



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Jeremy Brantley, Chair – District 5 Sterling/Funny River
Blair Martin, Vice Chair – District 2 Kenai
Pamela Gillham – District 1 Kalifornsky
Virginia Morgan, Parliamentarian – District 6 East Peninsula
John Hooper – District 3 Nikiski
Michael Horton – District 4 Soldotna
VACANT – District 7 Central
David Stutzer – District 8 Homer
Dawson Slaughter – District 9 South Peninsula
Diane Fikes – City of Kenai
Franco Venuti – City of Homer
Charlene Tautfest – City of Soldotna
Troy Staggs – City of Seward
VACANT – City of Seldovia

Monday, February 13, 2023

7:30 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 907 714 2200

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

All items marked with an asterisk () are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

1. Time Extension Request
2. Planning Commission Resolutions
3. Plats Granted Administrative Approval
4. Plats Granted Final Approval (KPB 20.10.040)
5. Plat Amendment Request
6. Commissioner Excused Absences
7. Minutes

[KPB-4909](#) January 23, 2023 Planning Commission Meeting Minutes

Attachments: [C7. 012323 PC Minutes](#)

D. OLD BUSINESS

E. NEW BUSINESS

1. [KPB-4910](#) Utility Easement Vacation
Mullen Homestead Subdivision Addition No. 5, Plat KN 2007-12

Attachments: [E1. UEV_Mullen Homestead Sub Addn No 5_Packet](#)

2. [KPB-4911](#) Right-Of-Way Vacation
Vacate a Portion of McNamara Court Cul-de-sac Bulb
Attachments: [E2. ROWV McNamara Court Packet](#)
3. [KPB-4912](#) Conditional Use Permit; PC Resolution 2023-04
Applicant: State of Alaska Dept. of Transportation & Public Facilities
Cooper Landing Area
Attachments: [E3. CUP ADOT MP 58 RES 2023- 4 Packet](#)
[E3. CUP - PC RES 2023-04 Desk Packet](#)
4. [KPB-4913](#) Ordinance 2023-06: Approving an amendment to Snomads Community Trail Management Agreement.
Attachments: [E4. ORD 2023-06 Snomad CTMA Amendment Packet](#)

F. PLAT COMMITTEE REPORT

G. OTHER

- [KPB-4914](#) Cooper Landing Unit 395 Land Planning Presentation
Attachments: [G. Cooper Landing Unit 395 Land Planning Presentation](#)

H. PUBLIC COMMENT/PRESENTATION

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)

I. DIRECTOR'S COMMENTS

J. COMMISSIONER COMMENTS

K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS NO ACTION REQUIRED

- [KPB-4915](#) APC Meeting Minutes
Attachments: [Misc. Info](#)

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, February 27, 2023 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION
KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: planning@kpb.us

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation 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.

C. CONSENT AGENDA

***7. 01/23/23 PC Meeting Minutes**

Kenai Peninsula Borough Planning Commission

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

January 23, 2023
7:30 P.M.
UNAPPROVED 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

Pamela Gillham, District 1 – Kalifornsky
Blair Martin – District 2, Kenai
John Hooper, District 3 – Nikiski
Michael Horton, District 4 - Soldotna
Jeremy Brantley, District 5 – Sterling/Funny River
Virginia Morgan – District 6, East Peninsula
David Stutzer, District 8 – Homer
Franco Venuti, City of Homer
Diane Fikes, City of Kenai
Troy Staggs, City of Seward
Charlene Tautfest, City of Soldotna

With 11 members of a 12-member seated commission in attendance, a quorum was present.

Staff Present

Samantha Lopez, Acting Planning Director
Marcus Mueller, Land Management Officer
Walker Steinhage, Deputy Borough Attorney
Vince Piagentini, Platting Manager
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant
Rhonda Foster-Deskins, Land Management Administrative Assistant

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

***3. Plats Granted Administrative Approval**

- a. Bear Lahai Roi Subdivision Sockeye Run View Addition; KPB File 2022-074

***6. Commissioner Excused Absences**

- a. Dawson Slaughter, District 9 – South Peninsula
- b. City of Seldovia, Vacant
- c. District 7 – Central, Vacant

***7. Minutes**

- a. January 9, 2023 Planning Commission meeting minutes.

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record.

Chair Brantley asked if anyone wished to speak to any of the items on the consent agenda.

Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Staggs, Stutzer, Tautfest, Venuti
Absent - 1	Slaughter

AGENDA ITEM E. NEW BUSINESS

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

**ITEM 1 – BIDARKI CREEK NO. 5
PRELIMINARY PLAT RECONSIDERATION**

KPB File No.	2022-160
Planning Commission Meeting:	January 23, 2023
Applicant / Owner:	McKennen and Rachael Lamb and Kristen Lamb Reilly all of Provo, Utah
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Near mile 171 Sterling Highway, City of Homer
Parent Parcel No.:	175-250-12 and 175-250-13
Legal Description:	Tracts 1 and 2, Bidarki Creek No. 4, Plat HM 2012-27
Assessing Use:	Residential
Zoning:	Rural Residential District
Water / Wastewater	City

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Tom Latimer, Orion Surveys; P.O. Box 15025, Fritz Creek, AK 99603: Mr. Latimer is the surveyor on this project and spoke in support of granting preliminary approval for this plat. He noted that in the meeting packet was a response he sent in, which addressed the concerns and code citations from the members of the public who requested the review. He noted the plat meets all code requirements. While the City of Homer Planning & Zoning Commission recommended to deny preliminary approval, they did not attach any findings to support their denial, nor did they give any recommendation on how to remedy any issues.

Kristen Lamb; 2585 Timpview Drive, Provo, UT, 84604: Ms. Lamb is one of the petitioners and spoke in support of granting preliminary approval for this plat.

McKennen Lamb; P.O. Box 3183, Homer, AK, 99603: Mr. Lamb is one of the petitioners and spoke in support of granting preliminary approval for this plat.

Mark Sass; 1641 Hillside Place, Homer, AK 99603: Mr. Sass is a neighboring landowner and spoke in opposition to this plat. The density of the proposed development is not in line with the neighborhood.

Linda Rourke; 1587 Hillside Place, Homer, AK 99603: Ms. Rourke is a neighboring landowner and spoke in opposition to this plat. The density of the proposed development is not in line with the neighborhood.

John Faulkner; 4021 West Hill Road, Homer, AK 99603: Mr. Faulkner is a neighboring landowner and spoke in opposition to this plat. The density of the proposed development is not in line with the neighborhood.

Laura Karstens; 1634 Sterling Highway, Homer, AK 99603: Ms. Karstens is a neighboring landowner and spoke in opposition to this plat. The density of the proposed development is not in line with the neighborhood.

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

MOTION: Commissioner Staggs moved, seconded by Commissioner Stutzer to grant preliminary approval to Bidarki Creek No. 5, based on staff recommendations and compliance with borough code.

Commissioner Venuti noted that he has sat through numerous public hearings, where the public is not in support of a proposed project. He understands that change is difficult, and that most people do not like change. In the past, the commission has heard a great deal of testimony against gravel pits from the public. He has seen how the commission has often favored an issue based on a bureaucratic rule without giving adequate consideration to the public's concerns. The commission's decisions can negatively affect a surrounding community. He is familiar with this neighborhood and he knows how the residents value their way of life. He wonders what is the value of a public hearing when it can basically be ignored. He believes that it is important to listen to the neighbors and to take into consideration their concerns.

Commissioner Stutzer noted that the commission is being asked to grant preliminary approval without having all the plans. The surveyor and petitioners have made reference to their plans but those plans have not been supplied to the commission. He has questions about the driveways for these lots and that information is not shown on the plat. To him it seems like the commission is being asked to make a decision without having all the information. He noted that this development is within the city limits of Homer, and that the Homer Planning & Zoning Commission recommended denial. He understands that the Homer Planning & Zoning Commission is only making a recommendation. When this plat initially came before the Plat Committee, we chose to ignore the city's recommendation and granted preliminary approval to the plat. He is now struggling with that decision. He has concerns related to the grades of these lots and how that will affect snow removal. With a 12% grade he is pretty sure that the plow folks will drive uphill and push the snow down the hill into the cul-de-sac. That is going to create issues and he does not know how the city plans to deal with it. The terrain of these lots will make it very difficult for the landowners to plow the snow and then store it somewhere. Most likely it will be stored on the city-maintained road, and it is his understanding that is not allowed. He believes the current design of the plat will result in the landowners breaking city code. He definitely is struggling with feeling like he doesn't have all the information needed to make this decision. We have heard how this plat meets all the borough code requirements. The commission is the human element in the decision process. Is the commission's role to just go through the code, and then make a decision that it meets code? That is what the planning department does, it ensures that the plat meets all borough codes. The commission has the ability to grant exceptions to the code. As an example, last year the commission approved an encroachment permit for a landowner who accidentally built his house in the setback. It was stated that the road in that area would not ever be developed, and based on that information, the commission granted an exception to code and approved the permit. This is a perfect example of the commission going against code. If the plat meets code, but the design doesn't make sense because the terrain is too steep, which will create snow removal issues, why does the commission have to approve it? In his experience if you just go by code, you are just meeting the minimum. Just building something to the minimum doesn't mean you have built something good.

Commissioner Fikes stated that she shares the same concerns as Commissioner Stutzer regarding the grade and snow removal issues. She would also like to see some kind of emergency plan addressing the issue of turnaround for emergency vehicles. To her it appears that the petitioners are just trying to use a shoehorn to make everything fit. At the end of the day will this design actually work? She is a delivery person and has some negative experiences with trying to use the drives of flag lots. She has concerns with the designs of these lots. She believes the landowners have the right to develop their lot and that they want to take advantage of an opportunity. The commission does not have the information in front of them on how this lot will be developed which is a concern. The City of Homer Planning & Zoning commission weighed in on this design and they were not happy with it. Based on the testimony she has

heard tonight she will be voting against approving this plat.

Commissioner Horton stated that he does not believe that approving this plat is simply a bureaucratic decision. He does apply his own personal view point when making decisions. As a landowner if you meet all the code requirements why should you not be able to develop your land as you choose. Personally, he would have a problem with neighbors being able to tell him what he can and cannot do with his land. In this case, the petitioners have gone above and beyond in meeting all existing code requirements. He does not believe that the commission should be influenced by the neighbors being upset about how the landowner is legally developing their property. Regarding the request for supplemental engineering plans, as a landowner I am not going to invest in engineering plans until I know that my proposed plat design is approved. Engineering plans are expensive. The supplemental plans being requested are not required by code for plat approval. He then stated that he will be voting in favor of granting preliminary approval.

Commissioner Staggs stated that he agrees with Commissioner Horton. When the plat initially came before the plat committee he was listening to the discussion. The committee's decision to grant preliminary approval was based on code and not emotions. While emotions are real and important, the commission should base their decision on what code says.

Commissioner Stutzer stated he is not saying this plat does not meet code, nor is he saying that the neighbors should have the right to tell the landowner how to develop their property. His points of concern have to do with the grade of the terrain and potential snow removal issues. He thinks that the plat's current design is problematic. He would like to see his concerns addressed before granting approval. He believes there is a solution to make multiple lots for this particular piece of property. He just believes what has been presented tonight is not a good solution. He supports the petitioners right to develop their property as they want to. He just thinks this plat could be designed better.

Chair Brantley asked staff, whatever decision the commission makes tonight, that decision can still be appealed to a hearing officer. Platting Specialist Hindman replied that is correct. If an individual is a party of record, meaning that they have submitted written or public testimony, then they would have the right to request a review of the decision by a hearing officer. Borough Attorney Steinhage also noted that the petitioners have a right to appeal a decision as well.

Commissioner Tautfest stated that she shares the same concerns as Commissioner Stutzer. She noted that she will be voting no, based on the potential snow removal issues and the City of Homer Planning & Zoning Commission's recommendation of denial.

Chair Brantley reminded the commission that this is a quasi-judicial matter and the commission needs to follow code. If this subdivision is denied, those who voted no will need to be ready to come up with findings of fact, based in code, to support their decision. He feels pretty sure that a decision to deny would be appealed to a hearing officer. He noted that the hearing officer will base their decision in code. If the findings of fact are not rooted in code the decision could be overturned and it would look like we are not doing our job. He noted the commission holds public hearings on quasi-judicial matters to discover findings of fact. A finding of fact like snow removal is not something we will find in code. He then stated that he pushes a lot of snow and in his opinion, there are a lot of places that snow could be put. He noted it is illegal to push snow into the road and if you do, you will be fined.

Commissioner Venuti asked if the plat is denied, would they need to come up with findings tonight? Chair Brantley replied he will let the borough attorney answer the question, but he believed they could attach the findings at a later date. Borough Attorney Sherwood replied that Chair Brantley was correct, the commission would not have to attach the findings tonight. Commissioner Venuti then asked what would be the timeframe to come up with the findings. Borough Attorney Sherwood replied that code did not give a timeframe. Chair Brantley asked if it would be acceptable to come up with the findings by the next meeting. Borough Attorney Sherwood replied that would be appropriate.

Commissioner Gillham stated that reading through all the material in preparation for tonight's meeting she found nothing that did not meet code. All the issues that have been brought up against approving this subdivision are not addressed in code. Many of the issues raised are addressed by other entities and are not issues addressed by the planning commission. She noted that she will be voting in favor of approving this plat because she cannot find a reason in code to deny it.

Commissioner Morgan stated that she appreciates the comments from the public. She has been in a similar situation with having development happen next to her home that she was not pleased about. In her situation, what was being developed on the property next to hers' was allowed by borough code. When we find situations where land is being developed in a way that doesn't feel quite right, it is a sign that it is something that needs to be addressed in code. The commission cannot deny development that meets code. If we feel like the code needs to change, then we need to talk to our city councils or the borough assembly and encourage them to change it. Until the code is changed, the commission is bound by the code. She believes that the public process is important. She agrees with the sentiments expressed by Commissioner Horton and noted that she will be voting in favor of approving this subdivision. She believes a lot of thought has gone into this development and that their subdivision design meets code requirements.

Chair Brantley stated that it was important to hear all these comments. When the assembly changes code, the public gets a say. These types of discussions are often taken into consideration when changing code.

Commissioner Horton directed the commission to page E1-12 of the meeting packet. At the top of the page it states, *"It was also recommended in pre-submittal discussion with the owner/surveyor that they talk with DOT about the design proposed as well as the City of Homer regarding maintenance and snow removal. The surveyor indicated those conversations have been had and that there had been no negative response to the design. The design of the right-of-way will require acceptance by the City of Homer and they will be required to sign the final plat. This plat cannot be finalized without that signature."* He wanted to bring this information to the attention of the commission, as this information was in the staff report and he believes this addresses some of the issues that have been raised tonight.

Commissioner Stutzer agrees that after reading through the whole packet of information there is nothing that violates any code. He still is inclined to vote no, and recognizes that right now he has no basis in code to support the no vote. His frustration is that the staff reports states that the surveyor has had conversations with DOT and the city, why do they have to approve this before they see the final design? To him it seems like we are putting the cart before the horse. If he were to vote strictly by code, he would have to say yes. He voted yes when this came before him at the plat committee. However, after reviewing the information again, he believes that this design is not a good idea. He is on the fence about voting no. He believes that there is still information that they need, such as an assurance from the State that this design is good, before they approve this plat. He again noted that the commission has made exceptions to the code in the past by granting things like setback encroachment permits. He believes that standing on code is not the whole argument and that other information should be taken into consideration.

Borough Deputy Attorney Sherwood wanted to give additional information regarding Commissioner Venuti's earlier question. KPB 20.25.100 which speaks to the commission's approval authority it says: *"that if there is an approval, a statement of reason shall be included supporting the planning commission decision justify the denial, approval or conditional approval of the plat. If denied, the decision shall make reference to the specific section of this title with which the submitted plat does not comply. The commission, in its action, relies upon the report of the planning staff, the commission may vote to adopt the staff's findings and report as the findings and reasons for the planning commission decision. The planning commission may make additional or different findings from those in the staff report."* The motion on the floor does this. If this motion fails, he would recommend there be another motion to deny approval, which will need to be accompanied by specific reasons and code citations, in order to comply with borough code.

Commissioner Fikes stated she appreciated Commissioner Horton pointing out the information in the staff report. She also appreciates Commissioner Venuti's comment about approving gravel pits. She understands the neighbor's objections to this design. She also supports the landowner's right to develop their land as they so choose. She still has concerns with some of the elements of the design, particularly regarding the shared driveways. She would have to agree that after reviewing all the information she doesn't see anything that goes against borough code. She appreciates how tonight's discussion brings code back to the front and center regarding decision making. In all honesty, she cannot vote against this because she can find no code to cite.

Commissioner Tautfest wanted to confirm that if they vote no, they do not have to come up with the code citations tonight. She also wanted to double check whether or not the City of Homer cited any codes to support their denial. Chair Brantley replied that if the plat is voted down, they do not have to come up with their findings of fact tonight. He believes that they can attach those findings at the next planning

commission meeting. He also noted that the City of Homer Planning & Zoning Commission did not cite any findings in support of their denial. Borough Deputy Attorney Sherwood added that the key is to stay within the 60-day deadline.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 8	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Staggs
No – 3	Stutzer, Tautfest, Venuti
Absent - 1	Slaughter

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 4 plats.

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

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

AGENDA ITEM J. COMMISSIONER COMMENTS

Commissioner Stutzer informed the commission that he will not be able to attend the February planning commission meetings as he will be out of state.

Commissioner Tautfest informed the commission that she will be in Juneau for the February 13, 2023 planning commission meeting. She stated that she will try and attend the meeting via Zoom.

AGENDA ITEM K. ADJOURNMENT

Commissioner Staggs moved to adjourn the meeting at 9:11 PM.

Ann E. Shirnberg
Administrative Assistant

E. NEW BUSINESS

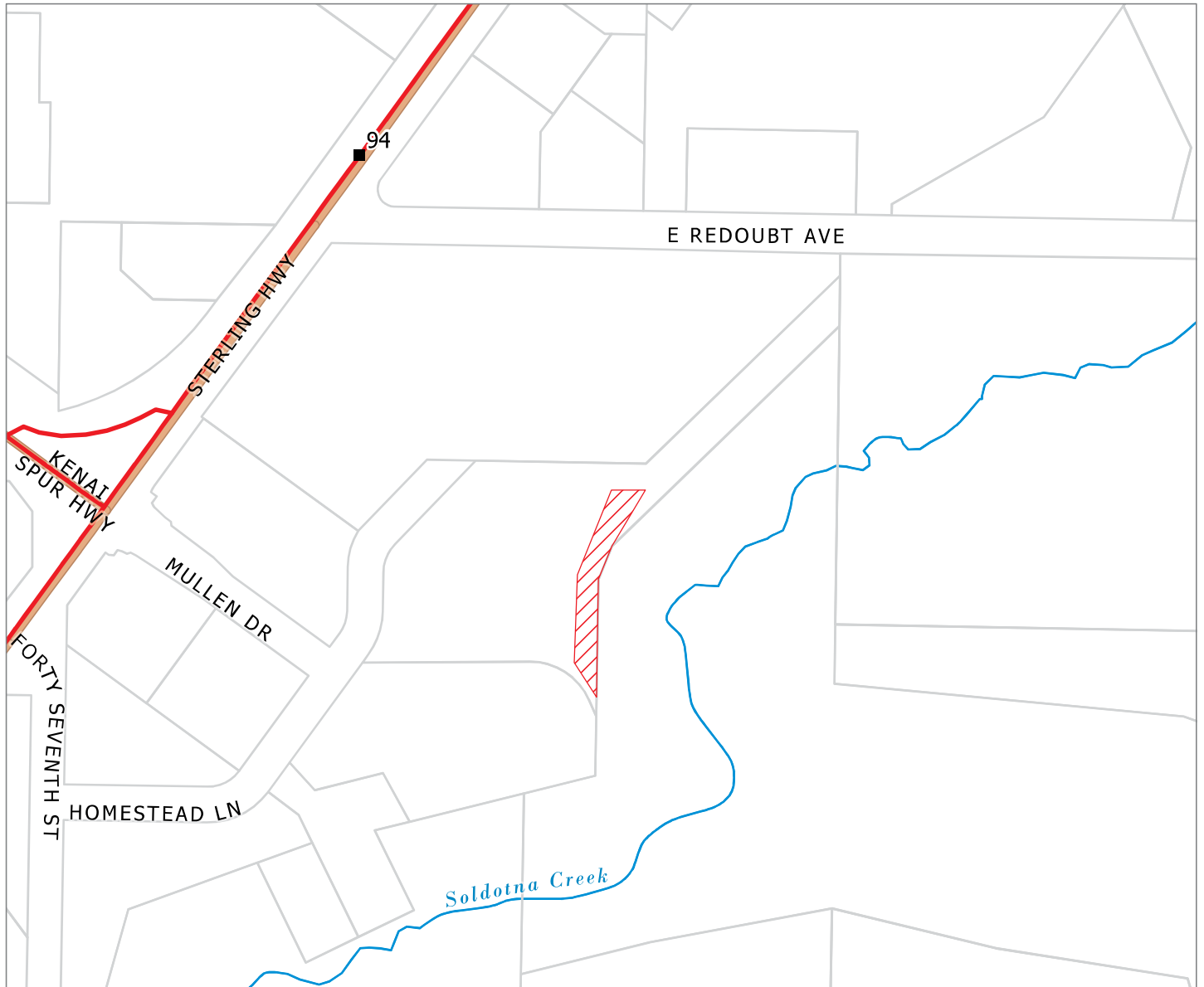
1. Utility Easement Vacation; KPB File 2023-007V

Request: Vacates a portion of a 40' utility easement granted on Mullen Homestead Subdivision Addition No. 5, Plat KN 2007-12



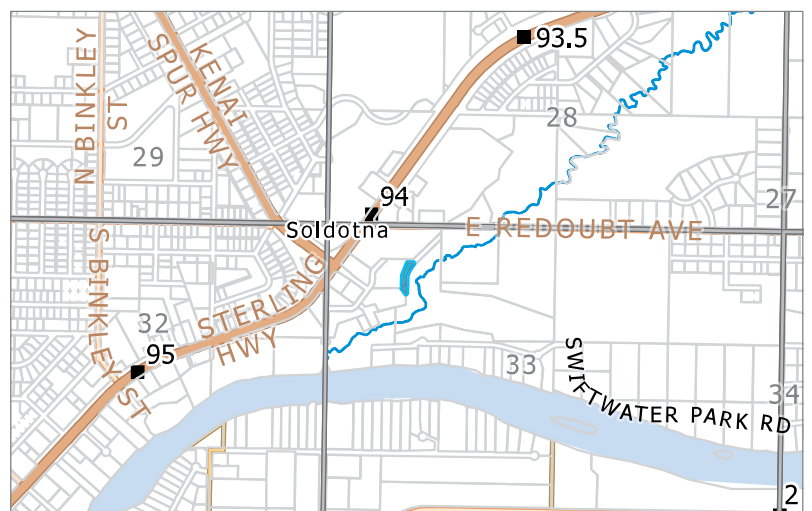
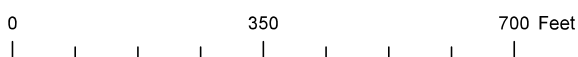
Kenai Peninsula Borough Planning Department

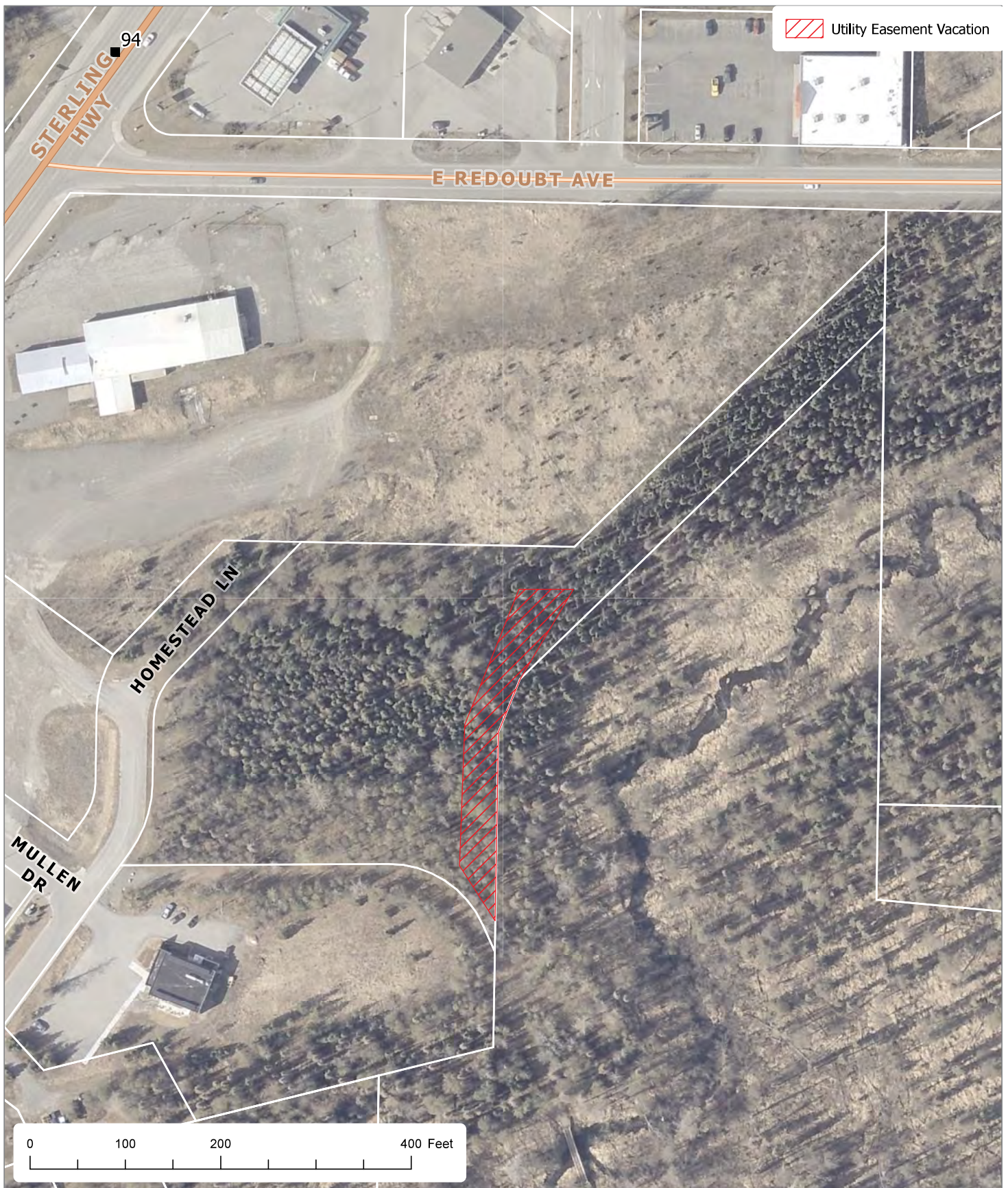
Vicinity Map

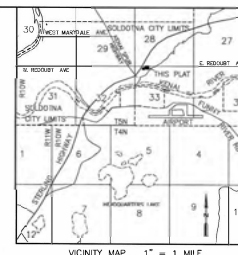


KPB File 2023-007V
T 05N R 10W SEC 33
Soldotna

1/18/2023







I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

I HEREBY CERTIFY THAT CITY OF SOLDOTNA IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HERE AND THAT ON BEHALF OF CITY OF SOLDOTNA I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND GRANT ALL EASEMENTS TO THE USE SHOWN.

STEPHANIE QUEEN - CITY MANAGER
CITY OF SOLDOTNA
177 NORTH BIRCH STREET
SOLDOTNA, ALASKA 99669
FORMER TRACT B-2C

NEW HOMESTEAD
SUBDIVISION

A SUBDIVISION OF
TRACT A NEW MORNING SUBDIVISION
PLAT 74-55 KENAI RECORDING DISTRICT
AND
TRACT B-2C MULLEN HOMESTEAD SUBD.
SOLDOTNA CREEK ADDITION
PLAT 2015-47 KENAI RECORDING DISTRICT

LOCATED WITHIN NW 1/4 SECTION 33,
T.5N., R.10W. S.M.
STATE OF ALASKA
KENAI PENINSULA BOROUGH
KENAI RECORDING DISTRICT
CITY OF SOLDOTNA


OWNERS:
CITY OF SOLDOTNA
177 NORTH BIRCH STREET
SOLDOTNA, ALASKA 99669
AND
LISA K. SCHMITTER
PO BOX 3194
SOLDOTNA, ALASKA 99669
CONTAINING 12.962 ACRES



EDGE
SURVEY AND DESIGN, LLC

12501 OLD SEWARD, D ANCHORAGE, AK 99515
Phone (907) 344-5990 Fax (907) 344-7794

DRAWN BY: JY	DATE: 01/16/2023	PROJECT: 22-59
CHECKED BY: MA	SCALE: 1" = 50'	SHEET: 1 OF

(D)	FOUND PRIMARY MONUMENT - SEE REFERENCE
○	FOUND YELLOW PLASTIC CAP
◎	FOUND 1-1/2" STEEL CAP STAMPED MCCLANE 2015
⊙	FOUND 2" ALUMINUM CAP STAMPED MCCLANE 4928-S
●	SET PROPERTY CORNER 5/8" X 30" REBAR WITH 2" ALUMINUM CAP STAMPED EDGE SURVEY U.S.-13022 2022
(R1)	RECORD DATA, SEE REFERENCE
OA	OVERALL
(HRR)	HELD RECORD RADIUS
U ESMT	UTILITY EASEMENT
ROW	RIGHT-OF-WAY
GTP	GRANTED THIS PLAT
ESMT	EASEMENT
VTP	VACATED THIS PLAT
	UTILITY EASEMENT VACATED THIS PLAT

_____	SUBDIVISION BOUNDARY
=====	INTERIOR LOT LINE
-----	ADJACENT PROPERTY LINE
-----	CENTERLINE
-----	EASEMENT
-----	LOW WET AREA
-----	FORMER LOT LINE
-----	MONUMENT LOT LINE

Figure 1 consists of three circular diagrams, labeled 1, 2, and 3, each representing a different brass instrument part. Each diagram contains a list of parts and their found conditions, along with a note about the condition of the instrument.

- Diagram 1:**
 - Parts: GLO S29 S28, S32 S33
 - Found: 1937
 - Found: 2-1/2" BRASS
 - Condition: 0.5" BELOW GRADE
 - Status: GOOD CONDITION
- Diagram 2:**
 - Parts: W 1/16 S28, S33, 4928-S
 - Found: 1993
 - Found: 3-1/4" ALUMINUM
 - Condition: UNKNOWN IN CASE
 - Status: GOOD CONDITION
- Diagram 3:**
 - Parts: 1/4 S28, S33, 610-S
 - Found: 1973
 - Found: 2-1/2" BRASS
 - Condition: UNKNOWN IN CASE
 - Status: GOOD CONDITION

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1 (HRR)	70.00'	52.77'	43°11'37"	S21°25'00"W	51.53'
C2 (HRR)	125.00'	76.88'	35°14'22"	N17°33'18"E	75.67'
C3 (R3)	125.00'	76.61'	35°12'22"	N17°25'18"E	75.61'
C3 (HRR)	108.00'	124.47'	66°02'02"	N58°16'30"W	117.70'
C3 (R1)	108.00'	124.57'	66°05'03"	N58°16'07"W	117.78'
C4	50.00'	41.04'	47°01'42"	N66°23'52"E	39.90'

LINE	BEARING	DISTANCE
L1	N00°09'11" W	56.28
L1 (R3)	N00°10'53" W	56.20
L2	N34°19'27" E	16.84
L2 (R3)	N35°01'29" E	16.79
L3	S25°10'53" E	30.92
L3 (R1)	S25°08'29" E	30.90
L4	S21°15'53" W	60.68
L4 (R3)	S21°06'26" W	60.42
L5	S00°09'48" E	33.00
L6	S00°09'48" E	42.67
L7	N44°50'52" E	84.84
L8	N00°09'46" W	57.44
L9	S89°55'33" W	60.00
L10	N00°10'38" W	33.00

THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

DATE _____

I, MARK AILONETTI 13022-S, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



RECORDER'S
STAMP
AREA

(R1) MULLEN HOMESTEAD SUBDIVISION BOOK STORE ADDITION, PLAT 2019-23, KENAI RECORDING DISTRICT

(R2) NEW MORNING SUBDIVISION, PLAT 74-55, KENAI RECORDING DISTRICT

(R3) MULLEN HOMESTEAD SUBD. SOLDOTNA CREEK ADDITION, PLAT 2015-47, KENAI RECORDING DISTRICT

(R4) MULLEN HOMESTEAD SUBDIVISION ADDITION NO. 5, PLAT 2007-12, KENAI RECORDING DISTRICT

(R5) KENAI WATERSHED FORUM WETLANDS INVENTORY

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL

KPB 2023-007V

KPB 2023-007V

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - UTILITY EASEMENT ALTERATION
VACATE A PORTION OF A 40 FOOT WIDE UTILITY EASEMENT ASSOCIATED WITH TRACT B-2C OF
MULLEN HOMESTEAD SUBDIVISION SOLDOTNA CREEK ADDITION, PLAT KN 2015-47

KPB File No.	2023-007V
Planning Commission Meeting:	February 13, 2023
Applicant / Owner:	City of Soldotna
Surveyor:	Jason Young, Mark Aimonetti / Edge Survey and Designs, LLC
General Location:	Near the Mullen Drive and Kenai Spur Highway intersection, City of Soldotna

STAFF REPORT

Specific Request / Purpose as stated in the petition: No purpose was stated. The City of Soldotna purchased the property containing the easement in order to provide a through dedication. The minutes from the City of Soldotna states it was unused and unsure of the purpose.

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

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

Staff Analysis: The utility easement proposed for vacation is along the eastern boundary and within the flag portion of Tract B-2C, Mullen Homestead Subdivision Soldotna Creek Addition, Plat KN 2015-47. The lots in this area have been replatted multiple times. When Mullen Homestead Subdivision Addition No. 5, Plat KN 2007-12, was recorded it finalized a vacation of a 40 foot utility easement that was centered on former lot lines. Per the findings stated within the Kenai Peninsula Borough Planning Commission minutes from the February 27, 2006 meeting, the Soldotna Planning and Zoning Commission made other vacations subject to the granting of a 40 foot utility easement.

The City of Soldotna recently purchased Tract B-2C to provide a continuation of Homestead Lane and provide a connection to East Redoubt Avenue. New Homestead Subdivision, KPB File 2023-007, has been submitted for review by the Kenai Peninsula Borough Plat Committee at the February 13, 2023 meeting. That plat is proposing the new dedications and utility easements along the dedications within the boundary of the subdivision plat. The plat is proposed to finalize the vacation of the 40 foot utility easement if approved.

The City of Soldotna Planning and Zoning Commission heard the New Homestead Subdivision preliminary plat at their January 4, 2023 meeting. They approved the plat that included the vacation of the easement. Minimal discussion was had in regards to the easement other than stating it would be vacated as it was deemed unnecessary and unsure of its purpose.

Utility provider review:

HEA	HEA has reviewed the vacation of the 40 foot wide utility easement, as shown, and has no objection at this time.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

Findings:

1. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. Mullen Homestead Subdivision Addition No. 5, Plat KN 2007-12, granted a 40 foot wide utility easement along the eastern boundary of Tract B that continued into the flag portion of Tract B.
4. The 40 foot easement was carried over on subsequent subdivision plats.
5. The last replat, Mullen Homestead Subdivision Soldotna Creek Addition Plat KN 2015-47, carried over the easement within Tract B-2C.
6. The City of Soldotna Planning and Zoning Commission reviewed the vacation as part of the new plat, New Homestead Subdivision, and approved the vacation as part of the plat.
7. A new right-of-way dedication is proposed that will have 10 foot utility easements running adjacent on those portions within the new subdivision boundary.
8. Rights-of-way, with proper permitting may be used by utility providers.
9. The northern portion of the easement is not requested for vacation as it will be within the new right-of-way dedication.
10. No surrounding properties will be denied utilities.

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:

1. Grant utility easements requested by the utility providers.
2. 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.

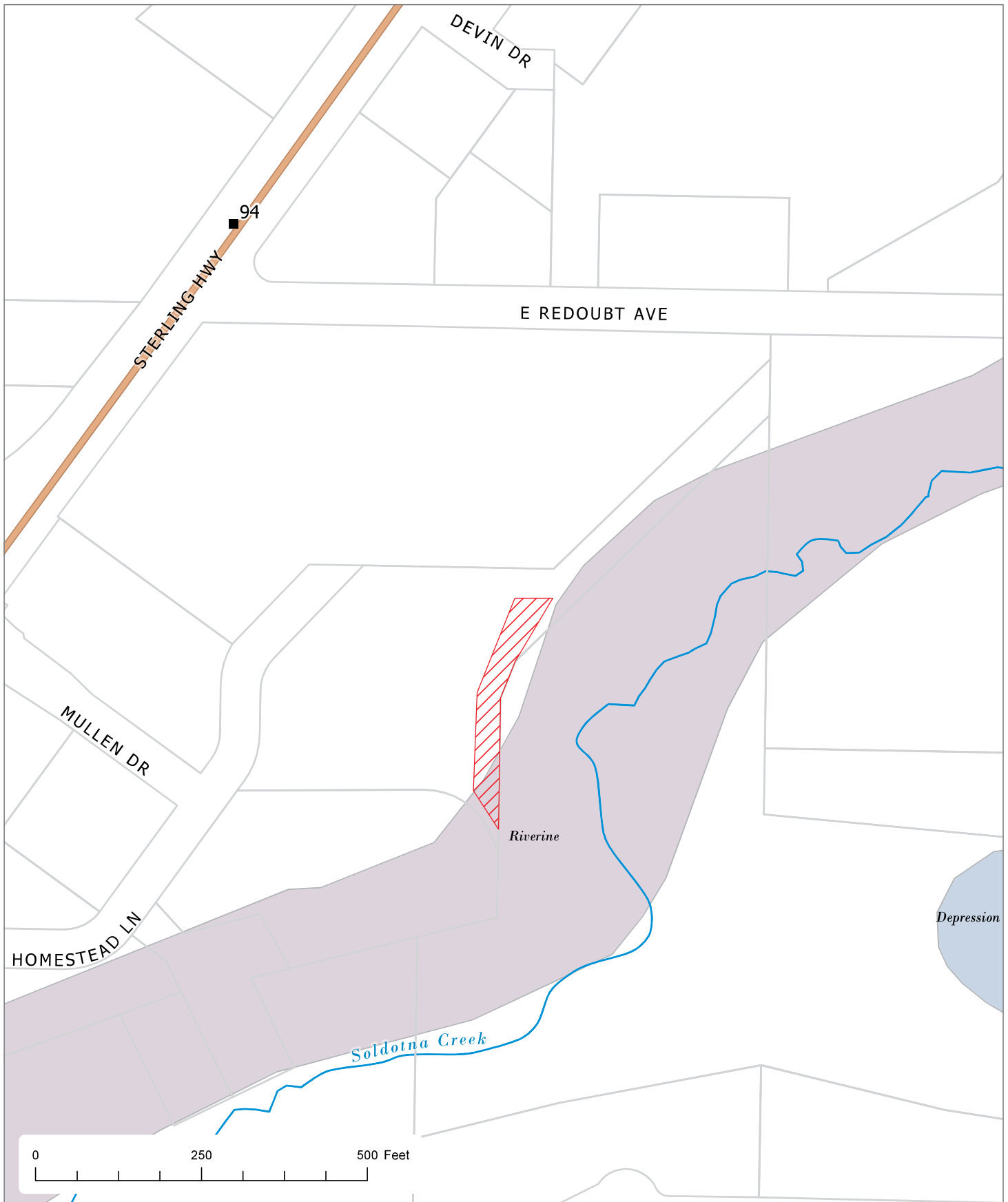
Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*

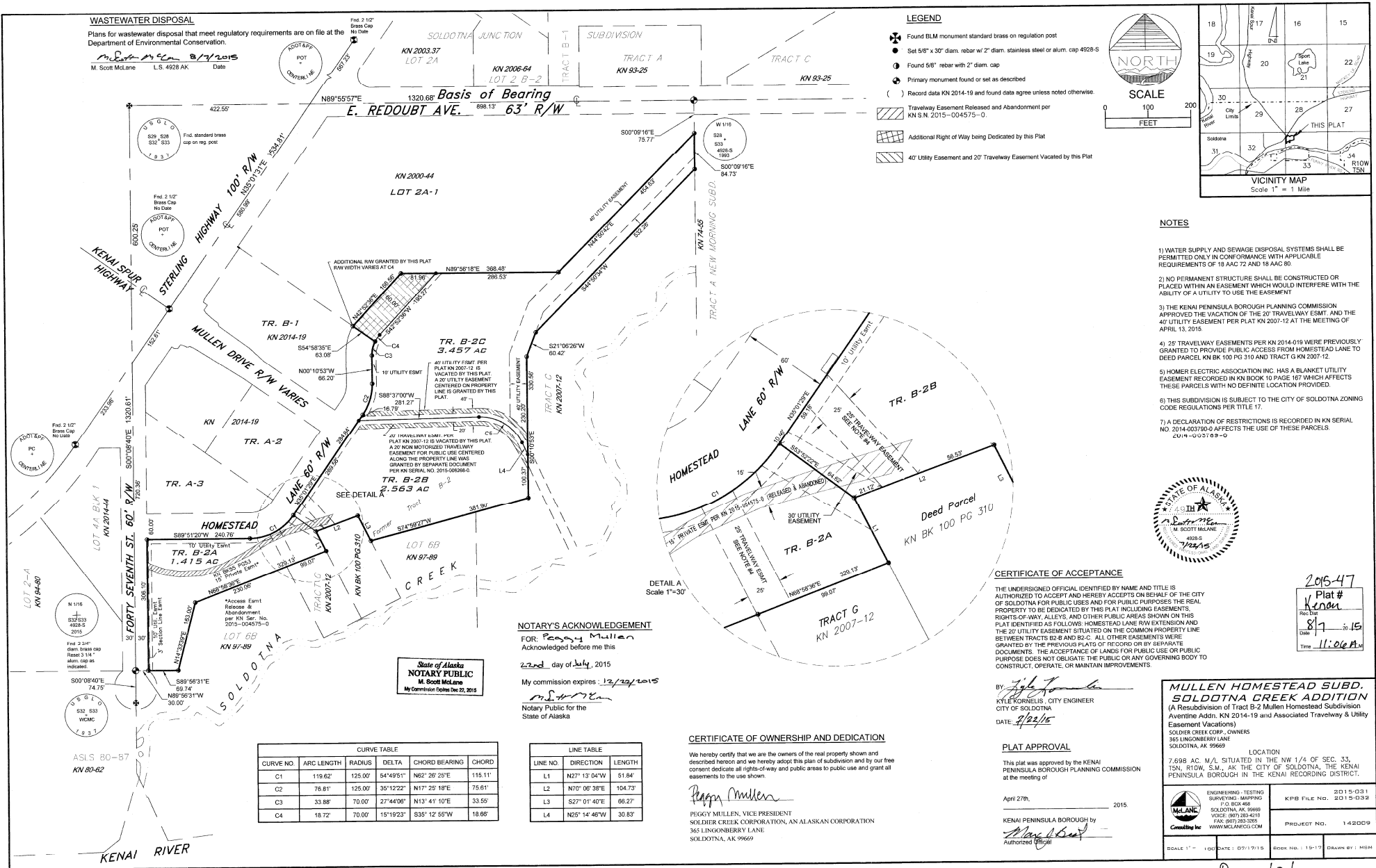
- *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - *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.*

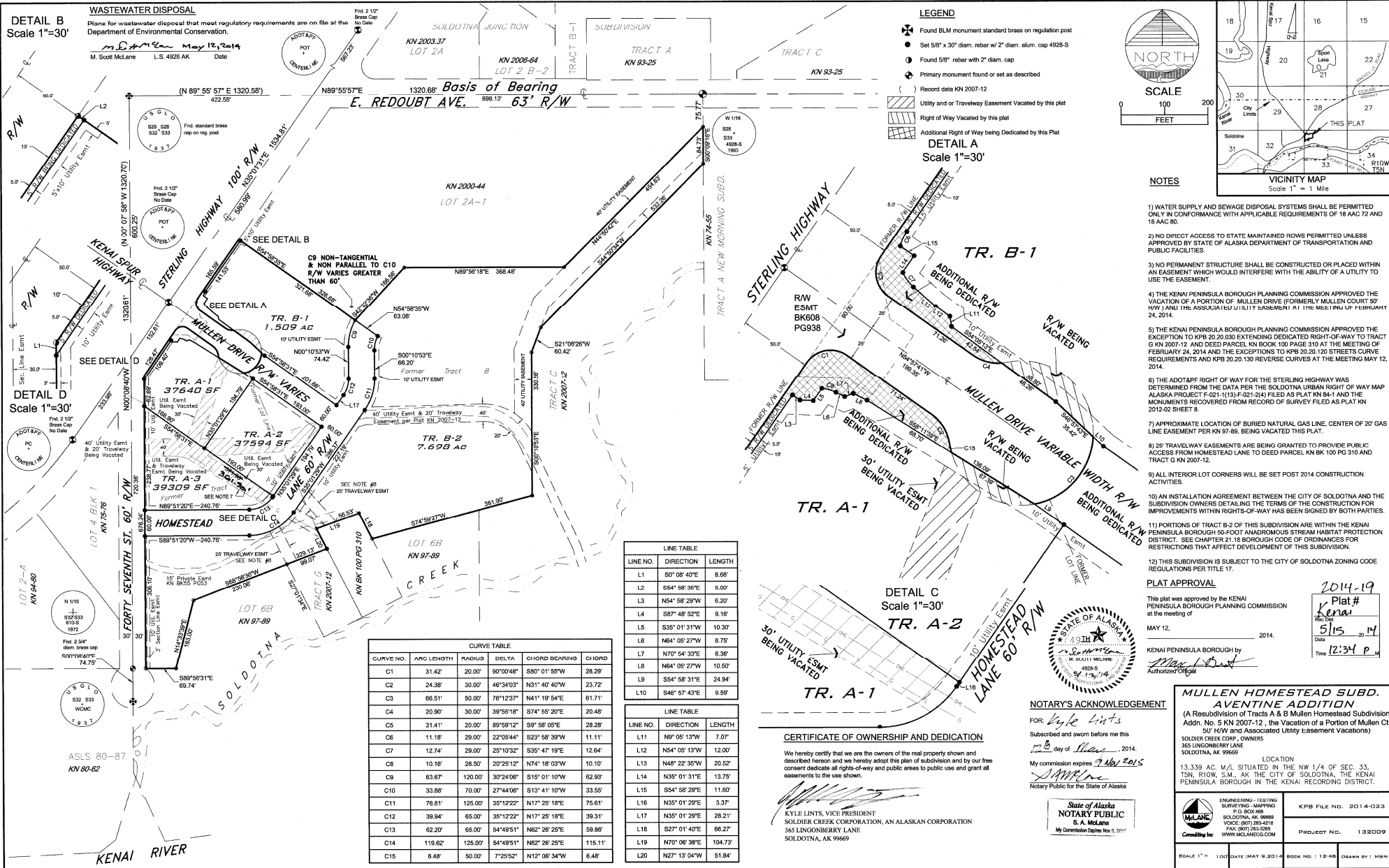
END OF STAFF REPORT

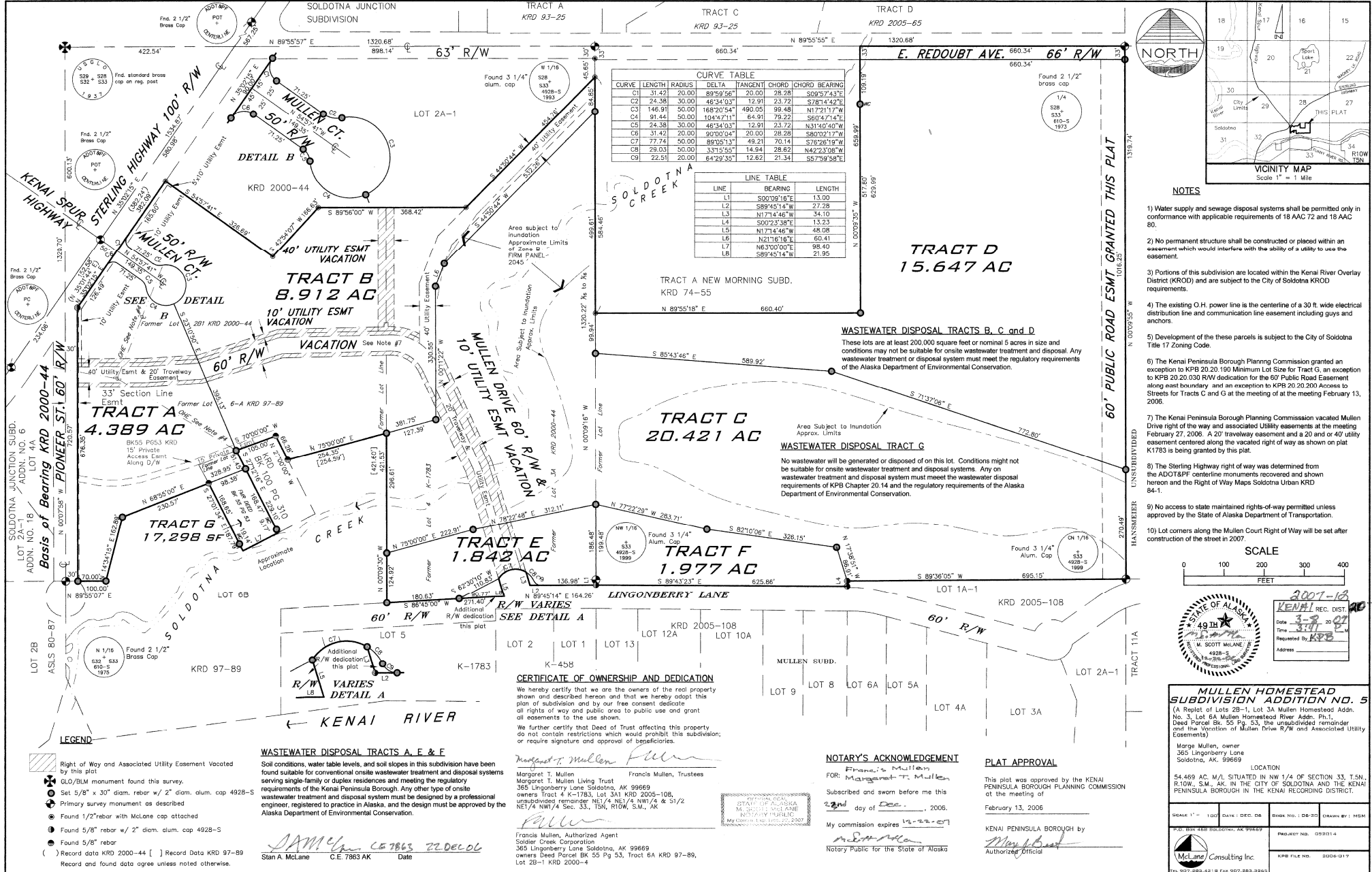












MOTION: Commissioner Johnson moved, seconded by Commissioner Isham to postpone the material site ordinance until brought back by staff.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HEIMBUCH YES	HOHL ABSENT	HUTCHINSON YES
ISHAM YES	JOHNSON YES	MARTIN YES	MASSION ABSENT	PETERSEN YES	TAURIAINEN ABSENT	10 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate Mullen Drive, a 60-foot right of way dedicated by Mullen Homestead (Plat KN 1783) and associated utility easements granted by Mullen Homestead Subdivision Addition No 3 (Plat KN 2000-44); within section 33, Township 5 North, Range 10 West, Seward Meridian, Alaska; in the City of Soldotna and the Kenai Peninsula Borough. KPB File 2001-040. Note: A public access easement will remain along the travel way of Mullen Drive until alternative public right-of-way is dedicated; Petitioners: Margaret T Mullen and Soldier Creek Corp. of Soldotna, Alaska; Location: City of Soldotna

Staff Report reviewed by Max Best

PC Meeting: 2/27/06

Purpose as stated in petition: Mullen Drive is being vacated to eliminate the need for the bridge crossing Soldotna Creek which is in an unsafe condition and to reduce traffic thru the parking lot of the Rivercity Book Store from Mullen Drive via Pioneer Street to the Kenai Spur Highway intersection. Alternate access has been constructed within the Lingonberry Lane R/W to the Swiftwater Camp Road thus providing an alternative access route. Associated utility easements granted by plat KRD 2000-44, which are parallel and adjacent to the northerly right of line, are also being vacated.

Petitioners: Margaret T. Mullen and Soldier Creek Corporation of Soldotna, Alaska.

Public notice appeared in the February 9 and February 16, 2006 issues of the Peninsula Clarion.

Eleven (11) certified mailings were sent to owners of property within 300 feet of the parcels. All of the receipts have been returned.

Twelve (12) regular mailings were sent to agencies and interested parties. Seven (7) notices were sent to KPB Departments. Notices were mailed to the Soldotna Post Office, Sterling Post Office, and Soldotna Community Library to post on public bulletin boards. The notice and maps were posted on the Borough web site.

Statement(s) of non-objection

Homer Electric Association

Staff discussion

A similar vacation petition was submitted for Planning Commission review in April 2001. The petition proposed to vacate Mullen Drive, vacate most of Pioneer Street, dedicate a 50-foot by 50-foot right-of-way adjoining the Sterling Highway, and dedicate a portion of Lingonberry Lane. The associated preliminary plat created five lots.

The intent of the proposed vacation was to direct traffic away from an aging bridge to allow for safer and more expedient ingress/egress for property owners and emergency service providers. Action on the petition was postponed so the owners could work with the City of Soldotna to resolve items of concern.

The vacation petition was carried forward to the May 29 and June 25, 2001 meetings per the applicant's request. Issues of concern still had not been resolved by June 25 so the Planning Commission postponed action until brought back by staff.

On December 7, 2005, the Soldotna Planning Commission reviewed a revised vacation petition and modified

preliminary plat. The new petition proposes to vacate Mullen Drive and associated utility easements and dedicate a 50-foot cul-de-sac off the Sterling Highway. The preliminary plat that would accomplish the vacation will also create seven tracts.

The Soldotna Commission recommended approval of the proposed vacation and preliminary plat subject to granting a 40-foot wide utility easement along the travel way of Mullen Drive.

The Borough Plat Committee reviewed the preliminary plat on February 13, 2006 and granted preliminary approval.

The owner and City of Soldotna have resolved the items of concern. Borough staff is recommending approval of the preliminary plat subject to conditions of the vacation.

Findings:

1. Per the submittal, the right-of-way proposed for vacation is in use for access.
2. Per the submittal, the right-of-way proposed for vacation has been constructed.
3. The right-of-way proposed for vacation is within the City of Soldotna.
4. The City of Soldotna is responsible for road maintenance.
5. The Soldotna Planning and Zoning Commission reviewed the proposed vacation on December 7, 2005 and recommended approval subject to providing 40-foot wide utility easement along the travel way of Mullen Drive.
6. Per the submittal, alternate access has been constructed within the Lingonberry Lane right-of-way to the Swiftwater Camp Road.
7. Per the submittal, a public access easement will remain along the travel way of Mullen Drive until alternative public right-of-way is dedicated.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
10. The proposed vacation will direct traffic away from an aging bridge that is in unsafe condition.
11. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
12. To date, one utility company has provided a letter of non-objection.

STAFF RECOMMENDATION: Based on Findings 3-12, staff recommends approval of the vacations as petitioned, subject to:

1. Submittal of a final plat within one year of vacation approval.

If the vacation is approved, the Soldotna City Council has thirty days in which they may veto Planning Commission approval of the vacation.

DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].

END OF STAFF REPORT

Chairman Bryson opened the meeting for public comment.

1. Scott McLane, McLane Consulting, 38240 Kenai Spur Highway
Mr. McLane is the surveyor representing the Mullen's on this particular petition. He was available for questions.

Chairman Bryson asked if there were questions for Mr. McLane.

Commissioner Heimbuch understood she was not suppose to talk on this matter but asked if the access along Swiftwater Campground Road was dedicated or if it was a private road. Mr. McLane replied that the road is still under private ownership however the City maintains it year round. He stated that the City told him that they are actively engaged in trying to acquire the road.

Chairman Bryson clarified for the record that Commissioner Heimbuch could speak or make motions on this matter until information directing otherwise was received from the Borough legal staff.

Seeing and hearing no one else wishing to speak, Chairman Bryson closed the public comment and opened the discussion among the Commission.

MOTION: Commissioner Martin moved, seconded by Commissioner Johnson to grant the vacation per staff recommendations citing Findings 1-12.

Findings:

1. Per the submittal, the right-of-way proposed for vacation is in use for access.
2. Per the submittal, the right-of-way proposed for vacation has been constructed.
3. The right-of-way proposed for vacation is within the City of Soldotna.
4. The City of Soldotna is responsible for road maintenance.
5. The Soldotna Planning and Zoning Commission reviewed the proposed vacation on December 7, 2005 and recommended approval subject to providing 40-foot wide utility easement along the travel way of Mullen Drive.
6. Per the submittal, alternate access has been constructed within the Lingonberry Lane right-of-way to the Swiftwater Camp Road.
7. Per the submittal, a public access easement will remain along the travel way of Mullen Drive until alternative public right-of-way is dedicated.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
10. The proposed vacation will direct traffic away from an aging bridge that is in unsafe condition.
11. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
12. To date, one utility company has provided a letter of non-objection.

Commissioner Clark asked if the findings were included in the motion. Commissioner Martin replied yes.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HEIMBUCH YES	HOHL ABSENT	HUTCHINSON YES
ISHAM YES	JOHNSON YES	MARTIN YES	MASSION ABSENT	PETERSEN YES	TAURIAINEN ABSENT	10 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate Happy Street, Happy Lane and the Un-named Right of Way along the West border of Tracts 11 through 14 and associated utility and clearing easements, and the 10' utility easement along west boundary, extending through subdivision to south boundary as a 20' utility easement, and the 10' utility easement along south boundary granted by Hoffman Acres Subdivision (Plat HM 74-2195); within Section 4, Township 3 South, Range 14 West, Seward Meridian, Alaska; within the Kenai Peninsula Borough. KPB File 2006-016

Staff Report reviewed by Max Best

PC Meeting: 2/27/06

Purpose as stated in petition: This entire subdivision is being replatted with alternate right-of-way, easements, and all interior property lines are being vacated, and new lots being platted. All new lots, right-of-way, and easements will meet KPB subdivision codes.

Petitioners: Quality Services of Anchor Point and Thomas A. Haeg of Homer, Alaska.

Public notice appeared in the February 9 and February 16, 2006 issues of the Homer News.

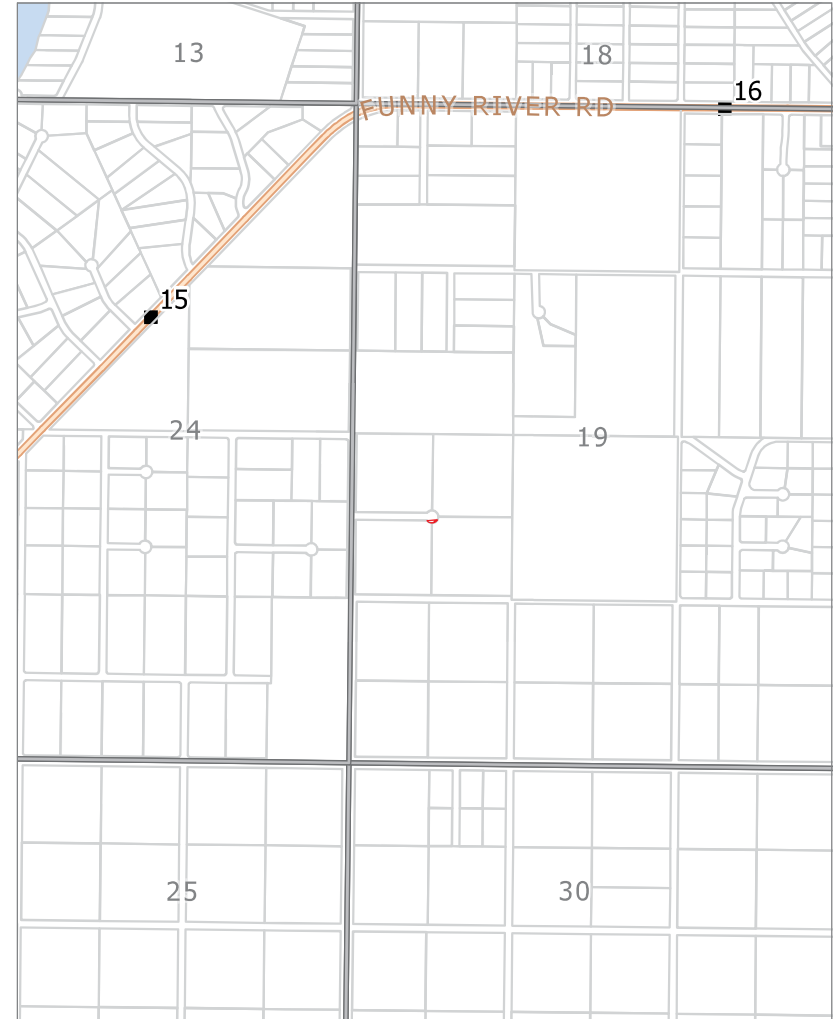
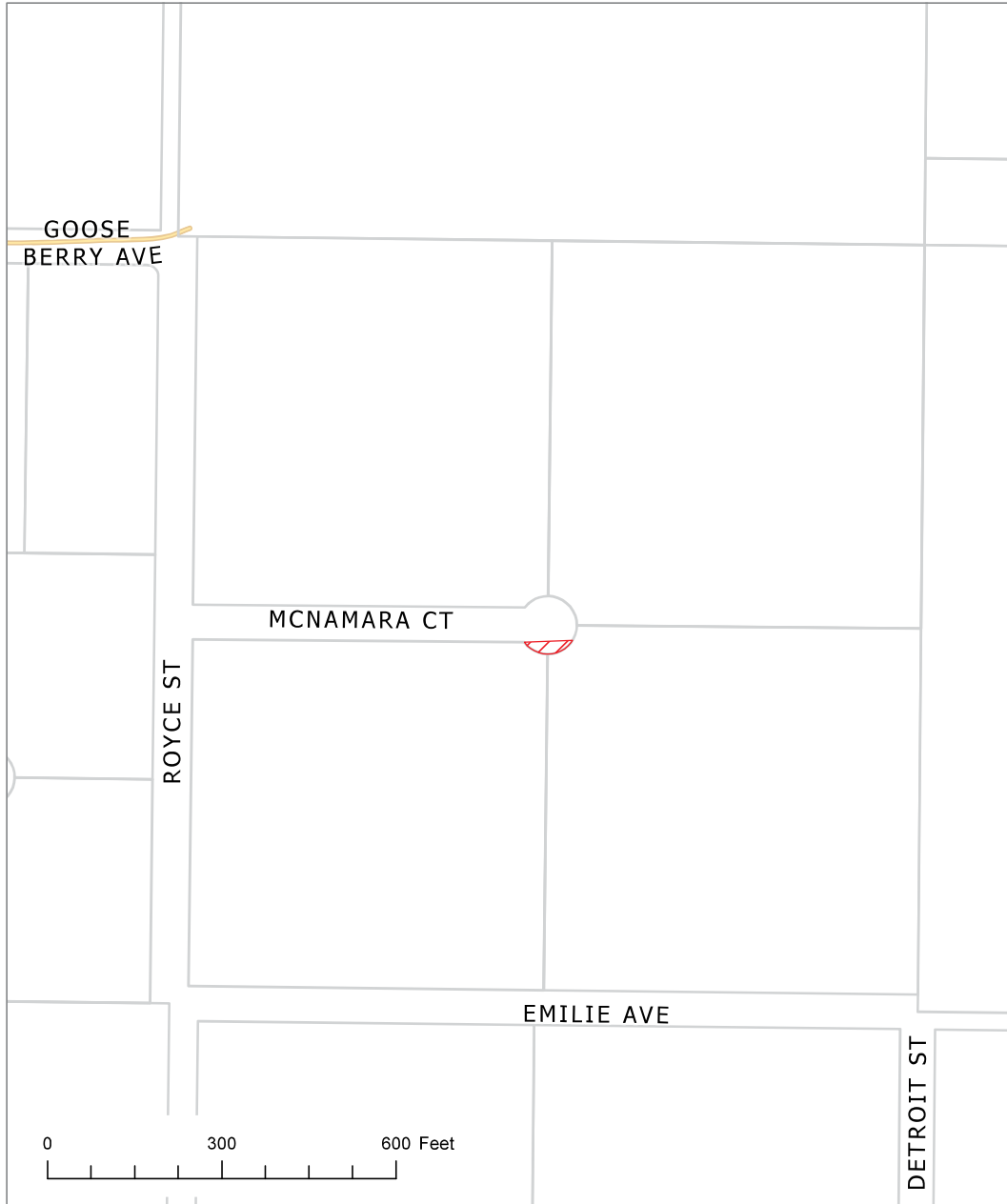
Seven (7) certified mailings were sent to owners of property within 300 feet of the parcels. All of the receipts have been returned.

Thirteen (13) regular mailings were sent to agencies and interested parties. Nine (9) notices were sent to KPB Departments. Notices were mailed to the Anchor Point Community Library and Anchor Point Post Office to post on

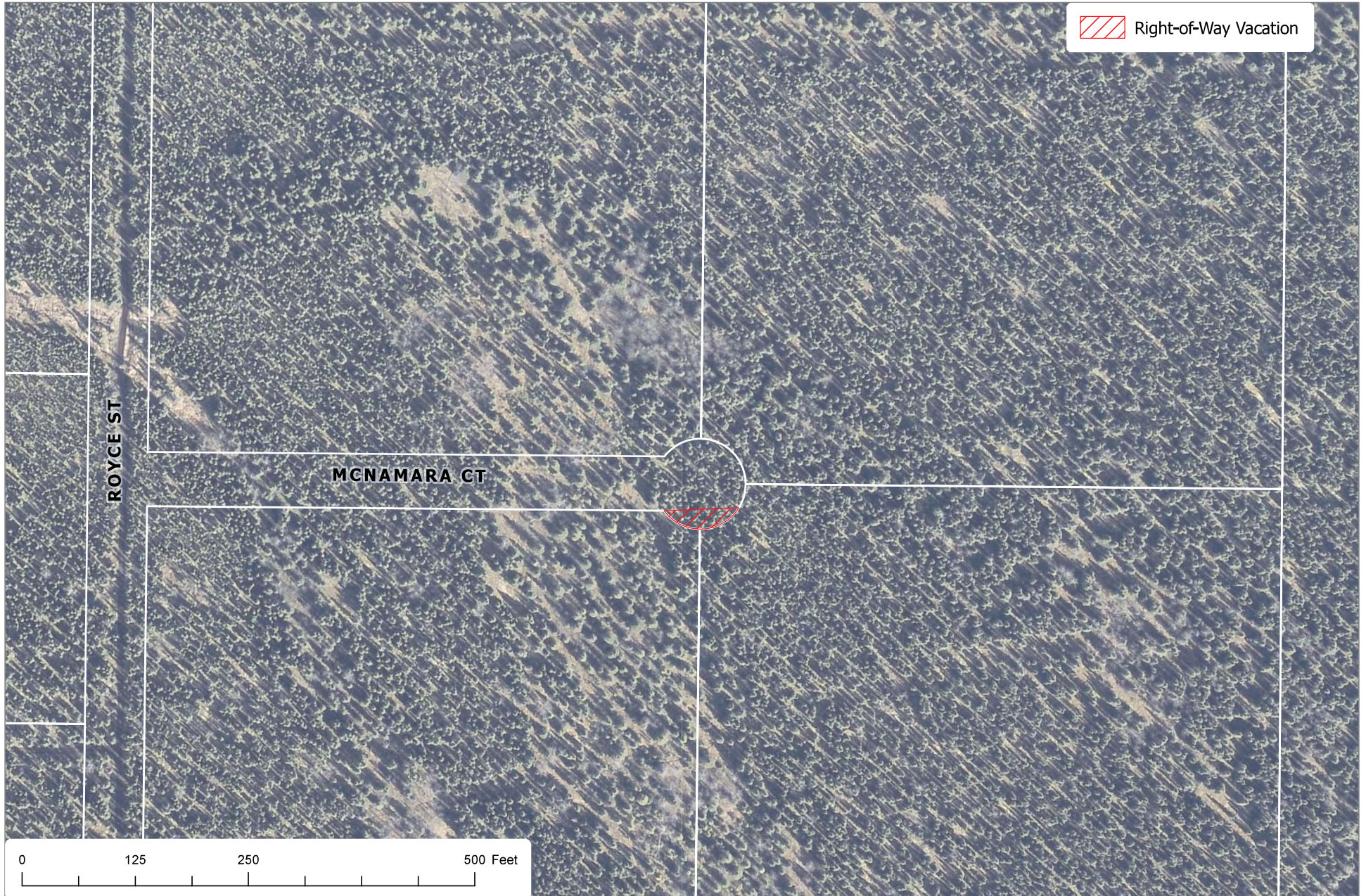
E. NEW BUSINESS

2. Right-of-Way Vacation; KPB File 2023-009V

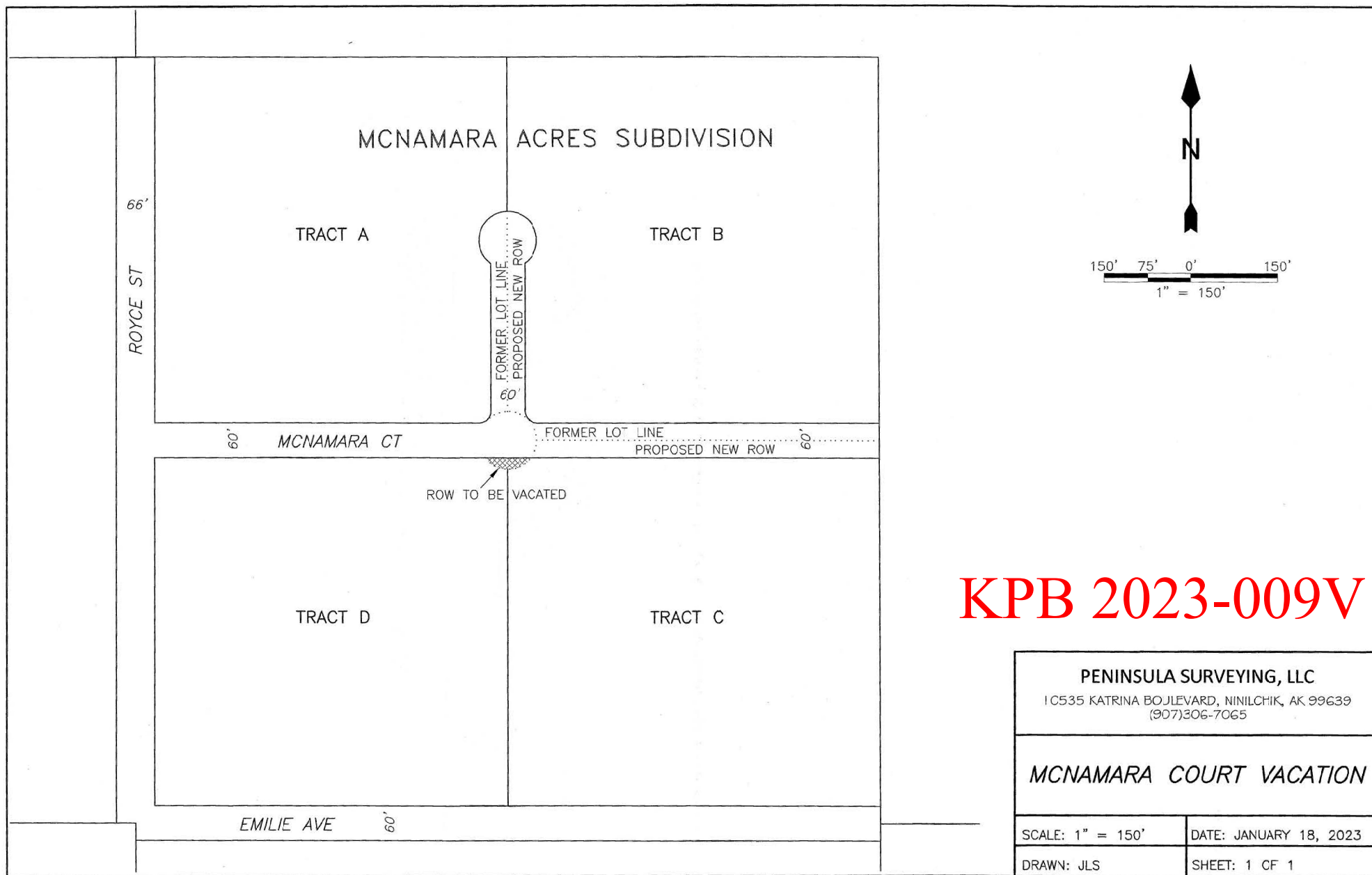
Request: Vacates a portion of a cul-de-sac bulb dedicated by McNamara Acres Subdivision, Plat KN 81-151 to extend the road dedication



KPB File # 2023-009V
S19 T05N R8W
Funny River



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



AGENDA ITEM E. NEW BUSINESS

ITEM 2 - RIGHT OF WAY VACATION
VACATE A PORTION OF MCNAMARA COURT CUL-DE-SAC BULB

KPB File No.	2023-009V
Planning Commission Meeting:	February 13, 2023
Applicant / Owner:	George and Laurel Lastinger of Soldotna, Alaska
Surveyor:	Jason Schollenberg
General Location:	Royce Street, McNamara Court, Funny River, Funny River APC
Legal Description:	McNamara Court, McNamara Acres Subdivision, Plat KN 81-151

STAFF REPORT

Specific Request / Purpose as stated in the petition: We would like to vacate the southern portion of the cul-de-sac on McNamara Court. The property owner is in the process of subdividing the property and there will be a new right-of-way dedication that extends McNamara Court to the east. There will also be a new dedication going north from the existing cul-de-sac.

Notification: The public hearing notice was published in the February 8, 2023 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Soldotna

Post Office of Soldotna

Eighteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Sixteen receipts had been returned when the staff report was prepared.

Fifteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Funny River Advisory Planning Commission
Central Emergency Services

Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The proposed vacation is for a portion of a right-of-way bulb located at the end of McNamara Court. To access McNamara Court there are several platted options but many of the routes are unconstructed. Near mile 14.75 of state maintained Funny River Road is Goose Berry Avenue. Goose Berry Avenue is a borough maintained 60 foot wide right-of-way. The dedication of Goose Berry Avenue is approximately 2,500 feet with the entire length constructed and maintained. At the end of Goose Berry Avenue it intersects with Royce Street. Royce Street is a varying width right-of-way that appears to have some clearing but is not borough maintained. The width of Royce Street in the subject area is 66 feet wide with underlying section line easements. McNamara Court is located about 630 feet from the Goose Berry Avenue and Royce Street intersection. McNamara is dedicated as a 60 foot wide right-of-way that is approximately 650 feet long and ends with a 50 foot radius cul-de-sac. It appears to be unconstructed at this time.

McNamara Court provides access to four lots. Three of the lots have access from other dedicated rights-of-way. All lots are listed in the KPB Assessing records as being vacant and all owned by the same owner.

The proposal is to vacate a small portion of the southern portion of the existing cul-de-sac bulb. The owner wishes to extend the right-of-way to the east and provide a new dedication to the north that will end with a cul-de-sac. The remaining portion of the cul-de-sac bulb will remain and will be used with the extension of the new rights-of-way to still be used as dedicated right-of-way.

The block is incomplete in the area but the existing dedications are compliant. The cul-de-sac bulb does not improve the block. The new dedication will reduce the block length and will still be compliant. The plat has not been submitted that will finalize the vacation. If a new dedication along the east is not granted, exceptions to block length and for street layout requirements will need to be requested and reviewed by the Plat Committee.

KPB Roads Dept. comments	
SOA DOT comments	

Site Investigation: Some areas designated as wetlands are present within the western portion of McNamara Court. Construction may require permitting from the U.S. Army Corps of Engineers. The portion proposed to be vacated and the proposed dedication do not appear to contain any low wet areas.

The area is relatively flat. There are some slopes throughout the adjoining lots but the existing dedication along with the proposed dedication do not contain any steep slopes to hinder construction or use as a right-of-way.

KPB River Center review	
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Staff Analysis: McNamara Court was dedicated as a 60 foot wide right-of-way on McNamara Acres Subdivision, Plat KN 81-151. The plat divided an aliquot 40 acres into four lots and dedicated McNamara Court and matching dedications for Royce Street and Emilie Avenue, which is located to the south.

Per KPB Code 20.30.100, cul-de-sacs are to be streets with the intent to be permanently closed. The opening of an end of a cul-de-sac has been done in the past and the requirement that all owners along the cul-de-sac dedication must provide non-objections. In this case all lots along the cul-de-sac are owned by one owner, the applicant. The existing road dedication provides limitations on road continuations and may limit further subdivision of the existing 10 acre parcels. The new proposal will provide more options for the owner but will also provide an additional access route to the large 40 acre parcel to the east.

The plat to finalize the vacation has not yet been submitted. There appears there should be some additional dedications required to provide for continuations or projections of rights-of-way as well as try to improve the block requirements. It will be up to the surveyor/owners to request such exceptions to KPB Code if they do not intend to provide the dedications.

Per the parent plat there is an 80 foot airstrip easement within the northern lots of McNamara Acres Subdivision. That will need to be addressed on the plat and should not impact the vacation.

The vacation is within the Funny River Advisory Planning Commission boundary. Comments were not received when the staff report was prepared. If any minutes are comments are available they will be presented in the desk packet.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes

authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right-of-way is currently unconstructed.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: U.S. Corps of Engineers may have requirements that need to be met but it does appear to be able to be constructed as similar roads in the area have the same designations and are constructed. The proposal will be to extend the right-of-way.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: There are still a lot of large acreage parcels in the area and many undeveloped lots. The continuation of the right-of-way may benefit the large acreage parcel to the east.
4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: Does not provide access to public lands or areas with public interest.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposed continuation will improve the ability to connect with other parcels.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: If the right-of-way continues to the east the small portion proposed for vacation will not be required.
7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: The area is undeveloped and the use by utility providers is minimal. New utility easements will be granted along the new right-of-way edge.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The vacation and allowance to continue the road will provide more options for future development.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly or City Council will hear the vacation at their scheduled February 21, 2023 meeting.

If approved, a plat will be required to be submitted to finalize the proposed right of way vacations. The preliminary plat has not yet been submitted. If an application for the plat that complies with KPB 20.25 is received it will be scheduled for review by the Plat Committee in accordance with KPB Code.

KPB department / agency review:

Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.
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	Material Site Comments: There are not any material site issues with this proposed plat.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Affected Addresses: Existing Street Names are Correct: Yes List of Correct Street Names: McNamara Court Royce Street Emilie Avenue Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: Julie Hindman - Addresses will be reviewed upon recording and this action may result in required address changes. An approved street name will be required for the new proposed dedication. Upon recording the street name will be reviewed to determine if the suffix of Court will still apply as defined within KPB Code. A street name change may be required.
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	No comments
ENSTAR	No comments or objections
ACS	No objections
GCI	Approved as Shown

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends **APPROVAL** as petitioned, subject to:

1. Consent by the KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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.

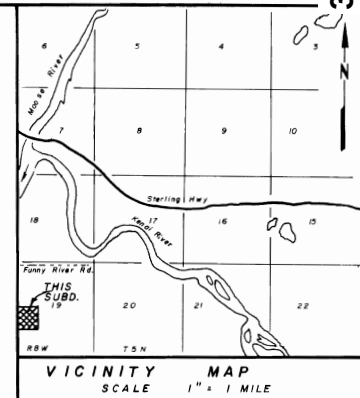
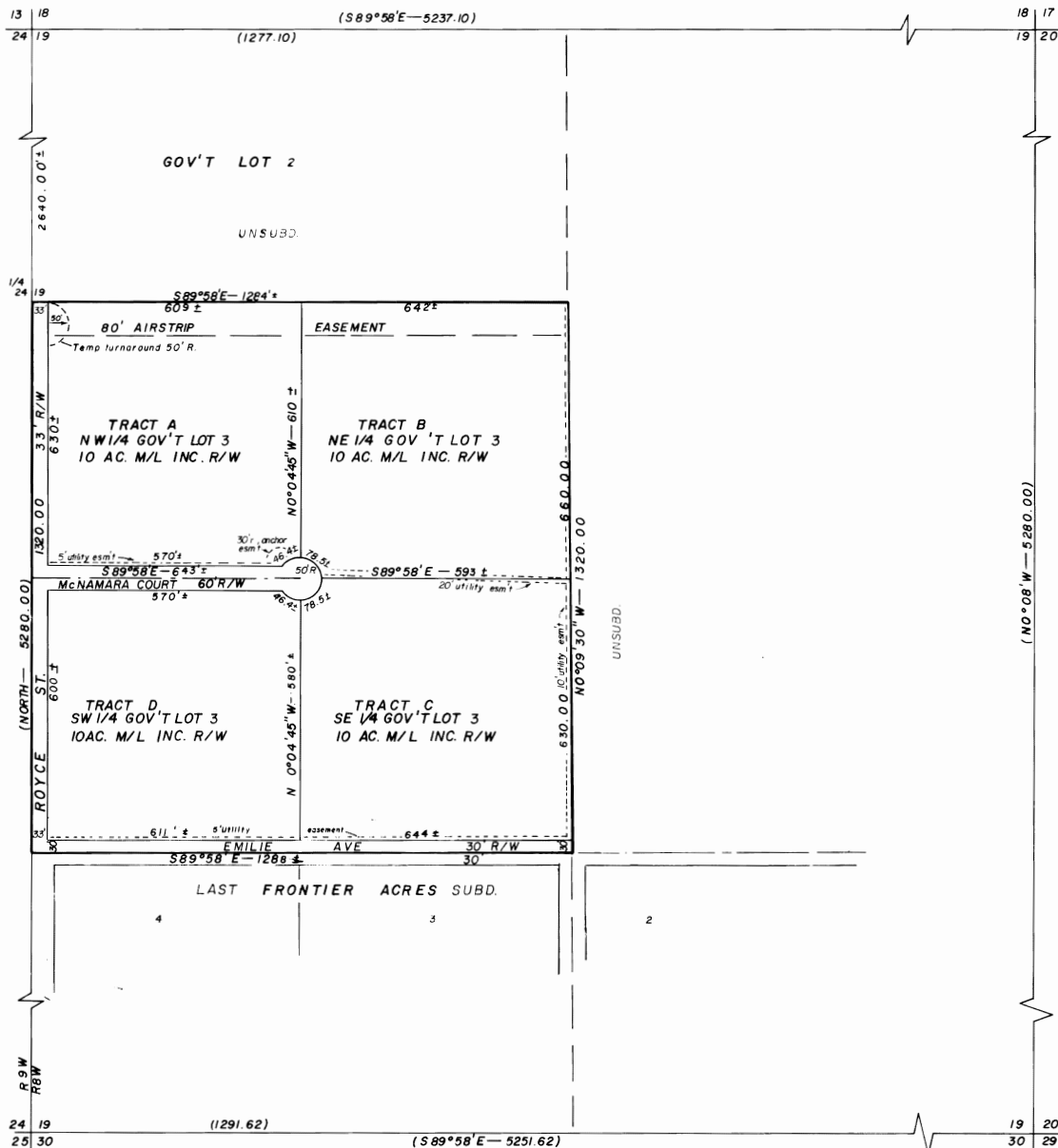
- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing 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.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT

Page 5 of 5



NOTES

This is a paper plat subdivision of Gov't lot 3 Section 19, T 5N, R 8W, S.M. AK.

All bearing and distances refer to the G.L.O. datum as shown on the official township plat.

Datum of record is shown in ().

No field survey was accomplished nor were any monuments or stakes set this date.

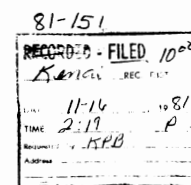
All tracts are subject to a minimum building setback of 20' along all dedicated R.O.W.s

All wastewater disposal systems shall comply with existing law at time of construction.

PLAT APPROVAL

This plat having been approved by the Kenai Peninsula Borough Planning Commission as recorded in the official minutes of the meeting of March 14, 1979, is hereby acknowledged and accepted as the official plat, subject to any and all conditions and requirements of ordinances and law appertaining thereto.

KENAI PENINSULA BOROUGH
By: [Signature]
ADMINISTRATIVE OFFICE



CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of said property and request the approval of this plat showing such easements for public utilities, roadways, and or streets dedicated by us for public use.

Douglas A. Dicken
Douglas A. Dicken, owner, 330 Jerde Circle Anchorage, Ak. 99504

William R. Stevens
William R. Stevens, owner,
Ann M. Stevens
Ann M. Stevens, owner

NOTARY'S ACKNOWLEDGEMENT

for Douglas A. Dicken
Subscribed and sworn before me this
8th day of September, 1981
My commission expires 5/1/84

Barbara Young
notary public for Alaska

NOTARY'S ACKNOWLEDGEMENT

for William R. Stevens and Ann M. Stevens
Subscribed and sworn before me this
17th day of September, 1981
My commission expires 4/15/83

Susan A. Mitchell
notary public for Alaska

McNAMARA ACRES SUBDIVISION

Douglas A. Dicken - William R. Stevens owners
3310 Jerde Circle
Anchorage, AK. 99504

LOCATION

NW 1/4 SW 1/4 SECTION 19, T5N, R8W S.M. ALASKA
CONTAINING 39 AC. M/L IN THE KENAI PENINSULA
BOROUGH. (K.R.D. BK 78 Pg 64, NW 1/4 SW 1/4 SEC. 19)

Prepared by: McLane and Associates
Soldotna Alaska

DATE
Aug. 16, 1978

SCALE
1" = 200'

E. NEW BUSINESS

3. Conditional Use Permit; PC Resolution 2023-04

Request: To perform erosion protection & extend a culvert along the road embankment at MP 58 of the Sterling Hwy. within the ADOT highway easement with fill & vegetation. Portions of this project fall within the 50' Anadromous Waters Protection District of the Kenai River.

Multi Agency Permit Application



514 Funny River Road, Soldotna, AK 99669 • (907) 714-2460 • KenaiRivCenter@kpb.us

Applicant Information:

Name: Jonathan Tymick, DOT&PF
 Owner? ☒ Yes ☐ No
 Mailing: P.O. Box 196900
 Anchorage AK 99519-6900
 Phone: 907-269-0453
 Email: jonathan.tymick@alaska.gov

Agent Information: (if applicable)

Name: Irene Turletes, HDR
 Mailing: 582 East 36th Avenue, Suite 500
 Anchorage AK 99503-4169
 Phone: 907-644-2099
 Email: irene.turletes@hdrinc.com

Project Location:

KPB Parcel ID: 025018003
 Physical Address: T05N, R05W, Section 35
 Waterbody Name: Kenai River
 River Mile: 69/70 Riverbank: ☒ Right
 looking downstream ☐ Left

Subdivision: N/A
 Lot: _____ Block: _____ Addn/No.: _____
 Directions to site: Seward Highway, MP 58,
 east of intersection with Skilak Lake Road,
 west of Fuller Creek trailhead.

Permit Fees: (please select the applicable permit fees)

- ☒ \$100 - ADNR State Parks Permit ☒ \$300 - KPB Conditional Use Permit
☒ \$50 - KPB Habitat/Floodplain Permit ☐ \$300 - KPB Floodway Development Permit

Project Description:

☐ New Project

OR

☐ Extension

☒ Amendment

to RC# 12670

Provide a detailed description of your project and all related activities, use additional pages if needed. Include the following information for all existing and proposed structures:

- **Project location & dimensions**
- **Waterbody description & proximity**
- **Proximity to OHW and/or HTL**
- **Construction methods/equipment**
- **Filling/dredging/excavation:**
 - type, volume, area, location
- **Fuel Storage:** location, quantities
- **Vegetation Removal:** location, amount, type

See attachment for project description.

KPB Tax Credit: (skip this section if your project is prior existing, only applicable to NEW projects)

Please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light Penetrating Structure(s) \$ _____
 Bank or Habitat Restoration & Protection \$ _____
 Other Activities \$ _____

Project Questions:

Note: Use Ordinary High Water (OHW) for non-tidal waters, and Mean High Tide (MHT) for tidal waters.

1. Start date: January 2023 End date: June 2025 Estimated Days of Construction: 50
2. Is the project located within 50 feet of OHW or HTL a waterbody? ☒ Yes ☐ No
3. Does any portion of the project extend **below** the OHW or HTL of the stream or waterbody? ☒ Yes ☐ No
4. Does any portion of the project cantilever or extend **over** the OHW of the waterbody? ☐ Yes ☒ No
5. Will anything be placed below OHW or HTL of the waterbody? ☒ Yes ☐ No
6. Will material be extracted or dredged from the site? ☒ Yes ☐ No
7. Including areas below OHW or HTL, what is the total area (in acres) that will be excavated or dredged?
Total Area: See attachment Type of Material: _____
Location you will depositing fill: See attachment
8. Will any material (including soils, debris, and/or overburden) be used as fill? ☒ Yes ☐ No
Type of material: Class III riprap Amount: 2,150 CY Permanent ☒ or Temporary ☐
Will fill be placed below OHW or HTL: ☒ Yes ☐ No
9. List all motorized equipment to be used in this project, including access route to site, any stream or waterbody crossings, and (if applicable) how long equipment will be used below OHW or HTL: See attachment.

10. Is any portion of the work already complete? ☒ Yes ☐ No
If yes, describe: Road construction, hydrologic studies, and modeling has been completed.

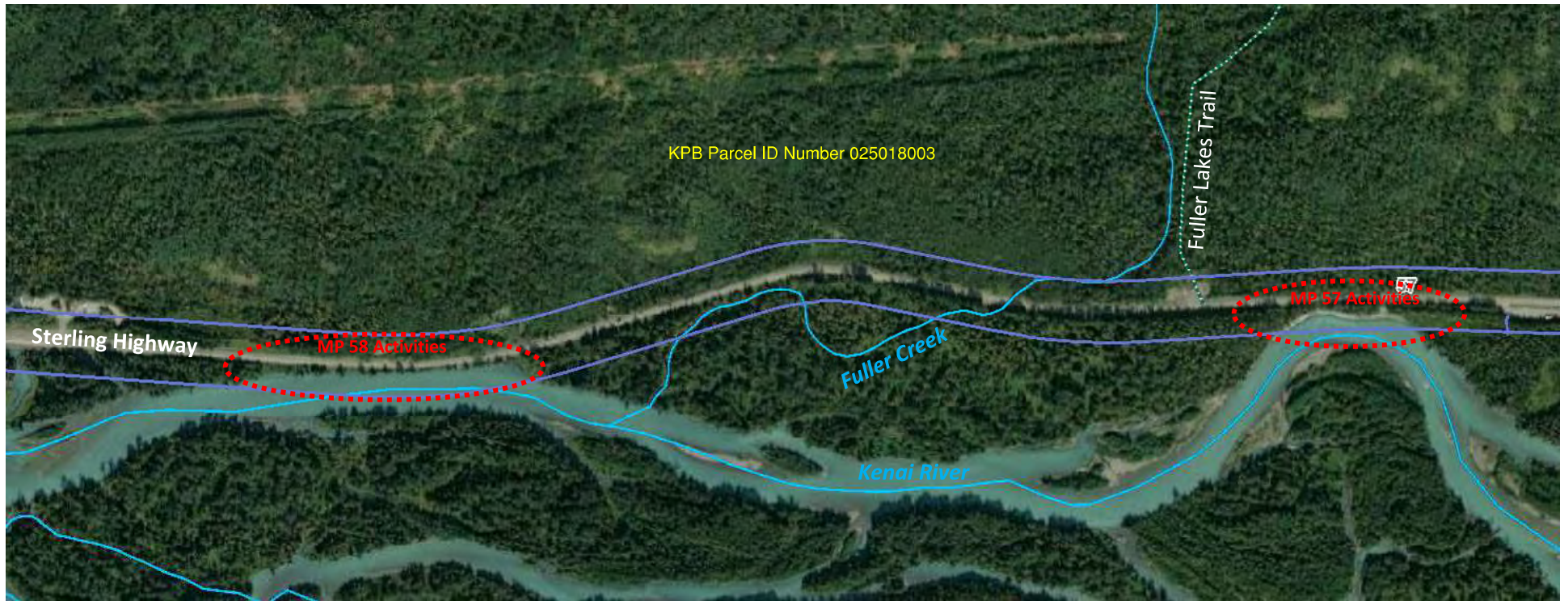
Signature & Certification:

This application is hereby made requesting permit(s) to authorize the work described in this application form. I certify the information in this application is complete and accurate to the best of my knowledge.

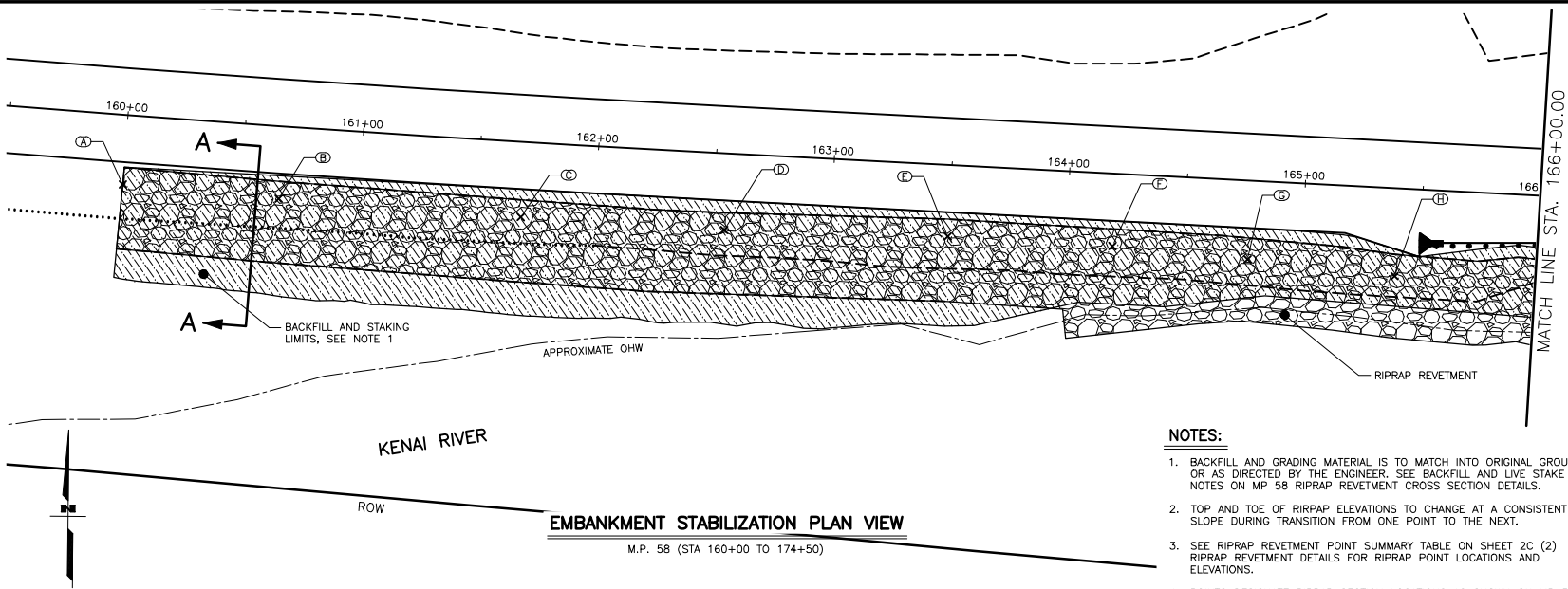
If applying for a tax credit: I certify that I have not begun construction of the project on this the property and that the proposed project will be constructed in a manner consistent with KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable ordinances.

_____	<u>12/5/2022</u>
Applicant Signature (required)	Date
_____	<u>12/5/2022</u>
Agent Signature (if applicable)	Date

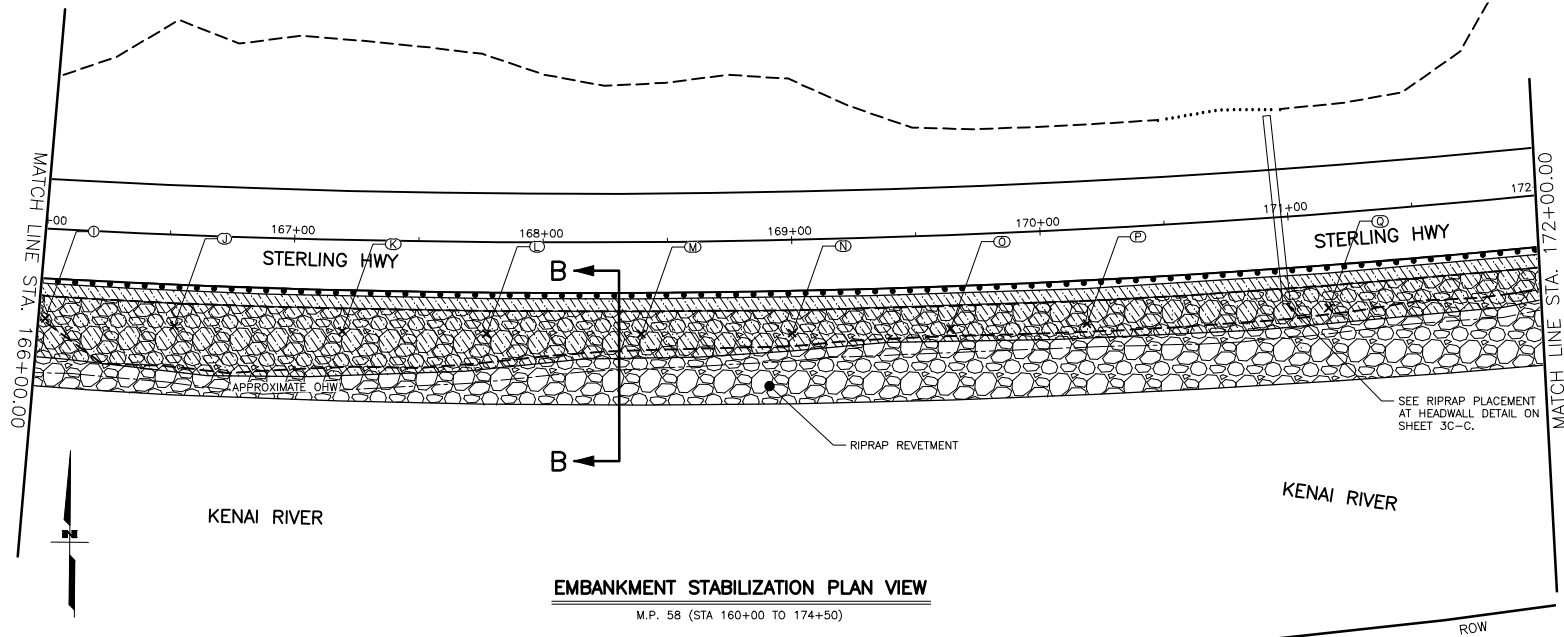
Aerial Project View



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- NOTES:**
1. BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER. SEE BACKFILL AND LIVE STAKE NOTES ON MP 58 RIPRAP REVETMENT CROSS SECTION DETAILS.
 2. TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
 3. SEE RIPRAP REVETMENT POINT SUMMARY TABLE ON SHEET 2C (2) RIPRAP REVETMENT DETAILS FOR RIPRAP POINT LOCATIONS AND ELEVATIONS.
 4. POINTS DESIGNATE RIPRAP SECTION LOCATIONS AS SHOWN ON MP 58 RIPRAP REVETMENT DETAILS DRAWING.



SHEET NO.	TOTAL SHEETS
2C	E14
STATE	YEAR
ALASKA	2022
PROJECT DESIGNATION	
0A33030/ CFHWY00693	
NO.	REVISION
DATE	
NO.	REVISION
DATE	
NO.	REVISION
DATE	

TO ANCHORAGE
STERLING HWY
KENAI RIVER
THIS SHEET
TO SOLDOTNA

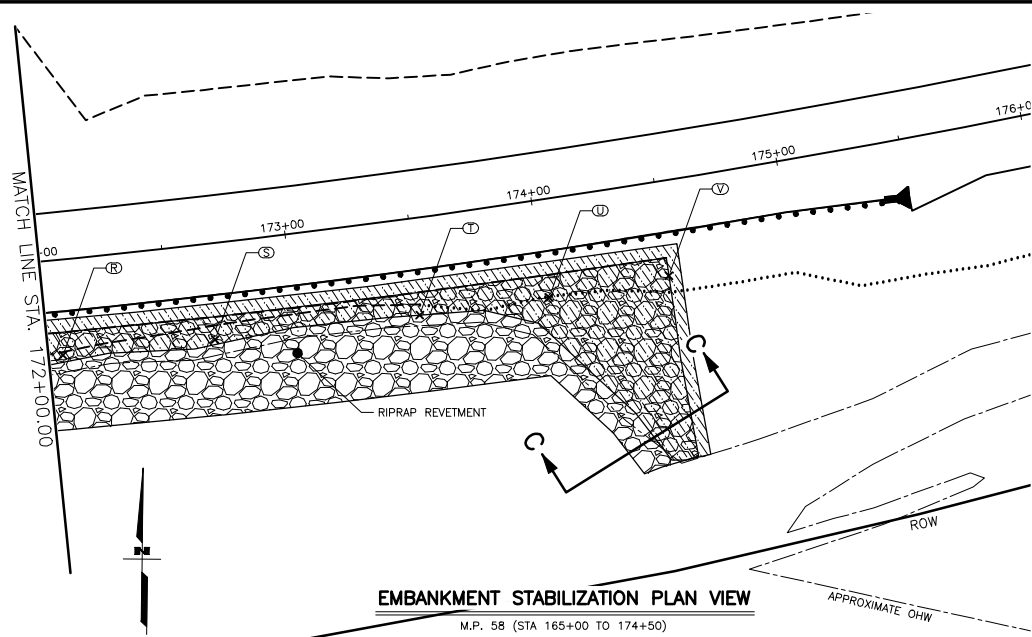
HDR ENGINEERING INC.
2025 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 844-0000
CERT. OF AUTH. AECC569

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
STERLING HIGHWAY
MP 45-60 SUNRISE TO
SKILAK LAKE RD
RECONSTRUCTION STAGE 1A

MP 58 RIPRAP
REVIEW DETAILS

DATE/TIME 12/18/2022 5:00 PM [XOUT] 2C (2) [DESIGNED] [CHECKED] [DRAFTED]

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EMBankment STABILIZATION PLAN VIEW

M.P. 58 (STA 165+00 TO 174+50)

RIPRAP REVETMENT POINT SUMMARY

POINT NO.	NORTHING	EASTING	ELEVATION
A	179015.64	156524.40	289.00
B	179010.22	156590.61	289.00
C	179003.45	156693.39	289.15
D	178998.81	156779.59	289.30
E	178997.06	156874.42	289.45
F	178993.54	156944.29	289.60
G	178988.53	157001.58	289.75
H	178982.12	157064.06	289.90
I	178980.53	157125.61	290.00
J	178978.14	157177.59	290.15
K	178976.65	157245.18	290.30
L	178976.23	157303.23	290.45
M	178976.71	157365.60	290.60
N	178977.70	157426.25	290.75
O	178980.08	157490.01	290.90
P	178982.65	157544.91	291.00
Q	178989.88	157642.11	291.15
R	178998.69	157735.25	291.30
S	179005.49	157796.47	291.40
T	179016.17	157878.65	291.50
U	179023.77	157930.68	291.65
V	179032.96	157978.78	291.80

NOTES:

- BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER. SEE BACKFILL AND LIVE STAKE NOTES ON MP 58 RIPRAP REVETMENT DETAILS DRAWING.
- TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
- SEE RIPRAP REVETMENT POINT SUMMARY TABLE FOR RIPRAP POINT LOCATIONS AND ELEVATIONS.
- POINTS DESIGNATE RIPRAP SECTION LOCATIONS AS SHOWN ON MP 58 RIPRAP REVETMENT DETAILS.

EMBankment STABILIZATION LEGEND



SHEET NO.	TOTAL SHEETS
2C (2)	E14
STATE	YEAR
ALASKA	2022
PROJECT DESIGNATION	
0A33030/ CFHWY00693	
NO.	REVISION
DATE	
NO.	REVISION
DATE	
NO.	REVISION
DATE	

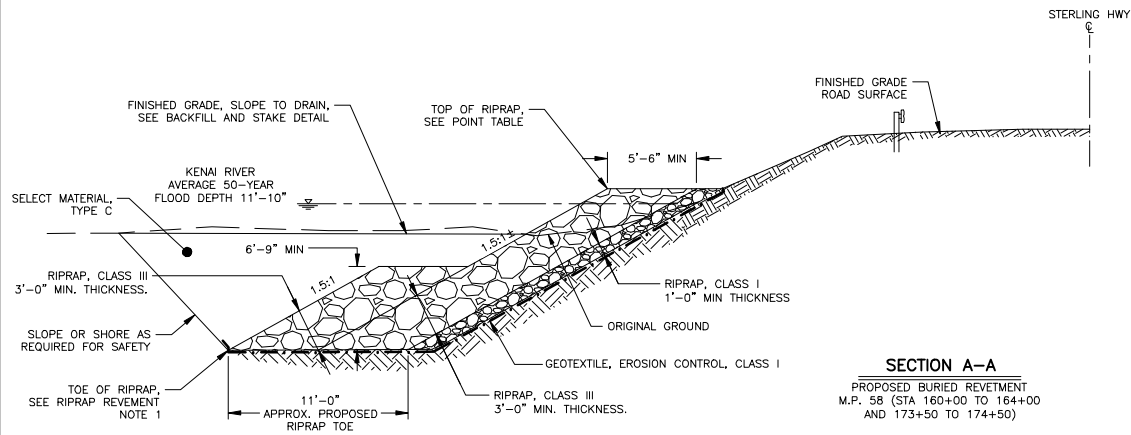
HDR ENGINEERING INC.
2025 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 844-0000
CERT. OF AUTH. AECC569

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
STERLING HIGHWAY
MP 45-60 SUNRISE TO
SKILAK LAKE RD
RECONSTRUCTION STAGE 1A

MP 58 RIPRAP
REVIEW DETAILS

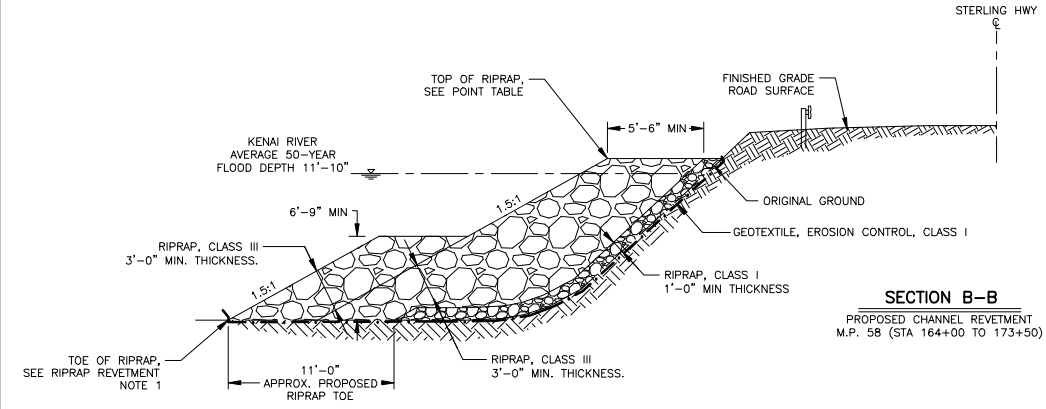
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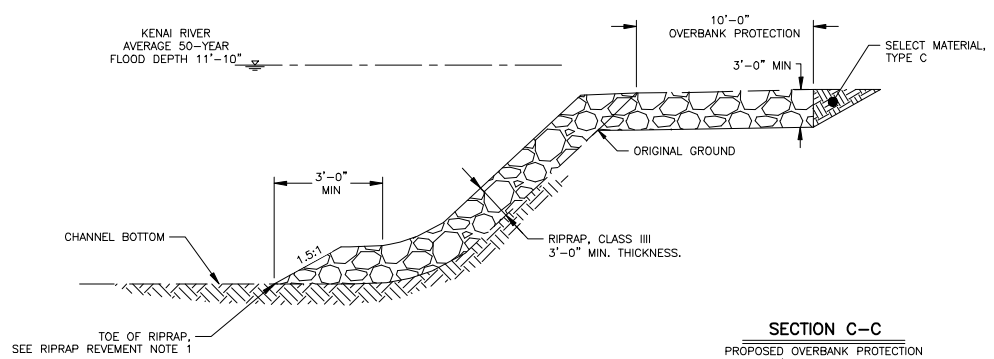
SECTION A-A

PROPOSED BURIED REVETMENT
M.P. 58 (STA 160+00 TO 164+00
AND 173+50 TO 174+50)



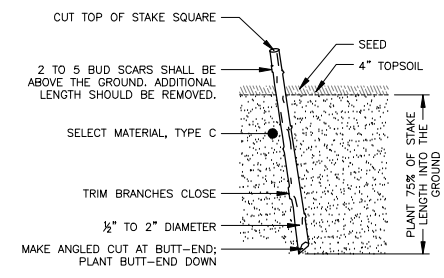
SECTION B-B

PROPOSED CHANNEL REVETMENT
M.P. 58 (STA 164+00 TO 173+50)



SECTION C-C

PROPOSED OVERBANK PROTECTION
M.P. 58 (SEE RIPRAP REVETMENT
NOTE 5)



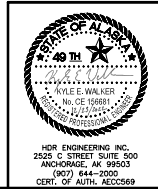
BACKFILL AND STAKE DETAIL

BACKFILL AND LIVE STAKE NOTES:

1. BACKFILL WITH SELECT MATERIAL TYPE C.
2. THE CUTTING SHALL BE TRIMMED INTO LIVE STAKES AT LEAST 20" LONG.
3. DO NOT PLANT IN ROWS.
4. DO NOT DAMAGE BUDS, STRIP BARK OR SPLIT THE STAKE DURING INSTALLATION. DAMAGED STAKES SHALL BE REPLACED IMMEDIATELY.
5. SPRING PLANTING: PLANT STAKES BY FIRST MAKING A PILOT HOLE USING A REBAR OR "STINGER". FALL PLANTING: INSERT LIVE STAKES IN CONJUNCTION WITH ROCK PLACEMENT. DO NOT HAMMER STAKES INTO GROUND OR RIPRAP.
6. WATER EACH STAKE WHEN PLANTING TO REMOVE AIR POCKETS.
7. WILLOWS WILL BE PLANTED APPROXIMATELY 15" O.C.
8. PLANT ADDITIONAL 50 STAKES INTERSPERSED WITHIN THE PROJECT AREA. ADDITIONALLY, ANY TREES REMOVED WITH 3" DIAMETER AT BREAST HEIGHT SHALL BE REPLANTED AT A 2:1 RATIO.

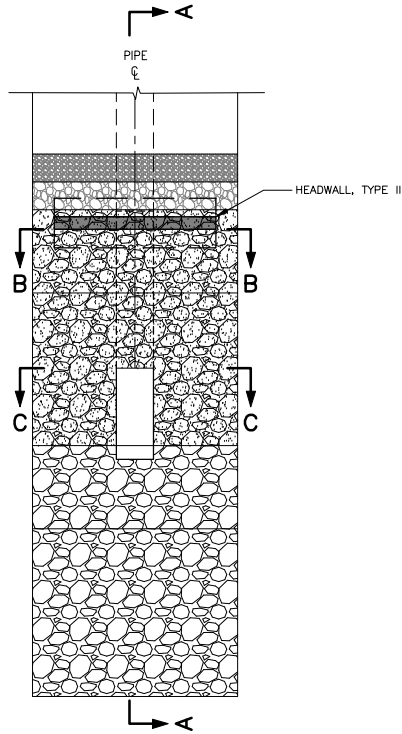
RIPRAP REVETMENT NOTES:

1. THE TOE OF RIPRAP ELEVATION SHALL BE THE MINIMUM OF: THE CHANNEL BOTTOM ELEVATION OR 278.0 FEET.
2. TYPICAL SECTIONS SHOULD MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY ENGINEER.
3. TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
4. POINT TABLE DESIGNATES TOP OF RIPRAP ELEVATION AND LOCATION AS SHOWN ON RIPRAP REVETMENT DETAILS.
5. BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER.
6. SECTION C-C TO BE USED FOR A MINIMUM OF 50 FEET ALONG THE EXISTING CHANNEL BANKS IN AREAS WHERE REVETMENT TRANSITIONS FROM SECTION A-A TO SECTION B-B OR FROM SECTION B-B TO SECTION A-A AS DIRECTED BY THE ENGINEER.
7. LABOR AND EQUIPMENT REQUIRED TO PLACE RIPRAP WILL BE SUBSIDIARY TO SECTION 611 RIPRAP

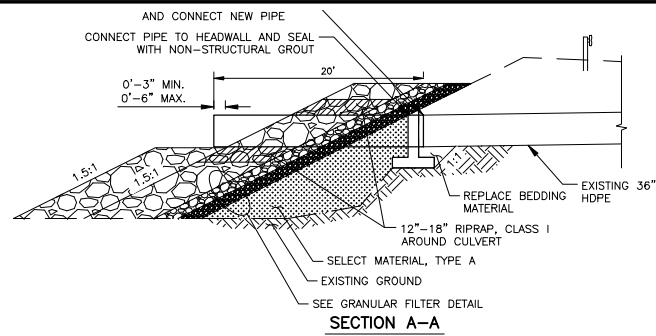


STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
**STERLING HIGHWAY MP 45-60
SUNRISE TO SKILAK LAKE RD
RECONSTRUCTION STAGE 1A**
**MP 58 RIPRAP REVETMENT
DETAILS**

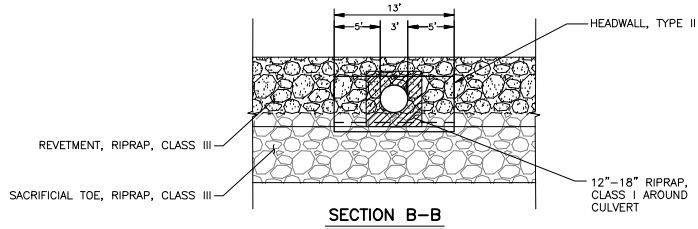
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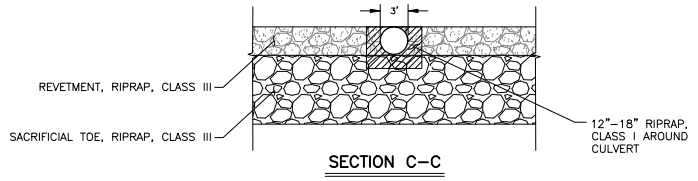
RIPRAP PLACEMENT AT HEADWALL



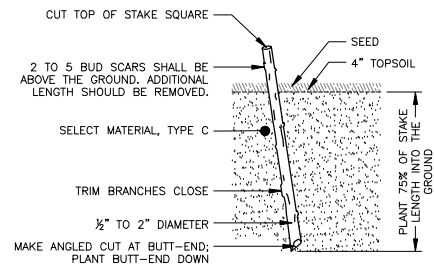
SECTION A-A



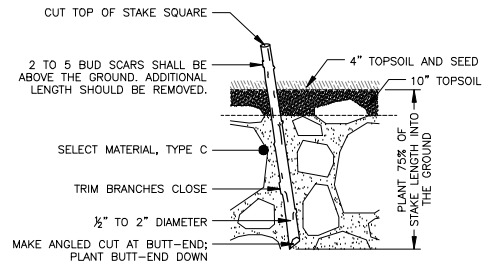
SECTION B-B



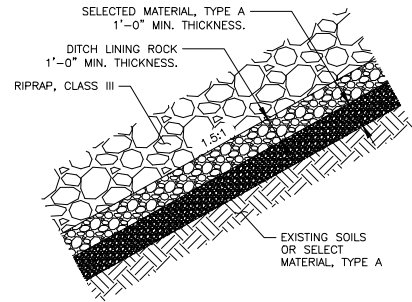
SECTION C-C



LIVE STAKE DETAIL



RIPRAP BACKFILL DETAIL



GRANULAR FILTER DETAIL

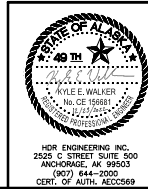
NO.	DATE	REVISION	STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
			ALASKA	0A33030/CFHWY00693	2022	3C-C	E14

RIPRAP REVETMENT PLACEMENT AT HEADWALL NOTES:

1. CUT EXISTING PIPE AT THE BACK (ROADWAY SIDE) OF HEADWALL AND REMOVE EXISTING PIPE AND CONNECTION MATERIALS.
2. FIELD FIT NEW PIPE THROUGH EXISTING HEADWALL AND CUT EXISTING PIPE SQUARE TO NEW PIPE.
3. SEAL NEW PIPE AND HEADWALL WITH NON-STRUCTURAL GROUT. IF POSSIBLE, REUSE EXISTING HEADWALL CONNECTION MATERIALS TO ATTACH NEW PIPE TO HEADWALL PRIOR TO GROUTING.
4. MANUALLY PLACE ALL MATERIALS GREATER THAN 3-INCH DIAMETER WITHIN 3- FEET OF NEW PIPE.
5. DO NOT SEED OR STAKE WITHIN 3 FEET OF NEW PIPE OUTLET.
6. BACKFILL NEW OUTFALL PIPE WITH 12-18 INCHES OF RIPRAP, CLASS I PRIOR TO PLACING ADJACENT REVETMENT RIPRAP, CLASS III. ONCE THE BACKFILL MATERIAL AND PIPE ARE INSTALLED, CONTINUE REVETMENT INSTALLATION.

BACKFILL AND LIVE STAKE NOTES:

1. BACKFILL WITH SELECT MATERIAL TYPE C.
2. THE CUTTING SHALL BE TRIMMED INTO LIVE STAKES AT LEAST 20" LONG.
3. DO NOT PLANT IN ROWS.
4. DO NOT DAMAGE BUDS, STRIP BARK OR SPLIT THE STAKE DURING INSTALLATION. DAMAGED STAKES SHALL BE REPLACED IMMEDIATELY.
5. SPRING PLANTING: PLANT STAKES BY FIRST MAKING A PILOT HOLE USING A REBAR OR "STINGER". FALL PLANTING: INSERT LIVE STAKES IN CONJUNCTION WITH ROCK PLACEMENT. DO NOT HAMMER STAKES INTO GROUND OR RIPRAP.
6. WATER EACH STAKE WHEN PLANTING TO REMOVE AIR POCKETS.
7. WILLOWS WILL BE PLANTED APPROXIMATELY 15" O.C.
8. PLANT ADDITIONAL 50 STAKES INTERSPERSED WITHIN THE PROJECT AREA. ADDITIONALLY, ANY TREES REMOVED WITH 3" DIAMETER AT BREAST HEIGHT SHALL BE REPLANTED AT A 2:1 RATIO.



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
**STERLING HIGHWAY MP 45-60
SUNRISE TO SKILAK LAKE RD
RECONSTRUCTION STAGE 1A**
**MP 58 BACKFILL AND LIVE
STAKING DETAILS**

HOR ENGINEERING INC.
2625 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 544-1000
CERT. OF AUTH. AEC0569



KRC Multi-Agency Permit Application Supplemental Project Information

Multi-Use Permit Application details

Project location: Sterling Highway Milepost (MP) MP 58 Erosion Protection Project is located on the north bank of the Kenai River, at approximately MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road. Section 35 of Township 05N, Range 05W, USGS Quadrangle Map Kenai B-1. The project location is approximated as Latitude 60.484042, Longitude -150.097044, west of Cooper Landing, Alaska.

The project occurs solely within the DOT&PF right of way easement of the Sterling Highway as it traverses through the Kenai National Wildlife Refuge. A U.S. Fish and Wildlife Service (USFWS) parcel (KPB ID Number 025018003) is adjacent to the project area on both the north and south sides of the highway. The total footprint for the project activities is 0.4 acres.

Project Description

The project is proposed as part of the Sterling Highway MP 45-60 project, which runs adjacent to the riverbank in this stretch. The design engineers shifted the alignment away from the river to avoid impacts, however the most recent evaluation and modeling identify that the bank requires additional stabilization to protect both the river and the road infrastructure.

The project proposes riprap embankment protection along 1,500 feet of the Kenai River to stabilize the bank and protect the adjacent road embankment. Riprap below ordinary high water (OHW) is proposed along approximately 1,080 linear feet of the river. Once the embankment protection is anchored into place, 4 inches of topsoil, seed, and willow stakes would be placed to enhance bank stabilization and provide a more natural appearance over time. Tree seedlings would be planted to replace any removed prior to the construction activities (per KPB Ordinance 21.18.071).

As part of this work, the existing culvert at Station 171+00 would be extended approximately 20 feet. The extension would extend past the top of the riprap layer, above OHW elevation.

DOT&PF proposes to construct the bank protection when the river is running low, such as late fall or early spring. The riprap would initially be placed within the river approximately 5 feet beyond the designed toe of slope to create a temporary rock wall/berm to hold back flowing waters from the construction work area. Shallow standing waters may remain; no dewatering is proposed.

Where the embankment protection occurs below OHW, approximately 1 foot thick layer of Type A fill would be placed along the existing bank and held in place by 1-ft thick layer of ditch lining rock. The rock berm would be dismantled from the top down and a minimum of 3 feet of permanent Class III riprap would be placed onto the bank to anchor the protection. Another 3 feet of Class III riprap would be placed to backfill erosion as the river scours the bank.

On each end, the erosion protection would transition to be riprap placed only above OHW.

The in-water work is anticipated to take approximately four weeks. During the following growing season, topsoil, seed and willow stakes would be placed to further stabilize the bank and enhance the appearance of the slopes.

Supporting information:

Attached to this document, there are figures that show:

- (1) Engineering Drawings identifying the project activities
- (2) Aerial photo that identifies the project alignment, land ownership, as well as local trails, streams and wetlands in the project vicinity. The MP 57 bank stabilization activity location (KRC 12761) is also shown.

Question 7: What is the area that will be excavated or dredged?

Most of the work is fill placement, although minor excavation (conservative estimate approximately 200 CY) may occur where the in-water work transitions above OHW to ensure stable slopes. Any excavated areas would be backfilled with Type C fill material and riprap.

Question 8: Will any material be used as fill?

Amount and type of fill materials:

- Class III riprap: 6,100 cubic yards (CY; 2,150 CY below OHW)
- Class I riprap: 500 CY
- Borrow, Type A: 900 CY (360 CY below OHW)
- Borrow, Type C: 1,875 CY
- Ditch Lining: 900 CY (360 CY below OHW)
- Topsoil: 370 CY (estimating 4 inches)
- Geotextile: 9,100 square yards (SY; above OHW only)
- Seeding: 13 lbs
- Willow Stakes 9,100 SY

Fill materials would be sourced from permitted material sites by the Contractor. All materials to be disposed would be placed in a permitted solid waste landfill, to be determined by the Contractor.

Question 9: Motorized Equipment

Motorized access will occur from the Sterling Highway corridor. Vehicles will drive on the existing embankment and use equipment to place the fill and seed materials. It is not expected that new access will need to be developed. The proposed actions will require typical road construction vehicles. No fuel storage would occur in the project area.

Anticipated Equipment:

- Dump trucks
- Pickup trucks
- Caterpillar 349 or equivalent sized excavator
- Backhoes

The Cat 349 would be allowed to put the bucket into the water up to, but not including, the grease pin. No other equipment or vehicles would be in the water, or below OHW. There will be no fuel storage as part of these proposed activities. All equipment will be refueled outside of the project area or refueled on-site by mobile refueling equipment, which will be stored outside of the project area.

Other Supplemental Information:

Vegetation:

Vegetation clearing activities associated with the concurrent Sterling Highway MP 45-60, Stage 1A project removed much of the vegetation buffer that remains between the Kenai River and the highway. Minor additional clearing is anticipated. The placement of soils and seed may replace some of the sparse vegetation that grows in the embankment.

All equipment and vehicles used within the corridor will be clean and free of any debris that may introduce non-native plants into the corridor. Equipment cleaning procedures will include washing and cleaning vehicles, equipment, and tools prior to entering/exiting the project site or moving to another site.

Per KPB Ordinance 21.18.071, for every tree removed within the Habitat Protection District that buffers the Kenai River, DOT&PF must plant two seedlings less than 5.5 feet tall of a species native to the region in its place. A survey is being conducted in early November to count trees to ensure compliance. In addition, seeding and staking willows will be used for revegetation.

Floodplains

The bank stabilization activities will likely occur within a floodplain; however, it is outside of the 1981 FEMA FIRM study area (FIRM 0200122125A), and as an unmapped zone KPB does not have regulatory authority. Hydrologic and hydraulic studies have been performed to properly design the project components and ensure that the project would not result in adverse impacts to natural and beneficial floodplain values.

Endangered species.

There are no endangered or threatened species affected by this project.

However, the project will potentially affect eagles. Eagles are not endangered in Alaska under the Bald and Golden Eagle Protection Act, but surveys are required. Bald eagle surveys are completed annually in this area for the project. There were two eagle nests identified south of the highway, east of the project area at approximately MP 57.5. The project activities would be outside the nests' 660-foot management buffers. DOT&PF conducted a nest survey in April 2022 and did not find any new nests closer to the project area. DOT&PF will be conducting annual nest surveys, and monitor the nests as necessary, due to the concurrent Sterling Highway MP 45-60, Stage 1A project activities. Should any new nests be identified, DOT&PF will coordinate with the USFWS.

Historic Properties

The Sterling Highway MP 45-60 project is funded by the Federal Highway Administration (FHWA) and is therefore considered a federal undertaking subject to compliance with Section 106 of the National Historic Preservation Act. DOT&PF and FHWA have determined that the project will have an adverse effect on historic properties and prepared a Programmatic Agreement to resolve adverse effects to historic properties. The PA was included as an appendix to the FEIS (Appendix K;

https://sterlinghighway.net/Documents/3_7_18/Appendix-KProgrammatic-Agreement_Mar-2018-FINAL.pdf). As part of the stipulations outlined in the PA, areas of cultural resource sensitivity within the project's Area of Potential Effect (APE) have been identified and will require the presence of an archaeological monitor during ground disturbing activities. There are three segments within Phase 1A that are identified as high sensitivity; however, this project area is not one of those segments. Additionally, a Treatment Plan is in place which outlines the mitigation approach for the adversely affected Alaska Native historic properties associated with the Sqilantnu Archaeological District located within the Project's APE.



Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax

A Division of the Planning Department

Mike Navarre
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to perform erosion protection and extend a culvert along the road embankment at MP 58 of the Sterling Highway within the State of Alaska Department of Transportation (ADOT) highway easement with fill and vegetation. Portions of this project falls within the Borough's 50-foot Anadromous Waters Protection District of the Kenai River, near Cooper Landing, AK.

Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure and KPB 21.18.091 Mitigation measures, projects within the Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at MP 58 of the Sterling Highway, near Cooper Landing, Alaska.

Petitioner: Alaska Department of Transportation and Public Facilities
Sean Holland, P.E.
4111 Aviation Avenue
Anchorage, AK 99516-6900

KPB Parcel Number: 025-180-03

Physical Address: ADOT Right-of-Way (ROW) Easement, Cooper Landing, AK

Legal Description: T 05N, R 05W, Section 36, Seward Meridian

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on February 13, 2023 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://us06web.zoom.us/j/9077142200>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099** or **1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

Public Comment: Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. **Written comments must be submitted by 1:00 pm Friday, February 10, 2023**

Mail comments to:

Donald E. Gilman River Center
514 Funny River Road
Soldotna, Alaska 99669

Fax comments to:

(907) 260-5992

Email comments to:

planning@kpb.us
KenaiRivCenter@kpb.us

For additional information contact Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

**Conditional Use Permit
Anadromous Waters Habitat Protection District
Staff Report**

KPB File No.	2023-04
Planning Commission Meeting:	February 13, 2023
Applicant	Alaska Department of Transportation and Public Facilities (ADOT&PF)
Mailing Address	4111 Aviation Avenue Anchorage, AK 99516-6900
Legal Description	ADOT Right-of-Way (ROW) Easement, Cooper Landing, AK
Physical Address	T 05N, R 05W, Section 35, Seward Meridian
KPB Parcel Number	025-180-03

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road, within the State of Alaska Department of Transportation (ADOT) highway easement. The project is to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

Background Information

The project is part of the Sterling Highway MP 45-60 project, which includes placement of material fill along the existing bank, above and below ordinary high water. On top of the stabilization material, 4 inches of topsoil, seed, willow staking, and compost socks will be placed to enhance bank stabilization. It is anticipated that when the vegetation grows, the bank would also appear more natural than its current state.

Portions of this project to include placement of fill and revegetation per KPB Ordinance 21.18.071 within the Habitat Protection District (HPD) of Kenai River has already been approved through the concurrent Sterling Highway MP 58 project (Permit #12760), which was approved by Resolution 2021-15 at the April 26, 2021 Planning Commission Meeting. That permit was extended through April 26, 2023. This permit will extend the work permitted on that project and will add on additional fill above and below OHW, along with an additional 20 feet of culvert.

Project Details within the 50-foot Habitat Protection District

1. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.

3. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of critical infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
7. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.
8. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. The River Center found the application complete and scheduled a public hearing for February 13, 2023.
12. Agency review was distributed on January 27, 2023. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on January 27, 2023. One mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 3, 2023 and February 10, 2023.
15. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The bank stabilization must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.

5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

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

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

Attachments

Multi-Agency Application
Prior Resolution 2021-15
Draft Resolution 2023-4

Recommendation

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

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2023-4.

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

END OF STAFF REPORT

KENAI PENINSULA BOROUGH PLANNING COMMISSION

2021-15

A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road, within the State of Alaska Department of Transportation (ADOT) highway easement. The project is to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

WHEREAS Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and

WHEREAS KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and

WHEREAS KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and

WHEREAS public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and

WHEREAS public notice was published in the Peninsula Clarion on April 15 and April 22, 2021 as provided in Section 21.11.020; and

WHEREAS public testimony was received at the April 26, 2021 meeting of the Kenai Peninsula Borough Planning Commission;

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details within the 50-foot Habitat Protection District

1. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
3. Approximately 2,760 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

Section 2. Findings of fact pursuant to KPB 21.18.081 Conditional use permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
3. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River the proposed willow staking activities are anticipated to meet ordinance requirements.

4. Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
5. Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual.
6. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
7. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways.
8. Access to the site and all construction activities will occur from the ADOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.
9. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
10. Pursuant to KPB 21.11.030, public notice was mailed to property owners within a radius of 300 feet of the project on April 8, 2021. One mailing was sent.
11. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
12. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
13. The applicant is currently in compliance with Borough permits and ordinances.

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

1. ***The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;***
 - **Condition 1** – A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
 - **Condition 2** – The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
 - **Condition 3** – Live stake and seed disturbed areas as outlined in “Streambank Revegetation and Protection Guide.”
 - **Condition 4** – All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
 - **Condition 5** – For each tree removed two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
 - **Finding 3** – A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River the proposed willow staking activities are anticipated to meet ordinance requirements.

- **Finding 4** – Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
- **Finding 5** – Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

2. ***Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough;***

- **Finding 1** – Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- **Finding 2** – Pursuant to KPB 21.18.081(B)(5), proposed critical transportation and utility infrastructure may be approved as conditional structures within the habitat protection district.
- **Finding 6** – Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
- **Finding 8** – Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.
- **Finding 9** – The River Center found the application complete and scheduled a public hearing for April 26, 2021.
- **Finding 10** – Pursuant to KPB 21.11.030, public notice was mailed to property owners within a radius of 300 feet of the project on April 8, 2021. One mailing was sent.
- **Finding 11** – Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
- **Finding 12** – Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.

3. ***The development of the use or structure shall not physically damage the adjoining property;***

- **Finding 7** – Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.

4. ***The proposed use or structure is water-dependent;***

- **Finding 7** – Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent

facilities may include, but are not limited to, piers, boat ramps, and elevated walkways

5. Applicant's or owner's compliance with other borough permits and ordinance Requirements;

- **Finding 12** - The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

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

Section 4. Decision:

The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway, near Cooper Landing, AK.

THIS CONDITIONAL USE PERMIT IS EFFECTIVE ON THIS____DAY OF_____, 2021.

Blair Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2023-4

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE
CONSTRUCTION OF HIGHWAY IMPROVEMENTS WITHIN THE 50-FOOT HABITAT PROTECTION
DISTRICT OF THE KENAI RIVER**

- WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on February 2, 2023 and February 9, 2023 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the February 13, 2023 meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details Within the 50-foot Habitat Protection District

1. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.
3. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

Section 2. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.

2. Pursuant to KPB 21.18.081(B)(5), construction of utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
7. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW.
8. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. The River Center found the application complete and scheduled a public hearing for February 13, 2023.
12. Agency review was distributed on January 27, 2023. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on January 27, 2023. One mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 3, 2023 and February 10, 2023.
15. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

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

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

Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-5 and Findings 6-8 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-2 and Condition 11 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 9 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Finding 10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 12 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

DESK PACKET

(INFORMATION THAT CAME IN AFTER THE MEETING PACKET WAS POSTED)

E. NEW BUSINESS

3. Conditional Use Permit; PC Resolution 2023-04

Request: To perform erosion protection & extend a culvert along the road embankment at MP 58 of the Sterling Hwy. within the ADOT highway easement with fill & vegetation. Portions of this project fall within the 50' Anadromous Waters Protection District of the Kenai River.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2023-4

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE
CONSTRUCTION OF HIGHWAY IMPROVEMENTS WITHIN THE 50-FOOT HABITAT PROTECTION
DISTRICT OF THE KENAI RIVER**

- WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on February 2, 2023 and February 9, 2023 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the February 13, 2023 meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details Within the 50-foot Habitat Protection District

1. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.
3. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

Section 2. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.

2. Pursuant to KPB 21.18.081(B)(5), construction of utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
7. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW.
8. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. The River Center found the application complete and scheduled a public hearing for February 13, 2023.
12. Agency review was distributed on January 27, 2023. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on January 27, 2023. One mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 3, 2023 and February 10, 2023.
15. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

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

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

Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-5 and Findings 6-8 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1-2 and Condition 11 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 9 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Finding 10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 12 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

E. NEW BUSINESS

- 4. Ordinance 2023-06: Approving an amendment to Snomads Community Trail Management Agreement.**

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Mike Navarre, Mayor *MN*
Robert Ruffner, Planning Director *SR*
Marcus Mueller, Land Management Officer *mam*

FROM: Julie Denison, Land Management Technician *JD*

DATE: January 26, 2023

RE: Ordinance 2023-____, Approving an Amendment to Snomads Community Trail Management Agreement (Mayor)

Watermelon Trail primarily crosses State and Borough-owned lands. Snomads maintains the multi-use trail over Borough land as authorized under a Community Trail Management Agreement (“CTMA”). Snomads applied for an easement to the State of Alaska for the portions of the trail on State-owned land. The State of Alaska granted the easement through ADL 233843. Under ADL 233843, the Borough is named as Grantee. Issuance of the easement requires the Grantee to undertake certain obligations, which Snomads is currently working towards completing.

This Ordinance authorizes an Amendment to the CTMA to incorporate the Watermelon Trail easement across State-owned land and assigns all responsibilities, obligations and duties of the Grantee arising from ADL 233843 to Snomads.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	02/07/23
Hearing:	02/21/23
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2023-**

**AN ORDINANCE APPROVING AN AMENDMENT TO SNOMADS COMMUNITY
TRAIL MANAGEMENT AGREEMENT**

- WHEREAS,** Ordinance 2021-09 authorized a Community Trail Management Agreement (“CTMA”) to Snomads, Inc. (“Snomads”) for trails located across Kenai Peninsula Borough (“Borough”) owned land in the Homer area; and
- WHEREAS,** Snomads maintains the Watermelon Trail across Borough and State of Alaska (“State”) owned land and applied to the State for an easement across State land under ADL 233843; and
- WHEREAS,** Resolution 2022-054 approved the acquisition of a public access easement from the State for the Watermelon Trail; and
- WHEREAS,** ADL 233843 and related early entry authorization require the Borough to perform certain activities in consideration of the grant of easement, which Snomads is currently working towards accomplishing; and
- WHEREAS,** the purpose of the amendment is to expand the scope of Snomads’ CTMA to include ADL 233843 and to assign management and all responsibilities, obligations and duties required under ADL 233843 to Snomads; and
- WHEREAS,** Snomads has demonstrated its ability to obtain grants, manage and improve trails to provide outdoor recreational opportunities for the benefit of the public; and
- WHEREAS,** the Borough Planning Commission, at its regularly scheduled meeting of February 13, 2023, recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the mayor is authorized to amend CTMA 2021-01 with Snomads, Inc. to include Watermelon Trail Public Access Easement ADL 233843 and assign management and all responsibilities, obligations and duties required under ADL 233843 to Snomads, Inc.

SECTION 2. That the mayor is authorized to execute any documents necessary to effectuate this ordinance.

SECTION 3. That this ordinance shall become effective upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF * 2023.**

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

Yes:

No:

Absent:

AMENDMENT #1 TO CTMA 2021-01

RECITALS:

- WHEREAS, Ordinance 2021-09 authorized a community trail management agreement to Trail Manager for trails located across KPB land in the Homer area; and
- WHEREAS, KPB and Trail Manager entered into a community trail management agreement dated April 21, 2021 and serialized as CTMA 2021-01 (the "CTMA"); and
- WHEREAS, Trail Manager maintains the Watermelon Trail across KPB and state land and applied for a public access easement from the State of Alaska; and
- WHEREAS, the State of Alaska granted Trail Manager a public access easement through ADL 233843; and
- WHEREAS, Resolution 2022-054 approved the acquisition of a public access easement from the State of Alaska for the Watermelon Trail; and
- WHEREAS, ADL 233843 names KPB as the Grantee; and
- WHEREAS, Ordinance 2023-XX authorized an amendment to expand the scope of the CTMA and assign management and all responsibilities, obligations and duties required of KPB under ADL 233843 to Trail Manager.

NOW THEREFORE, KPB and Trail Manager agree to amend Sections IV, VII and XIV of the CTMA as follows:

IV. Location & Corridor Intent

This CTMA is applicable only to lands owned by the Kenai Peninsula Borough **and ADL 233843, a public access easement across state land,** in the locations shown in the Trail Management Plan. Each trail is considered to have an accompanying management corridor, generally 25-feet on each side of the trail, available for management of ancillary support of the physical trail and trail uses. Purposes of management corridors include vegetation management, views, resting areas, sign locations, and buffering. Management corridors may vary in width in consideration of the nature of the trail facilities, adjoining uses, terrain, vegetation types, and property interests. A reasonable effort will be made through the Trail Management Plan to communicate intended corridor areas where different from the general standard for width.

VII. Rules, Regulations, and Safety

F. Pursuant to Ordinance 2023-XX, Trail Facilities under this CTMA include the portions of Watermelon Trail within State of Alaska Public Access Easement ADL 233843. Trail Manager is responsible for management and to meet all obligations required in ADL 233843.

XIV. GENERAL CONDITIONS

- I. Reference to ADL 233843. ADL 233843 is incorporated by reference. Pursuant to Section XIII, the Trail Manager indemnifies, defends, saves and holds KPB, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys' fees resulting from the Trail Manager's performance or failure to perform in accord with the and conditions of ADL 233843 in any way whatsoever.
- J. The Trail Manager agrees to undertake all responsibilities, obligations and duties required of the Grantee under ADL 233843.

All other terms and conditions remain in full force and effect.

Dated this ____ day of _____, 2023.

KENAI PENINSULA BOROUGH:

Mike Navarre, Mayor

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Michelle Turner, CMC
Acting Borough Clerk

A. Walker Steinhage,
Deputy Borough Attorney

NOTARY ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing was acknowledged before me this _____ day of _____, 2023,
by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on
behalf of the corporation.

Notary Public in and for Alaska

My commission expires: _____

SNOMADS, INC.

Dave Mastolier, President

Shelly Erickson, Secretary

NOTARY ACKNOWLEDGEMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing was acknowledged before me this _____ day of _____, 2023,
by Dave Mastolier, President of Snomads, Inc., an Alaska nonprofit corporation, on behalf of the
corporation.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing was acknowledged before me this _____ day of _____, 2023,
by Shelly Erickson, Secretary of Snomads, Inc., an Alaska nonprofit corporation, on behalf of the
corporation.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

ADL 233843
Public Access Easement
Kenai Peninsula Borough

This easement is granted this XXth day of MONTH, YEAR, by the State of Alaska, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, whose address is 550 West 7th Avenue, Suite 900C, Anchorage, AK 99501, hereinafter referred to as the Grantor. This easement is granted to the Kenai Peninsula Borough, whose address is 144 North Binkley Street, Soldotna, AK 99669, hereinafter referred to as the Grantee.

In accordance with the provisions of AS 38.05.850, and the rules and regulations promulgated thereunder, a public access easement is hereby granted for an indefinite term for the construction, operation, and maintenance of an existing public multi-use trail and related infrastructure. This easement is located near Homer, AK, over and across the following described state lands:

Within applicable portions of Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian, in the Homer Recording District. The easement is XXXX feet in length and XX feet in width for a total of XX.XX acres, more or less. The easement is depicted As-Built Survey EPF XXXXXX, recorded concurrently as Plat # _____, Homer Recording District.

This easement is subject to the terms and conditions contained herein.

In the event that this easement shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this easement in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.

Any lands included in this easement that are conveyed from state ownership shall be subject to this easement.

This easement shall terminate at the end of the stated term, if any, when the Grantor determines that the easement is no longer in use for the purpose(s) authorized, or the easement is revoked as a result of violation of the terms and conditions contained herein. The State of Alaska shall be forever wholly absolved from any liability for damages that might result if this easement is terminated for any reason.

Now therefore, in accordance with the conditions of this easement including all attachments and documents that are incorporated by reference, the Grantee is authorized to operate and maintain said easement over and across lands herein described. In witness whereof, the Grantor and the Grantee have affixed their signatures on the date(s) specified herein.

[SIGNATURE PAGES FOLLOW]

GRANTOR

Samantha Carroll, Natural Resource Manager 3
Southcentral Regional Land Office, Division of Mining, Land and Water

STATE OF ALASKA)
) ss
____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS ____ day of _____, 20____, before me personally appeared _____ known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My commission expires with office

GRANTEE

Charlie Pierce, Mayor
Kenai Peninsula Borough

STATE OF ALASKA)
) ss
____ Judicial District)

THIS IS TO CERTIFY THAT ON THIS ____ day of _____, 20____, before me personally appeared _____ known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My commission expires: _____

WHEN RECORDED, RETURN DOCUMENT TO:
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501

Stipulations:

1. **Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
2. **Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
3. **Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
4. **Development Plan:** Development shall be limited to the authorized area, improvements, and maintenance activities specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
5. **Directives:** Directives may be issued for corrective actions that are required to correct a deviation from design criteria, project specifications, stipulations, State statutes or regulations. Work at the area subject to the Directive may continue while implementing the corrective action. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by DNR.
6. **Violations:** This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes and regulations. A revocation may not become effective until 60 days after the Grantee has been notified in writing of the violation during which time the Grantee has an opportunity to cure any such violation.

No public access easement may be terminated without the prior written approval of DMLW.

7. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
8. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust

Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.

- 9. Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
- 10. Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein. Nothing may be stored that would be an attractive nuisance to wildlife or create a potentially hazardous situation.
- 11. Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 12. Removal of Improvements and Site Restoration:** Upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall within 30 days remove all improvements from the area herein granted, except those owned by the State, and the site shall be restored to a condition acceptable to the AO. Should the Grantee fail or refuse to remove said structures or improvements within the time allotted, they shall revert to and become the property of the State; however, the Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area
- 13. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
- 14. Assignment:** In the event the grantee desires to transfer their interest in this authorization to another party the grantee shall submit in writing to the AO a request for assignment. The grantor reserves the right to modify and/or add stipulations for the authorization prior to approving the assignment. The grantor reserves the right to require an assignment between the grantee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change. Notwithstanding other requirements described in this authorization, assignments shall be restricted to those entities that are also eligible to obtain an authorization under the same statutory authority in which this authorization was issued.
- 15. Request for Information:** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.
- 16. Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.

- 17. Waste Disposal:** On-site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.
- 18. Operation of Vehicles:** Vehicles shall be operated without disturbing the vegetative mat and underlying substrate.
- 19. Surface Drainage:** Adequate culverts shall be installed to maintain surface drainage and to prevent ponding and/or erosion.
- 20. Site Disturbance:**
- Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems.
 - Brush clearing is allowed, but shall be kept to the minimum necessary to conduct or complete the authorized activity. Removal or destruction of the vegetative mat outside of the authorized area is not allowed.
 - The Grantee shall conduct all operations in a manner which will prevent unwarranted pollution, erosion, and siltation. Any pollution, erosion, or siltation shall be repaired/remediated in a manner and time frame satisfactory to the AO at the Grantee's expense.
- 21. Ground Disturbance and Repair:** Grantee will refill holes, trenches and surface depressions resulting from development or maintenance activities with sand, gravel, native materials, or a substitute approved by the AO. Surface areas will be recontoured to the satisfaction of the AO so that they do not pose a threat to human safety or wildlife transit.
- 22. Destruction of Markers:** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
- 23. Fuel and Hazardous Substances:**
- No fuel or hazardous substances are to be stored on state land. Prior written approval from the AO is required for a change in this restriction and may include additional stipulations and/or a change in the amount required for the performance guaranty.
 - Signs: Trail signs may be posted within the easement corridor only. Flexible signposts shall be used.
- 24. Performance Guaranty:** The requirement of a performance guaranty for this authorization is met by the self-bonding of the Grantee, who is a state agency. The provisions of this authorization shall not prejudice the State's right to obtain remedy under any law or regulation.

- 25. Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
- 26. In Lieu of Indemnification:** In connection with the entry on or use of assigned lands, subject to the limitations and provisions of AS 09.50.250-.270 and AS 37.05.170, the Grantee shall ensure that its contractors and subcontractors shall indemnify, save harmless, and defend the State, its agents and its employees from any and all claims or actions for injuries or damages sustained by any person or property arising directly or indirectly from the construction or the contractor's performance of the contract, except when the proximate cause of the injury or damage is the State's sole negligence.
- 27. Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.
- 28. Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
- 29. Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
- 30. Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
- 31. Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.
- 32. Fire Prevention, Protection and Liability:** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.

33. Notification of Discharge: The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. To report a spill outside of normal business hours, call toll free 1-800-478-9300 or international 1-907-269-0667.

Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

ADL 233843
Public Access Easement
Watermelon Trail Improvements

Entry Authorization

The Kenai Peninsula Borough, herein known as the Grantee, is issued this Entry Authorization for the use of state land within:

Legal Description:

Applicable portions of Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian, as further described in the Regional Manager's Decision for ADL 233843 dated June 28, 2022, and as depicted in Attachment A.

This Entry Authorization is issued for the purpose of authorizing the following:

Constructing, surveying, operating, and maintaining an existing public multi-use trail and related infrastructure.

This authorization is effective beginning _____ and ending _____, unless sooner terminated.

Stipulations:

- 1. Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
- 2. Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
- 3. Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
- 4. Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.

5. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Grantee is found to be in noncompliance, the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.
6. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Grantee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.
7. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.
8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
9. **Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
10. **Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
11. **Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
12. **Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

13. **Assignment:** This authorization may not be transferred or assigned without the prior written consent of the AO.
14. **Indemnification:** In connection with the entry on or use of these lands, subject to the limitations and provision of AS 09.50.250-270 and AS 37.05.170, the Grantee shall ensure that its contractors and subcontractors shall indemnify, save harmless, and defend the State, its agents and its employees from any and all claims or actions for injuries sustained by any person or property arising directly or indirectly from the construction of the contractor's performance of the contract, except when the sole proximate cause of the injury or damage is the State's negligence.
15. **Fuel and Hazardous Substances:** No fuel or hazardous substances may be stored in the authorized area without prior written approval from the AO.
16. **Insurance:** Insurance is not required. The AO reserves the right to require insurance during the term of this authorization. If required, insurance of a type and in an amount acceptable to the AO, must be provided and remain in place during the term of this authorization. The type and amount of insurance may be adjusted to reflect updates and changes in the associated project.
17. **Removal of Improvements and Site Restoration:** Upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall within 30 days remove all improvements from the area herein granted, except those owned by the State, and the site shall be restored to a condition acceptable to the AO. Should the Grantee fail or refuse to remove said structures or improvements within the time allotted, they shall revert to and become the property of the State; however, the Grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area.
18. **Concurrent Use:** The DMLW reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization. Authorized concurrent users of State land, their agents, employees, contractors, subcontractors, and licensees shall not interfere with the operation or maintenance activities of each user. The DMLW may require authorized concurrent users of State land to enter into an equitable agreement regarding concurrent use.
19. **Performance Guaranty:** A performance guaranty is not required. The provisions of this authorization shall not prejudice the State's right to obtain remedy under any law or regulation.
20. **Extensions:** The AO may approve a written request to extend this authorization if additional time is necessary to meet its requirements. The written request must certify that there have been no changes to the approved development plan and be received at least 30 days before the expiration date of this authorization. Additional fees may be required.
21. **Violations:** This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes, and regulations. A revocation may not become effective until 60 days after the Grantee has been notified in writing of the violation during which time the Grantee has an

opportunity to cure any such violation. No public access easement may be terminated without the prior written approval of DMLW.

- 22. Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-3063, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. To report a spill outside of normal business hours, call toll free 1-800-478-9300 or international 1-907-269-0667. Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero@alaska.gov, (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

- 23. Returned Check Penalty:** A returned check penalty of \$50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.
- 24. Late Payment Penalty Charges:** The Grantee shall pay a fee for any late payment. The amount is the greater of either \$50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.
- 25. Fees:** Land use fees for this authorization are waived in accordance with 11 AAC 05.020 (b).
- 26. Request for Information:** The AO, at any time, may require the Grantee to provide any information directly or indirectly related to this authorization in a manner prescribed by the AO.
- 27. Annual Report:** An annual report shall be submitted by December 15 of each year outlining work completed that year, work to be completed next year, and anticipated construction completion timeframe.
- 28. Post Construction Reporting:** A report shall be submitted to the AO by December 15 in any year wherein construction activities occurred that describes the changes made to improvements within the easement during the preceding year. The report shall include photos of all portions of the easement and infrastructure therein that were the focus of construction activities that would be readily accessible to DMLW personnel during a site inspection.
- 29. Waste Disposal:** On-site refuse disposal is prohibited unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this

authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and discarded equipment.

- 30. Destruction of Markers:** The Grantee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Grantee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Grantee's expense in accordance with accepted survey practices of the DMLW.
- 31. Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein.
- 32. Maintenance of Improvements:** The Grantor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 33. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this authorization.
- 34. Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
- 35. Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Grantee is responsible for proper location within the authorized area.
- 36. Choice of Venue:** This authorization shall be construed under the laws of the State of Alaska. The Grantee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this authorization.
- 37. Stop Work Orders:** Stop Work Orders may be issued if there is a deviation from design criteria, project specifications, stipulations, state statutes, or state regulations and that deviation is causing or is likely to cause significant damage to state resources. Under a Stop Work Order, work at the area subject to the Stop Work Order may not resume until the deviation is cured and corrective action is taken. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by the AO. The AO has the right but not the obligation, to undertake corrective action at the expense of the Grantee by moving against the performance bond when such action is necessitated by neglect or inaction on the part of the Grantee to take corrective action.

- 38. Existing Easements:** In the event that this easement shall in any manner conflict with or overlap a previously granted easement or right-of-way, the Grantee shall use this easement in a manner that will not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way. The Grantor reserves the right to set or modify stipulations governing the use of the conflicting or overlapping area.
- 39. Survey:** The Grantee shall submit a record of survey format as-built acceptable to the standards of the Survey Section prior to the expiration of this Entry Authorization. The Grantee is required to submit a preliminary draft as-built survey one year prior to the expiration of this authorization to allow adequate time for the State's review and approval of a final as-built survey. The final easement will not be issued until the survey has been approved by the DMLW.
- 40. Fire Prevention, Protection and Liability:** The Grantee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Grantee's personal property and is not responsible for forest fire protection of the Grantee's activity. To report a wildfire, call 911 or 1-800-237-3633.

Any correspondence on this authorization may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 West 7th Avenue, Suite 900C, Anchorage, AK 99501, (907) 269-8503.

I have read and understand all of the foregoing and attached stipulations. By signing this authorization, I agree to conduct the authorized activity in accordance with the terms and conditions of this authorization.

Signature of Grantee or Authorized Representative	Title	Date
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Grantee's Address	City	State	Zip
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Contact Person	Primary Phone	Alternate Phone
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Signature of Authorized State Representative	Title	Date
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**REQUEST FOR AMENDMENT OR MODIFICATION TO
TRAIL MANAGEMENT PLAN
FOR PUBLIC TRAILS ON BOROUGH LAND
LAND MANAGEMENT DIVISION**

TRAIL MANAGER:

Organization Name: Snomads Inc. (501c4), Caribou Hills South Mulituse Trail System

Address: PO Box 3646

City/State/Zip: Homer AK 99603

Phone: 907-399-1775

Email: snomads@gmail.com

Web Address: snomadsonline.org

Please anticipate a minimum of sixty (60) days to review the submittal. Amendments or modifications may be approved administratively when they are consistent in nature with the standing agreement. Major amendments or modifications require approval by the assembly.

1. Describe the purpose and location of the proposed modification or amendment, including timetable. Attach additional pages as necessary (add additional pages if needed):

Snomads is submitting Amendment-3, so named: "Watermelon Trail Easement Grantee (KPB)

Request" to CTMA 2021-01, dated 21 Apr 2021. Enclosures are provided to Amd-3

detailing changes to the Snomads Trails Management Plan, with attachments for review,

comment & approval of the KPB. This Trail Easement was previously indentified


as a 'Long Term Goal' in the base CTMA 2021-01 agreement between KPB and Snomads.

The AK DNR SCRO Easement Div has recently issued a draft Easement and Entry Auth

for the Watermelon Trail, and has honored the Snomads request to have the KPB be listed as

the Grantee for the Easement. Snomads requests that KPB adopt a resolution to accept the

responsibility for this Trail Easement (KPB as Grantee), and assign Management to Snomads.

2. Attach a map or other drawing depicting the location of the proposed modification or amendment. *Map attached* 

Per section V(B) of CTMA No. 2021-01, Amd-3, Snomads Inc., CHS Multituse Trail System
Agreement # *Trail Manager*

Hereby requests consideration of the proposed amendments or modifications.

David Mastolier, President, Snomads Inc.

President or Vice President Name (Print)

David Mastolier
Signature

Doug Inglis, Vice President, Snomads Inc

Secretary or Treasurer Name (Print)

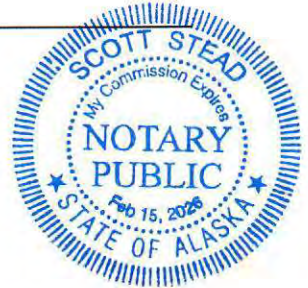
Doug Inglis
Signature

NOTARY ACKNOWLEDGMENTS

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 22 day of July
 2022, by David Mastolier, the President of,
Name *Title*
 an Alaska non-profit corporation, for and on behalf of the corporation.

Scott Stead
 Notary Public for State of Alaska
 Commission Expires: 15 FEB 2026



STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 22 day of July
 2022, by Doug Inglis, the Vice President of,
Name *Title*
 an Alaska non-profit corporation, for and on behalf of the corporation.

Scott Stead
 Notary Public for State of Alaska
 Commission Expires: 15 FEB 2026



CTMA 2021-01 Amendment 3, Watermelon Trail Easement Grantee (KPB)**Request, July 2022***(Amends Original CTMA 2021-01, Apr 21)*

TRAIL MANAGEMENT PLAN
FOR PUBLIC TRAILS ON BOROUGH LAND
Caribou Hills South (CHS) Trail System

TRAIL MANAGER:**SNOMADS, Inc.****PO Box 3646****Homer AK 99603**snomads@gmail.comwww.snomadsonline.org**SUMMARY OF PROPOSED ACTIVITIES (Check All That Apply)****SEASONS OF TRAIL MANAGEMENT**
☐ Winter ☐ Summer ☒ Year Round
TRAIL WIDTH (Typical)☐ Under 5 Feet☐ 5-10 Feet☒ 10-20 Feet**TRAIL MAINTENANCE ACTIVITIES**☒ Periodic Brushing/Clearing☒ Grading☒ Snow Grooming☒ Erosion Controls**TRAIL IMPROVEMENTS**☒ Trailheads☒ Parking Area☒ Loading/Unloading Area☒ Signs☐ Sanitation (Trash/Outhouse)☒ Picnic Area☒ Shelters☒ Culverts☒ Bridges☐ Stairs☒ Gates & Bollards☒ Hardening☒ New Trails**TRAIL ADMINISTRATION**☒ Competitions/Sponsored Events☒ Grants☒ Signage☒ Equipment Storage Facilities**TRAIL ACTIVITIES****Motorized:**☒ ATV☒ Snow Machines**Non-Motorized:**☒ Dog Sleds☒ Skiing☒ Snowshoeing☒ Skijoring☒ Sledding☒ Hiking☒ Biking☒ Walking/Running☐ Biathlon☒ Horses☒ Pet Friendly☒ Other:**Water Access**☐ Landing Area

1. **Long Range Goals:** As per Agreements, Partnerships and Easements, Snomads seeks to inform KPB of its plans and intentions. KPB acceptance of this amendment will authorize DNR issuance of a Public Outdoor Recreational Easement for the Watermelon Trail to KPB, who will be listed as the Easement "Grantee" of record (co-management with DNR), and authorizes its inclusion into CTMA 2021-01 for Trail Management to Snomads for both short and long term Management/Maintenance of the Watermelon Trail: (Para 1a, 1b): DNR ADL-233843

- a. The Watermelon Trail (and its parking lot), is one of the major arterial trails providing Multiuse access to the Caribou Hills South Trail System. Snomads has applied for a Public Recreation Trail Easement for the Watermelon Trail, in its entirety, (ref: DNR ADL 233843). A goodly portion of this trail and parking lot already exists on KPB lands, managed by the KPB LMD, with Snomads as the Trail Manager (ref: CTMA 2021-01), so the KPB is already a tenant stakeholder. The Alaska DNR South Central Regional Office (SCRO) Easement Division has recently issued a preliminary or draft Easement (unsigned) and Entry Authorization (also unsigned), with the KPB listed as the 'Grantee' (at Snomads request) for the rest of the trail. It is our understanding that DNR requires KPB acceptance of the "KPB Grantee" status for the Trail Easement and Entry Authorization in the form of a fully executed KPB Resolution to continue their processing.

Snomads recognizes the importance of establishing a permanent legal status for trails in the form of permanent Easements, to ensure that access and the resource is available for generations to come. It is equally important to establish a viable long term management and maintenance structure and system with the legal authority to properly manage and maintain the resource. When Trail Use Permits or Easements are applied for on Public Lands, DNR requires the applicant to do the work, and pay the fees, and in the case of Easements, generally issues it to themselves (DNR) as the 'Grantee', on behalf of the public. It is Snomads intent to consolidate management of the numerous stakeholders that own or manage sections of the trail under the KPB, which has a viable and active management structure/system already in place (the KPB CTMA), to ease the burden of maintaining and rehabilitating this important trail. It is also important to note that an Easement Grantee should be a survivable Public Government entity, like the KPB.

- b. Construct, Install and Maintain 3 ea. Standardized Trail Bridges on the Watermelon Trail. A component of the final Easement being issued, are a requirement for 3 ea Trail Bridges at specifically identified locations along the trail. Snomads, as the Trail Manager, accepts the responsibility of funding and constructing these Trail Bridges to published standards, and has an active program to accomplish this task, in

partnership with the Homer Soil & Water Conservation District & US Fish & Wildlife. Multiagency Permitting (including Army Corps of Engineers) will be required.

Detailed Plans:

Snomads includes Site Surveys, Surveys for Record, Detailed Project Plans, Project Progress Reports, Annual Reports, Project Proposal and Proposed Amendments in its communication and interaction with the Borough. Detailed Project Plans, Status Updates, Spot and Project Completion Reports will be forwarded to KPB in a timely manner.

Plans for specific improvement including architectural or engineering designs, when Applicable:

Snomads will contact KPB LMD for any improvements that are planned, and where applicable, will submit detailed project plans and amendment proposals to the CTMA and obtain requisite approval in the planning stages of projects.

Grant proposals, when applicable: Snomads will inform KPB LMD of all Grant Proposal Plans or Applications that directly or indirectly impact KPB lands, or this CTMA.

Attachments:

DNR ADL 233843 Regional Managers Decision
DNR ADL 233843 Draft Easement (unsigned)
DNR ADL 233843 Entry Authorization (unsigned)

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGIONAL LAND OFFICE**

Regional Manager's Decision

ADL 233843
Snomads, Inc.
Public Access Easement
Watermelon Trail

REQUESTED ACTION

On June 16, 2021, the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Southcentral Regional Land Office (SCRO), received an application for an easement from Snomads, Inc. (Snomads; the applicant) for the existing Watermelon Trail located on State-owned, DMLW-managed uplands near Homer, Alaska. The purpose of the proposed easement is to authorize maintenance, rehabilitation and operation of the existing trail. The applicant has requested a public access easement 75,573 feet long, 60 feet wide, and approximately 104.1 acres in size. The applicant has further requested that the easement be granted to the Kenai Peninsula Borough (KPB) to hold in trust for the public, as other portions of the trail are located on KPB managed lands. An easement for the Watermelon Trail was previously requested by the Alaska Department of Fish & Game (ADF&G), serialized as ADL 229161, but was closed on August 12, 2020, per ADF&G's request.

RECOMMENDED ACTION

The request shall be modified, and this easement will be authorized as follows:

- Type of easement: Public Access Easement
- Length: Change from 75,573 feet to 55,000 feet
- Width: 60 feet
- Acreage: Change from 104.1 acres to 75.75 acres
- Term: Indefinite
- Grantee: KPB
- Use and Restriction: Use of the easement on general state lands will conform to the weight restrictions outlined in 11 AAC 96.020 with the exception of seasonal grooming and maintenance equipment unless otherwise permitted.

SCOPE OF DECISION

The scope of this decision is to determine if it is in the State's interest to create an easement for the proposed use. The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska. All other aspects of the applicant's project are outside the scope of this decision.

STATUTORY AUTHORITY

This easement application is being adjudicated pursuant to AS 38.05.850 and the Alaska Land Act as amended.

ADMINISTRATIVE RECORD

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the 2001 Kenai Area Plan, other classification references described herein, and the casefile for the application serialized by DNR as ADL 233843.

LOCATION INFORMATION**Geographic Location**

The applicant has requested that DMLW authorize an easement near Homer, AK.

Meridian Township Range Section

The applicant has applied to use State-owned, DMLW-managed lands within Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Sections 2, 3, 10, 15, 16, and 22, Township 5 South, Range 13 West, Seward Meridian.

Additionally, SCRO review indicates that the Watermelon Trail is also be located within Section 36, Township 4 South, Range 13 West, Seward Meridian. SCRO recommends these sections of land be included in the authorized area if this request is approved.

The applicant also included Sections 31 and 32 of Township 4 South, Range 12 West, Seward Meridian, and Section 27, Township 5 South, Range 13 West, Seward Meridian in their requested legal description. Further analysis indicates that Section 27 has been conveyed to the KPB, and that Sections 31 and 32 are managed by the KPB per municipal entitlement ADL 62695. After accounting for portions of the request located on lands managed by the KPB, SCRO has adjusted the legal description to more accurately reflect the 55,000 feet of trail located on state owned and managed lands.

Other Land Information

Municipality: KPB

Regional Corporation: Cook Inlet Region, Inc. (CIRI)

TITLE

The State of Alaska holds title to applicable portions of lands within Sections 10, 11, 15, 21, 22, 28, and 29, Township 4 South, Range 12 West, Seward Meridian, Section 36, Township 4 South, Range 13 West, and Sections 2, 3, 10, 15, 16 and 22, Township 5 South, Range 13 West, Seward Meridian per Patent Number 50-65-0594, Patent Number 1220722, Patent Number 1207176, Patent Number 1217411, Patent Number 122073, Supplemental Patent Number 50-66-0495 and Tentative Approval recorded as Document Number 2012-003355-0 in the Homer Recording District. The associated DNR land acquisition casefiles are GS 6, GS 76, SCH 75 and SCH 81.

THIRD PARTY INTERESTS

Known third-party interests within the proposed project area include:

- ADL 59921 –Grazing lease, reissuance adjudication ongoing, held by Viola Jerrel;
- ADL 200045 – Public utility easement issued to Homer Electric Association;
- LAS 33241 – Land use permit issued to the Homer Soil & Water Conservation District;
- LAS 33248 – Land use permit issued to ADF&G.

PLANNING & CLASSIFICATION

The proposed easement falls within the boundaries of DNR's 2001 Kenai Area Plan (the Plan; KAP), Region 7, Unit 217, Unit 266B, and Unit 290.

Unit 217 is designated as Public Recreation and Tourism – Dispersed Use, which converts to a classification of Public Recreation Land. The plan states that the unit is frequently used by snowmachines, skiers, moose hunters, and berry pickers. The plan notes that a spur of the Watermelon Trail crosses this unit and recommends reserving access for trails prior to conveyance out of state ownership. Areas classified as Public Recreation Land are to be managed to ensure continued public use of trails, including, but not limited to, hunting, snow machining, hiking, and cross-country skiing. Management guidelines located in the Trails and Access section of Chapter 2 of the Plan note that DNR should keep trails available for public use and assist in establishing local trail systems which provide access to public land and water. Trails near wetlands may be authorized if the proposed activity will not cause significant adverse impacts to fish and wildlife habitat, ecological processes and scenic vistas; though ADF&G is to be consulted to provide recommendations on easement alignments. ADF&G was given the opportunity to comment on the proposed easement and their recommendations are discussed in the Agency Review section of this document.

Unit 266B is designated as Habitat and Public Recreation and Tourism – Dispersed Use, which convert to classifications of Wildlife Habitat Land and Public Recreation Land respectively. The plan notes that Unit 266B serves as a wildlife corridor between the Anchor River Fritz Creek Critical Habitat Area (ARFCCA) and that the area is characterized by moose rutting habitat and multiple anadromous streams. Management guidelines located in the Fish and Wildlife Habitat and Harvest section of Chapter 2 of the Plan note that access to public lands and water should be ensured and that habitat loss should be mitigated. The Plan outlines DNR's management authority within critical habitat areas and notes that Special Area Permits issued by the Alaska Department of Fish and Game (ADF&G) are required, even for uses that may be generally allowed pursuant to 11 AAC 96.020. The applicant has previously been granted a Special Use Permit by ADF&G for the trail work associated with this easement request, and ADF&G has provided additional information regarding future permits which may be necessary for the activities proposed by the Snomads.

Portions of Unit 266B are located within the Caribou Hills Special Use Area (ADL 226574), which is governed by the Caribou Hills Management Plan (CHMP). The CHMP notes that the area should be managed in accordance with Generally Allowed Uses (11 AAC 96.020) associated with recreation and that the area has high public use values including hunting and snow machining. The CHMP further notes that rights-of-way should be established over heavily used trails to protect public access, though trail use restrictions may be necessary to prevent resource damage during

seasons characterized by wet ground conditions. Trail restrictions are consistent with the intent of the CHMP, and other agencies and the public will be notified of any restrictions imposed by DNR.

Unit 290 is designated as Habitat, which converts to a classification of Wildlife Habitat Land. The entire unit falls within the ARFCCHA which is governed in accordance with AS 16.20.605 and the ARFCCHA Management Plan. Per the ARFCCHA Management Plan, continued motorized and non-motorized use of existing trails and seismic lines is to be provided for, and trailheads/corridors between Ohlson Mountain Road and the ARFCCHA are to be established to accommodate public access. As with portions of Unit 266B, ADF&G Special Area Permits are required to authorize activities within the boundaries of the legislatively designated Critical Habitat Area.

Because the proposed authorization does not conflict with management guidelines outlined by the KAP, CHMP, or ARFCCHA Management Plan, and as ADF&G has issued a Special Area Permit authorizing trail work associated with this application, SCRO has determined that it is consistent with the overall management intent and goals of the relevant planning documents.

ACCESS

Functional legal access to the state land discussed herein exists via a public travelway easement granted by the KPB, recorded as Document Number 2016-001878-0 in the Homer Recording District.

Construction of the improvements described herein is contingent on the placement of related infrastructure on borough land owned and/or managed by the KPB and private owner Gwendolyn Perry. The KPB has provided DMLW with record of their support for the DMLW easement considered herein. Gwendolyn Perry has granted a public recreational easement pursuant to AS 34.17.100, recorded as Document Number 2018-000318-0 in the Homer Recording District.

PUBLIC NOTICE & AGENCY REVIEW

Public Notice Summary

Public notice of the application was conducted from September 1, 2021, to October 4, 2021. The notice was posted to the State of Alaska Online Public Notice System and was sent to the Homer, Anchor Point, Fritz Creek, and Nikolaevsk post offices for display on their notice boards. The notice was also sent to the following recipients:

- CIRI
- Homer Electric Association
- Viola Jerrel
- Gwendolyn Perry

Comments: A total of 52 comments were received during the public notice period. All of the comments received by SCRO voiced overwhelming support for the issuance of the proposed easement, with many citing the high recreational values of the area, the need for extensive trail work due to deteriorating conditions, and the long history of community engagement by the applicant.

Response: SCRO acknowledges the 52 comments received and thanks the public for their participation in the process. Individual comments are housed within the casefile for ADL 233843.

Agency Review Summary

Agency review of the application was conducted from September 1, 2021, to October 4, 2021. The notice was sent to the following recipients.

State of Alaska:

- DNR Division of Parks & Outdoor Recreation (DPOR); Permitting and the Office of History and Archeology (OHA)
- DNR DMLW; Survey Section, Land Conveyance Section, Contract Initiation and Revenue Recovery, Realty Services Section (RSS), Mining Section, and Water Section
- DNR Division of Forestry; Kenai Office
- DNR Division of Oil & Gas (DOG); State Pipeline Coordinators Section, Permitting Section, Leasing Section
- DNR Mental Health Land Trust Office
- DNR Spatial Case Information Management System
- Department of Environmental Conservation (DEC) Division of Water; Wastewater, Alaska Pollutant Discharge Elimination System Program
- DEC Division of Environmental Health; Drinking Water Program, Solid Waste Program
- DEC Division of Spill Prevention; Contaminated Sites
- ADF&G; Wildlife Conservation, Access Defense Program
- Department of Commerce, Community and Economic Development, Division of Community and Regional Affairs
- Department of Transportation and Public Facilities; Statewide Right-of-Way
- Homer Soil and Water Conservation District (HS&WCD)

Federal

- United States Army Corps of Engineers

Local

- Kenai Peninsula Borough; Land Management Division
- Kenai River Center

Agency Review Comment & Response

A total of seven comments were received during the agency review and are summarized below:

Comment: On September 1, 2021, the DMLW Land Conveyances Section provided a statement of non-objection in regard to the proposed public access easement.

Response: SCRO acknowledges the comment.

Comment: On September 2, 2021, DMLW RSS commented to note that three sections of land included in the application were under management by KPB.

Response: SCRO appreciates the comment and has subsequently excluded Section 27, Township 5 South, Range 13 West, Seward Meridian, and Sections 31 and 32, Township 4 South, Range 12 West, Seward Meridian, from this decision as KPB is the managing authority. KPB has provided agreements made with the applicant for the portions of the trails within these sections.

Comment: On September 3, 2021, ADF&G Habitat Section commented to note that an existing Special Area Permit (21-V-0128-SA) had been issued to the Snomads for work along the Watermelon Trail within the ARFCCHA and noted that a second Special Area Permit was anticipated at a later date for portions of the project northeast of the Anchor River. ADF&G had no additional comments or objections to the proposed easement.

Response: SCRO acknowledges the response and thanks ADF&G Habitat for copies of permits issued within the CHA

Comment: On September 24, 2021, DPOR OHA commented that there are no reported cultural resource sites within the project area but noted that the applicant should notify OHA if any cultural resources are discovered during construction.

Response: SCRO acknowledges the response.

Comment: On September 28, 2021, DOT&PF Statewide Right-of-Way stated that they have no comments concerning the project.

Response: SCRO acknowledges the response.

Comment: On October 4, 2021, ADF&G Access Defense Program stated that a portion of the proposed easement crosses through the ARFCCHA which is managed by ADF&G. ADF&G has previously issued a Special Area Permit (21-V-0128-SA) but notes that an additional Special Area Permit will be required for placement of bridges over Beaver Creek proposed by the applicant. ADF&G further noted that while they support the applicant's desire to have the proposed easement held by a government agency, that it would prefer that an easement over State lands be held by DMLW. Finally, ADF&G notes that they hold management authority over lands within the CHA that the proposed easement crosses, as well as any activities below ordinary high water or crossings of anadromous water bodies.

Response: SCRO acknowledges the response. While SCRO acknowledges ADF&G's desire to have the easement held by DMLW, access to and along the route requested by the Snomads would require passage through two large segments of KPB-managed land, with all public parking occurring at the trailhead located on KPB land. Management of the trailhead would likely present the greatest influence over public use of the trail as informative signage and future expansion efforts by the KPB would directly impact the behavior and volume of various user groups. Additionally, if the proposed easement were to be held by DMLW, users would pass through four transition points along the trail where the management of the trail may change. Alternatively, granting the authorization to KPB would only require two transitions between management where the trail enters and exits the ARFCCHA. Minimizing the number of managing entities and regulations such as weight restrictions, reduces public confusion over which regulations apply where, and increases overall compliance. As the public would enjoy the same rights of access and assurances of long-term protection of the trail regardless if the easement is held by KPB or

DMLW, SCRO has determined that KPB would be the more appropriate entity to hold the easement.

SCRO understands that the ARFCCHA (legislatively designated by AS 16.20.500) is governed by the ARFCCHA Management Plan pursuant to 5 AAC 95.600. Per the ARFCCHA Management Plan, DNR authorization is required for any use, lease, or disposal of resources on state land within the critical habitat area. As co-management of state resources within the CHA is required by the ARFCCHA Management Plan, SCRO and ADF&G will consult regarding any management issues that may arise concerning impacts of, and user conflicts within, the proposed Watermelon Trail easement within the CHA.

Comment: On October 13, 2021 the HS&WCD commented to suggest that the hardened trail width proposed by the Snomads be increased from the requested five feet to six feet, to be consistent with trail hardening previously conducted by the HS&WCD. Additionally, HS&WCD requested that the specifications for U.S. Forest Service (USFS) Tier Three be listed in any granting document as they were unavailable online.

Response: SCRO will encourage the Snomads to consider increasing the hardened surface width from 5 feet to 6 feet, but will not require this change as it may impact other existing permits and may be constrained by funding limitations.

A public access easement as currently requested would authorize the Snomads to construct a hardened trail at a width suggested by the HS&WCD if desirable. As the Snomads have incorporated the USFS design standards into their development plan, no additional action is required by SCRO to require such standards. Specifications for USFS trail design is located within the casefile for ADL 233843 and can be provided to HS&WCD for reference.

No other comments were received.

ENVIRONMENTAL CONSIDERATIONS

Environmental contamination risk associated with this proposed easement is minimal. SCRO recommends that fuel, lubricants, and other hazardous materials be restricted to those necessary and be contained within tools and vehicles when equipment is necessary for construction and maintenance activities. SCRO further recommends that no fuel or other hazardous materials are authorized to be stored on site. There are no other known environmental considerations or constraints in this location.

ECONOMIC BENEFIT & DEVELOPMENT OF STATE RESOURCES

In accordance with AS 38.05.850, DMLW considers if the requested authorization will provide the greatest economic benefit to the State and development of its natural resources. Specifically, SCRO assesses both direct and indirect economic benefits and whether the proposed authorization encourages the development of the State's resources. The proposed easement facilitates the expansion of public recreational resources, thus providing an indirect benefit to the state. In consideration of these factors, and because there are no competing requests for authorization, SCRO advises that approval of this easement will provide the greatest economic benefit to the State.

DISCUSSION

SCRO has revised the applicant's estimate of the length of the requested easement based on the erroneous inclusion of lands managed by the KPB, as confirmed by the KPB Land Management Division on December 3, 2021. In light of this revision, SCRO recommends the issuance of an easement approximately 55,000 feet long by 60 feet wide for an estimated total area of 75.75 acres in order to facilitate and protect public access along the existing Watermelon Trail and provide adequate space for trail hardening and maintenance activities.

SCRO recommends that the authorization considered herein be a public access easement granted to KPB on behalf of the public as the easement provides access to both State and Borough lands noted to yield significant public recreation opportunities, and as management of the trailhead and public parking will occur on KPB lands. Grant of a public access easement to KPB is not in any way intended to diminish DMLW or ADF&G's role in the co-management structure of the ARFCCHA.

SCRO further recommends that the easement considered herein be granted for an indefinite term from the effective date of this decision as the need for this easement can be expected to exist as long as the adjoining land requires access.

In evaluation of the applicant's request, SCRO has identified the following management issues:

Winter Route:

The applicant has proposed to create a spur route of the Watermelon Trail for winter use, which would create a 0.94-mile deviation from the existing trail. While the applicant notes that the winter route would require no construction and little to no clearing, an easement will be required to provide long term protection of the trail and to authorize grooming equipment with a curb weight in excess of Generally Allowed Uses, pursuant to 11 AAC 96.020. SCRO recommends that the winter route be included in the grant of a public access easement to ensure consistent management of the trail and reduce the number of additional authorizations required for seasonal grooming.

Installation of Bridges:

The applicant has proposed to construct two bridges over portions of the Anchor River to allow for trail grooming while mitigating erosion and damage to anadromous waters. While the proposed bridges would serve to address environmental and habitat concerns, they may present a hazard to the public in the long-term if not properly inspected and maintained. As such, SCRO recommends that the grantee be required to submit post-construction designs which have been reviewed and approved by a Registered Professional Engineer (RPE) prior to issuance of a final easement by DMLW. The plans must include the load rating and estimated life of the bridge, and load limits must be clearly posted on either side of the bridge for public awareness. After final construction of the two bridges, the grantee would be required to submit an inspection report by a qualified RPE which clearly outlines the intervals at which subsequent inspection reports will be necessary. The applicant would be required to submit all inspection reports to SCRO for documentation in the casefile for ADL 233843.

SCRO understands that a bridge crossing Beaver Creek within the ARFCCHA was installed in 2009 following authorization by ADF&G. SCRO recommends that the pre-existing bridge be included in the proposed public access easement but requires that a post-instruction report be conducted by a RPE to confirm the structural integrity of the bridge. SCRO advises that regular inspection reports by a RPE be required for the pre-existing bridge, consistent with the two proposed bridges.

In the event that any bridge installed within the proposed easement is deemed to be unsafe or is not inspected at an interval acceptable to an RPE, DMLW reserves the right to close the bridge to public use and require removal by the grantee at their own expense.

Monitoring activities and maintenance of the bridges and other infrastructure will be the exclusive responsibility of the grantee: DNR does not take responsibility for the maintenance of these bridges and other infrastructure.

Trail Weight Restrictions and Winter Grooming:

The applicant has noted that they are aware of and support a weight restriction for recreational off-road vehicles on general state land pursuant to 11 AAC 96.020, and a weight restriction of 1,000 lb. curb weight for recreational off-road vehicles within the ARFCCHA. The applicant further requests that vehicles used for trail maintenance, rehabilitation, construction, and grooming be exempt from additional authorizations.

For portions of the Watermelon Trail which fall upon general state lands, SCRO recommends that vehicles exceeding the weight restrictions of 11 AAC 96.020 be allowable only to facilitate trail maintenance, rehabilitation, construction, and grooming activities. SCRO concurs with the applicant that trail grooming by the Snomads on general state lands should only occur with a minimum snow base of six inches to protect the underlying vegetative mat. All other trail users must obtain an authorization for any vehicle use which exceeds the generally allowed uses pursuant to 11 AAC 96.020. The applicant currently has a valid Special Area Permit (21 -V-0128-SA) to develop, construct, maintain, rehabilitate, and groom the Watermelon Trail within the ARFCCHA. Any trail users wishing to operate vehicles in excess of 1,000 lbs. within the ARFCCHA must seek approval from ADF&G pursuant to 5 AAC 95.

Potential for Oil & Gas Development:

The existing route of the Watermelon Trail requested by the applicant crosses six Lease Sale Tracts designated by DOG in the Cook Inlet Sale Area. While there are not currently any active oil and gas leases associated with the six tracts, DOG noted that the State reserves oil, gas, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it conveys in accordance with Section 6(i) of the Alaska Statehood Act and Alaska Statute 38.05.125. The State also reserves the right to enter the land for the purposes of exploring for, developing, and producing these mineral resources.

PERFORMANCE GUARANTY

A performance guaranty is intended to incentivize compliance with the terms and conditions of the entry authorization and easement. It also provides a mechanism for the State to ensure that the applicant shares in the financial burden in the event of noncompliance (including fee payment, survey, etc.), restoration (interim and final), and any associated costs after termination or expiration of the easement. In consideration of the low risk associated with the proposed authorization and the applicant's known history of compliance, SCRO recommends that a performance guaranty not be required at this time. DMLW reserves the right to require a performance guaranty during the term of the easement.

INSURANCE

SCRO recommends that insurance not be required as the grantee is self-insured. SCRO recommends that the grantee be required to provide proof of its contractor's insurance upon DMLW's request.

SURVEY

SCRO recommends that a DMLW-approved as-built survey is required to determine the proper location and acreage of installed improvements and the associated easement on State-owned, DMLW-managed lands. The applicant will be required to request survey instructions prior to issuance of the entry authorization. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska. A final easement will not be issued until the as-built survey has been approved by DMLW.

FEES

Per 11 AAC 05.020(b), SCRO recommends that interim and one-time issuance fee(s) for this authorization are waived as the request is in the public interest. However, the applicant will be required to pay the appropriate recording fees to have the easement recorded by DMLW.

ENTRY AUTHORIZATION

The entry authorization is an interim authorization issued when a survey is necessary prior to easement issuance. SCRO recommends that an entry authorization be issued for a term ending 5 years from the effective date of this decision for the purpose of constructing, surveying, operating, and maintaining the infrastructure considered herein prior to DMLW's issuance of a public access easement. The entry authorization may be revoked if the applicant has not supplied DMLW with a draft as-built survey within 3 years of receiving survey instructions. An extension of the entry authorization may be granted at the written request of the applicant if granting the extension is deemed appropriate by DMLW, and may be subject to applicable fees. If an extension is required, the applicant must contact DMLW no later than 30 days prior to the expiration of the entry authorization and certify there have been no changes to the approved development plan. SCRO recommends that entry authorization not be granted until the following deliverables have been provided to DMLW, as described or recommended above:

- Evidence of having made request for survey instructions to the DMLW Survey Section.

RECOMMENDATION

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is the recommendation of SCRO to issue an easement as described above, on the condition that all stipulations are followed as described in the attached authorization.

Evan Dodd

Evan Dodd, Natural Resource Specialist 3
DMLW Southcentral Regional Land Office

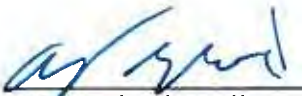
6/28/2022

Date

REGIONAL MANAGER'S DECISION

When adjudicating an easement authorization pursuant to AS 38.05.850, DMLW seeks to responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with public interest. In consideration of all events and criteria listed above, I hereby determine that the authorizations to be granted by this decision are consistent with DMLW's mission, that this project is consistent with the overall classification and management intent for this land, and that issuance of an authorization as described above is in the interest of the State of Alaska. The Department assumes no responsibility for maintenance or liability for injury or damages attributable to this authorization.

This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the authorization. Additional time may be allotted to complete these requirements; however, this will not extend the total term of the authorizations issued under this decision. This decision goes into effect and becomes a final administrative order and decision of the department on the 31st calendar day after issuance.

 for
Samantha Carroll, Regional Manager
DMLW Southcentral Regional Land Office

6/28/78
Date

ATTACHMENTS

- Attachment A: Location Diagram
- Entry authorization, unsigned
- Draft easement document

APPEAL

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A .pdf or print copy of 11 AAC 02 may be obtained by contacting Erik Fossum via phone at (907) 269-8429, via email at erik.fossum@alaska.gov, and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

Introduced by:	Mayor
Date:	02/16/21
Hearing:	03/02/21
Action:	Enacted as Amended
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-09**

**AN ORDINANCE AUTHORIZING A COMMUNITY TRAIL MANAGEMENT
AGREEMENT WITH SNOMADS, INC.**

- WHEREAS,** KPB 17.10.185 provides for the mayor to enter into trail management agreements with appropriate non-profit and community organizations to allow for the management of public trails, trail corridors, and related facilities on borough land under the terms and conditions of the trail management agreement authorized by the assembly upon recommendation of the planning commission; and
- WHEREAS,** Snomads, Inc. (“Snomads”) is a non-profit organization dedicated to promoting individual and family activities through trails; and
- WHEREAS,** Snomads and its predecessor organization has developed snowmachine trails since the 1980’s on borough land which have been formally permitted since 2007 that it maintains through community and grant support to provide for a variety of community uses, events, and related economic benefits; and
- WHEREAS,** Snomads has applied for a Community Trail Management Agreement (“CTMA”) to develop, maintain, and manage a multi-use trail system in the Homer area; and
- WHEREAS,** a CTMA is designed to establish a base agreement with a trail manager that is scoped by a Trail Management Plan which delineates trail improvements and management actions authorized, and additionally provides for amending the Trail Management Plan over time to move, grow, and change through administrative and assembly approval process; and
- WHEREAS,** the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of February 22, 2021 recommended approval by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

- SECTION 1.** That the mayor is authorized to enter into a CTMA with Snomads, as trail manager, that provides for the development, maintenance, and management of public trails, trail corridors, and related facilities on borough lands.

SECTION 2. That the mayor is authorized to approve a Trail Management Plan with the general scope being for trail facilities located in the south Caribou Hills and Homer area, for year-round management, for motorized and non-motorized uses.

SECTION 3. That the mayor is authorized, through the CTMA, to provide for the regulation of public uses on the trail facilities to reasonably regulate the use of motorized wheeled vehicles on groomed trails during the winter season to prolong the investment of trail grooming and prevent trail damage.

SECTION 4. That the mayor is authorized to enter into a CTMA, substantially in the form of the attached CMTA.

SECTION 5. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF MARCH, 2021.



Brent Hibbert, Assembly President

ATTEST:


Jonni Blankenship, MMC, Borough Clerk

Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert

No: None

Absent: None

COMMUNITY TRAIL MANAGEMENT AGREEMENT

CTMA No. 2021-01

I. PARTIES TO THE AGREEMENT

Landowner: Kenai Peninsula Borough (KPB)
Trail Manager: Snomads, Inc. (Snomads)

II. PURPOSE OF THE AGREEMENT

The purpose of this Community Trail Management Agreement (CTMA) is to authorize the Trail Manager to perform management of certain public trail facilities on Kenai Peninsula Borough land.

III. COMMUNITY TRAIL MANAGEMENT AGREEMENT AUTHORITY

Pursuant to KPB 17.10.185 and Ordinance 2021-09, enacted March 2, 2021 KPB hereby enters into this CTMA with the Trail Manager for the management of public trails, trail corridors, and related facilities (hereinafter collectively called "Trail Facilities") as described in this agreement through a Trail Management Plan, subject to the terms and conditions of this CTMA.

IV. LOCATION & CORRIDOR INTENT

This CTMA is applicable only on lands owned by the Kenai Peninsula Borough in the locations shown in the Trail Management Plan. Each trail is considered to have an accompanying management corridor, generally 25-feet on each side of the trail, available for management in ancillary support of the physical trail and trail uses. Purposes of management corridors include vegetation management, views, resting areas, sign locations, and buffering. Management corridors may vary in width in consideration of the nature of trail facilities, adjoining uses, terrain, vegetation types, and property interests. A reasonable effort will be made through the Trail Management Plan to communicate intended corridor areas where different from the general standard for width.

V. TRAIL MANAGEMENT PLAN

The purpose of the Trail Management Plan is to establish the scope of physical trail facilities and their respective locations, along with the means and methods by which the Trail Manager shall develop, manage, and maintain those trail facilities under this CTMA.

A. The Trail Management Plan shall include the following, as applicable:

1. Written Descriptions of the means, methods and timetables to communicate the active scope of the development, use, and management of trail facilities under this CTMA.
2. Drawings of the Trail Facilities through maps, typical profile diagrams, conceptual site plans, structural drawings, and details as necessary to illustrate the position and relation of existing and proposed Trail Facilities to

land boundaries, terrain features, other land uses, and to communicate the spatial and structural scope of the Trail Facilities under this CTMA.

3. Published Rules & Regulations including major signs to be used to administer the orderly use of Trail Facilities and general the location of such postings.
 4. Fees & Reservation System, including any use fees or service fees, the basis of rates, the method of collection and entry, and the current contact for system administration. If fees are collected, then reporting of fees collected is required in the annual report along with the maintenance and service costs upon which the fees are based.
- B. Amendment or Modification of the Trail Management Plan is by mutual written agreement. The Trail Manager may submit proposed amendments or modifications to the Planning Department for consideration under this CTMA. The Planning Department shall have a minimum of 60 days to review the submittal. The borough may approve, deny, or condition the submittal. Amendments will be considered administratively when the addition is consistent in nature with the standing agreement. Major amendments will require approval by the borough Assembly. Amendments or modifications shall become effective upon written agreement by the parties and shall be incorporated into the Trail Management Plan.

VI. OPEN TO THE GENERAL PUBLIC

Trail Facilities under this CTMA shall be open to the general public.

When applicable, Trail Manager is authorized to coordinate and schedule events among user groups and to schedule Trail Facilities work and maintenance, during which times the Trail Manager may post notice and restrict uses to those events, Trail Facilities work or maintenance.

VII. RULES, REGULATIONS, AND SAFETY

- A. Trail Manager shall promulgate trail use rules and regulations necessary to promote safe and orderly use of Trail Facilities by the general public, subject to review and approval by the KPB under the Trail Management Plan.
- B. Trail Manager shall periodically assess trail conditions and is authorized to restrict or close use if conditions are determined to be unsafe or that use during such conditions would potentially cause damage to Trail Facilities, whether or not explicitly stated in the Trail Management Plan.
- C. Trail Manager shall post signs or signals necessary to guide safe use of the Trail Facilities by the general public. Signs at the Watermelon Trailhead shall include language informing trail users that the Anchor River/Fritz Creek Critical Habitat Area ahead imposes certain specific restrictions on motorized vehicles.

- D. Pursuant to Ordinance 2021-XX, Trail Facilities under this CTMA are authorized to be regulated by the Trail Manager to prohibit wheeled vehicles on groomed trails in the winter season, except allowance for authorized maintenance vehicles, emergency vehicles, and motorized vehicle crossings.
- E. Trail manager shall remove trash, litter, and debris on a regular basis, and keep the Trail Facilities in a neat, clean, sanitary, and in a safe condition.

VIII. ANNUAL REPORTING REQUIRED

In performance of this CTMA, the Trail Manager will provide an annual report to KPB summarizing 1) trail facilities development, 2) trail facilities use or availability for use, 3) maintenance activities, 4) management activities, and 5) accounting of fees, if any. The Trail Management Plan shall guide standard reporting metrics. Fees, if any, will include the total amount collected in US dollars, and the number of fee units. *For example: Reporting Period Jan 1 – Dec 31. Total Number of Public Use Cabins: 1, Total Cabin Use Fees Collected- \$3,500, Public Use Cabin Rental Days 100, Daily Fee \$35/Day, Cabin Availability 345 Days available for reservations, Cabin Maintenance 20 Days -volunteers stained exterior, restocked wood pile 10 times (10 cords), cleaned wood stove, and conducted routine maintenance. Maintenance and supply costs \$3,200, Cabin Maintenance Reserve Account Balance \$300.*

Annual reports are due by April 15th of each year.

IX. TERM

This CTMA is for an initial term of twenty years commencing April 15, 2021 and may be extended at any time proceeding expiration by mutual written agreement.

X. IN SUPPORT OF GRANT OPPORTUNITIES, DURABLE FOR SITE CONTROL

For the purposes of grant applications made by Trail Manager regarding improvement or maintenance of Trail Facilities under this CTMA and the Trail Management Plan, this agreement is intended to be considered durable site control to the granting agency for the duration of the grant maintenance period. In the event that a grant maintenance period extends beyond the written term of the CTMA, written acknowledgement by KPB in support of the grant application can be considered intent to extend the CTMA through the grant maintenance period as the CTMA pertains to such grant.

XI. RESERVATIONS & OTHER PROPERTY INTERESTS RETAINED

- A. Nothing contained in this CTMA creates or implies any property interests, including easements or rights-of-way beyond the terms and conditions of this CTMA.
- B. KPB reserves the right to withdraw portions of the Trail Facilities from this CTMA as necessary to serve other land uses or resolve conflicts.
- C. KPB reserves the right to require Trail Facilities to be closed, removed, or relocated by and at the expense of the Trail Manager if such trails pose a potential conflict with other land uses.

- D. KPB reserves the right to authorize other land uses on the land.
- E. KPB reserves the right to review, approve, or deny any management actions that affect trail use, land use, or development on the land.
- F. Use of the land shall be subject to all valid existing rights, including leases, permits, easements, rights-of-ways, covenants and restrictions or other interests in the real property. The KPB reserves and retains the right to grant additional easements or rights-of-ways across the property as it deems reasonable and convenient or necessary.
- G. Should circumstances warrant, this CTMA may be modified or suspended in writing by KPB to protect resources, health, safety, or the environment.

XII. LIMITATIONS

- A. This CTMA conveys no interest in the land to the Trail Manager. This CTMA does not convey any exclusive rights, nor any preferential rights to the Trail Manager for the use of the Trail Facilities or the land, different from the Trail Manager's right to secure its authorized property and administer the Trail Facilities provided in the CTMA.
- B. The Trail Manager shall not develop, manage, or maintain beyond what is specified in the Trail Management Plan, unless otherwise approved in writing by the KPB.
- C. This CTMA is not intended to, and does not, give special standing to Trail Facilities or to the Trail Manager beyond the purposes and terms of the agreement.
- D. KPB assumes no obligation to commit funds or other resources for improvements or maintenance associated with the Trail Facilities or their continuation.

XIII. ASSUMPTION OF RISKS

- A. Defense and Indemnification: The Trail Manager shall indemnify, defend, save and hold the KPB, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys fees resulting from the Trail Manager's performance or failure to perform in accord with the terms and conditions of this CTMA in any way whatsoever. The Trail Manager shall be responsible under this clause for any and all claims of any character resulting from the Trail Manager or the Trail Manager's officers, agents, employees, partners, attorneys, suppliers, and subcontractors performance or failure to perform this CTMA in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the KPB or its agents which are said to have contributed to the losses, failure, violations, or damage. However, the Trail Manager shall not be responsible for any damages or claims arising from the sole negligence or willful misconduct of the KPB, its agents, or employees.

- B. Liability Insurance: The Trail Manager shall purchase at its own expense and maintain in force at all times during the term of this CTMA the following insurance policy:

Commercial General Liability: Policy to include bodily injury, personal injury, and property damage with respect to the property and the activities conducted by the Trail Manager in which the coverage shall not be less than \$1,000,000.00 per occurrence or such higher coverage as specified by the KPB. The policy purchased shall name the Kenai Peninsula Borough as an additional insured with respect to the Trail Manager's activities conducted on the property.

- C. Proof of Insurance: The Trail Manager shall deliver to the KPB a certificate of insurance. This insurance shall be primary and exclusive of any other insurance held by the KPB. Failure to provide the certificate of insurance as required by this section, or a lapse in coverage, is a material breach of this CTMA entitling the KPB to revoke the agreement.

XIV. GENERAL CONDITIONS

- A. Reference to KPB. 17.10.240. The general conditions contained in KPB 17.10.240 are incorporated by reference.
- B. Responsibility of Location. It shall be the responsibility of the Trail Manager to properly locate its self and its improvements on the land authorized.
- C. Compliance With Laws. The Trail Manager agrees to comply with all applicable federal, state, borough, and local laws and regulations.
- D. Inspections. Agents or representatives of the KPB shall have access to the Trail Facilities at all times.
- H. Waste. The Trail Manager shall not commit waste or injury upon the land.

XV. ENFORCEMENT OF AGREEMENT & TERMINATION

- A. Termination. Violation of the CTMA subjects the agreement to termination 60-days after delivering notice of violation, when correction is not made to resolve the violation.
- B. Performance of Duties. The Trail Management Plan shall be considered a duty under the CTMA. Failure to materially perform according to the Trail Management Plan may be considered a violation and subject the CTMA to termination in whole or in part.
- C. Unauthorized Uses. Uses of the land other than those authorized under the CTMA may be considered a violation and subject the CTMA to termination in whole or in part.
- D. Breach of Conditions. A breach of any of the conditions of this CTMA will be considered a violation of the agreement.

- E. Suspension. Violation of the CTMA subjects the agreement to immediate suspension by Notice of Suspension for violations that create a significant risk to human safety or that are counter to the public purposes for which this CTMA is intended to serve.
- F. Notice of Violation and Suspension. Notice of violation and notice of suspension shall be in writing and shall serve to identify the violation and the standards under which a correction will be considered to resolve the violation.
- G. Cancellation. At any time that this CTMA is in good standing it may be canceled in whole or in part upon mutual written agreement by the parties.
- H. Jurisdiction. Any suits filed in connection with the terms and conditions of this CTMA, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law.
- I. Savings Clause. Should any provision of this CTMA fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of this agreement or constitute any cause of action in favor of either party as against the other.
- J. Binding Effect. It is agreed that all covenants, terms, and conditions of this CTMA shall be binding upon the successors, heirs and assigns of the original parties hereto.
- K. Full and Final Agreement. This CTMA constitutes the full and final agreement of the parties hereto and supersedes any prior or contemporaneous agreements. This CTMA may not be modified orally, or in any manner other than by an agreement in writing and signed by both parties or their respective successors in interest. The Trail Manager avers and warrants that no representations not contained within this CTMA have been made with the intention of inducing execution of this CTMA.
- L. Warranty of Authority. The Trail Manager warrants that the person executing this CTMA is authorized to do so on behalf of the Trail Manager.

XVI. CONDITION OF PROPERTY VACATED

- A. Removal and Cleanliness. On or before the expiration date of this CTMA, or within 60-days of early termination, the Trail Manager shall leave the land in a neat, clean and sanitary condition, and shall remove all trash, waste, materials, equipment, and other personal property that the Trail Manager has placed on the land.
- B. Final Report. Any previously unstated matters between the parties must be reported in writing to the other party within 60-days of expiration or termination to be considered valid interests under this CTMA or all claims or right to claims shall cease for the purpose of this agreement.

XVII. NOTICES

All notices shall be sent to both parties as follows:

KENAI PENINSULA BOROUGH
Planning Director
144 N. Binkley Street
Soldotna, AK 99669-7599

SNOMADS, INC.
P.O. Box 3646
Homer, Alaska 99603-3646

Trail Manager shall maintain on file with KPB the name, title, address, email address and telephone number of an individual whom shall be the point of contact for day-to-day and emergency contact, information, and correspondence relative to this CTMA.

KENAI PENINSULA BOROUGH

Charlie Pierce, Mayor

Dated: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship,
Borough Clerk

Sean Kelley
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

SNOMADS, INC.

Dave Mastolier, President

Tessa Kern, Secretary

Date: _____

Date: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Dave Mastolier, President of Snomads, Inc., an Alaska nonprofit corporation, on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Tessa Kern, Secretary of Snomads, Inc., an Alaska nonprofit corporation, on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

17.10.240. - General conditions.

A.

Applicability. Each of the following terms and conditions shall, unless inapplicable by its own terms, apply to every sale or lease of land or interest in land by the borough, unless otherwise specifically provided by ordinance of the assembly. The terms and conditions, as well as any others established by the assembly or the land management officer, shall be included in every agreement of sale, lease or other document disposing of land or an interest in borough land in substantially the manner set out in this section.

B.

Assignments. Any purchaser, lessee, or permittee may assign the lands upon which he has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected. The assignee shall be subject to and governed by the provisions and regulations applicable thereto.

C.

Breach of Agreement. In the event of a default in the performance or observance of any of the agreement terms, conditions, covenants and stipulations thereto, and such default continues thirty days after written notice of the default, the borough may cancel the agreement, lease, or permit or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

D.

Cancellation. A purchase agreement, lease or permit in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by the purchaser, lessee, or permittee and the mayor or land management officer when applicable. A purchase agreement, lease, or permit is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts.

E.

Conditional Contract. The borough may conditionally lease or issue permits for land it selects under the various state land grants and lands it reasonably believes it will own or will acquire title to prior to the actual receipt of title. An agreement, lease, or permit issued on this conditional basis shall be canceled in whole or in part in the event the borough is denied title to said lands. Payment made by the lessee or permittee on the land to which title is denied the borough shall be refunded in whole or in part to the agreement holder of record and any properly recorded lienholder, if any, jointly. However, the borough shall in no way be liable for any damage that may be done to the land by the lessee or permittee or liable for any claim of any third party, or to any claim that may arise from ownership. In the event the borough does receive title to the land under agreement, the conditional agreement shall then have the same standing, force and effect as non-conditional agreements issued under any regulations of this chapter.

F.

Entry or Re-entry. In the event that the purchase agreement or lease is terminated, canceled or forfeited, or in the event that the demised lands, or any part thereof, should be abandoned by the purchaser during the agreement term, the borough or its agents, servants or representative, may immediately or any time thereafter, enter or re-enter and resume possession of said lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law or equity without being liable for any damages therefor. Entry or re-entry by the borough shall not be deemed an acceptance of surrender of the contract.

G.

Fire Protection. The purchaser, lessee, or permittee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the land under agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the demised premises are located.

H.

Hazardous Waste. The storage, handling and disposal of hazardous waste shall not be allowed on lands under lease or permit from the borough.

I.

Modification. A purchase, lease or permit agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

J.

Notice. Any notice or demand, which under the terms of an agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor, and in like manner a notice from the borough to a vendee shall be deemed received by the vendee when such notice arrives at the general or branch post office from which final delivery to the said purchaser, lessee or permittee would normally be accomplished.

K.

Notice of Default. Notice of the default will be in writing as provided in subsection I. of this section. A copy of the notice will be forwarded to all lienholders or others who have properly recorded their interest in the purchase, lease or permit agreement with the borough.

L.

Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.

1.

Improvements owned by a purchaser, lessee, or permittee on borough lands shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The retiring purchaser, lessee, or permittee may, with the consent of the mayor or land management officer when applicable, dispose of his improvements to the succeeding purchaser, lessee or permittee.

2.

If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the purchaser, lessee, or permittee under the terminated or canceled contract, be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB [Chapter 5](#). The proceeds of the sale shall inure to the former purchaser, lessee, or permittee who placed such improvements and/or chattels on the lands, or

his successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

3.

If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the purchaser, lessee, or permittee shall convey said improvements and/or chattels by appropriate instrument to the borough.

M.

Rental for Improvements or Chattels not Removed. Any improvements and/or chattels belonging to the purchaser, lessee, or permittee or placed on the land during his tenure with or without his permission and remaining upon the premises after the termination of the contract shall entitle the borough to charge a reasonable rent therefor.

N.

Resale. In the event that a purchase or lease agreement should be terminated, canceled, forfeited or abandoned, the borough may offer said lands for sale, lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations. If said land is not immediately disposed of then said land shall return to the Land Bank.

O.

Responsibility of Location. It shall be the responsibility of the purchaser, lessee, or permittee to properly locate himself and his improvements on the purchased, leased, or permitted lands.

P.

Rights of Mortgage or Lienholder. In the event of cancellation or forfeiture of a lease or sale agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease or sale agreement for the unexpired term thereof, subject to the same terms and conditions as in the original instrument. Any party acquiring an agricultural purchase or lease agreement must meet the same requirements as the original purchaser or lessee.

Q.

Rights-of-way. All trails or roads in existence at the time the land is sold may be considered to be an easement for public use. Nothing herein contained shall prevent the mayor or land management officer when applicable from specifically reserving such additional easements and rights-of-way across borough lands as deemed reasonable and necessary prior to the sale thereof.

R.

Sale Documents. All sales of borough lands shall be on approved borough forms suitable for recording and may consist of a warranty deed, deed of trust, agreement to purchase, promissory note and any other required documents.

S.

Sanitation. The purchaser, lessee, or permittee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The premises under purchase or lease agreement, or permit shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

T.

Shore Land Public Access Easement. As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

U.

Subleasing. No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

V.

Violation. Violation of any provision of this chapter or of the terms of the agreement of sale, lease or permit may expose the purchaser, lessee, or permittee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of his interest in accordance with state law.

W.

Written Waiver. The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

(Ord. No. 92-57, § 1(part), 1993)

TRAIL MANAGEMENT PLAN FOR PUBLIC TRAILS ON BOROUGH LAND

CTMA No. 2021-01

Trail Management for the Caribou Hills South (CHS) Trail System

TRAIL MANAGER:

SNOMADS, Inc.

PO Box 3646

Homer AK 99603

snomads@gmail.com

www.snomadsonline.org

SUMMARY OF PROPOSED ACTIVITIES (Check All That Apply)

SEASONS OF TRAIL MANAGEMENT

☐ Winter ☐ Summer ☒ Year Round

TRAIL WIDTH (Typical)

☐ Under 5 Feet

☐ 5-10 Feet

☒ 10-20 Feet

TRAIL MAINTENANCE ACTIVITIES

☒ Periodic Brushing/Clearing

☒ Grading

☒ Snow Grooming

☒ Erosion Controls

TRAIL IMPROVEMENTS

☒ Trailheads

☒ Parking Area

☒ Loading/Unloading Area

☒ Signs

☐ Sanitation (Trash/Outhouse)

☒ Picnic Area

☒ Shelters

☒ Culverts

☒ Bridges

☐ Stairs

☒ Gates & Bollards

☒ Hardening

☒ New Trails

TRAIL ADMINISTRATION

☒ Competitions/Sponsored Events

☒ Grants

☒ Signage

☒ Equipment Storage Facilities

TRAIL ACTIVITIES

Motorized:

☒ ATV

☒ Snow Machines

Non-Motorized:

☒ Dog Sleds

☒ Skiing

☒ Snowshoeing

☒ Skijoring

☒ Sledding

☒ Hiking

☒ Biking

☒ Walking/Running

☐ Biathlon

☒ Horses

☒ Pet Friendly

☒ Other:

Water Access

☐ Landing Area

Narrative description of the activities, operations, and scope:

Snomads Inc. works to guarantee Backcountry Access and protect existing Alaska recreational trails within the Kenai Peninsula Borough (KPB) Caribou Hills South (CHS) Trail System Area by establishing and maintaining legal public access for all, and for generations to come. Further, to responsibly develop and maintain and groom these trails to a sustainable level so that they can be used year round by the public. The Snomads Vision is to protect our CHS Trail System recreational trails with legally established easements and with permits/agreements acquired from all landowners. CHS Trail System groomed trails shall be uniformly marked, under one coordinated management authority, and, where appropriate, maintained by local clubs or organizations. See attachment B for a map of the CHS Trail System and where trails transit KPB lands. Snomads currently has LMD 08-02 and 07-03 Trail Management Agreements with the KPB.

History of the organization, membership size, accomplishments:

The origin of Snomads Inc. started in the mid 1980's when the organization was founded as the Homer Snow Roamers, as a group of dedicated Winter Snowmachine enthusiasts. The Club was incorporated in March 1992, and the name was changed to Snomads 23 Feb 2002 as a Non-Profit 501c4. Snomads has grown over the years and now has 450 Members, with 335 voting Members comprised of individuals and businesses. Snomads has been active over the years to establish, rehabilitate and maintain CHS Trails, including the building of roads to access trail heads, and has been granted trail easements (Boardwalk Trail). We typically organize, host and support seasonal activities like: The Snomads Fun Run, Group Trail Rides, an area Search & Rescue, Children's Snowmachine Safety Events, as well as supporting events like the Tustemena 200 Dog Sled Race and the Homer Epic (bike, ski, run) Race. Snomads Inc. is a primarily an advocate organization for Public Access to the Alaskan Backcountry, for all user groups, including Hunters and Fishermen.

Summary of proposed activities:

Snomads intends to continue its operations with the KPB CHS Trail System by rehabilitating, maintaining, marking and grooming our trails and trailheads and parking lots for year round use. We have an aggressive trails management agenda in the coming years, raising funds with grants and private funding sources to secure trail permits and easements, construct trail reroutes around native lands, and harden our trails from to a USDA Forest Service Tier 1 to a Tier 3 trail level. We accomplish our activities with a balance of both contracted services and volunteer work. Typical Sources of funding for our operations come from Snomads Gaming, KPB CAP Grants, ORTAB Grants, SnowTRAC Grooming Grants, Pittman-Robertson Grants, Membership Dues, and Event Fundraising.

Means and methods for maintenance, erosion control, and trash pick-up:

All trail clearing and trail maintenance work that the Snomads undertake are performed to written standard. Work is supervised by a Snomads assigned Committee Chairman, and task completion reports are captured in monthly Board of Director or Membership Meeting Minutes.

Weather conditions largely dictate when trail maintenance tasks can be performed throughout the year. Trail clearing with heavy construction equipment will be employed only when the ground is firm enough to support the weight of the equipment used. This is typically in the Fall or Spring, when the ground is frozen, but also in the summer when there are dry periods that will support the weight of the equipment without significantly degrading subsurface soils and vegetation. Winter Snow Grooming operations will be undertaken when snow conditions permit.

Measures of performance, timeframes, ownership of improvements & reclamation:

Trail Markers, Trail Kiosks, Signage, bridges and any “moveable” objects or structures placed on KPB lands by Snomads Inc are the sole property of Snomads. Parking Lots, access drives and other “immoveable” improvements would remain upon termination of the Agreement for any reason. Reclamation of “moveable” objects or structures would be undertaken by Snomads if this agreement were to be terminated. Although none are present to date, Snomads reserves the right to place Public Outhouses on KPB Lands at Trailheads or along Trail Corridors.

Estimated value of proposed structures and facilities:

Not applicable

Any short-term and long-range goals:

Snomads intends to execute the construction of a reroute of the Watermelon Trail around CIRI lands within 1 to 2 years (as funding permits). The Watermelon Reroute traverses ADNR Parcels that are known to be ‘KPB Select’ parcels (16523008, 16523009). See attachment B.

Long range goals:

- a. Expanding the Watermelon Trailhead Parking Lot to accommodate additional traffic, once the trail is fully cleared, and the reroute constructed.
- b. Harden the trail surface on the Dry Hole Trail near the Anchor River crossing.

Conceptual Site Plan: See attachment B for KPB CHS Trail System Traversing KPB Lands

Location of trail improvements and buffers: None as of the initial agreement

Property lines, right-of-ways, easement, access: No known conflicts, See attachments A & B

Location of wetlands, water bodies, anadromous stream crossing and major topography:

See attachment A

Detailed Plans:

Snomads is including a detailed survey for the construction of the Watermelon Trail ‘CIRI Reroute’ as attachment A. Trail Construction standards as detailed below will adhered to, and a completion report will be forwarded to KPB when accomplished.

Plans for specific improvement including architectural or engineering designs, when**Applicable:**

Snomads will contact KPB Lands Management for any improvements that are planned, and where applicable, will obtain requisite approval in the planning stages.

Grant proposals, when applicable:

Snomads intends to execute an existing \$40K Pittman-Robertson Grant, managed by ADF&G to Homer Soil & Water (HS&W) for the construction of the Watermelon Trail 'CIRI Reroute', within 2021 and 2022. This will be under a separate agreement between Snomads and HS&W.

Trail Usage Restrictions:

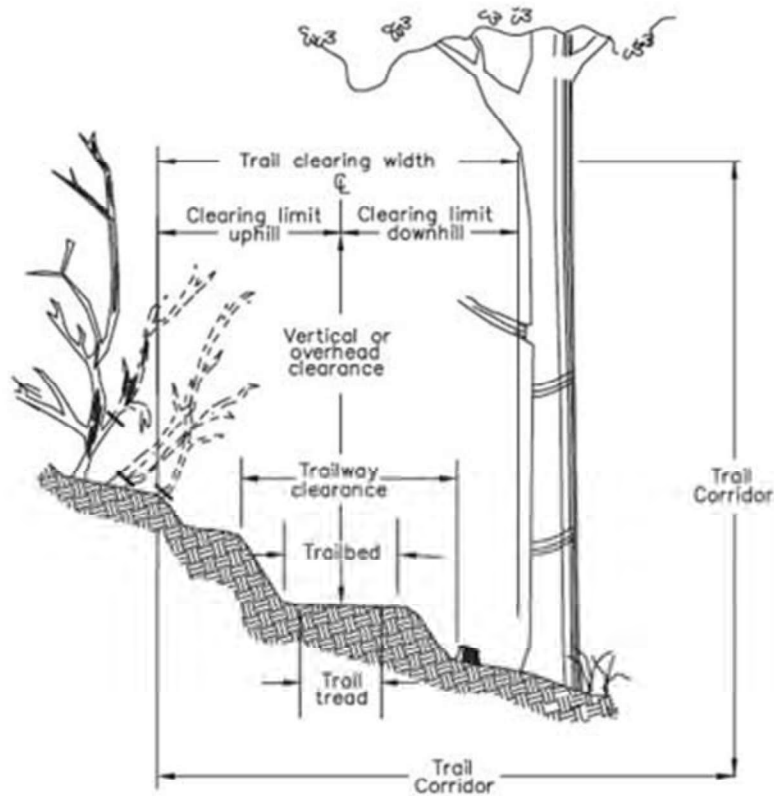
Wheeled ATV/UTV or any motorized Off Road Recreational Vehicle (ORRV) are not authorized on groomed Snomads Managed CHS trails at any time that the wheeled vehicle is leaving visible tire depressions exceeding 1" depth and degrading the condition of the groomed trail during the Winter Months. Fat Tire bikes are permitted on CHS groomed Trails.

List of KPB CHS Trail System Trails that traverse KPB Parcels: See Attachment B

Note: Designation of 'Winter Groomed' may not denote that the entire trail is groomed

- a. **Watermelon Trailhead and Parking Lot:** KPB Parcel ID: 17113141
- b. **Watermelon Trail/Ohlson Mtn Trail (Winter Groomed):** KPB Parcel ID's: 17113141, 17113106, 17113133, 17113102, 17110117, 17112015, 17109028, (Borough Select 16523008 & 16523009)
- c. **North Fork Hills Trail and deviations**(Winter Groomed):** KPB Parcel ID's: **16521013, **16521006, **16512005, **16513003, 16513005, 16513007, 16505006, 16505007, 18515017, 18515046
- d. **Garcia Hill Trail:** KPB Parcel ID: 16513007
- e. **McNeil Power Line Trail (Winter Groomed):** KPB Parcel ID's: 17231166 (added to LMD 08-02), 17205213, 18515046, 18515017
- f. **Dry Hole Trail (Winter Groomed):** KPB Parcel ID's: 18515046, 16515006
- g. **Blue Trail (Winter Groomed):** KPB Parcel ID's: 18515046, 18515017, 18515018
- h. **McNeil Canyon Trail (Winter Groomed):** 17201726, 18521055, 18521056
- i. **Matthews Hill Trail (Winter Groomed):** KPB Parcel ID's: 18521053, 18515046, 18515018
- j. **Hidden Hills Trail:** KPB Parcel ID's: 17104022, 17104018, 17137114, 1652002, 16513003, 16513007
- k. **Eagle Lake Trail (Winter Groomed):** KPB Parcel ID's: 18521050, 18521053
- l. **Moosehorn Lake Trail:** KPB Parcel ID: 18515018
- m. **Dimond Ridge Connector Trail:** KPB Parcel ID's: 17110201 17106038, 17110117 (added to LMD 08-02)

Trail Construction, Rehabilitation, Maintenance Standards:



Trail Corridor Width: 60 ft

Trail Clearing Width: 24 ft (restricted to 12" above soil surface in Critical Habitat Areas)

Trail Clearing Limit (generally flat terrain): 20 ft vertical

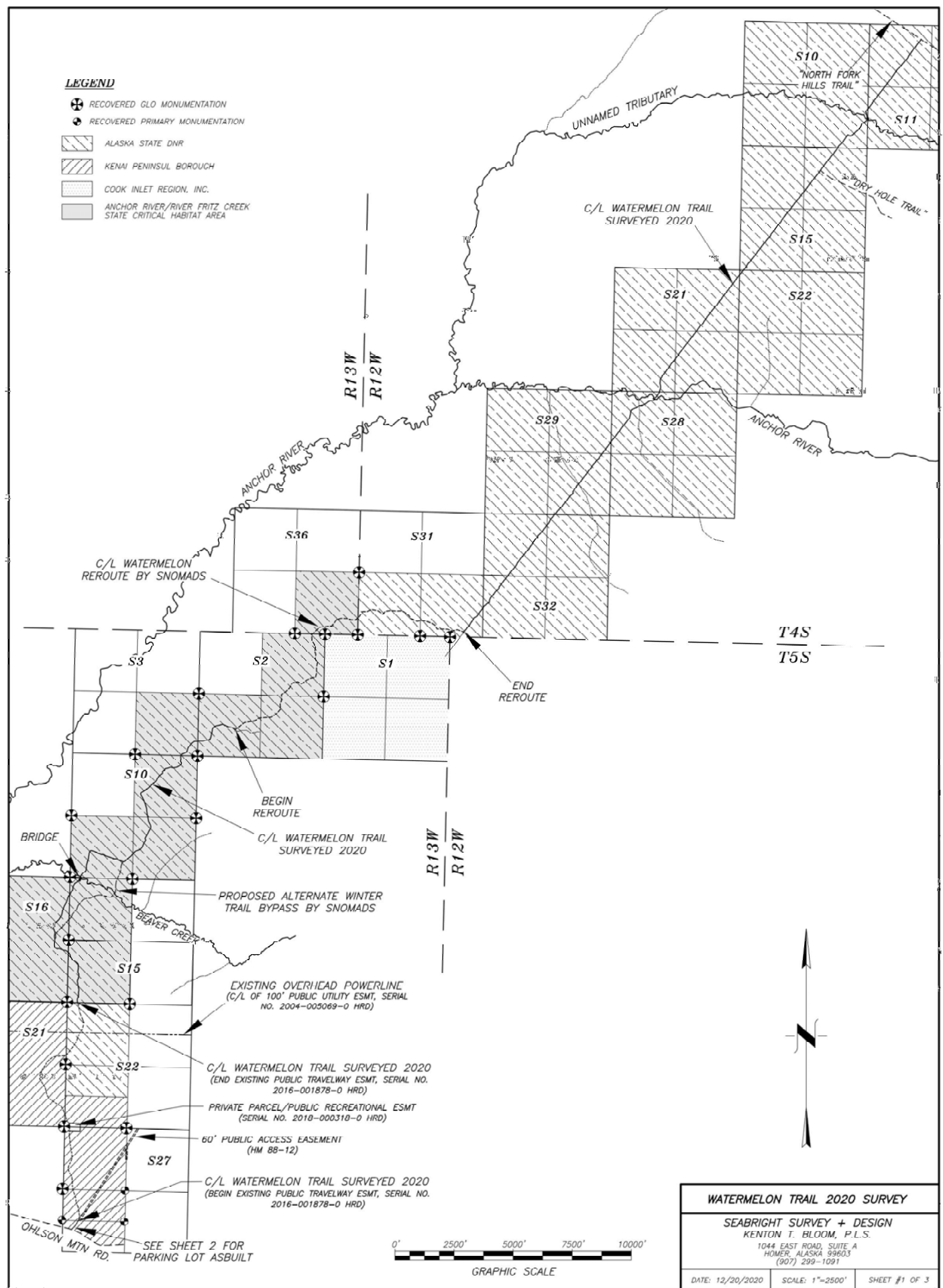
Trail Clearing Limit Uphill/Downhill: 35 ft vertical

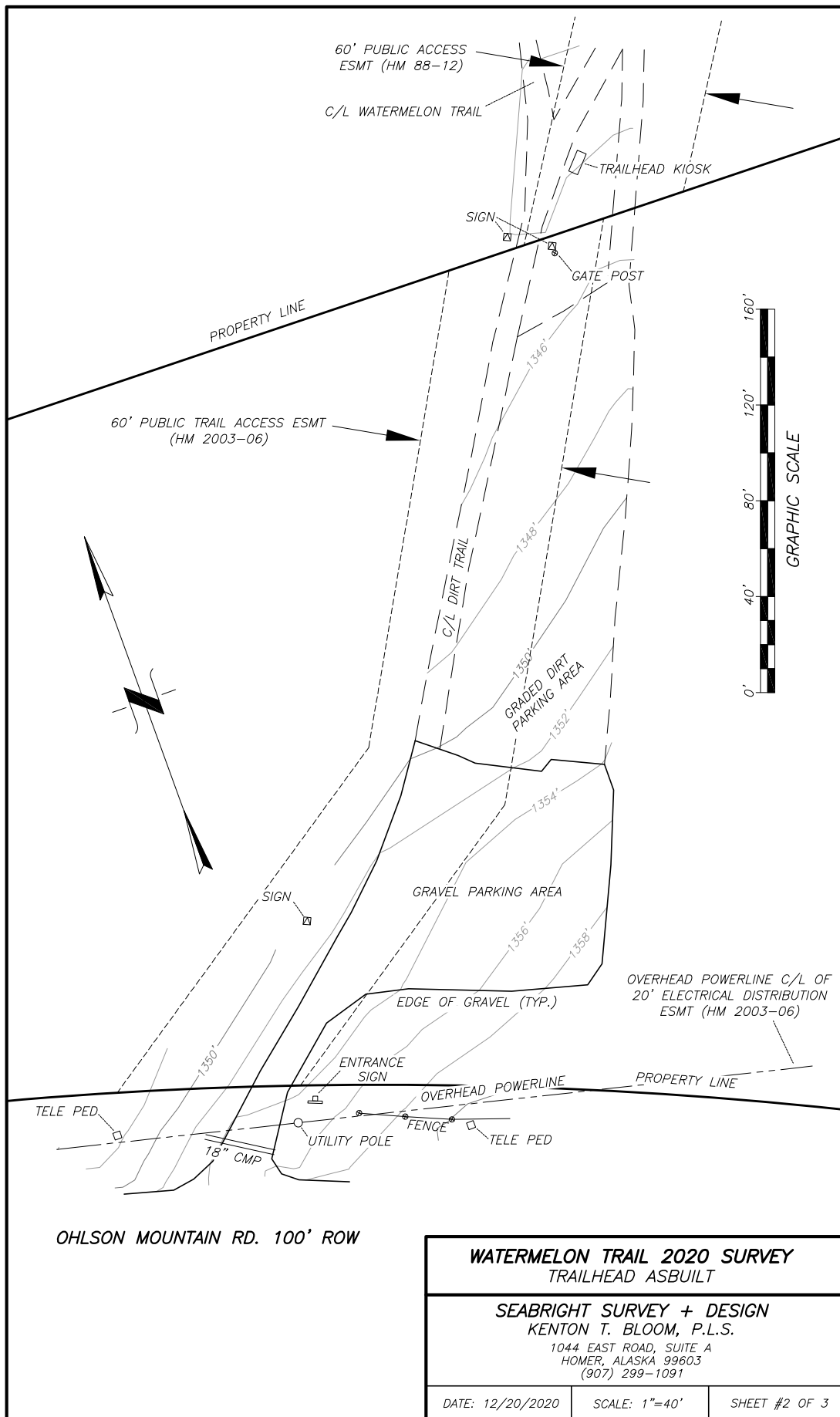
Trail Tread: 5 ft (hardened Trail Surface)

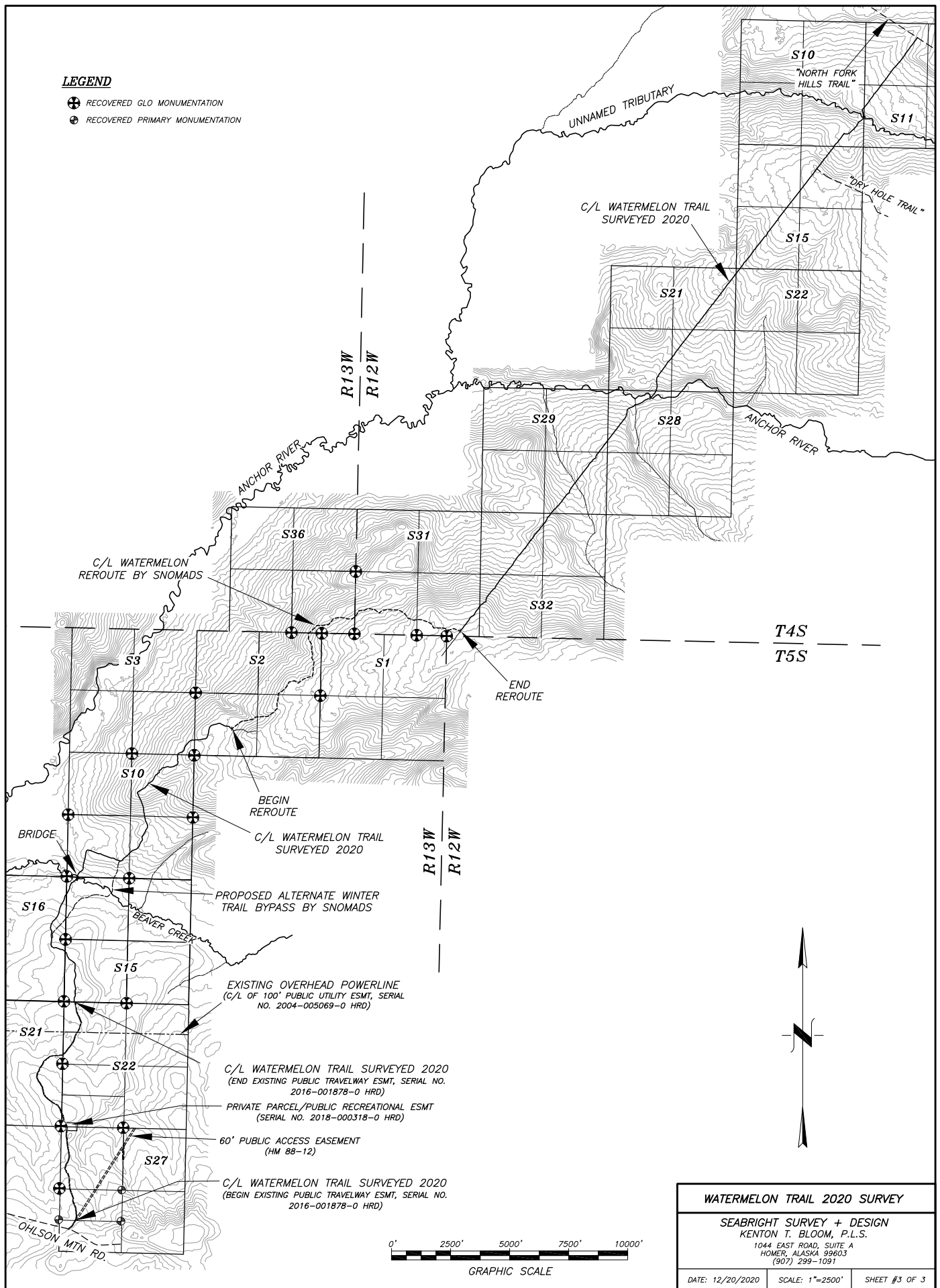
Trail Bed: 8 ft generally (except where 3/1 ratio of taper required for proper drainage)

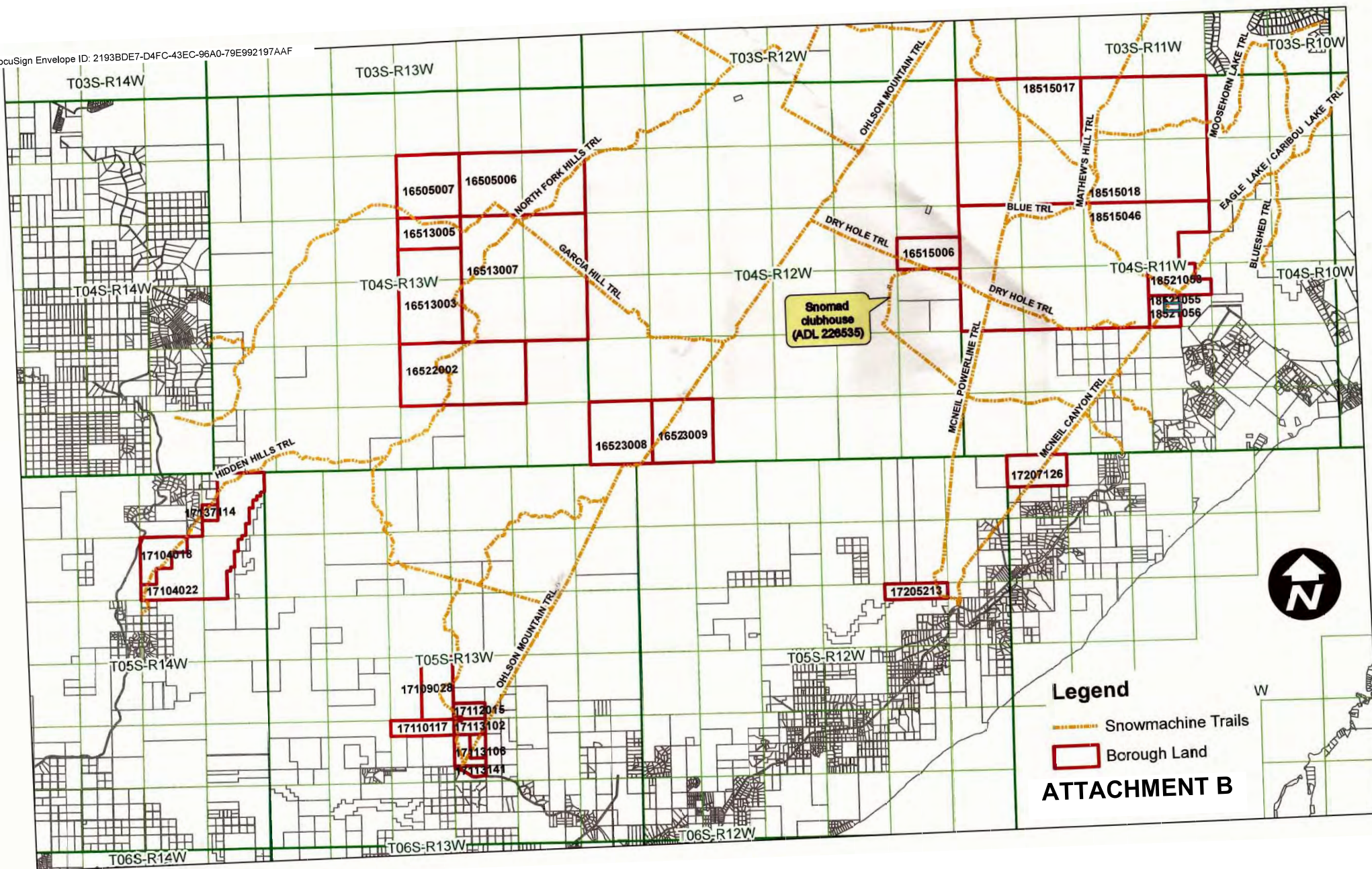
Trailway Clearance & Trail Grooming Width (Winter): 18 ft maximum to soil surface

Ground disturbances and erosion control measures have been, or may be required. Trails can be groomed with as little as six inches of snow depth. Major trails (those within SnowTRAC Grooming Pool) are groomed to a width of 18 ft. Minor Trails may be groomed to 18 ft in width or less, if terrain and funding permits.









G. OTHER

Cooper Landing Unit 395 Land Planning Presentation

UNIT 395

COOPER LANDING LAND PLANNING



KENAI PENINSULA BOROUGH PLANNING COMMISSION

FEBRUARY 13, 2023



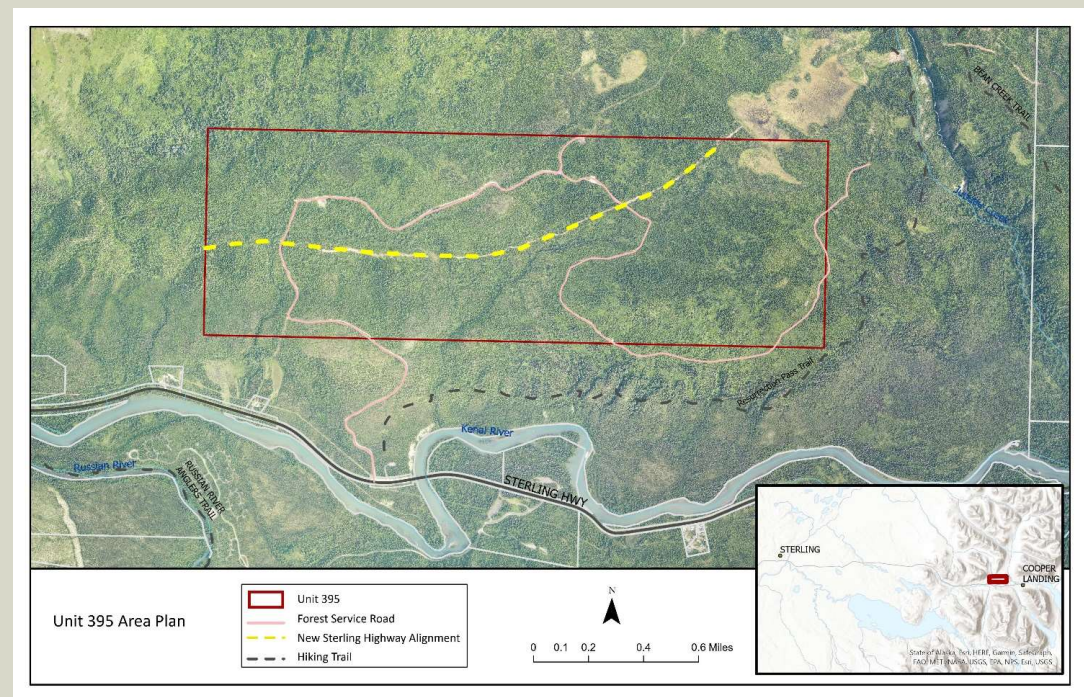
RESPEC.COM

AGENDA

- › Unit 395 Overview
- › Work Plan and Deliverables
- › Current Direction
- › Project Website and Story Map
- › Next Steps

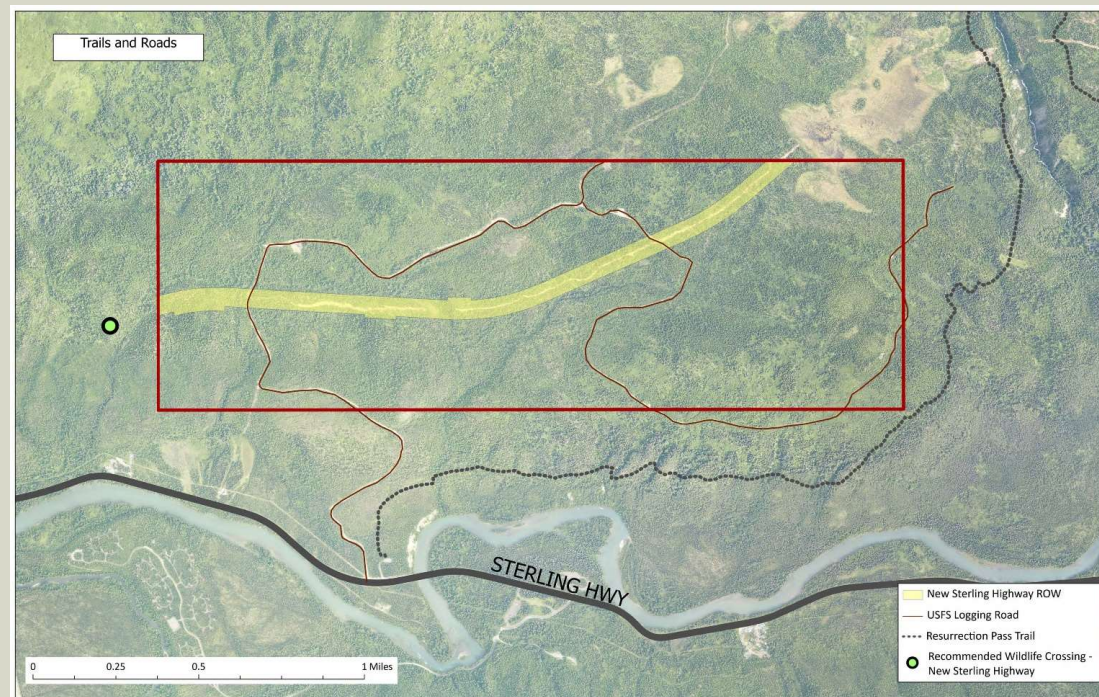
UNIT 395 OVERVIEW

- 1,000-acre borough-owned parcel near Cooper Landing



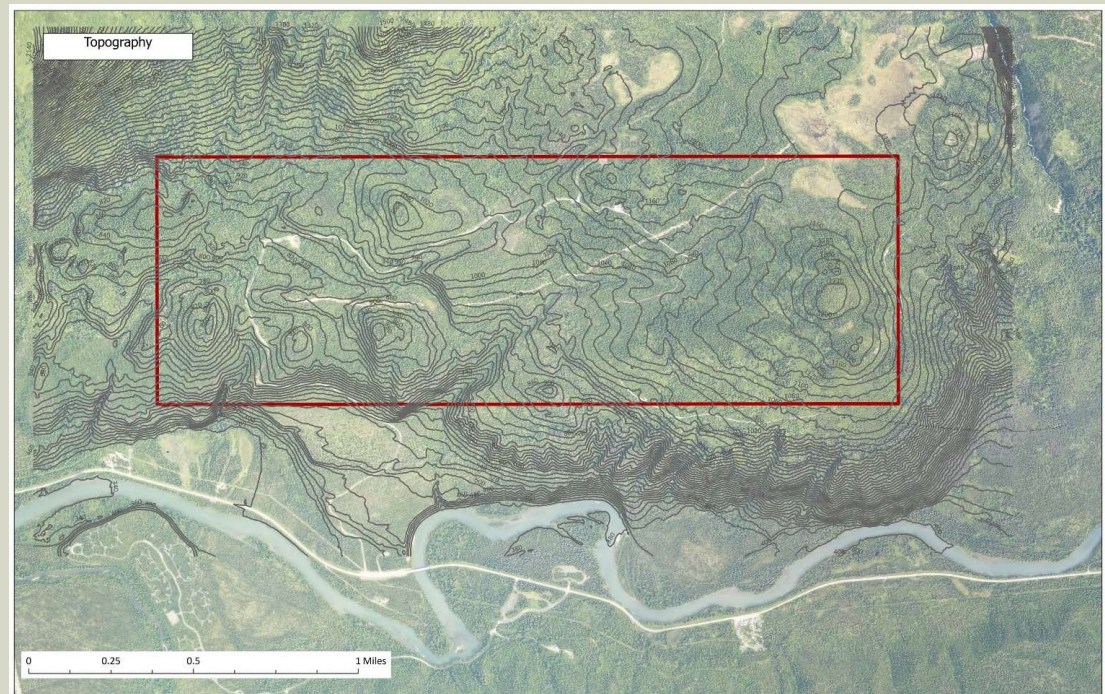
UNIT 395 OVERVIEW

- › 1,000-acre borough-owned parcel near Cooper Landing
- › Contains a section of the Sterling Highway bypass



UNIT 395 OVERVIEW

- › 1,000-acre borough-owned parcel near Cooper Landing
- › Contains a section of the Sterling Highway bypass
- › Slopes present development challenges in a few areas



UNIT 395 OVERVIEW

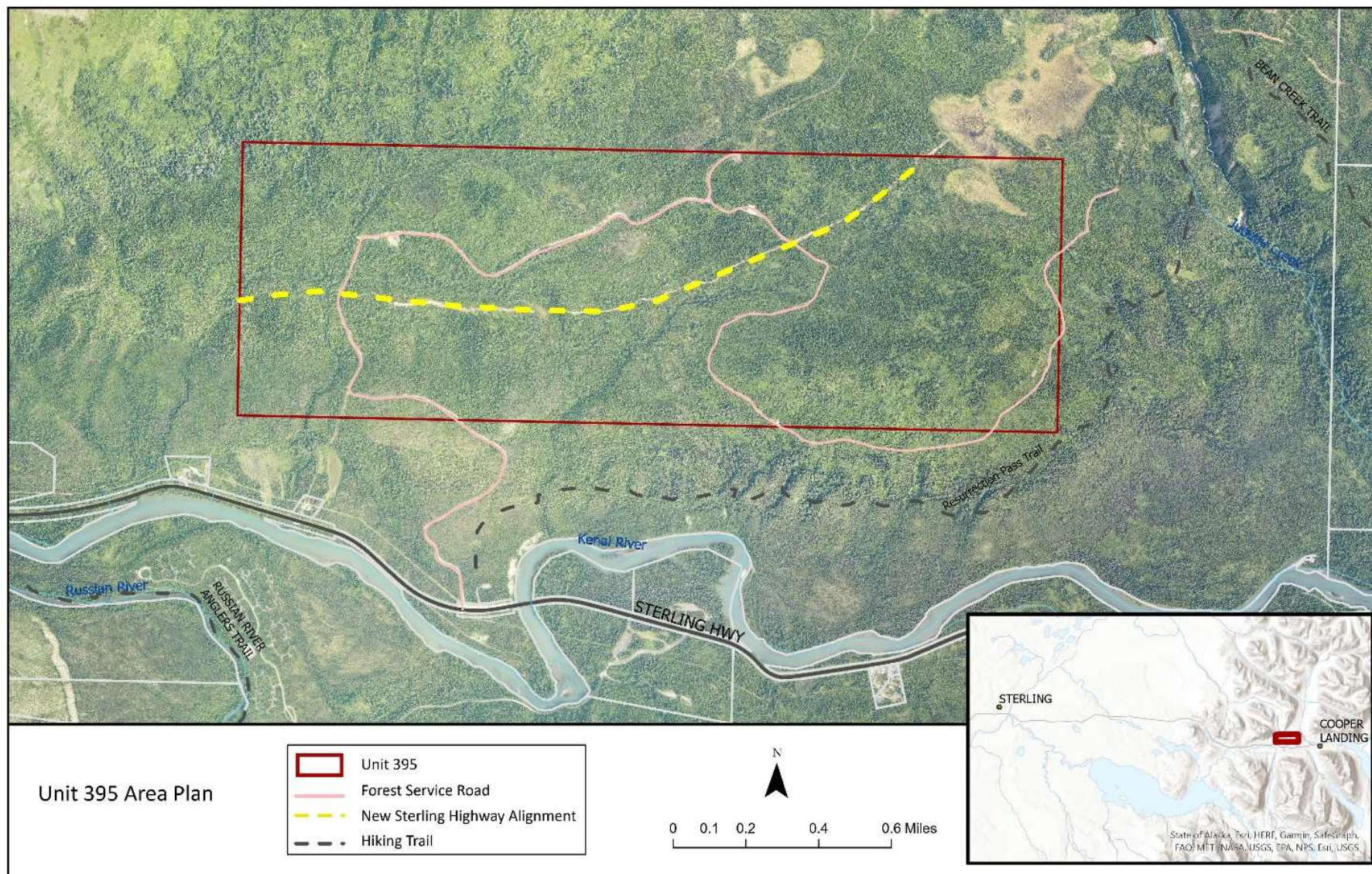
- › 1,000-acre borough-owned parcel near Cooper Landing
- › Contains a section of the Sterling Highway bypass
- › Slopes present development challenges in a few areas
- › Approx. half is within the Sqilantnu Archaeological District



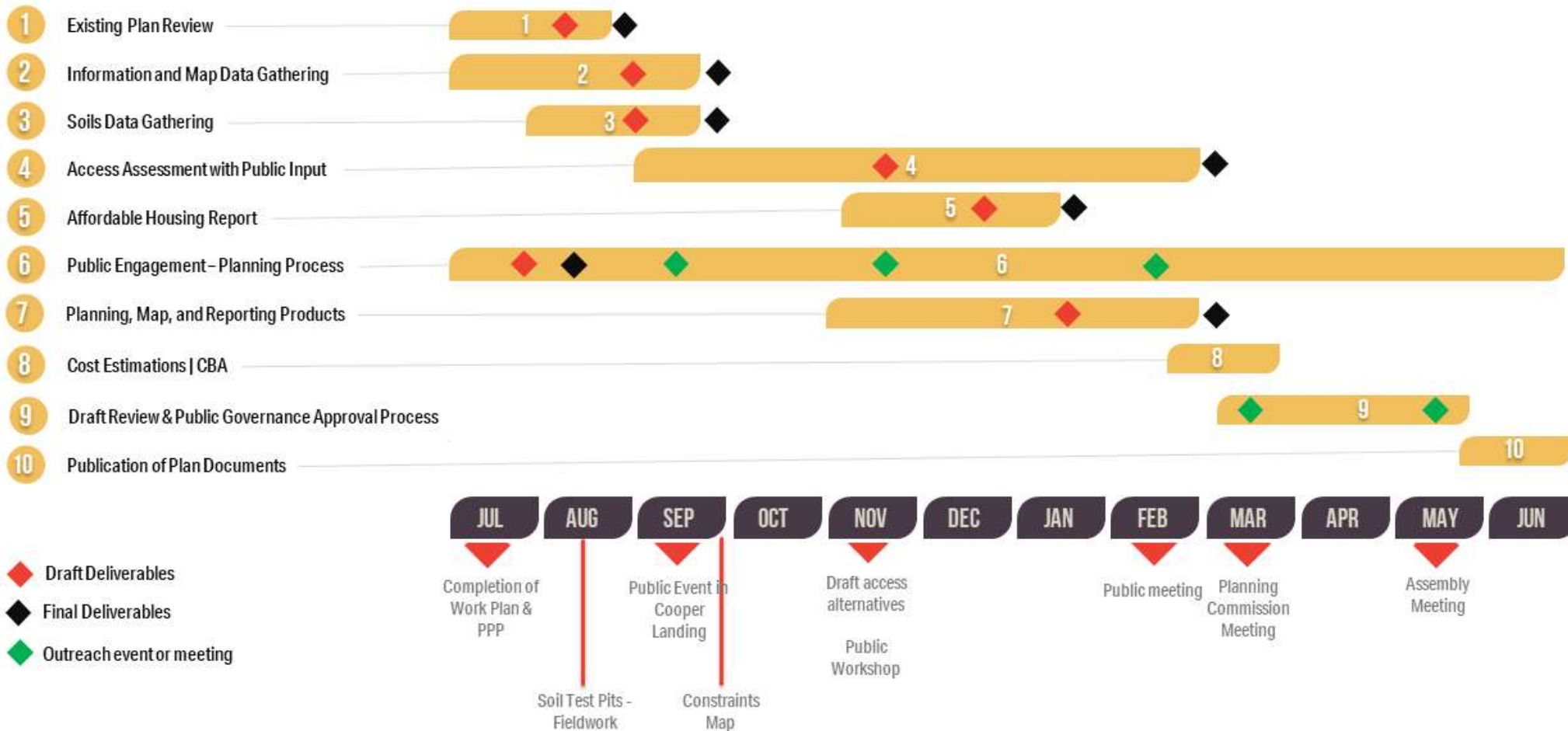
LAND PLANNING

- › What could this land be used for?
- › What do stakeholders want?
- › What do stakeholders NOT want?



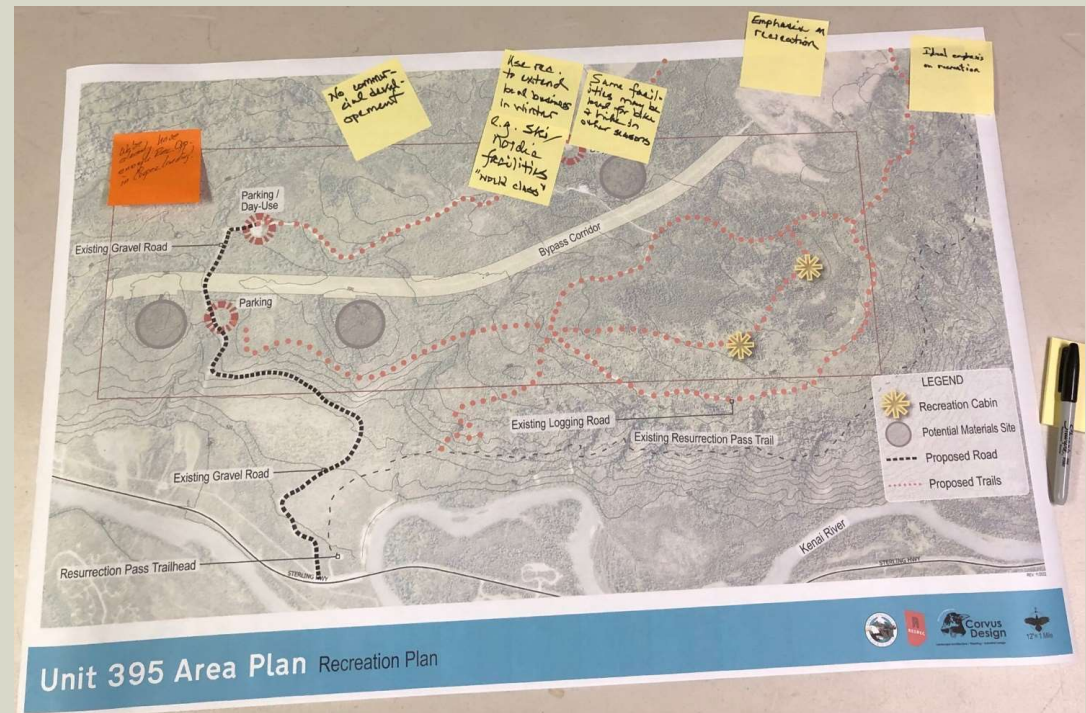


DELIVERABLES AND MILESTONES



CURRENT DIRECTION

- › Affordable housing is a concern...
- › BUT recreation wildlife, and resource management are priorities for this parcel.
- › Are there other locations for affordable housing?



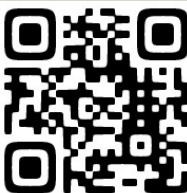
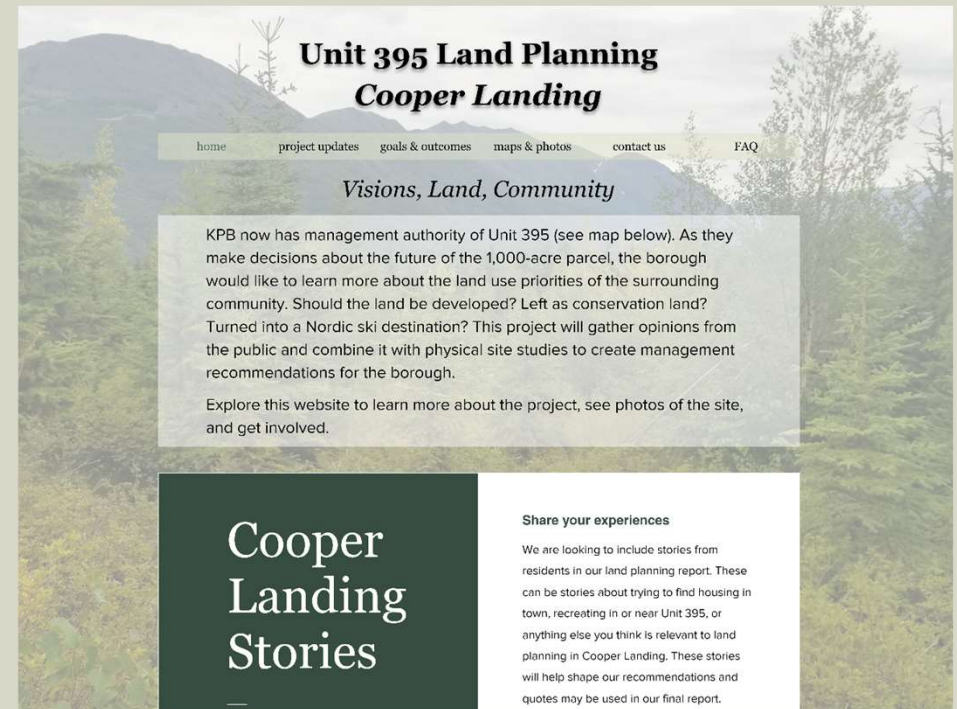
Bottom line: We want to protect the resources and values of this land while holding space for future opportunities

› Meeting recaps

› Public documents

› Maps and photos

› FAQs



bit.ly/395_StoryMap

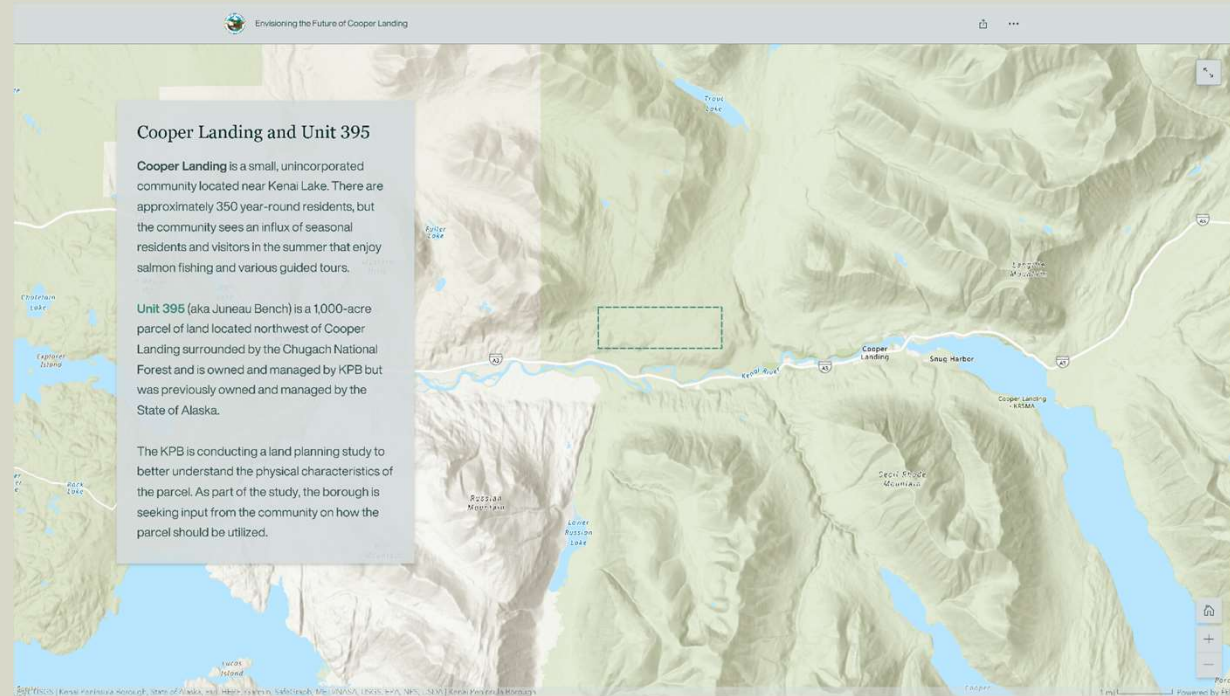


› Parcel history

› Physical characteristics

› Photos

› Project details



NEXT STEPS

- › **Refined land use options for public workshop**
- › **Develop plan report for review by:**
 - / Public
 - / Cooper Landing Advisory Planning Commission
 - / KPB Planning Commission
 - / KPB Assembly
- › **Land classification**



THANK YOU!



CONTACT

Pat Cotter

Patrick.Cotter@respec.com

907-978-8596



MISCELLANEOUS INFORMATIONAL ITEMS

**COOPER LANDING ADVISORY PLANNING COMMISSION
REGULAR MEETING
LOCATION: COMMUNITY HALL AND ZOOM TELECONFERENCE
WEDNESDAY, FEBRUARY 08, 2023
6:00 PM
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00pm
2. ROLL CALL – J. Cadieux, C. Degernes, K. Recken, L. Johnson, H. Harrison, D. Story present. Y. Galbraith excused.
 - a. Members of the public: Virginia Morgan, Rhonda Rogalski, Melissa Brennan, Lorraine Temple, Amy Brodersen, Weston
 - b. Agency representatives: Morgan Aldridge, Megan Flory, Sean Baski, Alice Rademacher, Marcus Mueller, Alvin Talbert
 - c.
3. APPROVAL OF AGENDA - C. Degernes moves to approve as written, K. Recken seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for December 7, 2022 – L. Johnson moves to approve as written, C. Degernes seconds. All approve by roll call vote.
5. CORRESPONDENCE – none.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE - none.
7. REPORT FROM BOROUGH
 - a. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Sean Baski, PE, Project Manager, AKDOT&PF.
 - i. Working with CIRI for transfer of land.
 - ii. Clearing will continue early this spring prior to the nesting [migratory] bird window.
 - iii. Working with QAP and Traylor to complete bridge site and approach road preparations.
 - iv. D. Story asked about the signage at Bean Creek and W. Juneau Road that says “No Access”
 1. A. Talbert said the signs were intended to keep people from driving out there and that they would be redoing the signs in the next couple weeks to make clear that it does not prohibit access.
 2. K. Recken said that the signs say no motorized access.
 3. S. Baski said that the signs are probably general use signs.
 - b. Unit 395 update with Marcus Mueller – Land Management Officer for KPB.
 - i. KPB is engaged with a wildfire research organization WiRe Funded by National Science Foundation doing academic work around wildfire and community responses to wildfire including

Firewise work in the communities of Funny River, Nikiski, and Cooper Landing.

1. J. Cadieux said that she and Yvette Galbraith attended a meeting with them last year where the survey efforts were anticipated for this year.
 2. V. Morgan said that they proposed a May 17-19 window for training community members prior to their data collection window.
- ii. Unit 395 – KPB is working with QAP to determine a materials site location in the unit north of the alignment, in the eastern third of the parcel near the intersect of W. Juneau Rd. and Chunkwood Road.
1. The work will determine a commercial quantity contract that would have a number of phases: Exploration phase, Planning and Permitting phase, Development Plan, Extraction Phase up to 50,000 cu. yds. of material over two years.
 2. Site location has been determined from the test hole part of the Unit 395 planning project.
 - a. K. Recken asked if the contract with QAP is going to have a clause for remediation/rehabilitations after the project.
 - i. M. Mueller said that it does have a reclamation and stabilization component to it. Reclamation is to close over areas so they are no longer accessible while stabilization is maintaining the access to the site while making sure slopes are stable etc. Area is somewhere probably around an acre in size.
 - b. A. Brodersen asked for clarification on the location of the gravel site.
 - i. M. Mueller said he will follow up by sharing a map of the site.
 - c. J. Cadieux asked if they have a good enough estimate of the material quantities to know whether it will be tapped out by 50,000 cu. yds. or if it would have life left.
 - i. M. Mueller said that this would be better answered by the exploration phase but more than 50,000 cu. yds. are anticipated.
 - d. J. Cadieux asked if the first 50,000 cu. yds. are for the MP 45-60 project use.
 - i. M. Mueller confirmed that it would be for the project but afterwards the site would likely be stabilized for later use.

8. OLD BUSINESS – none.

9. NEW BUSINESS

- a. KPB Affordable Housing Draft Report – Megan Flory, Planning Consultant for RESPEC
 - i. Information Insights worked on the Affordable Housing Report and has used it as a case study that can be utilized throughout the borough past the immediate use for Cooper Landing.
 1. M. Mueller said that the original prompt for this was as a part of the Unit 395 project to identify ways that communities have addressed the issue of Affordable Housing and identify issues that lead to a lack of Affordable Housing.
 2. A. Brodersen asked when it is anticipated that the Unit 395 project will be completed and will it be prior to any action on the affordable housing concern.
 - a. M. Mueller said that with respect to the affordable housing report it doesn't identify an action plan but rather identifies tools that can be used. With respect to the larger Unit 395 Land Planning Project that is separate from the Affordable Housing Report, it will have a draft available in March.
 - b. M. Flory said that the Affordable Housing Report is mostly finalized and will move along with the rest of the project although it is a stand-alone product.
 - i. She said the Unit 395 Project planners will be back in Cooper Landing March 8th to present draft plans and maps and a report to submit to the CLAPC and more broadly for public review prior to going to the KPB Planning Commission. Timeline details are also available on the project website.
 1. [The timeline is not immediately visible on the project website. An outline of it can be found under the "Goals and Outcomes" page by clicking on "View Project Workplan" or by using this hyperlink:
https://www.unit395planning.com/files/ugd/d2dde5_b2b79a2473554aaeaf529ffd83f1d16e.pdf]
- c. M. Mueller said the next KPB Planning Commission meeting will also be given a presentation this next week [February 13, 2023] to share project progress as well. The same presentation will be given at the next KPB Assembly meeting [February 21, 2023].
- d. J. Cadieux said that there were not any peer reviewed journals referenced regarding barriers to Affordable Housing and asked if there was a reason why none were included. The report indicates that they examined what is being done in the Lower 48.

Certainly studies from elsewhere in the States must be available in journals to glean ideas of what has been successful.

- i. M. Flory said that she will bring that concern to the Information Insights consultant group.
- e. J. Cadieux said that the report points towards some regulation being a tool for addressing the issue. She asked why there appears to be no recommendation made for possible ordinance or regulation language that could be used in the KPB to address the issue.
 - 1. M. Flory said that is an omission that should be addressed. She will bring that up with the Information Insights consultants that that aspect was not included.
- f. K. Recken asked J. Cadieux for clarification of what she meant by regulation.
 - i. J. Cadieux said that the report identifies examples of regulation or ordinance in other communities but does not provide suggestion to the KPB what regulation or ordinance might be taken up.
- g. C. Degernes said that before this comes back to the community for comment or review it would be helpful to have a range of possibilities so people can see what potential tradeoffs might be so the community can make a fair assessment. She said if we want affordable housing it may mean XYZ. The plan, in the end, needs to have this laid out as clearly as possible so the community can make a decision.
- h. M. Brennan said it sounds like though affordable housing might be desirable for Unit 395 she wondered if it is actually realistic for Unit 395 if regulatory framework is not on the books with the KPB beforehand.
- i. D. Story asked to clarify the subject of M. Brennan's statement and confirmed her sentiment that unless the work is done to allow ordinance or legislative tools such as land trusts and deed restrictions into the KPB toolbox prior to land being made available in Unit 395 or anywhere in the borough, that the examples used in the report are not necessarily useful for addressing the issue.
 - i. M. Flory said that based on those factors the project is recommending that there not be development on Unit 395 right away to allow time for community participation in the development of such tools.

- ii. She said the current recommendations are that the parcel be used for recreation for the foreseeable future to allow for these other recommendations to come into play and affordable housing considerations can be included in the planning process.
- j. J. Cadieux said the report includes quite a list of recommendations for the CLAPC to consider and not any recommendations for the KPB to act on.
 - i. M. Mueller said he had asked for the report to be toned down on it being Cooper Landing centric so the shared issues and tools related to affordable housing might be more broadly addressed and applicable for more KPB communities.

10. PLAT REVIEW - none

11. INFORMATION and ANNOUNCEMENTS

- a. Safe Trails proposals before AK Board of Game and request for support Lorraine Temple/Amy Brodersen.
 - i. PowerPoint presentation.
 - ii. L. Temple said mailers will arrive to Cooper Landing mailing addresses with information regarding how to comment.
 - iii. She said the group is seeking endorsement from the CLAPC for any or all of the Board of Game proposals by March 3, 2023.
 - 1. K. Recken asked for clarification regarding the mailers/ballots.
 - a. L. Temple confirmed they are being sent directly to the Board of Game.
 - 2. C. Degernes asked how this request for support differs from the request in December.
 - a. L. Temple said that the request for support in December was regarding the single proposal submitted by Alaska Wildlife Alliance. This request is for support for the multiple proposals submitted by Cooper Landing Safe Trails. The mail or online ballots have these as well as other proposals submitted by other organizations.
 - 3. H. Harrison asked about whether the maps are available publicly because the names and areas identified are different names than everyone might be familiar with.
 - a. L. Temple said that some are included with the mailer but she will work to make them more available.
 - 4. C. Degernes moves to write a letter of support for Proposals 149-154. L. Johnson seconds. All approve by roll call vote.
- b. Ready Set Go program from KPB (see media announcement)

- c. Commissioner training Feb 16th 5:30 p.m. in-person, via Zoom, or via recording for later consumption.
- d. March 8th CLAPC Special Meeting for Unit 395 Planning

12. COMMISSIONER'S COMMENTS – none.

13. ADJOURNMENT – L. Johnson moves to adjourn. H. Harrison seconds. All approve by roll call vote. 7:35pm

For more information or to submit comments please contact:

David Story, Secretary Treasurer or Janette Cadieux, Chair, P.O. Box 694, Cooper Landing, 99572 CooperLandingAPC@gmail.com

Hope/Sunrise Advisory Planning Commission
Regular Meeting Unapproved Minutes
7 PM: February 8, 2023
Meeting Only on Zoom

- A. The meeting was Called to Order by Jim Skogstad at 7:02 PM
- B. Members present were: Jim Skogstad, Flip Foldager, Peter Smith, Levi Hogan, Derrick Jabaay, Johnny Sorenson and Nancy Carver from Borough Planning.
- C. The agenda was approved with the addition of a borough request for Commission review of Carl and Emma Clark Estate #2 preliminary plat.
- D. The minutes of January 11, 2023 were approved as submitted.
- E. Ron Wilson and Robert Geller were present from the public via zoom to answer questions regarding Carl and Emma Clark Estate #2 plat. The Hope Advisory Planning Commission unanimously recommended approval of the subdivision.
- F. Unfinished business was a review of the survey questions.
 - Flip has looked at the survey results concerning: downtown parking, noise and bike path.
 - The results of the survey will be further itemized by the Borough IT Department.
 - There was a question concerning the inclusion of comments and it was decided that all comments should be included and made public.
- G. Announcements Nancy Carver is retiring in 4 months.
 - Jim suggested the commission complete the Hope plan by that time.
- H. The next meeting will be at 7 P.M. March 15. 2023.
- I. The meeting was adjourned at 7:47 P.M.

Any questions, please contact: Chair Jim Skogstad at 907-229-1430
Or email akskogstad@aol.com

MOOSE PASS ADVISORY PLANNING COMMISSION
REGULAR MEETING

Monica Adams, Jennifer Boyle, Kevin Dunham, Jeff Estes, Jeff Hetrick, Bruce Jaffa, David Pearson
Thursday, January 05, 2023 – 6:00 PM

Draft Meeting Notes

1. CALL TO ORDER: 6:15
2. ROLL CALL: Bruce Jaffa, Jen Boyle, Jeff Estes, Kevin Dunham, Monika Adam (zoom), David Pearson (zoom), Nancy Carver (zoom). Jeff Hetrick (at 6:34)
3. APPROVAL OF MINUTES OF PREVIOUS MEETING October 06, Meeting: Unanimous approval
4. APPROVAL OF AGENDA: motion to add FS bike trail application under new business Jeff Estes, Kevin 2nd. Unanimous approval of agenda as amended.
5. CORRESPONDENCE/ Report from the Chair
 - a. Base Camp LLC: Bruce spoke with the owners; one lives in Anchorage, the other in Seattle. Their vision is a “barn-topia for themselves. “Moose Pass is a great place for bear hunting”. They are very interested in supporting the community. They spent a lot of money on the road because they wanted the borough to take over maintenance/plowing. The barricades on the road should not be there. It is just the way Metco left it when they are finished. It will not be a commercial operation. The owner that lives in Seattle plans on being up here this summer and would like to attend a future MPC meeting.
 - b. DNR called to state that DOT had responded and permit for the Lawing gravel quarry is eminent. Notice is out. Deadline for public comments is Jan 12th.
 - c. Grant Lake KHL land permit: Notice is up at post office. Individuals can comment now.
 - d. Bruce called Brad Zubek at Homer electric. Asked him to engage with MPAPC about 1) update on Kenai Hydro. 2) Seward Electric sale to HEA. Will impact the portion of the community that is on Seward Electric. Probably the rest of the community as well. Their public information folks will be reaching out to us.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE:
-Steve Wilson: concerns on 35/45 mph speed zone areas. Can we expand the 35mph further south (to the top of the hill)? We must discuss this with DOT. Bruce will engage with DOT.
7. PRESENTATION: None
8. REPORT FROM THE BOROUGH
-Nancy Carver: -Borough attorneys are looking to do a presentation on Open meetings act. Tentatively on Feb 16th at 5:30.
- Nancy is retiring on May 1st. Hopefully we will have survey ready to go before then.
-Jeff mentioned Chugach Electric meeting is also on the 16th at 7:30.
-Nancy mentioned new APC being formed for Nikiski. Kachemack Bay APC went inactive.
9. OLD BUSINESS
 - a. Survey Final review
Borough IT will take our survey in the format that we have created it and will “make it work” to get it distributed. Can we keep it as a google form, so it can still process the data? Nancy will check with IT department tomorrow. The borough will be the one to distribute the survey.

We can still make hard copies available and have people drop them in “drop boxes”. Nancy can compile the hard copy information and return the hardcopies to us with people’s names redacted. Nancy can compile the results for us. Or we (the APC) can do it. For example: Nancy is doing it for Hope because they are a smaller community and they wanted to keep the results unanimous.

-Updates made to introduction, rearrangement of some questions... Updated version of the survey is here: <https://forms.gle/XAg1nzmMvCi9wSV27>

- Items to bring up for future discussion at public meetings: lack of tourism services (such as bathrooms, railroad stop). A question will be added to the survey to address these questions.

- Should Moose Pass pursue becoming a more independent entity (be it service district or second - class city). A question will be developed for this.

- There will be one more meeting to refine the questions.

****Aside**** Discussion about Community Assistance Program funding was in jeopardy. But it sounds like Moose Pass will still be receiving funding as per usual.

10. NEW BUSINESS

a. Motion to print and distribute Survey via KPB offices: Delayed until we finalize survey

b. Other methods of distribution: Delayed until we finalize survey.

c. FS application for TAP funding to build bike path from vicinity of RR trestle to Johnson Pass Trailhead:

Moose Pass/ Iditarod National Historic Trail Connector Segment

This project would make a connection from the Iditarod National Historic Trail (INHT) into the community of Moose Pass via a new pedestrian bridge over the Trail Lake narrows and extend the existing 1-mile bike path that heads north from downtown Moose Pass to nearby trailheads. This work could potentially be done concurrently with AK DOT’s Seward Highway MP 25.5 to 36 Rehabilitation Project, which already has realignment and rehabilitation of the existing 1-mile bike path within scope. Including the proposed bike path extension in this highway project could realize project efficiencies while serving community goals. A pedestrian bridge would be constructed over Trail Lake as it narrows behind downtown Moose Pass, adjacent to the Alaska Railroad trestle. This would provide a dedicated pedestrian link for INHT users into Moose Pass, allowing the community to serve as a proper access point for this important trail. Extending the current 1-mile bike path an additional 2.5 miles to the Johnson Pass TH would route INHT “thru-hikers” (and users of the proposed Alaska Long Trail) through the community of Moose Pass, offering a resupply point and economic benefits for the community. This would also expedite finishing these ambitious projects, as the alternative connection through the area would require a much longer and more complex build on the far side of the lake, bypassing the community altogether.

Jeff Hetrick motion to approve chair to write letter in support of this project. David Pearson 2nd. Unanimous approval to write a letter in support. Letter is due to the Forest Service by February 1st, 2023.

11. ANNOUNCEMENTS: Jen Boyle asked about budget proposal. We are getting \$1000 dollars from borough. If we need to seek addition funding for rent we need to request that on top of the \$1000, PO boxes, etc. The borough will not pay for equipment. Budget would need to be submitted ASAP.

The APC determined that we will also need an additional \$900 dollars to cover rent and utilities for use of the community center. Total budget request will be \$1900.00

12. NEXT MEETING: February 9th, 2023, 6 pm

13. COMMISSIONERS’ COMMENTS:

Kevin Dunham: Words in support of library

Jen Boyle: Exited to support extension of the bike path

David Pearson: Would have been there in person, but feeling sick

Bruce Jaffa: Thanks to the commissioners for attending and their good work. Praise for Cindy Eklund and her

support of the community
No other comments.

14. ADJOURNMENT: Bruce 1st, Jeff Hetrick 2nd. Unanimous approval. Adjourned at 8:27 pm.

pt/planning-commissions/moose-pass-apc

Participants may join By ZOOM or phone:

<https://us06web.zoom.us/j/5787372110>

To Attend the Zoom meeting by telephone,
call toll-free **888 788 0099** or **877 853 5247**
Meeting ID: 578 737 2110