have any facilities in this area and is not opposed to the vacation of the right-of-way.
ENSTAR	No comments or recommendations
ACS	
GCI	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends **APPROVAL** as petitioned, subject to:

1. Consent by July 11, 2023 KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either

consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.

- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.
- J. A planning commission decision denying a vacation application is final. 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

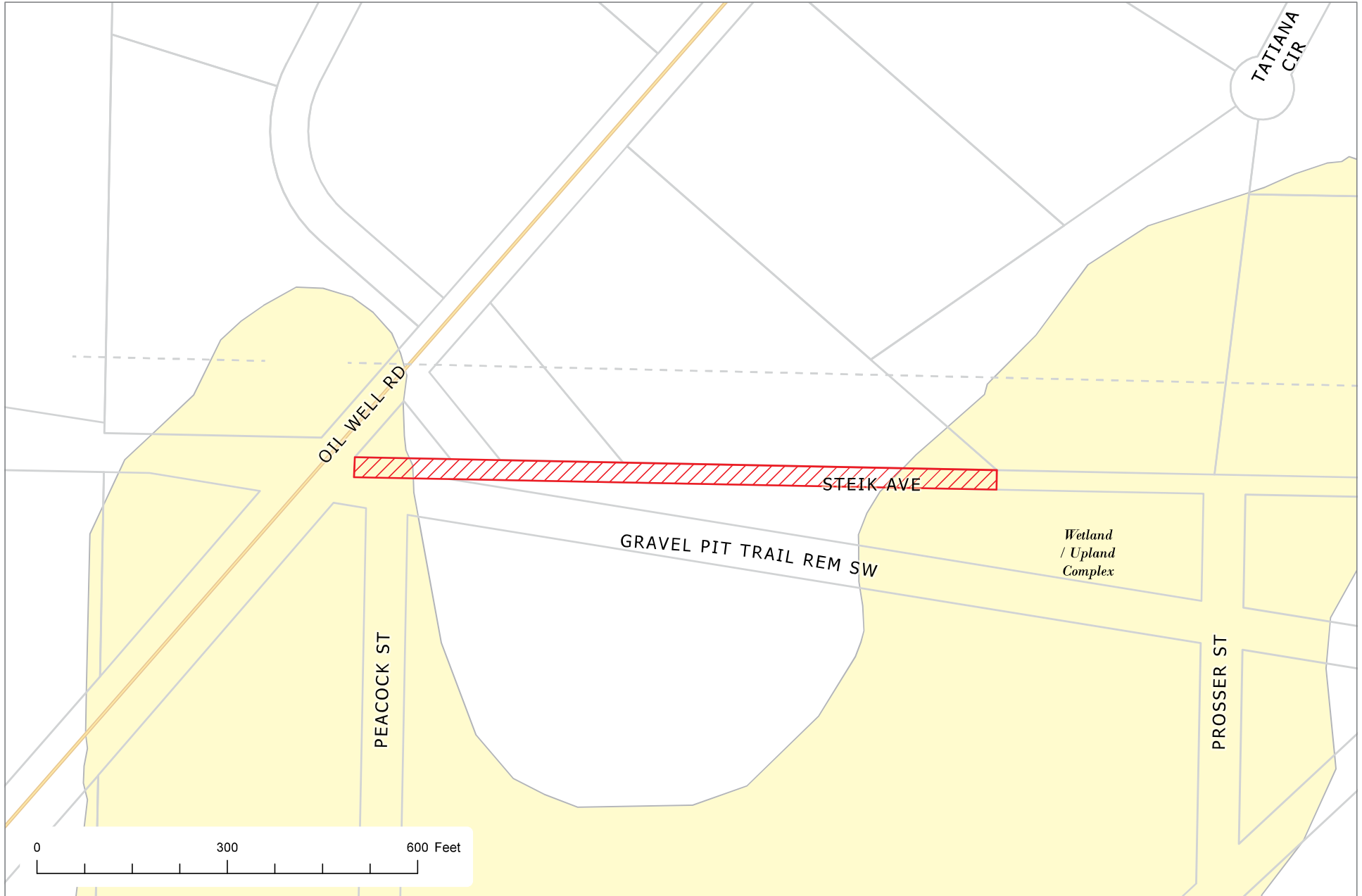
Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

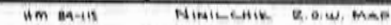
END OF STAFF REPORT



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NOTES:

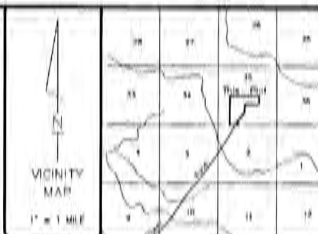
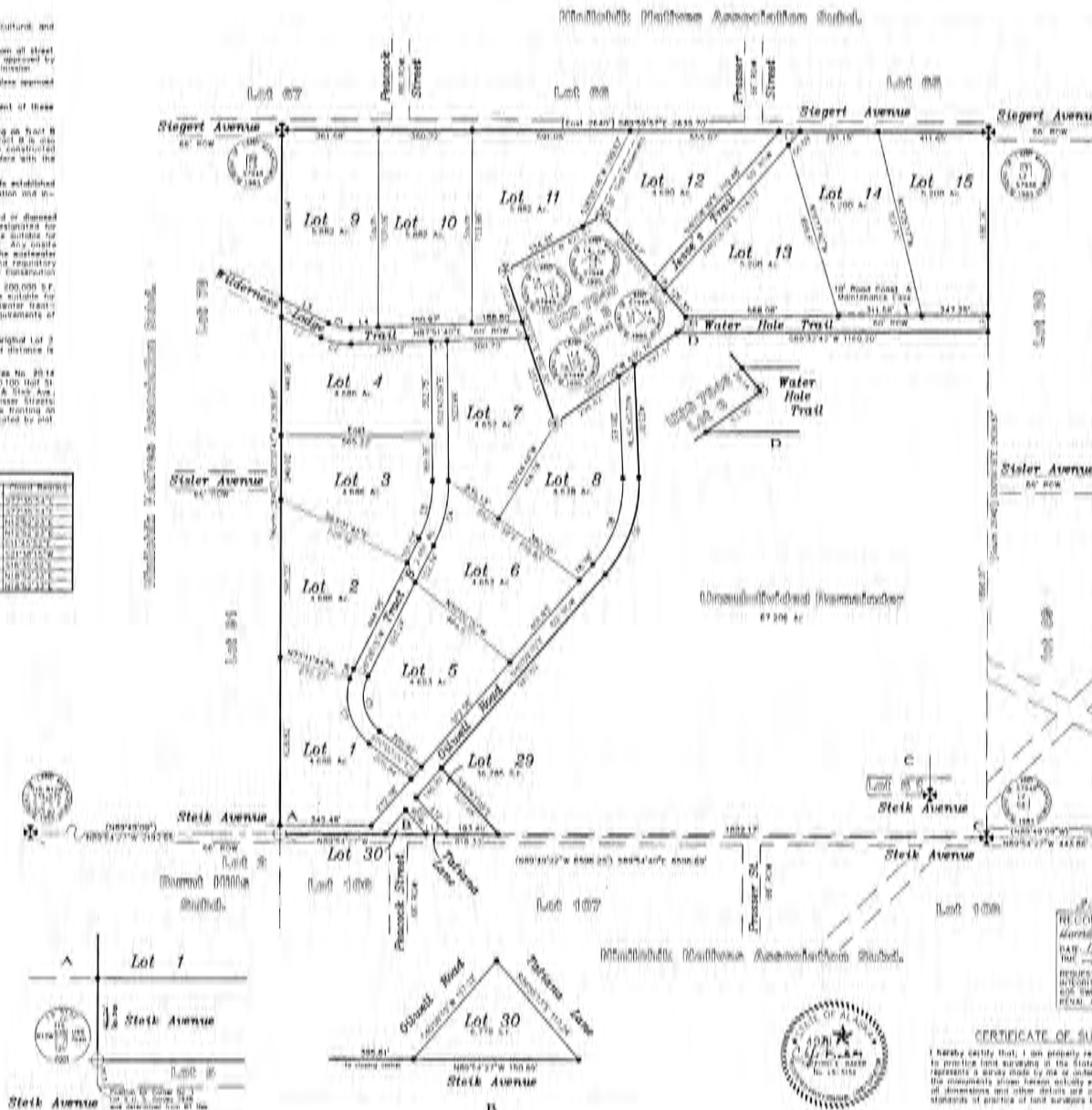
- Proposed land uses are recreational, residential, agricultural and commercial.
- Building Setback - A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
- No private access to State maintained ROW's permitted unless approved by the State of Alaska Department of Transportation.
- Restrictive Covenants that may affect the development of these parcels are recorded in Book 337, Page 418, III.
- Front 15 ft. adjacent to rights-of-way and lots fronting on Front B is also a utility easement. The outer most 10 ft. of Tract B is also a utility easement. 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.
- Roads must meet the design and construction standards established by the Borough in order to be considered for certification and inclusion in the road maintenance program.
- WASTEWATER DISPOSAL:** No wastewater will be generated or disposed of on Lots 29, 30, Tracts B. These parcels are designated for parking and road construction. Conditions must not be suitable for onsite wastewater treatment and disposal systems. Any onsite wastewater treatment and disposal system must meet the wastewater disposal requirements of the KPB Chapter 20.14 and regulatory requirements of the Alaska Department of Environmental Conservation.
- WASTEWATER DISPOSAL:** All remaining lots are at least 100,000 S.F. 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.
- Bois of Bearing is West between C1 and C4 of the adjacent Lot 2 as shown on the US Survey 7948. Record and found distance is 2640/2640.49' respectively.
- An exception was granted to KPB Subdivision Ordinances No. 1918 & 2020.100 for Lots 29 & 30 and Tract B, No. 201100, Part 11 & 2020.110 Minimum Right-of-Way widths for Siebert & Sisk Ave. No. 2020.030 Extension of Sisk Ave, Peacock & Pioneer Streets No. 2020.200 Frontage on a dedicated street for lots fronting on Tract b; No. 2020.080 Maximum Grade for roads dedicated by plat

Curve	Delta	Radius	Length	Chord
C1	29°04'33"	170.00'	68.22'	115.41'
C2	29°04'53"	230.00'	116.74'	115.41'
C3	27°11'44"	470.00'	223.09'	221.00'
C4	27°11'44"	530.00'	251.57'	249.00'
C5	76°28'15"	170.00'	126.80'	210.00'
C6	9°39'59"	230.00'	38.80'	38.70'
C7	66°48'16"	230.00'	268.17'	253.00'
C8	42°23'24"	470.00'	349.09'	341.00'
C9	42°23'24"	530.00'	393.66'	384.00'

Line	Bearing	Length
L1	S00°00'43"W 67.30'	67.30'
L2	S63°03'28"E 166.87'	166.87'
L3	S63°03'28"E 197.35'	197.35'
L4	N87°51'40"E 102.48'	102.48'
L5	N87°51'40"E 60.02'	60.02'
L6	N18°20'02"W 62.48'	62.48'
L7	N88°59'57"W 78.49'	78.49'
L8	S39°09'00"E 61.06'	61.06'
L9	N00°00'18"W 60.00'	60.00'
L10	S53°01'05"W 72.87'	72.87'
L11	N40°09'15"E 60.00'	60.00'
L12	S39°05'15"E 167.61'	167.61'
L13	S89°54'27"E 78.34'	78.34'
L14	S00°00'43"W 7.44'	7.44'
L15	N00°00'18"W 3.18'	3.18'

LEGEND:

- 3-1/4" Alum. Cap Monument (found)
- 2-1/2" Brass Cap Monument (found)
- 2-1/2" Alum. Cap Monument (set)
- 5/8" Rebar (set this survey)
- Record Datum - U. S. Survey 7948
- Details - Not to Scale



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE REAL PROPERTY SURVEYED AND DESCRIBED HEREON AND THAT WE HEREBY AGREE THAT THIS PLAN OF SUBDIVISION AND BY-LAW FREE CONVEYANCE DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Clayton Clark
P. Box 1287
Kenai, Alaska 99611

Paula Clark
P. Box 1287
Kenai, Alaska 99611

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 17th DAY OF October, 2001 for Clayton Clark, Paula L. Clark, Steven H. Clark, and Patricia Clark.

Notary Public
MY COMMISSION EXPIRES 9-14-2003

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF July 13, 2001.

Notary Public
Kenai, Alaska

KPB FILE No. 2001-127

Clarks' Point Of View Estates - Phase 1

A subdivision of a portion of Lot 6 U. S. Survey # 7948 located within the SE1/4 & SW1/4 of Section 35, T16, R16W, S4U former Kenai Borough (District 1), Kenai Peninsula Borough, Alaska containing 25.061 Acres

Integrity Surveys

855 Sales Drive Kenai, Alaska 99611-8163
SURVEYORS NAME : (907) 981-9011 FAX : (907) 981-9011 PLANNERS

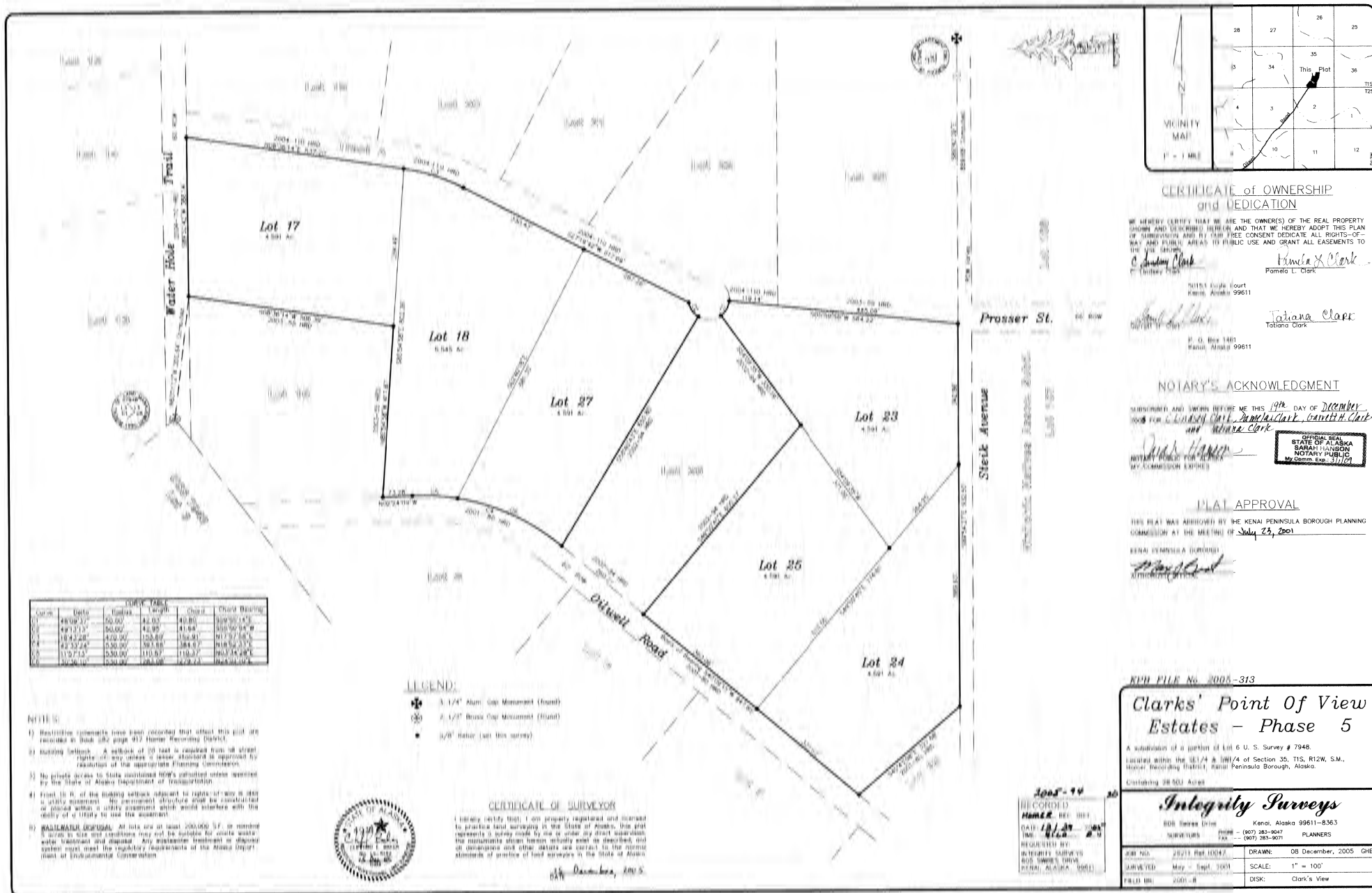
SUB NO.	10007	DRAWN	3 October, 2001	CR
SURVEYED	May - Sept. 2001	SCALE	1" = 200'	
FIELD BY	2001-8 Pg. 1-50	DISK	Clark's View	

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 measurements shown herein actually exist as described, and all dimensions and other details are correct to the national standards of practice of land surveyors in the State of Alaska.

13 December, 2001





E. NEW BUSINESS

3. Condition Use Permit; PC Resolution 2023-13

Request: Permits a fence within the 50-foot Habitat Protection District of the Kenai River

Location: 33537 Keystone Drive Parcel ID 135-260-02

Petitioner/Landowner: Helbock

Soldotna Area

Multi-Agency Permit Application



514 Funny River Road, Soldotna, AK 99669 • (907) 714-2460 • KenaiRivCenter@kpb.us

Applicant Information: (must be a landowner)

Name: Steve Helbock
Mailing: 1806 Curry Rd
Roseburg OR 97471
Phone: (706) 505-2452
Email: helbock@aol.com

Agent Information: (if applicable)

Name: Scott Thomas - Blk River Builders
Mailing: 3555 Kenai Spur suite 4120
Soldotna AK 99669
Phone: 907 398-2797
Email: scott.e.thomas.ak@gmail.com

Project Location:

KPB Parcel ID: 13526002
Physical Address: 33537 Keystone Dr
Soldotna AK
Subdivision: Moose Range Meadows
Lot: 142 Block: 2 Addition/No.: _____

Waterbody Information:

Waterbody: Kenai River
Riverbank: (looking downstream) ☒ Left ☐ Right
River Mile: _____

State of Alaska Permit Fees:

☐ \$100 - ADNR State Parks Permit

KPB Permit Fees: (select one)

☐ \$50 - KPB Habitat/Floodplain Permit
☒ \$300 - KPB Conditional Use/Floodway Permit

Project Information: ☒ New OR ☐ Extension/Amendment to RC# _____

Please select all activities that apply to your project:

- | | | |
|--|--|--|
| <input type="checkbox"/> Bank Stabilization | <input type="checkbox"/> Fish & Wildlife Management | <input type="checkbox"/> Road Construction |
| <input type="checkbox"/> Boat Launch | <input type="checkbox"/> Floating Dock | <input type="checkbox"/> Structure (Accessory) |
| <input type="checkbox"/> Bridge | <input type="checkbox"/> Fuel Storage Green Infrastructure | <input type="checkbox"/> Structure (Residential) |
| <input type="checkbox"/> Coir Logs | <input type="checkbox"/> In-Stream Structures (Weir) | <input type="checkbox"/> Spruce Tree Revetment |
| <input type="checkbox"/> Culvert | <input type="checkbox"/> Oil & Gas | <input type="checkbox"/> Stream Crossing |
| <input type="checkbox"/> ELP Structures | <input type="checkbox"/> On-Site Utilities | <input type="checkbox"/> Utility Line/Easement |
| <input type="checkbox"/> Equipment Stream Crossing | <input type="checkbox"/> Prior-Existing Structure | <input type="checkbox"/> Veg Mat |
| <input type="checkbox"/> Excavation, Dredging, and/or Fill | <input type="checkbox"/> Revegetation | <input type="checkbox"/> Vegetation Removal |
| <input checked="" type="checkbox"/> Fence Installation | <input type="checkbox"/> Root Wads | <input type="checkbox"/> Water Withdrawal |
| | | <input type="checkbox"/> Other: _____ |

Project Description: Provide a detailed description of your project; attach additional pages if necessary.

2 terminal ends of 5' chain link fence
ending at river bluff edge.

- 1 10' gate on each side to allow for
animal access.

Cost-Share: Is this project funded by the Cost-Share Program? ☐ Yes ☐ No

KPB Tax Credit Program: The Borough provides a tax credit as partial reimbursement for new habitat protection and restoration projects within 150 feet of anadromous streams. If you would like to pre-qualify for this credit, please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light Penetrating Structures	\$ _____
Habitat Restoration & Protection	\$ _____
Green Infrastructure	\$ _____
Other Activities	\$ _____

Project Questions:

1. Start date: ASAP End date: _____ Estimated Days of Construction: 3
2. Is any portion of the work already complete? If yes, please describe: No ☐ Yes ☒ No

Ordinary High Water (OHW) and Mean High Water (MHW):

3. Is the project located within 50 feet of OHW or MHW a waterbody? ☒ Yes ☐ No
4. Does any portion of the project extend below the OHW or MHW of the waterbody? ☐ Yes ☒ No
5. Does any portion of the project cantilever or extend over the MHW of the waterbody? ☐ Yes ☒ No
6. Will anything be placed below OHW or MHW of the waterbody? ☐ Yes ☒ No

Regulatory Floodplains:

7. Is the property where the project is taking place near or within a regulatory floodplain? ☐ Yes ☒ No
- a. Is this project within or adjacent to a regulatory floodway? ☐ Yes ☒ No
- b. Is this project within or adjacent to a coastal high hazard zone? ☐ Yes ☒ No
- c. For new buildings and/or additions, list all project costs (labor, materials, etc.): \$ _____

Excavation, Dredging, and Fill:

8. Will material be excavated or dredged from the site? ☐ Yes ☒ No
- a. Type of material(s): _____
- b. Area to be dredged below OHW or MHW:
Length: _____ (ft) Width: _____ (ft) Depth: _____ (ft) Total Cubic Yards: _____
- c. Area to be excavated above OHW or MHW:
Length: _____ (ft) Width: _____ (ft) Depth: _____ (ft) Total Cubic Yards: _____
- d. Location materials will be deposited: _____
9. Will any material (including soils, debris, and/or overburden) be used as fill? ☐ Yes ☒ No
- a. Type of material(s): _____
- b. Is this fill permanent or temporary? ☐ Perm ☐ Temp
- c. Area to be filled above OHW or MHW:
Length: _____ (ft), Width: _____ (ft), Depth: _____ (ft), Total Cubic Yards: _____
- d. Area to be filled below OHW or MHW:
Length: _____ (ft), Width: _____ (ft), Depth: _____ (ft), Total Cubic Yards: _____

Motorized Equipment:

10. Will you be using motorized equipment for this project? If yes, please list all equipment: ☐ Yes ☒ No
- a. Will you be crossing a stream or waterbody? ☐ Yes ☒ No
- b. How long will equipment be used below OHW or MHW? _____

Signature & Certification:

This application is hereby made requesting permit(s) to authorize the work described in this application form. I certify the information in this application is complete and accurate to the best of my knowledge and that my site plans or drawings are attached. If applying for a tax credit, I certify that I have not begun construction of the project and that the project will be constructed to the standards in KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable federal, state, and local regulations.

[Signature]
Applicant Signature (required)

5-24-23
Date

[Signature]
Agent Signature (if applicable)

5-23-23
Date

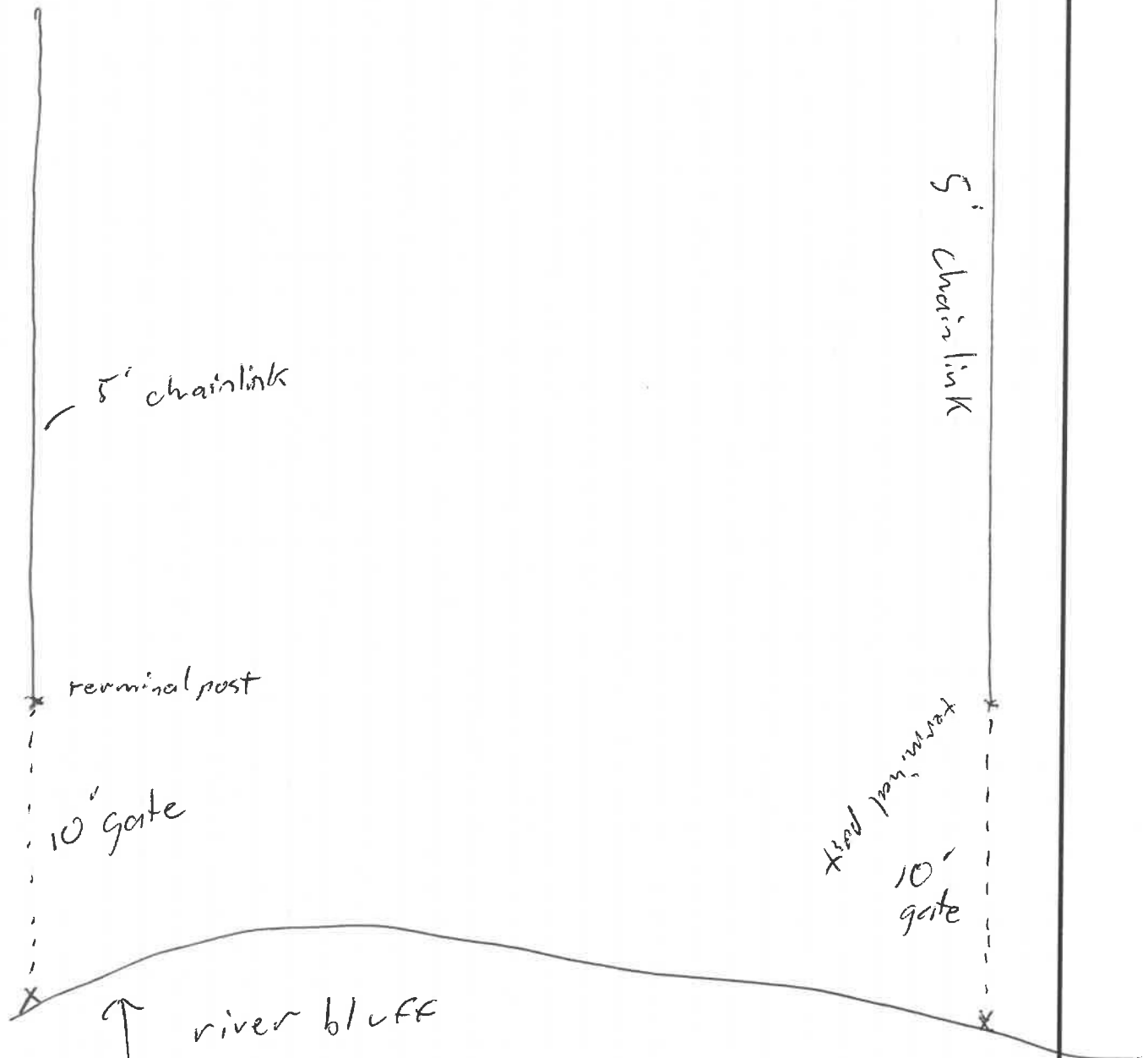
Project Drawings: Top View

Drawings do not have to be to scale, but must show the following:

- Property boundaries
- Floodplain zone(s)
- OHW or MHW line
- Dimensions for all structures
- 50-foot Habitat Protection District
- Length, width, height

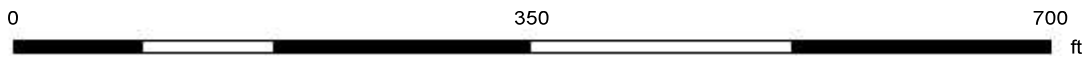


North





Project Overview and Vicinity Map



fence



Project Area

Vicinity

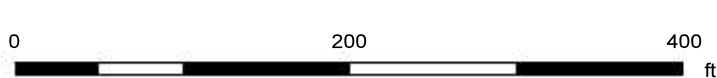


Map created by Aldridge, Morgan

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Map created by Aldridge, Morga
Tuesday, May 30, 2023



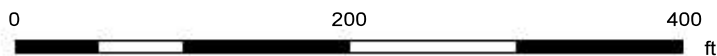


fence



- Project Area**
- River Miles
 -
- Tax Parcels
 -
- Habitat
 - KPB 2118 - KPB 2118
 - Anadromous Streams
 - Exempt
 - Managed
 - Unregulated
 - others
 - Anadromous Lakes and Areas
 - Exempt
 - Managed
 - Unregulated
 - n/a

Map created by Aldridge, Morga
Tuesday, May 30, 2023





 **Project Area**

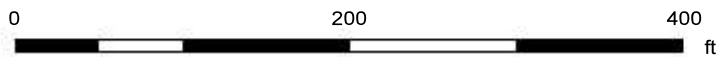
River Miles



Tax Parcels



Map created by Aldridge, Morga
Tuesday, May 30, 2023





- Project Area**
- River Miles
- Tax Parcels

Map created by Aldridge, Morga
Tuesday, May 30, 2023





Project Area

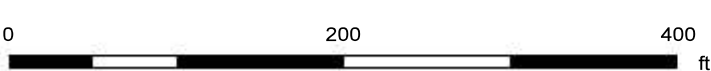
River Miles



Tax Parcels



Map created by Aldridge, Morga
Tuesday, May 30, 2023





 **Project Area**

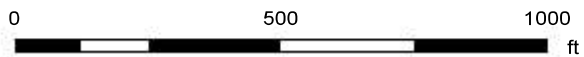
River Miles



Tax Parcels



Map created by Aldridge, Morga
Tuesday, May 30, 2023



**Conditional Use Permit
Anadromous Waters Habitat Protection District
Staff Report**

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

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a fence within the 50-foot Habitat Protection District of the Kenai River as established in KPB 21.18.040.

Background Information

Applicant proposes to install chain link fence on the both sides of the parcel for privacy and security. Fences will be installed upland of the 50 foot setback, continue through the 50 foot Habitat Protection District (HPD) and will stop at the top of the bluff, approximately 27 feet from the Ordinary High Water Line. Within the 27 feet of fence inside the HPD, the bottom ten feet closest to the river will be a hinged gate, so that it can be opened seasonally to allow for wildlife passage.

Project Details within the 50-foot Habitat Protection District

1. installation of chain link fences, 27 feet deep on each side of the parcel
2. installation of two terminal post ends within the HPD

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(2), construction of a fence may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.

6. Pursuant to KPB 21.06.050, chain-link fencing allows for the unobstructed passage of water.
7. Pursuant to KPB 21.06.050, the bottom portion of the fence measuring 10 feet will be moved seasonally to accommodate wildlife passage.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
10. The River Center found the application complete and scheduled a public hearing for June 26, 2023.
11. Agency review was distributed on June 13, 2023. No comments or objections have been received from resource agencies to date.
12. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on June 14, 2023. A total of 6 mailings were sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on June 15th 2023 and June 22nd, 2023.
14. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The fence must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.

12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough;
3. The development of the use or structure shall not physically damage the adjoining property;
4. The proposed use or structure is water-dependent;
5. Applicant's or owner's compliance with other borough permits and ordinance requirements.

Attachments

Multi-Agency Application
Draft Resolution 2023-13

Recommendation

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2023-13.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT



Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax

A Division of the Planning Department

Peter A. Micciche
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to construct a fence on a parcel located at 33537 Keystone Dr within the 50-foot Habitat Protection District of the Kenai River near Soldotna, Alaska. ***You have been sent this notice because you are a property owner within 300 feet of the described property.***

Pursuant to KPB 21.18.081(B)(3) Fences and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at T 4N R 10W SEC 2 SM KN 0870100 MOOSE RANGE MEADOWS SUB PHASE II AMENDED LOT 1 BLK 2, Soldotna, Alaska.

Petitioner: **Steve Helbock**
 1806 Curry Rd
 Roseburg, OR 97471

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on June 26, 2023 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://us06web.zoom.us/j/9077142200>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099 or 1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

Public Comment: Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. **Written comments must be submitted by 1:00 pm Friday, June 23, 2023.**

Mail comments to:

Donald E. Gilman River Center
514 Funny River Road
Soldotna, Alaska 99669

Fax comments to:

(907) 260-5992

Email comments to:

planning@kpb.us
KenaiRivCenter@kpb.us

For additional information contact Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2023-13

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF FENCE WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE KENAI RIVER.

- WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on June 15th 2023 and June 22nd 2023 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the June 26th 2023 meeting of the Kenai Peninsula Borough Planning Commission;

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

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details Within the 50-foot Habitat Protection District

1. installation of chain link fences, 27 feet deep on each side of the parcel
2. installation of two terminal post ends within the HPD

Section 2. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(2), construction of a fence may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.

5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Pursuant to KPB 21.06.050, chain-link fencing allows for the unobstructed passage of water.
7. Pursuant to KPB 21.06.050, the bottom portion of the fence measuring 10 feet will be moved seasonally to accommodate wildlife passage.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
10. The River Center found the application complete and scheduled a public hearing for June 25, 2023.
11. Agency review was distributed on June 13, 2023. No comments or objections have been received from resource agencies to date.
12. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on June 14, 2023. A total of 6 mailings were sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on June 15th, 2023 and June 22nd, 2023.
14. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The fence must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).

10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-5, 11, 12, and Finding 4 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-8, 12-14 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 8 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 1-4, 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 14 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

Note: An appeal of a decision of the Planning Commission may be filed to the hearing officer, in accordance with the requirements of the KPB Code of Ordinances, Chapter 21.20.250. An appeal

must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

MISC. INFORMATION

- **Unit 395 Land Plan (Cooper Landing Area)**

Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

TO: Jeremy Brantley, Planning Commission Chairperson
Members of the Kenai Peninsula Borough Planning Commission

THRU: Robert Ruffner, Planning Director

FROM: Marcus Mueller, Land Management Officer

DATE: June 14, 2023

RE: PUBLIC REVIEW DRAFT: UNIT 395 LAND PLAN (Cooper Landing)

KPB Land Management and consultant RESPEC has released the public review draft of the Unit 395 Land Plan. The 45-day public comment period is June 7th to July 22nd, 2023. The draft plan and avenues to submit comments can be found at:

www.unit395planning.com/plan-draft

The Unit 395 Land Plan covers 1,000 acres of KPB land located 5 miles east of Cooper Landing. The plan includes maps; descriptions of land features and natural resources; identification of areas potentially suitable for development, recreation, and other landscape functions; management considerations; public input; and recommendations for near term and long-term management decision making. The plan includes a geotechnical report and a stand-alone housing report.

