

## **C. APPROVAL OF CONSENT & REGULAR AGENDAS**

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

#### **a. May 23, 2022 Planning Commission Meeting Minutes**

# Kenai Peninsula Borough Planning Commission

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

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May 23, 2022

8:00 P.M.

## UNAPPROVED MINUTES

### **AGENDA ITEM A.**      **CALL TO ORDER**

Commissioner Bentz called the meeting to order at 8:00 p.m.

### **AGENDA ITEM B.**      **ROLL CALL**

#### *Commissioners Present*

Syverine Abrahamson-Bentz, District 9 – South Peninsula

Jeremy Brantley, District 5 – Sterling/Funny River

Diane Fikes, City of Kenai

John Hooper, District 3 – Nikiski

Michael Horton, District 4 – Soldotna

Blair Martin, District 2 – Kenai

Virginia Morgan, District 6 – East Peninsula

David Stutzer, District 8 – Homer

Charlene Tautfest, City of Soldotna

Franco Venuti, City of Homer

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

#### *Staff Present*

Robert Ruffner, Planning Director

Walker Steinhage, Deputy Borough Attorney

Marcus Mueller, Land Management Officer

Aaron Hughes, Land Management Land Agent

Dakota Truitt, Land Management Land Agent

Julie Hindman, Platting Specialist

Samantha Lopez, KRC Manager

Ryan Raidmae, Borough Planner

Ann Shirnberg, Planning Administrative Assistant

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

#### **\*3.      Plats Granted Administrative Approval**

- a. Horse Creek Subd. 2021 Addition; KPB File 2021-099
- b. Mackey Lakes Subdivision Douglas Replat; KPB File 2021-109

#### **\*6.      Commissioner Excused Absences**

- a. Pamela Gillham, District 1 – Kalifornsky
- b. District 7 – Central, Vacant
- c. City of Seward, Vacant
- d. City of Seldovia, Vacant

#### **\*7.      Minutes**

- a. May 9, 2022 Planning Commission meeting minutes.

Chair Martin asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items.

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Tautfest to approve the consent and regular agendas.

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Gillham

**AGENDA ITEM E.      NEW BUSINESS**

**ITEM E1 - SECTION LINE EASEMENT VACATION  
VACATE SECTION LINE EASEMENTS ASSOCIATED WITH TRACTS A, B, AND C OF QUARTZ  
CREEK SUBDIVISION PLAT NO SW 94-11**

<b>KPB File No.</b>	2022-060V
<b>Planning Commission Meeting:</b>	May 23, 2022
<b>Applicant / Owner:</b>	Three Bears Alaska Inc of Wasilla, AK and Kenai Peninsula Borough of Soldotna, AK
<b>Surveyor:</b>	John Segesser / Segesser Surveys
<b>General Location:</b>	Cooper Landing / Cooper Landing APC
<b>Legal Description:</b>	50-foot section line easements associated with the SW1/4 Section 30, Township 5 North, Range 2 West, SE1/4 Section 25 and the N1/2 Section 36, Township 5 North, Range 3 West

Staff report was given by Platting Specialist Julie Hindman.

Chair Martin open the item for public comment.

Marcus Mueller, KPB Land Management Officer: Mr. Mueller spoke as a representative of the Kenai Peninsula Borough who is the landowner of Tracts A & C of Quartz Creek Subdivision. He stated that he supports staff's recommendations. He then made himself available for any questions.

Commissioner Morgan asked if the Cooper Landing APC had the opportunity to review this vacation. She reviewed the minutes from the most recent APC meeting and doesn't see any recommendation on this item. Mr. Mueller replied that he had attended the last APC meeting and doesn't know how the plat information was presented. He doesn't remember the item being discussed at this meeting. Commissioner Morgan stated that she had attended this meeting and the APC was not given any information on this vacation. She is not sure that they were aware that this section line easement vacation was coming up.

Dan Steiner, Steiner Design & Construction LLC; 5900 W. Dewberry Dr., Wasilla, AK 99623: Mr. Steiner is the civil engineer hired by Three Bears to work on this project. Mr. Steiner asked if he was correct in understanding that the section line easement on Tract B had already been approved. Ms. Hindman replied that it initially had been approved at the borough level, but had been denied at the state level. What is before the commission tonight is a new petition to vacate the section line easements on Tracts A, B & C.

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

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

Commissioner Morgan stated that she does not feel comfortable supporting this request at this time. She does not feel that the public process worked well. She had attended the recent Cooper Landing Advisory

Planning Commission (CLAPC) meeting and this petition was not reviewed or discussed. Because this is a quasi-judicial matter, she did not speak with anyone associated with the CLAPC regarding this petition. She did not want to put herself in a position of not being able to vote on this matter. She feels like she is lacking information because of the lack of public process in Cooper Landing area. She will not be voting in favor of this petition.

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

**MOTION FAILED BY MAJORITY VOTE:**

Yes - 4	Bentz, Brantley, Martin, Stutzer
No - 6	Fikes, Hooper, Horton, Morgan, Tautfest, Venuti
Absent - 1	Gillham

Ms. Hindman reminded the commission that a denial of a vacation means no other action can be taken. A new application with additional information would need to be provided in order for this to be heard within the next year.

Chair Martin stated that Commissioner Morgan made a great point and he did not believe the intent of the commission was to push this application out for a year. He asked if any of the commissioners from the prevailing side wished to reconsider the motion and ask for a postponement.

**MOTION TO RECONSIDER:** Commissioner Morgan moved, seconded by Commissioner Tautfest to request a reconsideration.

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Tautfest to postpone action on this item until the June 13, 2022 Planning Commission meeting.

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Gillham

**ITEM E2 – CONDITIONAL USE PERMIT  
TO PERFORM BANK STABILIZATION ON A PARCEL WITHIN THE 50-FOOT HABITAT PROTECTION  
DISTRICT OF THE KENAI RIVER**

<b>PC Resolution No.</b>	2022-22
<b>Planning Commission Meeting:</b>	May 23, 2022
<b>Applicant / Owner:</b>	Will & Becky Jahrig
<b>KPB Parcel No.</b>	049-011-35
<b>Location:</b>	922 Bridge Access Rd. City of Kenai
<b>Legal Description:</b>	T05N, R11W, SEC 4, S.M., KN 2020044, Kristine Sub No. 1, Lot 3

Staff report given by Samantha Lopez.

Chair Martin open the item for public comment.

Will Jahrig, Petitioner; P.O. Box 51, Kenai, AK 99611: Mr. Jahrig spoke in support of the commission approving this request and made himself available for questions.

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

**MOTION:** Commissioner Horton moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-22, granting a conditional use permit pursuant to KPB 21.18 for the construction of a bank stabilization project within the 50-foot Habitat Protection District of the Kenai River.

Commissioner Venuti stated he thought this was an interesting project. But he had concerns on how this project could possibly negatively affect other properties downstream. He struggles to understand why folks would want to build in such an unstable area.

Commissioner Brantley noted recent imagery shows that properties on either side of this request have done bank stabilization projects. These projects might have caused some of this erosion to happen. The photo on page E-17 of the packet shows there has already been some reclamation work done with steel beams on the properties up & down stream from this one.

Commissioner Bentz stated that it is nice to see that this application has a combination of both gray and green infrastructures. Incorporating some revegetation and nature-based solutions along with traditional armoring. She noted that she will be supporting this application.

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

**MOTION PASSED BY MAJORITY VOTE:**

Yes - 9	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest
No - 1	Venuti
Absent - 1	Gillham

**ITEM E3 – CONDITIONAL LAND USE PERMIT  
MATERIALS PROCESSING**

<b>PC Resolution No.</b>	2022-21
<b>Planning Commission Meeting:</b>	May 23, 2022
<b>Applicant / Owner:</b>	Colaska Inc. - QAP
<b>KPB Parcel No.</b>	125-090-28
<b>Location:</b>	27083 Seward Hwy., Seward AK
<b>Legal Description:</b>	T03N, R01W, SEC 18, S.M., SW 2011016, Renfro's Lakeside Retreat No. 6, Lot 2F, Except that Portion Conveyed to State of AK DOT In WD 2017-633

Staff report given by Resource Planner Ryan Raidmae.

Chair Martin open the item for public comment.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: McLane Consulting was hired by QAP – Colaska to flag the property and prepare the site development plan. She spoke in support of approving this CLUP and made herself available for questions.

Commissioner Morgan asked Ms. DeBardelaben to confirm that there are earthen berms on three sides of the property. Ms. DeBardelaben stated when the land was cleared, they built berms on the north, west and south sides of the property and that the berms are over 20-feet high.

Commissioner Bentz noted comments had been received from the public regarding the plans for this property after its' use as a staging area and asked if she could speak to this. Ms. DeBardelaben replied the plan is to restabilized the property. She cannot speak to what the landowner plans to do with the property after the restabilization.

Matt Shram, 8241 W. Wesley Drive, Wasilla, AK 99623: Mr. Shram works for QAP and is the superintendent on the Seward Hwy. MP 17-22.5 Rehabilitation Project. He noted that QAP has no immediate plans to process any materials at this site once this project is completed. He is not aware of the plan for the property once the project is finished. Most likely QAP will either sell the property or hold on to it as a staging site for future projects in the area. He stated they would only crush rock during daytime hours. However, asphalt production hours may differ due to the limitation of traffic conditions set by AK DOT. He then made himself available for questions.

Commissioner Fikes asked Mr. Shram since asphalt production may occur in the evenings, how loud would

the level of noise be. Mr. Shram replied that asphalt production is not particularly quiet. However, they will be producing about 36 tons of asphalt at this site, which at most will take approximately 2-3 weeks to produce, which will occur over the lifetime of the 3-year project. Commissioner Fikes then asked if their equipment would be using any noise reducing technologies. Mr. Shram replied that the backup alarms on their equipment only go off if they sense something behind the equipment, but no other noise reducing technologies had been installed on their equipment.

Commissioner Morgan asked Mr. Shram if they would be will to limit rock crushing to the hours of 8AM to 8PM. Mr. Shram replied that they would definitely be willing to do that.

Dawn Ernst; 27243 Seward Hwy., Seward, AK 99664: Ms. Ernst spoke in opposition to this conditional land use permit. The proposed processing site is surrounded by residential properties and she expressed concerns regarding noise, dust and visual impacts.

Jan-Ake Schultz; 13010 Sher Circle, Anchorage, AK 99516: Mr. Schultz spoke in opposition to this conditional land use permit. The proposed processing site is surrounded by residential properties and he expressed concerns regarding noise, dust and visual impacts.

Gary Glasgow, 27177 Seward Hwy., Seward, AK 99664: Mr. Glasgow spoke in opposition to this conditional land use permit. The proposed processing site is surrounded by residential properties and he expressed concerns regarding noise, dust and visual impacts. He believes that there are better locations for this type of activity.

Bonnie Frier; P.O. Box 14, Moose Pass, AK 99631: Ms. Frier spoke in opposition to this conditional land use permit. The proposed processing site is surrounded by residential properties and she expressed concerns regarding noise, dust and visual impacts.

Mark Ernst; 27243 Seward Hwy, Seward, AK 99664: Mr. Ernst spoke in opposition to this conditional land use permit. The proposed processing site is surrounded by residential properties and he expressed concerns regarding noise, dust and visual impacts.

Jay Grimes; P.O. Box 355 Seward, AK 99664: Mr. Grimes spoke in opposition to this conditional land use permit. The processing site is surrounded by residential properties and he expressed concerns regarding noise, dust and visual impacts.

Matt Shram, 8241 W. Wesley Drive, Wasilla, AK 99623: Mr. Shram noted that their will be no gravel extraction at this site. This site will be use for rock crushing and asphalt production only. While there may be some rock crushing at this site starting in the late fall of this year, the majority of the rock processing will occur during the construction season of 2023. There will be approximate one week or less of asphalt production this year and approximately 10 days in 2023.

Commissioner Fikes noted that it had been brought up that there was another parcel further down the road that could have been used for a production site. Was this lot ever considered before the purchase of this lot? Mr. Shram replied he could not answer that question as he was not involved in the bid process for the project and had no input on the selection of the production site. Commissioner Fikes then asked if reseeding the area was a part of their reclamation plan. Mr. Shram replied that yes, they are planning to reseed areas that have no rock piles, perhaps leaving a small gravel pad on the site.

Commissioner Tauffest asked Mr. Shram if there had been any measurement of noise levels. Did they know what decibel level the noise would be. Mr. Shram replied that they had not done a noise study. Commissioner Tauffest then asked if they had done any residential impact studies. Mr. Shram replied that they had not.

Commissioner Horton asked if this project was a part of the AK DOT storm water pollution plan? Mr. Shram replied that they were not, they had their own separate storm water pollution plan.

Commissioner Morgan asked when were the test wells dug for this project. Mr. Shram replied they were dug in March of this year. Commissioner Morgan asked if they had plans to drill more test wells since the water has significantly risen in the area since then. Mr. Shram replied no, not at this time since they don't have any plans to extract any materials from this site. However, they would be willing to dig more test wells

should they be required. Commissioner Morgan then noted one of the neighbors was concerned because their well was within 100 feet of the site's parking area and asked what are they doing to address this type of concern. Mr. Shram stated that on the side of the property where the office and parking area is located, they decided to leave a larger buffer area of over 150 feet.

Chair Martin asked Mr. Shram to restate their voluntary condition. Mr. Shram replied that rock crushing would only occur between the hours of 8AM to 8PM. He then noted that he could not guarantee that asphalt production would only occur during those hours due to DOT restrictions.

Commissioner Stutzer noted there was a request that there not be any rock crushing on weekend. Would the rock crushing be done 7 days a week? Mr. Shram replied that there might be some production on the weekends due to the short construction season in Alaska. They could not guarantee there would not be rock crushing or asphalt production on the weekends.

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

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Horton, to adopt PC Resolution 2022-21, granting approval of a conditional land use permit to operate a sand, gravel or material site for a parcel described as Township 3 North, Range 1 East, Section 18, Seward Meridian, SW 2011-016, Renfro's Lakeside Retreat No. 6, Lot 2F, except that portion conveyed to the State of Alaska Department of Transportation in WD 2017-633, Seward Recording District. Adding the voluntary condition that rock processing only occurs between the hours of 8AM to 8PM.

Commissioner Stutzer noted concerns expressed by the public tonight are worthy of consideration. He noted that they are happy about the improvements to the highway. The improvements necessitate a site like this. He agrees that there are issues with putting a site like this in the middle of a residential area. He noted he is on the fence regarding approval of this permit because this site will have a heavy visual and noise impacts on the neighboring properties.

Commissioner Tautfest stated that she has concerns about noise and air pollution related to this permit and she doesn't think these types of sites belong in the middle of residential areas. She wondered if the commission could require any impact studies. She then noted that she too is on the fence about approving this permit.

Commissioner Brantley noted that the commission does not have the authority to impose requirements such as impact studies. The commission is required to follow code and code has limits as to what can be required for permits. In his opinion the 20-foot berms around this property and other things done by the applicant have done a lot to minimize visual and sound impacts. The big hold up for him was the hours of operation related to crushing rock and the applicant has agreed to limit those activities to between 8AM to 8PM. He will be supporting this request.

Commissioner Fikes stated that she agrees with Commissioner Brantley. She understands that the area residents don't want this in their back yard. At the end of the day, the borough zoning in this area allows for this type of site. She believes that the standards in code have been met in this particular case and she will be voting to approve this permit.

Commissioner Venuti stated here is another conditional land use permit that the neighbors don't like. He understands where the neighboring landowners are coming from. He would not like a gravel site next door or even close to him. This would not happen to him because he lives in an area that has zoning that prohibits material sites. He would encourage the area residents to look at local option zoning. R1 zoning would prohibit land uses like material sites. He believes that the borough should promote local option zoning so there would be fewer land conflicts like this.

Commissioner Morgan stated this is a difficult decision for her as well. She lives in a similar type of area. It is sad to see land cleared of older trees. She believed there were poor decisions made along the way before it came to this point. She feels bad about that, but understands the commission does not have a lot of control over that. She was pleased that the applicant agreed to the voluntary condition of limiting the hours for rock crushing. She still feels bad that there is not more the commission can do.



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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Gillham

**ITEM E4 – ORDINANCE 2022-14**

**AUTHORIZING THE SALE OF CERTAIN PARCELS OF BOROUGH-OWNED LAND BY LIVE OUTCRY AUCTION FOLLOWED BY A SUBSEQUENT ONLINE-ONLY AUCTION LAND SALE**

Staff report given by Land Management Agent Aaron Hughes.

Chair Martin open the item for public comment. See and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt Ordinance 2022-14, authorizing the sale of certain parcels of borough-owned land by live outcry auction followed by a subsequent online-only land sale.

Commissioner Morgan noted that the Moose Pass APC requested that parcels 125-160-05 & 125-160-07 be pulled from the land sale. The area residents are interested in pursuing a LOZD and would like these lots to be zoned before the sale.

**AMENDMENT MOTION:** Commissioner Morgan moved, seconded by Commissioner Horton to recommend removing parcels 125-160-05 & 125-160-07 from the land sale ordinance.

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

**AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Gillham

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

**MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:**

Yes - 10	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Gillham

**ITEM E5 – RESOLUTION 2022-XX**

**CLASSIFYING AND RECLASSIFYING CERTAIN BOROUGH-MANAGED LAND IN THE MOOSE PASS AREA**

Staff report given by Land Management Officer Marcus Mueller.

Commissioner Stutzer asked staff if the corridor areas highlighted in yellow on the map on page E5-28 are the only lands being classified/reclassified as utility/transportation. Mr. Mueller replied that is correct, and the corridor areas amount to approximately 13.3 acres

Commissioner Horton asked staff if the Iditarod Trail in this area was managed by borough of the state. Mr. Mueller replied that the historic Iditarod Trail is a commemorative trail and is in the process of being developed and while some sections of the trail have been developed other have not. The Chugach National Forest is the agency overseeing this project. The landowners of the parcels that the trail runs through are Chugach National Forest, the State of Alaska and the Kenai Peninsula Borough.

Chair Martin open the item for public comment.

Mike Salzetti, Manager of Fuel Supply & Renewable Energy Development, HEA; 280 Airport Way, Kenai, AK 99669: Mr. Salzetti spoke to the history of this project and the project development plans. He requested that the commission recommend adopting the resolution.



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

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Commission Fikes to forward to the Assembly a recommendation to adopt Resolution 2022-XX, classifying & reclassifying certain borough-managed land in the Moose Pass area.

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

**MOTION PASSED BY MAJORITY VOTE:**

Yes - 9	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Stutzer, Tautfest, Venuti
No - 1	Morgan
Absent - 1	Gillham

**AGENDA ITEM F.      PLAT COMMITTEE REPORT**

Commissioner Brantley reported the plat committee reviewed ten plats, granted preliminary approval to nine, and one plat was postponed.

**AGENDA ITEM G.**

1. Plat Committee – June 13, 2022
  - Commissioner Venuti
  - Commissioner Brantley
  - Commissioner Hooper
  - Commissioner Martin

**AGENDA ITEM H.      PUBLIC COMMENT/PRESENTATIONS**

Chair Martin asked if there was anyone from the public who would like to comment on anything not appearing on the agenda. No one wished to comment.

**AGENDA ITEM I.      DIRECTOR'S COMMENTS**

Planning Director Ruffner reviewed his director's report with the commission.

**AGENDA ITEM J.      COMMISSIONER COMMENTS**

Commissioner Stutzer informed the commission that he will not be able to attend the June 13, 2022 Planning Commission meeting as he will be out of the country.

**AGENDA ITEM K.      ADJOURNMENT**

Commissioner Brantley moved to adjourn the meeting 9:42 PM.

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Ann E. Shirnberg  
Administrative Assistant