



Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

TO: Brent Hibbert, Assembly President  
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Melanie Aeschliman, Planning Director 

DATE: December 1, 2020

RE: Ordinance 2020-48: Authorizing a communications site lease agreement at Nikiski Station 3 with SPITwSPOTS, Inc.

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The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled November 30, 2020 meeting.

A motion passed by unanimous vote (11 Yes, 0 No) to recommend the adoption of Ordinance 2020-48.

In the ordinance, please amend the last WHEREAS statement:

WHEREAS, The Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of November 30, 2020, recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

a recommendation to adopt Ordinance 2020-47, authorizing an amendment to the Tsalteshi Trails Association lease to provide a ten-year extension of the term.

Commissioner Ruffner informed Chair Martin that he was a member of the Tsalteshi Trails Association but did not believe it should preclude him from voting on the matter. Chair Martin agreed.

Commissioner Brantley requested to be recused from this matter as his company has worked for Tsalteshi Trails Association and will most likely continue to do so in the future. Commissioner Martin accepted Commissioner Brantley's request to be recused.

Commissioner Ruffner stated the Tsalteshi Trails is a great asset to the Central Peninsula and he supports continuing their lease. He then stated that the association does great work.

Chair Martin stated that he agrees with Commissioner Ruffner. He had just used the trails that day and found that they were doing a great job grooming the snow on the trails. He also enjoys using the mountain bike trails.

**MOTION PASSED:** Seeing and hearing no discussion or objection, the motion passed by unanimous vote.

Yes	10	No	0	Recused	1
Yes	Bentz, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No	None				
Recused	Brantley				

**AGENDA ITEM E. NEW BUSINESS**

**2. Ordinance 2020-48: Authorizing a communications site lease agreement at the Nikiski Fire Station 3 with SPITwSPOTS, Inc.**

Staff report given by Marcus Mueller.

SPITwSPOTS, Inc. is a peninsula based commercial wireless communications provider focusing services on high speed internet. SPITwSPOTS, Inc. has requested to enter into a lease for new communication tower site on borough land at the new Nikiski Station 3 site. This land was acquired by the Nikiski Fire Service Area pursuant to Ordinance 2003-13.

SPITwSPOTS, Inc. is being considered for award of a Coronavirus Aid, Relief, and Economic Security Act (CARES) grant to make rural communications improvements in the Nikiski area. SPITwSPOTS infrastructure projects are on an accelerated construction timetable to meet the grant requirements.

The Communications Site Lease Agreement is being negotiated using standard practices and in consultation with the Nikiski Fire Service Area. The lease rent revenue will go to the service area.

**END OF STAFF REPORT**

Chair Martin opened the meeting for public comment.

Hearing no one wishing to comment Chair Martin closed public comment and discussion was opened among the commission.

**MOTION:** Commissioner Gillham moved, seconded by Commissioner Brantley to forward to the Assembly a recommendation to adopt Ordinance 2020-48: Authorizing a communications site lease agreement at the Nikiski Fire Station 3 with SPITwSPOTS, Inc.

**MOTION PASSED:** Seeing and hearing no discussion or objection, the motion passed by unanimous vote.

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner Venuti				
No	None				

AGENDA ITEM E.      NEW BUSINESS

- 3.      Building Setback Exception  
          Lot 3 Block 1 of Yonder Forty Subdivision (HM 76-64)  
          KPB File 2020-139; Resolution 2020-36  
          Location: Denny Lane, Anchor Point area; Kachemak APC

Staff report given by Scott Huff

Petitioners: Andrew G. Pollak

Submittal: This request is being made because I am unable to get new financing for the home with these encroachments. The Borough website information shows that the house and improvements were built in 1981. All of the utilities have been brought in, and a Borough maintained road serves the subdivision.

This home has sold twice, in 1996, and again in 2009, with no issue but in today's world of increased lender scrutiny, the encroachments have become an issue. I purchased this home as a bachelor and am now married with a young child, so this home is just too small now and we want to move into a larger house to better accommodate our family.

I understand that this request is not unusual, so I hope that you will grant my request.

Staff Discussion: The encroaching structure is constructed on Lot 3 Block 1 of Yonder Forty Subdivision (Plat HM 76-64). The lot is on the corner of Virginia Avenue and Denny Lane.

The encroaching structure for which the exception is being sought is shown on the as-built dated November 9, 2020. The as-built survey indicates the structure encroaches 16.3 feet into the building setback along Denny Lane which is a 60 foot right of way.

Per KPB GIS data, Denny Lane is constructed and maintained by the borough. The area in question appears to be sloping terrain but not affected by steep slopes greater than 20 percent.

The lot is not within a mapped flood hazard zone and is not within the Anadromous Habitat Protection District.

Google Earth did not have a street view to verify the sight distance.

A review from the KPBRoads Department had not been received at the time the staff report was prepared.

If denied, the owner may be required to move the structure to obtain lending from a financial institution.

Notice of building setback exception was sent by regular mail to the owner of property. Notice of the proposed exception was emailed to KPBRoad Service Area and Code Compliance for comment.

The public notice was posted on the Planning Department's bulletin board at the KPBRoad Administration Building. It was also published on the Planning Commission Public Notices webpage.

**Findings:**

1. ACS, ENSTAR, GCI and HEA provided written non-objection to the proposed exception.
2. The shop lies 16.3 feet into the building setback.
3. The building is located 3.7 feet from Denny Lane Right of Way.
4. Per the owner the structure was built in 1981.