

Kenai Peninsula Borough Planning Commission

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

August 9, 2021

7:30 P.M.

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

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

Staff Present

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

AGENDA ITEM B. ROLL CALL

1. Oath of Office

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

2. Election of Officers

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

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

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

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

appointed Parliamentarian.

AGENDA ITEM C. CONSENT AGENDA

- *1. Time Extension Request
 - a. Kee's Tern Subdivision
 KPB File 2013-023; Segesser/Martin
 Location: City of Kenai

STAFF REPORT

2013

A preliminary plat was submitted to the Kenai Peninsula Borough Planning Department on January 15, 2003. The plat would create 24 lots and dedicate several rights of way. The intent was to finalize through phases. The KPB Plat Committee conditionally approved this subdivision on February 11, which was valid through February 11, 2014.

2014

On January 21, a revised preliminary plat was submitted for KPB Plat Committee review. The revised design still created 24 lots but the rights of way were to be a tract to provide private access. Conditional preliminary approval was granted on February 10, which was valid through February 10, 2015.

2015

On February 2, a time extension was requested by the surveyor, stating that the plat was in final stages. A 1-year time extension was granted by the KPB Planning Commission on February 23, extending preliminary approval to February 23, 2016.

Phase 1 of this plat was recorded on May 12, extending preliminary approval to May 12, 2016.

2016

On May 9, the surveyor requested a one-year time extension, stating that future lots may be recorded in this phased subdivision. That request was approved by the KPB Planning Commission on June 13, extending preliminary approval to June 13, 2017.

2017

On April 24, the surveyor requested a two-year time extension, stating that the owner has not yet decided to finalize the plat. The request was heard and approved by the KPB Planning Commission on June 12, extending preliminary approval to June 12, 2019.

2019

On May 24, the surveyor requested a one-year time extension, stating that the owner has not decided to finalize the subdivision. The request was heard and approved by the KPB Planning Commission on July 15, extending preliminary approval to July 15, 2020.

2020

On May 15, the surveyor requested a one-year time extension, stating that the owner has not decided to finalize the subdivision.

Notice of the time extension request was emailed and mailed to the City of Kenai on May 18, 2020. The City of Kenai Planning and Zoning Commission has reviewed and given the City Planner approval to submit a letter approving the time extension request at their June 10, 2020 meeting.

The request was heard and approved by the KPB Planning Commission for a one-year time extension extending to July 13, 2021.

2021

On June 20, the surveyor requested a two-year time extension, stating that the owner is finalizing the plat.

Notice of the time extension request was emailed to the City of Kenai on July 14, 2021.

The City of Kenai Planning and Zoning Commission heard the time extension at their regularly scheduled

meeting on July 28, 2021. The City Planner was authorized to submit a letter approving the time extension request. The Kenai Planning and Zoning Commission did not object to the time extension to February 11, 2023. Anything beyond that date will be 10 years from the initial preliminary plat approval date and any phases not recorded will require a new preliminary plat application.

There have been no changes in the area that would affect this plat. Per the approved preliminary design there are 13 lots not yet created.

Approval of the requested time extension would extend preliminary approval to February 11, 2023, which is 10 years after the initial preliminary plat approval. The owner is put on notice that any future platting actions for this subdivision that are not finalized before February 11, 2023 must comply with current KPB Title 20 Subdivisions.

This subdivision currently contains private streets. If all phases are not completed prior to the 10 year limit, the subdivision will be required to comply with Chapter 20.80 – Private Streets and Gated Communities. The required compliance with that portion of code may require public right of way dedications that will need approval from the City of Kenai and will require action by the Kenai Peninsula Borough Plat Committee/Planning Commission.

STAFF RECOMMENDATIONS: Extend preliminary plat approval to February 11, 2023, subject to the following:

1. Copy of plat with current utility reviews being submitted with the final plat.
2. Plat must comply with Kenai Peninsula Borough Code up to February 11, 2014.
3. Any future time extensions granted will be required to comply with current subdivision code at the time of submittal including Chapter 20.80.

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 notice of the decision; using the proper forms; and, be accompanied by the \$300 filing and records preparation fee.

END OF STAFF REPORT

**Passed by Consent Agenda*

- *2 Planning Commissioner Resolutions
- a. PC Resolution 2021-25; KPB File 2020-079V
Finalizing the vacation of several utility easements within proposed subdivision Eventyr Subdivision Number 3

ITEM 2.a - Eventyr Subdivision Number 3 Utility Easement Vacation

KPB File No.	2020-079V
Planning Commission Meeting:	August 9, 2021
Applicant / Owner:	Molly E. Hannigan of Kenai, Alaska Christopher Johnson of Kenai, Alaska
Surveyor:	Jason Young / Edge Survey and Design, LLC
General Location:	City of Kenai

STAFF REPORT

Staff Analysis: This item is back before the Planning Commission to adopt a Resolution to finalize a previously approved utility easement vacation.

The Planning Commission granted approval of the utility easement vacation at the August 24, 2020 KPB Planning Commission meeting. The recording of a subdivision plat depicting the vacation or the recording of a resolution can complete the vacation of a utility easement. Approval of a utility easement vacation

expires in one year.

The Plat Committee granted approval of Eventyr Subdivision Number 3 at the August 10, 2020 Plat Committee meeting. The intent was to finalize the vacations with the recording of the subdivision plat. The surveyor and owners are working on completing the plat but will not be able to finalize prior to the one year approval to vacate the utility easement.

Adoption of Resolution 2021-25 will finalize the approved utility easement vacations.

RECOMMENDATION:

Staff recommends adoption of PC Resolution 2021-25 to finalize the utility easement alteration as approved on August 24, 2020, subject to:

1. Grant utility easements requested by the Kenai City Council and utility providers on the final subdivision plat.
2. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
 - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
 - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
 - iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**
- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

END OF STAFF REPORT

**Passed by Consent Agenda*

- *3.** Plat Granted Administrative Approval
- a. Chigmit Vista Estates Lynch Addition; KPB File 2020-138
 - b. Kimbrel Subdivision 2020 Replat; KPB File 2020-15
 - c. Munger Subdivision No. 4; KPB File 2019-046
 - d. Ridgewood Estates Sub. Unit 2 Tract 5-A 2020 Replat; KPB File 2020-047
 - e. Terrace View Farm Replat; KPB File 2019-150
 - f. The Meadows; KPB File 2020-031R1
 - g. TKC Subdivision; KPB File 2021-065
- *6** Commissioner Excused Absences
- a. Davin Chesser, Northwest Borough
 - b. Robert Ruffner, Kasilof/Clam Gulch
 - c. Vacant, City of Soldotna
- *7** Minutes
- a. July 12, 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 Venuti moved, seconded by Commissioner Gillham to approve the consent

agenda and the regular agenda.

AMENDMENT: Commissioner Brantley moved, seconded Commissioner Bentz to move item D1 to the end of New Business.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E.

ITEM 1 - Stanley's Meadow 2021 Utility Easement Vacations

KPB File No.	2021-086V
Planning Commission Meeting:	August 9, 2021
Applicant / Owner:	Cecil R., Ina L., Billy Ray and Stephanie Joy Jones of Homer, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Fritz Creek/ Kachemak APC

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition:

- Vacate a 20' utility easement within Lot 10A Stanley's Meadow No. 11 (HM 93-60)
- Vacate 5' utility easements along each side of interior lot lines of Lots 8-A, 9-A, 10-A Stanley's Meadow No. 11 ADEC Power-Trip Replat (HM 93-60) and each side of former lot line between Lots 7 and 10 Stanley's Meadow No. 11 (Plat HM 91-47)

Utility easements granted by Stanley's Meadow No. 11 ADEC Power-Trip Replat (Plat HM 93-60) and Stanley's Meadow No. 11 (Plat HM 91-47).

A subdivision replat has been submitted showing the vacation of the interior utility easements, vacation of Cove View Court right of way, and the replatting of 4 lots into 2 lots.

Notification: Notice of vacation mailings were sent by regular mail to 21 owners of property within 600 feet. Notice of the proposed vacation was emailed to 6 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

Staff Analysis: A plat has been submitted to reconfigure 4 lots into two lots. The plat for Stanley's Meadow 2021, KPB File 2021-086, is scheduled to be reviewed at the August 9, 2021 Plat Committee meeting. This

petition is to vacate utility easements that run along the former lot lines.

The Planning Commission approved the vacation of Cove View Court, and the utility easements associated with the right of way, at the meeting of July 12, 2021. The vacation will be heard by the Kenai Peninsula Borough Assembly on August 3, 2021 where they may consent or veto the Planning Commission decision.

The property was originally part of Alaska State Land Survey No. 79-225, plat HM 80-50. The purpose of plat HM 80-50 was to transfer state lands to private ownership.

The land was then subdivided by Stanley's Meadow No. 3, plat HM 81-84. Plat HM 81-84 granted several utility easements including a 40-foot wide utility easement which is defined as 10 feet on both sides of two parallel power lines.

Stanley's Meadow No. 11, plat HM 91-47, further subdivided the property. Plat HM 91-47 granted 10 foot easements along each side of existing power lines, 5 foot utility easements along each side of all interior lot lines, a 20 foot utility easement within lots 7 and 10, and 10 foot utility easements along all dedicated right of ways. Plat 91-47 also contained a note that any utility easements granted by plat HM 81-84 that were not utilized were vacated.

Stanley's Meadow No. 11 ADEC Power-Trip Replat, plat HM 93-60 reconfigured a lot line and extended the 20 foot utility easement previously granted. A new utility easement was granted 5 feet of each side on the new lot line.

A plat has been submitted to vacate Cove View Court and reconfigure 4 lots into 2 lots. Both lots will have access from Perkins Road. The approval of the right of way vacation included the vacation of the 10 foot utility easements that adjoined Cove View Court.

This hearing is to review the vacation of the 5 foot utility easements granted along the interior lot lines and the 20 foot wide utility easements that was granted by HM 91-47 and HM 93-60. The approval of this utility easement vacation will remove utility easements from the interior of the proposed lots. A 10 foot utility easement along Perkins Road will remain in place. Additionally, Homer Electric Association requested that the 10 foot easement on either side of the existing power lines that are within current Lot 18-A remain in place.

Utility provider review:

HEA	No objection to ROW and utility easement vacations as shown. Carry forward note #4 of Plat #93-60 HRD. "10 utility easement exists along each side of all powerlines." Request the powerline across Lot 18-A be shown on the replat.
ENSTAR	No objections to the proposed vacation of the utility easements as shown on Stanley's Meadow 2021 preliminary plat.
ACS	No objections to the ROW, Lot Line, and PUE vacations shown on the plat.
RSA	No objection as this time.

Findings:

1. The petition states that the utility easements proposed to be vacated is not in use by a utility company.
2. KPB RSA, ACS, ENSTAR, and GCI provided written non-objection to the proposed vacations.
3. HEA has no objection to the utility easement vacations as shown, though requests to carry forward note #4 of Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60) "10' UTILITY EASEMENT EXISTS ALONG EACH SIDE OF ALL POWER LINES".
4. Stanley's Meadow No 11 (Plat HM 91-47) and Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60), granted a 20' wide utility easement within the boundary of Lot 7 and Lot 10.
5. Stanley's Meadow No 11 (Plat HM 91-47) granted 5' utility easements along each side of all interior lot lines.
6. Stanley's Meadow No. 11 ADEC Power-Trip Replat (Plat HM 93-60) granted 5' utility easements along each side of all interior lot lines.
7. Stanley's Meadow No 11 (Plat HM 91-47) granted a 10' utility easement along each side of all existing power lines, guys and anchors.

8. Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60) replatted lots 1-18 per Stanley's Meadow No 11 (Plat HM 91-47) which carried forward the 5' utility easement along each side of the former lot 7 and former lot 10 for 100', now located in the lower middle of lot 10-A, HM 93-60.
9. Stanley's Meadow No. 3 (Plat HM 81-84) granted 10' utility easements along each side of existing powerlines which is within Lot 18-A (proposed Lot 9-B).
10. No surrounding properties will be denied utilities.
11. A 10 foot utility easement will remain on Perkins Road after Cove View Ct. is vacated.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends approval of the utility easement alteration as petitioned, subject to:

2. Grant utility easements requested by utility providers.
3. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
 - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
 - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
 - iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**
- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*

- *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Gary Nelson, Ability Surveys; 152 Dehel Ave., Homer AK 99603: Mr. Nelson was the surveyor on this project. He clarified the intent of this petition is to vacate all utility easements within the area shown, with the exception of the 10' utility easement along Perkins Road and the overhead power line easement that is current in existence. The reason he stated this is he believes there could be some minor discrepancies in easements as shown on the preliminary plat for Lot 9B. He just wanted to make clear that clear for the record.

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

MOTION: Commissioner Brantley moved, seconded by Commissioner Ecklund to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

ITEM 2 - Carl F Ahlstrom Subdivision RPM's Replat Number 2 Utility Easement Vacation

KPB File No.	2021-054V
Planning Commission Meeting:	August 9, 2021
Applicant / Owner:	RPM's LLC and John Mellish of Kenai, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	City of Kenai

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Vacate 10' utility easements along the side lot lines of Lots 19, 20, 21, Block 13, Carl F. Ahlstrom Subdivision (Plat KN-216) and Lot 22A, Block 13, Carl F. Ahlstrom Subdivision RPM's Replat (Plat KN 2017-66) excluding the 15 feet adjoining Kenai Spur Highway and the 10 feet adjoining the northeast boundary.

Located within Section 25, Township 6 North, Range 12 West, Seward Meridian, Alaska, within the Kenai Peninsula

The petitioner is in the process of vacating lot lines to create one parcel.

Notification: Notice of vacation mailings were sent by regular mail to 45 owners of property within 600 feet. Notice of the proposed vacation was emailed to 7 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

Staff Analysis: The commission is hearing the vacation of several utility easements proposed to be finalized by the Carl F. Ahlstrom Subdivision RPM's Replat Number 2, KPB File 2021-054. The plat committee held a public hearing for the preliminary plat on June 14, 2021 and approved the plat. The plat will be combining four lots into one lot. This vacation will vacate utility easements that adjoin the parent lot lines.

Carl F. Ahlstrom Subdivision (KN-216) was filed in 1955 and created the lots within this subdivision. KN-216 granted 10-foot utility easement adjoining all side lot lines. Carl F. Ahlstrom Subdivision RPM's Replat, KN 2017-66 combined Lots 22-24 into one lot, Lot 22A. Plat KN 2017-66 also finalized the vacation of the utility easements adjoining the former lot lines. Lot 22A is now being replatted with Lots 19-21.

There are several buildings on the lots and the owner wishes to not have 20-foot utility easements running through the middle of the new lot. A 15-foot utility easement will be granted along the Kenai Spur Highway. Plat KN 2017-66 granted 15 foot utility easements along Lot 22A adjoining the Kenai Spur Highway and Wildwood Drive, excluding the area affected by a permanent structure. 10-foot utility easements will remain from plat K-216 along the south boundary and along the northeast boundary.

The City of Kenai reviewed the preliminary plat at their March 24, 2021 meeting. The plat was approved subject to the Kenai City Council declaring the utility easements not being needed for public purposes and approve the vacations as shown on the preliminary plat.

Utility provider review:

HEA	No comments
ENSTAR	No comments or objections
ACS	No objections
GCI	No response received prior to staff report being written.

Findings:

12. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
13. ACS, ENSTAR, and HEA provided written non-objection to the proposed vacation.
14. City of Kenai Planning and Zoning approved the plat with the depicted utility easement vacations on March 24, 2021.
15. Carl F. Ahlstrom Subdivision, K-216, granted 10 foot utility easements adjoining all lot lines.
16. Carl F. Ahlstrom Subdivision RPM's Replat, KN 2017-66, vacated the interior 10 foot utility easements along the side lot lines of Lots 22-24 of Plat K-216.
17. Plat KN 2017-66 granted 15-foot utility easements along Kenai Spur Highway, excluding the area affected by permanent structures, and Wildwood Drive within Lot 22A.
18. Plat K-216 granted 10 foot utility easements along the northeast boundary of the proposed replat.
19. The preliminary plat will grant a 15-foot utility easement along the Kenai Spur Highway adjacent to parent lots 19-21.
20. No surrounding properties will be denied utilities.
21. The vacation will acquire consent from Kenai City Council as outlined in their Municipal Code 22.05.110.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends APPROVAL of the utility easement alteration as petitioned, subject to:

4. Grant utility easements requested by the Kenai City Council and utility providers.
5. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:

- i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
- ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
- iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**
- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

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 Morgan to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

3. An unnamed private road in Section 24, T04S, R11W; Seward Meridian, Kenai Peninsula Borough, AK; in the Fox River Community; ESN 202

Staff report given by Marcus Mueller.

Applicant: David Reutov of Homer, AK

Existing right-of-way names: None

Name proposed by petitioner: Silver Falls Drive

Reason for Change: Private road that will serve multiple addresses

Background:

Name	Unnamed
ESN	202
Community	Fox River
YR Named	N/A
Constructed	Yes
Total Lots	2
Residential	2
Commercial	0
E911 Address	1
Mailing	1

Review and Comments:

Notice was sent by mail to the owners of the two parcels fronting the unnamed private road, as listed on the KPB tax roll.

No comments from property owners were received by the writing of this staff report.

The road name request has been emailed to the Kenai Peninsula Borough Road Maintenance for review. The KPB Roads Department supplied a statement that the Road Service Area has no objections at this time

Staff Discussion:

A petition was received from one of the property owners accessed by the 1,800 ft. unnamed private road. The petition included signatures from 2 out of 2 landowners fronting the private road.

The unnamed private road can be found in the Fox River area and currently provides access to one E911 address. The property owner anticipates several additional family homes will be added to this property in the future. The petitioner has stated that the unnamed private road has been constructed and that the name Silver Falls Dr. has been used informally for many years.

The petition contained no additional suggested names. Silver is on the prohibited names list because there are 19 instances of the word silver used for street naming within the Borough; however, none are within neighboring ESNs.

The petitioner has stated that the chosen name meets borough code and the requirements of the borough street naming procedure, which do not reference the prohibited names list.

On August 3rd, the petitioner called requesting to postpone the resolution until the next planning commission meeting on August 23rd due to a schedule conflict.

STAFF RECOMMENDATION: Choose a different road name (staff preference) or name the unnamed private road **Silver Falls St** due to north-south direction by the adoption of Resolution SN 2021-04.

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 postpone until brought back by staff.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

4. Ordinance 2021-32: An ordinance authorizing a negotiated lease at fair market value with Edward and Kathleen Martin, dba Cozy Inn, in Kenai for a parking area.

Staff report given by Marcus Mueller.

Ed and Kathleen Martin applied for a negotiated lease of borough-owned land for a parking area adjacent to their property. The Martins' stated purpose is to operate their property for housing students undergoing job training in a local construction academy. In order to serve their customers and meet the zoning requirements of the City of Kenai (City), they would need 16 parking spaces that they do not have space for on the land that they own.

The adjacent borough-owned land is classified as residential and is zoned by the City as Rural Residential. A use as a parking area would require compliance with City zoning regulations and the applicants are willing to go through the permitting processes.

The area being proposed measures 130' of frontage along Lawton Drive and 194' from the center of the street, the north 50' of which is a section line easement serving Lawton Drive. The net area is approximately 0.43 acres after subtracting the Lawton Drive section line right-of-way. A City storm water drain easement (30'wide) also crosses the lease area, but may be compatible with the simple surface use of parking.

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 Brantley moved, seconded by Commissioner Venuti to forward to the assembly a recommendation to approve Ordinance 2021-32.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

Staff report given by Marcus Mueller.

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

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

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

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM D. OLD BUSINESS

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

Staff report given by Bryan Taylor.

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

Chair Martin opened the meeting for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

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

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

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

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

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

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

MOTION PASSED BY MAJORITY VOTE:

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

AGENDA ITEM F. PLAT COMMITTEE REPORT

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

AGENDA ITEM G. OTHER

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

AGENDA ITEM H. PUBLIC PRESENTATION

AGENDA ITEM I. DIRECTOR'S COMMENTS

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

AGENDA ITEM J. COMMISSIONER COMMENTS

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

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

Ann E. Shirnberg
Administrative Assistant