

C. CONSENT AGENDA

***7. Minutes**

a. August 8, 2022 Planning Commission Meeting

Kenai Peninsula Borough Planning Commission

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

August 8, 2022

7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

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

Oath of Office

Commissioners, Fikes, Horton, Morgan and Venuti were reappointed by Mayor Pierce to serve another 3-year term on the commission. Mayor Pierce also appointed Dawson Slaughter to the District 9 – South Peninsula seat to serve a 3-year term on the Commission. Ms. Shirnberg administered the oath of office to the appointed and reappointed commissioners.

AGENDA ITEM B. ROLL CALL

Commissioners Present

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

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

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Marcus Mueller, Land Management Officer
Derek Haws, Addressing Officer
Vince Piagentini, Platting Manager
Julie Hindman, Platting Specialist
Sam Lopez, Planning Manager
Morgan Aldridge, Resource Planner
Ann Shirnberg, Planning Administrative Assistant
Rhonda Foster-Deskins, LMD Administrative Assistant.

Election of Officers

Commissioner Gillham nominated, seconded by Commissioner Staggs, Commissioner Brantley for the position of Chairman. Seeing and hearing no objections, discussion or other nominations, Commissioner Brantley was appointed Chairman.

Commissioner Brantley nominated, seconded by Commissioner Fikes, Commissioner Martin for the position of Vice Chair. Seeing and hearing no objections, discussion or other nominations, Commissioner

Martin was appointed Vice-Chairman.

Commissioner Gillham nominated, seconded by Commissioner Fikes, Commissioner Morgan for the position of parliamentarian. Seeing and hearing no objections, discussion or other nominations, Commissioner Morgan was appointed Parliamentarian.

Former Chair Martin passed the gavel to the newly appointed Chair, Commissioner Brantley, to chair the meeting.

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

- *3. Plats Granted Administrative Approval**
 - a. J Booth Recreational Subd 2019 Blauvelt Addition; KPB File 2021-069
 - b. Sterling Heights Subdivision 2022 Addition; KPB File 2022-037
 - c. Toyon Subdivision 2021 Replat; KPB File 2022-011

- *4. Plats Granted Final Approval**
 - a. Kees Tern Subdivision Phase 2; KPB File 2022-051
 - b. Tower Hills Park Subdivision 2022 Replat; KPB File 2022-067

- *6. Commissioner Excused Absences**
 - a. District 7 – Central, Vacant
 - b. City of Seldovia, Vacant

- *7. Minutes**
 - a. July 18, 2022 Planning Commission meeting minutes.

Chair Brantley asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items.

MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to approve the consent and regular agendas.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

Chair Brantley requested that Ms. Shirnberg read into the record the procedures for Planning Commission public hearing.

ITEM E1 – ORDINANCE 2022-31

Authorizing the release of a commercial deed restriction on a parcel of land located in Cooper Landing originally conveyed by the Kenai Peninsula Borough.

Staff report given by Marcus Mueller.

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 Morgan moved, seconded by Commissioner Gillham to forward to the Assembly a recommendation to adopt Ordinance 2022-31, authorizing the release of a commercial deed restriction on a parcel of land located in Cooper Landing originally conveyed by the Kenai Peninsula Borough.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

ITEM E2 – ORDINANCE 2022-19-08

Authorizing the acquisition of real property located in Anchor Point, Alaska on behalf of Western Emergency Services for future expansion of emergency service facilities with funding through an interfund loan from the Land Trust Investment Fund. Appropriating loan proceeds for the property acquisition, and appropriating Western Emergency Service Area operating funds for the annual loan payment to the Land Trust Investment Fund.

Staff report given by Marcus Mueller.

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

Commissioner Slaughter requested to abstain from voting on this item. He sits on the WESA board and had voted on the boards recommendation that the Assembly adopt this ordinance. Chair Brantley approved Commissioner Slaughter’s request.

MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt Ordinance 2022-19-08, Authorizing the acquisition of real property located in Anchor Point, Alaska on behalf of Western Emergency Services, for future expansion of emergency service facilities with funding through an interfund loan from the Land Trust Investment Fund. Appropriating loan proceeds for the property acquisition, and appropriating Western Emergency Service Area operating funds for the annual loan payment to the Land Trust Investment Fund.

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, Morgan, Staggs, Stutzer, Tautfest, Venuti
Abstain -1	Slaughter

ITEM E3 – SN RESOLUTION 2022-02

Unnamed public rights-of-way within SEC 36, T05N, R01W; S.M. withing Emergency Service Number (ESN) 601 to the following:

- A. Expedition Avenue
- B. Destination Avenue
- C. Navigation Avenue
- D. Trek Avenue
- E. Backpacker Avenue

AND

Unnamed public rights-of-way within SEC 1, T04N, R01W; S.M. within Emergency Service Number (ESN) 601 to the following:

- F. Meridian Avenue.
- G. Hikers Avenue
- H. Basecamp Avenue

Staff report was given by Addressing Officer Derek Haws.

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 Morgan moved, seconded by Commissioner Slaughter to adopt Street Naming Resolution 2022-02: Naming unnamed public rights-of-way in the Moose Pass area.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

ITEM E4 – CONDITIONAL USE PERMIT

KPB File No.	2022-36
Planning Commission Meeting:	August 8, 2022
Applicant	Chugach Electric
Mailing Address	PO Box 196300, Anchorage, AK 99519
Legal Description	T 05N R 02W SEC 16 SEWARD MERIDIAN SW 2019007 ALASKA STATE LAND SURVEY NO 2014-26 TRACT A
Physical Address	24238 STERLING HWY
KPB Parcel Number	119-300-23

Staff report given by Planner Morgan Aldridge.

Chair Brantley opened the item for public comment.

Paul McLaron; 19143 Jamie Drive, Eagle River, AK 99577: Mr. McLaron is an engineer with HDR and is the lead engineer on this project. He made himself available for any questions the commission may have on the conditional use permit application.

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

MOTION: Commissioner Morgan moved, seconded by Commissioner fikes to adopt PC Resolution 2022-36 granting a conditional use permit to install rip rap on a parcel within the 50-foot Habitat Protection District of Quartz Creek.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

ITEM E5 – CONDITIONAL USE PERMIT

KPB File No.	2022-35
Planning Commission Meeting:	August 8, 2022
Applicant	Paul LaFond
Mailing Address	871 Forget Me Not Lane, Homer, AK 99603
Legal Description	T 5N R 10W SEC 35 SM KN 0760050 KEYSTONE ESTATES SUB PART 2 LOT 24 BLK 2
Physical Address	34635 KEYSTONE DR
KPB Parcel Number	05820027

Staff report given by Planner Morgan Aldridge.

Chair Brantley opened the item for public comment.

Paul LaFond; 874 Forget Me Not Lane, Homer, AK 99603: Mr. LaFond is the applicant and he made himself available for any questions the commission might have regarding his conditional use permit application.

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

MOTION: Commissioner Martin moved, seconded by Commissioner Staggs to adopt PC Resolution 2022-35 granting a conditional use permit to install a fence within the 50-foot Habitat Protection District of the Kenai River.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

**ITEM E6 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1A BLOCK 1 CLEARWATER SUBDIVISION HARPRING REPLAT, KN 2005-126**

KPB File No.	2022-098
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Blaine D. Gilman / James Harpring
Surveyor:	Jon Guffey / Global Positioning Services, Inc.
General Location:	Wharf Ave, Water Front Way Funny River Area / Funny River APC
Parent Parcel No.:	066-350-37
Legal Description:	Clearwater Subdivision Harpring Replat Lot 1A Block 1, KN 2005-126
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

Blain Gilman; 10672 Kenai Spur Hwy., Suite #112, Kenai, AK 99611: Mr. Gilman is the applicant’s legal counsel. Mr. Gilman spoke in support of Mr. Harpring’s application. He noted that Mr. Harpring was not aware that building setbacks applied to section line easements and apologized for his error. Mr. Gillman then noted that to move the encroaching structures would be cost prohibitive, he estimated it could cost upwards of \$600,000. He then made himself available for any questions the commission may have regarding the building setback encroachment permit application.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Stutzer, to adopt PC Resolution 2022-37 granting a building setback encroachment permit to Lot 1A, Block 1, Clearwater Subdivision Harpring Replat, Plat KN 2005-126.

Commissioner Stutzer noted that one of the photos included in the packet appears to show a corner of a roof on one of the structures encroaching into Wharf Ave. Ms. Hindman replied that line work and imagery do not always line up, they can be a bit off. She then noted that it was that particular imagery which brought the encroachment to the borough’s attention. Initially the borough had concerns that there were structures encroaching into the right-of-way. The borough had a survey completed and none of the structures encroached on to a right-of-way, only into the setback.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

**ITEM E7 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 11B BLOCK 3, FERNWOOD 1977 SUBDIVISION HM 77-63**

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	James Ferguson and Karen Jackman of Fritz Creek, Alaska
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Highview Court, Glacier View Road, Fritz Creek area / Kachemak Bay APC

Parent Parcel No.:	172-190-35
Legal Description:	Fernwood 1977 Subdivision Lot 11B Block 3, HM 77-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

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 Staggs to adopt PC Resolution 2022-33 granting a building setback encroachment permit to Lot 11-B, Block 3, Fernwood Subdivision Unit 3, Plat HM 77-17.

Commissioner Stutzer stated that he would be voting against approving this permit. He did not believe it was appropriate to build in the setback and then come and ask for a permit after the fact. When building, landowners need to have the properties surveyed to ensure that the structures they are building do not encroach into the setbacks or rights-of-way. Seeing that the encroachment is a carport he believes that it is possible to shorten the structure so it no longer encroaches into the setback.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 10	Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Tautfest, Venuti
No - 2	Brantley, Stutzer

**ITEM E8 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 0850157)**

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, Alaska
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Parent Parcel No.:	013-281-24
Legal Description:	Centennial Shores Subdivision Number 1, Lot 1 Block 2, KN 85-157
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

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 Martin moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-39 granting a building setback encroachment permit to Lot 1, Block 2, Centennial Shores Subdivision Number One, Plat KN 85-157.

Commissioner Stutzer noted that he preferred staff option two, he would like to see a new subdivision opening the cul-de-sac and creating a new right-of-way dedication, so he will be voting not to approved the encroachment permit.

Commissioner Gillham asked staff if they knew what the cost of option two would be to the petitioner. Ms. Hindman replied that she could not say what the survey costs would be as they vary from surveyor to surveyor. The borough fees associated with a vacation and a replat, which would be required to fix the situation, would be \$1300.00, which would be on top of the survey fees.

Commissioner Martin noted that cul-de-sacs were typically not to be opened, that they are much more difficult to vacate. He asked staff to elaborate on what it would take to vacate this cul-de-sac. Ms. Hindman replied that it would take the signatures of all landowners fronting on the cul-de-sac to open it up. In this situation this cul-de-sac is already being used as a throughfare to the west. It is also on top of a section line easement which people are using to access properties to the west. What staff would like to see is the vacation of portions of the cul-de-sac bulb, which would resolve the current issues of encroachments into the setbacks and utility easements, and to provide a continuation of the dedication. Commissioner Martin then stated based on that information he would be voting no on the motion.

Commissioner Horton stated the he believed it was more advantageous to make this cul-de-sac a connecting road, which is how it is currently being used. He then stated that he would be voting no on this motion.

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

MOTION FAILED BY MAJORITY VOTE:

Yes - 1	Hooper
No - 11	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Taufest, Venuti

Ms. Hindman noted that KPB 20.10.110(h) notes that a decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 21.20.210 within 15 days of the notice of decision in accordance with KPB 21.20.250.

**ITEM E9 - UTILITY EASEMENT ALTERATION
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 85-157)**

KPB File No.	2022-101V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Staff report given by Platting Specialist Julie Hindman. She noted KPB 20.65.070(E) states that a planning commission decision under this section is final. No reapplication of a petition concerning the same alteration to a platted utility easement 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. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration or platted utility easement with documentation that the issues have been resolved, accompanied by a new fee. KPB 20.32.070(F) notes that an appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of appellate Procedure.

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 committee.

MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Commissioner Brantley asked staff if the applicant came back with a plat vacating the cul-de-sac and extending the 30-foot right-of-way, would that be consider a change of condition which would allow the petitioner to come back with these utility easement vacations. Ms. Hindman replied that yes, that would be a change in conditions. She also noted that depending on what changes are approved by the planning commission and then by the assembly the encroachment issue may no longer be valid.

Commissioner Staggs asked if the petitioner came back with the changes recommended by staff, could there still be a utility encroachment issue that would need to be resolved. Ms. Hindman replied that if after making the recommended changes and there was still an encroachment into the utility easement, they would need to file another petition to vacate and there would be an additional fee. However, it could be finalized by the other process and those fees could be absorbed by that process.

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

MOTION FAILED BY MAJORITY VOTE:

Yes – 2	Hooper, Venuti
No – 10	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest

**ITEM E10 - RIGHT OF WAY VACATION
Fritz Creek Acres Right of Way Vacation of Mushroom Street**

KPB File No.	2022-095V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Edward Gamble and Barbara Gamble and Sealevel Inc all of Homer, AK
Surveyor:	Kenton Bloom/ Seabright Surveys
General Location:	Mushroom Street and East End Road / Fritz Creek / Kachemak Bay APC
Legal Description:	Mushroom Street associated with Fritz Creek Acres Subdivision, Plat HM 77-37, Homer Recording District, Section 28 Township 5S Range 12W S.M.

Staff report given by Platting Specialist Julie Hindman.

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 committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Chair Brantley noted that he will be supporting this vacation request. He then stated that this is the type of right-of-way vacation that he likes to see.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

**ITEM E11 – UTILITY EASEMENT VACATION
Moose Range Meadows Frawner Addition**

KPB File No.	2022-104V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Earl and Ann Frawner of Anchorage, AK
Surveyor:	James Hall / McLane Consulting
General Location:	Sterling / Keystone Drive

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

James Hall, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall was the survey on this project and made himself available for questions.

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

MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

**ITEM 12 – SCENIC RIDGE LEE ADDITION
(Review of the Plat Committee’s 06/27/22 Decision)**

KPB File No.	2022-075
Plat Committee Meeting:	August 8, 2022
Applicant / Owner:	Bureau of Indian Affairs, Alaska and Traci Lee of Kenai, Alaska
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Margaret Drive / Nikiski

Parent Parcel No.:	013-145-02
Legal Description:	E1/2 NW1/4 of Section 32 Township 8 North Range 11 West
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

Karen McGahan; 54025 Kenai Spur Hwy., Kenai, AK 99611: Mrs. McGahan requested that additional dedication of Ken Street not be depicted on the plat. The McGahan family put in Ken Street and it was not intended to be public access. She does not oppose the plat itself, but does not want Ken Street to be used as an access on this plat.

Richard McGahan; 54025 Kenai Spur Hwy., Kenai, AK 99611: Mr. McGahan requested that additional dedication of Ken Street not be depicted on the plat. The McGahan family put in Ken Street and it was not intended to be public access. She does not oppose the plat itself, but does not want Ken Street to be used as an access on this plat.

James Hall, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall was the survey on this

project and made himself available for questions.

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

MOTION: Commissioner Martin moved, seconded by Commission Venuti, to uphold the June 27, 2022 Plat Committee decision regarding Scenic Ridge Lee Addition.

Commissioner Horton noted he would like to support the public’s request. It appears that in the past borough employees left the McGahan’s with the impression that Ken Street in that area would not be developed. If doing this doesn’t create any access issues, he would have no problem supporting this request.

Chair Brantley asked staff if the applicants have stated that they want to use Ken Street as an access. Ms. Hindman replied there has been no discussion with the applicants on this issue. She noted the exception request approved was not to have to continue the Ken Street dedication beyond what was being proposed on the preliminary plat. As far as removing what the applicants have proposed on the plat, it would be removing an access point. She then noted the existing dedications will still be required to be depicted on the plat and that anytime you have property fronting a dedication there is no guarantee that there is access to that road. You would still have to determine what the legal access is to get to the road. Staff notes that Ken Street does not connect to the Kenai Spur Highway, however that doesn’t mean that it wouldn’t sometime in the future. Staff did find some wording in a deed that someone may want to get legal advice on should they want to use Ken St. If the commission wants to change the dedication, they would just need to make a motion. The commission may want to check with the surveyor to make sure that they would be okay with losing the proposed Ken St. access.

Chair Brantley asked the surveyor, James Hall, if the applicants requested the 30-foot Ken St. dedication or was it something that he did to meet code requirements. Mr. Hall replied that it was just to comply with borough code. He noted that the Ken St. dedication did give access to Tract A1, but there is a section line easement on the northwest corner of the property that also provides legal access.

Commissioner Venuti had a question regarding protocol. He noted that it is not appropriate for commissioners to vote twice on an item. Since the commissioners sitting on the plat committee on June 27, 2022 already voted on this item, would it be appropriate for them to vote on it now? Borough Attorney Walker Steinhage replied that borough code provides for plat committee decisions to be reviewed “de novo”, which means a new hearing, by the planning commission, so it would be appropriate for the plat committee members to vote on this item.

Chair Brantley stated that he would support getting rid of the 30-foot Ken St. dedication. He asked staff what would be the best way to do this. Ms. Hindman replied that the commission could amend the original exception request to include no new dedication for that portion of Ken St.

AMENDMENT TO EXCEPTION A REQUEST: Commissioner Staggs moved, seconded by Commissioner Gillham, to amend the exception request to KPB 20.30.030(A) – Proposed Street Layout Requirements, continuation or projection of right-of-way, to not include any dedications of Ken Street.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

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

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

MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

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

**ITEM E13 - EAST OYSTER COVE SUBDIVISION
(Review of the Plat Committee's 06/13/22 Decision)**

KPB File No.	2022-047R1
Plat Committee Meeting:	June 13, 2022
Applicant / Owner:	Alaska Mental Health Trust of Anchorage, AK
Surveyor:	Andre Kaeppele, Buku Saliz / Fixed Height LLC
General Location:	Remote, Oyster Cove, Kasitsna Bay

Parent Parcel No.:	191-170-70 and 191-170-87
Legal Description:	A Portion of the North ½ of Section 21 and Lot 4 of US Survey No 4700
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

The following individuals spoke in opposition to approving this plat. None of their concerns have been addressed by the applicants. No one has been able to speak with anyone at the Alaska Mental Health Trust, they will not return any of their calls. The concerns they have are: noting existing water rights on the plat, proposed access for the lots is not viable and the potential negative effect this development could have on the area environment.

- Phillip Brudie; P.O. Box 111, Homer AK, 99633
- Doug Kossler; 2131 Baranoff Dr., Anchorage, AK 99517
- Tamara Hopkins; 601112 Norby Ave., Homer, AK 99663

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

MOTION: Commissioner Martin moved, seconded by Commissioner Venuti, to uphold the June 13, 2022 Plat Committee decision regarding East Oyster Cove Subdivision.

Commissioner Stutzer asked for clarification on what the commission was being asked to do. He noted that back in May the plat committee took no action on this item, is that the decision they are being asked to review? Chair Brantley replied that back in May there was no second to the motion, so no decision was made. However, it came back to the plat committee on June 13, 2022, where it was passed by a unanimous vote. The commission is being asked to review the June 13, 2022 plat committee decision.

Commissioner Stutzer noted that the Alaska Mental Health Trust raises funds for all their programs through the sale of their lands, which he supports. He is also very familiar with this area and he agrees with some of the concerns expressed by the public. The area is very rocky, with very poor drainage. The lot sizes being proposed are too small and will not support a traditional wastewater system, which means waste water systems are going to be very expensive. He knows that water is an issue in the area. He feels that lots of this size are too small and that access is a problem. He does not feel that this is a good design. He then stated that he is inclined not to support the motion to uphold the plat committee's decision.

Commissioner Horton asked if the commission could make recommendations on the design of the plat. For instance, Commissioner Venuti noted that the stream that provides drinking water to the area is not depicted on the plat. He noted that the testifiers have stated that the 50-foot public access is not an adequate access for these lots. Could the commission recommend that the public access be adjusted to an area with better access.

Chair Brantley noted that the public access Commissioner Horton is referring to is not contained in this plat, that it is on another property not owned by the Trust.

Ms. Hindman replied that Chair Brantley was correct regarding the public access easement, and that the

only adjustments that can be recommended are those that are within the boundaries of the preliminary plat. Ms. Hindman then stated that the commission has the discretion to recommend changes to the access that is being proposed but the recommendations would need to follow the guidelines of KPB code. As for the water rights issue, while staff is aware of existing water rights in the area, KPB code does not address water rights, so it is outside of our purview. Water rights are issued by the state, so even if water rights were not depicted on the plat, it does not mean that they don't exist.

Chair Brantley addressed some of the concerns brought up by Commissioners Stutzer and Horton. He noted that there are existing lots, with houses on them, in the area that are smaller than the lots being proposed on this plat. There are ways of designing waste water systems and access for these lots. Just because it is difficult does not mean it is impossible. He then stated that there is nothing in borough code that he can see, which the commission could use as a finding, to deny this plat. He understands that the folks over there do not want this development. When you live in paradise no one wants to see the guy next door put in a development. He doesn't see anything in code that he could use to deny this plat so he will be voting to uphold the plat committee's decision.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 6	Brantley, Horton, Martin, Morgan, Slaughter, Venuti
No - 5	Fikes, Hooper, Stutzer, Tautfest, Staggs
Abstained-1	Gillham

Ms. Hindman noted that KPB 20.10.110(h) notes that a decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 21.20.210 within 15 days of the notice of decision in accordance with KPB 21.20.250.

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Brantley reported the plat committee reviewed 9 plats, granted preliminary approval to all of them.

AGENDA ITEM G.

1. Plat Committee – August - December, 2022:
 - Commissioner Gillham
 - Commissioner Slaughter
 - Commissioner Staggs
 - Commissioner Venuti
 - Commissioner Brantley (Alternate)
 - Commissioner Horton (Alternate)
 - Commissioner Stutzer (Alternate)

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

Chair XX 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 I. DIRECTOR'S COMMENTS

- August 22, 2022 Planning Commission training session topic
 - Open Meeting Act
 - Legislative vs. Quasi-Judicial Matters
 - Adjudicative Sessions

AGENDA ITEM J. COMMISSIONER COMMENTS

- Commissioner Morgan informed the commission that she would not be able to attend the August 22, 2022 Planning Commission meeting.

AGENDA ITEM K. ADJOURNMENT

Commissioner Fikes moved to adjourn the meeting at 9:48 PM.

Ann E. Shirnberg
Administrative Assistant

UNAPPROVED