

Kenai Peninsula Borough Planning Commission

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

August 22, 2022
7:30 P.M.
APPROVED MINUTES

AGENDA ITEM A. **CALL TO ORDER**

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

AGENDA ITEM B. **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
Blair Martin, District 2 – Kenai
Virginia Morgan, District 6 – East Peninsula
Troy Staggs, City of Seward
David Stutzer, District 8 – Homer
Dawson Slaughter, District 9 – South Peninsula
Charlene Tautfest, City of Soldotna
Franco Venuti, City of Homer

With 12 members of a 12-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Marcus Mueller, Land Management Officer
Vince Piagentini, Platting Manager
Julie Hindman, Platting Specialist
Morgan Aldridge, Resource Planner
Ann Shirnberg, Planning Administrative Assistant
Rhonda Foster-Deskins, LMD Administrative Assistant.

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

- *3. Plats Granted Administrative Approval**
 - a. Hiridge Subdivision Amended Thompson Addition; KPB File 2021-163
 - b. West Hill Subdivision Harness Addition; KPB File 2021-021R

- *4. Plats Granted Final Approval**
 - a. Little Story Subdivision: KPB File 2022-004

- *6. Commissioner Excused Absences**
 - a. District 7 – Central, Vacant
 - b. City of Seldovia, Vacant

***7. Minutes**

- a. August 8, 2022 Planning Commission meeting minutes.

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

MOTION: Commissioner Martin moved, seconded by Commissioner Gillham to approve the consent and regular agendas.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM E. NEW BUSINESS

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

**ITEM E1 – RIGHT-OF-WAY VACATION
JOE LUY COURT AND BISMARCK COURT RIGHT-OF-WAY AND
ASSOCIATED UTILITY EASEMENT VACATIONS**

KPB File No.	2022-117V
Planning Commission Meeting:	August 22, 2022
Applicant / Owner:	Alcan Ventures Limited of Vernon, BC
Surveyor:	John Segesser / Segesser Surveys
General Location:	Citabria Street, Lower Salamatof Avenue, Salamatof
Legal Description:	Joe Luy Court and Bismarck Court, Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, Township 6 North, Range 12 West, Section 1

Staff report given by Platting Specialist Julie Hindman.

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

MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter, 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.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E2 – CONDITIONAL USE PERMIT
ANADROMOUS WATERS HABITAT PROTECTION DISTRICT**

KPB File No.	2022-34
Planning Commission Meeting:	August 22, 2022
Applicant	Castaway Cove Association
Mailing Address	1577 C Street, Anchorage, AK 99501

Legal Description	T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0840140 CASTAWAY COVE SUB AMENDED TRACTS A & B
KPB Parcel Number	055-255-47 & 055-253-42

Staff report given by Morgan Aldridge.

Chair Brantley opened the item for public comment.

Ward Hepper; 45583 Fish On Drive, Kenai, AK 99611: Mr. Hepper is a landowner in Castaway Cove Subdivision. He is opposed to approving this conditional use permit. The location of the proposed foot bridge could negatively affect his property. He stated the HOA is opposed to this conditional use permit. He stated that the HOA concerns have not been addressed.

Rick Gedney; 45612 Catching Silvers Drive, Kenai AK 99611: Mr. Gedney lives on the island that this foot bridge will serve. He and the other landowners on this island fully support approving this conditional use permit. He also stated that he has a letter signed by the HOA stating that they approve of this project. The letter even has Mr. Hepper's signature. The current foot bridge to the island is in a state of disrepair, the HOA has invested a lot of money trying to stabilize the bank and it has not worked. There is a very real chance that the current access to the island will not be usable in the near future. A permit to replace the bridge was issued two years ago and will expire on August 24, 2022. Several years ago a resident of the island, Leon James, had the foresight to purchase a bridge from Boeing. The island residents have raised the funds to get the bridge here and to have it installed. There were complications due to COVID restrictions that delayed getting the bridge up to Alaska. The bridge finally made it here this last July. He noted that they are working with an engineer from Anchorage on the installation of this bridge. All the pieces are in place and they want to move forward with the installation. They would like to install the bridge this November, allowing for the wetlands to freeze, which will reduce potential damage to them. They are just asking for a one-year extension for the current permit.

Commissioner Gillham asked Mr. Gedney who owns the property that this new bridge will be set on. Mr. Gedney replied that the HOA owns the easement where the bridge will be placed. Commissioner Gillham asked if the easement, where the bridge is to be placed, is a public access or private easement. Mr. Gedney replied that he believed the HOA owns the easement.

Wyatt Hepper; 45583 Fish On Drive, Kenai, AK 99611: Wyatt Hepper is Ward Hepper's son and joins his father in opposing this conditional use permit. He stated that the location of the footbridge could have a negative impact on their property, as their property butts up against the easement they want to use. The HOA has not seen any engineering plans for this project. He also noted that the residents on the island will not lose their access as they will still be able to access their properties from the water.

Ward Hepper; 45583 Fish On Drive, Kenai, AK 99611: Mr. Hepper restated that the HOA is not in support of this project. The HOA does not want to be liable for the bridge. The HOA has not seen any engineering reports or any documentation showing that this project is feasible. The HOA is not opposed to the island residents having access, they just do not want to incur the liability of this bridge. If the island folks wanted to give the HOA the money to build the bridge, they would build the bridge and take responsibility for it.

Chair Brantley asked Mr. Hepper if the HOA, who is listed as the applicant on the application, would like to withdraw the application. Mr. Hepper stated that the HOA would like the application withdrawn. Chair Brantley asked Borough Attorney Steinhage that since the applicant on the application is Castaway Cove HOA and Mr. Hepper is their representative could he withdraw the application on the HOA's behalf? Borough Attorney Steinhage replied the representative of the HOA could request that the application be withdrawn.

Commissioner Gillham asked if there was a resolution from the HOA stating that the HOA does not want to move forward with the project and gives Mr. Hepper the authority to speak on their behalf.

Chair Brantley asked staff to come back and answer a few questions. He said it was stated that the River Center required the approval of Castaway Cove HOA for this project, is there any documentation showing the HOA's approval? He then asked would it be possible for Leon James to come back with a permit application on his own, without the HOA's approval. Ms. Aldridge replied that the River Center requested

written approval for the project from the landowner, which was Castaway Cove HOA. A recent letter was supplied from the HOA allowing this application to go forward for review by the planning commission.

Commissioner Morgan stated that she was confused – the permit application states Castaway Cove HOA is the applicant. She also noted that the application package was incomplete as several pages are missing and she doesn't see the letter from the HOA that Mr. Gedney and Ms. Aldridge are referring to.

Planner Aldridge reviewed the meeting materials and agreed that several pages appeared to be missing. She then read an exert from the 7-28-22 letter from the HOA into the record:

Additional provision for the installation of bridge #2 Castaway Cove are as follows:

- The Castaway Cove Association has no liability for the bridge installation. The builder assumes all costs and liability until the bridge is completed.
- After the bridge is completed, they will turn over ownership to the association. The bridge is to be inspected by a qualified inspector.
- Castaway Cove board members agree to the permit application (extension) under these provisions. (Unanimous approval 5-0)
- Letter was signed by Board President Ward Hepper.

Borough Attorney Steinhage recommended that the commission move to postpone action on this item. It will allow time for staff to verify the players and the information brought forth tonight. Chair Brantley agreed.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission. Ms. Morgan then read into the record the letter dated 7/27/22 from the HOA.

MOTION: Commissioner Martin moved, seconded by Commissioner Horton, to postpone until brought back by staff

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E3 – ORDINANCE 2022-38

Authorizing the release of a portion of a conservation easement deed restriction on a parcel of land located in Cooper Landing and to acquire a 30-foot-wide tract of land and classify three 30-foot-wide tracts of land as government.

Staff report given by Land Management Officer Marcus Mueller.

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

MOTION: Commissioner Morgan moved, seconded by Commissioner Staggs to forward to the assembly a recommendation to adopt Ordinance 2022-38, Authorizing the release of a portion of a conservation easement deed restriction on a parcel of land located in Cooper Landing and to acquire a 30-foot-wide tract of land and classify three 30-foot-wide tracts of land as government.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E4 – Ordinance 2022-41
An ordinance amending KPB 21.02 regarding Advisory Planning Commissions, establishing an advisory planning commission in the Nikiski area.

Staff report Planning Director Robert Ruffner.

Commissioner Horton asked Director Ruffner if the residents at the public meeting gave a reason for wanting the APC to cover such a large area. Director Ruffner replied that what he heard from the residents at the meeting was that their desired area for the APC mimics the size of the Nikiski's recreational and their fire service areas. The other reason given was that one of the first duties of an APC is to work on developing a land plan for their area. They noted that the borough does own quite a bit of land on the westside and they would like to be able to make recommendations on the use of those lands. Director Ruffner then stated that he weighs this desire against the idea that the purpose of the APC is to provide information to the planning commission on local issues.

Commissioner Slaughter noted that looking at the signatures on the petition it appears that all the individuals live within the alternative 4boundary area. He does not see any signatures from anyone on the westside. He then asked if there had been any outreach to the residents on the westside to see if they would be interested in being included in this APC. Director Ruffner stated that he did ask that question at the public meeting and to his knowledge no one from the westside has responded one way or another on this issue. Commissioner Slaughter then stated that he had sat on a local APC for a number of years and that he believes that the local voice that APCs provide is important. His concern is that having such a large area to cover, and with no input from anyone on the westside, there would be no local input from that area. He supports those local residents who wish to create an APC and since they all live within the alternative option; he would support the option of the smaller boundary area. Perhaps later the folks on the westside can decide to either join the Nikiski APC or start one of their own.

Commissioner Venuti asked Director Ruffner what would be the downside of having such a large area for an APC. Director Ruffner identified several potential issues. One would be sending out notifications of actions within an APC. Another is you want an APC to have credibility when commenting on things like platting actions or road vacations. That credibility comes from having locals who live and interact in the area. He raised this issue at the community meeting and several folks there responded that they did have local knowledge of the westside through their work in the oil fields and having recreational properties there.

Commissioner Martin stated what could it hurt if the commission approved their request as petitioned. Tyonek could still offer their opinion at any time as well as offer to have a resident sit on the APC. He believed that it would still be beneficial to get some local input, even if it was someone from the eastside.

Commissioner Stutzer asked if there would be any issues if at a later date the westside chose to break off and create their own APC. Director Ruffner replied yes, that could be a possibility.

Chair Brantley opened the item for public comment.

Camille Broussard; 52557 Geraldine Street, Kenai, AK 99611: Ms. Broussard spoke in support of the boundary area as it was petitioned. This large boundary area was unanimously supported by all the community members who attended the public meeting. The boundary, as petitioned, is the same size as the fire service and recreational service areas. She noted that a number of residents on the eastside have businesses or recreational property on the westside.

Heidi Covey; 49690 Two Junes Avenue, Kenai, AK 99611: Ms. Covey spoke in support of the boundary area as it was petitioned. She noted that she has been a resident of the Nikiski area for 37 years and has served on a service area board. The westside does receive funding from the fire service, senior service, recreational service and road maintenance taxes from our area. To her knowledge no one from the westside has ever served on any service area board. She noted the westside has not been excluded, they just chose not to volunteer.

Kristine Schmidt; 513 Ash Street, Kenai, AK 99611: Ms. Schmidt spoke in support of the boundary area as it was petitioned. She noted that she and her husband own property within the area of the proposed advisory planning commission. She noted that the size of the proposed area is pretty much the same as the fire, recreational, senior & road service areas. Their taxes support these services and it makes sense

to her that the advisory planning commission area would have the same boundaries.

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

MOTION: Commissioner Horton moved, seconded by Commissioner Staggs, to forward to the assembly a recommendation to adopt Ordinance 2022-41, amending KPB 21.02 regarding Advisory Planning Commissions, establishing an advisory planning commission in the Nikiski area.

Commissioner Stutzer stated that he was leaning towards supporting the larger boundary area since it had the most community support. However, he does have concerns whether the residents of the smaller but more populated area on the eastside could adequately provide local information on and recommendations for activities on the westside. He also noted that from public testimony that it does not appear that anyone from the westside has ever volunteered to sit on any of the other service area boards in the area so most likely serving on the APC would be no different.

Commissioner Morgan stated that she supports the alternative option. She noted that as a planning commissioner she represents a large district as do several other planning commissioners. Her district is very large and they have three APCs in the district, Cooper Landing, Hope/Sunrise & Moose Pass. They are all different communities and she doesn't believe anyone in Cooper Landing would want someone in Hope, which is across the mountain range, making recommendations for their community. It does not seem intuitive to her that Nikiski should be making decisions about communities across the water. While she has heard tonight that no one from the westside has stepped up to serve on a board, what she hasn't heard is whether or not there has been any outreach to any of the community about this proposal. She doesn't believe an advisory planning commission should be making decisions about communities they don't live in.

Commissioner Martin noted that Tyonek is not currently represented by an advisory planning commission. They are not being advised at all and at least there are folks on the eastside willing to provide some advice. He then noted APCs do not make decisions for communities they just advise. Having the westside included would provide at least some representation opposed to nothing at all.

Commissioner Slaughter asked if they move forward with the larger boundary area how many seats would there be on the APC. Could the planning commission make a recommendation that at least there be one member on the APC from the westside. The APC could actively try and recruit someone from the westside and if no one comes forward then that seat could be filled by someone on the eastside. He thinks as large as the petition boundary area is, it would be important to have someone from the westside on the APC.

Chair Brantley stated that he is in favor of the alternate smaller option. He thinks the petitioned area is too large and the smaller area is a more appropriate size. He does not agree with the argument that the APC boundaries should be the same size of the other service areas. An APC and service areas are not the same thing. An APC is about expressing local views and providing insight on a community. If you travel a distance, communities can be very different from one another. There is a great deal of distance between the east and west sides of the Nikiski service area and the communities are very different.

AMENDMENT MOTION: Commissioner Slaughter moved, seconded by Commissioner Horton to recommend to the Assembly to adopt the alternative boundary option (307,400 acre).

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

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 1	Martin

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

MOTION AS AMENDED PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed & granted preliminary approval to 8 plats.

AGENDA ITEM G.

1. Community Development Block Grant – Disaster Relief & Mitigation Program
2. Ordinance 2022-36: Amending KPB Chapter 21.25 and KPB Chapter 21.29 regarding conditional land use permits and material site permits, updating notice, applicability, permit types, application requirements, standards and permit conditions.

There was a general consensus from the commission that they did not want to make a recommendation on this ordinance at this time. It was noted that the Assembly is still working on this ordinance and more amendments are likely. The majority also felt that public comment on this ordinance would be more beneficial at the Assembly level.

MOTION: Commissioner Martin moved, seconded by Commissioner Fikes to not hear Ordinance 2022-36 at the September 12, 2022 Planning Commission Meeting.

Commissioner Stutzer stated that he will abstain from voting on this item since he is schedule to be gone for the September 12, 2022 meeting.

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

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

Yes - 8	Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Staggs, Venuti
No - 1	Slaughter, Tautfest
Abstain - 1	Stutzer

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

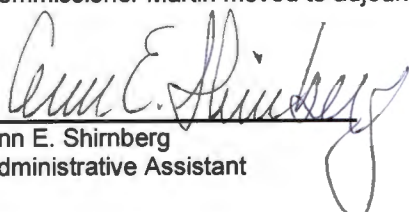
Chair Brantley asked if there was anyone from the public who would like to comment on anything not appearing on the agenda. No one wished to comment.

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

- Commissioner Stutzer informed the commission he would not be able to attend the September 12 & 26 meetings.
- Commissioner Hooper informed the commission he would not be able to attend the September 12, 2022 meeting.

AGENDA ITEM K. ADJOURNMENT

Commissioner Martin moved to adjourn the meeting at 9:30 PM.


Ann E. Shirnberg
Administrative Assistant