

# 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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**JUNE 28, 2021  
7:30 P.M.  
UNAPPROVED MINUTES**

## **CALL TO ORDER**

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

## **ROLL CALL**

### *Commissioners Present*

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

With 9 members of an 11-member commission in attendance, a quorum was present.

### *Staff Present*

Marcus Mueller, Land Management Officer  
Samantha Lopes, River Center Manager  
Bryan Taylor, Planner  
Aaron Hughes, Land Agent  
Ann Shirnberg, Administrative Assistant  
Julie Hindman, Platting Specialist  
Avery Harrison, Administrative Assistant

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

## **AGENDA ITEM C. CONSENT AGENDA**

- \*3. Plat Granted Administrative Approval
  - a. Grant Fritz Subdivision #5; KPB File 2020-042
  - b. Misty Acres 2020 Replat; KPB File 2020-114
  - c. Saindon Subd 2020 Addition; KPB File 2020-083
- \*6. Commissioner Excused Absences
  - a. Robert Ruffner – Anchor Point/Ninilchik/Clam Gulch/Kasilof
  - b. Davin Chesser – Northwest Borough
- \*7. Minutes
  - a. June 14, 2021 Planning Commission Meeting Minutes

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

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to approve the consent agenda and the regular agenda.

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**AGENDA ITEM E. NEW BUSINESS**

Chair Martin asked Ms. Hindman to read the procedure for public testimony.

**AGENDA ITEM E. NEW BUSINESS**

1. PC Resolution 2021-20: A resolution granting a conditional use permit pursuant to KPB 21.18 for the construction of a boat ramp within the 50-foot Habitat Protection District of Daniels Lake.

Staff report given by Samantha Lopez.

**KPB File No.** 2021-20

**Planning Commission Meeting:** June 28, 2021

**Applicant** Jennifer Coghill

**Mailing Address** 275 S Kobuk St., Soldotna, AK 99669

**Legal Description** T 7N R 11W SEC 3 SEWARD MERIDIAN KN 0780171  
LAKERIDGE SUB LOT 12 BLK 3

**Physical Address** 51475 Dragonfly St

**KPB Parcel Number** 01309217

**Project Description**

A Conditional Use Permit is sought pursuant to KPB 21.18 for the installation of a boat ramp, removing overburden and re-grading the area between house and lake, placing approximately 15 cubic yards of sand, and planting grass on a parcel within the 50-foot Habitat Protection District of Daniels Lake, as established in KPB 21.18.040.

**Project Details within the 50-foot Habitat Protection District**

1. Installation of a 12 by 40-foot boat launch.
2. Grade approximately 60 by 50-foot area to remove stumps and overburden, and reduce the steep angle currently creating a safety hazard.
3. In the graded area, deposit up to 15 cubic yards of sand and plant grass.

**General Standards**

**Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, or damage to riparian wetlands and ecosystems;
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;
3. The development of the use or structure shall not physically damage the adjoining property;

4. The proposed use or structure is water-dependent;
5. Applicant and/or owner must be in compliance with other borough permits and ordinance requirements.

#### **Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(12), private boat launches may be permitted on anadromous lakes that have no public boat launch within the habitat protection district under a conditional use permit.
3. Pursuant to KPB 21.18.081(D), staff finds that the proposed project meets the five general standards above.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Pursuant to KPB 21.18.071(A)(5), within the habitat protection district adjacent to a lake, and within 10 feet of the shoreline, no more than 25% of native vegetation shall be removed. This proposed development will remove up to 18% of native vegetation from the habitat protection district. Mitigation measures shall be provided to help offset the loss of vegetation, including reserving the remaining riparian area vegetation.
7. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
8. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:  
    *"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."*
9. The River Center found the application complete and scheduled it for public hearing on June 28, 2021.
10. Agency review was distributed on June 2, 2021. No comments or objections have been received from resource agencies to date.
11. KPB 21.11.030 requires that public notice be mailed to all property owners within a 300-foot radius of the project. A total of eight (8) notices were sent on June 15, 2021.
12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on June 17, 2021 and June 24, 2021.

#### **Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to Daniels Lake.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
4. Storage or use of fuel is prohibited within 50 feet of any open water.
5. The River Center shall be notified at least 3 days prior to the start of the project.
6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
8. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).

9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
10. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

### **Attachments**

Multi-Agency Application  
Draft Resolution 2021-20

### **Recommendation**

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2020-27.

**Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

### **END OF STAFF REPORT**

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

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Gillham to approve PC Resolution 2021-20 granting a conditional use permit pursuant to KPB 21.18 for the construction of a boat ramp within the 50-foot Habitat Protection District of Daniel's Lake.

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

### **MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

### **AGENDA ITEM E. NEW BUSINESS**

2. PC Resolution 2021-21: A resolution granting a conditional use permit pursuant to KPB 21.18 for the construction of a chain link fence within the 50-foot Habitat Protection District of the Kenai River.

Staff report given by Samantha Lopez.

**KPB File No.** 2021-21  
**Planning Commission Meeting:** June 28, 2021  
**Applicant** Randy Kleinsmith; 17312 Canvasback Dr.  
Bend OR, 97707

<b>Legal Description</b>	<b>T 5N R 10W SEC 30 SEWARD MERIDIAN KN 0920038 HODGSON SUB NO 4 LOT 8A</b>
<b>Physical Address</b>	<b>35859 Sabaca Rd</b>
<b>KPB Parcel Number</b>	<b>05748324</b>

**Project Description**

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a chain-link fence within the 50-foot Habitat Protection District of the Kenai River, as established in KPB 21.18.040.

**Project Details within the 50-foot Habitat Protection District**

1. Installation of an 8 by 120-foot chain link fence, of which 38 feet will be in the HPD.
2. Approximately 12 feet of the fence nearest the shoreline will be removed seasonally to accommodate wildlife and high water and ice floe events.
3. Installation of metal posts for fencing spaced 6-10 feet apart.
4. Minimal removal of vegetated material.

**General Standards**

**Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, or damage to riparian wetlands and ecosystems;
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;
3. The development of the use or structure shall not physically damage the adjoining property;
4. The proposed use or structure is water-dependent;
5. Applicant and/or owner must be in compliance with other borough permits and ordinance requirements.

**Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(2), fences may be permitted within the habitat protection district under a conditional use permit.
3. Pursuant to KPB 21.18.081(D), staff finds that the proposed project meets the five general standards above.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Pursuant to KPB 21.06.050, chain link fencing allows for the unobstructed passage of water.
7. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
8. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:  
*...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways.*
9. The River Center found the application complete and scheduled a public hearing for June 28, 2021.
10. Agency review was distributed on June 4, 2021. No comments or objections have been received from resource agencies to date.
11. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on June 15, 2021. A total of 46 mailings were sent.

12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on June 17, 2021 and June 24, 2021.

**Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The fence must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50 feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

**Recommendation**

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2020-27.

**Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

**END OF STAFF REPORT**

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

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Fikes to approve PC Resolution 2021-21 granting a conditional use permit pursuant to KPB 21.18 for the construction of a chain link fence within the 50-foot Habitat Protection District of the Kenai River.

Commissioner Venuti

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**AGENDA ITEM E. NEW BUSINESS**

3. PC Resolution 2021-19: A resolution granting a conditional use permit pursuant to KPB 21.18 for the construction of a 100' x 20' bridge, the placement of a 36" by 52' culvert & the placement of approximately 70 cubic yards of fill within the 50-foot Habitat Protection District of Resurrection Creek.

Staff report given by Samantha Lopez.

**KPB File No.** 2021-19

**Planning Commission Meeting:** June 28, 2021

**Applicant** Chugach National Forest; 161 East 1<sup>st</sup> Ave. Door #8  
Anchorage, AK 99501

**Legal Description** T 9N R 2W SEC 1 SEWARD MERIDIAN SW ENTIRE  
TOWNSHIP EXCEPT USS 2761 & USS 2636 & USS 2642 &  
US MIN SUR 1449 & US MIN SUR 1451 & ASLS 88-13 &  
SAXTONS BIRCH ACRES SUB & KINGS CASTLE ACRES  
SUB & E1/2 NW1/4 OF SEC 3 & W1/2 NE1/4 OF SEC 4

**KPB Parcel Number** 03510013

**Project Description**

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a 100 by 20-foot bridge, the placement of a 3 by 52-foot culvert, and the placement of approximately 70 cubic yards of fill within the 50-foot Habitat Protection District of Resurrection Creek, as established in KPB 21.18.040.

**Background Information**

1. This project is in support of the ongoing Resurrection Creek Phase I and II Restoration Projects. Phase I was implemented in 2005-2007, and Phase II is planned for 2022-2027. These sections of Resurrection Creek were hydraulically mined between 1900 and 1942, leaving the main channel in a degraded state. The Resurrection Creek Phase I and II Restoration Projects include: rebuilding the degraded stream channel with natural meanders, constructing pools, installing logs and root wads in the new stream channels, constructing side channels and ponds, and restoring lost soil and vegetation in the riparian areas.
2. Proposed structures will provide access for the applicant perform the Resurrection Creek Phase II Restoration Project, which is scheduled to begin in 2022.
3. This project proposes the installation of these structures to mitigate the number of in-water crossings that heavy equipment will have to make for the development of Resurrection Creek Phase II Restoration Project.

**Project Details Within the 50-foot Habitat Protection District**

1. Installation of a 100 by 20-foot bridge across Resurrection Creek.
2. Installation of a 3 by 52-foot culvert and approximately 70 cubic yards of alluvial gravel to cross a settling pond running parallel to Resurrection Creek.
3. Structures will provide the applicant with access perform the Resurrection Creek Phase II Restoration Project, a bank restoration project that will be 2 miles in length, and is scheduled to begin in 2022.

4. Bridge, culvert, and fill will be removed at the conclusion of the Resurrection Creek Phase II Restoration Project (approximately 5 - 10 years), and the area will be revegetated pursuant to KPB 21.18.071(A)(1).

### **General Standards**

**Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:**

1. The use or structure will not cause significant erosion, sedimentation, damage to the habitat protection district, an increase in ground or surface water pollution, or damage to riparian wetlands and ecosystems;
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;
3. The development of the use or structure shall not physically damage the adjoining property;
4. The proposed use or structure is water-dependent;
5. Applicant and/or owner must be in compliance with other borough permits and ordinance requirements.

### **Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit**

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), the construction of transportation and utility infrastructure may be approved within the habitat protection district under a conditional use permit.
3. Pursuant to KPB 21.18.081(D), staff finds that the proposed project meets the five general standards above.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.020(A)(2), the installation of the proposed structures will preserve nearshore habitat by reducing the number of in-water crossings that heavy equipment will make to complete the development of Resurrection Creek Phase II Restoration Project.
6. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
7. Access to the site and all construction activities will occur along active mining roads used by Hope Mining Company and will not affect neighboring parcels.
8. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:  
*"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."*
9. The River Center found the application complete and scheduled it for public hearing on June 28, 2021.
10. Agency review was distributed on June 2, 2021. No comments or objections have been received from resource agencies to date.
11. KPB 21.11.030 requires that public notice be mailed to all property owners within a 300-foot radius of the project. The applicant is the only property owner within the 300-foot radius.
12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on June 17, 2021 and June 24, 2021.

### **Permit Conditions**

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to Resurrection Creek.
2. The bridge, culvert, and fill must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.

6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

### **Recommendation**

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2020-27.

**Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

### **END OF STAFF REPORT**

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

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to approve PC Resolution 2021-19 granting a conditional use permit pursuant to KPB 21.18 for the construction of a 100' x 20' bridge, the placement of a 36" by 52' culvert & the placement of approximately 70 cubic yards of fill within the 50-foot Habitat Protection District of Resurrection Creek.

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

### **MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

### **AGENDA ITEM E. NEW BUSINESS**

4. State Application for a Marijuana Cultivation Facility License; Kalifornsky Area.

Staff report given by Bryan Taylor

**Applicant:** Smoking Joe's Terps Co.

**Landowner:** Jacob D. Thom

**Parcel ID#:** 133-441-09

**Legal Description:** T 3N R 12W SEC 35 S.M. KN 2007073 WINTER SUB #2 TRACT C

**Location:** 22845 Cache St., Kasilof, AK 99610

BACKGROUND INFORMATION: On December 9, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Marijuana Manufacturing Cultivation Facility license. On December 28, 2020, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed manufacturing facility on the above-described parcel. The AMCO notified the borough that the application was complete on May 24, 2021. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.
5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.
  - The site plan indicates that the approach is or will be constructed to a minimum width of 24 feet where it accesses the right-of-way.
  - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
  - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
  - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.
6. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,
- protection against road damage,
- protection against criminal activity, and
- protection of public safety.

The Alaska Marijuana Control Board will impose a condition that a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

**PUBLIC NOTICE:** Public notice of the application was mailed on June 14, 2021, to the 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the hearing on the application was published in the June 17, 2021 & June 24, 2021 issues of the Peninsula Clarion.

#### STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

#### END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Tony & Tracy Tideswell; P.O. Box 745 Kasilof, AK 99610: Ms. Tideswell stated the area surrounding this proposed facility is residential. She had several concerns and questions regarding this application. She wanted to know how many employees were going to be associated with this business. She wanted to know if all the employees would have to go through background checks. They are very concerned about the potential increase of criminal activities like trespass, theft and assault related to this business. They are a neighboring landowner to this parcel and can see this property from their backyard. They have questions related to the increase of traffic on Aurora Street and what kinds of vehicles will be used by this business. Aurora Street speed limit is 25 MPH, it is a gravel road and is maintained by private contractors on an infrequent basis. There are also school aged children in the area that walk on this road to and from the bus stop. They are familiar with this applicant's other retail business located on the Sterling Hwy. and she noted that they use bright flood type lights on the building. They have concerns about exterior lighting on this new facility – if they use the same kind of lighting, it will affect their bedroom window. They wanted to know if fencing would be put up around this property for security purposes. The also wanted to know about the filtration system for the facility to filter out the odors.

Chair Martin then asked if the applicant was available to answer any of these questions. The applicant was not in attendance.

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

**MOTION:** Commissioner Fikes moved, seconded by Commissioner Ecklund to forward to the Assembly the application for a marijuana cultivation facility license for Smoking Joe's Terps Co. with staff's findings and recommending the three conditions be place on the state license.

Commissioner Ecklund asked Mr. Taylor if he could answer any of the concerns expressed by Ms. Tideswell. Perhaps he could explain State laws, related to marijuana cultivation facilities. Specifically addressing the areas of odor control, fencing, lighting and security requirements. Mr. Taylor replied that many of the issues brought up by Ms. Tideswell would not be address by this application process. He noted there is a site plan in the packet that she could review. He does not believe there is any fencing proposed. Mr. Taylor noted this application is for a marijuana cultivation facility, it is a growing operation, and not a retail marijuana store. For the building development, the applicant will have to have it pass a fire marshal

inspection. He is not sure what the required standards are related to building ventilation. The Roads Department reviewed the ingress/egress/parking plan and determined there is enough room. The Borough and the State do not have any requirements related to visual buffering or lighting, and the site plans does not have anything proposed in these areas. He again noted that is not a retail facility so the traffic would consist of delivery trucks and employee vehicles. The road to this facility is not Borough maintained so the maintenance will have to be address by private contractors.

Ms. Tideswell then asked where she could get copy of the site plan. Chairman Martin stated that it was available online and she could contact Mr. Taylor directly and he could assist her in locating it.

Commissioner Venuti asked staff if the Borough has any data regarding problems related to marijuana cultivation facilities and retail operations. Mr. Taylor replied the borough does not keep a database specific to those type of complaints. He noted the Borough does has a code compliance officer who may have information related to any code violations.

Commission Fikes noted the applicant states in his application that no signs are anticipated to be posted at their establishment. They do however reserve the option to place a sign not to exceed 4800 square inches on the front of their building if they choose.

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

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**AGENDA ITEM E. NEW BUSINESS**

5. Resolution 2021-054: A resolution classifying certain parcels of Borough owned land in the Nikiski, Soldotna, Sterling, Hope, Homer, Skilak Lake, Cooper Landing and Beluga areas.

Staff report given by Marcus Mueller.

KPB Land Management proposes to classify 28 parcels of borough owned land. ]

**Basis for Classification:** Subject parcels are being considered for future management decisions including disposal or lease. Classification provides guidance for the management of borough land. KPB land must be classified prior to disposal or leasing pursuant to KPB Code of Ordinances, Chapter 17.10.090.

Land Management is proposing two classifications for these parcels, Rural & Commercial. There a number of parcels from all around the borough, from Beluga to Hope to Nikiski, Sterling, Cooper Landing, Diamond Ridge areas that we are proposing a classification of Rural. The Rural classification definition has two-parts. Part one, states the land is remote and part two stated that the use is unrestricted. When borough land goes up for sale and purchased, the land classification does not go with it. Land Management chose to classify these parcels with that in mind – the rural classification reflects most closely to the current zoning district on these parcels which is rural unrestricted. Land Management wanted to be as clear as possible with these classifications.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
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013-216-01	Nikiski Wik Lake	Government Lot 4, Section 8, Township 7 North, Range 11 West, Seward Meridian, Alaska (Pending Record of Survey)	14	Rural	Rural District
013-212-48	Nikiski Wik Lake	Government Lot 12, Section 5, Township 7 North, Range 11 West, Seward Meridian, Alaska. (Pending Record of Survey)	5.79	Rural	Rural District

Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]

Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]

**Overview:** Subject properties are located approximately 4 miles Northeast of Nikiski on the South shore of Wik Lake. Properties are contiguous, sharing one common boundary (North / South). Parcel 013-212-48 is bound on three sides by Wik Lake. Parcel 013-216-01 is bound by Wik Lake on two sides (East and West), KPB owned parcel 013-212-48 to the North and a private parcel to the South. Parcels are unique to this area due to their larger size and total amount of Wik Lake frontage.

#### Findings of Fact:

1. Property Status: Borough received title by State of Alaska Patent No. 4456 and 6176 subject to reservations and platting requirements. Parcels are subject to a 50 foot wide public access easement along the ordinary high watermark of Wik Lake and are required to be surveyed prior to sale. A 50 foot wide section line easement runs East–West along the respective North / South boundary of the subject parcels (total easement width of 100').  
This parcel is currently not classified (undesignated).
2. Zoning: Rural District pursuant to KPB 21.04.010(B).
3. Topography: Parcel topography is broken, rolling terrain of varying slopes with a dense stand of birch and spruce.
4. Soil: 100% of this parcel is classified as “Soldotna Silt Loam”, strongly sloping and gently sloping, 7-12 percent slopes, well-drained with a depth to water table at more than 80 inches, somewhat limited for dwellings without basements but very limited for septic tank absorption, based on seepage, bottom layer and slope.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [May 19, 2021].

(Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Jacque Street is the nearest platted, undeveloped road located to the South of the both subject parcels. Surrounding land use includes residential single-family homes (lakefront and non-lake front), and undeveloped land of varying parcel sizes. Subject parcels are unique in size and amount of lake frontage when compared to adjacent parcels.
6. Surrounding Land Ownership: Surrounding land is primarily in private ownership with one State owned parcel located Northwest of subject parcels, on the West shore of Wik Lake.
7. Access: Parcels are accessible by water from Wik Lake, a public waterbody with floatplane capabilities and undeveloped section line access to the lake. There is no documented physical overland access to subject parcels. Potential physical access could be gained by obtaining easements through adjacent

private property to the South in order to connect to Jacque Street (platted undeveloped road). Jacque Street could potentially provide access to Grayson Avenue a platted and developed road. A 50 foot wide section line easement runs East–West along the respective North / South boundary of the subject parcels (total easement width of 100'). A 50 foot wide perpetual public easement along the ordinary high water mark was retained in State Patent and will be defined and depicted in pending Record of Survey.

8. Utilities: Gas and electric utility are in the area.
9. Public Comment: One public comment was received expressing concern in future development of these parcels, potential impacts on residents, wildlife and the atmosphere the area provides. Requested properties be retained in a preserved status.
10. Advisory Planning Commission Review: No APC exists for this area.
11. Department / Agency Comments: None provided

#### **Analysis:**

Due to the lack of developed physical access to subject properties and without documented easements from adjacent private property owners, the development potential for subject should be reviewed when considering future management actions. While soil conditions are somewhat favorable for dwellings without a basement, an advanced engineered septic system may be required to overcome adverse soil conditions as they relate to septic tank absorption fields. Due to soil conditions and proximity of this property to Wik Lake, special consideration to runoff and septic leachate should be a consideration in any future management decisions. While the reservations contained in State patent provide public access along the shoreline of subject parcels, the closest access to said public easement is obtained by way of section line easement running East–West from the southerly termination of Chickadee Street to the West shore of Wik Lake. KPB land records indicate prior interest in subject properties for ground based radar systems. Those interests have never been acted on or further investigated. Additional management options may be available if physical access was obtained through adjacent properties. Potentially increasing the use potential and associated value of subject parcels.

#### **Conclusions:**

This parcel is surplus to borough needs. A Rural classification would be appropriate for this parcel and would be consistent with the Rural District zoning and compatible with the existing uses in the surrounding area.

Mr. Mueller noted that there was one comment received, which is in the desk packet from the Johnsons. They expressed concerns with this land being designated as rural with no restrictions. They stated these parcels should be kept as land that should be preserved as the best and highest use of the land, taking into account the concerns of the residents to maintain the atmosphere that the lake current provides.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
035-290-33	Hope	Lot 7 of Percy Hope Subdivision as shown on Plat No. 2010-8, Seward Recording District, State of Alaska.	2.24	Rural	Rural District
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcel is located approximately 1 mile East of Hope along the Hope Highway. Parcel contains 283 feet of Hope Highway frontage in a location that provides good visibility to the highway and

vehicle approaches to the Highway. Due to parcel size and proximity to Hope, property is potentially desirable to a variety of future uses.

**Findings of Fact:**

1. Property Status: KPB received title by State of Alaska Patent No 21794 subject to reservations. Hope/Sunrise Land Use plan designates Land Use Recommendations for subject property as Residential. Ordinance 2009-43 (page 2, paragraph 7) states Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed Percy Hope R-M LOZ to approve Lot 7 for potential commercial use. Ordinance 2009-43 specifically excludes Lot 7 from the Percy Hope LOZ. This parcel is encumbered by a 10' utility easement along the North and West property lines. This parcel is not currently classified (undesignated).
2. Zoning: Rural District pursuant to KPB 21.04.010(B).
3. Topography: The property consists of slightly rolling topography with a fairly dense stand of smaller diameter spruce and birch trees.
4. Soil: Although no USDA Soils Survey data is available for the Hope area, physical inspection of the property indicates subject property is similar to adjacent parcels. Property appears to have adequate drainage and stable soils.
5. Surrounding Land Use: This property is within the Hope/Sunrise Land Use Plan area. Surrounding land use includes residential single family homes, undeveloped, commercial and waste management land uses.
7. Surrounding Ownership: Surrounding land ownership includes private, Borough, State and Federal.
8. Access: Access to subject property is provided by the Hope Highway. Any future access to the Highway is subject to approval by the State of Alaska and any terms, provisions and conditions that may be required by the State of Alaska.
9. Utilities: Electric utility service is available in the area.
8. Public Comments: None
9. APC Review: The Hope/Sunrise APC at the June 17, 2021 meeting recommended that parcel 03529033 not designated as rural but be sold with restrictions of the Percy Hope Local Option Zone.
10. Department / Agency Comments: None

**Analysis:**

Subject parcel size and location in relation to the townsite of Hope, contribute to the use potential of this property. Frontage and access to the Hope Highway make this property desirable for a number of potential future uses. Parcel size is somewhat larger than adjacent parcels. Land Management records indicate interest from Hope/Sunrise APC to utilize the lot for potential commercial use (Ordinance 2009-43). The size of this parcel in addition to its highway frontage provides for a wide variety of potential future use. Future management considerations should include State approval of approaches to the Hope Highway and reference Ordinance 2009-43 for desired potential uses.

**Conclusions:**

This parcel is surplus to borough needs. A Rural classification would be appropriate for this parcel and would be compatible with the existing adjacent uses and consistent with Rural District zoning and specific exclusion from the Percy Hope LOZ.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
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131-320-31	Soldotna	Lot 13, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska.	0.9	Rural	Rural District
131-320-32	Soldotna	Lot 37, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska.	0.9	Rural	Rural District
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcels consist of two contiguous lots located Southwest of Soldotna in the Kalifornsky Beach area off of Gas Well Road. They are located approximately 2.7 miles directly West of the Sterling Highway. Parcels share a common East–West boundary.

#### Findings of Fact:

1. Property Status: KPB received title to subject parcels by Clerk's Deed recorded December 14, 2010 as a result of 2008 delinquent real property tax foreclosure action. Parcels are substandard in size (.9 acre) and as a result were retained for public purpose through Ordinance 2012-23. As these parcels have been retained by the borough in excess of 10 years, marketable or clear title to subject parcels should now be available and properties can be considered for future management actions. Although consistent in size with adjacent properties, both parcels are substandard (less than 40,000 square feet) in size. As a result, future development may require the use of an advanced wastewater treatment system. A 10-foot wide utility easement runs along the entire shared East/West boundary (20-foot total width). An undeveloped 33-foot wide section-line easement runs along the South boundary or both parcels. These parcels are currently not classified (undesigned).
2. Zoning: Rural District pursuant to KPB 21.04.010(B).
3. Topography: Parcels are relatively level with smaller diameter spruce being present.
4. Soil: 100% of this parcel is classified as "Soldotna Silt Loam", undulating, 0-4 percent slopes, well-drained with a depth to water table at more than 80 inches, not limited for dwellings without basements but very limited for septic tank absorption, based on seepage, bottom layer, filtering capacity and depth to saturation zone.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [June 3, 2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential single family homes and undeveloped parcels of similar size.
6. Surrounding Ownership: Surrounding land ownership consists of privately owned parcels.
7. Access: Potential access to parcels by way of Gas Well Road (developed) to Rustic Avenue (undeveloped).
8. Utilities: Gas and electric utility are in the area.
9. APC Review: No APC is established in this area.

10. Public Comments: None

11. Department / Agency Comments: None**Analysis:**

Parcel size (substandard) is consistent with adjacent developed and undeveloped properties. Potential use of an engineered septic absorption system may be necessary to overcome soil limitations. Both parcels were acquired through Clerks Deed as the result of a tax foreclosure action and retained by ordinance due to being substandard in size. KPB has retained ownership of parcels in excess of 10 years, marketable or clear title to subject parcels should now be available to subject properties without exception. Future management decisions should take into consideration original platted intention of the property and adjacent parcel use.

**Conclusions:**

Parcels are surplus to borough needs. A Rural classification would be appropriate for this parcel and would be compatible with the existing uses in the surrounding area and consistent with Rural District zoning.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
063-011-11	Sterling	The SW¼NE¼ of Section 4, Township 5 North, Range 9 West, situated in the Kenai Recording District, Seward Meridian, Alaska.	40	Rural	Rural District
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcel is 40 acres in size, located in the Sterling Area approximately 1.2 Miles directly North of the Sterling Highway. Access may be gained from the Sterling Highway, thence North on Robinson Loop Road.

**Findings of Fact:**

- Property Status: The Borough received title to subject property by State of Alaska Patent No. 18705, subject to reservations. KPB land records indicate a history of trespass issues on property. State Patent references a subject to for early entry authorization for a utility easement, 20 feet in width under ADL 228070. Land records indicate additional interest in obtaining right of way easements from Homer Electric. KPB Land management Division has retained engineering services to conduct soils analysis on subject parcels to provide additional information to be used in future potential management decisions. This parcel is not classified (undesignated).
- Zoning: Rural District pursuant to KPB 21.04.010(B)
- Topography: Parcels consist of slightly broken and rolling topography with dense stands of medium to small diameter spruce, aspen and birch.
- Soil:  
17.3% ± of this parcel is classified as "Soldotna Silt Loam", 8 to 15 percent slopes, well drained with a depth to water table at more than 80 inches, somewhat limited for dwellings without basements and very limited for septic tank absorption, based on seepage, slope, slow water movement and depth to saturated zone.

82.7%± of this parcel is classified as "Soldotna Silt Loam, sandy substratum undulating", 0 to 4 percent slopes, well drained with a depth to water table at more than 80 inches, not limited for dwellings without basements and very limited for septic tank absorption, based on seepage bottom layer, slow water

movement, depth to saturated zone, and filtering capacity.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [5/19/2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential developed and undeveloped land. Development in this area is of lower density but includes single family residences, private airstrip and agricultural lands.
6. Surrounding Land Ownership: Includes private and Native land, consisting of a mix of similar and smaller parcel acreages.
7. Access: Potential access may be by way of Robinson Loop road, Oomingnak Street to Watkins Avenue. Potential access route contains a variety of developed and undeveloped roads.
8. Utilities: Electric and gas utility are in the area.
9. Public Comment: None
10. APC Review: No APC is established in this area.
11. Department / Agency Comments: None

#### Analysis:

Subject parcel is consistent to or larger than the majority of other parcels in the area. A substantial amount of timber exists on the property resulting in additional management considerations. Adjacent uses consists of residential, agricultural and private air strip. Findings from soils samples when complete will assist in providing management direction for subject parcel.

#### Conclusions:

This parcel is surplus to borough needs. KPB retained soil sample tests are pending. A Rural classification is appropriate for this parcel and is compatible with the surrounding area and zoning.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
063-043-29	Sterling	The SW¼NW¼ of Section 3, Township 5 North, Range 9 West, situated in the Kenai Recording District, Seward Meridian, Alaska	40	Rural	Rural
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ... Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcel is 40 +/- acres in size, located in the Sterling Area approximately 1.2 Miles directly North of the Sterling Highway.

#### Findings of Fact:

1. Property Status: KPB received title to subject property by State of Alaska Patent No. 18705 subject to reservations. Property is subject to a 50 foot wide section line easement running along the entire West boundary as stated in State Patent. Physical inspection has revealed a potential encroachment of an

agricultural field along the East property line. Land records indicate this clearing (agricultural field) may have been the result of prior lease that expired in 1982. No rights to prior lessee currently exist on subject parcel. KPB Land management Division has retained engineering services to conduct soils analysis on subject parcels to provide additional information for future potential management decisions. This parcel is not classified (undesigned).

2. Zoning: Rural District pursuant to KPB 21.04.010(B)
3. Topography: Parcels consists of slightly broken and rolling topography with a dense stands of medium to small diameter spruce, aspen and birch.
4. Soil:  
44.8% ± of this parcel is classified as "Naptowne Silt Loam", 15 to 25 percent slopes, well drained with a depth to water table at more than 80 inches, very limited for dwellings without basements and very limited for septic tank absorption, based on seepage bottom layer, slope, depth to saturated zone, and too sandy.  
  
48.6%± of this parcel is classified as "Soldotna Silt Loam, sandy substratum", 8 to 15 percent slopes, well drained with a depth to water table at more than 80 inches, somewhat limited for dwellings without basements and very limited for septic tank absorption, based on seepage bottom layer, too sandy, depth to saturated zone, and organic matter.  
  
6.6%± of this parcel is classified as "Soldotna Silt Loam, Sandy Substratum, Undulating", 0 to 4 percent slopes, well drained with a depth to water table of more than 80 inches, not limited for dwellings without basements, very limited for septic tank absorption based on seepage bottom layer, depth to saturated zone, filtering capacity and slow water movement.  
  
Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [6/04/2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).
5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use includes residential and undeveloped land. Development in this area is of lower density but includes single family residences, private airstrips and agricultural lands.
7. Access: Potential access may be by way of Robinson Loop road to Red Hill Street. Potential access route is comprised of developed gravel roads.
8. Utilities: Electric and gas utility are in the area.
9. Public Comment: None
10. APC Review: No APC is established in this area.
11. Department / Agency Comments: None

**Analysis:**

Subject parcel is consistent or larger in size to the majority of other parcels in the area. Adjacent use consists of residential, agricultural and a private air strip. Findings from soils samples when complete will assist in providing management direction for subject parcel.

**Conclusions:**

This parcel is surplus to borough needs. KPB retained soil sample tests are still pending. A Rural classification is appropriate for this parcel and is compatible with the surrounding area and zoning.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
119-071-05	Cooper Landing	Lot 16A of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	0.98	Rural	Rural
119-070-08	Cooper Landing	Lot 19 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.69	Rural	Rural
119-070-09	Cooper Landing	Lot 20 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.54	Rural	Rural
119-070-07	Cooper Landing	Lot 18 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.83	Rural	Rural
119-070-06	Cooper Landing	Lot 17 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.7	Rural	Rural
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ... Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcels are located North of the Kenai River off of Bean Creek Road in Cooper landing. Parcels vary in size from .98 to 1.83 +/- acres. Parcels are similar in size to adjacent properties. Parcel 119-071-05 has a small creek flowing in a North/South direction across the lot.

#### Findings of Fact:

1. Property Status: KPB received title to subject property by State of Alaska Patent No. 15264 subject to reservations. Property is subject to a 10 foot wide Telecommunications Easement located along the southerly boundary of all subject parcels. Parcel 119-071-05 is also subject to a water line easement granted under USDA Forest Service Special Use Permit 2710 for access to the flowing creek referenced above. Physical inspection discovered abandoned concrete foundation located near the East/West shared boundary of parcels 119-071-05 and 119070-06. KPB Land Management Division has retained survey services to generate record of survey in preparation of future management decisions. This parcel is not classified (undesigned).
2. Zoning: Rural District pursuant to KPB 21.04.010(B)
3. Topography: Parcels are comprised of broken terrain with slopes and benches. A dense stand of small to medium diameter spruce and birch exist on the parcel. Mountain and River views to the South are possible from all lots. All parcels have a Sothern exposure. A small flowing creek runs across parcel 119-071-05 creating a small ravine along the creek bed.

4. Soil: 100% ± of this parcel is classified as "Homestead Very Fine Loam", 35 to 65 percent slopes, well drained with a depth to water table at more than 80 inches.

Source Data: Soil Survey Cooper Landing Area Alaska, 1984, U.S.D.A. Soil Conservation Service, (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: These parcels are within the Cooper Landing Land Use Plan 1992/1996 area, however the plan does not make specific recommendations regarding these parcels. Surrounding land use includes residential, recreational, commercial and undeveloped land. KPB parcels are consistent in size to adjacent and surrounding parcels.
6. Surrounding Land Ownership: Includes private and State, and KPB owned land.
7. Access: Potential access may be by way of Sterling Highway to Bean Creek Road. Bean Creek Road is a state maintained road. Direct access would be subject to driveway encroachment permitting from Alaska DOT.
8. Utilities: Electric utility is in the area.
9. Public Comment: two public comments were received, one supporting the proposed Rural Classification and another recommending the classification of Residential.
10. APC Review: Recommended the parcels are classified as residential and if the parcels are sold by the borough they should be zoned within a local option zoning to allow for residential use. If these criteria cannot be met the parcels should not be sold.
11. Department / Agency Comments: None

#### Analysis:

Subject parcels are consistent in size and use to others in the immediate area. Adjacent property use includes, residential, vacant and recreational properties. Proximity to Cooper Landing and the Kenai River enhances the desirability and future management options for parcels. Properties Southern exposure, potential mountain and river views and local real estate market demands should be considered when reviewing future management decisions for subject parcels.

#### Conclusions:

These parcels are surplus to borough needs. A Rural classification is appropriate for this parcel and is compatible with the surrounding area and zoning.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
173-040-14	Homer	Government Lot 18, excepting therefrom Diamond Ridge Road, within Section 12, Township 6 South, Range 14 West, Seward Meridian, in the Homer Recording District, Third Judicial District, State of Alaska.	2.05	Rural	Rural
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ... Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Subject parcel is 2.05 +/- acres in size, located in a residential area, North of Homer off of Diamond Ridge Road. Parcel is located outside the city limits of Homer. The parcel contains a steep ravine

containing Diamond Creek making the parcel difficult to access directly from Diamond Ridge Road.

**Findings of Fact:**

1. Property Status: KPB received title to subject parcel by Quitclaim Deed from Fred Sturman and Mac Chesney on July 26, 1982 recorded as Book 129, Page 246. Property is subject to a 33 foot wide section line easement running along the entire Southerly boundary. Access to property may be difficult due to the steep topography on the North half of parcel adjacent to Diamond Ridge Road. Due to property being acquired from a private party, there is the potential for additional matters to be uncovered by a complete search of the real property records. This parcel is not classified (undesigned).
2. Zoning: Rural District pursuant to KPB 21.04.010(B)
3. Topography: Parcel topography is broken with a steep ravine running East–West along the North half of the property to its northerly boundary along Diamond Ridge Road. The highest elevation on the parcel is located near the southern property boundary which possess potential views to the South. Dense brush is found on approximately 2/3 of the property and along the Diamond Creek. Small to medium diameter spruce stand is located in the SE¼ corner of parcel.
4. Soil:  
68.1% ± of this parcel is classified as “Qutal Silt Loam”, 4 to 8 percent slopes, somewhat poorly drained with a depth to water table of 20 to 30 inches, somewhat limited for dwellings without basements, very limited for septic tank absorption, based on depth to saturation zone, seepage bottom layer, and slow water movement.  
  
22.7%± of this parcel is classified as “Kachemak Silt Loam”, 8 to 15 percent slopes, well drained with a depth to water table at more than 80 inches, somewhat limited for dwellings without basements, very limited for septic tank absorption, based on slow water movement, depth to saturation zone, seepage bottom layer, and slope.  
  
9.2%± of this parcel is classified as “Coal Creek Silt Loam”, 8 to 15 percent slopes, poorly drained with a depth to water table of 6 to 24 inches, very limited for dwellings without basements, very limited for septic tank absorption based on depth to saturation zone, slow water movement, seepage bottom layer and slope.  
  
Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [6/08/2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).
5. Surrounding Land Use: Property is part of the South Peninsula Plan area. Surrounding land use consists of residential and vacant parcels of similar size.
6. Surrounding Land Ownership: Predominately privately owned parcels with some larger parcels owned by the State of Alaska to the West.
7. Access: Potential access may be by way of West Hill Road to Diamond Ridge Road. Potential access route is comprised of developed paved roads. Access to subject parcel may be difficult due to topography of parcel along Diamond Ridge Road.
8. Utilities: Electric and gas utility are in the area.
9. APC Review: The Kachemak Bay Advisory Planning Commission met on 6/10/21 however a quorum was not present. An informational meeting was held wherein no official actions were taken.
10. Public Comment: One public comment was received against the proposed classification due to potential impacts on adjacent properties and tributary of Diamond Creek. It was requested the property be

classified as preservation and if sold, conveyed with a deed restriction on the easterly two thirds of the property. Two more comment were received opposing the rural classification

11. Department / Agency Comments: None

**Analysis:**

Subject parcel is consistent in size to the majority of parcels in the immediate area. Adjacent land use consists of residential, and vacant parcels. Property is part of the South Peninsula Plan, Diamond Ridge Planning Area. The South Peninsula Plan was not adopted, however records indicate that during the 1999 planning process the APC commented "This parcel is too steep, not possible to fill or use. Access from Diamond Ridge Road too dangerous, from Section Line not possible due to terrain. Land is not suitable for any other use" and recommended a preservation classification. Additional notes from the Planning Department discuss the potential to dispose of property including the possibility of sale to a neighboring property owner.

**Conclusions:**

This parcel is surplus to borough needs. Parcel is consistent in size with those in the immediate area. Potential access for future development could be difficult based on topography and should be a consideration in future management decisions. A Rural classification is appropriate for this parcel and is compatible with the surrounding area and zoning.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
179-080-17	Homer	Government Lot 19 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-16	Homer	Government Lot 20 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-18	Homer	Government Lot 18 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-03	Homer	Government Lot 7 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-04	Homer	Government Lot 6 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-10	Homer	Government Lot 11 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-11	Homer	Government Lot 12 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use

179-080-12	Homer	Government Lot 13 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-23	Homer	Government Lot 22 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
179-080-24	Homer	Government Lot 23 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial	East End Mix Use
<p>Commercial Classification Means lands suitable for development or location of service oriented facilities such as stores, offices, medical clinics, restaurants, lodges, vehicular service stations, hotels, and camper parks. Lands must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, near public utilities and be in proximity to residential areas. [KPB 17.10.250(DD)]</p> <p>City of Homer East End Mix Use: The intent of the E-MU district is to allow a wide variety of commercial, industrial, and heavy industrial uses in a district with access to the boatyard, marine services, and the airport; and to ensure such uses, which are important to Homer's economy, continue to have a viable location. (Homer Comprehensive Plan, A-7)</p>					

**Overview:** Parcels are located in the east end of the city of Homer, lying approximately 470 feet West of Kachemak Drive and South of the Homer Boat Yard. Ten contiguous 2.5+/- acre parcels for a total of approximately 25 +/- acres comprise this group of parcels. The parcels are zoned by the City of Homer as Mixed Use allowing for commercial development. The land hosts an active surface hydrology and is described on one map as being part of the East Beluga Discharge. The land is also commonly recognized as having important winter moose habitat.

#### Findings of Fact:

1. **Property Status:** KPB received title to parcels by State of Alaska Patent No. 17501 on March 15, 2000, subject to reservations. The Northerly two parcels are subject to a 50 foot wide section line easement along the entire North boundary. KPB has retained pending survey services to generate a record of survey for subject parcels to be used in future management decisions. These parcels are not currently classified (undesignated), but are subject to the City of Homer East End Mix Use zoning.
2. **Zoning:** Subject parcels are located within the Homer city limits and subject to the City of Homer East End Mix Use. (Homer Comprehensive Plan, A-7)
3. **Topography:** Parcels generally have a low grade slope southward. Majority of subject parcels contain a mixed stand of spruce and birch in addition to areas of peat and standing / surface water. A substantial amount of down and decomposing trees exist throughout the parcels.
4. **Soil:**  
94.6% ± of this parcel is classified as "Beluga Silt Loam", 0 to 4 percent slopes, very poorly drained with a depth to water table of 0 to 16 inches, very limited for dwellings without basements, very limited for septic tank absorption, based on depth to saturation zone, slow water movement, flooding, and ponding.

5.4%± of this parcel is classified as "Salamatof Peat", 0 to 4 percent slopes, very poorly drained with a depth to water table of 0 inches, very limited for dwellings without basements, very limited for septic tank absorption, based on ponding, depth to saturated zone, filtering capacity, and subsidence.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [6/08/2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: Property use to the North of subject parcels is commercial in the form of the Homer Boat Yard (Zoned East End Mix Use). Use to the East is comprised of vacant and residential lands (Zoned Rural Residential). Land use to the West consists of vacant commercial use properties (Zoned East End Mix Use). Those parcels directly to the South being vacant (Zoned East End Mix Use). Parcels are unique in size when compared to adjacent properties.
6. Surrounding Land Ownership: Surrounding land ownership is private.
7. Access: Potential access may be by way of Kachemak Drive to the West or East End Road to the East, followed by the use of platted developed, platted undeveloped roads and section line easements. A plan has been created to reserve public road easements along certain boundaries to ensure legal access to each parcel.
8. Utilities: Electric and gas utility are in the area.
9. Public Comment: One comment was received noting these lands are heavily vegetated, used by moose and has a lot of water running through it. Concerns regarding water management, habitat & peat disruption had not been given appropriate consideration.
10. Department / Agency Comments:  
Comments from the Kenai Peninsula Borough River Center:  
  
(179-080-17) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-16) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-18) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-03) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-04) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-10) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-11) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-12) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-23) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.  
  
(179-080-24) Parcel is within a D Zone of the floodplain. This zone has an undetermined flood risk and is non-regulatory.
11. Comments from the City of Homer: *"Conclusion: In keeping with these goals, the City suggests that some of the Borough Lands may be ideal for commercial development, while other parcels may be better suited for sale for mitigation measures. Additionally, infrastructure such as roads, water, sewer and storm water connectivity are tangible development considerations, and affect multiple property owners in this area. The City is also working on a storm water master plan. It may be appropriate to*

*integrate the findings of that plan with future land use in this wetlands area. The City welcomes the opportunity for a larger neighborhood conversation on the future development these lands."*

**Analysis:**

Subject parcels are somewhat unique in size, contiguous boundaries and common ownership when compared to other properties in the area. Access considerations must be addressed in the event of any future management action as to not impact or restrict access to remaining lots.

KPB land records discloses the following:

- Powers granted to the City of Homer to provide zoning regulation within the city (KPB Ordinance 83-25).
- Letter from the City of Homer requesting classification for public use, to meet recreational needs of the city (City of Homer letter dated August 13, 1982).
- City of Homer Resolution 89-34(a), reserving 10 acres of city owned land for public purposes and requesting KPB deed 25 acres of land to the City of Homer for public use. Resolution also makes reference to City of Homer Resolution 82-39, 84-25 and 87-84 which identify interest in subject parcels. (no documentation found in land records as to follow-up on these resolutions).
- Letter from the City of Homer received November 21, 1989, requesting follow-up on resolution 89-34(a) requesting KPB to deed 25 acres to the City of Homer for public use. (no documentation found in land records as to follow-up on these resolutions).
- Minutes from City of Homer Parks and Recreation Commission meeting November 16, 1989 (Session 89-12), concern was noted as to status of prior resolutions expressing interest in subject parcels.
- Department of the Army, U.S. Army Engineering District Wetland Determination dated June 1, 2005. Property defined as wetlands. However due to the size of the property they were unable to provide a definitive delineation of the wetlands.

Additional management consideration should be given to the information contained in document "Homer Wetland Complexes and Management Strategies", prepared by Mike Gracz, Kenai Watershed Forum (February 4, 2011). Wherein the author identifies two unique wetlands located on subject parcels, East Beluga Discharge and East Homer Drainageway as defined below:

- *East Beluga Discharge: Accelerated runoff from hardened surfaces will be offset with swales and/or runoff retention ponds. Site design should include hydrologic connectivity to upstream and downstream parcels. Moose habitat values are high throughout. Moose habitat should be preserved or mitigated. Development along the border with the East Homer Drainageway Complex should maintain an 85 ft buffer of natural vegetation.*
- *East Homer Drainageway: This area should be targeted for preservation and restoration. Encourage purchasing of private lots by Kachemak Heritage Land Trust, Moose Habitat Incorporated and others. If possible, restore hydrology and repair or implement suitable storm water management measures along Kachemak Drive. Some fill may be allowed along Kachemak Drive.*

Parcels have a number of potential future management directions due to size, contiguous arrangement, proximity to Homer and adjacent commercial development, hydrologic functions, and habitat values. See attached "Exhibit A" for copies of above referenced documentation.

**Conclusions:**

These parcels are surplus to borough needs. Parcels are unique in size and contiguous ownership when compared to adjacent parcels. Future management decisions should consider impacts on access to adjacent KPB owned parcels and potential impacts on sensitive Homer wetlands and natural drainage systems. A commercial classification is appropriate for this parcel and is compatible with the surrounding area and City of Homer East End Mix Use Zoning designation.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
211-280-12	Beluga	Tract C, Block 4 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska.	3.14	Rural	Rural District
211-280-48	Beluga	Tract E, Block 8 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska.	3.3	Rural	Rural District

Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]

Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]

**Overview:** Two individual remote lots located on the Beluga Highway in the Three Mile Creek Subdivision of Beluga, on the west side of the Cook Inlet.

#### Findings of Fact:

1. Property Status: Subject properties were acquired by State of Alaska Patent No. 1369, recorded March 22, 1972, with reservations. Both parcels are subject to a 20 foot building setback from exterior lot boundaries. Parcel 211-280-48 is subject to a 10 foot wide utility easement along the entire North and West property lines. KPB Land Records reference a letter dated June 20, 1988 from the Kenai Peninsula Borough School District requesting to identify parcel 211-280-12 as a parcel of interest for future school use. No additional documentation regarding this request exists in the file. This parcel is currently not classified (undesignated).
2. Zoning: Rural District pursuant to KPB 21.04.010(B).
3. Topography: Parcels are relatively flat with some areas of rolling terrain. Both parcels are densely covered with a stand of birch and spruce.
4. Soil: 100% of this parcel is classified as "Nancy-Kashwitna Complex", 2-7 percent slopes, well-drained with a depth to water table at more than 80 inches, not limited for dwellings without basements but very limited for septic tank absorption, based on seepage bottom layer, filtering capacity, and slow water movement.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: <https://websoilsurvey.sc.egov.usda.gov/>. Accessed [June 9, 2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use is predominately remote residential with some limited commercial use. Parcels are consistent in size to that of adjacent lots.
6. Surrounding Land Ownership: Surrounding land is primarily under KPB or private ownership.
7. Access: The Beluga area is primarily accessed from the Beluga airstrip, which is privately maintained. Both parcels front the Beluga Highway a developed gravel road. Several other platted developed and undeveloped roads exist in the area.

8. Utilities: Electric utility is available in the area.
9. Public Comment: None
10. Advisory Planning Commission Review: No APC exists for this area.
11. Department / Agency Comments: None

### Analysis:

Subject properties are semi-remote with limited air options for direct access to Beluga. KPB land records reference potential uses for parcels to include residential, government facilities or future schools and emergency services. KPB retains ownership of a substantial amount of land adjacent to Three Mile Subdivision. Future management activity should take into account the remote nature of lots and uses referenced in the file.

### Conclusions:

These parcels are surplus to borough needs considering the amount of undeveloped KPB land in close proximity. A Rural classification would be appropriate for these parcels and would be consistent with the Rural Zoning District and compatible with the existing uses in the surrounding area.

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification	Zoning
135-053-34	Caribou Island	Lot 4A of Block 4, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.23	Rural	Rural District
135-053-35	Caribou Island	Lot 6A of Block 4, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.18	Rural	Rural District
135-052-24	Caribou Island	Lot 2A of Block 1, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.33	Rural	Rural District
Rural Classification means lands which are located in a remote area. This classification will have no restrictions. [KPB 17.10.250(DD)]					
Rural Zoning District: ...Land use in the rural district shall be unrestricted except as otherwise provided in this title. [KPB 21.01.010 (B)]					

**Overview:** Caribou Island properties are in a remote location within Skilak Lake, accessible only by boat, plane, or snow machine. Two of the parcels listed are interior lots with one lot having 200 feet of Skilak Lake frontage. The parcels were acquired through various tax foreclosures actions ultimately conveyed to KPB by Clerks Deed under the original platted legal descriptions. Parcels were retained by KPB due to being substandard in size. In 2020 KPB Land Management Division retained survey services to combine the parcels into three lots, each in excess of one acre in size, curing the substandard deficiency.

### Findings of Fact:

1. Property Status: Parcels 135-053-34 and 135-053-35 were conveyed to KPB by Clerks Deed, recorded January 2, 2002 as a result of tax foreclosure. Parcel 135-052-24 was conveyed to KPB by Clerks Deeds recorded June 2, 1997 and August 8, 2000, as the result of tax foreclosure. Original parcels were retained by KPB due to being substandard in size through Ordinances 99-32, 2002-25, and 2001-15. In 2020 KPB cured the substandard lot size deficiency by combining parcels through a recorded replat of Caribou Island Subdivision. As parcels have been retained by KPB in excess of 10 years, marketable or clear title to subject parcels should now be available and properties can be considered for future management decisions. Properties are subject to a 20 foot wide building setback along platted

road right of ways and bound by recorded covenants, conditions and restrictions. A portion of Parcel 135-052-24 is within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. This parcel is currently not classified (undesignated).

2. Zoning: Rural District pursuant to KPB 21.04.010(B).
3. Topography: Parcels 135-053-34 and 135-0523-35 consist of broken rolling terrain with a slope running up from the shoreline. Parcel 135-052-24 has a substantial slope rising up from the shoreline. Parcels contain a thick stand of birch and spruce, with many of the standing spruce have been impacted by spruce bark beetle.
4. Soil: No USDA Soil Survey data is available for this area. However, parcels have similar topography and vegetation cover to adjacent parcels indicating likelihood of consistent soils to similar developed and undeveloped parcels.
5. Surrounding Land Use: No comprehensive land use plan has been developed for this area. Surrounding land use is predominately remote residential and vacant land. Parcels are larger in size when compared to other lots on the island.
6. Surrounding Land Ownership: The majority of the surrounding parcels on the island are in private ownership.
7. Access: Properties are remote with limited means of access to Caribou Island within Skilak Lake. All parcels abut platted, undeveloped roadways.
8. Utilities: Properties are remote with no utilities available.
9. Public Comment: None
10. Advisory Planning Commission Review: No APC exists for this area.
11. Department / Agency Comments:  
Kenai Peninsula Borough River Center comments are as follows:  
(135-052-24) Parcel lies within the 50-foot Habitat Protection District and is subject to KPB 21.18 Anadromous Waters Habitat Protection.

#### **Analysis:**

Subject properties are remote with limited options for access to Caribou Island. All parcels were obtained by Clerks Deed through a tax foreclosure process and retained by KPB due to original platted lots being substandard in size. KPB has cured this issue by combining 6 substandard lots to create 3 parcels through a 2020 recorded replat of Caribou Island Subdivision. Parcels have been retained by KPB in excess of 10 years and can now be considered for future management decisions. Parcels are bound by recorded CCR's, and plat restrictions. A portion of the lakefront lot is subject to the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. All parcels are consistent in use and larger in size when compared to other parcels in the general area.

#### **Conclusions:**

These parcel are surplus to borough needs. A Rural classification would be appropriate for this parcel and would be consistent with the Rural Zoning District and compatible with the existing uses in the surrounding area.

**STAFF RECOMMENDATION:** Based on the findings of fact, analysis, and conclusions that the KPB Planning Commission finds that it is in the borough's best interest to recommend adoption of Resolution 2021-\_\_\_ classifying subject land as follows:

Assessor's Parcel No.	General Location	Legal Description	Acres	Proposed Classification
013-216-01	Nikiski Wik Lake	Government Lot 4, Section 8, Township 7 North, Range 11 West, Seward Meridian, Alaska (Pending Record of Survey)	14	Rural
013-212-48	Nikiski Wik Lake	Government Lot 12, Section 5, Township 7 North, Range 11 West, Seward Meridian, Alaska. (Pending Record of Survey)	5.79	Rural
035-290-33	Hope	Lot 7 of Percy Hope Subdivision as shown on Plat No. 2010-8, Seward Recording District, State of Alaska.	2.24	Rural
131-320-31	Soldotna	Lot 13, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska.	0.9	Rural
131-320-32	Soldotna	Lot 37, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska.	0.9	Rural
063-011-11	Sterling	The SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, Township 5 North, Range 9 West, situated in the Kenai Recording District, Seward Meridian, Alaska.	40	Rural
063-043-29	Sterling	The SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, Township 5 North, Range 9 West, situated in the Kenai Recording District, Seward Meridian, Alaska.	40	Rural
119-071-05	Cooper Landing	Lot 16A of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	0.98	Rural
119-070-08	Cooper Landing	Lot 19 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.69	Rural
119-070-09	Cooper Landing	Lot 20 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.54	Rural
119-070-07	Cooper Landing	Lot 18 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.83	Rural
119-070-06	Cooper Landing	Lot 17 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska.	1.7	Rural
173-040-14	Homer	Government Lot 18, excepting therefrom Diamond Ridge Road, within Section 12, Township 6 South, Range 14 West, Seward Meridian, in the Homer Recording District, Third Judicial District, State of Alaska.	2.05	Rural

179-080-17	Homer	Government Lot 19 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-16	Homer	Government Lot 20 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-18	Homer	Government Lot 18 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-03	Homer	Government Lot 7 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-04	Homer	Government Lot 6 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-10	Homer	Government Lot 11 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-11	Homer	Government Lot 12 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-12	Homer	Government Lot 13 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-23	Homer	Government Lot 22 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
179-080-24	Homer	Government Lot 23 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska.	2.5	Commercial
211-280-12	Beluga	Tract C, Block 4 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska.	3.14	Rural
211-280-48	Beluga	Tract E, Block 8 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska.	3.3	Rural
135-053-34	Caribou Island	Lot 4A of Block 4, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.23	Rural
135-053-35	Caribou Island	Lot 6A of Block 4, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.18	Rural
135-052-24	Caribou Island	Lot 2A of Block 1, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.33	Rural

#### END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Comments on parcel classifications were taken by geographical areas.

Areas with no public testimony: Nikiski, Soldotna, Cooper Landing, Beluga & Caribou Island

#### HOPE AREA

1. Annette Cartier: 25253 Mathison Road, Hope AK, 99605: Ms. Cartier wanted to know if the rural classification goes with the Percy Hope LOZD. They purchased their parcel in the Percy Hope

Subdivision in 2010. In 2010 all 13 parcels in the subdivision were zoned mixed residential except for Lot 7. To classify this neighboring lot 11 years later as rural goes against the mixed residential zoning. Many of the lots in the area have put in septic systems, gas and electric and to classify this one lots as rural does not match the development in the area. She is very concern about this lot being zoned unrestricted. When this lot it is sold, will it be zoned rural or mixed residential. Mr. Mueller replied that outside of city limits and outside local option zone areas the zoning is the rural district, which is unrestricted with the exception of requiring permits for activities such as material sites, confined animal feeding operations, floodplains and sanitariums. Ms. Cartier replied that she does not support the rural classification and believes that this lot should have the same zoning as the Percy Hope Subdivision.

2. Howard Levine; 25253 Mathison Road, Hope AK, 99605: He supports the unanimous recommendation of the Hope/Sunrise APC requesting that the Planning Commission adopt the Percy Subdivision LOZD for this lot. He believes it would be a mistake to jeopardize the values of all the surrounding properties, with the sale of this one lot zoned unrestricted. The appraised value of this unrestricted lot in 2010 was less than 10% more than all the other lots in the Percy Hope Subdivision.
3. Jim Skogstad; P.O. Box 8, Hope AK, 99605: Mr. Skogstad is the chair of the Hope/Sunrise APC and has lived in the area for 46 years. He noted that the Hope/Sunrise APC recommended keeping Lot 7 within the land use restrictions of the Percy Hope LOZD. The APC is looking at where they can put properties that are more commercial. The APC would like to look at this a little more and discuss whether they wish to keep the properties along the Hope Hwy as unrestricted. They do not want to see commercial strip type development along the highway and would like to opportunity to discuss this more. They would ask that the commission either pull this lot or zone it within the Percy Hope LOZD.

#### STERLING AREA

1. Frank Christensen; 39610 Sterling Air Park Street, Sterling AK 99672: He is a neighboring landowner to one of these lots. He would like to see more land that is suitable for agriculture protected. He noted many large homesteads have been subdivided and developed causing agriculture land to be lost. About 20 acres of this land is farmable. He has been farming in the area for over 30 years. He has attempted to lease this land several times but has not been successful. He really does not wish to buy this land; he would like to see it available for agricultural leasing. He would like to see the two 40 acre lots off the land sale. He does not want to see this land turn into a big junky subdivision.
2. Kyle Kanekeberg; 39431 Oomingnak St., Sterling AK 99672: His parcel is adjacent to parcel 063-011-11. Oomingnak is a very small narrow gravel road and they are worried that heavy industrial development could come into the area under a rural classification. He would ask that the commission classify this a residential and/or agriculture. If heavy industrial development comes in it will destroy the property values in the area. He knows several people who want to develop gravel pits in this area. He is very worried that it could happen. Industrial development would bring in heavy trucks and lots of dust, which would damage the area roads and would not be good for the health of his chickens.
3. Scott Vermilya; 39430 Missouri St., Sterling AK, 99672: He concerns mirror what both Frank and Kyle have stated. He has three dogs, which are like his children, and he is very concerned that industrial development will bring heavy truck traffic up and down his road. He does not support the rural classification because it would place no restrictions on how the land could be developed. Most of the land in this area is agricultural or residential, with no industrial development and he would like to keep it that way. He would like this land to be classified agricultural/residential. He would like to keep his quiet neighborhood. He bought his land with the intentions of retiring on it. If someone puts in a heavy industrial development, he believes that it would ruin the area and he would have to move.

## HOMER AREA

1. Jan Needham; 4350 Kachemak Dr., Homer AK, 99603: Ms. Needham lives in this area. In looking at the map in the packet, she noted several lots, 179-080-04, 12 & 18 all backup on lots, which are being developed with homes on them, off Kachemak Dr. Most of these lots are very wet, and are great habitat for moose and other creatures. She does not agree with these lots being classified as commercial. She cannot imagine any business being able to be developed in this area, as it is very wet. She would ask that the commission not classify these lots as commercial.
2. Dale Banks; 5011 Alder Lane, Homer AK, 99603: Mr. Banks has served on the Kachemak Bay APC as well as on the City of Homer Planning Commission. He currently sits on the steering committee for Homer Drawdown, which is undertaking a community based peatland protection project. When he sat on the Kachemak Bay APC, he sat in on numerous hearings on land classifications and has heard a lot of public testimony on the topic. He recognizes that there are many different perspectives when it comes to this topic. What he learned is that it is very important to consider the uses and classifications when considering each lot. He believes you must hear and respect the opinions expressed and then make decisions that are the best for the borough and her residents, including all different type of species, and her future. He lives in and is a business owner in this area. He recognizes there is definitely a limited amount of commercial property within the city limits, and understands the desire to sell these lots for commercial uses. However, he believes these lots need a closer look before applying a broad-brush classification of commercial. He believe parcels 179-080-23 & 24 would be good candidates for a classification of preservation. They are very wet, are prime moose habitat and are adjacent to a large undeveloped lot. He has looked at these lots from Kachemak Dr. and has seen pictures indicating moose paths and beds as well as steams and pools of water. It is quite close to a mapped drainage way peatlands and with further survey and analysis could be determined that all of these lots are actual peatlands. Peatlands store an incredible amount of carbon, which is released upon excavation. Peatlands are also massive sponges that help recharge ground water and reduce surface water flooding. He would recommend a measured approach in this situation, taking into consideration the need of commercial marine trade development as well as acknowledging the sensitive nature of land and its' high value as a moose habitat. He hopes that the Planning Commission would be compelled to take a more thorough look at these and come up with a strategy of classification that is not just a develop all at once solution. Rather a thoughtful solution that will help mitigate and balance some of the impacts of development by preserving some of these lots as high value moose habitat, while allowing some of them to be classified as commercial. He noted that back in the 1980s the city requested that these lots be deemed public use lands. There was also a letter from 2015, in the packet from Thomas McDunna of US Fish & Game that pointed out the importance of the lands around Beluga Lake for wintering moose habitat. It is true that these lands are prime moose habitat and that there are many moose that rely on these lands. These lands are different from talking about an area, way out in some place like the Caribou Hills, where there is tons of space. Moose habitat in this area is being squeezed and there is not a lot of it. Most of the comments in the analysis section of the staff report seem to acknowledge that it is wetlands with varied habitats that should be protected yet the conclusion simply states that a commercial classification is appropriate for all the lots. If you think these lots are worthy of further investigation it would be prudent to remove them all and gather more expert opinions on what lots would be best to preserve. At a minimum he would recommend to classify at least, parcel 179-080-23 & 24 as preservation. There is no emergency here requiring that these lots be classified right away. He hopes that the commission will take the time and consider that preservation of certain parcels, as critical lands can be a valuable partner and enhancement to economic development.
3. Marika Mouw; 2975 Kachemak Dr., Homer AK, 99603 Ms. Mouw stated that she agrees with everything that Ms. Needham and Mr. Banks stated. Particularly Mr. Bank's commentary was exactly what she wanted to say. Ms. Mouw stated that she had walked this land this last Saturday and can testify that it is indeed very wet. There are springs and old growth birch everywhere. She crossed moose beds and trails. One of her great concerns in this area is water management. She does not know where or how this water can be channeled. The bluff above East End Rd. is outside of city limits and all the houses have septic systems and hauled water. All that water comes down into the wetlands and needs to filter and go out, either through Beluga Lake or across Kachemak

Dr. Some of the residential lots in this area on Kachemak Dr. are eroding so fast between the groundwater, surface water and high tides. She believe there needs to be a bigger neighborhood conversation about these lots. This land is incredibly valuable for water storage and wildlife habitat. It is very hard imagining these lots being developed at all. She is also concerned about roads being built in the area; you would be destroying the hydrology. Commercial development bring impermeable surfaces that would channel water faster and more directly causing more erosion. She would urge the Borough to think about hydrology and the residents on the other side of Kachemak Dr. with the infrastructure that already exists that would be damaged. She is also a member of the peatland group and the value of peatland, carbon sequestration is so important, and she hopes that the commission listens to their comments and takes another look this and does not classify these lands as commercial.

4. Nate Whitmore; P.O. Box 355, Anchor Point, AK 996: Mr. Whitmore is the president of the board of directors Moose Habitat Inc. and he has been involved with moose habitat for over 20 plus years. He heard that these properties were going up for sale and that the boat yard was instrumental in making this happen so that they could expand their business. He made a presentation to the Assembly on the needs of his organization. He understands that there are powers within the borough that want development and he understands that the boatyard desires to expand. If these properties were to be sold, his non-profit would like to express their interest in obtaining them for mitigation purposes. He would like the boatyard people, his group and the borough to sit down and discuss what each other's needs are for these properties. They have not had the opportunity to meet yet to discuss this. He would like to see some of this property set aside for habitat.

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

**MAIN MOTION:** Commissioner Ecklund moved, seconded by Commission Carluccio to forward to the assembly a recommendation to approve Resolution 2021-054: Classifying certain parcels of borough owned land in the Nikiski, Soldotna, Sterling, Hope, Homer, Skilak Lake, Cooper Landing & Beluga areas.

Commissioner Ecklund recommended that the commission discuss the parcels for classification systematically in the same order as was done with the staff report and public comment.

Nikiski – Wik Lake: Commission had no comment

#### HOPE AREA

Commissioner Ecklund asked Mr. Mueller if Percy Hope LOZD was put in place before the borough sold those parcels. Mr. Mueller replied yes, the borough formed the LOZD prior to the lots being sold. Commissioner Ecklund then asked if Lot 7 was a part of that LOZD at the time of that sale. Mr. Mueller replied that Lot 7 was not included in the Percy Hope LOZD. He noted that Lot 7 was included in the original LOZD proposal and during the public process was removed. Commissioner Ecklund then asked if it would be possible to add Lot 7 into the Percy Hope LOZD by the commission taking action on it tonight. Mr. Mueller replied that he believed that it would be possible to amend the Percy Hope LOZD to include Lot 7 but it would not be able to be done by the commission tonight. The process to add Lot 7 to the LOZD would be similar to the process of forming a LOZD; it would require noticing and a public hearing process. It could not be accomplished in time for the upcoming land sale but it could be achieved within the next year.

**AMENDMENT A:** Commissioner Ecklund moved, seconded by Commissioner Morgan to pull the Hope property, 035-290-33 from the classification resolution and to direct Borough Administration to move forward with the process of adding this parcel to the Percy Hope LOZD, Mixed Residential Zone.

Commissioner Carluccio stated that she is in favor of this amendment. She does not remember why this Lot 7 was originally pulled from the subdivision, but she believes that it makes sense that it should be included now. It will keep the value of the surrounding properties for it to be zoned residential.

Commissioner Brantley stated that he disagreed with this amendment. This parcel has frontage on the Hope Hwy. as well as access on Mathison Road. In his opinion, it does not fit within the LOZD.

Commissioner Ecklund stated that she appreciates the input for the Hope/Sunrise APC and believes that this amendment reflects their recommendation.

Commissioner Morgan agrees with Commissioner Ecklund, she appreciates the time, and effort of the Hope/Sunrise APC in bring forth their recommendation. She values local input and will be supporting this amendment.

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

**AMENDMENT A PASSED BY MAJORITY VOTE:**

Yes	7	No	2	Absent	2
Yes	Bentz, Carluccio, Ecklund, Fikes, Gillham, Morgan, Venuti				
No	Brantley, Martin				
Absent	Chesser, Ruffner				

**COPPER LANDING AREA**

Commissioner Ecklund asked for clarification on why some of these lots are being classified as Rural. They do not seem to be remote. For instance, she does agree that the Beluga lots are remote, but these lots and the lots in Soldotna are not, yet they are both being classified as Rural. Many of these lots have nearby access to utilities and have roads to them. She understands that he wants to leave the options open for land purchasers on how they wish to develop the land. The classification definition for Rural states that it is considered remote and in her opinion many of the lots are not. Mr. Muller replied that he agrees it is a conundrum, that the language of classification is not particularly clear. Classification does two things. One, it directs the Borough on how to manage their lands. Secondly, the definitions being used are similar to those of zoning, which creates confusion for folks. If the borough classifies land as Residential, it means they are managing the lands for residential purposes. If the borough does not put any kind of zoning restrictions on the property before it is sold, which as a practice they do not, it is sold in its' existing zoning environment which for much of the borough is Rural/Unrestricted. Land Management designated many of these lots as Rural as it closely reflects the existing zoning on the property.

Commissioner Morgan noted that where much of the confusion comes from is when the public notices go out they contain a list of definitions of all the various land classifications. It gives the public the impression that these are the options for the land. When she looks at these lots in Cooper Landing the Rural classification does not really fit them. She does think that some of them should be classified as Preservation and others Residential. Are these parcels open to other classifications other than Rural? Mr. Mueller stated that there are 13 available land classifications and they are all options. The Planning Commission could recommend a different land classification for these lots and the Assembly could yet again adopt a different classification. The classification will inform how the borough manages the land. He noted as an example a land classification on a piece of land that ended up in a land sale over a year ago. The land classification on this parcel of land was split due to a high value wetland on half of the parcel. Half the parcel was classified as Preservation. If the land were to be sold, it would have a deed restriction on the parcel that would not allow for the development of permanent structures. The important question is how we want land classification to translate into actions taken by the Land Management staff.

Commissioner Morgan stated that she appreciates the unanimous recommendations from the Cooper Landing APC that these lots be classified as Residential and if they were to be sold, this classification be attached to the parcel. If that criteria cannot be met then these lots should not be sold. If that cannot be guaranteed, she would like to see these lots pulled.

Commissioner Ecklund stated that she would like to see the classification of these parcel be changed to Residential. She would also like to see the Borough zone these lots residential like they did in Hope with the Percy Hope LOZD. She believes this would support the Cooper Landing APC's recommendations. She recognizes that code requires a certain number of lots to form a LOZD. She asked Mr. Mueller if the Borough had more lots in this area that they could combine with these 5 lots to form a LOZD. Mr. Mueller replied he had looked at the Cooper Landing APC recommendation of incorporating these lots into a LOZD or like in the Percy Hope parcel attaching it to an existing LOZD. In this case the neighboring LOZD is

zoned Rural/Residential and has a minimum lot size of 2.5 acres. These lots do not conform to that lot size. It would require that the lots be re-platted, reconfiguring the five lots to two lots. Another option would be to see if there were seven other landowners in the area to meet the requirements to form a new LOZD. In looking at the lay of the land here, he thinks this option would highly improbable. He believes that if the LOZD recommendation could not be met that these lots would just remain in borough ownership.

Commissioner Ecklund stated that she did not believe that combining these lots together to make them bigger was a good solution.

**AMENDMENT B MOTION:** Commissioner Ecklund moved, seconded by Commissioner Fikes to designate the five lots in Cooper Landing Residential instead of Rural.

Commissioner Brantley asked staff if his understanding was correct that changing the classification on these lots would not change how the buyers could develop them. Mr. Mueller stated he was correct.

Commissioner Ecklund again stated that she did not believe that these lots should not be considered rural as they are close to developed properties and within a high recreational area.

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

**AMENDMENT B PASSED BY MAJORITY VOTE:**

Yes	8	No	1	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Morgan, Venuti				
No	Martin				
Absent	Chesser, Ruffner				

**STERLING AREA**

Commissioner Ecklund asked Mr. Mueller if one of the goals in the Borough Comprehensive Plan was to see more agricultural lands within the Borough. Mr. Mueller replied the new comprehensive plans does identify as a goal to see more suitable lands be classified as agriculture and to make those lands available for agricultural use.

**AMENDMENT MOTION C:** Commission Ecklund moved, seconded by Commissioner Morgan to amend the resolution to change the classification of parcels 063-011-11 & 063-043-29 to agricultural.

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

**AMENDMENT C PASSED BY MAJORITY VOTE:**

Yes	7	No	2	Absent	2
Yes	Bentz, Carluccio, Ecklund, Fikes, Martin, Morgan, Venuti				
No	Brantley, Gillham				
Absent	Chesser, Ruffner				

**HOMER AREA**

Commissioner Ecklund stated that she understands the need for land for development. Tonight she heard some very good testimony regarding the need of keeping some of these wetlands for wild life and water mitigation. The proposed classification for all of these lots is Commercial.

**AMENDMENT MOTION D:** Commissioner Ecklund moved, seconded by Commissioner Fikes to amend the resolution to change the proposed classification of parcels 179-080-14, 12, 18, 23 & 24 to Preservation.

Commissioner Bentz stated that if we were moving forward with classifying these parcels she supported the intent of Commissioner Ecklund's amendment. She noted that there is a lot of community interest in intentional development of these parcels. The Borough Comprehensive plan in the Land Use & Changing Environment Section where one of the strategies of actively managing Borough owned lands is set up a

procedure for developing management plans on parcels that need more detailed, site specific planning. This block of parcels might be a perfect opportunity for the Land Management program to take action on this strategy. They could work with all the interested parties in creating a classification and disposal plan for this block of properties. Speaking to the amendment on the floor, she would like to introduce a different amendment that would remove this block of parcels from the classification process. However, she would vote in favor of the amendment on the floor because of the spirit to classify certain parcels as preservation.

Commissioner Ecklund asked Mr. Mueller if a member of the public recommended these parcels for sale. Mr. Mueller stated that Land Management has received a parcel nomination form recommending that parcels 179-080-03 & 04 be put up for sale and the Homer Boat Yard made a presentation to the Assembly requesting the opportunity to purchase those lots. That interest brought this block of lots forward for consideration for sale. Commissioner Ecklund then asked was it just the interest in these two lots that brought the classification of all these lots forward. Mr. Mueller replied yes.

Commissioner Carluccio stated that she was in support of Commissioner Bentz's plan to remove all the lots. From what she had heard from several of the testifiers tonight there is interest in different organizations getting together to come up with a comprehensive plan for these lots. She believe that would be a better strategy instead of the commission just picking and choosing which lots to remove or designate as Preservation. The only thing that brought this block of lots forward was an interest in purchasing parcels 179-080-03 & 04. She believes that further investigation is needed. She will not be voting in support of classification but she will vote in favor of removing them from consideration at this time.

Commissioner Ecklund stated her reasons for choosing the five lots for Preservation. Parcels 179-080-04, 12 & 18 are adjacent to residential properties and lots 179-080-023 & 24 were strongly recommended for Preservation by Mr. Banks. She believed that the community members who spoke here tonight and those that had interest in purchasing should have a say in determining how these lands are managed. She does not believe there is a need to rush this decision. She then asked if she should pull her amendment from the floor.

Ms. Hindman recommended that it would be cleaner if they voted on the amendment on the floor and if it fails, a new amendment could be proposed.

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

**AMENDMENT D FAILED BY MAJORITY VOTE:**

Yes	1	No	8	Absent	2
Yes	Ecklund				
No	Bentz, Brantley, Carluccio, Fikes, Gillham, Martin, Morgan, Venuti				
Absent	Chesser, Ruffner				

**AMENDMENT E MOTION:** Commissioner Bentz moved, seconded by Commissioner Carluccio to remove from the classification resolution the ten properties in the Homer area that are zoned East End Mixed Use.

Commissioner Bentz as a support to this amendment noted that this area or zone of transition between the communities' developed infrastructure into the communities' natural infrastructure and the ecosystem services that Beluga Lake wetland complex provides. She believes that the interested parties are well on their way to having a more informed and intentional strategy for this area. To keep the hazard management and flooding benefits of this area intact, to preserve the wildlife habitat and to focus on climate mitigation strategies for carbon storage in the peatlands. She believes that these are all important to the stakeholders in the area. Allowing the stakeholders the opportunity to create a management plan for these parcels supports multiple objectives in the Borough's Comprehensive plan.

Commissioner Ecklund asked if there was an action item in the Borough's Comprehensive Plan stating that the Land Management Division could assist the stakeholders in developing a management plan. She noted there is a lot of interest and attention on these parcels right now and she does not want to see this go back to sleep until they come up again for consideration. Mr. Mueller replied yes, Land Management could participate in planning sessions of that nature. Commissioner Ecklund that asked if taking these lots off the table would initiate Land Management starting the planning process, or would the people in Homer have

to come back to you and request assistance. Mr. Mueller stated that his approach would be to look to the letter sent by the Homer City Planner where he invited further neighborhood discussion. He would try to coordinate with him and the City's Planning Department to facilitate community involvement.

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

**AMENDMENT E PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**DIAMOND RIDGE AREA**

Commissioner Bentz had a question for staff regarding parcel 173-040-14. One criteria for selecting to classify lands for sale in the Borough Comprehensive Plan is it should meet the basic physical suitability standards such as slopes, drainage and access to services. This parcel seems like it has some major issues with access, as was pointed out by one of the comments from the public. She wonder if this parcel met the suitability standards of being accessible. The bottom of this parcel also contains a lot of wetlands and streams. She wondered if this parcel really was suitable for classification. Mr. Mueller gave a brief background history on this parcel. They had received an application for a negotiated sale on this property by an adjacent landowner. The landowner has property not on Diamond Ridge Road but on the backside of this property where the soils are better. From a different angle there is access and utility, but not from Diamond Ridge Rd. and could meet the criteria. When evaluating the application for a sole source sale of public land, it did not meet the sole source criteria. A solution to this was to propose this parcel for a general land sale, affording the adjacent landowner and the general public a process to bid on the land for purchase.

Commissioner Bentz then noted the wetlands map shows that most of this land is wetlands and wonder about the development and utility of this property. Mr. Mueller replied that the soils mapping does describe most of the area as wetlands.

**AMENDMENT MOTION F:** Commissioner Bentz moved, seconded by Commissioner Venuti to remove parcel 173-040-14 from the classification resolution and have it considered for classification as preservation in the future.

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

**AMENDMENT F FAILED BY MAJORITY VOTE:**

Yes	4	No	5	Absent	2
Yes	Bentz, Ecklund, Morgan, Venuti				
No	Brantley, Carluccio, Fikes, Gillham, Martin				
Absent	Chesser, Ruffner				

Commissioner Ecklund noted that she believes that the classification of rural is appropriate for both the Cariboo Island and Beluga parcels.

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

**MAIN MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**AGENDA ITEM E. NEW BUSINESS**

6. Ordinance 2021-23: An ordinance authorizing the sale of certain parcels of Borough land by outcry auction followed by an over-the-counter land sale.

Staff report given by Marcus Mueller.

The Kenai Peninsula Borough (KPB) Land Management Division has identified certain parcels of land that are surplus to the KPB's needs. These parcels could be placed in a competitive market value land sale by outcry auction, followed by an over-the-counter sale. Auction reserves and minimum sale prices are proposed to be set at the estimated fair market value as determined through consultation with the KPB Assessing Department.

In addition to the parcels discussed in the classification resolution there are several parcels, which have already been classified, being offered. There is a 6.8-acre lot in the Moose Point Subdivision, two .9-acre lot in the Journey's End Subdivision and a 50-acre tract in the K-Beach area.

The live outcry auction is proposed for August 14, 2021, to be held at Soldotna High School. A sale brochure will identify the parcels and provide a brief explanation of the auction and subsequent closing process. Notice of the land sale will be published in accordance with KPB 17.10.110 and the brochure will be made available on the KPB Land Management Division's website. The ordinance provides a framework to reschedule the auction in the event the August 14<sup>TH</sup> date is cancelled, in recognition of Covid-related uncertainties.

A finder's fee is not proposed for sales occurring in the outcry auction. A finder's fee is proposed to be offered for the sale of any remaining properties through an over-the-counter land sale as described in the ordinance.

This ordinance would authorize an outcry auction land sale of certain parcels of borough land followed by an over-the-counter land sale of the parcels not sold at auction.

END OF STAFF REPORT.

Chair Martin opened the meeting for public comment.

Dale Banks; 5011 Alder Lane, Homer AK, 99603: Mr. Banks thanked the commission for their careful consideration of the properties in the Homer area. He would like to recommend that the commission make an amendment to remove those properties from the land sale.

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

**MAIN MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to forward to the assembly a recommendation to approve Ordinance 2021-23 authorizing the sale of certain parcel of Borough land by outcry auction followed an over-the-counter sale.

**AMENDMENT A:** Commissioner Ecklund moved, seconded by Commissioner Bentz to amend the ordinance by removing the ten parcels in the City of Homer.

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

**AMENDMENT A MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

Commissioner Ecklund had a question for Mr. Mueller regarding the reserve amounts. She noted the reserve price for the ten 2.5-acre lots in the City of Homer, which have some wetlands with some buildable areas and most likely a view since they are along the bluff area, have a reserve price of \$25,000. However, the Cooper Landing lots, which are not as big as the Homer lots, have reserve prices of \$80,000 to \$95,000. She wanted to know how these reserve amounts were set. Mr. Mueller replied that the reserve amount are set in consultation with the Assessing Department. He noted that in Cooper Landing, there is definitely a limited supply of land and it goes at a premium price. With the Homer lots what you are seeing affecting the price is the condition of the property, the soils are not very good. These properties will require a lot of work and money to develop. Commissioner Ecklund then asked if these reserve prices would be considered fair market. Mr. Mueller replied that Alaska is a non-disclosure state so the Assessing Department is working with very little information. The Assessing Department does mass appraisals as opposed to specialized appraisals. When we work with our Assessing Department, we work with the data they have. Therefore, in some sense it is a bit like shooting in the dark when it comes to pricing.

Ms. Hindman noted there were two other parcels the commission was recommending removing from the classification resolution. She wanted to know if they should be removed from this ordinance as well as they could not be sold without being classified. Mr. Mueller would recommend that the Planning Commission remove those lots as well.

**AMENDMENT B:** Commissioner Ecklund moved, seconded by Commissioner Morgan, to remove the Hope property from the land sale ordinance and not put up for sale until it can be included in the Percy Hope LOZD mixed residential zone.

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

**AMENDMENT B MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

Mr. Mueller asked for clarification on parcels that the commission has recommended for a different classification. For example, the 40-acre parcels in the Sterling area. The commission is recommending these two parcels be classified agriculture, do they want them to move forward in the land sale and have them sold as unrestricted or have them removed and pursue a different management avenue. The same would be true for the Cooper Landing parcels.

Commissioner Ecklund stated that she believes the classifications should be listed on the brochure and that code should be followed in relation to the classification. Mr. Mueller reminded Commissioner Ecklund that the classification status goes away at the point of sale. Commissioner Ecklund then asked if that is what Borough code states. Mr. Muller replied that classification only applies to borough owned lands. When the property is sold, it is no longer borough land and classification does not apply to the property owners. Commissioner Ecklund then stated if that is what code says then they are bound by borough code.

Commissioner Ecklund then asked what they could do to ensure that the properties could be bound to their intentions. Mr. Mueller stated he does not really have any good ideas. Thinking of borough land classification as an instrument of land use regulation, such as zoning, does not work, as they are two different devices meant to do different things. Commissioner Ecklund asked about a case several years ago where they classified a 40-acre lot as agricultural/preservation. Is he saying once that land was sold the new landowner was allowed to do whatever he wanted to do with the land. Mr. Mueller replied in that specific case there was a deed restriction placed on the title. In the ordinance for that land sale there was a specific provision stating the half of the parcel classified as preservation would have a deed restriction placed on it, along with the specific language that would be used on the title. Deed restrictions could be used but he would caution against them. He is not a supporter of deed restrictions for two reasons. One, when looking at land use regulations we are looking at zoning. Zoning is dynamic, it allows the planning commission to identify and work with changes that exist on the land and how it is used. It allows for changes

and variances. Deed restrictions runs with the land, it could still be in place 100 years from now. Deed restrictions do not allow for any changes over time.

Commissioner Ecklund then stated that her amendment to change the classification of the parcels in Cooper Landing was based on the APC's recommendations and the public comments received. She believes that area is residential and if there was a way they could add something to the ordinance to ensure that it would stay residential, such as a deed restriction she would be happy to support that. She then asked Mr. Mueller what that deed restriction language would be. Mr. Mueller replied staff could mine out some examples of language and bring a proposed amendment to the assembly but he would speak against it because deed restrictions leave both the property owner and the bureaucrat in an untenable position. He noted that in the past they have used the classification definition as language for a deed restriction. Commissioner Ecklund then stated if you do not use a deed restriction, then some developer could purchase those five parcels and turn it into a commercial property. That would not honor the recommendations of the APC and the other public comments.

Commissioner Bentz had a question about the parcels that they recommend classifying a residential. She understands that the classification goes away if they are sold and no longer in borough hands. If the borough was to retain these lands would there be an opportunity later to offer them in an agricultural land sale or lease. Mr. Mueller replied if these parcels were exclude from the general land sale it would seem to be appropriate to offer them in a future agricultural sale or lease.

**AMENDMENT C MOTION:** Commissioner Bentz moved, seconded by Commissioner Carluccio to amend the ordinance and remove parcel 063-043-29, with a recommended classification of agriculture, with the intention of offering it in a future agricultural land sale or lease.

Commissioner Ecklund then asked Mr. Mueller if this land was sold in a future agricultural sale once it is sold would that mean the new owner could do whatever they wanted with the land. Mr. Mueller replied if it was sold in an agricultural lease program the lessee would be bound by the terms of the lease. If it were sold as a part of an agricultural program, we would first amend borough code to create a local option zone for agriculture. Then we would sell the land in agricultural zone, which would fit within Title 21 of borough code.

Commissioner Ecklund the replied the process Mr. Mueller would be similar to creating a residential LOZD on properties before they are sold, insuring that those properties would be used for residential purposes. She understands there are not enough properties in the Cooper Landing area to form a LOZD. She just wants to find a way to support the recommendations of the area APC, which is that these lots be used for residential purposes. Mr. Mueller replied it would require a change in code, lowering the threshold of lots required to form a LOZD. This would be similar to what he would recommend with an agricultural LOZD, which would require only one lot.

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

**AMENDMENT C MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

Chair Martin called for a vote on the main motion.

Ms. Hindman asked for clarification regarding the parcels in Cooper Landing area, would their recommendation be that they remain in the land sale.

Mr. Mueller replied that it was his understanding the recommendation was to change the proposed classification of the lots to residential and include them in the land sale. Understanding when they are sold it would be as they are currently zoned which is unrestricted.

Commissioner Morgan stated that she now has a better understanding of the difference between classification and zoning. She noted that the recommendation of the APC was that the lots be used for residential purposes only. Her desire is to support the recommendation of the APC. She is not sure what the answer is here. Perhaps they should pull them from the sale; she then asked Mr. Mueller if he was aware of any other options that would support the recommendation of the APC. Was the only option available to try to find seven other landowners willing to join a LOZD? Mr. Mueller stated that he could see several options. They could try to gather more landowners to form a new LOZD. They could amend the Birch & Grouse Ridge LOZD, which is adjacent to these lots, to include these lots. They could offer these lots with a deed restriction limiting the use to residential. Lastly, they could offer them for sale unrestricted. As a land manager, he looks at the lot sizes, location and how other similar lots in Cooper Landing have been used. Given the land use history in this area, they are likely to be a high dollar purchase by someone wanting to build a recreational cabin. Commissioner Morgan stated that she agreed with Mr. Mueller's last statement but that does not follow the recommendation of the APC. She is not sure that the APC had a clear understanding of all the options discussed here tonight. She would like to see the APC be a part of the conversation regarding what happens to these lots. She asked Mr. Mueller if he had the opportunity to have this type of conversation with the APC. Mr. Mueller replied that he had not.

**AMENDMENT D MOTION:** Commissioner Morgan moved, seconded by Commissioner Carluccio to amend the ordinance and pull the Cooper Landing parcels from the land sale to allow for further discussions with the Cooper Landing APC.

Commissioner Ecklund asked Mr. Mueller if these lots are pulled and go back to the APC when could they go back in to a land sale, how often are land sales done? Mr. Mueller replied general land sales are generally conducted annually.

Commissioner Morgan asked would there be time for this to go back to the APC for discussion and still be included in this land sale. Mr. Mueller replied the assembly is scheduled to hear this on July 6<sup>th</sup>, with the proposed sale date being August 14<sup>th</sup>, allowing for about 30 days to market the sale.

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

**AMENDMENT D MOTION FAILED BY MAJORITY VOTE:**

Yes	4	No	5	Absent	2
Yes	Bentz, Carluccio, Morgan, Venuti				
No	Brantley, Ecklund, Fikes, Gillham, Martin				
Absent	Chesser, Ruffner				

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

**MAIN MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Ecklund, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Chesser, Ruffner				

**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Ecklund informed the commission that the plat committee heard and approved 6 plats.

**AGENDA ITEM L. COMMISSIONER COMMENTS**

**AGENDA ITEM M. ADJOURNMENT** – Commissioner Carluccio moved to adjourn the meeting at 10:30 p.m.

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Ann E. Shirnberg  
Administrative Assistant

UNAPPROVED