

**VERBATIM TRANSCRIPT
&
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MARCH 25, 2019

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

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

Monday, March 25, 2019
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 112, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Syverine Abrahamson-Bentz, Anchor Point/Ninilchik
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Dr. Rick Foster, Southwest Borough
Diane Fikes, City of Kenai
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

Staff Present:

Max Best, Planning Director
Marcus Mueller, Land Management Officer
Julie Hindman, Administrative Assistant
Jordan Reif, Platting Technician
Holly Montague, Deputy borough Attorney
Karyn DeCinco, Resource Planner
Bruce Wall, Planner
Scott Huff, Platting Manager

Others Present:

Douglas Clegg

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

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 7:28:18 p.m.</p> <p>3 (This portion not requested)</p> <p>4 8:03:22 p.m.</p> <p>5 COMMISSIONER FOSTER: It brings us to</p> <p>6 Item G-4.</p> <p>7 Yes, Mr. Brantley, do you have something</p> <p>8 you'd like to offer?</p> <p>9 COMMISSIONER BRANTLEY: Yes. I would</p> <p>10 like to recuse myself from this -- from G-4 for an</p> <p>11 appearance of a conflict of interest.</p> <p>12 COMMISSIONER FOSTER: It's been brought</p> <p>13 forth that Mr. Brantley may have a conflict, or at</p> <p>14 least appears to have a conflict of interest.</p> <p>15 Does anybody have an issue that we would</p> <p>16 need to call this to a count -- to a vote? Seeing and</p> <p>17 hearing no one, you are so recused.</p> <p>18 Anybody else have a concern? Mr. Venuti.</p> <p>19 COMMISSIONER VENUTI: Thank you, Mr.</p> <p>20 Chair. In our lay-down packet there is a letter</p> <p>21 suggesting that I have a conflict of interest on this</p> <p>22 issue and actually accuses me of unethical behavior,</p> <p>23 which is quite insulting. I don't feel that I have a</p> <p>24 conflict of interest. I feel that I could make a fair</p> <p>25 decision on this.</p>	<p style="text-align: right;">Page 4</p> <p>1 decision is included in the staff report, and copies of</p> <p>2 the decision is contained in pages 20 through 41 of</p> <p>3 your packet.</p> <p>4 Pages 2 through 10 of your packet</p> <p>5 contains the staff report. It has been updated from</p> <p>6 the July meeting to be consistent with the hearing</p> <p>7 officer's instructions that the findings should be</p> <p>8 based on the mandatory conditions contained in KPB</p> <p>9 21.29.050.</p> <p>10 Staff is recommending different buffers</p> <p>11 from what is showing on the applicant's site plan and</p> <p>12 different from staff's recommendation in July.</p> <p>13 On page 18 of your packet is a map</p> <p>14 showing staff's recommendations. On the north</p> <p>15 boundary, staff recommends a 50-foot vegetated buffer</p> <p>16 adjacent to the south boundary of parcel 169-022-03,</p> <p>17 this is the Brantley parcel, with a six-foot high berm</p> <p>18 between the vegetated buffer and the extraction area.</p> <p>19 There is a riparian wetland and</p> <p>20 floodplain in the very northeast corner of the</p> <p>21 property, and staff is recommending a six-foot high</p> <p>22 berm between the extraction area and the 100-foot</p> <p>23 setback from the riparian wetland and floodplain.</p> <p>24 Then along the rest of the northern</p> <p>25 boundary, staff recommends a 12-foot high berm. And</p>
<p style="text-align: right;">Page 3</p> <p>1 COMMISSIONER FOSTER: Does anybody here</p> <p>2 have a concern that Mr. Venuti may have the appearance</p> <p>3 of a conflict of interest; and if so, want to discuss</p> <p>4 this?</p> <p>5 Should we -- in this case should we vote</p> <p>6 on this, or -- Mr. Venuti, you don't want to set out as</p> <p>7 recusing yourself then, is that correct?</p> <p>8 COMMISSIONER VENUTI: No.</p> <p>9 COMMISSIONER FOSTER: Okay, does anybody</p> <p>10 have an issue with that? Seeing and hearing no one,</p> <p>11 you are so not recused. You do not have a conflict,</p> <p>12 the chair decides.</p> <p>13 Staff report, please.</p> <p>14 MR. WALL: Thank you, Mr. Chairman. This</p> <p>15 is an application for a conditional land use permit for</p> <p>16 a material site in the Anchor Point area. It is</p> <p>17 located at 74185 Anchor Point Road. The parcel number</p> <p>18 is 169-010-67. The applicant is Beachcomber, LLC.</p> <p>19 This application was heard by the</p> <p>20 Planning Commission on July 16th where the application</p> <p>21 was denied approval. This decision was appealed, and</p> <p>22 it was reviewed by a hearing officer. The hearing</p> <p>23 officer has remanded the application to the Planning</p> <p>24 Commission.</p> <p>25 Excerpts from the hearing officer's</p>	<p style="text-align: right;">Page 5</p> <p>1 then on the south boundary, staff is recommending a</p> <p>2 50-foot vegetated buffer adjacent to the southern</p> <p>3 parcel boundaries with a 12-foot high berm between the</p> <p>4 vegetated buffer and the extraction area.</p> <p>5 Along the east boundary, a 50-foot</p> <p>6 vegetated buffer adjacent to the eastern-most parcel</p> <p>7 boundary -- and actually let me rephrase that. That</p> <p>8 actually should say a 50-foot vegetated buffer adjacent</p> <p>9 to the section line easement along the eastern property</p> <p>10 boundary with a 12-foot high berm between the vegetated</p> <p>11 buffer and the extraction area.</p> <p>12 And then along the west side, greater</p> <p>13 than a 50-foot vegetated buffer along the western most</p> <p>14 property boundary.</p> <p>15 A waiver is being requested for the</p> <p>16 300-foot processing distance requirement from the</p> <p>17 property lines. Staff does not recommend approval of</p> <p>18 the processing distance waiver requested. There is</p> <p>19 room elsewhere on the property for processing that</p> <p>20 meets the 300-foot setback requirement.</p> <p>21 Pages 42 through 115 of your packet</p> <p>22 contains comments that have been received for this</p> <p>23 hearing. And pages 116 through 303 contains the</p> <p>24 commission packet from the July meeting, including the</p> <p>25 application, the site plan, and public comments.</p>

<p style="text-align: right;">Page 6</p> <p>1 Pages 304 through 331 contains the 2 minutes from the July meeting. And then an additional 3 54 comment letters have been received since your packet 4 was prepared last week. These comments are sitting on 5 your desk tonight. 6 Also on your desk tonight is a letter 7 from the applicant's representative requesting a 8 continuance of the hearing due to unforeseen issues, 9 and I will let the applicant address that. It was 10 assumed that the applicant or the representative would 11 not be available this evening, but it appears that they 12 are. 13 Staff recommends that you open the public 14 hearing tonight as advertised and then continue the 15 hearing to the April 22nd meeting. Even though the 16 applicant and the representative appears to be here 17 tonight, staff is -- has made an effort to make sure 18 the public is aware that this would be continued and 19 that they would not need to be here at this meeting to 20 testify, that they could come to the next one. 21 So we recommend that you table it to 22 the -- or continue the hearing to April 22nd. And that 23 is the end of my staff report. 24 COMMISSIONER FOSTER: Thank you. At this 25 time I'm going to have -- I'll open it for a</p>	<p style="text-align: right;">Page 8</p> <p>1 borough attorney and borough staff used in their 2 opening statement for the appeal. I think they 3 articulated issues better than I could. 4 This material site is located in the 5 rural district of the borough. The rural district is 6 unzoned. As such, this is not a case where a 7 conditional use is being allowed in a residential zone 8 where it would normally be prohibited. Subject to some 9 protections afforded surrounding property owners as set 10 forth in the code, a material site can be placed almost 11 anywhere in the rural district of the borough. 12 Given the wealth of gravel deposits in 13 the Anchor Point area, it should not be surprising that 14 this parcel would be utilized for a material site. 15 Some of those property owners will be 16 more protected by their distance from the material site 17 and the proposed buffers; however, there will always be 18 at least some noise and visual impacts to adjacent 19 properties from a material site operation. 20 In the history of the material site 21 ordinance, there has not been an interpretation that 22 all surrounding properties must not be able to see or 23 hear the material site at all; rather the 24 interpretation over the course of the 96 material site 25 permits that have been issued since 1996 is a reduction</p>
<p style="text-align: right;">Page 7</p> <p>1 presentation by the applicant and their representative. 2 And as they are coming up, I will make 3 comment that I will entertain a motion for a 4 continuance after they speak -- after the public 5 hearing, I'm sorry. 6 KERI-ANN BAKER: Keri-Ann Baker on behalf 7 of the applicant. First, I just wanted to apologize. 8 I did not believe I was going to be able to make it to 9 this hearing because of a personal issue. I spoke with 10 Ms. Montague about it about a week ago. She suggested 11 that I send an e-mail to Mr. Wall, which I did. It 12 wasn't until today that I was able to get here at the 13 last minute. As a courtesy to this group, as well as 14 to everyone else, I did want to come. 15 We're prepared to go forward, but we also 16 understand, and we've spoken to Mr. Wall about his 17 recommendation, that some of the public may not have 18 heard because of our request, so whatever this body 19 decides, we would respect. 20 And again, I apologize that my e-mail 21 caused that. That was not my intent, and it wasn't my 22 intent to delay. 23 EMMITT TRIMBLE: I'm the applicant, 24 Emmitt Trimble, from Anchor Point, Mr. Chairman. 25 I'd like to use the words that the</p>	<p style="text-align: right;">Page 9</p> <p>1 in certain negative impacts is the goal of the material 2 site regulations. 3 Full elimination of negative secondary 4 impacts has never been discussed or required, nor is it 5 feasible. Attempting to judge whether a permit should 6 be denied based on how many people claim they are not 7 sufficiently protected ultimately will lead to 8 arbitrary decision making. 9 Rather than relying on evidence, this 10 approach relies on surrounding property owners stocking 11 the hall. Whether a permit is approved or denied 12 becomes a numbers game. Such negative community 13 sentiment is not a valid reason to deny a permit. 14 Given the mandate from the assembly that 15 material sites be subject only to certain mandatory 16 conditions, a denial based on a conclusory statement 17 that the buffers are insufficient to protect against 18 noise and visual impacts cuts against the grain of the 19 code. 20 Rather, if the buffers that can be 21 fashioned are entirely useless to protect surrounding 22 uses, the answer is a waiver of the buffer requirements 23 under the code, not an unauthorized denial of the 24 permit. 25 Staff though did not believe buffering</p>

<p style="text-align: right;">Page 10</p> <p>1 would be useless and recommended enhanced buffers to 2 afford increased protection over and above what the 3 minimum buffers set forth in the code would require. 4 The Planning Commission's findings are 5 required to be supported by the substantial evidence in 6 the record. The substantial evidence in the record 7 required to support the Planning Commission's findings 8 is not the same as a substantial number of people 9 opposing a material site. Substantial evidence is 10 defined as relevant evidence that a reasonable mind 11 might accept to support a conclusion. 12 One of nine commissioners indicated they 13 read the information. One other commissioner indicated 14 that they had read a bit of the information and assumed 15 it would be verified by what they heard in the 16 testimony. 17 A Superior Court decision has upheld the 18 borough assembly's authority to adopt an ordinance that 19 favors material site operations. This order further 20 held that it is the Planning Commission's 21 responsibility to abide by the legislative standards 22 the assembly has established. 23 The assembly has specifically adopted 24 ordinances that are protective of material site 25 operators and rejected proposed ordinances that make it</p>	<p style="text-align: right;">Page 12</p> <p>1 the Kenai Peninsula Borough, the standards in .040 2 address only water quantity, road damage, physical 3 property damage, dust, noise, visual impacts, and 4 reclamation. These are the adopted standards because 5 these are the concerns that are raised about many, if 6 not most, of the material site applications. 7 The complaints received about the 8 Beachcomber material site are not unique. Repeating 9 over and over again the same complaints about the same 10 material site doesn't change the standards or 11 conditions for material site approval. 12 Regardless of the evidence presented, the 13 material site code is not designed to support a permit 14 denial based on the buffers not being feasible given 15 the topography of the location. 16 Where buffers are not feasible, a waiver 17 for those buffers is in order under the code. Staff, 18 however, does not agree that the buffers are useless 19 and not feasible, but rather believes that they reduce 20 the negative impacts of the material site. 21 The borough further contends that it 22 would be unrealistic to expect buffers to fully 23 eliminate the negative impacts of noise and 24 unsightliness, which appears to be the position of the 25 Planning Commission.</p>
<p style="text-align: right;">Page 11</p> <p>1 more difficult for the same to receive project 2 approval. 3 In adopting the material site code 4 language, the borough task force rejected language that 5 placed a larger burden on the permit applicant. 6 The assembly could have chosen a policy 7 that favors residential property owners; instead, it 8 chose to adopt a policy that favors the material site 9 operators. 10 This is not to say a material site permit 11 cannot be denied, but rather it cannot be denied based 12 on inadequate buffers when, under the code, either 13 enhancing the buffers or waiving the buffers are the 14 authorized resolution to a situation where buffers are 15 not feasible. 16 This is the borough's reply to the 17 opening statements of the opposition: The briefs 18 presented in opposition to the Beachcomber application 19 are very similar in that they discuss the volume of 20 people who attended the hearing who complained 21 primarily about the view shed being potentially ruined 22 by the material site and also about potential noise, 23 dust, road damage, diminishing property values, water 24 quality and quantity. 25 As discussed in the opening statement of</p>	<p style="text-align: right;">Page 13</p> <p>1 Although the Planning Commission did not 2 clearly articulate this interpretation of the code, it 3 is inferred from their findings that a denial was 4 appropriate because the buffers would not minimize 5 noise and visual impacts. 6 Reference is made to 200 pages of 7 documents submitted, it's the Bilben brief. However, 8 documents that don't address the standards are not 9 persuasive. Minimal questions were asked of the 10 applicant and testifiers regarding the standards 11 applicable to the proposed material site. 12 Evidence and fear are not synonymous. 13 Much of what is referred to as evidence is actually 14 voicing fear of what may happen if the material site is 15 operated on the Beachcomber parcel. 16 The borough inevitably hears complaints 17 that wells will run dry and roads will be ruined by a 18 material site, yet there has never been a substantiated 19 case of these deleterious results occurring after 96 20 permitted material sites. Fears and concerns, even 21 though they may be real, are not evidence. 22 There was no real discussion of these 200 23 pages of documents. This wasn't a thorough, 24 well-reasoned decision; it was a hasty, reactionary 25 decision made to accommodate the fears and concerns of</p>

<p style="text-align: right;">Page 14</p> <p>1 the crowd.</p> <p>2 In -- the Girton brief references the</p> <p>3 peace, tranquility, natural beauty of the open meadow</p> <p>4 and the view shed that will be destroyed by the</p> <p>5 material site; however, that open meadow is not a state</p> <p>6 or national park. That open meadow is a privately</p> <p>7 owned parcel in an unzoned area of the borough.</p> <p>8 The Baker Trust chose a -- referenced a</p> <p>9 case from Anchorage, however -- as supporting denial of</p> <p>10 a conditional use permit. However, in both cases the</p> <p>11 applicant was attempting to conduct a use in a</p> <p>12 residential zone where the activity would generally be</p> <p>13 prohibited.</p> <p>14 The borough has not adopted the</p> <p>15 geographical zoning scheme authorized in .040, but</p> <p>16 rather has adopted an ordinance to minimize unfavorable</p> <p>17 effects of material sites as authorized in .040.</p> <p>18 Consistent with the KPB comprehensive</p> <p>19 plan, a permit is required to operate a material site</p> <p>20 in the unzoned borough, but that permit requirement</p> <p>21 does not rely on the premise that material sites are in</p> <p>22 conflict or are generally prohibited in residential</p> <p>23 areas. A permit is required in the borough whether the</p> <p>24 nearest residence is across the street or across</p> <p>25 Kachemak Bay.</p>	<p style="text-align: right;">Page 16</p> <p>1 standards and conditions in the material site code, is</p> <p>2 it not the Planning Commission's job to second guess</p> <p>3 the standards established by the assembly or ignore</p> <p>4 that the only conditions that may be placed on a</p> <p>5 material site are those set forth in KPB .050?</p> <p>6 The Planning Commission must work within</p> <p>7 the legislative standards established by the assembly.</p> <p>8 Staff does not believe there is legal support for</p> <p>9 upholding the Planning Commission's findings of fact or</p> <p>10 conclusions of law.</p> <p>11 Indeed, the Planning Commission gave no</p> <p>12 explanation for its diversion from the legal</p> <p>13 requirements. The Planning Commission's findings were</p> <p>14 conclusory and inadequate to support abandoning the</p> <p>15 well-established approval process for material site</p> <p>16 CLUPs.</p> <p>17 Conclusion, the denial of the material</p> <p>18 site based on perceived inadequate buffers is</p> <p>19 inconsistent with the many decisions issued by the</p> <p>20 Planning Commission where similar complaints have been</p> <p>21 raised.</p> <p>22 In those cases the Planning Commission</p> <p>23 enhanced the buffers to the extent allowed by the code.</p> <p>24 The Planning Commission may change course as its</p> <p>25 expertise and experience suggests or requires, but when</p>
<p style="text-align: right;">Page 15</p> <p>1 The Bilben brief asserts there is</p> <p>2 substantial evidence in the record to support the</p> <p>3 Planning Commission's decision, but then goes on to</p> <p>4 argue is that if there isn't substantial evidence, the</p> <p>5 hearing officer should remand to the Planning</p> <p>6 Commission.</p> <p>7 Obviously, Bilben does not have</p> <p>8 confidence in the position that the substantial</p> <p>9 evidence in the record supports denial of the permit or</p> <p>10 he would not be suggesting a remand as an alternative.</p> <p>11 The arbitrariness of the Planning</p> <p>12 Commission's decision is underscored by the fact that</p> <p>13 another material site in Anchor Point was heard by the</p> <p>14 same commission on the same night. The Blauvelt pit is</p> <p>15 27-and-a-half acres, while the Beachcomber pit is 27.7</p> <p>16 acres.</p> <p>17 The testimony regarding Walt Blauvelt's</p> <p>18 material site was remarkably similar to the testimony</p> <p>19 regarding the Beachcomber material site; however, three</p> <p>20 people testified about the negative impacts of the</p> <p>21 Blauvelt material site while approximately 30 testified</p> <p>22 regarding Beachcomber. The extreme difference between</p> <p>23 the two decisions the Planning Commission reached</p> <p>24 cannot be rationally explained.</p> <p>25 While some commissioners may not like the</p>	<p style="text-align: right;">Page 17</p> <p>1 they do so, they must provide a reasoned analysis</p> <p>2 indicating that prior standards and policies are being</p> <p>3 deliberately changed, not casually ignored.</p> <p>4 The Planning Commission made no analysis</p> <p>5 of why it would deny this material site as opposed to</p> <p>6 other material sites the very same meeting. It was</p> <p>7 arbitrary and unreasonable for the Planning Commission</p> <p>8 to deny this material site permit.</p> <p>9 Rather than relying on its own expertise</p> <p>10 and experience in administering KPB 21.29, it ignored</p> <p>11 the expertise and experience. As such, the hearing</p> <p>12 officer should not give consideration to the Planning</p> <p>13 Commission's interpretation in this case.</p> <p>14 In fact, it would be difficult to give</p> <p>15 much consideration to the Planning Commission's</p> <p>16 interpretation because they didn't discuss the</p> <p>17 ordinance, question staff or the witnesses in any</p> <p>18 meaningful way, or attempt to fashion more appropriate</p> <p>19 buffers.</p> <p>20 I'm sorry for being so lengthy. I know I</p> <p>21 went long there. I have submitted, and I believe you</p> <p>22 have a drawing and a cover letter that provides a grid</p> <p>23 and a profile to respond to the opposition's drawings</p> <p>24 that were submitted.</p> <p>25 And so we feel that this drawing done by</p>

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1 a licensed registered surveyor is a more accurate
2 representation. And that at worst it shows that as
3 long as the berm is placed close to the excavation site
4 as recommended by staff, they are showing that it would
5 have to be 24 feet tall at Echo Street.

6 But that's hundreds of feet away from
7 where we propose to put the berm, which is right at the
8 excavation site that will probably last for three to
9 five years without any movement. It's not a
10 large-scale operation. That's on page 410 or 412 in
11 your packet, that drawing.

12 **UNIDENTIFIED SPEAKER:** You think it is.

13 **EMMITT TRIMBLE:** I think it is, yeah.

14 **COMMISSIONER FOSTER:** Is that Mr.
15 Trimble? Does anybody have any questions for Mr.
16 Trimble?

17 **COMMISSIONER BOKENKO-CARLUCCIO:** The
18 question that I have is -- he just spoke to a drawing
19 on page 410, and I have no 410. So I don't know what
20 he's referring to.

21 **MR. WALL:** Mr. Chairman, he's referring
22 to a letter from his surveyor, which begins on page
23 41.69 of your desk packet, 41.70, and 41.71.

24 **COMMISSIONER FOSTER:** Thank you. Go
25 ahead.

1 **COMMISSIONER ECKLUND:** -- on our staff?

2 **EMMITT TRIMBLE:** -- both of them.

3 **COMMISSIONER ECKLUND:** Okay, thank you.

4 **COMMISSIONER FOSTER:** Yes, Ms. Carluccio.

5 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes, I
6 do have a question, Mr. Trimble.

7 So when you're talking about the berm,
8 you're basically talking about a moving berm that's
9 going to go along with -- as you excavate, then at the
10 edge of that and when you decide to go further, you'll
11 put up another berm, another 50 feet or 25 feet or
12 whatever? But the berm will be 12 feet, or how high
13 will the berm be?

14 **EMMITT TRIMBLE:** Through the chair. Yes,
15 ma'am, it would be as recommended, a 12-foot berm.
16 There is currently about a 14-foot berm there that's
17 running east to west with an area of about a half acre
18 that's been stripped, which probably would not much
19 happen this year.

20 But I'm proposing, and was on site with
21 Mr. Wall a few days ago, to go ahead and put a
22 substantial berm 14 feet high if necessary towards the
23 back of the Phase 1, in that area. And we looked at it
24 on site and talked about the area to the east is
25 actually where we're recommending a 12-foot berm.

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1 **COMMISSIONER BOKENKO-CARLUCCIO:** I'm
2 sorry, I have no questions at this time.

3 **COMMISSIONER FOSTER:** Ms. Ecklund, yeah.

4 **COMMISSIONER ECKLUND:** I have a question
5 for Mr. Trimble.

6 **EMMITT TRIMBLE:** Yes, ma'am.

7 **COMMISSIONER ECKLUND:** So the large
8 amount of reading that you did was all from our staff
9 or our attorneys during the hearing process with the
10 hearing officer, that was their presentation to the
11 hearing officer? It was hard to determine where you
12 began and ended.

13 **EMMITT TRIMBLE:** It was all from --

14 **COMMISSIONER ECKLUND:** Our attorney?

15 **EMMITT TRIMBLE:** -- borough staff and
16 borough attorney. It was the opening statement
17 prepared for the appeal, and then it was the reply to
18 the opponent's opening statement.

19 **COMMISSIONER ECKLUND:** From our staff?
20 All from our staff?

21 **EMMITT TRIMBLE:** Yes, correct, from two
22 different angles. There were two attorneys.

23 **COMMISSIONER ECKLUND:** Two attorneys --

24 **EMMITT TRIMBLE:** Yeah, so they responded
25 to --

1 There is actually very dense timber there
2 for a portion of that, and we discussed the possibility
3 of not needing a berm there because of -- and the road
4 is down below the level of the ground.

5 And I would be moving, yes -- to
6 answer -- I would be moving that berm when necessary,
7 keeping it close to the excavation. And then we're 25
8 feet below that level.

9 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay,
10 through the chair, one other question. So in the area
11 that is vegetated --

12 **EMMITT TRIMBLE:** Uh-huh.

13 **COMMISSIONER BOKENKO-CARLUCCIO:** -- do
14 you plan on leaving that also and only taking the
15 vegetation down as you move the gravel pit?

16 **EMMITT TRIMBLE:** I spent a lot of
17 money -- ma'am, through the chair -- I spent a lot of
18 money making that vegetation look like it does right
19 now. It was a mess when I bought it.

20 So yes. I don't anticipate having a big
21 operation there, so having the berm close to the
22 excavation, the pastures and the trees remain just like
23 they are now for an extended period of time, depending
24 on what the market is for sales of gravel. I primarily
25 want to use the gravel for my own projects.

<p style="text-align: right;">Page 22</p> <p>1 COMMISSIONER BOKENKO-CARLUCCIO: Okay, 2 thank you. 3 COMMISSIONER FOSTER: Are there any other 4 questions? Mr. Venuti. 5 COMMISSIONER VENUTI: Thank you for 6 coming, Mr. Trimble. 7 So my question is, what is the condition 8 of the Anchor River bridge? 9 EMMITT TRIMBLE: Through the chair. 10 It's, in a sense, been condemned to weight standards. 11 So gravel trucks can't -- they are doing it, not 12 anything to do with me, but there shouldn't be 13 anything -- I think it's either 10,000 or 11,000 pounds 14 limit. And it's proposed to be replaced. But it may 15 be two or three years. 16 COMMISSIONER VENUTI: So any product you 17 produce would go down the Old Sterling? 18 EMMITT TRIMBLE: Yes, sir. 19 COMMISSIONER VENUTI: Okay, thank you. 20 COMMISSIONER FOSTER: Any other questions 21 or comments? Now, thank you Mr. Trimble. Oh, one 22 more. 23 MARY TRIMBLE: Mary Trimble, I'm the 24 other half of Beachcomber, LLC. And my testimony is 25 quite a bit shorter.</p>	<p style="text-align: right;">Page 24</p> <p>1 Anchor River for three years, so we have firsthand 2 experience in a tourist business there. Even though 3 our campgrounds and state park are a valuable resource 4 that we all enjoy, they contribute very little to the 5 town's economy. 6 The gravel industry is the economic 7 driver that helps many year-round businesses thrive. 8 The trickle-down effect is huge. We could not have 9 developed 150 residential home sites in the area 10 without an affordable source of gravel close by. 11 Currently we own 42 parcels of land, 12 eight homes, and a commercial building for a 13 significant combined tax assessed value. We also own a 14 construction company with our daughter, and we're 15 building new homes in town. Preserving property values 16 is very important to us. 17 With this permit we will only be a mom 18 and pop business and are not intending, able, or 19 willing to compete with the large operations, it just 20 isn't practical. We don't have equipment, so we will 21 hire local contractors that we know do a good job. 22 The permitted 27.7 acres, minus the 23 buffers, is actually less than 20 acres, planned in 24 three phases, and will be reclaimed as required by the 25 permit.</p>
<p style="text-align: right;">Page 23</p> <p>1 When we first started this permit 2 application process, we talked to the mayor about it, 3 and he said simply, "Follow the rules." And we have 4 been following the rules. 5 We hired an engineering firm to do the 6 surveys, drawings, and to work with us and the staff to 7 make our application complete. 8 Based on that, the staff did recommend 9 our permit for approval. Once again, we have worked 10 with the staff, and now are clearly stating in the 11 permit that our berms will be where they are most 12 effective, between the vegetative buffer and the 13 extraction site as we have intended to do all along. 14 The staff is again recommending approval. 15 The planning director Bruce and the borough attorney 16 have all visited the site and saw no problems with our 17 plan. 18 The borough attorney, in her briefs as 19 Emmitt already told you, interpreted the code, stated 20 the case law to back up her position that the permit 21 should be granted. These are professional, educated 22 people who represent the borough interests and who 23 interpret and enforce the code. 24 Emmitt and I became Anchor Point 25 residents in 1976, and we owned a tackle shop on the</p>	<p style="text-align: right;">Page 25</p> <p>1 As Emmitt said, our prime use for the 2 gravel will be to improve our other properties and sell 3 to the limited local market. 4 The contour of the surrounding area has 5 been mentioned many times, and erroneously described as 6 an amphitheater or bathtub. I submitted a colored 7 contour map, which I don't know what page it is in the 8 packet, but it clearly shows the true situation. 9 The higher area above our property runs 10 in a straight northeast/southwest line. Emmitt and I 11 believe in rights with responsibilities. And this is a 12 situation where we are agreeing to take on 13 responsibilities in exchange for the right to excavate 14 gravel on our property. 15 The opposition has the right to protect 16 their property but are unwilling to accept the fact 17 that they have a responsibility to do what they can to 18 minimize visual and noise, if it is bothersome, by 19 building a fence or a berm on their property or/and 20 installing blinds that raise up from the bottom so they 21 still maintain their inlet view. 22 They do not have rights to our land, so 23 we should not bear all the responsibility for 24 mitigating their perceived discomfort. As Emmitt said, 25 in fact our land is not a wildlife refuge, a bird</p>

<p style="text-align: right;">Page 26</p> <p>1 sanctuary, or a state park. It is our private 2 property, and we have the right to put it to its 3 highest and best use, which is defined -- which being 4 realtors, we deal with this quite a bit, highest and 5 best use. 6 It is the likely use, selected from a 7 number of available choices, to which an area of land 8 may be put based on what is physically possible in 9 compliance with zoning and building regulations and 10 which produces the most profitable present value of the 11 land. 12 As we have said before, this is an 13 amazing legacy property for our family. We desire to 14 build a home there so we can be close to our 15 grandchildren who are on the lot adjoining Phase 3. 16 Finally, 21.29 attempts to balance a 17 variety of public needs, including residential area 18 protection, a private party's right and ability to use 19 their land to its highest and best use, and the 20 public's need for gravel. 21 Whether one agrees or not with 21.29, it 22 is the law and standards that control what the Planning 23 Commission can or can't do. 24 Planning Commissioners have a fiduciary 25 obligation to the taxpayers to thoroughly read and</p>	<p style="text-align: right;">Page 28</p> <p>1 together with their supporting documentation. 2 And when you take out the personal 3 attacks, the personal attacks that have been made 4 against my clients, the personal attacks that have been 5 made against the commissioners, at the end of the day 6 this doesn't have to do with a popularity contest, it 7 has to do with the standards that are contained in 8 21.29.050. 9 Now, your staff, I believe, has gone 10 through and done the same thing as us -- I don't know, 11 you can ask them -- but gone back, looked at the 12 application, analyzed it, looked at the permit 13 conditions to determine whether they were met or 14 exceeded. 15 My client's position is that he has -- or 16 they have met the codified conditions in the code. 17 They have met the buffer requirements. They have met 18 the water source separation. They have met the 19 monitoring wells. 20 And what I have here is a document where 21 I've gone ahead and I've analyzed all of the conditions 22 in 21.29.050, I compared it to the materials submitted 23 by my clients, I've compared it to all of the staff 24 reports that have been prepared by the borough 25 representatives, and it will show you exactly what</p>
<p style="text-align: right;">Page 27</p> <p>1 listen to what is presented, dismiss any irrelevant 2 information, and make an informed decision based solely 3 on the code and substantiated facts, thank you. 4 COMMISSIONER FOSTER: Thank you. Are 5 there any questions for Ms. Trimble? Seeing and 6 hearing none, is there another statement? 7 KERI-ANN BAKER: Yes, this will be a 8 final statement. Keri-Ann Baker on behalf of the 9 applicant, Beachcomber. 10 You've got a very lengthy and heavy 11 packet, and that packet contains our application for 12 conditional land use together with our supporting 13 documents. We've also asked the engineer, Gina 14 DeBardelaben, to be here. She can answer any technical 15 questions that you might have. 16 You also have a staff report, a couple of 17 staff reports, but the most recent staff report done in 18 March. 19 So what happened is after we all went 20 back from this hearing, we went back through the 21 application materials and we took a look at the permit 22 conditions contained in 21.29.050. Because at the end 23 of the day, that is really what we're here to look at, 24 is the mandatory conditions that are set out in 25 21.29.050 as compared to my client's application</p>	<p style="text-align: right;">Page 29</p> <p>1 pages in the record -- and I do apologize, I was going 2 to the hearing record -- where the information is 3 showing that my client has met the mandatory conditions 4 in 21.29.050. 5 So if we take out all of the personal 6 attacks and all of the animosity of this case, really 7 what it comes down to is, does my client meet the 8 mandatory conditions in 21.29.050 or not? And we 9 believe the record clearly shows the substantial 10 evidence that they do. So at the end of my conclusion, 11 I'll go ahead and turn this in. 12 So we would urge at this point that -- 13 either at this hearing or the 22nd if it's continued, 14 that the commissioners take a look at the record and 15 they take out everything else and they look at the 16 conditions and they look at my clients' application and 17 supporting materials, and they look at the staff 18 report, and they look at the staff permit conditions. 19 And when you look at that and you take out everything 20 else, it's clear that my client has satisfied those 21 mandatory conditions. 22 And under the law, they have a right to 23 receive this permit. I would just point out that we do 24 have our engineer, if there were any technical 25 questions, and she would be happy to answer them as</p>

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1 well.

2 **COMMISSIONER FOSTER:** Does anybody have

3 any questions for the attorney? How about for the

4 engineer? Not at this time, thank you.

5 **KERI-ANN BAKER:** Thank you.

6 **COMMISSIONER FOSTER:** Okay, at this point

7 I will be opening the public hearing. And also to let

8 you know that we will -- I will entertain a motion to

9 continue this public hearing and not close it until the

10 22nd.

11 So if you've got something to say now or

12 you want to wait until then, that's perfectly up to

13 you, but the public hearing is now open. For anybody

14 who has any comments, please sign in.

15 And I will, again, read from the rules by

16 which public hearings will be conducted.

17 Persons wishing to testify must wait for

18 recognition by the chair and state their name and

19 address for the record at the microphone provided by

20 the public comment.

21 Each speaker is limited to five minutes

22 unless they have a prepared statement, in which case

23 they may request additional time. All questions will

24 be directed to the chair. All questions and comments

25 will be kept to the subject at hand and shall not deal

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1 with personalities. And the public shall maintain

2 decorum at all times and treat all testifiers with

3 respect. No applause or verbal outbursts will be

4 allowed.

5 Does anybody want to testify?

6 **HANS BILBEN:** Just a clarification before

7 we start on this, Mr. Chair. We've been told --

8 **COMMISSIONER FOSTER:** State your name,

9 please.

10 **HANS BILBEN:** Hans Bilben, Anchor Point.

11 Mr. Wall has advised us of this request

12 for a continuance, and he's also advised us that people

13 that wish to speak tonight would be allowed to speak

14 again at the continuance, is that correct?

15 **COMMISSIONER FOSTER:** As far as I know,

16 yes.

17 **HANS BILBEN:** Okay. Let me go ahead

18 then. A couple things here. First off, a mom and pop

19 operation doesn't take out 50,000 cubic yards per year

20 for 15 years. So you call it what you want, but it's

21 not a mom and pop operation. If it was, I think we

22 could probably deal with it, but not 50,000 cubic yards

23 a year, and that's what the permit stipulates, and it's

24 a 15 year.

25 They talk about buying and selling

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1 houses. Who is buying and selling these houses? It's

2 people that move to Anchor Point, a lot of them live in

3 this area. A lot of people that are upset about this

4 are people that bought properties through the Trimbles,

5 and now after investing their money they are going to

6 have a gravel pit in their front yard. I don't think

7 that's quite acceptable.

8 One thing, I'm a member of the Anchor

9 Point Advisory Planning Commission, and the chairman of

10 the Planning Commission, the local commission, and

11 myself have repeatedly tried to convince the planning

12 department to allow our group in Anchor Point to hear

13 this application. They wanted the community to weigh

14 in, make a recommendation to this commission, and the

15 request has been denied.

16 Wouldn't you think it would be

17 appropriate maybe if the locals were allowed to weigh

18 in in Anchor Point? And that didn't happen.

19 When I asked the borough planner how it's

20 possible that the applicant, without any legitimate

21 justification for a continuance, is allowed to dictate

22 the date he feels up to defending his application. He

23 said that the applicant has special rights. He did pay

24 the \$300 application fee, you know. So for \$300 he has

25 rights that are over and above the rights of 60-plus

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1 neighbors? We have asked for a continuance for this

2 hearing on a couple of occasions and been denied.

3 And the reason for that is it's a

4 recreational/residential area. A lot of the residents

5 of that particular area are snow birds. They worked

6 and lived in Alaska for many years, they bought

7 property in Anchor Point, now they winter someplace

8 else. They won't be back until May.

9 We'll requesting that if there is a

10 continuance, that it would be until May 28th. The

11 reason for that is so that the residents that are

12 affected by this application will be here and able to

13 speak in person.

14 For \$300 he lays claim to the planning

15 department, the borough attorney, unlimited financial

16 backing. And it's like, well, I brought 300 bucks. If

17 I throw this out, can we get rights, too?

18 I mean, it kind of boils down to you say

19 that the applicant has special rights but we don't. So

20 there is something wrong with this system.

21 In the July hearing there was findings of

22 fact from this Planning Commission, and thank you for

23 making a good decision in July, and it was the correct

24 one. There was some problems.

25 The findings of fact said the noise will

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1 not be sufficiently reduced with any buffer or berm
2 that could be added, which is true. Number two, the
3 visual impact to neighboring properties will not be
4 reduced sufficiently, which is also true.
5 The stated intent of these findings is
6 very clear. The application does not meet the minimum
7 requirements of the code. And the exact wording and
8 contents of the findings of fact were disputed by the
9 hearing officer, and probably rightfully so. The main
10 reason that she wanted a remand is because she wanted
11 to see these findings of fact linked to specific
12 conditions from 21.29.050, and she wanted to see the
13 substantial evidence going along with it.
14 I don't think I'm mistaken, but I believe
15 the deputy borough attorney was present and involved
16 with the wording of those stated findings, and
17 shouldn't she be knowledgeable enough to advise you
18 people on the correct contents?
19 The Planning Commissioner's handbook
20 actually goes through what findings of fact should
21 state, and that was kind of lacking.
22 This time we'll propose adequate findings
23 of fact for you to adopt, along with the substantial
24 evidence that was admitted from the findings in the
25 previous hearing.

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1 The hearing officer further stated that
2 the code does not afford the commission the discretion
3 to judge the effectiveness of the conditions identified
4 in the code. I agree with that.
5 As Planning Commission members, you can't
6 say, "Hey, berms don't work." Berms work, everybody
7 knows that, it's a standard in the industry, and that's
8 why they use buffers and berms.
9 What the Planning Commissioners -- what
10 you guys have to do is determine from 21.29.050 if the
11 berms are appropriate -- pardon me, if they are of
12 sufficient density and sufficient height.
13 So you don't have to say, "Berms and
14 buffers don't work," you have to say, "Are they of
15 sufficient density and sufficient height to screen
16 neighbors from the proposed use?" And the answer in
17 this case is absolutely not. We will have some
18 drawings that we won't submit until the continuance of
19 this hearing.
20 Those drawings will show you that -- from
21 some of these houses, from line of sight -- and we use
22 line of sight from the upper levels of these houses,
23 because we pay taxes on those upper levels, the borough
24 gladly accepts our money for them -- line of sight from
25 some of these houses is 53 above the floor of that.

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1 Now, how are you going to protect
2 somebody that's 53 feet above the floor of this pit
3 with a 12-foot berm? Razzle dazzle maybe, but I don't
4 think it's quite possible.
5 The fact that in the initial application
6 there was six-foot berms that were supposed to protect
7 people that were 53 feet above this thing, it was
8 ludicrous to think that that was even in the
9 application. The commissioners did the right thing,
10 and hopefully they will do it again.
11 As commissioners, you're required to make
12 your decisions based upon the law. In this case, the
13 law is the code. It's written in plain English and
14 adopted by the borough assembly. The hearing officer
15 is certainly entitled to her opinion, but it's just an
16 opinion. She can't change the law as adopted by this
17 assembly.
18 The code, yes, it unfortunately favors
19 material site applicants, but there are a few
20 protections in place for neighboring property owners.
21 Those few protections need to be fiercely protected by
22 this Planning Commission.
23 There aren't many things that you can say
24 that can help the residents in this neighborhood, but
25 because of the way this code is written, it does state

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1 in 21.29.050 that berms and buffers have to be of
2 sufficient height and density. And I think you're
3 going to see through the evidence that that's not the
4 case.
5 With all the supporting evidence
6 presented in the past, plus what you're going to see
7 and hear tonight, you'll see that this application is
8 ill-conceived, can't possibly comply with the mandatory
9 conditions and standards set forth in the code, and
10 it's just wrong for the Anchor Point community. If
11 ever there was an application -- pardon me?
12 **COMMISSIONER FOSTER:** Sir, are you
13 getting close to the end?
14 **HANS BILBEN:** I am, I'm two seconds --
15 well, five seconds away.
16 **COMMISSIONER FOSTER:** Okay.
17 **HANS BILBEN:** If ever there was an
18 application that should be denied and could be denied
19 justifiably because of the way the code is written and
20 because of the way this application is written, based
21 upon the protections afforded neighboring property
22 owners, this application should definitely be denied
23 again by the Planning Commission, thank you.
24 **COMMISSIONER FOSTER:** Thank you. Any
25 questions? Yes, Ms. Carluccio.

<p style="text-align: right;">Page 38</p> <p>1 COMMISSIONER BOKENKO-CARLUCCIO: Yes, 2 thank you very much for your comments. What I 3 wanted -- what I noticed that -- you mentioned that you 4 were going to give us findings of fact and that you 5 were going to give us documentary information that 6 would substantiate your claim for not having this 7 gravel pit. 8 What I ask you to do -- I know you said 9 you were going to save it for the next meeting, but 10 please make sure you get it to the staff in time that 11 we get a chance to review it before we come to the 12 meeting. 13 HANS BILBEN: Right, we will do that. 14 COMMISSIONER BOKENKO-CARLUCCIO: Because 15 tonight we ended up with this packet -- 16 HANS BILBEN: 322 pages, I saw it. 17 COMMISSIONER BOKENKO-CARLUCCIO: -- that 18 just got turned in, and I'm sorry, I read pretty fast, 19 but not that fast. 20 HANS BILBEN: Right. We will probably 21 present it at the hearing and get it so it's fresh in 22 your hands. It's only six pages, so it's not -- it's 23 pictures. 24 COMMISSIONER BOKENKO-CARLUCCIO: But it 25 still would be good to have it prior to the meeting.</p>	<p style="text-align: right;">Page 40</p> <p>1 drive slow because of the condition of the road. 2 But these dump trucks are not going to 3 run 25 mile an hour. They are going to be pushing 4 hard, they run by the load, and they are not going to 5 care about the noise. 6 And I can't hold hope that -- it said in 7 the paper that we picked up tonight that there is going 8 to be a bond put down in case the dust rises and there 9 will be -- Beachcomber will be held liable if they have 10 to -- you know, if the dust comes up and they are not 11 watering the roads, or if the noise is bad. 12 I can't hold hope that the state is going 13 to contact me and say, "Okay, we'll be right out." Or 14 if I call them and tell them, I don't think they are 15 going to come out here and stick their nose into 16 Beachcomber's business and say, "Come on, you guys got 17 to slow down, or you guys got to quit making so much 18 noise." 19 We have people that walk down through 20 there with their animals going to the beach. There is 21 no place to get off the side of the road. I don't know 22 what these people are going to do. And the dump trucks 23 ain't going to be careful of them. And there is also 24 businesses on this road, a couple businesses that are 25 just now trying to make it.</p>
<p style="text-align: right;">Page 39</p> <p>1 HANS BILBEN: Okay. 2 COMMISSIONER BOKENKO-CARLUCCIO: Okay, 3 thanks. 4 COMMISSIONER FOSTER: Any other 5 questions? Okay, next testifier, please. State your 6 name and -- 7 MARK CLAYPOOL: Mark Claypool from Kenai. 8 I'm here to represent Silver King RV Village in Anchor 9 Point on Anchor Point River Road. 10 I'm also the president of the association 11 there. I've gotten a lot of calls from a lot of people 12 that oppose this inside the park. I have also got 13 calls from people that didn't get their letter in time 14 to get the e-mail back by the 22nd. 15 So a continuation of this would be 16 greatly appreciated for their efforts, because they 17 come back here in the summer. And they come here to 18 enjoy a summer here and peaceful and quiet, and then 19 these dump trucks are going to be coming down through 20 there. 21 And it don't make any sense to me to have 22 this kind of activity on a road that's already 23 fractured and in poor shape to where as a boat owner 24 and an RV owner, we pull our boats down to the beach, 25 we drive our RVs down to the beach, and we have to</p>	<p style="text-align: right;">Page 41</p> <p>1 Well, here is the business, the big guys 2 are going to knock these little guys out. It's just 3 not fair to these people, it's not fair to the people 4 that live on this road, or from Danver to the New 5 Sterling. But yet, you know, they want this to happen. 6 And I just don't see any reason for it. 7 And I'd like to ask for a continuation on 8 this, so that people when they come back, they can 9 voice their own opinion. I thank you. 10 COMMISSIONER FOSTER: Sir, you would 11 rather have a continuance from the -- not to the 22nd, 12 but to the next -- 13 MARK CLAYPOOL: Actually, I'd like to see 14 it continued probably into May sometime or maybe even 15 June. I mean, these people, a lot of them don't come 16 back until June. 17 COMMISSIONER FOSTER: Okay, thank you. 18 Any -- anybody have any questions? 19 MARK CLAYPOOL: Thank you. 20 COMMISSIONER FOSTER: Next testifier, 21 please. State your name and your address. 22 DAN SYME: Dan Syme, 73530 Seabury Road. 23 I'm up over the hill from this proposed gravel pit 24 within the boundaries of a half mile though. 25 I guess my concern is here, you guys as a</p>

<p style="text-align: right;">Page 42</p> <p>1 council and chair, Planning Commission, my concern is 2 are you looking out for the safety for those 3 constituents that you guys represent? And I haven't 4 heard anything about -- very little about dust control. 5 A 12-foot berm isn't going to hold the dust in. 6 We just mentioned about the roadway. 7 Where is the safety into all these state parks and 8 stuff that are right along that roadway, right across 9 the street from this gravel pit? There is kids out 10 there all the time. I don't hear anything about the 11 safety of those kids. 12 I guess I would say to you guys, I hope 13 you really look at this permit. It's time for a 14 change. This free gratis of just putting a gravel pit 15 wherever you think -- I don't think anybody that lives 16 in the City of Kenai, because he has an acre, can have 17 a gravel pit next to you. 18 There has to be some gives and takes on 19 both sides, I realize that. But this place and this 20 pristine area, boat launches, state parks, residential 21 areas, people walking their dogs, to me we need to take 22 special attention to this. This is just not as usual, 23 let it go down the lane and we'll approve it. 24 Public safety means something. And I 25 would like to see that happen to this council, thank</p>	<p style="text-align: right;">Page 44</p> <p>1 Trimble's daughter, I had to stop last summer. She was 2 pushing her baby in a stroller, and I had to just wait 3 for the cars and the boats to go by before I could go 4 around her. I mean, she was just going out for a walk. 5 It's just the fact that, you know, what 6 makes sense and what doesn't make sense doesn't seem to 7 be applying to this particular event. 8 A gravel pit amongst the state parks, RV 9 parks, and, you know, cabin -- little business -- like 10 the gentleman said, there was a couple businesses 11 there, and all these people that come, wait all year 12 long to come to this place to vacation. 13 My wife and I, that's what we -- since 14 1996 we would save up our vacation, come up to this 15 location, and spend -- eventually we got up to a whole 16 month. And so we got to be here for a whole month. 17 Well, when we retired eventually, we went 18 ahead and we live here now. And so when somebody 19 wanted to desecrate this little jewel to us, naturally 20 we've put a lot of time into trying to figure out why, 21 you know. And I still haven't -- you know, I haven't 22 figured out why, out of 96 applications, this happens 23 to be the very first one. 24 But it isn't really that hard to figure 25 out when you consider not only all the residences that</p>
<p style="text-align: right;">Page 43</p> <p>1 you. 2 COMMISSIONER FOSTER: Are there any 3 questions, comments? Thank you. Thank you, not at 4 this time. Next testifier, please. 5 RICHARD CARLTON: My name is Richard 6 Carlton. I live in Anchor Point not far from Mr. Syme, 7 73500. 8 I'd like to echo the safety issue, but at 9 the same time I'd like to kind of bring -- you know, 10 you could approve a facility, an extraction facility, 11 you have certain guidelines, certain rules that have to 12 be met for these people to apply -- to make their 13 application out and for you guys to even look at the 14 application. 15 But what isn't on those applications, 16 if -- from what I've seen in this last few months is 17 going to meetings and things, is that -- just like what 18 Dan was saying, you know, the fact that there is no 19 shoulders on this primary haul road that gets them to 20 the Old Sterling Highway, which is already pretty bad 21 shape after the -- Hilcorp had their trucks running up 22 and down it and all the neighbors had to put up with 23 the sound and everything the last few months over that. 24 This little stretch is about a half a 25 mile, and like I said, no sides on it at all. Mr.</p>	<p style="text-align: right;">Page 45</p> <p>1 are around there, but the actual location, where it is. 2 I realize there is no zoning, but it's 3 not right. And anybody can say that it is. I'm sorry, 4 they are really just not looking. They are not going 5 for a walk in this area. That's all I have, thanks. 6 COMMISSIONER FOSTER: Thank you. Any 7 questions or comments for the speaker? Not at this 8 time, thank you. Yes, next. 9 KATIE ELSNER: Hi, good evening. My name 10 is Katie Elsner, it's E-l-s-n-e-r. I don't actually 11 live in Anchor Point. I'm a local attorney, and I've 12 been helping the people who have been impacted or who 13 will be impacted by this proposed site. 14 And I just wanted to take the opportunity 15 to discuss a little bit of the law with you tonight. 16 And I will, in fact, be presenting proposed findings to 17 you all and will do that in advance of the next 18 hearing, and then I can sort of explain those proposed 19 findings at that point in time. 20 But there has been some notion that your 21 authority is somewhat constrained here. And what the 22 code does make very, very, very clear is that you are 23 the body that is both vested with the authority and the 24 responsibility to determine what site and noise impacts 25 can be reduced sufficiently, and whether or not those</p>

<p style="text-align: right;">Page 46</p> <p>1 reductions are, in fact, sufficient.</p> <p>2 And that is actually contained within the</p> <p>3 conditions, which can be found in 21.29.050, which</p> <p>4 requires you, as the body who applies the facts to the</p> <p>5 law, to determine what vegetation and fencing will be</p> <p>6 of sufficient height and density to provide visual and</p> <p>7 noise screening of the proposed uses deemed appropriate</p> <p>8 by you.</p> <p>9 And so the code actually requires that</p> <p>10 you determine that the buffer and berming proposal is</p> <p>11 both sufficient and appropriate to screen the nearby</p> <p>12 land owners and the nearby properties.</p> <p>13 And in order to approve an application,</p> <p>14 you must find that these conditions allow the standards</p> <p>15 to be met. And the standards that we're talking about</p> <p>16 here are, of course, 21.29.040(a)(4) and (5), which</p> <p>17 require that these conditions are both sufficient and</p> <p>18 appropriate to minimize these noise and visual impacts.</p> <p>19 And as far as your ability to deny an</p> <p>20 application when you cannot make a finding that the</p> <p>21 impacts are going to be minimized, that authority</p> <p>22 specifically is granted to you under 21.25.050(b),</p> <p>23 which states that before granting a permit, you must</p> <p>24 find at a minimum that the proposed activity complies</p> <p>25 with the code.</p>	<p style="text-align: right;">Page 48</p> <p>1 also submit to you that you could deny that application</p> <p>2 as it is an incomplete application because it does not</p> <p>3 meet the buffer requirements under the code.</p> <p>4 And so, like I said, I will propose</p> <p>5 actual proposed findings of fact for your consideration</p> <p>6 in advance of the next hearing and then be available in</p> <p>7 the event that there are any questions in support of</p> <p>8 those findings of fact.</p> <p>9 COMMISSIONER FOSTER: Are there any</p> <p>10 questions at this time?</p> <p>11 KATIE ELSNER: Thank you.</p> <p>12 COMMISSIONER FOSTER: Next testifier.</p> <p>13 PETE KINNEEN: My name is Pete Kinneen.</p> <p>14 COMMISSIONER FOSTER: You turned the</p> <p>15 light off. There you go.</p> <p>16 PETE KINNEEN: Oh yeah, all right. There</p> <p>17 is a major disconnect in this whole situation, not just</p> <p>18 in this particular application, but in what you are</p> <p>19 doing up there, and I'm compelled to talk about it.</p> <p>20 This is basically a head-on collision,</p> <p>21 and this is the time to get it straightened out. You</p> <p>22 are being told when you go through the whole tale that</p> <p>23 they are putting to you, that you are really nothing</p> <p>24 but a rubber stamp, that's what they are saying. That</p> <p>25 you cannot deny the application because the assembly</p>
<p style="text-align: right;">Page 47</p> <p>1 And so you must find that these minimum</p> <p>2 standards are met, and these minimum standards are</p> <p>3 clearly met, and the conditions require that the</p> <p>4 berming, that the screening, be both sufficient and</p> <p>5 appropriate.</p> <p>6 And so if you disagree with the notion</p> <p>7 that you are un -- you're disallowed from denying or</p> <p>8 disallowing a permit when you cannot find that these</p> <p>9 conditions are met, you cannot find that these</p> <p>10 standards are met, you are allowed to, you know, break</p> <p>11 away from prior precedent.</p> <p>12 And if you believe that that prior</p> <p>13 precedent is clearly erroneous, the law does allow you</p> <p>14 to break away from those prior precedents and those</p> <p>15 prior interpretations of the code.</p> <p>16 But I would submit to you that you need</p> <p>17 not do that, because an application that does not</p> <p>18 provide sufficient screening, sufficient noise</p> <p>19 screening, sufficient visual impact screening, is</p> <p>20 actually just an incomplete application.</p> <p>21 And so in the event that you find that</p> <p>22 the applicant's submission -- that the conditions that</p> <p>23 the applicant is proposing in an effort to screen</p> <p>24 nearby neighbors and other properties that already</p> <p>25 exist is not sufficient and not appropriate, then I</p>	<p style="text-align: right;">Page 49</p> <p>1 has dictated that gravel pits get priority over</p> <p>2 everything else.</p> <p>3 We have queried most of the assembly.</p> <p>4 The assembly denies it. There is nobody on the</p> <p>5 assembly that will admit to that. So we say terrific.</p> <p>6 Where are the assembly people? Where is the director</p> <p>7 from the assembly that says that you are mandated to</p> <p>8 issue permits for a gravel pit?</p> <p>9 And incidentally, this is not a gravel</p> <p>10 pit. Gravel pits are typically little backyard</p> <p>11 operation. This is a mine. This is a full-blown</p> <p>12 processing mine with a proposed asphalt plant, that's</p> <p>13 what we've heard from the applicant in previous</p> <p>14 presentations. So this is a really big deal.</p> <p>15 And you have vested in you -- you are our</p> <p>16 legislature. You have higher authority than anybody</p> <p>17 over here. You do not work for them. You work for us.</p> <p>18 And all that we're asking is to follow the law.</p> <p>19 I've made a presentation before, it's in</p> <p>20 your packet under my name, Pete Kinneen, look it up.</p> <p>21 And we just had an attorney tell you in plain language</p> <p>22 that the code says that not only do you have the</p> <p>23 authority to deny, despite what you're hearing, and we</p> <p>24 lay it out, 1, 2, 3, 4, it starts with the legislative</p> <p>25 intent from the assembly, it's right in the code, it</p>

<p style="text-align: right;">Page 50</p> <p>1 says "intent." The intent is to protect the 2 preexisting properties. 3 We were there mostly because we got 4 buffaloeed by the Trimble clan that we have covenants, 5 we have protective zoning, self -- volunteer zoning. 6 And we were told by them that this last little flat 7 area down there at the bottom of the hill would be a 8 high-end subdivision, and it would certainly not be 9 motivated for gravel. 10 And we hear incessantly about rights, 11 that this is unzoned, and that the assembly is telling 12 you that unzoned means the Wild West. It's not true, 13 okay, it's not true. 14 When it comes to gravel, there is three 15 levels of gravel extraction. The first is -- you can 16 disturb one acre, okay, almost anywhere you are unless 17 it's zoned out. 18 The second is up to two-and-a-half acres, 19 then you have to go get an administrative approval. 20 But it very clearly says that you cannot disturb more 21 than two-and-a-half acres without your approval. And 22 that's a proactive approval. 23 And the code is incredibly clear that, 24 okay, you cannot mandate out of whole cloth something 25 more than berms and buffers. And so that is the only</p>	<p style="text-align: right;">Page 52</p> <p>1 that. Any questions? All right, thank you. Next 2 testifier, please. 3 RICK OLIVER: My name is Rick Oliver, I 4 live at 34880 Danver Street in Anchor Point. 5 The borough and the Trimbles have, in 6 their opening statements, claimed that no substantial 7 evidence was submitted in [sic] the neighboring 8 property owners to support the Planning Commission's 9 decision, and I beg to differ. 10 In your packet, and this is a poor copy, 11 but it's in your packet, it's a picture taken from my 12 bedroom window. Grade level from my property is 13 approximately 20 feet above the grade level for the 14 mine. 15 And my house is classified as a 16 one-and-a-half story with a basement. This will put 17 the view from my bedroom window at approximately 34 18 feet above the top of a six-foot berm. 19 I feel like another nail in the coffin 20 here, but I think it's important that you guys 21 understand exactly what we're looking at here, or will 22 be looking at here if you approve the application. 23 The view from my living room is 24 approximately 24 feet from the top of the berm, and I 25 believe the borough must consider my bedroom as</p>
<p style="text-align: right;">Page 51</p> <p>1 mandatory thing that you can do. But please go back 2 and look at this, and it says "minimum six-foot berm." 3 And we're going to have excellent 4 evidence, excellent evidence using the borough's own 5 data that will show you that in this particular 6 circumstance, because of the topography of it, it's a 7 very unique topography, that there are no berms and 8 buffers that will meet the code. And therefore because 9 it cannot meet the code, the standards and conditions, 10 then it is your duty to deny. 11 COMMISSIONER FOSTER: Thank you, Mr. 12 Kinneen. Any questions? 13 PETE KINNEEN: Sir, one last sentence, 14 please. 15 Also in the packet is testimony that we 16 brought up before. And in this particular case the 17 planning department met with the applicants' engineer, 18 and it's in the record, we will point this out to you, 19 where the staff and the applicants are saying that 20 the -- and I'm quoting them, I'm quoting them -- that 21 the berms are not sufficient to protect. And that's 22 just down on the lower level. So when you go to the 23 higher levels, it's clear from their own testimony, and 24 we will point this out to you. 25 COMMISSIONER FOSTER: Okay, we'll get to</p>	<p style="text-align: right;">Page 53</p> <p>1 property in the fact that we do, in fact, pay taxes for 2 that. 3 Mr. Wall has been to my property and has 4 seen this picture. He obviously does not see any dust 5 or noise or visual impact that may affect my or any 6 other neighboring property. 7 My property is located directly across -- 8 directly east of the proposed gravel mine across Danver 9 Street, which shows through the bottom of that picture. 10 And although I'm a little bit short of 6 11 feet tall, I'm carrying a 10-foot board, which will 12 give you a practical application of just exactly the 13 view that I'll be looking at should this be approved. 14 Planning staff has concluded that a 15 50-foot vegetated buffer and a six-foot berm will 16 sufficiently minimize the dust, noise, and visual 17 impact to my property. And I'm incensed, yet again, 18 that Mr. Trimble has the audacity to state that we 19 ought to buy heavy curtains to eliminate this 20 obscenity. 21 All trees behind me in this picture are 22 located in the mine area and will be gone. That leaves 23 one tree within the 50-foot vegetated buffer, and a 24 six-foot berm to protect my property. I'm also 25 standing on what would become the primary access road</p>

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1 to the mine, and the potential 5,000 ten-yard dump
2 trucks in, and the 5,000 ten-yard dump trucks out that
3 would travel it annually for the next 15 years.
4 Absolutely no noise impact there.
5 250 feet behind me is the proposed
6 location for the rock crusher, which will end up being
7 about 300 feet from my front door.
8 The borough and Mr. Trimble apparently
9 don't consider this to be substantial evidence. I
10 think I have a reasonable mind to conclude differently.
11 To approve this application in light of
12 the substantial evidence would have been a direct
13 contradiction of 21.29.050(2)(E), which states that
14 buffer requirements shall be made in consideration of
15 and in accordance with existing use of adjacent
16 property at the time of the approval of the permit.
17 And 21.29.050(2)(C) which states that the
18 vegetation and fence or berm shall be of sufficient
19 height and density to provide visual noise and
20 screening of the proposed use as deemed appropriate by
21 the Planning Commission or the planning director.
22 As such, the Planning Commission was
23 justified in their denial of this application, and
24 their findings of fact were correct, and I thank you
25 again for that.

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1 The proposed buffering is neither in
2 consideration of existing use or of sufficient height
3 and density to provide visual and noise screening as
4 required by the code.
5 One tree does not constitute sufficient
6 density. Sufficient height cannot be obtained to
7 visualize the noise or impact for myself. And I'm
8 certainly not the highest property that's affected by
9 this application. And that's what I said before in
10 this paragraph.
11 All properties that are at higher
12 elevations in the neighborhood are even more affected
13 by the visual and noise impact than mine and will
14 inflict -- because of the fact that the berms and
15 buffers of any practical height are well below the line
16 of sight, which will be proven again with more evidence
17 that we'll provide prior to the next meeting.
18 Standards 21.29.040(a)(4) and (a)(5),
19 which are required by the code cannot be met and the
20 Planning Commission's finding are correct and
21 appropriate. Thank you.
22 **COMMISSIONER FOSTER:** Thank you, sir.
23 Any questions? Thank you. Next testifier, please.
24 **MICHAEL BRANTLEY:** Good evening, ladies
25 and gentlemen. My name is Michael Brantley. I'm an

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1 owner of a recently new opened business called the
2 Anchor River Fly Fishing. It's an RV park and cabins
3 for fly fishermen.
4 I have one question, if I may ask the
5 assembly, and if I can have a response by a show of
6 hands, I would appreciate that. Do I have permission
7 to ask a question?
8 **COMMISSIONER FOSTER:** Not at this time.
9 You can just ask the question and then we can discuss
10 it in our discussion, or the staff -- if it's a
11 question for staff, they will ask at a later time --
12 answer it.
13 **MICHAEL BRANTLEY:** Okay. My question is,
14 how many of you folks actually have taken the
15 initiative to drive down to the Anchor Point community
16 and see what's going on in the community besides the
17 gravel pit, and actually look at the homes of all the
18 people that have written to you asking you to deny this
19 permit? There is very obvious reasons, more than what
20 I can come up with.
21 If it's permissible, if Mr. Kinneen would
22 like to take over the rest of my time to speak, I would
23 allow that, if that's permissible.
24 **COMMISSIONER FOSTER:** Well, let's hear
25 from the other folks. If you have something else to

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1 say, you can, that way we just keep moving on.
2 **MICHAEL BRANTLEY:** Okay. You know, in
3 all the records and everything that I've read, there is
4 a certain line that stands out there, and it has to be
5 the health, safety, and welfare of the community, and
6 that's what we're talking about here, too. Not just
7 all the rules and regulations.
8 I've contacted other departments about
9 this issue. My opinion is they need to be rewritten,
10 and these issues need to be applied.
11 I got a fact sheet here from OSHA. There
12 is a new standard that came out for the marine industry
13 for silica. I wanted to read you the definition of
14 silica.
15 Crystalline silica is a known carcinogen
16 found in sand, stone, and artificial stone. Exposure
17 to silica dust can trigger sarcoidosis, a chronic
18 disease that involves scarring of the lungs.
19 OSHA estimates that 2.3 million workers
20 are exposed to dust involving 2 million in the
21 construction industry. This new standard went into
22 effect sometime in February of 2018.
23 My business is just on the northern
24 property line -- on the other side of the northern
25 property line of the pit. The mine's a southern.

<p style="text-align: right;">Page 58</p> <p>1 Last meeting I had a thumb drive 2 presentation. I would like to leave this with you as 3 evidence. I have drafted this and made it better with 4 wording so you can understand. So you can take this, 5 you can keep it, you can copy it. I don't need it 6 back. 7 You know, these carcinogens and this 8 noise is going to be right there present. I'm staying 9 in my cabins now as it is getting prepped for summer, 10 and I can hear any traffic going up and down that 11 Denver Road. And I think those cabins are pretty well 12 insulated. 13 I've got pictures that I'll present to 14 the next one that's showing people, ladies with baby 15 carriages, single baby, two babies, three babies, 16 sometimes with dogs and -- 17 COMMISSIONER VENUTI: Sir, can you speak 18 into the microphone so we can hear you, please. 19 MICHAEL BRANTLEY: Yeah. I've got photos 20 of mothers with their children in strollers, one 21 stroller, a double stroller, a triple stroller, 22 sometimes with kids, sometimes with dogs walking up and 23 down that traffic, and everybody has to go around them. 24 As described before, that road is in 25 horrendous condition. If they got permitted tomorrow</p>	<p style="text-align: right;">Page 60</p> <p>1 that the continuation should be into the latter part of 2 May or the first part of June, that is my 3 recommendation, so we can all prepare ourselves. 4 As stated before, all these folks coming 5 back to the RV village -- you know, I heard a statement 6 back in the room a little bit ago that said, well, you 7 know, those people don't live here. 8 Well, they do live here. They bought 9 here. They are paying taxes for the property that they 10 own here. So don't discourage their wording. You've 11 got to listen to the people. You folks need to come 12 down and see this community, talk to the community. I 13 thank you. 14 COMMISSIONER FOSTER: Thank you. Are 15 there any questions? 16 MICHAEL BRANTLEY: Any questions, please? 17 COMMISSIONER BOKENKO-CARLUCCIO: <small>The only</small> 18 question is, please give Julie your thumb drive. Thank 19 you, Mr. Brantley. 20 MICHAEL BRANTLEY: Thank you. 21 COMMISSIONER FOSTER: Next testifier, 22 please. 23 TODD BAREMAN: My name is Todd Bareman. 24 I live about a mile away from the proposed pit, but I 25 have a business within a half mile. I have the boat</p>
<p style="text-align: right;">Page 59</p> <p>1 and they started tomorrow, I would predict that the 2 middle of July that road would be closed to the heavy 3 traffic. 4 The carcinogens will be spread through 5 the air. That embankment is a 2 to 1 slope. It's like 6 a jet engine. When that wind hits that, it's going to 7 go up. It's still going to travel in that direction, 8 but it's going to go up to the higher elevations, come 9 over and settle on my property. And across the road is 10 the bird estuary, and those waters will get 11 contaminated with the carcinogen dust, and therefore 12 that would also flow over into the Anchor River and our 13 sparsely reoccurring salmon return each year. It might 14 get worse. 15 COMMISSIONER FOSTER: Can you tie this up 16 now? 17 MICHAEL BRANTLEY: Yes, sir. 18 COMMISSIONER FOSTER: Okay, thank you. 19 MICHAEL BRANTLEY: I want to make 20 perfectly clear, you stated that after I make my 21 testimony today, with this continuation I will be able 22 to make another statement at that time, is that 23 correct? 24 COMMISSIONER FOSTER: That's correct. 25 MICHAEL BRANTLEY: Okay. My opinion is</p>	<p style="text-align: right;">Page 61</p> <p>1 launch down at the end of Anchor Point Road. And that 2 haul road, again, will be on that road, which we're 3 real concerned about. 4 The only reason I think that road hasn't 5 fallen apart more is it's so bad that the motorhome and 6 the boat traffic now have to go real slow down that 7 road. 8 We all know how fast and how heavy gravel 9 trucks are, and that's a big concern to us. You guys 10 have no plans. We've been fighting, this will be my 11 8th summer at the boat launch, and we've been fighting 12 to get that road fixed for -- until I -- since I 13 started down there and before. 14 There is no plans to do it. As far as I 15 know, he's not liable, whoever hauls gravel out of that 16 pit. If that road becomes destroyed so far that we 17 can't safely travel it with motorhomes or boat traffic 18 during the summer, that will impact a lot of businesses 19 down there. 20 I would like to ask for a continuation 21 until the May 28th. I don't feel that April is 22 sufficient time. My peak season doesn't start until 23 the end of May, so I know when the residents are back 24 because I see them, I'm launching their boats. My 25 business starts the end of April down there launching</p>

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1 boats, but there is nobody -- it's just not busy until
2 the end of May for the summer. So that's why I would
3 like to ask for a continuance so you can hear from the
4 people that are there for four months a summer,
5 whatever they are. They own property in the area.
6 Another question, we're not hearing from
7 state parks. I'm trying to get a comment from them.
8 But I just have a question for you and
9 I'll close. Vacation time is pretty important to
10 working families and everybody else, and we have five
11 state campgrounds down there that are really nice, and
12 we have three RV parks, and they are all busy for those
13 three or four months of the summer.
14 And if you had to wake up with your
15 family to a gravel crusher, an asphalt plant, dump
16 trucks running up and down the road, just ask yourself
17 if you'd come back to any of those campgrounds again.
18 We're worried about that. This is not a one or
19 two-year permit, this is a long permit, and that's why
20 we're concerned about it. It is a big deal. Our
21 economy is the fishing, the boat launch, the state
22 parks, and the RV parks. That's a big deal for us
23 during the summer. So just consider that, thank you.
24 **COMMISSIONER FOSTER:** Thank you. Next
25 testifier, anybody else?

1 There is no train." He said, "Oh, that's --" and the
2 noises with the beep, beep, beep, every time anything
3 backs up or goes forward. And in the summertime it
4 goes for 24 hours.
5 Now, there is a rumor that Hilcorp wants
6 the gravel to put their berms up around all the oil
7 rigs that you're going to start putting in there. We
8 live in this town. It may be just a town to you people
9 or some kind of backwoods, podunk area down there, but
10 a lot of us are very well educated, and we moved there
11 in order not to be within city limits, in order not to
12 have dog ordinances and everything else.
13 But it used to be that if my neighbor's
14 dog barked or they were shooting off guns, I could call
15 the police and they would come and say, "No, sorry, you
16 know, people are trying to sleep, you have to quit it."
17 Nowadays, I don't know. We don't have
18 anything that protects us. It doesn't have anything
19 that protects us, that keeps our home values, keeps our
20 families, keeps us safe.
21 We're no longer a part of the Kenai
22 Peninsula Borough if you're not going to think that we
23 also live here. And it's very important to us to know
24 that you care that we are part of the Kenai Peninsula
25 Borough. That scares me when I hear people speak

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1 **LINDA FEILER:** Hi, my name is Linda
2 Feiler, I live at 73230 Tryagain Avenue. And I've
3 lived in Anchor Point for the past 42 years or more.
4 And Anchor Point is a quiet town. Most
5 of us moved there because of the river, and that river
6 is our jewel. If you ask the hundreds of people that
7 come down from Anchorage, if you ask the people from
8 Homer who come up to walk the beaches, to fish in the
9 river, to walk along the river, to walk along the river
10 road, I personally go down to the beach very often
11 with -- alone or with my dogs or just with friends, we
12 go for exercise. We walk along the road because it's
13 quiet, because it's deserted, because it's lovely, and
14 that's why a lot of us moved there.
15 You know, I had Hilcorp moving in next
16 door. They are going to make a lot of noise. They
17 weren't required to put in a berm, yet when they made
18 noise, it vibrated right through our bodies.
19 We have had other gravel pits, and we
20 could hear them all the way from -- on the Sterling
21 Highway you could hear the road crusher.
22 When I first moved there in '77, I asked
23 my boyfriend, "What is that?" He said, "Oh, that's a
24 train that goes to Anchorage," you know, because of
25 that chug, chug, chug. And I said, "No, it can't be.

1 about -- when I hear the rumors, perhaps, of what you
2 talk about when you discuss Anchor Point.
3 When I moved there, there were 200 of us,
4 and there is a heck of a lot more now. We all care
5 about our town, and just because we have a gravel pit
6 down on Danver, it doesn't mean that it's not going to
7 affect me and it's not going to affect my neighbors,
8 because we are walking on that road, we use that road
9 as our park, our exercise track. And we don't walk
10 along the river because it's too muddy, but we do walk
11 in the road because there is no traffic, because it's
12 lovely.
13 And I think from now on when something
14 happens in Anchor Point, that you take into
15 consideration not the people that live 25 feet or 50
16 feet from the proposed thing that's going to come in
17 that's going to affect our town. If you want us to
18 incorporate, then treat us like you know who we are.
19 We are a town, and we care about each
20 other, and many of us take care of each other, and many
21 of us use the river and the river road.
22 I'm also worried about the bridge. We've
23 had it resurfaced, but after you -- you've seen all the
24 damage from above. But when those trucks come
25 downhill -- I lived as a trucker for the first 20

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1 years -- and when you come down the hill with a full
2 load of gravel, or up the hill, that bridge is a
3 danger, and it's not double wide.
4 So I hope you take all that into
5 consideration and remember that we are part of your
6 community, thank you.
7 **COMMISSIONER FOSTER:** Any questions?
8 Yes, Ms. Carluccio.
9 **COMMISSIONER BOKENKO-CARLUCCIO:** I'm
10 curious about what rumors you hear about how we speak
11 about Anchor Point.
12 **LINDA FEILER:** "That little backwoods
13 area. That little pain in the neck down there."
14 We're -- you know, I mean, yes --
15 **COMMISSIONER BOKENKO-CARLUCCIO:** I'm
16 sorry, I'm just trying to figure out who --
17 **LINDA FEILER:** Well, I hope it is a
18 rumor.
19 **COMMISSIONER BOKENKO-CARLUCCIO:** -- on
20 this Planning Commission would say something like that?
21 I don't think so.
22 **LINDA FEILER:** Well, we only hear what
23 filters down, and we hear things at meetings. And so,
24 you know, it's worrisome.
25 Because once again, we're not informed

1 Well, that's --
2 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay.
3 **LINDA FEILER:** I will get you -- if I
4 ever hear it again --
5 **COMMISSIONER BOKENKO-CARLUCCIO:** Thank
6 you.
7 **LINDA FEILER:** -- I will try to find out
8 where it's coming from.
9 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay,
10 thanks.
11 **COMMISSIONER FOSTER:** Thank you. Next
12 testifier, please.
13 **ED MARTIN:** Hi, my name is Ed Martin, I
14 live in Sterling. Just a couple things before I start
15 my testimony that I think you guys should really know
16 about from previous testimony.
17 The aforementioned boat launch was built
18 with gravel from this site.
19 I hear a lot about safety. I'm the owner
20 of Alaska Driving Academy. It's a school that I train
21 people to obtain their CDLs and become good truckers.
22 A lot of these people are talking about safety, they
23 are talking about the width of the road, that they
24 don't have the room to walk up and down it with their
25 various baby strollers and whatnot.

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1 when something happens in our area, okay. All of a
2 sudden, I go out to take care of my brother and
3 sister-in-law that died, I come back and I have Hilcorp
4 right there.
5 And when they go on, they didn't have to
6 put up a berm. And a six-foot berm wouldn't help. And
7 I sleep upstairs in my bedroom. And the vibration that
8 goes through your chest, and my neighbors who are just
9 panicked about it, we weren't notified, we weren't
10 asked how we felt about it. You wouldn't want one near
11 your house.
12 You know, noise is a big one, really big,
13 and we can hear the highway noise. We've stopped Jake
14 brakes. Remember, you're not allowed to go down the
15 hill and put on your Jake brake? How far away is a
16 Jake brake heard?
17 In Anchor Point, I hear break-up when the
18 river breaks up, I hear waves crashing, and I'm a good
19 distance away. I'm up on Tryagain. I'm up on the Old
20 Sterling, and I can hear the ocean, and I can hear the
21 river.
22 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay, I
23 understand your comments now, but that's not what I
24 asked you.
25 **LINDA FEILER:** Right, okay. Okay, sorry.

1 One thing you need to keep in mind is
2 that the typical boat trailer is wider than a dump
3 truck, is wider than a semi truck, therefore it takes
4 up more of the road, therefore is less safe if you're
5 sharing that 12-foot lane on either side of this road.
6 Wider is worse, right?
7 Second, another thing that they are
8 really concerned about safety, yet I hear that they got
9 Jake brakes banned, and a Jake brake is a safety device
10 on a truck. So obviously they are willing to trade
11 safety for noise degradation. As long as it sounds
12 good, they don't mind not being quite as safe.
13 Anyhow, now I'll get to my testimony.
14 I'm the elected president of the Kenai Peninsula
15 Aggregate and Contractors Association that is in the
16 process of being formed this week. I represent over 40
17 contractors and material site operators. I urge the
18 commission to approve Beachcomber's application based
19 on the reasons for denial were invalid.
20 The commission's findings that noise and
21 visual impact would not be sufficiently reduced are not
22 a valid reason for denial. I would like to remind the
23 commission that your power of judgment lies within the
24 code. You may impose conditions outlined in the code,
25 but you may not judge their effectiveness or impose

<p style="text-align: right;">Page 70</p> <p>1 conditions outside of the code. Therefore, you must 2 approve a permit that has met the standards set forth 3 in the application. 4 I urge you to vote in favor of issuing a 5 CLUP immediately. I believe further public comment 6 will comprise no new findings, as the public has had 7 ample time to testify in past meetings. You've already 8 deliberated on this once, correct? And to not further 9 burden the applicant. 10 The construction and development season 11 is short, and delaying another month will be 12 detrimental to a material site operator. Thank you. 13 Any questions? 14 COMMISSIONER FOSTER: Thank you. Are 15 there any questions? Yes, Mr. Venuti. 16 COMMISSIONER VENUTI: Thank you for 17 testifying. You might be the right guy to ask this 18 question. 19 ED MARTIN: Yes, sir. 20 COMMISSIONER VENUTI: What do you know 21 about white noise back-up alarms, and what's your 22 opinion on them, and do you think this would be a good 23 solution for noise at this site? 24 ED MARTIN: Well, white noise back-up 25 alarms is a give and take. I've researched them</p>	<p style="text-align: right;">Page 72</p> <p>1 more expensive, particularly more expensive on the 2 newer machinery because they are computerized and such. 3 You can't just hack into the electrical system like you 4 can an old machine. 5 But it really depends on the operation. 6 Like I said, if it was just a gravel extraction 7 operation where you just had one loader working in a 8 pit filling up dump trucks, it would be an effective 9 alarm. 10 If you have a screening operation or a 11 crushing operation, it's not really an effective alarm 12 because of the ambient noise from the other machinery 13 that's operating in that site. 14 COMMISSIONER VENUTI: Great, thank you. 15 COMMISSIONER FOSTER: Are there any other 16 questions? Not at this time I guess. Thank you. Next 17 testifier, please. 18 LARRY SMITH: My name is Larry Smith. I 19 reside at 320 Artifact Street, Soldotna. 20 I had hoped to come up here tonight and 21 testify and give you all the benefit of my knowledge of 22 gravel pits. 23 And just as a background there, I've been 24 in the construction business in Alaska for nearly 40 25 years. My brother and I own a construction company.</p>
<p style="text-align: right;">Page 71</p> <p>1 thoroughly. There is actually a couple of studies done 2 on them. And it's kind of another one of those avenues 3 where you give up safety for -- a little bit of safety 4 for a little bit of noise degradation. 5 So basically what I found out about them 6 is that they are only effective in certain areas behind 7 whatever vehicle that they are put on. And they are 8 only effective if the surrounding noise is -- they are 9 really only effective if -- say you have one machine, 10 maybe two machines in a pit. As soon as you put a 11 screening plant or a crusher or something like that, 12 that the ambient noise level has gone up dramatically, 13 then their effectiveness comes way down, extremely 14 down, versus a multitone alarm, or the old beep-beep 15 tone alarms. They are actually the most effective. 16 And there has been studies in laboratories and on -- 17 in-the-field studies of their effectiveness and the 18 alertness of people to alarm being turned on. 19 COMMISSIONER VENUTI: So is this 20 something you would recommend an operator to use? And 21 again, what would be the typical cost to install a 22 system like that on trucks? 23 ED MARTIN: Typical cost to install a 24 system like that ranges in between \$4- and \$600 for 25 your typical setup. I mean, some are cheaper, some are</p>	<p style="text-align: right;">Page 73</p> <p>1 We've built streets, roads, and bridges throughout 2 Alaska. We're currently under contract with the Kenai 3 Peninsula Borough to build the North Road extension, 4 Kenai Spur Highway extension. 5 That project has approximately 200,000 6 tons of gravel, which converts to something around a 7 hundred thousand yards, which converts to, I don't know 8 how many truck loads. I could tell you if I had my 9 calculator with me, but I left my smart phone at home. 10 I'm up here tonight to testify on behalf 11 of the Trimbles and ask you to approve their permit. 12 I've bought gravel throughout the state from a number 13 of different entities. My brother and I currently own 14 three gravel pits, one in Ninilchik, one in Soldotna, 15 and one in Nikiski. 16 I've heard a lot of testimony. I've read 17 a lot of the letters and e-mails and such in 18 opposition. I read the hearing officer's decisions and 19 findings of fact. 20 And that's what this is all about. This 21 is all about facts. I've heard a lot of testimony out 22 there. Long on testimony, short on facts. I saw a lot 23 of testimony that's long on emotion, again, short on 24 facts. 25 The facts in my mind are that Mr. and</p>

<p style="text-align: right;">Page 74</p> <p>1 Mrs. Trimble have met the requirements of the Kenai 2 Peninsula Borough ordinances as evidenced by your 3 staff's recommendation on not one, but two occasions 4 that you approve this permit. 5 In reading through this packet today, I 6 came across something that I would like to read here, 7 and it's from -- it's on page 72 of 332 of packet No. 8 2. It has to do with the study of values of homes, and 9 that's not what I'm here to talk to you about. I have 10 my opinion as to what happens with the value of homes 11 near a gravel pit, and it's -- everybody has their 12 opinion. 13 What this is is the background, and I'm 14 going to read, I'm quoting: Odds are that underneath 15 your feet is a construction material made of sand, 16 crushed stone, and gravel. And I can guarantee that 17 under this building is gravel, and under this carpet is 18 concrete, which consists of gravel and other 19 ingredients. 20 These construction materials are an 21 essential ingredient into nearly ever construction 22 project from residential housing, office buildings, 23 retail outlets, entertainment structures, to the roads 24 that connect them. Sand, rock, and gravel are 25 literally the foundation of economic development, but</p>	<p style="text-align: right;">Page 76</p> <p>1 consider; however, that's not what the code allows. 2 The code allows certain things. The Trimbles have met 3 those requirements, and I would request that you 4 approve their permit, thank you. 5 COMMISSIONER FOSTER: Thank you. Are 6 there any questions? Not at this time, thank you. 7 Next testifier, please. 8 LYNN WHITMORE: My name is Lynn Whitmore, 9 I live in Anchor Point, and I'm the next door neighbor 10 to the proposed gravel pit. And I brought an overhead 11 presentation to make, but for the sake of expediency, 12 it seems like it would be redundant to do it now and 13 then do it again in the future. 14 So I'd just like to maybe repeat 15 something I've heard a couple times, in that when we 16 got remanded back to you guys from this case, on this 17 case, we asked the planning department to continue this 18 until we got some of the neighbors back who are 19 affected by this. 20 A lot of the people are smarter old 21 duffers than I am, and they have got their timing 22 figured out and they are Outside at this time of year, 23 and they come home. They have got their dream piece of 24 property up there. 25 And I think it would be really fair to</p>
<p style="text-align: right;">Page 75</p> <p>1 their extraction process can generate dust, noise, 2 vibration, and truck traffic. 3 While modern technologies and methods 4 have greatly reduced quarry's impact -- and when I say 5 quarries, I mean gravel pits -- the environmental and 6 economic consequences of quarry operations receive 7 considerable attention, often in the form of "not in my 8 backyard," or NIMBY, campaigns opposing quarry 9 expansions or new sites. 10 Choosing a quarry site is a delicate 11 task. While a quarry may be best located far from 12 residential density on NIMBY concerns, it also needs to 13 be near the final point of demand due to its high 14 transportation costs. Quarries, or gravel pits, must 15 balance the need to be both near and far. 16 And that's -- I would imagine in a very 17 perfect world, the Trimbles would love to have their 18 gravel pit somewhere else where it didn't impact on the 19 view of their neighbors. But what needs to be kept in 20 mind is the neighbors' view is not their right. They 21 don't own the view of the Trimbles' land. 22 There was talk tonight about putting some 23 fences up on their property. And I honestly believe 24 that when we come to some of these conditions for 25 gravel pits, that that may be some conditions we can</p>	<p style="text-align: right;">Page 77</p> <p>1 get them here to speak their concerns. And we'll try 2 to talk them into talking about the findings of fact 3 and not to get too far outside of what we actually need 4 to address. 5 And I would hope that we could continue 6 it to around May 28th and give us a chance to get 7 everybody together, thanks. 8 COMMISSIONER FOSTER: Thank you, Mr. 9 Whitmore. Any questions? Thank you. 10 Any more testifiers? Or do you want to 11 wait until next time? 12 JOSH ELMALEH: Hi, my name is Josh 13 Elmaleh, and I live on Seabury Court not far from the 14 planned gravel extraction site. 15 There is a few things that I would like 16 to point out, is you guys made an excellent decision 17 last time that we had this meeting to deny Beachcomber, 18 LLC the right to extract gravel, and the reasons for 19 that were visual and noise impacts. 20 I cannot see the property from my house, 21 yet anytime they had a tractor or a Bobcat running, I 22 was hearing it from my house, and that's over the hill, 23 through trees, behind other neighbors' houses. 24 And so normally I can't hear anything 25 from my house in that distance, but I hear it clear as</p>

<p style="text-align: right;">Page 78</p> <p>1 day. Whenever you hear a dump truck dump, or if they 2 are going down a road, you hear their -- you hear their 3 bed clang and clack and all that. That's going to 4 happen whether or not it's on their property. It's a 5 product of their excavation, it's a product of what 6 they are going through.</p> <p>7 There is a high wind in that area. That 8 will kick up the dust that they are going to expose. 9 That is going to create another visual impact because 10 you're going to have people driving by, and then all of 11 a sudden you have a cloud of dust blocking your vision, 12 not necessarily all of your vision, but it does hinder 13 it.</p> <p>14 And then there is an impact on our road. 15 So that is another visual impact. You're going to have 16 high wear marks, high things -- a lot of stuff that's 17 going to be happening. And it's not just that, okay, 18 maybe they have to fix it on a weekly basis. I don't 19 know.</p> <p>20 But I'll tell you, I don't want this to 21 go in, because it affects me, my family, my wife, my 22 kids, my dogs.</p> <p>23 You know, I try to keep my dogs at the 24 house, you know. They are magicians. They find a way 25 out. They are going to find a way to that pit. They</p>	<p style="text-align: right;">Page 80</p> <p>1 I'm not going to mention safety because that's all 2 there, and it doesn't matter according to those six 3 criteria.</p> <p>4 And I will say this one thing, if 5 anything, Mr. Emmitt Trimble has brought the community 6 together, but not in his favor, but to resist the 7 health and the noise impact that his proposed mine will 8 bring about.</p> <p>9 And a lady came up and she said something 10 about vibration. That is absolutely correct. Anytime 11 you have a truck going by, especially in that type of 12 neighborhood, you're going to have that vibration going 13 through. I mean, that's a physical impact. You're 14 being physically impacted when something goes by.</p> <p>15 You know, maybe sometimes you run fast 16 and your heart starts beating a little bit. Well, you 17 kind of get that if all of a sudden, whoa, the ground 18 is moving. Some people are really affected by 19 earthquakes. Not me because I grew up in California, 20 lots of earthquakes, didn't really care about that too 21 much.</p> <p>22 So anyways, please stand to your initial 23 findings, and I hope that you guys will enjoy part of 24 the piece of Heaven that we have down there.</p> <p>25 COMMISSIONER FOSTER: Thank you, any</p>
<p style="text-align: right;">Page 79</p> <p>1 are going to find a way, and then somebody is going to 2 run them over, and I'm not going to have control over 3 that, you know. I do my best.</p> <p>4 And I know a lot of people might be 5 better with their animals, but, you know, I grew up 6 with them, and I've always learned, do your best and 7 teach them and love them as best you can.</p> <p>8 There is many -- in previous 9 testimonies -- there is many visual impacts that are 10 going to happen from it. You drive up the road, you 11 drive down the road, you're going to see what the 12 Trimbles are doing on that property. Yeah, it's their 13 property, they should have a lot of rights to what they 14 do to it.</p> <p>15 But you guys have your six criteria they 16 have to meet, you know that, it's redundant. But I 17 agree with your initial findings of visual and sound 18 impacts are not going to be met, no matter what they 19 do, because they are in that bowl, and we all have a 20 perched view right above them.</p> <p>21 And there is a lot of people who are 22 going to be affected, not just the neighbors, but the 23 tourists, the people that are close by, people coming 24 through.</p> <p>25 I'm not going to mention property values,</p>	<p style="text-align: right;">Page 81</p> <p>1 questions? Not at this time.</p> <p>2 LAUREN ISENHOUR: I'm Lauren Isenhour. I 3 live at 34737 Beachcomber Street. I'm just going to 4 read my statement.</p> <p>5 I believe that Anchor Point is a 6 wonderful place to live for all the same reasons as 7 these people here. I like having privacy and acreage, 8 I like having control over what I can do on my own 9 property. I love being able to walk to the beach and 10 the river with my kids and not to be surrounded by lots 11 of people.</p> <p>12 The success and longevity of Anchor Point 13 is extremely important to me and my family. We 14 actually depend on it. Maintaining a successful town 15 structure, meaning keeping businesses open, keeping 16 Chapman school open, keeping Anchor Point a 17 recreational destination, keeping property values high, 18 these things are very important to my family and to our 19 livelihoods.</p> <p>20 I believe there is an attainable balance 21 between keeping Anchor Point the quaint little town we 22 all love while still allowing for the development that 23 keeps our community viable.</p> <p>24 I see the word development used with a 25 negative connotation a lot, and I truly don't</p>

<p style="text-align: right;">Page 82</p> <p>1 understand that. We all live in houses and drive on 2 roads, and that's development. 3 Anchor Point, due to its size and 4 economy, can only support a certain amount of 5 development, and I like that. With our construction 6 company, I could hire a crew and build ten houses a 7 year, only there just isn't the population to buy them. 8 In 2018 there were 30 home sales in 9 Anchor Point. That's a really small market. Currently 10 I'm building one to two houses a year, and that size of 11 development is a perfect fit for me and my family. 12 I'm proud of what I'm accomplishing and 13 for what I can help contribute to my town. I don't 14 want to build in Homer or anywhere else. I want to 15 live and work in Anchor Point. 16 At my last build I benefitted from 17 contributions from at least 20 local Anchor Pointers 18 employed through local contractors who work year round 19 and support their families with income they make right 20 here in our tiny town. Those laborers are the backbone 21 of our town. Without their year-round work and their 22 year-round contributions back and our community, our 23 town would dry up. 24 I believe my parents are the perfect 25 people to own this property for my neighborhood. They</p>	<p style="text-align: right;">Page 84</p> <p>1 don't agree with that. There are no regulations on 2 anyone else's properties protecting us from our 3 neighbors potentially having junkyards or tarped roofs 4 or the like that we see. Gravel pits are strictly 5 regulated and monitored and required to be reclaimed. 6 All over Anchor Point are properties that 7 my parents have developed and sold, and without a 8 shadow of a doubt, each one has been radically improved 9 at their hand. This parcel is no exception. 10 Prior to my parents purchasing it, the 11 field behind my house was so littered with stumps and 12 slash you could hardly walk through it. My parents 13 spent over 60 grand to clean it up to the beautiful 14 state it's currently in. 15 That does not lend to the picture their 16 opposition tries to paint of them as greedy destroyers 17 of the land. They have been successful in land 18 development for 40 years, because they are 19 exceptionally excellent at it. They are meticulous and 20 deliberate in their stewardship of the land. 21 I have all the trust and confidence in 22 the world, not because they are my parents, but because 23 of their proven track record, that whatever areas of 24 this permitted land they do extract gravel from, it 25 will be reclaimed to the highest degree.</p>
<p style="text-align: right;">Page 83</p> <p>1 bought it because they love it and want to keep it 2 fully intact and want to be able to keep it in the 3 Trimble family for generations. They did not buy this 4 property with plans to develop it, they bought it to 5 keep it. But it's expensive. 6 I would rather see a controlled, 7 small-scale gravel pit that provides needed gravel and 8 jobs to local people and is then reclaimed to the 9 highest standards and be able to stay one large vacant 10 parcel maintained by the Trimble family for generations 11 than I would to see it subdivided. I don't want 27 new 12 neighbors with no regulations to control what they 13 build or do on their new properties. 14 Ironically, my family and the 15 neighborhood who oppose the permit both want the same 16 thing, which is for this beautiful parcel to remain 17 vacant and to remain one large piece of land. Once a 18 parcel is subdivided and homes are built, it will be 19 that way forever. 20 My parents are very interested in keeping 21 property values high. It benefits their real estate 22 business as a whole and benefits their own property 23 investments. 24 I've heard a number of comments that this 25 permit will lower the surrounding property values. I</p>	<p style="text-align: right;">Page 85</p> <p>1 The engineer who designed this permit 2 application testified that for a large pit in this type 3 of rural area, 10,000 cubic yards is a more realistic 4 amount of gravel to move a year. 5 As I stated before, Anchor Point is a 6 small community that can only support a small amount of 7 development. There just isn't the populous to purchase 8 my potential ten houses a year, and there just isn't 9 the populous to purchase 50,000 cubic yards of gravel a 10 year. That's the number that -- the maximum the permit 11 would allow. That's not a realistic extraction amount 12 in our community. 13 I'd also like to address the safety and 14 condition of the beach access road as stated. I do 15 walk the road with my kids, and during the summer 16 months there is a lot of traffic and boats and RVs, 17 bikes and walkers and constant vehicle traffic. 18 Wide-load boats drive very slowly, RVs drive very 19 slowly, and with a such a constant flow of vehicles, 20 traffic just moves slowly. 21 Gravel trucks also drive that road all 22 the time delivering gravel to the residents, and I 23 believe as a community we all work really well together 24 to keep everyone safe on a road. So yeah, when I'm 25 walking with my kids, we step off into the ditch and</p>

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1 drivers do drive very slowly around us, and we all wave
2 at each other as we do this. And we've worked together
3 to keep everyone safe.
4 Gravel trucks drive no differently than
5 wide-load boats or RVs. And just to be clear, I
6 support the presence of RVs and boats as well as gravel
7 trucks. I believe there is an attainable balance
8 between all of us in the community to keep Anchor Point
9 the quaint town we love, yet also keep the responsible
10 amount of development that keeps jobs in our community.
11 **COMMISSIONER FOSTER:** Thank you very
12 much. Any questions for Ms. Isenhour? Not at this
13 time, thank you.
14 **LAUREN ISENHOUR:** Thank you.
15 **COMMISSIONER FOSTER:** Any more
16 testifiers?
17 **GINA DEBARDELABEN:** You managed to fill
18 up the whole sheet so far.
19 My name is Gina DeBardelaben, I'm with
20 McLane Consulting. Our engineering and surveying firm
21 was hired by Beachcomber, LLC to survey the property
22 and prepare the CLUP permit documents and exhibits.
23 Field work for the permit was completed
24 in May of 2018, and the CLUP application was submitted
25 in June of 2018. Since then -- I mean, that's -- we're

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1 almost working on a year at this point on this
2 application.
3 The site was previously utilized, and it
4 had a driveway on it and still has a driveway and a
5 small gravel pad and some berms established.
6 The material site, or the proposed
7 material site parcel has a lot of relief to it. And it
8 would require any type of -- for any type of
9 development some excavation and leveling for access,
10 residential or commercial construction, all of which
11 could have impacts similar to a material site. Just
12 something to keep in mind, that with an unlevel site
13 you always have larger impacts than a level site.
14 There were a few things brought before --
15 up in this plethora of written comments and public
16 testimony that I want to speak to. I know that some of
17 these are things that I regularly testify or say at
18 Planning Commission meetings for CLUPs, but I think
19 it's important that the commission hears it and the
20 public in attendance hear it.
21 One of them is noise concerns. It's
22 unrealistic to think that buffers will or should fully
23 eliminate impacts of noise or visual impacts. The code
24 and the proposed buffers would minimize or reduce
25 visual impacts and noise, and that's the requirement.

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1 The code provides these tools that are
2 already in the box that are supposed to be used for
3 buffers or barriers, and that's what an applicant has
4 to choose from at this point, and that's kind of the
5 way the code is written. So, you know, an applicant
6 does their best to pick from those tools that are
7 provided.
8 There's additional information provided
9 regarding site minimization by Geovera, so I don't want
10 to -- I'm not going to talk about that too much, but I
11 do want to talk about noise pollution a little more.
12 Noises can be deceiving. ANSI, MSHW, and
13 OSHA, they all have, like, great charts and comparative
14 data and studies on noise. I'm going to site some
15 docs, some noise -- some information on noise abatement
16 and some data, and that's all from a U.S. Bureau of
17 Mines report regarding noise abatement for construction
18 sites.
19 A front-end loader, which is our most
20 common piece of equipment in a material site, emits
21 between 85 and 91 decibels depending on the age of the
22 equipment and the material it's moving. It averages
23 about 88 decibels from where the operator sits.
24 As a comparison, a gas lawn mower
25 operates at 100 decibels, and a blow dryer operates at

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1 85 decibels, and an uninsulated dishwasher in your home
2 operates at 70 decibels.
3 Separation distancing and locating noisy
4 equipment behind a barrier are the two top
5 recommended -- recommendations for noise abatement. A
6 noise barrier, such as a spoils berm, drops the noise
7 level in a curvilinear rate relative to the distance
8 and the noise of the barrier.
9 But noise separation from a -- separation
10 of distance from a noise drops the impacts in a linear
11 fashion. So for every 10 feet of distance, the noise
12 drops approximately six decibels.
13 So between the curvilinear and the linear
14 analysis, a berm in combination with approximately 20
15 feet of separation, drops the decibel levels of a
16 front-end loader to that of a dishwasher. It gives you
17 an idea.
18 Decibels are always something that's a
19 little bit vague and how they drop across air and how
20 barriers affect noise abatement. So I just wanted to
21 bring it a little bit in perspective on what the
22 combination of distance and berms provide.
23 The other thing that's brought up is haul
24 routes. The Anchor River Road and the Old Sterling are
25 state maintained, and those meet what the requirements

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1 of a state road, four feet of road, are. Believe it or
2 not, that's what the state requires -- that's what the
3 state has provided, and they meet their standards.
4 They also -- the Anchor River bridge has
5 a gross to vehicle -- a GVW listed for it. Right now
6 it's listed very low because the bridge is near being
7 condemned or whatnot. It's damaged, and it is slated
8 for replacement in 2020.
9 All users of these roads need to abide by
10 DOT requirements for GVW, speed, proper use of lanes,
11 shouldering, et cetera. The health of the Anchor River
12 Road to the borough permit is not -- the health and use
13 of the Anchor River Road is not applicable to the
14 borough permitting process.
15 DOT's letter regarding line of site,
16 landing length, sweeping, and traffic control permits
17 are all standard to borough road, to DOT access points,
18 and industrial traffic use.
19 All borough material sites are also
20 required to maintain their borough haul routes, which
21 would be like a borough gravel road, and dust abatement
22 for gravel haul routes. The material sites are
23 required by borough code and by DEC BMPs for material
24 sites.
25 Quantity of extraction is another one

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1 that comes up. Gravel extraction per year is based on
2 an unknown quantity of material sales. This CLUP
3 application lists 50,000 yards maximum, when in
4 reality, an extraction from a site like this is likely
5 not to exceed 10,000 yards a year.
6 For perspective, a large borough road
7 capital improvement project, which would be a typical
8 4,000-foot-long gravel road to be improved in this area
9 wouldn't exceed 4,000 cubic yards for that project.
10 Mr. Smith cited a very large project and
11 cited, you know, 130,000 cubic yards for this whole
12 project. That's over eight miles of new road
13 construction. That's a huge project for our borough.
14 It's not relative to a site like this or a project that
15 would be supplied by a material site like this.
16 So the 50,000 cubic yard maximum is
17 something that we utilize because that's DNR's
18 threshold for -- determines how material sites are
19 required to report to the state for extraction and the
20 state bonding for reclamation.
21 So that 50,000 yards, if it's above that,
22 they have different requirements than if it's under.
23 So it's just kind of a -- it's kind of a cap to say
24 that we're not going to be this huge extraction mining
25 site.

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1 Ground water protection. The proposed
2 extraction area is greater than 100 feet from all
3 residential wells, surface wetlands, and flood
4 boundaries as per the borough code. There is no
5 extraction proposed below the table as part of this
6 permit. Extraction will remain two feet above the
7 ground water elevation as per the requirement.
8 If the owner decides they want to try to
9 extract below ground water, there's a whole nother set
10 of requirements that they have to meet and another
11 planning committee meeting.
12 **COMMISSIONER FOSTER:** Thank you, could
13 you tie this up?
14 **GINA DEBARDELABEN:** I absolutely am, yep.
15 Really quick, before I offer -- answer
16 questions, Mr. Keenan [sic] has quoted multiple times,
17 at least twice in meetings, something in an e-mail
18 correspondence between Mr. Wall and I about -- and Mr.
19 Wall asks -- he asked about proposing maybe a higher
20 berm. And my response was simply after -- you know,
21 how the vegetation is sparse or some -- there's
22 vegetation in one corner and not all the way across, is
23 we could propose a higher berm, but I'm not sure that
24 makes sense either.
25 So interpretation of that, of what I had

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1 to say, I guess Mr. Keenan's [sic] interpretation has
2 been maybe skewed and not what the intent of the
3 comment or the e-mail was.
4 **COMMISSIONER FOSTER:** Thank you, are
5 there any questions? Yes, Mr. Whitney.
6 **COMMISSIONER WHITNEY:** Yeah, there's been
7 a couple of comments made about a asphalt plant going
8 in there. What's -- any word on that? Any truth to
9 those rumors?
10 **GINA DEBARDELABEN:** No. There's no --
11 actually as far as I'm aware of, there is no planned
12 sale for gravel from this site at all at this point.
13 **COMMISSIONER FOSTER:** Ms. Ecklund.
14 **COMMISSIONER ECKLUND:** Thank you.
15 Through the chair, did you or your firm draft up the
16 map on page 41.70 of our 332-page desk packet?
17 **GINA DEBARDELABEN:** I might need help
18 finding that.
19 **COMMISSIONER ECKLUND:** Yeah, 41.70 --
20 **GINA DEBARDELABEN:** Page 40?
21 **COMMISSIONER ECKLUND:** -- of 332.
22 **GINA DEBARDELABEN:** I'm getting close.
23 No, that was prepared by Geovera, and that's another
24 surveying firm out of Anchor Point.
25 **COMMISSIONER ECKLUND:** Okay, okay. But

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1 you may be able to answer the question.
2 **GINA DEBARDELABEN:** Sure.
3 **COMMISSIONER ECKLUND:** The question I
4 have is about distance, and the proposed site is how
5 many miles from the Sterling Highway? How long of a
6 drive is that? Not the Old Sterling Highway that's
7 planning to be an exit site, but from the regular
8 highway out there.
9 **GINA DEBARDELABEN:** I don't know what
10 that is. And then there's two routes to get to the
11 Sterling Highway right now.
12 **COMMISSIONER ECKLUND:** Right.
13 **GINA DEBARDELABEN:** You can't take a
14 loaded truck across --
15 **COMMISSIONER ECKLUND:** The bridge.
16 **GINA DEBARDELABEN:** -- the Anchor River
17 bridge.
18 **COMMISSIONER ECKLUND:** Right, okay. All
19 right, thank you.
20 **COMMISSIONER FOSTER:** Any more questions?
21 Ms. Fikes.
22 **COMMISSIONER FIKES:** So this applicant's
23 proposal is for -- you're saying roughly estimated at
24 10,000 cubic yards, is that your understanding for this
25 permit for this location?

1 the summertimes, which I halted immediately once I
2 found out this gravel pit was going to -- was being
3 planned. So that pretty much halted my intended use of
4 my property that I purchased that I paid quite a bit of
5 money for.
6 Also I'd like to kind of address some of
7 the, I think, misinformation that you have received
8 from the opposition.
9 One, they say they're a mom and pop, you
10 know, they're just going to take out a few yards here
11 and there. When they were stopped from doing their
12 additional two-and-a-half acre permit, they had a
13 contract with Hilcorp to extract 12,000 yards. And
14 that same 12,000 yards then was -- when they were
15 stopped from doing that, was given to another gravel
16 company, the Schafers, and they did that hauling of
17 12,000 yards to Hilcorp, which is a, you know, longer
18 distance away in just under a week-and-a-half. It took
19 them about nine days.
20 So the information that I think you're
21 getting from the opposition is to paint this thing as
22 kind of a small, no impact.
23 My property sits exactly at the very top
24 of the hill, and it is 50 feet above the material site.
25 And it's also on the face where there is almost no

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1 **GINA DEBARDELABEN:** Well, the permit says
2 less than 50,000 yards. In reality, gravel sales are
3 based on -- excavation is based on gravel sales.
4 10,000 yards is much more appropriate and likely in
5 this neighborhood or this area.
6 **COMMISSIONER FIKES:** And with that
7 understanding, what would be realistic hours of
8 operation for this particular site?
9 **GINA DEBARDELABEN:** I don't know, but,
10 you know, 10,000 yards isn't -- you know, that would be
11 over two or three projects, most likely. And maybe a
12 project would be four to six weeks depending on the
13 size, and, you know, the crews -- it depends on what
14 their delivery schedule needs to be.
15 **COMMISSIONER FIKES:** Okay. Thank you.
16 **COMMISSIONER FOSTER:** Any other
17 questions? Not at this time, thank you. Any other
18 testifiers?
19 **ELDON OVERSON:** My name is Eldon Overson,
20 and I have the piece of property that's on the corner
21 of Danver and Seaward.
22 So I'd like to thank the commissioners
23 that on the July hearing that I think correctly denied
24 the permit. The piece of property that I bought I just
25 recently started framing up a little cabin to use in

1 vegetation. So that 50-foot vegetation buffer and --
2 will do no good for me.
3 And also the berm will do absolutely
4 nothing, because I will have a complete line of sight
5 of the crusher site and most of the excavation, even
6 with Beachcomber's proposed moving the berm as they go.
7 I will have -- I did submit a picture and
8 kind of a site plan of where my property from -- the
9 picture from my deck of my cabin that I was building,
10 and it showed where the gravel pit was going to be.
11 And a 12-foot berm with no trees in front of me in line
12 of sight from the gravel pit, I will actually be --
13 have a complete line of sight.
14 So her testimony that the berm will knock
15 down the sound, it won't because I will have a direct
16 line of sight. It will not be -- the visual or the
17 noise will not be stopped at my property because of the
18 berm or the 50-foot buffer.
19 So I would just hope that you would
20 consider that and deny their permit again on those
21 grounds. Thank you.
22 **COMMISSIONER FOSTER:** Are there any
23 questions? Not at this time, thank you.
24 Is there anybody else who wants to
25 testify at this time?

<p style="text-align: right;">Page 98</p> <p>1 GREGG WIESER: Good evening, my name is 2 Gregg Wieser. I have two properties on Seabury Road. 3 I just recently moved to Alaska after visiting for 25 4 years, nine different vacations. Been all over the 5 state on those vacations, but I did not go to all of 6 those locations each and every vacation, or I -- but I 7 always came back to Homer and Anchor Point every single 8 vacation. 9 And I fell in love with it, and I said to 10 myself, "One day I'm going to live there." And that 11 was my dream starting the very first time I came in 12 1995. 13 Some of the things that attracted me most 14 to the area are the people and the community, and of 15 course all of the different adventurous activities and 16 the nature. 17 Well, I finally was able to fulfill my 18 dream, and this past October I purchased my two 19 properties, which total a little over 10 acres on 20 Seabury Road, seven-tenths of a mile from this proposed 21 gravel site. So I was not included in any mailer or 22 anything like that, because as I understand it, it was 23 a half a mile, so I missed it by two-tenths of a mile. 24 I was actually one property over according to the map I 25 saw, the parcel.</p>	<p style="text-align: right;">Page 100</p> <p>1 explained to me what happened. You've got to go to 2 Anchor Point, you've got to go at low tide. 3 So my son and I went for his 18th 4 birthday over to Anchor Point low tide. I fell in love 5 with the area, and I told my realtor, "You know what? 6 I've been in real estate for over 10 years, and I'm 7 finally able to retire young, and I'm moving to my 8 favorite vacation place. My son is moving to the Air 9 Force, I'm free, I can do what I want, and I'm moving 10 to Alaska. And I don't have the light pollution, and I 11 don't have the sound and the traffic and the horns and 12 flaggers on the road. And I can enjoy clean air. And 13 then I got bald eagles. And I can walk to the beach 14 and not have to worry about getting run over by 15 somebody and -- or -- but it's pretty strange that you 16 sand the roads here instead of salt. How come?" 17 "Oh, to protect the vegetation, to 18 protect the wildlife. It doesn't eat up the roads as 19 much. You've got to use sand." 20 So I see the value, without a doubt, of 21 having a gravel pit, of having sand, of having the 22 ingredients, as one testifier said. But I think the 23 location itself is just -- it's just not in the best 24 interest of the community for those who actually have 25 invested -- I paid cash. I don't have a mortgage. I</p>
<p style="text-align: right;">Page 99</p> <p>1 But basically I'm located between -- 2 well, it was a big surprise to me my very first week 3 here, Hilcorp with their loud noise and wondering if 4 those are the Northern Lights, but it's actually east 5 and it was white lights. And that disturbance 6 eventually stopped. 7 But I'm closer to this proposed site on 8 Danver, which would be even more noisy, I would 9 imagine, with trucks. But now in this -- listening to 10 everybody, I'm also hearing about, you know, crushing, 11 and I don't even understand the definition, but it just 12 sounds more impactful than just trucks going up and 13 down the only recreational area in that part of the 14 Kenai Peninsula for five campgrounds and a river with 15 salmon and ends at a beach where you have thousands of 16 tourists -- God bless you -- thousands of tourists that 17 visit, like my son and I did this past July and again 18 in August before we purchased the property, or I 19 purchased the property. And went down to that beach 20 and was able to enjoy low tide, you know, with all of 21 the bald eagles. 22 Well, Jean, the Eagle Lady, she's no 23 longer around in Homer. The eagles left. So I took a 24 few years since my last time in Alaska. When I was in 25 Homer I noticed, "Where are all the eagles?" And they</p>	<p style="text-align: right;">Page 101</p> <p>1 paid it off on the spot. It was the greatest financial 2 achievement of my life. 3 But I didn't think that I'd be 4 questioning whether I should expand and double the size 5 of the place or triple the size of the place or to 6 invest in the local business -- in the local Anchor 7 Point community or not. And now it's a question of "or 8 not," because it was a surprise with Hilcorp, and then 9 I understand that stopped. 10 But now there's the Chapman school that's 11 maybe a wishy-washy thing on whether that's going to go 12 through or not and it's going to close, and then now 13 this. And I'm thinking, geez, all of that is within a 14 mile-and-a-half of my new home, and that's not what I 15 want. 16 So I'm hesitant on reinvesting in my 17 property, and I'm hesitant on going ahead and starting 18 up a business in Anchor Point or something on the Spit. 19 So I understand the facts, and, you know, 20 emotional and all that, but if it's not on record, if 21 it's not documented, it never happened. So thank you 22 for your time and your consideration. 23 And I definitely agree that there's a lot 24 of people that maybe are not like me, their first year 25 and go all out year round. Maybe they're snow birds</p>

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1 and they don't have the opportunity to speak up and
2 they didn't get the notice. I did not. I found out
3 through the grapevine. So I think postponing it until
4 they come back, like some of these experts that have
5 been here a while know, would be in the community's
6 best interest.
7 But thank you for your time.
8 **COMMISSIONER FOSTER:** Thank you, Mr.
9 Wieser.
10 **GREGG WIESER:** Yes.
11 **COMMISSIONER FOSTER:** Any questions?
12 Is there anybody else who wants to
13 testify? And what I should probably ask is how many
14 more are we going to have? We might have to take a
15 break. We're going stop this at 11, but hopefully
16 before that. But we will continue this.
17 **JOSH ELMALEH:** I had a question -- or an
18 answer to a question if you want it.
19 **COMMISSIONER FOSTER:** I don't think right
20 at this time here. What do you guys --
21 **COMMISSIONER ECKLUND:** I think he just
22 wants to respond to how far is the material site from
23 the Sterling Highway.
24 **COMMISSIONER FOSTER:** Oh, okay.
25 **JOSH ELMALEH:** There's two routes one --

1 I would like to entertain a motion to
2 continue until brought back by staff.
3 **COMMISSIONER BOKENKO-CARLUCCIO:** So
4 moved.
5 **COMMISSIONER FOSTER:** Is it seconded?
6 **COMMISSIONER ABRAHAMSON-BENTZ:** ^{Second.}
7 **COMMISSIONER FOSTER:** Is there any
8 opposition? Yes, Mr. Whitney, or discussion.
9 **COMMISSIONER WHITNEY:** Well, the question
10 is are you setting a date certain or --
11 **COMMISSIONER FOSTER:** I said brought back
12 by staff. I figured they'd set the date.
13 **COMMISSIONER WHITNEY:** I would rather see
14 a date certain, and I would say May 28th, assuming
15 that's our meeting date.
16 **COMMISSIONER FOSTER:** I'll check with
17 staff on that.
18 **MR. BEST:** That's correct. May 28th is a
19 Planning Commission meeting, but it is on a Tuesday.
20 **COMMISSIONER FOSTER:** Is that a motion?
21 **COMMISSIONER WHITNEY:** Well, then I'd
22 amend -- I would amend the motion to May 28th.
23 **COMMISSIONER VENUTI:** I second that.
24 **COMMISSIONER FOSTER:** Any discussion?
25 **COMMISSIONER FIKES:** So we're postponing

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1 **COMMISSIONER FOSTER:** Could you step up
2 to the --
3 **JOSH ELMALEH:** Sure. My name is Josh --
4 **COMMISSIONER ECKLUND:** Specifically along
5 Anchor Point Road. If you turn on Anchor Point Road
6 and go to the material site, how far is that?
7 **JOSH ELMALEH:** From Anchor Point Road to
8 the material site is, like, three-quarters of a mile.
9 Now, if you go from where it intersects
10 with Old -- from the material site to the New Sterling
11 along the route that you would have to take with a
12 truck is approximately 10 miles. If you take it across
13 the bridge, it's one mile. And if you go back to
14 Anchor Point, it's between 15 and 18 miles.
15 **COMMISSIONER ECKLUND:** Thank you.
16 **COMMISSIONER FOSTER:** Well, I'm -- is
17 there any more?
18 **UNIDENTIFIED SPEAKER:** (Indiscernible).
19 **COMMISSIONER FOSTER:** No, you've
20 already -- you've already testified.
21 **UNIDENTIFIED SPEAKER:** I just wanted
22 (indiscernible).
23 **COMMISSIONER FOSTER:** No, I'm sorry.
24 You'll have a chance next time.
25 Anybody new or something new?

1 this until May, so --
2 **COMMISSIONER FOSTER:** Not postponing,
3 we're continuing so that -- we're continuing the public
4 hearing. It's not even on the table.
5 **MR. WALL:** Mr. Chairman, if I could add,
6 I have a concern about May 28th in that I had planned
7 my vacation schedule. I will be here on the 28th, but
8 I'll be gone the four weeks prior to that. So I'm
9 concerned about the continuity in processing the
10 application if we were to have it on that date.
11 **COMMISSIONER FOSTER:** So do you have a
12 recommendation for a continuation?
13 **MR. WALL:** The April 22nd date would be
14 my recommendation.
15 **COMMISSIONER FOSTER:** Yes, Ms. Ecklund.
16 **COMMISSIONER ECKLUND:** Well, through the
17 chair to staff, based on the applicant's representative
18 tonight, they were ready to go forward with their
19 discussion tonight. I believe we have all of the
20 application materials prepared. I know we're going to
21 have a lot more probably come in, maybe another 332
22 desk packet by then, which we hope to get a little
23 earlier. But I don't know that most of the work isn't
24 already done. So take your four-week vacation, and
25 let's do it on May 28th.

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1 **COMMISSIONER FOSTER:** Well, we have
2 something on the floor right here, do we not? That we
3 wanted to move it to the May 22nd and --
4 **UNIDENTIFIED SPEAKER:** That's what she
5 said.
6 **MR. WALL:** May 28th.
7 **COMMISSIONER FOSTER:** I mean April?
8 **UNIDENTIFIED SPEAKER:** No
9 (indiscernible).
10 **MR. WALL:** No, May 28th.
11 **COMMISSIONER FOSTER:** No, May 27 -- May
12 28th? Okay.
13 **COMMISSIONER BOKENKO-CARLUCCIO:** I think
14 what she was saying is is that most of the work is
15 done, that you should be able to prepare everything
16 before you go on vacation and just slide in to the
17 meeting.
18 **COMMISSIONER FOSTER:** That's why I said
19 let's bring it back when they bring it back to us, but
20 it sounds like it may be --
21 **UNIDENTIFIED SPEAKER:** It's too long a
22 (indiscernible).
23 **COMMISSIONER FOSTER:** -- too long a go,
24 yeah.
25 **UNIDENTIFIED SPEAKER:** Call for the

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1 question.
2 **COMMISSIONER FOSTER:** Let's call for the
3 question. We have to vote on whether we want to call
4 for the question or not.
5 So all those for calling for the
6 question -- I guess roll call, please.
7 **UNIDENTIFIED SPEAKER:** Chair, can you
8 clarify?
9 **COMMISSIONER FOSTER:** Yeah, in order to
10 call for the question, we have to vote on that,
11 otherwise we can keep the discussion going.
12 **UNIDENTIFIED SPEAKER:** What are you
13 calling the question on? That's what --
14 **COMMISSIONER FOSTER:** That's the May
15 20 -- the May 28th, bring about -- back for -- continue
16 is until May 28th.
17 **THE CLERK:** So this would be to continue
18 on the May 28th Planning Commission meeting?
19 **UNIDENTIFIED SPEAKER:** No.
20 **COMMISSIONER FOSTER:** Yes.
21 **UNIDENTIFIED SPEAKER:** It's to call the
22 question.
23 **COMMISSIONER BOKENKO-CARLUCCIO:** No, just
24 to call the question.
25 **COMMISSIONER FOSTER:** That's what the

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1 question is.
2 **UNIDENTIFIED SPEAKER:** I'm so confused.
3 **UNIDENTIFIED SPEAKER:** They're voting on
4 the motion.
5 **UNIDENTIFIED SPEAKER:** Okay, so...
6 **UNIDENTIFIED SPEAKER:** We're voting on
7 the motion, is that -- did that --
8 **COMMISSIONER FOSTER:** Well, we can cut to
9 the voting on the motion, yeah.
10 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay,
11 so --
12 **COMMISSIONER FOSTER:** We're supposed to
13 vote to decide whether we will vote. Yeah, that's part
14 of the --
15 **UNIDENTIFIED SPEAKER:** That's part of it.
16 **COMMISSIONER FOSTER:** Yeah.
17 **UNIDENTIFIED SPEAKER:** Yeah, you have to
18 remember these (indiscernible).
19 **UNIDENTIFIED SPEAKER:** I know
20 (indiscernible).
21 **COMMISSIONER FOSTER:** Yeah, so the idea
22 is that when you -- when we're having a discussion and
23 somebody calls for the question, then we have to vote
24 whether we will stop our discussion and call for the
25 question.

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1 If we all say yes, then we go for the
2 vote. If somebody says -- you know, if the majority
3 says no, then we still discuss.
4 **THE CLERK:** So do you want to vote on the
5 question?
6 **UNIDENTIFIED SPEAKER:** Call for
7 (indiscernible).
8 **COMMISSIONER FOSTER:** Call for the
9 question to vote on the question.
10 **THE CLERK:** Okay, so call on the question
11 to vote on the question?
12 **COMMISSIONER FOSTER:** Yes, as ridiculous
13 as it is.
14 **THE CLERK:** All right, Carluccio?
15 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes.
16 **THE CLERK:** Fikes?
17 **COMMISSIONER FIKES:** Yes.
18 **THE CLERK:** Morgan?
19 **COMMISSIONER MORGAN:** Yes.
20 **THE CLERK:** Whitney?
21 **COMMISSIONER WHITNEY:** Yes.
22 **THE CLERK:** Bentz?
23 **COMMISSIONER ABRAHAMSON-BENTZ:** Yes.
24 **THE CLERK:** Ecklund?
25 **COMMISSIONER ECKLUND:** Yes.

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1 THE CLERK: Ernst?
2 COMMISSIONER ERNST: Yes.
3 THE CLERK: Venuti?
4 COMMISSIONER VENUTI: Yes.
5 THE CLERK: Foster?
6 COMMISSIONER FOSTER: Yes.
7 THE CLERK: Okay, it passed.
8 COMMISSIONER FOSTER: Now we get to vote
9 on whether it will be on the 28th.
10 THE CLERK: Okay, so this is to continue
11 the public hearing to the May 28th Planning Commission
12 meeting.
13 Ecklund?
14 COMMISSIONER ECKLUND: Yes.
15 THE CLERK: Carluccio?
16 COMMISSIONER BOKENKO-CARLUCCIO: Yes.
17 THE CLERK: Ernst?
18 COMMISSIONER ERNST: Yep.
19 THE CLERK: Fikes?
20 COMMISSIONER FIKES: No.
21 THE CLERK: Bentz?
22 COMMISSIONER ABRAHAMSON-BENTZ: Yes.
23 THE CLERK: Whitney?
24 COMMISSIONER WHITNEY: Yes.
25 THE CLERK: Morgan?

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1 COMMISSIONER MORGAN: Yes.
2 THE CLERK: Venuti?
3 COMMISSIONER VENUTI: Yes.
4 THE CLERK: Foster?
5 COMMISSIONER FOSTER: No.
6 THE CLERK: 2 to 7.
7 COMMISSIONER FOSTER: So we are continued
8 to the May 28th meeting.
9 So at that time the public hearing will
10 be -- remain open, and you can come back and talk about
11 that and whatever else is new.
12 If you have anything to turn in, that's
13 for both the applicant and -- anything you have to send
14 in, please get it in early.
15 10:29:52
16 (End of requested portion)
17 10:36:28
18
19
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25

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 March 25, 2019 was
7 transcribed under my direction by computer
8 transcription; that the foregoing is a true record of
9 the testimony and proceedings taken at that time to the
10 best of my ability; and that I am not a party to nor
11 have I any interest in the outcome of the action herein
12 contained.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal this 25th day
15 of August, 2019.
16
17
18
19
20
21
22
23
24 #3319
25

LEONARD J. DiPAOLO, RPR, CRR, CCP
Notary Public for Alaska
My Commission Expires: 2-3-2020

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**VERBATIM TRANSCRIPT
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APRIL 8, 2019

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

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

Monday, April 8, 2019
7:45 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 7, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Syverine Abrahamson-Bentz, Anchor Point/Ninilchik
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Blair Martin, Kalifornsky Beach
Dr. Rick Foster, Southwest Borough
Diane Fikes, City of Kenai
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer
Robert Ruffner, Kasilof/Clam Gulch
Paul Whitney, City of Soldotna

Staff Present:

Max Best, Planning Director
Julie Hindman, Administrative Assistant
Holly Montague, Deputy borough Attorney
Bruce Wall, Planner
Scott Huff, Platting Manager

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

Page 2	Page 4
<p>1 PROCEEDINGS</p> <p>2 7:44:58 p.m.</p> <p>3 CHAIRMAN MARTIN: Good evening, everyone.</p> <p>4 I'd like to call to order tonight's meeting of the</p> <p>5 Kenai Peninsula Borough Planning Commission for April</p> <p>6 8th, 2019. Roll call, please.</p> <p>7 THE CLERK: Bentz?</p> <p>8 COMMISSIONER ABRAHAMSON-BENTZ: Here.</p> <p>9 THE CLERK: Brantley?</p> <p>10 COMMISSIONER BRANTLEY: Here.</p> <p>11 THE CLERK: Carluccio?</p> <p>12 COMMISSIONER BOKENKO-CARLUCCIO: Here.</p> <p>13 THE CLERK: Ecklund?</p> <p>14 COMMISSIONER ECKLUND: Here.</p> <p>15 THE CLERK: Ernst?</p> <p>16 COMMISSIONER ERNST: Here.</p> <p>17 THE CLERK: Fikes?</p> <p>18 COMMISSIONER FIKES: Here.</p> <p>19 THE CLERK: Foster?</p> <p>20 COMMISSIONER FOSTER: Present.</p> <p>21 THE CLERK: Martin?</p> <p>22 CHAIRMAN MARTIN: Here.</p> <p>23 THE CLERK: Morgan?</p> <p>24 COMMISSIONER MORGAN: Here.</p> <p>25 THE CLERK: Ruffner?</p>	<p>1 At the last Planning Commission meeting,</p> <p>2 we had discussed procedures and the possibility of a</p> <p>3 continuation, which we were okay with and had talked</p> <p>4 about a date, April 22nd, and went into the meeting</p> <p>5 with that -- if that was -- that worked for us.</p> <p>6 At the late hour that it ended, there was</p> <p>7 a motion to continue to May 28th because a couple of</p> <p>8 our opponents had said they really wanted to see it on</p> <p>9 May 28th. That gave time for the snow birds to come</p> <p>10 back from Arizona and California, and they really</p> <p>11 needed to testify too.</p> <p>12 The motion passed unanimously without any</p> <p>13 question to us or finding out whether we were even</p> <p>14 going to be in the country at that time, and we're not.</p> <p>15 So we're not available for the continuation on May</p> <p>16 28th. We are available on April 22nd, which was kind</p> <p>17 of our agreement with staff and Mr. Foster, and -- or</p> <p>18 May 13th.</p> <p>19 So we're just respectfully requesting</p> <p>20 that we address that issue and try to change that date.</p> <p>21 We aren't going to change the date of our family</p> <p>22 vacation.</p> <p>23 CHAIRMAN MARTIN: Any questions at this</p> <p>24 time?</p> <p>25 COMMISSIONER FIKES: I would just like to</p>
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<p>1 COMMISSIONER RUFFNER: Here.</p> <p>2 THE CLERK: Venuti?</p> <p>3 COMMISSIONER VENUTI: Here.</p> <p>4 THE CLERK: Whitney?</p> <p>5 COMMISSIONER WHITNEY: Here.</p> <p>6 THE CLERK: A quorum is present.</p> <p>7 CHAIRMAN MARTIN: Thank you. At this</p> <p>8 time I'll entertain a motion for approval of consent</p> <p>9 and regular agenda.</p> <p>10 COMMISSIONER BOKENKO-CARLUCCIO: So</p> <p>11 moved.</p> <p>12 COMMISSIONER ABRAHAMSON-BENTZ: Second.</p> <p>13 CHAIRMAN MARTIN: Is there any discussion</p> <p>14 or addition? Is there any opposition? Seeing none,</p> <p>15 the motion passes unanimously.</p> <p>16 That takes us to item D with the public</p> <p>17 comment presentations, something not appearing on the</p> <p>18 agenda.</p> <p>19 (Audio pause)</p> <p>20 CHAIRMAN MARTIN: Yeah, please state your</p> <p>21 name and address at the microphone for the record.</p> <p>22 EMMITT TRIMBLE: Emmitt Trimble, P.O. Box</p> <p>23 193, Anchor Point. I'm not sure that this is the</p> <p>24 appropriate place to make this request. I called</p> <p>25 earlier today.</p>	<p>1 point out it wasn't unanimous.</p> <p>2 EMMITT TRIMBLE: Thank you.</p> <p>3 CHAIRMAN MARTIN: Anyone else?</p> <p>4 EMMITT TRIMBLE: I have one more thing,</p> <p>5 if I may.</p> <p>6 CHAIRMAN MARTIN: Sure.</p> <p>7 EMMITT TRIMBLE: There was a fairly</p> <p>8 vicious attack of one of the planning commissioners in</p> <p>9 a written testimony from opponents during the time when</p> <p>10 Mr. Brantley recused himself. And it was requested</p> <p>11 that Mr. Venuti recuse himself because we were real</p> <p>12 estate brokers and he was an inspector.</p> <p>13 And I'd just like to apologize for the</p> <p>14 majority of Anchor Point for the suggestion that Mr.</p> <p>15 Venuti was unethical and nefarious. I was offended.</p> <p>16 CHAIRMAN MARTIN: Thank you for your</p> <p>17 testimony.</p> <p>18 Is there anyone else in the audience to</p> <p>19 bring up something that's not on tonight's agenda?</p> <p>20 So hearing and seeing no further</p> <p>21 requests, we'll address the request at this time. Is</p> <p>22 that -- Ms. Ecklund.</p> <p>23 COMMISSIONER ECKLUND: The process, I</p> <p>24 believe, to change a date that was a set date at a</p> <p>25 meeting is that we have to make a motion to amend after</p>

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1 adoption, and the discussion of the change would take
2 place at our next meeting. Not -- we don't make a
3 change to the date tonight, we just make a motion to
4 amend after adoption and then put the item on our next
5 meeting agenda for public notice.
6 **CHAIRMAN MARTIN:** Is now the time to take
7 that motion?
8 **COMMISSIONER ECKLUND:** I move that we
9 amend after adoption the date set for the Anchor Point
10 Trumbly [sic] material extraction site to be publically
11 noticed for discussion at our next meeting.
12 **COMMISSIONER FIKES:** Second.
13 **CHAIRMAN MARTIN:** Mr. Whitney.
14 **COMMISSIONER WHITNEY:** Just a question.
15 Would Mr. Brantley have to recuse himself on this also?
16 **CHAIRMAN MARTIN:** Mr. Brantley.
17 **COMMISSIONER BRANTLEY:** Yes, I would like
18 to recuse myself from this discussion.
19 **CHAIRMAN MARTIN:** So everybody
20 understands the motion? Is there any objection?
21 Hearing and seeing none, the motion passes unanimously,
22 bringing it up for discussion at our next meeting.
23 7:51:09
24 (End of requested portion)
25 7:58:14

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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 April 8, 2019 was
7 transcribed under my direction by computer
8 transcription; that the foregoing is a true record of
9 the testimony and proceedings taken at that time to the
10 best of my ability; and that I am not a party to nor
11 have I any interest in the outcome of the action herein
12 contained.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal this 25th day
15 of August, 2019.
16
17
18
19
20
21
22 LEONARD J. DiPAOLO, RPR, CRR, CCP
23 Notary Public for Alaska
My Commission Expires: 2-3-2020
24 #3319
25

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APRIL 22, 2019

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

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

Monday, April 2, 2019
7:28 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT Pages 1 - 23, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Diane Fikes, City of Kenai
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Paul Whitney, City of Soldotna

Staff Present:

Max Best, Planning Director
Julie Hindman, Administrative Assistant
Jordan Reif, Platting Technician
Tom Dearlove, River Center Manager
Bruce Wall, Planner
Scott Huff, Platting Manager

Others Present:

Emmitt Trimble
Mary Trimble
Pete Kinneen
Rick Carlton
Gary Sheridan
Eileen Sheridan
Hans Bilben

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

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 7:28:19 p.m.</p> <p>3 (This portion not requested)</p> <p>4 7:48:14 p.m.</p> <p>5 CHAIRMAN MARTIN: That will bring us to</p> <p>6 I-2 for the consideration of a motion to amend after</p> <p>7 adoption.</p> <p>8 MR. WALL: Yes, Mr. Chairman. This is to</p> <p>9 schedule the continuation of a hearing for a</p> <p>10 conditional land use permit for a material site. The</p> <p>11 applicant is Beachcomber, LLC.</p> <p>12 At your March 25th meeting the applicant</p> <p>13 had requested the hearing be continued. He had</p> <p>14 suggested April 22nd. At the conclusion of the</p> <p>15 meeting, the commission had scheduled it for May 28th.</p> <p>16 And the borough staff and the commission at that time</p> <p>17 failed to check with the applicant about his</p> <p>18 availability on that date. He has since indicated that</p> <p>19 he is unavailable, that he will be out of the country,</p> <p>20 and so the continuation date needs to be rescheduled.</p> <p>21 CHAIRMAN MARTIN: Okay, thank you. So at</p> <p>22 this time, how many people have a comment that they are</p> <p>23 interested in presenting tonight? All right, first</p> <p>24 commenter, please.</p> <p>25 COMMISSIONER BRANTLEY: Excuse me.</p>	<p style="text-align: right;">Page 4</p> <p>1 prepared for the March 25th hearing, we were kind of</p> <p>2 looking forward to it. Six days prior to the scheduled</p> <p>3 March 25th hearing, Kasey Baker [sic] personally</p> <p>4 requested a delay or a continuance for mysterious,</p> <p>5 unforeseen circumstances. No reason given. But more</p> <p>6 than likely it was because two of the three</p> <p>7 commissioners who supported the application at the July</p> <p>8 2018 hearing would be excused from the March 25th</p> <p>9 hearing.</p> <p>10 The delay was requested by the</p> <p>11 applicants' attorney; the delay was granted by the</p> <p>12 Planning Commission.</p> <p>13 Even more mysterious, at the March 25th</p> <p>14 meeting, here comes Kasey Baker, the attorney, the</p> <p>15 applicants, their out-of-town gravel buddies, they all</p> <p>16 showed up ready to proceed.</p> <p>17 Which commissioners does she want to</p> <p>18 blame for that one?</p> <p>19 Postponing. I think she just threw that</p> <p>20 one because it sounded good, but I don't recall of any</p> <p>21 postponement that's gone on so far in this process.</p> <p>22 That leaves rescheduling. We're here</p> <p>23 today because of a request from the applicants to</p> <p>24 reschedule, not because of a request from anybody on</p> <p>25 the commission or anybody that's opposing this. It was</p>
<p style="text-align: right;">Page 3</p> <p>1 Before we start, I need to recuse myself from this.</p> <p>2 CHAIRMAN MARTIN: So noted and ordered.</p> <p>3 HANS BILBEN: Thank you to the chair and</p> <p>4 the commissioners for allowing us to discuss this.</p> <p>5 In your packets for tonight you have 19</p> <p>6 or 20 letters from Anchor Point residents who are</p> <p>7 opposed to the rescheduling of the Planning Commission</p> <p>8 hearing to any date prior to the current scheduled time</p> <p>9 on May 28th.</p> <p>10 The justification given for the</p> <p>11 continuance to May 28th was to allow neighboring</p> <p>12 property owners who are not available prior to that</p> <p>13 time an opportunity to arrange their schedules</p> <p>14 accordingly in order to give in-person testimony at the</p> <p>15 hearing.</p> <p>16 As you can see in the letters that were</p> <p>17 submitted, several neighbors have now made their travel</p> <p>18 arrangements and will be here by May 28th.</p> <p>19 You also have a letter in your packet</p> <p>20 from a Kasey Baker [sic] who is the applicant's former</p> <p>21 attorney. In her letter she talks about commissioners</p> <p>22 who are guilty of delaying, postponing, or rescheduling</p> <p>23 the application process because they just don't like</p> <p>24 gravel.</p> <p>25 Let's talk about delaying. We were all</p>	<p style="text-align: right;">Page 5</p> <p>1 the applicant that requested this reschedule. I don't</p> <p>2 believe this request came from any gravel-hating</p> <p>3 commissioner, it came from the applicant.</p> <p>4 Yes, Kasey Baker [sic] is correct, there</p> <p>5 have been delays and a request to reschedule. Both</p> <p>6 were initiated by the applicant and/or his attorney.</p> <p>7 Kasey Baker [sic] seems to be of the same</p> <p>8 mindset as the applicant, in the only -- in that the</p> <p>9 only people with rights are material extraction</p> <p>10 applicants.</p> <p>11 I just want to say thank you to all of</p> <p>12 the commissioners who are not willing to rubber stamp</p> <p>13 every application that comes before them.</p> <p>14 Thank you to those of you who realize</p> <p>15 that material site -- a material site that is</p> <p>16 improperly conditioned can have long-lasting negative</p> <p>17 effects to families, neighborhoods, and communities.</p> <p>18 Thank you to all of those who insist that an</p> <p>19 application is accurate and that all conditions and all</p> <p>20 standards are met before accepting or approving any</p> <p>21 permit.</p> <p>22 The entire process is unfortunately</p> <p>23 stacked against neighboring property owners and in</p> <p>24 favor of the applicants, but there are protections</p> <p>25 spelled out in the code, and it's the job of this</p>

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1 Planning Commission to ensure that those protections
2 are afforded to neighboring property owners, even if it
3 means denying a permit at some time -- point in time.
4 This hearing should remain on the
5 schedule for the May 28th date, and if the applicant
6 can't find a way to break free from his busy schedule,
7 then it should be moved to June. May 13th will not
8 work for several neighboring property owners who have
9 made travel plans that coincide with the Planning
10 Commission's March 25th decision, and that was to hold
11 it on May 28th.
12 Additionally, on the -- the applicant
13 will likely be pushing for the May 13th Planning
14 Commission hearing. At that hearing we will have
15 neither a planning director or a planner. So who is
16 going to be here to answer technical or procedural
17 questions when the commission has questions or when the
18 opponents or the applicant have questions? So the May
19 13th date does not work.
20 This hearing should either be May 28th --
21 somebody suggested June of 2050, I'm kind of with that
22 one, too, but I don't think we'll go that far. But
23 that's all I have, thank you.
24 **CHAIRMAN MARTIN:** Are there any
25 questions? None at this time. Next, please.

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1 **ILENE SHERIDAN:** I'm Ilene Sheridan, and
2 I live right in the area there. I can't give you --
3 it's 32 -- what's our address? 32860 Seabury Court,
4 and that's -- we're secondary to this area, but we're
5 still within that half mile, and I'm already getting a
6 little dust in our homes from this.
7 We are wishing that you would wait to not
8 change the date to the 20 -- any earlier or later --
9 that May 28th is the date that we've planned on, that
10 we've been working towards, and we appreciate what
11 you've all done for us. Thank you.
12 **CHAIRMAN MARTIN:** Next.
13 **LYNN WHITMORE:** My name is Lynn Whitmore,
14 and I live next door to the proposed gravel pit.
15 And when we set the schedule for May
16 28th, I made business plans for the times prior to
17 that, and those are obligations I'd like to keep. And
18 to have this thing keep moving and keep moving, it
19 makes it really difficult for any kind of planning if
20 you're still doing business.
21 And even though we don't always agree
22 with what the planning department has to say about this
23 whole thing, anything that we do in this approval
24 process, it's going to affect them down the line. So
25 it seems just to make sense to have one or both of

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1 those guys available for decisions that might be
2 upcoming like this one, thanks.
3 **CHAIRMAN MARTIN:** Thank you. Next
4 testifier, please.
5 **EMMITT TRIMBLE:** I'm Emmitt Trimble, the
6 applicant from Anchor Point.
7 We really wanted this to be done back in
8 July when all of these people who are going to be
9 coming this summer were here. Everyone had a fair
10 opportunity to testify at that original public hearing.
11 We wanted it to happen in February.
12 There were scheduling problems for staff, so there were
13 reasons given to us that we had to move along.
14 So on the March 25th, I believe it was,
15 meeting when we came, we had requested -- the attorney
16 had requested postponement, and that wasn't possible.
17 Right away immediately we received a
18 notice from the staff that that was not possible, but
19 what could happen would be a continuation.
20 And so when we came, we were prepared
21 that night to go through with the process of the public
22 hearing.
23 We met prior to the meeting with planning
24 staff, Mr. Best and Mr. Wall, and the acting chairman,
25 Dr. Foster. They'd made some changes to procedures,

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1 and they wanted us to be aware of them.
2 And we listened to that and went away
3 from that meeting of how things were going to go.
4 Regarding scheduling, is that all of the testimony
5 would be allowed, and at the end of public testimony,
6 that they would ask for a continuation, and that that
7 would be the end of the public testimony.
8 And that starting on April 22nd, which
9 was the date that was presented by staff and Dr.
10 Foster, that it would begin with our rebuttal. And all
11 of that sounded fine to us, and so we agreed to that.
12 As often happens at 11 o'clock when
13 everybody is ready to go home, and after lots and lots
14 of redundant testimony, a motion was made to continue.
15 But during the meeting, individual testifiers were told
16 that they would be able to testify again. And that
17 certainly wasn't our understanding.
18 And so I think at least two people said,
19 "Well, we'll hold what we've got to say until the next
20 meeting," for whatever reason. So obviously it wasn't
21 going to start with our rebuttal at the April 22nd
22 meeting. Okay, that's fine.
23 Then Mr. Foster, as he had said he would
24 do, requested a motion for continuation, and that
25 happened. And someone said, "Well, what day?" And

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1 though we had talked about April 22nd, and that wasn't
2 something we proposed, it was something that staff
3 and -- proposed, and it was acceptable to us.
4 But during testimony people were saying,
5 "Since this is going to be continued, I won't give my
6 testimony tonight, I'll give it later. And we would
7 like to see this until at least May 28th so that the
8 snow birds can be here."
9 So those are people who don't live here,
10 but they are people who were here in July in the
11 original hearing, and they have had a year to testify
12 in writing, telephonically, many, many opportunities.
13 So someone said, "Well, let's make it May
14 28th," because Dr. Foster said we would leave that to
15 staff, and that's where the April 22nd we supposed
16 would come from. It didn't happen.
17 Someone said, "I move that it's the 28th,
18 because that's what these people said they want for the
19 snow birds to be able to get here." I thought that was
20 not a really valid reason for doing that.
21 That was the vote. Two people voted no
22 and everybody else voted yes, and that was it.
23 At the end of that we had no place other
24 than to stand up and interrupt the meeting to say,
25 "We're not going to be here on that date." And I don't

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1 know where the conspiracy theories have come of out of
2 country. Yeah, we have a planned vacation, not out of
3 country, out of state.
4 And the next day we talked to staff and
5 said, "We're not going to be here on that date, you
6 know, we were -- we had agreed on the 22nd."
7 "Well, we can't do anything until the
8 next meeting. You'll have to come and request a
9 change."
10 Okay, so we made the trip up here and we
11 requested that. "No, we can't address that tonight.
12 You've got to come back two weeks later."
13 So none of these delays were something we
14 wanted. We should have had the permit in July. So we
15 won't be here on May 28th. We will be here on May
16 13th. And it seems like staff will be here also. So
17 that would be acceptable to us in case someone had any
18 concern about whether the applicant would be here or
19 not, thank you.
20 **CHAIRMAN MARTIN:** Is there anyone else in
21 the audience? Seeing none, we'll continue the -- we
22 have a question for Mr. Trimble.
23 **EMMITT TRIMBLE:** Yes, sir.
24 **COMMISSIONER RUFFNER:** Through the chair.
25 Thanks, Emmitt. So, I mean, you heard the testimony

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1 the same as I did tonight.
2 **EMMITT TRIMBLE:** Yes, I did.
3 **COMMISSIONER RUFFNER:** Yeah, so I guess
4 what I would like to know from you is if -- you know,
5 none of us have talked to each other, so we don't
6 know -- we're being pretty careful on this case about
7 making sure we follow the rules.
8 **EMMITT TRIMBLE:** Uh-huh.
9 **COMMISSIONER RUFFNER:** But just if the
10 discussion comes up about a date later than the 28th,
11 are you going to be here in June?
12 **EMMITT TRIMBLE:** That's not acceptable to
13 me.
14 **COMMISSIONER RUFFNER:** Yes, so you'd
15 rather that not happen?
16 **EMMITT TRIMBLE:** No, I'd rather that not
17 happen. This has gone far enough.
18 **COMMISSIONER RUFFNER:** Right. I clearly
19 get that perspective from you, but I just want to know
20 if you're going to be here or not.
21 **EMMITT TRIMBLE:** As far as I know, I'll
22 be here in June, yeah. Yeah, the season is here, we're
23 working.
24 **COMMISSIONER RUFFNER:** Right. Okay, that
25 was the --

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1 **EMMITT TRIMBLE:** It's just on that -- we
2 were going to be gone for a week, and that May 28th
3 happened to be smack in the middle of that. Nobody
4 asked me.
5 **COMMISSIONER RUFFNER:** Right, yeah, I got
6 that part.
7 **EMMITT TRIMBLE:** I could have said that
8 earlier.
9 **COMMISSIONER RUFFNER:** I got that you're
10 going to be here on May 13th.
11 **EMMITT TRIMBLE:** Yes.
12 **COMMISSIONER RUFFNER:** Okay, and that's
13 your preference?
14 **EMMITT TRIMBLE:** Yes.
15 **COMMISSIONER RUFFNER:** Yeah, okay, I got
16 it.
17 **EMMITT TRIMBLE:** Thank you.
18 **CHAIRMAN MARTIN:** Thank you. Discussion
19 on the date? Ms. Ecklund? Did you miss your chance to
20 talk?
21 **UNIDENTIFIED SPEAKER:** He did. I don't
22 think you closed it.
23 **GARY SHERIDAN:** Thank you, Mr. Chairman.
24 I'm Gary Sheridan --
25 **COMMISSIONER BOKENKO-CARLUCCIO:** Hit the

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1 button.

2 **GARY SHERIDAN:** I'm Gary Sheridan from

3 Anchor Point. And I just want a note of clarification

4 about the dates that are in the staff report that was

5 handed out to us.

6 And I just heard the testimony saying

7 that it appears that May 13th would be acceptable to

8 everybody, and I'd be concerned about that because it

9 says that Max Best, planning director, and Bruce Wall,

10 planner, will both be unable to attend the meeting.

11 And for the efficiency of the whole

12 process we're here, I think both of those gentlemen

13 have a real significant say in clarification of some of

14 the points that will probably come up in some of the

15 deliberations, thank you.

16 **CHAIRMAN MARTIN:** Thank you. Please

17 state your name and address for the record.

18 **PETE KINNEEN:** I just came by to address

19 the motion for reconsideration.

20 **CHAIRMAN MARTIN:** We need your name and

21 address on the microphone.

22 **PETE KINNEEN:** Pete Kinneen in Anchor

23 Point. And I just wanted to express concern about the

24 constant -- it's the applicant, actually, that is

25 pushing the dates back and forth, it's nobody else.

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1 And so I'd like to weigh in on the date

2 being as we set it, the 28th of next month. And if

3 that's not available -- I mean, it is available, but it

4 would either be May 28th or a following date for the

5 reasons that I think some of the other people have

6 already covered. So I just wanted to weigh in on that,

7 thank you.

8 **CHAIRMAN MARTIN:** Thank you. Next

9 person. Was there somebody else?

10 **RICK CARLTON:** Yeah, my name is Rick

11 Carlton. I'm from Anchor Point also.

12 **CHAIRMAN MARTIN:** And your address.

13 **RICK CARLTON:** And I pretty much just

14 have a question, couple questions, actually. We've

15 heard some conflicting testimonies, or things that were

16 said here, and I just would kind of like a

17 clarification.

18 One of which, why would the applicant

19 have not said something at that meeting that he wasn't

20 going to be here when it was passed and approved that

21 they were going to move the meeting to the 28th?

22 That's my first question.

23 And the other question was, when are Mr.

24 Best and Mr. Wall going to actually be here? I've

25 heard that they are not going to be here this date and

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1 they are not going to be here that date. So could we

2 get those two questions answered?

3 **CHAIRMAN MARTIN:** I'm sure that will come

4 up in discussion.

5 **RICK CARLTON:** Thanks.

6 **CHAIRMAN MARTIN:** Thank you. Anyone

7 else? Last call. I'll close public comment, bring it

8 to the commission for discussion.

9 Do we need a motion to get this ball

10 rolling? Ms. Ecklund.

11 **COMMISSIONER ECKLUND:** Do we make a

12 motion to consider a motion, is that the --

13 **UNIDENTIFIED SPEAKER:** You have to amend

14 the motion.

15 **COMMISSIONER ECKLUND:** Okay. I move that

16 we consider a motion to amend after adoption of the

17 hearing continuance date for a conditional land use

18 permit application for material extraction by the

19 applicant Beachcomber, LLC.

20 **COMMISSIONER RUFFNER:** Second.

21 **CHAIRMAN MARTIN:** Now we can discuss it.

22 Ms. Ecklund.

23 **COMMISSIONER ECKLUND:** Yeah, my question

24 was already asked by the public. The dates in our

25 packet lists reasons why April 22nd is not an option

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1 because public notice would not have been able to be

2 provided.

3 May 13th, neither Mr. Best or Mr. Wall

4 will be able to attend the meeting, is that correct?

5 **MR. WALL:** That's correct. We will both

6 be out of town on that date.

7 **COMMISSIONER ECKLUND:** Okay. And on May

8 28th, the applicant will not be available; June 10th,

9 Mr. Best won't be available; and June 24th, Mr. Wall

10 won't be available.

11 That moves it into July when, I believe,

12 the borough attorney, who has been handling this

13 primarily, will no longer be with the borough. So

14 we're just going to have to pick the least worst date

15 it looks like.

16 **CHAIRMAN MARTIN:** Ms. Ecklund stated --

17 Mr. Wall.

18 **MR. WALL:** Mr. Chairman, if I could.

19 **CHAIRMAN MARTIN:** Please.

20 **MR. WALL:** There is no reason for Mr.

21 Best and myself both to be here. So we feel that

22 either of those dates in June would work.

23 **CHAIRMAN MARTIN:** Thank you. Ms. Fikes.

24 **COMMISSIONER FIKES:** Do we have an

25 obligation to take an action, or can we take no action?

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1 What are our options?
2 **CHAIRMAN MARTIN:** Mr. Ruffner.
3 **COMMISSIONER RUFFNER:** Thank you, Mr.
4 Chair. Yeah, no, we could leave it as scheduled on the
5 28th. So the motion is that we take this up. And so
6 unless somebody (indiscernible) that they are date
7 specific, you know, that's where we stand procedurally,
8 I believe.
9 So it is possible, but I think, you know,
10 referencing the dates of who is here and who is not
11 here and the fact that the applicant is not here is one
12 of those things we have to consider.
13 **CHAIRMAN MARTIN:** Ms. Carluccio.
14 **COMMISSIONER BOKENKO-CARLUCCIO:** Well, I
15 think that the applicant should be here on the day that
16 we discuss his application. Normally when we get down
17 to this, there is some give and take with the applicant
18 at that time when it comes to some requirements we
19 want. And it's going to be kind of hard to have that
20 give and take if he's not here.
21 So I think that we should consider moving
22 it forward, even though I know he didn't want us to, he
23 wanted us to do it on the 13th. Since neither Max Best
24 nor Bruce Wall are here, I think that it would be -- it
25 wouldn't be in our best interest to discuss it at that

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1 time. They're our experts on this, and we need at
2 least one of them.
3 **CHAIRMAN MARTIN:** Mr. Ruffner.
4 **COMMISSIONER RUFFNER:** Thank you, Mr.
5 Chair. So, I mean, I think we all recognize we're in a
6 little bit of a pickle.
7 I wasn't here at the last meeting when
8 the date was set, so, you know, I'm trying to take in
9 everything that I've heard to decide when the best time
10 to be -- you know, typically what I recall with other
11 applications that come in and the applicant requests to
12 postpone or stuff, we generally honor that. But at the
13 same time, we've already -- we've also made a statement
14 as to -- we were scheduled on May 28th, and so that
15 puts the other side at -- you know, feeling like they
16 have been disenfranchised by moving the date again.
17 So I think my preference would be to hold
18 it on May 13th, but for the fact that both the director
19 and the planner that have handled this are not here,
20 I'm going to move to amend the motion to set the date
21 for June 10th.
22 **COMMISSIONER BOKENKO-CARLUCCIO:** I'll
23 second it.
24 **CHAIRMAN MARTIN:** Discussion on the
25 amendment? Mr. Whitney.

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1 **COMMISSIONER WHITNEY:** If it is moved to
2 the June 10th date, would there be public testimony
3 allowed during that hearing?
4 **CHAIRMAN MARTIN:** Yes.
5 **MR. WALL:** We did announce at the last
6 meeting that we would allow additional public
7 testimony.
8 **COMMISSIONER WHITNEY:** Thank you.
9 **COMMISSIONER FIKES:** Is there anyone from
10 administration that could step in for Max or Bruce in
11 their absence?
12 **MR. WALL:** Marcus Mueller will be here at
13 that meeting.
14 **CHAIRMAN MARTIN:** I think the question
15 was the May 13th meeting? Okay. And what -- you guys,
16 you feel that Mr. Mueller could fill in in your stead?
17 **MR. WALL:** He's the land management
18 officer. He deals with borough lands. He's not
19 familiar with the material site ordinance.
20 **CHAIRMAN MARTIN:** Thank you. Further
21 discussion on the amendment, June 10th? Is there any
22 opposition to the motion to amend? Seeing none, that
23 passes unanimously. Therefore the consideration is set
24 for June 10th.
25 **UNIDENTIFIED SPEAKER:** Do we need to vote

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1 one more time on that?
2 (Whispered discussion - indiscernible)
3 **CHAIRMAN MARTIN:** Mr. Best.
4 **MR. BEST:** Thank you, Mr. Chairman. The
5 original motion was to amend the date, is that what
6 your motion was?
7 **CHAIRMAN MARTIN:** So we amend the date.
8 Now we approve the --
9 **COMMISSIONER RUFFNER:** So the first
10 motion was consideration of a motion to amend after
11 adoption kind of just as written in the staff packet.
12 And so that motion was made, and then I made an
13 amendment to set a specific date to that.
14 **UNIDENTIFIED SPEAKER:** Now you need to
15 vote on that main motion.
16 **COMMISSIONER RUFFNER:** Yeah, that's what
17 I thought. And I think the roll call.
18 **CHAIRMAN MARTIN:** Roll call, please.
19 **THE CLERK:** This was for a motion to
20 amend a hearing date after adoption for a conditional
21 land use permit for a material site for the applicant
22 Beachcomber, LLC amended to a June 10th hearing date.
23 Ernst?
24 **COMMISSIONER ERNST:** Yes.
25 **THE CLERK:** Whitney?

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1 COMMISSIONER WHITNEY: Yes.
2 THE CLERK: Ecklund?
3 COMMISSIONER ECKLUND: Yes.
4 THE CLERK: Carluccio?
5 COMMISSIONER BOKENKO-CARLUCCIO: Yes.
6 THE CLERK: Ruffner?
7 COMMISSIONER RUFFNER: Yes.
8 THE CLERK: Fikes?
9 COMMISSIONER FIKES: Yes.
10 THE CLERK: Morgan?
11 COMMISSIONER MORGAN: Yes.
12 THE CLERK: Martin?
13 CHAIRMAN MARTIN: Yes.
14 THE CLERK: Unanimous.
15 CHAIRMAN MARTIN: Motion passes
16 unanimously. I want to thank everyone for coming up
17 here again. I'll see you on June 10th.
18 (End of requested portion)
19 8:16:19
20 (This portion not transcribed)
21 8:24:04
22
23
24
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 April 22, 2019 was
7 transcribed under my direction by computer
8 transcription; that the foregoing is a true record of
9 the testimony and proceedings taken at that time to the
10 best of my ability; and that I am not a party to nor
11 have I any interest in the outcome of the action herein
12 contained.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal this 25th day
15 of August, 2019.
16
17
18
19
20
21
22 LEONARD J. DiPAOLO, RPR, CRR, CCP
23 Notary Public for Alaska
My Commission Expires: 2-3-2020
24 #3319
25

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**VERBATIM TRANSCRIPT
&
INDEX**

JUNE 10, 2019

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

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

Monday, June 10, 2019
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT Pages 1 - 172, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Syverine Abrahamson-Bentz, Anchor Point/Ninilchik
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Dr. Rick Foster, Southwest Borough
Diane Fikes, City of Kenai
Blair Martin, Kalifornsky Beach
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

Staff Present:

Julie Hindman, Administrative Assistant
Jordan Reif, Platting Technician
Dan Conetta, Land Management Agent
Charlie Pierce, Kenai Peninsula Borough Mayor
Bruce Wall, Planner
Scott Huff, Platting Manager

Others Present:

Emmitt Trimble
Mary Trimble
Stacey Stone
Paul Morino
Judy Aaron
Linda Bruce
Mark Claypool
Christina Elmaleh
Teresa Jacobson
Pete Kinneen
Lynn Whitmore
Allison Trimble Paparoa
Gary Sheridan
Richard Carlton

<p style="text-align: right;">Page 2</p> <p>1 Others Present, Continued:</p> <p>2 Todd Bareman 3 Ryan Muzzarelli 4 Ed Martin III 5 Vickey Hodnik 6 Rick Oliver 7 Richard Cline 8 Charity Jacobson 9 Jim Reid 10 Roger McCampbell 11 Larry Smith 12 Chris Crum 13 Hans Bilben 14 Ann Cline 15 Lauren Isenhour 16 Buzz Kyllonen 17 Tom Clark 18 Angela Roland 19 Josh Elmaleh 20 Katie Elsner</p> <p>21 Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 was conducted on March 25th and continued to this date.</p> <p>2 Excerpts from the hearing officer's</p> <p>3 decision is included in the staff report, and copies of</p> <p>4 the decision is contained in Volume 2 of your packet</p> <p>5 beginning on page 2.</p> <p>6 All of these other page references that</p> <p>7 I'm going to give you are in Volume 1. And because</p> <p>8 this is a continuation of the March meeting, there is</p> <p>9 not a new staff report done. The staff report from the</p> <p>10 March meeting begins on page 222 of Volume 1.</p> <p>11 The resolution beginning on page 77 has</p> <p>12 been updated to reflect today's meeting. The draft</p> <p>13 resolution contains staff recommended buffers. Those</p> <p>14 buffers are illustrated on a map on page 238. Staff is</p> <p>15 recommending different buffers than what is shown on</p> <p>16 the applicant's site plan and different from the</p> <p>17 staff's recommendation in July.</p> <p>18 On page 18 of your packet -- hang on,</p> <p>19 nope, forget that last reference.</p> <p>20 A waiver is being requested for the</p> <p>21 300-foot processing distance requirement from the</p> <p>22 property line. Staff does not recommend approval of</p> <p>23 the processing distance waiver request. There is room</p> <p>24 elsewhere on the property for processing that meets the</p> <p>25 300-foot setback requirement. The draft findings in</p>
<p style="text-align: right;">Page 3</p> <p>1 PROCEEDINGS</p> <p>2 7:28:15 p.m.</p> <p>3 (This portion not requested)</p> <p>4 7:32: 35 p.m.</p> <p>5 CHAIRMAN MARTIN: That brings us to item</p> <p>6 F-3, continuation of the March 25th, 2019 public</p> <p>7 hearing for the CLP in the Anchor Point area. Staff.</p> <p>8 COMMISSIONER BRANTLEY: May I?</p> <p>9 CHAIRMAN MARTIN: Yeah, please.</p> <p>10 COMMISSIONER BRANTLEY: I just wanted to</p> <p>11 remind the commission that I've recused myself from</p> <p>12 this.</p> <p>13 CHAIRMAN MARTIN: So noted. Whenever</p> <p>14 you're ready, Mr. Wall.</p> <p>15 MR. WALL: Thank you, Mr. Chairman.</p> <p>16 This is an application for a conditional</p> <p>17 land use permit for a material site in the Anchor Point</p> <p>18 area. It is located at 74185 Anchor Point Road, Parcel</p> <p>19 No. Is 169-010-67. The applicant is Beachcomber, LLC.</p> <p>20 This application was heard by the</p> <p>21 Planning Commission on July 16th, 2018 where the</p> <p>22 application was denied approval. This decision was</p> <p>23 appealed and was reviewed by a hearing officer.</p> <p>24 The hearing officer has remanded the</p> <p>25 application to the Planning Commission where a hearing</p>	<p style="text-align: right;">Page 5</p> <p>1 the resolution support the denial of the waiver.</p> <p>2 Julie has provided the commission members</p> <p>3 with an index for where other items are located in the</p> <p>4 packet. However, if you have difficulty finding the</p> <p>5 document during the meeting, feel free to ask me to</p> <p>6 help you locate it. It is quite a large volume, so I</p> <p>7 understand that it's cumbersome to get through.</p> <p>8 The new comments that have come in since</p> <p>9 the March meeting begin on page 84. You also have</p> <p>10 several letters in your desk packet, including a letter</p> <p>11 from an adjacent property owner requesting that his</p> <p>12 previous objections to the proposal be disregarded.</p> <p>13 There are also two letters on your desk</p> <p>14 that came in after the desk packet was published. The</p> <p>15 Planning Commission -- or actually make that -- I think</p> <p>16 it's three letters that's come in since the desk packet</p> <p>17 was prepared.</p> <p>18 The Planning Commission should review the</p> <p>19 application, site plan, staff report, and comments</p> <p>20 received and determine if the mandatory conditions</p> <p>21 contained in KPB 21.29.050 will be met.</p> <p>22 The planning department recommends that</p> <p>23 the Planning Commission deny the processing distance</p> <p>24 waiver request, approve the conditional land use permit</p> <p>25 with listed conditions, and adopt the findings of fact</p>

<p style="text-align: right;">Page 6</p> <p>1 subject to the requirements contained in the staff 2 report. And that's the end of my report. 3 CHAIRMAN MARTIN: Thank you. Before I 4 open public comment, I'll read the rules by which these 5 hearings will be conducted. 6 Anyone wishing to testify must wait for 7 recognition by the chair and state their name and 8 address for the record at the microphone provided for 9 public comment. 10 Each speaker is limited to five minutes 11 unless they have a prepared statement, in which case 12 they may request additional time. All questions will 13 be directed to the chair. All questions and comments 14 will be kept to the subject at hand and shall not deal 15 with personalities. 16 The public shall maintain decorum at all 17 times and treat testifiers with respect. No applause 18 or verbal outbursts will be allowed. 19 And the hearing procedure -- well, the 20 chair introduces the agenda item, like I just did; 21 staff presents a report and a recommendation; and 22 presentation by the applicant and their 23 representatives; and then followed by testimony by 24 members of the public. 25 Then we go to response by staff and</p>	<p style="text-align: right;">Page 8</p> <p>1 wondering if the change in the height requirements is 2 different than the presentation that we had at the -- 3 the recommendations we had at the March 25th meeting? 4 If so, that's a change to the process. 5 MR. WALL: The staff recommendation has 6 remained the same from the March 25th meeting. One of 7 the neighbors has proposed alternate buffers, and maybe 8 that's what you're thinking of. But the staff 9 recommendation has not changed from the March meeting. 10 COMMISSIONER WHITNEY: Well, I still have 11 that objection. 12 CHAIRMAN MARTIN: Thank you. Ms. 13 Carluccio. 14 COMMISSIONER BOKENKO-CARLUCCIO: Yes, I 15 wouldn't support that either. Because one of the other 16 things that was brought up at the last meeting was that 17 there would be a number of people here tonight who were 18 not in residence at that time, and they have no idea 19 what was testified or not testified. And so I think 20 that telling them that they couldn't repeat something 21 that they don't even know about is, you know, beyond 22 what we should do. 23 CHAIRMAN MARTIN: Any other discussion? 24 Roll call, please. 25 THE CLERK: The motion was to limit</p>
<p style="text-align: right;">Page 7</p> <p>1 testimony that was given and an opportunity for the 2 commission to ask questions of the staff, rebuttal by 3 the applicant. The applicant can rebut evidence or 4 testimony but should not present new testimony or 5 evidence. 6 The person -- the chairperson closes the 7 hearing and then entertains a motion. The commission 8 deliberates and makes a decision. 9 So I think Mr. Venuti has a comment. 10 COMMISSIONER VENUTI: Mr. Chair, I would 11 like to make a motion that we limit testimony tonight 12 to new information rather than rehashing all the 13 information we received already. 14 COMMISSIONER FOSTER: I'll second that. 15 CHAIRMAN MARTIN: Discussion? Mr. 16 Whitney. 17 COMMISSIONER WHITNEY: Yeah, I would 18 object to that. At the last meetings and in previous 19 meetings, everyone who has testified was told they 20 would be able to testify again at the next hearing, 21 being this particular one here, with no limitations or 22 curtailment of their testimony. So they are being 23 denied something that basically they walked out of here 24 with a promise that they would be able to do. 25 And I have a question of staff. I'm</p>	<p style="text-align: right;">Page 9</p> <p>1 testimony to new information only. 2 Foster? 3 COMMISSIONER FOSTER: No. 4 THE CLERK: Venuti? 5 COMMISSIONER VENUTI: No. 6 THE CLERK: Brantley -- sorry. Ernst? 7 COMMISSIONER ERNST: No. 8 THE CLERK: Whitney? 9 COMMISSIONER WHITNEY: No. 10 THE CLERK: Carluccio? 11 COMMISSIONER BOKENKO-CARLUCCIO: No. 12 THE CLERK: Fikes? 13 COMMISSIONER FIKES: No. 14 THE CLERK: Bentz? 15 COMMISSIONER ABRAHAMSON-BENTZ: No. 16 THE CLERK: Ecklund? 17 COMMISSIONER ECKLUND: No. 18 THE CLERK: Martin? 19 CHAIRMAN MARTIN: No. 20 THE CLERK: Unanimous. 21 CHAIRMAN MARTIN: Thank you. So at this 22 time I will open public comment. Please state your 23 name and address at the microphone provided, and sign 24 in as well. And push the button at the bottom of the 25 microphone to get it started.</p>

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1 **EMMITT TRIMBLE:** My name is Emmitt
2 Trimble --
3 **CHAIRMAN MARTIN:** Hit the mic, please.
4 **EMMITT TRIMBLE:** My name is Emmitt
5 Trimble. I live at P.O. Box 193, Anchor Point. I
6 personally will be pretty brief because I've lost my
7 voice.
8 This is our attorney of record, Stacey
9 Stone, and we have a video that we hope to be able to
10 play for you that unfortunately I know that it's hard
11 for you folks to get down and take a look at sites that
12 you're talking about.
13 So you've looked at lots of pictures, and
14 we just have a little video that may be helpful when
15 we're having a discussion about things later on.
16 I personally would like to leave you just
17 with a couple of thoughts, phrases that are very
18 relevant.
19 Substantial evidence; findings of fact.
20 Like Sergeant Friday said in Dragnet many years ago,
21 "Just the facts, ma'am."
22 **STACEY STONE:** Thank you, my name is
23 Stacey Stone. I'm an attorney at Holmes, Weddle &
24 Barcott at 701 West 8th Avenue, Suite 700 in Anchorage,
25 Alaska, 99501.

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1 As you all have before you today, you
2 have the remand that was passed back from the hearing
3 officer. Within that remand, she identified the charge
4 that's before this commission as set forth in the Kenai
5 Peninsula Borough code.
6 The charge to this commission is very
7 limited in scope, and it's set forth in the code
8 itself. It sets forth what this commission has the
9 authority to do and what the commission has the
10 authority not to do.
11 It also helps to extrapolate on what the
12 purpose of a conditional land use permit within the
13 Kenai Peninsula Borough is, because this is not your
14 standard -- as she referenced, this isn't where we have
15 a residential property and they are looking for a
16 conditional land use permit for an exemption to have a
17 daycare in a residential area where they are running
18 business; rather this is something that's allowable,
19 and the borough assembly has chosen to codify how these
20 are done legally.
21 Essentially someone has the authority to
22 do this on the land, and if the government is going to
23 come in with a restriction, that restriction has to be
24 limited by law.
25 The law is set forth. It provides very

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1 specific conditions. If everyone checks -- if the
2 applicant checks all of the boxes that are set forth
3 within the code, which indeed my client has done, then
4 it's up to this commission to look and see if there are
5 appropriate conditions that need to be placed, and if
6 there are appropriate conditions, then they need to be
7 instituted and then the permit needs to be approved
8 unless it's lacking.
9 And we maintain that the permit -- every
10 box has been checked. There are appropriate conditions
11 that have been set forth, and therefore tonight this
12 commission should approve the permit for the
13 conditional land use.
14 **CHAIRMAN MARTIN:** Thank you. Are there
15 any questions from commissioners?
16 **EMMITT TRIMBLE:** Mr. Chairman?
17 **CHAIRMAN MARTIN:** Yes, sir.
18 **EMMITT TRIMBLE:** If we could, with your
19 permission, the video that we would like to play. And
20 if the sound isn't working, my daughter who took the
21 video will narrate it for you. And I'm done, with your
22 permission.
23 **CHAIRMAN MARTIN:** Yes, sir.
24 (Whispered discussion off the record)
25 **MR. WALL:** Mr. Chairman, while that's

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1 coming up -- never mind, it's up. So I'll --
2 (Whispered discussion off the record)
3 (Video played - not transcribed)
4 **COMMISSIONER ECKLUND:** Mr. Chairman?
5 **CHAIRMAN MARTIN:** Yes? Could you pause,
6 please? Ms. Ecklund.
7 **COMMISSIONER ECKLUND:** Yes, excuse me.
8 When you say, "Looking across," could you say which
9 direction you're looking, north, east, west -- I mean,
10 you're saying --
11 **ALLISON TRIMBLE PAPAROA:** Northwest. So
12 kind of from the Danver side, like if you're up in the
13 upper portion -- maybe you can help clarify.
14 **COMMISSIONER ECKLUND:** The northern
15 portion of Danver?
16 **EMMITT TRIMBLE:** She was standing at the
17 intersection of Kyllonen and Danver. You're looking to
18 the west here, due west.
19 **COMMISSIONER ECKLUND:** And that's in this
20 one. The one where you say you're looking towards your
21 sister's house --
22 **ALLISON TRIMBLE PAPAROA:** I was standing
23 just right over there. If you're looking, I was right
24 here. So this is --
25 **COMMISSIONER ECKLUND:** And you were

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1 looking which direction at that point?
2 **ALLISON TRIMBLE PAPAROA:** I was looking
3 north.
4 **COMMISSIONER ECKLUND:** North, okay.
5 **EMMITT TRIMBLE:** Northwest.
6 **COMMISSIONER ECKLUND:** Okay, all right,
7 thank you.
8 **EMMITT TRIMBLE:** Towards my daughter's
9 house.
10 **UNIDENTIFIED SPEAKER:** Yeah, I don't know
11 where that is.
12 (Video played - not transcribed)
13 **EMMITT TRIMBLE:** Here is looking south
14 again. This is Kyllonen Drive.
15 (Indiscernible-simultaneous talking while video is
16 playing)
17 **EMMITT TRIMBLE:** Looking north on Danver.
18 There is the berm. You can barely see through the
19 trees, the vegetated buffer.
20 This is now the ingress to the pit. This
21 berm was along there at the request of Mr. Wall and the
22 reseeding at the request of planning.
23 **ALLISON TRIMBLE PAPAROA:** Facing north.
24 **EMMITT TRIMBLE:** Mr. Brantley's
25 properties are on the other side of that berm. Mr.

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1 Whitmore's properties are right there. Mr.
2 (Indiscernible) property is right there. This is where
3 Mr. Bilben and others are, up in that area. This is
4 the area that was stripped by CIC Construction. And
5 the floor of the pit would be 25 feet below that level.
6 This is from the beach road looking south
7 on Danver.
8 This is Mr. Brantley's so-called business
9 where the sign is.
10 **ALLISON TRIMBLE PAPAROA:** There is one
11 final one --
12 **CHAIRMAN MARTIN:** One final one.
13 **ALLISON TRIMBLE PAPAROA:** That just shows
14 across the property.
15 **EMMITT TRIMBLE:** This is the area of the
16 proposed Phase 2 many years down the road, if at all.
17 Thank you for your consideration. I
18 appreciate it.
19 **CHAIRMAN MARTIN:** Ms. Ecklund.
20 **COMMISSIONER ECKLUND:** Thank you. If
21 your daughter would sign in, then she would be a person
22 of record since she spoke, and that might be beneficial
23 to you. And I do have some questions for you, Mr.
24 Trimble --
25 **EMMITT TRIMBLE:** Yes, ma'am.

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1 **COMMISSIONER ECKLUND:** -- if you don't
2 find.
3 **EMMITT TRIMBLE:** I think she's intending
4 to testify as well.
5 **COMMISSIONER ECKLUND:** Oh, later on?
6 **EMMITT TRIMBLE:** Yeah.
7 **COMMISSIONER ECKLUND:** Okay. Just so
8 long as you get --
9 **ALLISON TRIMBLE PAPAROA:** You betcha.
10 **COMMISSIONER ECKLUND:** -- your record.
11 **ALLISON TRIMBLE PAPAROA:** Do you have
12 questions for me as well during this time?
13 **COMMISSIONER ECKLUND:** No, no thank you.
14 Mr. Trimble, in that video you were
15 talking about that you were looking -- or the road was
16 the beach road. And on the permit maps that are in
17 this current 400-some page packet, it doesn't show
18 that.
19 So my question is, how far is your
20 property line from beach -- from the beach, from Cook
21 Inlet, from water?
22 **EMMITT TRIMBLE:** From the western
23 boundary of Phase 3 in this permit, it's probably 700
24 feet to the beach line, more or less.
25 **COMMISSIONER ECKLUND:** Or to mean high

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1 water, or whatever.
2 **EMMITT TRIMBLE:** Right, yeah.
3 **COMMISSIONER ECKLUND:** Thank you.
4 Through the chair, could I ask some additional?
5 On your permit application, there was a
6 spot for listing voluntary permit conditions, and one
7 thing that we've been asking of past gravel pit
8 applicants or material site applicants was to
9 voluntarily use the white noise backup alarms. And
10 we've talked about this --
11 **EMMITT TRIMBLE:** Yes, ma'am.
12 **COMMISSIONER ECKLUND:** -- and it isn't
13 added into this new application, which I think is your
14 original. But would you be amenable to adding the
15 white noise backup to your equipment?
16 **EMMITT TRIMBLE:** Yes, ma'am, as long as
17 it's my equipment I have control over. The people that
18 I've been hiring have had their backup beepers
19 disabled.
20 **COMMISSIONER ECKLUND:** Okay.
21 **EMMITT TRIMBLE:** And I have no problem
22 with that, no.
23 **COMMISSIONER ECKLUND:** Additional? Thank
24 you, chair.
25 On the map on page 71 of 438, in packet 1

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1 it shows an existing stripped area, which I think was
2 all you had done at the time you first applied. But
3 you've received a counter permit since then. So there
4 is some -- that area is bigger now, the area that's
5 been stripped with the counter that had approval.

6 **EMMITT TRIMBLE:** A couple clarifications.

7 **COMMISSIONER ECKLUND:** Okay.

8 **EMMITT TRIMBLE:** When I first started
9 before I even considered a conditional use permit or
10 anything, we were just under the one-acre thing.

11 **COMMISSIONER ECKLUND:** Right.

12 **EMMITT TRIMBLE:** I had moved in in what
13 looked like uplands. And I've had a delineation done,
14 by the way, and it is, in fact, uplands.

15 But Mr. Wall pointed out that that area
16 that I had built a substantial gravel pad so trucks
17 could get in and turn around, it's on my property, he
18 pointed out that the hundred year floodplain map and
19 the riparian wetlands map, whether or not they are
20 accurate, that the permit that I got, the counter
21 permit, required that we stayed a hundred feet away
22 from those lines.

23 I said, "Yes, sir. Can I have the
24 coordinates?" He sent me the coordinates. I said,
25 "I'm going to do exactly what you tell me." We went

1 **EMMITT TRIMBLE:** No, I have no problem.
2 We just haven't changed the application.

3 **COMMISSIONER ECKLUND:** Right, right. I
4 just -- based on the staff report, and he -- Mr. Wall
5 mentioned that, the waiver again --

6 **EMMITT TRIMBLE:** Yes, ma'am.

7 **COMMISSIONER ECKLUND:** -- I just wanted
8 to make sure that you --

9 **EMMITT TRIMBLE:** No problem.

10 **COMMISSIONER ECKLUND:** -- were ready to
11 go forward with changing your processing area.

12 **EMMITT TRIMBLE:** Sure.

13 **COMMISSIONER ECKLUND:** Okay, thank you.

14 **CHAIRMAN MARTIN:** Are there any other
15 questions for Mr. Trimble? Mr. Whitney.

16 **COMMISSIONER WHITNEY:** There was some
17 indication in the material we received that there was
18 plans to do some rock crushing there. Is that a fact?

19 **EMMITT TRIMBLE:** There is no plans to do
20 that now, but it's certainly something that would be
21 permissible with the permit. It would just need to
22 have a processing location that met the conditions that
23 we're willing to agree to.

24 **COMMISSIONER WHITNEY:** But that's
25 something that could happen in the future?

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1 out there, and that's what that one berm was.

2 And then we reseeded the entire -- we put
3 four inches of topsoil down and reseeded it, I don't
4 know, 6- \$7,000 worth of stuff.

5 **COMMISSIONER ECKLUND:** Okay, let me see.
6 Oh, one final one. The staff is recommending that we
7 don't approve your waiver for your processing area to
8 be less than 300 feet from the property line.

9 And I see that you've got it marked on
10 your permit map, but it is 300 feet from, like, the
11 center of Danver Road.

12 Would you be able to move that so that
13 you're within the 300 feet from your boundary, from
14 your property boundary?

15 **EMMITT TRIMBLE:** Yes, ma'am. I don't
16 have any problem with the waiver not being approved.
17 It was something the engineer recommended. You know,
18 it's 200 feet from Mr. Brna's property, I understand
19 that.

20 As is pointed out in the staff report,
21 there are many other areas to the west in Phase 2 and
22 Phase 3 where if there was a need to be 300 feet away,
23 it's possible. So I don't have any problem with that.

24 **COMMISSIONER ECKLUND:** Okay. And you
25 could move that back?

1 **EMMITT TRIMBLE:** Absolutely it could
2 happen. It's not something I've got planned, but it's
3 something that could happen.

4 Normally in a pit this size, if something
5 happens -- so maybe you have a screen or a crusher -- I
6 don't have a lot of experience with it -- there will be
7 some people testifying here that could maybe answer
8 better than I, but maybe two weeks out of the year.
9 Very limited situation. This is not a major industrial
10 pit.

11 **MR. WALL:** Mr. Chairman, would it be
12 possible for me to ask a clarifying question?

13 **CHAIRMAN MARTIN:** Please.

14 **MR. WALL:** Mr. Trimble, at the last
15 meeting you talked about the rolling berm, the moving
16 berm.

17 **EMMITT TRIMBLE:** Yes, sir.

18 **MR. WALL:** And the way that the condition
19 is written in the staff report and in the resolution,
20 it would require a 50-foot vegetated buffer with a
21 12-foot-high berm between the buffer and the
22 excavation. And that would certainly allow the moving
23 berm, but it doesn't require it the way that it's
24 worded.

25 Is it your intention to volunteer that as

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1 a condition, that you will have a moving berm, a
2 rolling berm so --
3 **EMMITT TRIMBLE:** Absolutely.
4 **MR. WALL:** -- it would be --
5 **EMMITT TRIMBLE:** I think that's the way
6 to best minimize any effects of any kind, have the berm
7 close to where you're working.
8 In a small-scale operation -- I mean, the
9 area that you saw there that's been stripped is a half
10 acre. And that would be a long time.
11 You know, people talk about 50,000 yards
12 of material. You know, if you sold 10- or 15,000 yards
13 a year, that's monumental for someone this size. And
14 we had the opportunity to do that, but it was taken
15 away from us.
16 So the rolling berm is -- you'll see
17 these LIDAR drawings, and they say, "Well, it would
18 have to be 50 feet if it's over here." Okay, well,
19 it's not going to be over there, it's going to be right
20 here. It's going to be right next to where we're
21 working, and then we would be 25 feet below the base of
22 that 12-foot berm. So 37 feet.
23 **CHAIRMAN MARTIN:** Ms. Ecklund.
24 **COMMISSIONER ECKLUND:** I found one more
25 note, through the chair, for Mr. Trimble.

1 new Sterling Highway, and the North Fork Road. Maybe
2 it wasn't as safe as the other option.
3 **COMMISSIONER ECKLUND:** Just to clarify,
4 since I'm not familiar with the area.
5 You would go always -- if you had to get
6 out to the new Sterling Highway, you would use the Old
7 Sterling Highway as the haul route, not Anchor Point
8 Road?
9 **EMMITT TRIMBLE:** Yes, ma'am.
10 **COMMISSIONER ECKLUND:** Okay, thank you.
11 **CHAIRMAN MARTIN:** Is there any more
12 questions for the applicant? We're not going to -- we
13 have to keep the meeting better than this. Everybody
14 is going to get their turn.
15 **MR. WALL:** Mr. Chairman.
16 **CHAIRMAN MARTIN:** Mr. Wall.
17 **MR. WALL:** Just for clarification. I
18 think Mr. Trimble misunderstood the question or
19 something. Because in order to get to the Old Sterling
20 Highway from Denver Street, you need to go on Anchor
21 Point Road.
22 **EMMITT TRIMBLE:** Yes, that's how you get
23 to the bridge, yeah. Oh, I'm sorry, I misunderstood.
24 That's obvious. You're going to turn off of Denver,
25 turn right on the beach road to the Old Sterling

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1 Part of the permit process is that you
2 designate your haul route. And your haul route has
3 been designated as Denver Street. But then from Denver
4 then where are you going to go?
5 **EMMITT TRIMBLE:** Well, I won't go
6 anywhere.
7 **COMMISSIONER ECKLUND:** Or whoever is
8 hauling your gravel.
9 **EMMITT TRIMBLE:** Yeah. Anyone that's
10 hauling, unless they were going north up Denver to some
11 of these folks, they would be going south a few hundred
12 feet to the intersection, turning right, and going
13 towards the Old Sterling Highway. At this time you
14 can't go across the bridge.
15 **COMMISSIONER ECKLUND:** Right.
16 **EMMITT TRIMBLE:** Okay, so if anything was
17 moving that way, it would be moving towards Homer on
18 the Sterling Highway.
19 **COMMISSIONER ECKLUND:** Okay.
20 **EMMITT TRIMBLE:** I mean, that's one of
21 the things that happened with -- the opposition caused
22 Hilcorp to pull out of a deal they had with us. And so
23 instead of running two miles on the beach road and the
24 Old Sterling Highway, they got them to go 22 miles one
25 way on the beach road, the Old Sterling Highway, the

1 Highway. Thank you for the clarification.
2 **COMMISSIONER ECKLUND:** Okay, followup,
3 please.
4 **CHAIRMAN MARTIN:** Please.
5 **COMMISSIONER ECKLUND:** How many miles or
6 feet would you be on Anchor Point Road to get to Old
7 Sterling Highway.
8 **EMMITT TRIMBLE:** Less than a mile, or
9 approximately a mile.
10 **COMMISSIONER ECKLUND:** Less than a mile.
11 Okay, thank you.
12 **CHAIRMAN MARTIN:** Any other commissioner
13 questions? None at this time.
14 **EMMITT TRIMBLE:** Thank you, I appreciate
15 your consideration.
16 **CHAIRMAN MARTIN:** Next testifier, please.
17 **PAUL MORINO:** Hello, thank you ladies and
18 gentlemen. My name is Paul Morino. I reside at Silver
19 King RV Village at basically the corner of Ann Street
20 and Anchor Point Road.
21 I'm one of at least 70 residents that
22 reside on Anchor Point Road within that one mile from
23 Denver Street to the Old Sterling Highway.
24 Silver King RV Village incorporates 88
25 individual lots with approximately 70 residential

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1 owners. Many of us live there throughout the entire
2 summer and into late September and even in April.
3 I wasn't at the last meeting, so you
4 probably discussed the noise concerns earlier, but I
5 want to bring up something that the applicant's
6 daughter pointed out of the 27 four-wheelers not going
7 up and down the road.
8 One truck going up and down that road
9 equals the noise of 32 cars, and that was from a study
10 done in 2000 by the Canadian government. So we may not
11 have 27 four-wheelers, but there is going to be -- for
12 each truck going down that road, the noise level is
13 going to be equivalent of 32 cars.
14 One thing I'm concerned about is a
15 statement by the applicant that says that, "Just the
16 facts." Well, yeah, Jack Webb said, "Just the facts,"
17 but there is also just the amount of people involved
18 just on the one mile of the Anchor Point Road.
19 I don't know how many tourists and
20 tourist dollars are spent on that one mile of road
21 alone with the three or four state campgrounds just on
22 the other side of Silver King RV Village. But if not
23 over a thousand people, it's got to be close to a
24 thousand tourists coming there and camping and residing
25 there throughout the entire summer.

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1 Again, I don't know how big of an issue
2 the noise is in the scheme of things, but for anybody
3 who resides right there on that road, the trucks, the
4 truck noise is going to be pretty loud.
5 And how many trucks are there going to
6 be? I mean, the applicant says that there's going --
7 it's going to be a small operation. What's a small
8 operation? How many trucks are going up and down that
9 road? I don't know.
10 Anyway, that's my major concern is just
11 the amount of traffic on that roadway and the amount of
12 noise on that roadway and what it's going to do to all
13 the people that visit that area, that one small
14 stretch. That's all I have.
15 **CHAIRMAN MARTIN:** Thank you. Any
16 questions? Ms. Ecklund.
17 **COMMISSIONER ECKLUND:** Do you have the
18 title of that 2000 study that you referenced?
19 **PAUL MORINO:** There is a U.S. DOT 1995
20 noise report that stated one truck traveling 55 miles
21 an hour equal 28 cars. And the one from --
22 **COMMISSIONER ECKLUND:** How many miles per
23 hour, sir, excuse me?
24 **PAUL MORINO:** 55. And of -- the speed
25 limit on that road is 25.

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1 **COMMISSIONER ECKLUND:** Yeah, okay.
2 **PAUL MORINO:** But the other study, if I
3 could quickly look real quick, it's a Transit Canada
4 2000 Noise Centre, C-e-n-t-r-e, BC Transit. I didn't
5 write down the website.
6 **COMMISSIONER ECKLUND:** Okay, thank you.
7 **PAUL MORINO:** Yep.
8 **CHAIRMAN MARTIN:** Any other questions for
9 our testifier? Seeing none, thank you.
10 **PAUL MORINO:** Thank you.
11 **CHAIRMAN MARTIN:** Next, please.
12 **JUDY AARON:** It was already on, sorry.
13 My name is Judy Aaron, and I live on 73691 Ann Court.
14 I also live in the Silver King RV park, and I'm
15 thankful that you let us speak up today. I was not
16 able to attend any of the previous meetings.
17 I share the same concerns about the
18 amount of noise when it talks especially about the
19 buffer zones and the noise on the road and the amount
20 of trucks going up and down. That's a very small road.
21 And just the maintenance of both -- and then the state
22 maintenance and the borough maintenance. And that's
23 all.
24 **CHAIRMAN MARTIN:** Thank you. Mr. Whitney
25 has a question.

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1 **COMMISSIONER WHITNEY:** From where you're
2 located in the RV park, can you hear any of the
3 operation that's going on in the current gravel site?
4 **JUDY AARON:** I don't think -- I don't
5 know if they are really operating right now. But I can
6 hear the road traffic.
7 **COMMISSIONER WHITNEY:** Thank you.
8 **JUDY AARON:** But currently I don't see
9 vehicles going back and forth for the gravel operation.
10 **CHAIRMAN MARTIN:** Any other questions?
11 None at this time, thank you. Next testifier, please.
12 **LINDA BRUCE:** My name is Linda Bruce.
13 And let's see if I can't get this done really quick.
14 And I live at Post Office -- well, I
15 don't live at Post Office Box. My address is Post
16 Office Box 39004, and that's Ninilchik, Alaska 99639.
17 And I have not been at any of the
18 previous meetings. So I do know some of the input
19 that's been done, but I -- and hopefully I won't touch
20 on it, but I haven't -- you know, I haven't been here.
21 We own property down in Anchor Point,
22 which is practically adjacent to the gravel pit. We
23 bought that property from Emmitt and Mary Trimble a
24 long time ago. And Emmitt -- I'll touch on the
25 newspaper article, but first I want to touch on the

<p style="text-align: right;">Page 30</p> <p>1 video.</p> <p>2 The video, I'm not sure what the specific</p> <p>3 point of the video was, but if it's to show the gravel</p> <p>4 pit or what it was there for, but if it was to</p> <p>5 demonstrate the pristine and lovely nature of the area,</p> <p>6 it did that. And that the gravel pit is right in the</p> <p>7 middle of that pristine and lovely area, it succeeded</p> <p>8 at that, it was great for that.</p> <p>9 But I will touch on the newspaper article</p> <p>10 that recently came out that was talking about the</p> <p>11 40-year trust that -- and these are quotes from Mr.</p> <p>12 Trimble -- the 40-year trust relationship with the</p> <p>13 people of Anchor Point, my parents being two of those</p> <p>14 people, my husband and I being two more of those</p> <p>15 people, and selling and buying property.</p> <p>16 And my feeling now is that Mr. Trimble</p> <p>17 has broken that trust. And in the newspaper he talked</p> <p>18 about the properties, the gravel pit being in an</p> <p>19 unincorporated, unzoned area.</p> <p>20 You know, I thought that was really</p> <p>21 interesting, because that's the very reason that most</p> <p>22 of us here bought there. We buy there because it's</p> <p>23 outside the city, it's outside all the craziness that's</p> <p>24 in Anchorage or Wasilla or Girdwood or wherever, it's</p> <p>25 outside all of that. It's outside Soldotna, it's</p>	<p style="text-align: right;">Page 32</p> <p>1 conditions and we should be granted the permit."</p> <p>2 So does public input, the letters,</p> <p>3 everything, does that really have any bearing on this</p> <p>4 process? And I don't know who can answer that or if</p> <p>5 all of you can answer that, but does it have any</p> <p>6 bearing, or are we all just wasting our time because</p> <p>7 the permit is going to be granted because the</p> <p>8 conditions have been met? And that's really all.</p> <p>9 CHAIRMAN MARTIN: Thank you. Any</p> <p>10 questions? None at this time, thank you, ma'am.</p> <p>11 Next testifier, please.</p> <p>12 (Indiscernible - whispered conversation)</p> <p>13 CHAIRMAN MARTIN: Are we ready for the</p> <p>14 video over there? Will you let us know when it's --</p> <p>15 your request? Thank you, whenever you're ready, sir.</p> <p>16 MARK CLAYPOOL: My name is Mark Claypool.</p> <p>17 I'm the president of the association at Silver King RV</p> <p>18 Village Association. I have two things.</p> <p>19 Number one, Mr. Whitney's question about</p> <p>20 the noise. We hear the surf from where we're at, so</p> <p>21 there is no doubt in my mind we're going to hear what</p> <p>22 comes from that gravel pit.</p> <p>23 Number two, if the haul road, meaning</p> <p>24 Anchor Point river road cannot be safe with these</p> <p>25 trucks running up and down and permission not be</p>
<p style="text-align: right;">Page 31</p> <p>1 outside Kenai. And we've had an apartment building for</p> <p>2 years in Kenai, and trust me, Ninilchik is a lot</p> <p>3 quieter than Kenai.</p> <p>4 So I understand the unincorporated,</p> <p>5 unzoned area. But then to play that card, to ask for a</p> <p>6 permit for a gravel pit in that pristine area is really</p> <p>7 an insult. At that critical point in Anchor Point,</p> <p>8 it's really an insult to all of us who have put our</p> <p>9 trust in Mr. Trimble and then to have a gravel pit in</p> <p>10 our backyard. It really is insulting.</p> <p>11 And he says that in 15 years they will</p> <p>12 rebuild, they will make it all great. Well, some of</p> <p>13 the gravel pits around here, in fact, one in Ninilchik</p> <p>14 has been going for 40 years. So 15 years is a really</p> <p>15 aggressive target, and quite truthfully, some of you</p> <p>16 are younger than me, but I can tell you right now, if I</p> <p>17 live the 15 years, I may not live long enough to see</p> <p>18 that gravel pit be reconstituted to something really</p> <p>19 great. And so I don't want to wait 15 years to see</p> <p>20 Anchor Point rebuilt to something really great.</p> <p>21 So I really -- I mean, I think you would</p> <p>22 know that I object to this. But what my question to</p> <p>23 you is, do we -- is there a point to public input?</p> <p>24 Does public input -- because I saw Mr. Trimble's</p> <p>25 attorney get up here and say, "We've met all the</p>	<p style="text-align: right;">Page 33</p> <p>1 granted -- I'm surprised that Mr. Trimble didn't</p> <p>2 mention this road, he's lived here for so many years.</p> <p>3 But that's all I've got.</p> <p>4 CHAIRMAN MARTIN: Any questions? Not</p> <p>5 now, thank you. Next.</p> <p>6 CHRISTINA ELMALEH: Hi, my name is</p> <p>7 Christina Elmaleh, I live at 34885 Seabury Court, which</p> <p>8 is kind of up and above the gravel pit. And I just</p> <p>9 want to testify to the noise.</p> <p>10 I quit my job about a year ago to stay</p> <p>11 home with our then two-month old. We have a couple</p> <p>12 kids, and I could hear the noise from the operations at</p> <p>13 the gravel pit throughout the day, so much so that any</p> <p>14 time my dog could hear it, she was freaking out and</p> <p>15 barking, so that just kind of added to it.</p> <p>16 But we can definitely hear the noise from</p> <p>17 where we're at. It's a bit of, like, an amphitheater</p> <p>18 that kind of magnifies it up to our house.</p> <p>19 The reason we bought where we bought was</p> <p>20 actually to be away from gravel pits. We didn't look</p> <p>21 at anything near a gravel pit at the time to keep that</p> <p>22 kind of noise away from our young -- two young kids and</p> <p>23 to be in a safe, open area. So I just wanted to</p> <p>24 testify that we can hear it from our house, and that I</p> <p>25 am against the gravel pit.</p>

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1 **CHAIRMAN MARTIN:** Thank you. Any
2 questions? Mr. Whitney.
3 **COMMISSIONER WHITNEY:** How far away from
4 the pit are you actually?
5 **CHRISTINA ELMALEH:** A quarter -- like a
6 quarter mile.
7 **COMMISSIONER WHITNEY:** Okay, thank you.
8 **CHAIRMAN MARTIN:** Any other questions?
9 None at this time, thank you. Next testifier, please.
10 **TERESA JACOBSON GREGORY:** Hi, I'm Teresa
11 Jacobson Gregory, and that poster is a picture of my
12 neighborhood.
13 **UNIDENTIFIED SPEAKER:** Excuse me, Julie,
14 could you just stand it up a little bit more because
15 it's glaring and we can't really see it. Thank you.
16 **TERESA JACOBSON GREGORY:** And if you look
17 in your packet on page 343, there is a map of -- with
18 red area that shows a small portion of this picture,
19 and it also shows where the gravel pit -- the full
20 gravel pit will be.
21 And I just want to thank you all for
22 serving and being a member of this Planning Commission
23 for each of our communities in the Kenai Peninsula
24 Borough. Also being willing and already willingly
25 denying this conditional use permit and then hearing us

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1 again after the appeal.
2 I question the fact that a conditional
3 land use permit was denied and then the director and
4 the planner approved a two-and-a-half acre
5 over-the-counter gravel permit for Beachcomber, LLC
6 immediately after the denial that does not have to
7 require a public comment.
8 There have been several written comments
9 about the Planning Commissioners. On March 25th, 2019
10 at the Planning Commission meeting Mary Trimble stated,
11 quote, "The staff is recommending approval. The
12 planning director Bruce and the borough attorney have
13 all visited the site and saw no issues with our plan.
14 The borough attorney has, in her briefs, interpreted
15 the code and stated case law to back up her position
16 that the permit should be granted.
17 These are professional, educated people
18 who represent the borough interests and who interpret
19 and enforce the code," end quote.
20 And then in -- another letter addressed
21 to you as the Planning Commissioners for this meeting
22 was from Allison Trimble, their daughter. "When the
23 Planning Commission denied the application last year,
24 you did so against the recommendation of the staff and
25 in direct violation of your duties," unquote.

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1 I looked up the Planning Commission
2 administration codes, and 2.4.005 [sic] and 2.4.007
3 [sic], you as Planning Commissioners have investigation
4 and recommendation authority. Also, you have approval
5 or -- you can approve or rejection, you have that
6 authority. So when they tell you that you don't have
7 any right to do these borough codes, that's not so.
8 Now we're back to the main point where
9 the borough ordinances are -- I know that you can only
10 act on certain codes in the borough, which is
11 minimizing off-site dust movement, which, if you go out
12 and look at my car right now, you'll see after the
13 borough graded the roads, we're all yellow from Anchor
14 Point.
15 Minimizes noise disturbance to other
16 properties, minimizes visual impacts, and while the
17 first one was protects against physical damage, which I
18 believe will be physical damage to our property as far
19 as value.
20 The definition of minimize is to reduce
21 something -- especially something unwanted or
22 unpleasant to the smallest possible amount or degree.
23 The codes are set up for guidelines for all of the
24 Kenai Peninsula Borough residents.
25 I live about a hundred feet above this

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1 area for the conditional lands permit, and there is no
2 way that it's possible to minimize the noise
3 disturbance.
4 I called and invited Mr. Wall to come and
5 sit on my deck and listen when they first started back
6 in August after they gave them the two-and-a-half acre
7 permit, but I mostly wanted him to hear the quiet, the
8 sounds of the ocean, and then the racket of the Cats
9 and the trucks moving dirt. He didn't come. And I
10 invite any of you to come to my deck and listen, and I
11 hope at least that you've seen this area for yourself.
12 And as you can see in that picture, there
13 is no gravel pit within a long area of that one.
14 I quote again from Mary Trimble's
15 statement on March 25th of 2019 in the Planning
16 Commission meeting, "Emmitt and I believe in rights and
17 responsibilities. This is a situation where we are
18 agreeing to take on responsibilities in exchange for
19 the right to excavate gravel on our property. The
20 opposition, quote, has the right to protect their
21 property, but are unwilling to accept the fact that
22 they have a responsibility to do what they can to
23 minimize visual and noise, if it is bothersome, by
24 building a fence or a berm on their property or
25 installing blinds that rise up from the bottom so that

<p style="text-align: right;">Page 38</p> <p>1 they will still have an inlet view. They do not have 2 right to our land, so we should not bear all the 3 responsibility for mitigating their perceived 4 discomfort," unquote. 5 CHAIRMAN MARTIN: Could you please 6 summarize. 7 TERESA JACOBSON GREGORY: Sure. Mary and 8 Emmitt do not live on that property. They live five 9 miles north from this property. And it's been said 10 many times that this is their legacy property, which 11 nobody lives on the land right now, and that they 12 bought it three-and-a-half years ago. 13 We as residents live on our property, and 14 it's truly our legacy that we moved there. We bought 15 here and there was no gravel pits. This gravel pit is 16 located in our neighborhood, which is beautiful and 17 pristine, as you can see. 18 One other point, today, right on the end 19 of Danver Road where the dump trucks will exit, it 20 takes 29 seconds to get to the first campground on the 21 left of Anchor Point Road where I saw a tent just from 22 me to you. 23 So I hope you will not let your -- my 24 husband and I have lived here for 23 years, and during 25 that time we have met people from all over the world</p>	<p style="text-align: right;">Page 40</p> <p>1 whole thing is a head-on collision. The tension -- let 2 me just define it very quickly. The tension is between 3 the interpretation of the existing law. 4 The ordinance is very clear, and there 5 has been a lot of effort to mesmerize you into 6 believing that the laws -- that the ordinance says 7 something that it doesn't. 8 The Planning Commission is a higher 9 authority. You are the judge, you are the jury, not 10 the department. They are here to support you, not to 11 oppose you. 12 The default position -- this is extremely 13 important. Almost nothing else really matters. 14 Everything else is the details, but the clear legal 15 default position here is denial. 16 There is a lot of silliness, nonsense 17 about land owners have rights to extract gravel. That 18 is absolutely not true. 19 Land owners have rights to do certain 20 things. They have rights to do everything that is not 21 excluded. A land owner, including this land owner, 22 could put in an automotive junk yard, they could raise 23 pigs, there is all kinds of different things they could 24 do. 25 But under the borough ordinance, living</p>
<p style="text-align: right;">Page 39</p> <p>1 right here on the Anchor River and the Anchor Point 2 beach, Finland, Sweden, Germany, China, Japan, many, 3 many others, all the Alaskans, all the people from the 4 Lower 48. 5 Please don't let your names go on record 6 that you approved this conditional land use permit, and 7 it stays with this property and will not go away. 8 Thank you. 9 CHAIRMAN MARTIN: Thank you. Any 10 questions? None at this time, thanks for your 11 testimony. Next person, please. 12 PETE KINNEEN: My name is Pete Kinneen, 13 and I live on Danver. I forgot to sign in here. 14 CHAIRMAN MARTIN: And your complete 15 address, please. 16 PETE KINNEEN: It's 34969 Danver. And 17 does the five minutes start when I walk up here? So 18 the sign-in takes out of the -- 19 THE CLERK: No, I paused it while you 20 signed in. 21 PETE KINNEEN: Huh? 22 THE CLERK: I paused it while you signed 23 in. But I'll just (indiscernible). 24 PETE KINNEEN: Thank you. I totally 25 agree with the speaker before me. And frankly this</p>	<p style="text-align: right;">Page 41</p> <p>1 outside a zoned area is not living in the Old West, it 2 is not living in unrestricted areas. 3 The whole reason you're here, the 4 conditional land use permit, the CLUP, is the people 5 voting through the assembly to tell you that there are 6 certain things that are not a right, they are a 7 privilege. 8 If they meet certain conditions and come 9 to you and you agree that they -- that the conditions 10 meet the standards, then you are authorized to grant a 11 permit. It is not a default position. 12 The exclusion anywhere in the borough, 13 including in the zoned or the outzoned areas, is you do 14 not have a right to extract gravel. You must come in 15 and go through this process. You are charged with 16 looking at the very clear standards written in plain 17 English that start with the intent. And the intent is 18 to protect the existing neighborhood. 19 And if the applicant can meet certain 20 conditions to meet those standards, then you are 21 authorized possibly to grant the permit; otherwise, 22 again, default position is denial. 23 And that is where we are right now. The 24 standards cannot be met on this particular site for all 25 the reasons that have been given to you because of the</p>

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1 topography and the unique geography of it. And you
2 know that this is not the right place for a gravel
3 mining operation. You've been quoted as saying that.
4 And there has been a lot of confusion
5 about you have to approve this because, as the first
6 speaker said, the applicant [sic] has been made and the
7 box has been checked. True, they have. They have been
8 checked, but they haven't been -- they do not meet the
9 conditions. They cannot meet the conditions under the
10 borough ordinance and the definitions of the conditions
11 meeting the standards.
12 You're going to find some great
13 information tonight from the borough's own technology,
14 which will demonstrate to you that this applicant
15 cannot meet the conditions or the standards, it must be
16 denied.
17 The first attorney who spoke tonight, a
18 lot of smoke, made a bad conclusion. It's a
19 misstatement of the law, read it. I mean, I'm happy to
20 answer any questions into detail of any of that, thank
21 you.
22 **CHAIRMAN MARTIN:** Thank you. Any
23 questions for Mr. Kinneen? Ms. Carluccio.
24 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes,
25 thank you. In your speaking and us seeing that graph

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1 up there, is that part of your speech?
2 **PETE KINNEEN:** That's -- yeah. What that
3 shows is that when I wake up in the morning, I look out
4 the bedroom window. And the graphic that was brought
5 up by the applicant shows a, whatever, a 12-foot berm
6 or something. I'm 70 feet above that. And I look
7 right over it as if it wasn't there.
8 This is the equivalent -- the
9 amphitheater effect is the equivalent of living in a 7,
10 8, 10, 12-story building, and there is something going
11 on right downstairs. You can't put a berm up.
12 So yeah, to -- under the regulations,
13 to -- what does that say, the berm would have to be 43
14 feet tall to meet the conditions, to meet the
15 standards. And if they want to build that, then you
16 can authorize it. But a 6 foot or 12 foot or 14 foot
17 doesn't do anything at all.
18 **COMMISSIONER BOKENKO-CARLUCCIO:** Through
19 the chair. One of the things that Mr. Trimble said
20 when he started off was that from where it is now it's
21 going to potentially go down another 25 feet.
22 **PETE KINNEEN:** Right.
23 **COMMISSIONER BOKENKO-CARLUCCIO:** What
24 difference would that make to your graph?
25 **PETE KINNEEN:** It wouldn't make any

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1 difference. For example --
2 **COMMISSIONER BOKENKO-CARLUCCIO:** Well, if
3 he goes -- if he drops down 25 feet --
4 **PETE KINNEEN:** It's still -- imagine I'm
5 in a 7th floor apartment and he's just a few hundred
6 feet out. I'm going to watch him dig down over 15
7 years, dig down from that elevation to 25 feet deeper.
8 And the noise is horrendous.
9 And also the dust -- in his pictures,
10 he's showing -- to answer your question, he hasn't
11 vegetated anything, he hasn't thrown any grass seeds
12 out, and every time the wind blows, it blows the dust
13 off of that up into the hills and into my house and
14 everybody else's house. And it's just -- you can't do
15 it, really.
16 **COMMISSIONER BOKENKO-CARLUCCIO:** One more
17 question. Is how far -- you probably said it, but I'm
18 sorry, I don't remember -- how far from the gravel pit
19 are you?
20 **PETE KINNEEN:** Across the street. I'm on
21 Danver. So however wide Danver is, I guess, is how far
22 I am away from it.
23 **COMMISSIONER BOKENKO-CARLUCCIO:** 30 feet?
24 **PETE KINNEEN:** Yeah.
25 **COMMISSIONER BOKENKO-CARLUCCIO:** 50 feet?

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1 **PETE KINNEEN:** 50 -- let's call it 50.
2 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay,
3 thank you.
4 **PETE KINNEEN:** You're welcome.
5 **CHAIRMAN MARTIN:** Any other questions?
6 Mr. Foster.
7 **COMMISSIONER FOSTER:** Sir, Mr. Kinneen, I
8 don't want to be disrespectful, but I just was
9 thinking, you know, I wanted an unobstructed view of
10 the ocean, and the only way I could do that is buy it
11 right on the bay.
12 And I was just wondering if -- you
13 indicated or somebody else said that there is no zoning
14 against a junkyard or a car lot or something like that.
15 **PETE KINNEEN:** Right.
16 **COMMISSIONER FOSTER:** And so if rather
17 than a gravel pit he had just brought in acres and
18 acres of pigs, we're going to have a smell, we're going
19 to have nothing to good [sic] look at, but there is
20 really nothing you can do here.
21 Here we do have some little bits of
22 things that we can try to do, and that's -- just be
23 aware that we're trying to do everything we can. But
24 there is not so much you can do with this grand view
25 that we're looking at.

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1 **PETE KINNEEN:** Wait, with the what?
2 **COMMISSIONER FOSTER:** A grand view. You
3 know, you're looking at this from the 7th floor or that
4 kind of a thing.
5 **PETE KINNEEN:** Good question, if I can
6 answer that, thank you. No discussion here about the
7 grand view. The ordinance is very clear, it's not
8 about the grand view, it's not about taking their view,
9 their view shed or anything.
10 The ordinance speaks entirely to
11 shielding us from seeing the actual operation, and
12 that's what the fence is about.
13 Like on a junkyard you put up a fence,
14 you drive down, you know there is a junkyard over
15 there, but you can't see it.
16 So the only view consideration is to
17 shield us from the ugliness of this open pit mine. It
18 doesn't have anything to do with the rest of the view,
19 which is there.
20 And the addressing your valid concerns
21 about, well, he could put in a pig farm. So he's not
22 putting in a pig farm, so why not just take the gravel?
23 I wish we were in college and I could
24 debate you, that would be fun, in that because he's not
25 cutting off my left arm, it's okay for him to cut off

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1 my right arm? No. Are we in agreement, that's not a
2 good argument? Okay, all right, then I won't debate
3 it.
4 What was your other point?
5 **COMMISSIONER FOSTER:** That's all.
6 **CHAIRMAN MARTIN:** Mr. Wall.
7 **MR. WALL:** Mr. Chairman, yeah, thank you,
8 Mr. Chairman.
9 For clarification, Mr. Kinneen, how many
10 lots are between your residence and the proposed gravel
11 pit?
12 **PETE KINNEEN:** How many lots?
13 **MR. WALL:** Yeah. I mean, you said --
14 **PETE KINNEEN:** A single lot.
15 **MR. WALL:** Okay, I just wanted to make
16 sure that was clarified. Okay, thanks.
17 **PETE KINNEEN:** Sure.
18 **CHAIRMAN MARTIN:** All right, Mr. Whitney.
19 **COMMISSIONER WHITNEY:** Who prepared that
20 diagram?
21 **PETE KINNEEN:** I'm sorry?
22 **COMMISSIONER WHITNEY:** Who prepared that?
23 **PETE KINNEEN:** Mr. Whitmore, who has got
24 experience in dealing with this. This is the borough's
25 technology. We're taking this right from the borough.

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1 And again, you'll see it, it demonstrates
2 that this mine cannot be permitted under the existing
3 law. It's very clear.
4 **CHAIRMAN MARTIN:** Any other questions for
5 Mr. Kinneen? None at this time, thank you. Mr.
6 Whitmore.
7 **LYNN WHITMORE:** It would probably help if
8 I explain what we have here. This is the borough's GIS
9 system utilizing their LIDAR. We're going to have a
10 few more of these to show, so it's probably a good idea
11 for everybody to understand how I came up with these.
12 And I worked with Chris Clough back when
13 he first started to do the GIS, and I worked with him
14 non-stop. And I've worked with the borough's GIS
15 system for quite a few years in a professional
16 engineering business.
17 So what you do with the borough's system
18 is you start right here and you run a transect to a
19 certain point. And it's going to -- you click a
20 button, and it's going to give you a side elevation
21 view of that layout.
22 What I did was converted that to AutoCAD,
23 and then put it to scale so I could measure things and
24 put it in the proper perspective.
25 Each house floor is about ten feet in

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1 height, including the floor trusses -- the floor
2 joists. And so everything here should be pretty much
3 to scale.
4 And as we go on, it probably would be
5 fair, because there is going to be a moving berm
6 process here, and we've all talked about that with our
7 group. And, in fairness, it seems like if I'm going to
8 demonstrate the moving berm and we're going to talk
9 about it, it seems like the applicant should be able to
10 interact somewhat with this, too, to show us what his
11 plans are. But we haven't had a chance to run that by
12 everybody yet, and he may not want to, but I suspect he
13 might. Thank you.
14 **CHAIRMAN MARTIN:** So is that the end of
15 your presentation? You're just going to be here in
16 case you can support some of the other testifiers?
17 **LYNN WHITMORE:** I don't mean that to be
18 my presentation, I mean that to be an explanation of
19 what I have here.
20 **CHAIRMAN MARTIN:** Okay.
21 **LYNN WHITMORE:** Thanks.
22 **CHAIRMAN MARTIN:** So we'll bring up
23 another testifier.
24 **LYNN WHITMORE:** Please.
25 **CHAIRMAN MARTIN:** Yes, ma'am.

<p style="text-align: right;">Page 50</p> <p>1 ALLISON TRIMBLE PAPAROA: My name is 2 Allison Trimble Paparoa, I live at 3020 Upland Way, 3 Ferndale, Washington, and I've also recently purchased 4 a home on Kyllonen Drive. I'm also a, you know, 5 multiple decade property owner in the borough and 6 taxpayer. 7 I'm going to speak to a couple things 8 that I think I'm qualified to speak to. I've written 9 more in my letter. The first thing I'm going to speak 10 to is that on June 1st we opened up the property to the 11 entire public to be there, to ask questions, to look at 12 the site, to talk to our family, and to have a good 13 barbecue. 14 Three people from the opposition took 15 advantage of that. None of the three people are in 16 this room. Of the three parties, two have since 17 changed their position after being there, and the third 18 didn't really have a strong position. 19 What I would like to read from you is 20 from the letter that was submitted to you by Lee and 21 Mark Yale. It says, "My wife Lee and I would like to 22 withdraw our objections to the proposed gravel pit, 23 which includes all oral and written correspondence. 24 Through our conversations, we are satisfied that the 25 KPB will protect our interests as tax paying property</p>	<p style="text-align: right;">Page 52</p> <p>1 own a real estate brokerage in Washington state. I am 2 the president-elect of our Whatcom County Association 3 of Realtors, and my job as such is to deal with land 4 use and the loss of private property rights. 5 In my brokerage I work largely in rural 6 areas, meaning outside of the city limits, trying to 7 help property owners navigate the mounting regulations 8 in order to utilize their properties for even 9 residential purposes. 10 What we love about Alaska is the ability 11 to live and let live and actually own our property, the 12 bundles of rights attached and intact. 13 This is a slippery slope, with the next 14 step being borough-wide zoning with restrictions on all 15 properties, including residential. 16 One of the scare tactics that has been 17 brought up is that there is going to be a devaluation 18 of property, the property values around a gravel pit. 19 The borough assessor claims that they have no -- they 20 do not devalue properties or change the assessments 21 based on them being located near a gravel pit. And for 22 their practical use shows that there have been two 23 sales recently at full asking price in the area, and 24 there is a third one that's pending. 25 I called and spoke to the listing agent.</p>
<p style="text-align: right;">Page 51</p> <p>1 owners. 2 We also have had several conversations 3 with Mr. and Mrs. Trimble and took advantage of the 4 Trimble's hospitality of the open house on June 1st. 5 The current berm on the two-and-a-half acres displays 6 the type of berm and use. I cannot see the surrounding 7 homes out of the pit as it is now. 8 Our only other concern was the 9 reclamation of the property as this could affect 10 surrounding property values. Upon our tour of the 11 property, Mr. Trimble showed us where he has reseeded 12 and reclaimed an area which was done very well. We 13 also realized to not reclaim this property upon 14 termination of mining activity would be a mistake as 15 the property would not have the value as it is in a 16 pristine location." 17 We just would like to extend a thank you 18 to the people who did show up with an open mind, asked 19 us questions, and were there in the spirit of 20 compromise, because that really was what we were 21 attempting to do with that. 22 We rolled open the doors and invited 23 everybody to come, and I think the people who came felt 24 that they were well received. 25 The other thing I'd like to speak to, I</p>	<p style="text-align: right;">Page 53</p> <p>1 I asked him if there was any impact that he believed on 2 his sale from the adjoining properties, to which he 3 asked me, "Do you have the property that has the old 4 Connex butted up against it?" And I said, "No, we have 5 the gravel pit down below." And he said, "It was never 6 mentioned and didn't seem to have an effect on it." 7 And he did say it was a solid sales price. 8 You were also provided with a letter from 9 Marjo Cardon, a realtor at the Kachemak Group, stating 10 she was solicited by a complainant to give a CMA on 11 their property because they were intending to sell it. 12 They led her to believe that she would be listing the 13 property, but on her arrival only talked about the 14 gravel pit, twisting it to fit the narrative and did 15 not list the property. She referred to their tactic as 16 panic pedalling, and shared with you her experience 17 with property values next to gravel pits. 18 So I just want to state that there isn't 19 any truth to the fact that it's going to devalue these 20 properties, and as property owners ourselves, that 21 would be the last thing we would be trying to do in 22 that area. We have not made our living as gravel pit 23 owners, we have made it as property owners. 24 And they pointed out very clearly, we 25 have sold a lot of the properties in this area and are</p>

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1 very proud of it and have done a good job of being good
2 stewards of the land.
3 I really struggled with what to say
4 because it's really easy to get caught up in trying to
5 respond to the inaccuracies and misinformation and
6 defamation from opposition.
7 What it comes down to is that your duty
8 and your charge is to deal with what is set forth in
9 the CLUP, and that's been said. The superseding code
10 to be met is set forth in this ordinance. In all three
11 recommendations from staff, my parents have voluntarily
12 met or exceeded the required standards.
13 As the Planning Commission, it's a
14 thankless and difficult position, especially when faced
15 with these sorts of antics; however, what you're
16 charged with is to follow the codes and ordinances that
17 are set for all of us through legislation. In this
18 situation it's simple. The conditions have been met
19 and the permit must be issued.
20 It's also time that this decision is made
21 tonight to stop unnecessary use of taxpayer dollars and
22 to end the damages being done to the applicant.
23 **CHAIRMAN MARTIN:** Thank you. Any
24 questions? Mr. Whitney.
25 **COMMISSIONER WHITNEY:** On the Yales'

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1 property on the letter you mentioned, what level are
2 they -- their property? Is it on the same level as the
3 pit, or is it up in the -- up above it or just where --
4 **ALLISON TRIMBLE PAPAROA:** They are on the
5 same level as the pit, and they would be bordering
6 Phase 3. So they would have direct impact from Phase
7 3.
8 **COMMISSIONER WHITNEY:** So they would be
9 on the same level, and they would be just looking at
10 the berm?
11 **ALLISON TRIMBLE PAPAROA:** Yes, they are
12 adjoining the property, correct.
13 **COMMISSIONER WHITNEY:** Thank you.
14 **CHAIRMAN MARTIN:** Anyone else? No
15 further questions at this time, thank you. Next
16 testifier, please.
17 **GARY SHERIDAN:** My name is Gary Sheridan,
18 and I'm in Anchor Point. I live at 34860 Seabury
19 Court, and I'm probably a secondary, you might say, lot
20 away from the view down into the gravel pit as some of
21 the other people here.
22 But there has been quite a bit of back
23 and forth about statement of fact, and I would like to
24 present some statement of fact that you can look at.
25 Earlier I had the clerk hand out a packet

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1 of photos that show the Anchor River Road, and there
2 are -- some of those photos are in your other packets,
3 but I just gave you the whole -- all the photos that I
4 took.
5 The Anchor River Road is -- which is --
6 the proposed gravel pit owner will use as part of his
7 haul route is in terrible condition. In a letter to
8 Bruce Hall -- Wall, excuse me, Bruce -- KPB Planning
9 Department dated March 21st, 2019, State of Alaska,
10 Department of Transportation, Joselyn Biloan, area
11 planner DOT stated, "Anchor River Road is in extremely
12 poor condition, and additional heavy truck travel will
13 only hasten further deterioration." And that letter is
14 in your packet as well.
15 The Beachcomber, LLC gravel pit
16 application states they plan to haul 50,000 cubic yards
17 of gravel each year for 15 years from the proposed pit
18 on Danver Road. The only access to other destinations
19 for Danver Road is the Anchor River Road.
20 If we estimate the pit operation to have
21 a five-month season to move 50,000 cubic yards of
22 gravel, that would equal approximately 5,000 cubic
23 yards per day, a hundred day season assuming. A gravel
24 truck will carry in excess of 10 cubic yards per load,
25 which means the pit operation under the proposed gravel

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1 pit application would haul about 50 gravel truck loads
2 on the Anchor River Road per day.
3 In addition, that would mean there would
4 be 50 empty trucks returning. So that's the number of
5 a lot of gravel trucks.
6 Gary Cullip, a long-time highway
7 construction contractor in Anchorage has stated the
8 present condition of the Anchor River Road simply won't
9 hold up to this kind of heavy gravel truck traffic.
10 In a recent public hearing at the
11 material site workgroup meeting, the owner of the
12 proposed gravel pit stated that they decided to limit
13 their annual production to 10,000 cubic yards of gravel
14 per season. This is rather curious as their gravel pit
15 application states that they plan to haul up to 50,000
16 cubic yards.
17 But at any rate, 10,000 cubic yards of
18 gravel being hauled over the Anchor River Road means
19 that 10 heavily loaded gravel trucks will travel the
20 Anchor River Road one way each day and return empty for
21 a total of 20 gravel truck trips per day.
22 I spoke to Mr. Cullip about the lesser
23 hauling. He stated that even 20 gravel trucks per day
24 will seriously further damage the Anchor River Road.
25 It has been stated in written testimony

<p style="text-align: right;">Page 58</p> <p>1 by Mary Trimble, Beachcomber, LLC, in a letter May 2 31st, 2019, the Anchor River Road is not in horrible 3 condition any more than most paved roads in our local 4 area, Homer or the road to Anchorage. 5 Just as an aside, I submit to you that 6 the pictures I laid out to you there don't look 7 anything like the road between here and Anchorage. 8 I took 95 photos of the Anchor River 9 Road, documented its present condition. I found 10 serious deterioration the complete length of the road. 11 Payment slumping along the sides of the road is evident 12 nearly the whole length. The slumping in the worst 13 case is about six-inch deep by about two-feet wide. 14 Concrete slumping is a result of heavy traffic causing 15 the roadbed to depress below the concrete. 16 The concrete is broken in many locations. 17 Significant cracking is noted throughout the roadway, 18 which will further deteriorate within -- with increased 19 heavy truck traffic. 20 Further in the letter to DOT to Bruce 21 Wall March 21st, it states, "We request the Kenai 22 Peninsula Borough, Item 4, require pavement repair on 23 the Anchor River Road by the Kenai Peninsula Borough in 24 the event truck hauling creates obvious pit holes, 25 rusting -- rutting, and pavement damage."</p>	<p style="text-align: right;">Page 60</p> <p>1 was just talking about. And there is five campgrounds, 2 212 campsites in there, and that's not including the 3 Silver King homes that are up there on the side of the 4 hill there. 5 So the density of people in that area is 6 really -- can really be high, especially holidays and 7 things like that. And that little side, 12 to 15 8 inches that Gary was talking about, is truly a hazard, 9 because a lot of people use it to walk and, you know, 10 get to the beach and come back, and of course head down 11 to go fishing, one thing or the other. 12 Gravel is something we need, I mean, it 13 really is. And I can see why our laws -- or the way 14 everything is worded and everything is that way. 15 You've had people that -- I mean, we've needed gravel. 16 I mean, the ground around Anchor Point, my area in 17 particular, I'm just kind of up on the hill there, and 18 man, things move around. I mean, it's just like a 19 peat, I guess you might say, and mud and everything, 20 and just now is really drying out to where you can do 21 things. 22 But so anyway last July the planning 23 department presented you with an application that was 24 grossly incomplete due to buffers and berms and were 25 designed using only subjective guesswork. You</p>
<p style="text-align: right;">Page 59</p> <p>1 The fact that DOT will hold the Kenai 2 Peninsula Borough responsible for any damage to the 3 Anchor River Road is rather a sobering fact. 4 CHAIRMAN MARTIN: Could you summarize, 5 please. 6 GARY SHERIDAN: You bet. We consulted 7 with a highway construction owner who estimates the 8 rebuilding of the Anchor River Road could cost KPB 9 between \$175,000 to \$300,000. 10 As an aside, just a quick note, the 11 Department of Transportation recently did some ditching 12 along the sides of the Anchor River Road and ended up 13 with a shoulder from 12 to 15 inches wide. So those 14 people that are concerned about safety have serious 15 reason to be concerned. Thank you very much. 16 CHAIRMAN MARTIN: Any questions? None at 17 this time, thank you. 18 GARY SHERIDAN: Thank you. 19 CHAIRMAN MARTIN: Next testifier, please. 20 RICHARD CARLTON: My name is Richard 21 Carlton. And my wife kind of pulled up lame, so she's 22 not going to be able to be here. She had something she 23 wanted to say, so I'm filling in for her. 24 There was -- somebody said earlier 25 that -- it's actually 1.2 miles, that road that Gary</p>	<p style="text-align: right;">Page 61</p> <p>1 correctly denied the application. 2 Tonight it's a replay of that submission 3 because the application again indicates berms that are 4 totally subjective, arbitrary, and unable to provide 5 the protections that are mandatory conditions and 6 standards spelled out in the KPB's code. 7 By using KPB's own GIS technology, we 8 have produced substantial evidence to prove that once 9 again you are being pressured by staff to approve an 10 incomplete application. Staff seems to be of the 11 opinion that you should just ignore the obvious, that 12 being the large percentage of the neighboring property 13 owners who have little or no screening from the noise 14 and visual impact, and then vote to approve the permit. 15 Your function is to act as the judge in 16 this case and ensure that meager protections afforded 17 the residents in the Kenai Peninsula are guarded and 18 upheld. 19 I have a recording I'd like to play. 20 Really, I do. Well, it worked earlier. Basically it 21 was just Emmitt talking about what was previously 22 stated. It was in print that, you know, really it's up 23 to the people that live around there to protect 24 themselves from the offensive -- things that they find 25 offensive about a gravel pit. That includes building a</p>

<p style="text-align: right;">Page 62</p> <p>1 fence or buying nice blinds that you can bring up from 2 the bottom to block out the gravel pit and then still 3 see your view. And so it was basically in his own 4 words, but I'm not very good at technology. So that's 5 all I have.</p> <p>6 CHAIRMAN MARTIN: Thank you. Are there 7 any questions? Seeing none, thanks for your testimony. 8 Next, please.</p> <p>9 TODD BAREMAN: Name is Todd Bareman. I 10 live at 73300 Tryagain Ave. In packet No. 1 on pages 11 79 and 80 under findings of fact, 15, the buffer zone, 12 I have some questions that I would like to direct 13 through the chair to Mr. Wall.</p> <p>14 The following letters -- items mention 15 the word "adjacent," letters B, C, D, E, H, I, and Q. 16 Why would the code require that all property owners 17 within one half mile of a proposed material site be 18 notified when the findings of fact are written by the 19 planning department? It appears that only adjacent 20 property owners will be afforded any of the mandatory 21 protections.</p> <p>22 The only reference to "adjacent" in KPB 23 21.29.040 is the protection against physical damage to 24 adjacent properties.</p> <p>25 Is it the intent of this application to</p>	<p style="text-align: right;">Page 64</p> <p>1 who don't like what they see and hear coming from his 2 mine should utilize window shades, hearing protection, 3 and fences.</p> <p>4 Who makes the decision as to who gets 5 sufficient visual and noise screening as is required in 6 the code, and who gets to pull their shades and wear 7 ear plugs in their own homes for the next 15 years?</p> <p>8 Everything that's spelled out in fact Q 9 is the exact reason that this particular material site 10 application needs to be denied. If mandatory 11 conditions cannot be met, then the commission is 12 required in KPB 21.25.050 to deny the permit, not just 13 to disregard the obvious deficiencies in this 14 application and allow an industrial gravel mine of this 15 magnitude in the center of a residential and 16 recreational neighborhood.</p> <p>17 One last comment. Vacation time is 18 precious to everyone. If you were camping and at any 19 time of the day had to listen to gravel being 20 processed, whether it be screening, crushing, or 21 loading trucks, would you ever come back to that 22 campground or RV park? There is a hundred campsites, a 23 hundred RV sites within earshot of this proposed site.</p> <p>24 I'm not trying to take away potential 25 income from one man, I'm trying to save a recreation</p>
<p style="text-align: right;">Page 63</p> <p>1 only provide visual and noise protections to adjacent 2 properties when the code in 21.29.040, the six 3 standards, specifically says, "other properties." 4 These findings of fact seem to indicate that the 5 planning department has taken it upon themselves to 6 change the code and ignore the other property owners.</p> <p>7 In this neighborhood there are many other 8 properties that would be severely impacted if buffers 9 and berms are not of sufficient height and density, 10 provide visual and noise screening as required in KPB 11 21.29.050.</p> <p>12 Letter Q in the same section states that 13 each piece of real estate is uniquely situated, and a 14 material site cannot be conditioned so that all 15 adjacent parcels are equally screened by the buffers. 16 The different elevations of the parcels, varying 17 vegetation on the surrounding parcels in the material 18 site, the distance of the material site from the 19 various surrounding parcels necessarily means that the 20 surrounding parcels will not be equally impacted, nor 21 can they be equally screened from the material site.</p> <p>22 Where in the code does it say that only 23 some of the neighboring properties need to be protected 24 by buffers and berms of sufficient height and density? 25 The applicant has publically declared that neighbors</p>	<p style="text-align: right;">Page 65</p> <p>1 area that thousands of people use. Unfortunately, this 2 doesn't seem to matter. Thank you.</p> <p>3 CHAIRMAN MARTIN: Thank you. Any 4 questions? None at this time.</p> <p>5 RYAN MUZZARELLI: I'm Ryan Muzzarelli, 6 P.O. Box 170, Anchor Point. One second here. And I 7 live on Kyllonen Drive. I was one of the cabins you 8 could see in the video, just kind of right behind Rick 9 Oliver's, if you look up there. And I'm here just to 10 testify in favor of private property rights and my 11 neighbors' rights to make a living.</p> <p>12 I've spoken to Emmitt and Mary about the 13 property on multiple occasions, and they are incredibly 14 proud of it, and I'm confident that they will not only 15 maintain the property, but also provide a lot of value 16 to the community. Thank you.</p> <p>17 CHAIRMAN MARTIN: Any questions? Not at 18 this time, thank you. Next testifier, please.</p> <p>19 ED MARTIN, III: Hi, my name is Ed 20 Martin, III. I reside at 37200 Thomas Street, 21 Sterling. I'm the president of the Kenai Peninsula 22 Aggregate and Contractors Association. It's comprised 23 of almost 60 professional contractors all doing 24 business in the KPB.</p> <p>25 Over the past year we've been involved in</p>

<p style="text-align: right;">Page 66</p> <p>1 scrutinizing the material site regulations for the 2 borough. I've personally put in hundreds of man hours 3 in research regarding all the facets that make up our 4 current code. Tonight I'd like to speak on one 5 particularly, that is the view. 6 View shed, the regulation of and the 7 rights pertaining to it are commonly misunderstood, 8 also commonly thought of as an entitlement. A good 9 part of my weeks of research were dedicated to just 10 this debate. What I found was probably not what many 11 people want to hear, but it is fact. 12 There are only three ways a right to a 13 view can be regulated, taken from, or given to an 14 individual across this nation. One, the federal 15 government holds view shed rights for our national 16 parks; two, some cities and first class governments 17 regulate view shed over large areas by way of zoning, 18 including all lots or parcels within that area; and 19 finally, three, view shed rights may be given from one 20 entity to another by way of a purchase or contract. 21 There is no precedence of regulation on an individual 22 parcel of land. None of these options can apply to our 23 second class borough. 24 I have in my possession a copy of the OLR 25 report in which I provided to all of you. After hours</p>	<p style="text-align: right;">Page 68</p> <p>1 I have to take exception to Mr. Martin's 2 remarks. I've been a resident on the Peninsula for 30 3 years, and I think I was assessed on my view property 4 down in Homer. 5 And this -- the majority of the people 6 other than the visitors that come during the summer or 7 come camping and fishing are -- most of us are senior 8 citizens, this is our final home down there. 9 And something that's kind of disturbing 10 is that we're going to spend our final retirement years 11 being entertained by Caterpillars and gravel trucks and 12 all the other things that are involved. We can't send 13 the grandkids out to ride their bike on the road during 14 the time that they are visiting us. 15 We certainly believe that you delivered 16 the correct conclusion on July 16th last year, and 17 although it was remanded back to you for adequate 18 findings of fact, we feel that the same evidence 19 prevails today. 20 We're here to remind you that we love our 21 homes. We love our community. There are many 22 legitimate reasons to not deny this permit, which are 23 not presently covered in the code. Some of these 24 things should be covered in the code because there is 25 very few things that we can find that actually protect</p>
<p style="text-align: right;">Page 67</p> <p>1 of research, it is the most complete explanation of the 2 precedence of these rights. I would like for all of 3 you to read it. Also, as this issue goes beyond what's 4 in front of you today, I would encourage all of you not 5 to take my word for it, but do your own research. 6 I would ask that you rule in favor of the 7 applicant tonight as the vast majority of the 8 opposition is opposed to the application because they 9 just don't want to see it. I've heard hours of their 10 testimony stating that sentiment. It doesn't change 11 the fact that they just don't have the right to the 12 view over their neighbors' property. It also doesn't 13 change the fact that that right may not be granted to 14 them by our current governing body. 15 I will be encouraging the KPB Planning 16 Commission and assembly to strike any language of view, 17 visual impact, or view shed from their current and 18 future ordinance. Thank you. 19 CHAIRMAN MARTIN: Any questions? None at 20 this time, thank you. 21 VICKEY HODNICK: Hi, my name is Vickey 22 Hodnick from Anchor Point. My address is 35031 Moffit 23 Lane. I really appreciate the fact that you're all 24 here and that we can be here to present some of our 25 concepts to you.</p>	<p style="text-align: right;">Page 69</p> <p>1 us as law abiding citizens of the borough. 2 Kenai Peninsula code 21.29.040 states the 3 standard for the material sites. These material site 4 regulations are intended to protect against aquifer 5 disturbances, road damage, physical damage to adjacent 6 properties, dust, noise, visual impact. 7 Only the conditions set forth in the code 8 21.29.050 may be used or imposed to meet these 9 standards. However, the prelude to these standards is 10 clarified, which is to protect the existing surrounding 11 land uses against the negative impacts of material site 12 operations. A standard is added for providing 13 consistency with the borough comprehensive plan, which 14 we're not hearing anything about. 15 In other planning documents it says land 16 use regulations are required by the Alaska state law to 17 be consistent with the borough comprehensive plan. A 18 simple rule of thumb would be if there is a house, 19 don't start a gravel pit. If there is a gravel pit, 20 don't build a house. 21 We had a -- we spent -- most of us in our 22 neighborhood spent the last winter going to the 23 material site meetings as they were developing new 24 restrictions and regulations for gravel mining. And 25 there was a gentleman there from the Valley that came</p>

<p style="text-align: right;">Page 70</p> <p>1 down and said, "Just because there is gravel, it 2 doesn't mean you have to dig it." 3 And I think just because there is a 4 history in a community, like a former gravel pit, it 5 doesn't mean that everybody is entitled to have a 6 gravel pit thereafter. 7 Things change and communities change, and 8 when families move in and create a settlement, even in 9 a residential -- a rural residential area, I think it 10 needs to be considered. 11 This community hosts five state 12 campgrounds, three private campgrounds, 70 or 88 unit 13 summer residential park, and 50 to 60 permanent private 14 homes close to the proposed site, a tractor launch, and 15 an only road that is determined a tsunami exit road. 16 There are also moose, fish, nesting eagles, a rickety 17 bridge, and a narrow road. 18 The DNR recognizes that this site hosts 19 archeological and historical artifacts and cemeteries. 20 The proposed mine site has established homes like -- 21 located on three sides of it, and on the fourth side is 22 Cook Inlet itself. 23 A 15-year permit for this gravel pit will 24 drop our property values and disrupt the quality of 25 life for hundreds, if not thousands of people due to</p>	<p style="text-align: right;">Page 72</p> <p>1 should be denied once again. Thank you very much. 2 CHAIRMAN MARTIN: Thank you. Any 3 questions? Ms. Fikes. 4 COMMISSIONER FIKES: Through the chair. 5 You stated that your view is assessed by the borough. 6 So how many lots are your property -- 7 VICKY HODNICK: I'm not sure about -- 8 what we're on, we're on four acres right now. When I 9 was in Homer I had 30 acres. 10 COMMISSIONER FIKES: And do you have 11 waterfront view, is that what the assessment -- 12 VICKY HODNICK: I did, uh-huh. 13 COMMISSIONER FIKES: So what you're 14 referencing is waterfront view? 15 VICKY HODNICK: Yes. 16 COMMISSIONER FIKES: And you're not 17 certain how many lots are between you and the proposed 18 pit? 19 VICKY HODNICK: We are about a thousand 20 feet away, and we're on the same level. 21 COMMISSIONER FIKES: Okay, thank you. 22 CHAIRMAN MARTIN: Ms. Ecklund. 23 COMMISSIONER ECKLUND: Through the chair. 24 Thank you for your testimony. You mentioned the 25 archeological site possibility and a cemetery</p>
<p style="text-align: right;">Page 71</p> <p>1 noise, dust, traffic issues, and visual blight. 2 The impact of the health of Anchor River 3 is potentially devastating. It could damage the fish 4 population in the future. Please note that none of 5 these concerns are really noted in the code. 6 The mandate to the Planning Commission as 7 spelled out in the Kenai Peninsula code 21.25.050 is to 8 approve, deny, or modify the application. Approval is 9 only allowed when the minimum requirements of the code 10 are met. Anything short of that would allow the 11 commission to modify the application to a state that 12 would meet the requirements, or to deny the application 13 for the fact it would be considered an incomplete 14 application. 15 In July of last year this commission 16 rightly denied an obviously incomplete application and 17 failed to design a buffer zone that complied with 18 conditions that are set forth in code 21.29.050. And 19 as a result it failed to meet the mandatory standards 20 of code 21.29.040. 21 Tonight, we, the neighboring property 22 owners, are here to prove once again that the arbitrary 23 numbers used to design the buffer zone in this 24 application are totally inadequate resulting in this 25 application being declared incomplete and therefore</p>	<p style="text-align: right;">Page 73</p> <p>1 possibility -- 2 VICKY HODNICK: Right. 3 COMMISSIONER ECKLUND: -- which we have 4 heard in prior testimony. 5 Have you contacted anyone to look into 6 that and -- 7 VICKY HODNICK: Yes, I have. 8 COMMISSIONER ECKLUND: -- and research it 9 and determine if it is so? 10 VICKY HODNICK: It is recorded. And most 11 of the people were thinking I was looking for some kind 12 of a grant in order to save that particular site, and I 13 did tell them it was on private property. And the 14 response from the state and even the national level was 15 a little interesting. 16 But going back to thinking about what we 17 want to keep and the history we want to maintain in the 18 state itself, I think these are important things to 19 think about before just having them dug up and become 20 part of a gravel pit. 21 COMMISSIONER FIKES: Thank you. 22 CHAIRMAN MARTIN: Any other questions? 23 At this time I'll institute a five-minute recess. 24 We'll reconvene in five minutes. 25 (Recess)</p>

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1 **CHAIRMAN MARTIN:** Are you ready? All
2 right, you're free to go.
3 **RICK OLIVER:** My name is Rick Oliver. I
4 don't live in a Post Office Box. I live at 34880
5 Danver Street, which is right on the corner of Kyllonen
6 and Danver.
7 We've spoken many times to -- as to who
8 can see just what from where and what the setbacks
9 should and could be and how high are the berms.
10 Apparently, this has been considered a
11 subjective subject, and no one here other than Mr.
12 Walls [sic] has come to look, to my knowledge.
13 It appears that the borough's idea of
14 minimizing the view, dust, noise, is a random tree here
15 and there. What we would like to show you here is hard
16 evidence from the data, again provided by the borough's
17 own technology.
18 We have this evening several profiles,
19 one of which is from my house. All the other profiles
20 and most of the affected neighboring properties are at
21 a much higher elevation than mine. We have a visual
22 presentation we can show you, a profile from the
23 affected home sites to areas within the proposed mining
24 site. This will also help to dispel the effectiveness
25 of the ludicrous concept of moving berms as the sight

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1 levels can be shown from all appropriate angles.
2 Hopefully this can minimize the
3 subjectivity and provide clear and indisputable
4 evidence showing this application can never meet all
5 the borough standards.
6 That's really all I have to say other
7 than -- well, speaking to the presentation before by
8 Mr. Trimble, it amazes me to think that -- it is
9 lovely, lovely property, all beautifully maintained,
10 he's done a fantastic job in presenting all of these
11 lovely trees. And where are all these lovely trees
12 going to go when we start mining gravel?
13 And we're going to have a berm
14 that's going to be -- or he's going to be mining 25
15 feet below a berm. Where does the 25-foot hole come
16 from? I don't -- well, I know where it is. But
17 anyway, that's all I have to say.
18 **CHAIRMAN MARTIN:** Any questions? Not at
19 this time, thank you.
20 **RICK OLIVER:** Thank you.
21 **CHAIRMAN MARTIN:** Next testifier, please.
22 **RICHARD CLINE:** First of all, thanks.
23 Good evening, and thanks for your service. We
24 appreciate your time and effort that you have to put in
25 for this.

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1 I'm Richard Cline, my wife and I live at
2 34926 Danver Street. And Lynn has a profile of our
3 spot as well.
4 First, though, I'd like to tell you
5 that -- I like to learn something every day, and today
6 I did learn something. I learned that putting a gravel
7 pit in a neighborhood doesn't decrease property values.
8 I would have never thought that on my own, so I'm glad
9 I came tonight to learn that part.
10 We directly overlook the material site,
11 even though we're not adjacent. So when Todd brought
12 that up about adjacent versus other, that's a very,
13 very meaningful thing to me, because we will see not
14 the view shed, we'll always be able to see Mt. Redoubt
15 and Mt. Iliamna, which is the view shed, our view, but
16 we will see -- we will have a negative visual impact,
17 which is the wording of the code, the visual impact,
18 not the view shed. So we don't have to worry about the
19 national parks guys interfering with anything we're
20 going to do.
21 I do have some questions, and these are
22 hypothetical, just think about them later on. I just
23 want to know why everybody in the borough that I've
24 talked to in the planning department and elsewhere that
25 said the permit is going to be granted. That was right

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1 from day one when I got notified last year that this is
2 in the works.
3 And I call up, I say, "Hey, tell me more
4 about this." They said, "Doesn't matter what you
5 think, what you do, and how much money or time or
6 effort you put into it, just take it for granted that
7 it will be approved." So I just -- that's a question I
8 have, why is that an automatic thing?
9 Which leads to something that's kind of
10 curious to me and something you might want to think
11 about yourselves. If that is true, if no matter what
12 we do here we're just spinning our wheels, then why do
13 you allow us, why does the borough allow us, the
14 commission, the assembly, to waste our time, our
15 effort, and our money in this process at all? It's
16 just curious.
17 It would seem to me that you would be
18 opening yourselves up for liability in that regard
19 somehow. Because as you can tell, we've put a lot of
20 time, effort, and money into it. Doesn't this make you
21 guys susceptible to some kind of liability? Something
22 to think about.
23 No one here denies a need for gravel.
24 We've heard that from everybody, the gravel guys of
25 course, but then us as well. We know what it's all

<p style="text-align: right;">Page 78</p> <p>1 built on. We just deny that it has to come from the 2 middle of our well-established and ecologically fragile 3 neighborhood. 4 With Lynn's help you can see from our 5 deck, and I know that Emmitt and Mary are very familiar 6 with this because my security cameras caught them on 7 our deck, when we were not there, taking movies and 8 making snide comments. 9 And you can see over -- right over the 10 top of the berm. We basically will need a 43-foot berm 11 to conceal the -- to basically minimize the visual 12 impact of just one portion of their pit. 13 A 43-foot berm -- I'm not an earth mover, 14 but I'm pretty sure that that's an unworkable berm. 15 And I kind of like the idea of a 43-foot berm on the 16 far end with a 25-foot hole behind it, and then I want 17 to watch how he moves that towards my house in the 18 rolling berm kind of deal. 19 Another problem with the topography of 20 this location, you can see it's highlighted in that 21 elevation, is that entire area acts like a mega phone. 22 Everything just blasts up the hills to us, to Rick, to 23 my neighbor Steve Thompson. And Lynn can put up 24 Steve's. 25 Poor Steve, he needs a 53-foot berm to</p>	<p style="text-align: right;">Page 80</p> <p>1 incomplete at the least, and it's totally unacceptable 2 on its own. We respectfully ask the commission to act 3 on behalf of not only the small group here -- and I'll 4 wrap this up -- facing the total destruction of our 5 neighborhood, but the countless other citizens of the 6 borough who could soon see the same thing in their 7 front yard. 8 We ask that you deny this permit on the 9 grounds that the true findings of fact, supported by 10 overwhelming substantial evidence, shows that the 11 mandatory standards will not be satisfied in this 12 permit's application. Thank you. 13 CHAIRMAN MARTIN: Thank you. Any 14 questions? None at this time, thank you. 15 Next person, please. The young lady 16 coming towards the back was -- she beat you to the 17 punch. 18 JIM REID: Oh, I'm sorry, I didn't see 19 you. 20 CHARITY JACOBSON: Hi. Hi, my name is 21 Charity Jacobson. I live at 72150 Griner Avenue. We 22 are about three miles from the proposed gravel pit. 23 It might not be too relevant, but we can 24 hear a rock crusher that is seven miles away from us to 25 the other side out of the North Fork Road. So if this</p>
<p style="text-align: right;">Page 79</p> <p>1 hide his because he's a little bit closer to it. And 2 that's just one -- you know, these are just some of the 3 things, some of the houses that are up the hill from 4 there. 5 This is your own technology, this is the 6 borough's technology. We didn't make this up. This is 7 not smoke and mirrors, this is math. 8 Our cabin sits, you know, a bit higher 9 than Rick's. Poor Rick is right across the street from 10 it. 11 One argument that there is no way a berm 12 could ever work is not really true. They can build a 13 berm high enough, I guess it's physically possible, 14 it's just unrealistic, okay. 15 And if you want to put it -- you know, 16 the limitations or you want to put some kind of a 17 modification to the requirements, the mandatory 18 conditions, then you can say, "Okay, I want a 43-foot 19 berm or a 53-foot berm." That's going to -- you know, 20 would that satisfy me? No, obviously. But if it keeps 21 the pit from being built, then of course it would 22 satisfy me. But that is within your power. Just 23 saying no berm would ever do it is not really true on 24 the face of it, but it's true in the reality of it. 25 The permit as submitted is flawed, it's</p>	<p style="text-align: right;">Page 81</p> <p>1 proposed pit goes in and all the operations were right 2 in between and -- it's going to be twice as loud. 3 Also in the ordinances for a gravel pit, 4 it is not a one size fits all. For each area and 5 location, this should be looked into as far as 6 residential areas, recreational areas, state land, you 7 know, because if it was out in the middle of nowhere, 8 it wouldn't apply to some of these regulations. 9 Also it's been stated that a gravel pit 10 does not have any physical damage on the adjacent 11 properties, but would you or anyone knowingly purchase 12 a retirement home with an active gravel pit between a 13 hundred and thousand feet away from you for the next 14 foreseeable future? That's all, thank you. 15 CHAIRMAN MARTIN: Thank you. Are there 16 any questions? None at this time. Next testifier, 17 sir. 18 JIM REID: I've got to see if there is 19 somebody else coming down the aisle. 20 Hi, my name is Jim Reid, and I live at -- 21 where do I live? 73820 Seaward Avenue. Okay, I live 22 right above it. 23 Anyway, I only have a couple questions, 24 but my question would be to the planning staff, maybe 25 they can answer it. What does a natural berm consist</p>

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1 of? What is a natural berm? What's the definition of
2 a natural berm?
3 **CHAIRMAN MARTIN:** Go ahead.
4 **MR. WALL:** Yeah, and I'm not quite sure
5 where you're going with that, because our code does not
6 talk about a natural berm.
7 **JIM REID:** Let's just put it this way.
8 Emmitt has already stacked up a bunch of logs and stuff
9 from -- debris from, looks like, a lot clearing thing.
10 He stacked it up about 15, 20 feet along Danver.
11 And I just -- my question was, what does
12 a natural berm consist of? Because if it consists of
13 live trees growing, we can all go home because it's
14 going to be 30 years before he gets to 25-foot trees.
15 **MR. WALL:** What the code requires is an
16 earthen berm with a 2 to 1 slope.
17 **JIM REID:** An earthen berm. Does that
18 mean it's a bunch of logs and debris and then they
19 cover it over with some dirt, is that considered a
20 natural berm?
21 **CHAIRMAN MARTIN:** Sir, I think your
22 question has been answered. We're getting -- it's an
23 earthen berm, not a natural berm.
24 **JIM REID:** Oh, well, I was told it was a
25 natural berm, but that's okay.

1 So here we are in a situation where all
2 these people live there and use this area and now we're
3 going to move a gravel pit in. Anyway, that's it. Let
4 me sign my name.
5 **CHAIRMAN MARTIN:** Any questions? Seeing
6 none, next testifier, please.
7 **ROGER McCAMPBELL:** Let me see if I can
8 get my technology to work better than Rick. Can you
9 hear that while I sign my name? Anybody identify those
10 birds? Excuse me, 7345 -- my name is Roger McCampbell,
11 I live at 73450 Seabury. My mailing address is still
12 in Homer. I'll turn this off now. Just about a year
13 ago I bought this piece of property.
14 After coming up and looking all over
15 Homer, I could buy anywhere I wanted in this state.
16 I've lived in Homer for 31 years. I've loved the
17 Anchor River valley since I moved down here, and that
18 area. I spent the night on that front porch for the
19 peace and quiet over Memorial Day weekend because I
20 knew that would be the weekend of the most noise and
21 disturbance.
22 And the reason I know that is I was the
23 district supervisory park ranger for the southern Kenai
24 Peninsula for 31 years, and I kind of know that area
25 pretty well. I know Emmitt pretty well, a great deal

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1 Anyway, it's an earthen berm, so that
2 means it has to be dirt, it can't be a bunch of logs
3 and stuff stacked up and dirt over it?
4 **CHAIRMAN MARTIN:** Within reason. We're
5 not limiting it to every last piece of wood, yes, sir.
6 **JIM REID:** Oh, okay. Well, all right
7 then.
8 And you know the other thing, of course,
9 is I realize the gravel -- I was a builder down south,
10 so I know we have to have rock and gravel and whatever.
11 But I don't understand the part when you bring the
12 gravel in -- we have a gravel pit within two miles of
13 our house right there up on old Seaward. It's way over
14 there. But I didn't move next to a gravel pit, because
15 my theory is if you move next to a gravel pit or you
16 move next to an airport, don't cry. You knew it, you
17 moved there. But when a whole residential area is
18 there and it moves next to you, well, then that's a
19 different situation.
20 You know, it's like they said the other
21 day, all gravel pits can't be under the same rules. I
22 mean, they are different. This gentleman right there
23 said, "Hey, you go over on the other side over there,
24 nobody cares about noise and dust because there is no
25 houses over there, there is no people."

1 of respect for him and his family.
2 But this is the wrong gravel pit at the
3 wrong place. It's not about -- I don't see it from my
4 place. I live four-tenths of a mile away from it. I
5 can hear the waves breaking on the ocean at night or in
6 the morning when it's peaceful and quiet. Those birds,
7 most of those are about 150 to a hundred yards away. I
8 like my peace and quiet. That's why I moved there.
9 I retired five years ago. It's not about
10 the scene. I don't see it, I drive by it. I don't
11 particularly like to look at gravel pits, I don't know
12 who does, unless they turn into giant swimming and
13 fishing holes later.
14 Now, I own a lot of heavy equipment
15 myself. I run a cattle ranch. My family, we have
16 cattle ranches down in northern California where I'm
17 originally from. Everybody says don't Californicate
18 Alaska, and that's exactly what we're doing. It's
19 usually from the people that are doing it, because I
20 grew up there five generations.
21 Our neighboring ranch has a rock crusher.
22 I can hear that when I'm down there sitting around my
23 campfire, and it's 15 miles away. So yeah, I can hear
24 it, I can hear the rocks, I can tell when the gravel
25 trucks -- I also own two gravel trucks. I had a couple

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1 bulldozers and back scrapers, so, you know, I'm not
2 opposed -- nobody I think is opposed to gravel pits.
3 And, in fact, I was looking at several of
4 the lots around me to buy and develop and do some
5 rental units, but I've been in the business long enough
6 and most of the people that I know in the rec -- that
7 want to come up here and stay in an AirBNB, they want
8 peace and quiet, too.
9 Most of those campgrounds, Halibut and
10 Slide Hole when we developed those, our socioeconomic
11 look at those was for family camping. People come up
12 there to -- you know, Memorial Day weakened is crazy,
13 there is no doubt about it. But after Memorial Day
14 weekend -- the fishing is lousy, but the beer drinking
15 is good. So, you know, but after that it pretty well
16 calms down. There is always a yahoo, there is always a
17 yahoo on the dirt bike with the muffler off or the
18 four-wheeler.
19 By the way, the Anchor Point beach road
20 is an ominous road. It is state park land at the edge
21 of the pavement. State Parks allowed DOT to dig out
22 those culverts this year because of drainage issues and
23 the saturation underneath the road was causing it to
24 buckle even more.
25 But DOT, if anybody is thinking, "Oh, we

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1 can now excuse to widen that road and make it safer,"
2 you're going to have to battle with DNR and State Parks
3 on that, because that easement is only pavement to
4 pavement, it is not an extended easement off that.
5 You know, since we permitted Todd years
6 ago, or long before him for the tractor launch
7 operation, it increased the visitation on the beach
8 area, a lot more charters, and they are not little
9 charter boats, they are 32 foot, 10-foot beams, and
10 that's a wide load. And trying to pass on that road,
11 trying to have kids ride their bike, walk up and down
12 that road.
13 Now, it would be nice if the borough and
14 the city or -- Anchor Point community has been fighting
15 for a pedestrian path and bike path down there. That
16 would be really nice, that would take some of the
17 pressure off. I'm the first one to admit that.
18 But I don't want to hear it, that's my
19 simple point. There is more to visual. I don't care
20 about views. I own view property. I never looked at
21 it, I'm too busy. You know, I'm doing things. I'm out
22 in the view, that's where I want to be.
23 But I like to sit on my front porch at
24 night and not hear -- oh, you're -- let's see, Item 15
25 on this whereas and wherefore document, Item E, these

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1 parcels are less impacted by the material site than the
2 adjacent (indiscernible) site as sound dissipates over
3 distance. Yeah, but not four-tenths of a mile, not 15
4 miles.
5 So I think it's rather disingenuous to
6 say that these buffers -- it's just going to echo up.
7 If I can hear waves breaking and the seagulls down on
8 the beach, then I've certainly -- I've already heard
9 the -- speaking of which, Old Sterling is right behind
10 my house. So when the gravel trucks go out, go down
11 the beach road, then they turn around and they come
12 right up behind. So I can hear Jake brakes, I can hear
13 anybody messing around behind there, too. So it's a
14 noise issue for me. Thank you.
15 **CHAIRMAN MARTIN:** Any questions? None at
16 this time. Next, please.
17 **ROGER McCAMPBELL:** Very good. I hate
18 answering questions.
19 **LARRY SMITH:** My name is Larry Smith. I
20 reside at 320 Artifact Street, Soldotna.
21 I thought this was an opportune time for
22 me to come up here because Mr. McCampbell mentioned the
23 Slide Hole Campground. I constructed the Slide Hole
24 Campground in 1992 back before the Anchor Point Road or
25 the anchor beach road or whatever it's called today was

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1 paved. It was a narrow, nasty little gravel road back
2 then, but we bought our gavel from Mr. Kyllonen at the
3 little gravel pit at the top of the hill, and we
4 constructed the campground. And we didn't hear a lot
5 of opposition back then to the gravel trucks traveling
6 down the Anchor Point Road or anchor beach road.
7 Anyway, just so there is no mistake, I'm
8 here to support Emmitt and Mary Trimble in their
9 request for this gravel material site application.
10 I have spent a great deal of time in the
11 last year or so studying the Kenai Peninsula Borough
12 gravel ordinances, and I've got a real education. I
13 thought I knew something about gravel. I own a
14 construction company, I own three gravel pits. I
15 bought gravel from most or many of the gravel owners
16 throughout the borough, including the State of Alaska,
17 U.S. Forest Service, Kenai Peninsula Borough.
18 I was born in Seward and raised in Cooper
19 Landing, and back when I was a young man, gravel wasn't
20 a dirty word. It seems to have become a dirty word
21 now, even though every one of us is in a building
22 that's built out of concrete that has gravel.
23 We traveled on paved roads that are --
24 the asphalt is made out of gravel. Our foundations of
25 our houses are made out of gravel, or under our houses.

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1 Our driveways are made out of gravel. There is no
2 doubt that gravel is important to all of our lives. It
3 always has been, always will be. But I don't think Mr.
4 and Mrs. Trimble should be penalized for asking for a
5 gravel pit on their property.
6 I agree with Mr. Martin who was up here
7 before me. View shed, visual impact, I know that's
8 some language that's inside the borough ordinance, and
9 it's a feel-good term. But there is no -- there is no
10 case law having to do with -- or very little, I won't
11 say no -- there is very little case law having to do
12 with view shed and visual impact.
13 I happened to ask Mr. Kinneen at a
14 meeting earlier this year if he had the right to the
15 view shed over his neighbors' property, and he told me
16 he did, it was an absolute right. I don't believe
17 that.
18 I certainly empathize with those who
19 don't want to look at a gravel pit. And this is not
20 going to be a popular comment, but if you don't want to
21 look at the gravel pit, buy the land. Offer Emmitt and
22 Mary Trimble some money for their property and then it
23 can become your property and you can turn it into a pig
24 farm or a junkyard or a car junkyard or whatever you
25 want to turn it into.

1 the campground.
2 **COMMISSIONER WHITNEY:** Was the area as
3 built up then as it is now?
4 **LARRY SMITH:** Pretty much, yeah, it
5 was -- well, I guess not.
6 Well, you know, here is the thing. You
7 know, we're talking about safety and about all this
8 stuff on this road, and these 40-foot motor -- you
9 know, diesel powered land yachts that they come up here
10 with from the Lower 48, Anchor Point Road is a
11 dangerous road, but it's not going to be any more
12 dangerous with the gravel trucks than it is to all the
13 tourist traffic that's going on today. Thanks a lot,
14 Mr. Chairman.
15 **CHAIRMAN MARTIN:** We want to keep a
16 polite meeting. This is the second warning, that we
17 need to maintain decorum. Everybody deserves respect.
18 Next testifier, please.
19 **CHRIS CRUM:** Hi, my name is Chris Crum.
20 I live at 72485 Ester Avenue in Anchor Point. My
21 husband and I and our five children have lived there
22 since 1987.
23 Like I said, we raised five kids there.
24 I taught school at Chapman school for 25 years, since
25 retired. All of our children went to Chapman school,

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1 And the other last thing I want to
2 comment on is if you don't like the ordinance, change
3 the ordinance. But the ordinance as it exists today,
4 the requirements for the material site have been met.
5 I believe it's the duty of the Planning Commission to
6 approve that application.
7 And I'm a realist. You have a thankless
8 job, because I believe that no matter what you do, this
9 is going to end up in litigation. But anyway, I would
10 urge you to support their application, thank you.
11 **CHAIRMAN MARTIN:** Thank you. Any
12 questions? Mr. Whitney.
13 **COMMISSIONER WHITNEY:** I want to make
14 sure I heard you right. You said you built the
15 campground in 1992, was that it?
16 **LARRY SMITH:** I believe it was 1992. We
17 built the -- we had a contract with DNR, Parks and
18 built the Slide Hole. It was an addition to the Slide
19 Hole Campground.
20 **COMMISSIONER WHITNEY:** Using Anchor --
21 the --
22 **LARRY SMITH:** Using gravel -- Mr.
23 Kyllonen had a gravel pit right up the Anchor River
24 Road, across the bridge, above the bridge, right above
25 the bridge. And we bought gravel from him and we built

1 graduated from Homer High School, went outside to
2 college, and came back to Alaska because there is no
3 other place. And they all have employment in Wasilla,
4 unfortunately, but if they could, they would be down
5 here. They absolutely love it.
6 My husband and I have done nine
7 transactions with Emmitt and Mary through Coastal
8 Realty over the last 25 years. And I just want to say
9 that they are very professional, and they got what they
10 wanted and we got what we wanted. So all the
11 disparaging comments about them and their
12 professionalism, like Larry said and Roger said, they
13 are very, very nice people.
14 I've sat through two hearings, and I came
15 to the realization that this is really not about a
16 permit. Emmitt and Mary and Beachcomber, LLC, I've
17 read all of the regulations, read the codes. They have
18 done everything that has been required of them and gone
19 beyond. And this is about "not in my backyard." And I
20 understand that, I certainly do I understand that.
21 It's also about private property rights.
22 So I just -- thinking about this, I was
23 thinking what I've heard so far about the rock crusher.
24 One of the meetings there was a rock crusher, a D9
25 doser, a grizzly, and a big operation, which was not

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1 factual, there has never been.
2 Every day I go down to feed my horses on
3 that property. So I go down there on Beachcomber road,
4 I pass Danver, and there has never been anything like
5 that down there.
6 The second thing is, yes, the road is in
7 bad shape. We have lived in Anchor Point for 30 plus
8 years. It's always been sort of a dangerous road, you
9 know, for kids, and moms and babies pushing -- moms
10 pushing strollers. There is no sidewalk.
11 But the road started to deteriorate 15 or
12 20 years ago when the tractors came in and took over
13 our beach. We have huge charter boats, 10-plus wide,
14 up to 11 wide traveling on that road every single day
15 of the summer starting May, ending around Labor Day.
16 Yes, they are big. They should not be
17 going across the bridge, some of them. People are
18 concerned about trucks on the road and the bridge. The
19 bridge is rated for 11 tons. Loaded gravel trucks
20 should not be on that bridge. They have to turn right
21 and go around on the Old Seward Highway. That is what
22 they are going to be doing. So that's a fact.
23 I also want to give a shout out to the
24 truck drivers in Anchor Point. The majority of the
25 business, the majority of the employment in Anchor

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1 Point, majority meaning over 50 percent, is trucking,
2 hauling dirt, gravel, and gravel pits. We need the
3 business, we need the money. We can't live without it.
4 So those people that are saying the
5 business is going to be deteriorating in Anchor Point,
6 it will be -- it will be increasing if you have more
7 trucks hauling gravel and dirt.
8 I just want to say the Trimble's have done
9 what you required of them. Gravel pits are regulated
10 by the Kenai Peninsula Borough and your statutes, the
11 State of Alaska, and MSHA, which is Mine Safety and
12 Health Administration. They have good policing
13 abilities. The noise, the dust, and the safety all
14 have to be complied with in a gravel pit.
15 So in closing, I know it's going to be a
16 hard decision. You have the ordinances and the
17 regulations in front of you. You have the application
18 for the permit. I'm just asking you to weigh heavy on
19 how it's been written, how it's been followed, what's
20 been done, and do the right thing.
21 **CHAIRMAN MARTIN:** Thank you. Any
22 questions? None at this time.
23 **HANS BILBEN:** Hi, my name is Hans Bilben,
24 35039 Danver Street in Anchor Point. Rick Carlton was
25 having some trouble with his audio. I'm going to see

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1 if I can do it for him here.
2 (Audio played - not transcribed)
3 **HANS BILBEN:** Okay, that was the
4 applicant telling us how we could protect ourselves
5 from his gravel pit. So who gets to do that? I don't
6 know, but I don't want to have blinds closed, I don't
7 want to wear hearing protection in my own house, and I
8 don't think I need to build a fence to protect myself.
9 A couple corrections. The applicant
10 talked about a 25-foot deep hole. The application
11 calls for an 18-foot excavation, 20 feet to water.
12 He's got to stay two feet above it.
13 Yes, he's checked all the boxes, but he
14 hasn't met the conditions of the code. So that's what
15 we're trying to decide tonight: Has he met the
16 conditions of the code?
17 You talk about a charter boat going
18 across the bridge. I ran a charter boat for 16 years.
19 A heavy charter boat would be about 10,000 pounds
20 versus an empty dump truck at about 22,000 pounds, and
21 you double that for a loaded dump truck.
22 Last July you correctly voted to deny
23 this application, and you made the findings of fact
24 that said the noise will not be sufficiently reduced
25 with any buffer or berm that could be added. The word

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1 "any" there is kind of the key.
2 While the intent of these findings is
3 abundantly clear, they are lacking any reference to
4 specific sections of the code that define the mandatory
5 conditions, and they are lacking supporting evidence.
6 The hearing officer on appeal ruled that
7 the commission exceeded the scope of its authority in
8 denying this permit based upon its determination that
9 the conditions would not afford adequate protection
10 from noise and visual blight.
11 I absolutely agree with the hearing
12 officer. The findings of fact had some problems. The
13 planning department seems to be of the opinion that
14 because the hearing officer said that, that this is
15 proof positive that you as commissioners must approve
16 this application.
17 To the contrary, the hearing officer did
18 not rule that the commission lacked the authority to
19 deny the application. To do so would be counter to the
20 code, which in KPB 21.25.050 says that you have three
21 possible outcomes. You can approve, deny, or modify an
22 application.
23 A very important point here is that she
24 did, in fact, affirm the denial. She did not say give
25 them the permit. She affirmed the denial, and here we

<p style="text-align: right;">Page 98</p> <p>1 are today.</p> <p>2 The authority granted to the commission</p> <p>3 in 21.29.050 is to ensure that buffers and berms are of</p> <p>4 sufficient height and density to provide visual and</p> <p>5 noise screening of the proposed use. That's what we</p> <p>6 need to determine tonight. Are they of sufficient</p> <p>7 height and density to provide visual and noise</p> <p>8 screening of the proposed use? And if it can't do</p> <p>9 that, then you can't approve it.</p> <p>10 Buffers and berms are the industry</p> <p>11 standard, and if properly designed they should protect</p> <p>12 neighboring properties from noise and visual blight.</p> <p>13 The key words here are "properly designed." That's</p> <p>14 what this GIS technology is all about.</p> <p>15 You guys have a heck of a job if you're</p> <p>16 trying to determine what are these buffers and berms</p> <p>17 all about. Because every time they come in they say,</p> <p>18 "Six-foot berm, 50-foot buffer." Okay, what does that</p> <p>19 do? Well, you don't know what it does.</p> <p>20 With that technology that is borough</p> <p>21 technology, all you have to do is look at it and say,</p> <p>22 "Yeah, it works," or, "No, it doesn't work." I don't</p> <p>23 know why the borough is so hesitant to get into that.</p> <p>24 Yes, you probably exceeded the scope of</p> <p>25 your authority by saying that there wouldn't be any</p>	<p style="text-align: right;">Page 100</p> <p>1 findings of fact from the staff. They are basically</p> <p>2 saying a large percentage of the neighbors in that area</p> <p>3 cannot be protected, but yet they want to give you --</p> <p>4 issue this permit anyway.</p> <p>5 Just in closing, what the applicant</p> <p>6 claims -- or the applicant claims that this is just a</p> <p>7 mom and pop operation and that they are not going to --</p> <p>8 maybe move maybe 10,000 yards a year.</p> <p>9 But what they say or may not say is</p> <p>10 irrelevant. What is relevant is the fact that this</p> <p>11 permit, if approved, would allow for mining of up to</p> <p>12 50,000 cubic yards per year for 15 years on 27 acres of</p> <p>13 commercial mining that cannot be sufficiently screened</p> <p>14 from neighboring properties.</p> <p>15 Like most of us, they are claiming this</p> <p>16 is a legacy property. Well, like most of us in this</p> <p>17 room, our home, property, and quality of life is our</p> <p>18 legacy, and we would like to protect it. Thank you.</p> <p>19 CHAIRMAN MARTIN: Thank you. Any</p> <p>20 questions?</p> <p>21 HANS BILBEN: I had to go pretty fast on</p> <p>22 that.</p> <p>23 CHAIRMAN MARTIN: Good job, thank you.</p> <p>24 HANS BILBEN: That's your pen.</p> <p>25 CHAIRMAN MARTIN: Next, please.</p>
<p style="text-align: right;">Page 99</p> <p>1 buffers and berms that could screen the proposed use,</p> <p>2 but you did not exceed the scope of your authority by</p> <p>3 your denial.</p> <p>4 A better finding of fact might have been</p> <p>5 that the application was not of sufficient height or</p> <p>6 density to provide visual and noise screening. You</p> <p>7 needed to tie your findings of fact to the code, and</p> <p>8 that's what we're here for today.</p> <p>9 So the hearing officer sent us back here</p> <p>10 tonight, and this is what she wanted us to do, list</p> <p>11 findings of fact referencing the mandatory conditions</p> <p>12 listed in KPB 21.29.050 and detail the substantial</p> <p>13 evidence that supports those findings.</p> <p>14 The evidence we're going to give you</p> <p>15 here, the findings of fact are in your packet, and</p> <p>16 another person will speak to that.</p> <p>17 Obviously, we feel that putting this</p> <p>18 large-scale mining operation in the heart of a</p> <p>19 recreational and residential area should be denied for</p> <p>20 a multitude of legitimate reasons, but more important</p> <p>21 it must be denied because it doesn't meet the mandatory</p> <p>22 conditions of the code.</p> <p>23 In KPB finding of fact 15 Q, it states</p> <p>24 all of the reasons that this can't meet the code. One</p> <p>25 of the previous speakers talked about 15 Q in the</p>	<p style="text-align: right;">Page 101</p> <p>1 ANN CLINE: Good evening. My name is Ann</p> <p>2 Cline. My address is 34926 Danver. I'm a Cline, so --</p> <p>3 oh, well, you're quick.</p> <p>4 My husband and I purchased two lots from</p> <p>5 the Trimble's in order to build a cabin for our</p> <p>6 grandchildren, and we created a trust for our</p> <p>7 descendants to enjoy the piece and serenity that is</p> <p>8 there.</p> <p>9 I wrote a detailed letter based on my</p> <p>10 research of mining operations in the United States and</p> <p>11 Canada, and I'm hoping you have that in your packet.</p> <p>12 Ann Cline.</p> <p>13 I addressed the findings of fact, and in</p> <p>14 particular the noise decibel research that has been</p> <p>15 conducted both in Canada and in the United States</p> <p>16 regarding mining operations and excavations.</p> <p>17 Regarding one of the previous speakers,</p> <p>18 some of us, myself included, are not financially able</p> <p>19 to offer the Trimble's enough money to satisfy them in</p> <p>20 order to buy that land so that we could keep it as a</p> <p>21 park land or a campground or whatever. We're not able</p> <p>22 to do that. So thus we need your help in controlling</p> <p>23 the use of the property.</p> <p>24 And regarding the freedom of decision, as</p> <p>25 a previous testifier said, and I agree, if you want to</p>

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1 have peace and quiet, don't buy a home next to a gravel
2 pit. If you want to have a gravel pit, don't put it in
3 the middle of an existing neighborhood.
4 I implore you to please help us, the
5 Anchor Point community, which is these folks here. Not
6 all of us are speaking out of respect for time, but we
7 would really humbly request that you consider
8 thoughtfully and uphold and affirm your denial of this
9 permit. Thank you very much.
10 **CHAIRMAN MARTIN:** Thank you. Any
11 questions for Ms. Cline? Seeing none, thanks for your
12 testimony.
13 **ANN CLINE:** Thank you.
14 **CHAIRMAN MARTIN:** Next testifier, please.
15 **LAUREN ISENHOUR:** Hello, I'm Lauren
16 Isenhour, I live at 34737 Beachcomber Street. And
17 tonight I would like to talk about sound. I'd like to
18 talk about sound and the claim from the opposition that
19 hearing sounds from gravel pit activity will destroy
20 the value of their property.
21 Private property rights in our area are
22 very important to all of us who chose to live in Anchor
23 Point. Many of us utilize our acreage for activities
24 that are not allowed within the city ordinances of
25 Homer and the like: ATVs, snowmachines, chainsaws for

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1 firewood, free range dogs, livestock, home improvement
2 projects and mowing our lawns.
3 ATV's sounds range from 90 to a hundred
4 decibels; snowmachines and motorcycles are around a
5 hundred decibels; chainsaws around 110 decibels; and
6 riding law mowers are around a hundred decibels.
7 From my research, construction tools such
8 as chopsaws, sanders, drills, et cetera, operate
9 between 90 and a hundred decibels. My diesel truck is
10 over 90 decibels at 50 feet away.
11 These are all activities and machines
12 that are routinely operated in my neighborhood and are
13 acknowledged as socially acceptable by everyone. None
14 of these activities or machines are restricted by
15 borough regulations to only operate during particular
16 hours and are not required to mitigate the sound
17 created by their usage.
18 After researching decibel levels of these
19 common activities, I was surprised to learn that the
20 sounds created from gravel equipment is notably less
21 than the items I've spoken of. A backhoe from 50 feet
22 is 80 decibels, a hundred feet is 74, at 300 feet it's
23 65 decibels.
24 A bulldozer from 50 feet is 85 decibels,
25 from a hundred feet is 79 decibels, 300 feet is 70

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1 decibels.
2 A dump struck from 50 feet is 84
3 decibels, from a hundred feet is 78, and from 300 feet
4 away is 69 decibels.
5 So gravel equipment ranges from 65 to 85
6 decibels, while my common use home tools range from 90
7 to 110 decibels.
8 My family camped over Memorial weekend on
9 the Anchor River, and I was genuinely surprised at the
10 high levels of sound created by the campers. ATVs,
11 motorcycles, and dirt bikes ripped up and down the
12 beach road late into the night. Trailers running
13 generators in the campground, which operate at around
14 68 decibels, lots of dogs, music, and general camper
15 noise.
16 Regular vehicle traffic on the beach
17 access road is quite noisy. Since virtually all the
18 campsites are right along the road, I needed ear plugs
19 to be able to sleep at night.
20 There was zero gravel pit activity during
21 those three days I was camping. It was not quiet or
22 tranquil, but the campground was full of people having
23 a lot of good family fun.
24 The Beachcomber gravel pit has now been
25 operational for about one year, and prior to that the

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1 prior existing use gravel pit on Danver Street across
2 from the Beachcomber pit was operational for around 15
3 years.
4 So anyone who has recreated on the Anchor
5 River or camped in that campground within the last 15
6 years has done so in conjunction with an operational
7 pit. We can and have been coexisting there.
8 The opposition has noted that they would
9 rather this property be developed into a subdivision
10 than a gravel pit, and I find this very curious. If
11 this 27 acres was divided into 27 new home sites, the
12 amount of sound created would surpass the sound of
13 sporadic seasonal gravel activity.
14 The access roads to develop 27 new lots
15 would be extensive and require a lot of gravel and
16 equipment. Building roughly two houses a year would
17 take nearly 15 years to develop, and the sound from
18 trucks, cement trucks and dump trucks, delivery trucks,
19 well drilling rigs, and general construction tools as I
20 mentioned before range from between 90 to a hundred
21 decibels, would operate five to seven days a week for
22 the life of the development.
23 But then at the end of that subdivision
24 project, the property would not be reclaimed as it
25 would for gravel development. After 15 years of

<p style="text-align: right;">Page 106</p> <p>1 construction sounds, we would now have sounds from 27 2 new neighbors with loud trucks and barking dogs and 3 lawn mowers and chainsaws and all the other sounds that 4 come from a rural neighborhood. 5 I read all the letters submitted, and I 6 would like to comment on Phil Brna's statement to the 7 Planning Commission claiming that sounds generated from 8 the gravel pit would destroy both his ability to enjoy 9 his property as well as the general value of his 10 property. 11 My property neighbors, Phil is on his 12 other side separated by Beachcomber Street and a line 13 of trees, and there is nothing to regulate me from 14 mowing my lawn at a hundred decibels or operating my 15 chainsaw at 110 decibels or running any number of my 16 power tools, ATVs or snowmachines as we often do at any 17 time of day or night. 18 Despite my best efforts, as all my 19 neighbors know my dogs bark quite a lot during the 20 night. There is no regulations here in Anchor Point to 21 stop or control any of these activities that I 22 routinely do on my property. Phil has never complained 23 to me that my activities have jeopardized his property 24 value or enjoyment. 25 There are too many inconsistencies with</p>	<p style="text-align: right;">Page 108</p> <p>1 The ordinance as it's drafted, the 2 protective conditions that are there are, for the most 3 part, unfounded, and what it's doing is inviting people 4 to band together against neighbor. And if this 5 continues, I can't imagine anybody wanting to file for 6 an application for a material site permit. No one 7 wants to go through the expense and the vitriol that 8 comes from a mob-type reaction to a legitimate 9 activity. 10 Now you might ask, who am I? Well, I'm 11 Buzz Kyllonen. I'd like to think I'm an expert. I 12 don't know what the definition is, but I began 13 developing property in Anchor Point 40 years ago. Over 14 30 subdivisions, 500 lots. Aggregate of about \$50 15 million in assessed value. None of which I could have 16 been able to do under the current ordinance. 17 I've owned and operated 12 gravel pits or 18 more within Anchor Point, within shouting distance of 19 most everyone here. Most everyone here is a 20 beneficiary of one of my subdivisions. That's what I 21 do and that's what I did for a living until the 22 ordinance was enacted, and that put me out of business. 23 Let me explain why. 24 According to the ordinance, if you export 25 material from your property A to property B and it</p>
<p style="text-align: right;">Page 107</p> <p>1 the argument about sound being a detriment to the 2 neighborhood for it to be considered a viable argument. 3 I can create more sound at higher decibels for longer 4 durations on my private property without having to 5 abide to any regulations. 6 If an individual feels so strongly that 7 the value of their property can be destroyed by the 8 activity of their neighbors, then that individual needs 9 to purchase a parcel larger than an acre to be able to 10 personally ensure adequate distant from neighborly 11 activities that they might find displeasing or move to 12 an area with ordinances and zoning that control all 13 residents' activities. Thank you. 14 CHAIRMAN MARTIN: Thank you. Any 15 questions? None at this time. 16 LAUREN ISENHOUR: Thank you. 17 CHAIRMAN MARTIN: Next. 18 BUZZ KYLLONEN: Good evening, 19 commissioners. Mr. Mayor, nice to have you here. My 20 name is Buzz Kyllonen, 74200 Seaward Avenue. You've 21 heard the name Kyllonen used many, many times. 22 I'm here in support of the Trimble's 23 rights to extract gravel from their property. I'm 24 actually a property rights person, and my real fear is 25 what's going to happen to this borough.</p>	<p style="text-align: right;">Page 109</p> <p>1 enhances the value of property B, you will be required 2 to file for an application for a material site permit 3 to do that. There is precedence set for that, and I'm 4 here to acknowledge that. 5 If Mr. Trimble wants to use any of the 6 gravel, had he not had a permit that he has right now, 7 he would not be able to transport that material to 8 another one of his properties without applying for a 9 material site permit. He has no choice. He has to 10 apply for this material site in order to use the 11 material that he currently owns. 12 As far as the harm and the catastrophic 13 effects of having a gravel pit are totally unfounded. 14 No one has complained about the 12 gravel pits that 15 I've had in Anchor Point, at least no one has looked me 16 in the eye and said so. 17 So what Mr. Trimble is doing is basically 18 a developer gravel pit. There is a difference between 19 industrial and developer use. You have an industrial 20 use right here in the heart of Soldotna not very far 21 from here. A huge facility, they produce asphalt. How 22 long have they been there? I'm not sure, but a long 23 time. Everyone is still alive, no one has died from 24 respiratory disease. Anchorage Sand & Gravel in the 25 middle of Anchorage, they function. Life goes on. We</p>

<p style="text-align: right;">Page 110</p> <p>1 have an industrial site in Anchor Point. 2 Interestingly, the Trimbles are 3 beneficiaries of hundreds, if not thousands, of truck 4 loads of gravel that go right by their Coastal Realty 5 office every day. It's endless. Homer was built with 6 Anchor Point gravel. Believe it or not, gravel is 7 where Mother Nature put it, not where you want it to 8 be. We should all be supporting the Trimbles for 9 opening up some priceless resource like gravel so that 10 it's available. 11 I promise you, I'm a supporter, because 12 who would complain more than me? I own property on 13 both sides, substantial property that borders this 14 property. Even more important, I'm the original Anchor 15 Pointer. No one alive in Anchor Point has been there 16 longer than me. I date back to 1945. 17 The homestead property that Mr. Trimble 18 owns is sacrosanct to me. That's where the material 19 site will be. If anyone should complain, I should lead 20 the parade. And with that, if you have any questions, 21 I'd be more than happy to answer. 22 CHAIRMAN MARTIN: Ms. Ecklund, did you 23 have a question? 24 COMMISSIONER ECKLUND: Thank you for your 25 presence here tonight. Since you have the longest</p>	<p style="text-align: right;">Page 112</p> <p>1 them. Most of the folks are beneficiaries, a lot of 2 them are very close friends, hopefully they will still 3 remain friends. 4 COMMISSIONER ECKLUND: How many people 5 lived in the area when you were operating your gravel 6 pit? 7 BUZZ KYLLONEN: It's evolved over the 8 years. It was extremely busy in the mid '80s. 9 COMMISSIONER ECKLUND: Your pit was busy? 10 BUZZ KYLLONEN: There was a depression in 11 property sales. Interestingly, the reason that I went 12 out of business, out of the development business, was 13 because of the ordinance. Because I was issued a cease 14 and desist when I used material from my golf course, 15 which I created, to develop what is now the trooper 16 building. And the code compliance officer from the 17 borough came down and said, "No more, you can't do 18 that. You must get a material site permit to build the 19 golf course." I had no choice. I had a half a million 20 dollars in the golf course. To continue, I couldn't 21 afford not to apply for a permit, so I did. 22 Now that put me in the category of a 23 gravel pit, which subsequently I was fined by the 24 borough \$20,000, \$10,000 in attorney fees because I 25 exceeded the artificial boundary they imposed.</p>
<p style="text-align: right;">Page 111</p> <p>1 history in that area, I'd appreciate an answer to a 2 couple of questions. 3 When you had the gravel pit, which has 4 been referenced several times by name, operating in 5 that area, how many campgrounds or campsites were in 6 the area? 7 BUZZ KYLLONEN: I developed all those 8 campsites. 9 COMMISSIONER ECKLUND: So they didn't 10 have the use -- 11 BUZZ KYLLONEN: With the exception of the 12 state. 13 COMMISSIONER ECKLUND: The state, the 14 five state ones? 15 BUZZ KYLLONEN: The gravel came from my 16 gravel pits right there. Tens of thousands of yards, 17 thousands of truck loads. 18 COMMISSIONER ECKLUND: So currently it's 19 been stated that there are five state campgrounds and 20 three private ones and 200 campsites in the Silver King 21 site. 22 So were any -- you built all of those 23 except the state ones? 24 BUZZ KYLLONEN: Over 30 subdivisions, 25 both sides of the river have my fingerprints on most of</p>	<p style="text-align: right;">Page 113</p> <p>1 So I have a major heartburn about the 2 ordinance. 3 COMMISSIONER ECKLUND: Yes. 4 BUZZ KYLLONEN: I would like to see it 5 scrapped, and I would also like to see it rewritten 6 focusing on the -- what should be the intent of 7 reclamation and prudent and proper extraction. 8 COMMISSIONER ECKLUND: Thank you for your 9 input. 10 BUZZ KYLLONEN: You're welcome. 11 CHAIRMAN MARTIN: Any other questions? 12 Ms. Fikes. 13 COMMISSIONER FIKES: Yes. With your 14 history in the area and your history of the operation 15 of a pit in the area, speaking to the transfer from you 16 to the next owner of the pit, what was your experience 17 with the reclamation, and how much of that did you 18 perform during your operation? 19 BUZZ KYLLONEN: Well, I think that's the 20 key issue. You would be hard pressed to find where 21 I've had a gravel pit. They have all been reclaimed. 22 COMMISSIONER FIKES: Were there ever any 23 complaints about water table contamination during the 24 time? 25 BUZZ KYLLONEN: That's what's an</p>

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1 unfounded allegation. That is not possible to happen.
2 Evaporation maybe, ditching only. Digging in the water
3 table, that was one of my key things. I have several
4 lakes where I dug in the water table, and that was one
5 element of this ordinance that I would like to see
6 revisited, because it does virtually no harm to the
7 environment. It offers a place for the moose and the
8 ducks.
9 Just yesterday two moose were learning
10 how to swim in my golf course lake. I have pictures of
11 that. I was quite fascinated by that. Ducks are there
12 all the time. I love the water. Excuse me, I didn't
13 mean to expand on that.
14 **COMMISSIONER FIKES:** So then also
15 expanding on that, during the operation, were there
16 ever any complaints for noise, or were there ever any
17 complaints --
18 **BUZZ KYLLONEN:** Not to me directly, no.
19 Over the 500 properties, I'd say 499 are close friends.
20 **COMMISSIONER FIKES:** So was there any
21 agency that contacted you with a direct complaint --
22 **BUZZ KYLLONEN:** No.
23 **COMMISSIONER FIKES:** -- due to your
24 specific operation?
25 **BUZZ KYLLONEN:** No. I might want to add

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1 one more thing because it was mentioned several times,
2 the beach road, the Anchor Point Road.
3 **COMMISSIONER FIKES:** Uh-huh.
4 **BUZZ KYLLONEN:** No one has driven a dump
5 truck over that road probably more than me, thousands
6 of times, thousands of times prior to when it was
7 paved.
8 One of the stars in my crown is when I
9 was on the assembly, I got that road paved. The
10 definition by the state was if you can give me \$200,000
11 from the mayor at the time, (indiscernible), we will
12 paint that road black. Not today. \$200,000
13 transferred from the borough to DOT, and they painted
14 it black. I didn't know what that meant at the time.
15 Basically what that means is literally
16 paint it black. And that's why the road is in the
17 condition it is, because they had no money to improve
18 the subsurface.
19 So -- and I might also add that it was on
20 the state agenda to revisit that in 2020. If it hadn't
21 been for my efforts on the assembly, we would still be
22 waiting for the state to do an assessment. So --
23 **CHAIRMAN MARTIN:** 11 o'clock is coming up
24 soon.
25 **BUZZ KYLLONEN:** Okay, I'm sorry.

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1 **CHAIRMAN MARTIN:** Any -- other question.
2 **COMMISSIONER FIKES:** I have one more
3 question. Switching gears to safety.
4 Again, in your experience, and also it
5 sounds like you live in that specific area, during that
6 time are you aware of any school activity disruptions
7 with school buses or folks waiting for buses or --
8 people have spoke or testified tonight and previous
9 nights about the activity and the trucks passing and
10 going.
11 In your experience, again, going back to
12 have you actually heard of or received any written
13 complaints that would speak to that matter?
14 **BUZZ KYLLONEN:** Three of my gravel pits
15 are within rock throwing distance of the existing
16 school in Anchor Point. Zero, none. Truck drivers are
17 professional. Someone was referencing the motorhomes.
18 Those people don't go to school to drive motorhomes,
19 but truck drivers do. And believe me, it's not easy to
20 get that license.
21 **COMMISSIONER FIKES:** Thank you.
22 **BUZZ KYLLONEN:** You're welcome.
23 **CHAIRMAN MARTIN:** Any further questions?
24 None at this time, thank you. Anyone else here wishing
25 to testify?

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1 **PETE KINNEEN:** I've already testified,
2 but --
3 **CHAIRMAN MARTIN:** Yeah, you have not been
4 recognized by the chair.
5 **PETE KINNEEN:** Point of order.
6 **CHAIRMAN MARTIN:** We have not -- everyone
7 gets one chance to speak, sir.
8 **PETE KINNEEN:** Except my testimony was
9 slandered, and to the degree that my testimony has some
10 effect here, am I not entitled to address it?
11 **CHAIRMAN MARTIN:** We're keeping the ball
12 rolling. Everybody gets one turn.
13 **PETE KINNEEN:** So it's going to be come
14 up and done?
15 **CHAIRMAN MARTIN:** That's correct. And as
16 far as the -- is there anyone else in the audience
17 wishing to testify? Mr. Whitmore has some
18 presentation, or at least has his hand going.
19 **LYNN WHITMORE:** Sure. This is my two
20 bits worth, and then hopefully that will lead into
21 questions from you guys on the berm.
22 So I guess a rhetorical question is, when
23 you are supposed to be hidden from the construction
24 site by the berm, is that berm also supposed to hide
25 you from the remnants of the pit behind you?

<p style="text-align: right;">Page 118</p> <p>1 So as we practice with a moving berm, the</p> <p>2 question I want you to kind of pay attention to is what</p> <p>3 are they going to look at as the berm moves closer to</p> <p>4 the homes?</p> <p>5 And the berms, because the homes are</p> <p>6 situated in roughly a 90 degree angle looking down,</p> <p>7 then it seems like the berms are going to have to cover</p> <p>8 the full 90 degrees from the people on one side of the</p> <p>9 hill and the people wrapped around to the other side of</p> <p>10 the hill, so that's something to keep in mind when you</p> <p>11 talk about berms.</p> <p>12 And I keep -- I hear a developer gravel</p> <p>13 pit being stated and that it's just going to be one of</p> <p>14 those. But as near as I can tell from everything I've</p> <p>15 read, the moment that they get a permit, they can sell</p> <p>16 it and somebody else in a larger capacity could come</p> <p>17 along and mine the entire 27 acres. So the developer</p> <p>18 gravel pit changes immediately upon sales, and that</p> <p>19 permit goes with the property as I understand it.</p> <p>20 And so with that, we could work our way</p> <p>21 through the berm question if you guys have some.</p> <p>22 CHAIRMAN MARTIN: My question for</p> <p>23 clarification is, is the berm ordinance intended to</p> <p>24 obscure the view 100 percent, or is our ordinance</p> <p>25 written to minimize impact, not bring it to zero, but</p>	<p style="text-align: right;">Page 120</p> <p>1 here were there when I was there.</p> <p>2 Most of those that were appealed were</p> <p>3 sent to the assembly, which acted as Board of</p> <p>4 Adjustment at that time. All the decisions in the</p> <p>5 affirmative were upheld. Any of those that were</p> <p>6 rejected by the Planning Commission were denied by the</p> <p>7 BOA at that time.</p> <p>8 Our BOA listened to several appeals, some</p> <p>9 that you had affirmed, some that you had rejected. All</p> <p>10 of those passed this ordinance in full. Two lawsuits,</p> <p>11 the judge ruled in favor of the borough, the way the</p> <p>12 borough handles their buffers, the way they handle</p> <p>13 their sound, the way everything gets handled.</p> <p>14 I know this is all new, these folks are</p> <p>15 upset, I get it, I live there. This is not in my best</p> <p>16 interest. It's in my best interest that this pit goes</p> <p>17 away and the price of my gravel goes up.</p> <p>18 But as it is today, they are legal, this</p> <p>19 is allowable, and it's been proven in court.</p> <p>20 Questions?</p> <p>21 CHAIRMAN MARTIN: Any questions? Thank</p> <p>22 you. Next.</p> <p>23 ANGELA ROLAND: Hi, my name is Angela</p> <p>24 Roland, and I own property at the Silver King fish camp</p> <p>25 as well as property on Thurmond Avenue.</p>
<p style="text-align: right;">Page 119</p> <p>1 to minimize impact?</p> <p>2 LYNN WHITMORE: Sure. As I'm seeing</p> <p>3 this, the question I have is, as we move the 12-foot</p> <p>4 high berm closer to these houses that are way up</p> <p>5 higher, the remaining pit behind that berm becomes more</p> <p>6 visible the further you move that berm toward those</p> <p>7 homes. And maybe we can display that or look at that.</p> <p>8 I don't know that a 12-foot berm doesn't</p> <p>9 work because I haven't heard from the other side on how</p> <p>10 they intend that to work. But I'd work with them if</p> <p>11 they wanted to.</p> <p>12 CHAIRMAN MARTIN: I guess our definition</p> <p>13 is what does "work" mean? Because I think our</p> <p>14 ordinance means mitigate, it doesn't mean eliminate.</p> <p>15 LYNN WHITMORE: I agree.</p> <p>16 CHAIRMAN MARTIN: Next testifier.</p> <p>17 TOM CLARK: You can start the clock so we</p> <p>18 can get done. Tom Clark, Box 962, Anchor Point.</p> <p>19 CHAIRMAN MARTIN: Hit the microphone</p> <p>20 button, sir.</p> <p>21 TOM CLARK: Tom Clark, Box 962, Anchor</p> <p>22 Point. Thank you, Blair, appreciate it.</p> <p>23 I sat on this body for six years, I sat</p> <p>24 on the Board of Adjustment for seven years. Heard I</p> <p>25 don't know how many of these. Three of the members</p>	<p style="text-align: right;">Page 121</p> <p>1 Today I spoke to the parks department</p> <p>2 about their concerns, since they are property owners as</p> <p>3 well as run the state recreation area. They said they</p> <p>4 sent a letter May 1st, and their concerns were dust,</p> <p>5 safety, and noise.</p> <p>6 I did some research into dust, as well as</p> <p>7 there has been a letter already sent. I don't mean to</p> <p>8 run over this too often, but crystalline silica is as</p> <p>9 fine as asbestos, and this is a particulate that is</p> <p>10 emitted whenever rock is crushed or screened and</p> <p>11 excavated. It also travels a great distance, and it</p> <p>12 can reach the school. It builds up in buildings, it</p> <p>13 gets clogged into ventilation systems, and yes, it does</p> <p>14 cause respiratory diseases. You can verify this at the</p> <p>15 EPA as well as other OSHA websites. I'm sorry, I said</p> <p>16 EPA, I meant OSHA websites as well as other well</p> <p>17 established information.</p> <p>18 I don't know what size dust mask you need</p> <p>19 to wear in order to mitigate that, or eliminate it</p> <p>20 rather.</p> <p>21 When it comes to safety, we've talked</p> <p>22 about this quite a bit; however, there has been</p> <p>23 statistics showing that heavy truck accidents have gone</p> <p>24 up. The last year that the information was available</p> <p>25 was 2016/2017. And on this narrow road, yes, like</p>

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1 everyone else has said with boats, RVs, kids on bikes,
2 and also tourists who don't know where they are going,
3 and I don't know if you've noticed, there are a lot of
4 people who look down with their cell phones wandering
5 around trying to figure out -- well, I don't know what
6 they are doing, but anyway, they walk around looking
7 down at their cell phones.

8 So I suppose going as fast as you can to
9 deliver your haul and get back and deliver more, I hope
10 the truck drivers are as careful as they can be.

11 When it comes to decibels, we've been
12 talking a lot about -- or rather when we talk about
13 noise, we've been talking about decibels. And yes it's
14 true that some -- there is some sounds that sound just
15 simply worse than others. So I guess the analogy would
16 be if you could imagine your favorite song at a hundred
17 decibels, that would be fine; your least favorite song
18 at a hundred decibels would be misery. It would also
19 be misery as a lower decibel if you really didn't like
20 the song. So that's one aspect of it to remember.

21 And then as far as the Trimble family
22 member living next to it, to their ears I suppose that
23 sounds like a cash register running.

24 And it just so happens that my father
25 owned an excavation business. He built a golf course

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1 and he ran heavy equipment as well. I know the dust.
2 We wound up having a dog with one leg, too. He wound
3 up, you know, camping out underneath one of the trucks
4 and it couldn't be helped. So it is a dangerous
5 business.

6 There is also potential for all kinds of
7 accidents to occur, from spilling fuel, oil, all those
8 kinds of problems.

9 One of the things that we haven't talked
10 about is where are we at right now when it comes to the
11 health of the community? We've talked about Anchor
12 Point being so common with gravel pits everywhere, but
13 are we really a healthy community?

14 We have a school right there, and a lot
15 of people -- I'm finding that even though this has been
16 the way we've done things for a long time, we also have
17 science and technology that tells us now that
18 particulates, small ones like that, can harm you, they
19 can cause respiratory problems.

20 The last point -- well, maybe not the
21 last one -- how much time -- okay, I did contact the
22 EPA, and on their website you can easily see that this
23 portion of the Kenai Peninsula does have one endangered
24 species, the Stellar's eider, if I'm saying that right,
25 and I don't know if that was the bird that was singing

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1 that he was playing, but that is something that should
2 be considered, is that if we're harvesting gravel and
3 using it here on our state roads and on our borough
4 roads with gravel that comes from an area, we don't
5 know if there is eiders on there right now, but no
6 study has been done.

7 So we destroy their habitat, and the
8 federal law, you know, is opposed to it, in other words
9 they have laws against it. And then we take the gravel
10 and we put it on our roads and on our borough roads and
11 our state roads, and I don't think that we should have
12 a supply chain that's questionable. Thank you. Do you
13 have any questions?

14 **CHAIRMAN MARTIN:** Thank you. Do you have
15 any questions? Seeing none, thank you for your
16 testimony.

17 **ANGELA ROLAND:** Okay, thank you.

18 **CHAIRMAN MARTIN:** Next testifier, please.

19 **JOSH ELMALEH:** Hi, my name is Josh
20 Elmaleh. I live at 34885 Seabury Court just over the
21 hill. My wife testified earlier, she had to leave.

22 We're about a quarter mile from the site,
23 and currently there is -- has been the -- or just
24 recently there has been the road construction to
25 elevate -- or improve the drainage for the sides of

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1 Anchor Point Road, and we've been hearing that a lot.

2 Well, our dogs are normally peaceful and
3 quiet, and they let us know when there is animals out
4 that we should know about, neighbor dogs, neighbors,
5 moose, keep our -- help keep our kids safe, so we hear
6 things.

7 When they were running that equipment,
8 our dogs have been going crazy. They have been barking
9 non-stop. We go out there, we tell them to be quiet,
10 we encourage them when they are quiet. They have
11 just -- going non-stop. There isn't anything we can do
12 about that.

13 When -- in the event that the Trimble's
14 have their pit, we're going to be faced with that for
15 however -- whenever they decide to excavate gravel.

16 Maybe it's daily, maybe it's weekly, maybe it's every
17 once in a while, who knows, but only they do.

18 I'm here to say I don't agree with it, I
19 don't want it on there. I would advise you guys to go
20 in there and check it out. It's an amphitheater. We
21 hear things, we hear the waves, we hear the birds.

22 I go down to the eagles -- my dad came up
23 last year, I hadn't seen him in ten-plus years. He
24 walked to the beach. He got to see the eagles. He
25 said it's the million dollar view. I don't believe him

<p style="text-align: right;">Page 126</p> <p>1 for one second, but at the same time, it's a view not 2 to be messed with.</p> <p>3 They have the right for their own 4 property, I have the right for my property, I agree 5 with that. And if they don't get it and they develop 6 their own thing, then they develop their own thing, but 7 we don't want a gravel pit.</p> <p>8 My wife and I two years ago bought our 9 place. We didn't know about it. We looked at another 10 place that was twice the size and only about \$20,000 11 more than our current house. It would have fit our 12 family a lot better, but it was right next to a gravel 13 pit.</p> <p>14 And we decided, okay, we're not going to 15 get this one, we're going to go to the one that's going 16 to be a lot nicer. So we went there, sure enough we 17 bought it, bickering back and forth with the seller, 18 and finally he got what he wanted and we got a place.</p> <p>19 So I encourage you, the sound is not 20 going to be improved. It doesn't matter how big the 21 berm is, it's not going to be improved. I can hear a 22 half mile away, a mile away. I can hear dump trucks 23 going on the Old Sterling Highway. So it's what's 24 there. Please help us, thank you.</p> <p>25 CHAIRMAN MARTIN: Thank you. Next.</p>	<p style="text-align: right;">Page 128</p> <p>1 So either it starts closer to the 2 property, at which point there is more or greater 3 visual impact, because you can see -- I mean, it would 4 have to be taller in order to negate it because you're 5 getting closer to the higher elevation, and then it 6 moves back leaving all of the excavated property in its 7 wake; or it starts in that position where it could 8 potentially cause some sort of reduction and visual 9 impact, because at that point farthest away, the angle 10 or elevation allows it to be sufficiently tall.</p> <p>11 But then as it moves closer and closer 12 and closer and closer to the impacted and affected 13 properties, all you see from behind -- first, of all 14 the same height berm becomes less effective, and all 15 you can see in the background is the excavated pit in 16 its wake.</p> <p>17 And so, you know, at this point where the 18 GIS LIDAR profile mapping is set by Mr. Whitmore, and I 19 believe you guys all have the examples in your packet, 20 is at, you know, the most likely proposed site for it.</p> <p>21 And we did propose findings of fact, and 22 I'm going to talk to you in just one minute about that, 23 but those findings of fact are based on that spot and 24 geography and what berm would be sufficient there.</p> <p>25 But when it comes to these rolling berms,</p>
<p style="text-align: right;">Page 127</p> <p>1 KATIE ELSNER: Hi, good evening. My name 2 is Katie Elsner. I'm an attorney in Kenai. Our 3 address is 215 Fidalgo Avenue, Suite 201. And I have 4 been helping several of the neighbors that are opposed 5 to this gravel pit. And I want to first address Mr. 6 Martin's question.</p> <p>7 The borough code uses two words in 8 defining what to do with this, both "minimize" and 9 "sufficient," and I just quickly Googled the definition 10 of minimize, which is to reduce something to the 11 smallest possible amount or degree.</p> <p>12 So the code doesn't call for you to make 13 sure that there is some separation, some barrier or 14 some reduction in the visual impact, it calls on you to 15 actually reduce it to the smallest possible amount or 16 degree. And it further calls on you to ensure that 17 that reduction, that smallest possible amount, is 18 sufficient to address the visual impact.</p> <p>19 And so, you know, when it comes to Mr. 20 Whitmore's presentation, as far as I can tell with this 21 rolling berm that they are proposing, one of two 22 options are going to come into play. Either the berm 23 is going to start closer to the property, and I think 24 we can move it up, right, so we can move the berm to 25 sort of demonstrate that.</p>	<p style="text-align: right;">Page 129</p> <p>1 I think that makes your job even more difficult because 2 the rolling berms would have to vary in height in order 3 to minimize or sufficiently address the visual impact 4 as they moved in geographic proximity to the subject 5 parcels. So I just wanted to address that one point.</p> <p>6 As I mentioned, we did propose findings 7 of fact for the commission to consider in the event 8 that they are assisting -- or they are assistive to 9 you.</p> <p>10 There is two alternative proposed 11 findings of fact, you can find them on pages 89 and 92 12 of Volume 1 of your packet. They present under two 13 separate factual scenarios. The first one is if the 14 commission were interested in an outright denial of the 15 application; the second one is proposing a modification 16 to the buffer and berms that are submitted in the 17 application that, based on the objective data based on 18 the GIS LIDAR profiling, would be required in order to 19 minimize and interfere with that visual impact.</p> <p>20 I do want to make one scrivener's error. 21 Mr. Wall snuck a change in on me that I didn't catch. 22 On page 92, you would actually have to replace finding 23 of fact 15, because that is the one that addresses the 24 buffer and berming. And in the new resolution it's no 25 longer a finding of fact 14.</p>

<p style="text-align: right;">Page 130</p> <p>1 However, our position is that these 2 findings of fact are sufficiently detailed and follow 3 and track the law, and you have them here so you can 4 read them. I'm not going to go through them again in 5 order to -- in either scenario that the Planning 6 Commission were interested in considering would support 7 the findings. 8 Because while you've heard that you don't 9 have the authority to deny this permit application, I 10 would just remind you that, in fact, nowhere -- nowhere 11 in the code does it say that you're not allowed to deny 12 an application. Nowhere in the code does it say that 13 as long as an application parrots the language in the 14 ordinance, the Planning Commission must approve it 15 regardless and without any consideration of how it 16 impacts and whether or not that question of your 17 discretion as to what is sufficiently minimized plays 18 out in reality. It's not enough in this scenario that 19 he states the requirements of the code, the minimum 20 requirements of the code. I will wrap it up. 21 The question for you is whether or not 22 it's sufficient. And what the code does is expressly 23 grants, and in fact mandates authority on this body to 24 either approve the permit if you find that those berms 25 represent, as proposed in the application, sufficient</p>	<p style="text-align: right;">Page 132</p> <p>1 But I struggle with that idea that the 2 application is incomplete, because the applicant can't 3 know at the time of application submittal what the 4 Planning Commission will deem as appropriate. Because 5 the code specifically says that the Planning Commission 6 gets to determine what is sufficient height and density 7 for the vegetation and fence. 8 So can you elaborate on how that would be 9 an incomplete application with the -- if the applicant 10 doesn't know up front what the Planning Commission 11 would want? 12 KATIE ELSNER: Absolutely. An 13 application must, in order to be approved, must meet 14 the standards, and the standards are complied with by 15 meeting the conditions. 16 And in this instance, one of the 17 conditions for a complete application is that the berms 18 and buffers are of sufficient height and density in 19 order to mitigate and minimize, sufficiently minimize 20 the visual or voice impact. That's the way the 21 ordinance -- 22 MR. WALL: As deemed by the Planning 23 Commission. 24 KATIE ELSNER: -- is written. And so the 25 Planning Commission makes that determination. And in</p>
<p style="text-align: right;">Page 131</p> <p>1 visual and noise barriers; or you can modify it, if in 2 fact you find that, based on the objective evidence, 3 significantly higher berms are going to be required in 4 order to minimize that impact; or you can deny it. 5 And in this instance we would urge you to 6 exercise that authority to either deny or modify it 7 based on the fact that this is a gravel site, it's in a 8 depressed elevation surrounded by neighboring 9 communities in a recreational area. And I'm happy to 10 answer any questions to the extent you have any. 11 CHAIRMAN MARTIN: Thank you, any 12 questions? None at this time. 13 KATIE ELSNER: Thank you. 14 CHAIRMAN MARTIN: Mr. Wall. 15 MR. WALL: Could I get some clarifying on 16 the findings that you drafted? 17 KATIE ELSNER: Sure. 18 MR. WALL: And I guess because I have 19 some concerns with some of the language in there. I 20 want to get your feedback on it. 21 In the -- what you're proposing in the 22 denial findings is that it be denied because it is 23 incomplete because they have not provided -- they 24 haven't included a vegetation and fencing plan that are 25 sufficient height and so forth.</p>	<p style="text-align: right;">Page 133</p> <p>1 the event that that determination is made in the 2 negative, the application is almost necessarily 3 incomplete, because a complete application, an 4 approvable application requires compliance with those 5 conditions. 6 MR. WALL: So you're saying the 7 application be incomplete after the fact? 8 KATIE ELSNER: The application is not 9 complete and approvable until this body says and deems 10 it so. 11 MR. WALL: Now, the other thing is that 12 the -- and you pointed out in your findings that the 13 code also provides for the applicant to submit an 14 alternate buffer plan. 15 KATIE ELSNER: Yes. 16 MR. WALL: So could not that be construed 17 as an alternate buffer plan and therefore the 18 application is complete? 19 KATIE ELSNER: In the event -- I 20 understand -- you'll have to forgive me, you have way 21 more experience with these than I do. 22 But my understanding is there is 23 oftentimes some degree of back and forth between the 24 applicant and the Planning Commission, and I think the 25 code does allow for that type of flexibility and that</p>

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1 type of working through as the process goes on.
2 However, that does not change the fact
3 that in the event that we have an application that --
4 or a scenario after the back and forth, after the
5 voluntary conditions at the time that the commission is
6 tasked to rule on this decision, that does not meet the
7 mandatory condition, cannot be found to sufficiently
8 minimize the visual and noise impact.
9 The way I read the code says that that's
10 incomplete at that point in time. It doesn't meet the
11 mandatory and required conditions.
12 And nevertheless, even if you didn't view
13 it that way, it still must be denied because the
14 Planning Commission must deny applications, must deny
15 these material site permits when they don't comply with
16 the minimum standards.
17 **MR. WALL:** Okay. And another question
18 there is that the code talks about the vegetation and
19 fencing needs to be of sufficient height and density,
20 but it doesn't talk about that in regards to berms, but
21 yet you seem to be applying it to berms as well.
22 **KATIE ELSNER:** I do. It's in the same
23 paragraph. It's in the same section read together. It
24 seems clear to me, and the interpretation I've taken on
25 this is that it refers to the same types of

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1 impact-mitigating tools or mechanisms that are
2 available to the Planning Commission and to applicants
3 under the code.
4 **MR. WALL:** Switching to the other set of
5 findings that you drafted --
6 **KATIE ELSNER:** Ouch. Okay.
7 **MR. WALL:** -- you proposed a 43-foot berm
8 and a 53-foot berm. And actually one of the testifiers
9 basically came to the same conclusion as me, is would
10 that not, in effect, be a denial in that a 43-foot berm
11 and a 53-foot berm would not pass any reasonable test
12 or reasonable standard?
13 **KATIE ELSNER:** Well, except I don't
14 believe that there is a reasonable test or a reasonable
15 standard written in the code.
16 I mean, the proposition that an
17 application has to be denied despite its ineffectual
18 conditions to meet the standards in the code is just
19 not consistent with the language of the code. It's not
20 consistent with the intent of the code. It's not
21 consistent with the fact that we have a material site
22 ordinance in the first place.
23 And so there has to be a mechanism to
24 address ineffective conditions. And it's certainly not
25 by imposing a world of conditions that exist outside of

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1 the ones allowable in the code. And so what the code
2 allows is for the Planning Commission to modify until
3 they think that it's of sufficient height and density.
4 And so, you know, in the event that you
5 want to build a gravel site in a place where visual
6 impact mitigation or minimization requires a 43-foot
7 berm, that's the decision of the applicant. And I
8 don't think it's the Planning Commission's
9 determination to decide whether or not the applicant
10 ultimately goes forward. The question is whether or
11 not they can approve a permit that complies with both
12 the conditions insofar as it allows the conditions to
13 meet the standards. Anybody else?
14 **CHAIRMAN MARTIN:** Thank you. Next
15 testifier, please. Is there anyone in the audience
16 wishing to testify? Last call.
17 Hearing and seeing no further requests, I
18 will close public comment and bring it to the
19 commission for continuing discussion. Ms. Ecklund.
20 **COMMISSIONER ECKLUND:** Thank you. I have
21 so many notes floating around my desk. But --
22 **MR. WALL:** I'm sorry, Mr. Chairman, the
23 rules that you read at the beginning, the procedures
24 allow for the applicant to give a rebuttal as long as
25 he's not providing any new information, just rebutting

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1 the testimony that's been given.
2 **CHAIRMAN MARTIN:** That's why I called
3 everybody, and nobody spoke up.
4 **MR. WALL:** Okay.
5 **CHAIRMAN MARTIN:** Would you like to make
6 a rebuttal?
7 **STACY STONE:** Yes, I do, Mr. Chair. As a
8 matter of procedure, I apologize because I was not
9 making a further public comment but rather rebutting
10 testimony offered.
11 Now, Ms. Elsner got up and spoke and said
12 that the application before you is incomplete, and
13 that's incorrect. Because if you go back to 21.25.050
14 which provides for permit considerations and when a
15 public hearing is required, it's up to the planning
16 director and the designee to review and determine
17 completeness of an application.
18 The application is not forwarded to this
19 body until such time as the planning director has said
20 to this body, "This is a complete application," or,
21 "This is an incomplete application."
22 At such time, if there is an incomplete
23 application, the planning director can go back to the
24 applicant and say, "Hey, this is not complete, and we
25 should work to fix it," or it can go straight to this

<p style="text-align: right;">Page 138</p> <p>1 body for a hearing. And this body could then 2 determine, "Yes, we agree with the staff, it's 3 incomplete, and we're going to deny it." Hence the 4 reason why you have the ability to deny an application. 5 Now, there has been several comments 6 today about why does public testimony matter. Why is 7 there a public process involved in this? 8 Now, when you read through the code 9 provisions, and the code has to be read in total, there 10 are several words, and we've heard the value of words 11 today, and the important thing is public comment does 12 matter, because it informs you of what conditions you 13 need to be paying attention to. If there was no public 14 comment, for instance, the person could apply, the 15 planning director could approve and say, "This is a 16 complete application," pass it to the Planning 17 Commission, and it could be passed off wholesale. 18 But the neighbors and the residents have 19 brought concerns about noise. There is a provision in 20 here that allows for voluntary conditions to be imposed 21 by this body. 22 We talked earlier today about white noise 23 monitor -- or excuse me, white noise machines being 24 added to these heavy equipment to help reduce the sound 25 impacts, and my client today testified that he would do</p>	<p style="text-align: right;">Page 140</p> <p>1 the excavation permitter or parcel boundaries. 2 We've heard a lot about the rolling berm 3 today. But that meets exactly with the code, and it's 4 a compliance to try and make sure that the excavation 5 perimeter is as protected as possible to minimize the 6 impact, to meet with that definition of the code. 7 So again, as we stated at the beginning 8 of the day today before we heard all the public 9 testimony, my client submitted an application, it was 10 reviewed by the planning director, there was a site 11 visit, there was recommendations to revise the 12 application, the application was revised, it was 13 forwarded to this body as complete. This body has 14 heard public testimony, it's heard the concerns, it has 15 the ability to institute certain conditions and modify 16 that application in order to approve it. 17 But, again, we maintain that there is no 18 reason for this body to deny the permit, but rather to 19 institute those conditions that have been agreed to and 20 that this body is allowed that are reasonable and 21 necessary under the circumstances to find that strict 22 balance between someone's right to enjoy their own 23 property and government intervention. 24 So we ask that you respectfully approve 25 the permit.</p>
<p style="text-align: right;">Page 139</p> <p>1 so voluntarily. And these are the types of things that 2 all of these people here informing you that noise is a 3 concern of them allow you to thread this needle and try 4 and find a balance. 5 Because you're a government entity, 6 you're imposing a restriction on the free enjoyment of 7 someone's land. And in order to do so, it must be 8 narrowly tailored. And the assembly has taken great 9 steps to ensure that this fine balance between 10 government intervention and the public being allowed to 11 freely exercise on their private property, that that 12 balance is struck. 13 Now, there are standards in the code, and 14 we heard a lot about the standards just a few moments 15 ago about how they are set to minimize impact. And 16 what does it mean to minimize impact? 17 Well, the code itself helps us define 18 what we can do to minimize the impact. It says only 19 the conditions set forth in 21.29.050 may be imposed to 20 meet these standards. 21 And then when we look further at the 22 standards, they further guide your deliberation here 23 tonight. There is words such as "buffer zone shall 24 provide and retain a basic buffer." And that buffer is 25 to be at -- if you look, it shall be maintained around</p>	<p style="text-align: right;">Page 141</p> <p>1 CHAIRMAN MARTIN: Thank you, and I 2 apologize as well, because the rebuttal phase just kind 3 of comes naturally. In strict legalese, you did the 4 right thing. 5 MR. WALL: Mr. Chairman. 6 CHAIRMAN MARTIN: Yes. 7 MR. WALL: It's 10:59. 8 CHAIRMAN MARTIN: Yep. We've been 9 discussing this -- we're going to have to vote for a 10 continuation. 11 UNIDENTIFIED SPEAKER: By suspending the 12 rules? 13 CHAIRMAN MARTIN: Suspending the rules. 14 So I'm going to entertain a motion for suspending the 15 rules. 16 COMMISSIONER BOKENKO-CARLUCCIO: So moved 17 for -- do you want a time period? 18 CHAIRMAN MARTIN: Please. 19 COMMISSIONER BOKENKO-CARLUCCIO: 15 20 minutes. 21 CHAIRMAN MARTIN: I heard 30 in the 22 whispers. 23 COMMISSIONER BOKENKO-CARLUCCIO: You 24 think 30? Okay, 30. 25 CHAIRMAN MARTIN: Yes, we should be able</p>

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1 to get this done in 30 minutes. And the second?

2 Discussion? Yes, Ms. Ecklund.

3 **COMMISSIONER ECKLUND:** I believe we were

4 in the same place the night we denied this, and we were

5 accused of hurriedly denying it without adequate

6 discussion. And I want to make sure that we're not

7 accused of that again. So I don't know if we want 30

8 minutes or -- I mean, I've got the longest drive.

9 **CHAIRMAN MARTIN:** Yes, ma'am.

10 **COMMISSIONER ECKLUND:** So it might take

11 longer.

12 **CHAIRMAN MARTIN:** No sense in rushing to

13 the finish line prematurely.

14 **COMMISSIONER ECKLUND:** No, no. I want to

15 deliberate.

16 **CHAIRMAN MARTIN:** We're just going to

17 take it at 30 minute bites at a time.

18 **COMMISSIONER ECKLUND:** Okay, we can make

19 another motion at 30 minutes?

20 **CHAIRMAN MARTIN:** Yeah.

21 **COMMISSIONER ECKLUND:** Thank you.

22 **CHAIRMAN MARTIN:** So are we all in

23 agreement that we're going 30 minutes at a time? The

24 motion passes.

25 Now, discussion. Ms. Ecklund --

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1 **COMMISSIONER ECKLUND:** Do we need to have

2 a motion to put it on the table?

3 **COMMISSIONER BOKENKO-CARLUCCIO:** I was

4 going to say, don't we need a motion?

5 **CHAIRMAN MARTIN:** Let's get this --

6 **COMMISSIONER ECKLUND:** Don't we still

7 have the motion live from the last time we took it up?

8 **CHAIRMAN MARTIN:** No, we're start -- I

9 think we're starting over. This is kind of a rare

10 bird.

11 **COMMISSIONER ECKLUND:** So we need a

12 motion to approve this, correct, to put it on the floor

13 for discussion? All right, I'm going to try to find

14 that number again.

15 I move to approve a conditional land use

16 permit application for Beachcomber, LLC for discussion

17 purposes.

18 **UNIDENTIFIED SPEAKER:** (Indiscernible).

19 **COMMISSIONER ECKLUND:** Thank you.

20 2018-23 is the resolution number for the record.

21 **COMMISSIONER BOKENKO-CARLUCCIO:** I'll

22 second it.

23 **CHAIRMAN MARTIN:** Yes, ma'am.

24 **COMMISSIONER ECKLUND:** Through the chair.

25 We work for you, all of you. We work for the assembly.

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1 And I think the main goal for all of the residents of

2 the Kenai Peninsula is balanced development, a balance

3 between economy and residents living their values,

4 their life values.

5 It is sad to say that people want to put

6 a gravel pit in a residential area, and if you knew it

7 was there at the size this one is, or if the number of

8 you that purchased property there knew it was coming,

9 you probably wouldn't purchase property there.

10 Several things have been brought up

11 tonight that this ordinance doesn't address. It

12 doesn't really say we can do anything if it's not safe.

13 And I've brought that up several times in past gravel

14 pit permits, the safety, site triangles, school bus

15 stops, traffic on the road coming and going at the

16 ingress and egress.

17 But that's not -- it doesn't really allow

18 us to say, "Oh, it's not safe, we can't do that." I've

19 been given reasons like, "Oh, school bus stops always

20 change," and stuff like that.

21 That's -- and we hoped to have a gravel

22 material site extraction ordinance done a year ago, I

23 believe, or less than a year ago, June sometime at

24 2018. And it has been in committee, and it's, I guess,

25 coming out of committee soon. We've had some

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1 discussions of it.

2 I do have some questions for staff, so to

3 Mr. Wall. I believe that the permit that's in the

4 packet tonight in packet 1, I've heard that that's not

5 correct anymore, because I've heard through public

6 testimony -- and that may be -- that now instead of

7 50,000 cubic yards, he's going to only extract 10,000

8 cubic yards a year, and then the application says

9 50,000.

10 It also says that the one test hole

11 that's been dug says that the groundwater is at 18

12 feet -- or at 20 feet, and he was going to only dig to

13 18. And his own testimony was tonight that he was

14 going to dig 25 feet down.

15 So do we need a new application?

16 **MR. WALL:** What you need to base your

17 decision on is the application that was submitted

18 and -- yeah. He hasn't changed -- except for the

19 volunteered conditions, the application has not

20 changed.

21 **CHAIRMAN MARTIN:** Maybe for

22 clarification. The 50,000 is a threshold. So you can

23 do less than 50,000 without changing the application?

24 **MR. WALL:** Right. In other words, I

25 guess what I'm trying to say is that what he intends to

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1 do in the foreseeable future and what he puts on the
2 application are two different things. What you're
3 approving is what's on the application.
4 **COMMISSIONER ECKLUND:** Followup through
5 the chair to Mr. Wall.
6 So if we had a gravel pit permit approved
7 and then they wanted to dig into the water table,
8 wouldn't they have to come back and ask for permission
9 to do that?
10 **MR. WALL:** Yes, the code specifically
11 requires that.
12 **COMMISSIONER ECKLUND:** So we'll be seeing
13 him come back if we approve this? He'll have to come
14 back since he's now going to dig 25 feet down?
15 **MR. WALL:** He will not be able to
16 excavate within two feet of the water table without
17 coming back to the commission.
18 **COMMISSIONER ECKLUND:** Through the chair.
19 I only see one test hole on the site map that says the
20 groundwater at whatever date it was dug was at 20 feet.
21 Is that how you read the application?
22 **MR. WALL:** Yes.
23 **COMMISSIONER ECKLUND:** I'll allow the
24 rest of the commission deliberation.
25 **CHAIRMAN MARTIN:** Ms. Bentz.

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1 **COMMISSIONER ABRAHAMSON-BENTZ:** A
2 question for staff through the chair. The letter from
3 the DOT about requiring KPБ to repair any impairments
4 in the road. The letter that is in page 172 of our
5 packet, can you confirm that it would be the
6 responsibility of the borough for any repairs to
7 that -- that road?
8 **MR. WALL:** That road is under the
9 jurisdiction of the state, and they are responsible for
10 maintenance. The borough has no intentions of doing
11 any maintenance on that road.
12 **COMMISSIONER ABRAHAMSON-BENTZ:** So
13 followup. That statement from DOT would be erroneous
14 as far as their concerns about this application?
15 **MR. WALL:** Yes, Ms. Bentz. Mr. Chairman.
16 I believe that the point that they were trying to
17 emphasize is that they also have no intentions of doing
18 repairs upon that road.
19 **CHAIRMAN MARTIN:** Ms. Carluccio.
20 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes. I
21 wanted to ask you -- I saw some information in there
22 about the parks, the state parks. And I just wanted to
23 know if you had anything in writing from DNR or the
24 Division of Parks and Outdoor Recreation whether they
25 were in favor or opposed to this, or have you heard

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1 back from them at all? Or were they contacted?
2 **MR. WALL:** Yes, Mr. Chairman, Ms.
3 Carluccio. I have talked to State Parks several times,
4 and they have talked about getting a letter to me.
5 I've never seen that, though.
6 **COMMISSIONER BOKENKO-CARLUCCIO:** And in
7 your conversation with them, what were they saying?
8 **MR. WALL:** I don't think that they -- I
9 think they just mentioned that they may have some
10 concerns because of the proximity of the parks. I
11 don't think they were specific. They were just talking
12 more about the deadlines for getting the comment letter
13 to me and things of that sort.
14 **COMMISSIONER BOKENKO-CARLUCCIO:** And
15 apparently they have missed the deadline?
16 **MR. WALL:** Yeah, they missed several
17 deadlines. I have not seen a comment letter from them.
18 **CHAIRMAN MARTIN:** Mr. Ecklund.
19 **COMMISSIONER ECKLUND:** I want to follow
20 up on the letter from the Department of Transportation
21 and Public Facilities that, number one, they had five
22 things that they listed. And number one was that they
23 wanted someone to verify the site triangles at the
24 Danver Street stop sign either by an engineer, a
25 surveyor, or a borough public works official. KPБ

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1 public works can coordinate with the DOT Public
2 Facilities maintenance and operations when reviewing
3 sight triangles. Has that been accomplished?
4 **MR. WALL:** It has not, or at least that
5 information has not been passed on to me.
6 I did talk to the roads department about
7 that. We were not able to connect and get out there.
8 But I didn't pursue it further because there is not any
9 conditions or standards in the code that would relate
10 to that.
11 **COMMISSIONER ECKLUND:** Again, another one
12 of those safety issues that I was hoping we would see
13 in the new ordinance and I hear has not been included
14 in the new ordinance.
15 So when that comes forward, I think there
16 will be some amendments hoping that we can add some of
17 these safety elements, you know, shoulders of 12 inches
18 to 14 inches, that kids walk on and bikes go on and
19 sight triangles. That's come before us, and I had
20 mentioned it in the past.
21 So I just -- I'm concerned that a state
22 organization is asking us to verify some things and
23 that we're not. Because I thought we could do more
24 than the state asked of us, but we can't do less. So
25 is it only if we see it in a state --

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1 **UNIDENTIFIED SPEAKER:** In statute.
2 **COMMISSIONER ECKLUND:** -- in the
3 administrative codes and in statute. So they would
4 have had to reference a statute to make us act?
5 **MR. WALL:** Yes, there is nothing in
6 the -- there is no state requirement that we check site
7 triangles on approaches to state roads.
8 **CHAIRMAN MARTIN:** Mr. Ernst.
9 **COMMISSIONER ERNST:** Yeah, this is to the
10 staff through the chair. I just need some
11 clarification.
12 I'm looking at the findings of fact on
13 page 80, 15 Q, and it says -- I just need to understand
14 this a little bit, because when I look at the GIS
15 evidence, if you will, it doesn't seem like there is
16 any way -- let's see, it says, "Each piece of real
17 estate is uniquely situated, and a material site cannot
18 be conditioned so that all adjacent parcels are equally
19 screened by the buffers."
20 Well, in this unique situation, we have a
21 pit that's in the lowlands surrounded by affected
22 properties. Is there any possible buffer that could be
23 reasonably used to protect the, you know, the noise
24 levels and visual impact of this pit since there are so
25 many parcels around it?

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1 **MR. WALL:** And one thing that was asked
2 earlier that I did want to answer, somebody from the
3 public asked, and that is that they were talking about
4 adjacent parcels versus other parcels in the vicinity.
5 And the code does say that the buffer
6 requirements shall be made in consideration of and in
7 accordance with existing uses of adjacent property. So
8 that is in the conditions in 21.29.050.
9 So that's why in the staff report I put
10 particular emphasis on the adjacent parcels, because
11 that's what the decision needs to be based on as
12 concerning buffers.
13 And even at that, not all of those
14 parcels -- and I think that that 15 Q, really all it's
15 saying is that not all -- some parcels are going to get
16 better screening than others. And so it's not a matter
17 of eliminating the visual impact or the noise impact,
18 it's a matter of minimizing it.
19 **CHAIRMAN MARTIN:** Mr. Ernst, followup.
20 **COMMISSIONER ERNST:** I'm sorry, a
21 followup.
22 So equal protection under this law
23 doesn't apply? I mean, I'm looking at that, I'm
24 looking at this.
25 **MR. WALL:** The way that I'm reading the

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1 ordinance is that all adjacent properties need to be
2 minimized. The impacts need to be minimized for all
3 adjacent properties.
4 **COMMISSIONER ERNST:** So some properties
5 are more minimized than others?
6 **MR. WALL:** That's the way that I -- yeah,
7 I would have to agree with that statement.
8 **COMMISSIONER ERNST:** Okay, that's
9 interesting.
10 **CHAIRMAN MARTIN:** Mr. Foster.
11 **COMMISSIONER FOSTER:** Mr. Wall, I had a
12 little concern over adjacent and adjoining. And I
13 remember back when I was with Homer that that came up,
14 that adjoining means next to and touching and adjacent
15 means nearby. Is that correct?
16 **MR. WALL:** And I did spend some time
17 looking at various definitions. And as it relates to
18 property, generally it means adjacent or just separated
19 by a roadway.
20 It seems to be more specific than just
21 nearby, although elsewhere in the code the word
22 "adjacent" is used, and it appears to be referencing
23 nearby in that it talks about wells within 300 feet on
24 adjacent properties. Well, not all wells are
25 on adjacent -- all wells within 300 feet are on

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1 adjacent property.
2 So in that context it appears to be
3 referencing nearby, or in close vicinity. I took it as
4 adjacent properties to be immediately adjacent or
5 separated by a roadway, which is a common definition I
6 read as it relates to property.
7 **CHAIRMAN MARTIN:** Thank you. Ms.
8 Ecklund.
9 **COMMISSIONER ECKLUND:** The specific code
10 on that is 21.29.050 permit conditions (2)(C). And
11 it's "The Planning Commission or planning director
12 shall designate one or a combination of the above as it
13 deems appropriate. The vegetation and fence shall be
14 of sufficient height and density to provide visual and
15 noise screening of the proposed use as deemed
16 appropriate the Planning Commission or planning
17 director."
18 And I don't see where it says "adjacent"
19 on that or on the buffer zone above it. If somebody
20 sees where it says "adjacent," it just says --
21 **MR. WALL:** (2)(E).
22 **COMMISSIONER ECKLUND:** -- deemed.
23 Right, in (2)(E), "At its discretion, the
24 Planning Commission may waive buffer requirements where
25 the topography of the property or the placement of

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1 natural barriers makes screening not feasible or not
2 necessary. Buffer requirements shall be made in
3 consideration of and in accordance with existing uses
4 of adjacent properties at the time of the approval of
5 the permit. There is no requirement to buffer the
6 material site from use which commenced after the
7 approval of the permit."

8 So existing uses of adjacent property.
9 We have residential and recreational are the adjacent
10 properties, is that correct?

11 **MR. WALL:** Yes.

12 **COMMISSIONER ECKLUND:** Thank you. And
13 then one last, if I may. 14 of 21.050 permit
14 conditions reads that, and I'm going to take a point
15 out of there, "It's at the best interest of the borough
16 and the surrounding property owners."

17 So there is these references to existing
18 uses of adjacent properties and the surrounding areas
19 and the surrounding property owners. But we let them
20 all come and talk, but we have no meat to help them in
21 this ordinance, because we are -- we can put buffers,
22 we can put vegetation, and we can put fences, but who
23 are we going to ask to put a 53-high earthen berm. I
24 mean, we all know that's ridiculous.

25 **UNIDENTIFIED SPEAKER:** Well, we can't

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1 even (indiscernible).

2 **CHAIRMAN MARTIN:** Because, Mr. Wall,
3 correct me if I'm wrong, the buffer is vegetative or a
4 fence or a six-foot berm. Unless we want to jack
5 the -- do we have the power to jack the berm up taller?

6 **MR. WALL:** Yes. The code says minimum
7 six-foot high fence --

8 **CHAIRMAN MARTIN:** Minimum.

9 **MR. WALL:** -- or minimum six-foot high
10 berm or a 50-foot vegetated buffer.

11 **CHAIRMAN MARTIN:** Thank you.

12 **UNIDENTIFIED SPEAKER:** Minimum?

13 **CHAIRMAN MARTIN:** Yeah, minimum. Ms.
14 Carluccio.

15 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes. Or
16 it also says a combination. So we could require a
17 buffer, a berm, and a fence. Under C, designate one or
18 a combination of the above as it deems appropriate.

19 **CHAIRMAN MARTIN:** If you can justify it
20 with findings.

21 **COMMISSIONER BOKENKO-CARLUCCIO:** But,
22 what I also see here is that the minimum six-foot
23 earthen berm -- okay, it says minimum. So we could
24 actually make the berm taller?

25 **COMMISSIONER ECKLUND:** Yep.

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1 **COMMISSIONER BOKENKO-CARLUCCIO:** Like 53
2 feet.

3 **MR. WALL:** Yes, and staff did -- and
4 staff did propose a 12-foot berm in most locations.

5 **COMMISSIONER BOKENKO-CARLUCCIO:** But is a
6 12-foot berm enough to minimize visual and noise
7 effects?

8 **CHAIRMAN MARTIN:** It depends on what --
9 your definition of minimize. Because it will bring it
10 less. I mean, he can show us a picture of a six-foot
11 berm or a 12-foot berm, and it will reduce the area of
12 the triangle in the line of sight, but will it be
13 adequate?

14 **COMMISSIONER BOKENKO-CARLUCCIO:** But is
15 the minimization adequate, and that's what the question
16 is.

17 **CHAIRMAN MARTIN:** Ms. Ecklund, you have
18 your hand up.

19 **COMMISSIONER ECKLUND:** I asked the
20 planning staff earlier today if they could share some
21 information about how many gravel pits we've actually
22 denied in the ten years I've been on this commission.
23 Mr. Wall, did you say we've denied a couple over the
24 last ten years or so?

25 **MR. WALL:** Yes, there has been two

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1 denials done by the Planning Commission.

2 **COMMISSIONER ECKLUND:** And the hearing
3 officer overturned both of them?

4 **MR. WALL:** Yes. And actually one was
5 overturned by the hearing officer and the other was
6 overturned with the Board of Adjustments. There was a
7 transition period about that time, but yes.

8 And then there was a couple of other
9 cases where a modification to a permit was denied, and
10 in that case that I'm thinking of, that was upheld.

11 **COMMISSIONER ECKLUND:** But how many have
12 we approved? We are not against gravel pits, and I
13 think it's been kind of put upon us that we are against
14 them. I mean, my dad was an operating engineer for 40
15 years. I lived at a gravel pit. I had a CDL, I know
16 you're safe drivers out there. We're not against
17 gravel pits. But in the middle of a recreational and
18 residential area, it just doesn't seem right.

19 And a couple years ago, I -- or over the
20 last year or two I've looked at how much money the
21 borough actually gains from gravel pits, like how much
22 sales tax or something they get off of them. And there
23 is other economic entities and industries in the
24 borough that make a lot more money.

25 So -- and I know we need gravel. I drive

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1 to Anchorage twice a week, and I drive to these
2 meetings twice a month. You know how much construction
3 there is out there? Do you know how much gravel and
4 rocks are going on those roads? Tons and tons, and I
5 know we need these, but not in the middle of a
6 recreational and residential area.

7 **CHAIRMAN MARTIN:** Mr. Whitney.

8 **COMMISSIONER WHITNEY:** Well, I think this
9 is one of the more unique gravel pit permits we've
10 looked at. It seems like most of them that I can
11 remember over the last five or six years I've been on
12 the commission, they are usually more in a flat land
13 area where you can put up a six-foot berm or a 10-foot
14 berm or whatever and lose your visual impact.

15 This is a little bit unique. It sits
16 down low and there is adjoining properties, adjacent
17 properties, whatever you want to call them. They are
18 all close by, they are looking down into that area.

19 So I just don't think the berms that are
20 proposed and anything that's going on here is adequate
21 to control the visual impact that everyone is going
22 to -- the adjoining property owners are going to
23 suffer.

24 As far as noise, you know, we've heard
25 lawn mowers make more noise than the equipment does and

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1 hand drills and everything else. The difference with
2 that is they don't run for 10 or 12 hours a day. Your
3 lawnmower is going to be going for a couple of hours,
4 and, you know, we all listen to that, even here in the
5 city.

6 So the heavy equipment, I think they are
7 going to be able to hear it because most of the wind
8 comes -- direction is coming off the water. That has
9 an effect on noise, it makes it travel. I live two
10 miles away from Fred Meyers, and I can hear trucks
11 going down the hill slowing down. So I think those
12 people that are living above that are going to continue
13 hearing noise no matter what.

14 So right now I've listened to I don't
15 know how many hours of testimony, read hundreds and
16 hundreds of pages, and I still think my decision is
17 still going to be the same as it was in July of last
18 year, and I'll vote against this.

19 **CHAIRMAN MARTIN:** Mr. Venuti.

20 **COMMISSIONER VENUTI:** Boy, I feel
21 fortunate I live in a community that has planning and
22 zoning. You know, if nothing else that comes out of
23 this, is this is a good argument for local option
24 zoning. And I hope no matter what comes out of this,
25 that this community -- and it's really great that this

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1 has brought you all together, but I think that you
2 should really consider local option zoning so that
3 something like this won't happen in the future.

4 I know gravel is an important commodity,
5 and I know that it's a big industry in Anchor Point.
6 I'm in the construction industry. Every project I work
7 on has gravel, and all of it comes from Anchor Point.
8 So I know there is real value, but I'm glad that there
9 is not a gravel pit next to me. And I understand where
10 you guys are concerned about.

11 But the idea that we can deny an
12 individual the right to develop their property doesn't
13 sit well with me. I know that if I want to control
14 what's happening on the property next to me, I better
15 buy it.

16 So I'm uncomfortable with the way this
17 has transpired. Like Mr. Whitney, I've read thousands
18 of pages of -- hundreds of pages of testimony, heard a
19 lot about your concerns. I hope you guys will consider
20 local option zoning, thank you.

21 **CHAIRMAN MARTIN:** Ms. Bentz.

22 **COMMISSIONER ABRAHAMSON-BENTZ:** So I have
23 maybe a question for staff or just an observation about
24 the idea of a rolling 12-foot berm. And this goes back
25 to some discussion we've been having at the material

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1 site code revision workgroup.

2 And a lot of -- some of what we talked
3 about is alternative post-mining land uses and when
4 does a pit stop being a pit and it starts being a
5 reclaimed area that's a pasture or a meadow.

6 And I'm looking at these profiles that
7 have been drawn using the LIDAR of the area and
8 thinking about the reclamation plan that's outlined in
9 our packet, and this idea of a rolling buffer -- or a
10 rolling berm, excuse me, and if extraction could be
11 pursued in a way that that rolling berm only was
12 minimized -- or basically minimizing visual impacts
13 from a narrow swath of land that was currently being
14 excavated, and that annually or every couple years the
15 applicant would be reclaiming in its path, so it would
16 be marching along through the site reclaiming as they
17 went, which I think is what they plan to do in their
18 application, and leaving behind a reclaimed natural
19 area that was topsoil and seeded and reclaimed, similar
20 to the images that were shown earlier tonight.

21 So I'm just trying to wrap my head around
22 that, how this rolling buffer -- this rolling berm
23 could be an effective way to minimize visual impacts to
24 adjacent properties.

25 And maybe the question for staff is,

<p style="text-align: right;">Page 162</p> <p>1 looking at the reclamation plan and this idea of a 2 rolling 12-foot berm, would that be feasible -- would 3 that provide greater reduction of impact for at least 4 visual screening for neighboring properties if 5 extraction was pursued in that manner? 6 MR. WALL: Yes. And I think that what 7 you're referring to also is some comments earlier 8 about, yeah, if that berm moves then all you're seeing 9 is the scar on the land. But no, he would be required 10 to reclaim as he goes for the exhausted areas of the 11 material site. 12 COMMISSIONER ABRAHAMSON-BENTZ: And I 13 didn't -- just followup through the chair -- I didn't 14 see a schedule for reclamation in -- or maybe I missed 15 that in the packet. Do you have the page number for -- 16 I know annually 50,000 yards, but I'm not sure if there 17 was an area plan to reclaim every year. 18 MR. WALL: It mentions two to five years, 19 but that's really going to depend on how much material 20 is extracted. So the intent is to reclaim a 21 significant amount. In other words, if more than 2 or 22 5 acres are excavated, there is going to be some 23 reclamation done. 24 COMMISSIONER ABRAHAMSON-BENTZ: So just 25 maybe a followup in the way of explanation.</p>	<p style="text-align: right;">Page 164</p> <p>1 CHAIRMAN MARTIN: Does that mean that 2 you're going to give us a count down so we can 3 deliberate and vote precisely? The maximum -- you 4 know, what's minimize versus maximize? 5 COMMISSIONER ECKLUND: The midnight hour 6 I turn into a pumpkin, so let's -- 7 MR. WALL: Mr. Chairman, there is nothing 8 saying that a decision needs to be made tonight. We've 9 closed the hearing. You can continue your deliberation 10 at the next meeting. 11 CHAIRMAN MARTIN: Does anyone feel that 12 at this hour the human factor is weakening our ability 13 to make a decision? Continue discussion. Ms. 14 Carluccio. 15 COMMISSIONER BOKENKO-CARLUCCIO: This has 16 been an awful lot of information to read over and 17 understand, and there are a number of things that I 18 have read over where originally I thought I understood 19 it, and then I read it over and it didn't quite match 20 up to what my first impressions were. 21 I would not be unhappy with continuing 22 the deliberation at the next meeting. No more public 23 testimony, just deliberation and then findings of fact. 24 CHAIRMAN MARTIN: Mr. Foster. 25 COMMISSIONER FOSTER: I was ready to vote</p>
<p style="text-align: right;">Page 163</p> <p>1 So looking at these profiles, the whole 2 pit area wouldn't be a active excavation area as far as 3 line of sight goes, it would be the line of site only 4 within the currently excavated area, which would 5 hopefully be protected by that 12-foot berm. 6 CHAIRMAN MARTIN: Ms. Ecklund. 7 COMMISSIONER ECKLUND: To follow up on 8 the conversation about the rolling berm and the line of 9 sight, as I understand it, most of the visual impact is 10 along the east side and south side of this site where 11 the topography goes up? 12 In their Phase 1, 2, and 3 in the 13 processing area are going the other direction, so I 14 don't know how -- I mean, it's almost like they would 15 have to start on the Phase 3 and roll back towards the 16 hillside for that to work for a rolling berm. But it's 17 a good thought. I mean, maybe they could start on the 18 west side of Phase 1 and go that direction, and -- if 19 this is going to be approved. 20 CHAIRMAN MARTIN: We have a point of 21 order. It's 11:30. Ms. Ecklund. 22 COMMISSIONER ECKLUND: I move that we 23 continue the discussion for a maximum of another 30 24 minutes. 25 COMMISSIONER BOKENKO-CARLUCCIO: Second.</p>	<p style="text-align: right;">Page 165</p> <p>1 when I got here tonight, and then I heard -- I took 2 down seven pages of notes, and I would not be opposed 3 to continuing this so I could review these -- this 4 information. 5 CHAIRMAN MARTIN: Could anyone state that 6 in the form of a motion? Ms. Bentz. 7 COMMISSIONER ABRAHAMSON-BENTZ: I have a 8 question before we make that motion. The original 9 motion that's on the floor, did we attach staff 10 recommendations and findings or voluntary conditions? 11 UNIDENTIFIED SPEAKER: No. 12 UNIDENTIFIED SPEAKER: No. 13 COMMISSIONER ABRAHAMSON-BENTZ: And I 14 don't know -- just an order -- point of order. Do we 15 want to do that today? 16 CHAIRMAN MARTIN: I think so. I think 17 the maker of the motion and the second could easily 18 come to a concurrence on that, I hope. Mr. Whitney, do 19 you have a comment? 20 COMMISSIONER WHITNEY: I just have a 21 quick question for staff. What does the agenda look 22 like for the next meeting? Is it going to be a -- 23 THE CLERK: Through the chair. The 24 agenda is not completely set right now. I do know the 25 material site is coming to that meeting. I'm trying to</p>

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1 remember what else. If you give me a minute, I can
2 check.
3 **CHAIRMAN MARTIN:** I know I could benefit
4 from coalescing the notes and collecting my thoughts.
5 Ms. Carluccio.
6 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{The only}
7 thing is I guess where we are now, we would have to do
8 a up or down, a yes or no on what we have so far;
9 whereas, I don't know if we're interested in asking the
10 applicant to voluntarily add some things to this -- to
11 his application.
12 **CHAIRMAN MARTIN:** Did you have something
13 creative in mind, or is this hypothetical?
14 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{I don't}
15 have any -- no, I don't have any. And I don't have
16 much creative at 11:35, but I'm just saying that
17 that's -- that would be one of the negative things.
18 **CHAIRMAN MARTIN:** But it also could be --
19 it also could be handled with -- if you did come up
20 with some great idea in the interim --
21 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{Right.}
22 **CHAIRMAN MARTIN:** -- you could pass it on
23 to Bruce, and he could discuss it with the applicant,
24 and we could be prepared.
25 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{That's}

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1 true.
2 **CHAIRMAN MARTIN:** It wouldn't be a dead
3 end.
4 **THE CLERK:** Through the chair.
5 **CHAIRMAN MARTIN:** Yes.
6 **THE CLERK:** So for the 24th meeting we
7 have a right-of-way vacation, the ordinance for the
8 material site, and then the review of a plat committee
9 approval.
10 **CHAIRMAN MARTIN:** Sounds like a light
11 agenda. Ms. Ecklund.
12 **COMMISSIONER ECKLUND:** So I don't really
13 find a staff agenda statement, but I guess the findings
14 are on the resolution. And if you wanted me to attach
15 those to the main motion, just so that we have a
16 complete motion, and then we make a decision on if
17 we're going to wait and deliberate at our next meeting
18 or not.
19 **THE CLERK:** Through the chair. When you
20 made the motion earlier, you did reference the
21 resolution, just to be clear.
22 **COMMISSIONER ECKLUND:** Okay, so that
23 should take care of it, all right, thanks.
24 **CHAIRMAN MARTIN:** Badda bing, badda boom,
25 okay.

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1 **UNIDENTIFIED SPEAKER:** The voluntary
2 conditions?
3 **CHAIRMAN MARTIN:** The voluntary
4 conditions were only discussed. But once the applicant
5 is questioned and -- because Ms. Ecklund I think said,
6 "Did you agree to this?" And he said, "Yes." That's
7 in the motion.
8 **COMMISSIONER ECKLUND:** Right.
9 **MR. WALL:** Just for some clarification,
10 Mr. Chairman, is that those volunteered conditions need
11 to be accepted by the commission, and there needs to be
12 findings that those conditions are in the best interest
13 of the borough and in the surrounding properties.
14 **CHAIRMAN MARTIN:** Yes.
15 **COMMISSIONER ECKLUND:** Through the chair.
16 So the voluntary conditions that I brought forward was
17 the white noise back-up alarm, and Mr. Trimble agreed
18 to that. And I believe --
19 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{For his}
20 vehicles.
21 **COMMISSIONER ECKLUND:** For his vehicles,
22 not for any contractor that was in the pit, but for his
23 vehicles. So he volunteered that condition. And I
24 guess that's the only one I can remember.
25 **MR. WALL:** The other one was the --

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1 **COMMISSIONER ECKLUND:** Rolling berms?
2 **MR. WALL:** -- the rolling berms, yes.
3 **COMMISSIONER ECKLUND:** The rolling berms,
4 okay.
5 **UNIDENTIFIED SPEAKER:** And the
6 processing.
7 **COMMISSIONER ECKLUND:** And I believe that
8 the finding is that the white noise back-up alarms
9 would minimize noise impact, and the rolling berm would
10 hopefully minimize visual impact. Are those enough
11 findings, or do I need to quote code verbatim? Code
12 1 -- do you want me to do that?
13 **MR. WALL:** No, that is --
14 **COMMISSIONER ECKLUND:** Okay, good.
15 **MR. WALL:** -- sufficient.
16 **COMMISSIONER ECKLUND:** I just want to
17 make sure we're sufficient tonight and not -- that was
18 not made based on fear. Okay, thank you.
19 **THE CLERK:** I'm sorry.
20 **COMMISSIONER BOKENKO-CARLUCCIO:** ^{Yes, I}
21 second.
22 **THE CLERK:** Can I have a point of order
23 of exactly what are we -- are we amending something
24 here or --
25 **COMMISSIONER ECKLUND:** They wanted to get

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1 the voluntary conditions added to the main motion so
2 that they were in the record, and that was for the
3 white noise back-up alarms and the rolling berms.
4 **CHAIRMAN MARTIN:** Mr. Whitney.
5 **COMMISSIONER WHITNEY:** I thought he also
6 agreed to the changing of the processing area.
7 **CHAIRMAN MARTIN:** No, that was in a -- an
8 exception, and staff recommended against -- to deny.
9 **COMMISSIONER WHITNEY:** To not approve it,
10 and then I thought he agreed that he would go --
11 **CHAIRMAN MARTIN:** He said, yeah, don't --
12 he said he doesn't have a problem with that denial.
13 **UNIDENTIFIED SPEAKER:** Did anybody make a
14 motion on postponing?
15 **COMMISSIONER BOKENKO-CARLUCCIO:**
16 (Indiscernible) I will.
17 **CHAIRMAN MARTIN:** Please.
18 **COMMISSIONER BOKENKO-CARLUCCIO:** I move
19 that we postpone deliberation and final vote on KPB
20 Planning Commission Resolution 2018-23.
21 **COMMISSIONER ABRAHAMSON-BENTZ:** Second.
22 **CHAIRMAN MARTIN:** And to the next
23 meeting?
24 **COMMISSIONER BOKENKO-CARLUCCIO:** Sorry,
25 to the next meeting.

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1 **CHAIRMAN MARTIN:** Mr. Whitney.
2 **COMMISSIONER WHITNEY:** Can we make sure
3 that's the number 1 thing on the agenda, so if people
4 do come to be here for that decision, that they won't
5 have to wait around all night?
6 **CHAIRMAN MARTIN:** Do we have to make a
7 motion to force to you do that, Julie? Thank you.
8 Okay, is there any discussion on the
9 motion to postpone? Any objection? It's unanimous
10 that we'll see you -- we'll see each other here next
11 time.
12 (11:39:00)
13 (End of requested portion)
14 (11:40:13)
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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 6/10/19 was transcribed**
7 **under my direction by computer transcription; that the**
8 **foregoing is a true record of the testimony and**
9 **proceedings taken at that time to the best of my**
10 **ability; and that I am not a party to nor have I any**
11 **interest in the outcome of the action herein contained.**
12 **IN WITNESS WHEREOF, I have hereunto set my**
13 **hand and affixed my seal this 26th day**
14 **of August, 2019.**
15
16
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19
20
21 **LEONARD J. DiPAOLO, RPR, CRR, CCP**
22 **Notary Public for Alaska**
23 **My Commission Expires: 2-3-2020**
24
25 #3319

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JUNE 24, 2019

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

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

Monday, June 24, 2019
7:36 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT Pages 1 - 48, inclusive

Commissioners Present:

Paulette Bokenko-Carluccio, City of Seldovia
Syverine Abrahamson-Bentz, Anchor Point/Ninilchik
Jeremy Brantley, Sterling
Cindy Ecklund, City of Seward
Dr. Rick Foster, Southwest Borough
Blair Martin, Kalifornsky Beach
Diane Fikes, City of Kenai
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

Staff Present:

Max Best, Planning Director
Charlie Pierce, Kenai Peninsula Borough Mayor
Julie Hindman, Administrative Assistant
Holly Montague, Deputy borough Attorney
Bruce Wall, Planner
Scott Huff, Planning Manager

Others Present:

Eric Neely
Pete Arno
Pete Kinneen
Teresa Jacobson Gregory
Mary Trimble
Hans Bilben
Richard Carlton
James Hall
Jamie Ross
Richard Koskovich
Peter Zuyus
Blaine Gilman
Buzz Kyllonen

<p style="text-align: right;">Page 2</p> <p>1 Others Present, Continued: 2 Wayne Ogle 3 Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 location, and the adjacent property is a prior existing 2 use material site on the opposite side of Danver Road. 3 And so the recommendation would be, if 4 you choose to make that change, would be the fifth 5 bullet point on condition No. 2 to change it to read: 6 A 50-foot vegetated buffer adjacent to the eastern most 7 parcel boundary and a 12-foot high berm placed near the 8 active excavation area, except along the northern 200 9 feet of the proposed excavation. 10 The applicant has also volunteered this 11 additional condition. The permittee shall not operate 12 the material site or haul material from the site on 13 Memorial Day weekend, Saturday through Monday; Labor 14 Day weekend, Saturday through Monday; and the 4th of 15 July holiday, to include Saturday and Sunday if July 16 4th is on a Saturday, Sunday, Monday, or Friday; 17 Saturday, Sunday and Monday if the July 4th is on a 18 Tuesday; Saturday, Sunday, and Friday if July 4th is on 19 a Thursday. 20 If the Planning Commission accepts this 21 condition, staff recommends adding the following 22 findings to finding No. 29, and that would be E, F, and 23 G as follows. 24 E, the applicant has volunteered a 25 condition that prohibits material site operation on</p>
<p style="text-align: right;">Page 3</p> <p>1 PROCEEDINGS 2 7:34:42 p.m. 3 (This portion not requested) 4 7:37:50 p.m. 5 CHAIRMAN MARTIN: Hearing and seeing no 6 requests, I'll close public comment and bring it back 7 to staff for a report on Item E-1. 8 MR. WALL: Thank you, Mr. Chairman. 9 This is an application for a conditional 10 land use permit for a material site in the Anchor Point 11 area. It is located at 74185 Anchor Point Road, Parcel 12 No. is 169-010-67. The applicant is Beachcomber, LLC. 13 At the June 10th meeting, the Planning 14 Commission asked staff to work with the applicant on 15 additional volunteered conditions. The applicant also 16 wanted a clarification to the buffer along the eastern 17 boundary. 18 Along the northern 200 feet of the buffer 19 along Danver Road he's requesting a 50-foot vegetated 20 buffer without the 12-foot high berm. This was 21 discussed at previous meetings, but not in detail, and 22 it was not incorporated into the conditions. 23 Staff is in support of this because there 24 is significant vegetation in this area. Danver Road is 25 at a lower elevation than the material site at this</p>	<p style="text-align: right;">Page 5</p> <p>1 holiday weekends during the summer months; F, the 2 volunteered condition to not operate on holidays is 3 consistent with the standard to reduce noise 4 disturbance to adjacent properties; and G, the 5 volunteered condition to not operate on holidays is in 6 the best interest of the borough and the surrounding 7 property owners because the Anchor River State 8 Recreational Area has a significantly greater number of 9 visitors on holidays, and several of the neighbors and 10 Alaska State Parks has expressed concerns about noise 11 impacts to the recreational area. 12 The public hearing for this item was 13 closed at your last meeting. Your packet contains the 14 resolution that has been updated to reflect the 15 volunteered conditions that were accepted at the last 16 meeting. The packet also includes on page 30 a letter 17 dated May 1st from Alaska State Parks. 18 At the last meeting it was mentioned by a 19 testifier that State Parks had submitted a letter. I 20 informed the Planning Commission that we had not 21 received the letter. Since then I have spoken to State 22 Parks and they provided me with a copy of the letter. 23 It evidently was lost in the mail. 24 On page 32 through 61 are materials that 25 were passed out at the last meeting. In your desk</p>

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1 packet are two letters from Shirley Gruber that were
2 mailed directly to Ms. Carluccio and Mr. Whitney after
3 the hearing was closed.
4 The applicant has not had an opportunity
5 to rebut the comments mailed directly to the commission
6 members or the letter from State Parks.
7 The applicant may not have received all
8 of the printed materials that were provided at the last
9 meeting.
10 Prior to continuing deliberation on this
11 matter, the applicant should be given an opportunity to
12 rebut this additional information. The applicant
13 should also be instructed to limit his rebuttal to only
14 those additional comments that I have mentioned.
15 With the chair's permission I would like
16 to address a couple of commission members to get some
17 items clarified in the record.
18 Mr. Ruffner, there is an article
19 published on June 4th by KBBi that quotes you as
20 saying, concerning material sites, "The Planning
21 Commission doesn't have the authority to say no."
22 Can you state for the record the context
23 of that statement?
24 **COMMISSIONER RUFFNER:** Sure. Through the
25 chair. Yeah, I don't know that I can recall verbatim

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1 what the comments were or the context, but in general I
2 would say that a number of times when material sites
3 have come before this body, since I've been on the
4 commission, it's been pretty clear to me that our job
5 as commissioners is to interpret what the code is that
6 has been laid forward from the assembly.
7 And with respect to a denial, if a permit
8 application comes in and it's complete and it meets the
9 conditions that have been set forth in 21.29, then
10 those -- and again, I'll just repeat, if those
11 conditions are met, then we don't have the ability to
12 deny the permit.
13 So that's my understanding of how that
14 is, because those elements that address the conditions
15 are pretty specific in 21.29.050 I believe. That would
16 be my address back to staff and to the public for
17 clarification on those comments.
18 **MR. WALL:** So it's my understanding that
19 was in the context of your role as the chair of the
20 material site work group?
21 **COMMISSIONER RUFFNER:** Yeah. I mean, I
22 know they called me and asked about -- KBBi that is
23 called and asked to do an interview on that. And it
24 wasn't specific to any one gravel pit, it was the
25 entire suite of code that we address right now.

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1 So again, I've made very similar comments
2 on the record for a whole host of these material sites
3 that have come before us over the last five, six, seven
4 years.
5 **MR. WALL:** All right, thanks. Mr.
6 Chairman, if I could ask Dr. Foster a question as well.
7 At the April 22nd meeting, the applicant
8 stated, and I'm reading from the minutes of the meeting
9 that I recognize isn't verbatim, but it says that he
10 met prior to the meeting with planning staff Mr. Best
11 and Mr. Wall, and the acting chairman Dr. Foster. They
12 made some changes to procedures and they wanted to make
13 him aware of the changes.
14 He listened and came away from the
15 meeting knowing how the things would go regarding
16 scheduling. All of the testimony would be allowed, and
17 at the end of the public testimony they would ask for a
18 continuance and that would be the end of the public
19 testimony.
20 Starting on April 22nd, the date
21 presented by staff and Dr. Foster, that it would begin
22 with his rebuttal, and it sounded fine, so they agreed.
23 So I guess what I'm wondering is, as I'm
24 reading that, Mr. Trimble's account of the
25 conversation, it sounds like the conversation was

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1 limited to how the meeting was going to proceed. And
2 I'm wondering if you could provide any additional
3 clarification concerning that conversation.
4 **COMMISSIONER FOSTER:** Thank you. Through
5 the chair. When I arrived I had a short meeting with
6 Mr. Best and Mr. Wall in regards to tidying up our
7 hearing procedure. That we would begin with the chair
8 introducing the agenda items; the staff presenting a
9 report and staff recommendation; the No. 3, the
10 presentation by the applicant and their
11 representatives -- in the past we have started that way
12 but haven't read this out as this is going to be the
13 process -- and then 4, testimony by members of the
14 public; 5, response by staff to any testimony that was
15 given and an opportunity for the commission to ask
16 questions of the staff; and then No. 6, the rebuttal by
17 the applicant.
18 That's something that we hadn't done
19 regularly. And so by making this hearing procedure,
20 setting it in stone, that then No. 7, the chairperson
21 closes the hearing and then entertains a motion.
22 So I read this over, I agreed to it as
23 the acting chair. And then Mr. Trimble, I shared it
24 with Mr. Trimble and showed him the seven steps and
25 said, "This is where we're going to ask you to

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1 present." And that's the limit of my conversation with
2 him.

3 **MR. WALL:** Thanks. And Mr. Chairman,
4 if -- one more thing. Just for the record, we know
5 that Mr. Whitney and Ms. Carluccio has received ex
6 parte communication after the hearing was closed, and
7 it would probably be a good idea to ask the rest of the
8 commission members if there has been any additional ex
9 parte communication.

10 **CHAIRMAN MARTIN:** Ms. Carluccio.
11 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes. I
12 just want to state for the record that when I received
13 that letter, I didn't know what it was when I opened
14 it. And when I opened it and read the first line and
15 saw that it was in -- pertaining -- it was pertaining
16 to this issue, I did not read the rest of the letter,
17 but I scanned it and sent it to Julie, our secretary.

18 And the first time I got to read the
19 letter was tonight when I saw it in the desk packet.

20 **CHAIRMAN MARTIN:** Mr. Foster.
21 **COMMISSIONER FOSTER:** I received --
22 through the chair. I received that same letter and
23 brought it in and turned it in.

24 **CHAIRMAN MARTIN:** Mr. Whitney.
25 **COMMISSIONER WHITNEY:** Yeah, I received

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1 it and e-mailed it to Julie the next day, I believe it
2 was.

3 **CHAIRMAN MARTIN:** Ms. Fikes.
4 **COMMISSIONER FIKES:** I received the same
5 letter, and I turned it over to Julie. I also received
6 a phone call message for contact and I did not respond.

7 **CHAIRMAN MARTIN:** Yes, Ms. Bentz.
8 **COMMISSIONER BENTZ:** I must not check my
9 mail very often because I did not receive a letter.

10 But I did receive calls from neighbors, but just
11 related to the material site code ordinance. And I
12 reminded them that I wouldn't be able to speak to any
13 specific permits. So we just discussed the ordinance,
14 not the application of the day.

15 **CHAIRMAN MARTIN:** Mr. Ruffner.
16 **COMMISSIONER RUFFNER:** Thank you, Mr.
17 Chair. Well, if I got a letter, I didn't read it or
18 see it. So I'm trying to catch up. So maybe not
19 specifically on ex parte communication, because I don't
20 believe I've had any ex parte communication with people
21 since the hearing happened.

22 But I would say that I wasn't here for
23 the last meeting, so I did go back and listen to the
24 audio portion of the record. I listened to almost all
25 of that, most of it, and read through the minutes

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1 pretty carefully. So I'm up to speed on what happened
2 last time.

3 **CHAIRMAN MARTIN:** Thank you. Ms. Morgan.
4 **COMMISSIONER MORGAN:** I was not here the
5 last meeting, but I did listen to the audio and I read
6 the minutes, and I read the packets.

7 **CHAIRMAN MARTIN:** Thank you. Staff.
8 **MR. WALL:** Thank you, Mr. Chairman. I
9 might add that both Mr. Ruffner and Ms. Morgan did view
10 the video presentation that was done by the applicant
11 at the last meeting.

12 And in conclusion, staff recommends that
13 the Planning Commission review the application, site
14 plan, staff report, and comments received and determine
15 if the mandatory conditions contained in KPB 21.29.050
16 will be met.

17 The planning department recommends that
18 the Planning Commission amend the resolution as
19 discussed in tonight's staff report, deny the
20 processing distance waiver request, approve the
21 conditional land use permit with listed conditions, and
22 adopt the findings of fact subject to the requirements
23 contained in the full staff report. And that's the end
24 of my report.

25 **CHAIRMAN MARTIN:** Thank you. So there is

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1 a motion on the floor. Mr. Whitney.
2 **COMMISSIONER WHITNEY:** I just have a
3 procedural question. If we pull up this new resolution
4 with these changes made, is that going to open up for
5 testimony about those changes?

6 **CHAIRMAN MARTIN:** I'm not at liberty to
7 answer that. Staff?

8 **MR. WALL:** The resolution that's included
9 in your staff report are basically what you had
10 approved at the last meeting, I just put it in writing.

11 What's contained in the staff report
12 today is the applicant's response to the public
13 testimony that's been heard. So you're certainly free
14 to act on that without taking additional public
15 comments. The public has already commented and the
16 applicant has responded with an additional volunteered
17 condition.

18 And the other item concerning the buffer,
19 that's certainly within your purview to change the
20 requested buffers. That does not require additional
21 public comment.

22 **CHAIRMAN MARTIN:** Thank you. Ms.
23 Ecklund.
24 **COMMISSIONER ECKLUND:** Through the chair
25 to staff. Is discussion then allowed, or any

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1 additional amendments allowed besides the one that are
2 new and presented tonight and the changes we made at
3 the last meeting?

4 **MR. WALL:** As I recall, the way that you
5 ended the last meeting was you left it open to bring
6 the applicant up to ask him for additional volunteered
7 conditions as well. But you also asked me to work with
8 the applicant in the meantime so that wouldn't all have
9 to be hashed out here.

10 **COMMISSIONER ECKLUND:** In the time from
11 the last meeting it's come to my attention that there
12 is really, like, three times of the year that the beach
13 is inundated with people, there is three openings, and
14 it's mentioned in the letter that you said is new for
15 us tonight, the one on page 30.

16 It's mentioned in there by the parks
17 department that the saltwater and the fresh fishery
18 openers increase traffic. So I'm just wondering, are
19 those the same periods of time that the applicant has
20 made amendments and agreed to? They sound like
21 holidays, but these fishery openings, is it possible
22 to -- I know they change every year, but there are
23 three fisheries openings in that area and would
24 increase public traffic.

25 **MR. WALL:** That is certainly something

1 and turn the microphone on.

2 **EMMITT TRIMBLE:** Emmitt Trimble, Box 193,
3 Anchor Point.

4 My understanding regarding any rebuttal
5 would be it would specifically deal with those -- the
6 letter that was received, and I had some rebuttal
7 regarding the presentation that was drawn out over a
8 two-hour period with the -- one of the opponents
9 sitting over here with the computer. I felt that that
10 was something that should not have happened. We've
11 previously rebutted those drawings and those assertions
12 with the letter from a licensed land surveyor.

13 Regarding the letter that came in late, I
14 have no problem with anything there, and I'm available
15 for any questions.

16 **CHAIRMAN MARTIN:** Ms. Ecklund.

17 **COMMISSIONER ECKLUND:** Through the chair.
18 Thank you, Mr. Trimble.

19 The letter from the Alaska Division of
20 Parks and Outdoor Recreation, Jack Blackwell, mentions
21 the increase of traffic during the freshwater and
22 saltwater fisheries, and I believe those are just a few
23 days, but three different times. Are you familiar with
24 those fishery openings?

25 **EMMITT TRIMBLE:** Very familiar. I've

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1 that you can bring up with the applicant.

2 **COMMISSIONER ECKLUND:** Thank you.

3 **CHAIRMAN MARTIN:** Yes.

4 **COMMISSIONER ECKLUND:** Is this now the
5 time that we can talk to staff and deliberate some
6 more?

7 **CHAIRMAN MARTIN:** Yeah, we are in
8 discussion.

9 **COMMISSIONER ECKLUND:** Through the chair,
10 back to staff --

11 **MR. WALL:** Mr. Chairman, if I could.
12 Again, my recommendation is to allow the applicant to
13 rebut the additional comment -- the additional comments
14 he had not seen at the last meeting if he wishes to do
15 so.

16 **CHAIRMAN MARTIN:** I think that would be a
17 good sequence of events if Ms. Ecklund agrees.

18 **COMMISSIONER ECKLUND:** The comments
19 regarding the fisheries?

20 **CHAIRMAN MARTIN:** We're going to bring
21 the applicant up so we can -- for housekeeping get the
22 beginning -- get us caught up in time.

23 **COMMISSIONER ECKLUND:** Okay, yeah.

24 **CHAIRMAN MARTIN:** Would the applicant
25 please come to the podium. State your name and address

1 been there in that river bottom since 1975.

2 **COMMISSIONER ECKLUND:** Okay. And --
3 sorry, go ahead.

4 **EMMITT TRIMBLE:** And they aren't the
5 same. The freshwater openings vary every year. It
6 opens around Memorial Day, sometimes it's the weekend
7 before, sometimes weekend after. But nevertheless, on
8 Memorial Day and on the holidays, that's when the most
9 people are there. Right now there is -- last Saturday
10 there was 14 people out of 186 sites.

11 So we chose to respond to the state's
12 concerns. And, you know, the noise is coming both ways
13 then. But it's not in our best interest to be trying
14 to operate in the middle of all of that.

15 Regarding the freshwater openings -- and
16 so the saltwater is continuous every day, but mostly
17 it's on the weekends. So I'm open to suggestions about
18 that, but the summertime is what we have --

19 **COMMISSIONER ECKLUND:** Correct.

20 **EMMITT TRIMBLE:** -- we can't not operate.

21 But I thought it was reasonable Labor Day, Memorial
22 Day, and the 4th of July. Particularly we have a
23 parade down there on the 4th of July and big barbecues,
24 and so those were the big events.

25 **COMMISSIONER ECKLUND:** Okay. I did go

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1 down there two Saturdays ago and drove the road and saw
2 the recreational sites, and it was a pretty quiet
3 Saturday. I don't think there was a freshwater opening
4 that Saturday.
5 **EMMITT TRIMBLE:** Yes, that was when there
6 were 14 out of 186 was --
7 **COMMISSIONER ECKLUND:** Not just three
8 days ago, but two weeks ago.
9 **EMMITT TRIMBLE:** Yes, I understand. And
10 that was on a Saturday. There were 35 last Saturday.
11 **COMMISSIONER ECKLUND:** Okay. So on your
12 suggested additional conditions that you would agree
13 to, you say if the 4th is on a Thursday you would be
14 closed Saturday, Sunday, and Friday. Is your parade on
15 the 4th or is your parade on Friday. Because you're
16 going to be open on the day of the parade if the 4th is
17 Thursday.
18 **EMMITT TRIMBLE:** I didn't discuss those
19 clarifications of when it fell. I'm open to anything
20 there. Certainly I don't want to be anyone trying to
21 operate while the parade is going on. We wouldn't do
22 that anyway. So I think that was a clarification from
23 staff that, you know, the dates change. So we needed
24 to address that in the staff report.
25 **COMMISSIONER ECKLUND:** Okay. Yeah,

1 **EMMITT TRIMBLE:** Because we know that
2 people will be there then regardless of the fish.
3 **COMMISSIONER ECKLUND:** Thank you.
4 **CHAIRMAN MARTIN:** Further discussion on
5 the voluntary conditions? Make sure we get those all
6 nailed down.
7 **EMMITT TRIMBLE:** And the -- to clarify,
8 Mr. Wall had a question regarding the back-up beepers,
9 and he was clarifying with me that I said I was in
10 agreement with that on my equipment. I can't govern
11 what happens with a truck that's maybe one time going
12 to come in there, but I would certainly try to
13 accomplish that.
14 It's not a big deal to deactivate the
15 beeper without putting the other white noise machine
16 on. So I would do everything I could to keep that down
17 on other people's equipment.
18 **CHAIRMAN MARTIN:** Yes.
19 **COMMISSIONER ECKLUND:** Just another
20 question regarding the weight. Do you know what the
21 weight limit is on the bridge? And I know you can't
22 use it, but what is the weight limit on the bridge?
23 **EMMITT TRIMBLE:** I think it's 11 tons. I
24 followed a dump truck across it with 12 yards of dirt
25 in it the other day heading up Danver, so...

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1 because they are skipping the 4th on all three of those
2 dates. So we might need to just --
3 **UNIDENTIFIED SPEAKER:** (Indiscernible).
4 **COMMISSIONER ECKLUND:** -- to include the
5 4th?
6 **MR. WALL:** Mr. Chairman, that was the
7 intent, to include the 4th. And so if it can be
8 construed a different way, then feel free to reword
9 that, I think.
10 **COMMISSIONER ECKLUND:** Okay. So it's
11 going to include the 4th plus these three additional
12 days around these holidays?
13 **EMMITT TRIMBLE:** Sometimes there is a
14 four-day weekend I guess is what he was getting to. So
15 we would include all of that.
16 **COMMISSIONER ECKLUND:** And I didn't ask
17 you to make it a condition, but you seem to be
18 agreeable or probably practical not to operate on those
19 freshwater openings when it's crowded, or would you --
20 **EMMITT TRIMBLE:** I would rather keep it
21 to the holidays because there is too much uncertainty
22 about those openings. Frankly, usually the first
23 weekend there is hardly anyone there anyway. So I
24 would rather keep it to the holidays.
25 **COMMISSIONER ECKLUND:** Thank you.

1 **COMMISSIONER ECKLUND:** I had one follow
2 me across the bridge last Saturday.
3 **EMMITT TRIMBLE:** So it's not being
4 monitored. But to answer your question, I think it's
5 11 tons.
6 **COMMISSIONER ECKLUND:** And a gravel truck
7 full is more than that?
8 **EMMITT TRIMBLE:** As far as I know it's
9 more than that. And we, for our part, would not be
10 going across that bridge until it's repaired.
11 **COMMISSIONER ECKLUND:** But you are
12 probably going to have other contractors working with
13 you in the pit?
14 **EMMITT TRIMBLE:** And we would require of
15 them, that if they are going to buy gravel from us,
16 they cannot go across the bridge until it's repaired.
17 **COMMISSIONER ECKLUND:** Is there a
18 timeline for those repairs, do you know?
19 **EMMITT TRIMBLE:** I'm hoping for next
20 summer. I'm not optimistic. I mean, you've got to
21 build a separate bridge to tear that one down, you
22 know, to --
23 **COMMISSIONER ECKLUND:** Yeah. Thank you.
24 **CHAIRMAN MARTIN:** Ms. Fikes.
25 **COMMISSIONER FIKES:** Through the chair.

<p style="text-align: right;">Page 22</p> <p>1 Is there an area of the residential zone there or 2 housing area that would be affected by any of the Jake 3 brake use at all? 4 EMMITT TRIMBLE: The only place someone 5 might use a Jake brake would be on the other side of 6 the river coming down the hill towards the bridge. 7 You know, I'm down there all the time, my 8 daughter lives there. I don't know that I've heard 9 Jake brakes there. I have heard them from out on the 10 Sterling, Old Sterling highway. And also I'd just 11 clarify it's not a residential zone. There are 12 residential properties there, but there is no zone. 13 COMMISSIONER FIKES: Yes, I apologize, 14 you are correct. Thank you. 15 CHAIRMAN MARTIN: Any other questions for 16 the applicant? None at this time. 17 EMMITT TRIMBLE: Thank you. 18 UNIDENTIFIED SPEAKER: Mr. Chairman -- 19 CHAIRMAN MARTIN: I don't -- this isn't 20 part -- this isn't part of the plan. 21 UNIDENTIFIED SPEAKER: I realize it isn't 22 (indiscernible). 23 CHAIRMAN MARTIN: And if -- you're not 24 even -- this is not part of the procedure, sir. We 25 have -- we're in discussion at this point and we</p>	<p style="text-align: right;">Page 24</p> <p>1 patched like their edges are already falling off the 2 sides of the road. 3 So I spoke to Planning Director Best and 4 asked if there had been any followup, because at the 5 meeting, Mr. Wall, you stated that the borough would 6 not be doing any repairs as the Department of 7 Transportation and Public Facilities requested. 8 Is there anyplace in the borough code 9 that talks about what happens to a state maintained 10 road when we approve something to happen on it that 11 then makes it a bad shape, in bad repair? Who is 12 responsible to repair that? 13 MR. BEST: Thank you, through the chair, 14 Ms. Ecklund. There is nothing in borough code that 15 would require an applicant or somebody utilizing the 16 road to repair it, a state road especially. The code 17 talks about borough roads and any borough ownership of 18 those roads. 19 The -- that responsibility lies with the 20 state. If they want to impose weight restrictions, 21 axle load limits on a road in disrepair, they certainly 22 have that ability, like they do in the spring, signage. 23 Like I said, load limits and those kind of things, they 24 have the tools to do that if they felt that was 25 necessary on that road.</p>
<p style="text-align: right;">Page 23</p> <p>1 brought up some information by request. 2 UNIDENTIFIED SPEAKER: (Indiscernible). 3 CHAIRMAN MARTIN: No, by -- these people 4 requested. 5 UNIDENTIFIED SPEAKER: They did 6 (indiscernible). 7 CHAIRMAN MARTIN: What say you, Ms. 8 Ecklund? 9 COMMISSIONER ECKLUND: I have a question 10 for staff through the chair. 11 On page 124 of our packet No. 2, which 12 has 600-some pages, is the letter we received, not 13 quite -- there is so many packets on my iPad right now 14 I'm not sure which one. But it's the one from the 15 Alaska Department of Transportation & Public Facilities 16 that is, like, giving us direction, giving the borough 17 direction. 18 And I will say the pictures that were 19 presented to us at the last meeting in public testimony 20 showed the road, they were black and white. 21 But I drove that road, as I said, two 22 Saturdays ago, and I can't imagine what that road is 23 going to turn into with a large amount of heavy trucks 24 going over it. It's very narrow, it is cracked all 25 over, especially along the edges and tried to be</p>	<p style="text-align: right;">Page 25</p> <p>1 COMMISSIONER ECKLUND: Thank you. 2 CHAIRMAN MARTIN: Mr. Bentz. 3 COMMISSIONER BENTZ: Followup question 4 for staff regarding roads. 5 We did receive testimony that, "Wouldn't 6 it have to be approved by the state DNR through the 7 State Parks since that road was originally granted as 8 easement through the State Parks for DOT as well?" 9 I just remember there being some 10 combination of State Parks/DOT relationship with that 11 road building. 12 MR. WALL: It is complicated. I did look 13 into that a little bit today. I believe that DOT does 14 have an easement for that to do all the work they need. 15 From my previous conversations with DOT, 16 the major limiting factor was the adjacent wetlands and 17 encroaching upon, like, the adjacent private property. 18 There just isn't much room to work in there. So it was 19 more of a physical restraint rather than the legal 20 restraint. 21 CHAIRMAN MARTIN: Mr. Whitney. 22 COMMISSIONER WHITNEY: A followup on that 23 earlier question on weight limits. 24 Who would trigger that with DOT? Would 25 it be a complaint from the borough? Would it be a</p>

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1 complaint from property owners in the area or people
2 using the road or even parks department?
3 **MR. BEST:** Through the chair, Mr.
4 Whitney. I believe it could be anybody that could make
5 the complaint. But it would be up to DOT to do an
6 analysis of it to decide if there should be some sort
7 of load limit on there.
8 **COMMISSIONER WHITNEY:** Thank you.
9 **CHAIRMAN MARTIN:** Mr. Ruffner.
10 **COMMISSIONER RUFFNER:** Thank you, Mr.
11 Chair. So I think to get us on to the crux of what
12 we're working on here, I would move to amend our motion
13 by substitution. And the substitution would include
14 the resolution that is in our electronic packet
15 starting on page 22 of 173 and continuing through 29 of
16 173.
17 **COMMISSIONER BENTZ:** Second.
18 **COMMISSIONER RUFFNER:** And then I can
19 speak a little bit just to the substitution.
20 So this substitution amendment renumbers
21 a number of sections to have it make sense. There are
22 a couple of substantial -- or maybe not substantial
23 changes, but the additions are in red that included the
24 voluntary conditions that were worked on and agreed
25 upon by the applicant and staff.

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1 And also makes some changes and clarifies
2 the permit conditions themselves with respect to a
3 change in the height of the berm specifically along one
4 of the streets. So that's -- and this was all covered
5 by the staff in their staff report. So that's what
6 this amendment accomplishes.
7 **CHAIRMAN MARTIN:** Mr. Wall.
8 **MR. WALL:** Just for clarification. The
9 resolution on the page numbers that Mr. Ruffner just
10 referred to does not include the conditions that has
11 been volunteered since the last meeting. And the
12 clarification on the buffer along Danver Road as
13 contained in today's staff report, that would need to
14 be --
15 **CHAIRMAN MARTIN:** A separate motion?
16 **MR. WALL:** -- an additional motion to
17 amend that.
18 **CHAIRMAN MARTIN:** So we can deliberate
19 and vote on the motion now and then add to that, it
20 would be simpler. Further discussion on the motion?
21 Ms. Bentz.
22 **COMMISSIONER BENTZ:** Question for staff
23 through the chair.
24 On page 27 of our packet, the permit
25 conditions, there is language change on condition No. 2

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1 about buffers. And the language that was replaced was
2 "between the vegetated buffer" and replaced with
3 "placed near the active extraction area." Can you
4 explain that language change for three bullet points in
5 condition 2?
6 **MR. WALL:** Yes, and that was me trying to
7 get it into words what the applicant was volunteering
8 concerning the rolling berm or the moving berm.
9 The way that it was previously written,
10 he could put that berm anywhere between the property
11 boundary and the excavation. This limits him to
12 placing the berm near the active excavation area.
13 So as the -- as he progresses with the
14 active excavation area, he would need to move the berm.
15 So it would be moving or rolling, as he's referred to
16 it.
17 **CHAIRMAN MARTIN:** Further discussion? Is
18 there any opposition to the motion? Hearing and seeing
19 none, the motion passes, the amendment passes.
20 I'll entertain a motion on the other
21 amendment Mr. Wall discussed.
22 (Whispered discussion-indiscernible).
23 **COMMISSIONER RUFFNER:** I think there is a
24 little discussion, I want to be careful about that. So
25 the only discussion that's happening up here is that we

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1 just need a little clarification, Mr. Wall, on the --
2 where we can find -- is it -- I think there are two --
3 are there two additional changes or just one additional
4 change that was not in the substitute language?
5 **MR. WALL:** Yes, and I apologize. And
6 some of that I did kind of a blue line/red line thing,
7 and the other part I didn't. So let me clarify that.
8 On condition 2, I'm proposing that the
9 fifth bullet point be changed to a 50-foot vegetated
10 buffer adjacent to the eastern most parcel boundary and
11 a 12-foot high berm placed near the active extraction
12 area except along the northern 200 feet of the proposed
13 excavation. So that takes care of the first issue
14 concerning the buffer along Danver.
15 The --
16 **COMMISSIONER BOKENKO-CARLUCCIO:** I'm
17 sorry, I'm sorry, Mr. Chairman, I'm a little lost. I
18 don't know -- he said Item 2, and now I don't know
19 where he is.
20 **MR. WALL:** Okay, and I'm referring to
21 today's staff report, the two-page staff report,
22 condition No. 2.
23 **COMMISSIONER BOKENKO-CARLUCCIO:** On
24 page -- on what page?
25 **COMMISSIONER ECKLUND:** 27 of 173.

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1 **COMMISSIONER BOKENKO-CARLUCCIO:** 15.1?
2 **COMMISSIONER ECKLUND:** This is 15.1. But
3 on the packet it gives permit conditions.
4 **COMMISSIONER BOKENKO-CARLUCCIO:** And
5 that's on page 27?
6 **COMMISSIONER ECKLUND:** Where the change
7 is.
8 **COMMISSIONER BOKENKO-CARLUCCIO:** So,
9 okay, permit conditions on page 27 of 173 and 15.1 of
10 173?
11 **MR. WALL:** Yeah. So on the resolution
12 that's contained in your staff report -- I mean, in the
13 packet, you're changing the fifth bullet point -- I'm
14 proposing changing the fifth bullet point on condition
15 2 on page 27.
16 **COMMISSIONER RUFFNER:** Through the chair.
17 Is that the only additional change?
18 **MR. WALL:** Mr. Chairman, Mr. Ruffner, the
19 second change is in the staff report on that page 15.1.
20 And it would be all of the text under 22, and 29 E, F,
21 and G contained in the staff report. The 29 E, F, and
22 G would be the findings to support the additional
23 condition No. 22.
24 **COMMISSIONER BOKENKO-CARLUCCIO:** Do you
25 think you can --

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1 **CHAIRMAN MARTIN:** Mr. Ruffner.
2 **COMMISSIONER RUFFNER:** Thank you, Mr.
3 Chair. Just -- I know that we're all trying, trying to
4 follow along here. But I think I've got it, so I'll
5 try this and staff can correct me if it's not the right
6 intent.
7 But I think there are three more changes
8 that we might consider, and I think taking them one at
9 a time probably makes the most sense. So I'll put the
10 first one out there for discussion.
11 So in the fifth bullet point are the
12 resolution that we now have in front of us.
13 On condition No. 2, we would be
14 changing that bullet point to read, "A 50-foot
15 vegetated buffer adjacent to the eastern most parcel
16 boundary and a 12-foot high berm placed near the active
17 extraction area, except along the northern 200 feet of
18 the proposed excavation, period."
19 So that is a motion to amend our
20 resolution, to include that condition, permit
21 condition.
22 **COMMISSIONER BENTZ:** Second.
23 **CHAIRMAN MARTIN:** Discussion. Ms.
24 Carluccio.
25 **COMMISSIONER BOKENKO-CARLUCCIO:** Why are

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1 we excluding the 200 feet to the north?
2 **MR. WALL:** Mr. Chairman, Ms. Carluccio.
3 That is an area that has some significant vegetation.
4 The applicant felt like a 12-foot berm would be
5 redundant, particularly since the property sits at a
6 higher elevation than the adjacent road. The adjacent
7 road is quite a bit lower right there.
8 And the adjacent property across the
9 street on Danver is a prior existing use material site.
10 Generally the commission doesn't require a buffer
11 between material sites.
12 But then also the idea behind that, I
13 think what the applicant was getting at with that is
14 that that gives him additional gravel to extract in
15 that area that's more hidden from the neighbors. And
16 so if he can extract more gravel from that area that's
17 hidden from the neighbors, that would mean less gravel
18 that he would have to extract elsewhere potentially.
19 **CHAIRMAN MARTIN:** Ms. Ecklund.
20 **COMMISSIONER ECKLUND:** I'm not -- through
21 the chair to staff, and I'm not sure that you have this
22 dimension.
23 But when I drove down Danver, the first
24 200 feet is -- their access road is within there, and
25 you can see into the upper level as you said, an upper

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1 level area of gravel.
2 And at some point along Danver is a big
3 high berm, the downed trees and the stuff that was just
4 pushed off so that they could get to the gravel.
5 Do you know, is that berm within that 200
6 feet? It seemed rather close to the Anchor Point Road
7 up Danver.
8 **MR. WALL:** That berm would not be within
9 the 200 feet. The 200 feet would end where the denser
10 vegetation ends.
11 **COMMISSIONER ECKLUND:** Okay. There is a
12 berm somewhere along there, and you're right, it could
13 be more than 200 feet, and then there is an area where
14 there is no vegetation along Danver Road where you
15 could see out to the fenced horse area. Is that area 2
16 or area 3 that I saw?
17 I'm just trying to find out where the
18 buffer is along there. I know that's not what we're
19 talking about right now, but I just -- the berm is
20 passed the 200 feet, and then the area where you can
21 see the horse pasture is past the 200 feet?
22 **MR. WALL:** That's correct.
23 **CHAIRMAN MARTIN:** Ms. Carluccio.
24 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes.
25 With all these pages, can you direct us to a page that

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1 we could visually see what you're talking about?
2 **MR. WALL:** Give me a minute.
3 **COMMISSIONER BENTZ:** Mr. Chair, I would
4 suggest looking at page 190 of Volume 2, or --
5 **MR. WALL:** And I apologize, my numbering
6 is different than what you have, so give me a minute to
7 catch up with you.
8 **CHAIRMAN MARTIN:** Mrs. Carluccio, did you
9 find the page that Ms. Bentz is suggesting?
10 **COMMISSIONER BOKENKO-CARLUCCIO:**
11 Actually, Ms. Ecklund did, and that's not really what I
12 had in mind. I was thinking about a --
13 **CHAIRMAN MARTIN:** Photograph.
14 **COMMISSIONER BOKENKO-CARLUCCIO:** --
15 actual photograph, an aerial view.
16 **MR. WALL:** Yeah, I have in front of me
17 the picture that you're looking for. I just need to
18 find it, what the page number is in your packet. I'm
19 being told that it's page 420.
20 **COMMISSIONER BOKENKO-CARLUCCIO:** Of
21 Volume 2? It can't be, I only have --
22 **MR. WALL:** Okay, so there is the prior
23 existing use material site is the pond on the opposite
24 side of Danver. And immediately west of that pond is
25 the vegetation that I'm talking about that's fairly

1 is being recommended there in addition to that 50-foot
2 vegetation.
3 **COMMISSIONER ECKLUND:** Thank you.
4 **CHAIRMAN MARTIN:** Further discussion on
5 the amendment? Ms. Carluccio, you have your
6 microphone.
7 **COMMISSIONER BOKENKO-CARLUCCIO:** Sorry.
8 **CHAIRMAN MARTIN:** Is there any opposition
9 to the motion for amendment? Hearing and seeing none,
10 the motion passes unanimously. Further discussion on
11 the main motion? Mr. Ruffner.
12 **COMMISSIONER RUFFNER:** Thank you, Mr.
13 Chair. So we'll take the second proposed volunteered
14 condition. So this would be No. 22.
15 Permittee shall not operate the material
16 site or haul material from the site on Memorial Day
17 weekend, Labor Day weekend, and the 4th of July
18 holiday. And the specifics of how those fall with
19 respect to the Tuesday through Thursday is spelled out
20 in three bullet points on page 151 of -- or 15.1 of
21 173. So I'd make that amendment.
22 **COMMISSIONER FOSTER:** Second.
23 **CHAIRMAN MARTIN:** It's been moved and
24 seconded. Discussion?
25 **COMMISSIONER ECKLUND:** Add findings?

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1 dense in there. And that's the portion that he is
2 proposing to eliminate the 12-foot high berm.
3 Then on a couple of pages after that is
4 some contour lines that might help visualize that as
5 well. That would be page -- is there a number there?
6 **UNIDENTIFIED SPEAKER:** 423.
7 **CHAIRMAN MARTIN:** Yeah, 423.
8 **MR. WALL:** And so there are some contour
9 lines there that shows that the road is at a lower
10 elevation there. You can see that the adjacent
11 property is at about a 24-foot elevation, and where
12 those trees are it's about a 44-foot elevation.
13 **CHAIRMAN MARTIN:** Ms. Ecklund.
14 **COMMISSIONER ECKLUND:** If you're looking
15 at that page, the area I was talking about where there
16 is no vegetated buffer is along Danver Road to the
17 south where you don't see any trees.
18 How do you get a vegetated -- 50-foot
19 vegetated buffer? Are we talking grass land?
20 **MR. WALL:** Yes, there are some trees in
21 that area. They are pretty sparse. So yes, it does
22 not provide a lot of screening. So yeah, most of that
23 is going to be grass.
24 **COMMISSIONER ECKLUND:** And that's --
25 **MR. WALL:** So that's why a 12-foot berm

1 **COMMISSIONER BENTZ:** Do we need to attach
2 the findings?
3 **COMMISSIONER RUFFNER:** Yes, and I'll add
4 to my amendment then, too. Attach the following
5 findings, 29 E, the applicant has volunteered the
6 condition, a condition that prohibits material site
7 operations on holiday weekends during the summer
8 months; and F, a volunteered condition to not operate
9 on holidays as consistent with the standard to reduce
10 noise disturbance to adjacent properties; and G, the
11 volunteered condition to not operate on holidays in the
12 best interest of the borough and the surrounding
13 property owners because of the state recreational area
14 has a significant greater number of visitors on those
15 holidays, and several of the neighbors and Alaska State
16 Parks has expressed concerns about noise impacts to the
17 recreational area.
18 **CHAIRMAN MARTIN:** Does the maker of the
19 second concur?
20 **COMMISSIONER FOSTER:** Yes.
21 **CHAIRMAN MARTIN:** Now we can discuss. Is
22 there any opposition to the motion? Hearing and seeing
23 none, that motion passes.
24 Yeah, we're discussing the main motion as
25 amended. Ms. Ecklund.

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1 **COMMISSIONER ECKLUND:** Through the chair
2 to staff. This is the main motion on approving this
3 material site permit.
4 Staff, is the area around this gravel
5 pit, would it have been sufficient area for a local
6 option zoning had they done that prior to this permit?
7 **MR. WALL:** Yes. All that's required for
8 a local option zone is 12 contiguous lots.
9 **COMMISSIONER ECKLUND:** Okay. Thank you
10 followup, sorry.
11 **CHAIRMAN MARTIN:** Yes.
12 **COMMISSIONER ECKLUND:** Would the
13 recreational, the state recreational -- no, I'm getting
14 a head shake from Mr. Best. So it would be 12
15 privately owned lots?
16 **MR. WALL:** Yeah, the code deals with
17 similarly sized lots. And so I would believe that
18 would exclude the state recreational areas, because
19 they would need to be similarly sized lots and similar
20 uses.
21 **COMMISSIONER ECKLUND:** And then they
22 could have -- I know it's after the fact, but yeah,
23 just wanted to know if it was even a possibility ever
24 in their life.
25 **CHAIRMAN MARTIN:** Ms. Carluccio.

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1 **COMMISSIONER BOKENKO-CARLUCCIO:** I was
2 going to say actually I don't think so, because even if
3 they did an LOR, it wouldn't necessarily include Mr.
4 Trimble's property. And so the LOR wouldn't have
5 affected this anyway, would it?
6 **MR. WALL:** That is correct. Under the
7 current ordinance, the -- because, again, the parcel
8 sizes need to be similarly sized, they could not
9 include Mr. Trimble's property within that local option
10 zone. It would be limited to 12 contiguous similarly
11 used lots, residential lots.
12 **CHAIRMAN MARTIN:** Ms. Carluccio.
13 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes, one
14 other question. And once again, I'm not sure where it
15 was, but did Mr. Trimble at some point indicate what --
16 how much gravel he was planning to move on a yearly
17 basis, or how much he was planning to excavate?
18 **MR. WALL:** Mr. Chairman, Ms. Carluccio.
19 The application states up to 50,000 cubic yards. In
20 previous hearings he indicated that he really has no
21 intentions of going that high. It would probably be
22 much smaller. That is just the number that he used,
23 because anything beyond that requires bonding with the
24 state.
25 **COMMISSIONER BOKENKO-CARLUCCIO:** But in

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1 effect, he could excavate that much, move that much
2 gravel in a year.
3 And I guess through the chair, another
4 question I have is if he, in fact, sold this property,
5 would the conditional use go with the property?
6 **MR. WALL:** Yeah, the first question is
7 yes. He certainly could excavate the 50,000 cubic
8 yards, if this permit is approved, per year.
9 And yes, the permit does carry with the
10 land. It doesn't -- it's not tied to the owner, it's
11 tied to the land.
12 **COMMISSIONER BOKENKO-CARLUCCIO:** So just
13 one final followup. Even if he says that he doesn't
14 intend to move 50,000 in a year, but he, in fact, sold
15 the property, then it still would be open for up to
16 50,000?
17 **MR. WALL:** That's correct.
18 **COMMISSIONER BOKENKO-CARLUCCIO:** But --
19 through the chair. But all of these other conditions
20 that we've put on it today would remain in effect?
21 **MR. WALL:** That is correct.
22 **COMMISSIONER BOKENKO-CARLUCCIO:** Thank
23 you.
24 **CHAIRMAN MARTIN:** Are you ready to vote?
25 Ms. Bentz?

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1 **COMMISSIONER BENTZ:** Thanks, through the
2 chair. I guess in deliberations, I just remind all the
3 commissioners, if there is any other conditions or
4 modification to the conditions that we have laid before
5 us that would facilitate a reduction in negative
6 secondary impacts of this material site going in, we
7 did briefly talk about the rolling berm and how it
8 would be more or less effective based on the approach
9 to extraction, whether it was going from east to west
10 towards neighboring residences or from north to south,
11 and just trying to think about the practicality of that
12 rolling berm and having it march ahead of any
13 excavation so that it was reducing that sight angle or
14 reducing that potential dust or noise barrier as it
15 went.
16 So I think that's just a concept that I
17 haven't seen a lot before in other material sites, and
18 just curious if other commissioners have any opinions
19 about that, or the practicality of that?
20 **CHAIRMAN MARTIN:** Mr. Ruffner.
21 **COMMISSIONER RUFFNER:** Well, I'll just
22 kind of redirect to staff. I think that, you know,
23 that we did include that in that first amendment by
24 substitution, that the applicant had volunteered to
25 utilize that technique.

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1 And so it seems to make sense, you know,
2 in this case, and because of the sight angles that you
3 mentioned, but in other cases, than just the
4 practicality of being able to extract material if
5 you're removing the stuff you don't want, which is on
6 top, and just kind of keep stacking it and moving it as
7 you go, that keeps the greatest distance of a buffer
8 between you rather than, you know, push it all out at
9 the beginning, build your berm way out at the end and
10 work to supply the material.
11 And particularly in large sites it seems
12 like it would make a lot of sense to apply that in the
13 future as well. I think that's what you were asking.
14 **CHAIRMAN MARTIN:** Mr. Foster.
15 **COMMISSIONER FOSTER:** I have a question
16 for staff. With these berms, do they ever put in
17 alder, just so the alder will take off on these earthen
18 berms, or they just generally cut down a bunch of trees
19 and drag them over and make it kind of biomass and
20 dirt? How -- what do we consist of an earthen berm and
21 what can we put on as additional conditions on that?
22 **MR. WALL:** I don't think the code really
23 allows any additional conditions on that. It's assumed
24 that it's going to be an earthen berm. Typically
25 that's what I see with material sites, is an earthen

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1 berm with perhaps some woody debris in there from the
2 clearing, but usually that stuff just gets in the way.
3 So there is usually not a lot of woody debris in there.
4 And then if that berm stays in place for
5 quite some time, then vegetation will naturally start
6 growing on it, such as alders. But that would not seem
7 practical in this case where they are going to be
8 moving the berm periodically.
9 **CHAIRMAN MARTIN:** Further discussion?
10 Ms. Carluccio.
11 **COMMISSIONER BOKENKO-CARLUCCIO:** And as
12 far as this goes, that we do have a reclamation plan in
13 place? Or is it just up to Mr. Trimble?
14 **MR. WALL:** There is a reclamation plan
15 included with the application that meets the code
16 requirements, yes.
17 **COMMISSIONER BOKENKO-CARLUCCIO:** And the
18 code requirements are?
19 **MR. WALL:** The exhausted areas exceeding
20 five acres in size needs to be reclaimed with four feet
21 of soil and revegetated -- four inches of soil and
22 revegetated. And the slopes need to be 2-to-1 slope so
23 there aren't any steep slopes.
24 **CHAIRMAN MARTIN:** Please.
25 **COMMISSIONER BOKENKO-CARLUCCIO:** And what

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1 is the borough's history on following up on
2 reclamations of other sites?
3 **MR. WALL:** Each year I do go and do an
4 inspection of each of the permitted material sites and
5 take note of what areas are in need of reclamation, and
6 if they haven't been keeping up, I do follow up with
7 them.
8 The current language of the code is a
9 little bit problematic with that because it talks about
10 exhausted areas, and so that's a little bit subjective.
11 But if an area is obviously exhausted, then I do follow
12 up and require the reclamation take place.
13 **COMMISSIONER BOKENKO-CARLUCCIO:** And is
14 there something in the code or some way to follow up
15 if, in fact, they don't reclaim?
16 **MR. WALL:** Yes, there are provisions in
17 the code for enforcement of the ordinance, particularly
18 concerning reclamation. That would involve sending out
19 an enforcement notice, scheduling a hearing with a
20 hearing officer. And the fines are typically \$300 a
21 day, plus the hearing officer can take additional
22 action concerning -- requiring the reclamation and
23 revoking the permit.
24 **COMMISSIONER BOKENKO-CARLUCCIO:** So, in
25 effect, you actually can revoke a permit if they don't

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1 follow the guidelines?
2 **MR. WALL:** Yes, absolutely.
3 **COMMISSIONER BOKENKO-CARLUCCIO:** And
4 through the chair -- you're very lenient, thank you.
5 **CHAIRMAN MARTIN:** It's your meeting.
6 **COMMISSIONER BOKENKO-CARLUCCIO:** And how
7 much time do they have? I mean, when you send out a
8 letter and a notice, are we talking weeks, months,
9 years?
10 **MR. WALL:** I'm probably a little too
11 generous in working with some of these people, giving
12 them more time than I should. The idea is to get
13 compliance with it, get them to be in compliance and
14 help them determine the time frame that works with
15 them. But no, we're not talking about years, we're
16 talking about months.
17 **COMMISSIONER BOKENKO-CARLUCCIO:** Okay,
18 thank you.
19 **CHAIRMAN MARTIN:** Mr. Venuti.
20 **COMMISSIONER VENUTI:** Question for staff
21 through the chair. Mr. Wall, would reclamation require
22 bonding?
23 **MR. WALL:** The way that the code is
24 currently written is if a material site in the borough
25 is exempt from the state bonding requirements, we also

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1 exempt it from our bonding requirements. Anything that
2 is excavating -- that has a total disturbed area of
3 less than five acres is exempt from the state bonding
4 requirement.
5 So if they start reclaiming land after
6 they have disturbed five acres, then no, we would never
7 require bonding under the current code.
8 **COMMISSIONER VENUTI:** Can we make bonding
9 a condition?
10 **MR. WALL:** The ordinance specifically
11 exempts it if they were exempt from the state bonding
12 requirements.
13 **COMMISSIONER VENUTI:** Thank you.
14 **CHAIRMAN MARTIN:** Anyone else? Roll
15 call, please.
16 **THE CLERK:** This is to approve a
17 conditional land use permit application for
18 Beachcomber, LLC, Resolution 2018-23 that's been
19 amended.
20 Venuti?
21 **COMMISSIONER VENUTI:** Yes.
22 **THE CLERK:** Morgan.
23 **COMMISSIONER MORGAN:** Yes.
24 **THE CLERK:** Foster?
25 **COMMISSIONER FOSTER:** Yes.

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1 **THE CLERK:** Carluccio?
2 **COMMISSIONER BOKENKO-CARLUCCIO:** No.
3 **THE CLERK:** Bentz?
4 **COMMISSIONER BENTZ:** Yes.
5 **THE CLERK:** Whitney?
6 **COMMISSIONER WHITNEY:** No.
7 **THE CLERK:** Ruffner?
8 **COMMISSIONER RUFFNER:** Yes.
9 **THE CLERK:** Fikes?
10 **COMMISSIONER FIKES:** Yes.
11 **THE CLERK:** Ecklund?
12 **COMMISSIONER ECKLUND:** Yes.
13 **THE CLERK:** Martin?
14 **CHAIRMAN MARTIN:** Yes.
15 **THE CLERK:** 8 to 2.
16 **CHAIRMAN MARTIN:** The motion carries.
17 And I would like to thank you every member of the
18 public who came and did their research and participated
19 in the process. It's not a pretty one, but it's the --
20 it's better than a lot of the alternatives. So I just
21 want to express my thanks for you participating in this
22 way.
23 8:40:03.
24 (End of requested portion)
25 11:10:33

CERTIFICATE

1
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 6/24/19 was transcribed
7 under my direction by computer transcription; that the
8 foregoing is a true record of the testimony and
9 proceedings taken at that time to the best of my
10 ability; and that I am not a party to nor have I any
11 interest in the outcome of the action herein contained.
12 IN WITNESS WHEREOF, I have hereunto set my
13 hand and affixed my seal this 26th day
14 of August, 2019.
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23 #3319
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LEONARD J. DiPAOLO, RPR, CRR, CCP
Notary Public for Alaska
My Commission Expires: 2-3-2020

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