



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, October 24, 2022

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-4688](#)

- a. Arrowhead Estates 2022 Replat; KPB File 2022-001
- b. Bryson Subdivision; KPB File 2020-089
- c. Kinder Subdivision; KPB File 2021-079
- d. Seldovia Townsite East Addn Watson 2021 Replat; KPB File 2021-148
- e. Smurfy Acres 2022 Replat; KPB File 2022-080
- f. The Business Center Subd 2022 Replat; KPB File 2022-039

Attachments: [C3. Admin Approvals](#)

4. Plats Granted Final Approval (KPB 20.10.040)

[KPB-4689](#)

- a. Trotter Subdivision Rill River Replat; KPB File 2022-102

Attachments: [C4. Final Approvals](#)

5. Plat Amendment Request
6. Commissioner Excused Absences

7. Minutes

[KPB-4690](#) October 10, 2022 Planning Commission Meeting Minutes

Attachments: [C7. 101022 PC Minutes](#)

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

1. [KPB-4691](#) Building Setback Encroachment Permit; KPB File 2022-121
Lot 10, Lake Estates Subdivision; Plat KN K-1648
PC RES 2022-46

Attachments: [E1. BSEP_Lot 10 Lake Estates Subdivision_Packet](#)

2. [KPB-4692](#) Utility Easement Vacation: KPB File 2022-148V
Lots 2A-1 & 2B-1 of Seldovia Townsite East Addition 2006 Replat
PC Resolution 2022-47

Attachments: [E2. UEV Seldovia Townsite East Addition 2006 Replat Packet](#)

3. [KPB-4693](#) Resolution 2022-054: Approving the acquisition of a public access
easement from the State of Alaska for Watermelon Trail.

Attachments: [E3. RES 2022-XX Public Access Easement Acquisition](#)
[E3. Desk Packet_PC](#)

F. PLAT COMMITTEE REPORT**G. OTHER**

[KPB-4694](#) October 24, 2022 Director's Report

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-4704 Hope/Sunrise APC 10/5/22 Meeting Minutes
Cooper Landing APC 10/5/22 Meeting Minutes

Attachments: MISC_PC

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, November 14, 2022 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. Arrowhead Estates 2022 Replat; KPB File 2022-001**
 - b. Bryson Subdivision; KPB File 2020-089**
 - c. Kinder Subdivision; KPB File 2021-079**
 - d. Seldovia Townsite East Addn Watson 2021 Replat; KPB File 2021-148**
 - e. Smurfy Acres 2022 Replat; KPB File 2022-080**
 - f. The Business Center Subd 2022 Replat; KPB File 2022-039**



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Arrowhead Estates 2022 Replat
KPB File 2022-001
Kenai 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.

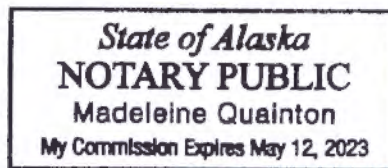
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, October 13, 2022.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 13 day of October 2022 by
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: 5/12/23

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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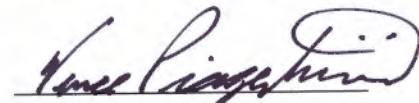
Mike Navarre
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Bryson Subdivision 2020 Addition
KPB File 2020-089
Seward Recording District


The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 26, 2020. Approval for the plat is valid for two years from the date of approval.

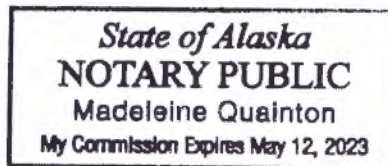
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Monday, October 17, 2022.


Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 17 day of October 2022 by
Vince Piagentini.


Notary Public for the State of Alaska



My commission expires: 5/12/23

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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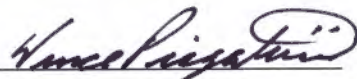
Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Kinder Subdivision
KPB File 2021-079
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 28, 2021. Approval for the plat is valid for two years from the date of approval.

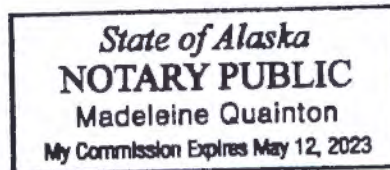
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, October 11, 2022.


Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2022 by
Vince Piagentini.


Notary Public for the State of Alaska



My commission expires: 5/12/23

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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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Seldovia Townsite East Addn Watson 2021 Replat
KPB File 2021-148
Seldovia Recording District


The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 29, 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, October 11, 2022.

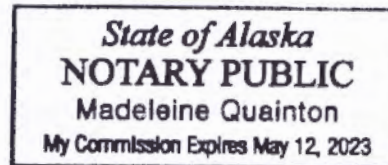

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2022 by
Vince Piagentini.



Notary Public for the State of Alaska



My commission expires: 5/12/23

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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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Smurfy Acres 2022 Replat
KPB File 2022-080
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on July 18, 2022. Approval for the plat is valid for two years from the date of approval.

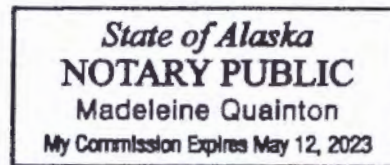
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, October 11, 2022.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2022 by
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: 5/12/23

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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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: The Business Center Subd 2022 Replat
KPB File 2022-039
Kenai Recording District

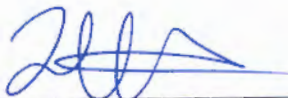
The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 25, 2022. Approval for the plat is valid for two years from the date of approval.

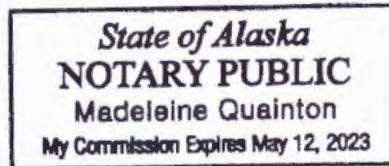
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, October 11, 2022.


Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2022 by
Vince Piagentini.


Notary Public for the State of Alaska



My commission expires: 5/12/23

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

C. CONSENT AGENDA

- *4. Plats Granted Final Approval**
 - a. Trotter Subdivision Rill River Replat; KPB File 2022-102



Planning Department

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Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Trotter Subdivision Rill River Replat
KPB File 2022-102
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 Thursday, October 6, 2022.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6 day of October 2022 by
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: 5/12/23

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. October 10, 2022 Planning Commission Meeting

Kenai Peninsula Borough Planning Commission

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

October 10, 2022
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

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
Dawson Slaughter, District 9 – South Peninsula
David Stutzer, District 8 - Homer
Charlene Tautfest, City of Soldotna
Franco Venuti, City of Homer

With 10 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
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant
Rhonda Foster-Deskins, LMD Administrative Assistant.

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***2. Planning Commission Resolutions**

- a. PC Resolution 2022-44
- b. SN Resolution 2022-03

***3. Plats Granted Administrative Approval**

- a. Cohoe Estates Subd 2021 Addition; KPB File 2021-117
- b. Herrin Subdivision Red Lake Replat; KPB File 2022-042
- c. Murray Subdivision 2022 Replat; KPB File 2021-154
- d. Townsley Subdivision; KPB File 2022-030

***6. Commissioner Excused Absences**

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

***7. Minutes**

- a. September 26, 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 Chair Brantley brought it back to the commission for a motion.

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

**ITEM E1. BUILDING SETBACK ENCROACHMENT PERMIT
LOT 15 BLOCK 5 LAKE VIEW TERRACE NO 2 (KN 87-33)**

KPB File No.	2022-143
Planning Commission Meeting:	October 10, 2022
Applicant / Owner:	Tim & Kathy Crumrine Trust of Lakewood, CO
Surveyor:	None
General Location:	Holly Avenue, Sterling

Parent Parcel No.:	063-292-01
Legal Description:	Lot 15 Block 5 Lake View Terrace No. 2, Plat KN 87-33
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

David Bunce; P.O. Box 226, Sterling, AK 99610: Mr. Bunce stated that the staff report outlined their request clearly. He then made himself available for any questions from the commission.

Chair Brantley opened the item for public comment.

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 2022-45 granting a build setback encroachment permit to Lot 15, Block 5 Lake View Terrace #2, Plat KN 87-33.

Chair Brantley noted that it was nice to see this permit request being sought before the building of a structure.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

**ITEM E2 - RIGHT OF WAY VACATION
60-FOOT-WIDE CICCONE STREET RIGHT OF WAY AND ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2022-136V
Planning Commission Meeting:	October 10, 2022
Applicant / Owner:	Jim & Debbie Wann Family Trust of Clam Gulch, AK Anthony & Kathleen Ciccone of Houston, TX
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Russell Avenue, Clam Gulch
Legal Description:	Ciccone Street between Lot 8A Clam Gulch Heights 2011 Addition KRD 2011-60 and Lots 11 & 12 Clam Gulch Heights, Glendening 1979 Subdivision of Tracts 12, 13, 14, 15, 16, 17 18 KRD 18-135, Kenai Recording District, Section 28, Township 2 North, Range 12 West Seward Meridian

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

James Wann, Applicant; P.O. Box 269, Kasilof, AK 99568: Mr. Wann stated he was working with ACS regarding the equipment they had in the right-of-way. He spoke with the reviewing engineer from ACS this morning and he has agreed to grant them a 10' easement where the existing equipment is located. ACS has agreed to this solution and no longer opposes this vacation.

Commissioner Fikes asked for the name of the reviewing engineer at ACS that he spoke with. Mr. Wann replied that it was Eoiwo Olewniczak.

Jerry Johnson, Surveyor; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and he made himself available for any questions.

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 Slaughter 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, Horton, Hooper, Martin, Morgan Slaughter, Staggs, Stutzer, Taufest, Venuti
No - 0	

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed & granted preliminary approval to 3 plats.

AGENDA ITEM G.

- a. Annual Presentation related to KPB 21.18 – Presented by Kenai River Center Manager Sam Lopez.

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

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

AGENDA ITEM K. ADJOURNMENT

Commissioner Gillham moved to adjourn the meeting at 8:19 PM.

Ann E. Shirnberg
Administrative Assistant

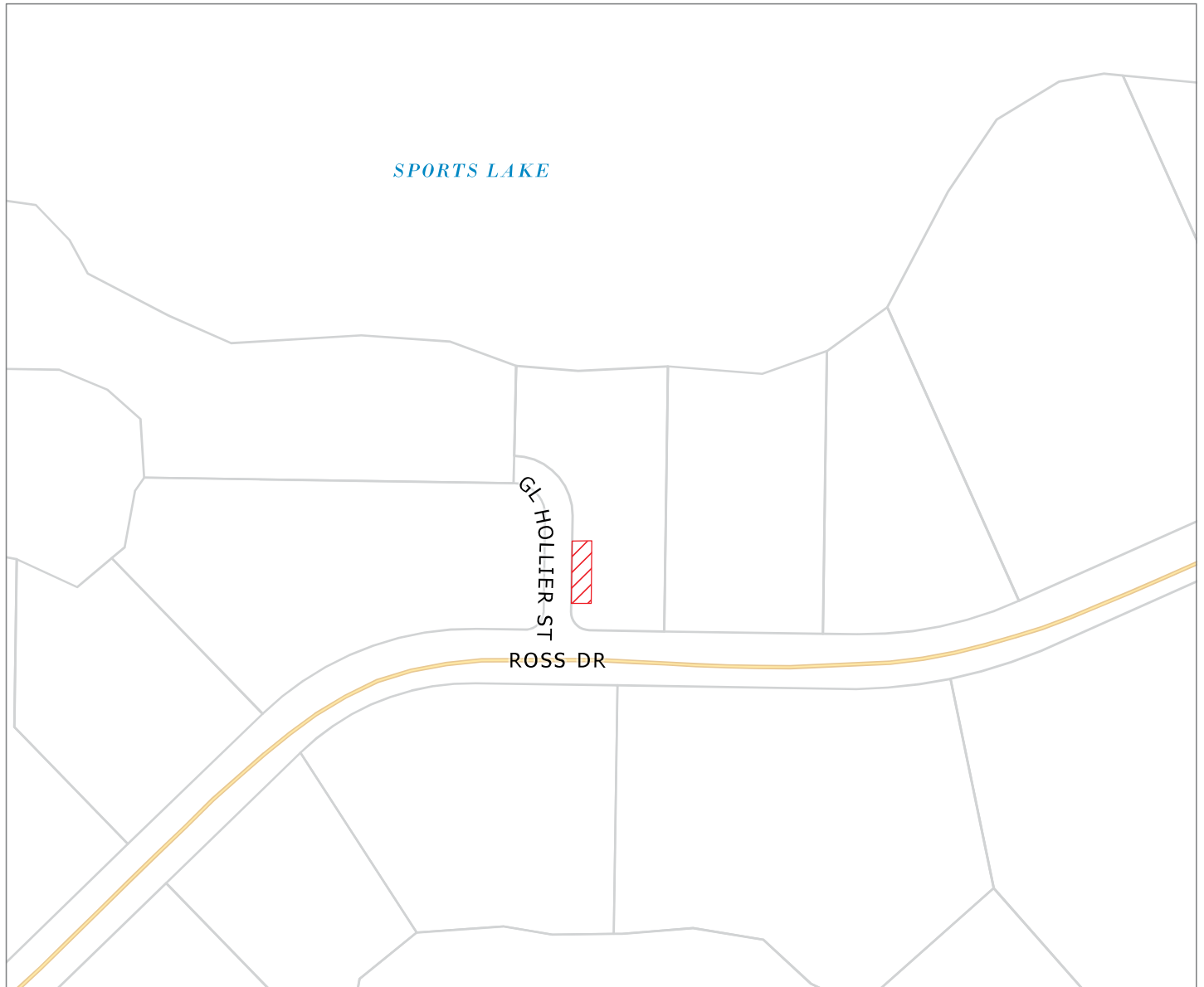
UNAPPROVED

E. NEW BUSINESS

1. Building Setback Encroachment Permit

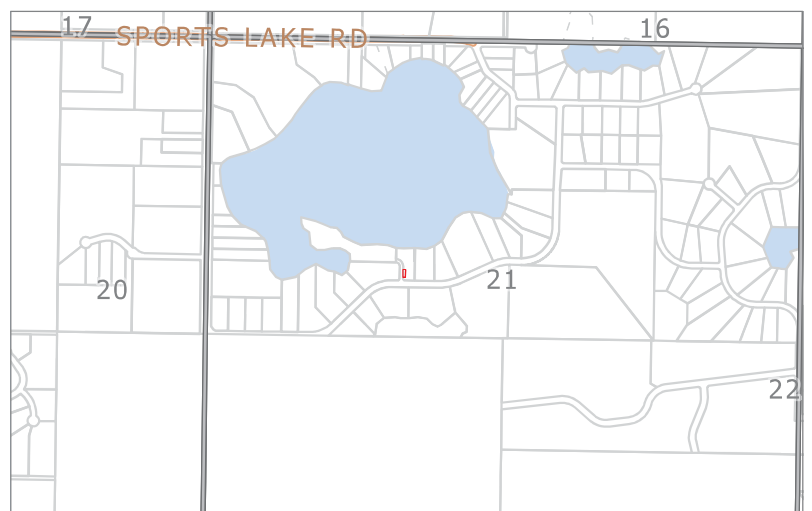
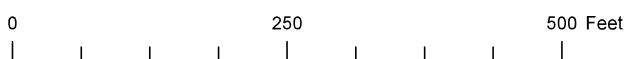
KPB File 2022-121

Lot 10, Lake Estates Subdivision, Plat KN-1648



KPB File 2022-121
T 05N R 10W SEC 21
Ridgeway

9/28/2022

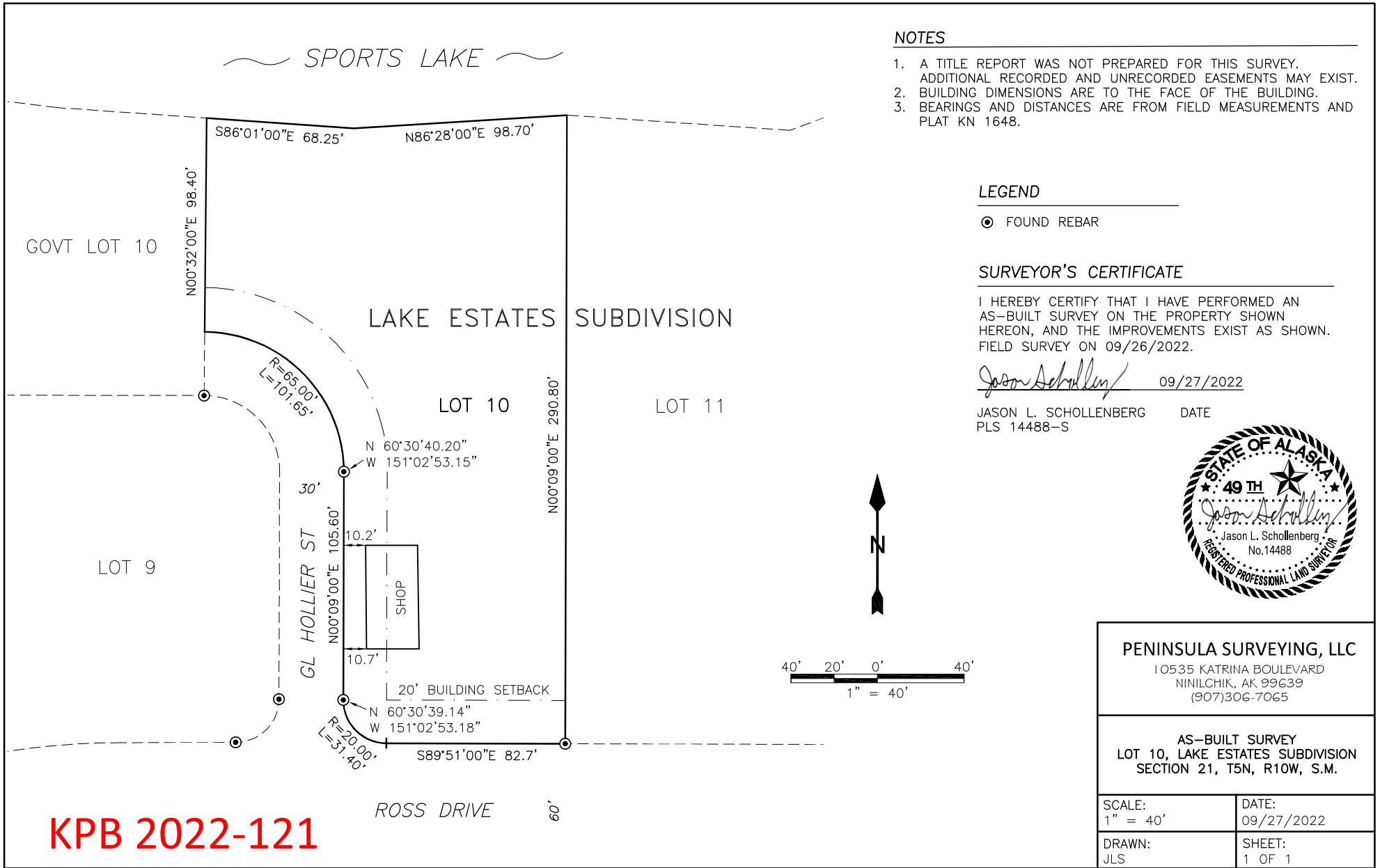




Aerial View



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 2022-121

NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE FACE OF THE BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT KN 1648.

LEGEND

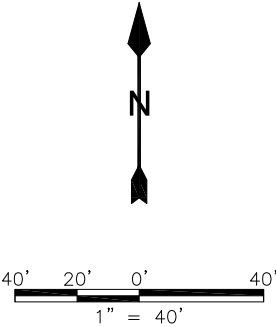
● FOUND REBAR

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 09/26/2022.

Jason Schollenberg 09/27/2022

JASON L. SCHOLLENBERG DATE
PLS 14488-S



PENINSULA SURVEYING, LLC 10535 KATRINA BOULEVARD NINILCHIK, AK 99639 (907)306-7065	
AS-BUILT SURVEY LOT 10, LAKE ESTATES SUBDIVISION SECTION 21, T5N, R10W, S.M.	
SCALE: 1" = 40'	DATE: 09/27/2022
DRAWN: JLS	SHEET: 1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT – LOT 10, LAKE ESTATES SUBDIVISION (PLAT K-1648)

KPB File No.	2022-121
Planning Commission Meeting:	October 24, 2022
Applicant / Owner:	David and Nancy Whitmore of Soldotna, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	GL Hollier Street, Ridgeway area

Parent Parcel No.:	057-250-01
Legal Description:	Lot 10, Lake Estates Subdivision, Plat K-1648, Section 21, Township 5 North, Range 10 West
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: We are requesting a 20’ Building Setback Exception from the KPB Planning and Platting Department because our garage has been built approximately 10’ into the setback for GL Hollier Street, a substandard road. We acknowledge that we are in violation of KPB roads code 14.40.035: 14.40.115.

At our meeting with representative from the Planning and Platting Department on Friday, July 22, 2022, we were told that the KPB had a surveyor currently surveying 3 parcels in this subdivision, and that we could use this survey as the As-built Survey or Site Survey required for the *Application for Building Setback Encroachment Permit*.

This violation was not intentional; it was a collective error in planning how to use our lot (Lot 10) to meet our objections of building a detached garage, a home, and on-site well and septic systems. The lot is oddly shaped, with poor soils, having the useable area restricted by both Ross Dr. and GL Hollier St.

In discussion with the builder and the excavation company, we were aware of the required 100’ separation between well and septic system (including the wells and septic systems of our adjacent neighbors). We were unaware of the 20’ road setback for GL Hollier St. as there are no dotted lines to indicate this on the plat: a road setback is shown on the plat for Ross Dr. Our error was in not reading the notes on the plat.

Several photos are included to illustrate the situation.

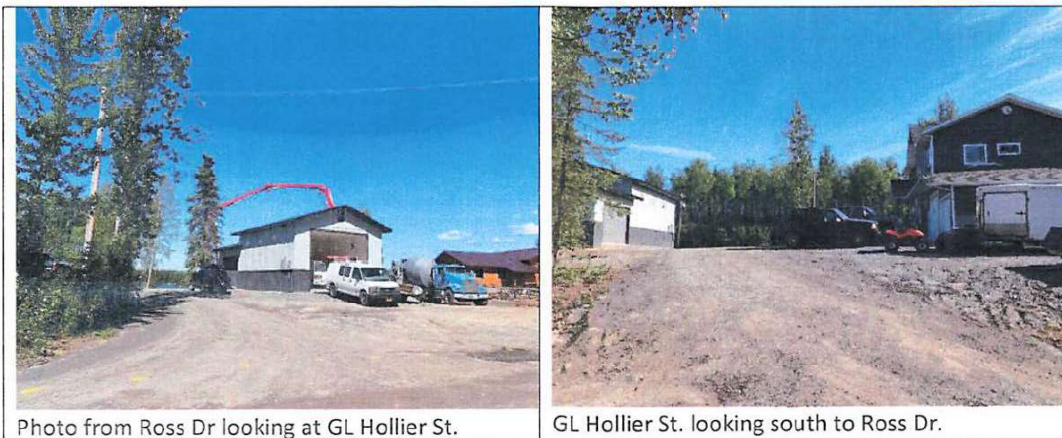


Photo from Ross Dr looking at GL Hollier St.

GL Hollier St. looking south to Ross Dr.

It appears that the 48' exception to the road setback will not;

1. Not interfere with road maintenance (road is privately maintained).
2. Not interfere with sight lines or distances.
3. Not create a safety hazard.

We appreciate your consideration of this matter.

Site Investigation: The request is to be granted a permit for a 49 foot by 24 foot shed along GL Hollier Street. The building encroaches 9.8 feet for the length of 49 feet and is slightly angled to be 9.3 feet at the southwest corner of the shed. KPB GIS imagery does not show the structures being discussed as this is new construction. There are no steep slopes present within the area being reviewed or with the intersection with Ross Drive, a borough maintained gravel right-of-way. Wetlands are not present within the right-of-way.

The dedication for GL Hollier Street is only 30 feet wide. This right-of-way does not meet KPB width standards and while constructed is not maintained by the borough. The right-of-way only provides access to three lots.

The sight distances do not appear to be impacted. GL Hollier Street does have a curve on the northern end. The area in question is along the straight portion of the right-of-way and located on the side with the outside of the curve and should not cause any sight issues.

Staff Analysis: Lake Estates Subdivision, Plat K-1648, was recorded in 1969. The plat dedicated Ross Drive and GL Hollier Street (unnamed on the plat). GL Hollier Street was granted as a 30 foot wide right-of-way. Per the minutes from the September 8, 1969 Planning Commission meeting, the dedication of 30 feet was allowable as its intent was to provide access to a land locked parcel, Government Lot 10 that was noted as being the Hollier property.

The issues were brought to the attention of the KPB Code Compliance and they have been working with the owners on a resolution for the issue. The plat clearly shows a 25 foot building setback along Ross Drive with a depiction and label. A depiction of any type of setback was not shown along GL Hollier Street. Staff believes this is due to the spacing in that area and the inability to depict the setback without causing a problem with required information. The plat did have a plat note stating a setback from street frontage was to be 25 feet. The Kenai Peninsula Borough Legal Department reviewed the code that was in place when the plat was approved. The width that was granted did not fit the width for any of the types of roads defined in code. Per the staff report it appears an exception to width was granted. This right-of-way fits the definition of Marginal Access Streets from the 1968 KPB code. The definition states "minor streets which are parallel with and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic." While this width does not comply with code, the approval of a substandard width would mean that this is a marginal access street and all streets were subject to a 20 foot building setback at that time. The decision was made that the plat did note setbacks were present, code required a minimal 20 foot setback, the plat did not depict a 25 foot setback, the plat note also included 20 foot setbacks on interior lines, and thus we are enforcing a 20 foot setback along GL Hollier Street.

GL Hollier Street is only being used by three lots. One is the lot that the road was created for, the applicant of this petition, and the owner on the west side of the right-of-way. Due to the width and the usage this is a privately maintained right-of-way.

The issues along GL Hollier Street were brought to the attention of the KPB Code Compliance Officer. After discussions with the owners and a field inspections an as-built was ordered by KPB. The as-built did show that new shop was encroaching into the setback. The owners have been working with the KPB Code Compliance Officer for a resolution of the situation.

Findings:

1. Lake Estates Subdivision, Plat K-1648, dedicated GL Hollier Street.
2. The Planning Commission allowed the dedication of GL Hollier Street to be only 30 feet wide.
3. GL Hollier Street was created to provide access to a landlocked parcel.

4. Three lots use GL Hollier Street for access.
5. The plat note states building limits from property lines shall be 20 feet from interior lines and 25 feet from street frontage.
6. The code at the time required 20 foot setbacks.
7. Current code requires 20 foot setbacks.
8. Setbacks along GL Hollier Street were not depicted due to lack of room.
9. The owners were not aware of the GL Hollier Street setback due to lack of depiction.
10. The shop is slightly angled with the northeast corner being the furthest encroachment into the setback at 9.8 feet into the setback.
11. There does not appear to be any line of sight issues.
12. The road is constructed by privately maintained.
13. Due to the width of the street, improvements, the location of Sports Lake, it does not appear that this right-of-way will ever serve additional lots.
14. The encroachment is along a straight portion of the right-of-way.
15. There are no terrain issues within the dedication.

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 10, and 12-15 appear to support this standard.

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

Findings 10-15 appear to support this standard.

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

Findings 10-15 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: Uhlin, Dil Comments: No comments
SOA DOT comments	
KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Carver, Nancy Habitat Protection District Status: Is NOT within HPD Comments: No comments

	C. State Parks Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	No objections
Addressing	Reviewer: Haws, Derek Affected Addresses: 36602 GL HOLLIER ST Existing Street Names are Correct: Yes List of Correct Street Names: GL HOLLIER ST ROSS DR Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 36602 GL HOLLIER ST will remain with lot 10.
Code Compliance	Reviewer: Ogren, Eric Comments: Owner is working with KPB Code Compliance to resolve the new construction build into the 20 ft set back of GL Hollier. Code compliance is in agreement to issuing the permit.
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2022-46, 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.

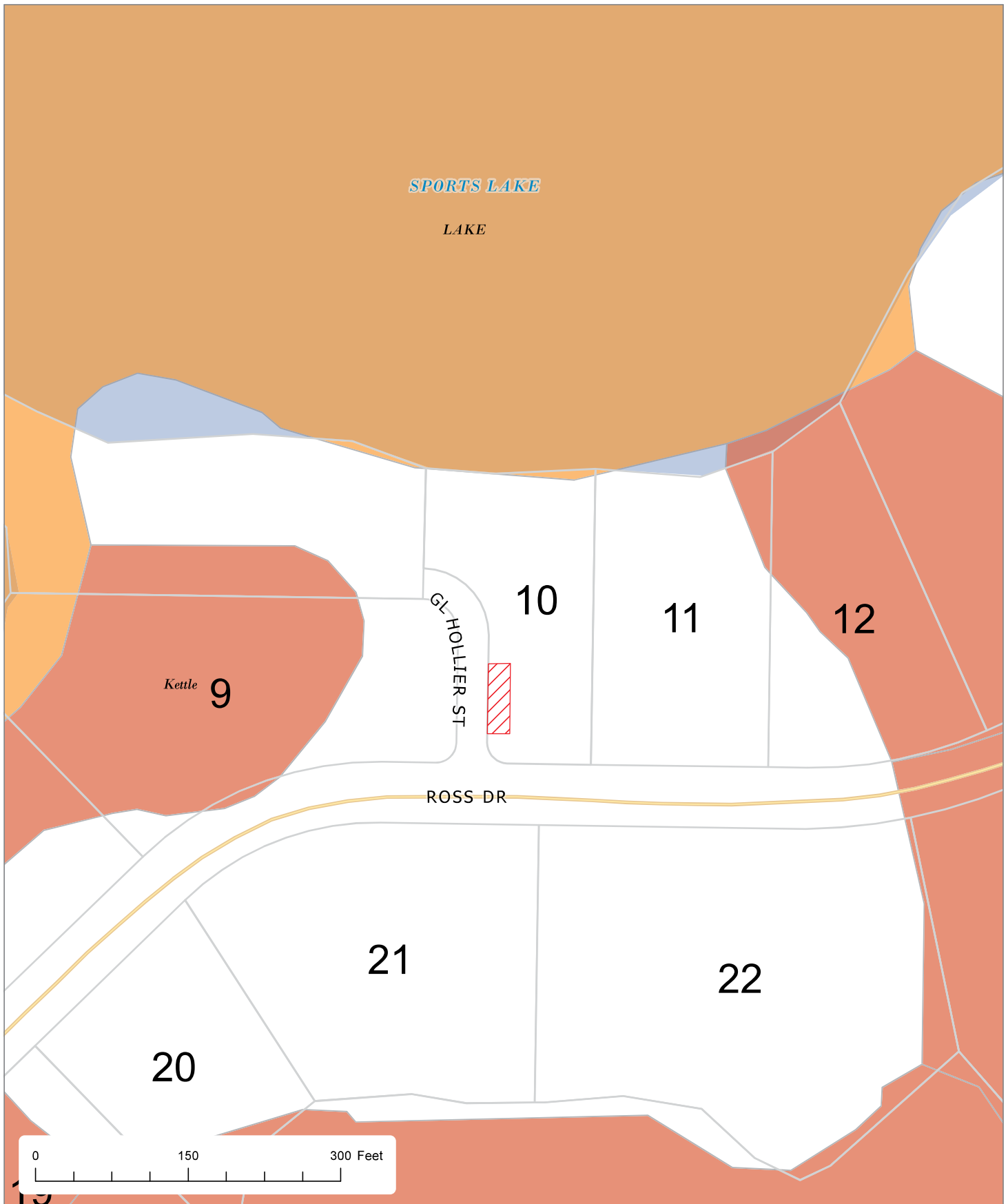
END OF STAFF REPORT



Aerial View

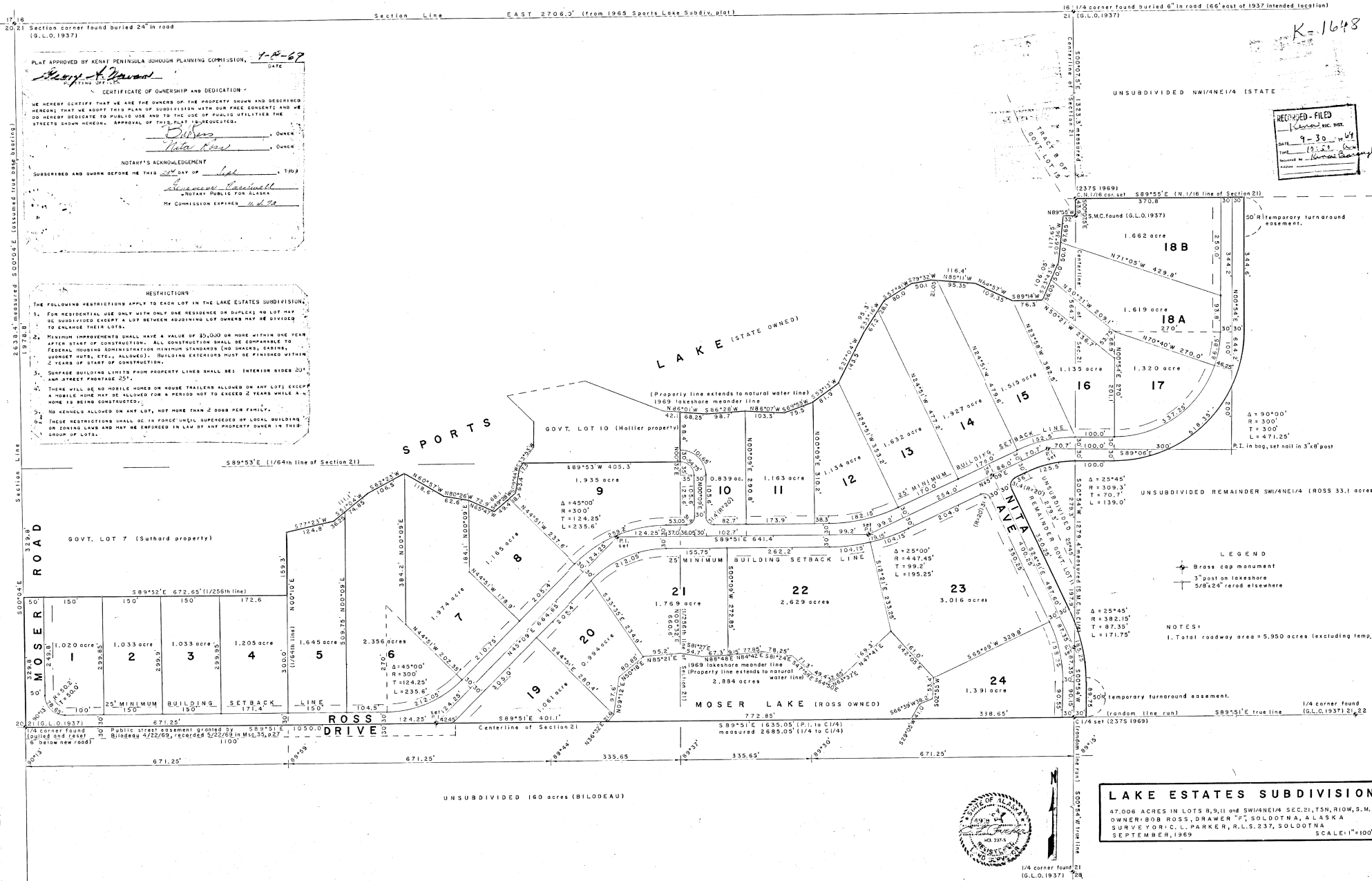


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





3497 KU



PLAT APPROVED BY KENAI PENINSULA BOUQUIN PLANNING COMMISSION, 7-18-69 DATE

Henry A. Hanson
ATTORNEY AT LAW

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREIN, THAT WE ADOPT THIS PLAN OF SUBDIVISION WITH OUR FREE CONSENT, AND WE DO HEREBY DEDICATE TO PUBLIC USE AND TO THE USE OF PUBLIC UTILITIES THE STREETS SHOWN HEREON. APPROVAL OF THIS PLAN IS REQUESTED.

Dilbert OWNER
John Ross OWNER

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 22ND DAY OF Sept 1969

James Carmell
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 11/22

RESTRICTIONS

THE FOLLOWING RESTRICTIONS APPLY TO EACH LOT IN THE LAKE ESTATES SUBDIVISION.

1. FOR RESIDENTIAL USE ONLY WITH ONLY ONE RESIDENCE OR DUPLEX; NO LOT MAY BE SUBDIVIDED EXCEPT A LOT BETWEEN ADJOINING LOT OWNERS MAY BE DIVIDED TO ENLARGE THEIR LOTS.
2. MINIMUM IMPROVEMENTS SHALL HAVE A VALUE OF \$5,000 OR MORE WITHIN ONE YEAR AFTER START OF CONSTRUCTION. ALL CONSTRUCTION SHALL BE COMPARABLE TO FEDERAL HOUSING ADMINISTRATION MINIMUM STANDARDS (NO SHACKS, CARNS, JUNKYET HUTS, ETC., ALLOWED). BUILDING EXTERIORS MUST BE FINISHED WITHIN 2 YEARS OF START OF CONSTRUCTION.
3. SURFACE BUILDING LIMITED FROM PROPERTY LINES SHALL BE: INTERIOR SIDES 20' AND STREET FRONTAGE 25'.
4. THERE WILL BE NO MOBILE HOMES OR HOUSE TRAILERS ALLOWED ON ANY LOT EXCEPT A MOBILE HOME MAY BE ALLOWED FOR A PERIOD NOT TO EXCEED 2 YEARS WHILE A HOME IS BEING CONSTRUCTED.
5. NO KENNELS ALLOWED ON ANY LOT, NOT MORE THAN 2 DOGS PER FAMILY.
6. THESE RESTRICTIONS SHALL BE IN FORCE UNTIL SUPERCEDED BY LOCAL BUILDING OR ZONING LAWS AND MAY BE ENFORCED IN LAW BY ANY PROPERTY OWNER IN THIS GROUP OF LOTS.

K-1648

RECORDED - FILED
DATE 9-30-69
INDEXED BY *James Carmell*

LAKE ESTATES SUBDIVISION

47.006 ACRES IN LOTS 8, 9, 11 and SW 1/4 NE 1/4 SEC. 21, T5N, R10W, S. 14M.
OWNER: BOB ROSS, DRAWER #7, SOLDOTNA, ALASKA
SURVEYOR: C. L. PARKER, R.L.S. 237, SOLDOTNA
SEPTEMBER, 1969 SCALE: 1"=100'



4. The plat must show both the original meanders of USS 1540 and the 1969 meanders of MHW.
5. A heavy line be placed around the subdivision on the plat.

Commissioner Hursh moved, seconded by Commissioner Coyle, to approve this plat subject to the staff's recommendations. Motion unanimously approved.

i. LAKE LSTATES SUBDIVISION (FINAL)

Located on the southeast side of Sports Lake.

Mr. Best reviewed the background on this plat and read the staff report recommending approval of this plat subject to the following:

1. Lot 25 be shown as a lake not a lot and the meanders listed as being 1969 meanders.
2. The corners set within the subdivision should be described.
3. The 30 foot road dedication to the Holliers property would be an exception to the minimum width required by the subdivision; however, since only one parcel of land is to be served, 30 feet of right-of-way should suffice and the exception granted.

Commissioner Hursh moved, seconded by Commissioner English, to approve this plat subject to the staff's recommendations. Motion unanimously approved.

j. SEELY SUBDIVISION (FINAL)

Located off Island Lake Road, North Kenai.

Mr. Best read a letter from the subdivider and the staff report recommending final approval subject to the 30' street dedication to the north being noted on Lots 5, 6, 7 & 8, and a heavy line being drawn around the subdivision on the plat.

Commissioner Hursh moved, seconded by Commissioner English, to approve this plat subject to the staff's recommendations. Motion unanimously approved.

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2022-46
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE 20-FOOT BUILDING SETBACK ADJOINING THE WEST BOUNDARY OF LOT 10, LAKE ESTATES SUBDIVISION (K-1648), GRANTED BY LAKE ESTATES SUBDIVISION (K-1648); IN SE1/4 NE1/4 SECTION 21, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH. KPB FILE 2022-121.

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.

WHEREAS, Nancy and David Whitmore of Soldotna, Alaska requested a building setback permit for a portion of a shop located on said lot; and

WHEREAS, per the petition, a shop was recently constructed and is located 9.8 feet for a distance of 49 feet within the 20 foot building setback adjoining GL Hollier Street right-of-way;

WHEREAS, the existing building will not obstruct line of sight for traffic; and

WHEREAS, on October 24, 2022, 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 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 approve building setback permits by Resolution.

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

Section 1. Approved a permit to allow only the encroaching portion of the shop that extends 9.8 feet into the 20 foot building setback adjoining GL Hollier Street right-of-way on the west boundary of Lot 10, Lake Estates Subdivision, granted by Lake Estates Subdivision (K-1648).

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

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

Section 4. That an exhibit drawing or as-built survey prepared by a licensed land surveyor, showing the location of the portion of the building setback exception to be granted be attached to and made a part of this Resolution, becoming page 2 of 2.

Section 5. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

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

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 24th DAY OF OCTOBER, 2022.

Jeremy Brantley, Chairperson
Planning Commission

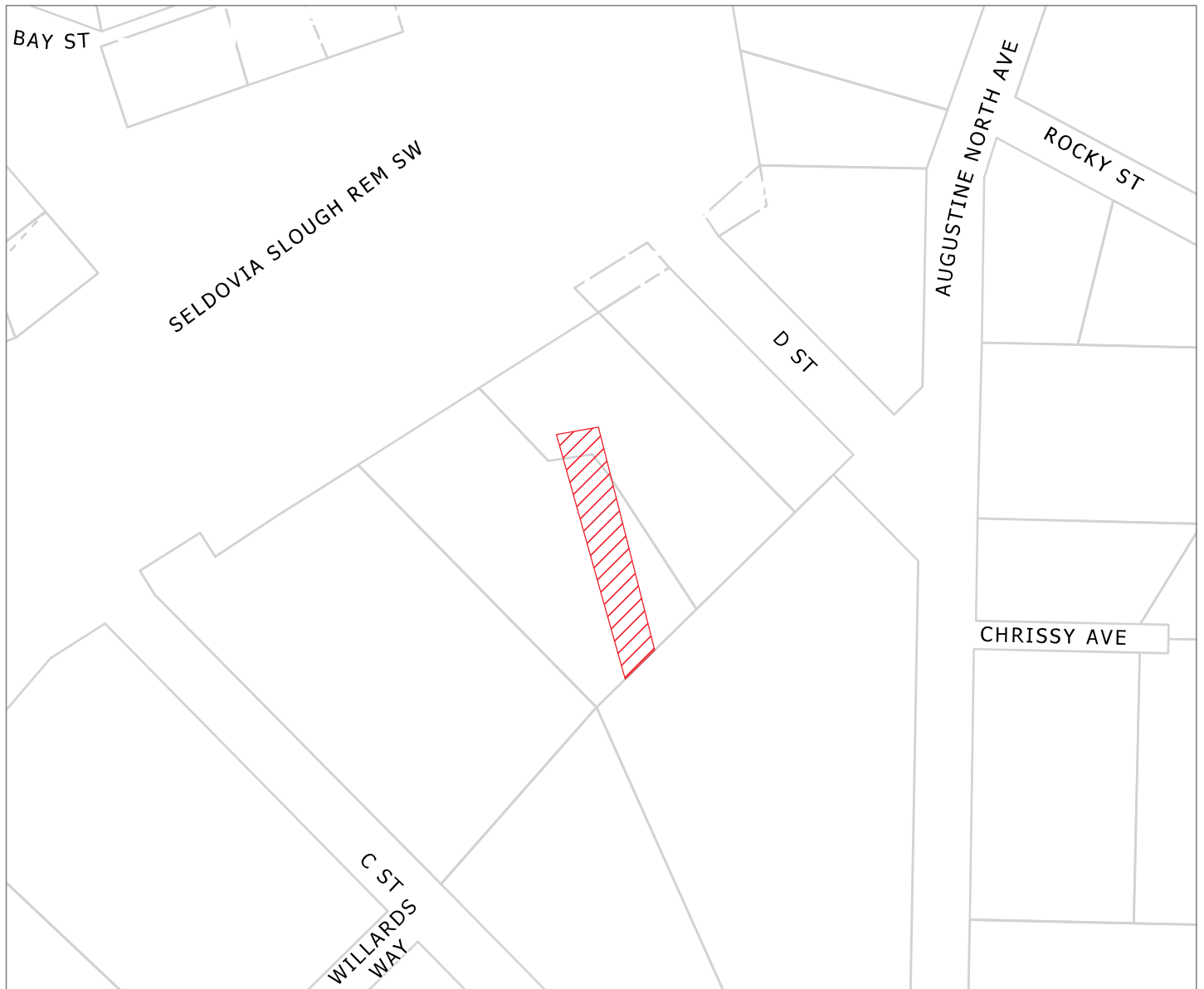
ATTEST:

Ann Shirnberg
Administrative Assistant

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

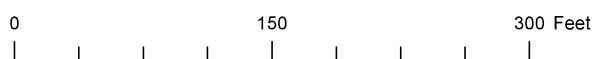
E. NEW BUSINESS

- 2. Utility Easement Vacation; KPB File 2022-148V
Location: Lots 2A-1 & 2B-1, Seldovia Townsite
East Addn. 2006 Replat; Plat SL 2007-3**



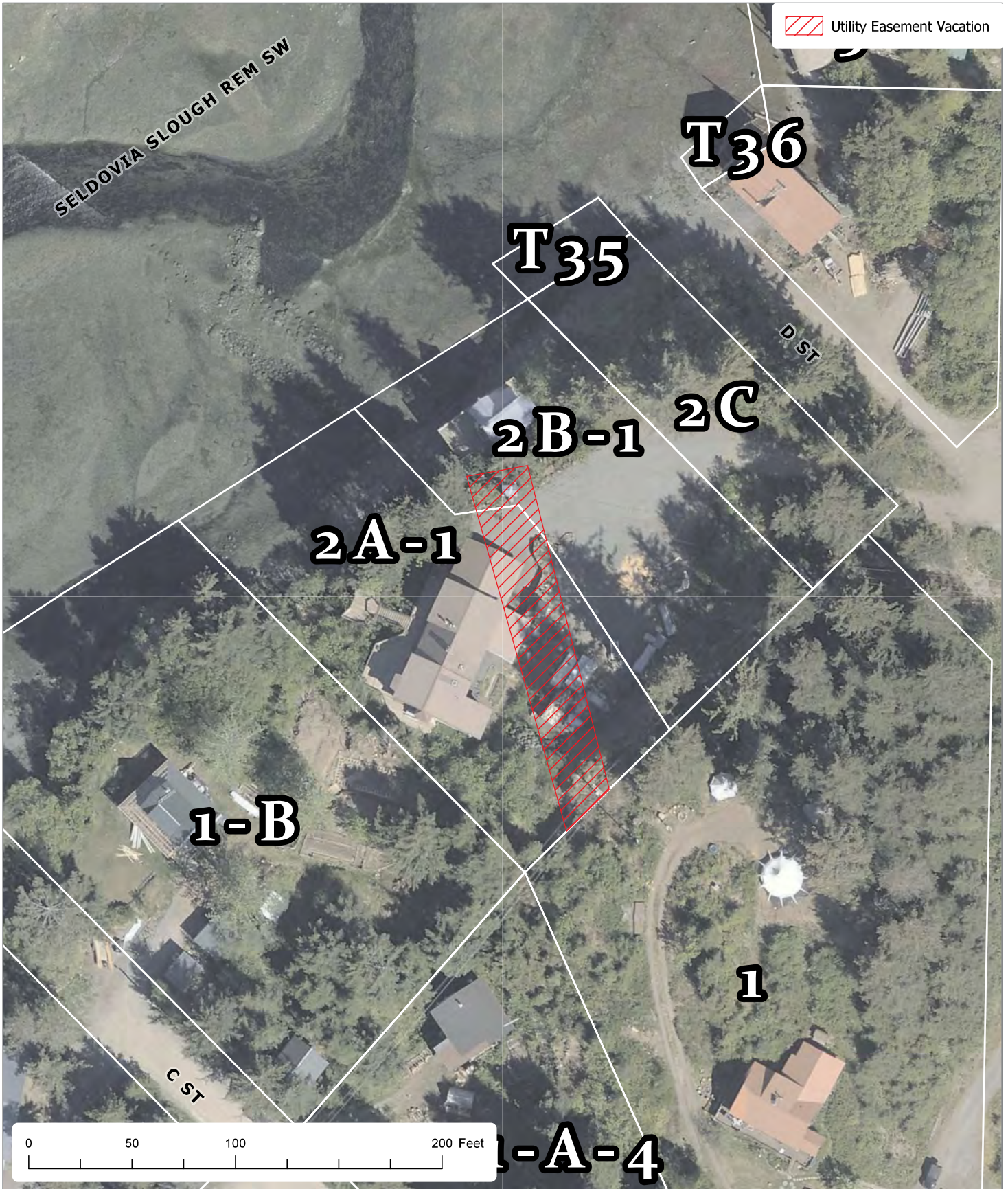
KPB File 2022-148V
T 08S R 14W SEC 32
Seldovia

9/29/2022





Aerial View



**ITEM 2 – UTILITY EASEMENT ALTERATION –
20 FOOT WIDE HOMER ELECTRIC ASSOCIATION EASEMENT WITHIN LOTS 2A-1 AND 2B-1 OF
SELDOVIA TOWNSITE EAST ADDITION 2006 REPLAT**

KPB File No.	2022-148V
Planning Commission Meeting:	October 24, 2022
Applicant / Owner:	Jennifer Watson of Anchorage, Alaska
Surveyor:	
General Location:	City of Seldovia

STAFF REPORT

Specific Request / Purpose as stated in the petition: Easement not in use.

Notification: Notice of vacation mailings were sent by regular mail to seventy-three owners of property within 600 feet. Notice of the proposed vacation was emailed to eleven agencies and interested parties.

The public notice was posted on the Planning Department’s bulletin board at the KPB Administration Building.

Staff Analysis: Seldovia Townsite East Addition 2006 Replat, Plat SL 2007-3, depicted an overhead powerline within Lot 2A-1. Per plat note 6 the line was the center of a 20 foot utility easement. The end of the line would then include a portion of the easement to be within Lot 2B-1. The easement was not depicted on the earlier plat. Plat SL 2007-3 created the utility easement.

The owner submitted the proposal to HEA as the owner of the line to see if they objected to the removal of the easement. HEA stated the powerline had been removed and the easement was no longer required.

The City of Seldovia Planning Commission did not meet to discuss this action due to lack of a quorum. The City Council reviewed the petition at their September 12, 2022 meeting. The council voted unanimously to approve the petition for alteration to a platted utility easement.

A replat of the two lots subject to the easement has been submitted and was approved by the Plat Committee on November 29, 2021. Seldovia Townsite East Addn. Watson 2021 Replat, KPB File 2021-148, is reconfiguring the shared lot line. A final was submitted and reviewed. The final plat still depicts the utility easement. Unless something unexpected occurs, it is expected to record prior to October 14, 2022. The new plat does grant a new 20 foot wide utility easement over an overhead powerline located in a different location on the property. The petition states it is intended to finalize by resolution.

Utility provider review:

HEA	This line has been removed and the platted easement is not required at this time. HEA agrees to the vacation of the 20 foot wide easement per SL 2007-3.
ENSTAR	
ACS	No objections
GCI	Approved as shown

Findings:

1. HEA has stated the powerline has been removed and the easement is no longer needed.
2. The Seldovia City Council agreed to the petition.
3. Seldovia Townsite East Addition 2006 Replat, Plat SL 2007-003, granted the 20 foot utility easement centered on the existing overhead powerline.
4. A replat of the property will be granting new utility easements over the new existing powerlines.
5. No surrounding properties will be denied utilities.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends **APPROVAL** of the utility easement alteration as petitioned, subject to:

1. Grant utility easements requested by the Seldovia City Council and utility providers.
2. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
 - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
 - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
 - iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to 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 of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.

F. 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.

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.*

END OF STAFF REPORT

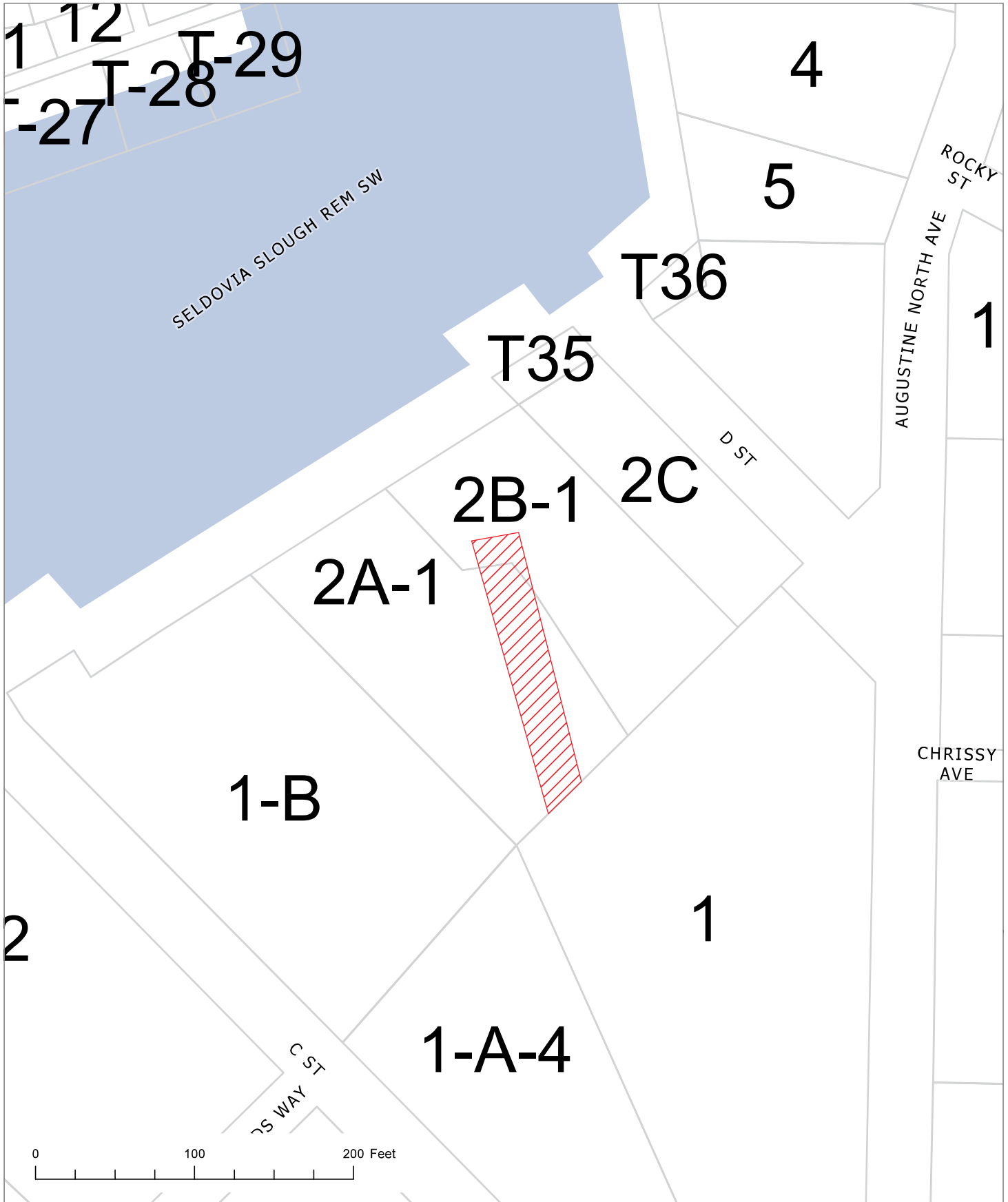


Aerial View





Wetlands



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. THESE LOTS ARE SUBJECT TO THE CITY OF SELDOVIA MUNICIPAL CODE. CONTACT THE CITY OF SELDOVIA FOR CURRENT BUILDING SETBACK REQUIREMENTS PRIOR TO DEVELOPMENT.
2. THESE LOTS ARE SERVED BY THE CITY OF SELDOVIA SEWER AND WATER.
3. ACCEPTANCE OF THE PLAT BY THE KENAI PENINSULA BOROUGH DOES NOT CONSTITUTE ACCEPTANCE OF ANY ENCROACHMENTS BY THE BOROUGH.
4. 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.
5. THIS SUBDIVISION IS SUBJECT TO A RIGHT-OF-WAY EASEMENT (NO DEFINITE LOCATION DISCLOSED) GRANTED TO HOMER ELECTRIC ASSOCIATION, INC. TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC TRANSMISSION AND/OR TELEPHONE DISTRIBUTION LINE OR SYSTEM, RECORDED BK 13 PG 83 SRD ON FEBRUARY 25 1965.
6. THE NATURAL MEANDERS OF MEAN HIGH WATER LINE IS FOR AREA COMPUTATIONS ONLY, THE TRUE CORNERS BEING ON THE EXTENSION OF THE SIDELINES AND THE INTERSECTION WITH THE NATURAL MEANDERS.
7. THIS SUBDIVISION IS SUBJECT TO EASEMENTS FOR RIGHT TO FLIGHT GRANTED TO THE STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES RECORDED IN BK 27 PG 431 SRD ON MARCH 11, 1985 AND BK 28 PG 132 SRD ON OCTOBER 29, 1985.
8. FLOOD HAZARD NOTICE: SOME OR ALL OF THE PROPERTY SHOWN ON THIS PLAT HAS BEEN DESIGNATED BY FEMA AS A FLOOD HAZARD AREA DISTRICT AS OF THE DATE THIS PLAT IS RECORDED WITH THE DISTRICT RECORDER'S OFFICE. PRIOR TO DEVELOPMENT, THE KENAI PENINSULA BOROUGH FLOODPLAIN ADMINISTRATOR SHOULD BE CONTACTED FOR CURRENT INFORMATION AND REGULATIONS. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.06 OF THE KENAI PENINSULA BOROUGH CODE. MAP PANEL 020012-5065A.
9. AN EXCEPTION TO KPB 20.30.210 (LOTS- ACCESS TO STREET) WAS GRANTED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF NOVEMBER 29, 2021.
10. MEAN HIGH WATER AS SHOWN IS THE SURVEYED TOE OF CLIFF.
11. THERE IS A 20' WIDE UTILITY EASEMENT ALONG A PREVIOUSLY EXISTING OVERHEAD POWERLINE PER SL 2007-03.
12. EXISTING OVERHEAD POWERLINES AS SHOWN ON THIS PLAT ARE THE CENTERLINE OF A 20' UTILITY EASEMENT GRANTED THIS PLAT.

WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

LOT 1-B
SL 2019-01

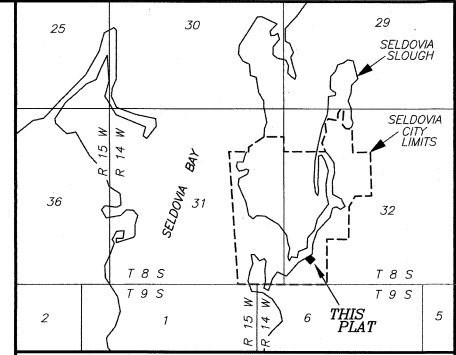
LEGEND

- SET 2" AC 7968-S 2021
- FND 2" AC 7610-S 2006
- FND 2" AC 7968-S 2007
- FND 1" IRON PIPE
- FND 2" AC 7610-S 1995
- FND 2" AC 4129-S 2004
- ⊕ FND GLO MON AS NOTED
- ⊕ UTILITY POLE
- (M) BOUNDARY DATA MEASURED THIS SURVEY
- (C) BOUNDARY DATA COMPUTED THIS SURVEY
- (R1) BOUNDARY DATA PER SL 2007-03
- (R2) BOUNDARY DATA PER SL 66-28
- (R3) BOUNDARY DATA PER SL 2019-01



NOTARY'S ACKNOWLEDGMENT

FOR: Jennifer E. Watson
 ACKNOWLEDGED BEFORE ME THIS 30th
 DAY OF August, 2022
Jennifer E. Watson
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES January 14, 2023



VICINITY MAP

SCALE: 1" = 1/2 MILE S.U.S.G.S. QUAD. SELDOVIA (C-4 & C-5)

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Jennifer E. Watson

JENNIFER E. WATSON AKA J. E. WATSON
360 E INTERNATIONAL AIRPORT RD APT 1
ANCHORAGE, AK 99518

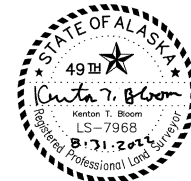
GPS CONTROL DATA

1. THE BASIS OF COORDINATES FOR THIS PLAT IS A MONUMENT DESIGNATED "SELDOVIA AIRPORT PK". THE NAD 83 (2011) COORDINATES (LAT/LONG) ARE BASED ON AN NGS OPUS SOLUTION (EPOCH 2010.0000) FOR "SELDOVIA AIRPORT PK". THE COORDINATES WERE CONstrained TO THE NATIONAL SPATIAL REFERENCE SYSTEM USING THE CORS REFERENCE STATIONS: KENI KENAI 6 CORS ARP (PID DJ3031), ADOB CARDIGULASAK2007 CORS ARP (PID DM7472), AND AC43 SEAL ROCKSAK2007 CORS ARP (PID DM7496). THESE COORDINATES SHOULD BE USED TO LOCATE AND VERIFY EXISTING CORNERS AND MONUMENTS.
2. ALL BEARINGS SHOWN WERE COMPUTED BY APPLYING A COUNTERCLOCKWISE ROTATION OF 1'27'58.8" TO THE NAD 83 ALASKA STATE PLANE ZONE 4 BEARINGS USING "SELDOVIA AIRPORT PK" AS A ROTATION POINT. ALL GROUND DISTANCES WERE COMPUTED BY DIVIDING GRID INVERSE DISTANCES BY 1.00001157, THE SCALE FACTOR EXTRACTED FROM THE OPUS SOLUTION REPORT AT "SELDOVIA AIRPORT PK".
3. THE RESULTING SCALED COORDINATES WERE TRANSLATED TO A LOCAL COORDINATE SYSTEM BASED ON "SELDOVIA AIRPORT PK" N=10,000 E=10,000. ALL COORDINATE VALUES REPRESENT GROUND DISTANCES ORIENTED TO TRUE NORTH.

PLAT APPROVAL

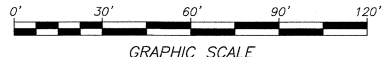
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF

BY: _____ DATE _____
AUTHORIZED OFFICIAL KENAI PENINSULA BOROUGH



N: 6676.3739
E: 9239.4484

COR 10 USS 1770
2.5" BC MON
W1/16 COR 1927



SELDOVIA RECORDING DISTRICT KPB FILE NO. 2021-148

SELDOVIA TOWNSITE EAST ADDN. WATSON 2021 REPLAT

A REPLAT OF LOTS 2A-1 & 2B-1 SELDOVIA TOWNSITE EAST ADDN. 2006 REPLAT (SL 2007-03) LOCATED WITHIN THE SW 1/4 SW 1/4, SEC 32, T. 8 S., R. 14 W., SEWARD MERIDIAN, CITY OF SELDOVIA, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA

CONTAINING 42,309.2 SQ FT (0.971 ACRES)

SEABRIGHT SURVEY + DESIGN
KENTON T. BLOOM, P.L.S.

1044 EAST ROAD, SUITE A
HOMER, ALASKA 99603
(907) 299-1091

CLIENTS: JENNIFER E. WATSON
360 E INTERNATIONAL AIRPORT RD APT 1
ANCHORAGE, AK 99518

DRAWN BY: KK CHKD BY: KB JOB #2021-56

DATE: 09/2022 SCALE: 1"=30' SHEET #1 OF 1

NOTES

1. BASIS OF BEARING IS BETWEEN THE SOUTH CORNER OF LOT 2A AND THE EAST CORNER OF LOT 2B, BLOCK 39 SELDOVIA TOWNSITES.
2. LOTS 2A AND 2B WILL BE SERVED BY CITY WATER AND SEWER.
3. ACCEPTANCE OF THE PLAT BY THE KENAI PENINSULA BOROUGH DOES NOT CONSTITUTE ACCEPTANCE OF ANY ENCROACHMENTS BY THE BOROUGH.
4. 3' WATER LINE DRIVEWAY EASEMENT GRANTED THIS PLAT TO PROVIDE ACCESS TO THE CITY OF SELDOVIA FOR MAINTENANCE. THE EASEMENT IS ADJACENT TO THE NORTH EDGE OF THE EXISTING DRIVEWAY EASEMENT.
5. THE FRONT 10' OF THE 20' BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5' OF SIDE LOT LINES IS 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.
6. THE EXISTING OVERHEAD POWERLINE ACROSS LOT 2A-1 IS THE CENTER OF A 20' WIDE UTILITY EASEMENT.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 11/21/2006

KENAI PENINSULA BOROUGH

BY:

Margaret
AUTHORIZED OFFICIAL

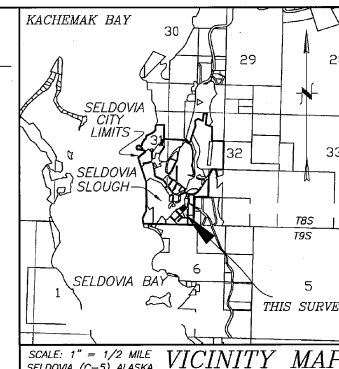
NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF _____, 2007.

FOR:

NOTARY PUBLIC FOR ALASKA

MY COMMISSION EXPIRES _____



2007-3
Seldovia
10/29/2007
9:49 AM
Seabright

LEGEND

- FOUND 2" AL-CAP AS SHOWN
- FND 2" A-C ON 5/8" REBAR AS SHOWN
- FND 1" PLASTIC CAP ON 1/2" REBAR AS SHOWN
- SET 5/8" REBAR 1/2" A-C 7968-S 2007
- FOUND IRON PIPE
- POWER POLE
- RECORD 1/16

WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

LOT 1-A BLOCK 39 SELDOVIA TOWNSITE EAST ADDITION 2004 REPLAT, 2004-04 S.R.D.

EASEMENTS

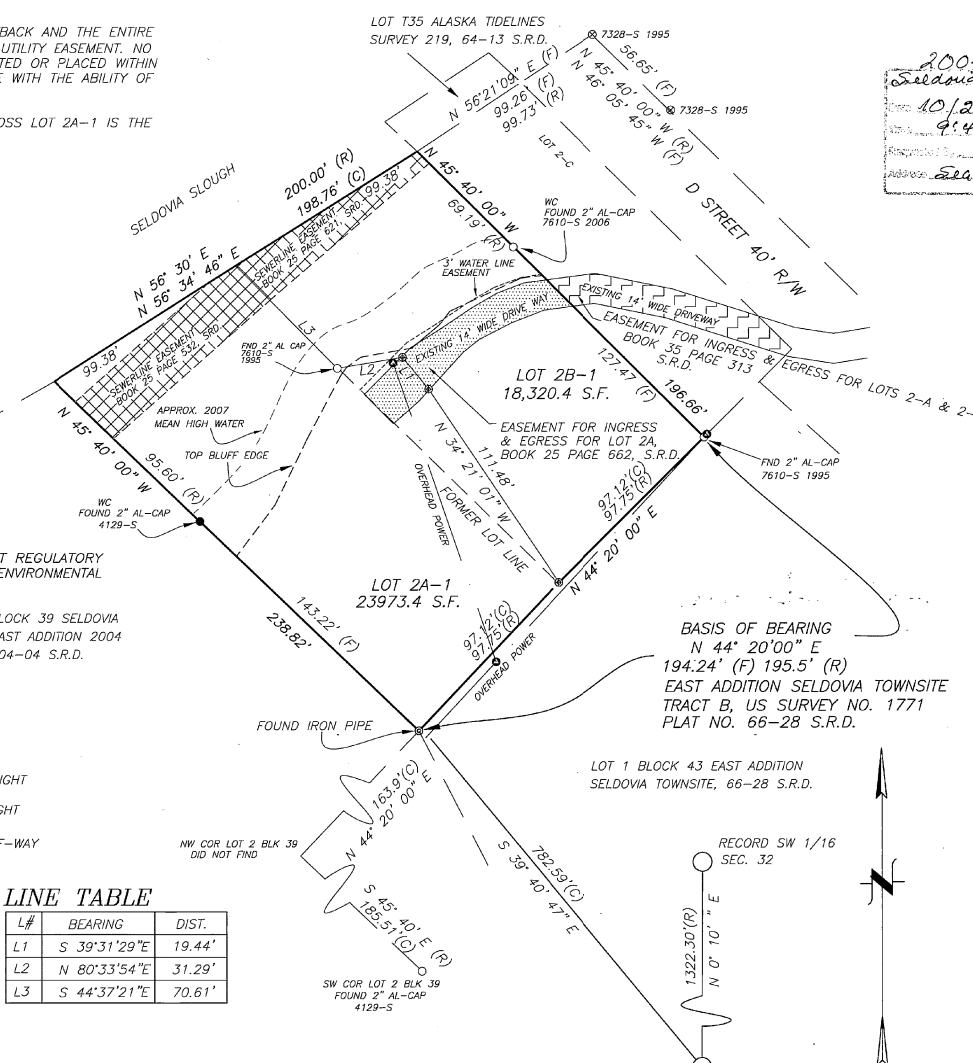
- LOT 2A BLANKET EASEMENT FOR RIGHT TO FLIGHT BOOK 27 PAGE 431, S.R.D.
- LOT 2B BLANKET EASEMENT FOR RIGHT TO FLIGHT BOOK 28 PAGE 132, S.R.D.
- LOT 2A BLANKET EASEMENT HEA FOR RIGHT-OF-WAY BOOK 13 PAGE 83, S.R.D.

LINE TABLE

L#	BEARING	DIST.
L1	S 39°31'29"E	19.44'
L2	N 80°33'54"E	31.29'
L3	S 44°37'21"E	70.61'



NOTE: EXCEPTION TO KPB 20.20.200 FRONTAGE ON A DEDICATED STREET APPROVED BY KPB PLANNING COMMISSION MEETING 11/27/2006



CERTIFICATE OF OWNERSHIP

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

Brian E. Watson
BRIAN E. WATSON
360 E INTL AIRPORT RD # 1
ANCHORAGE AK 99518-1217

Jennifer E. Watson
JENNIFER E. WATSON
360 E INTL AIRPORT RD # 1
ANCHORAGE AK 99518-1217

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF 29th Aug, 2007.

FOR: Brian E. & Jennifer E. Watson

Margaret
NOTARY PUBLIC FOR ALASKA

MY COMMISSION EXPIRES _____

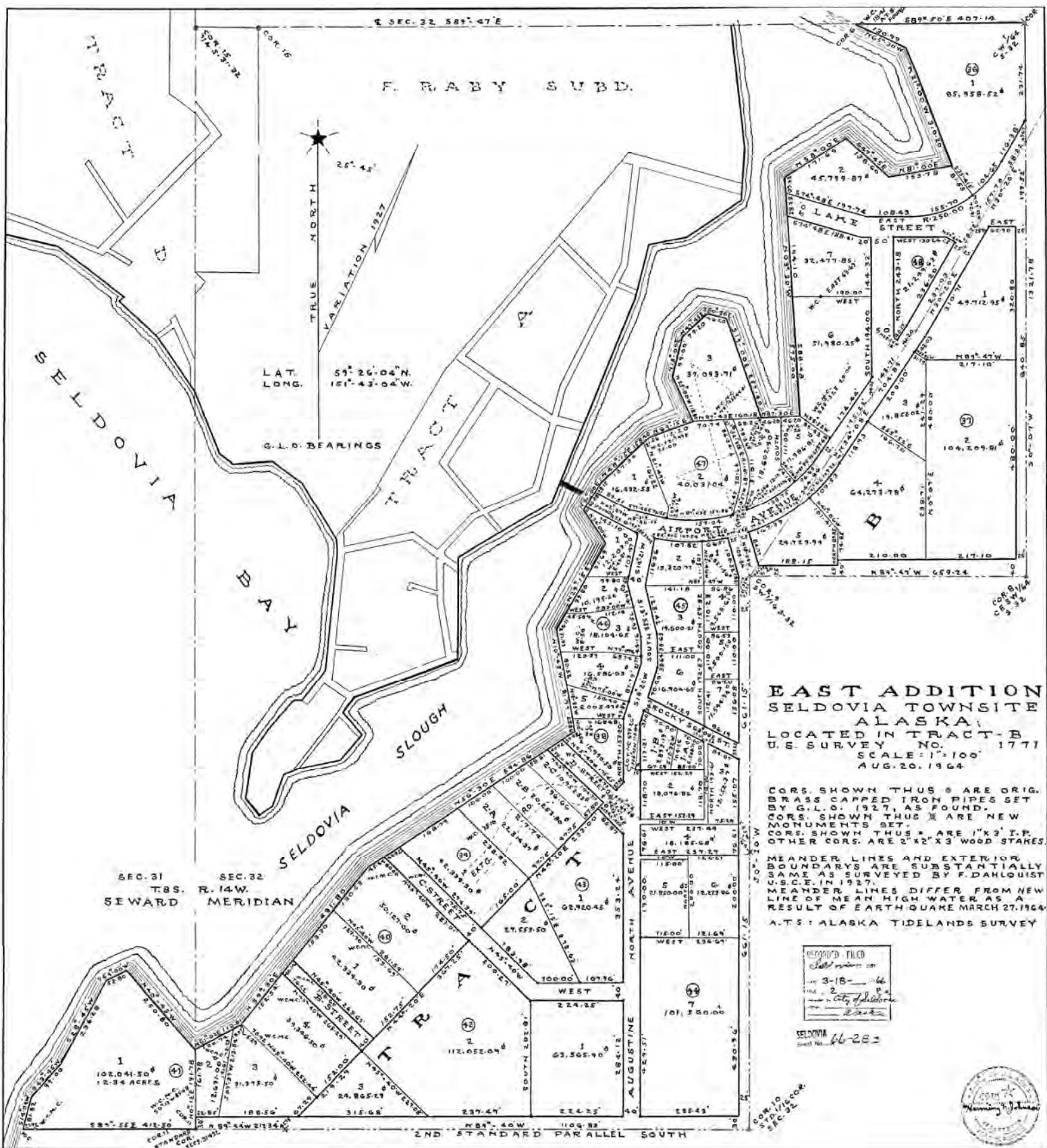


SELDOVIA RECORDING DISTRICT KPB FILE No. 2006-329

SELDOVIA TOWNSITE EAST ADDITION 2006 REPLAT
A REPLAT OF LOTS 2-A AND 2-B, BLOCK 39 PLAT #66-28 S.R.D.
SEC. 32, T. 08 S., R. 14 W. S.M
KENAI PENINSULA BOROUGH, STATE OF ALASKA WITHIN THE CITY OF SELDOVIA CONTAINING 42,293.8 S.F.

SEABRIGHT SURVEYING
1044 EAST END ROAD, SUITE A
HOMER, ALASKA 99603
(907) 235-4247 PHONE & FAX
seabright@alaska.net

DRAWN BY: K.B.	DATE: 5/18/07	SCALE: 1" = 40'
CHK BY: K.B.	JOB #06-47	SHEET 1 OF 1



**EAST ADDITION
SELDOVIA TOWNSITE
ALASKA,
LOCATED IN TRACT-B
U.S. SURVEY NO. 1771
SCALE: 1"=100'
AUG. 20, 1964**

CORS. SHOWN THUS \odot ARE ORIG. BRASS CAPPED IRON PIPES SET BY G.L.O. 1927, AS FOUND. CORS. SHOWN THUS \times ARE NEW MONUMENTS SET. CORS. SHOWN THUS \ast ARE 1"X2" I.P. OTHER CORS. ARE 2"X2" X3" WOOD STAKES.

MEANDER LINES AND EXTERIOR BOUNDARIES ARE SUBSTANTIALLY SAME AS SURVEYED BY F. DAHLQUIST U.S.C.E. IN 1927. MEANDER LINES DIFFER FROM NEW LINE OF MEAN HIGH WATER AS A RESULT OF EARTH QUAKE MARCH 27, 1964.

A.T.S.: ALASKA TIDELANDS SURVEY

REPRODUCED FROM
FILED
3-18-66
2 P.
CITY OF SELDOVIA
DATE

SELDOVIA
Small No. 66-282



Transportation, Senator Murkowski were aware of Jakolof Bay Dock situation.

CONSENSUS OF COUNCIL TO BRING BACK THE DISCUSSION AT NEXT REGULAR MEETING

5. PETITION FOR ALTERATION TO PLATTED UTILITY EASEMENT- WATSON 2022

a. Presentation by Staff or Council

CLERK GEAGEL- Presented a petition to vacate a 20-foot HEA Utility Easement in the Seldovia Townsite East Addition. A staff report with recommended findings and a comment in support of the vacation from HEA was also presented. The petition was received by the City and scheduled to be presented at the regular Seldovia Planning Commission regular meeting last week, which was cancelled from lack of quorum. Petitions should be reviewed within 30 days of receipt and due to the deadline this petition was now being referred to council for consideration.

b. Council Discussion

NATHAN, PAYTON, ROJAS, MAYOR CAMPBELL- Spoke in support of approving the petition to vacate.

c. Public Presentation or Hearing (public has 3 min each)

MAYOR CAMPBELL- Called for public comment and none was heard.

d. Action/Disposition

CLERK GEAGEL- Asked for the consideration of the council to approve the petition for alteration to a platted utility easement for Watson 2022 with findings as attached in the staff report.

NATHAN/ROJAS SO MOVED

ROLL CALL VOTE/ SWEATT-Y, ROJAS-Y, KENNEDY-Y, SWICK- Y, PAYTON- Y, NATHAN-Y/MOTION PASSED

N. City Manager's Report: *Provided in the Laydown*

CM FRIEDLANDER- Presented the city manager's report as written and was available for questions.

O. Informational Items Not Requiring Action:

1. Notice of Regular Election: October 04, 2022

2. There will be a 4:00pm work session on September 26, 2022 to discuss the City Manager and Chief Police transition

P. Executive Session:

Q. Council and Mayor Comments Concerning Items Not on the Agenda:

SWEATT, ROJAS, PAYTON- Provided thanks to the staff, council, and people in attendance.

NATHAN- Discussed having chased another helicopter off the runup pad at airport and he wished they could somehow get the state to put up signs or paint notice on the pad. It took twenty years to get the pad and now every time he turned around there was a helicopter on it.

MAYOR CAMPBELL- Discussed having had an opportunity to attend the school taco open house and having been surprised to see how many people showed up. It was packed and the principal told him there were 54 kids attending the school. He spoke to it being nice to know as before they were slipping into the low 30's for attendance and he provided thanks to the staff.

R. Next Meeting: The next Regular Meeting will be held on September 26, 2022 at 6:00 pm.

S. Adjournment:

ROJAS/SWICK MOVED TO ADJOURN AT 8:23PM

NO OBJECTION/MOTION PASSED

I certify the above represents accurate minutes of City of Seldovia Council meeting of September 12, 2022.

Heidi Geagel, City Clerk

Approved by Council _____

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2022-47
SELDOVIA RECORDING DISTRICT**

Vacate the entire 20-foot-wide utility easement centered along the shown overhead powerline within Lot 2A-1, Seldovia Townsite East Addition 2006 Replat (SL 2007-3), granted by Seldovia Townsite East Addition 2006 Replat (SL 2007-3); within SW1/4 SW1/4 Section 32, Township 8 South, Range 14 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2022-148V

WHEREAS, Jennifer Watson of Anchorage, Alaska requested the vacation of the 20-foot-wide utility easement centered on an overhead powerline located on Lot 2A-1, Seldovia Townsite East Addition 2006 Replat (SL 2007-3), granted by Seldovia Townsite East Addition 2006 Replat (SL 2007-3) and;

WHEREAS, per KPB 20.30.060(A) – Easements – Requirements, the planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.

WHEREAS, affected utility companies provided written non-objection to the proposed vacation; and

WHEREAS, per the petition, the easement is not in use by any utility companies; and

WHEREAS, the proposed vacation will not deny utility easement(s) to surrounding properties; and

WHEREAS, on October 24, 2022, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed vacation; and

WHEREAS, the Planning Commission has found that vacating the utility easement will not be detrimental to the public interest; and

WHEREAS, 20.65.070 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

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

Section 1. 20-foot-wide utility easement centered on an overhead powerline located on Lot 2A-1, Seldovia Townsite East Addition 2006 Replat (SL 2007-3), granted by Seldovia Townsite East Addition 2006 Replat (SL 2007-3), is hereby vacated.

Section 2. That an exhibit drawing or as built survey, prepared by a licensed surveyor, showing the location of the portion of the utility easement being vacated be attached to, and made a part of this resolution, becoming Page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 24th DAY OF OCTOBER 2022.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

E. NEW BUSINESS

3. Resolution 2022-XX: Approving the Acquisition of a Public Access Easement from the State of Alaska for Watermelon Trail.

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *MN*
Robert Ruffner, Planning Director *RR*
Marcus Mueller, Land Management Officer *RRFMM*

FROM: Julie Denison, Land Management Technician *JD*

DATE: October 13, 2022

RE: Resolution 2022-_____, Approving the Acquisition of a Public Access Easement from the State of Alaska for Watermelon Trail (Mayor)

Watermelon Trail is an existing multi-use public trail accessing backcountry and Kenai Peninsula Borough (Borough) lands, primarily across state and Borough lands. Across Borough lands, the trail is maintained year-round by Snomads, Inc. (Snomads) through a Community Trail Management Agreement (CTMA). Where Watermelon Trail traverses state land, Snomads has applied for an easement with the State of Alaska, with the Borough requested to become the grantee.

Borough acceptance of the trail easement from the State of Alaska would enable the Borough and Snomads to amend the CTMA Trail Management Plan to include the segments of Watermelon Trail extending across state lands.

Your consideration of the resolution is appreciated.

Introduced by: Mayor
Date: 10/25/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
RESOLUTION 2022-**

**A RESOLUTION APPROVING THE ACQUISITION OF A PUBLIC ACCESS
EASEMENT FROM THE STATE OF ALASKA FOR WATERMELON TRAIL**

WHEREAS, KPB 17.10.030 and KPB 17.10.040 requires Kenai Peninsula Borough (“Borough”) Planning Commission consideration and assembly approval for the acquisition of interests in lands; and

WHEREAS, an easement is an interest in land; and

WHEREAS, the purpose of the acquisition is for construction, operation and maintenance of an existing multi-use public trail, commonly called Watermelon Trail, across State of Alaska lands on the southern Kenai Peninsula; and

WHEREAS, Snomads, Inc. has initiated the easement process through the State of Alaska, Department of Natural Resources under ADL 223843 and is also the holder of the Borough Community Trail Management Agreement for the portions of this same trail across Borough-owned lands; and

WHEREAS, Watermelon Trail is an important backcountry access point for Borough residents, including access to Borough lands; and

WHEREAS, a land classification does not fit within the intent and purpose of Borough Chapter 17.10 and the use of the easement area defined by the easement instrument; and

WHEREAS, the Borough Planning Commission, at its regularly scheduled meeting of October 24, 2022, recommended _____;

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

SECTION 1. That the acquisition of a public access easement described as ADL 233843 for a 60-foot-wide trail easement 55,000-feet-in-length, more or less, commonly known as Watermelon Trail is in the best interests of the Borough.

SECTION 2. The terms of the acquisition are in accordance with AS 38.05.850, public and charitable use. The duration of the easement is indefinite.

SECTION 3. The purpose of the acquisition is for construction, operation and maintenance of an existing public multi-use trail and related infrastructure commonly called Watermelon Trail.

SECTION 4. That no land classification is required pursuant to KPB 17.10.080(C). The Borough intends to administer the trail through community trail management agreement authorizations consistent with other sections of the trail on Borough-owned lands, and consistent with the terms of the easement.

SECTION 5. That the mayor is authorized to execute any and all documents necessary to acquire the interest in real property as described in this resolution in accordance with the terms and conditions contained in this resolution and accompanying Public Access easement document and consistent with applicable provisions of KPB 17.10.

SECTION 6. That this resolution is effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY * 2022.

Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:



Land Management

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2205 • (907) 714-2378 Fax

A Division of the Planning Department

Charlie Pierce
Borough Mayor

June 24, 2022

State of Alaska
Department of Natural Resources DMLW, SCRO
Attn: Evan Dodd, Easement Unit
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501
(Via Email evan.dodd@alaska.gov)

RE: ADL 233843 – Watermelon Trail Easement

Dear Mr. Dodd,

The Kenai Peninsula Borough is the landowner at the Watermelon Trail Trailhead and works with the Snomads organization through a Community Trail Management Agreement as to the borough land involved along that trail. KPB Land Management has been in discussions with Snomads concurrent with the easement application for ADL 233843, pertaining to those sections of Watermelon Trail on State land. KPB Land Management has at the same time had discussions with the SOA DNR DMLW SCRO Easement Unit to evaluate whether KPB should hold the easement as grantee, to determine the scope of interests that KPB would hold under this easement, and to design the easement such that KPB would have a managing interest, permitting, and regulatory authority within the scope of the easement purpose. The contemplated easement would then allow KPB to permit development, use, and maintenance within the purpose and scope of the easement, subject to plan review by the DMLW; for example KPB could extend the Snomads Community Trail Management Agreement to the ADL 233843 area.

With this understanding, and subject to approval of the KPB Assembly pursuant to KPB 17.10.040 and acceptance by the KPB Mayor, I hereby request that ADL 233843 Watermelon Trail Easement be granted with Kenai Peninsula Borough named as Grantee.

ADL 233843 – Easement Request

Upon receiving a draft easement, a resolution will be prepared for Planning Commission recommendation and Assembly Approval which may take 45-60 days.

We appreciate SCRO's work to solidify the Watermelon Trail within the Kenai Peninsula Borough to provide appropriate management tools.

Respectfully,

A handwritten signature in blue ink, appearing to read "Marcus A. Mueller".

Marcus A. Mueller
Land Management Officer

CC: Robert Ruffner, KPB Planning Director
Charlie Pierce, KPB Mayor

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

ADL 233843
Public Access Easement
Kenai Peninsula Borough

This easement is granted this XXth day of MONTH, YEAR, by the State of Alaska, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, whose address is 550 West 7th Avenue, Suite 900C, Anchorage, AK 99501, hereinafter referred to as the Grantor. This easement is granted to the Kenai Peninsula Borough, whose address is 144 North Binkley Street, Soldotna, AK 99669, hereinafter referred to as the Grantee.

In accordance with the provisions of AS 38.05.850, and the rules and regulations promulgated thereunder, a public access easement is hereby granted for an indefinite term for the construction, operation, and maintenance of an existing public multi-use trail and related infrastructure. This easement is located near Homer, AK, over and across the following described state lands:

Within applicable portions of Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian, in the Homer Recording District. The easement is XXXX feet in length and XX feet in width for a total of XX.XX acres, more or less. The easement is depicted As-Built Survey EPF XXXXXX, recorded concurrently as Plat # _____, Homer Recording District.

This easement is subject to the terms and conditions contained herein.

In the event that this easement shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this easement in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.

Any lands included in this easement that are conveyed from state ownership shall be subject to this easement.

This easement shall terminate at the end of the stated term, if any, when the Grantor determines that the easement is no longer in use for the purpose(s) authorized, or the easement is revoked as a result of violation of the terms and conditions contained herein. The State of Alaska shall be forever wholly absolved from any liability for damages that might result if this easement is terminated for any reason.

Now therefore, in accordance with the conditions of this easement including all attachments and documents that are incorporated by reference, the Grantee is authorized to operate and maintain said easement over and across lands herein described. In witness whereof, the Grantor and the Grantee have affixed their signatures on the date(s) specified herein.

[SIGNATURE PAGES FOLLOW]

GRANTOR

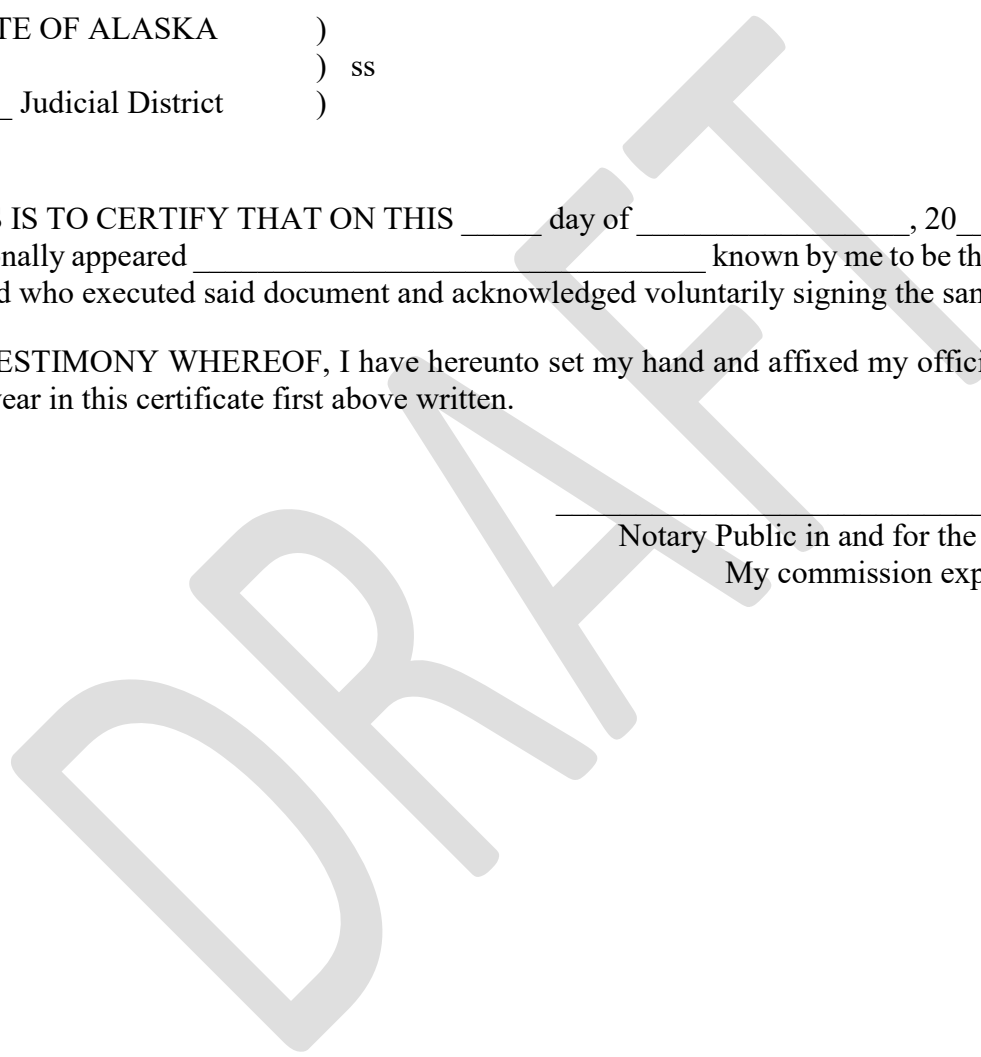
Samantha Carroll, Natural Resource Manager 3
Southcentral Regional Land Office, Division of Mining, Land and Water

STATE OF ALASKA)
) ss
____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS ____ day of _____, 20____, before me personally appeared _____ known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My commission expires with office



GRANTEE

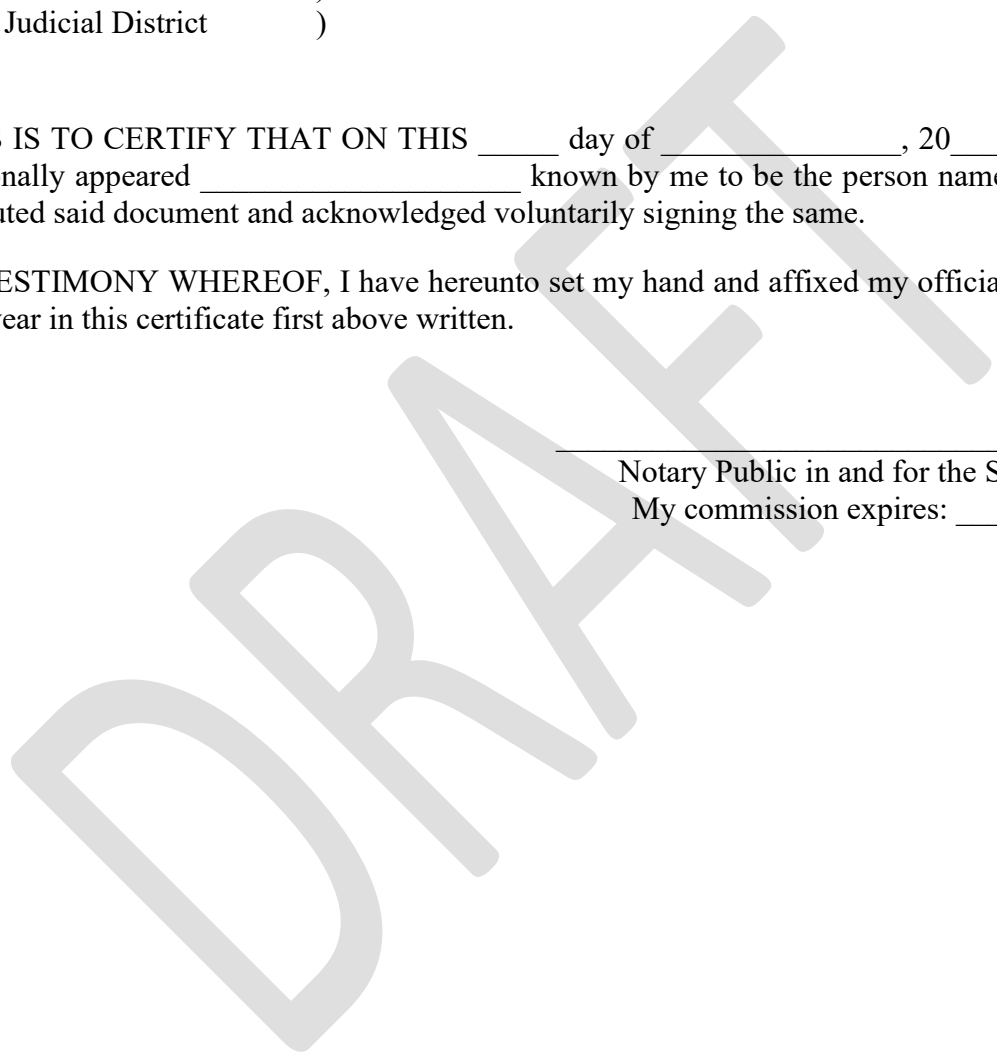
Charlie Pierce, Mayor
Kenai Peninsula Borough

STATE OF ALASKA)
) ss
____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS ____ day of _____, 20____, before me personally appeared _____ known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My commission expires: _____



WHEN RECORDED, RETURN DOCUMENT TO:
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501

Stipulations:

1. **Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
2. **Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
3. **Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
4. **Development Plan:** Development shall be limited to the authorized area, improvements, and maintenance activities specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
5. **Directives:** Directives may be issued for corrective actions that are required to correct a deviation from design criteria, project specifications, stipulations, State statutes or regulations. Work at the area subject to the Directive may continue while implementing the corrective action. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.
6. **Violations:** This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes and regulations. A revocation may not become effective until 60 days after the Grantee has been notified in writing of the violation during which time the Grantee has an opportunity to cure any such violation.

No public access easement may be terminated without the prior written approval of DMLW.

7. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
8. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust

Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.

- 9. Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
- 10. Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein. Nothing may be stored that would be an attractive nuisance to wildlife or create a potentially hazardous situation.
- 11. Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 12. Removal of Improvements and Site Restoration:** Upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall within 30 days remove all improvements from the area herein granted, except those owned by the State, and the site shall be restored to a condition acceptable to the AO. Should the Grantee fail or refuse to remove said structures or improvements within the time allotted, they shall revert to and become the property of the State; however, the Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area
- 13. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
- 14. Assignment:** In the event the grantee desires to transfer their interest in this authorization to another party the grantee shall submit in writing to the AO a request for assignment. The grantor reserves the right to modify and/or add stipulations for the authorization prior to approving the assignment. The grantor reserves the right to require an assignment between the grantee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change. Notwithstanding other requirements described in this authorization, assignments shall be restricted to those entities that are also eligible to obtain an authorization under the same statutory authority in which this authorization was issued.
- 15. Request for Information:** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.
- 16. Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.

- 17. Waste Disposal:** On-site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.
- 18. Operation of Vehicles:** Vehicles shall be operated without disturbing the vegetative mat and underlying substrate.
- 19. Surface Drainage:** Adequate culverts shall be installed to maintain surface drainage and to prevent ponding and/or erosion.
- 20. Site Disturbance:**
- a. Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems.
 - b. Brush clearing is allowed, but shall be kept to the minimum necessary to conduct or complete the authorized activity. Removal or destruction of the vegetative mat outside of the authorized area is not allowed.
 - c. The Grantee shall conduct all operations in a manner which will prevent unwarranted pollution, erosion, and siltation. Any pollution, erosion, or siltation shall be repaired/remediated in a manner and time frame satisfactory to the AO at the Grantee's expense.
- 21. Ground Disturbance and Repair:** Grantee will refill holes, trenches and surface depressions resulting from development or maintenance activities with sand, gravel, native materials, or a substitute approved by the AO. Surface areas will be recontoured to the satisfaction of the AO so that they do not pose a threat to human safety or wildlife transit.
- 22. Destruction of Markers:** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
- 23. Fuel and Hazardous Substances:**
- a. No fuel or hazardous substances are to be stored on state land. Prior written approval from the AO is required for a change in this restriction and may include additional stipulations and/or a change in the amount required for the performance guaranty.
 - b. Signs: Trail signs may be posted within the easement corridor only. Flexible signposts shall be used.
- 24. Performance Guaranty:** The requirement of a performance guaranty for this authorization is met by the self-bonding of the Grantee, who is a state agency. The provisions of this authorization shall not prejudice the State's right to obtain remedy under any law or regulation.

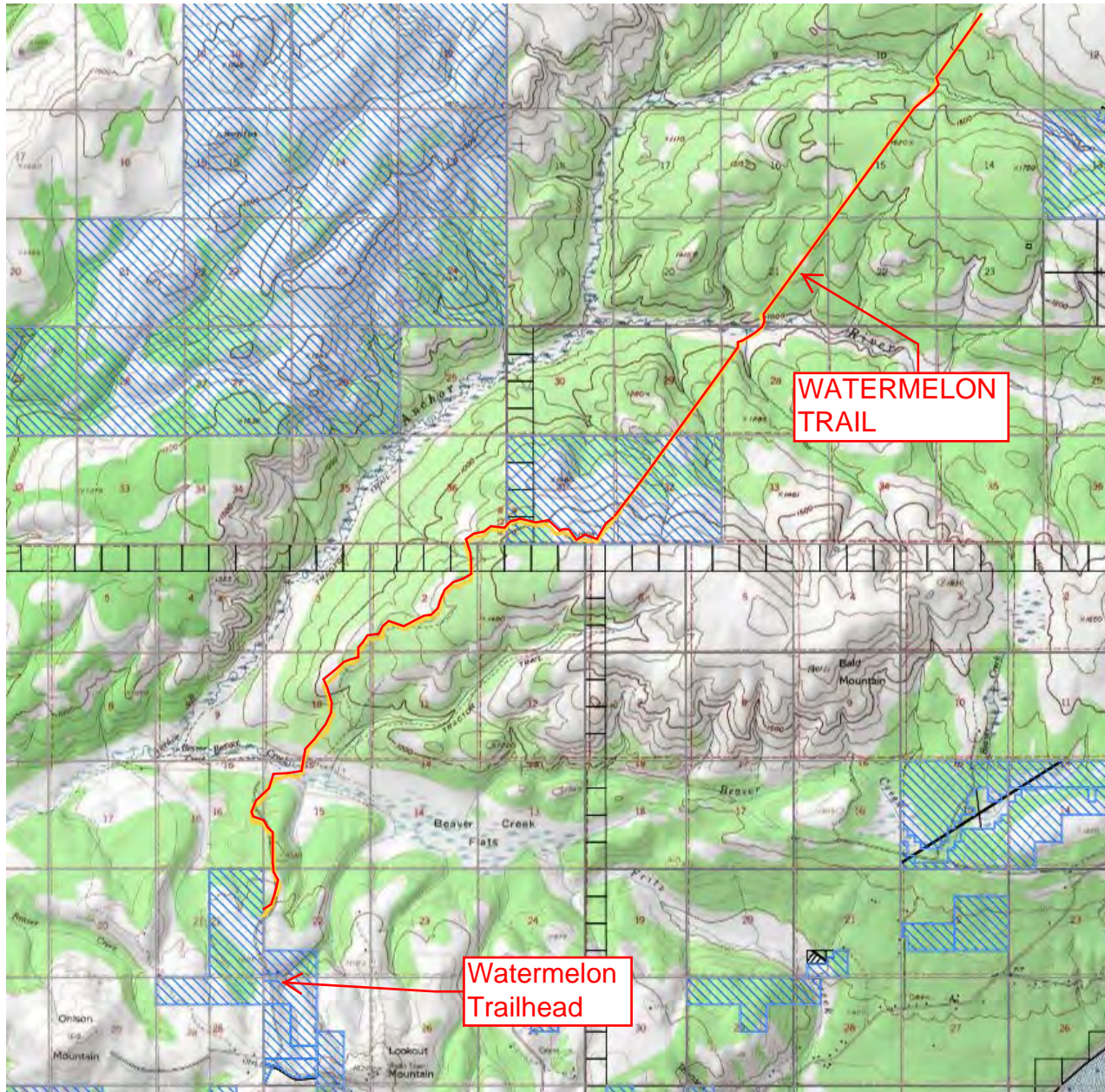
- 25. Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
- 26. In Lieu of Indemnification:** In connection with the entry on or use of assigned lands, subject to the limitations and provisions of AS 09.50.250-.270 and AS 37.05.170, the Grantee shall ensure that its contractors and subcontractors shall indemnify, save harmless, and defend the State, its agents and its employees from any and all claims or actions for injuries or damages sustained by any person or property arising directly or indirectly from the construction or the contractor's performance of the contract, except when the proximate cause of the injury or damage is the State's sole negligence.
- 27. Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.
- 28. Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
- 29. Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
- 30. Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
- 31. Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.
- 32. Fire Prevention, Protection and Liability:** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.

33. Notification of Discharge: The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. To report a spill outside of normal business hours, call toll free 1-800-478-9300 or international 1-907-269-0667.

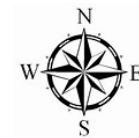
Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.



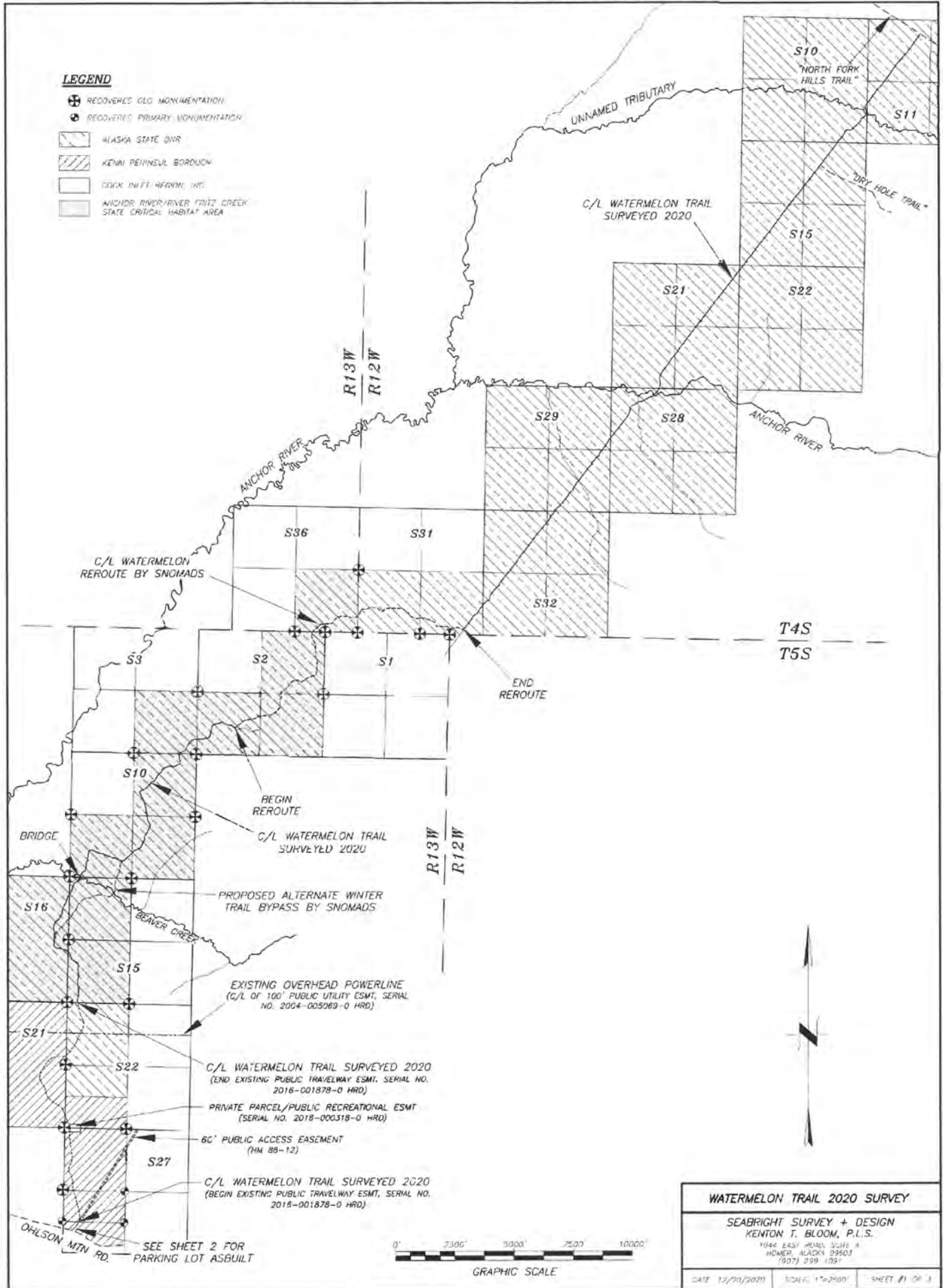
ADL 233843
Watermelon Trail Easement

60-Foot Wide Public Easement

Located on State land within
Township 4 South, Ranges 12
& 13 West and Township 5
South, Range 13 West



ADL 233843: Attachment A



Per section V(B) of CTMA No. 2021-01, Amd-3 , Snomads Inc., CHS Mulituse Trail System
Agreement # *Trail Manager*

Hereby requests consideration of the proposed amendments or modifications.

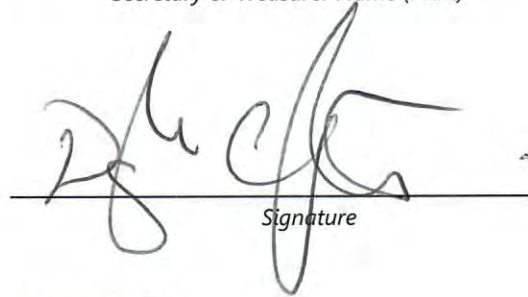
David Mastolier, President, Snomads Inc.

President or Vice President Name (Print)


Signature

Doug Inglis, Vice President, Snomads Inc


Secretary or Treasurer Name (Print)

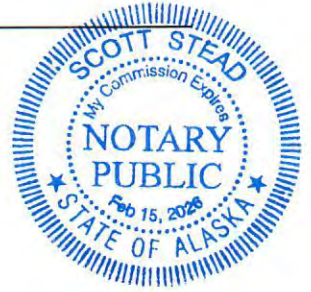

Signature

NOTARY ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 22 day of July
2022, by David Mastolier, the President of,
Name *Title*
an Alaska non-profit corporation, for and on behalf of the corporation.


Notary Public for State of Alaska
Commission Expires: 15 FEB 2026



STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 22 day of July
2022, by Doug Inglis, the Vice President of,
Name *Title*
an Alaska non-profit corporation, for and on behalf of the corporation.


Notary Public for State of Alaska
Commission Expires: 15 FEB 2026



CTMA 2021-01 Amendment 3, Watermelon Trail Easement Grantee (KPB)

Request, July 2022

(Amends Original CTMA 2021-01, Apr 21)

**TRAIL MANAGEMENT PLAN
FOR PUBLIC TRAILS ON BOROUGH LAND
Caribou Hills South (CHS) Trail System**

TRAIL MANAGER:

SNOMADS, Inc.

PO Box 3646

Homer AK 99603

snomads@gmail.com

www.snomadsonline.org

SUMMARY OF PROPOSED ACTIVITIES (Check All That Apply)

SEASONS OF TRAIL MANAGEMENT

Winter Summer Year Round

TRAIL WIDTH (Typical)

Under 5 Feet

5-10 Feet

10-20 Feet

TRAIL MAINTENANCE ACTIVITIES

Periodic Brushing/Clearing

Grading

Snow Grooming

Erosion Controls

TRAIL IMPROVEMENTS

Trailheads

Parking Area

Loading/Unloading Area

Signs

Sanitation (Trash/Outhouse)

Picnic Area

Shelters

Culverts

Bridges

Stairs

Gates & Bollards

Hardening

New Trails

TRAIL ADMINISTRATION

Competitions/Sponsored Events

Grants

Signage

Equipment Storage Facilities

TRAIL ACTIVITIES

Motorized:

ATV

Snow Machines

Non-Motorized:

Dog Sleds

Skiing

Snowshoeing

Skijoring

Sledding

Hiking

Biking

Walking/Running

Biathlon

Horses

Pet Friendly

Other:

Water Access

Landing Area

1. **Long Range Goals:** As per Agreements, Partnerships and Easements, Snomads seeks to inform KPB of its plans and intentions. KPB acceptance of this amendment will authorize DNR issuance of a Public Outdoor Recreational Easement for the Watermelon Trail to KPB, who will be listed as the Easement “Grantee” of record (co-management with DNR), and authorizes its inclusion into CTMA 2021-01 for Trail Management to Snomads for both short and long term Management/Maintenance of the Watermelon Trail: (Para 1a, 1b): DNR ADL-233843

- a. The Watermelon Trail (and its parking lot), is one of the major arterial trails providing Multiuse access to the Caribou Hills South Trail System. Snomads has applied for a Public Recreation Trail Easement for the Watermelon Trail, in its entirety, (ref: DNR ADL 233843). A goodly portion of this trail and parking lot already exists on KPB lands, managed by the KPB LMD, with Snomads as the Trail Manager (ref: CTMA 2021-01), so the KPB is already a tenant stakeholder. The Alaska DNR South Central Regional Office (SCRO) Easement Division has recently issued a preliminary or draft Easement (unsigned) and Entry Authorization (also unsigned), with the KPB listed as the ‘Grantee’ (at Snomads request) for the rest of the trail. It is our understanding that DNR requires KPB acceptance of the “KPB Grantee” status for the Trail Easement and Entry Authorization in the form of a fully executed KPB Resolution to continue their processing.

Snomads recognizes the importance of establishing a permanent legal status for trails in the form of permanent Easements, to ensure that access and the resource is available for generations to come. It is equally important to establish a viable long term management and maintenance structure and system with the legal authority to properly manage and maintain the resource. When Trail Use Permits or Easements are applied for on Public Lands, DNR requires the applicant to do the work, and pay the fees, and in the case of Easements, generally issues it to themselves (DNR) as the ‘Grantee’, on behalf of the public. It is Snomads intent to consolidate management of the numerous stakeholders that own or manage sections of the trail under the KPB, which has a viable and active management structure/system already in place (the KPB CTMA), to ease the burden of maintaining and rehabilitating this important trail. It is also important to note that an Easement Grantee should be a survivable Public Government entity, like the KPB.

- b. Construct, Install and Maintain 3 ea. Standardized Trail Bridges on the Watermelon Trail. A component of the final Easement being issued, are a requirement for 3 ea Trail Bridges at specifically identified locations along the trail. Snomads, as the Trail Manager, accepts the responsibility of funding and constructing these Trail Bridges to published standards, and has an active program to accomplish this task, in

partnership with the Homer Soil & Water Conservation District & US Fish & Wildlife. Multiagency Permitting (including Army Corps of Engineers) will be required.

Detailed Plans:

Snomads includes Site Surveys, Surveys for Record, Detailed Project Plans, Project Progress Reports, Annual Reports, Project Proposal and Proposed Amendments in its communication and interaction with the Borough. Detailed Project Plans, Status Updates, Spot and Project Completion Reports will be forwarded to KPB in a timely manner.

Plans for specific improvement including architectural or engineering designs, when

Applicable:

Snomads will contact KPB LMD for any improvements that are planned, and where applicable, will submit detailed project plans and amendment proposals to the CTMA and obtain requisite approval in the planning stages of projects.

Grant proposals, when applicable: Snomads will inform KPB LMD of all Grant Proposal Plans or Applications that directly or indirectly impact KPB lands, or this CTMA.

Attachments:

- DNR ADL 233843 Regional Managers Decision**
- DNR ADL 233843 Draft Easement (unsigned)**
- DNR ADL 233843 Entry Authorization (unsigned)**

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGIONAL LAND OFFICE**

Regional Manager's Decision

ADL 233843
Snomads, Inc.
Public Access Easement
Watermelon Trail

REQUESTED ACTION

On June 16, 2021, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Southcentral Regional Land Office (SCRO), received an application for an easement from Snomads, Inc. (Snomads; the applicant) for the existing Watermelon Trail located on State-owned, DMLW-managed uplands near Homer, Alaska. The purpose of the proposed easement is to authorize maintenance, rehabilitation and operation of the existing trail. The applicant has requested a public access easement 75,573 feet long, 60 feet wide, and approximately 104.1 acres in size. The applicant has further requested that the easement be granted to the Kenai Peninsula Borough (KPB) to hold in trust for the public, as other portions of the trail are located on KPB managed lands. An easement for the Watermelon Trail was previously requested by the Alaska Department of Fish & Game (ADF&G), serialized as ADL 229161, but was closed on August 12, 2020, per ADF&G's request.

RECOMMENDED ACTION

The request shall be modified, and this easement will be authorized as follows:

- Type of easement: Public Access Easement
- Length: Change from 75,573 feet to 55,000 feet
- Width: 60 feet
- Acreage: Change from 104.1 acres to 75.75 acres
- Term: Indefinite
- Grantee: KPB
- Use and Restriction: Use of the easement on general state lands will conform to the weight restrictions outlined in 11 AAC 96.020 with the exception of seasonal grooming and maintenance equipment unless otherwise permitted.

SCOPE OF DECISION

The scope of this decision is to determine if it is in the State's interest to create an easement for the proposed use. The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska. All other aspects of the applicant's project are outside the scope of this decision.

STATUTORY AUTHORITY

This easement application is being adjudicated pursuant to AS 38.05.850 and the Alaska Land Act as amended.

ADMINISTRATIVE RECORD

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the 2001 Kenai Area Plan, other classification references described herein, and the casefile for the application serialized by DNR as ADL 233843.

LOCATION INFORMATION

Geographic Location

The applicant has requested that DMLW authorize an easement near Homer, AK.

Meridian Township Range Section

The applicant has applied to use State-owned, DMLW-managed lands within Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian.

Additionally, SCRO review indicates that the Watermelon Trail is also be located within Section 36, Township 4 South, Range 13 West, Seward Meridian. SCRO recommends these sections of land be included in the authorized area if this request is approved.

The applicant also included Sections 31 and 32 of Township 4 South, Range 12 West, Seward Meridian, and Section 27, Township 5 South, Range 13 West, Seward Meridian in their requested legal description. Further analysis indicates that Section 27 has been conveyed to the KPB, and that Sections 31 and 32 are managed by the KPB per municipal entitlement ADL 62695. After accounting for portions of the request located on lands managed by the KPB, SCRO has adjusted the legal description to more accurately reflect the 55,000 feet of trail located on state owned and managed lands.

Other Land Information

Municipality: KPB

Regional Corporation: Cook Inlet Region, Inc. (CIRI)

TITLE

The State of Alaska holds title to applicable portions of lands within Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Section 36, Township 4 South, Range 13 West, and Sections 2, 3, 10, 15, 16 and 22, Township 5 South, Range 13 West, Seward Meridian per Patent Number 50-65-0594, Patent Number 1220722, Patent Number 1207176, Patent Number 1217411, Patent Number 122073, Supplemental Patent Number 50-66-0495 and Tentative Approval recorded as Document Number 2012-003355-0 in the Homer Recording District. The associated DNR land acquisition casefiles are GS 6, GS 76, SCH 75 and SCH 81.

THIRD PARTY INTERESTS

Known third-party interests within the proposed project area include:

- ADL 59921 –Grazing lease, reissuance adjudication ongoing, held by Viola Jerrel;
- ADL 200045 – Public utility easement issued to Homer Electric Association;
- LAS 33241 – Land use permit issued to the Homer Soil & Water Conservation District;
- LAS 33248 – Land use permit issued to ADF&G.

PLANNING & CLASSIFICATION

The proposed easement falls within the boundaries of DNR’s 2001 Kenai Area Plan (the Plan; KAP), Region 7, Unit 217, Unit 266B, and Unit 290.

Unit 217 is designated as Public Recreation and Tourism – Dispersed Use, which converts to a classification of Public Recreation Land. The plan states that the unit is frequently used by snowmachines, skiers, moose hunters, and berry pickers. The plan notes that a spur of the Watermelon Trail crosses this unit and recommends reserving access for trails prior to conveyance out of state ownership. Areas classified as Public Recreation Land are to be managed to ensure continued public use of trails, including, but not limited to, hunting, snow machining, hiking, and cross-country skiing. Management guidelines located in the Trails and Access section of Chapter 2 of the Plan note that DNR should keep trails available for public use and assist in establishing local trail systems which provide access to public land and water. Trails near wetlands may be authorized if the proposed activity will not cause significant adverse impacts to fish and wildlife habitat, ecological processes and scenic vistas; though ADF&G is to be consulted to provide recommendations on easement alignments. ADF&G was given the opportunity to comment on the proposed easement and their recommendations are discussed in the Agency Review section of this document.

Unit 266B is designated as Habitat and Public Recreation and Tourism – Dispersed Use, which convert to classifications of Wildlife Habitat Land and Public Recreation Land respectively. The plan notes that Unit 266B serves as a wildlife corridor between the Anchor River Fritz Creek Critical Habitat Area (ARFCCCHA) and that the area is characterized by moose rutting habitat and multiple anadromous streams. Management guidelines located in the Fish and Wildlife Habitat and Harvest section of Chapter 2 of the Plan note that access to public lands and water should be ensured and that habitat loss should be mitigated. The Plan outlines DNR’s management authority within critical habitat areas and notes that Special Area Permits issued by the Alaska Department of Fish and Game (ADF&G) are required, even for uses that may be generally allowed pursuant to 11 AAC 96.020. The applicant has previously been granted a Special Use Permit by ADF&G for the trail work associated with this easement request, and ADF&G has provided additional information regarding future permits which may be necessary for the activities proposed by the Snomads.

Portions of Unit 266B are located within the Caribou Hills Special Use Area (ADL 226574), which is governed by the Caribou Hills Management Plan (CHMP). The CHMP notes that the area should be managed in accordance with Generally Allowed Uses (11 AAC 96.020) associated with recreation and that the area has high public use values including hunting and snow machining. The CHMP further notes that rights-of-way should be established over heavily used trails to protect public access, though trail use restrictions may be necessary to prevent resource damage during

seasons characterized by wet ground conditions. Trail restrictions are consistent with the intent of the CHMP, and other agencies and the public will be notified of any restrictions imposed by DNR.

Unit 290 is designated as Habitat, which converts to a classification of Wildlife Habitat Land. The entire unit falls within the ARFCCHA which is governed in accordance with AS 16.20.605 and the ARFCCHA Management Plan. Per the ARFCCHA Management Plan, continued motorized and non-motorized use of existing trails and seismic lines is to be provided for, and trailheads/corridors between Ohlson Mountain Road and the ARFCCHA are to be established to accommodate public access. As with portions of Unit 266B, ADF&G Special Area Permits are required to authorize activities within the boundaries of the legislatively designated Critical Habitat Area.

Because the proposed authorization does not conflict with management guidelines outlined by the KAP, CHMP, or ARFCCHA Management Plan, and as ADF&G has issued a Special Area Permit authorizing trail work associated with this application, SCRO has determined that it is consistent with the overall management intent and goals of the relevant planning documents.

ACCESS

Functional legal access to the state land discussed herein exists via a public travelway easement granted by the KPB, recorded as Document Number 2016-001878-0 in the Homer Recording District.

Construction of the improvements described herein is contingent on the placement of related infrastructure on borough land owned and/or managed by the KPB and private owner Gwendolyn Perry. The KPB has provided DMLW with record of their support for the DMLW easement considered herein. Gwendolyn Perry has granted a public recreational easement pursuant to AS 34.17.100, recorded as Document Number 2018-000318-0 in the Homer Recording District.

PUBLIC NOTICE & AGENCY REVIEW

Public Notice Summary

Public notice of the application was conducted from September 1, 2021, to October 4, 2021. The notice was posted to the State of Alaska Online Public Notice System and was sent to the Homer, Anchor Point, Fritz Creek, and Nikolaevsk post offices for display on their notice boards. The notice was also sent to the following recipients:

- CIRI
- Homer Electric Association
- Viola Jerrel
- Gwendolyn Perry

Comments: A total of 52 comments were received during the public notice period. All of the comments received by SCRO voiced overwhelming support for the issuance of the proposed easement, with many citing the high recreational values of the area, the need for extensive trail work due to deteriorating conditions, and the long history of community engagement by the applicant.

Response: SCRO acknowledges the 52 comments received and thanks the public for their participation in the process. Individual comments are housed within the casefile for ADL 233843.

Agency Review Summary

Agency review of the application was conducted from September 1, 2021, to October 4, 2021. The notice was sent to the following recipients.

State of Alaska:

- DNR Division of Parks & Outdoor Recreation (DPOR); Permitting and the Office of History and Archeology (OHA)
- DNR DMLW; Survey Section, Land Conveyance Section, Contract Initiation and Revenue Recovery, Realty Services Section (RSS), Mining Section, and Water Section
- DNR Division of Forestry; Kenai Office
- DNR Division of Oil & Gas (DOG); State Pipeline Coordinators Section, Permitting Section, Leasing Section
- DNR Mental Health Land Trust Office
- DNR Spatial Case Information Management System
- Department of Environmental Conservation (DEC) Division of Water; Wastewater, Alaska Pollutant Discharge Elimination System Program
- DEC Division of Environmental Health; Drinking Water Program, Solid Waste Program
- DEC Division of Spill Prevention; Contaminated Sites
- ADF&G; Wildlife Conservation, Access Defense Program
- Department of Commerce, Community and Economic Development, Division of Community and Regional Affairs
- Department of Transportation and Public Facilities; Statewide Right-of-Way
- Homer Soil and Water Conservation District (HS&WCD)

Federal

- United States Army Corps of Engineers

Local

- Kenai Peninsula Borough; Land Management Division
- Kenai River Center

Agency Review Comment & Response

A total of seven comments were received during the agency review and are summarized below:

Comment: On September 1, 2021, the DMLW Land Conveyances Section provided a statement of non-objection in regard to the proposed public access easement.

Response: SCRO acknowledges the comment.

Comment: On September 2, 2021, DMLW RSS commented to note that three sections of land included in the application were under management by KP.B.

Response: SCRO appreciates the comment and has subsequently excluded Section 27, Township 5 South, Range 13 West, Seward Meridian, and Sections 31 and 32, Township 4 South, Range 12 West, Seward Meridian, from this decision as KPB is the managing authority. KPB has provided agreements made with the applicant for the portions of the trails within these sections.

Comment: On September 3, 2021, ADF&G Habitat Section commented to note that an existing Special Area Permit (21-V-0128-SA) had been issued to the Snomads for work along the Watermelon Trail within the ARFCCHA and noted that a second Special Area Permit was anticipated at a later date for portions of the project northeast of the Anchor River. ADF&G had no additional comments or objections to the proposed easement.

Response: SCRO acknowledges the response and thanks ADF&G Habitat for copies of permits issued within the CHA

Comment: On September 24, 2021, DPOR OHA commented that there are no reported cultural resource sites within the project area but noted that the applicant should notify OHA if any cultural resources are discovered during construction.

Response: SCRO acknowledges the response.

Comment: On September 28, 2021, DOT&PF Statewide Right-of-Way stated that they have no comments concerning the project.

Response: SCRO acknowledges the response.

Comment: On October 4, 2021, ADF&G Access Defense Program stated that a portion of the proposed easement crosses through the ARFCCHA which is managed by ADF&G. ADF&G has previously issued a Special Area Permit (21-V-0128-SA) but notes that an additional Special Area Permit will be required for placement of bridges over Beaver Creek proposed by the applicant. ADF&G further noted that while they support the applicant's desire to have the proposed easement held by a government agency, that it would prefer that an easement over State lands be held by DMLW. Finally, ADF&G notes that they hold management authority over lands within the CHA that the proposed easement crosses, as well as any activities below ordinary high water or crossings of anadromous water bodies.

Response: SCRO acknowledges the response. While SCRO acknowledges ADF&G's desire to have the easement held by DMLW, access to and along the route requested by the Snomads would require passage through two large segments of KPB-managed land, with all public parking occurring at the trailhead located on KPB land. Management of the trailhead would likely present the greatest influence over public use of the trail as informative signage and future expansion efforts by the KPB would directly impact the behavior and volume of various user groups. Additionally, if the proposed easement were to be held by DMLW, users would pass through four transition points along the trail where the management of the trail may change. Alternatively, granting the authorization to KPB would only require two transitions between management where the trail enters and exits the ARFCCHA. Minimizing the number of managing entities and regulations such as weight restrictions, reduces public confusion over which regulations apply where, and increases overall compliance. As the public would enjoy the same rights of access and assurances of long-term protection of the trail regardless if the easement is held by KPB or

DMLW, SCRO has determined that KPB would be the more appropriate entity to hold the easement.

SCRO understands that the ARFCCHA (legislatively designated by AS 16.20.500) is governed by the ARFCCHA Management Plan pursuant to 5 AAC 95.600. Per the ARFCCHA Management Plan, DNR authorization is required for any use, lease, or disposal of resources on state land within the critical habitat area. As co-management of state resources within the CHA is required by the ARFCCHA Management Plan, SCRO and ADF&G will consult regarding any management issues that may arise concerning impacts of, and user conflicts within, the proposed Watermelon Trail easement within the CHA.

Comment: On October 13, 2021 the HS&WCD commented to suggest that the hardened trail width proposed by the Snomads be increased from the requested five feet to six feet, to be consistent with trail hardening previously conducted by the HS&WCD. Additionally, HS&WCD requested that the specifications for U.S. Forest Service (USFS) Tier Three be listed in any granting document as they were unavailable online.

Response: SCRO will encourage the Snomads to consider increasing the hardened surface width from 5 feet to 6 feet, but will not require this change as it may impact other existing permits and may be constrained by funding limitations.

A public access easement as currently requested would authorize the Snomads to construct a hardened trail at a width suggested by the HS&WCD if desirable. As the Snomads have incorporated the USFS design standards into their development plan, no additional action is required by SCRO to require such standards. Specifications for USFS trail design is located within the casefile for ADL 233843 and can be provided to HS&WCD for reference.

No other comments were received.

ENVIRONMENTAL CONSIDERATIONS

Environmental contamination risk associated with this proposed easement is minimal. SCRO recommends that fuel, lubricants, and other hazardous materials be restricted to those necessary and be contained within tools and vehicles when equipment is necessary for construction and maintenance activities. SCRO further recommends that no fuel or other hazardous materials are authorized to be stored on site. There are no other known environmental considerations or constraints in this location.

ECONOMIC BENEFIT & DEVELOPMENT OF STATE RESOURCES

In accordance with AS 38.05.850, DMLW considers if the requested authorization will provide the greatest economic benefit to the State and development of its natural resources. Specifically, SCRO assesses both direct and indirect economic benefits and whether the proposed authorization encourages the development of the State's resources. The proposed easement facilitates the expansion of public recreational resources, thus providing an indirect benefit to the state. In consideration of these factors, and because there are no competing requests for authorization, SCRO advises that approval of this easement will provide the greatest economic benefit to the State.

DISCUSSION

SCRO has revised the applicant's estimate of the length of the requested easement based on the erroneous inclusion of lands managed by the KPB, as confirmed by the KPB Land Management Division on December 3, 2021. In light of this revision, SCRO recommends the issuance of an easement approximately 55,000 feet long by 60 feet wide for an estimated total area of 75.75 acres in order to facilitate and protect public access along the existing Watermelon Trail and provide adequate space for trail hardening and maintenance activities.

SCRO recommends that the authorization considered herein be a public access easement granted to KPB on behalf of the public as the easement provides access to both State and Borough lands noted to yield significant public recreation opportunities, and as management of the trailhead and public parking will occur on KPB lands. Grant of a public access easement to KPB is not in any way intended to diminish DMLW or ADF&G's role in the co-management structure of the ARFCCHA.

SCRO further recommends that the easement considered herein be granted for an indefinite term from the effective date of this decision as the need for this easement can be expected to exist as long as the adjoining land requires access.

In evaluation of the applicant's request, SCRO has identified the following management issues:

Winter Route:

The applicant has proposed to create a spur route of the Watermelon Trail for winter use, which would create a 0.94-mile deviation from the existing trail. While the applicant notes that the winter route would require no construction and little to no clearing, an easement will be required to provide long term protection of the trail and to authorize grooming equipment with a curb weight in excess of Generally Allowed Uses, pursuant to 11 AAC 96.020. SCRO recommends that the winter route be included in the grant of a public access easement to ensure consistent management of the trail and reduce the number of additional authorizations required for seasonal grooming.

Installation of Bridges:

The applicant has proposed to construct two bridges over portions of the Anchor River to allow for trail grooming while mitigating erosion and damage to anadromous waters. While the proposed bridges would serve to address environmental and habitat concerns, they may present a hazard to the public in the long-term if not properly inspected and maintained. As such, SCRO recommends that the grantee be required to submit post-construction designs which have been reviewed and approved by a Registered Professional Engineer (RPE) prior to issuance of a final easement by DMLW. The plans must include the load rating and estimated life of the bridge, and load limits must be clearly posted on either side of the bridge for public awareness. After final construction of the two bridges, the grantee would be required to submit an inspection report by a qualified RPE which clearly outlines the intervals at which subsequent inspection reports will be necessary. The applicant would be required to submit all inspection reports to SCRO for documentation in the casefile for ADL 233843.

SCRO understands that a bridge crossing Beaver Creek within the ARFCCHA was installed in 2009 following authorization by ADF&G. SCRO recommends that the pre-existing bridge be included in the proposed public access easement but requires that a post-instruction report be conducted by a RPE to confirm the structural integrity of the bridge. SCRO advises that regular inspection reports by a RPE be required for the pre-existing bridge, consistent with the two proposed bridges.

In the event that any bridge installed within the proposed easement is deemed to be unsafe or is not inspected at an interval acceptable to an RPE, DMLW reserves the right to close the bridge to public use and require removal by the grantee at their own expense.

Monitoring activities and maintenance of the bridges and other infrastructure will be the exclusive responsibility of the grantee: DNR does not take responsibility for the maintenance of these bridges and other infrastructure.

Trail Weight Restrictions and Winter Grooming:

The applicant has noted that they are aware of and support a weight restriction for recreational off-road vehicles on general state land pursuant to 11 AAC 96.020, and a weight restriction of 1,000 lb. curb weight for recreational off-road vehicles within the ARFCCHA. The applicant further requests that vehicles used for trail maintenance, rehabilitation, construction, and grooming be exempt from additional authorizations.

For portions of the Watermelon Trail which fall upon general state lands, SCRO recommends that vehicles exceeding the weight restrictions of 11 AAC 96.020 be allowable only to facilitate trail maintenance, rehabilitation, construction, and grooming activities. SCRO concurs with the applicant that trail grooming by the Snomads on general state lands should only occur with a minimum snow base of six inches to protect the underlying vegetative mat. All other trail users must obtain an authorization for any vehicle use which exceeds the generally allowed uses pursuant to 11 AAC 96.020. The applicant currently has a valid Special Area Permit (21-V-0128-SA) to develop, construct, maintain, rehabilitate, and groom the Watermelon Trail within the ARFCCHA. Any trail users wishing to operate vehicles in excess of 1,000 lbs. within the ARFCCHA must seek approval from ADF&G pursuant to 5 AAC 95.

Potential for Oil & Gas Development:

The existing route of the Watermelon Trail requested by the applicant crosses six Lease Sale Tracts designated by DOG in the Cook Inlet Sale Area. While there are not currently any active oil and gas leases associated with the six tracts, DOG noted that the State reserves oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it conveys in accordance with Section 6(i) of the Alaska Statehood Act and Alaska Statute 38.05.125. The State also reserves the right to enter the land for the purposes of exploring for, developing, and producing these mineral resources.

PERFORMANCE GUARANTY

A performance guaranty is intended to incentivize compliance with the terms and conditions of the entry authorization and easement. It also provides a mechanism for the State to ensure that the applicant shares in the financial burden in the event of noncompliance (including fee payment, survey, etc.), restoration (interim and final), and any associated costs after termination or expiration of the easement. In consideration of the low risk associated with the proposed authorization and the applicant's known history of compliance, SCRO recommends that a performance guaranty not be required at this time. DMLW reserves the right to require a performance guaranty during the term of the easement.

INSURANCE

SCRO recommends that insurance not be required as the grantee is self-insured. SCRO recommends that the grantee be required to provide proof of its contractor's insurance upon DMLW's request.

SURVEY

SCRO recommends that a DMLW-approved as-built survey is required to determine the proper location and acreage of installed improvements and the associated easement on State-owned, DMLW-managed lands. The applicant will be required to request survey instructions prior to issuance of the entry authorization. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska. A final easement will not be issued until the as-built survey has been approved by DMLW.

FEES

Per 11 AAC 05.020(b), SCRO recommends that interim and one-time issuance fee(s) for this authorization are waived as the request is in the public interest. However, the applicant will be required to pay the appropriate recording fees to have the easement recorded by DMLW.

ENTRY AUTHORIZATION

The entry authorization is an interim authorization issued when a survey is necessary prior to easement issuance. SCRO recommends that an entry authorization be issued for a term ending 5 years from the effective date of this decision for the purpose of constructing, surveying, operating, and maintaining the infrastructure considered herein prior to DMLW’s issuance of a public access easement. The entry authorization may be revoked if the applicant has not supplied DMLW with a draft as-built survey within 3 years of receiving survey instructions. An extension of the entry authorization may be granted at the written request of the applicant if granting the extension is deemed appropriate by DMLW, and may be subject to applicable fees. If an extension is required, the applicant must contact DMLW no later than 30 days prior to the expiration of the entry authorization and certify there have been no changes to the approved development plan. SCRO recommends that entry authorization not be granted until the following deliverables have been provided to DMLW, as described or recommended above:

- Evidence of having made request for survey instructions to the DMLW Survey Section.

RECOMMENDATION

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation of SCRO to issue an easement as described above, on the condition that all stipulations are followed as described in the attached authorization.

Evan Dodd

Evan Dodd, Natural Resource Specialist 3
DMLW Southcentral Regional Land Office


6/28/2022

Date

REGIONAL MANAGER'S DECISION

When adjudicating an easement authorization pursuant to AS 38.05.850, DMLW seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with public interest. In consideration of all events and criteria listed above, I hereby determine that the authorizations to be granted by this decision are consistent with DMLW's mission, that this project is consistent with the overall classification and management intent for this land, and that issuance of an authorization as described above is in the interest of the State of Alaska. The Department assumes no responsibility for maintenance or liability for injury or damages attributable to this authorization.

This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the authorization. Additional time may be allotted to complete these requirements; however, this will not extend the total term of the authorizations issued under this decision. This decision goes into effect and becomes a final administrative order and decision of the department on the 31st calendar day after issuance.

 for
 Samantha Carroll, Regional Manager
 DMLW Southcentral Regional Land Office

6/28/78
 Date

ATTACHMENTS

- Attachment A: Location Diagram
- Entry authorization, unsigned
- Draft easement document

APPEAL

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A .pdf or print copy of 11 AAC 02 may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at erik.fossum@alaska.gov, and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

ADL 233843
Public Access Easement
Watermelon Trail Improvements

Entry Authorization

The Kenai Peninsula Borough, herein known as the Grantee, is issued this Entry Authorization for the use of state land within:

Legal Description:

Applicable portions of Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian, as further described in the Regional Manager’s Decision for ADL 233843 dated June 28, 2022, and as depicted in Attachment A.

This Entry Authorization is issued for the purpose of authorizing the following:

Constructing, surveying, operating, and maintaining an existing public multi-use trail and related infrastructure.

This authorization is effective beginning _____ and ending _____, unless sooner terminated.

Stipulations:

- 1. Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
- 2. Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
- 3. Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
- 4. Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.

5. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance, the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.
6. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
7. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.
8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
9. **Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
10. **Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
11. **Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
12. **Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

13. **Assignment:** This authorization may not be transferred or assigned without the prior written consent of the AO.
14. **Indemnification:** In connection with the entry on or use of these lands, subject to the limitations and provision of AS 09.50.250-270 and AS 37.05.170, the Grantee shall ensure that its contractors and subcontractors shall indemnify, save harmless, and defend the State, its agents and its employees from any and all claims or actions for injuries sustained by any person or property arising directly or indirectly from the construction of the contractor's performance of the contract, except when the sole proximate cause of the injury or damage is the State's negligence.
15. **Fuel and Hazardous Substances:** No fuel or hazardous substances may be stored in the authorized area without prior written approval from the AO.
16. **Insurance:** Insurance is not required. The AO reserves the right to require insurance during the term of this authorization. If required, insurance of a type and in an amount acceptable to the AO, must be provided and remain in place during the term of this authorization. The type and amount of insurance may be adjusted to reflect updates and changes in the associated project.
17. **Removal of Improvements and Site Restoration:** Upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall within 30 days remove all improvements from the area herein granted, except those owned by the State, and the site shall be restored to a condition acceptable to the AO. Should the Grantee fail or refuse to remove said structures or improvements within the time allotted, they shall revert to and become the property of the State; however, the Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area.
18. **Concurrent Use:** The DMLW reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization. Authorized concurrent users of State land, their agents, employees, contractors, subcontractors, and licensees shall not interfere with the operation or maintenance activities of each user. The DMLW may require authorized concurrent users of State land to enter into an equitable agreement regarding concurrent use.
19. **Performance Guaranty:** A performance guaranty is not required. The provisions of this authorization shall not prejudice the State's right to obtain remedy under any law or regulation.
20. **Extensions:** The AO may approve a written request to extend this authorization if additional time is necessary to meet its requirements. The written request must certify that there have been no changes to the approved development plan and be received at least 30 days before the expiration date of this authorization. Additional fees may be required.
21. **Violations:** This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes, and regulations. A revocation may not become effective until 60 days after the Grantee has been notified in writing of the violation during which time the Grantee has an

opportunity to cure any such violation. No public access easement may be terminated without the prior written approval of DMLW.

- 22. Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. To report a spill outside of normal business hours, call toll free 1-800-478-9300 or international 1-907-269-0667. Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

- 23. Returned Check Penalty:** A returned check penalty of \$50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.
- 24. Late Payment Penalty Charges:** The Grantee shall pay a fee for any late payment. The amount is the greater of either \$50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.
- 25. Fees:** Land use fees for this authorization are waived in accordance with 11 AAC 05.020 (b).
- 26. Request for Information:** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization in a manner prescribed by the AO.
- 27. Annual Report:** An annual report shall be submitted by December 15 of each year outlining work completed that year, work to be completed next year, and anticipated construction completion timeframe.
- 28. Post Construction Reporting:** A report shall be submitted to the AO by December 15 in any year wherein construction activities occurred that describes the changes made to improvements within the easement during the preceding year. The report shall include photos of all portions of the easement and infrastructure therein that were the focus of construction activities that would be readily accessible to DMLW personnel during a site inspection.
- 29. Waste Disposal:** On-site refuse disposal is prohibited unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this

authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and discarded equipment.

- 30. Destruction of Markers:** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
- 31. Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein.
- 32. Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 33. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
- 34. Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
- 35. Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
- 36. Choice of Venue:** This authorization shall be construed under the laws of the State of Alaska. The Grantee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this authorization.
- 37. Stop Work Orders:** Stop Work Orders may be issued if there is a deviation from design criteria, project specifications, stipulations, state statutes, or state regulations and that deviation is causing or is likely to cause significant damage to state resources. Under a Stop Work Order, work at the area subject to the Stop Work Order may not resume until the deviation is cured and corrective action is taken. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by the AO. The AO has the right but not the obligation, to undertake corrective action at the expense of the Grantee by moving against the performance bond when such action is necessitated by neglect or inaction on the part of the Grantee to take corrective action.

- 38. Existing Easements:** In the event that this easement shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this easement in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.
- 39. Survey:** The Grantee shall submit a record of survey format as-built acceptable to the standards of the Survey Section prior to the expiration of this Entry Authorization. The Grantee is required to submit a preliminary draft as-built survey one year prior to the expiration of this authorization to allow adequate time for the State's review and approval of a final as-built survey. The final easement will not be issued until the survey has been approved by the DMLW.
- 40. Fire Prevention, Protection and Liability:** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.

Any correspondence on this authorization may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 West 7th Avenue, Suite 900C, Anchorage, AK 99501, (907) 269-8503.

I have read and understand all of the foregoing and attached stipulations. By signing this authorization, I agree to conduct the authorized activity in accordance with the terms and conditions of this authorization.

Signature of Grantee or Authorized Representative	Title	Date
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Grantee's Address	City	State	Zip
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Contact Person	Primary Phone	Alternate Phone
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Signature of Authorized State Representative	Title	Date
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DESK PACKET

(ITEMS THAT CAME IN AFTER MEETING PACKET WAS POSTED)

3. Resolution 2022-054: Approving the Acquisition of a Public Access Easement from the State of Alaska for Watermelon Trail.



Alaska State Legislature

Representative Sarah Vance

House District 31

October 19th, 2022

Planning Commission
Kenai Peninsula Borough
144 N Binkley St,
Soldotna, AK 99669
Sent via email

Dear Planning Commissioners,

It is my pleasure to write this letter of recommendation for the Kenai Peninsula Borough Planning Commission to adopt resolution 2022-054 to become the Easement Grantee for the historic Watermelon Trail on the Lower Kenai Peninsula (Public Recreational Trail Easement ADL 233843).

The Watermelon Trail, along with its Trailhead Parking Area, is one of the major backcountry arteries providing multiuse access to the Caribou Hills South Trail System. This trail has been used by the public for decades but has lacked consistent authorized maintenance that has led to degradation of the habitat and limited access for users.

In good faith, Snomads as well as their numerous volunteers, have worked tirelessly to develop and maintain some 135 miles of area trails for the benefit of all Backcountry Users (Snowmachiners, ATVers, Skiers, Fat Bikers, Hikers, Horse Riders and Dog Musers).

It is my understanding that the Alaska Division of Natural Resources requires the KPB acceptance of the "KPB Grantee" status for the Trail Easement and Entry Authorization in the form of a fully executed KPB Resolution to continue their processing. I have personally worked with Snomads to help facilitate a permanent easement for this trail being granted by DNR and am happy to see this project come before the commission.

KPB acceptance of the Watermelon Trail Easement, as its "Grantee", in partnership with Snomads as Trail Managers (KPB-Snomads CTMA 2021-01) will provide long-term, coherent, and consistent management of this important trail for generations to come.

Respectfully,

A handwritten signature in blue ink, appearing to read "Sarah Vance".

Representative Sarah Vance

MISCELLANEOUS INFORMATION

Hope/Sunrise Advisory Planning Commission
Meeting Unapproved Minutes
7 P.M. October 5, 2022
Hope Library and via Zoom

- A. The meeting was called to order at 7:00 P.M. by Jim Skogstad
- B Members present were Jessie Maguire, Derrick Jabaay, Jim Skogstad, Flip Foldager, Levi Hogan and Johnny Sorenson
- C. G. John Sorenson pledged the oath of office to defend both the U.S. and State Constitution while impartially performing his duties as a commission member.
- D. The agenda was approved.
- E. The minutes of September 14 were approved with a correction that the next meeting date was to be October 5 instead of published October 6.
- F. There was no public comment or presentation. Nancy Carver from the borough attended via Zoom.
- H. Report from the borough indicated the post card for community input will be pink and in the mail soon.
- I. Unfinished business: The survey will be mailed to each property owner in 99605 zip code. If two or more residents live at an address each person will be allowed to vote. If you have more than one property, you should only vote one time and not one vote for each property. It is on an honor system and can be turned in at the library or scanned from a phone. Jim Skogstad will mail the hard copies collected at the library to the borough to be entered into the data bank. The responses must be returned earlier than December 30, 2022. Renters or people who reside in Hope but do not own property will be able to pick up a survey and return the completed survey at the library.
- J. New business: The Commission will return to work on a community land use plan. The main necessary step is to summarize edits that have been submitted by commission members to be reviewed, discussed and then resolve differences before submitting to the community. No one on the committee has computer skills so Jesse Maguire volunteered to summarize the work. It is a big job and we thank her.
- K Results of the community survey will not be received until 2023 so earliest any community input could be included in any plan would be late spring of 2023.
- L. The next meeting will be November 9, 2022 at 7 P.M.
- M. The meeting was adjourned at 7:35 P.M.

Any questions, please contact: Chair Jim Skogstad at 907 229-1430 or email akskogstad@aol.com

**COOPER LANDING ADVISORY PLANNING COMMISSION
REGULAR MEETING
LOCATION: ZOOM TELECONFERENCE
WEDNESDAY, OCTOBER 05, 2022
6:00 PM
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00pm
2. ROLL CALL – J. Cadieux, H. Harrison, C. Degernes, D. Story present. K. Recken, L. Johnson, Y. Galbraith excused.
 - a. Nancy Carver, KPB; Alice Rademacher, HDR; Sean Baski ADOT&PF; Patrick Cotter, RESPEC; Andy Mills DOT&PF, Alvin Talbert ADOT&PF
 - b. Heather Pearson, Rhonda Rogalski
 - c. C. Degernes swore in Oath of Office. J. Cadieux swore in earlier with KPB. L Johnson pending.
 - d. Election of officers will occur at next meeting where most of the commissioners are present
3. APPROVAL OF AGENDA
 - a. H. Harrison moves to approve as amended. C. Degernes seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for September 07, 2022
 - a. H. Harrison moves to approve as written. D. Story seconds. All approve by roll call vote.
5. CORRESPONDENCE – none.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE
 - a. Martha Story introduced herself as the new Recreation Planner for the USFS.
 - b. Jesse Bjorkman, KPB Assembly member, introduced himself and said he is interested in listening to the community to find out the needs and wants in the community and make sure they are represented.
7. REPORT FROM BOROUGH
 - a. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Sean Baski or Jonathan Tymick, PE, Project Manager, AKDOT&PF.
 - i. Work is taking place on the west side of the bridge approach to prepare the pioneer road to the bridge site.
 - ii. Phase 1A will continue into next year.
 - iii. Bridge design is continuing and aiming for 100% design by April or May of 2023.

- iv. Most activity is winding down on site.
 - v. Some tree clearing on west side continues but the land swap with CIRI is not yet completed so this clearing will not continue onto those lands until the swap is completed.
 - vi. J. Cadieux asked about the paving on Phase 1A and how it appears to be breaking up or sinking in spots.
 - 1. S. Baski said that some issues like that are typical in high moisture areas but that there are corrective actions and incentives to make sure the contractor delivers a good finished product.
- b. Unit 395 update with P Cotter of RESPEC
- i. P. Cotter said the planners appreciate the community participation. They have taken the comments so far and put them together to help develop public presentation mechanisms like Story Maps which will allow further comment.
 - ii. He said they have updated the website (www.unit395planning.com) with a lot of new items including a Frequently Asked Question Page, an updated map and summaries of the comments from public meetings. He also said there are some site photos but they are also interested in public submission of site photos.
 - iii. He said one of the first tasks they took on was the existing documents review. The Landscape Linkages document suggested during last meeting has been located and included in this review.
 - iv. Affordable housing report is being worked on.
 - v. They are completing an access assessment to determine the feasible points of access that do not use the bypass. Some of the site visits and bushwhacking trips were very insightful and helped to identify a couple options that may be able to be constructed depending on review of the topography and engineering for feasibility.
 - vi. Planners are meeting with USFS next week to determine right-of-way use of W. Juneau Rd. to access the parcel from the existing Sterling Highway.
 - vii. 40 test pits dug and have lots of samples hoping for results from lab sometime in mid-October.
 - viii. Tentatively planning a community workshop on November 16th to coincide with the Community Club meeting on the 17th to make sure folk can attend both and the project meeting can be discussed at the Community Club afterwards. It will be a combination in-person and Zoom style meeting to allow for attendance.

8. OLD BUSINESS - none

9. NEW BUSINESS

- a. Kenai Peninsula Borough Bridge Deck Rehabilitations

- i. J. Cadieux asked about the possibility of bike/ped additions or other safe alternative travel adaptations. Could other funding be added to the bridge decking project to include alternative transportation features?
 1. S. Baski said that the project is mainly centered on bridge preservations, and it is unlikely that new facilities could be added. Structures are the most expensive features that can be added. Timelines would not likely mesh for other funding to be added to the bridge decking project.
 2. S. Baski mentioned the CTP and TAP programs may be funding opportunities for such additions.
 3. S. Baski said it is always valuable to hear the priorities from the community and that the regional planner for DOT, Jocelyn Billon is a good resource.
 4. M. Story asked about the CTP and the need for a community organization to apply
 - a. D. Story noted that he intended to submit a Notification for Intent to Apply to one or both of the CTP or TAP programs on behalf of Cooper Landing Trails for the Town Road Pathway Project planning using the information aggregated by the FLAP application CLT submitted last year and that the CTP and TAP applications listed the Alaska Municipal League as a resource for unincorporated communities such as ours to complete the process.
 5. J. Cadieux asked about whether comments about bike/ped facilities would be helpful.
 - a. D. Story said it is unlikely to be an accommodation that can be made with this project but that reiterating our community's goals is always worth doing.
 - b. H. Harrison said she agreed.
 - c. C. Degernes agreed.
 6. J. Cadieux asked for language the APC would submit to the project.
 - a. The CLAPC supports the bridge deck rehabilitations and further suggests that improvements should be developed and implemented to provide active transportation facilities such as bicycle and pedestrian paths on the approaches and crossings of these important transportation facilities. The CLAPC also suggests the Cooper Creek Bridge be included in this rehabilitation.

10. PLAT REVIEW – none.

11. INFORMATION and ANNOUNCEMENTS

- a. Purple Heart Trail with S Baski or J Tymick, AKDOT&PF.
 - i. Senate Bill 203 was passed designating portions of highway, including parts of the Sterling Highway” as a part of the State’s Purple Heart Trail. It is not associated with the Sterling Hwy. MP 45-60 project but is in the area.
 - ii. It adds signage at key points between Fairbanks and Homer.
 - iii. Additional details on the bill can be found at:
<https://www.akleg.gov/basis/Bill/Detail/32?Root=SB%20203>.

12. COMMISSIONER’S COMMENTS – none.

13. ADJOURNMENT – H. Harrison moves to adjourn. C. Degernes seconds. All approve via roll-call vote. 6:46pm.

For more information or to submit comments please contact:

David Story, Secretary Treasurer or Janette Cadieux, Chair, P.O. Box 694, Cooper Landing, 99572 CooperLandingAPC@gmail.com