

C. CONSENT AGENDA

***7. Minutes**

a. August 14, 2023 PC Meeting Minutes

Kenai Peninsula Borough Planning Commission

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

August 14, 2023

7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

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

Oath of Office

Commissioner Gillham was reappointed by Mayor Micciche to serve another 3-year term on the commission. Mayor Micciche also appointed Jeffery Epperheimer to the Nikiski District seat to serve a 3-year term on the Commission. Ms. Shirnberg administered the oath of office to both commissioners.

AGENDA ITEM B. ROLL CALL

Commissioners Present

Pamela Gillham, Kalifornsky/Kasilof District
Jeffery Epperheimer, Nikiski District
Jeremy Brantley, Ridgeway/Sterling District
Virginia Morgan, Cooper Landing/Hope District
Dawson Slaughter, South Peninsula District
Franco Venuti, City of Homer
Diane Fikes, City of Kenai
Charlene Tautfest, City of Soldotna

With 8 members of a 9-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Vince Piagentini, Platting Manager
Madeline Quainton, Platting Specialist
Morgan Aldridge, Resource Planner
Jenny Robertson, Land Management Administrative Assistant
Ann Shirnberg, Planning Administrative Assistant

Election of Officers

Commissioner Slaughter nominated, seconded by Commissioner Tautfest, Commissioner Brantley for the position of Chairman. Seeing and hearing no objections, discussion or other nominations, Commissioner Brantley was appointed Chairman.

Commissioner Tautfest nominated, seconded by Commissioner Fikes, Commissioner Gillham for the position of Vice Chair. Seeing and hearing no objections, discussion or other nominations, Commissioner Gillham was appointed Vice-Chairman.

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***3. Plats Granted Administrative Approval**

- a. Leisure Time Estates Ivy Replat; KPB File 2022-130
- b. Madson Subdivision Trust Land Survey 2020-01; KPB File 2021-164

- c. McCall Subdivision 2022 Replat; KPB File 2022-166
- d. Ninilchik Townsite Vanek 2023 Replat; KPB File 2022-182
- e. Roan Walden Chalets at Johnstone Bay; KPB File 2020-060
- f. Steven Oberts Subdivision No. 1; KPB File 2021-141

***4. Plats Granted Final Approval**

- a. Moose Range Meadows South Thiede Replat; KPB File 2023-006

***6. Commissioner Excused Absences**

- a. City of Seward, Vacant

***7. Minutes**

- a. June 17, 2023 Planning Commission meeting minutes.

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. Chair Brantley then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to approve the consent agenda and amend the regular agenda to move items E9 & E10 to the beginning of New Business and approve the regular agenda as amended.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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AGENDA ITEM E. NEW BUSINESS

Chair Brantley asked Ms. Shirnberg to read the public hearing procedures into the record.

ITEM 9 – ORDINANCE 2022-19-80

APPROPRIATING FUNDS FOR THE LAND TRUST FUND TO ACCOUNT FOR THE TRANSFER OF REAL PROPERTY ASSETS TO THE LAND TRUST FUND THAT WERE ORIGINALLY ACQUIRED WITH CENTRAL EMERGENCY SERVICES FY 23 CAPITAL PROJECT FUND

Staff report was given by Planning Director Robert Ruffner.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Gillham to forward to the Assembly a recommendation to adopt Ordinance 2022-19-80 appropriating funds for the Land Trust Fund to account for the transfer of real property assets to the Land Trust Fund that were originally acquired with Central Emergency Service FY23 capital project funds

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 10 – ORDINANCE 2023-19-12

APPROPRIATING \$175,000 FROM THE GENERAL FUND BALANCE FOR A PROFESSIONAL STUDY CONCERNING HIGH WATER ISSUES IN THE K-BEACH AREA

Staff report was given by Planning Director Robert Ruffner. Director Ruffner requested the commission recommend an added amendment. He noted that the ordinance states that the funds will be used for a water study. He would like an amendment that states that \$25,000 of these funds can be used to purchase water monitoring equipment.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to forward to the Assembly a recommendation to adopt Ordinance 2023-19-12 appropriating \$175,000 from the General Fund balance for a professional study concerning high water issues in the K-Beach area.

ADMEMDMENT: Commissioner Morgan moved, seconded by Commissioner Venuti to amend the recommendation to use \$25,000 from the amount requested for the purchase of water monitoring equipment. The maker and the second on the motion agreed to the amendment.

AMENDED MOTION: Commissioner Gillham moved, seconded by Commissioner Slaughter to forward to the Assembly a recommendation to adopt Ordinance 2023-19-12 appropriating \$175,000 from the General Fund balance for a professional study concerning high water issues in the K-Beach area and to use up to \$25,000 of the amount for the purchase of water monitoring equipment.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 1 – CONDITIONAL USE PERMIT ANADROMOUS WATERS HABITAT PROTECTION DISTRICT PC RESOLUTION 2023-27

KPB File No.	2023-27
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Alaska Railroad Corporation
Mailing Address	P.O. Box 107500, Anchorage, AK 99510
Physical Address	ARRC MP 17.9 60.3319, -149.3405
General Location:	Moose Pass Area

Staff report given by Resource Planner Morgan Aldridge.

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

MOTION: Commissioner Morgan moved, seconded by Commissioner Fikes to adopt PC Resolution 2023-27 granting a conditional use permit for the placement of rip rap within the 50-foot Habitat Protection District of the Snow River based on staff recommendations and compliance to borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 2 – BUILDING SETBACK ENCROACHMENT PERMIT – TOLUM SUBDIVISION NO 5

KPB File No.	2023-068
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Henry and Susan Novak of Kasilof, Alaska
Surveyor:	None
General Location:	Panda Court, Cohoe area
Parent Parcel No.:	137-051-49
Legal Description:	Tract B-5A Block 3, Tolum Subdivision No 5, KN 2002-17
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Henry Novak, Petitioner; 19345 Panda Court, Kasilof, AK 99610: Mr. Novak acknowledged that he made a mistake in the placement of his high tunnel. He noted to move the high tunnel would be difficult and cost prohibitive. He requested that the commission grant his request.

David McClusky; 19555 Ursus Court, Kasilof, AK 99610: Mr. McClusky owns land in the subdivision and expressed concerns regarding approving this permit. He was concerned that the encroachment would negatively affect a public access project he is working on.

Henry Novak; 19345 Panda Court, Kasilof, AK 99610: Mr. Novak noted that the encroachment is on his land, it does not go into the right-of-way and should not affect Mr. McClusky's project at all.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Epperheimer to adopt PC Resolution 2023-20, granting a building setback encroachment permit to Lot B-5A of Tolum Subdivision No. 5, Plat KN 2002-17, based on staff recommendations and adopting and incorporating by reference findings 1, 2, 5 & 6 in support of standards one & two and findings 1, 2 & 4-6 in support of standard three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 3 – BUILDING SETBACK ENCROACHMENT PERMIT – PUFFIN ACRES SUBDIVISION

KPB File No.	2023-071
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Ryan Hall of Soldotna, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Crested Crane Street, City of Kachemak
Parent Parcel No.:	174-192-14
Legal Description:	Lot 3 Block 2, Puffin Acres Subdivision, HM 85-122
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Gillham to adopt PC Resolution

2023-21, granting a building setback encroachment permit to Lot 3, Puffin Acres Subdivision, Plat HM 85-122, based on staff recommendations and adopting and incorporating by reference findings 1-3 & 6 in support of standard one, findings 1-4 & 6 in support of standard two and findings 1-6 in support of standard three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 4 – BUILDING SETBACK ENCROACHMENT PERMIT – QUARTZ CREEK SUBDIVISION

KPB File No.	2023-072
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Alexander and Sherry Kime of Cooper Landing, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying
General Location:	Quartz Creek Road, Cooper Landing APC, Cooper Landing
Parent Parcel No.:	119-124-15
Legal Description:	Tract E Quartz Creek Subdivision, SW 94-11
Assessing Use:	Commercial
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Alex Kime, Petitioner; 35090 Quartz Creek Road, Cooper Landing, AK 99572: Mr. Kime stated that the mistake of the placement of the house occurred 20 years ago. He acknowledged that the house encroaches into the setback. He stated that it would be very difficult to move the house and that it could possibly be damaged. He requested that the commission approve his permit request.

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

MOTION: Commissioner Morgan moved, seconded by Commissioner Fikes to grant a building setback encroachment permit to Tract E, Quartz Creek Subdivision, Plat SW 94-11 based on staff recommendations and adopting by reference findings 2-4 & 7 in support of standard one and findings 2-8 in support of standards two and three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 5 – BUILDING SETBACK ENCROACHMENT PERMIT – FOSTER LAKE SUB AMENDED

KPB File No.	2023-075
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	James Zwack of Kasilof, Alaska
Surveyor:	Jerry Johnson/ Johnson Surveying
General Location:	Sapphire Loop, Sterling area
Parent Parcel No.:	063-840-13
Legal Description:	Lot 1 Block 2, Foster Lake Subdivision Amended, KN 85-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

James Zwack, Petitioner; P.O. Box 171, Kasilof, AK 99610: Mr. Zwack acknowledged the mistake made when building his home. He requested that the commission approve his permit request.

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

MOTION: Commissioner Epperheimer moved, seconded by Commissioner Tautfest to adopt PC Resolution 2023-24, granting a building setback encroachment permit to Block 2, Lot 1, Foster Lake Subdivision Amended, Plat KN 85-63, based on staff recommendations and adopting and incorporating by reference findings 4 & 6-8 in support of standard one, findings 5, 6 & 9 in support of standard two and findings 4-7 in support of standard three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 6 – BUILDING SETBACK ENCROACHMENT PERMIT – BIG EDDY SUBDIVISION

KPB File No.	2023-076
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Karen Hummel and Michael Wykis of Soldotna, Alaska
Surveyor:	None
General Location:	Cheechako News Drive, Ridgeway area
Parent Parcel No.:	057-680-02
Legal Description:	Lot 2 Block 3, Big Eddy Subdivision, KN 72-14
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Michael Wykis, Petitioner; 36887 Cheechako News Drive, Soldotna, AK 99669: Mr. Wykis stated that he and his wife are getting older and would like to build an attached garage to their home.

Commissioner Gillham asked the petitioner if other sites on the property had been consider for the garage. Mr. Wykis replied that while there were other sites on the property where they could build a garage, their desire is to build one that is attached to the home. The best site to do this requires a small encroachment into the setback.

Commissioner Slaughter stated that he appreciated the petitioner seeking a permit before building the garage. He noted that seeking permission before building, not after, is the correct process. He then stated that he will be supporting this request.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Morgan to grant a building setback encroachment permit to Block 3, Lot 2, Big Eddy Subdivision, Plat KN 72-14, based on staff recommendations and adopting and incorporating by reference findings 3-6 in support of standards one, two and three, as set forth in the staff report.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
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ITEM 7 – BUILDING SETBACK ENCROACHMENT PERMIT – COHOE CORNERS SUBDIVISION

KPB File No.	2023-083
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Fraternal Order of the Eagles AERIE #4317 of Kasilof, Alaska
Surveyor:	John Segesser / Segesser Surveys
General Location:	Cohoe Loop Road, Cohoe area
Parent Parcel No.:	137-250-38
Legal Description:	Lot 22 Cohoe Corners Subdivision, KN 85-118
Assessing Use:	Commercial
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Jim Coney; 23333 Trespass Street, Kasilof, AK 99610: Mr. Coney is a member of this club. He noted this club has one of the largest memberships in the state with over 400 members. The club needs to expand their building to accommodate their growing membership. He also noted that this club will be hosting a statewide meeting for the Eagle's organization in 2025 and that they will need the additional meeting rooms. He then requested that the commission approve their permit request.

Commissioner Epperheimer asked the applicant why the proposed location for the addition is most suitable. Mr. Coney replied that the parking lot, which comes off Jason, is located in the front of the building. On the west side of the building is the septic system. The preferred location is on the east side of the building.

Commissioner Fikes asked the applicant if they could build another structure in a different location on the lot instead of adding on to the existing building. Mr. Coney replied that he supposed they could, but the club's preference is to add on to the existing building. Commissioner Fikes then asked if they could keep the same building footprint and build up instead of out. Mr. Coney replied he supposed they could but again the club's preference is to build out.

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

MOTION: Commissioner Epperheimer moved, seconded by Commissioner Gillham to grant a building setback encroachment permit to Lot 22, Cohoe Corners, Plat KN 85-118.

Commissioner Brantley stated he knows the commission has approved a number of setback encroachment permits tonight, but he has some concerns with this one. He noted this is a good sized, flat lot and the owners also own the lot to the west as well. This is a tough one to decide, he then asked for the thoughts from the other commissioners.

Commissioner Gillham noted the lot was pretty flat and that moving the parking lot does not appear to be that difficult. She stated she believed the club could come up with an alternate design that would not encroach into the setback. She is just not sure that all other options have been investigated. Commissioner Brantley agreed. He stated normally, when encroachment permits are approved there is evidence that other options have been explored and the encroachment option is the only/best one left.

Commissioner Epperheimer stated he understands the club's need to expand their building and that the expansion needs to connect to the existing structure. He also understands that with a club membership of over 400 that they need a large parking lot. He can see numerous RVs needing a place to park. He then noted that Cohoe Loop is a 200' right-of-way in front of the club.

Commissioner Slaughter stated he agreed with Commissioners Gillham and Brantley. This is a large lot and the owners own the adjacent lot as well. He does not believe that all other options have been exhausted in this case. Until he sees evidence that other options have been explored, and that this is the best or only option, he is sorry, but he cannot support this request.

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

MOTION FAILED BY MAJORITY VOTE:

No - 7	Brantley, Fikes, Gillham, Morgan, Slaughter, Tautfest, Venuti
Yes - 1	Epperheimer

MOTION: Commissioner Slaughter moved, seconded by Commissioner Gillham to attach findings 1-5, 7 & 8 from the staff report in support of the denial.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 7	Brantley, Fikes, Gillham, Morgan, Slaughter, Tautfest, Venuti
No - 1	Epperheimer

**ITEM 8 - RIGHT OF WAY VACATION
VACATE A PORTION OF KAYWAY ROAD AND ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2023-069V
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Olen Moyer of Kenai, Alaska Brittany SanMartin of Soldotna, Alaska
Surveyor:	None
General Location:	Kayeway Road, Kalifornsky area
Legal Description:	Kayeway Road, Betty Goodrich Rainwater Addition (KN 2005-62), Section 2 Township 4 North Range 11 West S.M.

Staff report given by Platting Manager Vince Piagentini. He informed the commission that after the public hearing notice was sent out the applicant withdrew his petition. Since a public hearing was noticed staff recommends public comment be open. No action will be needed on this item.

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

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 9 plats,

AGENDA ITEM G. OTHER (NO PUBLIC HEARING)

Plat Committee members for August through December:

- Gillham
- Slaughter
- Venuti
- Morgan (Alternate)
- Brantley (Alternate)
- Epperheimer (Alternate)

The alternates will contact Ms. Shirnberg with the schedules for the next month and she will set up a rotating schedule for the fourth member of the committee.

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

Chair Brantley 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 J **COMMISSIONER COMMENTS**

- Commissioner Morgan asked for an excused absence for the September 11, 2023 meeting.
- Commissioner Gillham asked for an excused absence for the September 11, 2023 meeting.

AGENDA ITEM K. **ADJOURNMENT**

Commissioner Venuti moved to adjourn the meeting at 8:50 P.M.

Ann E. Shirnberg
Administrative Assistant