

C. CONSENT AGENDA

***7. Minutes**

a. July 17, 2023 PC Meeting Minutes

Kenai Peninsula Borough

Planning Commission

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

July 17, 2023

7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

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

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

AGENDA ITEM B. ROLL CALL

Commissioners Present

Pamela Gillham, Kalifornsky/Kasilof District
John Hooper, Nikiski District
Jeremy Brantley, Ridgeway/Sterling District
Virginia Morgan, Cooper Landing/Hope District
Dawson Slaughter, South Peninsula District
Franco Venuti, City of Homer
Diane Fikes, City of Kenai
Troy Staggs, City of Seward
Charlene Tautfest, City of Soldotna

With 9 members of a 9-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Todd Sherwood, Deputy Borough Attorney
Vince Piagentini, Platting Manager
Madeline Quainton, Platting Specialist
Ryan Raidmae Resource Planner
Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***3. Plats Granted Administrative Approval**

- a. Correa Bend Subdivision 2022 Addition; KPB File 2022-131
- b. Jesse Lee Heights Great Bear Addition; KPB File 2023-008
- c. Moose Range Meadow Frawner Addition; KPB File 2022-104
- d. New Homestead Subdivision; KPB File 2023-007
- e. Pace's Pleasant Haven 2022 Replat; KPB File 2022-168
- f. Petaluma Acres Koonz Addition; KPB File 2022-173
- g. Soldotna Creek Hills Subdivision Martin Addition; KPB File 2020-103
- h. Wahl Subdivision; KPB File 2022-092R1

***4. Plats Granted Final Approval**

- a. Lake Salamatof Crescent Nelson Replat; KPB File 2022-114

***7. Minutes**

- a. June 26, 2023 Planning Commission meeting minutes.

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. Chair Brantley then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

MOTION: Commissioner 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 - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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AGENDA ITEM E. NEW BUSINESS

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

**ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT
QUARTZ CREEK SUBDIVISION JAMES ADDITION**

KPB File No.	2023-062
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Jon James
Surveyor:	Jason Schollenberg \ Peninsula Surveying, LLC
General Location:	Sterling Highway, Persistent Way, Cooper Landing, Cooper Landing APC

Parent Parcel No.:	119-124-20
Legal Description:	Tract D-1 Quartz Creek Subdivision James Addition SW 2005-014
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Jason Young, Edge Survey & Design; P.O. Box 208, Kasilof, AK 99610: Mr. Young spoke in support of the commission approving the permit.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Fikes to adopt PC Resolution 2023-18 granting a building setback encroachment permit to Tract D-1, Quartz Creek Subdivision James Addition, Plat SW 2005-014, based on staff recommendations and adopting and incorporating by reference findings 2-5 in support of standards one & two and, findings 2-6 in support of standard three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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ITEM 2. – BUILDING SETBACK ENCROACHMENT PERMIT DOSER SUBDIVISION EICHER 2020 REPLAT

KPB File No.	2023-063
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Marlin Eicher of Sterling, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Doser Road, Rydberg Street, Sterling

Parent Parcel No.:	065-520-20
Legal Description:	Lot 3A Block 1 Doser Subdivision Eicher 2020 Replat, Plat KN 2021-61, Township 5 North Range 8 West Section 7
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini. He noted there are several conditions that must be met before the permit can be issued. When the conditions are met staff will bring back a resolution for the commission to review and adopt.

Chair Brantley opened the item for public comment.

Dale Eicher; 38335 Rydberg Street, Sterling, AK 99672: Mr. Eicher is the son of the petitioner and made himself available to answer any questions.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Fikes to grant a building setback encroachment permit to Block 1, Lot 3A, Doser Subdivision Eicher 2020 Replat, Plat KN 2021-6, based on staff recommendations and adopting and incorporating by reference findings 3-8 & 10 in support of standard one and findings 3, 6 & 10 in support of standards two and three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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ITEM 3. – BUILDING SETBACK ENCROACHMENT PERMIT HEAVEN'S VIEW SUBDIVISION 2019 ADDITION ROW VACATION PLAT

KPB File No.	2023-066
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Dean Robinson
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Lopez Avenue, Sterling

Parent Parcel No.:	058-351-28
Legal Description:	Tract A1, Heaven's View Subdivision 2019 Addition Right-of-Way Vacation Plat, KN 2019-22
Assessing Use:	Residential Dwelling
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini. He noted there are several conditions that must be met before the permit can be issued. When the conditions are met staff will bring back a resolution for the commission to review and adopt.

Chair Brantley passed the gavel to Vice Chair Gillham. Commissioner Brantley requested to be recused

from this matter as the applicant is a family member. Vice Chair Gillham approved Commissioner Brantley request.

Acting Vice Chair Gillham opened the item for public comment.

Dean Robinson, Petitioner; 38125 Eagle Ave., Sterling, AK 99672: Mr. Robinson made himself available for questions.

Tina Taylor; 40800 Lopez Ave. Soldotna, AK 99669: Ms. Taylor is a neighboring landowner and spoke in support of the commission approving this permit.

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

MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to grant a building setback encroachment permit to Tract A1, Heaven's View Subdivision 2019 Addition Right-of-Way Vacation Plat, Plat KN 2019-22, based on staff recommendations and adopting and incorporating by reference findings 3-5, 8 & 9 in support of standards one, two and three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
Recused - 1	Brantley

**ITEM 4. – CONDITIONAL LAND USE PERMIT MODIFICATION – MATERIALS EXTRACTION
APPLICANT – TUTKA, LLC**

KPB File No.	2023-23
Planning Commission Meeting:	July 17, 2023
Applicant:	Tutka, LLC
Owner:	State of Alaska, Department of Natural Resources
Parcel No.	125-32-413
General Location:	Northeast of the Lawing Airport, Seward AK
Legal Description	T04N, R01W, SEC 24, S.M., SW Govt Lot 13

Staff report given by Resource Planner Ryan Raidmae.

Chair Brantley opened the item for public comment.

Rick Smeriglio; 33749 Solar Mountain Rd., Seward, AK 99664: Mr. Smeriglio is a landowner adjacent to this material site and spoke in opposition to the requested permit modification.

Seth Wells; 29834 Seward Hwy., Seward, AK 99664: Mr. Wells is a landowner near this material site and spoke in opposition to the requested permit modification.

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

MAIN MOTION: Commissioner Fikes moved, seconded by Commissioner Hooper to adopt PC Resolution 2023-23 granting a conditional land use permit modification for materials processing based on staff recommendations and compliance to borough code.

MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to go into an adjudicative session and to have Deputy Borough Attorney Sherwood, Planning Director Ruffner & Planning Admin Assistant Shirnberg join them in the session.

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

MOTION FAILED BY UNANIMOUS VOTE:

Yes - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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The commission went into adjudicative session at 8:29 P.M.

The commissioner came back in to session at 8:59 P.M.

Commissioner Slaughter noted that he had issues with Tutka wanting to back out of a voluntary condition. Tutka has not indicated any sort of timeframe for their night work – they have just asked to have the condition removed. He would have appreciated if Tutka had been in attendance to testify and answer questions but they are not here. He does not feel comfortable supporting this request so he will be voting no.

Commissioner Staggs stated after hearing the public testimony tonight and comments from other local residents he cannot see asking the residents to put up with the noise all day and all night long. He stated then stated he will be voting no.

Commissioner Morgan stated she will not be supporting this request. She is uncomfortable with removing the voluntary condition without having a timeframe.

Commissioner Gillham stated she is uncomfortable removing the voluntary condition. The voluntary condition was offered and added to make the local residents feel more comfortable with material site operations. Now Tutka wants to ask to be relieved of the voluntary condition without supplying any information as to why and for how long. Tutka is not hear to answer any questions. She just cannot support this request without a really good reason.

Commissioner Fikes stated that she agrees with her fellow commissioners and with the comments from the public regarding the removal of the voluntary condition. She appreciates the members of the public that made the effort to testify on this matter. Unfortunately, we did not hear from the applicant tonight and without additional input or a valid reason from them she does not feel that she can support this request. She stated one reason she supported the original permit request was that the applicant did make a compromise and added the voluntary condition. The compromise was that the applicant was not going to work during certain hours – now they want to remove that condition. She felt that was a reasonable compromise for a material site located in a residential area.

Commissioner Tautfest stated she agreed with her fellow commissioners. Tutka did not show up to answer any questions so she cannot support this request.

Commissioner Morgan asked Director Ruffner if there had been any reports of concern for this material site. Director Ruffner replied that the Crown Point/Moose Pass area has a lot of construction activity with the highway. With all the activity in the area he thought it warranted a site visit. He visited the site last week. This particular material site is a rock quarry and he did not see any activities that were out of compliance on the visit. What he did note was the level of noise. With rock crushing and the sounds of large rock being loaded into trucks the noise level was pretty loud and could be heard by the area residents. He then noted the quarry is on quite a steep slope and that it was difficult to determine where the boundaries are. He stated that he will be following up with the permit holder regarding this issue.

Commissioner Brantley stated he is not really in favor of pits operating at all at night. He noted that this is not a condition that the commission can apply but it is one that the applicant volunteered. He does understand that certain jobs may require night work for safety reasons. What he would like to see in the future is code revision that does not allow for sites to operate at night, but allowing some leeway for an exception request if a DOT project mandates night work, for that specific project only. He then stated he will not be supporting the removal of this voluntary condition.

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

MAIN MOTION FAILED BY UNANIMOUS VOTE:

No - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 4 plats, granted 1 exception request and one plat was withdrawn.

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 Venuti moved to adjourn the meeting at 9:12 P.M.

Ann E. Shirnberg
Administrative Assistant