

PC RESOLUTION 2021-26

**APPEAL OF THE KENAI PENINSULA BOROUGH
PLANNING COMMISSION
APPROVAL OF A MODIFICATION TO
CONDITIONAL LAND USE PERMIT
IN THE SOLDOTNA**

KPB Tax Parcel ID#: 065-081-18

Legal Description:

**East ½, East ½ of the West ½ , & the Northwest ¼ of the
Northwest ¼ of Section 16, Township 5 North, Range 8 West,
Seward Meridian, Alaska, Excluding the Sterling Highway
Right-of-Way**

Applicant:

Cook Inlet Region, Inc.

Landowner:

Cook Inlet Region, Inc.



Planning Department

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

Charlie Pierce
Borough Mayor

"I, Melanie Aeschliman, the Kenai Peninsula Borough Planning Director, do hereby certify that to the best of my knowledge the attached record contains true and correct copies of all documents required by KPB 21.20.270 to be included in the record on appeal in the matter of a approval of conditional land use permit modification application for a material site to allow for additional excavation on property described the East ½, the East ½ of the West ½ & the Northwest ¼ of the Northwest ¼, of SEC 16, T05N. R08W, S.M. AK, excluding the Sterling Highway ROW.

Melanie Aeschliman
Planning Director
Kenai Peninsula Borough

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

)
)ss.
)

STATE OF ALASKA
ANN E. SHIRNBERG
NOTARY PUBLIC
My Comm Exp: 2/1/22

The foregoing instrument was acknowledged before me this 15 day of September, 2021 by Melanie Aeschliman of the Kenai Peninsula Borough, a municipal corporation, on behalf of the corporation.

Notary Public for the State of Alaska

My commission expires: 2/1/22

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CONDITIONAL LAND USE PERMIT APPLICATION



Planning Department

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

Charlie Pierce
Borough Mayor

PC Resolution #. _____

App. Complete _____

KPB 21.29 Conditional Land Use Permit Modification Application

For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant Cook Inlet Region, Inc. Landowner Same as Applicant

Address PO Box 93330 Address _____

City, State, Zip Anchorage, AK 99509-3330 City, State, Zip _____

Telephone 907-263-5150 Fax _____ Telephone _____ Fax _____

Cell Phone 907-240-6861 Cell Phone _____

Email ssettle@ciri.com Email _____

II. CURRENT PERMITTED PARCEL INFORMATION

KPB Tax Parcel ID# 065-081-18 Township 5N Range 8W Section 16

Subdivision _____ Lot _____ Block _____ Parcel acreage _____

Legal Description T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

III. INFORMATION/DOCUMENTATION "Check" boxes below to indicate items included.

☐ \$300.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)

☐ Site Plan Diagram, to scale, showing:

- ☐ parcel boundaries
- ☐ existing required buffers
- ☐ existing and/or proposed processing area(s)

Permit Modification Worksheet

Applicant Cook Inlet Region, Inc. Owner Same as applicant

CURRENT PERMITTED KPB Tax Parcel ID # 065-081-18 Parcel Acreage appr. 600

- Reason(s) for requesting permit modification: Excavation of material to improve the Sterling highway, competent to meet Alaska Transportation Department specifications for highway construction
- Additional cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 61 acres
- Additional type(s) of material to be mined (circle all that apply): gravel sand peat other
- Additional equipment to be used (circle all that apply): excavation processing other
- Modification(s) is requested on current permit buffers: yes X no

CURRENT PERMIT REQUIRED BUFFERS – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other | N | S | E | W |

MODIFIED BUFFER REQUEST, if applicable – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input checked="" type="checkbox"/> minimum 6 ft. earthen berm | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other | N | S | E | W |

- Permit modification is requested due to subdivision of originally permitted parcel? yes X no
- Permit modification to enter the water table is requested? yes X no
- Additional excavation depth beyond permitted depth: 20 ft.
Depth to groundwater: More than 20 ft.

9. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.):

- Berms along North (Sterling Highway), West (Tikahtnu Road) and East (Keani Keys Road) edge of excavation
-

- ☐ all encumbrances on parcel, including easements
 - ☐ points of ingress and egress
 - ☐ existing permitted extraction area(s)
 - ☐ proposed additional extraction area(s) and/or other requested permit modifications(s)
 - ☐ a north arrow and diagram scale
 - ☐ preparer's name and date
- ☐ Permit Modification Worksheet (attached)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit modification request.

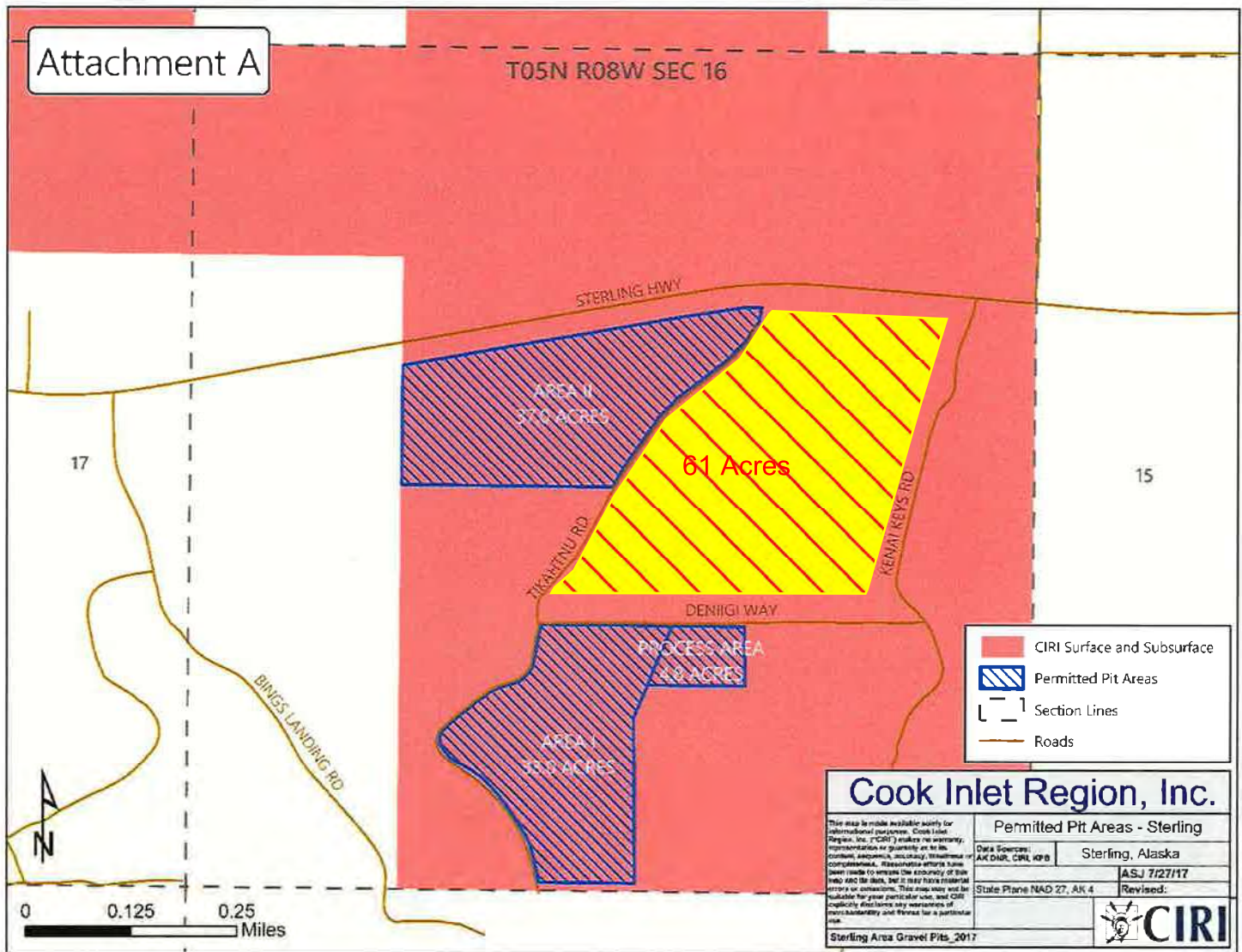

Applicant Signature

June 21, 2021
Date

Property Owner Signature
(required if not applicant)

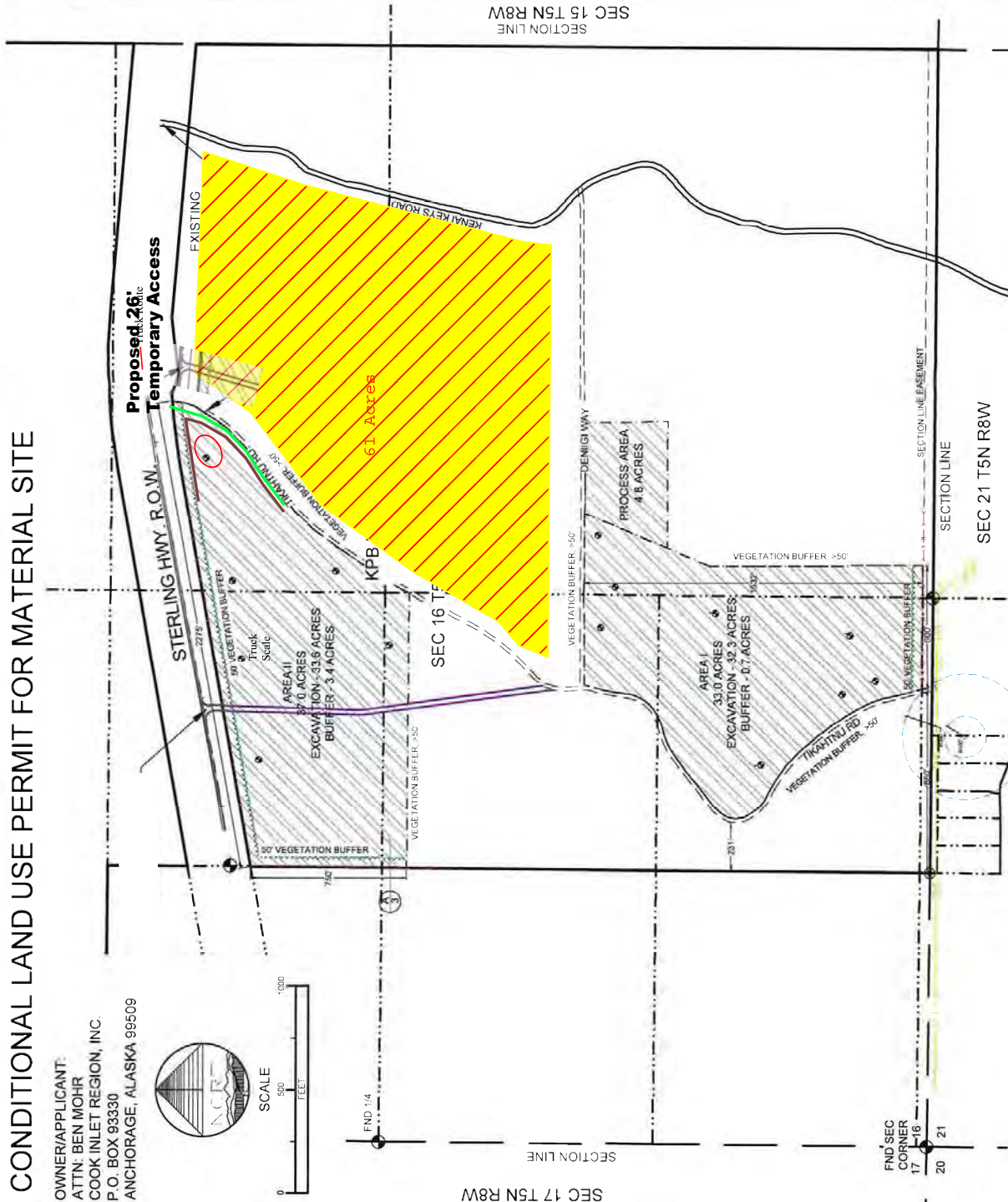
Date

Exhibit A
Map of Contract Area



CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



LEGEND

- RECORD MONUMENT
- PROPERTY CORNERS
- INGRESS/EGRESS
- WELL SETBACK
- INTERVISIBLE FLAGGING
- PROPOSED BUFFER TREELINE
- APPROX TESTHOLE LOCATION

CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS FOR THE PORTION OF KPB PARCEL 06508118 SOUTH OF THE STERLING HIGHWAY; T5N R8W SECTION 16 SEWARD MERIDIAN, E1 & E1/2 W1/2 & NW1/2 NW1/2 EXCEPT THAT PORTION PER WID 383 @ 681.
2. THE PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED INGRESS IS FROM TO KENAI KEYS ROAD AND EGRESS IS TO THE STERLING HIGHWAY, AS SHOWN. AN ADOT APPROACH ROAD REVIEW APPLICATION WILL BE NECESSARY.
4. THE PREFERRED BUFFERS ARE 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS ON ALL SIDES OF THE EXCAVATION AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED.
5. THERE ARE NO WELLS WITHIN 100' OR 300' OF THE EXCAVATION AREA.
6. THERE ARE NO MAPPED WETLANDS AND/OR SURFACE WATER.
7. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION VIA PHYTOREMEDIATION OF ANY SITE RUN-OFF.
8. GROUNDWATER IS >20' BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. TEST HOLES WERE EXCAVATED IN 32 LOCATIONS BY THE OWNER OR OTHER REPRESENTATIVES.
9. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPINGS OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEED.
10. A CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA. PROCESS AREA IS GREATER THAN 300' FROM ALL PROPERTY LINES.
11. THE PROPERTY CORNERS WERE LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS WITHIN 300' OF THE EXCAVATION AREA, AS SHOWN ON THE EXHIBIT.



REV	DATE	DESCRIPTION
1	XXXX	QUANT S. BOWTIA

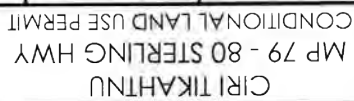
FIELD BOOK NO. 17 03
JOB NO. 174014
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT
CIRI TIKAHITU



ENGINEERING - TESTING
SURVEYING - MAPPING
GEOLOGY - MINING
SOLIDOTRY AL 0688
VOICE 907.263.4311
WWW.MCLANE.COM

DRAWN BY: BSB
CHECKED BY: GMD
HORIZ SCALE: 1" = 50'
VERT SCALE: N/A
SHEET: P1

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



Consulting Inc

ENGINEERING - TESTING
SURVEYING - MAPPING
P O BOX 458
SOLDOTNA, AK 99659
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANE.CG.COM

DRAWN BY BCB

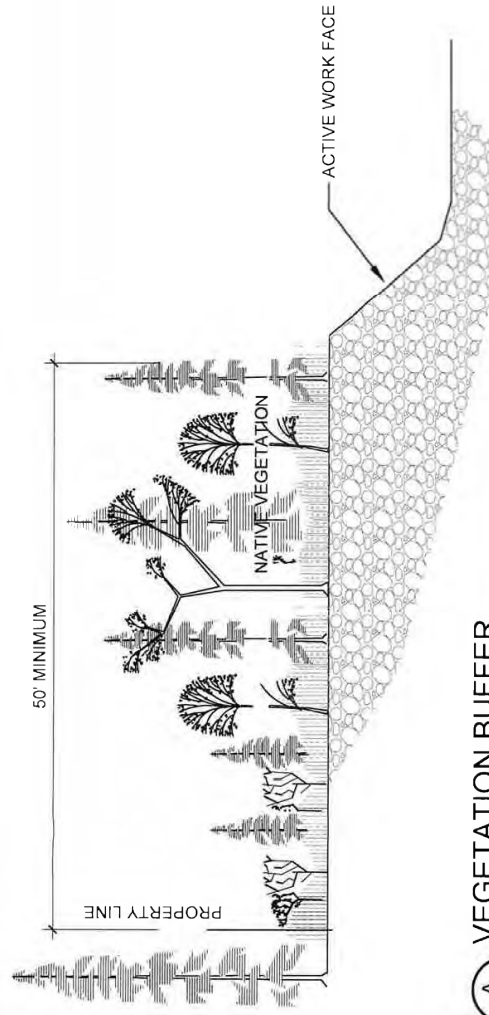
CHECKED BY: GMD

HORIZ SCALE: 1"=500'	
VERT SCALE: N/A	

SHEET P2

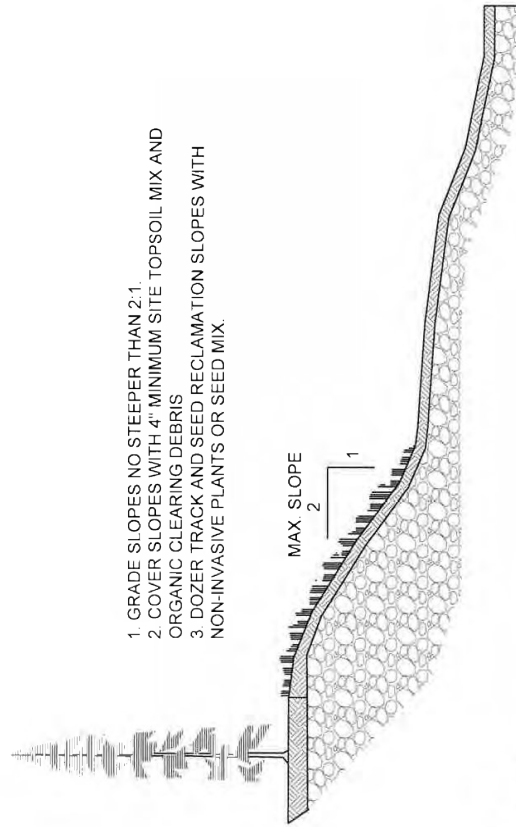
CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



A VEGETATION BUFFER

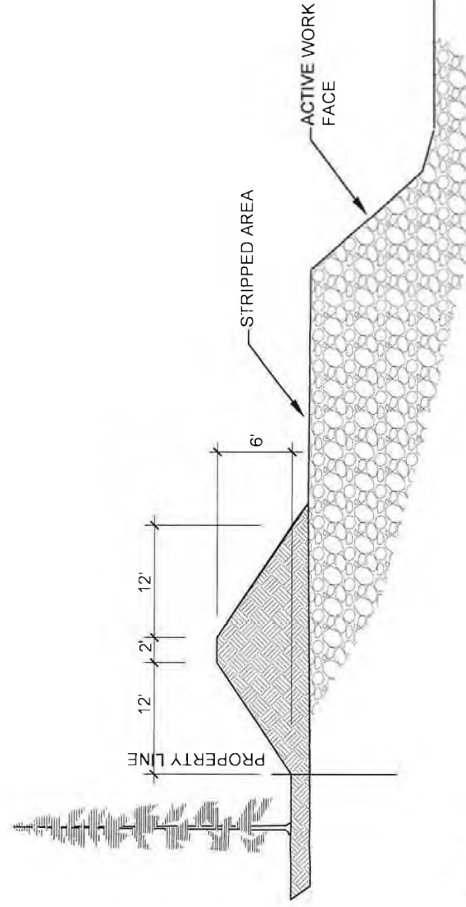
SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS
3. DOZER TRACK AND SEED RECLAMATION SLOPES WITH NON-INVASIVE PLANTS OR SEED MIX

B RECLAMATION SLOPE

SCALE: 1" = 10 FT.



C EARTHEN BERM BUFFER

SCALE: 1" = 10 FT.



REV	DATE	DESCRIPTION	BY
1	17/01/14	PERMIT SUBMITTAL	
2			
3			
4			
5			
6			
7			
8			
9			
10			

CIRI TIKAHNU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT



Consulting Inc
ENGINEERING, TESTING
SURVEYING, MAPPING
P.O. BOX 408
COOK INLET, ALASKA 99509
VOICE: (907) 253 4276
FAX: (907) 253 3202
WWW.MCLANECI.COM

DRAWN BY: BOB
CHECKED BY: GMD
HORIZ. SCALE: 1" = 500'
VERT. SCALE: N/A
SHEET: P3

PLANNING COMMISSION RESOLUTION 2021-26

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-26
KENAI RECORDING DISTRICT**

A resolution granting modification to a conditional land use permit for a material site to allow for additional excavation are on property described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way

- WHEREAS,** the KPB Planning Commission approved PC Resolution 2017-08 on March 27, 2017, which established a conditional land use permit for material extraction on KPB tax parcel ID# 065-081-18; and
- WHEREAS,** on June 22, 2021, the applicant, Cook Inlet Region, Inc., submitted an application to modify the existing conditional land use permit by expanding the area for excavation by 61-acres south of the Sterling Highway within KPB Parcel 065-081-18; and
- WHEREAS,** KPB Chapter 21.29.090 provides for the modification of material site permits when changes in operations approved in the original permit are proposed; and
- WHEREAS,** notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion; and
- WHEREAS,** public notice was sent to the postmaster in Sterling requesting that it be posted at the post office; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 12, 2021.

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

- SECTION 1.** That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near

- proposed excavation areas in the original permit were flagged.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows no wells within 300 feet of an excavation area.
 - b. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification does not seek an exemption to excavate within the water table.
 7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
 11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.

- a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
- 15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
- 16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.

SECTION 2. That the material site operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The expanded material site area overall within the parcel is approximately 131.7 acres.
- B. The East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

SECTION 3. That the existing permit conditions are hereby replaced by the following:

PERMIT CONDITIONS

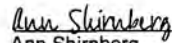
- 1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
- 2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.
 - These buffers shall not overlap an easement.
- 3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
- 5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
- 6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
- 7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
- 8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
- 9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
- 10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
- 11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
- 12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
- 13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
- 14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
- 15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC

- water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 17. The permittee shall be limited to disturbing 20 acres during the first two years of the permit. The open area shall be reclaimed upon completion of excavation activities.
 18. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 19. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 9TH DAY OF AUGUST, 2021.


Blair J. Martin, Chairperson
Planning Commission

ATTEST:


Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

**NOTICE OF DECISION
&
RECIPIENT LIST**



Planning Department

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

Charlie Pierce
Borough Mayor

August 12, 2021

«Contact»
«Attention»
«Address»
«City_State_ZIP»

NOTICE OF DECISION

At its August 9, 2021, meeting, the Kenai Peninsula Borough Planning Commission approved the modification of a conditional land use permit that was requested for KPB Parcel 065-081-18, legally described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian.

This decision was based on the findings of fact listed below.

Findings of Fact:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise

screening to adjacent properties:

50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.

4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows no wells within 300 feet of an excavation area.
 - b. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification does not seek an exemption to excavate within the water table.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction.
8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to

cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

- a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
 15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
 16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
-

Per KPB 21.20.250, any party of record may file an appeal of a decision of the planning commission within 15 days of the date of this notice of decision. The appeal must be filed with the borough clerk on the forms provided, and by paying the filing and records preparation fee in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. An appeal may be filed by personal delivery or mail as long as it is complete and received in the clerk's office by 5:00 p.m. on the day the notice of appeal is due. Appeal forms are available online at <https://www.kpb.us/assembly-clerk/clerks-office/clerks-forms>

Please contact the Kenai Peninsula Borough Clerk's Office at 907-714-2160 for questions regarding filing an appeal.

Contact	Attention	Address	City, State ZIP	Email	Telephone
Eric Rosenberg		5400 Kenilworth Avenue	Riverdale, MD 20737	ERosenberg@rosenberg-fayne.com	(301) 980-5598
Mark Hughes		32177 West Hills Court	Sterling, AK 99672	mrhceh@gci.net	
Cindy Hamlin		32177 West Hills Court	Sterling, AK 99672	mrhceh@gci.net	
Lisa Smith		37220 Steelhead Circle	Sterling, AK 99672	bdilisa@gmail.com	(801) 372-4479
Yulia Vassiliev		32123 West Hills Court	Sterling, AK 99672		(925) 588-4144
Alexie Vassiliev		32123 West Hills Court	Sterling, AK 99672		(408) 772-0406
Charles Clasby		32167 West Hills Court	Sterling, AK 99672	calman.ck@gmail.com	(907) 230-0516
Karol Schiefelbein		37105 Steelhead Circle	Sterling, AK 99672	karol3510@hotmail.com	(907) 260-3577
Richard Schiefelbein		37105 Steelhead Circle	Sterling, AK 99672	rick@anchorconstruction.info	(907) 260-3577
Kathleen Fogel		37065 Steelhead Circle	Sterling, AK 99672	kgfogle1951@gmail.com	(916) 539-1342
Ken Killian		37468 Samsel Road	Sterling, AK 99672	kakillian@att.net	(907) 232-6188
Gary Bailey		PO Box 1265	Sterling, AK 99672	gyb7772@hotmail.com	(907) 301-8941
Roxie Little		37455 Samsel Road	Sterling, AK 99672	lesrox3@gmail.com	(907) 262-6288
David Skieens		PO Box 421	Sterling, AK 99672	dskieens@gmail.com	(907) 242-1343
Perry Hershberger		37060 Steelhead Circle	Sterling, AK 99672	plhersh60@gmail.com	(330) 827-1022
Linda Hershberger		37060 Steelhead Circle	Sterling, AK 99672	lchersh65@gmail.com	(330) 827-1024
Claire Lewis		8046 Endicott Street	Anchorage, AK 99502	siwela.claire@gmail.com	(907) 306-6978
Dan Lewis		8046 Endicott Street	Anchorage, AK 99502	siwela.claire@gmail.com	(907) 306-6978
Cook Inlet Region, Inc.	Andrea Jacuk	PO Box 93330	Anchorage, AK 99509-3330	aiacuk@ciri.com	(907) 263-5197
Bill Elam		47320 Jefferson Ave.	Soldotna, AK 99669	belam@kpb.us	(907) 690-4339
Scarsella Bros., Inc.	Tamarah Knapp	PO Box 68697	Seattle, WA 98168-0697	tamarah@scarsellabros.com	(253) 872-7173
Marc Walch		430 N Lake Sybelia Drive	Maitland, FL 32751		
Gretchen Cuddy		7531 Sportsmens Point Circle	Anchorage, AK 99502		
Niki Pereira		37195 Steelhead Circle #14	Sterling, AK 99672	niklnuk@gci.net	
Cook Inlet Region, Inc.	Suzanne Settle	PO Box 93330	Anchorage, AK 99509-3330	ssettle@ciri.com	(907) 263-5150

**PC MEETING PACKET MATERIALS
JULY 12, 2021
&
PC MEMO JULY 27, 2021**



Planning Commission

Meeting Packet

**July 12, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH
ASSEMBLY CHAMBERS
144 NORTH BINKLEY ST.
SOLDOTNA, ALASKA 99669**

E. NEW BUSINESS

- 9. Conditional Land Use Permit Modification**
Applicant/Land Owner: Cook Inlet Region Inc.
Parcel ID#: 06508118
Sterling Area

Modification of a Conditional Land Use Permit for a Material Site STAFF REPORT

PC MEETING: July 12, 2021

Applicant: Cook Inlet Region, Inc.
Landowner: Cook Inlet Region, Inc.
Parcel Number: 065-081-18
Legal Description: East ½, East ½ of the West ½, and the Northwest ¼ of the Northwest ¼ of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
Property Location: Approximately at MP 79.5 of the Sterling Highway

GENERAL OVERVIEW: On June 22, 2021, the applicant submitted payment and a modification application for a material site. The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on March 27, 2017, and extended on May 4, 2021. The modification is to expand the permitted extraction area by approximately 61 acres as shown on the site plan submitted with the application. The application states that the expanded area is to support an Alaska Department of Transportation improvement project for the Sterling Highway. A copy of the application is included as **Attachment A**. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

KPB 21.29.030(A) REQUIRED APPLICATION ITEMS

1) Location of modification: The applicant seeks to excavate and an additional area of approximately 61 acres in an area bounded by the Sterling Highway to the north, Kenai Keys Road to the east, Deniigi Way to the south, and Tikahtnu Road to the west (see Attachment A).

2) Lifespan: The original permit application stated an expected lifespan of 15 years. No change is proposed.

3) Buffers: In addition to buffers in the original permit, the proposed 61-acre expansion area would be buffered on all sides by 50 feet of natural vegetation and 6-foot earthen berms.

4) Reclamation: No modification to the reclamation plan is proposed. The original application indicated that 5-25 acres would be reclaimed each year before the end of September using a loader and dozer. Seeding would be applied each season to areas that achieve final grade.

5) Depth of excavation: The maximum depth of proposed excavation is 20 feet, the same as the original permit.

6) Type of material: Gravel will be mined from the proposed expansion area.

7) Voluntary permit conditions: Berms along the north, south, west, and east edges of the proposed expansion area.

8) Site plan: The original site plan prepared by McLane Consulting Inc. was submitted as part of the modification application with markups and annotations indicating proposed modifications. The original plan included a north arrow, scale, and preparer's name, date and seal. The property has not been subdivided or changed ownership since the original site plan was developed in 2017, so the modified site plan was considered sufficient by staff. Required site plan elements are as follows:

a-b): addressed above.

c) encumbrances: In addition to Tikahtnu, Kenai Keys, and Deniigi Way roads, the site plan

shows a section line easement along the southern property boundary.

d) points of ingress/egress: The proposed modification would add a 26-foot wide ingress/egress from the excavation area directly onto the Sterling Highway.

e) haul routes: ingress/egress for the expanded extraction area would be directly onto the Sterling Highway.

f) test holes/depth of groundwater: The application states that 32 test holes have been dug throughout the property and that the water table is greater than 20 feet below original ground. The original site plan shows test well locations in the permitted excavation area.

g) location of neighboring wells: The site plan shows one well south of the property. No wells are within 300 feet of the proposed expansion area.

h) waterbodies/wetlands: no waterbodies or wetlands are indicated on the site plan.

i) surface water protection measures: No measures were indicated on the site plan.

j) processing areas: One 4.8-acre processing area was identified south of Deniigi Way on the original site plan. No modification of the processing area is proposed.

l-m): addressed above

n) boundary staking: with the original permit, the property corners were located and the property boundary flagged at visible intervals within 300 feet of the excavation areas.

PUBLIC NOTICE: Notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the July 12, 2021, meeting.

FINDINGS OF FACT:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers

for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:

50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.

4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows no wells within 300 feet of an excavation area.
 - B. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification does not seek an exemption to excavate within the water table.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction.
8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.

13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - B. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter

for the 61-acre expanded extraction area.

These buffers shall not overlap an easement.

3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB

- 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any 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, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). 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 \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT



Planning Department

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

Charlie Pierce
Borough Mayor

PC Resolution #. _____

App. Complete _____

KPB 21.29 Conditional Land Use Permit Modification Application

For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant Cook Inlet Region, Inc. Landowner Same as Applicant

Address PO Box 93330 Address _____

City, State, Zip Anchorage, AK 99509-3330 City, State, Zip _____

Telephone 907-263-5150 Fax _____ Telephone _____ Fax _____

Cell Phone 907-240-6861 Cell Phone _____

Email ssettle@ciri.com Email _____

II. CURRENT PERMITTED PARCEL INFORMATION

KPB Tax Parcel ID# 065-081-18 Township 5N Range 8W Section 16

Subdivision _____ Lot _____ Block _____ Parcel acreage _____

Legal Description T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

III. INFORMATION/DOCUMENTATION "Check" boxes below to indicate items included.

☐ \$300.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)

☐ Site Plan Diagram, to scale, showing:

- ☐ parcel boundaries
- ☐ existing required buffers
- ☐ existing and/or proposed processing area(s)

Permit Modification Worksheet

Applicant Cook Inlet Region, Inc. Owner Same as applicant

CURRENT PERMITTED KPB Tax Parcel ID # 065-081-18 Parcel Acreage appr. 600

- Reason(s) for requesting permit modification: Excavation of material to improve the Sterling highway, competent to meet Alaska Transportation Department specifications for highway construction

- Additional cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 61 acres
- Additional type(s) of material to be mined (circle all that apply): gravel sand peat other
- Additional equipment to be used (circle all that apply): excavation processing other
- Modification(s) is requested on current permit buffers: _____ yes X no

CURRENT PERMIT REQUIRED BUFFERS – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

MODIFIED BUFFER REQUEST, if applicable – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input checked="" type="checkbox"/> minimum 6 ft. earthen berm | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

- Permit modification is requested due to subdivision of originally permitted parcel? _____ yes X no
- Permit modification to enter the water table is requested? _____ yes X no
- Additional excavation depth beyond permitted depth: 20 ft.
Depth to groundwater: More than 20 ft.

- Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.):

A. Berms along North (Sterling Highway), West (Tikahtnu Road) and East (Keani Keys Road) edge of excavation

B. _____

- ☐ all encumbrances on parcel, including easements
- ☐ points of ingress and egress
- ☐ existing permitted extraction area(s)
- ☐ proposed additional extraction area(s) and/or other requested permit modifications(s)
- ☐ a north arrow and diagram scale
- ☐ preparer's name and date

☐ Permit Modification Worksheet (attached)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit modification request.

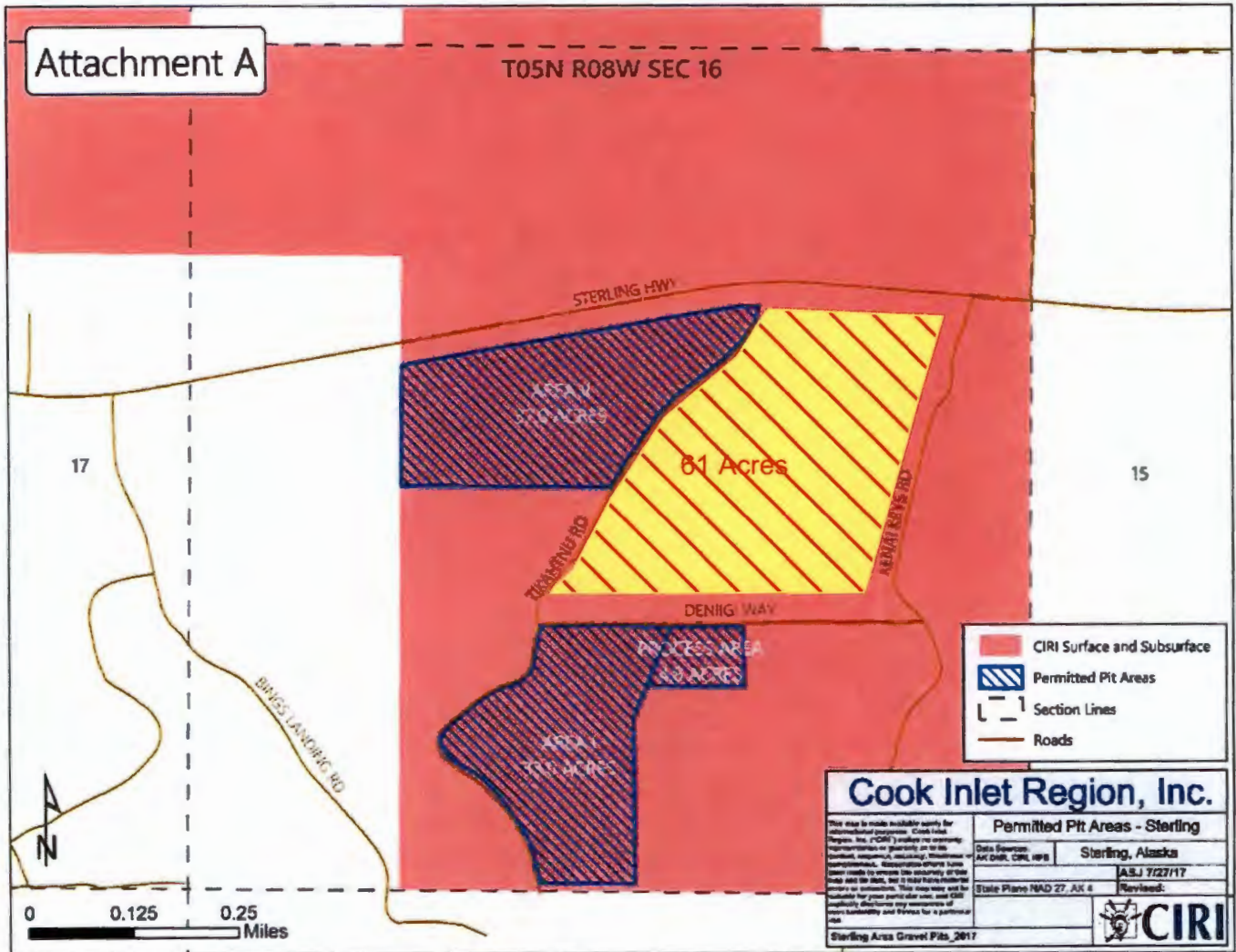

Applicant Signature

June 21, 2021
Date

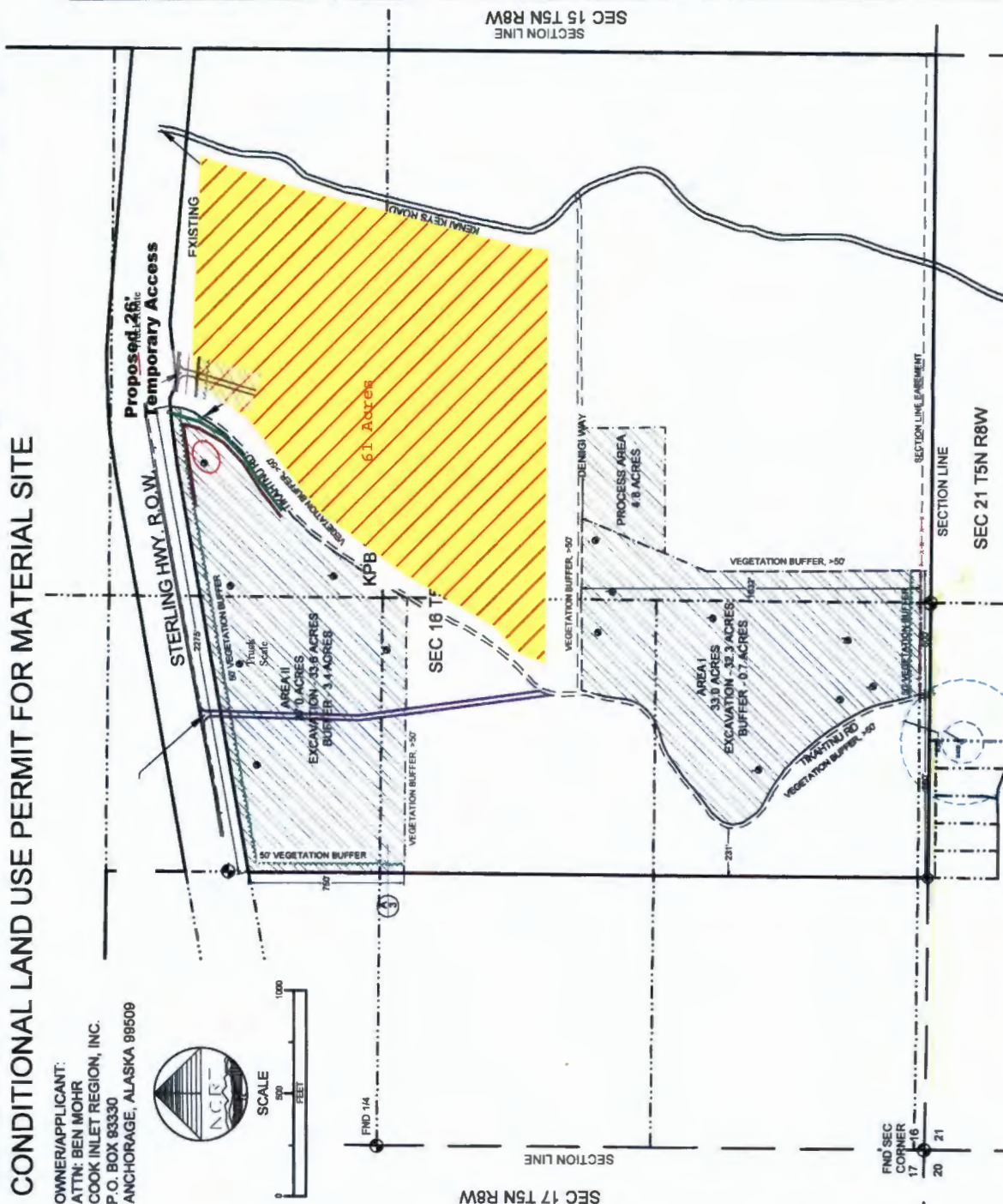
Property Owner Signature
(required if not applicant)







Date

Exhibit A
Map of Contract Area



OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



LEGEND	
	RECORD MONUMENT
	PROPERTY CORNER
	INGRESS/EGRESS
	WELL SETBACK
	INTERVISIBLE FLAGGING
	PROPOSED BUFFER TREE LINE
	APPROX. TESTHOLE LOCATION

CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS FOR THE PORTION OF KRM PARCEL 060001118 SOUTH OF THE STERLING HIGHWAY, 1/4 NW 36W SECTION 16 SEWARD MERIDIAN, T2S & 3/4 W6 & NW1/4W EXCEPT THAT PORTION PER E2 & E3 W6 & NW1/4W.
2. THE PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED INGRESS IS FROM TO KENAI KEYS ROAD AND EGRESS IS TO THE STERLING HIGHWAY, AS SHOWN, AN ADJUT APPROACH ROAD REVIEW APPLICATION WILL BE NECESSARY.
4. THE PREFERRED BUFFERS ARE 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS ON ALL SIDES.
5. THERE ARE NO WELLS WITHIN 100' OR 300' OF THE EXCAVATION AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED.
6. THERE ARE NO MAPPED WETLANDS AND/OR SURFACE WATER.
7. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION.
8. GROUNDWATER IS >20' BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. TEST HOLES WERE EXCAVATED IN 32 LOCATIONS BY THE OWNER OR OTHER REPRESENTATIVES.
9. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPIINGS, OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEEDDED.
10. A CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA. PROCESS AREA IS GREATER THAN 300' FROM ALL PROPERTY LINES.
11. THE PROPERTY CORNERS WERE LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS WITHIN 300' OF THE EXCAVATION AREA, AS SHOWN ON THE EXHIBIT.

CIRI TIKAHNU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT



Consulting Inc.

ENGINEERING TESTING
SURVEYING MAPPING
P O BOX 406
SOLDOTNA AK 99603
VOICE (907) 283-4318
FAX (907) 283-3285

DRAWN BY: BOB

CHECKED BY: OMFO

HORIZ. SCALE	1" = 100'
VERT. SCALE	NAS

P1

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509

[illegible]

CIRI TIKAHNU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT



Consulting Inc

ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 468
BOLDTNA, AK 99809
VOICE: (907) 283-4218
FAX: (907) 283-3285
WWW.MCLANECO.COM

CRAWLEY, NY 13021

1.000000

CHECKED BY:

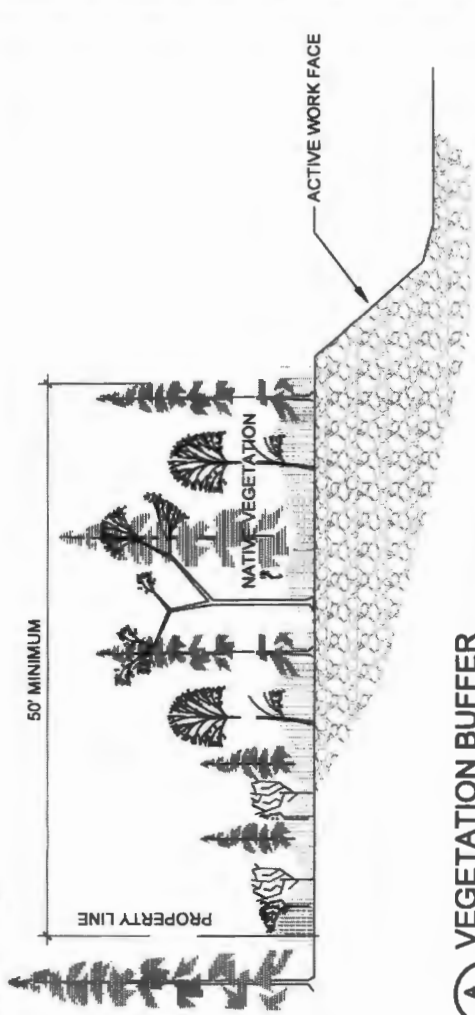
HORIZ SCALE 1"=100'

VERT SCALE: N/A

INDEX: 23

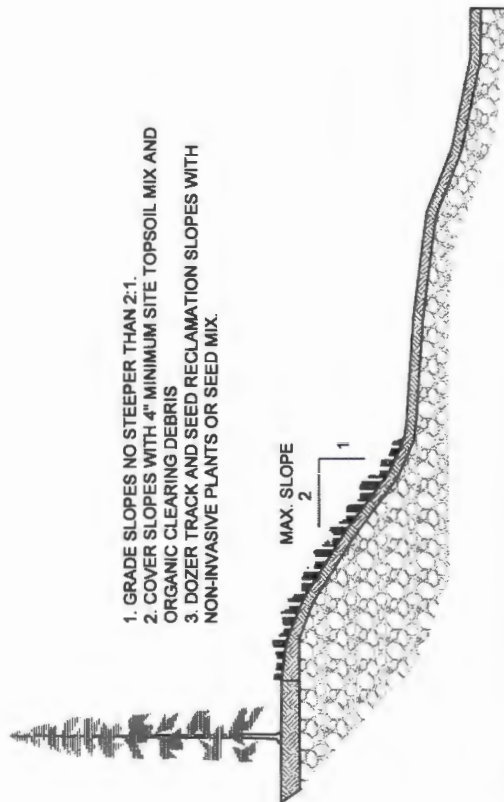
CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



A VEGETATION BUFFER

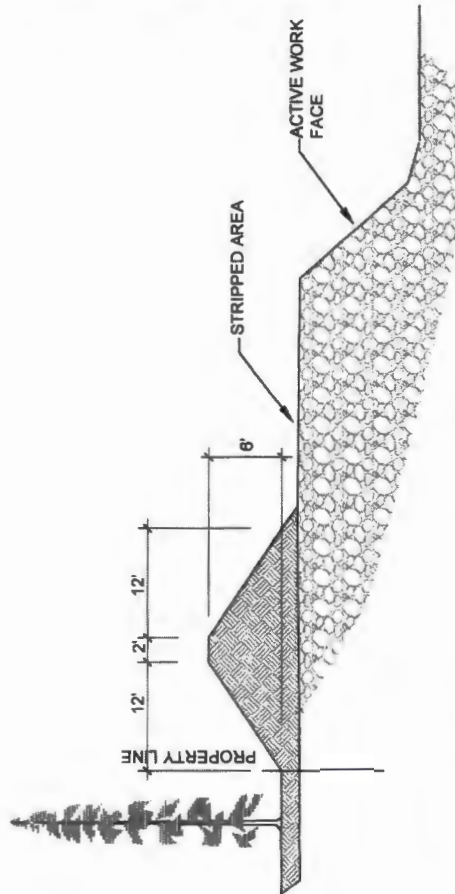
SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS
3. DOZER TRACK AND SEED RECLAMATION SLOPES WITH NON-INVASIVE PLANTS OR SEED MIX.

B RECLAMATION SLOPE

SCALE: 1" = 10 FT.



C EARTHEN BERM BUFFER

SCALE: 1" = 10 FT.



REV	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

JOB NO. 174014

CIRI TIKAHNU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT

FIELD BOOK NO. 17-03
FIELD WORK DATE: 1/13/2017



McLane Consulting Inc.
ENGINEERING - TESTING
SURVEYING - DESIGN
P.O. BOX 886
EAGLE, ALASKA 99501
TEL: (907) 253-5283
WWW.MCLANECORP.COM

CHECKED BY: GMD
HORIZ. SCALE: 1" = 100'
VERT. SCALE: 1" = 10'
SHEET: P3

A
L
A
S
K
A

2021-004891-0

Recording Dist: 302 - Kenai

5/5/2021 01:54 PM Pages: 1 of 1



Return to:
Suzanne Settle
PO Box 93330
Anchorage, AK 99509-3330

**EXTENSION OF CONDITIONAL LAND USE PERMIT
FOR MATERIAL EXTRACTION**

Pursuant to KPB 21.29, the Kenai Peninsula Borough Planning Department hereby extends for a period of 5 years the conditional land use permit for material extraction described below, subject to the conditions of the said permit and the procedures set forth in KPB code.

Permittee:
Cook Inlet Region, Inc.
PO Box 93330
Anchorage, AK 99509-3330

Legal Description: **T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681**

Parcel: **065-081-18**

Property Owner:
Cook Inlet Region, Inc.
PO Box 93330
Anchorage, AK 99509-3330

Permit Information:

Permit #**2017-08**

Excavation acreage: Approximately 70.7

Date of issue: 03/27/2017

Recorded as: **2017-006765-0** in the ^{Kenai} ~~Homer~~ recording district

New Expiration date: **3/27/2027**

KPB Planning Director: 

Date: **5/4/21**

SEE ORIGINAL PERMIT FOR CONDITIONS

cc.

ALASKA

2017-006765-0

Recording District 302 Kenai

08/31/2017 03:05 PM

Page 1 of 3



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2017-08
KENAI RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 18, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.25.040 provides that a permit is required for a sand, gravel or material site; and
- WHEREAS,** on February 24, 2017 the applicant, Cook Inlet Region, Inc., submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 065-081-18, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on March 6, 2017 to the 184 landowners or leaseholders of the parcels within one-half mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the March 16, 2017 & March 23, 2017 issues of the Peninsula Clarion; and
- WHEREAS,** a public hearing was held at the March 27, 2017 meeting of the Kenai Peninsula Borough Planning Commission;

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On February 24, 2017 the applicant, Cook Inlet Region, Inc., submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 065-081-18, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed total disturbed area is approximately 70.7 acres, consisting of two excavation areas of about 33 acres each and a processing area of about 5 acres.
6. To meet material site standard 21.29.040(A1), the proposed activity must protect against aquifer disturbance by maintaining a 2-foot vertical separation from the seasonal high water table and by ensuring that no material extraction takes place within 100 horizontal feet of any existing water source.
7. The test holes on the property indicate that the ground water is greater than 20 feet below existing grade.
8. The applicant's intended depth of excavation is up to 20 feet below the existing grade.
9. The site plan indicates that there is a well located within 300 feet of the property but none within 100 feet of the proposed excavation.
10. To meet material site standard 21.29.040(A2), the proposed activity must be conducted in a manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050.
11. To meet material site standard 21.29.040(A3), the proposed activity must be conducted in a manner which minimizes the off-site movement of dust by complying with required permit condition KPB 21.29.050(10), Dust Control.
12. The submitted site plan indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
13. To meet material site standard 21.29.040(A4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with permit

condition KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.

14. The site plan and application proposes the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers will reduce the noise disturbance to other properties.
15. The site plan indicates that material processing will take place greater than 300 feet from the property boundaries. Rock Crushing is not allowed to take place between 10:00 p.m. and 6:00 a.m. These material processing restrictions will reduce the noise disturbance to other properties.
16. To meet material site standard 21.29.040(A5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.
17. The site plan and application proposes the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers will reduce the visual impacts to adjacent properties.
18. To meet material site standard 21.29.040(A6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
19. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project.
20. The inclusion of the requirements contained in KPB 21.29.060(C3) is necessary to meet the material site standard contained in KPB 21.29.040(A6).
21. The bonding requirement of KPB 21.29.050(12b) will apply to this material site unless it qualifies for exemption from the state bond requirements pursuant to AS 27.19.050.
22. A public hearing of the Planning Commission was held on March 27, 2017 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

SECTION 2. That the land use and operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The material site area within the parcel is approximately 70.7 acres.
- B. The East ½, the East ¼ of the West ¼, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers shall not overlap an easement.
3. The permittee shall maintain at least a 2:1 slope between the inner buffer zones and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. Rock Crushing shall not take place between 10:00 p.m. and 6:00 a.m.
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
8. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
9. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
10. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a

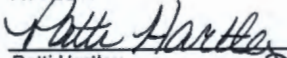


- material site and all original permit conditions can be met.
11. The permittee shall apply water or calcium chloride, as needed, on haul roads within the boundaries of the subject parcel.
 12. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 13. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 14. The permittee is responsible for determining the need for any other municipal, state or federal permits and acquiring the same. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 15. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 16. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 17. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS 27 DAY OF March 2017.


Blair J. Martin, Chairperson
Planning Commission

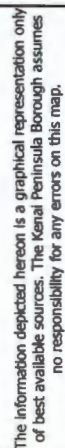
ATTEST:


Patti Hartley
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough Planning Department
144 North Binkley St.
Soldotna, AK 99669

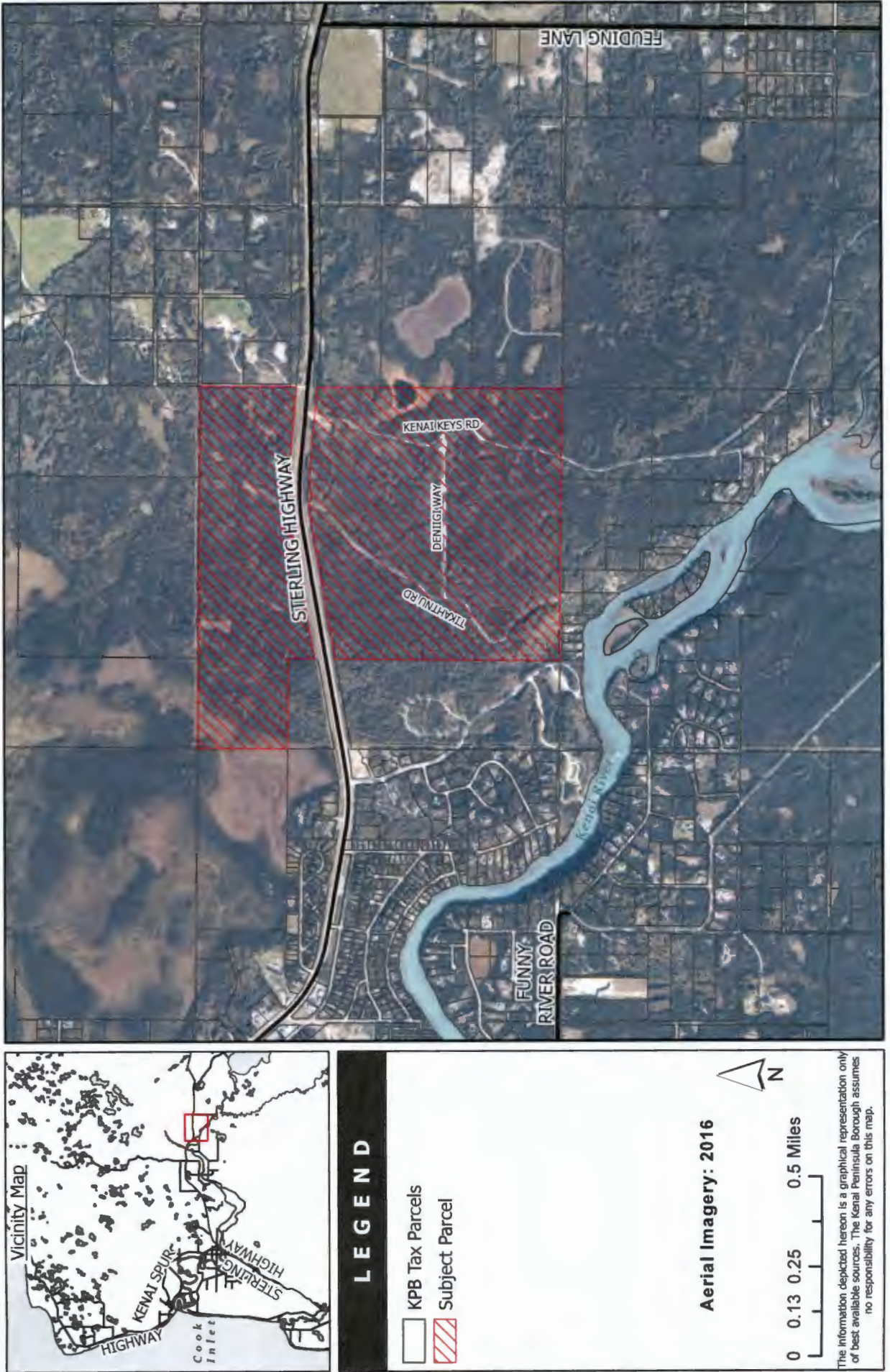


Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



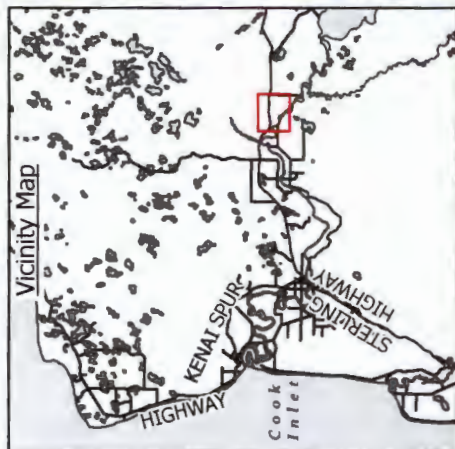
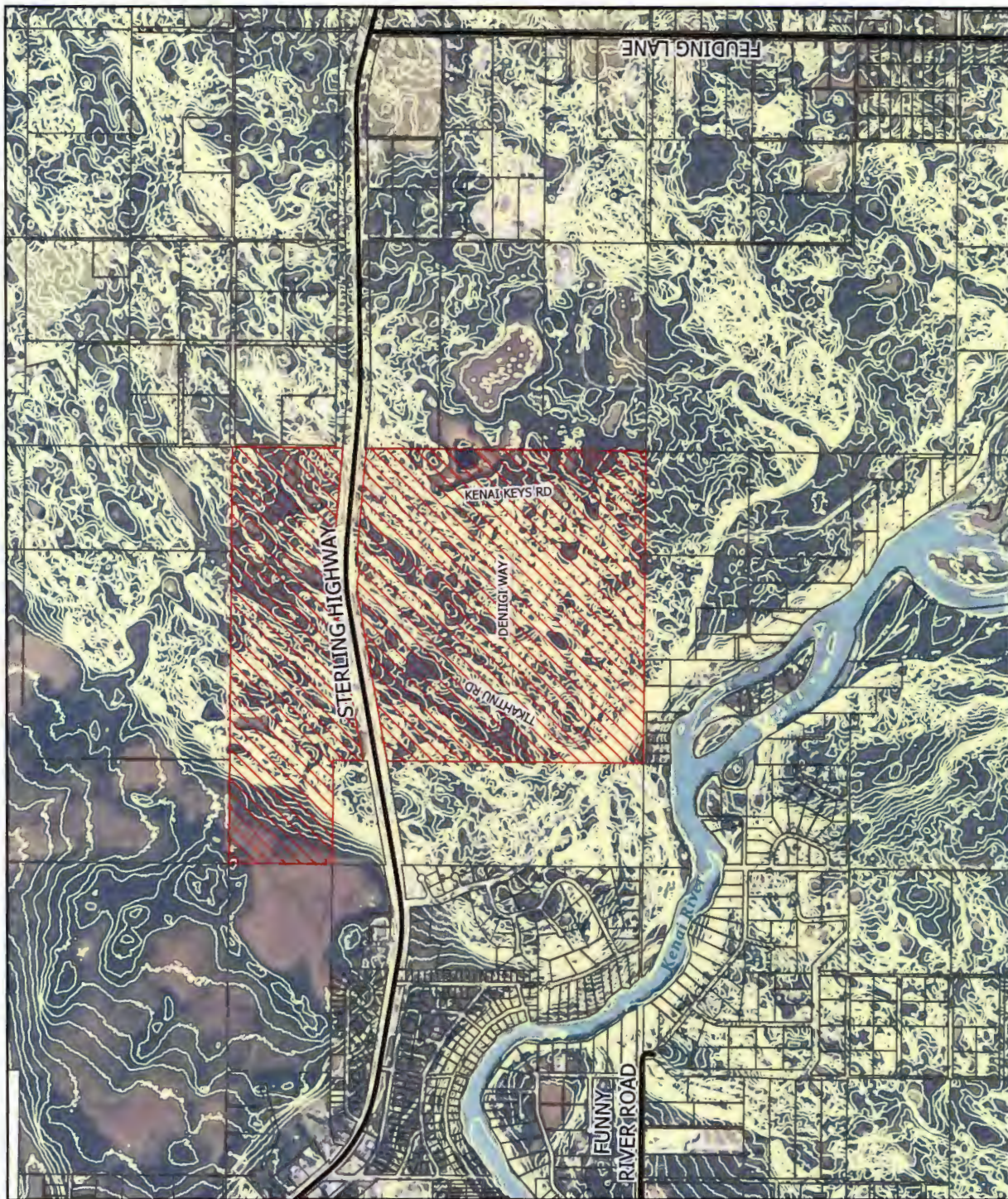
**Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site**

**Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.**



**Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site**

**Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.**



LEGEND

- KPB Tax Parcels
- Contours 4 ft
- Subject Parcel

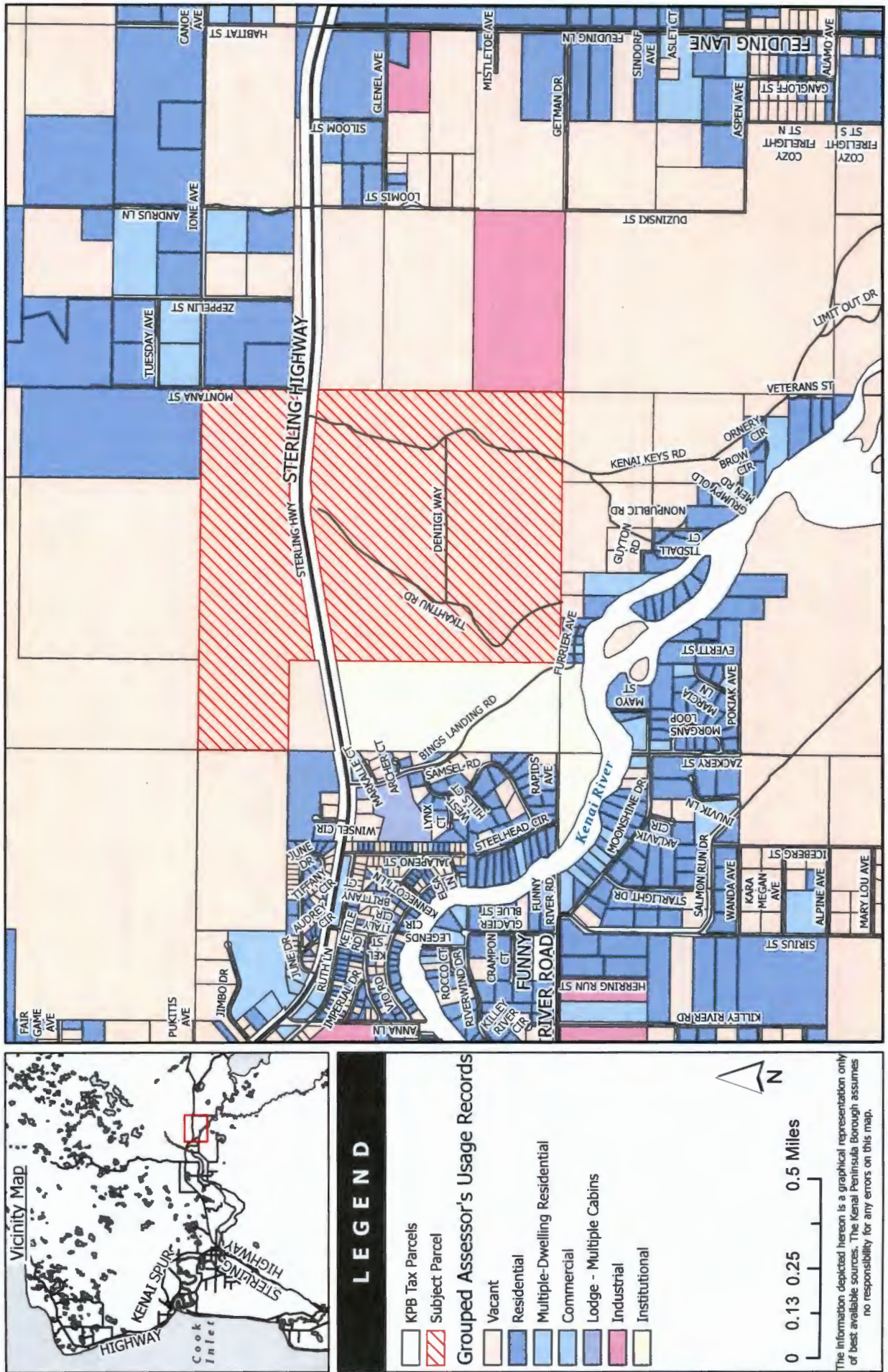
Aerial Imagery: 2016



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

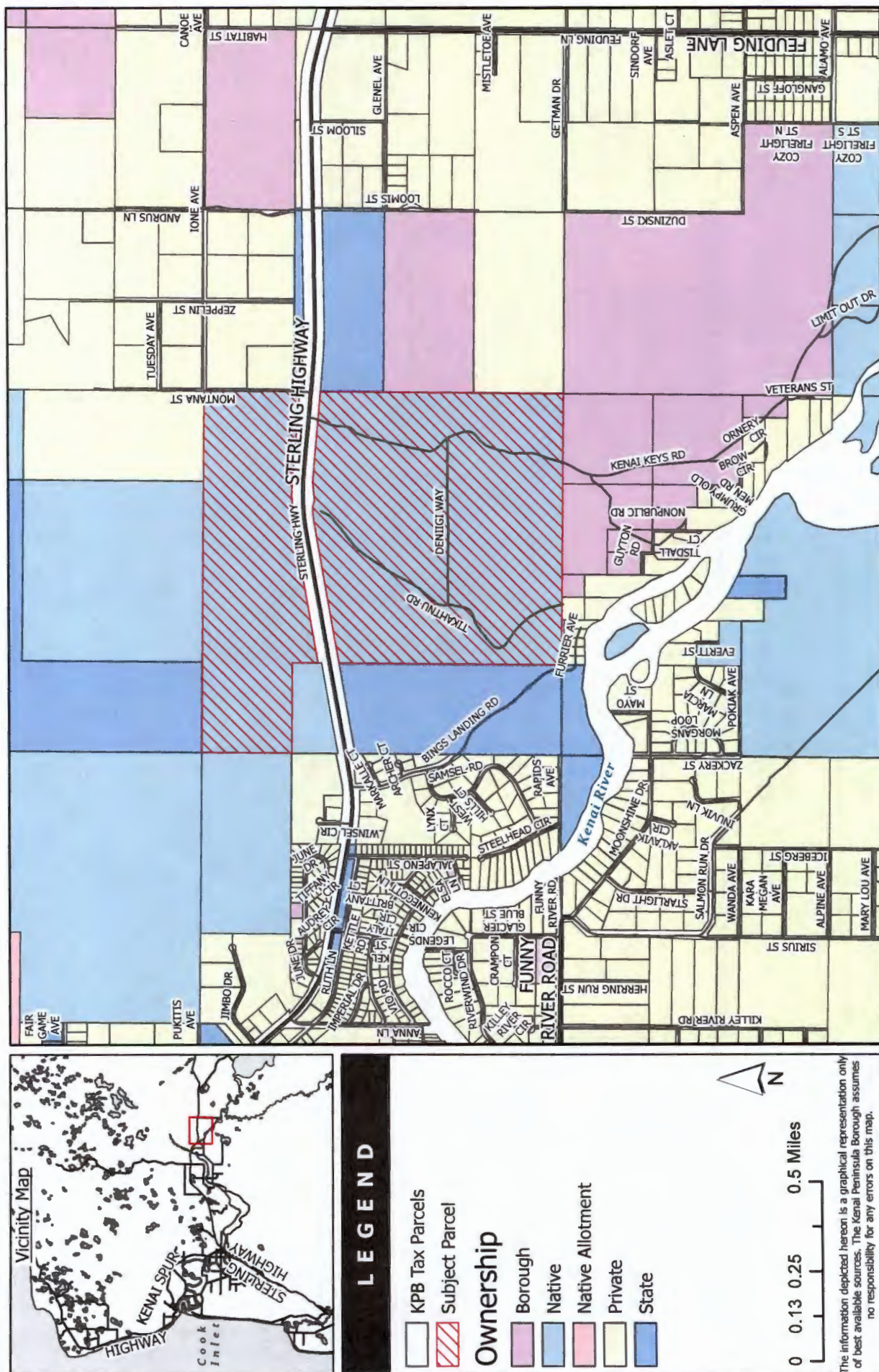
Kenai Peninsula Borough Planning Commission -- July 12, 2021 Modification to Conditional Land Use Permit for a Material Site

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



Kenai Peninsula Borough Planning Commission -- July 12, 2021 Modification to Conditional Land Use Permit for a Material Site

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.





Planning Department

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

Charlie Pierce
Borough Mayor

«OWNER»
«ATTENTION»
«ADDRESS»
«CITYSTATEZIP»

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application to modify an approved conditional land use permit for material extraction has been received for a parcel in the Soldotna area. This notice is being sent to landowners located within ½ mile of the subject property. All members of the public are invited to comment. Details of the application under consideration are as follows:

Applicant: Cook Inlet Region, Inc.

Landowner: Cook Inlet Region, Inc.

Parcel Number: 065-081-18

Legal Description: T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4 NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

Location: Sterling Highway mile 79.5

Proposed Land Use: The applicant wishes to modify an existing material site permit to add an additional 61 acres to the permitted extraction area.

KPB Code: Conditional land use permit modification applications for material extraction are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or at: www.kpb.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday, July 12, 2021**, commencing at 7:30 p.m., or as soon thereafter as business permits.

Please be aware that due to the recent COVID-19 pandemic and based on CDC guidelines, the meeting will not be physically open to the public. Instructions are as follows: The meeting will remain open to the public. The Planning Commissioners, along with staff members, will be attending via teleconferencing. The public will be able to listen or participate with the same methods. The meeting will be held through Zoom. To join the meeting from a computer visit <https://zoom.us/j/2084259541>. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID of **208 425 9541**. If you connect by computer and do not have speakers or a microphone, connect online and then select

phone for audio. A box will come up with the toll free numbers, the Meeting ID, and your participant number. Instructions will be posted on the Planning Commission's webpage prior to the meeting. <https://www.kpb.us/planning-dept/planning-commission>

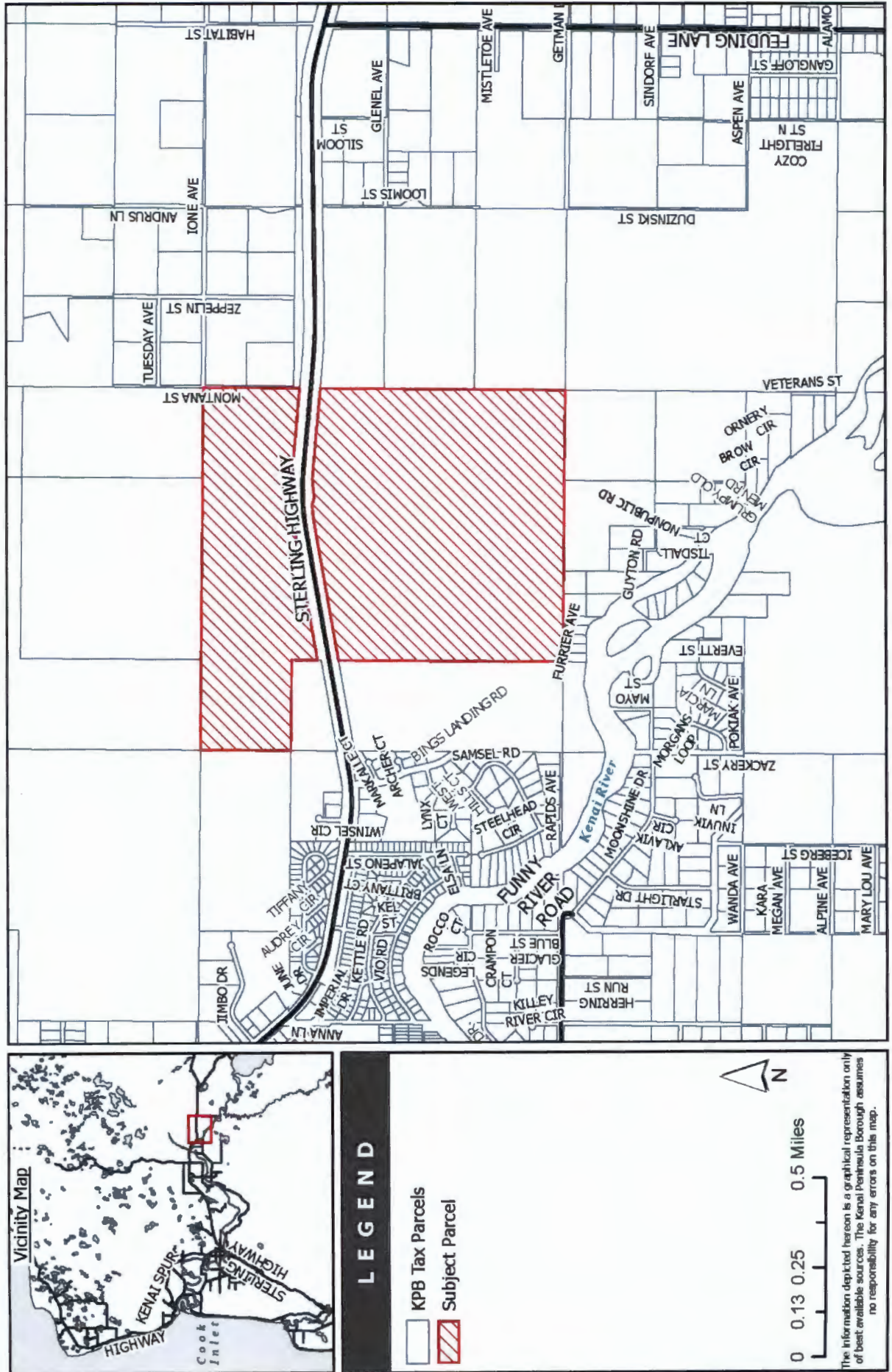
If you have question or experience technical difficulties, please contact the Planning Department at (907) 714-2200.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to btaylor@kpb.us. Please provide written statements by Thursday, July 9, 2021.

The staff report will be available on the Planning Commission website a week prior to the meeting. For additional information please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Borough).

**Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site**

**Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.**



Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



Kenai Peninsula Borough

PLANNING COMMISSION DESK PACKET

**July 12, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-26
KENAI RECORDING DISTRICT**

A resolution granting modification to a conditional land use permit for a material site to allow for additional excavation are on property described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way

- WHEREAS,** the KPB Planning Commission approved PC Resolution 2017-08 on March 27, 2017, which established a conditional land use permit for material extraction on KPB tax parcel ID# 065-081-18; and
- WHEREAS,** on June 22, 2021, the applicant, Cook Inlet Region, Inc., submitted an application to modify the existing conditional land use permit by expanding the area for excavation by 61-acres south of the Sterling Highway within KPB Parcel 065-081-18; and
- WHEREAS,** KPB Chapter 21.29.090 provides for the modification of material site permits when changes in operations approved in the original permit are proposed; and
- WHEREAS,** notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion; and
- WHEREAS,** public notice was sent to the postmaster in Sterling requesting that it be posted at the post office; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 12, 2021.

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near

- proposed excavation areas in the original permit were flagged.
3. **Buffer zone.** KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. **Processing.** KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. **Water source separation.** KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows no wells within 300 feet of an excavation area.
 - b. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. **Excavation in the water table.** KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification does not seek and exemption to excavate within the water table.
 7. **Waterbodies.** KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction.
 8. **Fuel storage.** KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. **Roads.** KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. **Subdivision.** KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
 11. **Dust control.** KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 12. **Hours of operation.** KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 13. **Reclamation.** KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. **Other permits.** KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.

- a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.

SECTION 2. That the material site operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The expanded material site area overall within the parcel is approximately 131.7 acres.
- B. The East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

SECTION 3. That the existing permit conditions are hereby replaced by the following:

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:

Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.

These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC

water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS _____ DAY OF _____, 2021.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

Taylor, Bryan

From: Eric F. Rosenberg <ERosenberg@rosenberg-fayne.com>
Sent: Thursday, July 1, 2021 9:08 AM
To: Taylor, Bryan
Subject: <EXTERNAL-SENDER>Fwd: Commnets on 065-081-18

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Can you confirm receipt.

Eric F. Rosenberg
Rosenberg & Fayne
5400 Kenilworth Avenue
Riverdale, Maryland 20737
301-864-2900
301-864-2903--fax
301-980-5598--mobile
erosenberg@rosenberg-fayne.com

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Begin forwarded message:

From: "Eric F. Rosenberg" <ERosenberg@rosenberg-fayne.com>
Date: June 30, 2021 at 9:03:57 AM AKDT
To: btaylor@kpb.com
Cc: Rick Scheifelbien <rick@anchorconstruction.info>, Meatzbart@aol.com, Christine Price <4rosenbergs@gmail.com>
Subject: Commnets on 065-081-18

Chairman Blair Martin
Kenai Peninsula Borough Peninsula Planning Board

Re: 065-081-18
Cook Inlet Region, inc

Dear Chairman Martin:

I am writing you with regard to the proposal to allow CIR to expand the gravel pit directly in eye sight and down from the commercial property I own and operate at 3235 Moonshine Drive, Soldotna, Alaska 99669. This project is in Full view of my commercial property and not a single person though to reach out which is deep concerning to me how this process is being undertaken.

This expansion is a poor idea for the following reason and needs to be rejected outright.

1. My property elevation is 292 feet and would look directly into the Pit in violation of 21.29 and is a visual disturbance that cannot be abated. No one has taken the time to evaluate these issues prior to an expansion request which is disturbing at best but shows putting profits over people. I trust my rights, are equal to those of others and if that is accurate, there can be no way to approve the expansion without suggesting, there is favoritism to CIR. Are you not troubled by the lack of preparation? How hard would it have been to travel to affected areas beforehand and talk to us. It tells me that someone is rushing or undue influence is in play. I am interested in the influence CIR has over the board or its independence but before I go asking these questions, I will allow you time to respond.

2. My property can already hear the the traffic from Sterling Highway. A gravel pit will amplify the sounds and there is no noise abatement that can be done to rectify this. Has the audio calculation been done pursuant to the federal MSHA guidelines? Again, why hasn't anyone asked for the effects of the noise. Are you concerned about the PIT noise to residents or the river and wildlife or has that been overlooked. Again, is this profits over people? When is someone going to come and do the audio testing or is that not a requirement?

3. I can tell you from personal experience that any ground disturbance within .75 miles of the river causes major wash outs on the bluff. Are you concerned what a washout or an environmental hazard could cause and damage the River. What environmental studies have been done on the issues of noise, accidents, and traffic. The Kenai River is famous and in pristine condition, why is the Board willing to take a chance on a project so close to the River and risk it. I am worried that there is something else going on that we would approve a project so close to our most Prized River. Please do not let a quick dollar influence the decision to risk Nature. Does the board want to over look the River and what it means to Alaska? What is the point of expanding the road to Kenai if you are going to risk destroying the River? What is being done to prevent environmental issues? There are others areas to get gravel that can benefit CIR, please vote to have them use their other subsidies.

I ask that you reject this project as it cannot be done with any acceptable risk and my Rights are Equal to others and there is no way to follow the statutory requirements. What about my neighbors and the issues that they have?

Should this project not be rejected I will file an Injunction in Federal Court for the Environmental Concerns and in State Court for breaches of my right to Quiet Enjoyment so I would ask that you pass this along to the Project Manager who didn't think to even contact the folks most affected in Soldotna let alone Sterling.

Please don't allow Profits to Come before People..

I am available anytime to discuss this further.

I can be reached at 301-980-5598.

Eric F. Rosenberg

Eric F. Rosenberg
Rosenberg & Fayne LLP
5400 Kenilworth Avenue
Riverdale, Maryland 20737
Telephone: (301) 864-2900
Facsimile: (301) 864-2903

ERosenberg@rosenberg-fayne.com
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Taylor, Bryan

From: Mark and Cindy <mrhceh@gci.net>
Sent: Wednesday, July 7, 2021 10:23 PM
To: Taylor, Bryan; Hibbert, Brent; Derkevorkian, Richard; Bjorkman, Jesse; Cox, Tyson; Elam, Bill; Carpenter, Kenn; Johnson, Brent; lchesle@kpb.us; Dunne, Willy; Pierce, Charlie
Cc: Niki Pereira; cindy Hamlin E; stutzer@gci.net
Subject: <EXTERNAL-SENDER>Land Use Permit for Material Extraction - Sterling Highway mile 79.5
Attachments: Gravel Pit 2021.docx

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Kenai Peninsula Borough Planning Commission Chairman, Assembly Members, and Mayor:

Thank you for notifying us by US Postal Service mail, at our primary residence in Anchorage, regarding the Cook Inlet Region, Inc. application to modify an approved conditional land use permit for material extraction near our recently constructed home in Sterling. The information in the letter has taken us by surprise as we were never informed, nor given any opportunity to comment about the original land use permit that was granted in this area for material extraction.

For the past 28 years, we have enjoyed recreating on the property at West Hills Court and the beautiful surrounding area. So much so that we decided to build a home on the property and make it part of our retirement plan. Construction on our home at West Hills Court was completed in March 2018 and we have been residing there on a part-time basis for vacations, weekends and holidays year round. Upon my retirement in September 2022, our plan was to downsize from our home in Anchorage and relocate to our home in Sterling. Your public notice letter has come as a shock to us. An expansion of a material extraction project (gravel pit) near our home will threaten our financial investment and disrupt our dream of a safe, quiet, peaceful retirement.

We have many questions and concerns about this short-notice request to expand the “material extraction” site. Two weeks notice for public comment is unfair and insufficient. Have there been any studies performed regarding noise, air quality, water/well disruption, roadway degradation, traffic hazards, impact on wildlife, fisheries, the river? Why is an Alaska Native corporation harvesting gravel from this beautiful, pristine area? Isn’t there another area with less impact on people, fish, wildlife, the river? One of CIRI’s values includes “honor - do the right thing the right way. Honor is the heartbeat of the company.” This project doesn’t align with honor and isn’t prudent stewardship of Alaska resources?

We join our Bing’s Landing Subdivision neighbors (see attachment) and strongly object to the application to modify (expand) the land use permit for material extraction for the parcel number 065-081-18. Please consider our concerns and please be prepared to respond to our questions at the upcoming public hearing scheduled July 12, 2021 at 7:30pm via Zoom.

Thanks for your time and attention to this important matter.

Respectfully submitted,
Cindy E. Hamlin and Mark R. Hughes
32177 West Hills Court
Sterling, AK 99672

Taylor, Bryan

From: Claire Lewis <siwela.claire@gmail.com>
Sent: Thursday, July 8, 2021 11:42 AM
To: Taylor, Bryan
Cc: Aeschliman, Melanie; Elam, Bill; ray@longlivethekings.com; krpga1@gmail.com; ben@krsa.com; shannon@krsa.com; Planning Dept.; kakillian@att.net
Subject: <EXTERNAL-SENDER>Fwd: Kenai Borough Planning 7/12/21 Meeting Agenda Parcel Number 065-081-18

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Subject: Kenai Borough Planning 7/12/21 Meeting Agenda Parcel Number 065-081-18

July 8, 2021

Brian Taylor, Borough Planner
Kenai Peninsula Borough
144 N. Binkley St.
Soldotna, AK, 99669

Dear Brian,

This is a request to delay the planned agenda item at the Borough Planning meeting scheduled Monday, July 12th at 1930. My husband and I received our notification on 6/24/21 in the mail, since our home is in Anchorage, yet we own two undeveloped acres in the Bings Landing Subdivision. Our lots are within a ½ mile of the planned gravel/ "material extraction" from 61+ acres. The time line of 2 ½ weeks from when we received our letter, is not enough time to voice concerns for this planned development by CIRI.

Our current Anchorage home is on well and septic and water preservation is dear to our neighbors and us. We live within a ½ mile of a past gravel excavation that took place in the 1970's, in the now neighborhood called Westpark Subdivision. It is unknown if our well water is linked to the 7+acre aquifer that was exposed during the 1970s gravel mining in Westpark; yet, many reports and data collection exist due to this aquifer exposure and wells impacted. In the 1970s, 2 private wells noticed sediment and contamination that occurred within weeks of gravel excavation in Westpark. When the gravel excavation went below the water table, disturbing the clay/soil/ and sand layers, their clear well water turned, brown, silty and sandy within weeks of excavation. I understand the developer did not intend harm to drinking water, yet it happened.

When my husband and I met 4 years ago with other Bings Landing neighbors, we expressed concern for the potential impact to well water to the CIRI, Kenaitze Tribe, and Foster Brother representatives (all reaping the benefit of money from the most recent gravel excavation). Our concern for impact to well water with "material excavation"/gravel has **Not** changed.

The meeting delay request, is so all stakeholders concerned by this development have time to gather information and voice concerns. I have cc:d key members of the Borough and other Kenai River water stewards in this letter. Presumably, these below members do not drink water from the Kenai River; however, their enjoyment of the Kenai River via fishing guide services and preservation of the river is at risk of impactation by noise, erosion of the embankment, and other known side effects when this proposed extensive gravel excavation takes place nearby.

We cannot personally afford to legally fight CIRI on their proposed development, but the Kenai Borough can and should be observant of existing home/Well owners, land owners, and Kenai River users, (all tax payers to the Borough), and take time to listen to concerns before bulldozing the issue forward. Again, we ask the meeting be delayed, and necessary time outside the busy summer season, be given to concerned citizens impacted by the proposed development.

Respectfully,

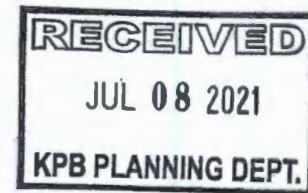
Claire and Dan Lewis

Land owners of Bings Landing Sub Part 1 Lot 1 and 6, Blk 3
907-306-6978

cc: Melanie Aeschliman, Planning Director, Kenai Borough
Bill Elam, Assembly Representative, Bings Landing
Ray Debardeleben, President of Kenai River Professional Guide Association/KRPGA
Ben Mohr, Director of Kenai River Sports Fishing Association/ KRSA
Shannon Martin, KRSA

and **Ken Sterling, Bings homeowner (whose 7/8 submitted letter we support!!)**

July 8, 2021



Melanie Aeschliman, Planning Director
Brian Taylor, Borough Planner
Kenai Peninsula Borough
144 N. Binkley St.
Soldotna, AK. 99669

Cc: Jeremy Brantley
PO Box 1444
Soldotna, AK. 99669

We, some residents of the Bing's Landing subdivision, are writing to you to ask for a postponement of agenda item E.9 on July 12th, Conditional Land Use Permit Modification, Parcel ID #06508118.

The first permit issued several years ago was highly contested by surrounding residents. After many meetings with CIRI and Foster Construction where our concerns were placated then never fully addressed, the borough planning commission forged ahead and released the permit. Now CIRI has come back with plans to grow the gravel pit.

We have MANY concerns with the borough process and timeline from permit application to public notice and, finally, permit approval. This permit application was filed on June 22, 2021. Public notice started hitting mailboxes near the end of June and into the first of July. The planning commission meeting to address the permit is July 12, 2021. The brief timing of this, from application to approval, is no small matter! We are the residents saddled with the impact of this for many years. It's rare you will find a lawyer among us. We are common citizens who have worked hard, and many have put their life savings into where we live and our preferred way of living in this quiet, pristine area. WE CANNOT MOUNT A PROPER RESPONSE TO THESE ASSAULTS ON OUR WAY OF LIVING IN LESS THAN THREE WEEKS!!!

This permit application comes at the beginning of our busiest season for us common folks! It's summer. The fish are coming in. Families are coming in. Many of us travel around our state to enjoy the short summer we experience up here. Even the planning commission takes time off from its' duties in the summer to do the very thing we are trying to do. We write this letter to you on Thursday before the upcoming meeting on Monday. It took us this long to get a few of our ducks in a row just to mount a request for a postponement. We are asking you to postpone this until AT LEAST August. September would be better as that moves us more out of the busy summer season.

Our concerns related to the permit you originally extended to CIRI for the original gravel pit were brushed aside; the noise, the dust, the water table issues, etc. It is our understanding that

residents surrounding the big gravel pit south of us (used to facilitate roadwork) are having well and water problems. We are in the process of verifying that information. This was one of our biggest concerns. If true, the borough is complicit in approving material extraction sites without allowing enough time for testing, environmental and other impact studies, nor the requirement thereof.

We Alaskans hate zoning and regulation. However, when our elected and appointed official's side with business in a way that excludes or minimizes the impact to residential and recreational users, we must address it. This issue happens all over the Kenai Peninsula Borough and in other non-incorporated areas of Alaska.

There is plenty of gravel in areas that are not adjacent to residential and pristine designated recreational areas. We understand they are more expensive to utilize, but something must give here. We, the taxpayers of this borough, need more of an opportunity to have a voice in what happens around us.

In addition to all the above-mentioned issues, this upcoming meeting is not even available for face-to-face public comment. It is now only open to phone or zoom as an option. Many of us do not have capability for zoom meetings. Hearing our voices over the phone reduces the impact of our testimony as you do not have the capability to see our facial expressions. Just because the meeting room was occupied the night of the planning commission meeting does not excuse you from making accommodations for the public to address you personally.

We are imploring you to give this permit application more time before approving it. The borough's rules do not give sufficient time to mount a defense against one of the biggest corporation's in Alaska. It's time to decide who you serve, the small taxpayers, or the big corporations?

Please postpone this meeting at least one month, if not two!

Ken Killian
Bing's Landing Subdivision
Sterling, Alaska
907-232-6188

Bing's Landing Subdivision
Sterling, Alaska

Name Lisa Smith Signature _____
Lisa Smith


Address
37220 Steelhead Circle
Sterling, AK 99672

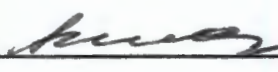
Phone 801-372-4479 Email _____
bdlisa@gmail.com

Name _____ Signature _____

Address

Phone _____ Email _____

Name Yulia Vasilyeva Signature 
Address 32123 W Hills Ct. Sterling AK
Phone 925-588-4144 Email u.little@sbctobal.net

Name Alexei Vassiliev Signature 
Address 32123 W Hills Ct Sterling AK
Phone 408-772-0406 Email avassiliev@sbctobal.net

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name Tim and Denise Martin Signature Denise Martin
Address 37865 ~~Babcock~~ Steelhead Ct
Phone (907) 2607564 Email tmartin@verizon.net

Name John & Linda Halsen Signature John Halsen
Address 32151 Rapier Ave
Phone 907-252-1707 Email mechalsen@gmail.com

Name ROBERT PEREIRA Signature Robert Pereira
Address 37195 STEELHEAD CIR STERLING AK 99672
Phone (907) 830-0888 Email fishcrazy@comcast.net

Name Niki Pereira Signature Niki Pereira
Address 37195 Steelhead Cir. Sterling, AK 99672
Phone 907-830-6543 Email nikinuk@qci.net

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name Charles K. Clasby Signature Charles K. Clasby
Address 32167 West Hills Ct. Sterling, AK 99672
Phone 907-230-0516 Email Calman.CK@gmail.com

Name Karol Schiefelbein Signature Karol Schiefelbein
Address 37105 Steelhead Circle Sterling, AK 99672
Phone 907-260-3577 Email Karol3510@hotmail.com

Name Richard Schiefelbein Signature Richard Schiefelbein
Address 37105 Steelhead Circle Sterling, AK
Phone 907-260-3577 Email Kick-A-Nachor Construction, Inc.

Name Kathleen G. Fogle Signature Kathleen G. Fogle
Address 37065 Steelhead Circle Sterling AK 99672
Phone 916-539-1342 Email Kgfogle1951@gmail.com

Name Ken Killian Signature Ken Killian
Address 37468 SAMSEL Rd STERLING AK 99672
Phone 907-232-6188 Email KAKILLIAN@ATT.NET

Name _____ Signature _____
Address _____
Phone _____ Email _____

Subject: Land Use Permit for Material Extraction - Sterling Highway mile 79.5
Date: Wednesday, July 7, 2021 at 10:22:31 PM Alaska Daylight Time
From: Mark and Cindy
To: btaylor@kpb.us, bhibbert@kpb.us, rderkevorkian@kpb.us, jbjorkman@kpb.us, tysoncox@kpb.us, belam@kpb.us, kcarpenter@kpb.us, bjohnson@kpb.us, lchesle@kpb.us, wdunne@kpb.us, cpierce@kpb.us
CC: Niki Pereira, cindy Hamlin E, stutzer@gci.net
Attachments: Gravel Pit 2021.docx

Kenai Peninsula Borough Planning Commission Chairman, Assembly Members, and Mayor:

Thank you for notifying us by US Postal Service mail, at our primary residence in Anchorage, regarding the Cook Inlet Region, Inc. application to modify an approved conditional land use permit for material extraction near our recently constructed home in Sterling. The information in the letter has taken us by surprise as we were never informed, nor given any opportunity to comment about the original land use permit that was granted in this area for material extraction.

For the past 28 years, we have enjoyed recreating on the property at West Hills Court and the beautiful surrounding area. So much so that we decided to build a home on the property and make it part of our retirement plan. Construction on our home at West Hills Court was completed in March 2018 and we have been residing there on a part-time basis for vacations, weekends and holidays year round. Upon my retirement in September 2022, our plan was to downsize from our home in Anchorage and relocate to our home in Sterling. Your public notice letter has come as a shock to us. An expansion of a material extraction project (gravel pit) near our home will threaten our financial investment and disrupt our dream of a safe, quiet, peaceful retirement.

We have many questions and concerns about this short-notice request to expand the "material extraction" site. Two weeks notice for public comment is unfair and insufficient. Have there been any studies performed regarding noise, air quality, water/well disruption, roadway degradation, traffic hazards, impact on wildlife, fisheries, the river? Why is an Alaska Native corporation harvesting gravel from this beautiful, pristine area? Isn't there another area with less impact on people, fish, wildlife, the river? One of CIRI's values includes "honor - do the right thing the right way. Honor is the heartbeat of the company." This project doesn't align with honor and isn't prudent stewardship of Alaska resources?

We join our Bing's Landing Subdivision neighbors (see attachment) and strongly object to the application to modify (expand) the land use permit for material extraction for the parcel number 065-081-18. Please consider our concerns and please be prepared to respond to our questions at the upcoming public hearing scheduled July 12, 2021 at 7:30pm via Zoom.

Thanks for your time and attention to this important matter.

Respectfully submitted,
Cindy E. Hamlin and Mark R. Hughes
32177 West Hills Court
Sterling, AK 99672

Name Mary L. Bailey Signature Mary L. Bailey
Address PO Box 1265 Sterling AK 99672
Phone 907-301-8941 Email 9467772@hotmail.com

Name Roxie Little Signature Roxie Little
Address 37455 Samuel Sterling AK 99672
Phone 262-6288 Email lesrox3@gmail.com

Name David Skieens Signature D
Address PO Box 421 Sterling AK 99672
Phone 907 242 1343 Email dskieens@gmail.com

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name Penny Hershberger Signature PH
Address 37060 Steelhead Circle, Sterling, AK 99672
Phone 330-827-1022 Email p/hersh60@gmail.com

Name Linda Hershberger Signature Linda Hershberger
Address 37060 Steelhead Circle Sterling AK 99672
Phone 330 827 1024 Email lchersh65@gmail.com

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____



Planning Department

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

Planning Commission Meeting Packet

**August 9, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH
ASSEMBLY CHAMBERS
144 NORTH BINKLEY ST.
SOLDOTNA, ALASKA 99669**

***Please Note:**

Packet Materials for August 9, 2021 PC Meeting Contained the Meeting Materials from the July 12, 2021 PC Meeting with the Addition of the August 27, 2021 Planning Commission Memo

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Blair Martin, Planning Commission Chair
Kenai Peninsula Borough Planning Commissioners

THRU: Melanie Aeschliman, Planning Director
Samantha Lopez, River Center Manager

FROM: Bryan Taylor, Planner

DATE: July 27, 2021

RE: Addendum to CIRI CLUP Modification Application PC Resolution 2021-26

On July 27, 2021, we received an addendum to the above application. The applicant proposes the following voluntary condition be added to their application:

Applicant shall be limited to disturbing 20 acres during the first two years of the permit. The open area shall be reclaimed upon completion of excavation activities.

MISCELLANEOUS INFORMATION

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Doug Munn, being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

PC NPH
07/01/21

x Doug Munn

SUBSCRIBED AND SWORN before me on this

8th day of July, 2021.

Elizabeth A. McDonald
NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024

KENAI PENINSULA BOROUGH PLANNING COMMISSION
NOTICE OF PUBLIC HEARINGS
Monday, July 12, 2021

The following items are scheduled for public hearings to be held by the Kenai Peninsula Borough Planning Commission on Monday, July 12, 2021 commencing at 7:30 p.m., or as soon thereafter as business permits. Due scheduling conflicts, the meeting will not be physically open to the public. The public is invited to participate via teleconferencing. The meeting will be held through Zoom. To join the meeting from a computer, visit <https://zoom.us/j/2084269541>. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-863-5247. When calling in you will need the Meeting ID of 208 426 9541. If you connect by computer and do not have speakers or a microphone, connect online and then select phone for audio. A box will come up with toll free numbers, the Meeting ID, and your participant number. Detailed instructions will be posted on the Planning Commission's webpage prior to the meeting:
<https://www.kpb.us/planning-dept/planning-commission>

1. Ordinance 2021-__: An ordinance authorizing communication tower lease agreements at certain locations with SPITWSPOTS Inc.
Written comment for the above item may be submitted to the Land Management Division, Kenai Peninsula Borough, 144 N. Binkley St., Soldotna, AK 99689 or by email to lmweb@kpb.us. It is recommended that comments be received by 1:00 P.M., Friday July 9, 2021.

2. Public notice is hereby given that an application to modify an approved conditional land use permit for material extraction has been received for a parcel in the Soldotna area. Applicant & Landowner: Cook Inlet Region, Inc. Location: Sterling Hwy. mile 79.5. Parcel ID#: 06508118.
Written comment for the above item may be submitted to the Planning Commission Chairman, 144 N. Binkley St., Soldotna, AK 99689 or by email to btaylor@kpb.us. It is recommended that comments be received by 1:00 P.M., Friday July 9, 2021.

2587330

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden, being first duly sworn, on oath deposes
and says:

That I am and was at all times here in this affidavit
mentions, Supervisor of Legals of the Sound
Publishing / Peninsula Clarion, a newspaper of general
circulation and published at Kenai, Alaska, that the
advertisement, a printed copy of which is hereto
annexed was published in said paper on the dates
listed below:

PC agenda
07/08/21

x Jeff Hayden

SUBSCRIBED AND SWORN before me on this

13th day of July, 2021.

Elizabeth McDonald

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024



**Kenai Peninsula Borough
Planning Commission
JULY 12, 2021 TENTATIVE AGENDA**

The next regularly scheduled Planning Commission meetings will be held Monday, July 12, 2021. Please note this meeting will be conducted online only. The Planning Commission and staff members will be attending via teleconferencing. The public may listen or participate in the meeting via Zoom. To join the meeting via Zoom from a computer visit:

<http://zoom.us/j/2084259541>

To attend the meetings by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID number of 208 425 9541. Detailed instructions will be posted on the Planning Commission webpage prior to the meeting:

<https://www.kpb.us/planning-dept/planning-commission>

PLAT COMMITTEE – 6:00 P.M.

New Business

1. Tide View Heights #2; KPB File 2021-088; Johnson Surveying/Padget & Smith; Location: Ames Road; City of Kenai
2. Kenai Landing Subdivision 2021 Addition; KPB File 2021-089; Edge Survey & Design LLC/PRL Logistics Inc. & Kenai Landing Inc.; Location: Bowpicker Lane, Seacatch Drive & Columbia Street; City of Kenai
3. Birchwood Subdivision Sherman Addition No. 2; KPB File 2021-090; McLane Consulting Inc./Ciufu & Seymour; Location: Reger Road & Edgington Road; Sterling Area
4. Bay View subdivision 2018; KPB File 2021-087; Ability Surveys/Freeman Holdings of Arkansas LLC; Location: Lake Shore Drive; City of Homer
5. Spruce Woods Subdivision 1975 Addition, Tract 1 Replat; KPB File 2021-091; Ability Surveys/Roth; Location: Saber Avenue E., Yukon Street & East End Road; Fritz Creek Area; Kachemak Bay APC

PLANNING COMMISSION – 7:30 P.M.

New Business

1. Utility Easement Vacation; KPB File 2021-084V; PC Resolution 2021-22; Location; Vacate the 10' wide utility easement on the north boundary of Lot 14 Block 1 excluding the portion within 10' of Barbara Drive, granted by Banta Subdivision Addition No 1 and Resubdivision of Lot 4 Block 1 Plat HM 78-21; Petitioner(s)/Owner(s): Mark and Micki Salinas of Ninitchik, AK.
2. Right-Of-Way Vacation; KPB File 2021-085V; Location; Vacates a portion of C Street right of way adjoining Lot 1 Block 2 and Lot 3 Block 3 as dedicated on U.S. Survey No 4901 Tracts A through D, Townsite of English Bay, Plat SL 71-62; Petitioner(s): Nanwalek Village C/O Village Council of Nanwalek, AK.
3. Right-Of-Way Vacation; KPB File 2021-086V1; Location: Vacates a 60' right of way and cul-de-sac on adjoining lots 8-A, 9-A, 10-A and 18A per Stanley's Meadow Subdivision No 11 ADEC Power-Trip Replat (Plat HM 93-60) as dedicated on Stanley's Meadow No 11 (Plat HM 91-47); Petitioner(s): Ina L., Cecil R., Stephanie J. and Billy R. Jones of Fritz Creek, AK.
4. Conditional Use Permit; PC Resolution 2021-24; Petitioner: USDA Forest Service; PINs: 125-324-07 & 12532404; Location: Moose Pass Area
5. Ordinance 2021-27: An ordinance authorizing communication tower lease agreements at certain locations with SPITWSPOTS Inc.
6. Ordinance 2021-28: An ordinance authorizing a lease to Robert Gibson, DBA Alaska Land & Cattle Company for approximately 280 acres of Borough land in the Basargin Road area for agricultural use.
7. Resolution 2021-046: A resolution classifying 420 acres of Borough land located within Section 1, T05S, R14W, Seward Meridian, Alaska as rural & agriculture.
8. Marijuana Concentrate Manufacturing Facility License; Applicant: Leaf & Larf, LLC dba Purgatory Cannabis; Landowner: Zan Inc.; Location: 43280 Kenai Spur Hwy., Kenai, AK 99611
9. Conditional Land Use Permit Modification; Applicant: Cook Inlet Region Inc. / Land Owner: Cook Inlet Region; Parcel ID#: 06508118; Sterling Area

Anyone wishing to testify may attend in person or via Zoom to give testimony. It is highly recommended that at this time written statements be submitted by email (planning@kpb.us) or fax (907-714-2378). Written comments may be submitted by hand-delivery or mail (Planning Department, 144 N. Binkley St., Soldotna, AK 99690).

FUTURE MEETINGS

The next regularly scheduled Plat Committee meeting will be held Monday August 9, 2021. The Plat Committee meeting will begin at 5:30 p.m. The next regularly scheduled Planning Commission meeting will be held Monday August 9, 2021. The Planning Commission meeting will begin at 7:30 p.m.

KPB PLANNING DEPARTMENT
Ann Shimberg, Administrative Assistant
Phone: (907) 714-2215 / Fax: (907) 714-2378
Toll free within the Borough 1-800-478-4441

2589845

PUBLISHER'S AFFIDAVIT

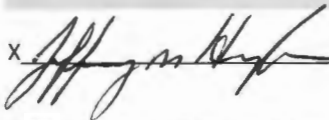
UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden, being first duly sworn, on oath deposes
and says:

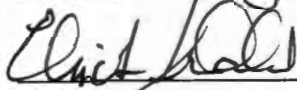
That I am and was at all times here in this affidavit
mentions, Supervisor of Legals of the Sound
Publishing / Peninsula Clarion, a newspaper of general
circulation and published at Kenai, Alaska, that the
advertisement, a printed copy of which is hereto
annexed was published in said paper on the dates
listed below:

PC agenda
08/05/21

X  _____

SUBSCRIBED AND SWORN before me on this

5th day of August, 2021.

 _____

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3/6/2024.

Elizabeth A. McDonald Notary Public, State of Alaska Commission #200306009 My Commission Expires March 6, 2024



**Kenai Peninsula Borough
Planning Commission
August 9, 2021 TENTATIVE AGENDA**

The next regularly Planning Commission meetings will be held Monday, August 9, 2021 at the KPB George A Navarre Administration Building, 144 N. Binkley St., Soldotna, AK. The public may also listen or participate in the meeting via Zoom. To join the meeting via Zoom from a computer visit:

<http://zoom.us/j/2084259541>

To attend the meetings by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID number of 208 425 9541. Detailed instructions will be posted on the Planning Commission webpage prior to the meeting:

<https://www.kpb.us/planning-dept/planning-commission>

PLAT COMMITTEE – 5:30 P.M.

New Business

1. Stanleys Meadow 2021; KPB File 2021-086; Ability Surveys / Jones; Location: Off Perkins Road & Cove View Court; Fritz Creek Area
2. Tulin West Highlands Green 2021 Replat; KPB File 2021-104; Seabright Surveying / Green; Location: Joe Super Street & West Highlands Blvd.; Diamond Ridge Area
3. Self Subdivision Bilben Replat; KPB File 2021-092; Peninsula Surveying LLC / Bilben & Gregory; Location: Stol Road; Cohoe Area
4. Ninilchik Airport Heights 2021 Replat; KPB File 2021-103; Geovera LLC / Terrastar Properties LLC; Location: Tailwind Road, Cessna Street & Smart Street; Ninilchik Area
5. Fireweed Meadows 2021 Replat; KPB File 2021-095 Geovera, LLC / Emmitt & Mary Trimble Revocable Trust, Home Grown Construction LLC; Location: Milo Fritz Avenue & Granross Street; Anchor Point Area
6. McReed Subdivision 2021 Replat; KPB File 2021-093; Johnson Surveying / Hame; Location: Cohoe Loop Road; Cohoe Area
7. Melickian Subdivision 2021 Addition; KPB File 2021-094; Johnson Surveying / Waggoner, Jaso, Munter & Rinck; Location: Resurrection Creek Road & Katday Court; Hope Area
8. Horse Creek Subd 2021 Addition; KPB File 2021-099; Johnson Surveying / Deford; Location: Resurrection Creek Road; Hope Area
9. Hinz subdivision No. 2; KPB File 2021-102; Segesser Surveys / Hinz; Location: Irish Hills Avenue & Bethula Street; Kalifornsky Area
10. Mac McGahn Subdivision 2020 Replat; KPB File 2021-096; Segesser Surveys / The Estate of Dolores Mae McGahan, The Estate of Dolores M. McGahan, Merrill M. McGahan, Carmen M. McGahan, Dolores M. Rappe, The Estate of Merrill Mazie McGahan; Location Nikishika Beach Road & Kenai Spur Highway; Nikiski Area
11. Bown Landing Subdivision Marlow Replat; KPB File 2021-101; Segesser Surveys / Marlow; Location: Stephens Drive; Sterling Area
12. Emery Subdivision; KPB File 2021-100; Segesser Surveys / Emery; Location: Wendy Lane; Kalifornsky Area

PLANNING COMMISSION – 7:30 P.M.

Old Business

1. Conditional Land Use Permit Modification; Applicant/Landowner: Cook Inlet Region Inc.; Tax Parcel ID# 06508118; Location: Sterling Area

New Business

1. Utility Easement Vacation; KPB File 2021-086V; Vacate a 20' utility easement within Lot 10A Stanley's Meadow No. 11 (HM 93-60); Petitioners/Owners: Cecil R., Ina L., Billy Ray, Stephanie Joy Jones; Location: Fritz Creek Area
2. Utility Easement Vacation; KPB File 2021-054V; Vacate 10' utility easements along the side lot lines of Lots 19, 20, 21, Block 13 Carl F. Ahlstrom Subdivision (KN-216) & Lot 22A, Block 13, Carl F. Ahlstrom Subdivision RPM's Replat (KN 2017-66), excluding the 15' adjoining the Kenai Spur Hwy & the 10' adjoining the northeast boundary; Petitioners/Owners: RPM's LLC & John Mellish; Location: City of Kenai
3. Street Naming Resolution; SN 2021-04: Naming a certain private road within Section 24, T04S, R11W, Seward Meridian; within Emergency Service Number (ESN) 202
4. Ordinance 2021-32: An ordinance authorizing a negotiated lease at fair market value with Edward & Kathleen Martin, DBA Cozy Inn, in Kenai for a parking area.
5. Ordinance 2021-31: An ordinance authorizing an amendment to a master land lease development agreement with the Alaska Department of Transportation & Public Facilities in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing to include a staging area at Tract C Quartz Creek Subdivision and appraisal provisions.

Anyone wishing to testify may attend in person or via Zoom to give testimony. Written statements should be submitted by 1:00 PM Friday August 6, 2021. Written statements may be submitted by email (planning@kpb.us) or fax (907-714-2378). Written comments may also be submitted by hand-delivery or mail (Planning Department, 144 N. Binkley St., Soldotna, AK 99609).

FUTURE MEETINGS

The next regularly scheduled Plat Committee meeting will be held Monday August 23, 2021. The Plat Committee meeting will begin at 5:30 p.m. The next regularly scheduled Planning Commission meeting will be held Monday August 23, 2021. The Planning Commission meeting will begin at 7:30 p.m.

KPB PLANNING DEPARTMENT

Ann Shimberg, Administrative Assistant
Phone: (907) 714-2215 / Fax: (907) 714-2378
Toll free within the Borough: 1-800-478-4441

2596123

**PLANNING COMMISSION
MEETING MINUTES
JULY 12, 2021**

Kenai Peninsula Borough Planning Commission

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

**JULY 12, 2021
7:30 P.M.
APPROVED MINUTES**

CALL TO ORDER

Chair Martin called the meeting to order at 7:32 p.m.

ROLL CALL

Commissioners Present

Syverine Bentz, Anchor Point/ Ninilchik
Paulette Bokenko-Carluccio, City of Seldovia
Jeremy Brantley, Sterling
Davin Chesser, Northwest Borough
Cindy Ecklund, City of Seward
Diane Fikes, City of Kenai
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

With 10 members of an 11-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director
Scott Huff, Platting Manager
Marcus Mueller, Land Management Officer
Samantha Lopes, River Center Manager
Bryan Taylor, Planner
Ann Shirnberg, Administrative Assistant
Julie Hindman, Platting Specialist

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Baranoff Terrace Subdivision Johnson-Quale Addition; KPB File 2019-082
 - b. Big Dipper Ranch; KPB File 2020-153
 - c. Bremond Farms Estates Bella Woods Phase 2; KPB File 2016-022P2
 - d. Gerhart Homestead 2020 Replat; KPB File 2020-149
 - e. Lakewood Estates 2021 Replat; KPB File 2021-035
 - f. Rex W. Eagle Homestead 2021 Replat; KPB File 2021-033
 - g. Seater View Subdivision; KPB File 2009-085
 - h. Surreal Subdivision 2021 Replat; KPB File 2021-002
 - i. Valhalla Heights 2021 Replat; KPB File 2021-077
- *6 Commissioner Excused Absences
 - a. Pamela Gillham, Ridgeway
- *7 Minutes
 - a. June 28, 2021 Planning Commission Meeting Minutes

Chair Martin asked if anyone present wanted to speak to or had concerns about any of the items on the consent or regular agendas. Hearing no one wishing to comment, Chair Martin returned the discussion to

3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

END OF STAFF REPORT

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Venuti to forward to the Assembly the application for a marijuana cultivation facility license for Leaf & Larf, LLC., dba Purgatory Cannabis with staff's findings and recommending the three conditions be placed on the state license.

Commissioner Fikes noted there have been an increase in new marijuana businesses like this in the area. She asked staff if there is any way to gather information on the health effects of edible marijuana products. Mr. Taylor replied he could not answer that but he could contact AMCO and see if they have any data on this topic.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Gillham				

AGENDA ITEM E. NEW BUSINESS

9. **Conditional Land Use Permit Modification; PC Resolution 2021-26**
Applicant: Cook Inlet Region Inc. / Land Owner: Cook Inlet Region
Parcel ID#: 06508118
Sterling Area

Staff report given by Bryan Taylor.

GENERAL OVERVIEW: On June 22, 2021, the applicant submitted payment and a modification application for a material site. The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on March 27, 2017, and extended on May 4, 2021. The modification is to expand the permitted extraction area by approximately 61 acres as shown on the site plan submitted with the application. The application states that the expanded area is to support an Alaska Department of Transportation improvement project for the Sterling Highway. A copy of the application is included as **Attachment A**. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

KPB 21.29.030(A) REQUIRED APPLICATION ITEMS

1) Location of modification: The applicant seeks to excavate and an additional area of approximately 61 acres in an area bounded by the Sterling Highway to the north, Kenai Keys Road to the east, Deniigi Way to the south, and Tikahtnu Road to the west (see Attachment A).

2) Lifespan: The original permit application stated an expected lifespan of 15 years. No change is proposed.

3) Buffers: In addition to buffers in the original permit, the proposed 61-acre expansion area would be buffered on all sides by 50 feet of natural vegetation and 6-foot earthen berms.

4) Reclamation: No modification to the reclamation plan is proposed. The original application indicated that 5-25 acres would be reclaimed each year before the end of September using a loader

and dozer. Seeding would be applied each season to areas that achieve final grade.

5) Depth of excavation: The maximum depth of proposed excavation is 20 feet, the same as the original permit.

6) Type of material: Gravel will be mined from the proposed expansion area.

7) Voluntary permit conditions: Berms along the north, south, west, and east edges of the proposed expansion area.

8) Site plan: The original site plan prepared by McLane Consulting Inc. was submitted as part of the modification application with markups and annotations indicating proposed modifications. The original plan included a north arrow, scale, and preparer's name, date and seal. The property has not been subdivided or changed ownership since the original site plan was developed in 2017, so the modified site plan was considered sufficient by staff. Required site plan elements are as follows:

a-b): addressed above.

c) encumbrances: In addition to Tikahtnu, Kenai Keys, and Deniigi Way roads, the site plan shows a section line easement along the southern property boundary.

d) points of ingress/egress: The proposed modification would add a 26-foot wide ingress/egress from the excavation area directly onto the Sterling Highway.

e) haul routes: ingress/egress for the expanded extraction area would be directly onto the Sterling Highway.

f) test holes/depth of groundwater: The application states that 32 test holes have been dug throughout the property and that the water table is greater than 20 feet below original ground. The original site plan shows test well locations in the permitted excavation area.

g) location of neighboring wells: The site plan shows one well south of the property. No wells are within 300 feet of the proposed expansion area.

h) waterbodies/wetlands: no waterbodies or wetlands are indicated on the site plan.

i) surface water protection measures: No measures were indicated on the site plan.

j) processing areas: One 4.8-acre processing area was identified south of Deniigi Way on the original site plan. No modification of the processing area is proposed.

l-m): addressed above

n) boundary staking: with the original permit, the property corners were located and the property boundary flagged at visible intervals within 300 feet of the excavation areas.

PUBLIC NOTICE: Notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the July 12, 2021, meeting.

FINDINGS OF FACT:

1. Procedural Findings.

- A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
- B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
- C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
- D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
- E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster

- in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
- F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.
 3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows no wells within 300 feet of an excavation area.
 - B. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification does not seek an exemption to excavate within the water table.
 7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a

parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.

- A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - B. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.
 - These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50,

a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.

18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any 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, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). 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 \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Andrea Jacuk, Land Manager; Cook Inlet Region Inc., POB 93330, Anchorage, AK 99509-3330: Ms. Jacuk noted she and her family are members of the Kenaitze Tribe. Her grandfather grew up fishing the Kenai River, as did his father. The Kenai River is especially important to her and her family. CIRI owns 7% of the bank space on the Kenai River, which is a cultural cornerstone for their shareholders. CIRI has been a good steward of these privately held lands for decades. CIRI is the largest private landowner on the Kenai Peninsula, owning over 33,000 acres of surface estate. Of these 33,000 acres, only 600 acres have been developed for resource or other commercial development purposes, which is less than 2% of CIRI landholdings. The other 98% of these lands have been kept in a raw and undeveloped state. She understands community members have concerns about the development of this material site. They met with community members in 2017 to hear and address their concerns and as a result implemented additional mitigation efforts. None of the mitigation efforts will change with their proposed modification. This is a simple modification to an already approved permit. The sole purpose for modifying this permit is to provide low cost sand and gravel resources for the Sterling Highway reconstruction project. This material site is the best currently permitted source available for the project. The proximity to the project will minimize impact to borough maintained roads, ultimately increasing the life of these roads compared to other resources in the Kenai or Soldotna areas. This modification seeks to move the excavation area. The area for excavation under the prior CLUP has shown to have insufficient structurally competent gravel resources. This modification meets all conditions of KPB code. Scarcella Construction is a respected and experienced operator who has met not only all KPB requirements but also all the additional requirements within the CIRI lease agreement. Scarcella has submitted their operation plans to CIRI, which either meets or exceeds the requirements of the already approved CLUP. CIRI will have direct oversight of the operator to ensure their interests as landowners are met. Scarcella is contractually obligated to comply with borough code at all times. The revised extraction area is 30 feet higher vertically from the water table and is further away from the Kenai River and residential neighborhoods as well as being closer to the Sterling Hwy. CIRI has met all the requirements of borough code and state statute in regards to this permit modification.

Bill Elam, KPB Assemblyman: Mr. Elam stated appreciates all the efforts CIRI has put in to meet all the requirements of code with this CLUP modification application. He noted over the last several weeks he has been contacted by a number of the folks that live in the area of this gravel pit and they have expressed concerns about this application. Some have concerns about surface water issues as well as potential issues for their well water. They have also expressed concerns about the increase in traffic and dust in their neighborhoods. He told them that he would reach out to the commission to request a delay in this process to allow the residents time to get their water tested to create some benchmarks. This information would be important if there were to be any water issues in the future. This seems to be a reasonable request to him.

Marc Walch: 32280 Moonshine Drive, Soldotna, AK 99669: Mr. Walch stated he owns property across the river from this material site. Moonshine Drive is directly across the river from Bings Landing. He noted he is a professional environmental engineer. One page 335 of the meeting packet under the heading of *Surface Water Protection Measures* he noted it states that *no measure were indicated on the site plan*. He expressed concerns that a 60+ acre gravel mine within the drainage basin of the Kenai River would have significant impact. He reviewed the topo map provided in the report and it was not sufficient for him to determine the true slope and elevations of the area. As a resident, he is as concerned about gravel pits as the applicant made it sound like they are environmentally conscience and prepared. Putting a gravel pit in this area sets a dangerous precedent and he and his neighbors are opposed to it.

Mark Hughes: 11094 Bluff Creek Circle, Anchorage, AK 99515: Mr. Hughes and his wife just recently built their retirement home in the Bings Landing Subdivision. They have owned their lot there since 1993. He wanted to know if most of the gravel that will be mined would be go to the Cooper Landing Bypass project. If so he noted there is a gravel pit, about four miles east from Cooper Landing near the power substation where Scarcella Construction is currently staged. It appears to him there is still plenty of gravel in that area that could be used. The area is not heavily populated and it does not border the Kenai River. Why truck gravel over 30 miles? If this pit is not acceptable, why can't a pit be put in along the bypass area instead? If the gravel from the CIRI pit is not only going to be used for the bypass project, what other large-scale project are planned? What has been approved already in 2017 was a late night deal because nobody in Bings Landing Subdivision knew it was approved until this new application was received. It feels to him that somebody is trying to do this thing without tell everyone and that is not right. This pit does not make environmental sense; there is a lot of gravel in other places. This shows no respect to the surrounding community and to those that want to enjoy the river. Who wants to see a gravel pit while they are floating the river? This gravel pit should have never been approved and he would ask that the commission not approve this modification and repeal the approval that was granted by in 2017.

Gretchen Cuddy: 2439 Karluc Street, Anchorage, AK 99508: Ms. Cuddy stated she owns property on Furrier Ave., which is near this gravel pit. Her father built the cabin on this property in 1983. She would question the statement made by the applicant that the water table in the area is 30 feet higher. She stated on her property, they have issues with their well; it is almost like an artesian well. She has concerns how this gravel pit will affect their well. She agrees with what others have testified to about not knowing that this pit was approved in 2017. She only learned about this pit when she received notice about this current application. She is not in favor of this application. Commissioner Fikes asked Ms. Cuddy when was the last time she had her well water tested. She asked if she had observed any changes in her well since the material site was approved in 2017. Ms. Cuddy replied her well is not running at this time. Commissioner Fikes then asked if this was a seasonal property, or did they live on it year round. Ms. Cuddy replied that it was a season property but that they did visit it throughout the year.

Eric Rosenberg: 32350 Moonshine Drive, Soldotna, AK 99669: Mr. Rosenberg runs a business on his property called Kings of the Kenai Fishing Cabins. When this was approved back in 2017, area one of the material site had a buffer zone of .7 acres that directly butts the river. He is concerned because there has not been a hydrology report. There are environmental concerns, noise issues and the lack of visual buffers. His property sits high on a bluff and he is concerned he will be able to look directly down into this proposed pit. When he asked Mr. Taylor about this issue, he could not tell him if folks on Moonshine were going to experience any visual disturbances. He reached out to CIRI with some of his concerns and questions and was not pleased with the answers he received. He believes the planning that has gone into this project is lacking. There has been a lack of noticing to and input from area residents. It would have helpful if they had done this before presenting their application for modification. He recognizes that regulations here in Alaska are not as stringent as in other places in the US, but he would ask that the commission deny this application for modification.

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Bentz to adopt PC Resolution 2021-26 granting a modification to a conditional land use permit issued to Cook Inlet Region, Inc.

Commissioner Fikes stated she would support a motion to postpone allowing further testimony from folks living along Furrier Avenue. She would like to know whether or not they have experienced any impacts from the material site since it was approved in 2017. They have heard from several folks who live on Moonshine but she would like to hear from others in the area.

Commissioner Brantley stated he would also support postpone action on this item. He had received several phone calls from people in the Sterling area who did not receive notice on this and thought they should have. There were also folks who were not able to join the Zoom meeting this week because of technology issues or were out of town.

Commissioner Ruffner noted the closest section of this material site to residential housing and the river is area one. He was curious if there has been any activity in that area to date. CIRI Representative Ms. Jacuk stated they have concluded the gravel sources in that area is not structurally competent gravel for the current phase of the Sterling Highway Reconstruction project. That is why they submitted the modification application. Since the permit has been approved in 2017, there have been no operations on this land whatsoever. Commissioner Ruffner then asked if CIRI had considered relinquishing those undeveloped areas where the gravel was not up to competency. Ms. Jacuk stated they had considered that but have not come to a conclusion yet. Commissioner Ruffner noted area one is the closest area to residential housing and the river, which are the two main concerns expressed by the testifiers tonight. He would encourage CIRI to consider relinquishing that area.

Commissioner Ecklund said she thought area one, which Commissioner Ruffner referred to, was one of the new sites being proposed for development. Ms. Jacuk replied the application before them tonight is adding a regarding third area, it is the third area that they are proposing to develop. Commissioner Ecklund then stated the CLUP approved in 2017 states that five acres a year would be reclaimed and she asked if that had been done. Ms. Jacuk replied there has been no operations on areas one or two, so no reclamation has been required. Commissioner Ecklund then asked staff whose responsibility is it to mail out notices. Mr. Taylor replied code requires notice to be sent to property owners within a ½-mile radius of the site. Two hundred and fifty-five notices were mailed out to area property owners. The addresses used are the ones the borough has on file for tax notices and to date only two notices had been returned. Commissioner Ecklund then stated she would be in support of postponing action on this item, to at least allow residents time to get their wells tested. She too has concerns about how close this material site is to the river.

Commissioner Fikes asked that since no activity has taken place on this material site, she wondered if there was any bonding required on the first permit. Mr. Taylor replied since there has been no operations conducted on the site no bond required has been required. He then noted if there is an approved permit and operations began, it would disqualify them from the State exemption and bonding would be required.

Commissioner Brantley stated if the applicant relinquished area one he believes it would go a long way with public. He would encourage them to consider that option.

Commissioner Ruffner agreed with Commissioner Brantley and he would encourage the applicant to consider relinquishing area one.

AMENDMENT: Commissioner Ruffner moved, seconded by Commissioner Brantley to postpone this item until it is brought back by staff.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Gillham				

**PLANNING COMMISSION
MEETING MINUTES
AUGUST 9, 2021**

Kenai Peninsula Borough Planning Commission

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

August 9, 2021

7:30 P.M.

APPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

Syverine Bentz, Anchor Point/ Ninilchik
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Diane Fikes, City of Kenai
Pamela Gillham, Ridgeway
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer

With 8 members of an 11-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director
Huff, Platting Manager
Marcus Mueller, Land Management Officer
Samantha Lopez, River Center Manager
Bryan Taylor, Planner
Ann Shirnberg, Administrative Assistant
Avery Harrison, Administrative Assistant
Julie Hindman, Platting Specialist

AGENDA ITEM B. ROLL CALL

1. Oath of Office

Ms. Shirnberg informed the commission the Commissioner Martin and Brantley were reappointed by the Mayor to serve another 3-year term on the commission. She then invited both commissioners to recite the oath of office for the Planning Commission.

2. Election of Officers

Commissioner Fikes nominated, seconded by Commissioner Ecklund, Commissioner Martin for the position of Chairman. Seeing and hearing no objections, discussion or other nominations, Commissioner Martin was appointed Chairman.

Commissioner Venuti nominated, Commissioner Ecklund for Vice Chair. Commissioner Ecklund then declined the nomination.

Commissioner Ecklund nominated, seconded by Commissioner Fikes, Commissioner Ruffner for the position of Vice Chairman. See and hearing no objections, discussion or other nominations, Commissioner Ruffner was appointed Vice Chairman.

Commissioner Ecklund nominated, seconded by Commissioner Fikes, Commissioner Bentz for the position of parliamentarian. Seeing and hearing no objections, discussion or other nominations, Commissioner was

AGENDA ITEM E. NEW BUSINESS

5. Ordinance 2021-31: An ordinance authorizing an amendment to a master land lease development agreement with the Alaska Department of Transportation & Public Facilities in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing to include a staging area at Tract C Quartz Creek Subdivision and appraisal provisions.

Staff report given by Marcus Mueller.

Alaska Department of Transportation and Public Facilities (DOT&PF) is actively working on the Sterling Highway MP 45-60 Construction Project which follows the Juneau Creek Alternative near Cooper Landing.

KPB Land Management has been working with the project team as it seeks to implement this major project. DOT&PF has entered into a Master Lease that includes three project staging and disposal sites on borough owned or managed land. A fourth site related to the project had been proposed to be leased by a DOT&PF contractor. However, DOT&PF now requests that the lease of this fourth site, located at Tract C Quartz Creek Subdivision, be included in DOT&PF's Master Lease.

In discussions, DOT&PF has indicated that it would like to have the ability to go through an appraisal process on Tract C as well as the other sites. An appraisal process would conform to DOT standards and would protect KPB's interests in receiving a fair market rent for the surface use of the KPB land.

This ordinance would authorize an amendment to DOT's Master Lease to include Tract C Quartz Creek Subdivision and to provide for rental rates to be adjusted to the appraised fair market rental value once DOT completes such appraisals.

Mr. Mueller noted that the Cooper Landing APC chose not to review this item as they believed that this amendment was administrative in nature and declined to meet.

END OF STAFF REPORT

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

MOTION: Commissioner Morgan moved, seconded by Commissioner Ecklund to forward to the assembly a recommendation to approve Ordinance 2021-31.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	8	No	0	Absent	2
Yes	Bentz, Brantley, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
Absent	Chesser, Ruffner				

AGENDA ITEM D. OLD BUSINESS

1. Conditional Land Use Permit Modification
Applicant/Landowner: Cook Inlet Region Inc. (CIRI)
Parcel ID# 06508118
Location: Sterling Area

Staff report given by Bryan Taylor.

Mr. Taylor stated there had been no changes to the staff report as presented at the July 12, 2021 Planning Commission meeting. He then gave a brief overview of the modification request before them. He noted at the last meeting the commission began deliberations on the application and then voted to postpone the item until brought back by staff. Because the application had already been determined sufficient by staff, it was placed on the next available meeting, which was tonight. CIRI did volunteer to include an additional condition limiting to disturbing only 20 acres during the first two years of the permit and that the open area

would be reclaimed upon completion of excavation activities. He stated staff finds that the modification application and the proposed site and reclamation plans meets the standards of KPB 21.29.40 and recommends approval of the application. He then noted the commission might wish to amend the motion on the floor to include the voluntary condition put forth by CIRI. Mr. Taylor then informed the commission that due to the postponement of this application CIRI had applied for and had been granted a counter permit to remove gravel within the same location. This was done so that they could commence work on the site this season. He noted that no further comments had been received on this application.

END OF STAFF REPORT

Chair Martin noted that public comment was closed on this item at the July 12, 2021 meeting. He stated that he would entertain a motion to reopen public comment if the commission so desired.

MOTION: Commissioner Brantley moved, seconded by Commission Ecklund to reopen public testimony for item D1.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	8	No	0	Absent	2
Yes	Bentz, Brantley, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
Absent	Chesser, Ruffner				

Chair Martin opened the meeting for public comment.

Andrea Jacuk, Land Manager; Cook Inlet Region Inc., POB 93330, Anchorage, AK 99509-3330: Ms. Jacuk represents the applicant, CIRI. Before she shared comments from CIRI, she wanted to make a personal comment. She and her family have a long history with the Kenai River. She noted that this river and the land surrounding it is very important to her family. As is the safety of her family and all Alaskans who find themselves navigating the Sterling Hwy. She would not be here today advocating for this project if she did not believe that it was in the best for her family, tribe and all Alaskans. There are three main points that she would like to address on behalf of CIRI.

Point One: She understands the neighbors have concerns about this gravel pit and the water table. CIRI has met with area residents, heard their concerns and address them with the original permit application back in 2017 and again more recently in 2021. They have implemented additional migration efforts. CIRI had five experienced operators dig over 50 test pits on this new area. All the pits were dug to a maximum of 20' below ground, showed a uniform overburden and not once did they encounter the water table.

Point Two: The currently permitted area has been proven to comply with all borough and state regulations and has been approved for development. The additional area they are seeking to add is at least 50' higher vertically above the water table than the currently permitted areas. The new area is farther away from residential areas and is farther away from the river. She believes that this modification provides a win/win situation for area residents by addressing the concerns related to the already approved permit and for CIRI's right to develop their privately owned lands for a public works project.

Point Three: This gravel pit improves access to resources. This gravel pit will have a shorter distance for the bypass project vs. other resources in the Kenai & Soldotna areas. It will reduce congestion and hazards along the Sterling Hwy. ultimately increasing the life of the highway and other borough maintained roads in the area. It will also lower costs for this project. The main purpose CIRI had for modifying this permit is to provide low cost sand and gravel resources for the Sterling Hwy. Reconstruction Project. This will ultimately reduce the amount of public funds used on the project.

Nicki Pereira; 37195 Steelhead Circle, Sterling AK, 99672: Ms. Pereira stated that she finds this whole process very frustrating. These gravel pit issues continue to be a problem for residential areas not just here in the borough but around our state. She understands that Alaskans hate zoning however, we are getting to a point where she believes zoning will be necessary. As an example, she noted that the Bings Landing Subdivision created a R1 zone as the marijuana industry started to move in. They are now very

glad they did. There is now a big grow operation going in on the other side near Feuding Lane and the residents in the area are jumping up and down trying to figure out how to fix it. They only thing that she can tell them is that they are too late to do anything about it. When is this issue with gravel pit going to be fixed? She then stated that with all due respect, Ms. Jacuk, does not live next door to this pit, they do. She stated that they did not know about the 50 test holes being drilled, no one told them that. They had a very hard time getting folks to get back to them. She does not believe anyone tells the area residents what is going on before, during or after these pits go in. At the last meeting, there were numerous questions brought forward and all they heard was that it was postponed until brought back by staff. Staff brought it back tonight but what else did staff do? Their questions still have not been answered. She noted there were other gravel pits closer to this project, why does the project need to use this specific pit. She then wondered was it the weigh station they wanted to avoid, which is what CIRI told them in a meeting four years ago. It is clear that the current ordinance does not work. It has not worked for years except for the material site operators. It does not work for the area residents. The commission has heard the concerns from residents about gravel pits for years and years and yet nothing is done. It is time for this to change. The commission has to look at getting this fixed. She understands that several years ago, an attempt was made to update this section of code and it was the Assembly who held it up. Area residents are mad and something has to change. She is aware of a case on this subject in the superior courts right now and she hopes something good comes out of it. She hopes something happens to help residential areas that are facing these gravel pit issues. She ended by saying she would like to see some answers to the questions that were raised at the last meeting.

Commissioner Brantley ask Ms. Pereira in her opinion what would be an acceptable distances from a house to a gravel pit. Ms. Pereira replied she felt that was a bit of a loaded question, it would depend on what kind of activities were going on in the pit. In her opinion, it should be miles. She then stated that where she lives on the river they are in a canyon. Sound just bounces back and forth. She really cannot answer that question because she would need to understand the topography of the area.

Mark Hughes: 11094 Bluff Creek Circle, Anchorage, AK 99515: Mr. Hughes owns property in this area. He noted at the last meeting he testified to all the reasons why he feels that this pit is not appropriate for this area. He used to work in the gravel industry before he retired. Since the last meeting, he noticed that Granit had been working in Mystery Creek area. He also had the opportunity to talk with some others in the gravel business and he believe there is plenty of good gravel in the Mystery Creek area. This would be a better option for this project than CIRI pit. Last week he drove the distance from the proposed entrance of the CIRI pit to the project area and it was 24 miles one way, 48 miles for a round trip. 48 miles is not a short gravel haul. He then noted it was 17 miles round trip to haul gravel from the Mystery Creek area. He noted that the CIRI representative stated this pit was a win/win for the people and for CIRI. He does not agree, he believe it is a win for CIRI and a lose for the area residents and the river. There has to be a better solution here. There must be gravel in the bypass area, like at Mystery Creek, which could be used instead of opening this new pit. There has to be another area for this pit that does not have a community right beside it and a river running along it.

Eric Rosenberg; 32350 Moonshine Drive, Soldotna, AK 99669: Mr. Rosenberg stated he had a photo that he wished to share with the commission and asked if it could be put up on the screen. He said the photo would be helpful in showing some of the concerns, such as auditory issues, related to this project. Chair Martin said it would not be possible to put the image up on the screen. Mr. Rosenberg then stated there were numerous questions brought up at the last meeting that have not been addressed. The commission is allowing this permit to go forward without answering the concerns of the folks who actually live in the area. Ms. Jacuk states that CIRI is concerned about the river, well the Naptown rapids are in that area. We heard from a geologist at the last meeting and he stated he had concerns if there is a failure at the pit what happens to the mixture? That particular section is in a very busy part of the river and all that runoff and could mix in. No one has come over to the Soldotna side of the river to study the potential auditory issues for the residents there. He noted he could hear his neighbors on the Sterling side of the river talking. These are issues that borough codes states should be addressed. There will be a visual disturbance. No one from CIRI thought it was important to check and see what the pit will look like, looking down into the pit from 304'. He stated that he is a lawyer and has experience with land use issues. He believes CIRI has not done their due diligence by coming and meeting with the residents to listen to their concerns. He believes this modification should be denied because CIRI has not done anything other than to come in and tell us how wonderful the project is and how it will help Alaskans. There are Alaskans here, today, before the commission, that are neighbors to this project, and CIRI has done nothing for us other than tell us how

great this project is. He does not believe this pit is great.

Commissioner Venuti noted Mr. Rosenberg stated he was an attorney and asked if he was representing anyone associated with this pit. Mr. Rosenberg replied he was representing himself and he has just as much standing in this case as CIRI. He then noted at the last meeting Commissioner Brantley put a question to CIRI regarding area one, which is the area closet to the river, of this permit. CIRI stated the gravel in area one was not good gravel. Commissioner Brantley suggested that they might relinquish that area in favor of this new one as a show of good will to the area residents. CIRI never responded to that suggestion. He would ask that this process be slowed down and that they take a measured approach, rather than just approving this permit tonight. Make CIRI work for this, make them do their job. Make CIRI have to approach the area residents that live there and make them do the right thing.

Commissioner Brantley want to make sure the area residents understood that areas one and two on the map have already been approved and have a permit. Those two areas can be mined. Mr. Rosenberg replied he understood that. Commissioner Brantley asked Mr. Rosenberg if the gravel produced in areas one and two was just so-so, but better gravel was found in an area that was closer to the highway, further away from residential areas and the river, would he not want to encourage development in that area? Would mining in that area be a better trade-off opposed to mining closer to the river? Mr. Rosenberg replied yes. He stated he understands that CIRI has not mined in the areas currently permitted. However, he also noted that his adjunctive relief would not come into play until they do so.

Cindy Hamlin: 11094 Bluff Creek Circle, Anchorage, AK 99515: Ms. Hamlin also noted none of the questions raised at the last meeting have been answered. They expressed their concerns about their well water, specifically for the Cuddy family on Furrier Ave. This was supposed to be postponed until the Cuddy's had time to do some base line testing on their well. She has not heard that addressed tonight. They had questions about road hazards and dust and noise problems, which have not been addressed. Questions about threats to the wildlife and fisheries have not be addressed. CIRI has done nothing to answer these questions.

Rick Schiefelbein; 37105 Steelhead Circle, Sterling, AK 99672: Mr. Schiefelbein stated he agrees with everything that has been said so far. He is very familiar with the process of water testing. He knows the company that has be hired to do the water testing on the Sterling Hwy. project. They are required to test the water before and after the completion of project. He asked if any water testing had been done by CIRI on this material site. If they have not, why not? They are going to be tearing up that place. He has not seen an environmental impact study or any type of water study done on this project. He noted the water for many of the residents in Bing's Landing comes down the hill from the CIRI property. They have no idea if this pit will affect their water and no studies have been done on this. The length the material will have to be trucked from this pit to the Cooper Landing project is ridiculous. We have a brand new highway in the area and they will be rolling these trucks down and tearing it up. There are other gravel sources closer to the Cooper Landing project that could be used. He believes it is time for the commission to shut down this pit. The commissioners heard the concerns from the residents in 2017 and now 2021; none of the issues have been addressed. He would ask the commission to stop this project until those concerns are addressed. CIRI has stated this pit is good for Alaska, well Bing's Landing is in Alaska and it is not good for us. This pit is not good for the folks across the River in Soldotna. Are they going to be crushing rocks in this pit? Are they going to be any limits back-up buzzers? This is all noisy stuff and is very disturbing to area residents.

Commissioner Brantley noted that what is before them tonight is a modification to an already existing permit. He then went onto say the area where this new pit is proposed is further way from Mr. Schiefelbein's home on Steelhead and the area that is already permitted is much closer to his home. He wanted to make sure that Mr. Schiefelbein understood that if the modification was denied, CIRI is still has a permit for the areas that are closer to his home. Mr. Schiefelbien stated he understood that. He then noted if the commission approves the modification there will still be significant wear and tear on the new part of the Sterling Hwy.

Commissioner Fikes asked Mr. Schiefelbein the location to the entry of his property. He replied he comes off Bings Landing Rd on to Samsel Rd. to connect with Steelhead Circle.

Charles Clasby; 32167 W. Hills Court, Sterling AK, 99672: Mr. Clasby stated that he agreed with all the testimony from his neighbors. Gravel pits are never something that folks want to see in their backyard. He

noted Commissioner Brantley stated areas one and two have already been approved. If the commission has approved them, can they not be unapproved? CIRI made their comment that this pit being a win/win. He would agree with Mark that it is not a win/win situation. This is a money maker for CIRI and does nothing financially for the area residents. He noted that KTUU TV recently had a story about a gravel pit in the Wasilla area that had been disapproved because of the potential impact on area residents. One property owner in the area had been trying to sell their property and had an offer to purchase withdrawn because the proposed pit. Commissioner Brantley made it sound like CIRI's permit cannot be undone; he does not believe that is true. He thinks the commission can deny the permits. He would ask the commission if they would want this pit in their backyard. CIRI stated they had dug 20' test holes and never hit water. His well is 70' deep and the Hamlin has had to go even deeper to find usable water. All of this water is flowing toward the Kenai River. He is concerned about how this pit will affect his property value in the future. He is concerned about the noise this pit will create. This pit will leave a scar on the ground, which will be seen by tourists that flight sightsee around the Kenai River. The map that was in the meeting packet shows how close this pit will be to residential areas. He asks the commission not to approve this modification.

Barry Perry Hershberger: 37060 Steelhead Circle, Sterling AK, 99672: Mr. Hershberger stated he has not really been involved in this process as he and his wife just purchased their property last fall. They had no idea there were these type of issues going on. Had they known they might not have purchased the property. Given that this a residential area he would think their property values and water issues would be protected. They love their property and the neighborhood. If expanding the pit turns out to be a bad thing for the neighborhood by affecting property values and the water table, who will want to purchase these properties in the future. Who would want to live next to an open gravel pit? He agrees with everything that has been said by his neighbors and would ask that the commission not approve the modification.

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

MOTION ON THE FLOOR: Commissioner Ruffner moved, seconded by Commissioner Bentz to adopt PC Resolution 2021-26 granting a modification to a conditional land use permit issued to Cook Inlet Region, Inc.

Commissioner Ecklund said she believed one of the reason they choose to postpone this item was the short time timeline for the residents to have their wells assessed. She wondered if any of the residents that testified at the last meeting had their wells tested. She recognizes that this cost is bore by the area residents but it is important to have this baseline information should anything happen down the road. This information could be used to prove that damage had been done to their wells. She wanted the residents to know that several years ago they did a lot of work on rewriting this section of code. Code and ordinances are approved by the Assembly and not the Planning Commission. The Assembly did not pass the ordinance that would have allow the Planning Commission to deny a permit if they did not meet the new requirements. Current code makes it hard to prove things such as visual and noise impacts. Current code makes it difficult to address concerns with health and road safety issues. She agrees with much of what has been stated tonight. This new pit has the potential to damage the highway. Forty-eight miles is a long round trip to move gravel. She too believes there are closer sources of gravel for the bypass project. She noted code does not require environmental impact studies (EIS). The borough is not going to pay for an EIS to be done nor will they pay to have area residents wells tested. She wants the testifiers to know she has heard them and she would encourage them to talk to the Assemblyperson so they hear you as well.

Commissioner Brantley stated there is nothing the commission can do about the two areas that have already been approved. He noted the approved areas are much closer to residential areas and to the river. The new area is further away. Just because CIRI states that the materials in area one & two are not quite what they wanted does not mean that it is not usable. It just might require more processing. What CIRI is trying to do is find a better quality of material closer to the highway. He wished CIRI had considered the suggestion from the last meeting to relinquish area one for the new proposed area, but they have not. hat The commission cannot force them to do that. He believes approving this modification might encourage CIRI not to develop areas one and two. He supports this modification because from what he can tell this new area is over ½ mile further away from residential areas and believes that it would be a better location to process materials.

Commissioner Ecklund looking at the meeting packet materials noted she does not see where we asked for any additional voluntary conditions, such as white noise backup beepers or limiting the hours, they could crush rock. She asked Mr. Taylor if there were any voluntary conditions like that which were offered by CIRI. Mr. Taylor replied the only voluntary condition that was offered by CIRI is the one listed in the memo before them tonight. Commissioner Ecklund then asked if the commission could impose additional conditions like using white noise back-up alarms and limiting the hours that rock crushing could occur. Mr. Taylor replied he believed the commission was limited to only imposing conditions that are in code. Commissioner Ecklund then asked if Mr. Taylor could outline what conditions are in code. Mr. Taylor replied KPB 21.29.50 lists the mandatory conditions. He then asked if there were something specific, she would like him to check. Commissioner Ecklund replied that in the past they have requested operators take off equipment beepers and use white noise alarms on their equipment. Mr. Taylor stated those are voluntary conditions and are not required by code. KPB 21.29.040 states the standards for sand and gravel material sites. These standards must be met when applying conditions. He noted that the second sentence in 21.29.40 state "Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards..." He then noted there are conditions in 21.29.050 that can be taken inclusively, such as buffers. For instance code states that a 50' buffer of natural vegetation or a six' earthen berm or a 6' fence are required. In some cases, these conditions have been stacked together as a condition. Commissioner Ecklund then noted when this permit came before them in 2017 they looked at this section of code very closely and determined that CIRI had meet all of those conditions. There are new technologies that have come along since this section of code was written, such as white noise backup alarms, that they addressed in a code rewrite, which was never passed the Assembly.

Commissioner Bentz noted the operation times are addressed in the permit conditions, which would limit the times that rock crushing could occur. Code states that rock-crushing equipment shall not be operated between the hours of 10PM and 6AM. Asking for anything more than that would be a voluntary condition by the applicant. She noted this permit is not proposing to excavate into the water table. The application states the 32 test holes were dug and they did not encounter the water table in any of them. Code does state that for water source separation, there must be a 2' vertical separation from the seasonal high water table. Water monitoring is not required unless the operator is applying to excavate into the water table. It would be at that point the operator would be required to install water-monitoring tubes to ensure that they understand ground water elevations, flow rates and direction for the excavation area. The operator would be required to monitor this for one year before they could submit an application. She just wanted to make sure that the testifiers were aware of this and the conditions that the planning commission has to work with.

AMENDMENT MOTION: Commissioner Bentz moved, seconded by Commissioner Brantley to amend the motion to add the voluntary condition outlined in the Planner's July 27, 2021 memo.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

Yes	5	No	3	Absent	2
Yes	Bentz, Brantley, Gillham, Martin, Morgan				
No	Ecklund, Fikes, Venuti				
Absent	Chesser, Ruffner				

Commission Bentz asked if the applicant would be willing to add another voluntary condition and require the use of white noise alarms on their equipment. Ms. Jacuk replied the use of white noise alarms is something they would be willing to discuss with their operator. She then noted that white noise alarms are not something required by MSHA but they would be willing to explore this suggestion. She then stated that she herself does not have the authority to make that decision but she is more than happy to discuss this with those that do.

Commissioner Ecklund stated she does not know any other way to get the point across to the Assembly that this section of code has to be fixed. The commission does not have to tools to address concerns with noise and road safety expressed by the public. Government is supposed to serve the people, not just those that would make money off building a new road. It is supposed to be for the good of the people as a whole. Yes, the Cooper Landing bypass project is going to be a big improvement for the people as a whole. In the meantime who is the commission listening to when we cannot place reasonable conditions on these permits. Something needs to be done to help mitigate some of the challenges the residents in the areas

around these material sites have to go through. She know the commission is required to uphold code but she just does not know how to get across to the Assembly that this needs to be fixed.

Chair Martin stated that he what Commissioner Ecklund is saying loud and clear. It is critical regardless of which way that one votes that we have sound findings that will pass muster in the courts.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY MAJORITY VOTE:

Yes	6	No	2	Absent	2
Yes	Bentz, Brantley, Gillham, Martin, Morgan, Venuti				
No	Ecklund, Fikes				
Absent	Chesser, Ruffner				

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Ecklund informed the commission the plat committee had 12 plats on the agenda, approved eleven and postpone one.

AGENDA ITEM G. OTHER

1. Plat Committee members for August/September 2021.
 - Cindy Ecklund (8/23 & 9/13)
 - Virginia Morgan (8/23)
 - Pamela Gillham (8/23)
 - Franco Venuti (8/23)

AGENDA ITEM H. PUBLIC PRESENTATION

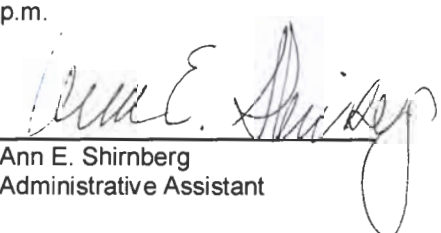
AGENDA ITEM I. DIRECTOR'S COMMENTS

Ms. Shirnberg spoke briefly to one of the points in the director's report. She ask the commission if they would support the idea of establishing a hard deadline for desk packet items. The reason for the deadline would be to ensure that the commission has plenty of time to review items before a meeting. Currently the desk packet is produced the day of the meeting and Planning would like to make the deadline the Friday before the meeting. This would allow the packet to be post on the Friday before the meeting, giving the PC the weekend to review the information. If the commission were supportive of this idea then we would move forward with drafting a resolution for their consideration.

AGENDA ITEM J. COMMISSIONER COMMENTS

All commissioners spoke in favor of setting a hard deadline for desk packet materials, requested Planning move forward, and draft the ordinance.

AGENDA ITEM M. ADJOURNMENT – Commissioner Ecklund moved to adjourn the meeting at 9:11 p.m.


Ann E. Shirnberg
Administrative Assistant

VERBATIM TRANSCRIPT / INDEX
JULY 12, 2021

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

Betty J. Glick Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna, Alaska 99669

July 12, 2021
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 28, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Syverine Bentz, Anchor Point/Ninilchik
Cindy Ecklund, City of Seward
Davin Chesser, Northwest Borough
Diane Fikes, City of Kenai
Jeremy Brantley, Sterling
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer
Robert Ruffner, Clam Gulch/Kasilof

Staff Present:

Melanie Aeschliman, Planning Director
Bryan Taylor, Planner
Ann Shirnberg, Administrative Assistant
Julie Hindman, Planning Specialist
Scott Huff, Planning Manager
Samantha Lopez, River Center Manager
Marcus Mueller, Land Management Officer

Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 0:00</p> <p>3 (This portion not requested)</p> <p>4 53:17</p> <p>5 CHAIRMAN MARTIN: ... and that would bring</p> <p>6 us to item E-9. Staff report, please.</p> <p>7 BRYAN TAYLOR: Thank you. Through the</p> <p>8 chair.</p> <p>9 We've received a modification application</p> <p>10 from Cook Inlet Region, Incorporated. And this is for</p> <p>11 an -- the existing permit is on a large tract of land,</p> <p>12 over 400 acres. Roughly Mile 79.5 of the Sterling</p> <p>13 Highway is where the modification is being applied for.</p> <p>14 So we received the application on June</p> <p>15 22nd. The applicant wishes to modify the existing</p> <p>16 conditional land use permit for material extraction on</p> <p>17 the above property, approved by the Planning Commission</p> <p>18 on March 27th, 2017. It was recently extended this</p> <p>19 past May for an additional five years.</p> <p>20 The modification is to expand the</p> <p>21 permitted extraction area by approximately 61 acres as</p> <p>22 shown on the site plan. The application states that</p> <p>23 the expanded area is to support an Alaska Department of</p> <p>24 Transportation improvement project for the Sterling</p> <p>25 Highway.</p>	<p style="text-align: right;">Page 4</p> <p>1 using a loader and dozer. Seeding would be applied</p> <p>2 each season to areas to achieve final grade.</p> <p>3 Depth of excavation is being proposed at</p> <p>4 20 feet, and this is the same as the original permit.</p> <p>5 Gravel mined -- the type of material would just be</p> <p>6 gravel from the proposed expansion area.</p> <p>7 And the site plan was originally prepared</p> <p>8 by McLane Consulting, and that was submitted again with</p> <p>9 some modifications, markups on it and annotations</p> <p>10 indicating where the proposed modifications are.</p> <p>11 The original plan was sufficient, had the</p> <p>12 preparer's name, date, and seal. The property has not</p> <p>13 been subdivided or changed ownership since the original</p> <p>14 plan in 2017. So this was considered sufficient.</p> <p>15 And specifics of the site plan, in</p> <p>16 addition to Tikahtnu, Kenai Keys, and Deniigi Way</p> <p>17 Roads, there is a section line easement shown on the</p> <p>18 southern property boundary.</p> <p>19 The proposed modification would add a</p> <p>20 26-foot wide ingress and egress from the excavation</p> <p>21 area directly onto the Sterling Highway to the north,</p> <p>22 and that would be all it proposed, ingress and egress,</p> <p>23 for the work on the Sterling Highway at this point.</p> <p>24 Test holes -- the original application</p> <p>25 had -- there were 32 test holes dug in the area, and</p>
<p style="text-align: right;">Page 3</p> <p>1 And you can find attachments to my staff</p> <p>2 report, you'll find a copy of the application as</p> <p>3 Attachment A. And they have got vicinity area</p> <p>4 topography -- aerial topography land use and ownership</p> <p>5 maps attached as B through F.</p> <p>6 If you're looking at -- if you're</p> <p>7 familiar with the Kenai Keys Road, that would form the</p> <p>8 eastern boundary of this new expanded area, and the</p> <p>9 Sterling Highway forms the northern boundary. So</p> <p>10 it's -- just south of the Sterling Highway is the</p> <p>11 proposed 61 acres. Deniigi Way to the south and</p> <p>12 Tikahtnu Road to the west also bound the modified</p> <p>13 expanded area.</p> <p>14 The life span of the original permit was</p> <p>15 15 years, and there has not been any proposed change</p> <p>16 there.</p> <p>17 For buffers, the original buffers had 50</p> <p>18 foot of natural vegetation. The expanded area here,</p> <p>19 they are also proposing 50 feet of natural vegetation,</p> <p>20 but they are also volunteering six-foot berms in</p> <p>21 addition to the 50 feet.</p> <p>22 Reclamation plan. There has been no</p> <p>23 proposed modification to the reclamation plan here.</p> <p>24 The original application indicated 5 to 25 acres would</p> <p>25 be reclaimed each year before the end of September</p>	<p style="text-align: right;">Page 5</p> <p>1 those can be seen on the site plan.</p> <p>2 Neighboring wells, there is the -- the</p> <p>3 site plan showed one well south of the property, but</p> <p>4 there are no wells within 300 feet of the proposed</p> <p>5 expansion area.</p> <p>6 No water bodies or wetlands are indicated</p> <p>7 on the site plan, and therefore there are no measures</p> <p>8 indicated for protection.</p> <p>9 Processing area, the originally permitted</p> <p>10 processing area, there was one of 4.8 acres just south</p> <p>11 of Deniigi Way, and there has been no modification</p> <p>12 proposed there.</p> <p>13 And the original permit, the property</p> <p>14 corners were located and flagging within 300 feet of</p> <p>15 the excavation areas was placed.</p> <p>16 There has been public notice that was</p> <p>17 mailed out on June 22nd to 255 land owners or</p> <p>18 leaseholders within half a mile of the subject parcel.</p> <p>19 And a copy of the public notice and the radius map that</p> <p>20 you can find as Attachment G in the staff report. And</p> <p>21 any public comments received have been provided in your</p> <p>22 desk packet at this point.</p> <p>23 And I have here -- we have findings of</p> <p>24 fact, procedural findings, parcel boundaries, buffer</p> <p>25 zone.</p>

<p style="text-align: right;">Page 6</p> <p>1 And there have not been changes except 2 for the expanded 61 acres. And then the addition of -- 3 or the buffers, the voluntary six-foot berms have been 4 added to those conditions. 5 And in reviewing the modification 6 application, we have determined that the requirements 7 for modification have been met, and the six standards 8 of KPB 21.29.40 will be met. 9 Staff recommends that the Planning 10 Commission approve the modification to the conditional 11 land use permit with the listed conditions and adopt 12 the findings of fact subject to the following: Filing 13 of the PC resolution in the appropriate recording 14 district after deadline to appeal the Planning 15 Commission's approval has expired, so 15 days from the 16 notice of decision unless there are no parties with 17 appeal rights; the planning department is responsible 18 for filing the Planning Commission resolution; the 19 applicant will provide the recording fee for the 20 resolution to the planning department; any driveway 21 permits must be acquired from either the state or 22 borough as necessary prior to the issuance of a 23 material site permit modification; and the conditions 24 of the modified permit will replace those of the 25 original permit.</p>	<p style="text-align: right;">Page 8</p> <p>1 That is less than 2 percent of all CIRI land holdings 2 within the Kenai Peninsula Borough. 3 The remaining 98 percent of the CIRI land 4 has been kept in a raw, undeveloped state for moose, 5 bear, and other wildlife habitat. This raw land is 6 also managed to allow permitted access to the public 7 and subsistence hunting opportunities for CIRI 8 shareholders and descendents. 9 I understand the community has 10 apprehensions about this gravel pit. CIRI has met with 11 community members, heard their concerns, and addressed 12 them in 2017 by implementing additional mitigation 13 efforts. Neither these concerns nor CIRI's mitigation 14 efforts have since changed. CIRI seeks a simple 15 modification to an already approved permit. 16 The sole purpose CIRI has for modifying 17 the existing permit is to provide low cost sand and 18 gravel resources for the Sterling Highway 19 reconstruction project. 20 As many of us know, this highway project 21 has been stalled for 40 years to improve environmental 22 conditions around the river and preserve the most 23 significant archeologic district in Southcentral 24 Alaska. 25 This material site before the commission</p>
<p style="text-align: right;">Page 7</p> <p>1 And that's the end of the staff report. 2 CHAIRMAN MARTIN: Thank you. At this 3 time I'll open the meeting to public comment starting 4 with the petitioner. 5 ANDREA JACUK: Hi, thank you. That is 6 Andrea Jacuk speaking on behalf of CIRI today. 7 First, I just wanted to thank you for the 8 opportunity to speak today about this application for 9 modification. 10 My name is Andrea Jacuk, CIRI's land 11 manager. I am also a tribal citizen of the Kenaitze 12 Indian Tribe and of the Dolchok family. My grandfather 13 grew up fishing the Kenai River, as did his father. 14 This river is especially important to me now, as it has 15 been to my family for many generations. 16 As you may know, CIRI owns 7 percent of 17 the bank space on the Kenai River, a cultural 18 cornerstone for our shareholders, and CIRI has been a 19 good steward of these privately owned lands for 20 decades. 21 CIRI is the largest private land owner on 22 the Kenai Peninsula, owning over 33,000 acres of 23 surface estate within the borough. Out of that 24 acreage, less than 600 acres have been developed for 25 resource and other commercial development purposes.</p>	<p style="text-align: right;">Page 9</p> <p>1 today is the best currently permitted source available 2 for the project. Its proximity to the project will 3 minimize impact to borough maintained roads, ultimately 4 increasing the life of these roads compared to other 5 sources located in Kenai or Soldotna. 6 This CLUP modification is simply that, to 7 move the excavation area as the prior areas under the 8 CLUP proved to have insufficient structurally competent 9 gravel resources. 10 This permit modification meets all 11 conditions of the KPB code. Scarcella is a respected 12 and experienced operator who has met not only all KPB 13 requirements, but all those additional requirements 14 within the CIRI lease agreement. Scarcella has 15 submitted its operations plan to CIRI, of which meets 16 or exceeds the requirements of the already approved 17 conditional land use permit. 18 CIRI has direct oversight of the operator 19 to ensure that our interests as a land owner are 20 protected, and Scarcella is contractually obligated to 21 be in compliance with borough code at all times. 22 Additionally, the revised extraction area 23 is 30 feet higher vertically from the water table, 24 further away from the Kenai River, further away from 25 residential neighborhoods, and closer to the Sterling</p>

<p style="text-align: right;">Page 10</p> <p>1 Highway.</p> <p>2 Borough Code 21.29.70 states that an</p> <p>3 application shall be processed pursuant to KPB Code</p> <p>4 21.29.30 through .50.</p> <p>5 CIRI has met all of its requirements</p> <p>6 outlined in the aforementioned sections and is</p> <p>7 compliant with both state and KPB code.</p> <p>8 The Sterling Highway realignment will</p> <p>9 bring long awaited safety improvements for residents</p> <p>10 and visitors to the Kenai Peninsula.</p> <p>11 In closing, I commend and thank the</p> <p>12 Planning Commission for taking the time to hear from us</p> <p>13 today and request the amendment be approved so that</p> <p>14 construction of the highway realignment may commence.</p> <p>15 Thank you.</p> <p>16 CHAIRMAN MARTIN: Thank you. Are there</p> <p>17 any questions from commissioners?</p> <p>18 ANN SHIRNBERG: I see no hands,</p> <p>19 Commissioner Martin.</p> <p>20 CHAIRMAN MARTIN: Thank you. Next</p> <p>21 testifier, please.</p> <p>22 ANN SHIRNBERG: I see that assemblyman</p> <p>23 Bill Elam has his hand raised.</p> <p>24 CHAIRMAN MARTIN: Mr. Elam, go ahead.</p> <p>25 BILL ELAM: Thank you, thank you. And I</p>	<p style="text-align: right;">Page 12</p> <p>1 BILL ELAM: Thank you.</p> <p>2 ANN SHIRNBERG: Seeing no hands,</p> <p>3 Commissioner Martin.</p> <p>4 CHAIRMAN MARTIN: Thank you. Next</p> <p>5 testifier, please.</p> <p>6 ANN SHIRNBERG: Mark Walch has his hand</p> <p>7 raised.</p> <p>8 CHAIRMAN MARTIN: Go ahead, Mr. Walch.</p> <p>9 MARC WALCH: Commissioner Martin and</p> <p>10 commissioners, I'm a resident, I'm a homeowner across</p> <p>11 the river on Moonshine Drive. If you look on your map</p> <p>12 in your packet on page 351, Moonshine Drive is directly</p> <p>13 across from Bing Landing.</p> <p>14 We are a community of about nine</p> <p>15 homeowners that are on the bluff that overlook Bings</p> <p>16 Landing and this property.</p> <p>17 So I'm also, just for the record, a</p> <p>18 registered professional environmental engineer, and I</p> <p>19 have a question to staff. Because in looking at the</p> <p>20 report, there is an item on page 335 under the category</p> <p>21 "surface water protection measures," the comment is,</p> <p>22 "No measures were indicated on the site plan."</p> <p>23 So as an environmental engineer, I'm</p> <p>24 concerned that a 60-plus acre gravel mine within the</p> <p>25 drainage basin of the Kenai River is going to have a</p>
<p style="text-align: right;">Page 11</p> <p>1 just was going to make a few comments.</p> <p>2 I do appreciate all the effort that CIRI</p> <p>3 has done to be within the code and all of the</p> <p>4 permitting requirements.</p> <p>5 I have received over the few couple of</p> <p>6 weeks now quite a few calls from folks that live in the</p> <p>7 area of the gravel pit with some concerns, and some of</p> <p>8 them have concerns over their surface water, their</p> <p>9 wells, traffic, noise, dust, you know, all the various</p> <p>10 things that typically come with the gravel pits.</p> <p>11 So I told them that I would reach out.</p> <p>12 It didn't seem unreasonable. They were requesting to</p> <p>13 have the process delayed just a little bit so that they</p> <p>14 could get their waters tested and have some benchmarks</p> <p>15 to go on in case there were any kind of problems in the</p> <p>16 future.</p> <p>17 And I'm sure you guys have already</p> <p>18 received some of the e-mails and the phone calls, but I</p> <p>19 thought I would come in and comment and just ask if you</p> <p>20 guys would be interested in possibly delaying it.</p> <p>21 They were, again, looking to just get</p> <p>22 some tests done locally there for their sites, and it</p> <p>23 seemed reasonable to me.</p> <p>24 CHAIRMAN MARTIN: Thank you. Any</p> <p>25 questions, commissioner questions?</p>	<p style="text-align: right;">Page 13</p> <p>1 significant impact.</p> <p>2 The topo map that was provided in the</p> <p>3 packet wasn't sufficient for me to determine the actual</p> <p>4 topo and slope and elevations. But as an engineer, as</p> <p>5 a resident, I'm concerned about gravel pits. As much</p> <p>6 as the applicant made it sound they were</p> <p>7 environmentally conscious and prepared, as a homeowner</p> <p>8 and as a resident, I think this is a dangerous</p> <p>9 precedent and we object to it.</p> <p>10 CHAIRMAN MARTIN: Thank you for your</p> <p>11 testimony.</p> <p>12 ANN SHIRNBERG: Mr. Walch, could I please</p> <p>13 get your address.</p> <p>14 MARC WALCH: Yes. We have two</p> <p>15 properties, 32280 Moonshine Drive, and 32260 Moonshine</p> <p>16 Drive in Soldotna.</p> <p>17 CHAIRMAN MARTIN: Thank you. Anyone else</p> <p>18 in the public wishing to testify?</p> <p>19 ANN SHIRNBERG: Cindy Hamlin has her hand</p> <p>20 raised.</p> <p>21 CHAIRMAN MARTIN: Go ahead, Ms. Hamlin.</p> <p>22 MARK HUGHES: Yes, this is Mark Hughes</p> <p>23 and Cindy Hamlin. Currently reside at 11094 Bluff</p> <p>24 Creek Circle, Anchorage, Alaska.</p> <p>25 Cindy and I just recently built our</p>

<p style="text-align: right;">Page 14</p> <p>1 future retirement home in Bings Landing Subdivision at 2 32177 West Hills Court. We have enjoyed that lot since 3 1993. It was previously owned by our good friends the 4 Barns. 5 We aren't new to the local community and 6 how very special the location is. I wrote this out in 7 questions, I'm kind of new to this. 8 But is most of the gravel that is planned 9 to be mined going to the Cooper Landing projects? And 10 if so, there is a pit about four miles east of Cooper 11 Landing near the power substation that Scarcella has 12 trucks staged -- currently staged at. It appears that 13 there is plenty of gravel still available. I was just 14 there this weekend. There is no population issues, and 15 it's not bordering the famous Kenai River, the river 16 that can never be replaced. 17 Why truck the gravel for over 30 miles? 18 If this pit is not acceptable, why can't a pit go in 19 along the bypass at Cooper Landing? If the gravel 20 isn't planned for there, what large projects are 21 planned for the use of approximately 400-plus acres of 22 gravel that no one knows about? 23 What has been approved already in 2017 24 was a late night deal somehow, because nobody in our 25 Bings Landing subdivision knew it was approved until</p>	<p style="text-align: right;">Page 16</p> <p>1 According to your map, our property would 2 be at the southwest corner of this gravel pit. It's 3 the first one on Furrier Road right past the gate. 4 My father built it in '83. And I would 5 question the statement by Andrea about the water table 6 being at 30 feet. 7 We do have a problem with water. It's 8 almost an artesian well that comes up behind our cabin, 9 or house, whatever you want to say it is. So I would 10 question what that would do to bringing up the water 11 table with a gravel pit directly behind our place. 12 I agree with both the two Marks with 13 their comments about not knowing anything about the 14 2017 development. And we were only advised when this 15 new 61 acres were added. That's about all I have to 16 say. We are not in favor of this. 17 CHAIRMAN MARTIN: Thank you for your 18 testimony. Is there anyone else out there? 19 UNIDENTIFIED SPEAKER: Chair Martin, Ms. 20 Fikes have a question. 21 CHAIRMAN MARTIN: Ms. Fikes, go ahead. 22 COMMISSIONER FIKES: Yes, through the 23 chair to the applicant that just testified, Ms. Cuddy. 24 How recently have you had your wells 25 tested? If you were in the area in '83 and then this</p>
<p style="text-align: right;">Page 15</p> <p>1 the 60-acre addition was there. So somebody has just 2 swept this under the rug without telling anybody, and 3 that's not right. 4 This makes no environmental sense. There 5 is a lot of gravel. It shows no respect for the 6 surrounding community and all the people that come to 7 Alaska and live nearby in Soldotna and surrounding 8 areas that enjoy the river. Who wants to go by a 9 gravel pit when they are floating a pristine river? 10 And it borders -- it goes all the way 11 down to a row of houses there at Furrier. So however 12 the first 340 acres got approved, that was entirely 13 wrong. 14 Please don't let this happen, and repeal 15 the 2017 March passage of the original gravel pit. 16 It's not right, what you're doing is not right. Thank 17 you very much. 18 CHAIRMAN MARTIN: Thank you. Next 19 testifier, please. 20 ANN SHIRNBERG: Gretchen has her hand 21 raised. 22 CHAIRMAN MARTIN: Go ahead testifier, 23 state your name and address for the record. 24 GRETCHEN CUDDY: My name is Gretchen 25 Cuddy. My address is 2439 Karluk, Anchorage, Alaska.</p>	<p style="text-align: right;">Page 17</p> <p>1 also was recently approved in 2017, from '17 until now, 2 have you observed any changes in your well? 3 GRETCHEN CUDDY: Not that I could 4 substantiate anything. But I do have to say at this 5 point our well is not running. So I have no data to 6 give you at this point. 7 COMMISSIONER FIKES: And is that property 8 that you're speaking of, is that a seasonal property or 9 is that a full-time, year-round property? 10 GRETCHEN CUDDY: It is seasonal, but we 11 do use it year round. But nobody lives there year 12 round. 13 COMMISSIONER FIKES: Okay, super, thank 14 you. 15 GRETCHEN CUDDY: You're welcome. 16 CHAIRMAN MARTIN: Anyone else in the 17 public wishing to testify? 18 ANN SHIRNBERG: If you're on the phone, 19 star 9 will raise your hand. I see no hands, 20 Commissioner Martin. 21 UNIDENTIFIED SPEAKER: Ann, I do see Mr. 22 Rosenberg has his hand raised. 23 CHAIRMAN MARTIN: Mr. Rosenberg, state 24 your name and address for the record. 25 ERIC ROSENBERG: Commissioner Martin --</p>

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1 Chairman Martin, my name is Eric Rosenberg. I live at
2 32350 Moonshine Drive in Soldotna.
3 **CHAIRMAN MARTIN:** Thank you, go ahead.
4 **ERIC ROSENBERG:** Chairman, I run a
5 business called Kings Of the Kenai Fishing Cabins. As
6 you know, I have e-mailed you. I lost Internet
7 somehow, and I apologize, but I've got several
8 concerns.
9 One of my concerns that, as I've listened
10 to the testimony today, is when this was approved in
11 2017, and we have Area 1 -- if you look at the map --
12 Area 1 has a buffer zone of .7 acreage, 32 acres that
13 directly abuts the river right behind me.
14 I'm concerned, as you've heard from
15 others in my e-mails, that we haven't had a hydrologist
16 come out. I'm concerned about the environmental
17 concerns. I'm concerned about noise issues and the
18 visual buffers that just don't exist.
19 I'm 292 feet in the air on a bluff. I'm
20 going to look directly down into it. When I spoke with
21 Mr. Taylor, Mr. Taylor was unable to tell me whether or
22 not there is going to be any disturbance, a visual
23 disturbance for the folks here on Moonshine.
24 I did reach out to the people at CIRI. I
25 don't appreciate the response I got, and I let them

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1 know that I didn't appreciate the response I got. I
2 asked them, why didn't they come out to the folks at
3 Moonshine and speak to us prior to this. And the
4 response was, "Well, why would I? Would you be there?"
5 And I'm not casting any aspersions, maybe
6 it's a great organization. But my concern is the
7 planning that's gone into this, or the lack thereof,
8 the lack thereof of the notice of folks, the lack
9 thereof giving us an opportunity to be heard prior to
10 doing this modification.
11 I realize that oftentimes why people are
12 here in Alaska is to -- regulations are not as
13 stringent as they are in other areas, but here I would
14 ask that this board deny this application and deny the
15 modification.
16 **CHAIRMAN MARTIN:** Thank you for your
17 testimony. Anyone else in the public wishing to
18 testify?
19 **ANN SHIRNBERG:** I see no hands,
20 Commissioner Martin.
21 **CHAIRMAN MARTIN:** That being the case,
22 we'll close public comment and bring it to the
23 commission for a motion.
24 **COMMISSIONER RUFFNER:** I'll move to adopt
25 PC Resolution 2021-26 granting a modification to a

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1 conditional land use permit issued to CIRI.
2 **COMMISSIONER BENTZ:** Second.
3 **CHAIRMAN MARTIN:** We have a motion and a
4 second. Discussion?
5 **ANN SHIRNBERG:** Commissioner Fikes has
6 her hand raised.
7 **CHAIRMAN MARTIN:** Ms. Fikes.
8 **COMMISSIONER FIKES:** Yes, I would be for
9 coming up with a motion to postpone so we can have
10 further testimony from some of those closer. I'd like
11 to hear some more folks that are on Furrier Avenue and
12 what kind of impacts since 2017 to now. And having
13 only heard from one so far, I heard from several on
14 Moonshine, and not have any kind of impact study, that
15 would be something worth, I think, hearing from.
16 I understand you can't really unring the
17 bell. This permit has already been granted, but it's a
18 modification that's before us today. So seeing how big
19 the area is and how much it's going to impact folks
20 around there, I would like to -- I would certainly be
21 for more a motion to postpone to have more opportunity
22 to study more things, it may impact a greater number of
23 folks. That's just my two cents.
24 **ANN SHIRNBERG:** Commissioner Brantley has
25 his hand raised.

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1 **CHAIRMAN MARTIN:** Mr. Brantley.
2 **COMMISSIONER BRANTLEY:** I would also be
3 in favor of postponement. I got a few phone calls from
4 people out in Sterling that either didn't get a notice
5 that thought they should or weren't able to join the
6 Zoom meeting this week because of technology or just
7 out of town. So I would support a postponement.
8 **ANN SHIRNBERG:** Commissioner Ruffner has
9 his hand raised.
10 **CHAIRMAN MARTIN:** Mr. Ruffner.
11 **COMMISSIONER RUFFNER:** Thank you, Mr.
12 Chairman. So I was kind of curious either to hear from
13 staff or the applicant about -- in looking at this and
14 listening to the testimony tonight, the closest
15 residential housing and closest to the river is in Area
16 1, and that was a 33-acre portion of the previous
17 permit. But I was just kind of curious, what's
18 happened in that area?
19 **ANDREA JACUK:** May I address that
20 question, Chairman Martin?
21 **CHAIRMAN MARTIN:** Please, go ahead.
22 **ANDREA JACUK:** So I will go ahead and say
23 that due to certain test pits, we have come to the
24 conclusion that those gravel resources located in those
25 other areas are not structurally competent gravel

<p style="text-align: right;">Page 22</p> <p>1 resources for this phase of the project, and so that's 2 why we submitted this modification to add on this area 3 that would actually be processed through. 4 And for other questions that have been 5 raised, since this permit has been approved since 2017, 6 there has been no operations on this land whatsoever, 7 thank you. 8 COMMISSIONER RUFFNER: So if I could 9 follow up. Did CIRI consider relinquishing that 10 portion if the material is not of competency and 11 nothing has happened yet? 12 ANDREA JACUK: That is something that 13 we've thought about, given the two separate areas. 14 It's something that we would potentially consider, but 15 we have not come to a final conclusion on that yet. 16 COMMISSIONER RUFFNER: Okay. Well, you 17 know what, I'm not sure what's going to happen tonight 18 with voting or postponing or so forth, but it does seem 19 like that's an area that's closer to the residents and 20 closer to the river, which are the two concerns we 21 heard. So it's just something I would encourage you to 22 consider it at least. 23 ANN SHIRNBERG: Commissioner Ecklund has 24 her hand raised. 25 CHAIRMAN MARTIN: Ms. Ecklund.</p>	<p style="text-align: right;">Page 24</p> <p>1 notices, and when were the notices mailed for this 2 application? 3 BRYAN TAYLOR: Thank you Commissioner 4 Ecklund. Through the chair. 5 Staff mails the notices out to property 6 owners, and these notices were mailed on June 22nd, as 7 it states in the report, to 255 property owners and 8 leaseholders. 9 We're using record information, what's in 10 the property records. So it's mailed to the address on 11 file. And I received two back, two letters back that 12 were not deliverable to the address, even though it was 13 correct based on what's in our system, but otherwise I 14 didn't receive any back. 15 COMMISSIONER ECKLUND: Thank you. I'll 16 just state that I'm going to vote for a postponement 17 when that motion is made due to timing so that people 18 can at least get test wells done so they know if their 19 water has been affected. And I too am concerned about 20 how close all of this work has been to the river, thank 21 you. 22 CHAIRMAN MARTIN: Further discussion? 23 ANN SHIRNBERG: Commissioner Fikes has 24 her hand raised. 25 COMMISSIONER FIKES: Yes, through the</p>
<p style="text-align: right;">Page 23</p> <p>1 COMMISSIONER ECKLUND: Thank you. 2 Through the chair, I just want right now to clarify. 3 Mr. Ruffner's comment is about the property that's 4 closest to the river. And the way I read the 5 application, that was one of the new sites they wanted 6 to go to, is that correct? 7 ANDREA JACUK: If I may address this. So 8 we have Areas 1 through 3, and Area 3, that's the area 9 that we're adding with this modification that is closer 10 to the highway, it's directly adjacent to the highway. 11 So Area 1 and Area 2 and the process area were approved 12 by the 2017 conditional land use permit. 13 COMMISSIONER ECKLUND: Okay, thank you. 14 A couple of followups, and this could be for staff or 15 the applicant. 16 According to the original application, 17 five acres a year were supposed to be reclaimed. Has 18 that been done? 19 ANDREA JACUK: No operations have taken 20 place on any of the area. So no reclamation has been 21 required since. It's still in a raw, undeveloped 22 stage. 23 COMMISSIONER ECKLUND: Then I guess my 24 last one is to staff. 25 Whose responsibility is it to mail out</p>	<p style="text-align: right;">Page 25</p> <p>1 chair and to the applicant or possibly staff. 2 Since no activity has taken place on the 3 original permit, is anybody aware of any bonding that 4 is required or was there any bonding required of that 5 first permit? 6 BRYAN TAYLOR: Through the chair, this is 7 staff. 8 On the first permit, since there wasn't 9 any operations conducted, there hasn't been bonding 10 required. That would be required if there is an 11 approved permit and operations began, that would 12 disqualify them from the state exemption. 13 CHAIRMAN MARTIN: Is there any more 14 comment? Mr. Brantley has your hand up. 15 COMMISSIONER BRANTLEY: Yeah, I would 16 just like to add to the applicant that I really think 17 that if they relinquished Area 1, it would go a long 18 way with the public in general, and it would be 19 something I think that should be looked into before the 20 next meeting if this is postponed. 21 COMMISSIONER RUFFNER: This is Robert 22 again. I'll reiterate that same thing that Mr. 23 Brantley said and hope that they will consider it. 24 And with that, I'll move to postpone this 25 until the next meeting -- no, rather I'll move to</p>

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1 postpone it until it's brought back by staff.
2 **COMMISSIONER BRANTLEY:** Second.
3 **CHAIRMAN MARTIN:** Discussion on the
4 motion?
5 **ANN SHIRNBERG:** See no hands,
6 Commissioner Martin.
7 **CHAIRMAN MARTIN:** Roll call, please.
8 **ANN SHIRNBERG:** Bentz?
9 **COMMISSIONER BENTZ:** Yes.
10 **ANN SHIRNBERG:** Brantley?
11 **COMMISSIONER BRANTLEY:** Yes.
12 **ANN SHIRNBERG:** Carluccio?
13 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes.
14 **ANN SHIRNBERG:** Chesser?
15 **COMMISSIONER CHESSER:** Yes.
16 **ANN SHIRNBERG:** Ecklund?
17 **COMMISSIONER ECKLUND:** Yes.
18 **ANN SHIRNBERG:** Fikes?
19 **COMMISSIONER FIKES:** Yes.
20 **ANN SHIRNBERG:** Morgan?
21 **COMMISSIONER MORGAN:** Yes.
22 **ANN SHIRNBERG:** Venuti?
23 **COMMISSIONER VENUTI:** Yes.
24 **ANN SHIRNBERG:** Ruffner?
25 **COMMISSIONER RUFFNER:** Yes.

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1 **ANN SHIRNBERG:** Martin?
2 **CHAIRMAN MARTIN:** Yes.
3 Motion to postpone until brought back by
4 staff passes unanimously. And I want to thank
5 everybody in the public for their testimony.
6 1:27:16
7 (End of requested portion)
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1 **CERTIFICATE**
2 **I, LEONARD J. DiPAOLO, Registered Professional**
3 **Reporter, Certified Realtime Reporter, Certified CART**
4 **Provider, and Notary Public in and for the State of**
5 **Alaska, do hereby certify:**
6 **That the tape recording, CD #07/12/21 Planning**
7 **Commission was transcribed under my direction by**
8 **computer transcription; that the foregoing is a true**
9 **record of the testimony and proceedings taken at that**
10 **time to the best of my ability; and that I am not a**
11 **party to nor have I any interest in the outcome of the**
12 **action herein contained.**
13 **IN WITNESS WHEREOF, I have hereunto set my**
14 **hand and affixed my seal this 8th day**
15 **of September, 2021.**
16
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20
21
22 **LEONARD J. DiPAOLO, RPR, CRR, CCP**
23 **Notary Public for Alaska**
24 **My Commission Expires: 2-3-2024**
25 **#3767**

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VERBATIM TRANSCRIPT / INDEX
AUGUST 9, 2021

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

Betty J. Glick Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna, Alaska 99669

August 9, 2021
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 47, inclusive

Commissioners Present:

Syverine Bentz, Anchor Point/Ninilchik
Cindy Ecklund, City of Seward
Diane Fikes, City of Kenai
Jeremy Brantley, Sterling
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer
Pamela Gillham, Ridgeway

Staff Present:

Melanie Aeschliman, Planning Director
Bryan Taylor, Planner
Ann Shirnberg, Administrative Assistant
Julie Hindman, Platting Specialist
Scott Huff, Platting Manager
Samantha Lopez, River Center Manager
Marcus Mueller, Land Management Officer

Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 0:00</p> <p>3 (This portion not requested)</p> <p>4 34:03</p> <p>5 CHAIRMAN MARTIN: That will bring us down</p> <p>6 to Item D-1 that we moved to this part of the meeting.</p> <p>7 There currently is a motion on the floor,</p> <p>8 and public testimony has been closed. If anyone on the</p> <p>9 commission decides to reopen public testimony, a motion</p> <p>10 will be required.</p> <p>11 So at this time staff will give a report</p> <p>12 and any updates.</p> <p>13 BRYAN TAYLOR: Thank you. Through the</p> <p>14 chair.</p> <p>15 There hasn't been any changes to the</p> <p>16 staff report, so I'll just give a brief overview and a</p> <p>17 few updates.</p> <p>18 Subject property, again, this is roughly</p> <p>19 a 500-acre property. It's between Mile 79 and 80 of</p> <p>20 the Sterling Highway. It straddles the highway there</p> <p>21 near Kenai Keys Road.</p> <p>22 And the Planning Commission did approve</p> <p>23 this permit back in March 27th of 2017. So what you</p> <p>24 have in front of you is a modification request that was</p> <p>25 received on June 22nd this year. And that modification</p>	<p style="text-align: right;">Page 4</p> <p>1 21-26 has been prepared with the staff finding</p> <p>2 supporting approval.</p> <p>3 In order to incorporate the additional</p> <p>4 volunteer condition of the permit, I would just</p> <p>5 recommend you take Resolution 21-26, and then the</p> <p>6 amendment would need to be made to insert the voluntary</p> <p>7 condition under Section 3 where the conditions on the</p> <p>8 permit are. And you could insert that as permit</p> <p>9 condition No. 17 and just renumber the following</p> <p>10 conditions.</p> <p>11 Due to the postponement of the decision</p> <p>12 on this application, and in order to allow some work to</p> <p>13 commence on the property this season, CIRI did apply</p> <p>14 for a counter permit. They were applied -- and granted</p> <p>15 a counter permit for a 2.5 acre material site in the</p> <p>16 same location as the expansion.</p> <p>17 No further comments have been received</p> <p>18 regarding the modification application. And that's all</p> <p>19 I have.</p> <p>20 CHAIRMAN MARTIN: Thank you. Before we</p> <p>21 move, are there any questions for staff to help us</p> <p>22 decide whether to open public testimony or not?</p> <p>23 COMMISSIONER ECKLUND: What was the</p> <p>24 location of the additional two-and-a-half that you</p> <p>25 approved?</p>
<p style="text-align: right;">Page 3</p> <p>1 is just -- it's expanding the extraction area by 61</p> <p>2 acres to include an area of land directly adjacent to</p> <p>3 the Sterling Highway.</p> <p>4 A properly noticed public hearing was</p> <p>5 held by this commission at your July 12th meeting.</p> <p>6 After closing public hearing, the Planning Commission</p> <p>7 began deliberations and voted to postpone further</p> <p>8 consideration of the application until it was brought</p> <p>9 back by staff. Because the application had already</p> <p>10 been determined sufficient by staff, it was just put on</p> <p>11 tonight's agenda, which was the next available meeting.</p> <p>12 Updates would be on July 27th, CIRI did</p> <p>13 submit an addendum to the modification application to</p> <p>14 include an additional volunteer condition.</p> <p>15 The applicant volunteers to add a</p> <p>16 condition that excavation activities would be limited</p> <p>17 to disturbing only 20 acres during the first two years</p> <p>18 of the permit, and that open area would be reclaimed</p> <p>19 upon completion of excavation activities. And I did</p> <p>20 send you a memo providing their wording on that</p> <p>21 volunteer condition.</p> <p>22 No changes to the staff report. Staff</p> <p>23 finds that the application and proposed site and</p> <p>24 reclamation plans meet the standards of KPB 21.29.040</p> <p>25 and recommends approval of the application. Resolution</p>	<p style="text-align: right;">Page 5</p> <p>1 BRYAN TAYLOR: It was within the 60-acre</p> <p>2 modification area that was applied for. It was within</p> <p>3 that, directly adjacent to the Sterling Highway.</p> <p>4 COMMISSIONER ECKLUND: Was it in the</p> <p>5 center? Was it on the northwest corner? South corner?</p> <p>6 BRYAN TAYLOR: It was about in the center</p> <p>7 of that 60-acre.</p> <p>8 COMMISSIONER ECKLUND: Center of that 60</p> <p>9 acres?</p> <p>10 BRYAN TAYLOR: I'd say in the middle</p> <p>11 right adjacent to the highway. So it's right up</p> <p>12 against the Sterling Highway, but in the center from</p> <p>13 east to west, yeah.</p> <p>14 CHAIRMAN MARTIN: Any other questions?</p> <p>15 Mr. Venuti? No, okay. I'll bring it to the commission</p> <p>16 for a decision to open public testimony or not. Mr.</p> <p>17 Brantley.</p> <p>18 COMMISSIONER BRANTLEY: I move to open up</p> <p>19 public testimony for Item D-1.</p> <p>20 COMMISSIONER ECKLUND: Second.</p> <p>21 CHAIRMAN MARTIN: Roll call, please.</p> <p>22 ANN SHIRNBERG: Bentz?</p> <p>23 COMMISSIONER BENTZ: Yes.</p> <p>24 ANN SHIRNBERG: Ecklund?</p> <p>25 COMMISSIONER ECKLUND: Yes.</p>

<p style="text-align: right;">Page 6</p> <p>1 ANN SHIRNBERG: Fikes?</p> <p>2 COMMISSIONER FIKES: Yes.</p> <p>3 ANN SHIRNBERG: Gillham?</p> <p>4 COMMISSIONER GILLHAM: Yes.</p> <p>5 ANN SHIRNBERG: Morgan?</p> <p>6 COMMISSIONER MORGAN: Yes.</p> <p>7 ANN SHIRNBERG: Brantley?</p> <p>8 COMMISSIONER BRANTLEY: Yes.</p> <p>9 ANN SHIRNBERG: Venuti?</p> <p>10 COMMISSIONER VENUTI: Yes.</p> <p>11 ANN SHIRNBERG: Martin?</p> <p>12 CHAIRMAN MARTIN: Yes.</p> <p>13 Motion to open the public testimony</p> <p>14 passes unanimously. Therefore, I will offer the first</p> <p>15 opportunity to the petitioner or the applicant.</p> <p>16 ANDREA JACUK: Great. This is Andrea</p> <p>17 Jacuk. Thank you for the opportunity to speak today</p> <p>18 about this conditional land use permit application for</p> <p>19 modification on behalf of CIRI.</p> <p>20 As I said previously, my name is Andrea</p> <p>21 Jacuk, CIRI's land manager. I'm speaking on behalf of</p> <p>22 CIRI, but before I launch into their remarks, I want to</p> <p>23 speak personally.</p> <p>24 I'm a member of the Kenaitze Indian</p> <p>25 Tribe, and my late grandfather grew up subsistence</p>	<p style="text-align: right;">Page 8</p> <p>1 operators dig over 50 test pits on this additional area</p> <p>2 as well as the currently permitted areas. All of the</p> <p>3 test pits were dug at a maximum of 20 feet below</p> <p>4 ground, showed a uniform overburden, and the water</p> <p>5 table was not once encountered in any of these 50-plus</p> <p>6 test pits.</p> <p>7 My second point, compliance. The</p> <p>8 currently permitted areas have proven to abide by</p> <p>9 borough and state guidelines and regulations and have</p> <p>10 been approved for development. This additional area we</p> <p>11 are speaking about today is at least 50 feet higher</p> <p>12 vertically above the water table than the currently</p> <p>13 permitted areas, farther away from residential areas,</p> <p>14 and farther away from the Kenai River.</p> <p>15 This modification provides a win/win</p> <p>16 situation for local residents by addressing their</p> <p>17 claims on this already preapproved project and for</p> <p>18 CIRI's right to develop it's privately owned land for a</p> <p>19 public works and safety improvement project that has</p> <p>20 been stalled for over 40 years.</p> <p>21 And my third point, why this particular</p> <p>22 gravel pit does matter. First off, it improves access</p> <p>23 to resources. It's a shorter distance versus</p> <p>24 alternatives in Kenai or Soldotna, which would create</p> <p>25 hazards and congestion along the Sterling Highway</p>
<p style="text-align: right;">Page 7</p> <p>1 fishing the Kenai River as did his father. This river</p> <p>2 and the land surrounding it are especially important to</p> <p>3 me, as is the safety of local residents and all</p> <p>4 Alaskans who find themselves navigating the Sterling</p> <p>5 Highway, especially during the busy fishing season.</p> <p>6 I've listened to the testimony both as a</p> <p>7 representative of CIRI, but also as a stakeholder</p> <p>8 looking at how this project will impact future</p> <p>9 generations of my tribe as well as all of Alaska's</p> <p>10 people.</p> <p>11 I wouldn't be here today advocating for</p> <p>12 this project if I didn't believe it was in the best</p> <p>13 interest of my family and all of yours.</p> <p>14 On behalf of CIRI, there are three key</p> <p>15 points I would like to cover today. First the concerns</p> <p>16 about the water table; second, permit regulation</p> <p>17 compliance; and third, why this particular gravel pit</p> <p>18 matters.</p> <p>19 So my first key point. I understand the</p> <p>20 community has apprehensions about this gravel pit.</p> <p>21 CIRI met with community members, heard their concerns,</p> <p>22 and addressed them in 2017 and now in 2021 by</p> <p>23 implementing additional mitigation efforts. These</p> <p>24 claims have not since changed.</p> <p>25 CIRI has had five separate experienced</p>	<p style="text-align: right;">Page 9</p> <p>1 ultimately decreasing the life of borough maintained</p> <p>2 roads.</p> <p>3 It also lowers costs. As stated in the</p> <p>4 last Planning Commission meeting, the main purpose CIRI</p> <p>5 has for modifying this existing permit is to provide</p> <p>6 low cost sand and gravel resources for the Sterling</p> <p>7 Highway reconstruction project. This ultimately</p> <p>8 reduces public funds expended on the project, which is</p> <p>9 the longest running EIS in our nation's history.</p> <p>10 This Sterling Highway realignment project</p> <p>11 will bring long awaited safety improvements for</p> <p>12 residents and visitors to the Kenai Peninsula.</p> <p>13 In closing, I commend and thank the</p> <p>14 Planning Commission for taking the time to hear from us</p> <p>15 today and request the amendment be approved so that</p> <p>16 construction of the highway realignment may commence.</p> <p>17 Thank you.</p> <p>18 CHAIRMAN MARTIN: Thank you. Next</p> <p>19 testifier, please. Anyone from the public? Anyone in</p> <p>20 the audience? Please state your name and address at</p> <p>21 the microphone for the record.</p> <p>22 NICKI PEREIRA: My name is Nicki Pereira.</p> <p>23 I live at 37195 Steelhead Circle in Bings Landing</p> <p>24 Subdivision.</p> <p>25 This is very frustrating. I think I'm</p>

<p style="text-align: right;">Page 10</p> <p>1 going to start with an overall look at what's been 2 going on on the Kenai Peninsula and elsewhere in this 3 state for a long time. 4 This gravel pit issue has been and 5 continues to be a problem for residential areas around 6 our state, not just here. We're Alaskans. We hate 7 zoning. We're not into it. However, we're getting to 8 a point where I think that's going to be necessary. 9 As an example, our subdivision decided to 10 get an R-1 zone as the marijuana industry moved in, and 11 now we're darn glad we did because there is a big grow 12 going in on the other side near Feuding, and the 13 residents are jumping up and down saying, "How do we 14 fix this?" And all we can say is, "You're too late. 15 You're too late." 16 Well, when is the issue going to be fixed 17 with gravel pits for the residents? Ms. Andrea, with 18 all due respect, you don't live next door. We do. 19 Thank you for what you have done. Apparently, we 20 didn't know about the 50 test holes. Gee, nobody ever 21 gets back to us. Nobody tells the residents what's 22 going on before, during, or after. 23 And there are some things that 24 happened -- I'm sorry if I'm being passionate, but I'm 25 pretty upset.</p>	<p style="text-align: right;">Page 12</p> <p>1 You guys have seen countless -- we're 2 just faces in the crowd that come through here 3 constantly, I'm sure, residents who are having to 4 listen to this and put up with this. And it goes on 5 year after year after year. And it's time for it to 6 stop. 7 I'm not a lawyer. I don't have time to 8 be competent enough to understand the nuances of all 9 the ordinances and the scientific intricacies of a 10 surface mine near my home. I'm a mom and a grandma and 11 I work and I'm busy. 12 The commission has got to take a look at 13 fixing this. I know that something did happen several 14 years ago and it went to the assembly, and I'm not sure 15 that whole story. But I know you guys have tried to 16 fix some of this, and the assembly has something to 17 bear in terms of blame. 18 But I want you to know that we're mad 19 now, and I know a lot of other people that are mad. I 20 know that there is one of these cases in Superior Court 21 right now. And I'm hoping that something good comes 22 out of that that's going to help residential areas, 23 because this is really frustrating for all of us. And 24 I really want some answers from some of those questions 25 that were raised at the last meeting that I heard</p>
<p style="text-align: right;">Page 11</p> <p>1 With the last meeting, there were a lot 2 of things that were brought forward, and all we heard 3 at the end was it's going to be brought back by staff. 4 Well, apparently it was just brought back by staff. 5 What does staff do to answer any of the questions that 6 came up in the last meeting? I didn't hear any answers 7 here. 8 So this is really frustrating for those 9 of us who have to live near this stuff, when we know 10 that there are other gravel pits -- Mystery Creek, for 11 example, is closer to the project. Why does it have to 12 be right where it is? Is there something going on with 13 CIRI we need to know about? I mean, does something 14 make them special? 15 Yeah, it's further away from the Cooper 16 Landing site. Why not go closer? Why not go somewhere 17 else? Oh, is it the weigh station for the state that 18 they want to avoid, which is what CIRI told us four 19 years ago in a meeting, that they wanted it on that 20 side of the weigh station. That was an interesting 21 comment that happened. Sorry. 22 So here we are. It's clear that the 23 current ordinance does not work and has not been 24 working for years except for those who develop the 25 gravel pits. It doesn't work for the residents.</p>	<p style="text-align: right;">Page 13</p> <p>1 nothing about tonight. Thank you. 2 CHAIRMAN MARTIN: Thank you. Next 3 testifier, please. Oh, Mr. Brantley has a question, 4 ma'am. Ma'am, would you mind returning? And one 5 online. So go ahead, Mr. Brantley. 6 COMMISSIONER BRANTLEY: Thank you. What 7 do you think would be an acceptable distance from a 8 house to a gravel pit, in your opinion? 9 NICKI PEREIRA: Well, that's a loaded 10 question. It depends on what the gravel pit is doing. 11 Are they crushing rocks? I mean, in my opinion, miles. 12 You know, where we live on the river, 13 we've got a canyon, and the sound just bounces back and 14 forth. So that's a question I can't answer because it 15 depends so much on topography. 16 COMMISSIONER BRANTLEY: Thank you. 17 CHAIRMAN MARTIN: And we have a question 18 online, too. Ms. Hamlin. 19 MARK HUGHES: Hi, this is Mark Hughes 20 saying Cindy Hamlin, 11094 Bluff Creek Circle, 21 Anchorage. We own property at 32177 West Hills Court. 22 I spoke last meeting about all the 23 reasons that I thought this was inappropriate for our 24 area. And since then I noticed that Granite had been 25 in Mystery Creek. And I have talked to some people, I</p>

<p style="text-align: right;">Page 14</p> <p>1 was in the gravel industry before I retired. I think 2 there is good gravel up Mystery Creek. 3 On the way home last weekend I drove one 4 way from the entrance of the new gravel pit there by 5 Kenai Keys, and it's 24 miles one way from there to the 6 end of the job site. So you've got a 48-mile round 7 trip. 8 Andrea was just saying how convenient it 9 was and great for everybody to shorten up the gravel 10 haul. 48 miles round trip is not shortening up one 11 semi load of gravel. 12 UNIDENTIFIED SPEAKER: Nor does it 13 enhance any safety on the roadway at all. 14 MARK HUGHES: No, that's 48 miles of 15 semis back and forth for one load. And it's 8.4 miles 16 one way, so 17 miles round trip from Mystery Creek. 17 So now Andrea needs to say why this is 18 such a good deal. She said just a minute ago it's 19 win/win, win for the people, win for CIRI. Sorry, 20 Andrea, I think it's win/lose. I think it's win for 21 CIRI and lose for the people, the neighbors in the 22 community, and the river. 23 So I don't know, it's just not right. 24 There has got to be a better solution, either some 25 gravel off the new bypass, Mystery Creek, something a</p>	<p style="text-align: right;">Page 16</p> <p>1 disturbances, because that, when we're looking at the 2 code -- 3 CHAIRMAN MARTIN: Yeah, I understand 4 drone photography is very useful. We just don't have 5 the technology to accommodate that. 6 ERIC ROSENBERG: I understand. I have 7 the ability, if you'd like, to show you. 8 The problem I have is when we met on July 9 17th, we heard from CIRI that they were concerned and 10 they were listening to our concerns. And we heard Ms. 11 Jacuk tell you that she was -- from the last meeting, 12 that there were some issues. But we had no meetings. 13 Nobody came by and said, "Hey, what's going on? How 14 can we help you?" 15 Commissioner Brantley at the end of the 16 meeting and Commissioner Fikes said to us, "Hey, we've 17 got some questions." None of those questions have been 18 addressed. So all that's passed is that we're having 19 another meeting, but we still have all these unanswered 20 questions, and you're asking to modify a permit to 21 allow the gravel pit to begin without addressing the 22 concerns of the folks that actually live there. 23 While I hear that Ms. Jacuk wants to tell 24 us about she's concerned about the river, you have the 25 Naptowne Rapids there are there, and we heard at the</p>
<p style="text-align: right;">Page 15</p> <p>1 little closer. 2 We've got a brand new highway there. Now 3 you're going to haul 20 tons probably a load or more, 4 48 miles round trip, and that's a win/win? Sorry. 5 It's just not right what you're doing to our 6 neighborhood. There is other places that doesn't have 7 a community beside it and a river along it. So 8 hopefully something changes here. Thank you very much. 9 CHAIRMAN MARTIN: Thank you. Will you 10 stand for questions from commissioners? Seeing no 11 requests from commissioners, thank you for your 12 testimony. Next testifier, please. We have one in the 13 audience. Please state your name and address for the 14 record. 15 ERIC ROSENBERG: 32350 Moonshine Drive in 16 Soldotna. I have a photograph from a drone, that, if 17 possible, I would like to put up. Is there a way that 18 I could put that photograph up? 19 CHAIRMAN MARTIN: We're limited by 20 sitting and hearing your testimony. 21 ERIC ROSENBERG: Well, I think it's 22 important that you actually see what it looks like from 23 folks on the Soldotna side so you can actually see when 24 you look at a map what we're talking about with the 25 auditory issues, the visual issues, and the</p>	<p style="text-align: right;">Page 17</p> <p>1 last meeting from a geologist who was concerned about 2 if there is a failure, what happens to the mixture? 3 That's a very busy part of the river that it's going to 4 mix in. 5 Nobody has told us what, if any, type of 6 analysis has been done. Nobody has come over to the 7 Soldotna side to understand what the auditory issues 8 are. 9 I can hear my neighbors over in Sterling 10 when they speak. Nobody has told us what the sounds 11 are. It's in the code that they are supposed to. It's 12 in the code that there is a visual disturbance. Nobody 13 has come over. And that's why this map issue -- while 14 I understand you don't have the IT -- nobody from CIRI 15 thought it was important to say, "Let's take a look 16 what it's like at 304 feet looking down into this pit." 17 So I think that I have many issues. 18 I am a lawyer, so I do have a little bit 19 of a different perspective. I do have land use issues 20 behind me. And one of the things that's going to come 21 here is these folks have not done their due diligence 22 to come and meet with us to try and listen to our 23 concerns. 24 So my time is coming to an end, but I 25 believe this project -- or this modification should be</p>

Page 18

1 denied, it should be denied because CIRI hasn't done
2 anything other than Ms. Jacuk coming in and telling us
3 how wonderful the project is and it's going to help
4 Alaskans.
5 The Alaskans are here today right now
6 before you, they are your neighbors, they are the
7 people who live there, and they have done nothing for
8 us other than tell us how great the project is. What's
9 so great about it? That's all I have to say.
10 **CHAIRMAN MARTIN:** If there is any
11 questions from commissioners? Mr. Brantley.
12 **COMMISSIONER VENUTI:** Mr. Chair, I have a
13 question.
14 **CHAIRMAN MARTIN:** Go, Mr. Venuti.
15 **COMMISSIONER VENUTI:** This is for the
16 testifier. You state that you are an attorney. Are
17 you representing a specific entity in this case?
18 **ERIC ROSENBERG:** Myself. And my -- who I
19 stand before you, Commissioner Venuti, I'm just as
20 equal as CIRI.
21 At the end of the last meeting,
22 Commissioner Venuti, you voted to approve this, and
23 then Mr. Brantley very bravely said, "You know what, I
24 have a question about the one area of the pit that is
25 so close to the river." Where CIRI came back and said,

Page 19

1 "Well, we've gone and we don't think that that area had
2 good gravel."
3 And Commissioner Brantley said, "Well,
4 why don't we go and why don't you change it so that
5 area -- you've told these residents that you're not
6 going to mine in that area." We've heard nothing from
7 that.
8 I mean, do you recall at the end of the
9 meeting there was an area close to the river -- and I'm
10 concerned about the river -- the section -- thank
11 you -- commissioner, you said, "Is that area going to
12 be mined?" And they said, "No." But they did nothing
13 in that time period, other than the planning board came
14 to us and just said, "Okay, here is the new date."
15 Nothing has happened.
16 I mean, let's take the time to do this in
17 a measured approach rather than just making the
18 approval. Make CIRI work for this. Make CIRI do their
19 job and make CIRI have to approach the residents that
20 live here and do the right thing.
21 **CHAIRMAN MARTIN:** Go ahead with your
22 question, Mr. Brantley.
23 **COMMISSIONER BRANTLEY:** Just to be clear,
24 you do understand that Area 1 and 2 are already
25 approved? Those can be mined.

Page 20

1 **ERIC ROSENBERG:** I understand that,
2 but --
3 **COMMISSIONER BRANTLEY:** So I just had one
4 question for you, just a hypothetical.
5 If Area 1 and, say, Area 2 produced
6 gravel results that were so-so, like maybe they passed,
7 but maybe it's going to be really hard to process the
8 D-1 and the asphalt, maybe they found better material
9 closer to the highway in this new area.
10 Now, if that -- excuse me, if that
11 encourages them to then stay within that area and stay
12 away from the river, do you think that would be a
13 reasonable trade off?
14 **ERIC ROSENBERG:** Yes. And let me explain
15 this to you, Commissioner Brantley. I spoke to -- I've
16 forgotten your name, sir, but.
17 **BRYAN TAYLOR:** Brian Taylor.
18 **ERIC ROSENBERG:** I spoke to Mr. Taylor,
19 and I said, "Look, can you show me on a map?"
20 My issues don't become right for what's
21 called injunctive relief until the sounds are there.
22 My issues for injunctive relief don't become right
23 until they are starting to work. They haven't. So I
24 do understand that they have been permitted, but my
25 issues don't rise to that level until certain times.

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1 I really thought at the end of the
2 meeting CIRI took it seriously and would have come over
3 and taken a look, but they didn't. They just came with
4 a four-minute speech of how wonderful it is for the
5 river, and I've lived here my whole life and nothing is
6 going to happen. I'm not buying it, and I don't think
7 you guys should.
8 Your role as a commission --
9 **CHAIRMAN MARTIN:** Yeah.
10 **ERIC ROSENBERG:** Sorry.
11 **CHAIRMAN MARTIN:** Thank you. We
12 appreciate -- is there any other questions? Yeah, I
13 got to keep everything moving.
14 **ERIC ROSENBERG:** Understood.
15 **CHAIRMAN MARTIN:** Okay, thank you for
16 your testimony. Is there anyone on Zoom willing to
17 testify? Cindy Hamlin, you're next.
18 **CINDY HAMLIN:** Well, my comments are just
19 similar to my husband and to the gentleman that just
20 testified, that our questions really weren't answered
21 from last meeting.
22 We expressed our issues and concerns
23 about our well water. Specifically the Cuddy family on
24 Furrier Avenue was granted time to get baseline testing
25 on their well water since they were potentially the

<p style="text-align: right;">Page 22</p> <p>1 most impacted. I've heard nothing about that. No 2 response about what the baseline testing showed or even 3 if they had time to have that performed. 4 We also had many questions about road 5 hazards and safety on the roadways, a threat to the 6 river, the wildlife fisheries. What about the noise 7 level and the dust? We haven't heard any responses to 8 those questions or concerns from our last meeting. 9 And I concur with the other speakers, Ms. 10 Jacuk hasn't answered any of those questions in her 11 presentation. 12 CHAIRMAN MARTIN: Thank you. Are there 13 any questions from commissioners for Ms. Hamlin? 14 Seeing no requests, thank you for your testimony, Ms. 15 Hamlin. 16 And I'll take testimony from someone in 17 the audience. Please state your name and address for 18 the record. 19 RICK SCHIEFELBEIN: It's a long cord, 20 she's keeps me on a short leash, and I like my short 21 leash. 22 My name is Rick Schiefelbein. I live at 23 37105 Steelhead Circle in the Bings Landing 24 Subdivision. You'll kind of have to excuse me, I run 25 out of air quickly, and I'll try to keep this very</p>	<p style="text-align: right;">Page 24</p> <p>1 amount of traffic? 2 And the distance for the Cooper Landing 3 roadwork from the pit right around the corner from my 4 house is ridiculous. It's just absolutely bizarre. 5 We've got a brand new highway that they are going to be 6 rolling these trucks down, and they got pits up there 7 right down the road from where the new road is going 8 in. 9 I think it is time to -- for you guys to 10 curtail this project if you see fit to; if you don't, 11 well, there is not much we can do about it I don't 12 guess. 13 But you've heard from a number of us both 14 back in '17, the last meeting, and now. And I would 15 seriously appreciate you all considering stopping this 16 until these issues can be addressed and we can get some 17 form of satisfaction that this thing is, yea, it's good 18 for Alaska. What part of Alaska? It isn't good for 19 Bings Landing Subdivision. It's not good for the noise 20 level across the -- especially the guys across the 21 river, because sound rises. Are they going to have 22 rock crushers in there? Does anybody know if they are 23 going to be doing rock crushing? That's some noisy 24 stuff. 25 Is there going to be any restrictions on</p>
<p style="text-align: right;">Page 23</p> <p>1 brief. 2 I concur with everything that has been 3 brought forward so far, and I am pretty familiar with 4 water testing. I know the engineer that owns the well 5 drilling company that does the test wells up and down 6 the Sterling Highway, and is currently doing test wells 7 on the Cooper Landing bypass. They test the water 8 before the construction, they test the water after. 9 Has any well testing, water testing been 10 done in the CIRI pit project that you guys know of? 11 And if not, why not? I mean, they are tearing the 12 dickens out of that place. You know, they tear the 13 dickens out of a narrow strip of land going, and they 14 run a test every I don't know how many miles or what 15 the distance is, I just know they do it. 16 We've had no environmental impact 17 studies. We've had no testing of the water. We know 18 in the Bings Landing Subdivision that our aquifers, and 19 there is a bunch much them, come downhill from the hill 20 that CIRI is mining on, they come our direction. 21 Are they going to impact our water? We 22 don't know. Do they? Has anybody done any kind of 23 study to ascertain what's going to happen to our water 24 if they have a massive fuel spill or some other kind of 25 catastrophe that can happen with that number of -- that</p>	<p style="text-align: right;">Page 25</p> <p>1 jake brakes and back-up buzzers, the bleep-bleep things 2 that go on and on? I don't think that we'll be able to 3 hear much of it. My house is so well insulated I don't 4 hear the neighbors shooting their guns, but not 5 everybody is like that. And especially the guys across 6 the river up on the hill. 7 I know, I used to have a place on a river 8 up on a bluff, and I could hear every word that the 9 people, you know, over a quarter of a mile away from 10 me, they were saying, because the noise just goes up. 11 That's something that hasn't been looked at or 12 addressed I don't think by CIRI, and I don't guess CIRI 13 much cares about that. 14 But at any rate, I'll stop my blathering 15 because I'm just about to run out of air, and entertain 16 any questions you have for me. 17 CHAIRMAN MARTIN: Thank you. Are there 18 any questions from commissioners? Mr. Brantley? 19 COMMISSIONER BRANTLEY: Yeah, I would 20 like to just frame a question for you. So this is just 21 to be clear, this is a modification. 22 RICK SCHIEFELBEIN: I understand. 23 COMMISSIONER BRANTLEY: So the pit is 24 already approved. 25 RICK SCHIEFELBEIN: I understand.</p>

1 **COMMISSIONER BRANTLEY:** And what's
2 already approved is closer to your home, and what they
3 are trying to move modify is further away from your
4 home.
5 **RICK SCHIEFELBEIN:** By how much?
6 **COMMISSIONER BRANTLEY:** By quite a bit,
7 actually, from Area 1 and area 2. I mean --
8 **RICK SCHIEFELBEIN:** I've driven that
9 whole thing, and it's not that much. There is hardly
10 any difference.
11 **COMMISSIONER BRANTLEY:** Well, I mean, it
12 depends on where they start. Some of it is over a half
13 mile. So if they start at the entrance, which they
14 probably will do, and work their way back towards your
15 house --
16 **RICK SCHIEFELBEIN:** You're sure about
17 that?
18 **COMMISSIONER BRANTLEY:** -- and who knows
19 how much they will use. They might get halfway down
20 and just -- but just hypothetically, though --
21 **RICK SCHIEFELBEIN:** Well, the guy that
22 just testified said they were going to start in the
23 middle of it.
24 **COMMISSIONER BRANTLEY:** Okay, that's
25 where the counter permit is. But if it's approved they

1 turn off? Where is your access point to get into
2 Steelhead?
3 **RICK SCHIEFELBEIN:** Bings Landing Drive,
4 just down the road from the entrance to the -- I guess
5 that's going to be their exit. They will probably come
6 in on Feuding, go into the pit, come out on -- I don't
7 know, I'm not sure what -- but I think that's -- if I
8 was doing it, that's the way I would do it. If I'm
9 coming from that way, I would come in from -- not
10 Feuding, Kenai Keys into the pit, come out down by --
11 pretty close to the Bings Landing drive. That's our
12 access point to Bings Landing Subdivision.
13 **CHAIRMAN MARTIN:** Any other questions
14 from commissioners? Seeing none, thank you for your
15 testimony.
16 Is there anyone online wishing to
17 testify? Seeing none, we'll bring in the next person
18 from the audience. Please state your name and address
19 for the record.
20 **CHARLES CLASBY:** My name is Charles
21 Clasby. I live at 32167 West Hills Court, and that's
22 also in Bings Landing, Sterling.
23 First I want to agree with everything
24 that public has -- my friends here, neighbors have
25 talked about.

1 might change their plans. I don't know, but I just --
2 I know that (indiscernible) north.
3 **RICK SCHIEFELBEIN:** Well, okay. They can
4 pretty much do whatever they want to do, am I wrong
5 here?
6 **CHAIRMAN MARTIN:** Middle by the highway.
7 **RICK SCHIEFELBEIN:** So they can pretty
8 much do anything they want.
9 **COMMISSIONER BRANTLEY:** Yeah, basically.
10 **RICK SCHIEFELBEIN:** Once guys approve it,
11 they can do anything they want.
12 **COMMISSIONER BRANTLEY:** You stated that
13 you live down steelhead?
14 **RICK SCHIEFELBEIN:** Yes.
15 **COMMISSIONER BRANTLEY:** Okay. Which is
16 much closer to Area 2 than the new proposed area.
17 So I'm just saying that if we deny this,
18 they still have the permit to go into Area 2.
19 **RICK SCHIEFELBEIN:** Right. But if you do
20 approve it, then you're approving that kind of wear and
21 tear on our brand new Sterling Highway, right? You're
22 approving that kind of wear and tear on our highway.
23 **CHAIRMAN MARTIN:** I think we got the
24 question. Ms. Fikes, do you still have a question?
25 **COMMISSIONER FIKES:** So where would you

1 And my concerns about a gravel pit, there
2 is a lot of problems with people wanting -- or putting
3 a gravel pit in. They are never something that anybody
4 wants to have in their backyard. This is in our
5 backyard, whether it's Area 2 or Area 1.
6 Mr. Brantley, you said that this stuff
7 has already been approved. Is that to say it can never
8 be disapproved? I don't know.
9 CIRI made their comments here at the
10 beginning about a win/win. And I have to agree with
11 Mark who says no, it's not a win/win.
12 This is a money maker for CIRI. It's
13 nothing financially for us. We sit downstream of the
14 groundwater from where these pits are being proposed to
15 be dug.
16 I know recently on KTUU TV about three or
17 four weeks ago they had a little story about a gravel
18 pit that was disapproved up around the Wasilla area
19 because of the problem of it being impacted on the
20 residents. One person had their offer withdrawn on
21 their property, home, whatever it was because of the
22 pit. Eventually they got their wish, they got the pit
23 denied.
24 Mr. Brantley, you said these things have
25 already been approved. That sounds like it can't be

<p style="text-align: right;">Page 30</p> <p>1 undone. I don't think that's true. I think you guys 2 can deny it. 3 And I asked a rhetorical question, even 4 to CIRI. "You want this in your backyard?" 5 The lady in the beginning stated in her 6 CIRI -- or the CIRI person stated that 20-foot test 7 drills were made. I'm not really sure what she meant 8 by that. As far as testing to see what kind of gravel 9 or whether or not -- I think she did comment about 10 there was no water near. 11 Well, I have to let you know that my well 12 is right about 70 feet. That's about 50 feet deeper 13 than they drilled. And if I'm not mistaken, my 14 neighbor Mark -- I don't know if Mark even knows 15 this -- I think their well is somewhere around 2- or 16 300 feet in order to get usable water. 17 All of this is flowing towards the 18 magnificent Kenai River, and CIRI and their history 19 with this area and their living here, you know, they 20 talk about, you know, this is a win/win thing. 21 I am concerned about my property value in 22 the future if or when this gravel pit is started, I'm 23 worried about the noise that it will create. 24 Obviously, there is going to be a magnificent scar on 25 the ground.</p>	<p style="text-align: right;">Page 32</p> <p>1 wife and I, off of Bings Landing on Steelhead last 2 fall, and had no idea that this was even an issue or 3 would be an issue. 4 Given that we're residential, I would 5 surely think that our residential properties and 6 property values and water tables would be protected. 7 And so I'm learning a lot tonight that -- to know that, 8 you know, there is an issue here. 9 And gosh, I don't know, if I would have 10 known had a year ago, I'm not sure I would have 11 invested in the property that we now own and are 12 actually improving, making further investments and 13 hoping to bring people in to visit our state. 14 We love it here, we love our neighborhood 15 and our neighbors, we got a great neighborhood and 16 great people. 17 But, you know, if this turns out to be a 18 bad thing by expanding this gravel pit and affecting 19 our water tables, then who is going to want to buy our 20 properties in the future? Who is going to want to live 21 there. Who would want to live next to an open gravel 22 pit? CIRI? No, I don't think they would either. 23 So I guess I'm here just tonight to say I 24 support everything that's been said from our 25 neighborhoods, from the folks in our neighborhood, and</p>
<p style="text-align: right;">Page 31</p> <p>1 And I think the gentleman who said he had 2 a drone visual, too bad you guys couldn't hook him up, 3 but it's going to be an awful thing to see when all 4 those tourist planes are flying along, and they fly 5 over my house every day, floatplanes, and they see this 6 horrible scar in the ground not too far from the 7 diagram that you guys sent to us, this red shaded area, 8 shows the Sterling Highway cutting right across. And 9 this is our neighborhood right here. That's pretty 10 close. 11 I appreciate your time and letting us 12 come up here and speak. That would pretty much 13 conclude what I have to say. 14 CHAIRMAN MARTIN: Thank you, sir. Are 15 there any questions from commissioners? Online? 16 Thanks for your testimony. Anyone online wishing to 17 testify? Seeing none, next in line in the audience. 18 Please, state your name and address for the record. 19 PERRY HERSHBERGER: My name is Perry 20 Hershberger, I live at 37060 Steelhead Circle, 21 Sterling. 22 And I'm learning a lot tonight. I 23 haven't really been involved and engaged with this 24 process because basically we're new Alaska residents. 25 We purchased our property on Bings, my</p>	<p style="text-align: right;">Page 33</p> <p>1 I just hope you really consider our position on this. 2 I appreciate your time tonight, and thank you very 3 much. 4 CHAIRMAN MARTIN: Thank you. Next 5 testifier in the audience, please. Anyone in the 6 audience wishing to testify? Anyone online? Seeing no 7 further questions, we'll close public comment for the 8 evening and bring it back to the commission for 9 discussion. 10 COMMISSIONER ECKLUND: Chair Martin, it's 11 Commissioner Ecklund. 12 CHAIRMAN MARTIN: Go ahead. 13 COMMISSIONER ECKLUND: I believe that one 14 of the reasons we postponed this was because there was 15 a very short noticed timeline to the residents in order 16 for them to assess their wells and then have a 17 measuring rod for if and when something happens to 18 their wells. 19 I don't know if the people from that 20 meeting gave any comments regarding whether they got 21 their wells tested. 22 And I know it's sad to say that that 23 expense would go back on the area residents to have 24 that, but at least then if something happened down the 25 road after CIRI started digging, they would have a way</p>

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1 to prove that there has been damage to their wells. I
2 don't know who then they would take that to.
3 I want them to understand that the
4 Planning Commission is currently the people who approve
5 material site permits and conditional use permits that
6 are modifications to those permits.
7 I think I've been on this commission for
8 about 11 years, and we did a lot of effort, a lot of
9 work on rewriting the material site ordinance. But
10 ordinances aren't approved by the commission, they are
11 approved by the counsel -- I mean, by the assembly.
12 And so they didn't pass that ordinance
13 that we wrote, which allowed us to deny permits if they
14 didn't meet the requirements.
15 The current code as we've been told
16 doesn't allow us to deny. It's a very hard proof --
17 hard to prove that the visual, the noise, the health of
18 the neighbors are going to be affected, the safety on
19 the roads.
20 I agree with everything that's said
21 tonight. That brand new highway is going to be
22 damaged. I live in Seward. Our highway gets damaged
23 by, you know, the tourists and the buses and
24 everything, but I can't imagine what a dump truck,
25 loads of stuff, and 48 miles is a big round trip. I

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1 know there are closer pits. I've seen them as I drive
2 to my meetings in Soldotna.
3 I would hope that those of you that have
4 the ability to get some baseline figures, do that so
5 that you have some recourse if something happens.
6 There is nothing in code that requires an EIS from -- I
7 mean, the borough is not going to pay for that. The
8 borough is not going to pay for -- you know, to test
9 your wells.
10 So I just -- I hear you, but I would ask
11 that you talk to the assembly so they hear you as well,
12 thank you.
13 **CHAIRMAN MARTIN:** Thank you, Ms. Ecklund.
14 Further discussion from commissioners? Mr. Brantley.
15 **COMMISSIONER BRANTLEY:** Yeah, I guess I
16 should explain what I'm thinking on this.
17 There is really nothing we can do about
18 the two areas that are currently approved. And those
19 areas are much closer to the residents down Bings
20 Landing Road, Steelhead Circle, this new area.
21 And just because CIRI says that the
22 material isn't quite what they wanted, doesn't mean
23 it's not usable. It just might require more processing
24 to get there. So what they are trying to -- possibly
25 doing is finding a better quality material closer to

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1 the highway.
2 I wish they would have, like we asked
3 last meeting, that they would relinquish then Area 1 at
4 least that's close to the river. They haven't offered
5 that volunteer condition. There is nothing we can --
6 can't force them to give that up as far as I
7 understand.
8 But what I'm thinking is that approving
9 this 61 acres will encourage them not to use Area 1 and
10 2. So really I'm going to support this modification
11 because it's, as far as I can tell, over half a mile
12 away from any residences, and it's an area that would
13 be a better place to operate and to process. I guess
14 that's what I'm thinking so far on this.
15 **CHAIRMAN MARTIN:** Mr. Taylor, staff,
16 would you help us -- would you reiterate how best to
17 amend this for including the conditional -- I mean, the
18 voluntary conditions.
19 **BRYAN TAYLOR:** Yes, through the chair.
20 If you're making a motion to approve, then if you want
21 to incorporate the volunteered condition, just --
22 someone will need to make an amendment to the
23 resolution in Section 3 to include the voluntary
24 condition as permit condition No. 17, and then renumber
25 those that follow it.

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1 **CHAIRMAN MARTIN:** Thank you. So moved
2 would be a great way to consolidate that for any of the
3 commissioners willing to consider the amendment.
4 Ms. Ecklund, you have your hand up.
5 **COMMISSIONER ECKLUND:** Yeah. I'm looking
6 at the "I Legislate" paperwork, and I don't see that we
7 asked them for any other volunteer conditions like the
8 silent or white noise back-up beeper, limiting the
9 hours of crushing, or anything else. And I didn't see
10 where they had offered any of that up.
11 So Mr. Taylor, could you enlighten me if
12 any of those items were volunteered.
13 **BRYAN TAYLOR:** No. The only volunteer
14 permit condition is the one limiting the 20 acres for
15 the first two years of the permit. That's the only one
16 I've received.
17 **COMMISSIONER ECKLUND:** And a followup.
18 Can we do a mandatory -- I mean, this is a
19 modification. Can we modify what we're going to allow
20 by saying they have to use white noise backup beepers
21 and crushing can only happen between these hours? Can
22 we modify those requirements?
23 **BRYAN TAYLOR:** The permit conditions --
24 you're limited to which conditions you can apply, and
25 they are the ones that are in code. So you would be

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1 limited to applying the conditions that are in code.
2 **COMMISSIONER ECKLUND:** Can you list those
3 for us, please?
4 **BRYAN TAYLOR:** I can. I'll have to pull
5 them up. I can come back here in just a second.
6 **COMMISSIONER ECKLUND:** Okay, thank you.
7 **BRYAN TAYLOR:** Through the chair.
8 Commissioner Ecklund, is there a condition -- in
9 21.29.50 the permit conditions list mandatory
10 conditions. Is there something you have in mind
11 specifically? You mentioned white noise?
12 **COMMISSIONER ECKLUND:** Yeah, several of
13 the gravel pits in the last couple of years, since we
14 were working on the amendments to this ordinance,
15 volunteered that they would take off the backup beepers
16 and put in white noise backup alarms that meets the
17 requirement of their organizations, their safety.
18 **BRYAN TAYLOR:** I understand what you're
19 saying.
20 So those voluntary permit conditions are
21 just that. If you're asking whether you can make them
22 mandatory, I believe the answer is no. If they are
23 being volunteered by the applicant, that's one thing;
24 but if the white noise is not specifically mentioned
25 here, which it's not, then there is not really a way

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1 that you can make that mandatory.
2 **COMMISSIONER ECKLUND:** So is there any
3 conditions that we can add? Because it's a conditional
4 use permit. I believe most of the ones I've looked at
5 allow us to apply conditions.
6 **BRYAN TAYLOR:** 21.29.40 states the
7 standards for sand and gravel material sites, which is
8 those standards are what you're trying to meet by
9 applying the conditions.
10 And part A, the second sentence there:
11 Only the conditions set forth in KPB 21.29.50 may be
12 imposed to meet these standards.
13 There are certain conditions in 21.29.15
14 that can be taken inclusively. It says you can have,
15 for instance, buffers, 50 feet of natural vegetation,
16 or minimum six-foot earthen berm, or a minimum six-foot
17 fence.
18 So I believe you would be limited to
19 treating that inclusively and stacking those on top of
20 one another.
21 **COMMISSIONER ECKLUND:** Yeah. And I
22 believe when we approved the first two areas in this
23 pit, we looked at that very closely. And I think when
24 this came before us the last time we estimated that
25 they were meeting those conditions already in what they

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1 were asking, but we can't add any other.
2 These new white noise backup beepers are
3 something that is newer, and I don't know how old that
4 section of the code is. But, again, those were some of
5 the things that we recommended to the assembly to
6 modify in a new ordinance that would change the
7 material site permits.
8 So thank you for looking those up for me.
9 **BRYAN TAYLOR:** Yes, thanks.
10 **CHAIRMAN MARTIN:** Further discussion?
11 Ms. Bentz has her hand up.
12 **COMMISSIONER BENTZ:** Yes, thank you. I
13 just wanted to follow up on one of the questions that
14 Commissioner Ecklund hand about the operating time.
15 And it is one of the conditions in the
16 permit to limit the hours of operation for rock
17 crushing. So rock crushing equipment shall not be
18 operated between 10 p.m. and 6 a.m., and I think those
19 are the only hours of operations conditions that we can
20 apply. So anything else would be voluntary for
21 processing.
22 The other thing I wanted just to mention
23 about our code, and maybe this can help clarify a
24 couple of the water questions, is that this permit, I
25 believe, does not propose any excavation within the

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1 water table.
2 So in the application I think you stated
3 there were something like 32 test holes were dug
4 without encountering the water table. So that was the
5 indication that excavation would be above the water
6 table.
7 And our code does say that for our water
8 source separation conditions, that the conditional land
9 use permits require two-foot vertical separation from
10 the seasonal high water table to be maintained.
11 And just thinking through some of the
12 testimony that we heard as well, usually the water
13 monitoring isn't really required by the Planning
14 Commission unless there is an application to excavate
15 within the water table. And it's at that point that
16 the applicant would be responsible of installing water
17 monitoring tubes to really understand that groundwater
18 elevation, flow direction, and flow rate for the parcel
19 for the excavation area, and it needs to be monitored
20 for a year prior to the application.
21 So if there was any excavation by this
22 project in the water table, there would be
23 requirements -- or if it was modified future down the
24 road, it would be a requirement to have those
25 monitoring wells in place well in advance, a year in

<p style="text-align: right;">Page 42</p> <p>1 advance.</p> <p>2 So I just wanted to make sure that the</p> <p>3 testifiers heard that and that those were kind of the</p> <p>4 conditions that the Planning Commission has to work</p> <p>5 with when we're applying the code for these types of</p> <p>6 applications.</p> <p>7 CHAIRMAN MARTIN: Thank you. Further</p> <p>8 discussion? I'll entertain a motion for accepting the</p> <p>9 new items that Mr. Taylor suggested.</p> <p>10 COMMISSIONER BENTZ: I move to amend the</p> <p>11 motion to add the voluntary condition as outlined in</p> <p>12 the planner's memo.</p> <p>13 COMMISSIONER BRANTLEY: Second.</p> <p>14 CHAIRMAN MARTIN: It's been seconded by</p> <p>15 Mr. Brantley. Discussion? Anyone online, hands</p> <p>16 raised? If not, roll call, please.</p> <p>17 ANN SHIRNBERG: Bentz?</p> <p>18 COMMISSIONER BENTZ: Yes.</p> <p>19 ANN SHIRNBERG: Ecklund?</p> <p>20 COMMISSIONER ECKLUND: No.</p> <p>21 ANN SHIRNBERG: Fikes?</p> <p>22 COMMISSIONER FIKES: No.</p> <p>23 ANN SHIRNBERG: Gillham?</p> <p>24 COMMISSIONER GILLHAM: Yes.</p> <p>25 ANN SHIRNBERG: Morgan?</p>	<p style="text-align: right;">Page 44</p> <p>1 CHAIRMAN MARTIN: Ms. Bentz?</p> <p>2 COMMISSIONER BENTZ: Thank you, Ms.</p> <p>3 Jacuk. And I guess this is a question. At this time</p> <p>4 would you be willing to have that voluntary condition</p> <p>5 added to this conditional land use permit?</p> <p>6 ANDREA JACUK: Thank you, Ms. Bentz. I</p> <p>7 can say that I don't have the authority to make that</p> <p>8 decision right now, but that's something that we can</p> <p>9 discuss at a later time, I would be more than happy to.</p> <p>10 CHAIRMAN MARTIN: Thank you, further</p> <p>11 discussion.</p> <p>12 COMMISSIONER ECKLUND: Yes, it's Cindy</p> <p>13 again. Thank you, Chair Martin.</p> <p>14 I'm just going to say this. I don't know</p> <p>15 any other way to get the point across to the assembly</p> <p>16 that this ordinance, this section of code has got to be</p> <p>17 fixed. It's got to be looked at.</p> <p>18 I mean, I understand the not in my</p> <p>19 backyard thing, but we didn't even really address the</p> <p>20 noise or the safety on the road or -- we have in the</p> <p>21 past, but, you know, we just get to the point where we</p> <p>22 just -- you know, we throw our hands up in the air</p> <p>23 because our code doesn't allow us to do any of that.</p> <p>24 So, you know, our government is supposed</p> <p>25 to be with the people, not with organizations making</p>
<p style="text-align: right;">Page 43</p> <p>1 COMMISSIONER MORGAN: Yes.</p> <p>2 ANN SHIRNBERG: Venuti?</p> <p>3 COMMISSIONER VENUTI: No.</p> <p>4 ANN SHIRNBERG: Brantley?</p> <p>5 COMMISSIONER BRANTLEY: Yes.</p> <p>6 ANN SHIRNBERG: Martin?</p> <p>7 CHAIRMAN MARTIN: Yes.</p> <p>8 Motion passes 5 to 3. And further</p> <p>9 discussion on the main motion as amended?</p> <p>10 COMMISSIONER BENTZ: Chair Martin?</p> <p>11 CHAIRMAN MARTIN: Yes, Mrs. Bentz.</p> <p>12 COMMISSIONER BENTZ: I have a suggestion</p> <p>13 or a question for the applicant if they are available</p> <p>14 to see if they would add another voluntary condition to</p> <p>15 use white noise alarms rather than the beepy alarms on</p> <p>16 the equipment at this excavation site.</p> <p>17 CHAIRMAN MARTIN: Ms. Jacuk, are you</p> <p>18 available for questions?</p> <p>19 ANDREA JACUK: Hi, yes. This is Andrea</p> <p>20 Jacuk. Thank you, Ms. Bentz.</p> <p>21 So white noise backup alarms, that is</p> <p>22 something that we are willing to discuss with our</p> <p>23 operator, but I will say that white noise backup alarms</p> <p>24 are not MSHA required, but it is something that we're</p> <p>25 willing to explore further if needed. Thank you.</p>	<p style="text-align: right;">Page 45</p> <p>1 the money off of a new road, you know. And it's</p> <p>2 supposed to be for the good of the people as a whole.</p> <p>3 Yes, the road around Cooper Landing is</p> <p>4 going to be wonderful, that bypass. That road is</p> <p>5 probably going to be a big improvement for the people</p> <p>6 as a whole.</p> <p>7 But in the meantime, who are we listening</p> <p>8 to when we cannot make conditions on these permits?</p> <p>9 Who is, you know, holding our hands, I mean, holding us</p> <p>10 back from doing something to help mitigate what the</p> <p>11 residents in the area are going to have to go through</p> <p>12 and what the road is going to be going through.</p> <p>13 And, you know, I know the code says this</p> <p>14 is what the code says and we have to vote yes. But I</p> <p>15 don't know how to get the assembly's attention. So I'm</p> <p>16 just saying that now, thanks.</p> <p>17 CHAIRMAN MARTIN: Yeah, Ms. Ecklund, I</p> <p>18 hear you loud and clear. It's -- in trying to get the</p> <p>19 assembly's attention, which it's critical that,</p> <p>20 regardless of which way you vote, that you have sound</p> <p>21 findings that will pass muster in court.</p> <p>22 Further discussion? Seeing no one on</p> <p>23 line, none in the audience, roll call, please.</p> <p>24 ANN SHIRNBERG: Bentz? I'm sorry, turn</p> <p>25 my microphone on. Bentz?</p>

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1 COMMISSIONER BENTZ: Yes.
2 ANN SHIRNBERG: Ecklund?
3 COMMISSIONER ECKLUND: No.
4 ANN SHIRNBERG: Fikes?
5 COMMISSIONER FIKES: No.
6 ANN SHIRNBERG: Gillham?
7 COMMISSIONER GILLHAM: Yes.
8 ANN SHIRNBERG: Morgan?
9 COMMISSIONER MORGAN: Yes.
10 ANN SHIRNBERG: Brantley?
11 COMMISSIONER BRANTLEY: Yes.
12 ANN SHIRNBERG: Venuti?
13 COMMISSIONER VENUTI: Yes.
14 ANN SHIRNBERG: Martin?
15 CHAIRMAN MARTIN: Yes. Motion passes 6
16 to 2. Thank you, everyone. That brings us closer to
17 the end.
18 1:36:33
19 (End of requested portion)
20
21
22
23
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25

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1 CERTIFICATE
2 I, LEONARD J. DiPAOLO, Registered Professional
3 Reporter, Certified Realtime Reporter, Certified CART
4 Provider, and Notary Public in and for the State of
5 Alaska, do hereby certify:
6 That the tape recording, CD #08/09/21 Planning
7 Commission was transcribed under my direction by
8 computer transcription; that the foregoing is a true
9 record of the testimony and proceedings taken at that
10 time to the best of my ability; and that I am not a
11 party to nor have I any interest in the outcome of the
12 action herein contained.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal this 8th day
15 of September, 2021.
16
17
18
19
20
21
22 LEONARD J. DiPAOLO, RPR, CRR, CCP
23 Notary Public for Alaska
My Commission Expires: 2-3-2024
24 #3767
25

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