

Kenai Peninsula Borough Planning Commission

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

DECEMBER 16, 2024
7:30 P.M.
APPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

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

AGENDA ITEM B. ROLL CALL

Commissioners Present

Jeremy Brantley, Sterling / Funny River
Virginia Morgan, Cooper Landing/Hope/Eastern Peninsula District
Jeffery Epperheimer, Nikiski District
Dawson Slaughter, South Peninsula District
Diane Fikes, City of Kenai
Paul Whitney, City of Soldotna
Franco Venuti, City of Homer

With 8 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
Samantha Lopez, Kenai River Center Manager
Ryan Raidmae, Planner
Morgan Aldridge, Planner
Julie Hindman, Planner
Ann Shirnberg, Planning Administrative Assistant
Jenny Robertson, Land Management Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDA

- *1. Time Extension Request**
 - a. James 2022 Subdivision; KPB File 2022-161
- *3. Plats Granted Administrative Approval**
 - a. Anglers Crest Subdivision 2024 Addition; KPB File 2024-019
 - b. Fourth of July Creek Sub Seward Marine Industrial Center JAG Replat; KPB file 2023-004
 - c. Galetti Subdivision; KPB File 2024-026
 - d. Gruber Subdivision Ames Addition; KPB File 2024-046
 - e. Hall-Ewing Subdivision; KPB File 2023-103R1
 - f. Harlie A. Fellers Subdivision 2023 Replat; KPB File 2023-037
 - g. Hidden Hills Tract G5 Replat; KPB File 2023-092
 - h. OSK Subdivision No. 3; KPB file 2024-048
 - i. Reeder Lake Subdivision 2024 Addition; KPB File 2024-039
 - j. Shoreline Heights 2023 Addition; KPB File 2023-121
 - k. Sunset View Estates Addition No. 2; KPB File 2023-041

- *4. Plats Granted Final Approval**
 - a. Chugach Heights Subdivision 2024 Replat; KPB File 2024-076
 - b. Gregory Subdivision 2024 Replat; KPB file 2024-081
 - c. Lost Lake Subdivision 2023 Replat; KPB File 2023-111
 - d. Razdolna Subdivision Miron Addition 2024 Replat; KPB File 2024-060
 - e. Triple Crown Estates No. 2 Phase 2: KPB File 2023-131
- *6. Commissioner Excused Absences**
 - a. Pamela Gillham, Kalifornsky/Kasilof District
 - b. City of Soldotna – Vacant
- *7. Minutes**
 - a. November 18, 2024 Planning Commission meeting minutes

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. He 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 Whitney to approve the consent and regular agendas.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 7	Brantley, Epperheimer, Fikes, Morgan, Slaughter, Whitney, Venuti,
Absent - 1	Gillham

AGENDA ITEM D. UNFINISHED BUSINESS

**ITEM 1 – CONDITIONAL LAND USE PERMIT MODIFICATION
DIAMON WILLOW ESTATES SUBDIVISION PART 13 TRACT 13**

PC Resolution Number:	2025-01
Planning Commission Meeting:	December 16, 2024
Applicant / Owner:	Sean Cude
Physical Address:	36498 Virginia Drive
Parcel ID Number	05527001
Legal Description	Diamond Willow Estates Sub. Part 13, Tract 13, Plat KN 2015012
General Location:	Kalifornsky

Chair Brantley noted that the Planning Commission Resolution 2024-21 (Revised) had been revised and that the motion on the floor from the November 18, 2024 meeting was no longer valid. He then requested that the current motion on the floor be withdrawn.

MOTION ON THE FLOOR: Commissioner Gillham moved, seconded by Commissioner Epperheimer to adopt Planning Commission Resolution 2024-12(Revised) granting a conditional land use permit to operate a sand, gravel or material site for a parcel described as Tract 13, Diamond Willow Estates Subdivision Part 13, KN 2015-012, Kenai Recording District.

Commissioner Epperheimer stated he withdrew as second on Planning Commission Resolution 2024-21 (Revised).

MOTION ON THE FLOOR DIED DUE TO A LACK OF A SECOND.

MOTION: Commissioner Epperheimer moved, seconded by Commissioner Slaughter to adopt Planning Commission Resolution 2025-01 granting a modification to a conditional land use permit to operate a sand, gravel or material site for a parcel described as Tract 13, Diamond Willow Estates Subdivision Part 13, KN

2015-012, Kenai Recording District.

Commissioner Epperheimer noted the applicant had followed all the CLUP application requirements, the applicant also elected to withdraw the dewatering request, put a process in place to mitigate the potential of fuel contamination as well as modifying the hours of operation. For these reasons he will vote to approve the modification request.

Commissioner Morgan requested that the revised resolution be shared on screen to allow the public to review the document. Ms. Shirnberg put the revised resolution up on the screen and noted she would put it up on the Planning Commission meeting page first thing in the morning.

Commissioner Whitney noted that since the applicant removed the request for dewatering the bond requirement is no longer required. He then stated that he believed that the applicant met the conditions in code and even though he may not agree with everything he will be voting to grant the permit modification.

Commissioner Morgan noted not much has changed from the original resolution. The only changes were that dewatering was removed, (along with bonding requirements associated with it) and the hours of operation were changed to 7am to 7pm.

Commissioner Fikes noted there was a lot of emotional testimony given by the public on this matter which makes the commission’s decision difficult. In the end it is the responsibility of the commission to uphold code. It is the Assembly’s responsibility to create code that the commission is tasked with using to make decisions. She then stated that she could not find any findings in code that would support denying the application.

Commissioner Brantley noted that this permit application is a quasi-judicial matter for the commission. The commission’s job is to follow code. It is not always easy and can put the commission on the wrong side of what a neighborhood may want. The planning commission is not really the place to have the discussions about issues with code, those discussions belong at the Assembly as they are the ones tasked with creating the code. He then stated that he was going to vote in favor of approving this permit modification. The public noted concerns about contamination with this site. The site is not going to become any less contaminated unless the contaminated materials are removed appropriately. He also noted that the borough is facing a gravel shortage and he believes that it is in the best interest of the borough to maximize gravel extraction. The site plan shows that in the end there will be a usable site that can be repurposed.

Commissioner Slaughter noted that this was not an easy decision but that the commission must follow the rules of code. The commission is tasked with abiding by code – whether we like it or not. Changes to code must come through the Assembly. He understands and has sympathy with the public testimony, he also understands that the applicant has the right to develop his property within the bounds of code. He said he appreciates that the applicant voluntarily removed the request for dewatering and changing of the hours of operation. He then stated that he will be voting in favor of granting the permit modification.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 7	Brantley, Epperheimer, Fikes, Morgan, Slaughter, Whitney, Venuti,
Absent - 1	Gillham

AGENDA ITEM E. NEW BUSINESS

Chari Brantley asked Administrative Assistant Ann Shirnberg to read the hearing procedures into the record.

ITEM #1 – ORDINANCE 2024-35

Ordinance 2024-35: Amending KPB 21.06.030 General Provisions, to adopt the most recent FEMA Flood Insurance Study and associated flood insurance rate maps for the Kenai Peninsula Borough.

Staff report given by Planner Julie Hindman.

Chair Brantley opened the item for public comment.

The following individuals spoke in opposition to adopting this ordinance, requesting to delay the adoption of the new FEMA flood maps referencing the 15 Questions & Concerns document submitted in the desk packed :

- Ted Wellman; 34593 Cranberry Circle, Sterling AK 99672
- Frank Turpin; 34505 Chinook Run Drive, Sterling AK 99672
- Todd Moore; 39541 Balderdash Circle, (POB 4152, Soldotna AK 99669)
- Michael Agin; 34860 Chinook Run Drive, Sterling AK 99672
- Khai Harbut; 35664 Snag Circle (POB 3363, Soldotna AK 99669)
- Matt Fagnani; 2559 Loussac Drive, Anchorage AK

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt Ordinance 2024-25, Amending KPB 21.06.030 General Provisions, to adopt the most recent FEMA Flood Insurance Study and associated flood insurance rate maps for the Kenai Peninsula Borough

Commissioner Epperheimer expressed support for several of the concerns expressed by the public, particularly the costs and the process associated with challenging a FEMA determination. He believes most members of the public do not have the means to be able to stand up to the federal government on this issue. He doesn't want to see the whole borough get kicked out of the FEMA program as it would drastically affect many residents in the borough, but he would like to see the public's concerns addressed. Commissioner Epperheimer then encouraged those in attendance to focus their energy and efforts towards the Assembly as they are the ones who will be responsible for making the final decision.

Commissioner Brantley asked staff what is the deadline that the borough has to adopt this new study. Planner Hindman replied that the deadline is February 28, 2025. Commissioner Brantley then asked if the borough doesn't adopt the new study and is suspended how long would the suspension be. Planner Hindman replied that at minimum it would be a year. That would mean current FEMA flood insurance policies held by members of the public, would not be renewed during the suspension. To become reestablished with FEMA would then require that the borough be on probation for one year. During that probation period anyone who holds a FEMA flood insurance policy with have an additional surcharge against the policy. In short it would take at least two years to get back into a good standing with FEMA should we be suspended. Commissioner Brantley then stated he will be voting in favor of recommending that the assembly adopt this ordinance. He understands in situations like this there will always be a certain portion of the population that will disagree with the outcome of the study. He feels that it will be prudent for the borough to stay compliant with FEMA.

Commissioner Fikes noted she supports adopting the FEMA Flood Insurance Study. She stated the City of Kenai went through this process a while ago. At the time there were a number of members of the public that spoke against the study and the city actually did vote it down. The city then experience blow back from the community on opportunities that were missed related to flooding in the VIP and Karluk areas. There were a lot of constituents that were negatively affected. Whether it was issues with home mortgage loans or not being able to apply for disaster funds, folks were hurt. When it came back around again later the city elected to adopt it.

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

MOTION PASS BY MAJORITY VOTE:

Yes - 6	Brantley, Fikes, Morgan, Slaughter, Whitney, Venuti,
No - 1	Epperheimer
Absent - 1	Gillham

**ITEM 2 – CONDITIONAL USE PERMIT MODIFICATION
 LOT 4B COAL CREEK COUNTY ESTATES TRUJILLO ADDITION &
 TRACT A COAL CREEK COUNTRY ESTATES SUBDIVISION ADDITION NO. 6**

PC Resolution Number:	2024-18
Planning Commission Meeting:	December 16, 2024
Applicant / Owner:	SOA, Department Of Natural Resources
Physical Address:	26035 & 25951 Williamson Lane
Parcel ID Number	13332039 & 13354004
Legal Description	Coal Creek Country Estates Trujillo Addition Lot 4B & Coal Creek Country Estates Subdivision Addition No. 6 Tract A
General Location:	Kasilof Area

Staff report given by Planner Morgan Aldridge.

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

MOTION: Commissioner Whitney moved, seconded by Commissioner Epperheimer to adopt Planning Commission Resolution 2024-18, granting a conditional use permit pursuant to KPB 21.18 for the construction of a concrete pad withing the 50-foot Habitat Protection District of the Kasilof River.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 7	Brantley, Epperheimer, Fikes, Morgan, Slaughter, Whitney, Venuti,
Absent - 1	Gillham

**ITEM #3 – BUILDING SETBACK ENCROACHMENT PERMIT
 LOT 5A BLOCK 1 CLAN MAXWELL ESTATES AVALON HEIGHTS ADDITION #4
 PLAT SW 2018-05**

KPB File No.	2024-127
Planning Commission Meeting:	December 16, 2024
Applicant / Owner:	Nickole D. Lyon and David F. Lyon, Jr. of Seward, Alaska
Surveyor:	Stacy Wessel – AK Lands, Land Surveying LLC
General Location:	Bear Creek Area

Parent Parcel No.:	144-010-74
Legal Description:	CLAN MAXWELL ESTATES AVALON HEIGHTS ADDN #4, LOT 5A. SW 2018005
Assessing Use:	Residential Dwellings
Zoning:	Unrestricted
Resolution	2024-21

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

David Lyon; P.O. Box 1431, Seward, AK 99664: Mr. Lyon made himself available for questions.

Stacy Wessel, AK Lands Land Surveying; P.O. Box 110485, Anchorage, AK 99515: Ms. Wessel was the surveyor on this project and made herself available for questions.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Whitney to adopt Planning Commission Resolution 2024-21, granting a building setback encroachment permit to a portion of the 20-foot building setback on Lot 5A, Block 1, Clan Maxwell Estates Avalon Heights Addition #4, Plat SW 2018-05, adopting and incorporating by reference the staff report, staff recommendations and citing findings 1-4 in support of standard one, findings 5-6 in support of standard two and finding 7-9 in support of standard three.

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

MOTION PASS BY UNANIMOUS VOTE:

Yes - 7	Brantley, Epperheimer, Fikes, Morgan, Slaughter, Whitney, Venuti,
Absent – 1	Gillham

ITEM #4 – RIGHT-OF-WAY VACATION

VACATE A PORTION OF B STREET RIGHT-OF-WAY & ASSOCIATED UTILITY EASEMENT SOUTH OF DAY AVENUE

KPB File No.	2024-131V
Planning Commission Meeting:	December 16, 2024
Applicant / Owner:	Doyon Limited & Doyon Tourism, Inc.
Surveyor:	Katie Kirsis – Seabright Surveying LLC
General Location:	City of Homer
Legal Description:	B Street, South of Bay Avenue, Bayview Subdivision No 6, Plat HM 839

Staff report given by Platting Manager Vince Piagentini. Mr. Piagentini reported that the application on this item was determined to be incomplete and so this item was being postpone until a later meeting. No action from the Planning Commission was required.

ITEM #5 - UTILITY EASEMENT ALTERATION

20’ UTILITY EASEMENT DIAGONALLING ACROSS WESTERLY PART OF PLAT IN A NORTHEAST TO SOUTHWEST DIRECTION.

KPB File No.	2024-120V
Planning Committee Meeting:	December 16, 2024
Applicant / Owner:	Robert & Betty Whittenberg
Surveyor:	Jason Young – Edge Surveying and Design, LLC
General Location:	Sterling

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 was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Epperheimer moved, seconded by Commissioner Whitney to grant the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations and subject to the two conditions set forth in the staff report.

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

MOTION PASS BY UNANIMOUS VOTE:

Yes - 7	Brantley, Epperheimer, Fikes, Morgan, Slaughter, Whitney, Venuti,
Absent – 1	Gillham

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Brantley report that the committee reviewed and granted preliminary approval to 8 plats.

AGENDA ITEM G. OTHER

Plat Committee for January, February & March 2025:

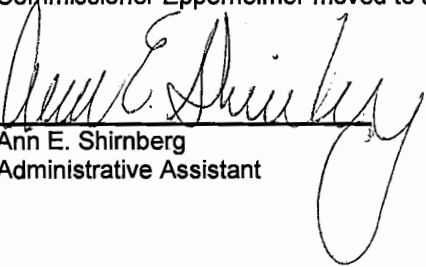
- Venuti
- Morgan (Will not be available 1/13/25)
- Whitney
- Slaughter
- Brantley (Alternate)

AGENDA ITEM H. PRESENTATIONS / PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

Chair Brantley asked if there was anyone who wished to comment on anything that was not on the agenda. There was no one who wished to comment.

AGENDA ITEM K. ADJOURNMENT

Commissioner Epperheimer moved to adjourn the meeting at 10:22 P.M.



Ann E. Shirnberg
Administrative Assistant