

Kenai Peninsula Borough Planning Commission

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

**March 21, 2022
7:30 P.M.
APPROVED MINUTES**

Chair Martin requested that Vice Chair Ruffner chair the meeting. Chair Martin attended via Zoom and had connection concerns.

CALL TO ORDER

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

Oath of Office

Ms. Shirnberg administered the oath of office to John Hooper, District 3 – Nikiski Planning Commission representative.

ROLL CALL

Commissioners Present

Jeremy Brantley, District 5 – Sterling/Funny River
Diane Fikes, City of Kenai
Pamela Gillham, District 1 – Kalifornsky
John Hooper, District 3 - Nikiski
Michael Horton, District 4 - Soldotna
Virginia Morgan, District 6 – East Peninsula
Blair Martin, District 2 – Kenai
Robert Ruffner, District 7 – Central
Franco Venuti, City of Homer

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

Staff Present

Melanie Aeschliman, Planning Director
Walker Steinhage, Deputy Borough Attorney
Julie Hindman, Planning Specialist
Samantha Lopez, KRC Manager
Nancy Carver, Resource Planning
Eric Ogren, Code Compliance
Ann Shirnberg, Planning Administrative Assistant
Avery Harrison, Land Management Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***3. Plats Granted Administrative Approval**

- a. Foothills Subdivision Sunset View Estates 2020 Addition Phase 1
KPB File 2020-113R1

***5. Plat Amendment Request**

**ITEM C *5 – PLAT AMENDMENT REQUEST
a. BEAVER DAM ESTATES PART 7**

KPB File No.	2021-025R1A1
Planning Commission Meeting:	March 21, 2022
Recording Number:	KN 2021-45
Surveyor:	John Segesser / Segesser Surveys
General Location:	Eider Drive & Mallard Road, Kalifornsky Area

***6. Commissioner Excused Absences**

- a. David Stutzer, District 8 - Homer
- b. City of Soldotna, Vacant
- c. City of Seward, Vacant
- d. City of Seldovia, Vacant

***7. Minutes**

- a. February 28, 2022 Planning Commission meeting minutes

Vice Chair Ruffner asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items. Ms. Shirnberg read the items into the record. Vice Chair Ruffner then noted staff had requested that the FEMA presentation be moved up on the agenda to before Old Business.

MOTION: Commissioner Morgan moved, seconded by Commissioner Brantley to approve the consent agenda and the regular agenda as amended.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

AGENDA ITEM D. OLD BUSINESS

ITEM D1 – CONDITIONAL LAND USE PERMIT - REMAND HEARING

Applicant:	Beachcomber, LLC
Planning Commission Meeting:	March 21, 2022
Tax Parcel ID	169-010-67
Legal Description	Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District, State of Alaska.
General Location:	Anchor Point Area

Vice Chair Ruffner noted that there were three preliminary matters to discuss.

Vice Chair Ruffner noted for the record that an objection from the appellants had been received questioning the commission’s ability to go into adjudicative session for the purpose of reaching a decision in a quasi-judicial matter. He also noted that there was communication from the applicant stating they had no objection to the adjudicative session. He then noted the commission understands that they are in fact allowed to go into adjudicative session despite the objection.

Vice Chair Ruffner noted for the record that there was a request from the appellants for public comment to be reopen, he also noted that there was communication received from the applicant stating they did not want public comment reopened. Vice Chair Ruffner noted that the remand order did not require that public

comment be reopened.

Vice Chair Ruffner asked Commissioners Horton and Hooper if they had an opportunity to review the record in this matter and if after the review, do they feel confident they have sufficient understanding of the matter to participate in deliberations and to vote on the matter. Both replied that they did not believe that they have sufficient understanding to participate in the deliberations on this matter. Chair Ruffner ruled that commissioner Horton and Hooper be excused from participating in the matter.

Vice Chair Ruffner noted that Commissioner Brantley had requested to be recused from this matter due to a potential conflict of interest. Vice Chair Ruffner excused Commissioner Brantley from this matter.

Hearing no other preliminary matters raised, Vice Chair Ruffner brought the matter back to the commission for a motion.

MOTION: Commissioner Fikes moved, seconded by Commissioner Venuti to go into adjudicative session at the close of the meeting and requested that Legal Counsel Siena Caruso and Planning Administrative Assistant Ann Shirnberg join the commission for the session.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	Recused	1	Excused	2	Absent	1	Vacant	3
Yes	Bentz, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti								
Recused	Brantley								
Excused	Horton, Hooper								
Absent	Stutzer								

Vice Chair Ruffner informed those members of the public in attendance that a written decision in the form of a resolution, will be subject to a public vote of the body, at the planning commission’s next regular meeting scheduled for April 11, 2022.

Vice Chair Ruffner asked Ms. Shirnberg to read the procedures for public testimony.

AGENDA ITEM E. NEW BUSINESS

**ITEM E1
PLANNING COMMISSION RESOLUTION 2022-13**

PC Resolution 2022-13: A Resolution recommending adoption of the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Staff report given by Brenda Ahlberg.

Vice Chair Ruffner 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 Venuti to adopt PC Resolution 2022-13, a resolution recommending adoption of the updated 2022 Kenai Peninsula Brough Community Wildfire Protection Plan.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E2
ORDINANCE 2022-04**

Ordinance 2022-04: An ordinance adoption the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

Staff report given by Brenda Ahlberg.

Vice Chair Ruffner 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 Venuti to forward to the Assembly a recommendation to adopt Ordinance 2022-04, an ordinance adoption the updated 2022 Kenai Peninsula Borough Community Wildfire Protection Plan.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E3 - RIGHT OF WAY VACATION
VACATE A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2022-023V
Planning Commission Meeting	March 21, 2022
Applicant / Owner	Cody McLane, Gale Smith, Littleknife Inc., all of Soldotna, Alaska
Surveyor	James Hall / McLane Consulting Inc.
General Location	Sterling Area, Paper Birch Lane, Mountain Ash Street
Legal Description	Lot 1 Forest Hills Lookout Subdivision, Plat KN 86-204, and Lots 8, 9, and 15 of Tulchina Pointe Estates Phase 2, Plat KN 2009-48.

Staff report given by Julie Hindman.

Vice Chair Ruffner opened the meeting for public comment.

1. Steve Bowen, Builder; 36496 Haley’s Way, Soldotna, AK 99669: Mr. Bowen was the builder who made the mistake and built the house in the right-of-way. He apologized for all the issues this mistake has created. He interpreted flagging on the lot and what he thought was the north property line was actually the north boundary of the right-of-way. He noted that he cannot close on the sale of the home until the right-of-way encroachment is resolved. He has hired McLane Consulting to do the survey work and replating of the lot which will hopefully resolve this issue.
2. James Hall, Surveyor; McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall is the surveyor working on this project. Mr. Hall noted that this area has been replatted over the years due to difficult terrain. The plat Mr. McLane is submitting for the subdivision of Lot 1 will provide access to Lot 2 and continue Authentic Road to Mountain Ash which will connect with Foster Avenue to the north. Tulchina Point Estates Phase 2 was approved in 2006 and effects Lots 8, 9 & 15 and are also involved with this vacation request. The 2006 meeting minutes stated that the surveyor identified the difficult terrain of this area. The surveyor, Mr. Baker proposed an intersection layout for Mountain Ash and Walker Street (later renamed to Paper Birch) which would provide dedicated access to the northwest. Walker would be vacated at the top of the knob and Authentic Road would connect to Foster Avenue. The reason given for this design was that they were trying to follow the terrain. He proposed vacating the portion of Walker between the intersection at the top of the knob and install a cul-de-sac because the road could not be built over that terrain. A lot of the area could not be built and they were trying to work with the terrain as much as possible.

3. Cody McLane, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. McLane is an engineer and is assisting Steve Bowen with this situation and he is also the owner of Lot 1 to the north of Paper Birch. He spoke to the buildability of Paper Birch Lane. He noted that KPB 14.060.100 which speaks to road standards, stated that from any intersection the vertical alignment must not exceed 4% within the first 100' and then cannot exceed 10% anywhere else. Where Paper Birch intersects Authentic Road, the elevation changes 70' over the first 200'. To build a road in that area to borough standards, the centerline cut 200' away from the intersection would be approximately 50' and the back slopes would catch about approximate 85' from both directions making the right-of-way of 170'. There is also the possibility of running into ground water issues.

Commissioner Morgan asked Mr. McLane if the rest of Paper Birch Road is built to borough standards. Mr. McLane replied that Paper Birch is not built but he believes there may be some trails in the right-of-way.

Commissioner Ruffner asked Mr. McLane if the concept with the preliminary plat for Lot 1 is to have a connection to Authentic Road as well as a new road that would continue to run north. Mr. McLane replied that he will have a spur that runs up and around the knob of Paper Birch about 200' to the north and will continue north and connect with Foster Road which is to the north of the lot. He noted that there would be a gap created that would be resolved if or when Lot 2 would be subdivided.

4. Gail Smith; 34701 Gloria Burns Circle, Soldotna, AK 99669: Ms. Smith spoke in support of the vacation. She is the owner of Lot 15. She noted the terrain where Paper Birch Lane intersects with Authentic Road is very steep. The image she would use to describe the area would be if you were standing at the bottom on Authentic Road, and would go up the easement to connect with Paper Birch, it would be like going up a tram at the Alyeska Ski area. The area is very steep and it would be difficult if not impossible to build the road. The area is much flatter and more open where the proposed new road will be. She believed that the new proposed road, Mountain Ash, will provide a safer access than Paper Birch. She also expressed numerous safety concerns related to the steepness of Paper Birch Lane.
5. Charles Johnson; P.O., Box 1608, Seward, AK 99664: Mr. Johnson is the owner of Lot 2 of Forest Hills Lookout Subdivision. He spoke in support of the vacation. He noted that the area of Paper Birch being vacated is very steep and would be very difficult to build a road to borough standards. He is happy to use the new road that Mr. McLane is proposing with his proposed subdivision of Lot One. He also noted he is not planning on subdividing his property. He is planning to build a single home on his 15 acres of land. However, should he ever decide to subdivide he does not see a problem with dedicating a road along his property line that would connect with Paper Birch.

Commissioner Fikes asked Mr. Johnson if he currently accesses his property from Paper Birch Lane. Mr. Johnson replied he accessed his property in the past by walking up a trail along Paper Birch Lane. Currently there is not developed road access to his property.

6. Mark Kemberling, 40790 Authentic Road, Soldotna, AK 99669: Mr. Kemberling spoke in opposition to this vacation. He noted that several of the affected property owners in the area were led to believe that Mr. Johnson was allowed access to his property through Cody McLane's property. He stated that he has not seen anything in writing confirming this. He also does not see anything in the record confirming that Mr. Johnson will provide access to Paper Birch from his property. He noted the builder had made a big mistake building well over the property line into the right-of-way. Since his clients are gaining more land with this vacation than required to resolve the encroachment, he would suggest that they could instead take a sliver out of Lot 8 and connect that to Paper Birch. He noted that Developer Circle is already there and it is about 120' feet over flat land to connect to Paper Birch Lane. He feels that Developer Circle could be easily connected to the existing Paper Birch Lane. He noted the area of Paper Birch being vacated is steep but that he and his wife have walked it with their dogs several times, it is a bit of a workout but it is doable.
7. Heidi Morrison; 107 Sand Dollar Dr., Sitka AK: Ms. Morrison spoke in opposition to this vacation. She owns Lot 6 in the Forest Hills Lookout Subdivision, which runs along Paper Birch Road. When she purchased her property, the plat showed Paper Birch connecting to Authentic Road. She noted that since she has owned this property there have been numerous platting actions in the area, none of the platting actions ever noted that Paper Birch could not be built. She herself has ridden horses and driven

snowmachines up Paper Birch and at no time has anyone ever indicated to her that Paper Birch could not be built. She has always assumed that she would have access there. She noted that the Borough must have thought it was possible to build the road because they approved the dedication. She believed that during all the other platting actions this should have been brought up and addressed then but it was not. When she got her notice in the mail regarding this vacation she spoke with Mr. Bowen and presented an alternative of dedicating a section of road along Lots 8 & 9 and connect it to Developer Circle. This would solve the access issues and would allow the landowner, who built his house in Paper Birch Lane, to resolve his encroachment issues using the land within his lots. She also noted that Mr. Johnson does not have plans to subdivide his property (Lot 2) and so there will not be any road dedications that could be used by any of the land owners along Paper Birch. She noted the KPB Roads Department initially was not supporting the vacation. Mr. McLane replied to the Roads Department concerns about access by stating that he would supply access to Mr. Johnson's property (Lot 2), which caused the Roads Department to change their mind and support the vacation. She feels that this email communication was not clear enough to ensure that there will be guaranteed access. She would like the commission to send this vacation request back to the Roads Department for review to ensure that they understand what is being proposed by Mr. McLane. She does not feel that the residents along Paper Birch Lane are being guaranteed access. She believed that there is an opportunity here to discuss other options, but if this platting action is granted the opportunity would be lost. She would like to see Paper Birch Lane remain as it is, it provides access and makes the neighborhood walkable.

Commissioner Brantley asked Ms. Morrison which lot she owned and how did she access the lot. She replied that her lot is the large lot that runs parallel along Paper Birch Lane and that she accesses her property via Moran Street which is off Paper Birch Lane. Commissioner Brantley noted that she also has access to her property via Quillback Drive. She replied that she has never accessed her property via Authentic Road and that she does not intend to develop Quillback Drive as an access. She noted that Quillback was dedicated after she purchased her land. Her plans are to be able to access her 15-acre property anywhere along Paper Birch Lane. She noted that vacating Paper Birch would put pressure on her to give up some of her land to make Quillback a 60' right-of-way should she ever subdivide her property unless alternate access is secured. She believed her earlier recommendation would resolve this issue and that she would not be required to give up any of her land for a road dedication should she subdivide her property in the future.

Commissioner Ruffner noted that currently even if the vacation did not go through that Ms. Morrison would still be able to access her lot using Foster Ave. to Moran St. and along Paper Birch. He also noted that to the south she also had access to her property via Diamond Willow Lane which turns into Authentic Road which connects to Quillback Drive. She replied that is correct. She is concerned that being required to give the required match to Quillback Drive when she goes to subdivide her property will limit her options on how she could develop her property.

8. Jackie Kemberling; 40790 Authentic Road, Soldotna, AK 99669: She spoke in opposition to this vacation. She and her husband own Lot 4 in Tulchina Point Estates Phase 2. She wanted to let the commission know the Quillback Drive is not constructed. She stated that she did not want the other landowners in the area to be pressured into doing something they do not want to do with their properties because of the mistake of another landowner. She just wanted to make sure that everyone gets what they need without having to put pressure on others.
9. Russ Morrison; P.O. Box 4623, Soldotna, AK 99669: Mr. Morrison spoke in opposition to this vacation. He owns Lot 7B of Forest Hills Lookout and his property fronts Paper Birch Lane. He is in opposition to this vacation until another easement is finalized. He believes this vacation will limit his access and negatively affect the development of his land. His plan is to subdivide his land and believes that vacating Paper Birch will cut access to high value land of Tulchina Estates. His property is directly behind some very expensive land and Paper Birch Lane completes a loop which would dramatically increase the value of his property. He believes the vacation would decrease the value of his land

Commissioner Ruffner noted that Mr. Morrison still has dedicated access to his property via Paper Birch. Mr. Morrison stated that is correct, but he does not want to see the loop go away. He believes that losing the loop would negatively affect his land value.

10. James Hall, Surveyor; McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall noted that a goal of the borough is to improve access. That roads being dedicated can be improved and constructed. He

noted that is what they are trying to do with developing this area. The section of Paper Birch being vacated is not constructable. He noted that KPB 20.30.030(A) requires the matching of road dedications. Should Lot 2 ever subdivide he will have to match and continue the right-of-way that Mr. McLane is proposing to dedicate with his development of Lot 1. The same would be required of Quillback should the property owner of Lot 15 ever subdivide. This would provide good access for the area, should these properties ever be developed.

Commissioner Morgan asked for clarification on the access that Mr. McLane is proposing for his development of Lot 1. Mr. Hall noted that the proposed dedication could be found on page E3-21 of the meeting packet. It shows the right-of-way dedication that will go to Lot 2. He then noted that per borough code should Lot 2 ever subdivide he would be required to continue that right-of-way and would connect to Paper Birch.

Commissioner Horton ask a question regarding exceptions to road standards. Commissioner Ruffner replied if you want to build a road that will be accepted into the maintenance system you will need to meet the standards set out in code. The Road Service Board generally does not like to make exceptions to the standards. Commissioner Ruffner sits on the Road Service Board and noted there have been problems in the past when exceptions have been granted which resulted in roads being approved which were like goat trails. In his opinion the section of Paper Birch Lane being vacated, should it ever be developed, could not be built to the standard that it would be accepted into the road maintenance inventory.

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 Gillham to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance to borough code.

Commissioner Brantley stated that he would be supporting the vacation request. The section of road being vacated is not buildable. The only lot that would have an access issue is Lot 2 and the access issue will be resolved with Mr. McLane’s replat of Lot 1. Mr. Johnson is going from the Paper Birch access point which is not constructable to one being dedicated by Mr. McLane’s plat that is. Mr. Johnson’s access to his property will be improved. Everyone else that has spoken tonight currently has developed access to their properties. They are not using the unconstructed portion of Paper Birch Lane being vacated to access their properties.

Commissioner Horton stated that he will be supporting this vacation request. He noted that he lives in this area and is familiar with the lots in question. He noted that there will still be access to Paper Birch Lane via Quillback in the future if needed. The vacation being requested is further back and will not affect access for the other property owners.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E4 - UTILITY EASEMENT ALTERATION
PIPER’S HAVEN UNIT 3 LOT 3 AND LOT 4**

KPB File No.	2021-115V
Planning Commission Meeting	March 21, 2022
Applicant / Owner	David & Jessica Talbot, Baxter Poe & Megan Tashash, all of Anchor Point, Alaska
Surveyor	Jason Schollenberg / Peninsula Surveying, LLC
General Location	Cloyd’s Road, Happy Valley, Anchor Point APC

Staff report given by Julie Hindman.

Vice Chair Ruffner 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 Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance to borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

**ITEM E5 - UTILITY EASMENT ALTERATION
ARROWHEAD ESTATES MOORE REPLAT LOT 11A & ARROWHEAD ESTATES PHASE 1 LOT 10**

KPB File No.	2022-001V
Planning Commission Meeting	March 21, 2022
Applicant / Owner	Nathan and Julie Moore of Soldotna, Alaska
Surveyor	John Segesser / Segesser Surveys
General Location	Half Moon Avenue and Oliver Street, Sterling

Staff report given by Julie Hindman.

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

ITEM E6 – CONDITIONAL USE PERMIT

PC Resolution No.	2022-11
Planning Commission Meeting	March 21, 2022
Applicant / Owner	Mark Arkens of Soldotna
Tax Parcel ID No.	066-250-23
Physical Address	36315 Mykiss Street
General Location	Funny River Area

Staff report given by Samantha Lopez.

Vice Chair Ruffner opened the meeting for public comment.

1. Mark Arkens, Petitioner; P.O. Box 2079, Soldotna, AK 99669: Mr. Arkens noted he has issues with people trespassing, walking along and destroying this section of the bank along his property. He wants to restore and protect the bank that runs along his property. He wishes to install a chain link fence that runs along a portion of his eastern property line down to the river. The section line easement running

down to the river next to his property has a lot of activity. People access the river there, park their vehicles in the area, a lot of trash is dumped and they walk along and use the bank. The public will still have river access in this area via the section line easement however, the section line easement is not clearly marked in the area and so people often trespass on to his property. He has posted signs and they have been ignored. Putting up the fence will protect his bank and reduce the amount of trespass on his property. Fencing this area and doing the revetment will allow the bank the opportunity to heal itself.

Commissioner Fikes asked if this fencing will limit the ability for vehicles to access the area. Mr. Arkens replied that it would not, it would just keep people from trespassing on his property. Commissioner Fikes then asked if he had spoken to the land owner on the other side of the section line easement about his plans. Mr. Arkens replied that he had and while they do not experience the same issues with trespass, they support his project. The section line easement in the area is 100' and so there will still be room for the public to park their trailers & cars and access the river, the fence will just ensure that they do not trespass on to his property.

Director Aeschliman asked if he had a recent survey of his property. Mr. Arkens replied that he had and his property lines were marked.

Commissioner Morgan asked if he had considered that his fence might be vandalized. Mr. Arkens replied that he understands that possibility exists and if his fence is vandalized, he would just repair it.

Commissioner Venuti asked if Mr. Arkens had considered that his choice of using chain link for his fence might act like a net and catch debris from the river. Mr. Arkens stated that if there is river debris caught up in his fence, he will remove it and if needed repair the fence. He also noted that the end of the fence will be far enough away from the river that this should not be an issue

2. Hal Lapointe; 7130 Travis Circle, Anchorage, AK 99507: Mr. Lapointe asked if Mr. Arkens had an easement in that area. He noted the area where folks turn around at the end of the road is very narrow. He wondered if Mr. Arkens could revise his fence plans to ensure that folks could still have enough area down there to turn around. He noted that Mr. Arkens stated that he had spoken to others in the neighborhood regarding his plans but he had not contacted them. Commissioner Ruffner replied that there is a section line easement in that area and where Mr. Arkens is putting up his fence is not within the easement but on his property.
3. Stephanie LaPointe; 7130 Travis Circle, Anchorage, AK 99507: Ms. LaPointe noted that the side of the road opposite Mr. Arkens property has a lot of erosion. She is concern if Mr. Arkens blocks some of the area down there, folks will be forced to use the area that is eroding and it will only make it worse and could affect how the river flows in the area.

Ms. Lopez noted that the use of chain link for the fencing is most preferred by floodplain standards. Initially Mr. Arkens proposed using solid cedar fencing which could cause backwater issues. The uniqueness of the applicant's lot is that it lies behind an island. The area between the applicant's lot and the island is almost like an eddy. There is very little ice flow in the area between his lot and the island. She believed that even if the ice should break over the island and flow into this area the chain link fence would still be the best option as it would allow water to move through it.

4. Mark Arkens, Petitioner; P.O. Box 2079, Soldotna, AK 99669: Mr. Arkens noted he did reach out to his neighbors that live in the area year-round, but he did not reach out to the seasonal residents. The area where folks will be able to park will be smaller because they will not be able to park on his property like they have done in the past. He noted that whether or not a fence goes up he will not allow folks to continue to park on his property. He has no problems with folks accessing the river using the section line easement, he just does not want them trespassing on his property.

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 Brantley to adopt PC Resolution 2022-11, granting a conditional use permit for the construction of a fence within the 50-foot Habitat Protection District of the Kenai River.

Commissioner Ruffner expressed concerns about fencing that runs perpendicular to the river in that it might inhibit the seasonal movement of animals. He asked Mr. Arkens if he would be willing to have a gate that could be opened for the moose and other animals to use. Mr. Arkens replied that he would not be opposed but that he did not think it would be necessary. The water in the area is shallow and ices over allowing for easy passage across the area. He noted that he just recently witnessed a moose walk across the frozen area to get out to the island. If the commission feels that a gate is necessary, he would happily install one. Commissioner Ruffner noted that the water in that area is really shallow and he would like to see what other commissioners think on the issue.

Commissioner Gillham asked how long the fence was going to be. Ms. Lopez replied that the fence is approximately 140' and connects with a small wooded area on the property.

Commissioner Ruffner noted that he will be supporting this permit. He is very familiar with this area and the problems associated with it. He would not request the added condition of the installation of a gate but would ask Mr. Arkens to consider one.

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

MOTION PASSED BY MAJORITY VOTE:

Yes	9	No	1	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner						
No	Venuti						
Absent	Stutzer						

ITEM E7 – MARIJUANA CULTIVATION FACILITY LICENSE

Applicant	Redoubt Reefer
Planning Commission Meeting	March 21, 2022
Land Owner	Jason Rodean
Tax Parcel ID No.	133-350-16
Physical Address	27250 Vincent Street
General Location	Kasilof Area

Staff report given by Nancy Carver.

Vice Chair Ruffner opened the meeting for public comment.

1. Maureen Culbreth; PO. Box 1182, Kasilof, AK 99610: Ms. Culbreth spoke in opposition to the application. She objects to facilities like this being allowed in residential areas. There are families that live in this area with children and she does not believe they should be exposed to this kind of facility. She expressed concerns with property devaluation, the potential of water table issues and an increase in criminal activity. She was also concerned that there would be retail sales from the facility.
2. Maureen Vincent; 2130 Innes Circle, Anchorage AK, 99515: Ms. Vincent spoke in opposition to the application. She opposes a facility like this in the middle of a residential area. She noted that her home is very close to this operation. She expressed concerns regarding the smells from the facility and the possible impact on her well. She noted that she was one of the developers for this subdivision and it was intended to be residential only. She believes that the covenants for the subdivision do not allow for this type of business.

Commissioner Venuti informed Ms. Vincent that since covenants are private agreements, the borough does not have the authority to enforce them. However, the neighborhood does have the right to come together and bring a civil action against the business.

3. Joe Gillman; P.O. Box 918, Kasilof AK, 99610: Mr. Gillman spoke in opposition to the application. He noted that he himself is a small business owner and that he does not have a problem with small businesses in the area. He also noted he is not against the marijuana industry. What he is against is to have a cultivation facility in the middle of a residential area. This neighborhood has families with children and he does not believe they should be exposed to this kind of facility. He also wanted to

know if this facility would conduct extractions – if so, he had concerns regarding the dangers related to the extraction process. He also stated that she shares many of the same concerns express by the other testifiers. He also had concerns related to the saturation of the marijuana industry on the peninsula.

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 Venuti to forward to the Assembly a recommendation to approve a marijuana cultivation facility license for Redoubt Reefer.

Vice Chair Ruffner asked staff to address some of the concerns expressed regarding the possibility of retail sales occurring at the facility. Ms. Carver replied that this is a cultivation facility only. A separate license would be needed should they want to conduct retails sells.

Eric Ogren noted that the state of Alaska dictates the regulations related to orders. An odor filtration/exhaust system is state required. Odor complaints would be addressed by the State.

Commissioner Hooper asked staff if they are just growing or are they processing the product on site. Mr. Ogren replied that it is his understanding that the product will be grown and harvested on site but that any processing of the product happens at the retail sites.

Commissioner Horton asked if the commission could add additional conditions to the permit. He noted that he is familiar with this type of filtration/exhaust system. The filters can fail quickly when they become saturated by humidity. Could they require the special condition of requiring a dehumidifier in the facility? Mr. Ogren replied that it is permissible for the commission to recommend additional conditions, the commission would have to include findings of fact to support the recommendation. Borough Attorney Walker concurred with Mr. Ogren.

Commissioner Fikes noted that concerns with odors are one of the most common concerns expressed. She is concerned with recommending additional conditions on this license when they have not required them on past licenses. She noted that this application meets all the state requirements and standards and she does not see how this facility is different from the others they have reviewed. She does not see any special circumstances related to this application that would warrant additional conditions.

Commissioner Gillham noted that this facility has three homes that are within the 300’ radius. She wondered if this might be a situation that would warrant additional recommended conditions. She noted this is a developed residential area, and that it might not be the best location for this type of facility. This specific situation might support additional conditions. Vice Chair Ruffner stated the commission does have the ability to recommend additional conditions on the license, they would just have to develop findings that support the conditions.

Vice Chair Ruffner noted that the majority of the borough does not have zoning regulations to address these types of land use conflicts, this greatly limits what the commission can do in situations like this. The alcohol industry has limited entry regulations set by the State, which limits the number of businesses allowed in an area, the marijuana industry does not.

Commissioner Bentz spoke to the concerns expressed by the public regarding the size of the facility. She noted that the site plan in the application shows the licensed facility is an existing structure on the property and is about 1700-sq-ft which is about the size of a residential home.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

ITEM E8 – CONDITINAL LAND USE PERMIT

Applicant:	Trimark Earth Reserve, LLC
Planning Commission Meeting:	March 21, 2022
Tax Parcel ID	055-072-76
Legal Description	T05N, R11W, SEC 25, S.M., Kalifornsky Center Subdivision Tract D
General Location:	Ravenwood Street & Bonita Avenue, Kalifornsky Beach Area

Staff report given by Ryan Raidmae.

Vice Chair Ruffner opened the meeting for public comment.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna, AK: McLane Consulting was hired by the applicant and was responsible for preparing the field survey, site plan and the application. Ms. DeBardelaben then gave a brief background history on the challenges related with permitting gravel pits, the background history on this particular piece of land and the other gravel pits in the immediate area. She noted that Trimark has done their due diligence by creating a site development plan that meets borough code prior to submitting their application. She then made herself available for any questions.

Commissioner Fikes asked Ms. DeBardelaben about the plans for ingress & egress for the pit. Ms. DeBardelaben replied that the primary access would be Ravenwood which is also the access used for their processing plant. Bonita would be a secondary route that could be used if necessary. She noted that there are several other material sites in the area that currently use these streets for access.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Brantley to adopt PC Resolution 2022-10 granting a conditional land use permit to Trimark Earth Reserve, LLC.

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

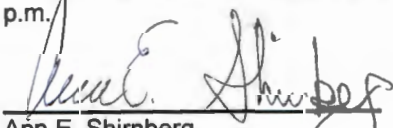
MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Ruffner, Venuti				
Absent	Stutzer				

AGENDA ITEM I. DIRECTOR’S COMMENTS - None

AGENDA ITEM J. COMMISSIONER COMMENTS - None

AGENDA ITEM M. ADJOURNMENT – Commissioner Brantley moved to adjourn the meeting 10:25 p.m.


 Ann E. Shirnberg
 Administrative Assistant