

## **C. CONSENT AGENDA**

### **\*7. Minutes**

#### **a. October 14, 2024 Planning Commission Meeting**

# Kenai Peninsula Borough Planning Commission

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

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OCTOBER 14, 2024  
7:30 P.M.  
UNAPPROVED 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  
Pamela Gillham, Kalifornsky/Kasilof 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  
Vince Piagentini, Platting Manager  
Jennifer Robertson, LMD Administrative Assistant  
Ann Shirnberg, Planning Administrative Assistant

**AGENDA ITEM C.      CONSENT & REGULAR AGENDA**

- \*3.      Plats Granted Administrative Approval**
- \*6.      Commissioner Excused Absences**
  - a.    City of Soldotna – Vacant
- \*7.      Minutes**
  - a.    September 23, 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 Epperheimer moved, seconded by Commissioner Morgan 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 - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Whitney, Venuti,
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**ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT  
PETALUMA ACRES KOONZ ADDITION LOT 1-D**

<b>KPB File No.</b>	2024-103
<b>Planning Commission Meeting:</b>	October 14, 2024
<b>Applicant / Owner:</b>	Kevin Wondzell & Tyler & Mackenzie Kreitinger
<b>Surveyor:</b>	Johnson Surveying
<b>General Location:</b>	Canoe Avenue & Francis Street, Sterling Area
<b>Parent Parcel No.:</b>	065-240-44
<b>Legal Description:</b>	T 05N R 08W SEC 14 Seward Meridian KN 2023033 Petaluma Acres Koonz Addn Lot 1-D
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Unrestricted
<b>Resolution</b>	2024-15

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Brock McKee; 29473 Canoe Ave. E., Sterling, AK 99672: Mr. McKee is a neighboring landowner and spoke in opposition to approving this permit. He stated that the structures are on pilings and could easily be moved.

Jeffrey Veal; 29366 Bing Dr., Sterling AK 99672: Mr. Veal is a neighboring landowner and spoke in opposition to approving this permit.

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

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Whitney to adopt Planning Commission Resolution 2024-15, granting a building setback encroachment permit to a portion of the 20-foot building setback on Lot 1-D Petaluma Acres Koonz Addition, Plat KN 2023-033, adopting and incorporating by reference the staff report, staff recommendation and citing findings 1and 5-8 in support of standard one, findings 2-4, 6 & 8 in support of standard two and findings 2-8 in support of standard three.

Commissioner Venuti asked staff if they had given the applicant any options regarding ways to remedy the encroachment. Platting Manager Piagentini stated the applicant informed him that the builder did not do a survey before building the structure and made a mistake and built it in the setback. When the applicant had an as-built done it was then discovered that a portion of the structure was built in the setback. The applicant wants to remedy the situation and this was the option he chose.

Commissioner Morgan asked if staff does a site visit as a part of the application process. Platting Manager Piagentini stated that site visits are not required. Applicant's must submit a recent as-built showing where the structures are located. Commissioner Morgan replied the two testifiers stated the structures were on pilings. She doesn't see any reason why the structures can't be moved. She then stated she is not inclined to support this request.

Commissioner Slaughter stated he understands that the contractor did not do his due diligence. If the structures had been built years ago and not just recently, he might be inclined to support the request. However, these structures were recently built and are on pilings and can be moved. He wishes the applicant had been in attendance so that he could have asked some additional questions to gather more information but he is not. He stated that he is not inclined to support this request.

Commissioner Brantley stated that code gives three standards that must be met in order to approve a permit. Findings are then supplied showing that those three standards are met. None of the standards address whether or not we need to take into consideration how long the structure has been there. It can be frustrating when code does not address some areas of concern. He then stated he doesn't see any findings that oppose the request.

Commissioner Whitney noted that the neighboring property has structures even father into the setback. Platting Manager Piagentini stated those structures were permitted under PC Resolution 2002-16.

Commissioner Epperheimer stated he appreciated Commissioner Brantley bringing up the three standards, after reviewing the standards, he believes the findings supplied by the applicant do meet them. As much as he doesn't approve of individuals building outside of borough standards, he is inclined to support this request.

Commissioner Fikes asked if the commission has taken into consideration that the road here is not fully developed. Maybe the encroachment doesn't create issues with how the road is now, but it might create issues in the future. Does the commission have to take this into consideration? Commissioner Brantley replied that the commission has the leeway to take into consideration future road development. He then stated looking at how Canoe Street is platted he doesn't believe that the permit would create any major issues. He noted that Canoe Street is pretty straight and the surrounding area is pretty level. He didn't see any sightline or road maintenance issues.

Commissioner Epperheimer noted that one of the testifiers had concerns about the encroachment going into the right-of-way. The encroachments are 9.2 feet back from the edge of the right-of-way. The encroachments do go into the utility easement but the utilities have not objected to the permit. Even if the road were to be fully developed the encroachment would be about 30' back from the road edge.

Commissioner Brantley asked if the commission choose to deny the permit would we have to supply findings in support of the denial. Or can the commission just state that they don't believe that the findings submitted by the applicant meet the standards.

Borough Attorney Walker Steinhage replied the threshold question is whether or not the applicant has met the burden of proof showing that each of the three standards have been met. If the planning commission determines that the applicant has not met the burden of proof that all three standards have been met, the denial can be based on that. If the planning commission wishes to supply additional findings in support of the denial, they may but the commission is not required to do so. Building setback encroachment permits are an exception to the code. Since they are an exception, they should only be approved after due consideration of the standards and substantial evidence has been supplied that they are met.

Commissioner Whitney stated that his first inclination is to deny the permit. However, taking into consideration that a previous planning commission approved an even larger encroachment permit on the property next door, he is somewhat divided and leaning toward possibly approving the request.

Commissioner Morgan noted that the encroachment permit on the property next door was granted 22 years ago. If in another 22 years this road is built, we will have helped create an even bigger problem rather than stopping it when we should have. Just because a road has not yet been built, it doesn't mean that we should not be thinking about the future. The burden of proof is on the applicant and if something hasn't been constructed yet, she doesn't know if they can prove it.

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

**MOTION FAILED BY MAJORITY VOTE:**

No - 5	Fikes, Morgan, Slaughter, Whitney, Venuti,
Yes - 3	Brantley, Epperheimer, Gillham

**ITEM #2 – ORDINANCE 2024-28  
ADOPTING THE UPDATED 2024 KENAI PENINSULA BOROUGH HAZARD MITIGATION PLAN, A  
MULTI-JURISDICTIONAL PLAN INCLUDING THE CITIES OF SELDOVIA & SEWARD**

Staff report given by Mary Toll

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

**MOTION:** Commissioner Gillham moved, seconded by Commissioner Morgan to forward to the Assembly a recommendation to adopt Ordinance 2024-28 adopting the updated 2024 Kenai Peninsula Borough Hazard Mitigation Plan, a multi-jurisdictional plan including the cities of Seldovia and Seward.

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Whitney, Venuti
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**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Gillham report that the committee reviewed and granted preliminary approval to 9 plats.

**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 Gillham moved to adjourn the meeting at 8:47 P.M.

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Ann E. Shirnberg  
Administrative Assistant

