



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Blair Martin, Chair – Kalifornsky Beach
Robert Ruffner, Vice Chair – Kasilof/Clam Gulch
Syverine Abrahamson-Bentz, Parliamentarian – Anchor Point/Ninilchik
Jeremy Brantley – Sterling
Paulette Bokenko-Carluccio – City of Seldovia
Cindy Ecklund – City of Seward
Pamela Gillham – Ridgeway
Davin Chesser – Northwest Borough
Diane Fikes – City of Kenai
Virginia Morgan – East Peninsula
Franco Venuti – City of Homer

Monday, May 24, 2021

7:30 PM

Betty J. Glick Assembly Chambers

Zoom ID 208 425 9541

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.

[KPB-3129](#) April 26, 2021 Planning Commission Meeting

Attachments: [Draft PC Minutes 04-26-21](#)

[KPB-3170](#) Seashore Bluffs: KPB File 2017-043R1

Attachments: [Seashore Bluffs KPB 2017-043R1](#)

[KPB-3171](#) Inqlima Tract 2019 Replat; KPB File 2019-139

Attachments: [Inqlima Tracts 2019 Replat KPB 2019-139](#)

[KPB-3172](#) Marion Subdivision 2021 Replat; KPB File 2021-038

Attachments: [Marion Subdivision 2021 Replat KPB 2021-038](#)

[KPB-3173](#) May 10, 2021 Planning Commission Meeting

Attachments: [PC Minutes051021 Draft](#)

1. Time Extension Request
2. Planning Commission Resolutions
3. Plats Granted Administrative Approval

[KPB-3170](#) Seashore Bluffs: KPB File 2017-043R1

Attachments: [Seashore Bluffs KPB 2017-043R1](#)

[KPB-3171](#) Inqlima Tract 2019 Replat; KPB File 2019-139

Attachments: [Inqlima Tracts 2019 Replat KPB 2019-139](#)

4. Plats Granted Final Approval (KPB 20.10.040)

[KPB-3172](#) Marion Subdivision 2021 Replat; KPB File 2021-038

Attachments: [Marion Subdivision 2021 Replat KPB 2021-038](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

[KPB-3129](#) April 26, 2021 Planning Commission Meeting

Attachments: [Draft PC Minutes 04-26-21](#)

[KPB-3173](#) May 10, 2021 Planning Commission Meeting

Attachments: [PC Minutes051021 Draft](#)

[KPB-3174](#) May 10, 2021 Plat Committee Meeting

Attachments: [Plat Minutes 051021 Draft](#)

D. OLD BUSINESS

E. NEW BUSINESS

- [KPB-3175](#) Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 23, 36, 37;
KPB File: 2021-057
Geovera, LLC / Martin, Carter, Harris & Ferraro
Location: On Nelson Ave.
City of Homer

Attachments: [Map Vicinity](#)
[Map Aerial](#)
[Plat Prelim KPB 2021-057](#)
[Staff Report Barnett's South Slope Subdivision Quiet Creek Park Replat Lots 35](#)
[Map Contour](#)
[Map Zoning](#)
[Plat Parent HM 2018-40](#)

2. [KPB-3176](#) Barnett's South Slope Subdivision Quiet Creek Part Lot 38
KPB File: 2021-058
Geovera, LLC / Echo Trading Company, LLC & Drake
City of Homer

Attachments:

[Map Vicinity](#)

[Map Aerial](#)

[Plat Prelim KPB 2021-058](#)

[Staff Report Barnett's South Slope Subdivision Quiet Creek Park Lot 38 Replat](#)

[Map Contour](#)

[Map Wetlands](#)

[Map Zoning](#)

[Plat Parent HM 2020-046](#)

[Plat Parent HM 2018-40](#)

3. [KPB-3177](#) Poage Subdivision Chaloux Replat
KPB File 2021-059
Segesser Surveys / Chaloux
Location: On Robert Ave.
Funny River Area

Attachments:

[Map Vicinity](#)

[Map Aerial](#)

[Plat Prelim KPB 2021-059](#)

[Staff Report Poage Subdivision Chaloux Replat](#)

[Map Contour](#)

[Plat Parent KN 86-52](#)

4. [KPB-3178](#) Don's Place Subdivision Heazlett Replat
KPB File: 2021-060
Segesser Surveys / Haezlett
Location: On Eagle Ave.
Nikiski Area
- Attachments:* [Map Vicinity](#)
[Map Aerial](#)
[Plat Prelim KPB 2021-060](#)
[Staff Report Don's Place Sub Heazlett Replat](#)
[Map Contour](#)
[Map Wetlands Assessment](#)
[Map National Wetland](#)
[Plat Parent KN 83-44](#)
5. [KPB-3179](#) Bos'N Landing 2021 Replat
KPB File 2021-062
McLane Consulting Group / Edward N. Krohn Estate
Location: Off Lou Morgan Rd., On Starboard Beam Cir. & Focsle Cir.
Sterling Area
- Attachments:* [Map Vicinity](#)
[Map Aerial](#)
[Plat Prelim 2021-062](#)
[Staff Report Bos N Landing 2021 Replat](#)
[Map Contours](#)
[Map Wetlands](#)
[Plat Parent KN 2002-104](#)
[Plat Parent KN 87-84](#)
[Plat Parent KN 77-148](#)
[Plat Parent KN 76-129](#)

6. [KPB-3180](#) River Quest 2021 Replat
KPB File: 2021-061
McLane Consulting Group / Schalkle, Crosswhite & Wilkie
Location: On Davison Ave.
Kalifornsky Area

Attachments: [Map Vicinity](#)
[Map Aerial](#)
[Plat Prelim 2021-061](#)
[Staff Report River Quest 2021 Replat](#)
[Map Aerial Imagery 2](#)
[Map KWF Wetland Mapping](#)
[Map Anadromous Waters HPD](#)
[Imagery - Street View](#)
[Plat Parent KN 2004-111](#)
[KPB PC Minutes 12082003](#)
[Declaration River Quest Subdivision](#)

7. [KPB-3182](#) Modification of CLUP For Material Extraction
Applicant: River Resources, LLC
PC Resolution 2021-10
Location 34386 Patson Rd.
Funny River Area

Attachments: [Packet Material 041221](#)
[PC Minutes 041221](#)

F. PLAT COMMITTEE REPORT

G. OTHER

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**

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, [INSERT DATE] 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.

ADVISORY PLANNING COMMISSION MEETINGS

Anchor Point -- Zoom -- February 4, 2021-- 7:00 p.m.
Cooper Landing -- Zoom -- February 4, 2021-- 6:00 p.m.
Funny River -- Zoom -- February 4, 2021-- 7:00 p.m.
Kalifornsky -- Zoom -- February 4, 2021-- 6:00 p.m.
Kachemak Bay -- Zoom -- February 4, 2021-- 7:00 p.m.
Moose Pass -- TBD
Hope / Sunrise -- Zoom -- February 4, 2021-- 7:00 p.m.

NOTE: Advisory planning commission meetings are subject to change. Please verify the meeting date, location, and time with the advisory planning commission chairperson. Chairperson contact information is on each advisory planning commission website. Links to the websites can be found on the Planning Department website.

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.

Kenai Peninsula Borough Planning Commission

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

April 26, 2021
7:30 P.M.

UNAPPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

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

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

Staff Present

- Melanie Aeschliman, Planning Director
- Sean Kelly, Borough Attorney
- Scott Huff, Platting Manager
- Bryan Taylor, Planner
- Samantha Lopez, River Center Manager
- Ann Shirnberg, Administrative Assistant
- Julie Hindman, Platting Specialist

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Echo Section Line Easement Vacation Plat Associated With US Survey #14477
KPB File 2019-138
 - b. WhistleBait Estates Addition No. 1; KPB File 2020-143
- *7 Minutes
 - a. April 12, 2021 Planning Commission Meeting

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

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

MOTION PASSED: Hearing no discussion or objection, the motion was carried by the following vote.

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E. PUBLIC HEARINGS

1. Vacate a portion of Hough Road, a 60 foot right of way including adjoining utility easements, as dedicated on Stream Hill Park Unit 1, Plat HM 2006-54 and Christensen Tracts No. 3, Plat HM 2003-90. The portion of right-of-way being vacated is unconstructed and located within the W1/2 NE 1/4, Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPBB File 2021-046V

Staff report given by Scott Huff.

Petitioners: C. Michael Hough and Shila A. Hough of Homer, Alaska.

Purpose as stated in petition: The existing road was not constructed within the existing ROW. The ROW is being re-aligned so that it is centered on the existing road. Only a portion of the existing ROW is being vacated, along with the adjoining 15 foot utility easements. New 15 foot utility easements are being dedicated adjoining both sides of the re-aligned ROW. No utilities are currently within the existing utility easements.

Notification: Public notice appeared in the April 15, 2021 issue of the Homer News as a separate ad. The public hearing notice was published in the April 22, 2021 issue of the Homer News as part of the Commission's tentative agenda.

Fifteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Four receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to twenty-eight owners within 600 feet of the proposed vacation.

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

State of Alaska Dept. of Fish & Game	Kenai Peninsula Borough Office, Homer
State of Alaska Dept. of Natural Resources (DNR)	Ninilchik Traditional Council
State of Alaska Dept. of Transportation	Alaska Communication Systems (ACS)
State of Alaska DNR Forestry	ENSTAR Natural Gas
City of Homer	General Communications Inc. (GCI)
Emergency Service of Homer	Homer Electric Association (HEA)

Public hearing notices were made available to seven KPBB staff/Departments (Addressing, Code Compliance, Planner, Roads Dept., Assessing, River Center, State Parks) via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: Comments not received at the time the staff report was prepared.

ENSTAR: Comments not received at the time the staff report was prepared.

Homer Electric Association: Reviewed the vacation and had no comments.

KPB Addressing: Affected address will need to be reviewed by the City of Homer.

KPB Assessing: No comments.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within the City of Homer, no comments.

KPB Roads Department: Outside jurisdiction, no comments.

City of Homer Planning Commission: On April 29, 2020 the Homer Planning Commission granted a time extension for the plat that will finalize the right of way vacation, granting a two year time extension.

State Parks: No comments.

Staff Discussion: The proposed vacation is to remedy the alignment issues of Hough Road, a 60 foot right of way. The proposal is to vacate approximately a half with of Hough Road for 390 feet including the adjoining 15 foot utility easements. If approved, a dedication of additional right of way atop the constructed road, including 15 foot utility easements along each side of the new dedication, will be completed by recording a new plat.

The original access is depicted on Christensen Tracts Amended, HM 89-3 as a 50 foot private access easement (HRD Book 185 Page 349). The access easement was also shown on plat Christensen Tracts No. 4, HM 2006-44.

Christensen Tract No. 3, HM 2003-90, dedicated the eastern 30 foot of Hough Road right of way. Stream Hill Park Unit 1, HM 2006-54, dedicated the western 30 feet of Hough Road right of way.

Vacation of the dedicated right of way will not remove the private access easement. If they owners wish to remove the private access easement it will need to be done by separate documents and recorded with the Homer Recording District. If this is completed prior to the recording of the plat, add a plat note with the recording information that terminated the private access easement.

This vacation and the associated plat were originally heard under KPB old code in 2010. The KPB Planning Commission heard the vacation on April 12, 2010. The Planning Commission approved the vacation by unanimous consent. The Homer City Council upheld the Planning Commission decision at their April 26, 2010 meeting. The plat finalizing the vacation was not recorded within one year.

The KPB Plat Committee approved the preliminary plat on April 12, 2010. Various time extensions have been granted for the preliminary plat. The last time extension was granted in 2020, with the consent of the City of Homer Planning Commission. The time extension was granted through June 8, 2022, subject to the plat being recorded prior to April 13, 2021 to be reviewed under old code. The original surveyor retired and a new surveyor has been hired.

Due to design changes, and the requirement to comply with current subdivision standards, the plat will be brought back before the Plat Committee to receive new approval including any exceptions requests.

If approved, plat Christensen Tract 2021 Addition will finalize the proposed right of way vacations. At the time the staff report was prepared a complete submittal has not been received for the plat. Once all required items are received, the plat will be scheduled to be heard by the Plat Committee.

KPB 20.70 – Vacation Requirements.

Platting staff comments: Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:

- C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

Platting Staff Comments: The road is constructed within the proposed right of way dedication. The terrain in the area slopes downward to the south. The right of way has been constructed in manner that it follows the contours and avoids steep slopes. If the City of Homer feels additional width is required they may request additional information.

- D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: Staff did not require submittal of new approval. Homer Planning and Zoning and the City Council had previously heard this vacation. The Homer Planning Commission approved a time extension for the plat showing the vacation and dedication on April 29, 2020.

Staff recommendation: *The Planning Commission decision will be sent to the City Council for the ability to veto the decision. The City will also be required to sign the final plat to accept the new right of way dedication.*

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, 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 in KPB 20.70.110.

Platting Staff Comments: A plat will be required to complete the right of way vacation and right of way dedication.

Staff recommendation: *Comply with 20.70.130.*

20.70.150. Title to vacated area.

- A. The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

Platting Staff Comments: The proposed area being vacated will be attached to current Tract 1 of Christensen Tracts No. 4, which is proposed to be subdivided by the same plat finalizing the vacation.

Staff recommendation: *Comply with 20.70.150.*

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The vacation is a partial vacation that will coincide with a right of way dedication. The final right of way will be 60 feet in width and comply with KPB code.

Staff recommendation: *Complies with 20.70.160.*

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The proposed vacation will be recorded on a plat that grants a new portion of the existing constructed right of way. A dedicated right of way will encompass the existing travel way and

vehicular access will not be impacted.

Staff recommendation: *Complies with 20.70.170.*

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public 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 public utility easement be granted in place of the right-of-way.

Platting Staff Comments: There are no utilities within the current utility easements running along the portion of Hough Road being vacated. The subdivision plat will grant new 15 foot utility easements along both side of the new Hough Road dedication.

Staff recommendation: *Grant any additional easements requested by the utility companies.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends APPROVAL of the vacations as petitioned, subject to:

1. Consent by Homer City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Homer City Council and 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 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer 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 by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Venuti to approve the vacation as petition based means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough cod.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. **NEW BUSINESS**

2. A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 57 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 proposes permanent repairs that would include the placement of riprap on top of the existing riprap to stabilize the armament at MP 57 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

KPB Planning Commission Resolution 2021-14

Staff report given by Nancy Carver.

Applicant: Alaska Department of Transportation and Public Facilities (ADOT&PF)
Sean Holland, P.E.
4111 Aviation Avenue
Anchorage, AK 99516-6900

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

Legal Description: T 05N, R 05W, Section 35, Seward Meridian

KPB Parcel Number: 025-180-03

Background Information

The project is part of the Sterling Highway MP 45-60 project, which includes permanent repairs that include placement of riprap on top of the existing riprap to stabilize the armament. Fill material, top soil, seed, and willow stakes will be used to enhance the bank stabilization and provide a more natural appearance over time. Substantial erosion occurred on the north bank of the Kenai River during the September 2012 flood event and prompted emergency repairs in 2014 that included the placement of approximately 9,100 cubic yards of riprap adjacent to the Kenai River. The work was approved by Resolution 2014-14, at the July 14, 2014 Planning Commission Meeting.

The purpose of the project is to place approximately 1,140 cubic yards of Class III riprap onto the existing riprap to stabilize and strengthen the embankment against further erosion, protecting the Sterling Highway road embankment at MP 57. ADOT&PF proposed to place 4-inches of topsoil, fill material, mulch, compost socks, seeding, and willow stakes to enhance bank stabilization and appear more natural than its current state. Fencing will be constructed to inhibit access to the river near the project that would damage efforts to revegetate the slopes.

Clearing of vegetation throughout the project 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 45-60 project (Permit #12663), which was approved by Resolution 2020-23 at the August 24, 2020 Planning Commission Meeting.

Project Details within the 50-foot Habitat Protection District

1. Placement of riprap (1,140 CY Class III), and fill material (790 tons Type C) on top of existing riprap.
2. Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
3. Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
4. 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.
5. Placement of fence to inhibit access to the river to avoid damage to revegetated slopes.

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. Placement of riprap (1,140 CY Class III), and fill material (790 tons Type C) on top of existing riprap.
4. Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
5. Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
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. Placement of fence to inhibit access to the river to avoid damage to revegetated slopes.
8. 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.
9. 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.
10. 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.
11. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
12. 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.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
14. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
15. 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 4** – Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
 - **Finding 5** – Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

- **Finding 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.
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 8** – 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 11** – The River Center found the application complete and scheduled a public hearing for April 26, 2021.
 - **Finding 12** – 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 13** – Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021
 - **Finding 14** – 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 10** – 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.
 4. ***The proposed use or structure is water-dependent;***
 - **Finding 9** – 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 15** – The applicant is currently in compliance with Borough permits and ordinances.

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)).

Attachments

Multi-agency application
Draft Resolution

Staff 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 some of the 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 2021-14.

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

END OF STAFF REPORT

Chair Martin opened the item for public comment.

Sean Holland, DOT & PF; P.O. Box 196900, Anchorage, AK 99519: Mr. Holland is the engineer on this project and made himself available for questions.

Commissioner Ecklund asked Mr. Holland if this project gave consideration on moving this section of the highway further north, further away from the river. Mr. Holland replied the plans are to widen this section of highway to bring it up to current standards. The will be widening the lanes to a full 12 feet as well as adding 4-foot shoulders on both sides. He noted that this section of highway is hemmed, with the mountains to the north and by the river to the south. The plan is to hold and reinforce the south edge of the highway and then widen the north side of the highway to the north.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Venuti to approve PC Resolution 2021-14, issuing a conditional use permit to the Alaska Department of Transportation & Public Facilities.

Commissioner Morgan asked staff if this item had gone before the Cooper Landing APC. She did not see any minutes from their meeting in the packet and wondered if they had any comments on this project. Mr. Taylor responded that the APC had been briefed by the DOT on both of these projects. He was not aware if the APC had submitted any comments on these briefings. If comments had been submitted they would have been included in the meeting packet.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA E. NEW BUSINESS

3. 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.

KPB Planning Commission 2021-15

Staff report given by Nancy Carver.

Applicant: Alaska Department of Transportation and Public Facilities (ADOT&PF)
 Sean Holland, P.E.
 4111 Aviation Avenue
 Anchorage, AK 99516-6900

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

Legal Description: T 05N, R 05W, Section 35, Seward Meridian

KPB Parcel Number: 025-180-03

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 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.

Clearing of vegetation throughout the project 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 45-60 project (Permit #12663), which was approved by Resolution 2020-23 at the August 24, 2020 Planning Commission Meeting.

Project Details within the 50-foot Habitat Protection District

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 1,420 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.
8. Approximately 2,760 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

16. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
17. Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
18. 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.
19. 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.
20. Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
21. 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.
22. 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.
23. 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.
24. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
25. 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.
26. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
27. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
28. 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.

6. ***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.

7. ***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.

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

- **Finding 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 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.

10. ***Applicant's or owner's compliance with other borough permits and ordinance requirements.***

- **Finding 14** – The applicant is currently in compliance with Borough permits and ordinances.

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)).

Attachments

Multi-agency application
Draft Resolution

Staff 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 some of the 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 2021-15.

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

END OF STAFF REPORT

Chair Martin opened the item for public comment.

Sean Holland, DOT & PF; P.O. Box 196900, Anchorage, AK 99519: Mr. Holland is the engineer on this project and made himself available for questions. Mr. Holland noted that this project will be approximately 1000 feet and will stay above the ordinary high water mark. Currently DOT is not proposing to add any additional riprap but will rely on a fiber matrix to reinforce and tie up the soil in the area.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Morgan to approve PC Resolution 2021-15, issuing a conditional use permit to the Alaska Department of Transportation & Public Facilities.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 4. Ordinance 2021-17: An Ordinance amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

Staff report given by Samantha Lopez.

Since 1988, the borough has participated in the National Flood Insurance Program (NFIP), making federal disaster assistance, federal hazard mitigation grants, federal subsidized mortgages, and individual homeowner insurance available within the borough. The Federal Emergency Management Agency (FEMA) oversees the NFIP and provides participating communities with the minimum regulations and regulatory flood maps for each community to enforce.

The borough established the Seward Mapped Flood Data Area (SMFDA) in 2009 to regulate areas of known riverine and alluvial flood hazards outside the FEMA regulatory maps. The SMFDA was scheduled to sunset when FEMA provided an updated flood insurance study with new regulatory flood maps for the service area. In 2013, FEMA mapped some of the service area, but not many areas of known flood hazard, so the SMFDA was kept as a minimum regulatory tool to continue to protect residents against flood hazards.

The SMFDA was designed to be a short-term regulatory tool, and was based on anecdotal flooding evidence from three floods of record in 1986, 1995, and 2006. In 2020, the SBCFSA contracted with Alaska Water Resources Engineering to create hydraulic and hydrologic models for three neighborhoods in the SMFDA, providing flood hazard boundaries and flood depths for the 100-year flood event. These additional data provide the flood protection elevation necessary to regulate development within the SMFDA to the minimum NFIP standards.

This ordinance will integrate development within the SMFDA into the same minimum NFIP standards as the FEMA flood hazard areas. The ordinance will also clarify and define the different flood protection elevation standards based on minimum NFIP regulations.

At its April 5, 2021 regular meeting, the SBCFSA Board of Directors recommended approval of this ordinance.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Gillham to forward to the assembly a recommendation to approve Ordinance 2021-17: Amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 5. Resolution 2021-12: Recommending Adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as Part of the Kenai Peninsula Borough Hazard Mitigation Plan.

Staff report given by Bryan Taylor.

The KPB is part of a multi-jurisdictional team that works to keep the hazard mitigation plans of several communities within the borough up-to-date. The City of Soldotna has recently completed an update to its All Hazard Mitigation Plan and is requesting that the Kenai Peninsula Borough adopt the updated plan. Keeping this plan updated is required in order to be eligible for certain types of non-emergency disaster funding, including funding for mitigation projects.

Adopting the city’s updated plan furthers goals outlined within the borough’s 2019 Comprehensive Plan to maintain preparedness to respond and recover from natural and human-caused emergencies among the borough’s communities.

END OF STAFF REPORT

Chair Martin opened the item for public comment.

John Czarnezki, Director of Economic Development & Planning - City of Soldotna; 177 N. Birch St., Soldotna AK 99669: Mr. Czarnezki made himself available for questions. He noted the most of the modifications to the plan were minor. They updated some data and modified some action items that had been accomplished. He stated that all the major goals of the plan remain pretty much the same.

Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Brantley to approve PC Resolution 2021-12, recommending adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as part of the Kenai Peninsula Borough Hazard Mitigation Plan.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 6. Resolution 2021-13, Establishing the Appeal Procedure for Appeals of the Planning Director’s Decision on Reconsideration to Uphold a Prior Decision Approving a Nonconforming Use Application within C&H Estates LOZD

Staff report given by Sean Kelley.

Three appeals have been filed appealing the KPB Planning Director’s Decision to uphold, on reconsideration, the decision issued April 7, 2020 by KPB Planning Director Max Best to approve a nonconforming use application for a bed and breakfast and event center that was requested for KPB parcel #174-410-26; Lot 26, C&H Estates, according to Plat 80-23, Homer Recording District. Borough code does not provide an appeal procedure for appeals of staff decisions.

This resolution would establish a procedure for the parties and planning commission to follow for these three consolidated appeals (this “appeal”).

Mr. Kelley noted he has advised the Planning Director on this matter and will be representing the Administration/Planning Director during this appeal. Therefore, to avoid any actual or perceived conflicts of interest and ethical concerns, he will not be able to provide procedural or substantive advice to the Planning Commission regarding this appeal. If the Planning Commission desires legal advice during this appeal, that request should be made by the commission prior to the appeal hearing in order to allow time to timely accommodate such a request.

This resolution provides a possible procedure for this appeal. Interested parties may submit their own proposed procedure and/or propose alternatives to the procedure proposed by this resolution.

Mr. Kelley noted that the applicant's lawyers Molloy Schmidt sent in a comment on the proposed hearing procedures and noted that the resolution does not set a deadline for written statements and comments. Mr. Kelley encouraged the commission to consider this request.

END OF STAFF REPORT

Commissioner Fikes asked Mr. Kelley if the date for the hearing had been set. Mr. Kelley replied a notice was sent out with the proposed dated of May 24, 2021 with a start time of 6:30 pm. Mr. Kelley suggested bumping the Plat Committee to an earlier start time and conduct the hearing between the plat committee and planning commission meetings. He then noted in the resolution the hearing date and time was left blank to allow the commission to discuss what day and time would work best.

Mr. Kelley informed the commission that there was a fourth appellant associated with this appeal, Don Pitcher, which was not identified in resolution. Mr. Kelley recommended amending the resolution adding him to the list of appellants.

Commissioner Ecklund asked Mr. Kelley if she was correct in understanding that code does not address hearing process for appeals of Planning Director decisions. Mr. Kelley replied she was correct and noted staff have realized code does not address the hearing procedure of any kind of staff decision. KPB 21.20 only addresses the appeal process of Planning Commission decisions. The resolution before the commission tonight will set a process for this specific appeal. Staff will need work on a change to code that will address the appeal process of staff decisions. Commissioner Ecklund then asked Mr. Kelley if the process laid out in the resolution before them follows along the lines of the established appeal process for Planning Commission decisions. Mr. Kelley replied KPB 21.20 was used for guidance. This appeal situation is unique in that there are four appellants and Planning Director is technically the respondent; there is also the applicant who has due process interests at stake in the matter as well. Another difference is KPB 21.20 appeals are on the record and the parties may submit no new evidence unless there is good cause. Because there is nothing in code that states decisions made by the planning director are on the record, the commission may want to address if new evidence will be allowed. Chair Martin then opened the item for public comment.

Kristine Schmidt, Molloy Schmidt LLC, 110 South Willow Street, Suite 101, Kenai AK.: Ms. Schmidt represents the applicants, TLR Adventures LLC, in this matter. She referred the commission to the letter dated 4/14/21 sent from her office to the planning commission requesting some amendments to the resolution being considered. Their main concern is that they receive the same amount of time to present their case as the appellants. There are four appellants and together they will be allotted 40 minutes and the applicant has only been allotted 10 minutes. They believe the applicant should receive equal time, allowing them either 10 minutes to respond after each appellant or 40 minutes after all the appellants have spoken. They would also like a hard deadline for the submittal of written statements and comments. They would suggest 10 days before the appeal hearing date for comments and materials and 7 days before the appeal hearing date to respond to the comments and materials. They also believe the Planning Commission should not accept any late submissions.

Ron Schmitt, P.O. Box 2052, N. Mankato, MN 56002: Mr. Schmitt is the general manager for TLR Adventures. He noted their legal counsel, Ms. Schmidt, had brought up most of their concerns in her letter to the commission. He stated this whole matter has been going on for a very long time. TLR Adventures purchased this property 2016. They spent over \$300,000 to renovate the property. They have met all KPB Borough code and State of Alaska requirements. They are the only B&B on the Kenai Peninsula that meets all the State of Alaska fire marshal codes. They have been involved in a tremendous process over the last 2 years trying to maintain their business and work with the neighbors. They submitted their appeal to the planning department of the denial of their non-conforming use in February or March of 2020. He has been involved in this appeal process for 14 months now and he believes the landowner's property rights have been tremendously violated during that time. He would ask that the commission resolve this issue and do

so quickly.

Craig Cutler, 40130 Portlock Drive, Homer AK, 99603: Mr. Cutler is a homeowner in the C&H local option zone and is one of the appellants. Mr. Cutler noted he had sent a letter to the Planning Commission stating that he was not opposed to the hearing process as laid out in the resolution.

Scott Meyer, 40210 Alpenglow Circle, Homer, AK 99603: Mr. Meyer is a homeowner in the C&H local option zone and is one of the appellants. Mr. Myer stated he had reviewed the resolution and has no objection to it. He also reviewed the proposed amendments in the Molloy Schmidt letter and he is fine with suggestions to the speaking order and establishing deadline for submitting comments and materials. He does not support awarding the applicant the same amount of time to speak as the combined time of the appellants; whether it be 10 minutes after each appellant or 40 minutes at one time. The hearing process established in this resolution could be used as a precedent for future hearings. He noted that in the future what if appeals have eight or nine appellants, the applicant could have an hour and a half to present their case. This would make for long hearings. For matters in their subdivision, each landowner gets one vote per lot, which he believes is fair and equitable. The applicant should be allotted 10 minutes, the same as each appellant.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MAIN MOTION: Commissioner Carluccio moved, seconded by Commissioner Ecklund to approve PC Resolution 2021-13, establishing the appeal procedure for appeals of the Planning Director’s decision on reconsideration to uphold a prior decision approving a nonconforming use application within C&H Estates LOZD.

Commissioner Fikes asked Mr. Kelley if code allows for the appeal of a director’s decision. Mr. Kelley stated that code does allow the applicant or LOZ residents to appeal the director’s decision. What is missing in code is the hearing procedures for those appeals.

Commissioner Venuti noted that Mr. Kelley would be representing the Planning Director and Molloy Schmidt will be representing the applicant and he believed that the commission should have a lawyer advising them. Since Mr. Kelley will not be available, he wanted to know who would be providing counsel for the commission. Mr. Kelley replied he would speak to Borough Attorney Thompson regarding this matter. Since none of the other lawyers in his office have been involved with this matter one of them could provide counsel. There is also the option for the commission to obtain outside counsel should the need arise.

Commissioner Brantley noted the director’s decision was issued in April of 2020 and asked when the requests for appeal received were. Mr. Taylor replied the notice sent to the landowners with the most recent director’s decision was mailed out March of this year, which opened the most recent appeal period. Mr. Kelley then noted this matter has a somewhat tortured history, which makes things confusing. He informed the commission the history related to this matter would be reviewed at the hearing. Mr. Kelley then informed the commission that the appellants met the appeal deadline on this matter.

AMENDMENT A: Commissioner Carluccio moved, seconded by Commissioner Ecklund to add Don Pitcher as the fourth appellant in the consolidated appeal and has a 10-minute opening presentation.

AMENDMENT A MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT B: Commissioner Ecklund moved, seconded by Commissioner Gillham to set the hearing date and time for the hearing to May 24, 2021 at 6:30 P.M.

AMENDMENT B MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT C: Commissioner Ecklund moved, seconded by Commissioner Brantley to set the deadline for the submission written statements, documents as laid out in code for Planning Commission & Assembly appeals.

Mr. Kelley suggested the commission make a motion to amend Section 5 of the resolution establishing a date certain. He noted the appeal process established under KPB 21.20 relates to appeals that are on the record, which allows for opening statements and preparation of the record, but not the submission of new evidence. He did not believe that this section of code is a good reference for this matter. This particular appeal is not on the record. Commissioner Ecklund then stated she would follow the recommendation in the Molloy Schmidt letter regarding submission timeframes, since the appellants who spoke tonight stated they had no issues with their recommendations.

As the maker of the motion, Commissioner Ecklund amended the motion and Commission Brantley as the second agreed, to the following:

AMENDMENT MOTION C1: Written statements and comments should be received no later than 10 days before the hearing date for appellant/applicant/interested parties and 7 days before the appeal hearing date for comments for the appellants/applicant/interested parties to respond to the comments.

Commissioner Bentz noted that in her experience with the back and forth of comments in appeals, she wondered if the commission could just have the 10 day period to submit statements and comments and not the 7 day period to respond to the statement and comments. They could use their rebuttal time at the hearing to respond to comments. Also what would the other commissioners think about allowing the applicant as well the appellants the opportunity for rebuttal at the hearing.

Commissioner Ecklund stated that after rereading the Molloy Schmidt recommendation again she feels the same way as Commissioner Bentz. She would agree that the 7-day response period could be dropped and the appellants/applicant can make the rebuttals at the hearing.

As the maker of the motion, Commissioner Ecklund amended the motion and Commission Brantley as the second agreed, to the following:

AMENDMENT MOTION C2: Amend Section 5 of the resolution to require written statements and comments from the appellants/applicant/interested parties be received no later than 10 days before the date of the hearing and late submissions will not be accept.

AMENDMENT MOTION C2 PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Commissioner Carluccio asked that the commission discuss the length of time allotted to applicant for his opening presentation. While she does not agree with the Molloy Schmidt proposal, she does think perhaps he should be given more time for his opening presentation. She noted as an example, the public hearing process in place allows the applicant to have more time than the other public testifiers.

Commissioner Ecklund agreed with Commissioner Carluccio and suggested that perhaps each appellant be given 5 minutes for his or her opening presentation and the applicant be given 20 minutes. She then

noted that in this case she is not exactly sure how to set the times for the presentations and asked other commissioners to weigh in.

Commissioner Bentz proposed having the applicant go first with a 10-minute presentation. The planning director could go second with a 10-minute presentation, since it is her decision that is being appealed. The appellants could go after the director with each one having a 10 minutes presentation. She believe that having the applicant and staff go first, with each having 10 minutes, would make the time allotment a little more equitable..

Commissioner Carluccio noted that if the commission adds more minutes for the presentations the hearing will go longer than the hour allotted for the hearing. It also does not allow anytime for questions.

Commissioner Ecklund agreed with Commissioner Carluccio and said that perhaps the meeting start time should be moved to 6:00 pm. She then noted that adding time to the Planning Director's presentation would put the opening presentation time right at an hour.

Commissioner Brantley noted Section 2, #7 allows for interested parties 3-minutes per person to comment. If there are many "other interested parties" that will put the hearing over the 1-hour allotted time.

Commissioner Bentz noted that with moving the hearing start time to 6:00 pm there will still not be enough time for the hearing. She thought it would be best to set hearing procedure first and then go back and adjust the start time if needed.

Commissioner Ecklund noted since the resolution states that the planning director & borough attorney get a 7-minute opening presentation, why not limit the applicant and appellants to the same 7-minute presentation.

Commissioner Brantley liked Commissioner Ecklund's idea of limiting opening presentations to 7 minutes for all parties. He also suggested removing item #7 from Section 2 of the resolution and not allow other interested parties time to comment.

AMENDMENT D: Commissioner Brantley moved, seconded by Commissioner Carluccio to remove item #7 from Section 2, allowing other interested parties 3 minutes each to comment, from the resolution.

Commissioner Ecklund asked staff if this was appropriate, since other interested parties are allowed to speak at other types of public hearings. Mr. Taylor replied it appeared the commission was attempting to identify which parties have standing in this matter. Determining who has standing will provide direction with decisions such as to who gets a copy of the appeal packet before the hearing. Commissioner Ecklund then asked if other interested parties were allow to speak at appeal hearings with the Assembly or with a Hearing Officer. Mr. Taylor replied KPB 21.20 provides guidance as to who has standing in those types of appeals. Since code does not address the hearing process for the appeal of a director's decision, the commission will need to determine who has standing in this matter. Commissioner Ecklund replied that she understands that this is a different type of an appeal, but noted that code does layout procedures for other types of appeals. She wondered if the commission should use those procedures as guidance in making this determination. Mr. Kelley stated that KPB 21.20 does lay out the process for the appeal of a Planning Commission's decision and states that a party would have to file an entry of an appearance. If a party does not enter an appearance, they would not have standing. Commissioner Ecklund then stated for this hearing they could determine that those who have standing are the one who filed an appeal and in that case, she agrees that #7 of Section 2 be removed.

Commissioner Ecklund proposed allotting the planning director/borough attorney, the applicant and all four appellants a 7-minute opening presentation, which will put the opening presentation time at 42 minutes. Allowing each appellant a 3-minute rebuttal will add another 12 minutes. Right there is 54 minutes, which leaves only 6 minutes for closing statements and discussion. She still believes that a starting time of 6:00 pm would be better.

Commissioner Venuti wondered why this hearing was limited to only one meeting. When issues like this

have been heard by the City of Homer, the hearing could be held over several meetings. This hearing may take longer than an hour and half.

AMENDMENT D MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT E: Commissioner Brantley moved, seconded by Commissioner Ecklund to give a 7-minute opening presentation to each of the appellants and the applicant.

Commissioner Carluccio noted that her earlier question about giving applicant more time for their opening presentation had not been addressed.

Commissioner Fikes noted that they have already added another appellant, which has added more time to the hearing.

Commissioner Carluccio then proposed leaving the applicant's time for the opening presentation at 10 minutes and limit appellant's time to 7 minutes each.

Commissioner Brantley asked what the other commissioners think about leaving the applicants' opening presentation time at 10 minutes.

Commissioner Ecklund stated that typically, in PC meetings it is the applicant bringing something forward and they are allowed more time. In this situation, it is the appellants who are bringing this matter forward. The appellants are allotted more time here and she believes that falls in line with the commission's general practice. She is fine with leaving the applicant's opening presentation at 7 minutes.

Commissioner Bentz noted that this is the appeal of a planning director's decision. The planning director/ borough attorney and the applicant will each have 7 minutes to speak in support of upholding the director's decision. She then noted that opening presentations of 7 minutes each and closing remarks of 3 minutes each totals 60 minutes. Using a start time of 6:00 pm that would leave 30 minutes for discussion and questions.

Commission Fikes states that she supports leaving opening presentations at 7 minutes.

Ms. Hindman noted that Section 2 of the resolution does not allow the applicant a 3-minute rebuttal. If the commission wishes to allow the applicant a rebuttal time, it will require a motion. Commissioner Bentz replied that the applicant is allowed a 3-minute closing statement. Ms. Hindman replied that as the resolution is written each appellants receives a 3-minute rebuttal and a 3-minute closing statement. The applicant only receives a 3-minute closing statement.

AMENDMENT E MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT F: Commissioner Brantley moved, seconded by Commissioner Carluccio to remove #8 of Section 2 of the resolution, rebuttal by the appellants.

Commissioner Ecklund had a question for Mr. Kelley. In this case, who is the plaintiff and who is the defendant? This is an appeal of the director’s decision; the applicant is not the one appealing here. Mr. Kelley replied this situation does not have a typical plaintiff and defendant. In this case, technically the planning director would be the respondent/defendant and appellants would be the plaintiff. He then noted that this case is unique as there is a property owner/applicant whose due process rights, as they related to his property, are at stake.

Commissioner Ecklund then wondered if the motion should be amended to establish the order of the closing statements as well as removing #8 of Section 2. She would propose that the appellants go first and then the applicant with the director having the final closing statement. She believe that the planning director should have the last say since it is their decision being appealed. Commissioner Carluccio agreed with Commissioner Ecklund.

As the maker of the motion, Commissioner Brantley amended the motion and Commission Carluccio as the second agreed, to the following:

AMENDMENT F1: Remove #8 of Section 2 of the resolution, rebuttal by the appellants, and give a 3-minute closing statement to each appellant, the applicant and the director in that order.

AMENDMENT F1 MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Commission Ecklund noted that with 7-minute opening presentations and 3-minute closing statements that comes to a total of 60 minutes, which leaves no time for discussion or questions if the hearing start time stays at 6:30 pm.

AMENDMENT G: Commissioner Brantley moved, seconded by Commissioner Ecklund to move the starting time for the hearing to 6:00 P.M.

Commissioner Fikes disagreed with changing the start time. She stated that this item has already been heard and she believes we need to stick with the tight schedule.

Commissioner Ecklund asked if the commission needed to make a decision that night. Mr. Kelley replied the commission is setting the procedure and that there is no requirement that a decision has to be made on that night. If the commission chooses, they can follow up with a written decision at a later date. Commission Ecklund asked who would write that decision. Mr. Kelley replied it would be authored by the commission with the assistance your attorney.

Commissioner Morgan stated that if the meeting time is not moved to 6:00 pm, they would not have the additional time to draft their decision and would most likely require another meeting. She would prefer to handle this matter in one meeting so she would support moving the meeting start time of 6:00 pm.

Commission Ecklund noted once again that if we leave the hearing time to one hour there would be no time for questions or discussion.

Chair Martin noted if necessary the Planning Commission meeting could start later. That has happened in the past when the plat committee has gone over time. He asked staff if that would be a problem. Ms. Hindman replied she did not believe it would be a problem as notices do contain the statement the meeting will commence at 7:30 pm or as soon thereafter as business permits.

Commissioner Bentz stated that she supports a starting time of 6:00 pm as there is already 60 minutes of allotted time and the commission will need to be time for questions and discussion. If the hearing starts at 6:30, we would be guaranteed to run into the Planning Commission regular meeting time. She also noted

it would take time to come up with findings and to draft a decision. She thought it would might be possible that our legal council could recommend that we move into an adjudicative session for deliberations which could require more time.

Commissioner Fikes stated should would be in favor of reducing the open presentations of the appellant and the applicant to 5 minutes each.

AMENDMENT G MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	10	No	1	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Gillham, Martin, Morgan, Ruffner, Venuti				
No	Fikes				

MAIN MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Revised Hearing Procedure

1. Chair will introduce the item on the agenda.
2. Planning Director & Deputy Borough Attorney – presentation of issues & director’s decision (7 minutes).
3. Appellant Meyer Opening Presentation (7 minutes)
4. Appellant Sanders Opening Presentation (7 minutes)
5. Appellant Cutler Opening Presentation (7 minutes)
6. Appellant Pitcher Opening Presentation (7 minutes)
7. Applicant Opening Presentation (7minutes)
8. Appellant Meyer Closing Statement (3 minutes)
9. Appellant Sanders Closing Statement (3 minutes)
10. Appellant Cutler Closing Statement (3 minutes)
11. Appellant Pitcher Closing Statement (3 minutes)
12. Applicant Closing Statement (3 minutes)
13. Directors Closing Statement (3 minutes)

AGENDA ITEM K. DIRECTOR’S COMMENTS - None

AGENDA ITEM L. COMMISSIONER COMMENTS - None

AGENDA ITEM M. ADJOURNMENT – Commissioner Carluccio moved to adjourn the meeting at 9:30 p.m.

Ann E. Shirnberg
Administrative Assistant



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Seashore Bluffs
KPB File 2017-043R1
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 14, 2018. Approval for the plat is valid for two years from the date of approval. ²¹
April 20, 2020, a time extension request was submitted and approved extending the date to May 14, 2022.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on May 10, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 10th day of May 2020
by Scott A. Huff.

Notary Public for the State of Alaska

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

My commission expires: 4-1-2024

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Inglima Tracts 2019 Replat
 KPB File 2019-139
 Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 26, 2020. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on May 5, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 5th day of May 2021
by Scott A. Huff.

Notary Public for the State of Alaska

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

My commission expires: 4-1-2024

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Marion Subdivision 2021 Replat
KPB File 2021-038
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on May 7, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 7th day of May 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 4-1-2024

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

Kenai Peninsula Borough Planning Commission

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

**May 10, 2021
7:30 P.M.
UNAPPROVED MINUTES**

CALL TO ORDER

Chair Martin called the meeting to order at 7:45 p.m.
(Meeting started late due to Plat Committee running over time)

ROLL CALL

Commissioners Present
Syverine Bentz, Anchor Point/ Ninilchik
Paulette Bokenko-Carluccio, City of Seldovia
Jeremy Brantley, Sterling
Davin Chesser, Northwest Borough
Diane Fikes, City of Kenai
Pamela Gillham, Ridgeway
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

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

Staff Present

Marcus Mueller, Land Management Officer
Scott Huff, Platting Manager
Ann Shirnberg, Administrative Assistant
Julie Hindman, Platting Specialist
Avery Harrison, Administrative Assistant

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Echo Section Line Easement Vacation Plat Associated With US Survey #14477
KPB File 2019-138
 - b. WhistleBait Estates Addition No. 1; KPB File 2020-143
- *6 Commissioner Excused Absences
 - a. Cindy Ecklund, City of Seward
- *7 Minutes
 - a. April 26, 2021 Planning Commission Meeting

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Ecklund				

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E. NEW BUSINESS

**ITEM 1 – BUILDING SETBACK ENCROACHMENT PERMIT
ALDER SLOPES 2011 ADDITION, TRACT D-1**

KPB File No.	2021-050
Planning Commission Meeting:	May 10, 2021
Applicant / Owner:	Andrew Peter, Homer, Alaska
Surveyor:	N/A
General Location:	Fritz Creek / Kachemak Bay APC

Parent Parcel No.:	172-150-24
Legal Description:	Tract D-1, Alder Slopes 2011 Addition (HM 2011-005)
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Scott Huff

Specific Request / Purpose as stated in the petition: The request is to reduce the 20 foot building setback to a 10 foot building setback for a 30 foot length on Greenwood Road. The reduction in the building setback will allow a permanent structure to be constructed as shown on applicant’s sketch. The depiction of the building is drawn to scale, and located in the correct location on the plat. The applicant consulted with a local surveyor, and he advised “if it is a vacation of an easement the borough should be able to work with a sketch”.

The justification provided by applicant:

- Very low traffic; Greenwood Road is not borough maintained and reaches a dead end less than 1000’ from this location... 2 or 3 vehicles per day is the usual passage
- The road is narrow, and the improvements made for this project have already made snow removal easier. With that said, this snow removal is not paid by the borough as it is not maintained by the borough.
- The building location is on the “outside” of a curve; there is no visibility limitation caused by construction of this structure
- An although this should have minimal/no influence, my neighbor on Greenwood has a shed/shop well within the ROW (north of his home)... I have no complaints, nor do I want to cause issue; just stating a fact.

Site Investigation:

The permit is being requested for a future permanent structure to be constructed with access off Greenwood Road. Greenwood Road is constructed but not maintained by Kenai Peninsula Borough or State DOT. The property is outside of City limits. Photos have been provided by applicant. A site inspection was not performed by Staff.

Per KPB GIS data, the property is not subject to any wetlands. The terrain slopes to the southeast. Approximate slopes of 14 percent can be found within the dedication of Greenwood Road along Tract D-1. The parcel is 3.17 acres and contains a residence, driveway and other improvements.

Staff Analysis:

Tract D-1 of Alder Slopes 2011 Addition (HM 2011-05) notes and depicts a 20 foot building setback along the 60 foot right of way, Greenwood Road. The setback was originally put in place on this property on the parent parcel, Tract D, Alder Slopes, 1980 Addition (HM 81-62). The parent plat dedicated Greenwood Road in question and established the 20 foot building setback by plat note.

The property is located in the Fritz Creek area. Greenwood Road connects to East End Road, a State maintained right of way, at approximately milepost 12. The area included in the application is on Greenwood Road, approximately 1,685 feet from the intersection with East End Road. Per KPB GIS imagery, the constructed portion of Greenwood Road continues approximately another 1,140 feet. The dedicated but unconstructed portion appears to continue approximately another 767 feet.

The plat, Alder Slopes 2011 Addition (HM 2011-5), depicts a power line that is close to the proposed building location. The owner has been in contact with Homer Electric Association, Inc. (HEA) and has supplied a letter of non-objection. HEA notes the depiction was approximate. The letter from HEA states that no permanent structures are to be installed within an electrical distribution line easement. The application does not include a utility easement vacation. Staff recommends the owner work with HEA to ensure there are no violations of easements and that all safety protocols are followed.

Staff would like to note that while a sketch is allowed to be submitted with the application, per KPB 20.10.110(G) the resolution will require an exhibit drawing that shall be prepared, signed and sealed, by a licensed land surveyor.

Findings:

1. A 20 foot building setback was placed on Tract D of Alder Slopes 1980 Addition (HM 81-62) in 1981.
2. The 20 foot building setback was carried over to Tract D-1 of Alder Slopes 2011 Addition (HM 2011-5).
3. Tract D-1 is located on Greenwood Road.
4. Greenwood Road is a 60 foot wide right of way that is constructed in the area requested on the permit.
5. Greenwood Road is not maintained by the Kenai Peninsula Borough or any other government agency.
6. The permit is for a future permanent structure.
7. There are no low wet areas in the permit area.
8. Tract D-1 slopes downward to the southeast.
9. Tract D-1 is 3.17 acres in size.
10. Per KPB Assessing information, there are three lots with improvements located past the area in question.
11. Greenwood Road dedication connects with Summit Street, a 30 foot right of way north-south dedication that is not constructed.
12. No site inspection was performed.
13. Photos were submitted.
14. KPB Code Compliance does not support the issuance of the permit.
15. This portion of Greenwood Road can be included in the KPB road maintenance program when the road is improved to meet KPB road construction requirements.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications:
 1. The building setback encroachment may not interfere with road maintenance.
 2. The building setback encroachment may not interfere with sight lines or distances.
 3. The building setback encroachment may not create a safety hazard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	Comments not available at the time the staff report was prepared.
Code Compliance – Eric Ogren	<i>“Would not support building in the setback, since the structure is not built as of yet and it is known to violate code. Suggest to move the planned structure back 10 feet out of the setback.”</i>
Advisory Commission	Planning Within the Kachemak Bay APC. Information has been forwarded to the APC for review. Minutes were not received when the staff report was prepared. If minutes are available they will be included in the desk packet.

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to deny the issuance of the permit and not adopt Resolution 2021-16.

If the Planning Commission approves the building setback permit, **staff recommends** that findings to support the permit be tied to the three standards and adopt Resolution 2021-16 thus granting the building setback encroachment permit, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

Mr. Huff noted that after the staff report was prepared the KPB Roads Department did respond and they had no comment on this application.

END OF STAFF REPORT

Chair Martin open the meeting for public comment.

James Hollowell - 53370 Greenwood Rd. Homer, AK 99603: Mr. Hollowell is a landowner along Greenwood Road. Mr. Hollowell stated he opposed approving this permit. He noted where the applicant is proposing to build this new structure is very close to the road edge and believes it could be a potential hazard.

Commissioner Fikes asked Mr. Hollowell if he believed having the proposed building so close to the road would create an issue with road maintenance. Mr. Hollowell replied he believed it could potentially create an issue with plowing of the road. He referred to the map that was included with the notice sent out and he believes where the proposed building would go is close to the road, slightly downhill and could affect future road maintenance particularly in the wintertime.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Carluccio to approve PC Resolution 2021-16 granting a building setback encroachment permit to a portion of the 20’ building setback adjoining the northern boundary of Tract D-1, Alder Slopes 2011 Addition (HM 2011-05), granted by Alder Slopes,

1980 Addition (HM81-62); KPB File 2021-050.

Commissioner Ruffner stated he was struggling with this application and was not sure how he was going to vote on this permit. He noted the commission sees a lot of building setback encroachment requests. Normally they are requested after the fact, when the building is already in place. In most cases when these are approved it is because it would be very difficult and costly to move the existing structure. In this case, the applicant is seeking permission ahead of time, before the structure is built. He is also just asking for 10 feet of the setback and not the whole 20 feet. While there is a history of approving building setback encroachments, he does agree with the Code Compliance Officers comments. The structure is not yet built and the commission should adhere to borough code.

Commissioner Fikes stated that she shares similar thoughts as Commissioner Ruffner. She is concerned about the potential for future road maintenance issues. She also has concerns about setting a precedent of going against borough code.

Commissioner Brantley stated he would feel better about approving the permit if there was something about the lot that required the structure to be built in that specific area. When looking at the topography he does not see a reason, such a steep incline or depression that would make the chosen location the only suitable one. With the information he has before him now he does not believe he will be supporting this request

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

MOTION *FAILED* BY UNANIMOUS VOTE

Yes	0	No	10	Absent	1
Yes					
No	Bentz, Brantley, Carluccio, Chesser, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Ecklund				

AGENDA ITEM K. DIRECTOR’S COMMENTS

AGENDA ITEM L. COMMISSIONER COMMENTS

AGENDA ITEM M. ADJOURNMENT – Commissioner Carluccio moved to adjourn the meeting at 8:10 p.m.

Ann E. Shirnberg
Administrative Assistant



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Seashore Bluffs
KPB File 2017-043R1
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 14, 2018. Approval for the plat is valid for two years from the date of approval. ²¹
April 20, 2020, a time extension request was submitted and approved extending the date to May 14, 2022.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on May 10, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 10th day of May 2020
by Scott A. Huff.

Notary Public for the State of Alaska

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

My commission expires: 4-1-2024

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Inglima Tracts 2019 Replat
 KPB File 2019-139
 Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 26, 2020. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on May 5, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 5th day of May 2021
by Scott A. Huff.

Notary Public for the State of Alaska

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

My commission expires: 4-1-2024

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Marion Subdivision 2021 Replat
KPB File 2021-038
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on May 7, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 7th day of May 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 4-1-2024

STATE OF ALASKA
SANDRA KAYE FLETCHER
NOTARY PUBLIC
MY COMMISSION EXPIRES: 4-1-24

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

Kenai Peninsula Borough Planning Commission

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

April 26, 2021
7:30 P.M.

UNAPPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

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

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

Staff Present

- Melanie Aeschliman, Planning Director
- Sean Kelly, Borough Attorney
- Scott Huff, Platting Manager
- Bryan Taylor, Planner
- Samantha Lopez, River Center Manager
- Ann Shirnberg, Administrative Assistant
- Julie Hindman, Platting Specialist

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Echo Section Line Easement Vacation Plat Associated With US Survey #14477
KPB File 2019-138
 - b. WhistleBait Estates Addition No. 1; KPB File 2020-143
- *7 Minutes
 - a. April 12, 2021 Planning Commission Meeting

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

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

MOTION PASSED: Hearing no discussion or objection, the motion was carried by the following vote.

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E. PUBLIC HEARINGS

1. Vacate a portion of Hough Road, a 60 foot right of way including adjoining utility easements, as dedicated on Stream Hill Park Unit 1, Plat HM 2006-54 and Christensen Tracts No. 3, Plat HM 2003-90. The portion of right-of-way being vacated is unconstructed and located within the W1/2 NE 1/4, Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPБ File 2021-046V

Staff report given by Scott Huff.

Petitioners: C. Michael Hough and Shila A. Hough of Homer, Alaska.

Purpose as stated in petition: The existing road was not constructed within the existing ROW. The ROW is being re-aligned so that it is centered on the existing road. Only a portion of the existing ROW is being vacated, along with the adjoining 15 foot utility easements. New 15 foot utility easements are being dedicated adjoining both sides of the re-aligned ROW. No utilities are currently within the existing utility easements.

Notification: Public notice appeared in the April 15, 2021 issue of the Homer News as a separate ad. The public hearing notice was published in the April 22, 2021 issue of the Homer News as part of the Commission's tentative agenda.

Fifteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Four receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to twenty-eight owners within 600 feet of the proposed vacation.

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

State of Alaska Dept. of Fish & Game	Kenai Peninsula Borough Office, Homer
State of Alaska Dept. of Natural Resources (DNR)	Ninilchik Traditional Council
State of Alaska Dept. of Transportation	Alaska Communication Systems (ACS)
State of Alaska DNR Forestry	ENSTAR Natural Gas
City of Homer	General Communications Inc. (GCI)
Emergency Service of Homer	Homer Electric Association (HEA)

Public hearing notices were made available to seven KPБ staff/Departments (Addressing, Code Compliance, Planner, Roads Dept., Assessing, River Center, State Parks) via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: Comments not received at the time the staff report was prepared.

ENSTAR: Comments not received at the time the staff report was prepared.

Homer Electric Association: Reviewed the vacation and had no comments.

KPB Addressing: Affected address will need to be reviewed by the City of Homer.

KPB Assessing: No comments.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within the City of Homer, no comments.

KPB Roads Department: Outside jurisdiction, no comments.

City of Homer Planning Commission: On April 29, 2020 the Homer Planning Commission granted a time extension for the plat that will finalize the right of way vacation, granting a two year time extension.

State Parks: No comments.

Staff Discussion: The proposed vacation is to remedy the alignment issues of Hough Road, a 60 foot right of way. The proposal is to vacate approximately a half with of Hough Road for 390 feet including the adjoining 15 foot utility easements. If approved, a dedication of additional right of way atop the constructed road, including 15 foot utility easements along each side of the new dedication, will be completed by recording a new plat.

The original access is depicted on Christensen Tracts Amended, HM 89-3 as a 50 foot private access easement (HRD Book 185 Page 349). The access easement was also shown on plat Christensen Tracts No. 4, HM 2006-44.

Christensen Tract No. 3, HM 2003-90, dedicated the eastern 30 foot of Hough Road right of way. Stream Hill Park Unit 1, HM 2006-54, dedicated the western 30 feet of Hough Road right of way.

Vacation of the dedicated right of way will not remove the private access easement. If they owners wish to remove the private access easement it will need to be done by separate documents and recorded with the Homer Recording District. If this is completed prior to the recording of the plat, add a plat note with the recording information that terminated the private access easement.

This vacation and the associated plat were originally heard under KPB old code in 2010. The KPB Planning Commission heard the vacation on April 12, 2010. The Planning Commission approved the vacation by unanimous consent. The Homer City Council upheld the Planning Commission decision at their April 26, 2010 meeting. The plat finalizing the vacation was not recorded within one year.

The KPB Plat Committee approved the preliminary plat on April 12, 2010. Various time extensions have been granted for the preliminary plat. The last time extension was granted in 2020, with the consent of the City of Homer Planning Commission. The time extension was granted through June 8, 2022, subject to the plat being recorded prior to April 13, 2021 to be reviewed under old code. The original surveyor retired and a new surveyor has been hired.

Due to design changes, and the requirement to comply with current subdivision standards, the plat will be brought back before the Plat Committee to receive new approval including any exceptions requests.

If approved, plat Christensen Tract 2021 Addition will finalize the proposed right of way vacations. At the time the staff report was prepared a complete submittal has not been received for the plat. Once all required items are received, the plat will be scheduled to be heard by the Plat Committee.

KPB 20.70 – Vacation Requirements.

Platting staff comments: Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:

- C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

Platting Staff Comments: The road is constructed within the proposed right of way dedication. The terrain in the area slopes downward to the south. The right of way has been constructed in manner that it follows the contours and avoids steep slopes. If the City of Homer feels additional width is required they may request additional information.

- D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: Staff did not require submittal of new approval. Homer Planning and Zoning and the City Council had previously heard this vacation. The Homer Planning Commission approved a time extension for the plat showing the vacation and dedication on April 29, 2020.

Staff recommendation: *The Planning Commission decision will be sent to the City Council for the ability to veto the decision. The City will also be required to sign the final plat to accept the new right of way dedication.*

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, 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 in KPB 20.70.110.

Platting Staff Comments: A plat will be required to complete the right of way vacation and right of way dedication.

Staff recommendation: *Comply with 20.70.130.*

20.70.150. Title to vacated area.

- A. The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

Platting Staff Comments: The proposed area being vacated will be attached to current Tract 1 of Christensen Tracts No. 4, which is proposed to be subdivided by the same plat finalizing the vacation.

Staff recommendation: *Comply with 20.70.150.*

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The vacation is a partial vacation that will coincide with a right of way dedication. The final right of way will be 60 feet in width and comply with KPB code.

Staff recommendation: *Complies with 20.70.160.*

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The proposed vacation will be recorded on a plat that grants a new portion of the existing constructed right of way. A dedicated right of way will encompass the existing travel way and

vehicular access will not be impacted.

Staff recommendation: *Complies with 20.70.170.*

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public 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 public utility easement be granted in place of the right-of-way.

Platting Staff Comments: There are no utilities within the current utility easements running along the portion of Hough Road being vacated. The subdivision plat will grant new 15 foot utility easements along both side of the new Hough Road dedication.

Staff recommendation: *Grant any additional easements requested by the utility companies.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends APPROVAL of the vacations as petitioned, subject to:

1. Consent by Homer City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Homer City Council and 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 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer 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 by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Venuti to approve the vacation as petition based means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough cod.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. **NEW BUSINESS**

2. A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 57 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 proposes permanent repairs that would include the placement of riprap on top of the existing riprap to stabilize the armament at MP 57 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

KPB Planning Commission Resolution 2021-14

Staff report given by Nancy Carver.

Applicant: Alaska Department of Transportation and Public Facilities (ADOT&PF)
Sean Holland, P.E.
4111 Aviation Avenue
Anchorage, AK 99516-6900

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

Legal Description: T 05N, R 05W, Section 35, Seward Meridian

KPB Parcel Number: 025-180-03

Background Information

The project is part of the Sterling Highway MP 45-60 project, which includes permanent repairs that include placement of riprap on top of the existing riprap to stabilize the armament. Fill material, top soil, seed, and willow stakes will be used to enhance the bank stabilization and provide a more natural appearance over time. Substantial erosion occurred on the north bank of the Kenai River during the September 2012 flood event and prompted emergency repairs in 2014 that included the placement of approximately 9,100 cubic yards of riprap adjacent to the Kenai River. The work was approved by Resolution 2014-14, at the July 14, 2014 Planning Commission Meeting.

The purpose of the project is to place approximately 1,140 cubic yards of Class III riprap onto the existing riprap to stabilize and strengthen the embankment against further erosion, protecting the Sterling Highway road embankment at MP 57. ADOT&PF proposed to place 4-inches of topsoil, fill material, mulch, compost socks, seeding, and willow stakes to enhance bank stabilization and appear more natural than its current state. Fencing will be constructed to inhibit access to the river near the project that would damage efforts to revegetate the slopes.

Clearing of vegetation throughout the project 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 45-60 project (Permit #12663), which was approved by Resolution 2020-23 at the August 24, 2020 Planning Commission Meeting.

Project Details within the 50-foot Habitat Protection District

1. Placement of riprap (1,140 CY Class III), and fill material (790 tons Type C) on top of existing riprap.
2. Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
3. Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
4. 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.
5. Placement of fence to inhibit access to the river to avoid damage to revegetated slopes.

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. Placement of riprap (1,140 CY Class III), and fill material (790 tons Type C) on top of existing riprap.
4. Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
5. Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
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. Placement of fence to inhibit access to the river to avoid damage to revegetated slopes.
8. 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.
9. 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.
10. 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.
11. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
12. 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.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
14. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
15. 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 4** – Approximately 250 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (180 CY) and mulch (50 CY) for planting of seed and live stakes.
 - **Finding 5** – Approximately 1,600 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

- **Finding 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.
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 8** – 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 11** – The River Center found the application complete and scheduled a public hearing for April 26, 2021.
 - **Finding 12** – 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 13** – Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021
 - **Finding 14** – 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 10** – 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.
 4. ***The proposed use or structure is water-dependent;***
 - **Finding 9** – 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 15** – The applicant is currently in compliance with Borough permits and ordinances.

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)).

Attachments

Multi-agency application
Draft Resolution

Staff 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 some of the 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 2021-14.

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

END OF STAFF REPORT

Chair Martin opened the item for public comment.

Sean Holland, DOT & PF; P.O. Box 196900, Anchorage, AK 99519: Mr. Holland is the engineer on this project and made himself available for questions.

Commissioner Ecklund asked Mr. Holland if this project gave consideration on moving this section of the highway further north, further away from the river. Mr. Holland replied the plans are to widen this section of highway to bring it up to current standards. The will be widening the lanes to a full 12 feet as well as adding 4-foot shoulders on both sides. He noted that this section of highway is hemmed, with the mountains to the north and by the river to the south. The plan is to hold and reinforce the south edge of the highway and then widen the north side of the highway to the north.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Venuti to approve PC Resolution 2021-14, issuing a conditional use permit to the Alaska Department of Transportation & Public Facilities.

Commissioner Morgan asked staff if this item had gone before the Cooper Landing APC. She did not see any minutes from their meeting in the packet and wondered if they had any comments on this project. Mr. Taylor responded that the APC had been briefed by the DOT on both of these projects. He was not aware if the APC had submitted any comments on these briefings. If comments had been submitted they would have been included in the meeting packet.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA E. NEW BUSINESS

3. 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.

KPB Planning Commission 2021-15

Staff report given by Nancy Carver.

Applicant: Alaska Department of Transportation and Public Facilities (ADOT&PF)
 Sean Holland, P.E.
 4111 Aviation Avenue
 Anchorage, AK 99516-6900

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

Legal Description: T 05N, R 05W, Section 35, Seward Meridian

KPB Parcel Number: 025-180-03

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 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.

Clearing of vegetation throughout the project 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 45-60 project (Permit #12663), which was approved by Resolution 2020-23 at the August 24, 2020 Planning Commission Meeting.

Project Details within the 50-foot Habitat Protection District

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 1,420 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.
8. Approximately 2,760 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

16. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
17. Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
18. 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.
19. 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.
20. Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
21. 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.
22. 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.
23. 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.
24. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
25. 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.
26. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
27. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
28. 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.

6. ***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.

7. ***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.

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

- **Finding 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 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.

10. ***Applicant's or owner's compliance with other borough permits and ordinance requirements.***

- **Finding 14** – The applicant is currently in compliance with Borough permits and ordinances.

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)).

Attachments

Multi-agency application
 Draft Resolution

Staff 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 some of the 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 2021-15.

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

END OF STAFF REPORT

Chair Martin opened the item for public comment.

Sean Holland, DOT & PF; P.O. Box 196900, Anchorage, AK 99519: Mr. Holland is the engineer on this project and made himself available for questions. Mr. Holland noted that this project will be approximately 1000 feet and will stay above the ordinary high water mark. Currently DOT is not proposing to add any additional riprap but will rely on a fiber matrix to reinforce and tie up the soil in the area.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Morgan to approve PC Resolution 2021-15, issuing a conditional use permit to the Alaska Department of Transportation & Public Facilities.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 4. Ordinance 2021-17: An Ordinance amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

Staff report given by Samantha Lopez.

Since 1988, the borough has participated in the National Flood Insurance Program (NFIP), making federal disaster assistance, federal hazard mitigation grants, federal subsidized mortgages, and individual homeowner insurance available within the borough. The Federal Emergency Management Agency (FEMA) oversees the NFIP and provides participating communities with the minimum regulations and regulatory flood maps for each community to enforce.

The borough established the Seward Mapped Flood Data Area (SMFDA) in 2009 to regulate areas of known riverine and alluvial flood hazards outside the FEMA regulatory maps. The SMFDA was scheduled to sunset when FEMA provided an updated flood insurance study with new regulatory flood maps for the service area. In 2013, FEMA mapped some of the service area, but not many areas of known flood hazard, so the SMFDA was kept as a minimum regulatory tool to continue to protect residents against flood hazards.

The SMFDA was designed to be a short-term regulatory tool, and was based on anecdotal flooding evidence from three floods of record in 1986, 1995, and 2006. In 2020, the SBCFSA contracted with Alaska Water Resources Engineering to create hydraulic and hydrologic models for three neighborhoods in the SMFDA, providing flood hazard boundaries and flood depths for the 100-year flood event. These additional data provide the flood protection elevation necessary to regulate development within the SMFDA to the minimum NFIP standards.

This ordinance will integrate development within the SMFDA into the same minimum NFIP standards as the FEMA flood hazard areas. The ordinance will also clarify and define the different flood protection elevation standards based on minimum NFIP regulations.

At its April 5, 2021 regular meeting, the SBCFSA Board of Directors recommended approval of this ordinance.

END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Gillham to forward to the assembly a recommendation to approve Ordinance 2021-17: Amending KPB 21.06 Floodplain Management to adopt flood depths for three neighborhoods in the Seward Mapped Flood Data Area and to incorporate the Seward Mapped Flood Data Area into the Minimum National Flood Insurance Standards.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 5. Resolution 2021-12: Recommending Adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as Part of the Kenai Peninsula Borough Hazard Mitigation Plan.

Staff report given by Bryan Taylor.

The KPB is part of a multi-jurisdictional team that works to keep the hazard mitigation plans of several communities within the borough up-to-date. The City of Soldotna has recently completed an update to its All Hazard Mitigation Plan and is requesting that the Kenai Peninsula Borough adopt the updated plan. Keeping this plan updated is required in order to be eligible for certain types of non-emergency disaster funding, including funding for mitigation projects.

Adopting the city’s updated plan furthers goals outlined within the borough’s 2019 Comprehensive Plan to maintain preparedness to respond and recover from natural and human-caused emergencies among the borough’s communities.

END OF STAFF REPORT

Chair Martin opened the item for public comment.

John Czarnezki, Director of Economic Development & Planning - City of Soldotna; 177 N. Birch St., Soldotna AK 99669: Mr. Czarnezki made himself available for questions. He noted the most of the modifications to the plan were minor. They updated some data and modified some action items that had been accomplished. He stated that all the major goals of the plan remain pretty much the same.

Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Brantley to approve PC Resolution 2021-12, recommending adoption of the City of Soldotna All Hazard Mitigation Plan 2019 Update as part of the Kenai Peninsula Borough Hazard Mitigation Plan.

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AGENDA ITEM E. PUBLIC HEARINGS

- 6. Resolution 2021-13, Establishing the Appeal Procedure for Appeals of the Planning Director’s Decision on Reconsideration to Uphold a Prior Decision Approving a Nonconforming Use Application within C&H Estates LOZD

Staff report given by Sean Kelley.

Three appeals have been filed appealing the KPB Planning Director’s Decision to uphold, on reconsideration, the decision issued April 7, 2020 by KPB Planning Director Max Best to approve a nonconforming use application for a bed and breakfast and event center that was requested for KPB parcel #174-410-26; Lot 26, C&H Estates, according to Plat 80-23, Homer Recording District. Borough code does not provide an appeal procedure for appeals of staff decisions.

This resolution would establish a procedure for the parties and planning commission to follow for these three consolidated appeals (this “appeal”).

Mr. Kelley noted he has advised the Planning Director on this matter and will be representing the Administration/Planning Director during this appeal. Therefore, to avoid any actual or perceived conflicts of interest and ethical concerns, he will not be able to provide procedural or substantive advice to the Planning Commission regarding this appeal. If the Planning Commission desires legal advice during this appeal, that request should be made by the commission prior to the appeal hearing in order to allow time to timely accommodate such a request.

This resolution provides a possible procedure for this appeal. Interested parties may submit their own proposed procedure and/or propose alternatives to the procedure proposed by this resolution.

Mr. Kelley noted that the applicant's lawyers Molloy Schmidt sent in a comment on the proposed hearing procedures and noted that the resolution does not set a deadline for written statements and comments. Mr. Kelley encouraged the commission to consider this request.

END OF STAFF REPORT

Commissioner Fikes asked Mr. Kelley if the date for the hearing had been set. Mr. Kelley replied a notice was sent out with the proposed dated of May 24, 2021 with a start time of 6:30 pm. Mr. Kelley suggested bumping the Plat Committee to an earlier start time and conduct the hearing between the plat committee and planning commission meetings. He then noted in the resolution the hearing date and time was left blank to allow the commission to discuss what day and time would work best.

Mr. Kelley informed the commission that there was a fourth appellant associated with this appeal, Don Pitcher, which was not identified in resolution. Mr. Kelley recommended amending the resolution adding him to the list of appellants.

Commissioner Ecklund asked Mr. Kelley if she was correct in understanding that code does not address hearing process for appeals of Planning Director decisions. Mr. Kelley replied she was correct and noted staff have realized code does not address the hearing procedure of any kind of staff decision. KPB 21.20 only addresses the appeal process of Planning Commission decisions. The resolution before the commission tonight will set a process for this specific appeal. Staff will need work on a change to code that will address the appeal process of staff decisions. Commissioner Ecklund then asked Mr. Kelley if the process laid out in the resolution before them follows along the lines of the established appeal process for Planning Commission decisions. Mr. Kelley replied KPB 21.20 was used for guidance. This appeal situation is unique in that there are four appellants and Planning Director is technically the respondent; there is also the applicant who has due process interests at stake in the matter as well. Another difference is KPB 21.20 appeals are on the record and the parties may submit no new evidence unless there is good cause. Because there is nothing in code that states decisions made by the planning director are on the record, the commission may want to address if new evidence will be allowed. Chair Martin then opened the item for public comment.

Kristine Schmidt, Molloy Schmidt LLC, 110 South Willow Street, Suite 101, Kenai AK.: Ms. Schmidt represents the applicants, TLR Adventures LLC, in this matter. She referred the commission to the letter dated 4/14/21 sent from her office to the planning commission requesting some amendments to the resolution being considered. Their main concern is that they receive the same amount of time to present their case as the appellants. There are four appellants and together they will be allotted 40 minutes and the applicant has only been allotted 10 minutes. They believe the applicant should receive equal time, allowing them either 10 minutes to respond after each appellant or 40 minutes after all the appellants have spoken. They would also like a hard deadline for the submittal of written statements and comments. They would suggest 10 days before the appeal hearing date for comments and materials and 7 days before the appeal hearing date to respond to the comments and materials. They also believe the Planning Commission should not accept any late submissions.

Ron Schmitt, P.O. Box 2052, N. Mankato, MN 56002: Mr. Schmitt is the general manager for TLR Adventures. He noted their legal counsel, Ms. Schmidt, had brought up most of their concerns in her letter to the commission. He stated this whole matter has been going on for a very long time. TLR Adventures purchased this property 2016. They spent over \$300,000 to renovate the property. They have met all KPB Borough code and State of Alaska requirements. They are the only B&B on the Kenai Peninsula that meets all the State of Alaska fire marshal codes. They have been involved in a tremendous process over the last 2 years trying to maintain their business and work with the neighbors. They submitted their appeal to the planning department of the denial of their non-conforming use in February or March of 2020. He has been involved in this appeal process for 14 months now and he believes the landowner's property rights have been tremendously violated during that time. He would ask that the commission resolve this issue and do

so quickly.

Craig Cutler, 40130 Portlock Drive, Homer AK, 99603: Mr. Cutler is a homeowner in the C&H local option zone and is one of the appellants. Mr. Cutler noted he had sent a letter to the Planning Commission stating that he was not opposed to the hearing process as laid out in the resolution.

Scott Meyer, 40210 Alpenglow Circle, Homer, AK 99603: Mr. Meyer is a homeowner in the C&H local option zone and is one of the appellants. Mr. Myer stated he had reviewed the resolution and has no objection to it. He also reviewed the proposed amendments in the Molloy Schmidt letter and he is fine with suggestions to the speaking order and establishing deadline for submitting comments and materials. He does not support awarding the applicant the same amount of time to speak as the combined time of the appellants; whether it be 10 minutes after each appellant or 40 minutes at one time. The hearing process established in this resolution could be used as a precedent for future hearings. He noted that in the future what if appeals have eight or nine appellants, the applicant could have an hour and a half to present their case. This would make for long hearings. For matters in their subdivision, each landowner gets one vote per lot, which he believes is fair and equitable. The applicant should be allotted 10 minutes, the same as each appellant.

Hearing no one else wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

MAIN MOTION: Commissioner Carluccio moved, seconded by Commissioner Ecklund to approve PC Resolution 2021-13, establishing the appeal procedure for appeals of the Planning Director’s decision on reconsideration to uphold a prior decision approving a nonconforming use application within C&H Estates LOZD.

Commissioner Fikes asked Mr. Kelley if code allows for the appeal of a director’s decision. Mr. Kelley stated that code does allow the applicant or LOZ residents to appeal the director’s decision. What is missing in code is the hearing procedures for those appeals.

Commissioner Venuti noted that Mr. Kelley would be representing the Planning Director and Molloy Schmidt will be representing the applicant and he believed that the commission should have a lawyer advising them. Since Mr. Kelley will not be available, he wanted to know who would be providing counsel for the commission. Mr. Kelley replied he would speak to Borough Attorney Thompson regarding this matter. Since none of the other lawyers in his office have been involved with this matter one of them could provide counsel. There is also the option for the commission to obtain outside counsel should the need arise.

Commissioner Brantley noted the director’s decision was issued in April of 2020 and asked when the requests for appeal received were. Mr. Taylor replied the notice sent to the landowners with the most recent director’s decision was mailed out March of this year, which opened the most recent appeal period. Mr. Kelley then noted this matter has a somewhat tortured history, which makes things confusing. He informed the commission the history related to this matter would be reviewed at the hearing. Mr. Kelley then informed the commission that the appellants met the appeal deadline on this matter.

AMENDMENT A: Commissioner Carluccio moved, seconded by Commissioner Ecklund to add Don Pitcher as the fourth appellant in the consolidated appeal and has a 10-minute opening presentation.

AMENDMENT A MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT B: Commissioner Ecklund moved, seconded by Commissioner Gillham to set the hearing date and time for the hearing to May 24, 2021 at 6:30 P.M.

AMENDMENT B MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT C: Commissioner Ecklund moved, seconded by Commissioner Brantley to set the deadline for the submission written statements, documents as laid out in code for Planning Commission & Assembly appeals.

Mr. Kelley suggested the commission make a motion to amend Section 5 of the resolution establishing a date certain. He noted the appeal process established under KPB 21.20 relates to appeals that are on the record, which allows for opening statements and preparation of the record, but not the submission of new evidence. He did not believe that this section of code is a good reference for this matter. This particular appeal is not on the record. Commissioner Ecklund then stated she would follow the recommendation in the Molloy Schmidt letter regarding submission timeframes, since the appellants who spoke tonight stated they had no issues with their recommendations.

As the maker of the motion, Commissioner Ecklund amended the motion and Commission Brantley as the second agreed, to the following:

AMENDMENT MOTION C1: Written statements and comments should be received no later than 10 days before the hearing date for appellant/applicant/interested parties and 7 days before the appeal hearing date for comments for the appellants/applicant/interested parties to respond to the comments.

Commissioner Bentz noted that in her experience with the back and forth of comments in appeals, she wondered if the commission could just have the 10 day period to submit statements and comments and not the 7 day period to respond to the statement and comments. They could use their rebuttal time at the hearing to respond to comments. Also what would the other commissioners think about allowing the applicant as well the appellants the opportunity for rebuttal at the hearing.

Commissioner Ecklund stated that after rereading the Molloy Schmidt recommendation again she feels the same way as Commissioner Bentz. She would agree that the 7-day response period could be dropped and the appellants/applicant can make the rebuttals at the hearing.

As the maker of the motion, Commissioner Ecklund amended the motion and Commission Brantley as the second agreed, to the following:

AMENDMENT MOTION C2: Amend Section 5 of the resolution to require written statements and comments from the appellants/applicant/interested parties be received no later than 10 days before the date of the hearing and late submissions will not be accept.

AMENDMENT MOTION C2 PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Commissioner Carluccio asked that the commission discuss the length of time allotted to applicant for his opening presentation. While she does not agree with the Molloy Schmidt proposal, she does think perhaps he should be given more time for his opening presentation. She noted as an example, the public hearing process in place allows the applicant to have more time than the other public testifiers.

Commissioner Ecklund agreed with Commissioner Carluccio and suggested that perhaps each appellant be given 5 minutes for his or her opening presentation and the applicant be given 20 minutes. She then

noted that in this case she is not exactly sure how to set the times for the presentations and asked other commissioners to weigh in.

Commissioner Bentz proposed having the applicant go first with a 10-minute presentation. The planning director could go second with a 10-minute presentation, since it is her decision that is being appealed. The appellants could go after the director with each one having a 10 minutes presentation. She believe that having the applicant and staff go first, with each having 10 minutes, would make the time allotment a little more equitable..

Commissioner Carluccio noted that if the commission adds more minutes for the presentations the hearing will go longer than the hour allotted for the hearing. It also does not allow anytime for questions.

Commissioner Ecklund agreed with Commissioner Carluccio and said that perhaps the meeting start time should be moved to 6:00 pm. She then noted that adding time to the Planning Director's presentation would put the opening presentation time right at an hour.

Commissioner Brantley noted Section 2, #7 allows for interested parties 3-minutes per person to comment. If there are many "other interested parties" that will put the hearing over the 1-hour allotted time.

Commissioner Bentz noted that with moving the hearing start time to 6:00 pm there will still not be enough time for the hearing. She thought it would be best to set hearing procedure first and then go back and adjust the start time if needed.

Commissioner Ecklund noted since the resolution states that the planning director & borough attorney get a 7-minute opening presentation, why not limit the applicant and appellants to the same 7-minute presentation.

Commissioner Brantley liked Commissioner Ecklund's idea of limiting opening presentations to 7 minutes for all parties. He also suggested removing item #7 from Section 2 of the resolution and not allow other interested parties time to comment.

AMENDMENT D: Commissioner Brantley moved, seconded by Commissioner Carluccio to remove item #7 from Section 2, allowing other interested parties 3 minutes each to comment, from the resolution.

Commissioner Ecklund asked staff if this was appropriate, since other interested parties are allowed to speak at other types of public hearings. Mr. Taylor replied it appeared the commission was attempting to identify which parties have standing in this matter. Determining who has standing will provide direction with decisions such as to who gets a copy of the appeal packet before the hearing. Commissioner Ecklund then asked if other interested parties were allow to speak at appeal hearings with the Assembly or with a Hearing Officer. Mr. Taylor replied KPB 21.20 provides guidance as to who has standing in those types of appeals. Since code does not address the hearing process for the appeal of a director's decision, the commission will need to determine who has standing in this matter. Commissioner Ecklund replied that she understands that this is a different type of an appeal, but noted that code does layout procedures for other types of appeals. She wondered if the commission should use those procedures as guidance in making this determination. Mr. Kelley stated that KPB 21.20 does lay out the process for the appeal of a Planning Commission's decision and states that a party would have to file an entry of an appearance. If a party does not enter an appearance, they would not have standing. Commissioner Ecklund then stated for this hearing they could determine that those who have standing are the one who filed an appeal and in that case, she agrees that #7 of Section 2 be removed.

Commissioner Ecklund proposed allotting the planning director/borough attorney, the applicant and all four appellants a 7-minute opening presentation, which will put the opening presentation time at 42 minutes. Allowing each appellant a 3-minute rebuttal will add another 12 minutes. Right there is 54 minutes, which leaves only 6 minutes for closing statements and discussion. She still believes that a starting time of 6:00 pm would be better.

Commissioner Venuti wondered why this hearing was limited to only one meeting. When issues like this

have been heard by the City of Homer, the hearing could be held over several meetings. This hearing may take longer than an hour and half.

AMENDMENT D MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT E: Commissioner Brantley moved, seconded by Commissioner Ecklund to give a 7-minute opening presentation to each of the appellants and the applicant.

Commissioner Carluccio noted that her earlier question about giving applicant more time for their opening presentation had not been addressed.

Commissioner Fikes noted that they have already added another appellant, which has added more time to the hearing.

Commissioner Carluccio then proposed leaving the applicant's time for the opening presentation at 10 minutes and limit appellant's time to 7 minutes each.

Commissioner Brantley asked what the other commissioners think about leaving the applicants' opening presentation time at 10 minutes.

Commissioner Ecklund stated that typically, in PC meetings it is the applicant bringing something forward and they are allowed more time. In this situation, it is the appellants who are bringing this matter forward. The appellants are allotted more time here and she believes that falls in line with the commission's general practice. She is fine with leaving the applicant's opening presentation at 7 minutes.

Commissioner Bentz noted that this is the appeal of a planning director's decision. The planning director/ borough attorney and the applicant will each have 7 minutes to speak in support of upholding the director's decision. She then noted that opening presentations of 7 minutes each and closing remarks of 3 minutes each totals 60 minutes. Using a start time of 6:00 pm that would leave 30 minutes for discussion and questions.

Commission Fikes states that she supports leaving opening presentations at 7 minutes.

Ms. Hindman noted that Section 2 of the resolution does not allow the applicant a 3-minute rebuttal. If the commission wishes to allow the applicant a rebuttal time, it will require a motion. Commissioner Bentz replied that the applicant is allowed a 3-minute closing statement. Ms. Hindman replied that as the resolution is written each appellants receives a 3-minute rebuttal and a 3-minute closing statement. The applicant only receives a 3-minute closing statement.

AMENDMENT E MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

AMENDMENT F: Commissioner Brantley moved, seconded by Commissioner Carluccio to remove #8 of Section 2 of the resolution, rebuttal by the appellants.

Commissioner Ecklund had a question for Mr. Kelley. In this case, who is the plaintiff and who is the defendant? This is an appeal of the director’s decision; the applicant is not the one appealing here. Mr. Kelley replied this situation does not have a typical plaintiff and defendant. In this case, technically the planning director would be the respondent/defendant and appellants would be the plaintiff. He then noted that this case is unique as there is a property owner/applicant whose due process rights, as they related to his property, are at stake.

Commissioner Ecklund then wondered if the motion should be amended to establish the order of the closing statements as well as removing #8 of Section 2. She would propose that the appellants go first and then the applicant with the director having the final closing statement. She believe that the planning director should have the last say since it is their decision being appealed. Commissioner Carluccio agreed with Commissioner Ecklund.

As the maker of the motion, Commissioner Brantley amended the motion and Commission Carluccio as the second agreed, to the following:

AMENDMENT F1: Remove #8 of Section 2 of the resolution, rebuttal by the appellants, and give a 3-minute closing statement to each appellant, the applicant and the director in that order.

AMENDMENT F1 MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Commission Ecklund noted that with 7-minute opening presentations and 3-minute closing statements that comes to a total of 60 minutes, which leaves no time for discussion or questions if the hearing start time stays at 6:30 pm.

AMENDMENT G: Commissioner Brantley moved, seconded by Commissioner Ecklund to move the starting time for the hearing to 6:00 P.M.

Commissioner Fikes disagreed with changing the start time. She stated that this item has already been heard and she believes we need to stick with the tight schedule.

Commissioner Ecklund asked if the commission needed to make a decision that night. Mr. Kelley replied the commission is setting the procedure and that there is no requirement that a decision has to be made on that night. If the commission chooses, they can follow up with a written decision at a later date. Commission Ecklund asked who would write that decision. Mr. Kelley replied it would be authored by the commission with the assistance your attorney.

Commissioner Morgan stated that if the meeting time is not moved to 6:00 pm, they would not have the additional time to draft their decision and would most likely require another meeting. She would prefer to handle this matter in one meeting so she would support moving the meeting start time of 6:00 pm.

Commission Ecklund noted once again that if we leave the hearing time to one hour there would be no time for questions or discussion.

Chair Martin noted if necessary the Planning Commission meeting could start later. That has happened in the past when the plat committee has gone over time. He asked staff if that would be a problem. Ms. Hindman replied she did not believe it would be a problem as notices do contain the statement the meeting will commence at 7:30 pm or as soon thereafter as business permits.

Commissioner Bentz stated that she supports a starting time of 6:00 pm as there is already 60 minutes of allotted time and the commission will need to be time for questions and discussion. If the hearing starts at 6:30, we would be guaranteed to run into the Planning Commission regular meeting time. She also noted

it would take time to come up with findings and to draft a decision. She thought it would might be possible that our legal council could recommend that we move into an adjudicative session for deliberations which could require more time.

Commissioner Fikes stated should would be in favor of reducing the open presentations of the appellant and the applicant to 5 minutes each.

AMENDMENT G MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	10	No	1	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Gillham, Martin, Morgan, Ruffner, Venuti				
No	Fikes				

MAIN MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

Yes	11	No	0	Absent	0
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
No					

Revised Hearing Procedure

1. Chair will introduce the item on the agenda.
2. Planning Director & Deputy Borough Attorney – presentation of issues & director’s decision (7 minutes).
3. Appellant Meyer Opening Presentation (7 minutes)
4. Appellant Sanders Opening Presentation (7 minutes)
5. Appellant Cutler Opening Presentation (7 minutes)
6. Appellant Pitcher Opening Presentation (7 minutes)
7. Applicant Opening Presentation (7minutes)
8. Appellant Meyer Closing Statement (3 minutes)
9. Appellant Sanders Closing Statement (3 minutes)
10. Appellant Cutler Closing Statement (3 minutes)
11. Appellant Pitcher Closing Statement (3 minutes)
12. Applicant Closing Statement (3 minutes)
13. Directors Closing Statement (3 minutes)

AGENDA ITEM K. DIRECTOR’S COMMENTS - None

AGENDA ITEM L. COMMISSIONER COMMENTS - None

AGENDA ITEM M. ADJOURNMENT – Commissioner Carluccio moved to adjourn the meeting at 9:30 p.m.

Ann E. Shirnberg
Administrative Assistant

Kenai Peninsula Borough Planning Commission

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

**May 10, 2021
7:30 P.M.
UNAPPROVED MINUTES**

CALL TO ORDER

Chair Martin called the meeting to order at 7:45 p.m.
(Meeting started late due to Plat Committee running over time)

ROLL CALL

Commissioners Present
 Syverine Bentz, Anchor Point/ Ninilchik
 Paulette Bokenko-Carluccio, City of Seldovia
 Jeremy Brantley, Sterling
 Davin Chesser, Northwest Borough
 Diane Fikes, City of Kenai
 Pamela Gillham, Ridgeway
 Blair Martin, Kalifornsky Beach
 Virginia Morgan, East Peninsula
 Robert Ruffner, Kasilof/Clam Gulch
 Franco Venuti, City of Homer

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

Staff Present

Marcus Mueller, Land Management Officer
 Scott Huff, Platting Manager
 Ann Shirnberg, Administrative Assistant
 Julie Hindman, Platting Specialist
 Avery Harrison, Administrative Assistant

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Echo Section Line Easement Vacation Plat Associated With US Survey #14477
KPB File 2019-138
 - b. WhistleBait Estates Addition No. 1; KPB File 2020-143
- *6 Commissioner Excused Absences
 - a. Cindy Ecklund, City of Seward
- *7 Minutes
 - a. April 26, 2021 Planning Commission Meeting

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Ecklund				

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E. NEW BUSINESS

**ITEM 1 – BUILDING SETBACK ENCROACHMENT PERMIT
ALDER SLOPES 2011 ADDITION, TRACT D-1**

KPB File No.	2021-050
Planning Commission Meeting:	May 10, 2021
Applicant / Owner:	Andrew Peter, Homer, Alaska
Surveyor:	N/A
General Location:	Fritz Creek / Kachemak Bay APC

Parent Parcel No.:	172-150-24
Legal Description:	Tract D-1, Alder Slopes 2011 Addition (HM 2011-005)
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Scott Huff

Specific Request / Purpose as stated in the petition: The request is to reduce the 20 foot building setback to a 10 foot building setback for a 30 foot length on Greenwood Road. The reduction in the building setback will allow a permanent structure to be constructed as shown on applicant’s sketch. The depiction of the building is drawn to scale, and located in the correct location on the plat. The applicant consulted with a local surveyor, and he advised “if it is a vacation of an easement the borough should be able to work with a sketch”.

The justification provided by applicant:

- Very low traffic; Greenwood Road is not borough maintained and reaches a dead end less than 1000’ from this location... 2 or 3 vehicles per day is the usual passage
- The road is narrow, and the improvements made for this project have already made snow removal easier. With that said, this snow removal is not paid by the borough as it is not maintained by the borough.
- The building location is on the “outside” of a curve; there is no visibility limitation caused by construction of this structure
- An although this should have minimal/no influence, my neighbor on Greenwood has a shed/shop well within the ROW (north of his home)... I have no complaints, nor do I want to cause issue; just stating a fact.

Site Investigation:

The permit is being requested for a future permanent structure to be constructed with access off Greenwood Road. Greenwood Road is constructed but not maintained by Kenai Peninsula Borough or State DOT. The property is outside of City limits. Photos have been provided by applicant. A site inspection was not performed by Staff.

Per KPB GIS data, the property is not subject to any wetlands. The terrain slopes to the southeast. Approximate slopes of 14 percent can be found within the dedication of Greenwood Road along Tract D-1. The parcel is 3.17 acres and contains a residence, driveway and other improvements.

Staff Analysis:

Tract D-1 of Alder Slopes 2011 Addition (HM 2011-05) notes and depicts a 20 foot building setback along the 60 foot right of way, Greenwood Road. The setback was originally put in place on this property on the parent parcel, Tract D, Alder Slopes, 1980 Addition (HM 81-62). The parent plat dedicated Greenwood Road in question and established the 20 foot building setback by plat note.

The property is located in the Fritz Creek area. Greenwood Road connects to East End Road, a State maintained right of way, at approximately milepost 12. The area included in the application is on Greenwood Road, approximately 1,685 feet from the intersection with East End Road. Per KPB GIS imagery, the constructed portion of Greenwood Road continues approximately another 1,140 feet. The dedicated but unconstructed portion appears to continue approximately another 767 feet.

The plat, Alder Slopes 2011 Addition (HM 2011-5), depicts a power line that is close to the proposed building location. The owner has been in contact with Homer Electric Association, Inc. (HEA) and has supplied a letter of non-objection. HEA notes the depiction was approximate. The letter from HEA states that no permanent structures are to be installed within an electrical distribution line easement. The application does not include a utility easement vacation. Staff recommends the owner work with HEA to ensure there are no violations of easements and that all safety protocols are followed.

Staff would like to note that while a sketch is allowed to be submitted with the application, per KPB 20.10.110(G) the resolution will require an exhibit drawing that shall be prepared, signed and sealed, by a licensed land surveyor.

Findings:

1. A 20 foot building setback was placed on Tract D of Alder Slopes 1980 Addition (HM 81-62) in 1981.
2. The 20 foot building setback was carried over to Tract D-1 of Alder Slopes 2011 Addition (HM 2011-5).
3. Tract D-1 is located on Greenwood Road.
4. Greenwood Road is a 60 foot wide right of way that is constructed in the area requested on the permit.
5. Greenwood Road is not maintained by the Kenai Peninsula Borough or any other government agency.
6. The permit is for a future permanent structure.
7. There are no low wet areas in the permit area.
8. Tract D-1 slopes downward to the southeast.
9. Tract D-1 is 3.17 acres in size.
10. Per KPB Assessing information, there are three lots with improvements located past the area in question.
11. Greenwood Road dedication connects with Summit Street, a 30 foot right of way north-south dedication that is not constructed.
12. No site inspection was performed.
13. Photos were submitted.
14. KPB Code Compliance does not support the issuance of the permit.
15. This portion of Greenwood Road can be included in the KPB road maintenance program when the road is improved to meet KPB road construction requirements.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications:
 1. The building setback encroachment may not interfere with road maintenance.
 2. The building setback encroachment may not interfere with sight lines or distances.
 3. The building setback encroachment may not create a safety hazard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	Comments not available at the time the staff report was prepared.
Code Compliance – Eric Ogren	<i>“Would not support building in the setback, since the structure is not built as of yet and it is known to violate code. Suggest to move the planned structure back 10 feet out of the setback.”</i>
Advisory Commission	Planning Within the Kachemak Bay APC. Information has been forwarded to the APC for review. Minutes were not received when the staff report was prepared. If minutes are available they will be included in the desk packet.

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to deny the issuance of the permit and not adopt Resolution 2021-16.

If the Planning Commission approves the building setback permit, **staff recommends** that findings to support the permit be tied to the three standards and adopt Resolution 2021-16 thus granting the building setback encroachment permit, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

Mr. Huff noted that after the staff report was prepared the KPB Roads Department did respond and they had no comment on this application.

END OF STAFF REPORT

Chair Martin open the meeting for public comment.

James Hollowell - 53370 Greenwood Rd. Homer, AK 99603: Mr. Hollowell is a landowner along Greenwood Road. Mr. Hollowell stated he opposed approving this permit. He noted where the applicant is proposing to build this new structure is very close to the road edge and believes it could be a potential hazard.

Commissioner Fikes asked Mr. Hollowell if he believed having the proposed building so close to the road would create an issue with road maintenance. Mr. Hollowell replied he believed it could potentially create an issue with plowing of the road. He referred to the map that was included with the notice sent out and he believes where the proposed building would go is close to the road, slightly downhill and could affect future road maintenance particularly in the wintertime.

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Carluccio to approve PC Resolution 2021-16 granting a building setback encroachment permit to a portion of the 20’ building setback adjoining the northern boundary of Tract D-1, Alder Slopes 2011 Addition (HM 2011-05), granted by Alder Slopes,

1980 Addition (HM81-62); KPB File 2021-050.

Commissioner Ruffner stated he was struggling with this application and was not sure how he was going to vote on this permit. He noted the commission sees a lot of building setback encroachment requests. Normally they are requested after the fact, when the building is already in place. In most cases when these are approved it is because it would be very difficult and costly to move the existing structure. In this case, the applicant is seeking permission ahead of time, before the structure is built. He is also just asking for 10 feet of the setback and not the whole 20 feet. While there is a history of approving building setback encroachments, he does agree with the Code Compliance Officers comments. The structure is not yet built and the commission should adhere to borough code.

Commissioner Fikes stated that she shares similar thoughts as Commissioner Ruffner. She is concerned about the potential for future road maintenance issues. She also has concerns about setting a precedent of going against borough code.

Commissioner Brantley stated he would feel better about approving the permit if there was something about the lot that required the structure to be built in that specific area. When looking at the topography he does not see a reason, such a steep incline or depression that would make the chosen location the only suitable one. With the information he has before him now he does not believe he will be supporting this request

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

MOTION *FAILED* BY UNANIMOUS VOTE

Yes	0	No	10	Absent	1
Yes					
No	Bentz, Brantley, Carluccio, Chesser, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti				
Absent	Ecklund				

AGENDA ITEM K. DIRECTOR’S COMMENTS

AGENDA ITEM L. COMMISSIONER COMMENTS

AGENDA ITEM M. ADJOURNMENT – Commissioner Carluccio moved to adjourn the meeting at 8:10 p.m.

Ann E. Shirnberg
Administrative Assistant

Kenai Peninsula Borough Plat Committee

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

**May 10, 2021
6:00 p.m.
UNAPPROVED MINUTES**

Meeting started late due to technical difficulties.

A. CALL TO ORDER

Commissioner Carluccio called the meeting to order at 6:40 p.m.

B. ROLL CALL

Plat Committee Members/Alternates

Pamela Gillham, Ridgeway
Paulette Carluccio, City of Seldovia
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

Staff Present

Scott Huff, Platting Manager
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant

C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES

- *2 Member Excused Absences
 - a. Cindy Ecklund, City of Seward
- *3. Minutes
 - a. April 26, 2021 Plat Committee Meeting Minutes

Chair Carluccio asked if anyone wanted to speak any items on the agenda.

Commissioner Ruffner asked to move item E7 under New Business to the first item after the Grouped Items on the agenda as there were individuals waiting in the audience to speak on this item.

Hearing no one else wanting to speak, public comment was closed.

MOTION: Commissioner Ruffner moved seconded by Commissioner Gillham to move Item E7 on the regular agenda to after the grouped items, approve the revised agenda and the minutes from the April 26, 2021 Plat Committee meeting.

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

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

E. NEW BUSINESS

Chair Carluccio asked Ms. Shirnberg to read the procedures by which public testimony would be taken.

AGENDA ITEM E. NEW BUSINESS

GROUPED AGENDA

Staff Report given by Scott Huff

Staff grouped the plats located under **AGENDA ITEM E.** They are grouped as:

- A. Simple or non-controversial. The type of plats grouped are lot splits, creating a small number of lots, replats, no exceptions required and no public comments were received. – 3 Plats
 - 2. Barker Subdivision #2
 KPB File 2021-055; [Johnson Surveying / Naptowne Holdings, LLC]
 Location: On Scout Lake Loop Rd., Greenwood Court & Sterling Highway
 Sterling Area
 - 3. Willard Point
 KPB File 2021-056; [Johnson Surveying / Willard]
 Location: Near MP 148 Sterling Highway
 Happy Valley Area
 Anchor Point APC

Staff recommends the committee determine whether any members of the public, surveyors or committee members wish to speak to any of the plats in this **group (A)** and remove the specific plats from the group, voting on the remainder of plats in the group in a single action to grant preliminary approval to the plats subject to staff recommendations and the conditions noted in the individual staff reports.

END OF STAFF REPORT

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

MOTION: Commissioner Gillham moved, seconded by Commissioner Ruffner, to grant preliminary approval based on staff recommendations and compliance with borough code to Barker Subdivision #2 and Willard Point.

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

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Gillham, Ruffner		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 2 – BARKER SUBDIVISION #2

KPB File No.	2021-055
Plat	Committee May 10, 2021
Meeting:	
Applicant / Owner:	Naptowne Holdings, LLC
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Corner of Sterling Highway, Scout Lake Loop Road, and Greenwood Court; Sterling Area

Parent Parcel No.:	063-680-10, 063-680-11
Legal Description:	Lots 4 and 5, Block 1 of Barker Subdivision, KN 78-199
Assessing Use:	Residential/General Commercial
Zoning:	Rural Unrestricted
Water / Wastewater	On-site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine two parcels that are 0.84 acres into one lot that will be 1.682 acres.

Legal Access (existing and proposed):

The proposed subdivision is located at approximate milepost 83.5 of the Sterling Highway in the Sterling area. The subdivision has access by way of the Sterling Highway, Scout Lake Loop Road and Greenwood Court. Sterling Highway is a varying width right of way that is maintained by the State of Alaska DOT. Scout Lake Loop Road is a 100 foot wide right of way that is maintained by the State of Alaska DOT. Greenwood Court is a 60 foot wide right of way that is improved and maintained by the Kenai Peninsula Borough. Greenwood Court was originally named Sterling Drive but due to a vacation on the western end the street name was changed by Resolution SN 1996-04. Per KPB GIS imagery, this subdivision has one driveway on the Sterling Highway and two driveways on Greenwood Court.

KPB Roads Dept. comments	Within jurisdiction; no comments
SOA DOT comments	The ROW for the Sterling Highway is as shown on sheet 48 of 74, Sterling Highway Mile 79-94, plat 2013-26

Site Investigation:

The subdivision appears to be relatively flat and contains no low, wet areas.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Not within an AWHPD.
State Parks Review	No comments.

Staff Analysis

The proposed subdivision will combine two lots into one lot. These lots were both created by Barker Subdivision, KN 78-199. Per the parent plat, these lots were 40,068 and 40,015 square feet. This plat will increase the lot size and provide more adequate area for on site water and wastewater disposal.

The State of Alaska project IR-0A3-3(3), as seen in KN 2013-26, page 48, acquired additional right of way for the Sterling Highway. This created a change to the lot acreage and these lots currently do not comply with minimum lot size. Parent Lot 4 was reduced to approximately 37,026 square feet and Lot 5 to approximately 36,590 square feet. Combining the lots will create one lot that is compliant with minimum lot size.

Per KPB Code 20.40.020(A)(2), the plat will increase the lot sizes by 1,000 sq. ft. and a soils analysis report is not required. **Staff recommends** the correct wastewater disposal plat note be added to the plat.

“WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.”

Notice of the proposed plat was mailed to the beneficial interest holder on April 27, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The block is not compliant to KPB Code. The block length along Scout Lake Loop Road is approximately 280 feet, which is short of the minimum length. The block length along the Sterling Highway is slightly too long with an approximate length of 1,500 feet. The block length along the Sterling Highway was compliant until a portion of Sterling Drive was vacated by plat KN 94-63. **Staff recommends** that the Plat Committee concur that an exception is not required as any dedications granted will not improve the block length.

The current lots share an access from the Sterling Highway. This platting action will combine the lots to remove issues of encroachment between the two lots, if any exist.

Staff recommends the following corrections/edits be made

CORRECTIONS / EDITS

Plat notes to be added:

- Provide the correct wastewater disposal note.
- The certificate to plat contains a reservation of easement. "Reservation of Easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 601, dated August 10, 1949 and amended by Public Land Order No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; and Department of the Interior Order No. 2665, dated October 16, 1951, Amendment No. 1 thereto, dated July 17, 1952 and Amendment No. 2 thereto, dated September 15, 1956, filed in the Federal Register."

Revise plat note 5 to include the recording information of KN 2013-26.

Within the vicinity map, add road to Scout Lake Loop Road.

Provide the status of adjacent lands within 100 feet of the subdivision boundary.

Include Block One within this subdivision boundary.

Utility Easements

The 5 foot utility easement from the parent plat is being carried forward. This platting action will grant the front 10 feet of the building setback and the entire building setback within 5 feet of the side lot lines as a utility easement.

Utility provider review:

HEA	No comments.
ENSTAR	No comments or objections
ACS	No objections.
GCI	

KPB department / agency review:

Planner – Bryan Taylor	There are not any Local Option Zoning District issues or material site issues with this proposed plat.
Code Compliance – Eric Ogren	No comments
Addressing – Derek Haws	Affected addresses: 35021 Sterling Highway, 35051 Sterling Highway. 35021 Sterling Highway will remain on Lot 4A. All existing street names are correct.
Assessing – Adeena Wilcox	No comments

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

**Passed by Grouped Agenda*

AGENDA ITEM E. NEW BUSINESS

ITEM 3 – WILLARD POINT

KPB File No.	2021-056
Plat Committee	May 10, 2021
Meeting:	
Applicant / Owner:	Richard and Victorine Willard
Surveyor:	Johnson Surveying
General Location:	MP 148 Sterling Highway / Anchor Point APC

Parent Parcel No.:	159-190-51, 159-180-54
Legal Description:	Lot 7A, Rozak Stariski Creek Subd. HM 98-67 Govt. Lot 6 lying W of the Sterling Highway
Assessing Use:	Residential Dwelling
Zoning:	Unrestricted
Water / Wastewater	On - site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine Lot 7 (4.144 Ac.) and Govt. Lot 6 (5 Ac.) into one parcel that will be 8.776 acres in size.

Legal Access (existing and proposed):

Legal access to the subdivision is provided by the Sterling Highway. Govt. Lot 6 does not front the Sterling Highway. A single driveway provides shared access for both lots. By combining the two lots into one it will allow legal access to the entire parcel.

The Govt. Lots to the south as west are owned by KPB and have legal access by the Sterling Highway and along the beach.

KPB Roads Dept. comments	Within KPB jurisdiction, no comments.
SOA DOT comments	The ROW for the Sterling Highway is as shown on sheet 23 of 38, F-021-1(2), Homer Serial Number 63-423

Site Investigation:

GIS imagery shows buildings on both parcels with driveways and other smaller structures.

This subdivision is very near to Cook Inlet and affected by the steep bluff. Most of Govt. Lot 6 is affected by the bluff with a small upland area that contains a house. The steep slope limits the area that can be developed. **Staff recommends** the usable area be added to the final plat along with the total acreage.

The subdivision does not front Cook Inlet and is not affected by a meander line or any public access easement attached to the mean high water line.

Floodplain Hazard Review	Not within a flood hazard area. Located in a D-zone which is non-regulatory.
Anadromous Waters Habitat Protection District Review	Not within a Habitat Protection District.
State Parks Review	No Comments.

Staff Analysis

Lot 7A was created in 1998 by subdivision plat that subdivided several government lots. No access was given to Gov. Lot 6

A wastewater report was prepared for Lot 7A which stated the soils were suitable for conventional onsite wastewater treatment and disposal systems. This plat will be combining two lots into one, increasing the area available for wastewater disposal installation, and will not require a wastewater review.

Improvements have been made on both parcels and the combining of the lots into one will remove any future encroachment issues as the lots cannot be transferred separately.

This subdivision is located within an incomplete block. **Staff recommends** the plat committee concur that this subdivision cannot provide a right of way dedication to help with block length due to steep terrain, Cook Inlet, development in the area, and the location of the Sterling Highway, and an exception is not required.

Notice of the proposed plat was mailed to the beneficial interest holder on April 27, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

STAFF RECOMMENDATIONS **CORRECTIONS / EDITS**

20.25.070 Form and contents required

- Typically, the parent plat name is carried forward, however Staff is agreeable to a new subdivision name as this will be a combination of a government Lot and a subdivide parcel. Another option would be to revise the subdivision name to carry forward the parent plat name. i.e. Rozak Stariski Creek Subd Willard Point addition.
- Correct the aliquot description to SE1/4 NW1/4 & SE1/4 NW1/4 of Section 25
- Confirm the total acreage as KPB information shows 9.14 Ac.
- Provide status labels and parcel lines for the government lots to the south and west.
- Remove 'Gov' from the lot label.
- Verify the small remaining portion of the Gov. Lot south of the subdivision as this appears to be Gov. Lot 13.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

Staff recommendation: Clearly show or depict the survey markers that were used to define the boundary of Gov. Lot 6.

20.60.140. Block and lot numbering. Blocks and lots within each block shall be numbered consecutively or all lots shall be numbered consecutively. If possible, each block should be shown entirely on one sheet. Each lot shall be shown entirely on one sheet.

Staff recommendation: Remove 'Gov' from the lot designation.

Utility Easements

The utility easements of record as shown on plat HM 98-67 are being carried forward. **Staff recommends** a reference be added to note the source of the record easements.

A utility easement of record, location undefined, affects the subdivision and is referenced in plat note 5.

Utility provider review:

HEA	Reviewed, no comments.
ENSTAR	No comments or recommendations.
ACS	No objections.
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 26425 STERLING HWY 26365 STERLING HWY No other comments.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this subdivision.
City Advisory Comments	No comments.
Advisory Planning Commission	

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

RECOMMENDATION:**STAFF RECOMMENDS:**

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

****Passed by Grouped Agenda***

AGENDA ITEM E. NEW BUSINESS

ITEM 7 – VAN SKY SUBDIVISION NUMBER 7 - REVISED

KPB File No.	2021-012R1
Plat Committee Meeting:	May 10, 2021
Applicant / Owner:	Estate of Dennis Van Sky, Kenai, Alaska
Surveyor:	John Segesser / Segesser Surveys
General Location:	Nikiski

Parent Parcel No.:	014-160-54
Legal Description:	Tract C1, Van Sky Subdivision Number 6, KN 2012-50
Assessing Use:	Residential
Zoning:	Rural District / Unrestricted
Water / Wastewater	On-Site

Staff report given by Scott Huff

Specific Request / Scope of Subdivision: The proposed plat will subdivide an 18.9 acre parcel into two tracts that are 5.2 and 12.7 acres.

This is a revised design of a preliminary plat that was heard and approved by the Plat Committee at the March 15, 2021 meeting. An exception had been requested for KPB Code 20.30.030 and 20.30.170 to not extend Graham Avenue. The Plat Committee unanimously voted to deny the exception and require the extension of Graham Avenue to Van Sky Street on the west boundary. The parcels to the north are 'land locked' as there is no legal access to multiple lots. The extension of Graham Avenue would provide legal and help with block length requirements.

A new design has been submitted with a partial dedication for Graham Avenue. The proposed design will still require an exception to KPB Code.

Legal Access (existing and proposed):

Access to the subdivision is via Birchwood Drive and Jeffery Avenue which are KPB maintained dedicated right of ways. Sequoya Drive and Graham Avenue are dedicated right of ways that provide access to the subdivision but have not been improved.

This plat is proposing to provide the following:

- 30 foot half width right of way, Van Sky Street, located on the west boundary. A matching dedication can be obtained when the neighboring 13 acre parcel is further subdivided.
- 30 foot half width right of way, Graham Ave, located on the north boundary. A matching dedication can be obtained when the neighboring parcels are further subdivided.

The subdivision is located in an open block that does not comply with KPB code.

KPB Roads Dept. comments	Not available when the staff report was prepared.
SOA DOT comments	N/A

Site Investigation:

The subdivision is generally flat and not affected by steep terrain. A low wet area affects a small portion on the west boundary.

Floodplain Hazard Review	Not within a flood hazard area
Anadromous Waters Habitat Protection District Review	Not affected by a Habitat Protection District
State Parks Review	No comments

Staff Analysis

The parent parcel, Tract C1 was created in 2012.

The new lots are larger than 200,000 sq. ft. and a soils analysis report is not required.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

Staff has reviewed the revised plat under the code requirements the original plat was approved under (pre Ordinance 2020-45). This staff report is only addressing the changes presented on the revised sketch. All requirements laid out in the original staff report that was approved on March 15, 2021 are still required. All corrections and code requirements listed in the original staff report must still be met in order to finalize this plat. A copy of this revision was sent to all reviewers for any comments or concerns regarding the proposed revision.

CORRECTIONS / EDITS

The subdivision boundary needs to be updated to include the proposed dedication to the west and in the eastern corner where the Graham Avenue dedication is proposed. The interior lot lines shall be thinner than the subdivision boundary. Correct any overstrikes on the survey markers.

Block 2 label shall be added to Tract 13 located northwest of the subdivision.

Line and curve table needs to be added to the plat.

Update the plat approval note to include both meeting dates. "This plat was approved by the Kenai Peninsula Borough Planning Commission at the meetings of March 15, 2021 and May 10, 2021."

A turnaround area is proposed for Graham Avenue. The southern portion is proposed to be 30 feet wide. This design will allow for future development and extension of the right of way. If this right of way ever extends to Jeffery Avenue, the ability to get a matching 30 foot dedication from Lot 2, KN 2012-50 will be slim as it is already a 1 acre lot. **Staff recommends** the T-type turn around area south of Graham Avenue be 60 feet wide to allow for a future extension.

The request for the exception states there are improvements on proposed Tract C2 that cross the boundary with Tract D to the north. Tract D is owned by Penny Rae Van Sky.

Per KPB 20.25.070(N), apparent encroachments are to be depicted on the preliminary plat and a statement is to be provided indicating how the encroachment will be resolved prior to final plat approval. **Staff recommends** the surveyor provide the location of the encroachments and as well as a statement for how the encroachment will be resolved prior to final plat approval. Tract C2 and Tract D can be combined into one parcel to remedy the encroachment issue.

PLAT NOTES -

Staff recommends add the following plat notes -

- Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program (KPB 14.06).
- A note for any exceptions granted and the correct meeting date.
- Acceptance of the plat by the Borough does not indicate acceptance of any encroachments.

Staff recommends correct the following plat notes –

- Plat note 6, the second "This plat" should not be capital as it is does not start a sentence just located at the start of a line.

Utility Easements

Per the parent plat, 10 foot utility easements exist adjoining the dedicate right of ways, with a full 20 feet within 5 feet of the side lot lines. This plat will be granting utility easements within the front 10 of the building setback and the entire setback within 5 feet of the side lot lines.

Two utility easements of record affect this subdivision. The easement recorded in Bk. 2 Pg. 132 KRD is noted on the plat. **Staff recommends** the surveyor determine if the easement of record recorded in Bk. 37 Pg. 23 KRD affects this subdivision and if so, then depict or note the easement of record.

An easement for a public road turn around area has been depicted and labeled on the plat.

Utility provider review:

HEA	No Comments
ENSTAR	
ACS	No comments
GCI	

KPB department / agency review:

Planner – Bryan Taylor	There are no local option zoning districts associated with this plat. A prior existing use was recognized on November 15, 2000. A letter for the material site was sent to the land owner on March 1, 2021. (letter in packet)
Code Compliance – Eric Ogren	No Comments.
Addressing – Derek Haws	Van Sky St. is approved

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

EXCEPTIONS REQUESTED:

KPB 20.30.030 – Proposed Street Layout – Requirements

KPB 20.30.170 – Block Length - Requirements

Surveyor's Discussion: We need an exception to extending Graham Avenue to Van Sky Street as there are improvements extending from future Tract C2 onto Tract D to the north. Extending Graham Avenue would place improvements in the ROW. Graham Avenue is extended far enough for Lot 5A5 Block 4 to have 60 feet of ROW frontage.

Staff Discussion: Two section of code are being combined into one exception as the two sections of code are both in regards to the extension of Graham Avenue. The Plat Committee may vote on each section separately if they choose.

The proposed design extends a half width right of way dedication of Graham Ave for 1,017 feet to the west but does not connect to Van Sky Street. The proposed Graham Ave. dedication will extend to the southeast corner of Tract 5A5, Block 4 KN 640.

Previous concerns of the Plat Committee was the limited access provided to the lots to the north. The lots to the north front on Conundrum Ave. but there is no legal access to Conundrum Ave. so the lots are 'land locked'

Van Sky Street dedication along the west will provide access to Tract D, Tract D is a 13 acre parcel which fronts on Kendra Avenue on the north boundary. No legal access connects to Kendra Avenue. If the proposed design is granted the block length will improve but without through dedications the block length will not comply with code.

A 'L' shaped turnaround is being provided at the proposed west end of Graham Avenue. This design will allow the right of way to be extended to the west and south in the future.

The applicant has stated that there are improvements on the boundary between proposed Tract C2 and Tract D. No asbuilt survey was provided and aerial imagery from 2019 does not show any type of improvements.

If denied, the plat will require a redesign to extend Graham Avenue to the west and provide a connection to Van Sky Street. A 'L' shaped turn around would not be required.

Findings:

1. Graham Avenue is a 60 foot wide right of way located to the northeast of the subdivision.
2. Graham Avenue is not improved at this time and is not maintained by the KPB Roads Dept.
3. 5 parcels front the north boundary of this proposed subdivision.
4. Tract D, Van Sky Subd. No. 4 (KN 2009-23) is 13 acres in size and is large enough to be further subdivided.
5. Tracts 5A5, 5A6, 5A7, and 5A8, Island Lake Subdivision (K-640) are 5 acres in size and are large enough to be further subdivided.
6. Tracts D fronts on Kendra Avenue, a 30 foot wide dedicated right of way.
7. Tracts, 5A5, 5A6, 5A7, and 5A8 front on Conundrum Ave., a 60 foot wide public access easement.
8. Kendra Avenue and Conundrum Avenue do not connect to a public right of way or public access easement.
9. Kendra Avenue and Conundrum Avenue are not improved.
10. If Graham Avenue is extended with this platting action, Tracts 5A5, 5A6, 5A7, an 5A8 would be required to provide a matching 30 foot right of way dedication when they are further subdivided.
11. This subdivision is located within an open block that does not comply with subdivision requirements.
12. An extension of Graham Avenue and a right of way on the west boundary of this proposed plat will bring the block into compliance.
13. An extension of Graham Avenue will improve access.

14. The dedication along the west, Van Sky Street, will improve the block length.
15. Per the submittal, improvements would be located within the right of way if Graham Avenue was to be extended to connect to the western dedication.
16. An asbuilt survey was not provided to show the location of the improvements.
17. Aerial imagery does not show any improvements on the boundary between Tract D and proposed Tract C2.
18. The turnaround area for Graham Avenue is compliant with KPB Code and will also allow future extension.
19. The southern portion of the Graham Avenue turnaround is 30 feet wide.
20. Lot 2 Van Sky Subdivision No. 6 (KN 2012-050) is only one acre and 141 feet wide.
21. Ability to get a matching 30 feet dedication from Lot 2 Van Sky Subdivision No. 6 (KN 2012-050) is not likely.

Staff reviewed the exception request and based on findings 4, 11, 12, 13, 16 and 17 does not recommend approval.

If the exception is granted, Staff recommends the 'L' turnaround portion of Graham Avenue be widened to 60 feet to allow for the right of way to be extended in the future.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

KPB 20.30 Design Requirements

Platting staff comments: Staff reviewed the plat and all the items required by 20.30 were met, unless otherwise noted below:

20.30.100. Cul-de-sacs.

- B. Hammerhead or T -type turnarounds may be allowed on a case-by-case basis. Adequate turning radii, width and depth must be provided for road maintenance and emergency vehicle access. Plans must be reviewed with a recommendation by emergency service providers and the KPB Road Service Area Board prior to submittal for planning commission review.

Platting Staff Comments: If the exception is granted the proposed turnaround will provide a turnaround as well as allow for future extension of right of way. Staff requests the width of the southern 'L' extension be widened to 60 feet. The proposed design will allow for future extension to the south to create a compliant block that will connect to Jeffery Avenue.

Staff recommendation: Comply with 20.30.100.

KPB 20.60 – Final Plat

Platting staff comments: Staff provided additional information to portions of 20.60 as noted below.

Staff recommendation: final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.

20.60.040. Dedication of public use lands. Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

Platting Staff Comments: An acceptance for any right of way dedications must be added to the plat to be signed by a Kenai Peninsula Borough Authorized Official.

Staff recommendation: Comply with 20.60.040.

20.60.110. Dimensional data required.

A. The bearing and length of every lot line, block line, and boundary line shall be shown. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled.

Platting Staff Comments: The line and curve data is missing from the plat and must be added.

Staff recommendation: comply with 20.60.110.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data.

Platting Staff Comments: The boundary must be revised to include the dedications and the boundary must be wider than the interior lot lines.

Staff recommendation: Comply with 20.60.130.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS IN THIS STAFF REPORT AND THOSE FOUND IN THE PREVIOUS STAFF REPORT FOR KPB FILE 2021-012, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 10 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

STAFF REPORT - ADDENDUM

After the staff report was prepared, the landowners met with staff to discuss this subdivision. With the information presented by the landowners, Staff has prepared additional findings for the exception requested to KPB 20.30.030 – Proposed Street Layout – Requirements and KPB 20.30.170 – Block Length – Requirements.

22. An estate owns Tract C1 and this plat will subdivide the parcel so two siblings can have separate ownership.

23. Penny Van Sky owns Tract D and will also be the owner of proposed Tract C2. The two tracts will

be adjoining.

24. Lot 5A7, 5A8, and Tract 13, located to the northeast of this subdivision, are under common ownership. The owners of Lot 5A7 and 5A8 can access these lands from their neighboring lots.

25. Larry Van Sky owns Lots 5A5 and 5A6 located to the north.

26. This plat, as submitted, will provide legal access to all five parcels that are located on the north boundary.

Staff reviewed the exception request and recommends granting approval, **subject to** the 'L' turnaround portion of Graham Avenue be widened to 60 feet to allow for the right of way to be extended in the future.

Findings 12-15, 18, 22-24, and 26 appear to support standards 1, 2, and 3

END OF STAFF REPORT ADDENDUM

END OF STAFF REPORT

Chair Carluccio opened the meeting for public comment.

Kevin Dukowitz – 47191 Wildberry Ct., Kenai AK 99611: Mr. Dukowitz spoke on behalf of his wife who has interests in this subdivision. This property was a part of her grandfather's homestead from the 1950. Tract C1 belonged to his wife's father who passed away last year. This proposed subdivision will split this property between her and her sister. Her sister Penny Van Sky will be the owner of proposed Tract C2 and she also owns Tract D. His sister-in-law has cleared the land to build right on the boundary of Tract D and the proposed Tract C2. His wife will own proposed Tract C3. When his surveyor John Segesser was working on this subdivision he asked him if they wanted to have Graham Ave. extend all the way across Tracts C2 & C3. He told him it couldn't because of his sister-in-law had already started to develop her property on the boundary between Tracts C2 & D. They would only like to extend Graham enough to give access to the lots to the north (Tracts 5A5 thru 5A8). He stated that the individuals who purchased the parcels off Conundrum Ave. knew they were landlocked and he believes that Conundrum Ave. should be extended to Duke St. to give the lots to the north access. This proposed plat will finalize the remaining estate of his father-in-law and they would like to see it approved tonight.

Commissioner Ruffner noted that it appears all involved with this proposed plat are good with the current design, showing that Graham Ave. will be extended out to Tract 5A5. Mr. Dukowitz replied that while extending Graham Ave. was not their first preference, he understands that this current design meets borough code and it will allow them to finalize his father-in-laws estate.

Larry Van Sky – 53832 Forest Lane, Kenai AK 99611: Mr. Van Sky is the son of the man who owned the original 40 acre homestead. He stated he does not support extending Graham Ave. at all. Someone at some time created the eight lots that front along Conundrum Ave. knowing that they were landlocked and some authority at the time approved it. He believes the surveyor of those lots just drew up the plat and never did a land survey. He believes that the persons who have bought these lots on Conundrum are speculators, with him being one of them, and purchased these lots because they were cheap and understood that they were landlocked. He believe the better plan would be to extend Conundrum Ave. across Tract D to Tract E. This makes more sense that extending Graham Ave. While he protests against extending Graham Ave. he would ask that the committee approve the plat before them so his brother's estate can be finalized.

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant preliminary approval to Van Sky Subdivision No. 7 based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.030 – Proposed Street Layout Requirements & KPB 20.30.170 – Block Length Requirements, subject to the 'L' turnaround portion of Graham Avenue be widened to 60 feet citing findings 12-15, 18, 22-24, & 26 in support of standards one, two and three.

Commissioner Ruffner stated he understands the concerns expressed about the road not being in an ideal spot and that they would like to see it developed in another location. He understands folks do not like to give up land in the subdivision process but at the same time they are tasked with trying to develop properties in

an orderly manner. This plat will assist with providing legal access to several of the landlocked lots off Conundrum and hopefully promote a more orderly development of the area. Because extending Graham Ave. will provide legal access to the tracts to the north he would support this exception request.

Commissioner Carluccio stated that she agreed with Commissioner Ruffner and noted in the past she has seen where exceptions have been granted to not require public access easements. Many times this has created problems later much like what is seen here with the landlocked parcels off Conundrum Street. She would support the exception request based on the extension of Graham Ave.

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

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

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

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

AGENDA ITEM E. NEW BUSINESS

- Christensen Tracts 2009 (2021) Addition
KPB File No. 2021-046; Geovera, LLC / Hough

Staff report given by Scott Huff.

Location: on East End Road and Hough Road, City of Homer
 Water/Sewer: On site sewer / City Water
 Zoning: City Zoning
 Assessing Use: Residential
 Parent Parcel Number(s): 179-020-86, 179-021-58

Supporting Information:

The subdivision is located approximately at mile 1.5 of state maintained East End Road. Hough Road is a city right of way that is partially constructed. The roadway is constructed outside of the dedicated right of way. This plat will correct the right of way alignment by vacating a portion of the dedicated right of way and dedicating right of way over the constructed portion of Hough Road.

The proposed plat affects two tracts. Along with the change to Hough Road right of way, one tract will be subdivided into two parcels.

This proposed plat was originally heard and approved by the Plat Committee at the April 12, 2010 meeting. Numerous time extensions have been granted along with the approval of the City of Homer. The original surveyor has retired and the owners have found a new surveyor.

The last time extension, due to the age of the file, was approved with the requirement that the plat comply with current code. This plat is being brought back to the Plat Committee for a new preliminary plat approval.

The right of way vacation has expired and required a new submittal. The right of way vacation was heard by the Kenai Peninsula Borough Planning Commission at the April 26, 2021 meeting and was approved by unanimous vote.

The City of Homer has submitted a statement that the plat and Right of Way vacation comply with City approval and no changes have been made.

When the plat was previously heard the plan was to connect to municipal water and have on-site wastewater disposal. Any plans to connect to municipal water or wastewater will require documentation from the City of Homer that an installation agreement is in place or services are installed and in installation agreement is not required. If on-site wastewater will be used a soils analysis report is required for proposed Tract F-1 and Tract 1-A. An engineer will sign the final plat.

The subdivision is subject to a 33 foot section line easement along the northern boundary of the subdivision. Rosebud Street is located to the east of the subdivision. Rosebud Street is a 30 foot wide right of way that is approximately 100 foot long. This right of way is only accessed by section line easements.

The subdivision contains low wet areas in the south portion. Very steep slopes affect the north portion of the subdivision with the entire subdivision sloping downward to the south. The wet areas and slopes are depicted on the plat.

Notice of the proposed plat was mailed to the beneficial interest holder on April 27, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exception Requested:

A. KPB 20.30.030 – Proposed Street Layout Requirements (matching dedication of Little Fireweed Lane and Rosebud Street)

Surveyor's Discussion: The existing 33 foot section line easement along the north boundary of Tract 1-B is not constructible to City of Homer standards due to the steepness of the terrain and the fact that the easement crosses two deep gullies. The section line easement does not provide functional access to any of the adjoining properties. The dedication of a right of way would serve no practical purpose that the section line easement does not already provide.

Staff Discussion: The proposed plat is subject to a 33 foot section line easement along the northern boundary. That section line easement abuts an additional 33 foot lying north of the subdivision for a total width of 66 feet.

The plat Lloyd Race Addition No. 1 (HM 84-36) dedicated a portion of the section line easement naming the right of way Little Fireweed Lane. Little Fireweed Lane connects to Jakes Little Fireweed Lane, located 1,000 feet to the east, by section line easements. Due to terrain and lot design the ability to connect the right of ways will be very challenging.

Rosebud Street is an approximately 100 foot long right of way that is 30 feet wide. Rosebud Street is abuts the proposed subdivision in the northeast corner. Rosebud Street was dedicated by Thompson Subdivision No. 4 (HM 82-95). Rosebud Street does not currently connect to any other dedicated right of ways. It is accessed via section line easements. Rosebud Street is not constructed.

If denied this platting action will require a minimum 30 foot right of way dedication within the section line easement on the north boundary and a 30 foot matching right of way dedication for Rosebud Street

Findings:

1. The subdivision is subject to a 33 foot section line easement which abuts an additional 33 foot section line easement for a total width of 66 feet.
2. The portion of Little Fireweed Lane that abuts the subdivision was dedicated in 1984.

3. Little Fireweed Lane is 331 feet long.
4. Rosebud Street was dedicated in 1982.
5. Rosebud Street is 100 feet long.
6. The area where the dedications would be required are affected by steep terrain.
7. The City of Homer approved the plat with no request for additional right of way dedications.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 6, 7 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 6, 7 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 6, 7 appear to support this standard.

Exception Requested:

B. KPB 20.30.190 – Lot Dimensions (Tract 1-B)

Surveyor Discussion: The flag portion of Tract 1-B as proposed is 35 feet wide. The existing driveway from the Hough Road right-of-way to the upper portion of proposed Tract 1-B runs along the west edge of the proposed flag. There is a 50 foot wide access and utility easement that is centered on the existing driveway. The flag and the easement provide roughly 60 feet of width for legal access to the upper portion of Tract 1-B.

The length to width ratio of Tract 1-B is unchanged from the existing lot boundary (Tract 1 Christensen Tract No. 4). The lower portion of original Tract 1 is being subdivided into a separate lot (Tract 1-A) that adjoins the realigned lower portion of Hough Road. Most of Tract 1-B has slopes exceeding 20% grade and would be unsuitable for supporting access to additional building sites. There is a small bench on Tract 1-B that is accessed by the existing driveway that would support a building site. Tract 1-B is intended to only support that one building site.

Staff Discussion: The parent parcel for proposed Tract 1-B is a very long parcel that does not comply with code. The parent parcel is now being divided into two tracts. Due to the dimensions of the parent parcel, and limited right of way dedications, dividing the parcel to comply with the 3:1 depth to width ratio will be difficult. Steep terrain and limited right of way prohibit access to the north portion of Tract 1. The flag design does not meet code requirements, as the panhandle access is 300 feet long and 35 feet wide. KPB code limits panhandle access at a length of 150 feet and a width of 20 feet.

A private 50 foot wide access easement and utility easement is centered on the boundary common with Tract 2 for the length of the panhandle. A private 20 foot wide easement is centered on the entire boundary common with Tract 2. When including the width of the private access easement the width of the panhandle access is 60 feet and complies with KPB Code.

Per KPB GIS imagery, it appears there may be a trail within the proposed panhandle or within the 50 foot access easement.

If denied, the subdivision will need to be redesigned by either dedicating a 60 foot wide right of way into Tract 1-B or creating a 60 foot wide panhandle access for Tract 1-B.

Findings:

1. Parent parcel, Tract 1 Christensen Tracts No. 4 (HM 2006-44), does not comply with 3:1 depth to width ratio.
2. The proposed lot has steep slopes through majority of property.
3. A private 50 foot access easement gives access from Hough Road to the usable area of the parcel.
4. The access easement combined with the proposed panhandle will be 60 feet in width and complies with KPB code.
5. The proposed lot is large enough to be further subdivided.
6. There is legal access via section line easements to the north.
7. The ability to use the section line easement is nearly impossible due to terrain and limited dedicated right of way.
8. Not requiring a 60 foot wide flag will limit future subdivision of Tract 1-B.
9. A private 20 foot right of way easement exists along the shared property line with Tract 2 (HM 2006-44).
10. In order to comply with 3:1 a redesign would be required that dedicates additional right of ways through steep terrain or providing a 60 foot wide panhandle.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 2 – 4, 7, 9, 10 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 2 – 4, 7, 9, 10 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 2 – 4, 7, 9, 10 appear to support this standard.

Exception Requested:

C. KPB 20.30.130 – Streets- Curve Requirements

Surveyor's Discussion: This plat realigns the existing Hough Road right-of-way so that the centerline matches the existing road. To match the existing road alignment it requires a compound curve with a substandard (100') radius. The originally approved Roger Imhoff plat showed a similar compound curve with a substandard radius.

Staff Discussion: The proposed plat was previously approved under old code and complied with the street requirements. The intent of this plat is to dedicate right of way that puts the constructed roadway within a

dedicated right of way.

A right of way dedication with a 200 foot radius would not encompass the existing road.

The City of Homer provides street maintenance and has approved the proposed right of way alignment.

If denied, the right of way will require a centerline curve with a radius of 200 feet.

Findings:

1. Hough Road will be a 60 foot wide right of way.
2. The plat will shift the location of the platted right of way to align with the constructed road by vacating a portion and then rededicating another portion to maintain a 60 foot width.
3. The KPB Planning Commission heard the right of way vacation at the April 26, 2021 meeting and approved unanimously.
4. The City of Homer did not object to the original design when presented in 2010.
5. The City of Homer will be required to sign the plat to accept the new right of way dedication.
6. The City of Homer provides road maintenance.
7. Per KPB GIS Imagery, Hough Road was not constructed in 1996.
8. Per KPB GIS Imagery, Hough Road was constructed by 2003 to align with the private 50 foot access easement.
9. Per KPB GIS Imagery, Hough Road has been extended to provide physical access to Tract 3 (HM 2006-44).
10. A centerline alignment with a 200 foot radius would not encompass the existing roadway.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 2-6, 9, 10 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 2-6, 9, 10 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 2-6, 9, 10 appear to support this standard.

KPB Department/Agency Review Comments

KPB Addressing/Street Name Review: Addresses affected: 4630 Hough Road and 4580 Craftsman Road. Existing street names listed are correct. City of Homer will advise on addresses.

KPB Assessing: No comments.

KPB Code Compliance: No comments.

KPB Planner: Review not required, within the City of Homer.

KPB Roads Dept.: Outside of jurisdiction; no comments

State Parks: No comments.

KPB 20.25.070 - Form and contents required.

Platting staff comments: Staff reviewed the plat and all the items required by 20.25.070 were met, unless otherwise noted below:

- A. Within the Title Block
1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
Staff recommendation: Change the name of the subdivision to Christensen Tracts 2021 Addition or an addition name approved by staff.
- C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;
Staff recommendation: Depict and label the section line easement that is abutting the north boundary of this subdivision.
- F. The names and widths of public streets and alleys and easements, existing and proposed, within the subdivision;
Platting Staff Comments: There are two easements that are noted on the plat. Per the documents that granted the easements, they are to be considered private.
Staff recommendation: Update the labels to include "private" for the access and right of way easements of record.
- K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;
Platting Staff Comments: Original submittal stated the lots would be connected to city water. The water lines are not depicted on the plat.
Staff recommendation: Comply with city requirements and provide proof of installation agreement or documentation that one is not required.
- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;
Platting Staff Comments: Slopes greater than 20 percent are shown. There appears to be none along the right of way dedication. The dedication is atop the constructed right of way.
- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;
Platting Staff Comments: This plat will correct the roadway encroachment onto private property. No known encroachments will be in place after finalizing the plat. If additional encroachment issues are found during the field survey they must be noted and an explanation of how to resolve must be submitted.

KPB 20.25.080. Petition required.

Platting staff comments: Staff reviewed the plat and all the items required by 20.25.080 were met, unless otherwise noted below.

KPB 20.30 Design Requirements

Platting staff comments: Staff reviewed the plat and all the items required by 20.30 were met, unless otherwise noted below:

20.30.030. Proposed street layout-Requirements.

- A. The streets provided on the plat must provide fee simple right-of-way dedications to the appropriate governmental entity. These dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Adequate and safe access for emergency and service vehicle traffic shall be considered in street layout.

- C. Preliminary plats fronting state maintained roads will be submitted by the planning department to the State of Alaska Department of Transportation and Public Facilities (DOT) for its review and comments.

State Department of Transportation Comments: The ROW for East End Road is as shown on Homer East Road MP 0 – 3.75, Lake Street to Kachemak Bay Drive, sheet 12 of 27, Plat 2010-32, Homer RD

Platting Staff Comments: An exception has been requested and if denied a redesign will be required.

Staff recommendation: *Provide the right of way information for East End Road per the AK DOT review. Comply with 20.30.030*

20.30.060. Easements-Requirements.

- A. The planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.
- B. Upon submittal of a preliminary plat, the planning department shall provide a copy to public utility companies for their comments-and recommended design of utility easements. If the property is subject to existing natural gas or petroleum pipeline easements, a copy shall also be furnished to the appropriate company for comment.
- C. The subdivider bears the responsibility for coordination with the utility companies during the design and development phases. When a subdivider and the utility company cannot agree on easements, the final plat will be taken to the planning commission for determination of easements.
- D. Unless a utility company requests additional easements, the front ten feet of the building setback shall be designated as a utility easement, graphically or by note.

Platting Staff Comments: The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process.

Comments from GCI were not available when the staff report was prepared.

HEA and ACS supplied reviews of no comments / no objections / no concerns.

ENSTAR reviewed the plat and objects to the vacation of the right of way as there is a natural gas line located on the east side of the dedicated right of way. Staff recommends the surveyor / land owner work with ENSTAR to obtain approval.

The proposed right of way vacation will also vacate the associated utility easements. New utility easements will be granted along the front 15 feet along the new dedication.

Per the Certificate to Plat, Tract F and Tract 1 are subject to general easements granted to Homer Electric Association, Inc. with no definite locations disclosed. A plat note shall be added that discloses the easement.

Staff recommendation: *Add required plat notes, obtain approval from ENSTAR, and grant utility easements requested by the utility providers and the Committee should concur that granting the easements requested by the utility providers satisfy 20.30.060.*

- 20.30.090. Streets-Maximum grades allowed. The subdivider shall demonstrate that streets can be readily constructed in accordance with current borough road standards and that the grades on any such roads shall not exceed 6 percent on arterial streets and 10 percent on other streets, or 4 percent within 130 feet of any centerline intersections. Submittal of centerline profiles and cross-sections may be required to demonstrate that compliant construction in the right-of-way is feasible.

Platting Staff Comments: No slopes are shown in the area of the right of way dedication. The dedication will be atop the constructed right of way. The City of Homer has approved the plat and will be accepting the right of way dedication. The City of Homer will also provide maintenance if the road qualifies.

20.30.170. Blocks-Length requirements. Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.

Platting Staff Comments: The proposed subdivision is not within a compliant block. This area is affected by steep slopes, ravines, and drainages making compliant block length nearly impossible. Many of the right of ways dedicated in the area are in a manner to allow construction in the most feasible location. Even if additional right of way is required to attempt to bring the block into compliance, it will not create a compliant block and the roads will not be dedicated in areas where right of ways will likely be built.

Staff recommendation: Concur that an exception is not required as any dedications at this time will not improve the block due to steep terrain, drainage issues, and lack of right of way dedications to connect to.

20.30.190. Lots-Dimensions.

A. The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally, lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.

B. The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB 20.30.030(A) and 20.30.090 for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB 20.30.240.

Platting Staff Comments: An exception has been requested, if denied a redesign will be required.

Staff recommendation: place the standard note on the plat for the flag lot(s): No structures are permitted within the panhandle portion of the flag lot(s).

20.30.250. Building setbacks-Within cities. The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts.

Platting Staff Comments: The correct plat note is on the plat.

Staff recommendation: Comply with 20.30.250.

20.30.270. Different standards in cities. Where cities have been delegated partial platting powers by the borough and have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. The application of the city design standard is subject to the city having an ordinance in place that satisfies the notice requirements of KPB 20.25.090(A) through (D) and a process to appeal decisions made by the city regarding application of its subdivision design standards.

Platting Staff Comments: The City of Homer does not meet the specified requirements for the application and consideration of different standards.

Staff recommendation:

20.30.280. Floodplain requirements.

Platting Staff Comments: River Center review was not required as the plat is within the City of Homer.

Staff recommendation: Comply with 20.30.280.

20.30.290. Anadromous Waters Habitat Protection District.

Platting Staff Comments: River Center review determined that the proposed subdivision is not subject to the Anadromous Waters Habitat Protection District.

Staff recommendation: comply with 20.30.290.

KPB 20.40 -- Wastewater Disposal

Platting Staff Comments: A soils analysis report is required for proposed Tract 1-A and Tract F-1 as both lots are less than 200,000 sq. ft. An engineer will need to sign the plat.

Staff recommendation: comply with 20.40.

KPB 20.60 – Final Plat

Platting staff comments: Staff provided additional information to portions of 20.60 as noted below.

Staff recommendation: final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.

20.60.010. Preparation requirements generally. The final plat shall be prepared in accordance with this chapter and the preliminary plat as approved. Information required for the preliminary plat by KPB 20.25.070 shall be included on the final plat except that the information required by KPB 20.25.070 (K) - (N) shall not be included. The approximate dimensions required by KPB 20.25.070(J) shall be replaced with accurate dimensions as required by KPB 20.60.110 and KPB 20.60.120. If the final plat contains only a portion of the preliminary plat, it must comply with KPB 20.25.110(B).

Staff recommendation: comply with 20.60.010.

20.60.020. Filing-Form and number of copies required. The subdivider shall file a standard number of prints as determined by the planning director. All prints shall be folded as required by KPB 20.25.030 except those to be recorded with the district recorder.

Platting Staff Comments:

Staff recommendation: submit one full-sized paper copy of the plat for final review prior to submittal of the mylar. Electronic submittals are not acceptable for final reviews.

20.60.030. Certificate of borough finance department required.

Platting Staff Comments: All taxes levied on the property within the subdivision shall be paid prior to recordation of the final plat. If approval is sought between January 1 and the tax due date, there shall be on deposit with the borough finance department an amount sufficient to pay the entire estimated real property tax for the current year. Prior to filing of the final plat, a certificate to this effect shall be provided by the borough finance director or his designee upon request by the planning director. Estimated tax payments shall be applied to the actual bill as of July 1 or such earlier date as the taxes due have been determined.

Taxes owed may include special assessments for utility or road assessment districts established by KPB ordinance.

Staff recommendation: comply with 20.60.030.

20.60.040. Dedication of public use lands. Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

Platting Staff Comments: An acceptance statement is required to be signed by the City of Homer.

Staff recommendation: Provide an acceptance statement for the City of Homer to accept the new Hough Road dedication.

20.60.070. Plat specifications. The final subdivision plat shall be clearly and legibly drawn to scale on good quality polyester film at least 3 mm in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear and legible. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Sheets shall be one of these sizes: 8 1/2" x 14"; 11" x 17"; 18" x 24"; and 24" or 30" x 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

Staff recommendation: comply with 20.60.070.

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final

plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

Platting Staff Comments: Provide a copy of the installation agreement or documentation from the City of Homer that one is not required.

Staff recommendation: *Comply with 20.60.080.*

20.60.110. Dimensional data required.

- A. The bearing and length of every lot line, block line, and boundary line shall be shown. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled.

Staff recommendation: *comply with 20.60.110.*

20.60.120. Accuracy of measurements. All linear measurements shall be shown to the nearest 1/10 foot, and angular measurements shall be at least to the nearest minute. All lot areas shall be shown to the nearest 10 square feet or to the nearest 1/1,000 of total acres. Meander lines, dry land areas and submerged land areas shall be shown in addition to total area when applicable. All boundary closures shall be to a minimum accuracy of 1:5,000. Boundary and lot closure computations must be submitted with the final plat.

Platting Staff Comments: KPB will verify closure complies with 20.60.120.

Staff recommendation: *provide boundary and lot closure computations with the paper final plat.*

20.60.150. Utility easements.

- A. The utility easements approved by the planning commission shall be clearly shown on the final plat in dimensioned graphic form or as a note.

- B. The following note shall be shown on the final plat:
No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.

Staff recommendation: *comply with 20.60.150.*

20.60.160. Easements.

- A. The plat shall clearly show the location, width, and use of all easements. The easements must be clearly labeled and identified and, if already of record, the recorded reference given. If public easements are being granted by the plat, they shall be properly set out in the owner's certification of dedication.

1. Special purpose easements being granted by the plat shall be clearly defined for allowed use. Special purpose easements may require a signed acceptance statement on the plat.

- B. Private easements may not be granted on the plat.

Platting Staff Comments:

- *There are two access easements noted on the face of the plat. Both notes should be revised to note the easements as "Private".*
- *The 50 foot access easement recording information should be updated to "Book 237 Page 656, HRD".*
- *Plat note 13 refers to a 50 foot wide road easement located in Book 185 Page 349. The note is incomplete as it states it will be vacated on a specific date. If the easement is released, provide the recording information. Staff requests that the surveyor research and determine if the recording of this plat will terminate the easement or if additional documents will need to be recorded. Per the Access Agreement "The above easement shall be terminated and cease to exist at such time that a dedicated public access right-of-way conforming to City and Borough regulations is finalized and recorded to provide access to the above described W ½ N ½ W ½ NE ¼ Section 16, T6S, R13W S.M. parcel of land." If the recording of this plat terminates the easement add a plat note "The 50 foot wide road easement as described in Book 185 Page 349, HRD is terminated with the recording of this plat." If the easement still affects this subdivision provide a plat that states, "This plat is subject to a 50 foot wide private access agreement as described in Book 185 Page 349, HRD."*

- *Correct the label for the 20 foot wide ROW easement on the common lot line so the full serial number is noted, i.e. HM 2004-000266.*

Staff recommendation: *comply with 20.60.160.*

20.60.170. Other data required by law.

A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.

B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat.

Staff recommendation: *comply with 20.60.170.*

The borough will not enforce private covenants, easements, or deed restrictions per KPB 21.44.080.

20.60.180. Plat notes. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

Platting Staff Comments: Additional plat notes may be required based on easements/covenants in the final Certificate to Plat.

Staff recommendation:

Place the following notes on the plat.

- *This subdivision is subject to an easement for electric lines or system with right to enter, maintain, repair and clear shrubbery, granted to Homer Electric Association, Inc. as outlined in Book 49 Page 288, HRD. No definite location disclosed.*
- *No structures are permitted within the panhandle portion of the flag lot(s).*

Make the following corrections.

- *Plat note 9 and 10 are duplicate. Remove one and update the other to include this meeting date and remove the April 12, 2010 date.*
- *Update the plat note regarding the exceptions granted to include those granted at this meeting and revise the date.*
- *Remove the label on the drawing that states, 'C/L 50' wide road esmt. Vacated (see note 11)*
- *On the labels within the dawing, correct the reference to the plat note numbers.*

20.60.190. Certificates, statements, and signatures required.

Platting Staff Comments: The plat approval note should contain this meeting date. Provide a certificate of acceptance for the City of Homer to sign.

Staff recommendation: *comply with 20.60.190.*

20.60.200. Survey and monumentation.

Staff recommendation: *comply with 20.60.200*

20.60.210. Approval-Authority-Certificate issued when.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat, staff will comply with, and follow, 20.60.210.

20.60.220. Administrative approval.

Platting Staff Comments: If the Plat Committee conditionally approves the preliminary plat and the final plat conforms to the conditions, staff will issue an administrative approval with notice to the Planning Commission as set forth in 20.60.220.

The planning director may refer the final plat to the planning commission when:

1. *Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;*
2. *Final approval by the commission was a condition of preliminary approval; or*
3. *The planning director determines there are other conditions to support referral to the commission.*

KPB 20.70 – Vacation Requirements

Platting Staff comments: The vacation was heard and approved by the Planning Commission at the April 26, 2021 meeting.

Staff recommendation: *Comply with 20.70.*

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO ABOVE RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 10 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

Mr. Huff then noted that they had received a letter from a beneficiary holder on May 10, 2021 stating they had no objection to this subdivision.

END OF STAFF REPORT

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

MAIN MOTION: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant preliminary approval to Christensen Tracts 2021 Addition based on staff recommendations and compliance to borough code.

AMENDMENT A: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.030 – Proposed Street Layout Requirements, matching dedication of Little Fireweed Lane and Rosebud Street, citing 6 & 7 in support of standards one, two and three.

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

AMENDMENT A PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

AMENDMENT B: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.190 – Lot Dimensions, for Tract 1-B, citing findings 2-4, 7, 9 & 10 in support of standards one, two and three.

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

AMENDMENT B PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

AMENDMENT C: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.130 – Streets - Curve Requirements, citing findings 2-6, 9 & 10 in support of standards one, two and three.

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

AMENDMENT C PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

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

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - FOREST ACRES HARMON ADDN

KPB File No.	2021-049
Plat Committee	May 10, 2021
Meeting:	
Applicant / Owner:	Lawrence and Carol Harmon, Seward, Alaska
Surveyor:	Kenneth Lang / Lang and Associates, Inc.
General Location:	On Hemlock Avenue, Maple Street; City of Seward

Parent Parcel No.:	145-043-14, 145-043-15, 145-043-17
Legal Description:	Lots BP, BQ, and BT, Forest Acres Subd., Sec. 34, T01N R01W S.M.
Assessing Use:	Residential
Zoning:	Rural Residential
Water / Wastewater	City / On-Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide three 1 acre lots into six lots ranging in size from 20,962 square feet to 21,500 square feet. The total size of the subdivision is 2.9 acres.

Legal Access (existing and proposed):

The subdivision is located at the corner of Hemlock Avenue and Maple Street. Both roads have been constructed and are under municipal jurisdiction.

Maple Street varies in width. The portion in front of Lot B5 and B6 is 40 feet in width and the portion in front on Lot B1 – B4 is 45 feet in width. This plat will dedicate an additional 5 feet of right of way.

Hemlock Street is 50 feet in width. This plat will dedicate an additional 5 feet of right of way.

The subdivision is within a compliant block defined by Maple St., Hemlock St., Oak St., and Ash St.

KPB Roads Dept. comments	Outside of jurisdiction; no comments
SOA DOT comments	No comments

Site Investigation:

Per GIS Data there are no wetlands or bodies of water within the subdivision. The subdivision does fall into the Flood Hazard Zone X. This is designated as low to moderate risk of flooding. Per the City of Seward Planning and Zoning Commission, the subdivision is not subject to the City of Seward floodplain

development requirements.

Floodplain Hazard Review	Within the City of Seward; In the X zone which is non-regulatory
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD.
State Parks Review	No comments

Staff Analysis

The proposed subdivision is a replat of 3 lots within Forest Acres Subdivision, plat SW 17, that is dated 1950. A Boundary Survey was completed in 1978 to clarify the parcel boundaries, as the original document is difficult to read and was damaged by water.

The City of Seward Planning and Zoning Commission reviewed the subject plat at their March 2, 2021 meeting. They recommended approval subject to the following conditions:

1. Property owner shall enter into a subdivision development agreement with the City.

Below is a summary of the City of Seward Planning and Zoning Commission staff report.

The property is served by electric and maintained streets. Water and sewer are not located adjacent to the subject area. A water main runs along Hemlock and Ash Streets. Municipal sewer runs along Ash Street and is approximately 250 feet from Lot BT. The lots do meet the city requirements for minimum lot width and buildable lot size for the Rural Residential Zoning District. A subdivision development agreement is required.

The plat does depict a proposed water main within Maple Street and the existing water line within Hemlock Avenue. The submittal stated the water would be supplied by the city while the wastewater disposal will be onsite. For onsite wastewater disposal a soils report will be required. For connection to the City wastewater system, approval from the City of Seward will be required.

20.30.200. Lots-Minimum size.

Except in cities where zoning and subdivision regulations establish different minimums, lots must be designed to meet the following area requirements:

A. Lots shall contain at least 6,000 square feet if served by public wastewater disposal and water systems.

B. Lots shall contain at least 40,000 square feet if both the well and wastewater disposal are to be located on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an on-site well and wastewater disposal system.

C. Subdivisions designed to be served by public wastewater disposal and water systems but not yet served by such systems may be permitted to contain lots of less than 40,000 square feet if the following conditions are met:

1. The available area may be reduced to 20,000 square feet when public water or wastewater disposal system is available, complying with KPB 20.40;
2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure adequate area is available to each building site for safe on-site well and wastewater disposal, including area for a replacement wastewater disposal system.

Staff recommendation: The proposal states the intent to connect to city water. Wastewater disposal is to be onsite. Per C, the lots proposed are compliant but a soils report is required and an engineer will need to sign the plat.

KPB Assessing records and the City of Seward both state all parent lots are currently vacant. KPB GIS imagery from 2020 indicates a clearing within Lot BQ.

A building setback is not required as this is located within the City of Seward and is subject to the

CORRECTIONS / EDITS

Staff recommends the following corrections be made.

KPB 20.25.070

- Within the title block
 - o Revise the subdivision name to ‘Forest Acres Subdivision – Harmon Addition’.
 - o Correct the drawing scale.
 - o Revise the parent parcel description to match the certificate to plat i.e. *“A resubdivision of Lots BP, BQ, and BT, Forest Acres Subdivision (Plat SW 17). (Lots also shown on Boundary Survey Plat SW 78-4).”*
 - o Include the City of Seward for where the subdivision is located.
 - o Lot BM in the northwest has been resubdivided; correct to Lot 3 SW 95-30.
 - o South of Hemlock Avenue is Tract C SW 2007-21; this needs to be labeled.
 - o The plat number should be included for Lots A1- A4, SW 2018-3.
 - o The depiction of Lot B in the northeast corner needs to be updated.
 - o Lot B’s top property line is directly across from the northern boundary of the subdivision. Adjust the property line and add a label to the north for “Lot C”.
 - o Correct Hemlock Street to Hemlock Avenue.
 - o Dimension the right of way widths.

Update the Certificate of Ownership to be in the plural form.

The Notary certificate includes the term ‘sworn’ which makes it a jurat. Correct the heading to Notary’s Jurat or revise the wording per KPB 20.60.190(A)(7).

Provide a Certificate of Acceptance of the City of Seward to accept the dedicated right of ways and utility easements being granted.

The following plat notes need to be added to the plat:

- The proposed subdivision is subject to a utility easement granted to the Territory of Alaska (State), including the term and provision thereof, for the purpose therein as found in easement located in Book 16, Page 214, SRD, recorded on September 30, 1948.
- The proposed subdivision is subject to street and utility easements granted to the City of Seward, including the terms and provisions thereof, for the purpose set out therein. The area delineated in Book 16, Page 85, SRD, recorded on June 19, 1978 is the 5 feet along Hemlock Avenue and the 5 feet along Maple Street. This is the area being dedicated as right of way.
- No permanent structure shall be constructed or placed within a utility easement, which would interfere with the ability of a utility to use the easement.
- The front 10 feet adjoining rights-of-way is a utility easement.

If wastewater disposal will be to the City utility then the correct note is on the plat. If the subdivision will have on-site wastewater, **Staff recommends** the wastewater note be corrected to comply with KPB 20.40

Utility Easements

Per the Certificate to Plat this subdivision is affected by two easements. One is for a sewer line (Bk. 16 Pg. 214) and one is for a street and utility easement (Bk. 16 PG. 85) which coincides with the right of way being dedicated with this plat. **Staff recommends** plat notes be added for these easements of record describing the location.

Staff recommends per KPB 20.30.060 Easements, that the 10 feet adjoin the new right of ways be granted as a utility easement with the location depicted and labeled on the plat.

A plat note is required to grant 10 feet along the right of ways.

Utility provider review:

ENSTAR	No comments or recommendations
ACS	Not within ACS area
GCI	

SEWARD ELECTRIC	(this subdivision is served by Seward electric utility)
CHUGACH ELECTRIC	No comment, not located in our service area.
TELALASKA	Has no objection to the preliminary plat. Requests for consideration, the addition of a 10' utility easement along all lot lines adjacent to any road right of way. Essentially identical to the usual KPB 20' / 10' building setback and utility easement.

KPB department / agency review:

Planner – Bryan Taylor	There are no local option zoning district or material site issues with this proposed plat.
Code Compliance – Eric Ogren	No comments
Addressing – Derek Haws	Affected addresses: 2415 Maple Street, 2409 Maple Street, 2403 Maple Street. Affected addresses will need to be reviewed by the City of Seward. Existing Street Names needing correction: Hemlock Street should be Hemlock Avenue
Assessing – Adeena Wilcox City Advisory Comments	No comments

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

EXCEPTIONS REQUESTED:**KPB 20.30.120 Street Width Requirements****Surveyor's Discussion:**

Staff Discussion: The street width currently does not comply with KPB code or City of Seward code.

Seward code 16.05.010 requires a 50 foot width for right of ways while KPB 20.30.120 requires a 60 foot width for right of ways.

Hemlock Ave is 50 feet width and complies with Seward code but not KPB code. This platting action will dedicate an additional 5 feet for a new width of 55 feet.

Maple Street is 40 and 45 feet in width and does not comply with Seward code of KPB code. This platting action will dedicate an additional 5 feet for a width of 45 and 50 feet.

Staff cannot ask the Committee to apply KPB 20.30.270 (different standards in cities) because platting powers have not been delegated to the City of Seward.

If denied, additional right of way dedication will be required so that the right of way width is 60 feet to comply with KPB standards.

Findings:

1. The street width currently does not comply with KPB code or City of Seward code.
2. Seward code 16.05.010 requires a 50 foot width for right of ways.
3. KPB 20.30.120 requires a 60 foot width for right of ways.
4. Hemlock Ave is 50 feet width and complies with Seward code but not KPB code. This platting action will dedicate an additional 5 feet for a new width of 55 feet.
5. Maple Street is 40 and 45 feet in width and does not comply with Seward code of KPB code.
6. This platting action will dedicate an additional 5 feet for a width of 45 and 50 feet for Maple Street.
7. This plat was approved by the City of Seward Planning and Zoning Commission on March 2, 2021.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 2, 4-7 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 2, 4-7 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 2, 4-7 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 10 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

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

MAIN MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to grant preliminary approval to Forest Acres Harmon Addition based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Venuti moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.120 Street Width Requirements, citing findings 2 & 4-7 in support of standards one, two and three.

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

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

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

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

AGENDA ITEM E. NEW BUSINESS

ITEM 5 – SELDOVIA TOWNSITE POLLACK ADDITION

KPB File No.	2021-053
Plat Committee	May 10, 2021
Meeting:	
Applicant / Owner:	Pollack
Surveyor:	Peninsula Surveying, LLC
General Location:	City of Seldovia, corner of Kachemak Street and Alder Street

Parent Parcel No.:	192-065-17
Legal Description:	Lot 1-A Seldovia Townsite Block 27 Replat U.S. Survey 1771
Assessing Use:	Residential
Zoning:	City of Seldovia
Water / Wastewater	Municipal

Staff report given by Julie Hindman.

Disclosure: Scott Huff, Platting Manager, did not prepare the staff report, as the owner of the property is a relative. He answered staff questions pertaining directly to code but had minimal input on the contents of this report.

The final review is performed by using this staff report, as approved by the Plat Committee, any additional requirements approved by the Plat Committee, and per code requirements. Staff members of the Platting Department will review the final plat submittal but Mr. Huff is the only licensed surveyor on staff and the final will require a review by him. Mr. Huff will not sign the final plat. The Planning Director or the Mayor will be required to sign the mylar and preform an additional review.

Normally final plats do not come back before the Committee/Commission unless per KPB Code, "The planning director may refer the final plat to the planning commission when:

1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;
2. Final approval by the commission was a condition of preliminary approval; or
3. The planning director determines there are other conditions to support referral to the commission."

If the Plat Committee wishes this plat to be brought back before them during the final approval stage, a motion may be made to make that a condition of approval.

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 0.38 acre lot into two lots that are 0.16 acres (approximately 6,970 square feet) and 0.217 acres (approximately 9,453 square feet).

Legal Access (existing and proposed):

Access to the subdivision is by Kachemak Street and Alder Street. Both right of ways have varying widths but in the area abutting the subdivision, Kachemak Street is a 15 foot wide right of way and Alder Street is a 20 foot wide right of way. Both right of ways are constructed and within the City of Seldovia's jurisdiction. The right of ways do not comply with KPB Code width requirements and an exception has been requested.

The block falls short of KPB Code requirements. Willow Street, Cedar Street, Alder Street, and Kachemak Street define the block. The block length along Alder Street does not meet the minimum requirements by being approximately 273 feet in length. This subdivision is within the City of Seldovia, which has several short block lengths. **Staff recommends** the Plat Committee concur that an exception is not required as this subdivision is not able to provide a dedication to help comply with the block length requirement.

KPB Roads Dept. comments	Outside of jurisdiction; no comments
SOA DOT comments	No comment

Site Investigation:

Per KPB GIS data, there are no wetlands present within the proposed subdivision. Contour information is not available for the Seldovia area. If any steep slopes are detected during the field survey, they must be depicted on the plat. This may include depicting and labeling the top and toe of any bluffs.

Per KPB GIS data, the proposed subdivision is within the Floodplain Zone C, which is non-regulatory.

Floodplain Hazard Review	Not within flood hazard area
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD
State Parks Review	No comments

Staff Analysis

The proposed subdivision is within the City of Seldovia. The lots are proposed to use municipal water and wastewater disposal systems. A soils analysis report is not required and an engineer will not need to sign the plat. An installation agreement will need to be provided or documentation from the City of Seldovia that one is not required.

The parent lot currently has two structures on the property. This subdivision will put one structure on each lot. The proposed plat does not show structures, nor was an as-built submitted to the planning department. A Building and Parking locations map was included with the Seldovia Planning Commission packet, and is included in the KPB packet.

The Seldovia Planning Commission reviewed the proposed plat at their March 3, 201 meeting. At that meeting, discussions were made regarding connections to water and sewer to only one of the structures and that the owner was working with the City to make connections to the other structure. The Seldovia Planning Commission had concerns regarding the zoning and the zoning requirements. The plat was denied based on additional information was needed to determine if the plat would meet zoning setback requirements. The Seldovia Planning Commission heard the plat again at their April 7, 2021 meeting. The plat was approved; no additional requirements or requests were noted in the minutes.

Staff recommendations:

CORRECTIONS / EDITS

- Make correction to the title block under 20.25.070(A): *Add to the "Located Within" description "City of Seldovia". The description also needs to be updated to "NE ¼ SW ¼"*
- Update the Vicinity Map to include Section 31 label and the shared section line between section 5 and 4.
- Make corrections to surrounding property under 20.25.070(G): *The lots to the west have been replatted. Update the lot numbers to "12-A-1" and "9-A-1". The subdivision name label needs to be*

moved as it only pertains to Lot 4-A and Lot 5-A and the correct subdivision name label should be added. It is at the discretion of the surveyor how he wishes to label the subdivision information on the neighboring lots. Providing the recording number will be sufficient as the subdivision names can be long. Another option, Lot 4-A and Lot 5-A are part of the same parent subdivision noted in the title block and do not have to have the subdivision information displayed.

Comply with KPB 20.60 – Final Plat requirements.

Plat Notes –

- An easement was on the certificate to plat. Add a plat note “Easement, including terms and provisions contained therein are granted to the City of Seldovia within Serial Number 2009-000054-0, Seldovia Recording District, recorded on April 6, 2009.” This easement is depicted on the plat. Update the label to refer to the appropriate plat note.
- The note regarding access to state right of ways may be removed. Per KPB GIS data, this subdivision does not abut a state right of way.
- Update the plat note with the appropriate meeting date for any exceptions granted.
- The front 10 feet adjoining all right of ways is being granted by this plat as utility easements.

Utility Easements

A utility easement granted to the City of Seldovia is depicted and the appropriate plat note is requested above. A general easement is noted but the certificate to plat did not include the easement. The easement needs to be verified and plat note updated accordingly.

Per KPB Code 20.30.060(D), the front 10 feet adjoining is to be granted as utility easements. This should be noted and depicted on the final plat.

Plat note 2 refers to an easement granted to HEA by Book 17 Page 375, SRD. This easement was not included in the staff report. The easement does state, in added handwriting the parent Lot 1 Block 27 of Seldovia Townsite. Staff recommends the owner/surveyor work with the title company to have this included in the final certificate to plat and to update records so future owners are aware of the easement if a title search is done.

Grant any additional utility easements requested by providers.

Utility provider review:

HEA	No comments.
ENSTAR	No comments or recommendations
ACS	No objections.
GCI	

KPB department / agency review:

Planner – Bryan Taylor	Review not required; within the City of Seldovia
Code Compliance – Eric Ogren	No comment
Addressing – Derek Haws	Affected address: 370 Alder Street, City of Seldovia will advise on affected address. All existing street names listed are correct.
City Advisory Comments	Plat was approved at their April 7, 2021 meeting.

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

EXCEPTIONS REQUESTED:

A. KPB 20.30.120 – Streets – Width Requirements

Surveyor's Discussion: This subdivision is within Seldovia City Limits. There is a dedicated right-of-way on two sides of the property. The current width of Alder Street is 20 feet and the width of Kachemak Street is 15 feet. Many of the buildings in the area are built very close to the right-of-way. Expanding the right-of-way along these roads to KPB Code would result in multiple encroachments. There are also numerous other

rights-of-way in this area that have already been dedicated and constructed.

Staff Discussion: This is within the City of Seldovia. Many of the roads in this area were dedicated with the Map of Seldovia Townsite Alaska U.S. Survey No. 1771 with the survey performed in 1927. The roads are of varying widths with some being as narrow as 10 feet and others as wide as 60. The right of ways associated with this plat are 15 and 20 feet. Kachemak Street appears to be 15 feet the entire length until the connection with Airport Avenue where it widens at the approach. Alder Street is 20 feet along the subdivision. At the intersection of Alder Street and Cedar Street, the right of way width increases to 40 feet.

If denied, the Plat Committee will need to make a motion to determine the width required to be dedicated. Providing the width needed for 60 feet rights of way is not possible from this subdivision.

Findings:

1. The proposed subdivision is within the City of Seldovia.
2. The Seldovia Planning Commission approve the proposed plat on April 7, 2021 and did not request additional right of way.
3. Development within the subdivision must comply with the requirements of the zoning district.
4. Roads are constructed and maintained by the City of Seldovia
5. The street layout was completed in 1927.
6. The parent plat, Seldovia Townsite Block 27 Replat U.S. Survey 1771 (SL 83-9), was approved on July 11, 1983 and recorded on December 20, 1983.
7. The parent plat was not required to grant additional right of way width.
8. The right of ways were granted before existing KPB Code requirements.
9. Using the as-built, the building on Lot 1-A2 is approximately 21 feet from the current right of way, Kachemak Street.
10. Using the as-built, the building on Lot 1-A1 is approximately 12 feet from the current right of way, Alder Street.
11. The Kenai Peninsula Borough Comprehensive Plan
Goal 3 - Focus Area: Historic Preservation
Object B: Support efforts to maintain the character of historic towns, districts, and properties while encouraging commercial, tourist, and cultural development.
12. Northwest of the proposed subdivision, Alder Street widens to 40 feet.
13. In order to keep right of way alignment, if an additional 20 feet is needed for Alder Street it should be granted by the property that lies south of the existing dedication.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-11 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-11 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-11 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

EXCEPTIONS REQUESTED:

B. KPB 20.30.190 – Lots-Dimensions (Lot 1-A1 3:1 depth to width ratio)

Surveyor's Discussion: The proposed dimensions for Lot 1-A1 would result in a 3.3:1 depth to width ratio. All of the lots in the area are very small, with many of them containing less than 0.25 acres. There are also other lots in the area that have a greater than 3:1 depth to width ratio. There is already a building constructed on each of the proposed lots. The proposed dimensions would provide the owners of each lot the best layout for their property.

Staff Discussion: This is within the City of Seldovia. There are many small and irregular lot shapes to accommodate existing structures and improvements.

If denied, a redesign will be required so the lots comply with the 3:1 depth to width ratio and comply with any City of Seldovia zoning requirements.

Findings:

1. The proposed subdivision is within the City of Seldovia.
2. The Seldovia Planning Commission approve the proposed plat on April 7, 2021 and reviewed it to their zoning requirements.
3. The Seldovia zoning that would apply to these lots does not have a minimum lot size.
4. Improvements have been constructed on the proposed lots.
5. Measuring from the center of lot lines, staff found the width to depth ratio to be 3.5:1.
6. To be compliant the line would need to be adjusted to provide an average width of 50 feet for Lot 1-A1.
7. The as-built supplied to the City of Seldovia shows the building on Lot 1-A2 is only 9 feet from the proposed property line.
8. Adjusting the property line will cause encroachment issues.
9. The proposed design is the most practical location to separate the improvements.
10. All lots have frontage on dedicated right of way.
11. The propose design provides parking areas for both lots.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-11 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-11 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other

property in the area in which said property is situated.

Findings 1-11 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Chair Carluccio recused herself as she had acted on this plat at the Seldovia Planning Commission meeting. The gavel was passed to Commissioner Ruffner for this item only.

Commissioner Ruffner opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to grant preliminary approval to Seldovia Townsite Pollack Addition based on staff recommendations and compliance to borough code.

AMENDMENT A: Commissioner Venuti moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.120 – Streets – Width Requirements, citing findings 1-11 in support of standards one, two and three.

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

AMENDMENT A PASSED BY UNANIMOUS VOTE

Yes	3	No	0	Absent	1	Recused	1
Yes		Gillham, Ruffner, Venuti					
Absent		Ecklund					
Recused		Carluccio					

AMENDMENT B: Commissioner Venuti moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.190 – Lots-Dimensions – 3:1 Depth to Width Ratio for Lot 1-A1, citing findings 1-11 in support of standards one, two and three.

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

AMENDMENT B PASSED BY UNANIMOUS VOTE

Yes	3	No	0	Absent	1	Recused	1
Yes		Gillham, Ruffner, Venuti					
Absent		Ecklund					
Recused		Carluccio					

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

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	3	No	0	Absent	1	Recused	1
Yes		Gillham, Ruffner, Venuti					
Absent		Ecklund					
Recused		Carluccio					

AGENDA ITEM E. NEW BUSINESS

**ITEM 6 – Alaska State Land Survey No. 2020-10
Captain Cook North Subdivision**

KPB File No.	2021-052
Plat Committee	May 10, 2021
Meeting:	
Applicant / Owner:	State of Alaska, Dept. of Natural Resources, Division of Mining, Land, and Water
Surveyor:	McLane Consulting Inc.
General Location:	Nikiski area, near Grey Cliff Subdivision, MP 40 Kenai Spur Hwy.

Parent Parcel No.:	025-050-02
Legal Description:	Uplands of Section 36, T9N, R10W, S.M.
Assessing Use:	Residential Vacant
Zoning:	Rural Unrestricted
Water / Wastewater	On-site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide a State owned 228 acre parcel into 24 parcels ranging in size from 5.113 to 22.166 acres. The parcels that front Cook Inlet are affected by the bluff. **Staff recommends** the upland, or usable, acreage be added to all lots on the bluff.

Legal Access (existing and proposed):

Access to the subdivision is by the Kenai Spur Highway extension. This section of the road has recently been upgraded by KPB with a one-lane gravel road with turnouts. This plat will be dedicating the following right of ways. **Staff recommends** a certificate of acceptance be provided for KPB to accept the public right of ways that this plat is dedicating.

- 100 foot wide ROW on existing Kenai Spur Highway Extension within the subdivision. This coincides with ADL 209574, an easement for public access road to KPB. **Staff recommends** the boundary of the subdivision be corrected to show that the Kenai Spur Highway Extension is within the subdivision boundary and depict the ROW as being dedicated with this plat.
- 60 foot wide ROW loop named Endeavor Loop.

A 50 foot section line easement affects the east and south boundary. Section 2, located to the south, is under KPB management and affected by a 50 foot section line easement. Section 1, is under US Fish & Wildlife management – Kenai Wildlife Refuge, and is not subject to a section line easement. The lands to the east has been subdivided (Grey Cliff Subd. KN 82-80) and the lots are under private ownership. The section line easements within Grey Cliff Subdivision have been vacated.

State lands are subject to a 50 foot public access easement on the mean high water of Cook Inlet and the ordinary high water of the unnamed lake on the east boundary. **Staff recommends** current meander line information be determined and shown for the boundary with Cook Inlet. The meander line information provided is from 1923 and was surveyed almost 100 years ago.

KPB Roads Dept. comments	The Road Service Area has no comments at this time.
SOA DOT comments	No comment

Site Investigation:

This subdivision is affected by rolling terrain with small areas of steep slopes. Low wet areas, a lake, and a drainage affect the subdivision and have been depicted and labeled.

KPB satellite imagery indicates this property may contain wet areas. **Staff recommendation:** place a note on the final plat indicating any person developing the property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable.

Anadromous habit protection districts and flood areas do not affect this development.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Not within a Habitat Protection District.
State Parks Review	No Comments

Staff Analysis

This parcel of land is owned by the State of Alaska DNR. Typically DNR will complete subdivision of their lands so that the lands can be sold into private ownership.

All lots are larger than 200,000 sq. ft. are are not subject to a soils analysis report.

Lot 1, Block 3 is a flag lot. The panhandle width is 473 feet in length but the width is 60 feet and is allowable under KPB code.

The surveyor is parceling out the lake on the east boundary. Staff is under the assumption that this lake will remain under State of Alaska DNR jurisdiction.

Staff recommendation:

CORRECTIONS / EDITS

- Update the symbol for the white boulder in Cook Inlet as the symbol is the same as 'found geodetic control monument'.
- Place the standard note on the plat for the flag lot(s): No structures are permitted within the panhandle portion of the flag lot(s).
- Within the wastewater disposal review remove the reference to the nominal 5 acres as this has been removed from KPB code.
- Comply with KPB 20.60 Final plats.

Utility Easements

The subdivision is affected by the following utility easements.

- ADL 69354 – 10 foot pipeline easement (south side of Kenai Spur Hwy dedication)
- ADL 37591 – 50 foot pipeline easement (south side of Kenai Spur Hwy dedication)

This platting action will be creating a 20 foot building setback and 20 foot utility easement adjoining all right of way dedications.

Utility provider review:

HEA	No comments
ENSTAR	No comments or recommendations
ACS	No objections
GCI	

KPB department / agency review:

Planner – Bryan Taylor	There are no local option zoning district issues or material site permits associated with this subdivision.
Code Compliance – Eric Ogren	No comments
Addressing – Derrick Haws	KENAI SPUR HWY NORTH should BE KENAI SPUR HWY EXT.

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan. The subdivision requirement checklist is attached to, and part of, this staff report.

EXCEPTIONS REQUESTED:

KPB 20.30.170 – Block Length

Staff Discussion:

This subdivision is located in a 'semi' remote are of the borough. Typical development of nearby lots are for cabins and recreational use. All lots will be provided legal access.

Jacob's Ladder Dr., a dedicated right of way, provides legal access between the beach and Kenai Spur Highway Ext. and is located an additional 1.6 miles along the beach.

The block length along the bluff is 4,190 feet. The block length for Block 2 is 2,575 feet.

If denied, the plat will need to be redesigned with additional right of way to decrease the block length and provide access to the beach.

- Provide a ROW dedication within Block 1 so that the length of the block does not exceed 1,320 feet.
- Revise Block 2 so that it does not exceed 1,320 feet.
- Provide a ROW dedication from Endeavor Loop to the east boundary

Surveyor Findings:

1. Endeavor Loop is intended to maneuver around low wet areas and provide access to larger lots that are also encumbered by low wet areas and ponds/lakes/creeks.
2. Section line easements are public access that can be utilized to access the neighboring wildlife refuge which will likely never be subdivided.
3. The bluff to the Cook Inlet is very steep in this area and access can be attained using section line easements for public access.

Staff Findings:

4. Development in the area is typically for recreational cabins.
5. This is a 'semi' remote area of the borough.
6. All lots have legal access.
7. The beach is accessible for access beyond this subdivision.
8. Jacob's Ladder Dr., a dedicated right of way, provides legal access between the beach and Kenai Spur Highway Ext. and is located an additional 1.6 miles along the beach.
9. The block length along the bluff is 4,190 feet.
10. The block length for Block 2 is 2,575 feet.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;

Findings 1-8 appear to support this standard.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-8 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-8 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Chair Carluccio opened the meeting for public comment.

James Hall – McLane Consultants, P.O. Box 468, Soldotna, AK 99669: Mr. Hall was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant preliminary approval to Alaska State Land Survey No. 2020-10 based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Ruffner moved, seconded by Commissioner Gillham to grant exception request to KPB 20.30.170 – Block Length, citing findings 1-8 in support of standards one, two and three.

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

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

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

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0	Absent	1
Yes	Carluccio, Gillham, Ruffner, Venuti				
No					
Absent	Ecklund				

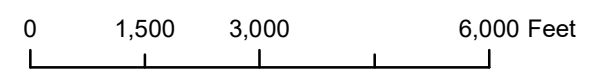
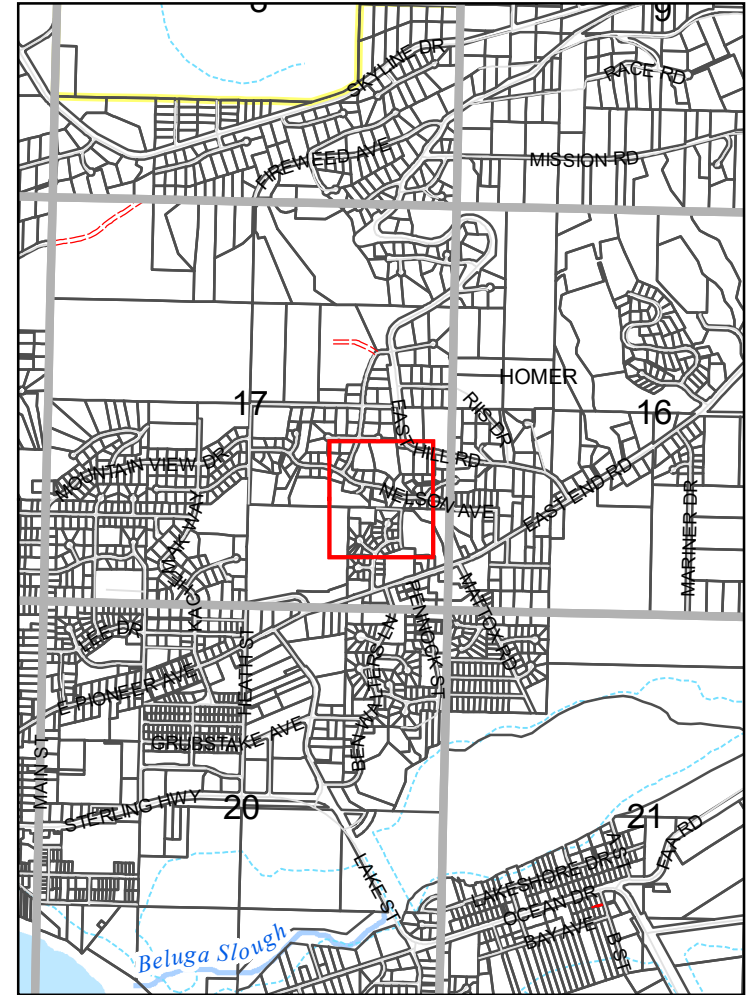
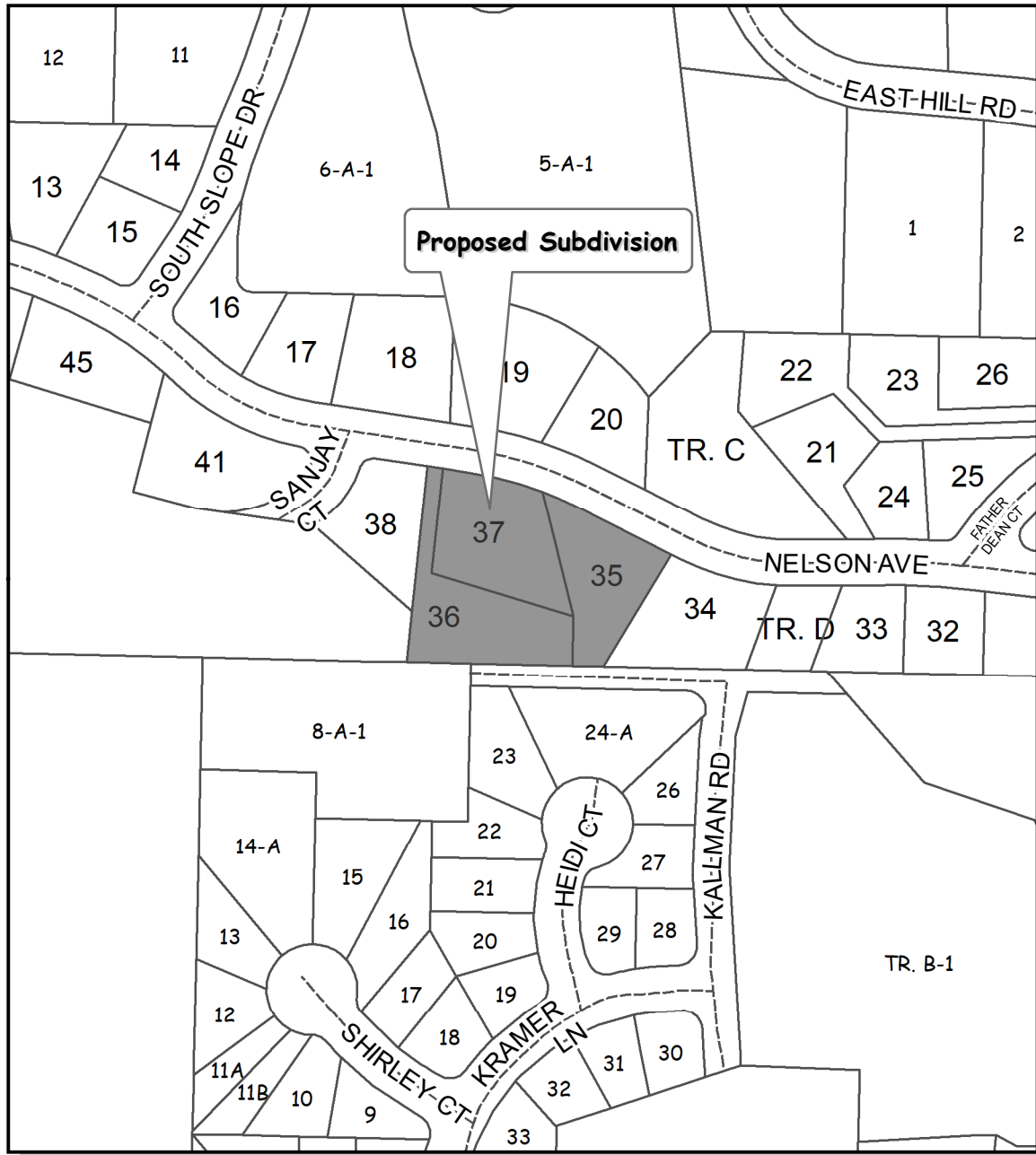
F. PUBLIC COMMENT – None

G. ADJOURNMENT

Commissioner Ruffner moved to adjourn the meeting 7:38 P.M.

Ann E. Shirnberg
Administrative Assistant

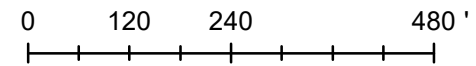
UNAPPROVED



KPB 2021-057
S17 T06S R13W
HOMER



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.

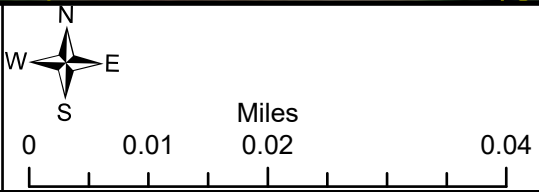


Date: 4/30/2021
 JHindman, KPB 2021-057



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



AERIAL IMAGERY 2019

Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager

NOTES

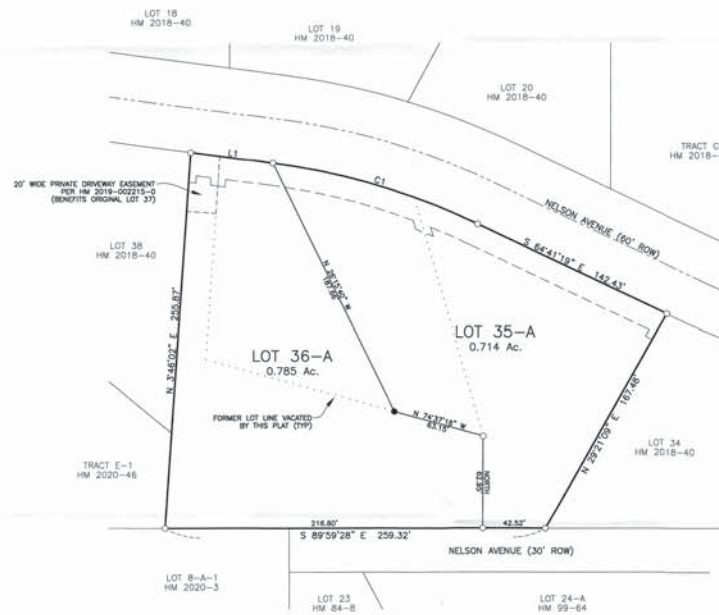
1. BASIS OF BEARING FOR THIS SURVEY IS FROM THE PLAT OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
4. THESE LOTS ARE SERVED BY CITY OF HOMER WATER AND SEWER.
5. THESE LOTS ARE AFFECTED BY EASEMENTS OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK 318, PG 927 HRD, BK 48, PG. 77 HRD AND BK 90, PG 156 HRD).
6. THERE IS A 15 FOOT WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER, OVER, UPON AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 7, 2018 (HM 2018-001611-0). THE GAS MAIN IS INSTALLED WITHIN THE 15 FOOT UTILITY EASEMENT ADJACENT TO THE SOUTH EDGE OF THE NELSON STREET RIGHT-OF-WAY.
7. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
8. DEVELOPMENT IN ORIGINAL LOTS 35, 36 AND 37, OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40) IS SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS PER 2018-003491-0 (HRD) AND AMENDMENTS PER 2018-003524-0 (HRD).

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 62°31'23" E	56.55'

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	17:50:04"	470.00'	146.30'	S 73°36'21" E	145.71'



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____

BY: _____ AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH

DATE _____



CERTIFICATE OF OWNERSHIP

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON. THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY OUR FREE CONSENT DEED ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

GARY E. HARRIS
PO BOX 3544
HOMER, ALASKA 99603

DEROTHA FERRARO
PO BOX 3544
HOMER, ALASKA 99603

COURTNEY MARTIN
PO BOX 342
HOMER, ALASKA 99603

PATRICK CARTER
PO BOX 342
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGMENT

FOR: GARY E. HARRIS & DEROTHA FERRARO
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____

WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

SURVEYOR _____ LICENSE # _____ DATE _____

LEGEND

- INDICATES 2" ALCPAC (7966-S 2018) RECOVERED THIS SURVEY
- INDICATES 2" ALCPAC ON 5/8" REBAR (7536-S, 2021) SET THIS SURVEY
- ▨ INDICATES AREAS WITH SLOPES GREATER THAN 20%

NOTARY'S ACKNOWLEDGMENT

FOR: COURTNEY MARTIN & PATRICK CARTER
ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____



KPB File 2021-057



HOMER RECORDING DISTRICT KPB FILE No. 2021-???

BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK REPLAT LOTS 35, 36 & 37

A REPLAT OF LOTS 36, 37 AND 38 BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40)

LOCATED WITHIN THE N1/2 SE1/4, SEC 12, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA CONTAINING 1.500 ACRES

OWNERS:
LOTS 36 & 37: GARY E. HARRIS & DEROTHA FERRARO
PO BOX 3544 HOMER, ALASKA 99603
LOT 35: COURTNEY MARTIN & PATRICK CARTER
PO BOX 342 HOMER, ALASKA 99603

GEOVERA, LLC
PO BOX 3235
HOMER ALASKA 99603
(907) 399-4345
EMAIL: scsmith@gcl.net

DRAWN BY: SCS DATE: APRIL 2021 SCALE: 1" = 40'
CHK BY: SCS JOB #2020-36 SHEET 1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – BARNETT’S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK REPLAT LOTS 35, 36 & 37

KPB File No.	2021-057
Planning Commission Meeting:	May 24, 2021
Applicant / Owner:	Gary E. Harris, Derotha Ferraro, Courtney Martin, and Patrick Carter all of Homer, Alaska
Surveyor:	Stephen Smith / Geovera, LLC
General Location:	City of Homer

Parent Parcel No.:	177-021-27, 177-021-28, 177-02129
Legal Description:	Lots 35, 36, and 37 of Barnett’s South Slope Subdivision Quiet Creek Park Unit 2, HM 2018-40
Assessing Use:	Residential
Zoning:	Rural Residential District
Water / Wastewater	City water and sewer

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure three lots within Barnett’s South Slope Subdivision Quiet Creek Park Unit 2 into two lots that will be 0.785 acres and 0.714 acres.

Legal Access (existing and proposed):

The subdivision is accessed from Nelson Avenue (north) which is a 60 foot right of way with a paved road that is maintained by the City of Homer. Nelson Avenue (north) connects with East End Road and connects with South Slope Drive with access to East Hill Road.

Nelson Avenue (south) is a 30 foot dedication that has not been improved and is under the jurisdiction of the City of Homer. Nelson Avenue (south) is not used for access to this subdivision or for neighboring parcels.

The subdivision is not located within a block that complies with the KPB block length requirement. Both Nelson Avenue dedications and Sanjay Court define the block.

KPB Roads Dept. comments	Out of jurisdiction; no comments
SOA DOT comments	No comment

Site Investigation:

This subdivision is affected by sloping terrain with limited areas for placement of buildings. The parent plat indicates that the subdivision is affected by wetland area (per Alaska Corps of Engineers Jurisdictional Determination) and a 20 foot drainage easement centered on the depicted drainage way. Per KPB GIS data there are no wetlands or bodies of water within the subdivision. The plat contains the correct development notes stating that development is subject to the City of Homer zoning regulations and the Army Corps of Engineers shall be contacted before development.

Floodplain Hazard Review	Not within flood hazard zone; no comments
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD; no comments
State Parks Review	No comments

Staff Analysis

The City of Homer Planning Commission reviewed the subject plat at their April 7, 2021 meeting. They recommended approval subject to the following conditions:

1. Include a plat note stating property owners should contact the Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation if any. Property owners are responsible for obtaining all required local, state, and federal permits.
2. Carry over the parent plat drainage and wetland information.

Per the City of Homer staff report, city water and sewer are available. Homer public works stated they would not require abandonment of a set of water and sewer services due to the newly constructed and paved Nelson Avenue. A soils analysis report will not be required.

The City of Homer staff report noted that “the proposed application will benefit since the Comprehensive Plan outlines more development for less vehicular traffic but due to the physical characteristics of the lots more green space will be beneficial to address the slope and drainage issues.”

A preliminary subdivision has been submitted for the lots abutting the western boundary of this subdivision. The proposed design will not impact this plat. Provide correct lot depiction and labels if recorded prior to this plat.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

The new lot common lot line will more closely follow the existing drainage and provide more usable area for the two lots.

CORRECTIONS / EDITS

KPB 20.25.070 – Form and contents required.

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat’s name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: *The name is compliant but very long. Would recommend removing the lots from the name. Suggestion would be Barnett’s South Slope Subdivision Quiet Creek Park 2021 Replat or other approved name.*

Correct the parent parcel description to Lots 35, 36, and 37.

H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding or storm water overflow, and the line of ordinary high water. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;

Staff recommendation: *Depict and label the wetland area, drainage, and 20 foot drainage easement per HM 2018-40.*

20.30.180. Pedestrian ways required when. Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

Staff Comments: *A 10 foot wide pedestrian access easement per HM 2019-23, within Lot 8-A-1, provides a connection from the end of Nelson A*

20.30.270. Different standards in cities. Where cities have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. Any appeal of a city design standard is subject to KPB 21.01.020(E).
Staff comments: *The City of Homer does not meet the specified requirements for the application and consideration of different standards.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.
Platting Staff Comments: This platting action will connect to an existing city supplied wastewater system that has been approved by the City of Homer. The correct wastewater disposal note is on the plat.
Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.
Staff comments: The City of Homer report states that a installation agreement is not required.

20.60.180. Plat notes.
 A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.
Staff recommendation: *Place the following notes on the plat.*
 - *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170(B).*
 - *Within plat note 8 include the additional amendment serial number of 2020-001089-0.*

20.60.190. Certificates, statements, and signatures required.
Staff recommendation: *Per the certificate to plat Mr. Harris took title as Gary Harris and Gary E. Harris. Both names shall be noted on his signature line. Example: Gary E. Harris, aka Gary Harris. The owners signature lines should note the former lots. Comply with 20.60.190.*

Utility Easements

The utility easements of record have been depicted or referenced by a plat note.

Staff recommends that a label be added for the depiction of the easement that adjoins Nelson Avenue (north) as granted per HM 2018-40.

Staff recommends that the front 15 feet along Nelson Avenue (south) and 20 feet within 5 feet of side lot lines be depicted and labeled as granted per HM 2018-40.

Staff recommends to grant any utility easements as requested by the utility providers.

Utility provider review:

HEA	No comment
ENSTAR	No comment
ACS	
GCI	No comment

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses 839 NELSON AVE 851 NELSON AVE 875 NELSON AVE Comments: CITY OF HOMER WILL ADVISE ON AFFECTED ADDRESSES.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	This plat is located within the City of Homer and is not subject to local option zoning districts or material site review by KPB.
Assessing – Adeena Wilcox	No comments.
Advisory Planning Commission	N/A

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

EXCEPTIONS REQUESTED:

A. KPB 20.30.120 Streets – width requirements (Nelson Avenue south)

Surveyor’s Discussion: The city of Homer considers the Nelson Avenue South half right-of-way to be not constructible to city standards. I confirmed this with Julie Engebretsen at the Homer planning department. Ms. Engebretsen indicated that exceptions to the dedication of the north half of the right-of-way within all phases of the Quiet Creek Park plats were recommended by the planning staff and the Homer planning commission. This plat involves lots that were part of the original exception to the 30 foot adjoining right-of-way dedication.

Staff Discussion: Nelson Avenue (south) is a 30 foot right of way. Nelson Avenue (south) is under City of Homer jurisdiction. The parent plat (HM 2018-40) was granted an exception to not provide the matching 30 foot dedication. This platting action will be reducing the number of lots and will not change the access pattern to the subdivision.

Currently Nelson Avenue (south) contains a drainage that runs to Kallman Road.

All lots in Barnett’s South Slope Subdivision use Nelson Avenue (north) for access. Lot 8-A-1 uses Sanjay Court for physical access. Lots 23 and 24A use Heidi Court for physical access.

A matching 30 foot right of way dedication will remove +/- 5,220 sq. ft. combined from proposed Lot 35-A and 36-A.

If denied, this platting action will be required to provide a matching 30 foot right of way dedication for Nelson Avenue (south).

Findings:

1. Nelson Avenue (south) is a 30 foot right of way.
2. Nelson Avenue (south) is under City of Homer jurisdiction. T
3. The parent plat (HM 2018-40) was granted an exception to not provide the matching 30 foot dedication.
4. This platting action will be reducing the number of lots and will not change the access pattern to the subdivision.
5. Currently Nelson Avenue (south) contains a drainage that runs to Kallman Road.
6. All lots in Barnett’s South Slope Subdivision use Nelson Avenue (north) for access.
7. Lot 8-A-1 uses Sanjay Court for physical access.
8. Lots 23 and 24A of AA Mattox Subdivision use Heidi Court for physical access.
9. A matching 30 foot right of way dedication will remove +/- 5,220 sq. ft. combined from proposed Lot 35-A

and 36-A.

10. The City of Homer Planning Commission reviewed and approved this preliminary plat on April 7, 2021.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-10 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-10 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-10 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

EXCEPTIONS REQUESTED:

B. KPB 20.30.170 Blocks – Length requirements

Surveyor's Discussion: The city of Homer considers the Nelson Avenue South half right-of-way to be not constructible to city standards. I confirmed this with Julie Engebretsen at the Homer planning department. Ms. Engebretsen indicated that exceptions to the dedication of the north half of the right-of-way within all phases of the Quiet Creek Park plats were recommended by the planning staff and the Homer planning commission. This plat involves lots that were part of the original exception to the 30 foot adjoining right-of-way dedication.

For the reasons stated above, dedicating a right-of-way connection between Nelson Avenue and the 30 foot wide Nelson Avenue South half right-of-way would be unnecessary.

Staff Discussion: The subdivision is not located within a block that complies with the KPB block length requirement. Both Nelson Avenue dedications (north and south) and Sanjay Court define the block. Development patterns, terrain issues, and drainages limit the location where right of way dedications can be made.

Sanjay Court will be extended with future phases of Barnett's South Slope Subdivision Quiet Creek Park, but is approved to terminate in a cul-de-sac.

Homer High School is located to the southwest and will not be able to provide an extension of right of way.

If denied, this platting action will be required to provide a 60 foot wide right of way connection between Nelson Avenue (north) and Nelson Avenue (south).

Findings:

1. The subdivision is not located within a block that complies with the KPB block length requirement.
2. Both Nelson Avenue dedications (north and south) and Sanjay Court define the block.
3. Development patterns, terrain issues, and drainages limit the location where right of way dedications can be made.
4. Sanjay Court will be extended with future phases of Barnett's South Slope Subdivision Quiet Creek Park, but is approved to terminate in a cul-de-sac.
5. Homer High School is located to the southwest and will not be able to provide an extension of right of way.
6. A 60 foot wide right of way dedication will remove +/- 15,300 sq. ft. of land from this subdivision.
7. A 60 foot wide right of way will remove area that can be used for the construction of residential buildings.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-7 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-7 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-7 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

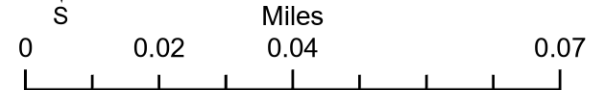
END OF STAFF REPORT

Legend
Contours 4ft



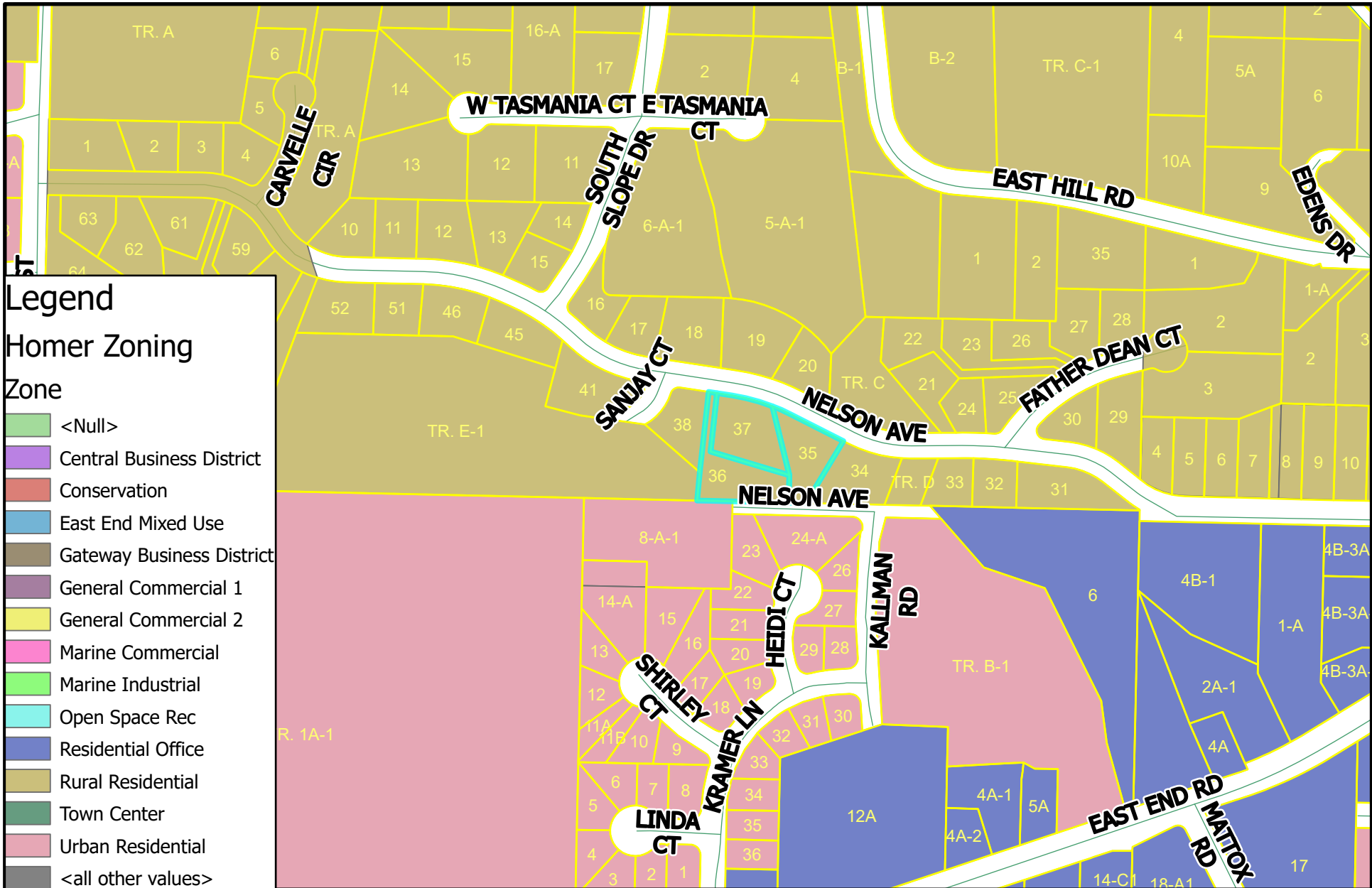
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



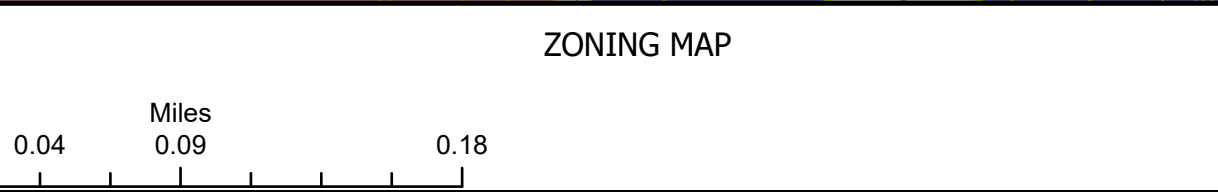
**AERIAL IMAGERY 2019
CONTOUR MAP**

Date: 5/5/2021
3:16 PM
Scott Huff
Plating Manager

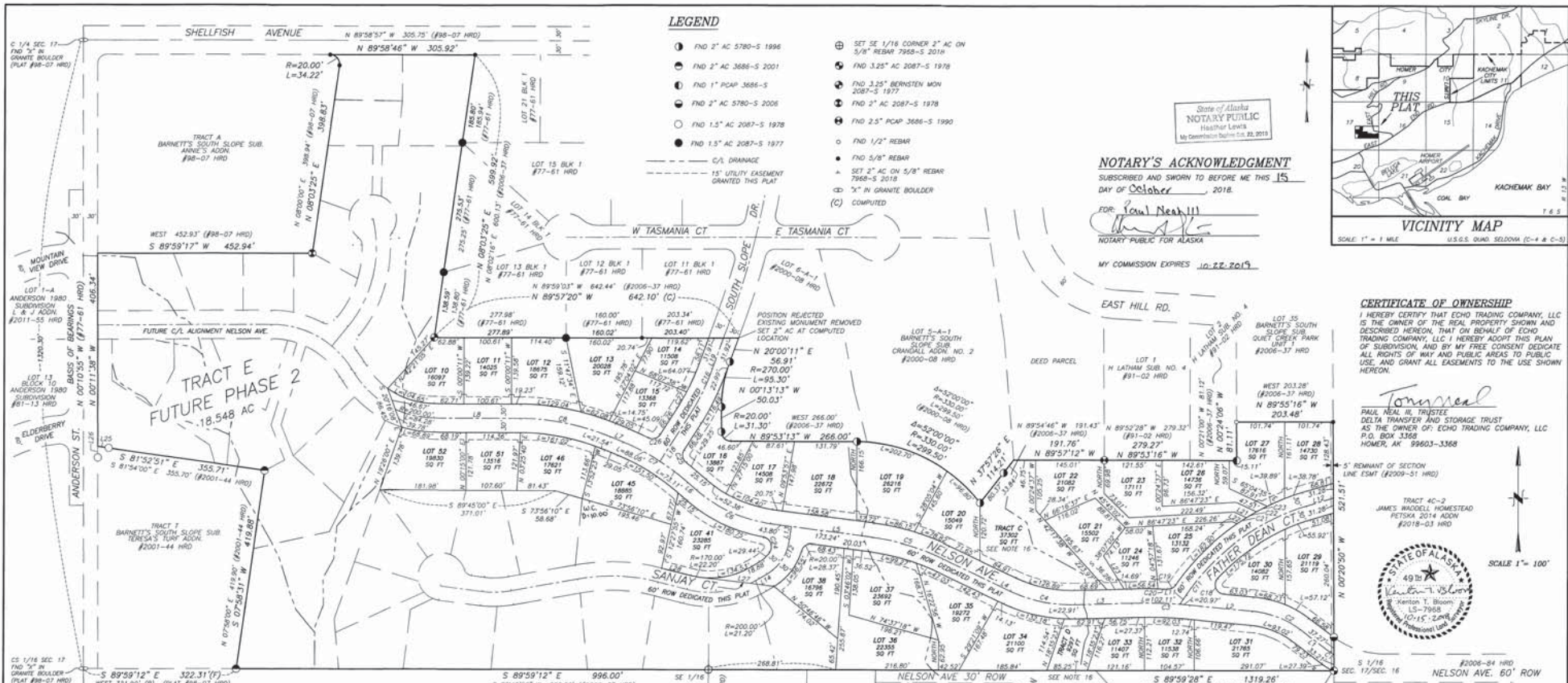


- Legend**
- Homer Zoning**
- Zone**
- <Null>
 - Central Business District
 - Conservation
 - East End Mixed Use
 - Gateway Business District
 - General Commercial 1
 - General Commercial 2
 - Marine Commercial
 - Marine Industrial
 - Open Space Rec
 - Residential Office
 - Rural Residential
 - Town Center
 - Urban Residential
 - <all other values>

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.



Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager



LEGEND

- ① FND 2" AC 5780-S 1998
- ② FND 2" AC 3686-S 2001
- ③ FND 1" PCAP 3686-S
- ④ FND 2" AC 5780-S 2006
- ⑤ FND 1.5" AC 2087-S 1978
- ⑥ FND 1.5" AC 2087-S 1977
- ⑦ SET SE 1/16 CORNER 2" AC ON 5/8" REBAR 7950-S 2016
- ⑧ FND 3.25" AC 2087-S 1978
- ⑨ FND 3.25" BERNSTEN MON 2087-S 1977
- ⑩ FND 2" AC 2087-S 1978
- ⑪ FND 2.5" PCAP 3686-S 1990
- ⑫ FND 1/2" REBAR
- ⑬ FND 3/8" REBAR
- ⑭ SET 2" AC ON 5/8" REBAR 7950-S 2016
- ⑮ "X" IN GRANITE BOULDER
- (C) COMPUTED

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 15 DAY OF October, 2018.

FOR: *Paul Neal III*
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES 10-22-2019



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

James M. Bloom
 STATE OF ALASKA
 JAMES M. BLOOM
 Notary Public
 License No. LS-7958
 Expires 05/15/2024

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BEING	CHORD DIST
C1	0°19'18"	170.00'	9.86'	S 54°52'28" E	8.86'
C2	31°21'03"	200.00'	109.43'	N 89°52'20" W	108.07'
C3	0°23'08"	1000.00'	12.08'	N 89°02'25" W	12.01'
C4	26°55'40"	300.00'	160.95'	S 78°09'59" E	139.30'
C5	17°20'34"	300.00'	150.64'	N 73°38'21" W	155.07'
C6	33°29'28"	208.17'	174.36'	S 65°46'48" E	171.90'
C7	18°28'58"	300.00'	161.73'	N 58°15'58" W	160.47'
C8	22°17'19"	500.00'	198.21'	N 78°21'21" E	192.99'
C9	57°30'00"	200.00'	116.43'	S 61°00'00" E	192.40'
C10	08°00'00"	200.00'	200.44'	N 41°15'00" W	193.92'
C11	36°25'42"	318.65'	176.65'	S 64°54'46" E	174.48'
C12	51°26'47"	100.00'	88.29'	N 38°17'01" E	86.80'
C13	45°20'11"	200.00'	158.23'	N 42°14'00" E	154.78'
C14	24°25'03"	400.00'	170.47'	N 62°56'56" W	169.18'
C15	17°28'15"	300.00'	80.86'	N 68°38'27" E	80.19'
C16	12°45'10"	300.00'	109.69'	N 80°17'26" E	109.67'
C17	52°26'13"	260.31'	240.51'	N 72°50'00" E	232.04'
C18	12°27'21"	20.00'	44.90'	S 20°48'14" W	43.67'
C19	57°35'35"	20.00'	20.23'	N 64°52'29" E	19.38'
C20	05°26'05"	180.00'	20.10'	N 87°42'45" W	20.19'
C21	05°26'05"	180.00'	20.10'	S 64°41'04" W	20.19'
C22	02°48'13"	488.52'	24.30'	S 89°20'21" W	24.30'
C23	02°48'13"	488.52'	25.30'	N 89°17'28" E	25.30'
C24	11°22'12"	20.00'	40.29'	N 22°43'18" E	33.81'
C25	84°47'01"	20.00'	20.00'	S 92°42'46" E	20.00'
C26	04°47'01"	48.56'	23.63'	N 87°21'44" E	23.63'
C27	04°46'56"	470.00'	39.21'	N 80°17'18" E	39.21'
C28	04°47'01"	20.00'	20.00'	S 92°42'46" E	20.00'
C29	78°22'47"	20.00'	27.39'	S 60°07'11" W	25.30'
C30	28°24'52"	20.00'	27.21'	N 62°02'21" W	27.21'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 53°17'48" E	778.71'
L2	S 84°51'51" E	152.21'
L3	S 88°13'01" W	119.66'
L4	S 54°17'01" E	150.56'
L5	S 82°11'33" E	217.04'
L6	N 89°11'54" W	25.13'
L7	N 89°02'41" W	47.05'
L8	N 89°45'00" W	762.33'
L9	N 89°02'41" W	11.69'
L10	N 89°45'00" W	368.19'
L11	N 89°45'00" W	25.13'
L12	N 07°28'27" E	26.83'
L13	N 89°45'00" W	65.95'
L14	N 32°34'46" E	113.28'
L15	N 89°45'00" W	68.00'
L16	N 32°34'46" E	54.17'
L17	N 89°45'00" W	10.85'
L18	S 60°14'30" E	10.85'
L19	S 30°10'55" E	62.66'
L20	N 71°00'00" E	66.13'
L21	S 61°32'51" E	23.00'
L22	S 61°32'51" E	23.00'
L23	N 83°12'58" W	21.88'
L24	N 29°44'58" W	63.13'

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS BETWEEN THE C 1/4 SECTION 17 AND THE CS 1/16 SECTION 17 AS SHOWN ON RECORD PLAT #77-61 HRD. N 0°10'55" W (R).
2. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND 20 FEET WITHIN WITHIN 5 FEET OF SIDE LOT LINES (UNLESS OTHERWISE NOTED) IS A UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THESE LOTS WILL BE SERVED BY CITY OF HOMER WATER AND SEWER.
4. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
5. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE PARENT PLATS AND THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PRIOR TO DEVELOPMENT ACTIVITIES.
6. CUL-DE-SACS ARE 50 FT RADIUS. ALL CURVE RETURNS ARE 20 FT RADIUS.
7. DRAINAGE SUBJECT TO PREVIOUS SEASONAL INUNDATIONS; UPHILL DEVELOPMENT MAY CHANGE DRAINAGE PATTERNS AT ANY TIME.
8. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
9. SET A SELF-IDENTIFYING 2" ALUMINUM CAP AT ALL LOT CORNERS AND ROW POINTS OF CURVATURE FOR THIS SURVEY (UNLESS OTHERWISE NOTED).

WASTEWATER DISPOSAL

PLANS FOR THE WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

John B. Bishop CE-10899 10/15/2018
 JOHN BISHOP/CE-10899 DATE:

NOTES cont.

10. NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF THE FLAG (LOTS).
11. THERE ARE LIMITATIONS ON FUTURE SUBDIVISION OF THESE LOTS DUE TO ISSUES REGARDING ACCESS, DEVELOPMENT TRENDS IN THE AREA, AND TOPOGRAPHY.
12. EXCEPTIONS WERE GRANTED TO KPB 20.20.030 (PROPOSED STREET LAYOUT REQUIREMENTS) AND 20.20.120 (STREET CURVE REQUIREMENTS) BY THE KENAI PENINSULA BOROUGH PLAT COMMITTEE AT THE MEETING OF MARCH 10, 2014.
13. SEE SHEET 2 FOR ADDITIONAL INFORMATION INCLUDING EASEMENT DESCRIPTIONS.

PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF JUNE 11, 2018
 KENAI PENINSULA BOROUGH
 BY: *May B. St. An. G. ZOB*
 AUTHORIZED OFFICIAL

Homer Recording District PL 2018-40

HOMER RECORDING DISTRICT KPB File No. 2014-016

BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK UNIT 2

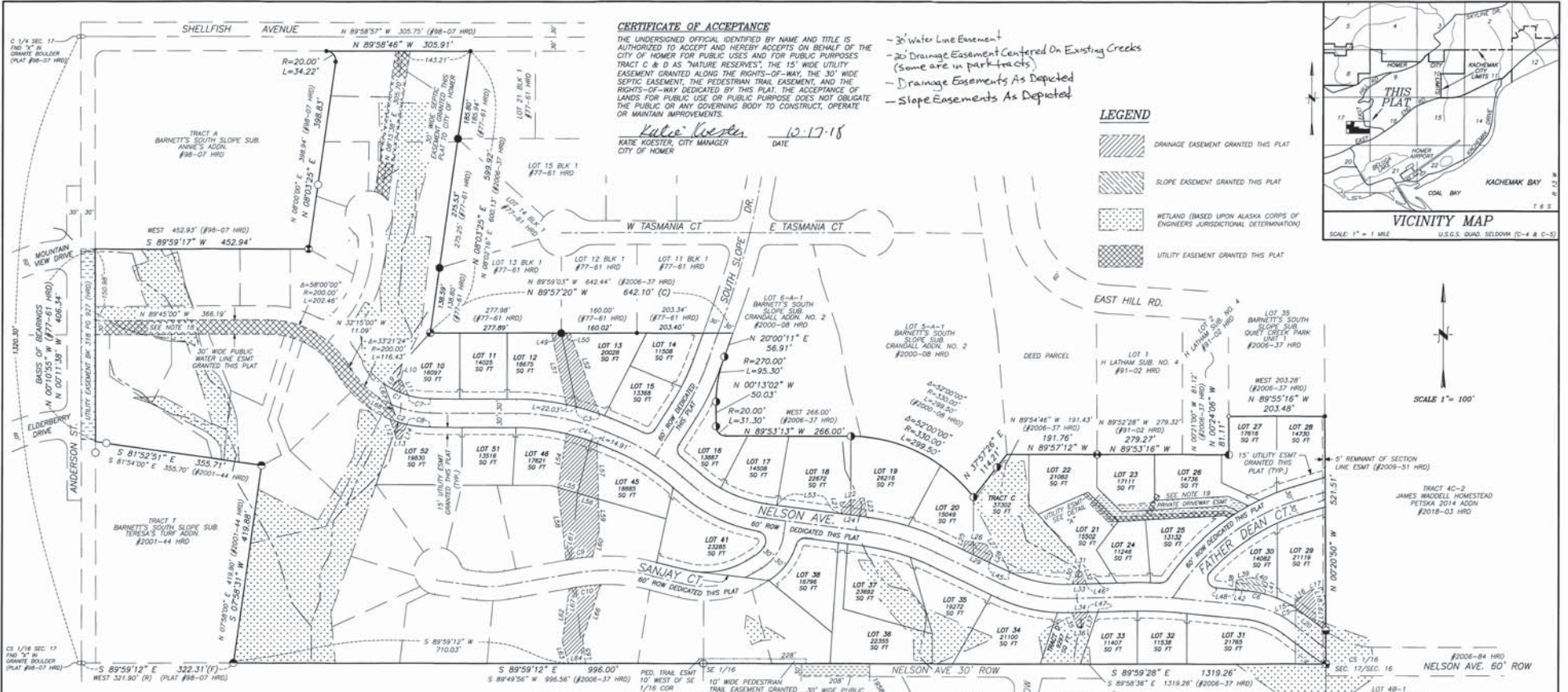
BEING A SUBDIVISION OF THE UNSUBDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 1 AS PER PLAT #2006-37 HRD
 LOCATED WITHIN THE SE 1/4, SEC 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA

CONTAINING 37.056 ACRES
 OWNER: PAUL NEAL III, MANAGER
 ECHO TRADING COMPANY, LLC
 P.O. BOX 3368
 HOMER, AK 99603-3368

SEABRIGHT SURVEY + DESIGN

1044 EAST ROAD, SUITE A
 HOMER ALASKA 99603
 (907) 235-4247 (and fax)
 seabright@yaho.com

DRAWN BY: K.K. DATE: 10/2018 SCALE: 1" = 100'
 CHK BY: K.B. JOB #13-06 SHEET 1 OF 2



CERTIFICATE OF ACCEPTANCE
 THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES TRACT C & D AS "NATURE RESERVES" THE 15' WIDE UTILITY EASEMENT GRANTED ALONG THE RIGHTS-OF-WAY, THE 30' WIDE SEPTIC EASEMENT, THE PEDESTRIAN TRAIL EASEMENT, AND THE RIGHTS-OF-WAY DEDICATED BY THIS PLAT. 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.

Kate Koester
 KATE KOESTER, CITY MANAGER
 CITY OF HOMER

DATE: 12-17-18

- 30' Water Line Easement
- 20' Drainage Easement Centered On Existing Creeks (Some are in park-tracts)
- Drainage Easements As Depicted
- Slope Easements As Depicted

LEGEND

- DRAINAGE EASEMENT GRANTED THIS PLAT
- SLOPE EASEMENT GRANTED THIS PLAT
- WETLAND (BASED UPON ALASKA CORPS OF ENGINEERS JURISDICTIONAL DETERMINATION)
- UTILITY EASEMENT GRANTED THIS PLAT



ESMT LINE TABLE

LINE	BEARING	DISTANCE
L1	S 20°12'32" W	7.22'
L2	S 79°17'24" W	10.00'
L3	S 39°43'37" W	11.19'
L4	N 89°43'00" E	19.35'
L5	N 89°43'00" E	42.71'
L6	N 09°14'42" E	47.10'
L7	S 79°17'24" W	10.00'
L8	N 07°14'42" E	48.30'
L9	S 33°13'20" E	60.17'
L10	S 89°32'26" E	10.00'
L11	S 23°59'01" E	34.81'
L12	N 17°11'48" W	43.30'
L13	S 09°17'12" E	10.00'
L14	N 21°29'01" E	32.83'
L15	S 04°31'12" W	14.67'
L16	N 53°44'44" E	45.20'
L17	N 72°07'35" E	25.00'
L18	S 18°58'44" E	27.58'
L19	N 00°20'20" W	65.01'
L20	N 53°12'48" W	66.58'
L21	S 18°58'44" E	27.58'
L22	N 78°24'59" E	50.61'
L23	S 09°17'12" E	10.00'
L24	S 82°17'31" E	52.60'
L25	N 18°24'32" W	17.29'
L26	S 82°17'31" E	52.60'
L27	S 33°13'20" E	29.73'
L28	S 07°46'08" E	17.00'
L29	S 64°17'19" E	60.01'
L30	S 20°14'43" W	27.89'
L31	S 08°59'19" E	102.00'
L32	S 22°32'38" E	27.72'
L33	N 88°21'59" E	33.29'
L34	N 88°21'59" E	33.29'
L35	N 21°14'43" W	24.30'

ESMT LINE TABLE (cont.)

LINE	BEARING	DISTANCE
L36	S 88°21'59" E	10.00'
L37	S 18°27'51" W	34.58'
L38	N 05°26'59" E	20.27'
L39	N 80°14'05" E	33.62'
L40	N 89°18'28" W	34.64'
L41	S 12°41'45" E	23.93'
L42	S 84°33'51" E	27.53'
L43	S 89°45'00" W	174.92'
L44	S 89°45'00" W	181.75'
L45	N 64°17'19" W	47.42'
L46	S 89°23'01" W	28.98'
L47	S 88°21'59" E	27.58'
L48	S 84°33'51" E	41.58'
L49	N 69°18'28" W	34.64'
L50	S 12°41'45" E	23.93'
L51	S 84°33'51" E	27.53'
L52	S 89°45'00" W	174.92'
L53	S 89°45'00" W	174.92'
L54	S 08°46'28" W	115.04'
L55	S 23°59'01" E	42.80'
L56	S 23°59'01" E	42.80'
L57	S 01°24'34" E	117.77'
L58	S 84°33'51" E	152.94'
L59	S 01°24'34" E	68.84'
L60	S 14°22'43" W	58.73'
L61	S 84°33'51" E	27.53'
L62	N 07°03'58" E	173.93'
L63	N 15°44'31" E	66.82'
L64	S 89°59'12" E	36.88'
L65	N 07°10'40" W	153.67'
L66	N 15°44'31" E	119.76'
L67	S 07°16'58" E	46.67'
L68	S 20°16'09" E	39.78'

NOTES (cont.)

14. THERE IS A 15' WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER ODER UPON AND THROUGH THIS SUBDIVISION GRANTED TO EXISTANT NATURAL GAS COMPANY RECORDED JUNE 7, 2018 SERIAL NO. 2018-001811-0 HRD. THIS GAS LINE HAS NOT BEEN INSTALLED OR SURVEYED AS OF THE TIME OF RECORDING THIS PLAT.

15. THERE IS A GENERAL EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION, INC. THAT AFFECTS THESE LOTS RECORDED BK 318 PG 927 HRD.

16. THERE IS A 20' WIDE DRAINAGE EASEMENT CENTERED ALONG THE EXISTING CREEKS DEPICTED ON THIS PLAT.

17. TRACT C AND D ARE "NATURE RESERVES" GRANTED THIS PLAT TO THE CITY OF HOMER.

18. THERE IS A 30' WIDE PUBLIC WATER LINE EASEMENT GRANTED THIS PLAT TO THE CITY OF HOMER. THE EASEMENT IS THE 30' SOUTH OF THE FUTURE CENTERLINE OF NELSON AVE. LOCATED AS DEPICTED ON SHEET 2 OF THIS PLAT.

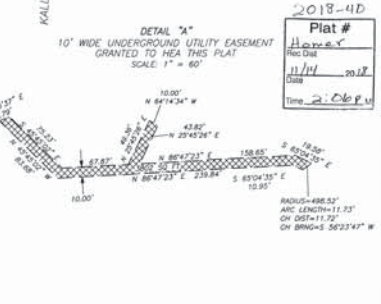
19. THERE IS A PRIVATE DRIVEWAY EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED SERIAL NO. 2018-00012-0 (HRD).

20. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BK 48 PG 77 (HRD) ON JAN. 23, 1966.

21. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BK 93 PG 146 (HRD) ON FEB. 1, 1977.

ESMT CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	151°02'14"	170.00'	19.07'	S 67°20'51" E	36.99'
C2	209°09'00"	230.00'	38.73'	N 22°30'21" W	38.73'
C3	151°02'14"	170.00'	19.07'	S 67°20'51" E	36.99'
C4	209°09'00"	230.00'	38.73'	N 22°30'21" W	38.73'
C5	04°12'39"	230.00'	13.00'	S 84°30'08" E	13.00'
C6	170°00'00"	400.00'	400.00'	S 29°11'53" E	400.00'
C7	15°14'54"	170.00'	48.23'	N 81°57'34" W	46.09'
C8	152°29'28"	230.00'	43.85'	N 82°14'58" E	49.42'
C9	08°11'56"	430.00'	46.48'	S 82°58'41" W	46.48'
C10	08°14'58"	370.00'	34.18'	S 84°27'32" W	53.14'



HOMER RECORDING DISTRICT KPB FILE NO. 2014-016

Plat #
 114-0018
 11/14 2018
 588
 Time: 2:06 P.M.

BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK UNIT 2

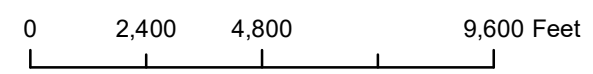
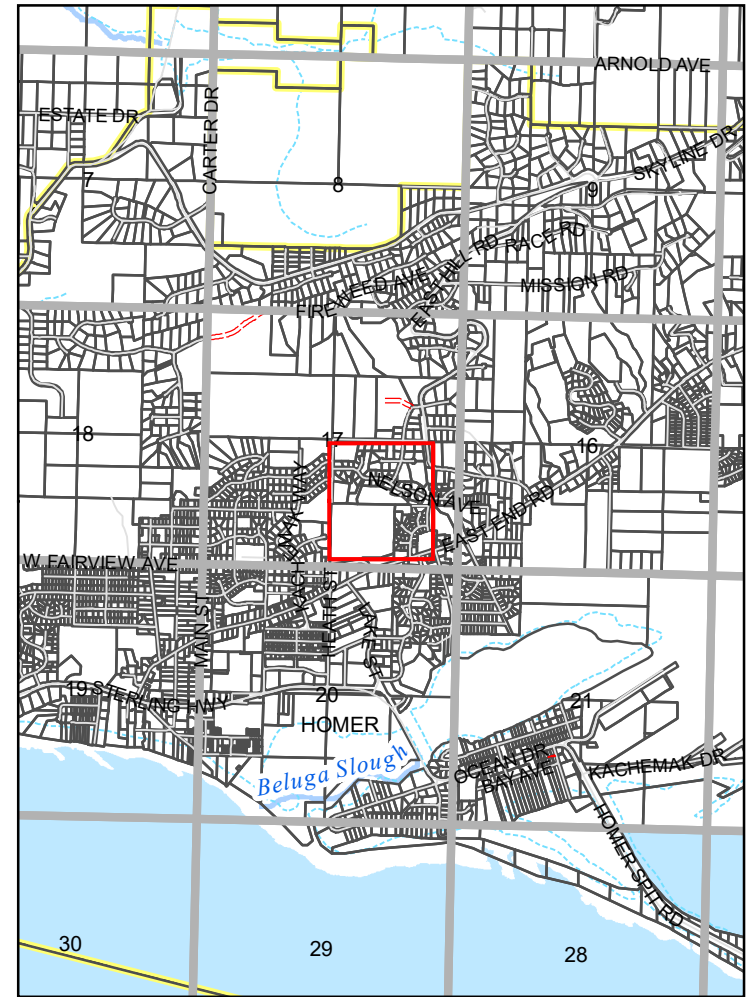
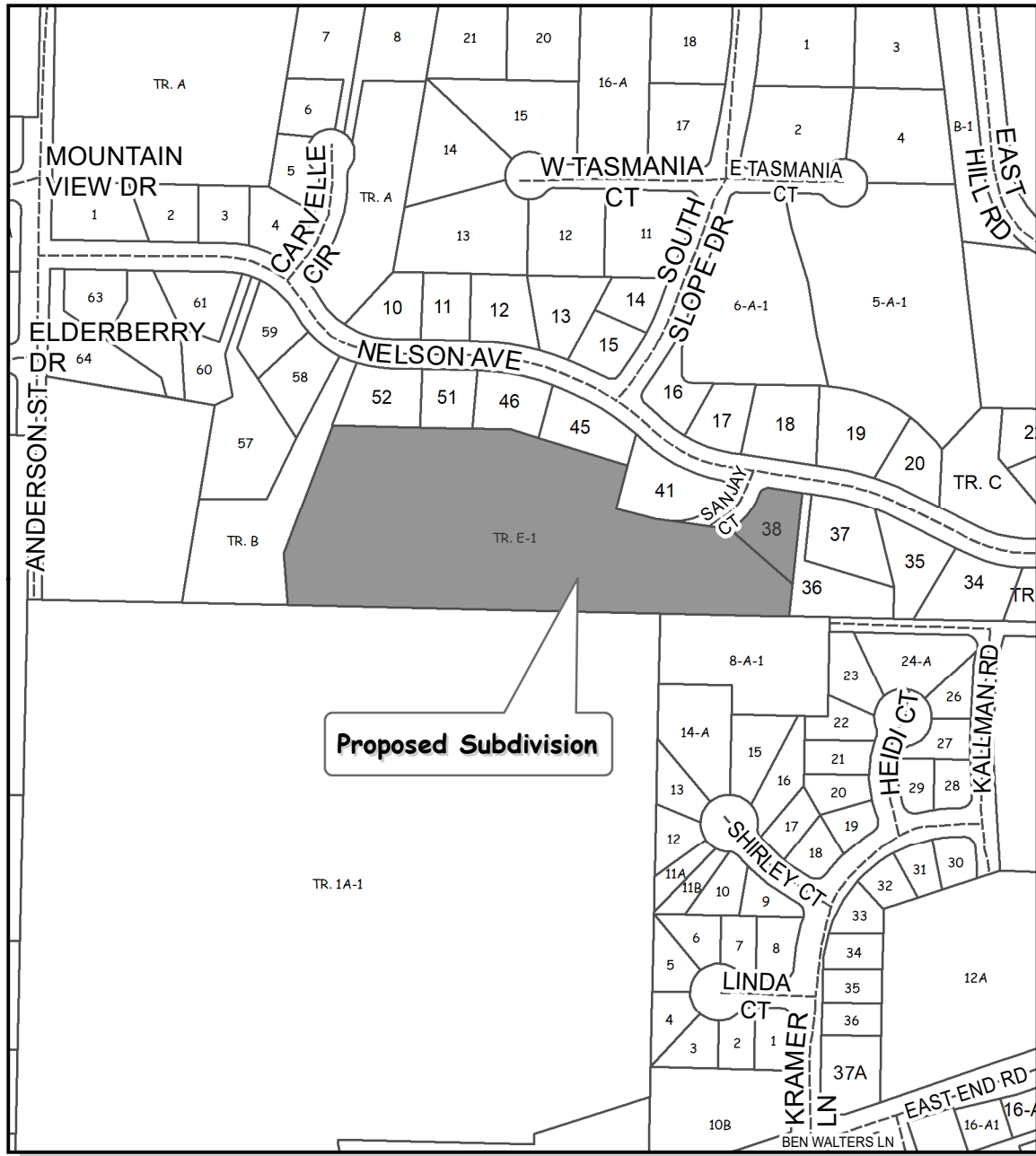
BEING A SUBDIVISION OF THE UNSUBDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 1 AS PER PLAT #2006-37 HRD, LOCATED WITHIN THE SE 1/4, SEC 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BROOKING, THIRD JUDICIAL DISTRICT, ALASKA

CONTAINING 37.056 ACRES

OWNER: PAUL NEAL III, MANAGER
 ECHO TRADING COMPANY, LLC
 P.O. BOX 3368
 HOMER, AK 99603-3368

SEABRIGHT SURVEY + DESIGN
 1044 EAST ROAD, SUITE A
 HOMER ALASKA 99603
 (907) 235-4247 (and fax)
 seabright@yahoo.com

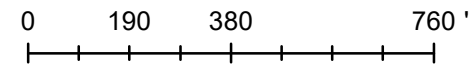
DRAWN BY: K.K. DATE: 8/2018 SCALE: 1" = 100'
 CHK BY: K.B. JOB #13-06 SHEET 2 OF 2



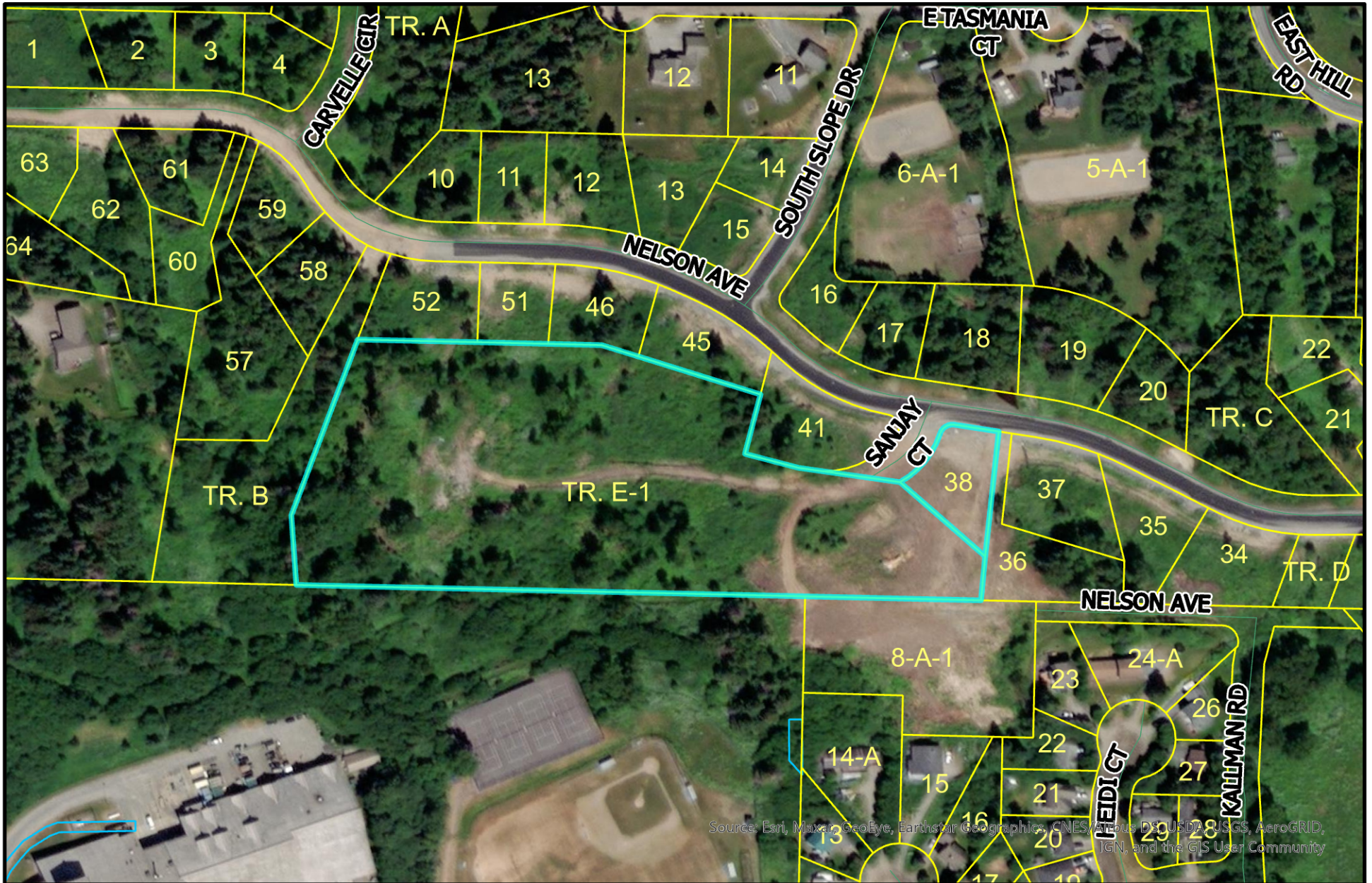
KPB 2021-058
S17 T06S R13W
HOMER



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.

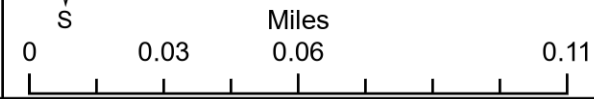
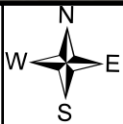


Date: 4/30/2021
 JHindman, KPB 2021-058



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



AERIAL IMAGERY 2019

Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS FROM THE PLAT OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
4. THESE LOTS ARE SERVED BY CITY OF HOMER WATER AND SEWER.
5. THESE LOTS ARE AFFECTED BY EASEMENTS OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK 318, PG 927 HRD, BK 48, PG. 77 HRD AND BK 90, PG 166 HRD).
6. THERE ARE 15 FOOT WIDE NATURAL GAS EASEMENTS CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER, OVER, UPON AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 7, 2018 (HM 2018-001611-0), AND SEPTEMBER 10, 2020 (HM 2020-003493-0). A PORTION OF THE GAS LINES HAVE NOT BEEN INSTALLED AS OF THE RECORDING OF THIS PLAT.
7. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
8. DEVELOPMENT IN ORIGINAL LOT 38, OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40) IS SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS PER 2018-003491-0 (HRD) AND AMENDMENTS PER 2018-003524-0 (HRD).

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 51°13'31" W	106.05'
L2	S 122°55' W	39.97'
L3	S 75°44'04" E	63.11'
L4	S 65°17'56" E	156.58'
L5	S 82°11'23" E	48.49'
L6	N 59°59'24" E	18.88'
L7	N 89°59'28" W	123.84'

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	7°28'56"	170.00'	22.20'	S 79°26'32" E	22.18'
C2	57°53'38"	130.00'	38.57'	N 37°28'50" E	84.36'
C3	81°08'51"	20.00'	28.31'	N 56°55'12" E	26.01'
C4	3°20'42"	230.00'	21.48'	N 61°35'45" E	21.45'

PLAT APPROVAL

THIS PLAT WAS HEARD BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETINGS OF FEBRUARY 10, 2014, MARCH 10, 2014, MAY 29, 2018 AND WAS APPROVED ON JUNE 11, 2018. A TIME EXTENSION WAS GRANTED AT THE PLANNING COMMISSION MEETING OF NOVEMBER 9, 2020

BY: _____ DATE _____
 AUTHORIZED OFFICIAL
 KENAI PENINSULA BOROUGH



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT DELTA STORAGE AND TRANSFER TRUST, AS THE OWNER OF ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

PAUL NEAL III, TRUSTEE
 DELTA STORAGE AND TRANSFER TRUST
 AS THE OWNER OF ECHO TRADING COMPANY, LLC
 PO BOX 3368
 HOMER, ALASKA 99603

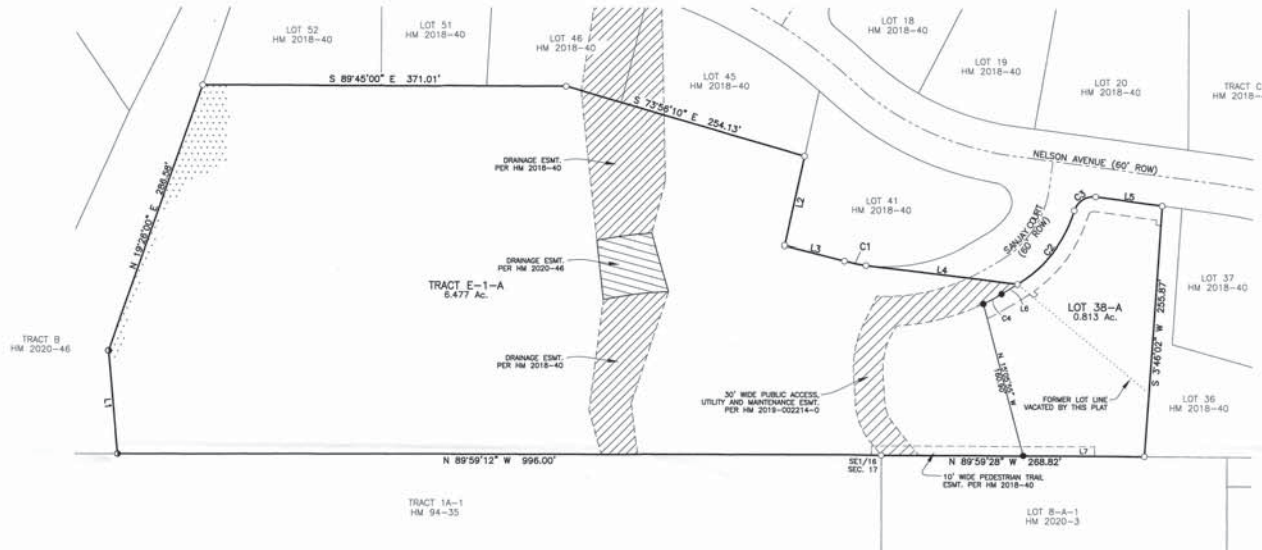
TRAVIS DRAKE
 22668 SAMBAR LOOP
 CHUGIAK, ALASKA 99567

MEGAN DRAKE
 22668 SAMBAR LOOP
 CHUGIAK, ALASKA 99567

NOTARY'S ACKNOWLEDGMENT

FOR: PAUL NEAL III
 ACKNOWLEDGED BEFORE ME THIS _____
 DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES: _____



WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

SURVEYOR _____ LICENSE # _____ DATE _____

LEGEND

- INDICATES 2" ALCAP (7968-S 2018) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP (7538-S 2020) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP ON 5/8" REBAR (7538-S, 2021) SET THIS SURVEY
- ▨ INDICATES AREAS WITH SLOPES GREATER THAN 20%

NOTARY'S ACKNOWLEDGMENT

FOR: TRAVIS AND MEGAN DRAKE
 ACKNOWLEDGED BEFORE ME THIS _____
 DAY OF _____, 2021.

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES: _____



KPB File 2021-058

HOMER RECORDING DISTRICT KPB FILE No. 2021-???

BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK LOT 38 REPLAT
 A REPLAT OF LOT 38
 BARNETT'S SOUTH SLOPE SUBDIVISION
 QUIET CREEK PARK UNIT 2 (HM 2018-40)
 AND TRACT E-1
 BARNETT'S SOUTH SLOPE SUBDIVISION
 QUIET CREEK PARK UNIT 3 (HM 2020-46)
 LOCATED WITHIN THE N1/2 SE1/4, SEC. 17,
 T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI
 PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA
 CONTAINING 7.230 ACRES
 OWNERS:
 TRACT E-1: ECHO TRADING COMPANY, LLC
 PO BOX 3368 HOMER, ALASKA 99603
 LOT 38: TRAVIS AND MEGAN DRAKE
 22668 SAMBAR LOOP CHUGIAK, AK 99567
GEOVERA, LLC
 PO BOX 3235
 HOMER ALASKA 99603
 (907) 399-4345
 EMAIL: scsmith@gcl.net
 DRAWN BY: SCS DATE: APRIL, 2021 SCALE: 1" = 60'
 CHK BY: SCS JOB #0020-28 SHEET 1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 2 – BARNETT’S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK LOT 38 REPLAT

KPB File No.	2021-058
Planning Commission Meeting:	May 24, 2021
Applicant / Owner:	Travis and Megan Drake, Echo Trading Company, LLC all of Homer, Alaska
Surveyor:	Stephen Smith / Geovera, LLC
General Location:	City of Homer

Parent Parcel No.:	177-021-56, 177-021-30
Legal Description:	Lot 38 of Barnett’s South Slope Subdivision Quiet Creek Park Unit 2, HM 2018-40 and Tract E-1 of Barnett’s South Slope Subdivision Quiet Creek Park Unit 3, HM 2020-46
Assessing Use:	Residential
Zoning:	Rural Residential District
Water / Wastewater	City water and sewer

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure a common lot line between a tract and a lot. The Tract will decrease from 6.904 acres to 6.477 acres and the lot will increase from 16,796 sq. ft. to 35,414 sq. ft.

Legal Access (existing and proposed):

The subdivision is accessed from Nelson Avenue and Sanjay Court, both of which are 60 foot right of ways under the jurisdiction of the City of Homer. Nelson Avenue is a paved road. Nelson Avenue connects to South Slope Drive, which provides access to East Hill Road. Nelson Avenue also connects to East End Road.

This plat is not extending Sanjay Court right of way but future subdivision phases will complete the Sanjay Court right of way. Construction of Sanjay Court is in progress. A 30 foot public access and utility easement, per HM 2019-002214-0, extends from the end of Sanjay Court dedication to provide legal and physical access to Lot 8-A-1.

The subdivision is not located within a block that complies with the KPB block length requirement.

The subdivision is not located within a block that complies with the KPB block length requirement.

KPB Roads Dept. comments	Out of jurisdiction; no comments
SOA DOT comments	No comment

Site Investigation:

This subdivision is affected by sloping terrain, drainages, and wetlands. Proposed Tract E-1-A has a drainage easement granted by HM 2018-40 and HM 2020-46. Per KPB GIS data there are no wetlands or bodies of water within the subdivision. Parent plats depict areas identified as wetlands based on the Army Corps of Engineer determination. **Staff recommends** any area shown as wetlands per the parent plats be carried forward. The proper note about contacting the Army Corps of Engineers before development is on the plat.

Slopes greater than 20 percent are depicted on the plat and are located along the western boundary of proposed Tract E-1-A.

Floodplain Hazard Review	Not within flood hazard zone; no comments
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD; no comments
State Parks Review	No comments

Staff Analysis

The proposed subdivision is within a phased development that was started in 2014 and obtained final approval in 2018. Lot 38 was created with Unit 2, HM 2018-40. Lot E-1 was created from of Unit 3, HM 2020-46. The portion of Tract E-1 being added to Lot 38 was designed as Lot 39. This plat will not increase the number of lots that have been approved.

City water and wastewater services are being extended within this phased development and all lots are required to connect to the city utilities.

Future phase will extend Sanjay Court. The submittal states the developers of the subdivision are working on the construction of roads and installation of utilities for the next phase. City water and sewer are available from Nelson Avenue and Sanjay Court. A soils analysis report will not be required.

The City of Homer Planning Commission reviewed the subject plat at their March 17, 2021 meeting. They recommended approval subject to the following conditions:

1. Include a plat note stating “Property owners should contact the Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation if any. Property owners are responsible for obtaining all required local, state, and federal permits.”
2. Carry forward any relevant plat notes from the parent plats.

Notice of the proposed plat was mailed to the beneficial interest holder on May 12, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

A preliminary plat has been submitted that abuts the eastern boundary of this subdivision. The design of that plat will not impact this subdivision design. If the plat to the east is finalized prior to the finalization of this plat **Staff recommends** the correct status labels are shown.

Utility Easements

The drainage easement and public access easement of record have been correctly depicted and noted.

This plat will extend the 15 foot utility easement along the northwest boundary of Lot 38-A to align with the future extension of Sanjay Ct. **Staff recommends** a label or plat note be added to state that this portion of the easement is being granted by this plat.

Staff recommends the plat depict or note the easement of record granted to ENSTAR per documents HM 2021-001579-0.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers.

Utility provider review:

HEA	No comment
ENSTAR	
ACS	
GCI	No comment

KPB department / agency review:

Addressing – Derek Haws	No affected addresses, no other comments.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	This is located within the City of Homer and not subject to local option zoning districts material site reviews by KPB.
Assessing – Adeena Wilcox	No comments.
Advisory Planning Commission	N/A

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: *The subdivision name is compliant but Staff would recommend removing the lot from the name. Suggestion would be Barnett's South Slope Subdivision Quiet Creek Park Drake Replat.*

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *Correct the lots status labels for the parcels north of Nelson Avenue (Lot 18 to 16, 19 to 17, 20 to 18 and Tract C to Lot 19).*

J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

Staff recommendation: *Rename the large Tract to E-2 to reduce the length of the lot identifier.*

20.30.180. Pedestrian ways required when. Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

Staff comments: *A 10 foot wide pedestrian trail easement is located on the south boundary. Per HM 2019-23 a 10 foot wide pedestrian trail easement is located on the north boundary of Lot 8-A-1 and provides a connection from Nelson Avenue (south) to the Homer High School property.*

Staff recommendation: *Depict and label the 10 foot wide pedestrian access easement per HM 2019-23.*

20.30.270. Different standards in cities. Where cities have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. Any appeal of a city design standard is subject to KPB 21.01.020(E).

Staff comments: The City of Homer does not meet the specified requirements for the application and consideration of different standards.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: This platting action will connect to an existing city supplied wastewater system that has been approved by the City of Homer. The correct wastewater disposal note is on the plat.

Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

Staff recommendation: *Provide a copy of the installation agreement or provide documentation from the City of Homer that an installation agreement is not required.*

20.60.170. Other data required by law.

A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.

B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat. The borough will not enforce private covenants, easements, or deed restrictions. The borough will not enforce private covenants, easements, or deed restrictions.

Staff recommendation: *This subdivision is affected by covenants, conditions, restrictions, and or easement of record per HM 2018-003491-0 and HM 2018-003524-0. Provide a plat note stating, 'Per KPB 20.60.170(B) The borough will not enforce private covenants, easements, or deed restrictions. The borough will not enforce private covenants, easements, or deed restrictions.' Comply with 20.60.170.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation:

- *An additional Certificate of Ownership is required for the Drakes as the current wording only references Echo Trading Compnay LLC and Delta Storage and Transfer.*

- *As this plat is obtaining separate approval, the Plat Approval note can be edited to only reference the approval date for this platting action.*

- *Within the Certificate of Ownership, identify which lot each signer is the owner of.*

Comply with 20.60.190.

EXCEPTIONS REQUESTED:

KPB 20.30.030 Proposed Street Layout (projection of Sanjay Court)

KPB 20.30.170 Blocks – Length requirements

Surveyor's Discussion: The 30 foot wide public access easement within the adjoining parcel to the south of this plat (HM 2018-003011-0) was vacated by plat HM 2019-23. The current parcel to the south (Lot 8-A-1 HM 2020-3) has functional access by way of a 30 foot public access, utility and maintenance easement (HM 2019-002214-0) through proposed Tract E-1-A. The final phase of the previously approved subdivision within proposed Tract

E-1-A is in the final stages of construction. The Unit 4 plat will dedicate the Sanjay Court 60 foot right-of-way that terminates in a cul-de-sac.

Staff Discussion: These two sections of code are being combined into one exception request as both deal with the extension and connection of right of ways.

Due to terrain, development plans with cul-de-sacs, and existing right of way and improvements the ability to create a closed block is limited. A dedication within former lot 38 will not improve the block and will create additional block width issues. Tract E-1-A is proposed to be further subdivided as part of a phased development plan that will include the extension of Sanjay Court and terminate in a cul-de-sac.

The original phased development approved without a through dedication.

The City of Homer Planning Commission reviewed, and approved, this plat at their March 17, 2021 meeting.

If denied, a 60 foot right of way will be required to be extended from Sanjay Court and provide a connection to another right of way.

Surveyor Findings:

1. The 30 foot wide public access easement within the adjoining parcel to the south of this plat (HM 2018-003011-0) was vacated by plat HM 2019-23.
2. The current parcel to the south (Lot 8-A-1 HM 2020-3) has functional access by way of a 30 foot public access, utility and maintenance easement (HM 2019-002214-0) through proposed Tract E-1-A.
3. The final phase of the previously approved subdivision within proposed Tract E-1-A is in the final stages of construction. The Unit 4 plat will dedicate the Sanjay Court 60 foot right-of-way that terminates in a cul-de-sac.

Staff Findings:

4. The block is limited due to terrain, development plans with cul-de-sacs, and existing right of ways.
5. A dedication within former lot 38 will not improve the block and will create additional block width issues.
6. The original phased development approved without a through dedication.
7. The City of Homer Planning Commission reviewed, and approved, this plat at their March 17, 2021 meeting.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-7 appear to support this standard.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-7 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-7 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

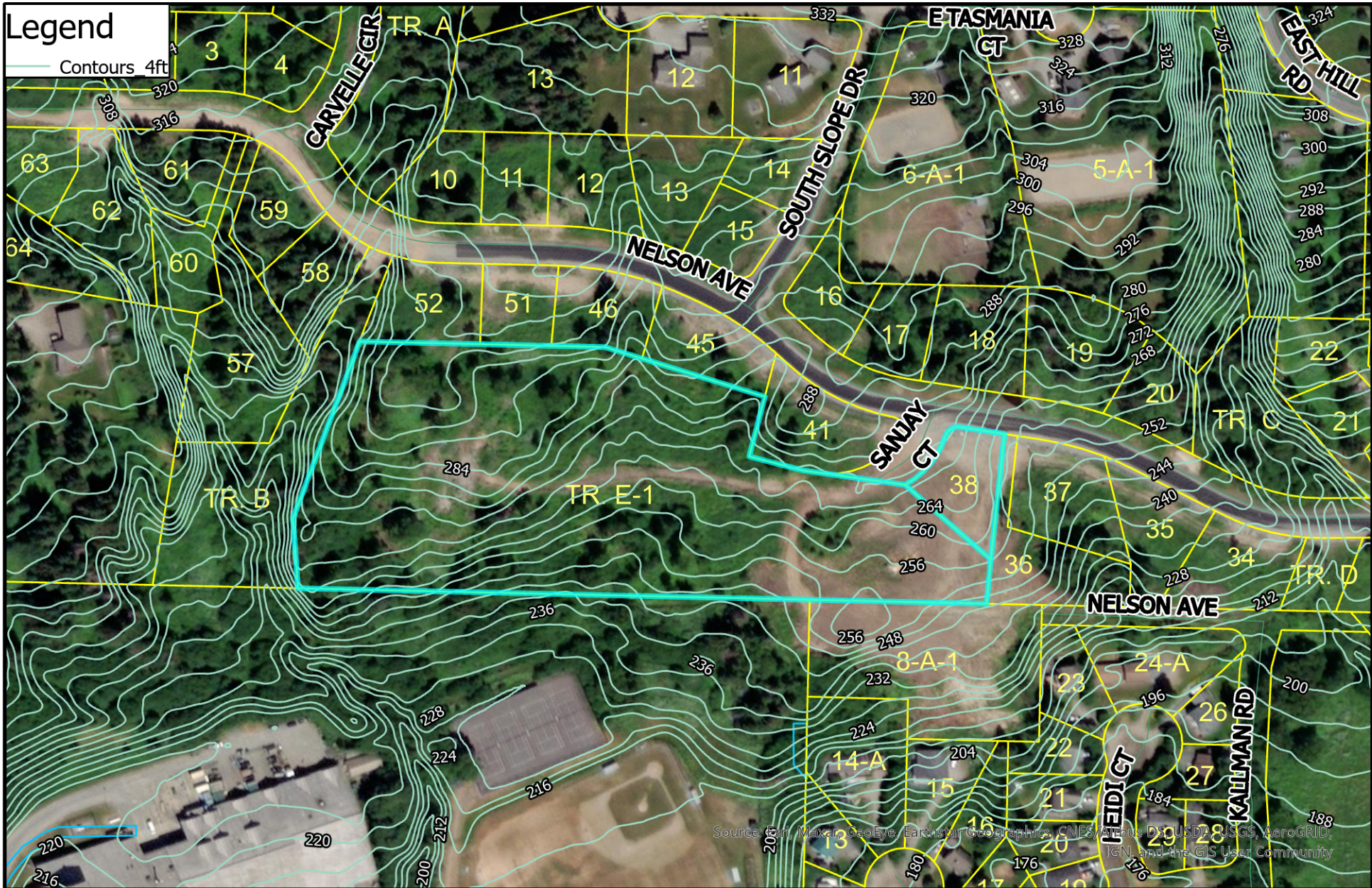
- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

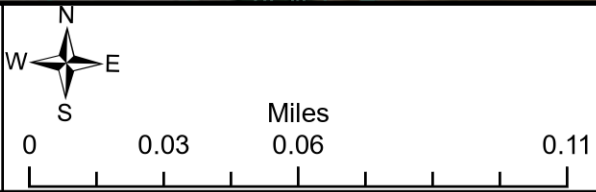
A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT



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.



AERIAL IMAGERY 2019
CONTOUR MAP

Date: 5/5/2021
3:16 PM
Scott Huff
Plating Manager

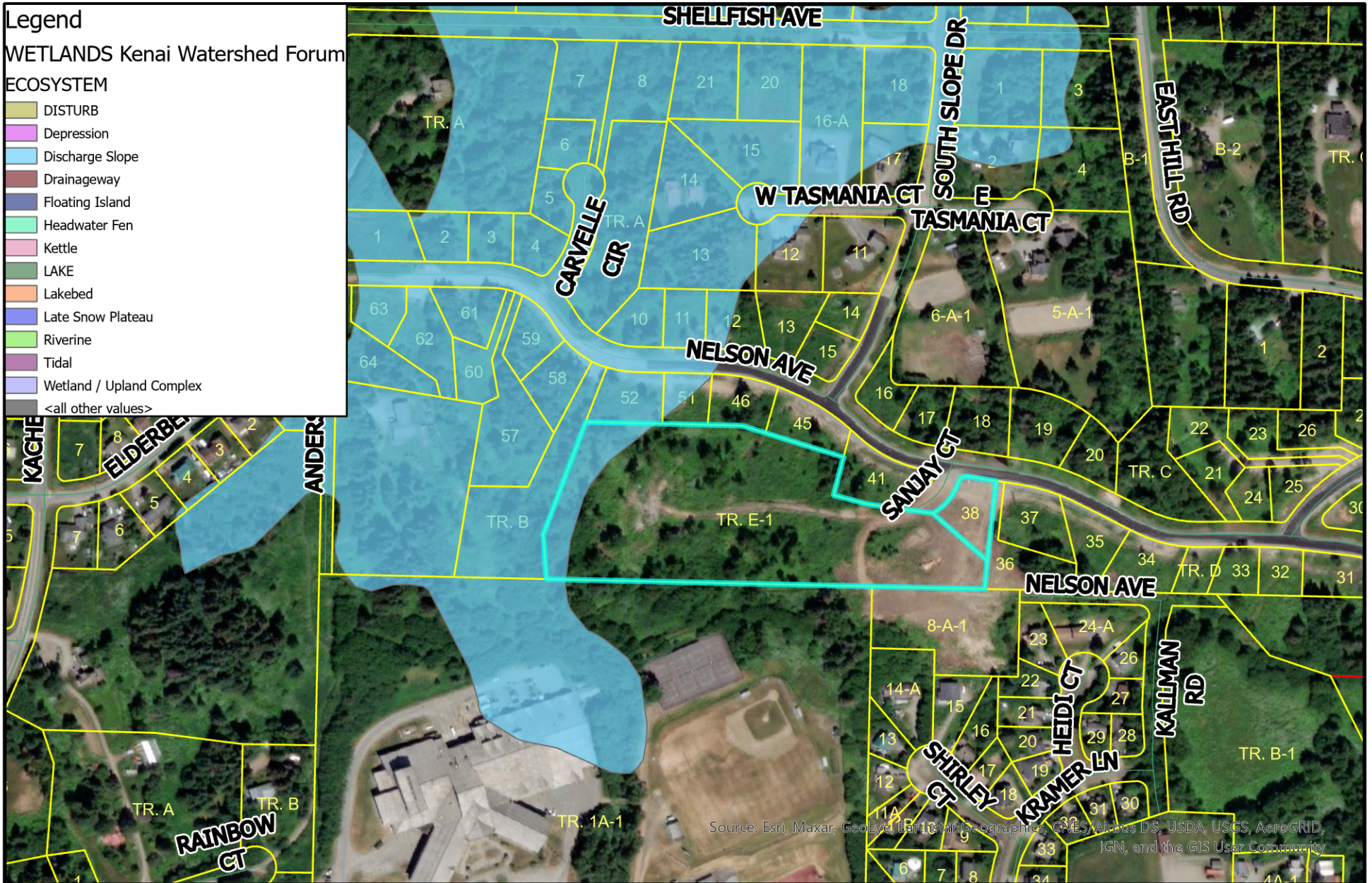
Source: Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

WETLANDS Kenai Watershed Forum

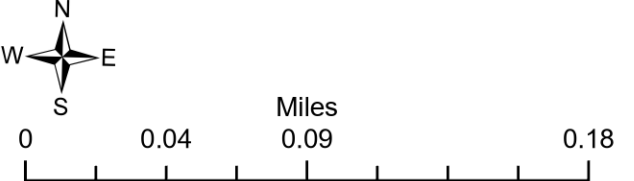
ECOSYSTEM

- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex
- <all other values>



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



**AERIAL IMAGERY 2019
WETLANDS MAP**

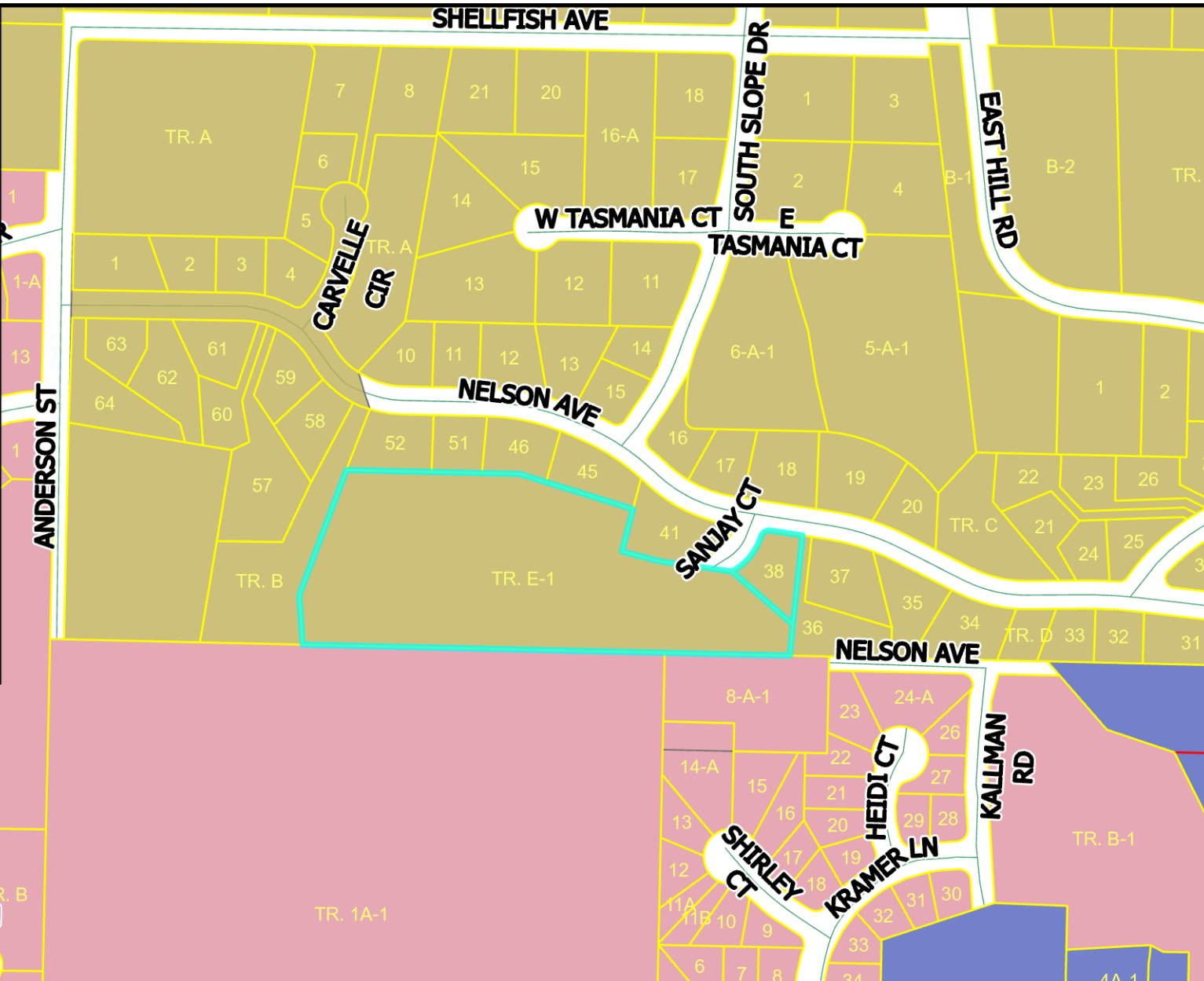
Date: 5/5/2021
3:16 PM
Scott Huff
Plating Manager

Legend

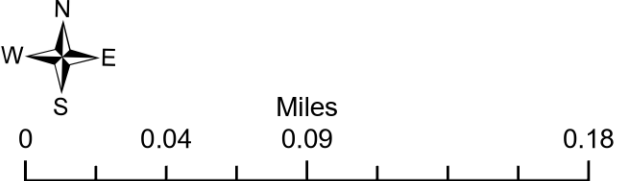
Homer Zoning

Zone

- <Null>
- Central Business District
- Conservation
- East End Mixed Use
- Gateway Business District
- General Commercial 1
- General Commercial 2
- Marine Commercial
- Marine Industrial
- Open Space Rec
- Residential Office
- Rural Residential
- Town Center
- Urban Residential
- <all other values>



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.



AERIAL IMAGERY 2019
CITY OF HOMER ZONING MAP

Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS FROM THE PLAT OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40).
2. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PLANNING DEPARTMENT PRIOR TO DEVELOPMENT ACTIVITIES.
3. THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES IS A UTILITY EASEMENT; NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
4. THESE LOTS ARE SERVED BY CITY OF HOMER WATER AND SEWER.
5. NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF THE FLAG LOTS. THERE ARE LIMITATIONS ON FUTURE SUBDIVISION OF THESE LOTS DUE TO ISSUES REGARDING ACCESS, DEVELOPMENT TRENDS IN THE AREA, AND TOPOGRAPHY FOR FLAG LOTS 7, 8, 57, 60 AND 64.
6. THERE IS A 15 FOOT WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER, OVER, UPON AND THROUGH THIS SUBDIVISION GRANTED TO ENSTAR NATURAL GAS COMPANY RECORDED JUNE 7, 2018 (HM 2018-001611-0). A PORTION OF THE GAS LINES HAVE NOT BEEN INSTALLED AS OF THE RECORDING OF THIS PLAT. ALSO RECORDED UNDER HM 2020-00493-0.
7. THESE LOTS ARE AFFECTED BY EASEMENTS OF RECORD WITH NO DEFINED LOCATION GRANTED TO HOMER ELECTRIC ASSOCIATION (BK 318, PG 927 HRD, BK 48, PG. 77 HRD AND BK 90, PG 166 HRD).
8. TRACTS A AND B ARE PUBLIC AREA "NATURE RESERVES" GRANTED THIS PLAT TO THE CITY OF HOMER.
9. THERE ARE 20 FOOT WIDE DRAINAGE EASEMENTS CENTERED ALONG THE EXISTING CREEKS, GRANTED PER PLAT 2018-40. HOMER RECORDING DISTRICT. THE EXISTING DRAINAGE EASEMENTS ARE SUBJECT TO HOMER CITY CODE. APPROXIMATE LOCATIONS ARE SHOWN.
10. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
11. DRAINAGE SUBJECT TO PREVIOUS SEASONAL INUNDATIONS: UPHILL DEVELOPMENT MAY CHANGE DRAINAGE PATTERNS AT ANY TIME.
12. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
13. EXCEPTIONS WERE GRANTED TO KPB 20.20.030 (PROPOSED STREET LAYOUT REQUIREMENTS) AND 20.20.120 (STREET CURVE REQUIREMENTS) BY THE KENAI PENINSULA BOROUGH PLAT COMMITTEE AT THE MEETING OF MARCH 10, 2014.
14. THERE IS A 30 FOOT WIDE PUBLIC WATER LINE EASEMENT GRANTED BY PLAT 2018-40 HOMER RECORDING DISTRICT TO THE CITY OF HOMER. THE EASEMENT IS THE 30 FEET SOUTH OF THE CENTERLINE OF NELSON AVENUE.

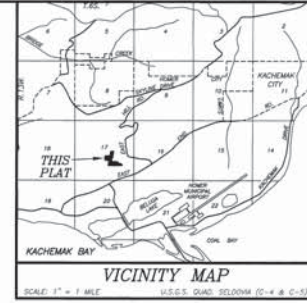
WASTEWATER DISPOSAL
 PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Stephen C. Smith LS-7538 11/8/20
 SURVEYOR LICENSE # DATE

PLAT APPROVAL

THIS PLAT WAS HEARD BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETINGS OF FEBRUARY 10, 2014, MARCH 10, 2014, MAY 29, 2018 AND WAS APPROVED ON JUNE 11, 2018. A TIME EXTENSION WAS GRANTED AT THE PLANNING COMMISSION MEETING OF NOVEMBER 9, 2020.

BY: *S. Smith* 11/23/20
 AUTHORIZED OFFICIAL DATE
 KENAI PENINSULA BOROUGH



CERTIFICATE OF OWNERSHIP
 I HEREBY CERTIFY THAT DELTA STORAGE AND TRANSFER TRUST, AS THE OWNER OF ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON. THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Paul Neal III
 PAUL NEAL III, TRUSTEE
 DELTA STORAGE AND TRANSFER TRUST AS THE OWNER OF ECHO TRADING COMPANY, LLC
 PO BOX 3368
 HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGMENT

FOR: PAUL NEAL III
 ACKNOWLEDGED BEFORE ME THIS 10TH DAY OF NOVEMBER, 2020.
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES: 10/29/2023



CERTIFICATE OF ACCEPTANCE

THE UNDERSIGNED OFFICIAL, IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THIS PLAT IDENTIFIED AS FOLLOWS:
 THE NELSON AVENUE AND CAVELLE CIRCLE RIGHTS-OF-WAY.
 THE UTILITY EASEMENTS WITHIN THE FRONT 15 FEET ALONG RIGHTS-OF-WAY AND THE FRONT 20 FEET WITHIN SIDE LOT LINES.
 THE 10 FOOT UTILITY EASEMENTS WITHIN LOTS 60 AND 63.
 TRACT A AND TRACT B AS PUBLIC AREA "NATURE RESERVES".
 THE DRAINAGE EASEMENT WITHIN THE PROPOSED SALYAU COURT RIGHT-OF-WAY.
 THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

BY: *Rob Dumoulin* CITY MANAGER
 CITY OF HOMER, ALASKA DATE: 3/16/20

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 42°21'09" W	145.27
L2	N 89°58'46" E	305.92
L3	S 89°58'46" E	305.92
L4	S 89°58'46" E	305.92
L5	S 89°58'46" E	305.92
L6	S 89°58'46" E	305.92
L7	S 89°58'46" E	305.92
L8	S 89°58'46" E	305.92
L9	S 89°58'46" E	305.92
L10	S 89°58'46" E	305.92
L11	S 89°58'46" E	305.92
L12	S 89°58'46" E	305.92
L13	S 89°58'46" E	305.92
L14	S 89°58'46" E	305.92
L15	S 89°58'46" E	305.92
L16	S 89°58'46" E	305.92
L17	S 89°58'46" E	305.92
L18	S 89°58'46" E	305.92
L19	S 89°58'46" E	305.92
L20	S 89°58'46" E	305.92
L21	S 89°58'46" E	305.92
L22	S 89°58'46" E	305.92
L23	S 89°58'46" E	305.92
L24	S 89°58'46" E	305.92
L25	S 89°58'46" E	305.92
L26	S 89°58'46" E	305.92
L27	S 89°58'46" E	305.92
L28	S 89°58'46" E	305.92
L29	S 89°58'46" E	305.92
L30	S 89°58'46" E	305.92

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	88°29'11"	20.00'	34.22'	N 40°57'40" W	30.20'
C2	26°58'	170.00'	29.25'	S 79°28'24" W	24.18'
C3	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C4	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C5	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C6	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C7	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C8	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C9	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C10	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C11	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C12	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C13	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C14	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C15	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C16	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C17	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C18	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C19	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C20	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C21	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C22	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C23	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C24	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C25	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C26	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C27	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C28	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C29	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'
C30	20°35'28"	230.00'	82.86'	N 52°58'41" W	80.21'



LEGEND

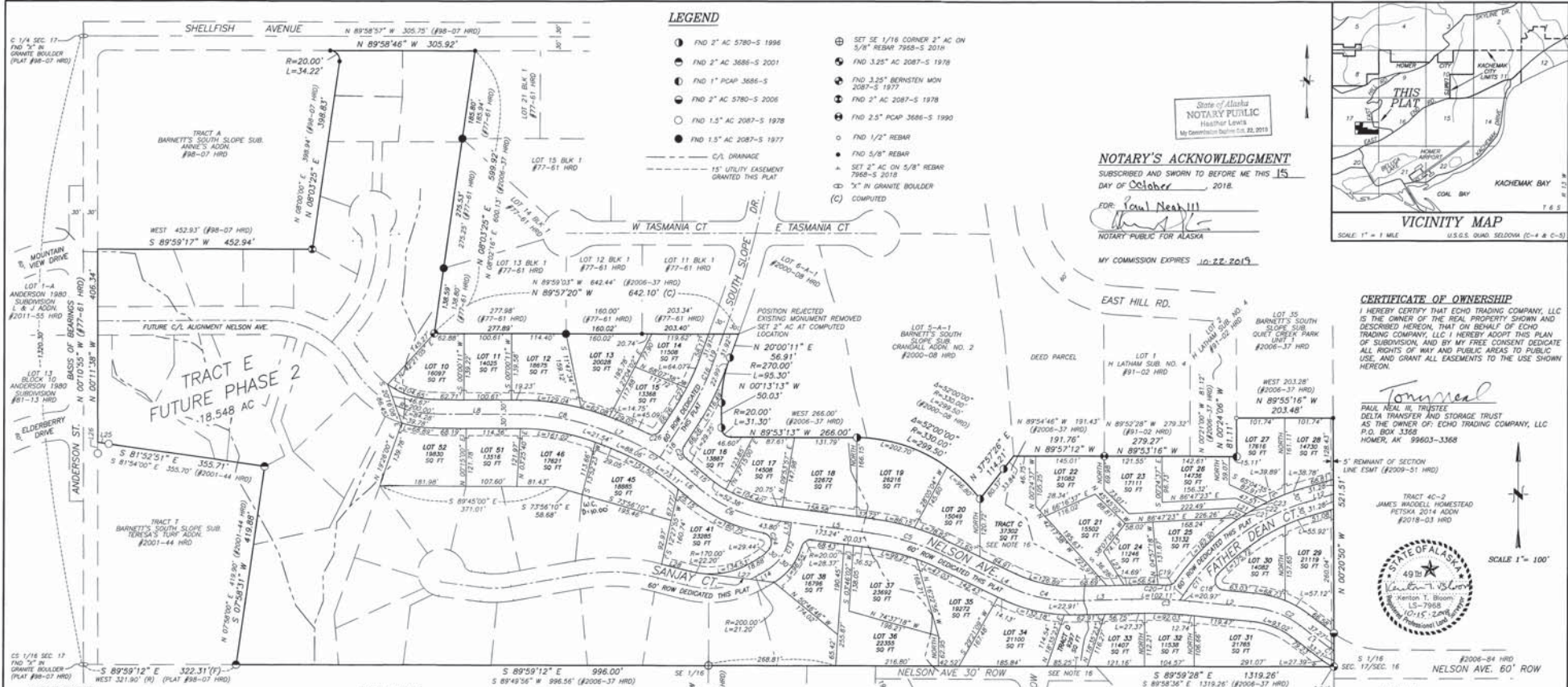
- INDICATES 3-1/4" ALCAP MONUMENT (2087-S 1977) RECOVERED THIS SURVEY
- INDICATES X IN GRANITE BOULDER (268-S) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP (7968-S 2018) RECOVERED THIS SURVEY
- INDICATES 2" ALCAP (3696-S 2001) RECOVERED THIS SURVEY
- INDICATES 1-1/2" ALCAP (2087-S 1978) RECOVERED THIS SURVEY
- INDICATES 5/8" REBAR RECOVERED THIS SURVEY
- INDICATES 2" ALCAP ON 5/8" REBAR (7538-S, 2020) SET THIS SURVEY
- INDICATES APPROXIMATE CENTERLINE OF DRAINAGE
- INDICATES WETLANDS (BASED UPON ACOE JURISDICTIONAL DETERMINATION)



2020-46
Plat #
 11/801
 Date
 Time 9:25 A.M.



HOMER RECORDING DISTRICT KPB FILE No. 2014-016P1
BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 3
 A REPLAT OF TRACT E
 BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 2 (HM 2018-40)
 LOCATED WITHIN THE N1/2 SE1/4, SEC. 17, T. 6 S., R. 13 W. SENWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA CONTAINING 18.548 ACRES
 OWNER:
 ECHO TRADING COMPANY, LLC
 PO BOX 3368 HOMER, ALASKA 99603
GEOVERA, LLC
 PO BOX 3235
 HOMER ALASKA 99603
 (907) 399-4345
 EMAIL: scsmith@gci.net
 DRAWN BY: SCS DATE: NOV, 2020 SCALE: 1" = 100'
 CHK BY: SCS JOB #2020-26 SHEET 1 OF 1



LEGEND

- ① FND 2" AC 5780-S 1998
- ② FND 2" AC 3686-S 2001
- ③ FND 1" PCAP 3686-S
- ④ FND 2" AC 5780-S 2006
- ⑤ FND 1.5" AC 2087-S 1978
- ⑥ FND 1.5" AC 2087-S 1977
- ⑦ SET SE 1/16 CORNER 2" AC ON 5/8" REBAR 7950-S 2016
- ⑧ FND 3.25" AC 2087-S 1978
- ⑨ FND 3.25" BERNSTEN MON 2087-S 1977
- ⑩ FND 2" AC 2087-S 1978
- ⑪ FND 2.5" PCAP 3686-S 1990
- ⑫ FND 1/2" REBAR
- ⑬ FND 3/8" REBAR
- ⑭ SET 2" AC ON 5/8" REBAR 7950-S 2016
- ⑮ "X" IN GRANITE BOULDER
- (C) COMPUTED

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 15 DAY OF October, 2018.

FOR: *Paul Neal III*
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES 10-22-2019



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT ECHO TRADING COMPANY, LLC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT ON BEHALF OF ECHO TRADING COMPANY, LLC I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

James M. Bloom
 STATE OF ALASKA
 JAMES M. BLOOM
 Notary Public
 My Commission Expires 05-28-2020

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BEING	CHORD DIST
C1	0°19'18"	170.00'	9.86'	S 54°52'28" E	8.86'
C2	31°21'03"	200.00'	109.43'	N 89°52'28" W	108.07'
C3	0°23'08"	1000.00'	123.08'	N 89°52'28" W	123.01'
C4	26°55'40"	300.00'	160.95'	S 78°09'29" E	139.30'
C5	17°20'34"	300.00'	150.64'	N 73°38'21" W	155.07'
C6	33°29'28"	200.00'	174.36'	S 85°46'28" E	171.90'
C7	18°28'58"	300.00'	161.17'	N 58°15'58" W	160.47'
C8	22°17'19"	500.00'	194.21'	N 78°21'21" E	192.99'
C9	57°30'00"	200.00'	116.43'	S 61°00'00" E	192.40'
C10	08°00'00"	200.00'	200.44'	N 41°15'00" W	193.92'
C11	36°25'42"	315.00'	176.65'	S 45°24'46" E	174.48'
C12	51°26'47"	100.00'	88.29'	N 38°17'01" E	88.80'
C13	45°20'11"	200.00'	158.23'	N 42°44'04" E	154.78'
C14	24°25'03"	400.00'	170.47'	N 62°56'56" E	169.18'
C15	17°28'15"	300.00'	80.86'	N 86°38'27" E	80.19'
C16	12°45'10"	500.00'	109.65'	N 80°17'26" E	109.67'
C17	52°26'13"	260.31'	240.51'	N 72°50'00" E	232.04'
C18	12°27'21"	20.00'	44.90'	S 20°44'14" W	43.87'
C19	57°35'35"	20.00'	20.23'	N 64°52'29" E	19.38'
C20	05°26'05"	180.00'	20.10'	S 87°42'45" E	20.19'
C21	05°26'05"	180.00'	20.10'	S 87°42'45" E	20.19'
C22	02°48'13"	488.52'	24.30'	S 89°20'21" W	24.39'
C23	02°48'13"	488.52'	24.30'	S 89°20'21" W	24.39'
C24	11°22'12"	20.00'	40.29'	N 22°43'18" E	33.81'
C25	84°47'01"	20.00'	20.00'	S 92°42'46" E	20.00'
C26	84°47'01"	20.00'	20.00'	S 92°42'46" E	20.00'
C27	04°46'56"	470.00'	20.10'	N 90°17'18" E	39.28'
C28	84°47'01"	20.00'	20.00'	S 92°42'46" E	20.00'
C29	78°22'47"	20.00'	27.39'	S 60°07'11" W	25.30'
C30	26°24'52"	20.00'	27.21'	N 48°29'21" E	27.19'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 53°17'48" E	778.71'
L2	S 84°51'51" E	132.21'
L3	S 88°13'01" W	119.66'
L4	S 84°17'01" E	150.56'
L5	S 82°11'31" E	217.04'
L6	N 89°11'54" W	43.05'
L7	N 85°02'41" W	178.23'
L8	N 89°45'00" W	192.99'
L9	N 89°52'28" W	368.19'
L10	N 89°52'28" W	26.81'
L11	N 89°52'28" W	26.81'
L12	N 89°52'28" W	26.81'
L13	N 89°52'28" W	26.81'
L14	N 89°52'28" W	26.81'
L15	N 89°52'28" W	26.81'
L16	N 89°52'28" W	26.81'
L17	N 89°52'28" W	26.81'
L18	N 89°52'28" W	26.81'
L19	N 89°52'28" W	26.81'
L20	N 89°52'28" W	26.81'
L21	N 89°52'28" W	26.81'
L22	N 89°52'28" W	26.81'
L23	N 89°52'28" W	26.81'
L24	N 89°52'28" W	26.81'
L25	N 89°52'28" W	26.81'
L26	N 89°52'28" W	26.81'
L27	N 89°52'28" W	26.81'
L28	N 89°52'28" W	26.81'

TRACT 1-A-1
 NEW HOMER HIGH
 SCHOOL SUB. NO. 3
 #94-35 HRD

FND 2.5" RC MON
 NO. 288-3 1868
 #7010-64 HRD

SEC. 17/28 SEC. 20

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS BETWEEN THE C 1/4 SECTION 17 AND THE CS 1/16 SECTION 17 AS SHOWN ON RECORD PLAT #77-61 HRD & N 0°10'55" W (R).
2. THE FRONT 15 FEET ALONG RIGHT-OF-WAY AND 20 FEET WITHIN WITHIN 5 FEET OF SIDE LOT LINES (UNLESS OTHERWISE NOTED) IS A UTILITY EASEMENT NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THESE LOTS WILL BE SERVED BY CITY OF HOMER WATER AND SEWER.
4. PROPERTY OWNERS SHOULD CONTACT THE ARMY CORPS OF ENGINEERS PRIOR TO ANY ON-SITE DEVELOPMENT OR CONSTRUCTION ACTIVITY TO OBTAIN THE MOST CURRENT WETLANDS DESIGNATION (IF ANY).
5. ALL LOTS WITHIN THIS SUBDIVISION ARE SUBJECT TO CITY OF HOMER ZONING REGULATIONS. REFER TO THE PARENT PLATS AND THE HOMER CITY CODE FOR ALL CURRENT SETBACK AND SITE DEVELOPMENT RESTRICTIONS. OWNERS SHOULD CHECK WITH THE CITY OF HOMER PRIOR TO DEVELOPMENT ACTIVITIES.
6. CUL-DE-SACS ARE 50 FT RADIUS. ALL CURVE RETURNS ARE 20 FT RADIUS.
7. DRAINAGE SUBJECT TO PREVIOUS SEASONAL INUNDATIONS; UPHILL DEVELOPMENT MAY CHANGE DRAINAGE PATTERNS AT ANY TIME.
8. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS AT THE TIME OF CONSTRUCTION.
9. SET A SELF-IDENTIFYING 2" ALUMINUM CAP AT ALL LOT CORNERS AND ROW POINTS OF CURVATURE FOR THIS SURVEY (UNLESS OTHERWISE NOTED).

WASTEWATER DISPOSAL

PLANS FOR THE WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

John B. Bishop CE-10899 10/15/2018
 JOHN BISHOP/CE-10899 DATE:

NOTES cont.

10. NO STRUCTURES ARE PERMITTED WITHIN THE PANHANDLE PORTION OF THE FLAG (LOTS).
11. THERE ARE LIMITATIONS ON FUTURE SUBDIVISION OF THESE LOTS DUE TO ISSUES REGARDING ACCESS, DEVELOPMENT TRENDS IN THE AREA, AND TOPOGRAPHY.
12. EXCEPTIONS WERE GRANTED TO KPB 20.20.030 (PROPOSED STREET LAYOUT REQUIREMENTS) AND 20.20.120 (STREET CURVE REQUIREMENTS) BY THE KENAI PENINSULA BOROUGH PLAT COMMITTEE AT THE MEETING OF MARCH 10, 2014.
13. SEE SHEET 2 FOR ADDITIONAL INFORMATION INCLUDING EASEMENT DESCRIPTIONS.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF JUNE 11, 2018 KENAI PENINSULA BOROUGH

BY: *May B. St. An. G. ZOB*
 AUTHORIZED OFFICIAL

Homer Recording District PL 2018-40

HOMER RECORDING DISTRICT KPB File No. 2014-016

BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK UNIT 2

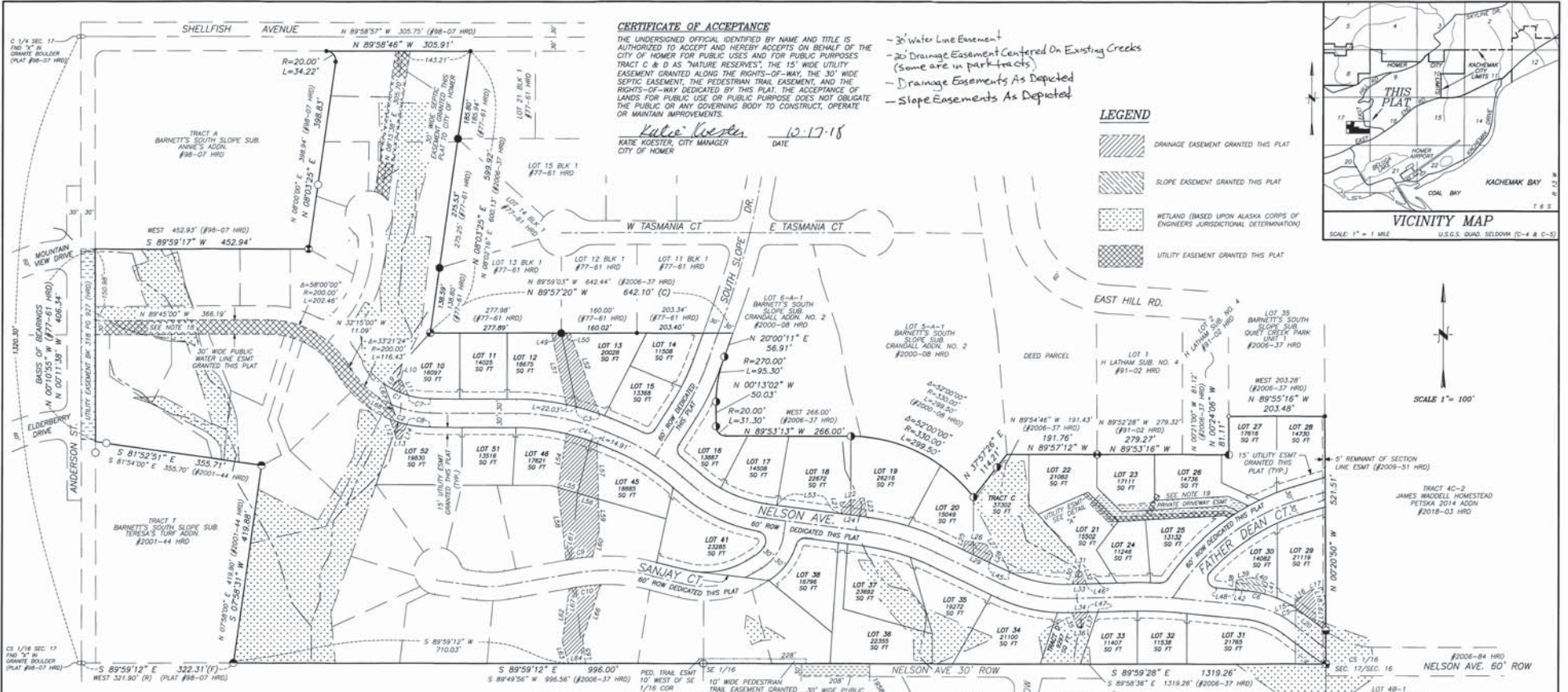
BEING A SUBDIVISION OF THE UNSUBDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 1 AS PER PLAT #2006-37 HRD LOCATED WITHIN THE SE 1/4, SEC 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, ALASKA

CONTAINING 37.056 ACRES
 OWNER: PAUL NEAL III, MANAGER
 ECHO TRADING COMPANY, LLC
 P.O. BOX 3368
 HOMER, AK 99603-3368

SEABRIGHT SURVEY + DESIGN

1044 EAST ROAD, SUITE A
 HOMER ALASKA 99603
 (907) 235-4247 (and fax)
 seabright@yaho.com

DRAWN BY: K.K. DATE: 10/2018 SCALE: 1" = 100'
 CHK BY: K.B. JOB #13-06 SHEET 1 OF 2



CERTIFICATE OF ACCEPTANCE
 THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE CITY OF HOMER FOR PUBLIC USES AND FOR PUBLIC PURPOSES TRACT C & D AS "NATURE RESERVES" THE 15' WIDE UTILITY EASEMENT GRANTED ALONG THE RIGHTS-OF-WAY, THE 30' WIDE SEPTIC EASEMENT, THE PEDESTRIAN TRAIL EASEMENT, AND THE RIGHTS-OF-WAY DEDICATED BY THIS PLAT. 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.

Kate Koester
 KATE KOESTER, CITY MANAGER
 CITY OF HOMER

DATE: 12-17-18

- LEGEND**
- DRAINAGE EASEMENT GRANTED THIS PLAT
 - SLOPE EASEMENT GRANTED THIS PLAT
 - WETLAND (BASED UPON ALASKA CORPS OF ENGINEERS JURISDICTIONAL DETERMINATION)
 - UTILITY EASEMENT GRANTED THIS PLAT



ESMT LINE TABLE

LINE	BEARING	DISTANCE
L1	S 20°12'32" W	7.29'
L2	S 79°17'24" W	10.00'
L3	S 39°43'37" W	11.19'
L4	N 89°43'00" E	19.35'
L5	N 89°43'00" E	42.74'
L6	N 09°14'42" E	47.10'
L7	S 79°17'24" W	10.00'
L8	N 07°14'42" E	47.10'
L9	S 39°43'37" W	11.19'
L10	S 89°32'26" E	10.00'
L11	S 23°59'01" E	34.81'
L12	N 17°11'48" W	43.30'
L13	S 09°17'12" E	10.00'
L14	N 21°29'01" E	32.83'
L15	S 04°31'12" W	14.67'
L16	N 57°46'44" E	45.20'
L17	N 72°07'35" E	25.00'
L18	S 18°58'44" E	27.58'
L19	N 02°02'50" W	65.01'
L20	N 57°12'48" W	66.58'
L21	S 18°58'44" E	27.58'
L22	N 78°24'59" E	50.61'
L23	S 09°17'12" E	10.00'
L24	S 82°17'31" E	52.60'
L25	N 18°24'32" W	17.29'
L26	S 82°17'31" E	52.60'
L27	S 13°15'39" E	29.73'
L28	N 20°46'08" E	17.00'
L29	S 64°17'19" E	62.01'
L30	S 20°14'43" W	27.89'
L31	S 08°59'39" E	102.00'
L32	S 22°32'38" E	27.72'
L33	N 88°21'51" E	33.29'
L34	N 88°21'51" E	33.29'
L35	N 27°11'45" W	34.30'

ESMT LINE TABLE (cont.)

LINE	BEARING	DISTANCE
L36	S 08°23'01" W	10.00'
L37	S 18°47'51" W	34.58'
L38	N 05°26'59" E	20.27'
L39	N 80°14'05" E	33.62'
L40	N 89°18'28" W	34.64'
L41	S 12°41'45" E	23.93'
L42	S 84°33'51" E	27.50'
L43	S 89°45'00" W	174.92'
L44	S 89°45'00" W	191.75'
L45	N 64°17'19" E	47.42'
L46	S 08°23'01" W	28.86'
L47	S 88°23'01" W	27.58'
L48	S 84°33'51" E	41.58'
L49	N 69°18'28" W	34.64'
L50	S 12°41'45" E	23.93'
L51	S 84°33'51" E	27.50'
L52	S 89°45'00" W	174.92'
L53	S 89°45'00" W	191.75'
L54	S 08°46'28" W	115.04'
L55	S 23°59'01" E	42.80'
L56	S 23°59'01" E	42.80'
L57	S 01°24'34" E	117.77'
L58	S 84°33'51" E	152.94'
L59	S 01°24'34" E	68.84'
L60	S 14°22'43" W	68.73'
L61	S 84°33'51" E	27.50'
L62	N 07°03'04" E	173.93'
L63	N 15°44'19" E	66.82'
L64	S 89°59'12" E	36.88'
L65	N 07°10'40" W	153.67'
L66	N 15°44'19" E	119.76'
L67	S 20°16'58" E	46.67'
L68	S 20°16'58" E	39.78'

NOTES (cont.)

14. THERE IS A 15' WIDE NATURAL GAS EASEMENT CENTERED ON THE NATURAL GAS PIPELINES INSTALLED UNDER OTHER UPRON AND THROUGH THIS SUBDIVISION GRANTED TO EXISTANT NATURAL GAS COMPANY RECORDED JUNE 7, 2018 SERIAL NO. 2018-001811-0 HRD. THIS GAS LINE HAS NOT BEEN INSTALLED OR SURVEYED AS OF THE TIME OF RECORDING THIS PLAT.

15. THERE IS A GENERAL EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION, INC. THAT AFFECTS THESE LOTS RECORDED BK 318 PG 927 HRD.

16. THERE IS A 20' WIDE DRAINAGE EASEMENT CENTERED ALONG THE EXISTING CREEKS DEPICTED ON THIS PLAT.

17. TRACT C AND D ARE "NATURE RESERVES" GRANTED THIS PLAT TO THE CITY OF HOMER.

18. THERE IS A 30' WIDE PUBLIC WATER LINE EASEMENT GRANTED THIS PLAT TO THE CITY OF HOMER. THE EASEMENT IS THE 30' SOUTH OF THE FUTURE CENTERLINE OF NELSON AVE. LOCATED AS DEPICTED ON SHEET 2 OF THIS PLAT.

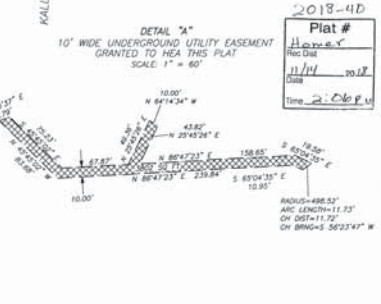
19. THERE IS A PRIVATE DRIVEWAY EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED SERIAL NO. 2018-00012-0 (HRD).

20. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BK 48 PG 77 (HRD) ON JAN. 23, 1966.

21. THERE IS A BLANKET ELECTRICAL EASEMENT THAT AFFECTS THIS SUBDIVISION RECORDED BK 93 PG 146 (HRD) ON FEB. 1, 1977.

ESMT CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD BRNG	CHORD DIST
C1	157°02'14"	170.00'	19.07'	S 67°20'51" E	36.99'
C2	209°09'00"	230.00'	38.73'	N 22°30'21" W	38.73'
C3	102°02'00"	230.00'	38.73'	N 73°50'51" W	30.43'
C4	202°18'12"	430.00'	53.08'	N 77°51'21" W	53.08'
C5	047°14'39"	230.00'	13.00'	S 84°30'08" E	13.00'
C6	120°00'00"	400.00'	40.00'	S 72°11'53" E	40.00'
C7	152°34'24"	170.00'	48.23'	N 81°57'34" W	46.09'
C8	152°34'24"	230.00'	48.23'	N 82°14'58" W	49.42'
C9	081°11'56"	430.00'	46.48'	S 82°58'41" W	46.48'
C10	081°14'58"	370.00'	34.18'	S 84°27'32" W	53.14'



HOMER RECORDING DISTRICT KPB FILE NO. 2014-016

Plat #
 1142-a-7
 REC'D: 11/14 2018
 SUB: 2018-016
 TIME: 2:06 P.M.

BARNETT'S SOUTH SLOPE SUB. QUIET CREEK PARK UNIT 2

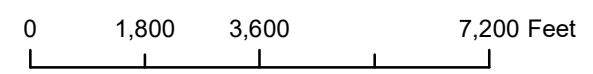
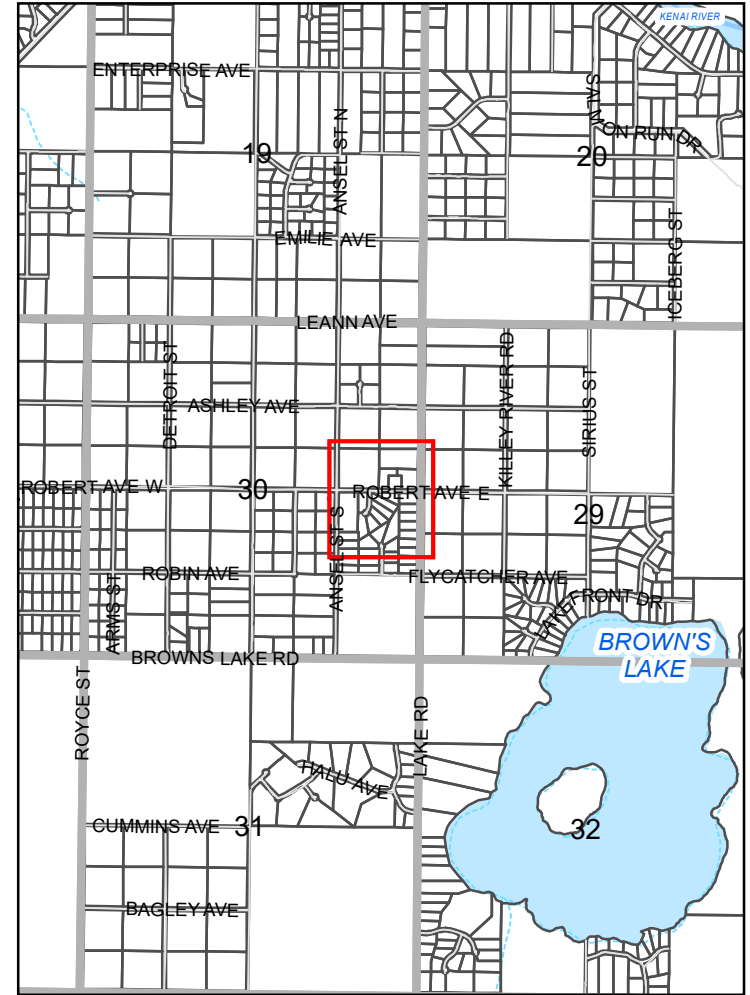
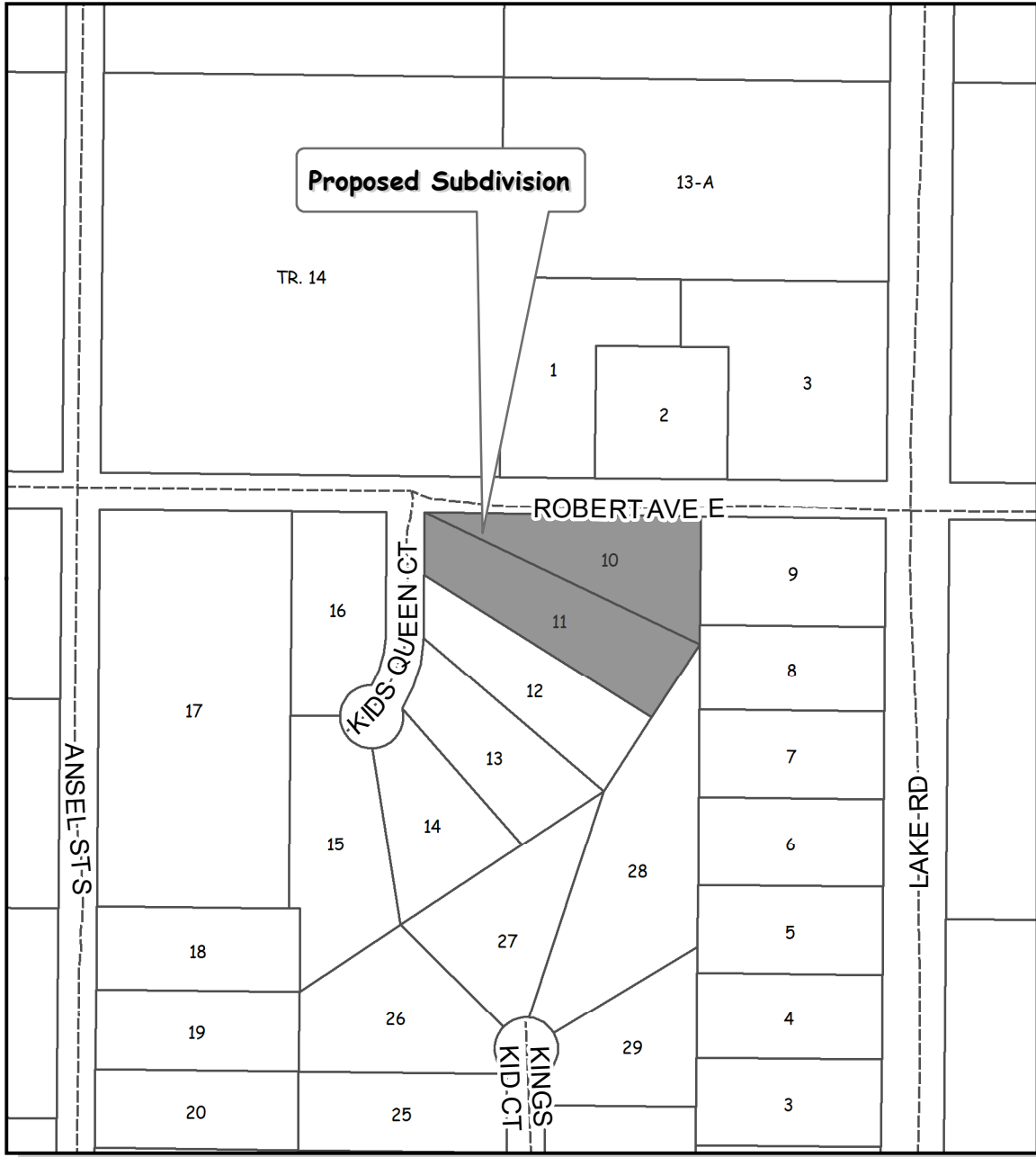
BEING A SUBDIVISION OF THE UNSUBDIVIDED REMAINDER OF BARNETT'S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK UNIT 1 AS PER PLAT #2006-37 HRD, LOCATED WITHIN THE SE 1/4, SEC. 17, T. 6 S., R. 13 W., SEWARD MERIDIAN, CITY OF HOMER, KENAI PENINSULA BROOKING, THIRD JUDICIAL DISTRICT, ALASKA

CONTAINING 37.056 ACRES

OWNER: PAUL NEAL III, MANAGER
 ECHO TRADING COMPANY, LLC
 P.O. BOX 3368
 HOMER, AK 99603-3368

SEABRIGHT SURVEY + DESIGN
 1044 EAST ROAD, SUITE A
 HOMER ALASKA 99603
 (907) 235-4247 (and fax)
 seabright@aho.com

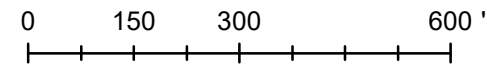
DRAWN BY: K.K. DATE: 8/2018 SCALE: 1" = 100'
 CHK BY: K.B. JOB #13-06 SHEET 2 OF 2



KPB 2021-059
S30 T05N R08W
FUNNY RIVER



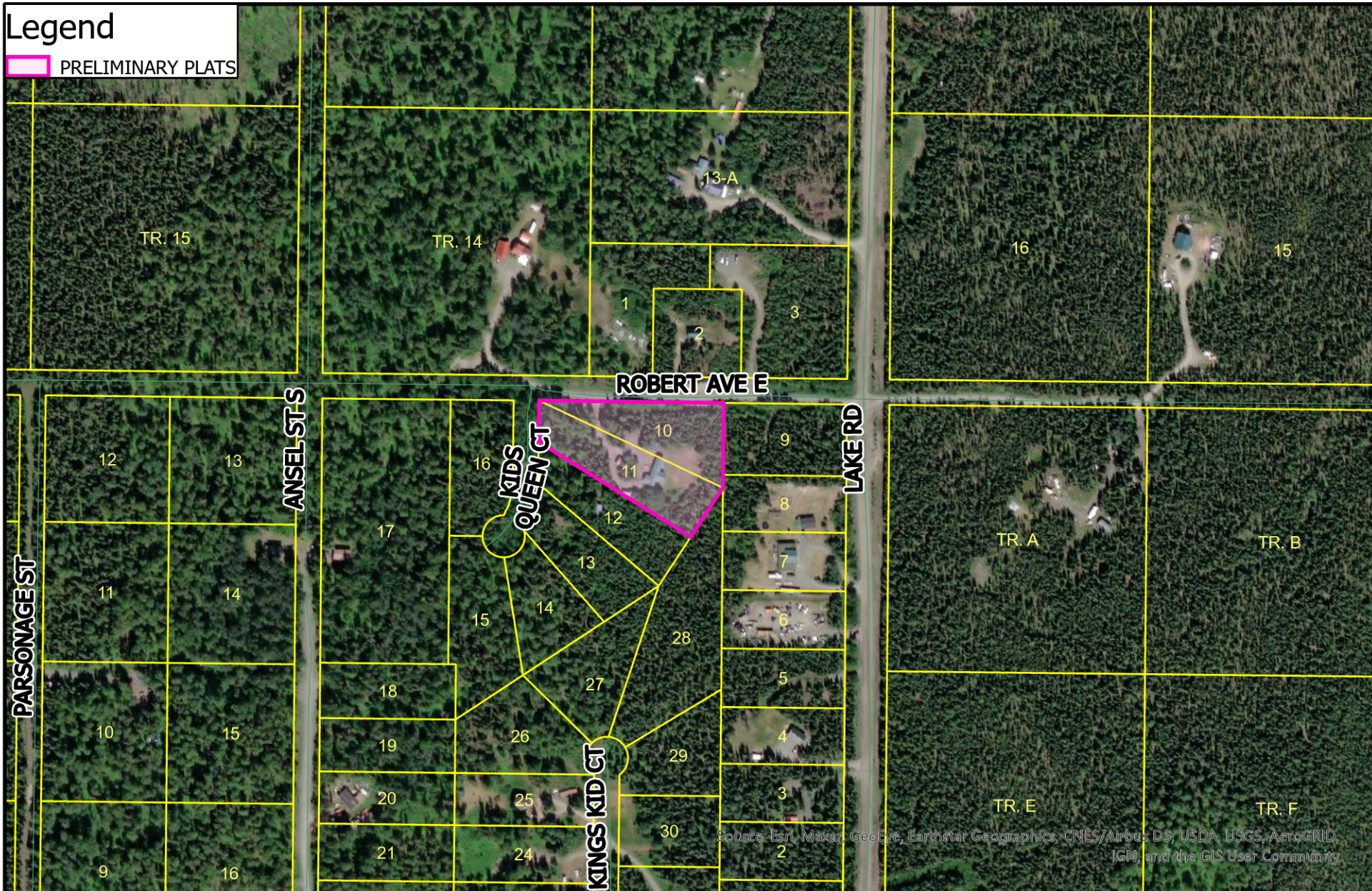
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Date: 4/30/2021
 JHindman, KPB 2021-059

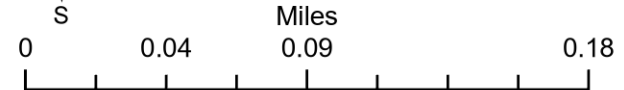
Legend

 PRELIMINARY PLATS



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



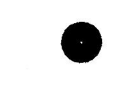

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

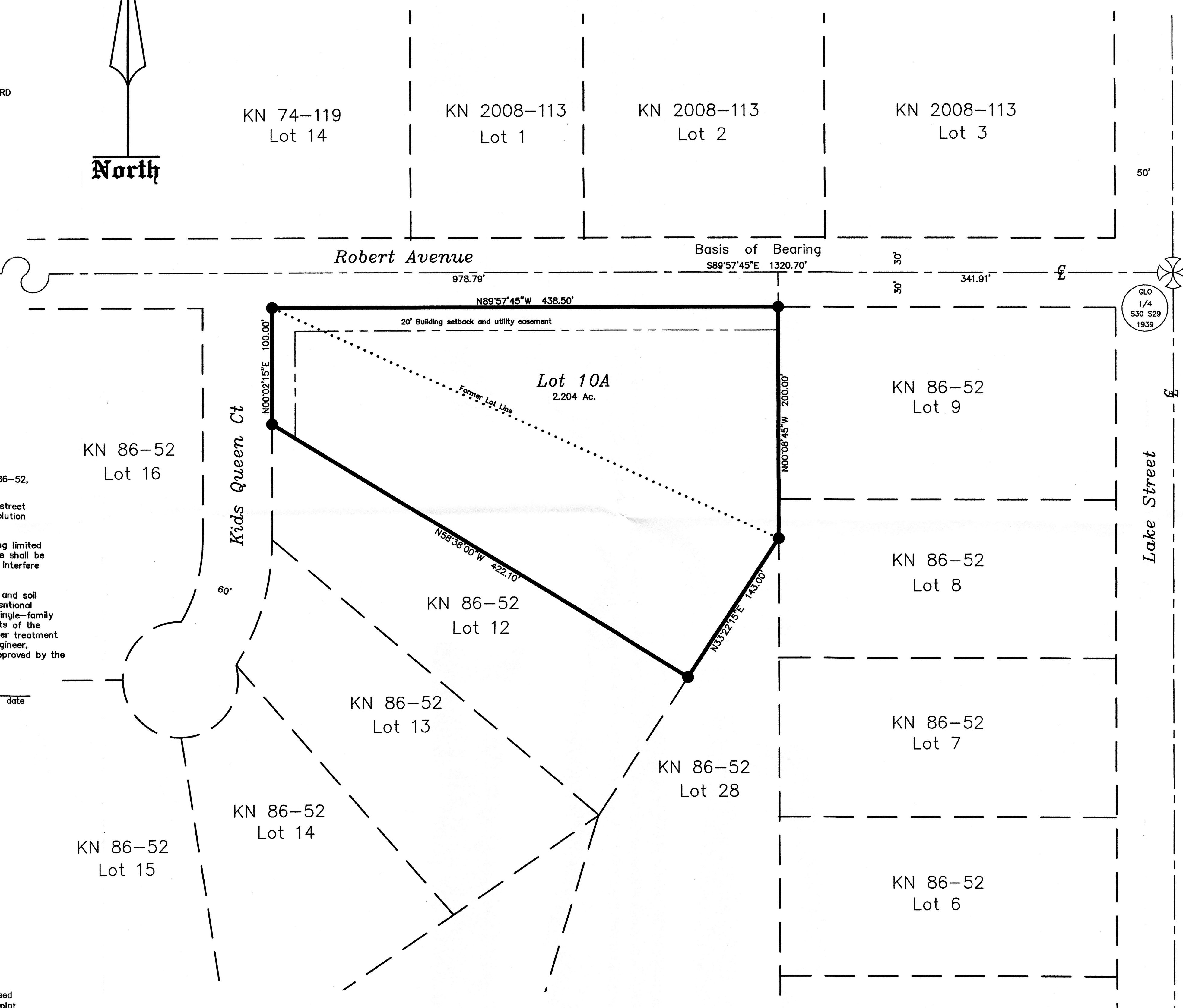
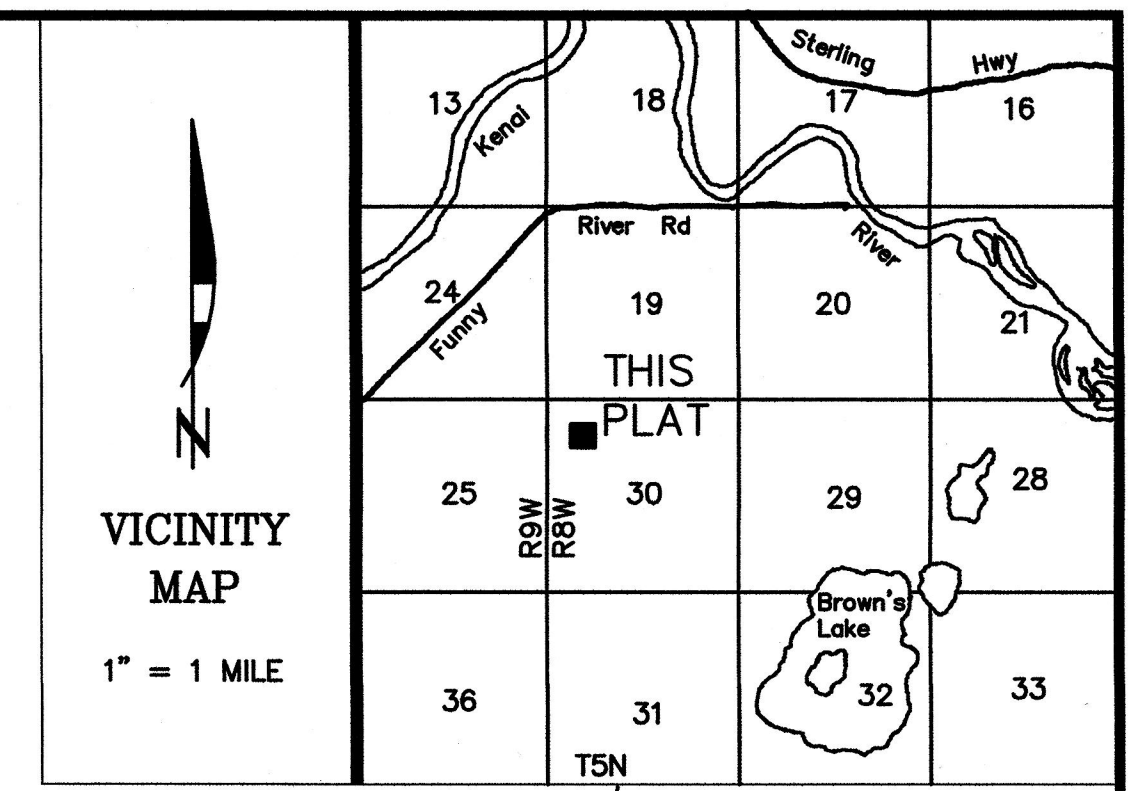
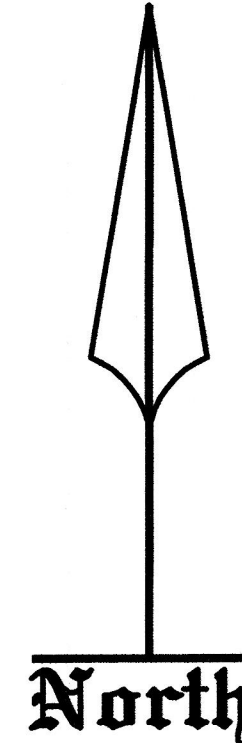


AERIAL IMAGERY 2019

Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager

LEGEND:

-  2 1/2" GLO MONUMENT 1939 RECORD
-  3 1/4" ALUM. CAP MON. 4608-S 1984 RECORD
-  1/2" REBAR RECORD
-  RECORD DATUM PLAT 86-52 KRD



NOTES:

- 1) Basis of bearing taken from Poage Subdivision No. 3, Plat 86-52, Kenai Recording District.
- 2) Building Setback-A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 3) Building setback shall also be a utility easement with clearing limited to the front 10 feet of the setback. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
- 4) **WASTEWATER DISPOSAL:** Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

Engineer _____ License No. _____ date _____



SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct.

Date _____

CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

DANIEL G. CHALOUX RONELL J. CHALOUX
 33755 ENTERPRISE AVENUE
 SOLDOTNA, ALASKA 99669

NOTARY'S ACKNOWLEDGEMENT

FOR _____
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20____

NOTARY PUBLIC FOR _____
 MY COMMISSION EXPIRES _____

NOTARY'S ACKNOWLEDGEMENT

FOR _____
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20____

NOTARY PUBLIC FOR _____
 MY COMMISSION EXPIRES _____

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL _____

KPB FILE No. _____

Poage Subdivision Chaloux Replat

A resubdivision of Lots 10 and 11 Poage Subdivision No. 3, Plat 86-52, Kenai Recording District

Located within the NE1/4 SE1/4 Section 30, T5N, R8W, S.M., Kenai Peninsula Borough, Alaska.

Containing 2.204 Ac.

Surveyor Segesser Surveys 30485 Rosland St. Soldotna, AK 99669 (907) 262-3909	Owners Daniel G. and Ronell J. Chaloux 33755 Enterprise Ave. Soldotna, Alaska 99669
---	--

JOB NO. 21053	DRAWN: 4-4-21
SURVEYED: April, 2021	SCALE: 1"=50'
FIELD BOOK: 21-2	SHEET: 1 of 1

KPB File 2021-059

ITEM 3 – POAGE SUBDIVISION CHALOUX REPLAT

KPB File No.	2021-059
Planning Commission Meeting:	May 24, 2021
Applicant / Owner:	Daniel and Ronell Chaloux of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys
General Location:	Funny River / Funny River APC

Parent Parcel No.:	066-431-10, 066-431-11
Legal Description:	Lots 10 and 11 of Poage Subdivision No. 3, KN 86-52
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine two lots to create one parcel that will be 2.204 acres.

Legal Access (existing and proposed):

The proposed subdivision is on the corner of Kids Queen Court and Robert Avenue E. Per KPB GIS data, Kids Queen Court, a 60 foot wide borough cul-de-sac, is not constructed. Robert Avenue E, a 60 foot wide borough right of way, appears to be partially improved but is not maintained by the Kenai Peninsula Borough. Robert Avenue E is accessed off Lake Road, a 100 foot wide right of way that is constructed and maintained by the borough.

The subdivision is within a compliant and closed block.

KPB Roads Dept. comments	Within jurisdiction; no comment
SOA DOT comments	No comment

Site Investigation:

Per KPB GIS data, there are steep slopes located along the eastern portion of the subdivision.

Per KPB GIS data, there are no wetlands or bodies of water within the proposed subdivision.

Per KPB GIS imagery there may be a structure that crosses the interior lot line. The proposed preliminary plat will remove any potential with the residence crossing a property boundary line between Lots 10 and 11.

Floodplain Hazard Review	Not within a flood hazard area
Anadromous Waters Habitat Protection District Review	Not within a AWHPD
State Parks Review	No comment

Staff Analysis

The proposed subdivision will be combining two lots from Poage Subdivision No. 3, KN 86-52. The parent plat established a 20 foot building setback from the dedicate right of way and granted the building setback as a utility easement with clearing restricted to the front 10 feet. This has been depicted and noted on the preliminary plat. **Staff recommends** plat note 3 include a reference to the document that granted the easement, i.e. "granted by KN 86-52".

As outlined in KPB 20.40.020(A), a soils analysis report will not be required and an engineer will not need to sign the plat. The proposed platting action is vacating lot lines to create fewer lots and the parent plat was signed by DEC. **Staff recommends** the plat note currently in place on the plat be removed and replaced with "WASTEWATER DISPOSAL: The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on March 4, 1986. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."

The parent plat contained a covenant note that all lots except for 15, 25, and 26 could not have a mobile home. **Staff recommends** the following plat note be added "Covenant noted on Plat KN 86-52 states no mobile homes on any of the subdivision lots. The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170."

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

Funny River Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Utility Easements

Staff recommends that a note or label be added that the 20 foot utility was granted by Plat KN 86-52 and grant any easements requested by utility providers.

Utility provider review:

HEA	No comment
ENSTAR	No comment
ACS	
GCI	No comment

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 33125 Robert Avenue E. Existing street name corrections needed: Robert Avenue should be Robert Avenue E and Lake Street should be Lake Road. 33125 Robert Avenue E will remain with Lot 10A
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this subdivision.
Assessing – Adeena Wilcox	No comments.
City Advisory Comments	N/A
Advisory Planning Commission	

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 - Form and contents required.

C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

Staff recommendation: Update Lake Street to Lake Road. Include the directional suffix for Robert Avenue E.

D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff recommendation: *Correct the location of the subdivision within the vicinity map.*

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *Correct the status label for Tract 14 located north of Robert Avenue E.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Revise the wastewater disposal note to comply with 20.40.020(B)(2).

Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

RECOMMENDATION:

STAFF RECOMMENDS:

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

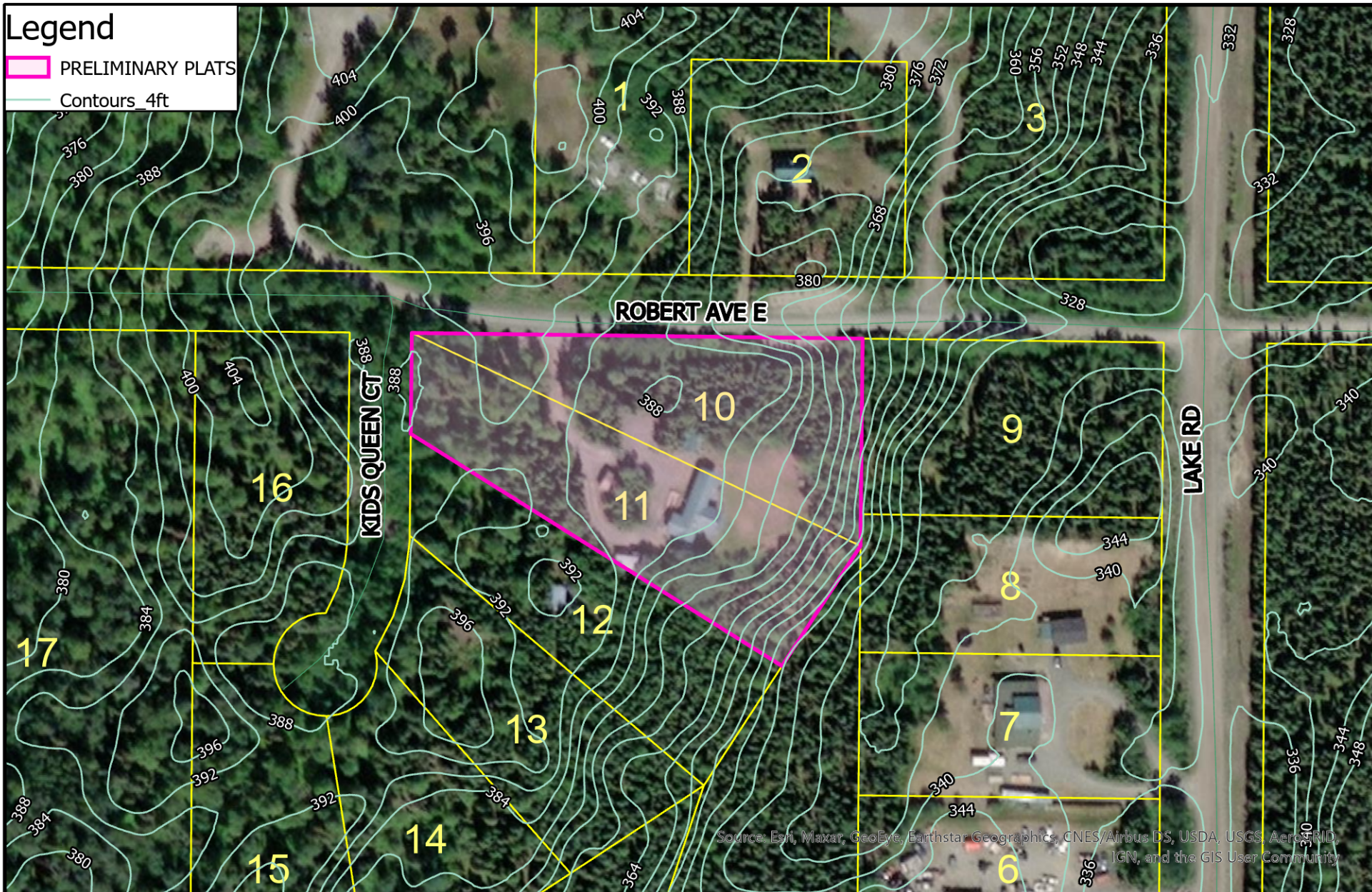
A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

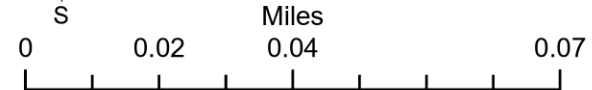
Legend

- PRELIMINARY PLATS
- Contours 4ft



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



AERIAL IMAGERY 2019

Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager

DON JACK SUBD.

DON JACK SUBD. NO. 5

FERGUSON SUBDIVISION

CERTIFICATION OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the property shown and described hereon, and that we hereby adopt this plan of subdivision, and dedicate all right-of-ways to public use, and grant all easements to the use shown.

Larry M. Poage

Larry M. Poage, P.O.B. 2138, Soldotna, AK 99669

Ruth E. Poage

Ruth E. Poage, P.O.B. 2138, Soldotna, AK 99669

PLAT APPROVAL:

This plot was approved by the Kenai Peninsula Borough Planning Commission at the meeting of Aug 12 1985

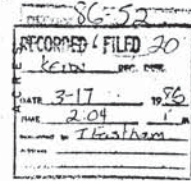
KENAI PENINSULA BOROUGH by Richard P. Trueger Authorized Official

NOTARY'S ACKNOWLEDGEMENT

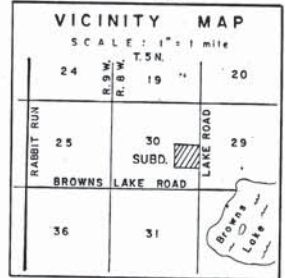
Subscribed and sworn before me this 3rd day of February 1986

for: Larry M. Poage Ruth E. Poage

Notary Public for Alaska Carolyn L. Turkington My Commission expires 9-10-88



CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION. This subdivision has been reviewed in accordance with 18AAC72.065 and is approved, subject to any noted restrictions. Signed: P. H. Howard, III, Title: Director, Date: 3-4-86.



POAGE SUBDIVISION NO. 3

Comprised of 36.793 acres in the NE 1/4 SW 1/4, Section 30, T.5N, R.8W, S.M., AK.

Owner: Larry M. Poage, P.O.B. 2138, Soldotna, AK.

Surveyor: C.L. Parker, R.L.S. 237, P.O.B. 349, Soldotna, AK.

Drawn and Surveyed by T. Eastham, November 1985, SCALE: 1"=100'

ANSEL STREET

POAGE SUBDIVISION NO. 1

146

CE 1/16 (1984-4608-5)

SE 1/16 (1979-4608-5)

Sec. 30 Sec. 29

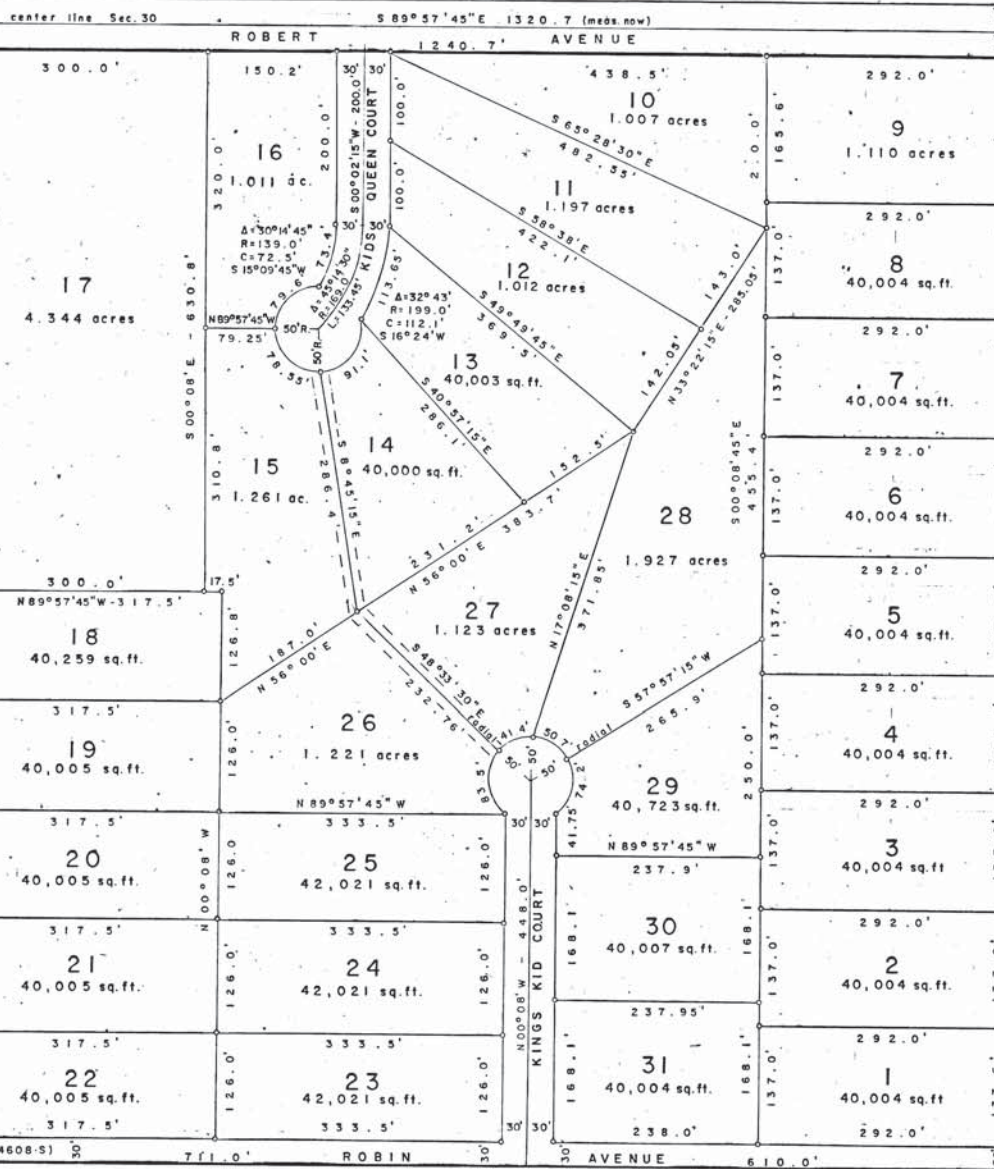
section 30 section 29

section 30 section 29

section 30 section 29

section 30 section 29

Sec 30 Sec 29



- LEGEND: 1, 2 brass cap monument found; 3, 3" aluminum monuments found; 62, 1/2" x 24" rebar rod set now; 10' utility easement

UNSUBDIVIDED REMAINDER = 36.21'

COVENANT: 1. No mobile homes on any of the subdivision lots except lots 15, 25 and 26.

- NOTES: 1. A building setback of 20 feet is required from all street right-of-ways unless a lesser standard is approved by the appropriate planning commission. 2. Building setback shall also be utility easement with clearing restricted to front 10' of setback. 3. Lots 1 to 8 and 17 to 22 should have common driveway access to Lake Road and Ansel Street. by: State of Alaska, Department of Transportation.

Note: 1/4 cor. monument found bent. Foot of 3/4" concrete filled pipe used for 1/4 cor. position. Repaired monument to be re-set in spring of 1986.

1/4 cor. (1939-G.L.O.)

R.P. to 1/4 cor. power pole S60°W 28.1' 3" spruce N70°W 39.6' 3" spruce N50°E 79.85' 4" spruce S45°E 80.2'



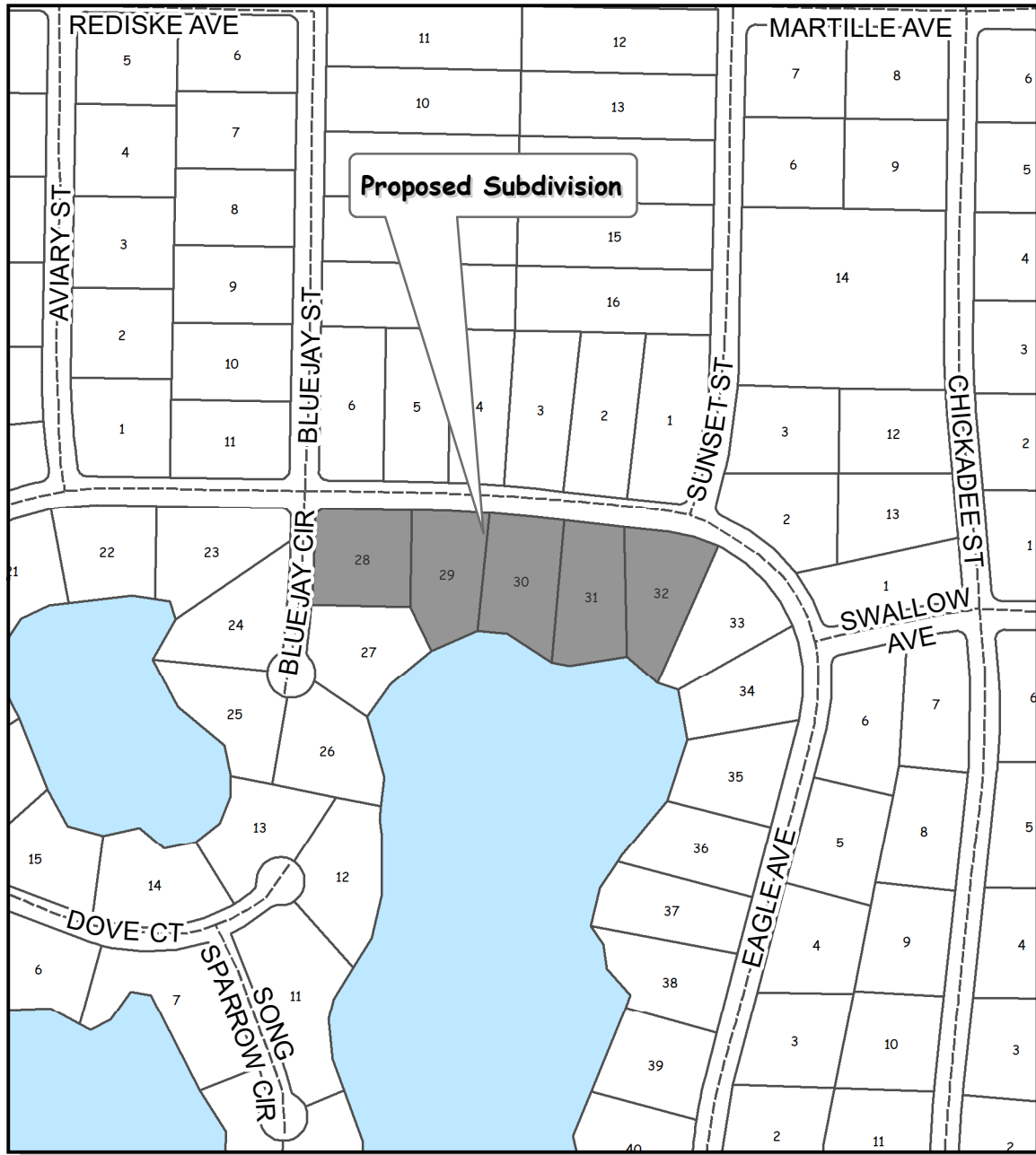
SUBDIVISION

LAKE ROAD section 30 section 29

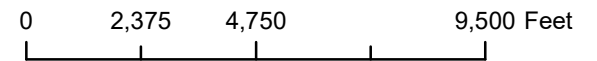
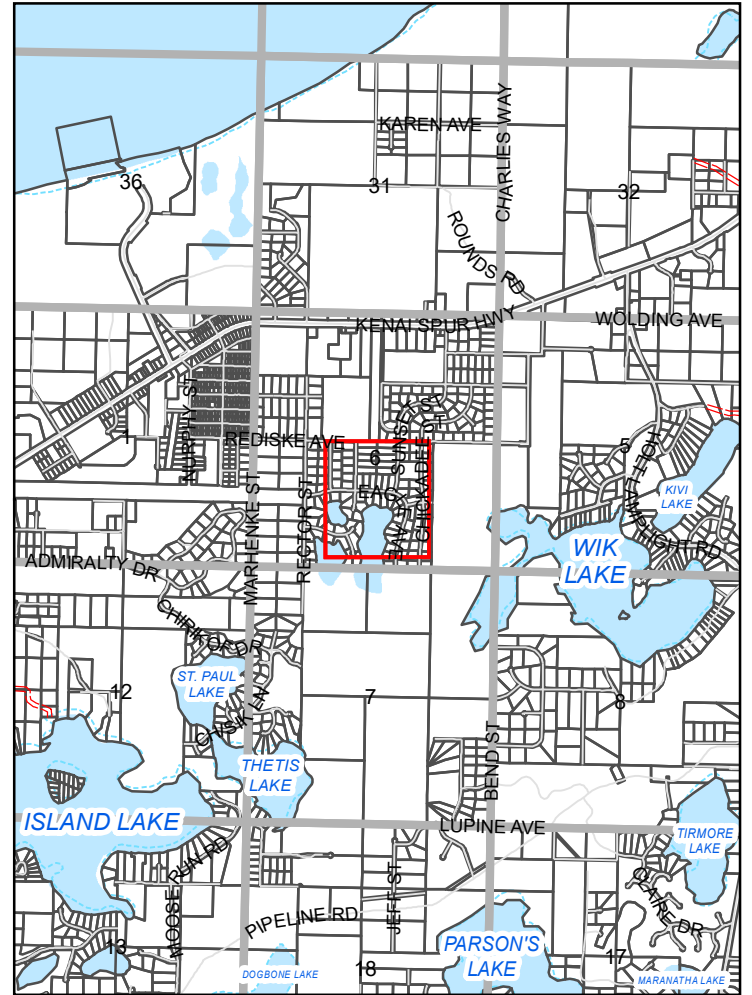
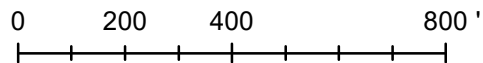
ROBIN AVENUE 610.0'

ROBERT AVENUE 1240.7'

Lot numbers and acreages: 1 (40,004 sq. ft.), 2 (40,004 sq. ft.), 3 (40,004 sq. ft.), 4 (40,004 sq. ft.), 5 (40,004 sq. ft.), 6 (40,004 sq. ft.), 7 (40,004 sq. ft.), 8 (40,004 sq. ft.), 9 (1.110 acres), 10 (1.007 acres), 11 (1.197 acres), 12 (1.012 acres), 13 (40,003 sq. ft.), 14 (40,000 sq. ft.), 15 (1.261 ac.), 16 (1.011 ac.), 17 (4.344 acres), 18 (40,259 sq. ft.), 19 (40,005 sq. ft.), 20 (40,005 sq. ft.), 21 (40,005 sq. ft.), 22 (40,005 sq. ft.), 23 (42,021 sq. ft.), 24 (42,021 sq. ft.), 25 (42,021 sq. ft.), 26 (1.221 acres), 27 (1.123 acres), 28 (1.927 acres), 29 (40,723 sq. ft.), 30 (40,007 sq. ft.), 31 (40,004 sq. ft.).





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.



KPB 2021-060
S06 T07N R11W
NIKISKI

Date: 4/30/2021
 JHindman, KPB 2021-060

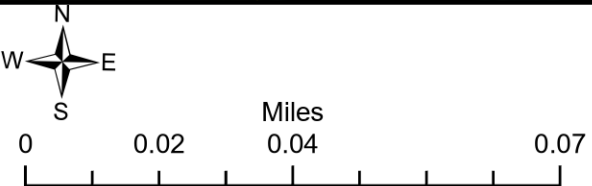
Legend

-  PRELIMINARY PLATS
-  BOROUGH MAINTAINED ROADS



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



AERIAL IMAGERY 2014
CONTOUR MAP

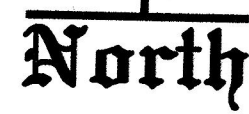
Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager

LEGEND:

- ⊗ 3 1/4" BRASS CAP BLM MONUMENT 1955 RECORD
- ⊕ 3 1/4" BRASS CAP MON. 1564-S 1982 RECORD
- 5/8" REBAR w/1 1/2" ALUM. CAP RECORD
- () RECORD DATUM PLAT 83-44 KRD

NOTES:

- 1) Basis of bearing taken from Don's Place Subdivision, Plat 83-44 Kenai Recording District.
- 2) Building Setback-A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 3) Covenants, conditions, and restrictions which affect this subdivision are recorded in Book 225 Page 325 Kenai Recording District. The borough will not enforce private covenants, easements, or deed restrictions per KPB 21.44.080.
- 4) Covenants, conditions, and restrictions which affect this subdivision are recorded in Book 280 Page 465 Kenai Recording District. The borough will not enforce private covenants, easements, or deed restrictions per KPB 21.44.080.
- 5) An easement for electric lines or system and/or telephone lines granted to Homer Electric Association is recorded in Book 33 Page 159, Kenai Recording District.
- 6) Front 10 feet of the 20 foot building setback is a utility easement per plat KN 83-44. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
- 7) No Engineer's Subdivision and Soils Report is available for this subdivision, soil conditions may be unsuitable for onsite wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation. The purpose of this platting action is to combine 5 lots into 1, which will provide greater available wastewater disposal area as described by 20.40.020.(A).

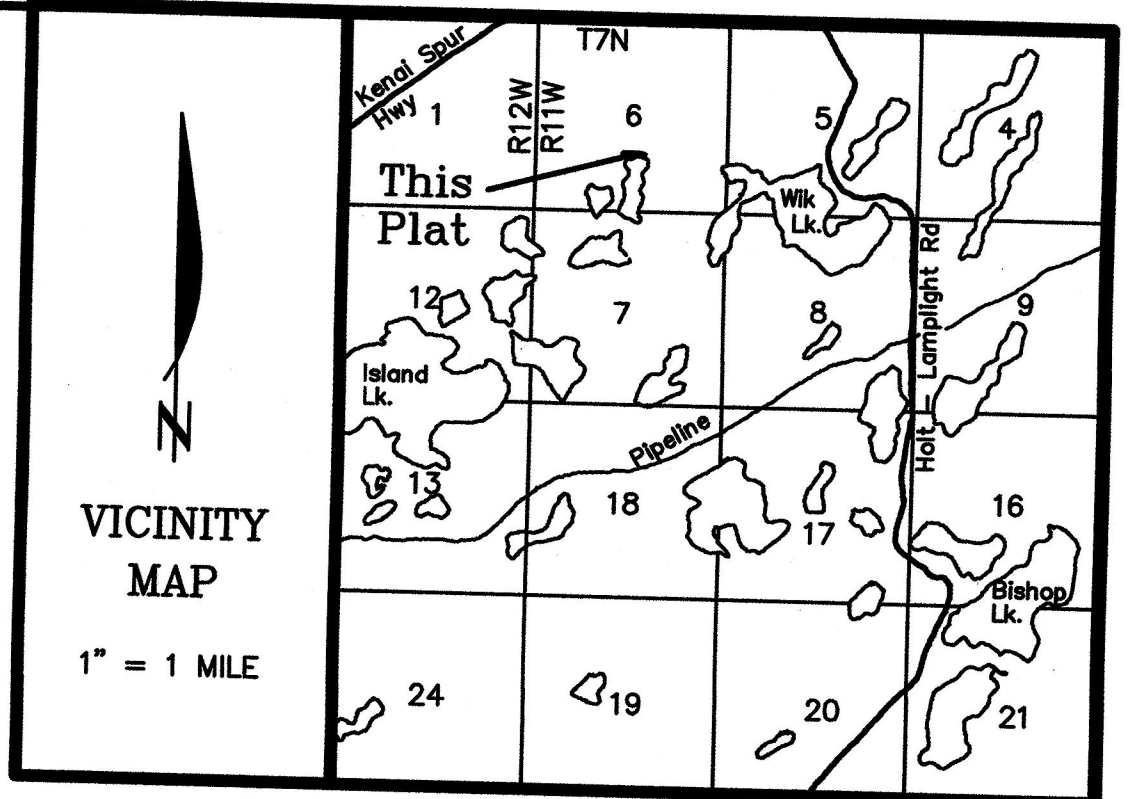


LINE TABLE

LINE	BEARING	DISTANCE
L1	N00°00'00"W	50.00'
L2	S26°30'56"E	101.24'
L3	N65°00'00"E	110.00'
L4	N85°00'00"W	70.00'
L5	N56°00'00"W	97.00'
L6	N79°00'00"W	40.00'
L7	N80°00'00"E	123.00'
L8	N48°30'00"W	83.00'

CURVE TABLE

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING
C1	3°13'07"	2315.38'	130.07'	65.05'	130.05'	N01°36'54"E
C2	90°00'00"	20.00'	31.42'	20.00'	28.28'	S45°00'00"W
C3	5°00'00"	2260.38'	197.25'	98.69'	197.19'	S87°30'00"E
C4	19°30'56"	314.66'	107.18'	54.11'	106.66'	N75°14'31"W



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

JAMES R. HEAZLETT SUSAN L. HEAZLETT
 P.O. BOX 8241
 NIKISKI, ALASKA 99635

NOTARY'S ACKNOWLEDGEMENT

FOR _____
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20__

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES _____

NOTARY'S ACKNOWLEDGEMENT

FOR _____
 ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20__

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES _____

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF
 KENAI PENINSULA BOROUGH
 AUTHORIZED OFFICIAL _____

KPB FILE No. _____

Don's Place Subdivision Heazlett Replat

A resubdivision of Lots 28, 29, 30, 31, and 32 Block 1 Don's Place Subdivision, Plat 83-44, Kenai Recording District.
 Located within W1/2 SE1/4 and E1/2 SW1/4, Section 6, T7N, R11W, S.M., Kenai Recording District, Kenai Peninsula Borough, Alaska.

Containing 4.604 Ac.

Surveyor	Owner
Segesser Surveys 30485 Rosland St. Soldotna, AK 99689 (907) 262-3909	James R. and Susan L. Heazlett P.O. Box 8241 Nikiski, Alaska 99635

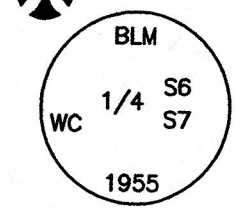
JOB NO.	21067	DRAWN:	4-29-21
SURVEYED:	N/A	SCALE:	1"=100'
FIELD BOOK:	N/A	SHEET:	1 of 1



SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct.

Date _____



Basis of Bearing
 (N89°40'09"E) (1705.44')

KPB File 2021-060

AGENDA ITEM E. NEW BUSINESS

ITEM 4 – DON’S PLACE SUBDIVISION HEAZLETT REPLAT

KPB File No.	2021-060
Planning Commission Meeting:	May 24, 2021
Applicant / Owner:	James and Susan Heazlett
Surveyor:	John Segesser / Segesser Surveys
General Location:	On Eagle Avenue / Nikiski area

Parent Parcel No.:	013-215-27, 013-215-28, 013-215-29, 013-215-30, 013-215-31
Legal Description:	Lots 28, 29, 30, 31, 32, Block 1, Don’s Place Subdivision KN 83-44
Assessing Use:	Residential
Zoning:	Unrestricted
Water / Wastewater	On - Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine five lots to create one 4.60 acre lot.

Legal Access (existing and proposed):

The proposed subdivision fronts along Eagle Avenue, a 60 foot wide right of way, with Bluejay Circle, a 50 foot right of way. Eagle Avenue and Bluejay Circle are constructed and maintained by the Kenai Peninsula Borough. Two routes provide access to the subdivision. Sunset Street connects Eagle Avenue to the Kenai Spur Highway. Eagle Avenue also connects to the Kenai Spur Highway by way of Marhenke Street, Rediske Avenue, and Rector Street.

Bluejay Circle that abuts this subdivision was originally named Bluejay Place. Several street names have been changed by Street Name Resolutions. The correct street names are reflected on the preliminary plat.

Bluejay Circle is approximately 375 feet long and was dedicated as a 50 foot wide right of way ending in a cul-de-sac. Bluejay Circle is the only access to four lots and provides alternative access to two corner lots. Lot 28, which is included in this subdivision, appears to have a driveway off Bluejay Circle. Per KPB GIS imagery and KPB Assessing records Lot 27 is the only lot on Bluejay Circle to have improvements. The roads department had no comment on the preliminary plat. **Staff recommends the planning commission concur that additional right of way width for Bluejay Circle is not required as the dedicated right of way is sufficient to provide access to the four lots.**

The parent lots are part of a subdivision that divided lands around multiple lakes. The placement of right of ways and creating lots along the lakes created blocks that are incomplete as there are several right of ways ending in cul-de-sacs. Due to the lake and the subdivision design, the block length is not compliant. **Staff recommends the planning commission concur that an exception to KPB 20.30.170 Block Length is not required as this platting action cannot provide right of way dedications to help with block length due to the location of the lake and existing development.**

KPB Roads Dept. comments	Within jurisdiction; The RSA has no comments at this time
SOA DOT comments	Not on State road system; no comment

Site Investigation:

The preliminary plat has an unnamed lake to the south. Per KPB GIS data, there are areas along the lake and within parent lot 31 and 32 that may have low wet areas or standing water. The parent plat also used witness markers, which generally means the area contains water, low wet areas, or steep terrain. **Staff recommends the low wet areas be depicted as well as labeled and provide source for the ordinary high water. Place a note on the final plat indicating any person developing the property is responsible for obtaining all required local, state, and**

federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable.

It appears that improvements exist on Lots 28, 29, 30, and 31. This platting will remove the interior lot lines so that all improvements on one parcel.

Floodplain Hazard Review	Not within flood hazard area, no comments.
Anadromous Waters Habitat Protection District Review	Not within a HPD, no comments.
State Parks Review	No comments.

Staff Analysis

This preliminary plat will combine five lots that were created by Don’s Place Subdivision Amended KN 83-44. The parent plat, which was 160 acres in size, dedicated multiple rights of way and created 102 lots and tracts.

Per KPB 20.60.200(A), “all subdivisions shall be surveyed except subdivisions which only eliminate existing property lines.” This plat will not require a field survey. If a field survey is not performed, a plat note should be added to reflect that. In addition, the record from which all bearings and distances are taken from shall be noted and any computed information must be noted as such. **Staff recommends a plat note be added if a field survey is not performed “A field survey was not performed for this subdivision as allowed by KPB 20.60.200(A).” and that all record information site the source.**

Per KPB 20.40.020(A)(2), a wastewater review is not required if “The plat increases lot size by 1,000 square feet or more of area suit for conventional development.” Plat note 7 addresses that a soils analysis report is not available or required. **Staff recommends reword plat note 7 to state, “The purpose of this platting action is to combine 5 lots into 1, which will provide greater available wastewater disposal area as described by 20.40.020(A). An Engineer’s Subdivision and Soils Report is not available for this subdivision. Soil conditions may be unsuitable for onsite wastewater treatment. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.”**

Notice of the proposed plat was mailed to the beneficial interest holder on May 12, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The property is not within an advisory planning commission.

Utility Easements

The parent plat granted a 10 foot utility easement adjoining the right of way. The easement of record has been noted on the preliminary plat.

Plat note 5 refers to an easement granted to Homer Electric Association. **Staff recommends the plat note be updated to include “no definite location stated.”**

Utility provider review:

HEA	No comments
ENSTAR	No comments
ACS	
GCI	No comments

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 51280 Bluejay Circle, 51481 Eagle Avenue. Existing street names are correct. 51280 Bluejay Circle and 51481 Eagle Avenue will remain on Lot 28A.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this subdivision.
Assessing – Adeena Wilcox	No comments.
City Advisory Comments	N/A
Advisory Planning Commission	N/A
Nikiski EMS	No issues

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 - Form and contents required.

- A. Within the Title Block
 1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat’s name shall be the primary name of the preliminary plat.
 2. Legal description, location, date, and total area in acres of the proposed subdivision;
 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: *Revise the legal description to ‘ ... Don’s Place Subdivision Amended, Plat 83-44 ...’*

KPB 20.30 Design Requirements

Platting staff comments: *Staff reviewed the plat and all the items required by 20.30 were met, unless otherwise noted below:*

20.30.240. Building setbacks.

- A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:
 Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

C. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:

Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

Staff recommendation: *Depict and label the 20 foot building setback adjoining the right of way.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils analysis not required per 20.40.020(A)(2).

Staff recommendation: Update the wastewater disposal note and comply with 20.40.

KPB 20.60 – Final Plat

Staff recommendation: final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.

20.60.110. Dimensional data required.

B. The natural meanders of ordinary high water (or mean high water line as applicable) is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.

Staff recommendation: Provide a plat note that states, 'The natural meanders of ordinary high water (or mean high water line as applicable) is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.' Comply with 20.60.110.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

Staff recommendation: Boundary is causing overstrikes on symbols and needs revised.

20.60.170. Other data required by law.

B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat. The borough will not enforce private covenants, easements, or deed restrictions. The borough will not enforce private covenants, easements, or deed restrictions.

Staff recommendation: Update the KPB reference to 20.60.170(B) to note that KPB will not enforce covenants, easements, or deed restrictions. Comply with 20.60.170.

20.60.200. Survey and monumentation.

- **Staff recommendation:** The symbols used on the face of the plat should match in size to those in the legend. Comply with 20.60.200
-

RECOMMENDATION:

STAFF RECOMMENDS:

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

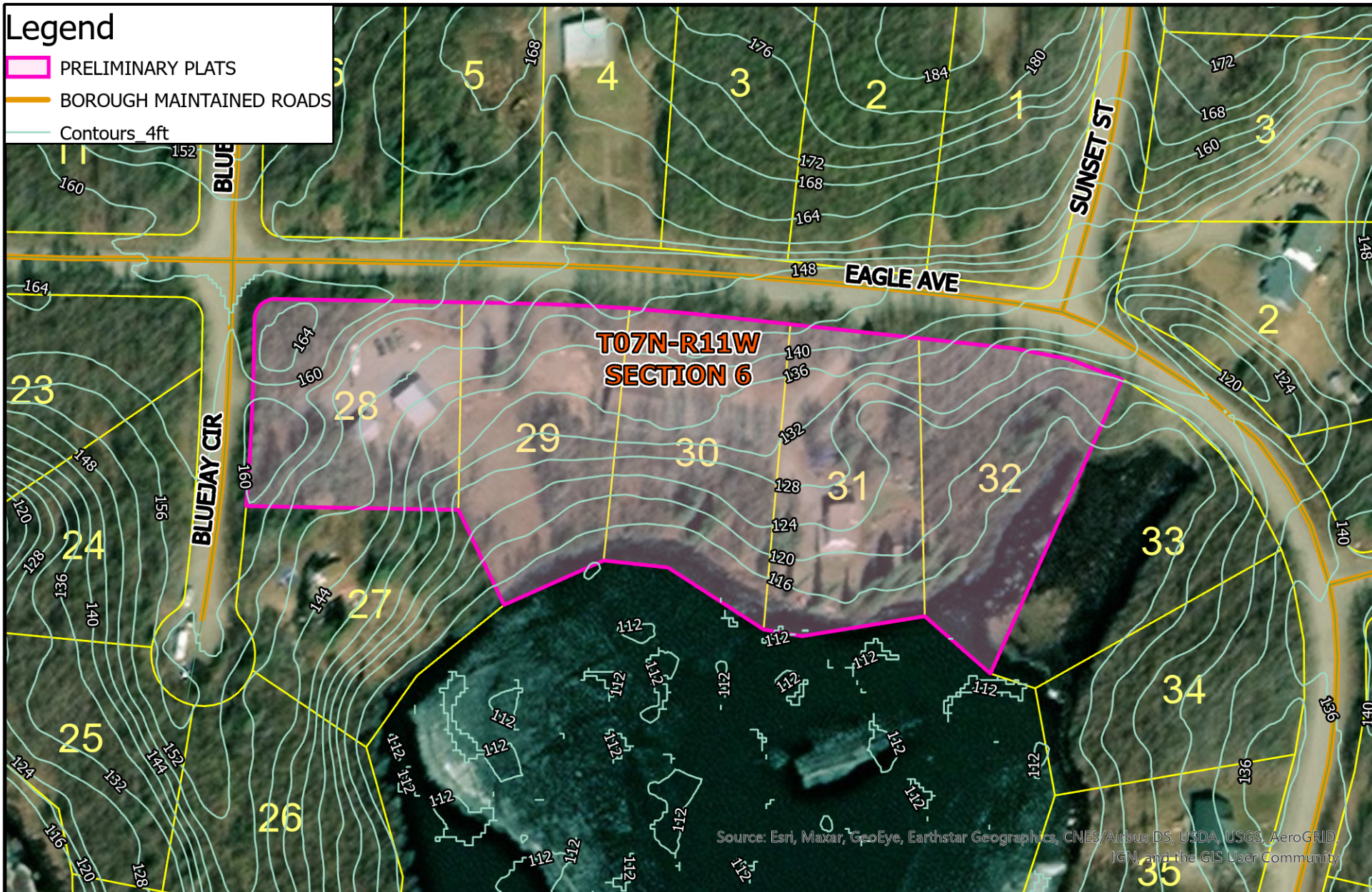
A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

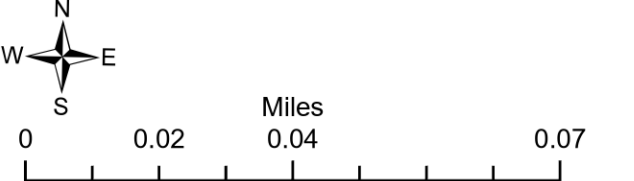
Legend

- PRELIMINARY PLATS
- BOROUGH MAINTAINED ROADS
- Contours 4ft



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.

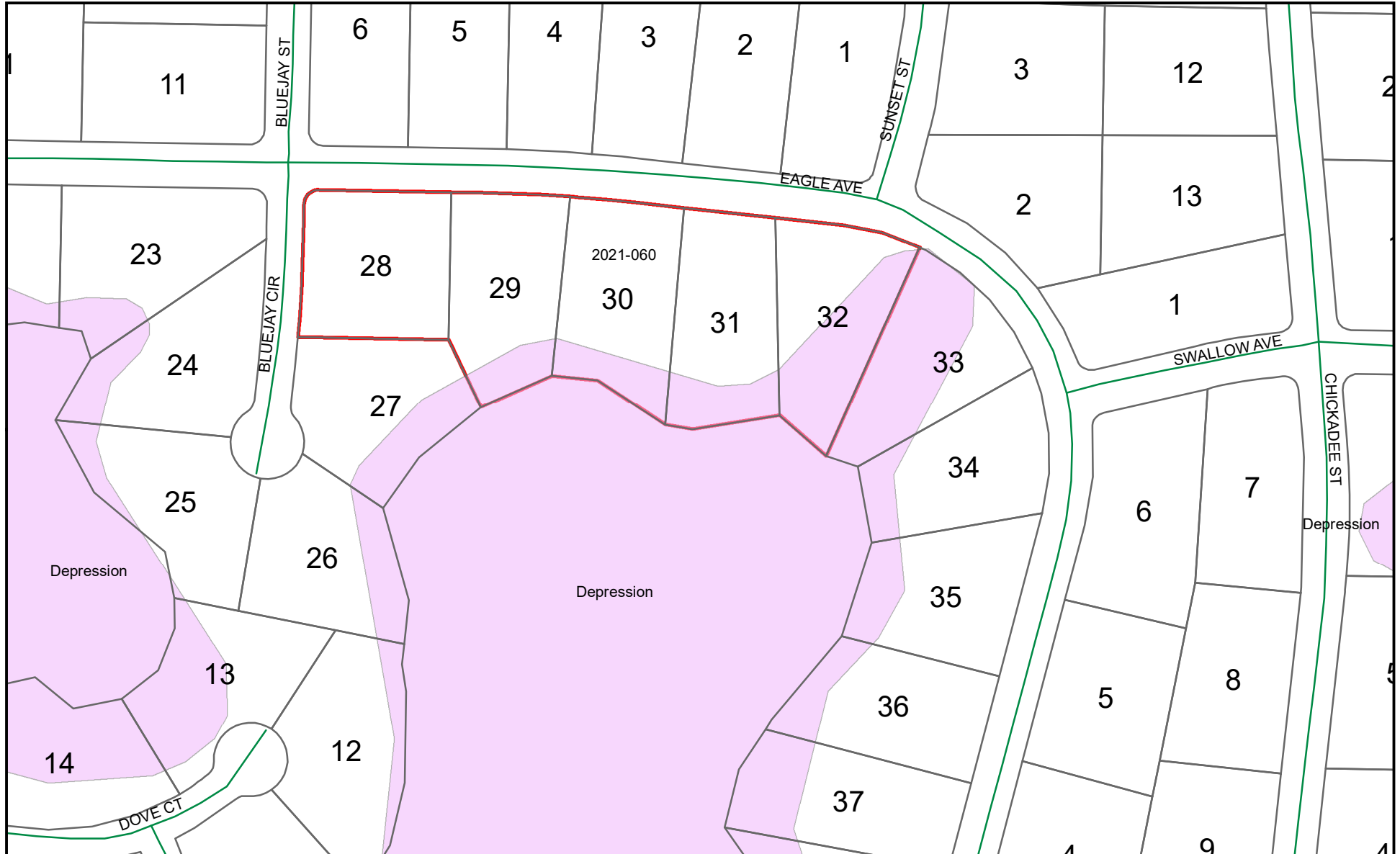


AERIAL IMAGERY 2014 CONTOUR MAP

Date: 5/5/2021
3:16 PM
Scott Huff
Plating Manager

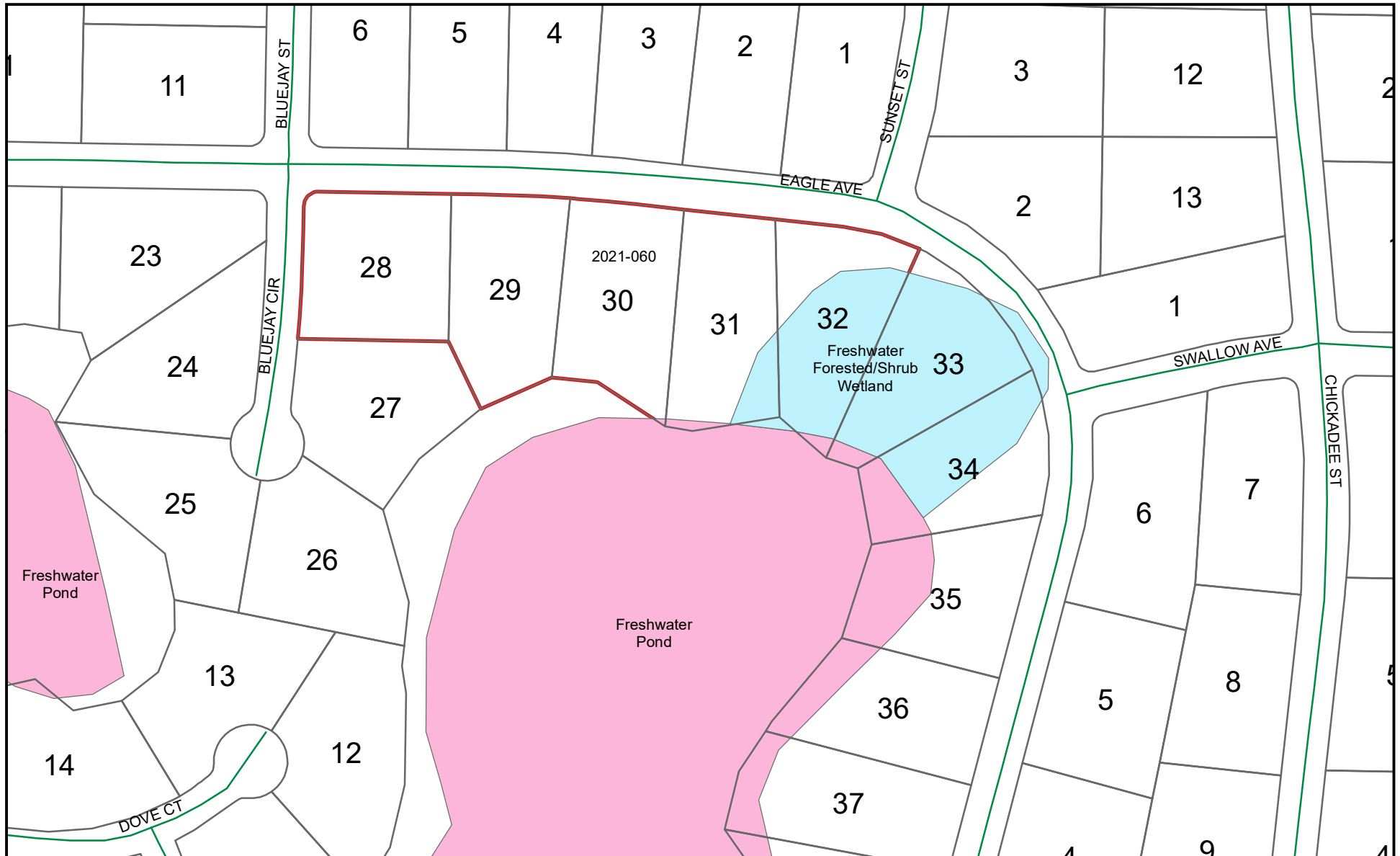


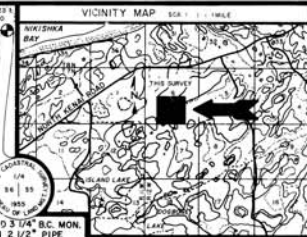
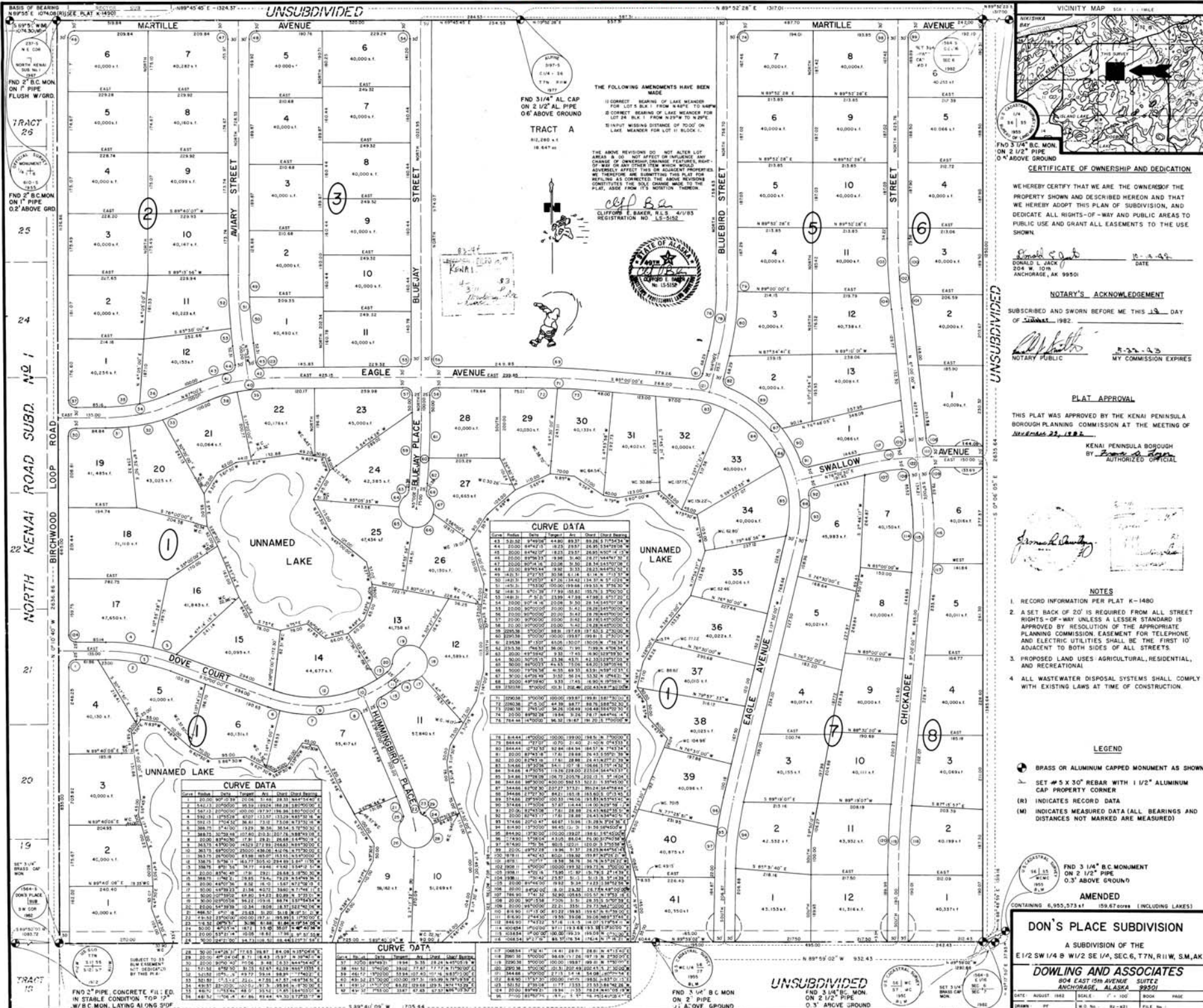
Don's Place Subdivision Heazlett Replat
KPB File 2021-060





Don's Place Subdivision Heazlett Replat KPB File 2021-060





THE FOLLOWING AMENDMENTS HAVE BEEN MADE:
 (1) CORRECT BEARING OF LINE MEASUR FOR LOT 1 BLOCK 1 FROM N 89° 52' 28" E TO N 89° 52' 28" E
 (2) CORRECT BEARING OF LINE MEASUR FOR LOT 24 BLOCK 1 FROM N 89° 52' 28" E TO N 89° 52' 28" E
 (3) CORRECT BEARING OF LINE MEASUR FOR LOT 1 BLOCK 1 FROM N 89° 52' 28" E TO N 89° 52' 28" E

THE ABOVE REVISIONS DO NOT ALTER THE LOCATION OF ANY MONUMENTS OR FEATURES, NOR CHANGE OF OWNERSHIP OR OTHER FEATURES, NOR ADVERSELY AFFECT THIS OR ADJACENT PROPERTIES. THE REVISIONS ARE SUBMITTED TO THE PUBLIC FOR REVIEW AND CORRECTION. THE ABOVE REVISIONS CONSTITUTE THE ONLY CHANGE MADE TO THE PLAN, ASIDE FROM ITS REVISION THEREON.

Cliff Baker
 CLIFFORD E. BAKER, R.L.S. 4/10/83
 REGISTRATION NO. 15-1516



CURVE DATA

Curve Station	Station	Radius	Chord	Chord Bearing
1	20.00	100.00	100.00	0° 00' 00"
2	20.00	100.00	100.00	0° 00' 00"
3	20.00	100.00	100.00	0° 00' 00"
4	20.00	100.00	100.00	0° 00' 00"
5	20.00	100.00	100.00	0° 00' 00"
6	20.00	100.00	100.00	0° 00' 00"
7	20.00	100.00	100.00	0° 00' 00"
8	20.00	100.00	100.00	0° 00' 00"
9	20.00	100.00	100.00	0° 00' 00"
10	20.00	100.00	100.00	0° 00' 00"
11	20.00	100.00	100.00	0° 00' 00"
12	20.00	100.00	100.00	0° 00' 00"
13	20.00	100.00	100.00	0° 00' 00"
14	20.00	100.00	100.00	0° 00' 00"
15	20.00	100.00	100.00	0° 00' 00"
16	20.00	100.00	100.00	0° 00' 00"
17	20.00	100.00	100.00	0° 00' 00"
18	20.00	100.00	100.00	0° 00' 00"
19	20.00	100.00	100.00	0° 00' 00"
20	20.00	100.00	100.00	0° 00' 00"
21	20.00	100.00	100.00	0° 00' 00"
22	20.00	100.00	100.00	0° 00' 00"
23	20.00	100.00	100.00	0° 00' 00"
24	20.00	100.00	100.00	0° 00' 00"
25	20.00	100.00	100.00	0° 00' 00"
26	20.00	100.00	100.00	0° 00' 00"
27	20.00	100.00	100.00	0° 00' 00"
28	20.00	100.00	100.00	0° 00' 00"
29	20.00	100.00	100.00	0° 00' 00"
30	20.00	100.00	100.00	0° 00' 00"
31	20.00	100.00	100.00	0° 00' 00"
32	20.00	100.00	100.00	0° 00' 00"
33	20.00	100.00	100.00	0° 00' 00"
34	20.00	100.00	100.00	0° 00' 00"
35	20.00	100.00	100.00	0° 00' 00"
36	20.00	100.00	100.00	0° 00' 00"
37	20.00	100.00	100.00	0° 00' 00"
38	20.00	100.00	100.00	0° 00' 00"
39	20.00	100.00	100.00	0° 00' 00"
40	20.00	100.00	100.00	0° 00' 00"
41	20.00	100.00	100.00	0° 00' 00"

CURVE DATA

Curve Station	Station	Radius	Chord	Chord Bearing
1	20.00	100.00	100.00	0° 00' 00"
2	20.00	100.00	100.00	0° 00' 00"
3	20.00	100.00	100.00	0° 00' 00"
4	20.00	100.00	100.00	0° 00' 00"
5	20.00	100.00	100.00	0° 00' 00"
6	20.00	100.00	100.00	0° 00' 00"
7	20.00	100.00	100.00	0° 00' 00"
8	20.00	100.00	100.00	0° 00' 00"
9	20.00	100.00	100.00	0° 00' 00"
10	20.00	100.00	100.00	0° 00' 00"
11	20.00	100.00	100.00	0° 00' 00"
12	20.00	100.00	100.00	0° 00' 00"
13	20.00	100.00	100.00	0° 00' 00"
14	20.00	100.00	100.00	0° 00' 00"
15	20.00	100.00	100.00	0° 00' 00"
16	20.00	100.00	100.00	0° 00' 00"
17	20.00	100.00	100.00	0° 00' 00"
18	20.00	100.00	100.00	0° 00' 00"
19	20.00	100.00	100.00	0° 00' 00"
20	20.00	100.00	100.00	0° 00' 00"
21	20.00	100.00	100.00	0° 00' 00"
22	20.00	100.00	100.00	0° 00' 00"
23	20.00	100.00	100.00	0° 00' 00"
24	20.00	100.00	100.00	0° 00' 00"
25	20.00	100.00	100.00	0° 00' 00"
26	20.00	100.00	100.00	0° 00' 00"
27	20.00	100.00	100.00	0° 00' 00"
28	20.00	100.00	100.00	0° 00' 00"
29	20.00	100.00	100.00	0° 00' 00"
30	20.00	100.00	100.00	0° 00' 00"
31	20.00	100.00	100.00	0° 00' 00"
32	20.00	100.00	100.00	0° 00' 00"
33	20.00	100.00	100.00	0° 00' 00"
34	20.00	100.00	100.00	0° 00' 00"
35	20.00	100.00	100.00	0° 00' 00"
36	20.00	100.00	100.00	0° 00' 00"
37	20.00	100.00	100.00	0° 00' 00"
38	20.00	100.00	100.00	0° 00' 00"
39	20.00	100.00	100.00	0° 00' 00"
40	20.00	100.00	100.00	0° 00' 00"
41	20.00	100.00	100.00	0° 00' 00"

CURVE DATA

Curve Station	Station	Radius	Chord	Chord Bearing
1	20.00	100.00	100.00	0° 00' 00"
2	20.00	100.00	100.00	0° 00' 00"
3	20.00	100.00	100.00	0° 00' 00"
4	20.00	100.00	100.00	0° 00' 00"
5	20.00	100.00	100.00	0° 00' 00"
6	20.00	100.00	100.00	0° 00' 00"
7	20.00	100.00	100.00	0° 00' 00"
8	20.00	100.00	100.00	0° 00' 00"
9	20.00	100.00	100.00	0° 00' 00"
10	20.00	100.00	100.00	0° 00' 00"
11	20.00	100.00	100.00	0° 00' 00"
12	20.00	100.00	100.00	0° 00' 00"
13	20.00	100.00	100.00	0° 00' 00"
14	20.00	100.00	100.00	0° 00' 00"
15	20.00	100.00	100.00	0° 00' 00"
16	20.00	100.00	100.00	0° 00' 00"
17	20.00	100.00	100.00	0° 00' 00"
18	20.00	100.00	100.00	0° 00' 00"
19	20.00	100.00	100.00	0° 00' 00"
20	20.00	100.00	100.00	0° 00' 00"
21	20.00	100.00	100.00	0° 00' 00"
22	20.00	100.00	100.00	0° 00' 00"
23	20.00	100.00	100.00	0° 00' 00"
24	20.00	100.00	100.00	0° 00' 00"
25	20.00	100.00	100.00	0° 00' 00"
26	20.00	100.00	100.00	0° 00' 00"
27	20.00	100.00	100.00	0° 00' 00"
28	20.00	100.00	100.00	0° 00' 00"
29	20.00	100.00	100.00	0° 00' 00"
30	20.00	100.00	100.00	0° 00' 00"
31	20.00	100.00	100.00	0° 00' 00"
32	20.00	100.00	100.00	0° 00' 00"
33	20.00	100.00	100.00	0° 00' 00"
34	20.00	100.00	100.00	0° 00' 00"
35	20.00	100.00	100.00	0° 00' 00"
36	20.00	100.00	100.00	0° 00' 00"
37	20.00	100.00	100.00	0° 00' 00"
38	20.00	100.00	100.00	0° 00' 00"
39	20.00	100.00	100.00	0° 00' 00"
40	20.00	100.00	100.00	0° 00' 00"
41	20.00	100.00	100.00	0° 00' 00"

CERTIFICATE OF OWNERSHIP AND DEDICATION
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Donald L. Jack
 DONALD L. JACK
 204 W. 10th
 ANCHORAGE, AK 99501
 DATE: 10-2-92

NOTARY PUBLIC ACKNOWLEDGEMENT
 SUBSCRIBED AND SWORN BEFORE ME THIS 10th DAY OF October, 1992.
My Commission Expires 3-22-93
 NOTARY PUBLIC MY COMMISSION EXPIRES

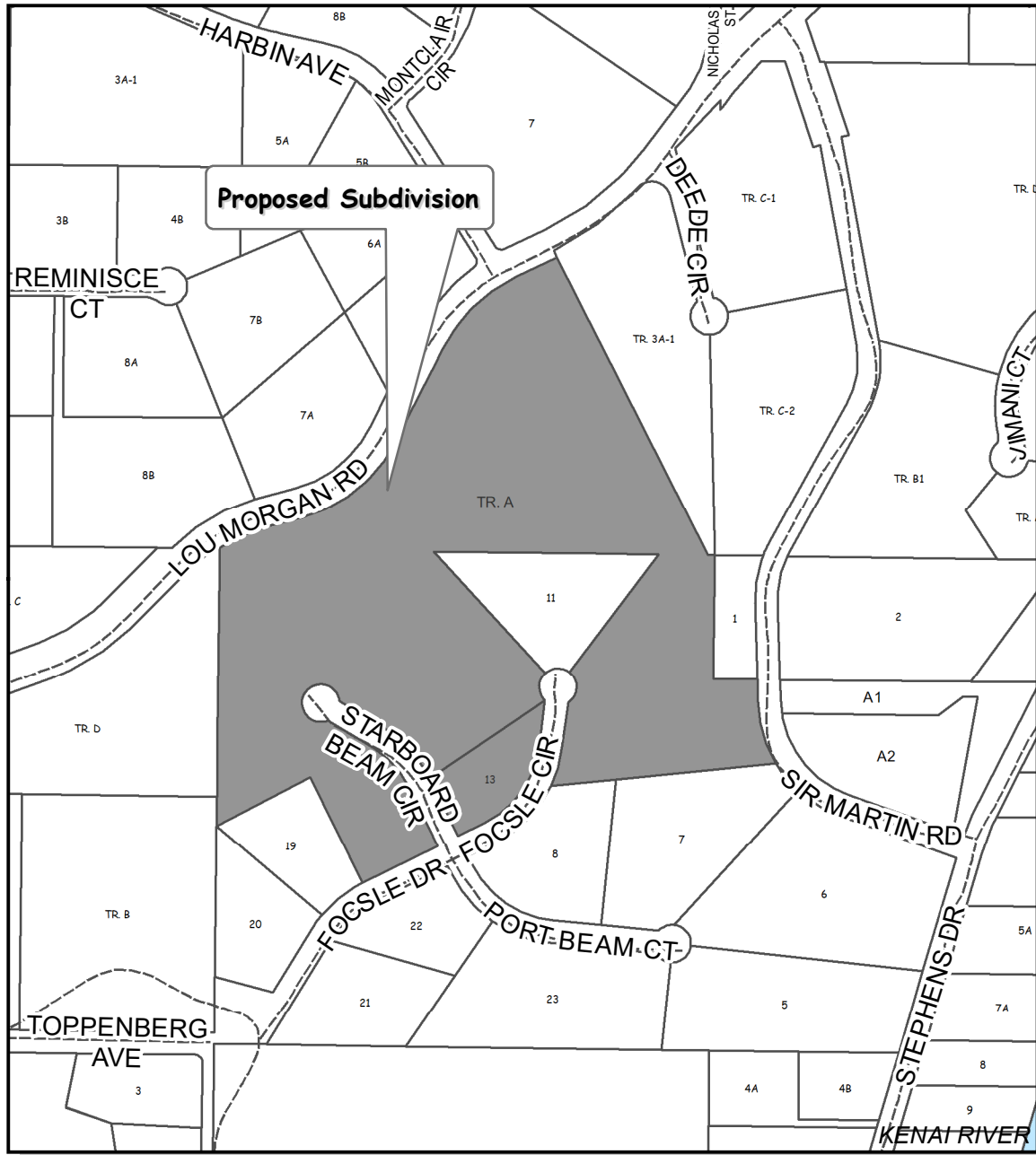
PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOGHOUGH PLANNING COMMISSION AT THE MEETING OF November 22, 1992.
 KENAI PENINSULA BOGHOUGH
 AUTHORIZED OFFICIAL

- NOTES**
- RECORD INFORMATION PER PLAT K-1480
 - A SET BACK OF 20' IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSEER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION. EASEMENT FOR TELEPHONE AND ELECTRIC UTILITIES SHALL BE THE FIRST 10' ADJACENT TO BOTH SIDES OF ALL STREETS.
 - PROPOSED LAND USES: AGRICULTURAL, RESIDENTIAL, AND RECREATIONAL.
 - ALL WASTE WATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS AT TIME OF CONSTRUCTION.

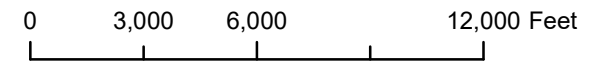
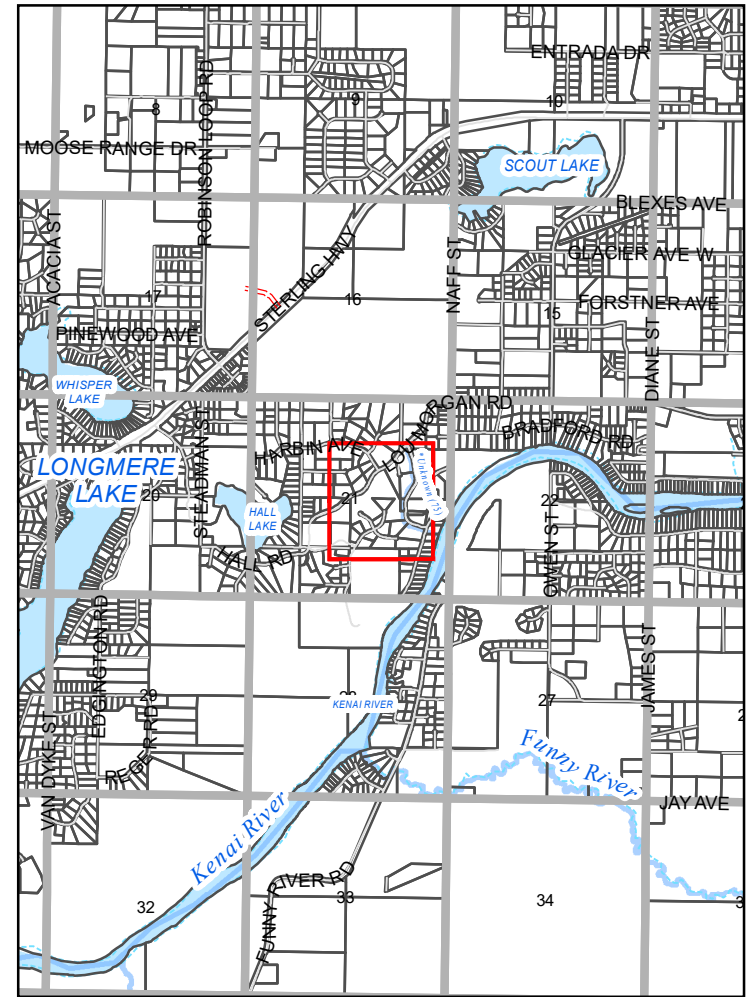
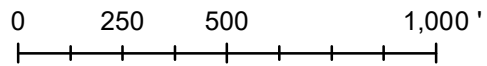
- LEGEND**
- BRASS OR ALUMINUM CAPPED MONUMENT AS SHOWN
 - SET # 5 X 30" REBAR WITH 1 1/2" ALUMINUM CAP PROPERTY CORNER
 - (R) INDICATES RECORD DATA
 - (M) INDICATES MEASURED DATA (ALL BEARINGS AND DISTANCES NOT MARKED ARE MEASURED)

FND 3 1/4" B.C. MONUMENT ON 2 1/2" PIPE 0.5' ABOVE GROUND

DON'S PLACE SUBDIVISION
 A SUBDIVISION OF THE
 E 1/2 SW 1/4 B W 1/2 SE 1/4, SEC. 6, T7N, R11W, S.M., AK
DOWLING AND ASSOCIATES
 904 EAST 15th AVENUE SUITE 2
 ANCHORAGE, ALASKA 99501
 DATE: SEPTEMBER 1992 SCALE: 1" = 100' BOOK: FILE NO.

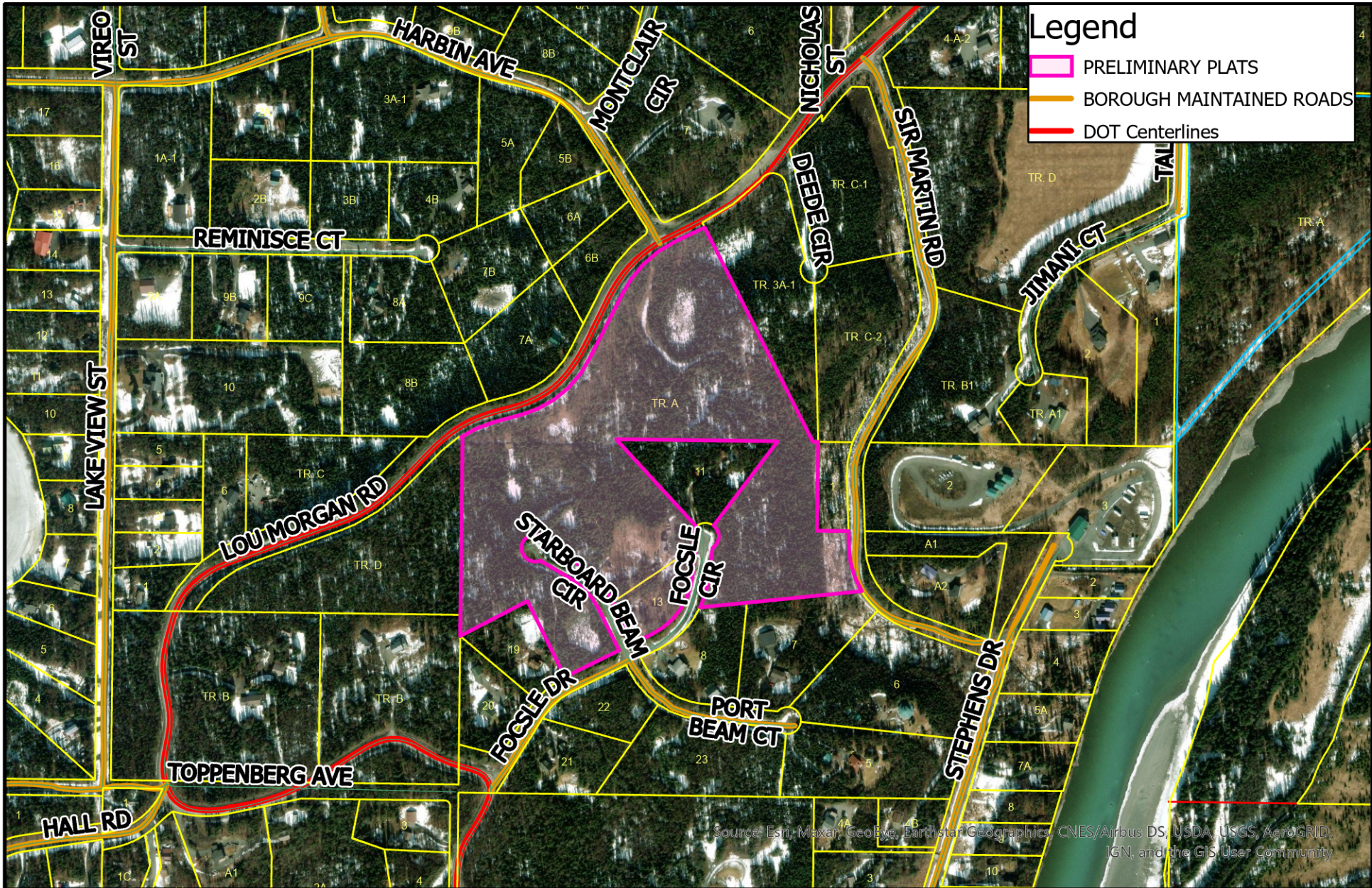


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



KPB 2021-062
S21 T05N R09W
STERLING

Date: 5/2/2021
 JHindman, KPB 2021-062

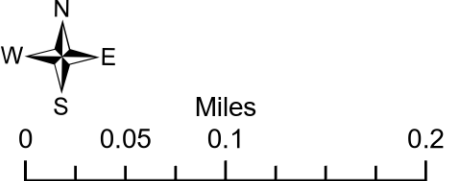


Legend

- PRELIMINARY PLATS
- BOROUGH MAINTAINED ROADS
- DOT Centerlines

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.



AERIAL IMAGERY 2010
Anadromous Waters Habitat Protection District

Date: 5/5/2021
3:16 PM
Scott Huff
Plating Manager

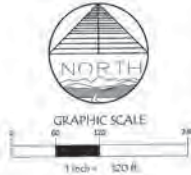
WASTEWATER DISPOSAL - TRACTS

THESE LOTS ARE AT LEAST 200,000 SQUARE FEET OR NOMINAL 5 ACRES IN SIZE AND CONDITIONS MAY NOT BE SUITABLE FOR ONSITE WASTEWATER TREATMENT AND DISPOSAL. ANY WASTEWATER TREATMENT OR DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

WASTEWATER DISPOSAL - LOTS

SOIL CONDITIONS, WATER TABLE LEVELS, AND SOIL SLOPES IN THIS SUBDIVISION HAVE BEEN FOUND SUITABLE FOR CONVENTIONAL ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS SERVING SINGLE-FAMILY OR DUPLEX RESIDENCES AND MEETING THE REGULATORY REQUIREMENTS OF THE KENAI PENINSULA BOROUGH. ANY OTHER TYPE OF ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST BE DESIGNED BY A PROFESSIONAL ENGINEER, REGISTERED TO PRACTICE IN ALASKA, AND THE DESIGN MUST BE APPROVED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

STAN A. MCLANE C.E. 7863 AK DATE



CURVE TABLE						
CURVE #	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	17°48'30"	425.00'	132.10'	66.58'	N 65° 04' 23" E	131.56'
C2	46°30'00"	400.00'	338.59'	180.15'	N 49° 43' 38" E	328.58'
C3	38°00'00"	425.00'	281.87'	146.34'	N 44° 28' 38" E	276.73'
C4	29°43'34"	330.00'	171.21'	87.58'	S 17° 09' 07" E	169.30'
C5	18°55'49"	330.00'	109.03'	55.02'	N 15° 22' 15" E	108.53'
C6	112°37'47"	50.00'	98.29'	75.01'	N 02° 45' 16" E	83.21'
C7	93°48'40"	50.00'	81.87'	53.44'	S 00° 19' 07" E	73.02'
C8	57°00'00"	270.00'	268.61'	146.60'	S 34° 24' 21" W	257.67'
C9	90°00'00"	20.00'	31.42'	20.00'	N 72° 05' 39" W	28.28'
C10	33°00'00"	330.00'	190.07'	97.75'	N 43° 35' 39" W	187.45'
C11	286°15'37"	50.00'	249.81'	37.50'	S 29° 54' 21" W	80.00'
C12	33°00'00"	270.00'	155.51'	79.98'	S 43° 35' 39" E	153.37'
C13	90°00'00"	20.00'	31.42'	20.00'	S 17° 54' 21" W	28.28'
C14	104°36'26"	50.00'	91.29'	64.70'	S 60° 55' 14" E	79.13'
C15	82°46'29"	50.00'	72.23'	44.06'	S 32° 46' 14" W	66.11'
C16	98°52'41"	50.00'	86.29'	58.42'	N 56° 24' 11" W	75.97'



VICINITY MAP
Scale 1" = 1 Mile

CERTIFICATE OF OWNERSHIP AND DEDICATION

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE EDWARD N. KROHN ESTATE, IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF THE EDWARD N. KROHN ESTATE, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

MICHAEL E. KROHN,
PERSONAL REPRESENTATIVE OF THE EDWARD N. KROHN ESTATE
37388 KENAI SPUR HWY, SOLDOTNA, AK 99669

NOTARY'S ACKNOWLEDGEMENT

FOR: MICHAEL E. KROHN
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2021
MY COMMISSION EXPIRES: _____
NOTARY PUBLIC FOR THE STATE OF ALASKA

NOTES

- BUILDING SETBACK- A BUILDING SETBACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
- NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
- ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION IF APPLICABLE.
- THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
 - AN ELECTRIC EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION ON JUNE 25, 1959 IN MISC. BOOK 3, PAGE 72, KRD, LOCATION NOT DEFINED. AND A RELEASE OF GENERAL R/W EASEMENTS RECORDED JUNE 16, 1987 IN BOOK 311, PAGE 993 KRD. COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED OCTOBER 1, 1976 IN BOOK 100, PAGE 601 KRD.
 - COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED SEPTEMBER 30, 1977 IN BOOK 114, PAGE 75 KRD AND AMENDED MARCH 19, 1993 IN BOOK 414, PAGE 580 KRD. THE BOROUGH WILL NOT ENFORCE PRIVATE COVENANTS, EASEMENTS, OR DEED RESTRICTIONS PER KP 20.60.170(B).
 - PUBLIC ACCESS EASEMENT RECORDED JULY 11, 1978 IN BOOK 127, PAGE 918 KRD.



Plat # _____
Rec. Dist. _____
Date: _____
Time: _____

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 89°53'02" E	117.15'
L2	S 02°17'20" E	60.75'
L3	N 05°54'21" E	117.11'
L4	S 05°54'21" W	117.11'
L5	S 62°54'21" W	57.11'
L6	N 27°05'39" W	150.94'
L7	N 60°05'39" W	130.94'
L8	S 60°05'39" E	130.94'
L9	S 27°05'39" E	150.94'
L10	S 62°54'21" W	203.98'
L11	S 89°53'02" W	9.46'

- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 1/2" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR W/ 1" STAINLESS STEEL CAP 85032-S
 - ▨ AREA SUBJECT TO INUNDATION
 - CONTOUR INTERVAL = 4'
 - SLOPES GREATER THAN 25%

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2021.

AUTHORIZED OFFICIAL _____ DATE _____

KPB File 2021-062

BOS'N LANDING 2021 REPLAT
A RESUBDIVISION OF TRACT A BOS'N LANDING SUBDIVISION KROHN ADDITION (KN2002-104) AND LOT 13 BOS'N LANDING SUBDIVISION PART TWO (KN77-148)

EDWARD N. KROHN ESTATE, OWNER
37388 KENAI SPUR HWY
SOLDOTNA, AK 99669

28.646 AC. M/L SITUATED IN THE E1/2 OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 9 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, AND THE KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK 99688
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANEDG.COM

KPB FILE NO. 2021-xxx
PROJECT NO. 212017

SCALE 1" = 120'
DATE: APRIL 2021
BOOK NO.: 21-06
DRAWN BY: JAH

ITEM 5 – BOS’N LANDING 2021 REPLAT

KPB File No.	2021-062
Planning Commission Meeting:	May 24, 2021
Applicant / Owner:	Edward N Krohn Estate
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Lou Morgan Road, Starboard Beam Circle, Focsle Circle, Sterling area

Parent Parcel No.:	063-560-37, 063-560-50
Legal Description:	Tract A Bos’n Landing Subdivision Krohn Addition, KN 2002-104 Lot 13 Block 2 Bos’n Landing Subdivision Part Two KN 77-148
Assessing Use:	Residential
Zoning:	Unrestricted
Water / Wastewater	On site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 1.22 acre lot and a 27.43 acre tract into eight lots ranging in size from 1.578 acres to 2.822 acres. Two tracts will also be created and will be 5.1 acres and 5.782 acres.

Legal Access (existing and proposed):

The two tracts will have access via State DOT maintained Lou Morgan Road, a 60 foot right of way. All other lots will have access by way of Starboard Beam Circle and Focsle Circle. Both are 60 foot wide dedicated right of ways that end with cul-de-sacs and located off Focsle Drive. Per KPB GIS data, Starboard Beam Circle and Focsle Circle are constructed but not maintained by the Kenai Peninsula Borough at this time. The Kenai Peninsula Borough maintains Focsle Drive, which connects to Lou Morgan Road. Proposed Lot 9A fronts Focsle Circle and Sir Martin Road. Sir Martin Road is constructed and maintained by the borough but access may be difficult due to terrain and an anadromous stream.

There is a public access easement that affects the subdivision. The document granting the easement is noted in plat note 4.4. Referring to parent plats, plat KN 2002-104 depicted the public access easement as a 20 foot easement along Lou Morgan Road. **Staff recommends the boundary of the subdivision be corrected to match KN 2002-104 showing Lou Morgan Road as a 60 foot wide right of way, This platting action will dedicate 20 feet of right of way to match the easement per KN Bk. 127 Pg. 918. Staff recommends a certificate of acceptance be added to the plat for the State of Alaska DOT to sign the acceptance of the Lou Morgan Road right of way dedication.**

Block length is not compliant as it exceeds the maximum length and close. Due to the turns of Lou Morgan Road, improvements, and already existing cul-de-sacs, requiring a dedication to comply with block length will create other issues and code requirement conflicts such as double frontage. The only area a dedication could occur and not conflict with existing dedications is along the western boundary. The intent would be to connect between two sections of Lou Morgan Road. The ability to get a full dedication will be difficult as there is currently a structure located to the south that would be close to the dedication. **Staff recommends the planning commission concur that an exception is not required due to any required dedications would not improve the block and create other concerns and code issues.**

KPB Roads Dept. comments	Within jurisdiction, no comments
SOA DOT comments	The ROW for the Lou Morgan Road, aka Jet Drive, a state road, is 50’ each side of centerline and is correctly depicted.

Site Investigation:

The preliminary plat depicts the contours and the steep slopes are shaded. The areas of inundation are shown within proposed Lots 9A and 10A bordering an unnamed anadromous stream. **Staff recommends the following plat note be added to the plat:**

“ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.”

The subdivision is affected by a areas identified as ‘Depression’ and ‘Riverine’. The correct note is on the plat to alert the land owners that any development may require approval from Local, State or Federal agencies.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Is totally or partially within HPD.
State Parks Review	No comments.

Staff Analysis

The parent parcels have been involved in several subdivisions and changes through the years. The most recent plat, KN 2002-104, combined ten lots into one tract. The preliminary plat will divide that tract into a similar design that previously existed. The biggest change is the inclusion of Lot 13 Block 2, resulting in a change from the former design for the creation of Lots 12A and 13A.

The new lots will require a soils analysis report to be submitted for review and approval by staff. An engineer will need to sign the final plat.

The two tracts are larger than 200,000 square feet and appear to provide multiple areas that are greater than 20,000 square feet of contiguous area for the placement of a wastewater system. A soils analysis report is not required for the two tracts. The correct wastewater disposal notes are provided on the plat. Due to a recent code change, **Staff recommends the note for the tracts be revised to remove the reference to a nominal 5 acres.**

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

The property is not within an advisory planning commission.

Utility Easements

Per plat KN 87-84, “20’ building set back shall be the utility easement except that clearing is restricted to front 10’ of the set back.” Tracts A-2 and a portion of Tract A-1 are subject to the 20 foot utility easement along Lou Morgan Road. This utility easement coincides with the building setback and the public access easement. **Staff recommends the easement of record per KN 87-84 be depicted and labeled.**

There are numerous utility easements granted through the years that are depicted and labeled with the source. Per KPB Code 20.30.060(D), the front ten feet adjoining rights-of-way shall be designated as a utility easement. **Staff recommends a plat note be added that identifies the 10 foot adjoining rights-of-way is a utility easement.**

Utility provider review:

HEA	No comments
ENSTAR	No comments
ACS	
GCI	No comments

KPB department / agency review:

Addressing – Celina Robinson	Affected addresses: 37360 Focsle Circle, 36538 Lou Morgan Road Existing Street names shown are correct. 37360 Focsle Circle will remain with Lot 12A 36538 Lou Morgan Road will remain with Tract A-1
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this subdivision.
Assessing – Adeena Wilcox	No comments.
City Advisory Comments	N/A
Advisory Planning Commission	N/A

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 - Form and contents required.

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: *The block designation, Block 2, needs added to Lot 13 description.*

D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff comments: *View could be adjusted so the subject subdivision is closer to the center of the vicinity map. This is only a suggestion.*

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *Provide status labels for the parcels to the east of Lot 9A.*

20.30.240. Building setbacks.

A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:

Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

- C. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:

Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

Staff recommendation: *Depict and label the 20 foot building setback on all dedicated right of ways.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Remove nominal 5 acres from the wastewater disposal note.

Staff recommendation: *comply with 20.40..*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.040. Dedication of public use lands. Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

Staff recommendation: *Provide a certificate of acceptance for the State of Alaska DOT to accept the 20 foot right of way dedication on Lou Morgan Road.*

20.60.180. Plat notes.

A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required, Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

Staff recommendation:

Place the following notes on the plat in addition to those mentioned within the staff report.

- *No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.*

Correct plat note 4.1 as it currently starts a sentence with "And".

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

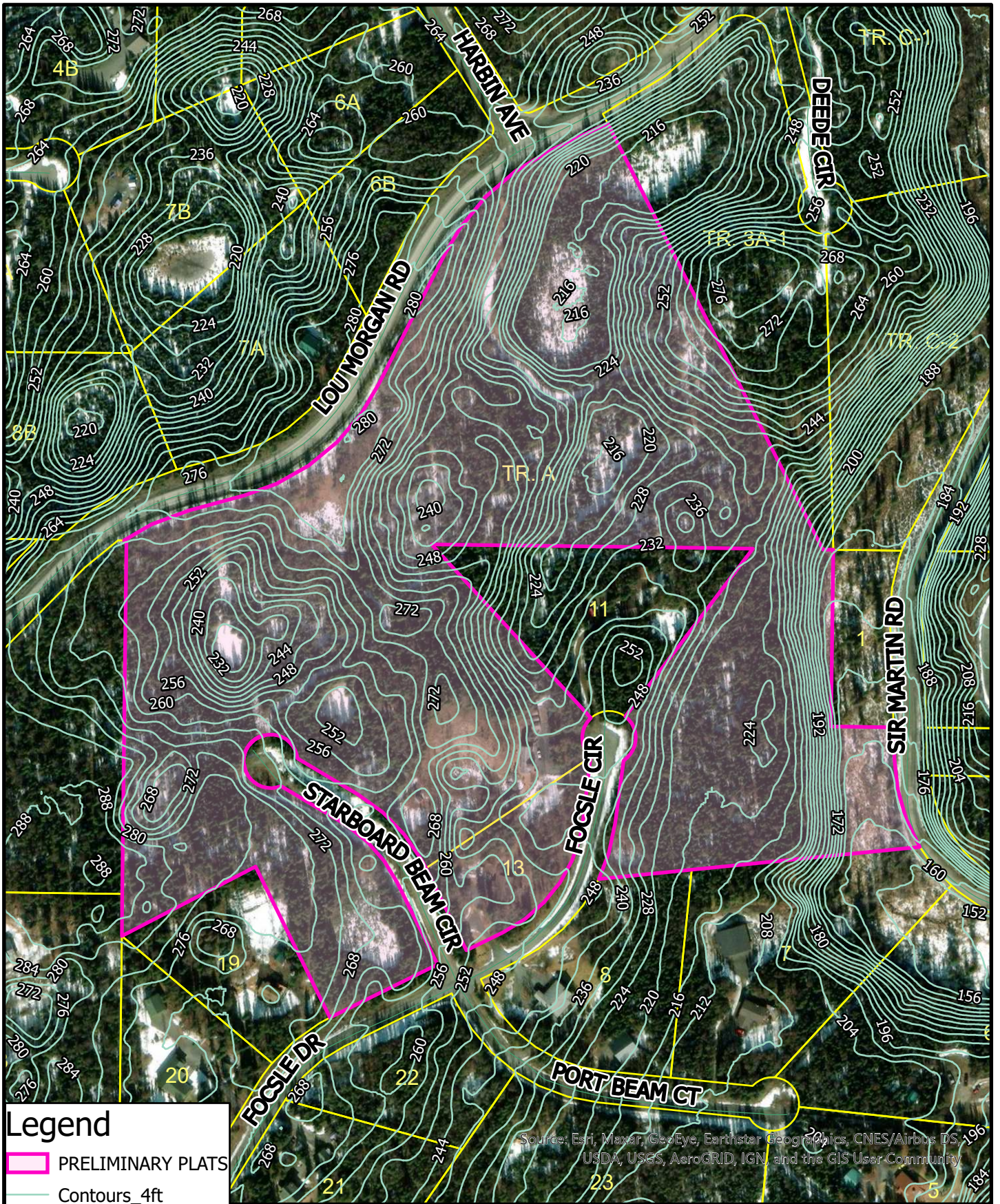
- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT



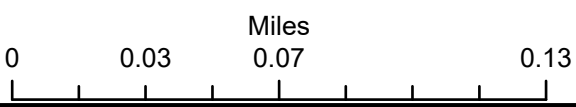
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

- PRELIMINARY PLATS
- Contours 4ft

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.

aerial imagery composite from 2019



Date:
 Scott Huff,
 Platting Manager,
 KPB

Legend

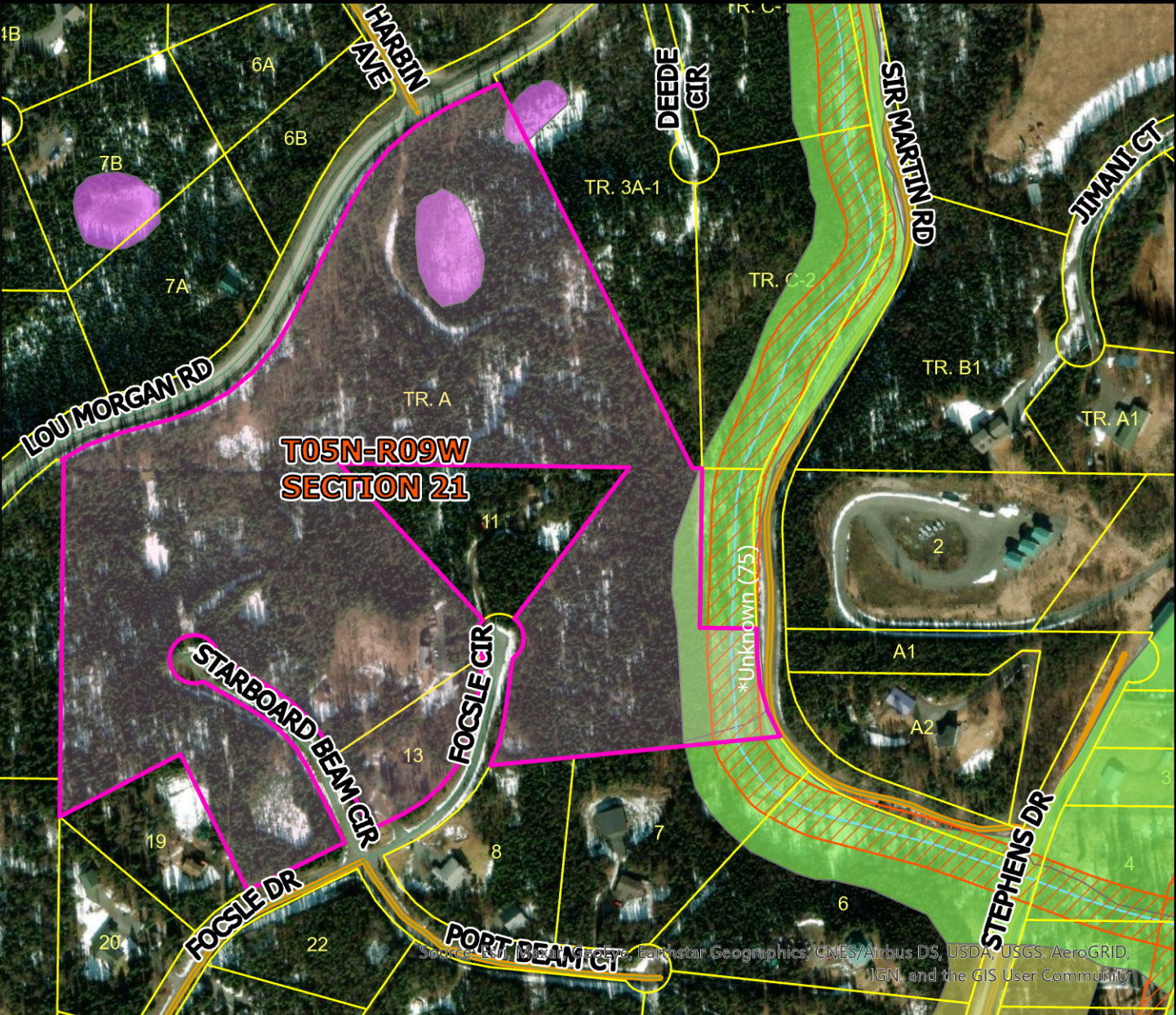
- PRELIMINARY PLATS
- Anadromous Waters Habitat Protection Dist.

WETLANDS Kenai Watershed Forum

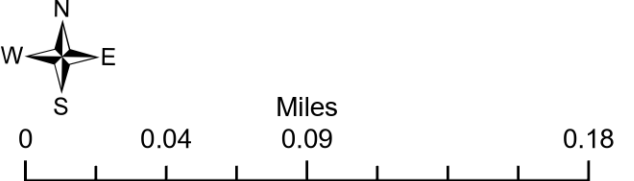
ECOSYSTEM

- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex
- <all other values>

BOROUGH MAINTAINED ROADS

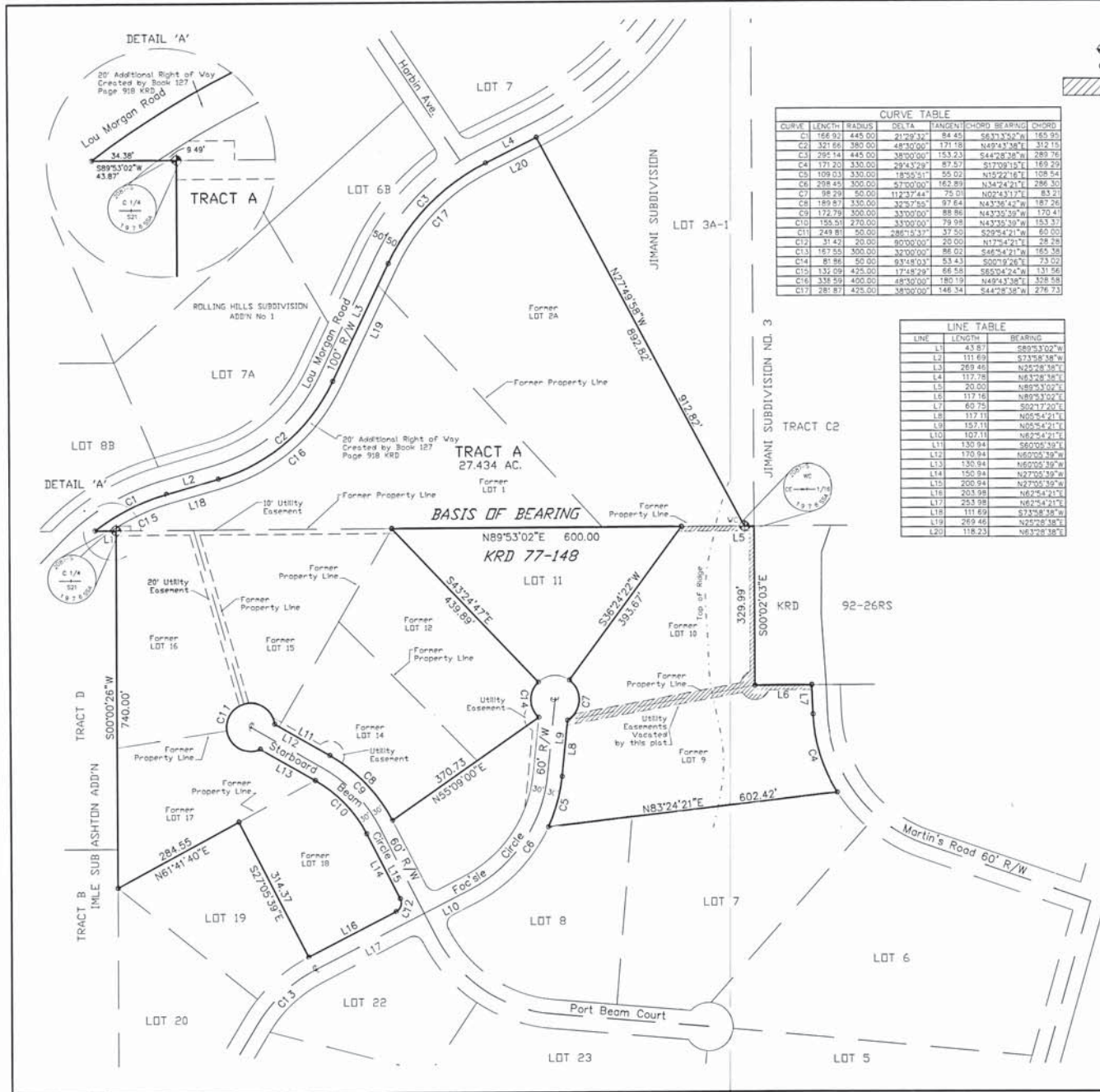


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



AERIAL IMAGERY 2019
 WETLAND MAPPING
 ANADROMOUS WATERS PROTECTION DISTRICT

Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager



LEGEND

- 3 1/4" alum. cap monument of Record
- Rebar of Record
- Utility easements vacated by this plot



CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD BEARING	CHORD
C1	166.92	445.00	21.2932°	84.45	S63°15'52"W	165.95
C2	321.86	380.00	48.5000°	171.18	N49°43'38"E	312.15
C3	295.14	445.00	38.5000°	153.23	S44°28'38"W	289.76
C4	172.20	330.00	29.4328°	87.57	S17°09'15"E	169.29
C5	109.03	330.00	18.5591°	55.02	N15°22'16"E	108.54
C6	298.45	300.00	57.0000°	162.89	N34°24'21"E	286.30
C7	98.29	50.00	112.3744°	26.01	N09°43'17"E	83.21
C8	189.87	330.00	32.5755°	97.64	N43°26'42"W	187.26
C9	172.79	300.00	33.0000°	88.86	N43°35'35"W	170.41
C10	155.51	270.00	33.0000°	79.98	N43°35'35"W	153.37
C11	249.81	50.00	286.1432°	37.50	S26°54'21"W	60.00
C12	31.42	20.00	90.0000°	20.00	N17°54'21"E	28.28
C13	167.55	300.00	32.0000°	86.02	S44°24'21"W	165.38
C14	81.86	50.00	83.4803°	53.43	S00°19'26"E	73.02
C15	132.09	425.00	17.4829°	66.58	S85°04'24"W	131.56
C16	338.59	400.00	48.5000°	180.19	N49°43'38"E	328.58
C17	281.87	425.00	38.5000°	146.34	S44°28'38"W	276.73

LINE TABLE

LINE	LENGTH	BEARING
L1	43.87	S89°33'02"W
L2	111.69	S73°58'38"W
L3	269.46	N25°28'38"E
L4	117.18	N63°28'38"E
L5	20.00	N89°33'02"E
L6	117.16	N89°33'02"E
L7	69.75	S00°17'20"E
L8	117.11	N05°54'21"E
L9	157.11	N05°54'21"E
L10	107.11	N62°54'21"E
L11	130.94	S60°00'49"E
L12	170.94	N60°00'49"W
L13	130.94	N60°00'49"W
L14	150.94	N27°00'49"W
L15	200.94	N27°00'49"W
L16	203.98	N62°54'21"E
L17	253.98	N62°54'21"E
L18	111.69	S73°58'38"W
L19	269.46	N25°28'38"E
L20	118.23	N63°28'38"E

NOTARY'S ACKNOWLEDGMENT
 FOR: Edward H. Krohn
 Lila Ann Krohn
 Subscribed and sworn before me this 14th day of October, 2002.
 My commission expires 12/31/04.
 KATHLEEN COCHRAN
 Notary Public for the State of ALASKA

CERTIFICATE OF OWNERSHIP AND DEDICATION
 We hereby certify that we are the owners of the real property shown and described herein and we hereby adopt this plan of subdivision and by our true consent dedicate all right-of-way and public areas to public use and grant all easements to the use shown.
 Edward H. Krohn, Partner
 Lila Ann Krohn, Partner
 KROHN FAMILY LIMITED PARTNERSHIP
 Lila Ann Krohn, Partner
 KROHN FAMILY LIMITED PARTNERSHIP



WASTEWATER DISPOSAL
 These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

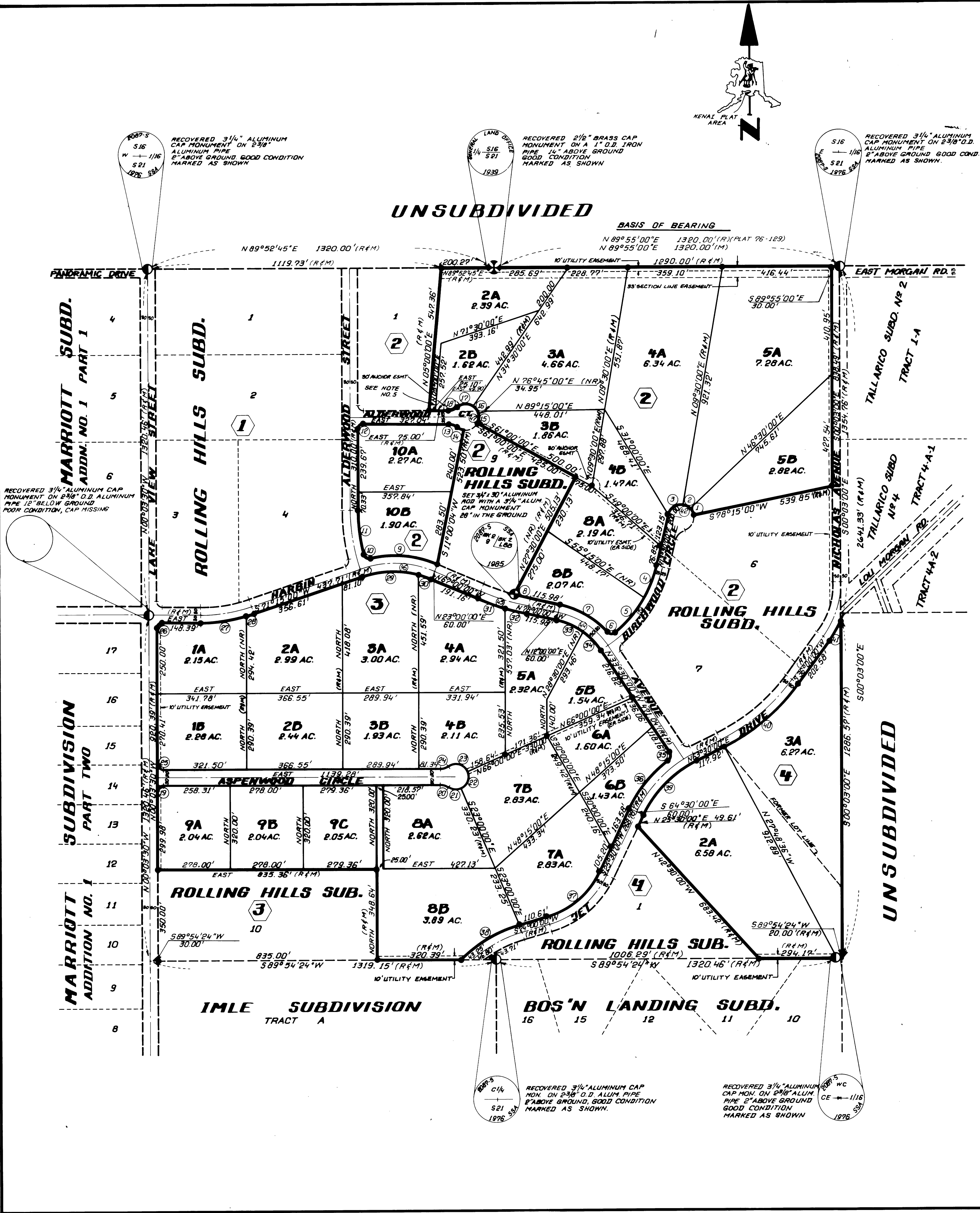


2002-104
 KENAI REC DIST 20
 DATE: 12-3-02
 TIME: 10:57 AM
 RECORDED BY: MCLANE
 ADDRESS: MCLANE

PLAT APPROVAL
 This plot was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of April 22, 2002.
 KENAI PENINSULA BOROUGH by
 [Signature]
 Authorizing Officer

BOS'N LANDING SUBDIVISION KROHN ADDITION
 A Resubdivision of Bos'n Landing Subdivision Part II Lots 9, 19, 12, 13-14 Block Two (KRD 77-148) & Rolling Hills Subdivision Addition Lot 1 Block 4 (KRD 76-129) and Rolling Hills Subdivision Addition No. 1 Amended Lot 2A Block Four (KRD 87-84).
 KROHN FAMILY LIMITED PARTNERSHIP
 P.O. BOX 587
 SOLDOTNA, AK 99669 LOCATION
 28.016 AC. situated in a portion of 60x1/2 Lot 2, SE 1/4 NW 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4, Sec 21, T5N, R9W, S.W. AK. and in the Kenai Peninsula Borough and the Kenai Recording District

DATE: SEPT. 2002	PROJECT NO: 022008
SCALE: 1"=100'	KPB FILE NO: 02-08



LETTER OF APPROVAL BY ALASKA DEPT. OF ENVIRONMENTAL CONSERVATION

THIS SUBDIVISION HAS BEEN REVIEWED IN ACCORDANCE WITH AAC 72.065 AND WAS RECOMMENDED FOR APPROVAL IN A LETTER DATED APRIL 8, 1986 AND SUBJECT TO NOTE 7.

AMENDMENT CERTIFICATION

ALTERATIONS TO 86-110, KENAI RECORDING DISTRICT:
 1. BLOCK NO. 5 CHANGED TO BLOCK NO. 2.
 2. PRIMARY MONUMENT ON HARBIN RD. 2 BK 5, LG CHANGED TO 1/4" RED PLASTIC CAP.
 3. NOTE NO. 5 LOTS 1 & 2, 4 & 5 BLOCK 5 CHANGED TO LOTS 2A & 2B, 4A & 4B BLOCK 2.
 4. NOTE NO. 5 LOT 4 BLOCK 5 CHANGED TO LOT 2A BLOCK 2.
 5. NOTE NO. 5 OMITTED.
 NO OTHER CHANGES WERE MADE ON THIS AMENDED PLAT.

STANLEY E. SEARS, R.L.S. 2087-S DATE

CURVE DATA CHART

NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD
1	31°45'00"	50.00	27.71	14.22	N27°37'30"W	27.35
2	37°00'00"	50.00	32.29	16.73	N62°00'00"W	31.73
3	66°00'00"	50.00	75.05	46.63	S56°30'00"W	68.20
4	15°43'33"	475.00	130.37	65.60	S21°21'46"W	129.36
5	21°22'26"	475.00	177.20	89.64	S39°54'46"W	176.17
6	68°06'55"	20.00	30.76	19.35	N85°20'34"W	27.82
7	36°42'53"	330.00	211.46	109.50	N59°38'33"W	207.86
8	03°45'07"	970.00	63.52	31.77	N76°07'26"W	63.31
9	39°09'09"	430.00	263.82	136.21	N84°34'34"W	259.70
10	87°33'03"	20.00	30.56	19.16	N59°22'37"W	27.67
11	14°36'06"	870.00	170.75	85.84	N45°18'03"W	170.29
12	90°00'00"	20.00	31.42	20.00	N45°18'03"W	28.28
13	41°24'35"	50.00	36.14	18.90	S69°17'43"W	36.36
14	30°24'30"	50.00	26.54	13.59	S63°40'41"E	26.23
15	44°23'55"	50.00	38.74	20.40	N06°48'13"E	37.22
16	40°06'25"	50.00	35.00	18.25	N35°26'47"W	34.29
17	75°54'35"	50.00	66.24	39.00	S66°32'43"W	61.50
18	41°24'35"	50.00	36.14	18.90	S69°17'43"W	36.36
19	90°03'30"	20.00	31.44	20.02	N44°58'15"E	28.30
20	36°52'12"	50.00	32.18	16.67	S71°33'54"E	31.62
21	59°52'11"	50.00	52.25	28.79	S83°03'54"E	49.90
22	91°00'00"	50.00	79.41	50.88	N21°30'00"E	71.33
23	102°52'12"	50.00	89.77	62.71	N75°06'06"W	78.19
24	36°52'12"	50.00	32.18	16.67	S71°33'54"W	31.62
25	89°56'30"	20.00	31.40	19.98	N45°01'45"W	28.27
26	90°03'30"	20.00	31.44	20.02	N44°58'15"E	28.30
27	15°49'56"	630.00	175.92	88.53	N82°40'02"E	175.35
28	02°45'04"	630.00	30.25	15.13	N78°59'32"E	30.25
29	33°30'04"	370.00	216.34	111.36	N89°00'08"E	213.27
30	08°14'45"	370.00	53.27	26.68	S71°07'29"E	53.22
31	06°15'01"	1030.00	112.36	56.24	S70°07'31"E	112.31
32	04°44'59"	1030.00	85.38	42.72	S75°37'31"E	85.36
33	23°26'38"	270.00	110.48	56.02	S66°16'41"E	109.71
34	21°03'22"	270.00	99.22	50.18	S44°01'41"E	98.67
35	86°03'58"	20.00	30.04	18.67	S89°31'59"W	27.30
36	87°03'58"	505.00	238.56	121.55	S39°01'59"W	236.35
37	48°30'00"	320.00	270.88	144.15	S49°45'00"W	262.86
38	29°48'24"	505.00	262.71	134.40	S39°05'40"W	259.76
39	38°00'00"	445.00	295.14	153.23	N44°30'00"E	289.76
40	27°30'00"	780.00	374.37	190.86	N49°45'00"E	370.79
41	13°07'50"	380.00	87.08	43.73	N28°26'05"E	86.83
42	13°45'00"	50.00	155.04	23.25	N89°07'30"W	92.54
43	37°05'59"	475.00	307.57	159.39	S32°12'59"W	306.22
44	44°30'00"	270.00	209.70	110.46	N55°45'00"W	204.47
45	11°00'00"	1030.00	197.75	99.18	S72°00'00"E	197.44
46	41°45'00"	370.00	269.61	141.10	S87°52'30"E	263.68
47	16°24'35"	50.00	139.32	28.61	N51°17'17"W	98.54

NOTES:

- ALL BEARINGS ARE BASED ON THE 1939 DATUM OF THE GENERAL LAND OFFICE FOR THE SECTION LINE COMMON TO SECTIONS 16 AND 21, T 5N, R 9W, SEWARD MERIDIAN, ALASKA.
- RECORD INFORMATION TAKEN FROM PLAT OF ROLLING HILLS SUBDIVISION PLAT # 76-189 KENAI RECORDING DISTRICT.
- THERE SHALL BE A TWENTY FOOT (20') BUILDING SET BACK FROM ALL DEDICATED RIGHT-OF-WAYS EXCEPT FOR LOTS 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K, 5L, 5M, 5N, 5O, 5P, 5Q, 5R, 5S, 5T, 5U, 5V, 5W, 5X, 5Y, 5Z, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 6I, 6J, 6K, 6L, 6M, 6N, 6O, 6P, 6Q, 6R, 6S, 6T, 6U, 6V, 6W, 6X, 6Y, 6Z, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H, 7I, 7J, 7K, 7L, 7M, 7N, 7O, 7P, 7Q, 7R, 7S, 7T, 7U, 7V, 7W, 7X, 7Y, 7Z, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K, 8L, 8M, 8N, 8O, 8P, 8Q, 8R, 8S, 8T, 8U, 8V, 8W, 8X, 8Y, 8Z, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, 9I, 9J, 9K, 9L, 9M, 9N, 9O, 9P, 9Q, 9R, 9S, 9T, 9U, 9V, 9W, 9X, 9Y, 9Z, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J, 10K, 10L, 10M, 10N, 10O, 10P, 10Q, 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z.
- THE PROPOSED USE OF THIS SUBDIVISION IS RESIDENTIAL AND RECREATIONAL.
- STRUCTURES WILL BE PROHIBITED ON LOT 2A BLOCK 2 WITHIN THE 25' NARROW DRIVEWAY STRIP.
- AREAS ARE ROUNDED OFF TO THE NEAREST HUNDREDTH OF AN ACRE.
- ON-SITE WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH THE REQUIREMENTS OF 18 AAC 22 AND 18 AAC 00.
- UTILITY EASEMENTS: 20' BUILDING SET BACK SHALL BE THE UTILITY EASEMENT EXCEPT THAT CLEARING IS RESTRICTED TO FRONT 10' OF SET BACK.

LEGEND:

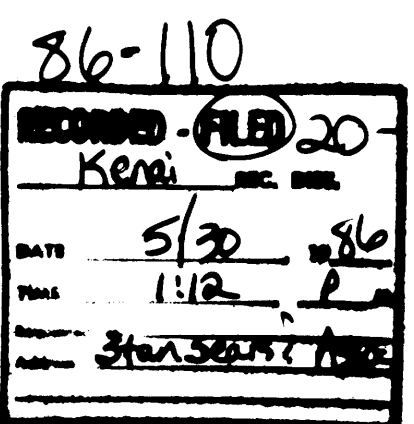
- RECOVERED 1/8" ALUMINUM CAP ON 5/8" REBAR, REPLACE ALUM. CAP W/ 1/4" RED PLASTIC CAP
- RECOVERED 2 1/2" BRASS CAP MONUMENT ON 1" O.D. IRON PIPE
- RECOVERED 3/4" ALUMINUM CAP MON. ON 2 3/8" O.D. ALUM. PIPE
- SET 3" x 3/8" ALUMINUM ROD W/ 3/4" ALUMINUM CAP MONUMENT
- SET 5/8" x 30" REBAR W/ 1/4" RED PLASTIC CAP AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.
- CURVE DATA
- BLOCK NUMBER
- RECORD INFORMATIONAL CALLS
- MEASURED INFORMATIONAL CALLS
- NON-RADIAL

TYPICAL 1/4" PLASTIC CAP MONUMENT

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND DEDICATE ALL RIGHT-OF-WAYS AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENT TO THE USE SHOWN.

Gene Effler, James Harrower, J. Anthony Oney
 GENE EFFLER, JAMES HARROWER, J. ANTHONY ONEY
 REGISTERED LAND SURVEYORS
 1000 W. NO. LIGHTS BLVD. SUITE 211 ANCHORAGE, AK 99503



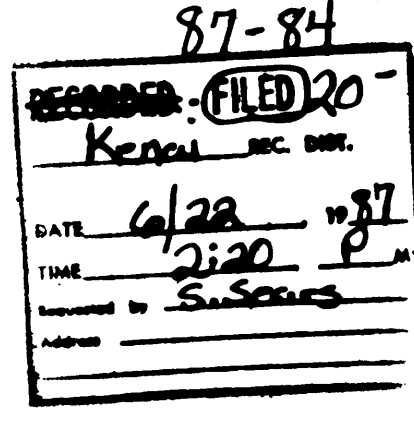
NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 25th DAY OF Sept. 1985 FOR GENE EFFLER
 Notary Public: ALICE L. HILL SEARS



NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 22nd DAY OF Oct. 1986 FOR JAMES HARROWER
 Notary Public: JAMES A. YOUNG



NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 23rd DAY OF Oct. 1985 FOR J. ANTHONY ONEY
 Notary Public: JAMES A. YOUNG



PLAT APPROVAL

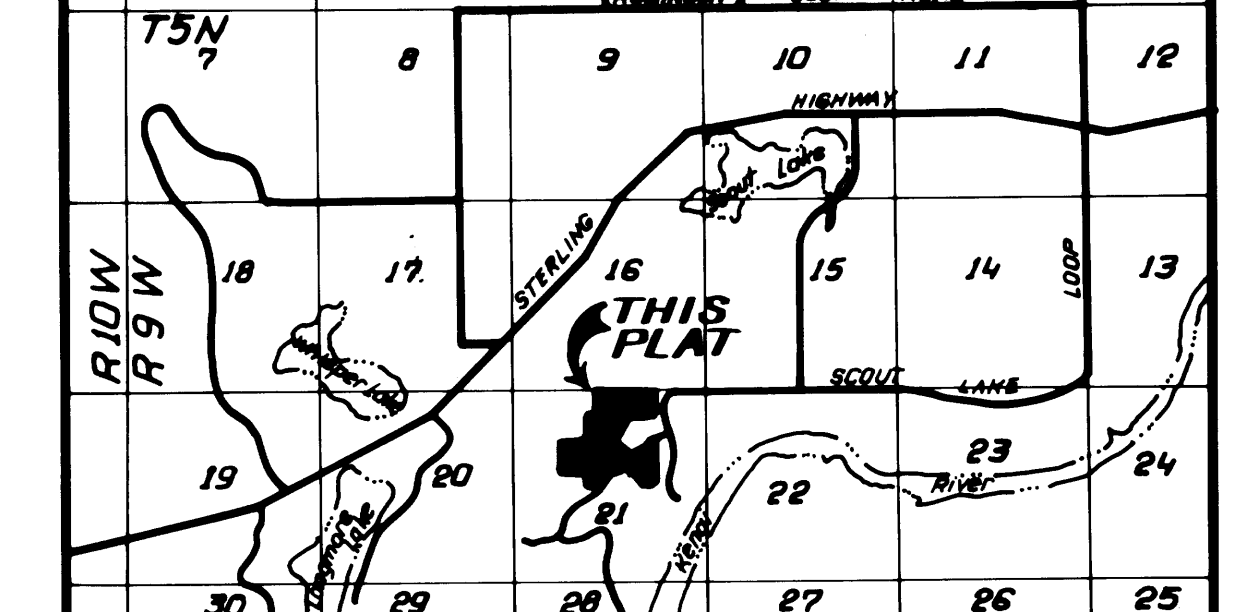
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF June 25, 1984.

SURVEYOR'S CERTIFICATE

I, STANLEY E. SEARS, CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HAVE COMPLETED THE SURVEY SHOWN HEREON. I BELIEVE THAT THE DIMENSIONS, THE CORNERS, AND THE MONUMENTS SHOWN HEREON HAVE BEEN ESTABLISHED OR LOCATED TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.
 Stanley E. Sears, R.L.S. 2087-S



VICINITY MAP



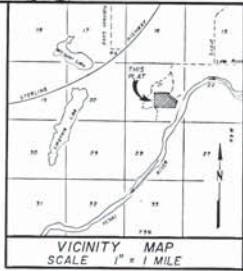
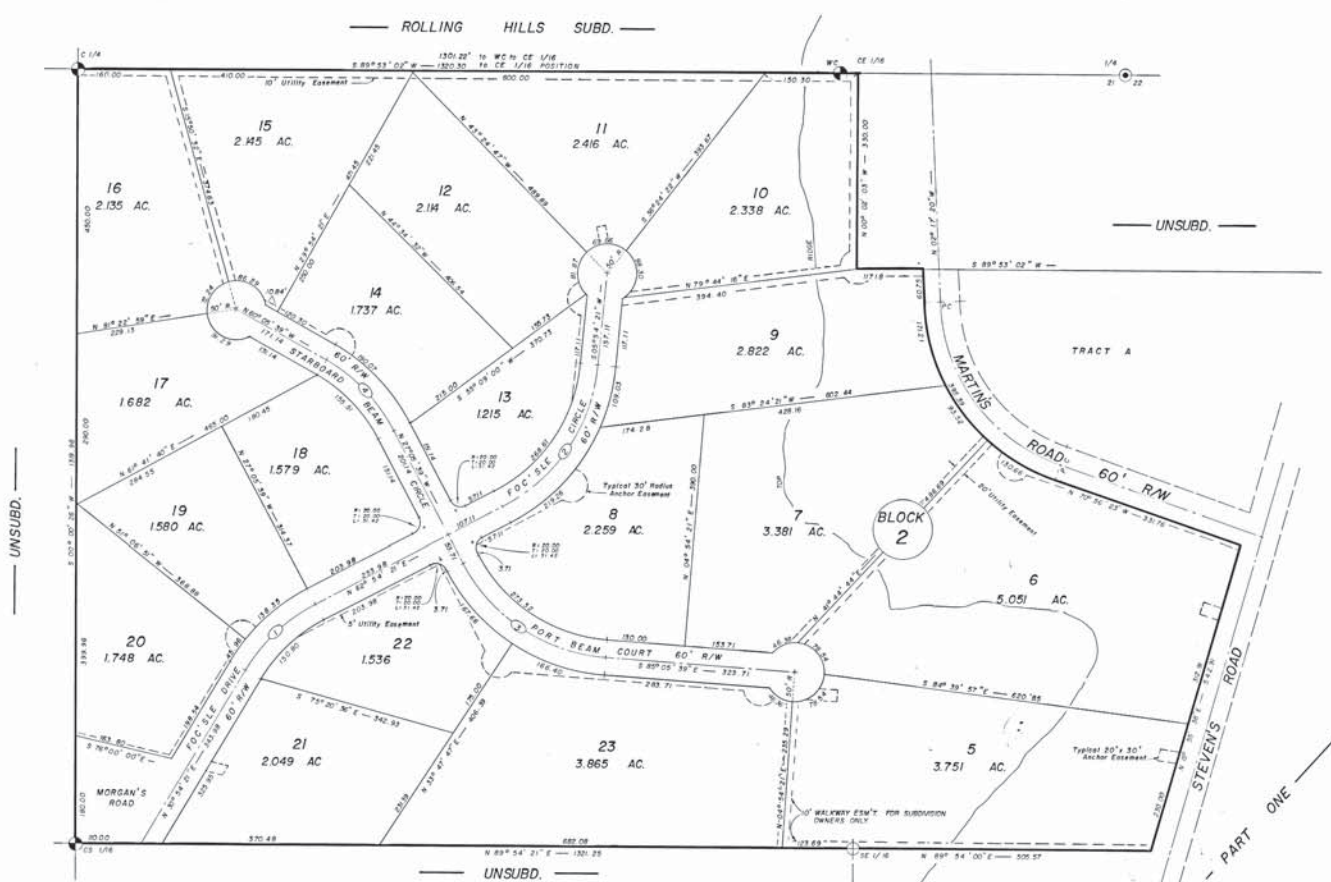
PLAT OF ROLLING HILLS SUBDIVISION ADDITION NO. 1

A SUBDIVISION OF ROLLING HILLS SUBDIVISION LOTS 2, 3, 4, 5, 8 & 10 BLOCK 2, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 BLOCK 3 AND LOTS 2, 3 BLOCK 4; LOCATED WITHIN E 1/2 NW 1/4 & W 1/2 NE 1/4 SEC. 21 T5N, R9W, SEWARD MERIDIAN ALASKA CONTAINING 96.45 ACRES MORE OR LESS

STAN SEARS AND ASSOCIATES REGISTERED LAND SURVEYORS

POST OFFICE BOX 283 EAGLE RIVER, ALASKA 99577
 SCALE: 1" = 200'
 DATE: 06-10-85
 DRAWN: I.E.G.
 CHECKED: S.E.S.
 FILE: LHO-6435 KENAI 2
 PREPARED FOR: JAMES HARROWER, REGISTERED LAND SURVEYOR, ANCHORAGE AK 99515

CURVE DATA				
CURVE	DELTA	RAD.	ARC	TAN
①	34° 05' 00"	300.00	167.55	86.02
②	54° 05' 00"	300.00	288.43	167.89
③	24° 05' 00"	300.00	133.69	66.29
④	34° 05' 00"	300.00	172.79	86.66



LEGEND AND NOTES

- Found official survey at mon (2087-5)
- Found official survey at mon (3932-5)
- Found G.L.O. B.C. monument
- Found 1/2" X 2 1/2" steel rebar
- Set 1/2" X 2 1/2" steel rebar at all lot corners.

All bearings refer to the south boundary of section 21 as being N 89° 55' 00" E datum of record Bos'n Landing - Part One.

All lots are subject to a 20' bulking setback along all dedicated R/W's.

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

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.

George H. Bradford
George H. Bradford Box 468 Soldotna, Ak. 99669

Michael P. Malone
MICHAEL P. MALONE
NOTARY PUBLIC ALASKA
My Commission Expires 9-25-85

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn before me this 21 day of Sept, 1977.

My commission expires 9-25

Michael P. Malone
Notary Public for Alaska

PLAT APPROVAL

This plat having been approved by the Kenai Peninsula Borough Planning Commission as recorded in the official minutes of the meeting of September 13, 1977, 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: *John A. Waring*

77-148
RECORDED - FILED
DATE 9-22-77
FILE 2108 - A
BY *George H. Bradford*

BOS'N LANDING SUBDIVISION - PART TWO

George H. Bradford, et al - owners
Box 468, Soldotna, Ak. 99669

DESCRIPTION

49.640 ACRES SITUATED IN A PORTION OF GOV'T LOT 2, NW 1/4 SE 1/4 SEC 21, T5N, R9W, S4 AK AND IN THE KENAI PENINSULA BOROUGH, Surveyed by: Malone & Associates, P.L.S. Soldotna, Ak

DATE August 16, 1977	SCALE 1" = 100'	BK. NO. 77-2, 77-19A
-------------------------	--------------------	-------------------------

FOUND G.L.O. BRASS CAP MONUMENT ON A 2" IRON PIPE 24" ABOVE THE GROUND SURFACE. FROM WHICH

A SPRUCE 4" IN DIAMETER BEARS N 4° 00' E A DISTANCE OF 7.2'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

A SPRUCE 4" IN DIAMETER BEARS S 51° 00' E A DISTANCE OF 47.1'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

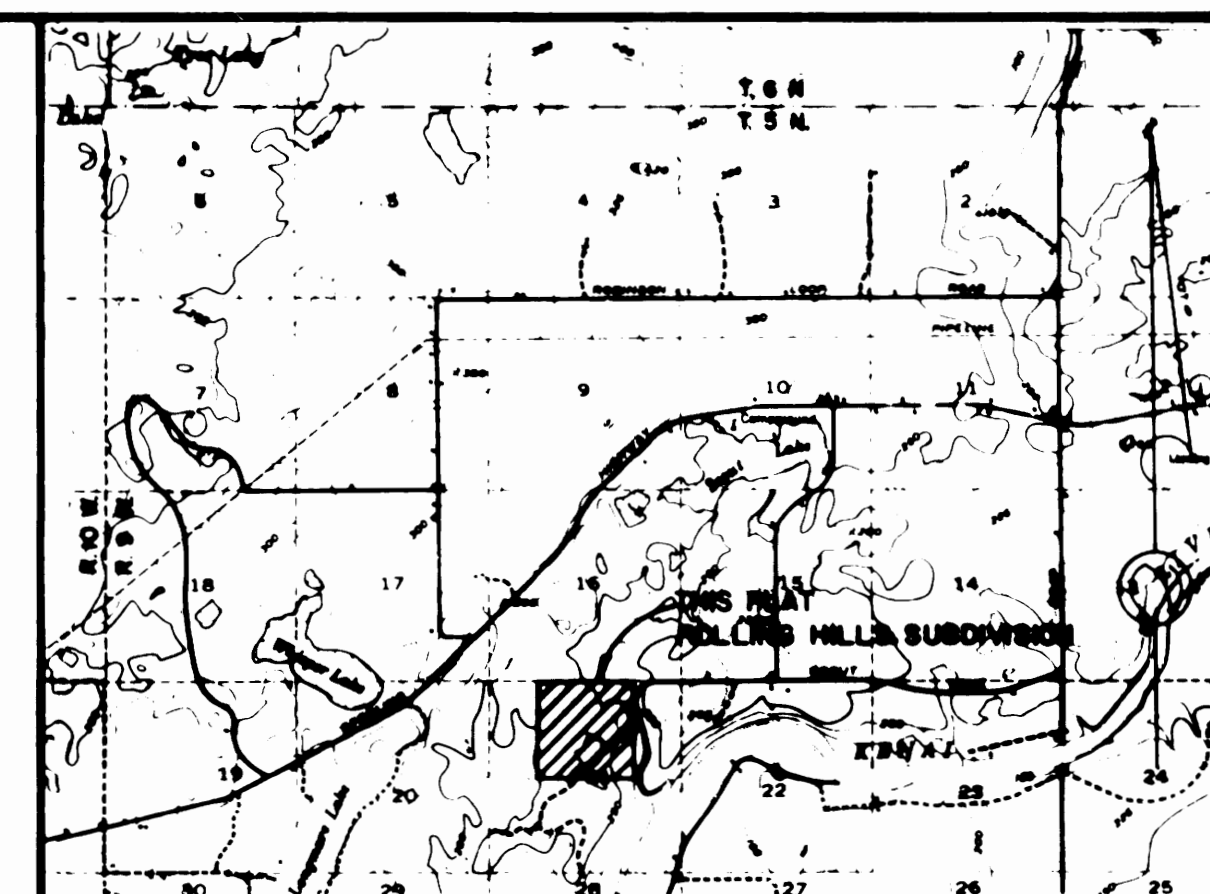
A SPRUCE 5" IN DIAMETER BEARS N 78° 58' W A DISTANCE OF 59.5'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

FOUND G.L.O. BRASS CAP MONUMENT 12" ABOVE GROUND SURFACE ON A 2" PIPE FROM WHICH

A SPRUCE 4" IN DIAMETER BEARS N 71° 16' E A DISTANCE OF 34.9'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

A SPRUCE 4" IN DIAMETER BEARS S 65° 58' E A DISTANCE OF 12.8'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

A SPRUCE 4" IN DIAMETER BEARS N 55° 37' W A DISTANCE OF 28.8'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".



BASE: KENAI (C-3) QUADRANGLE SCALE: 1" = 1 MILE

VICINITY MAP

- NOTES**
- ALL BEARINGS ARE BASED ON THE 1939 DATUM OF THE GENERAL LAND OFFICE FOR THE SECTION LINE COMMON TO SECTIONS 16 AND 21, T5N, R9W, S.W. ALASKA.
 - THERE SHALL BE A TWENTY FOOT BUILDING SET BACK FROM ALL FRONT LOT LINES.
 - THE PROPOSED USE OF THIS SUBDIVISION IS RESIDENTIAL AND RECREATIONAL.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision and dedicate all streets, alleys, walks, parks, utility easements and other open spaces to public use.

Gene Effler, James Narrower, Anthony Oney
 GENE EFFLER JAMES NARROWER ANTHONY ONEY
 4300 Iowa Drive Star Route A 7146 Terry Place
 Anchorage, Alaska P.O. Box 809 Anchorage, Alaska
 99503 Anchorage, Alaska 99502

NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn before me this 6 day of July, 1976.

Monica D. Davis My Comm. Expires
 Notary for Alaska My Commission Expires

PLAT APPROVAL

Plat approved by the commission this 22 day of March, 1976.

Planning Director

CERTIFICATE OF SURVEY

I, the undersigned registered land surveyor, hereby certify that this survey has been completed by me or under my direct supervision and that the corners and monuments have been located and established and that dimensions shown hereon are true and correct.

Date 1/13/76 Stanley E. Sears
 Registered Land Surveyor
 2087 - S

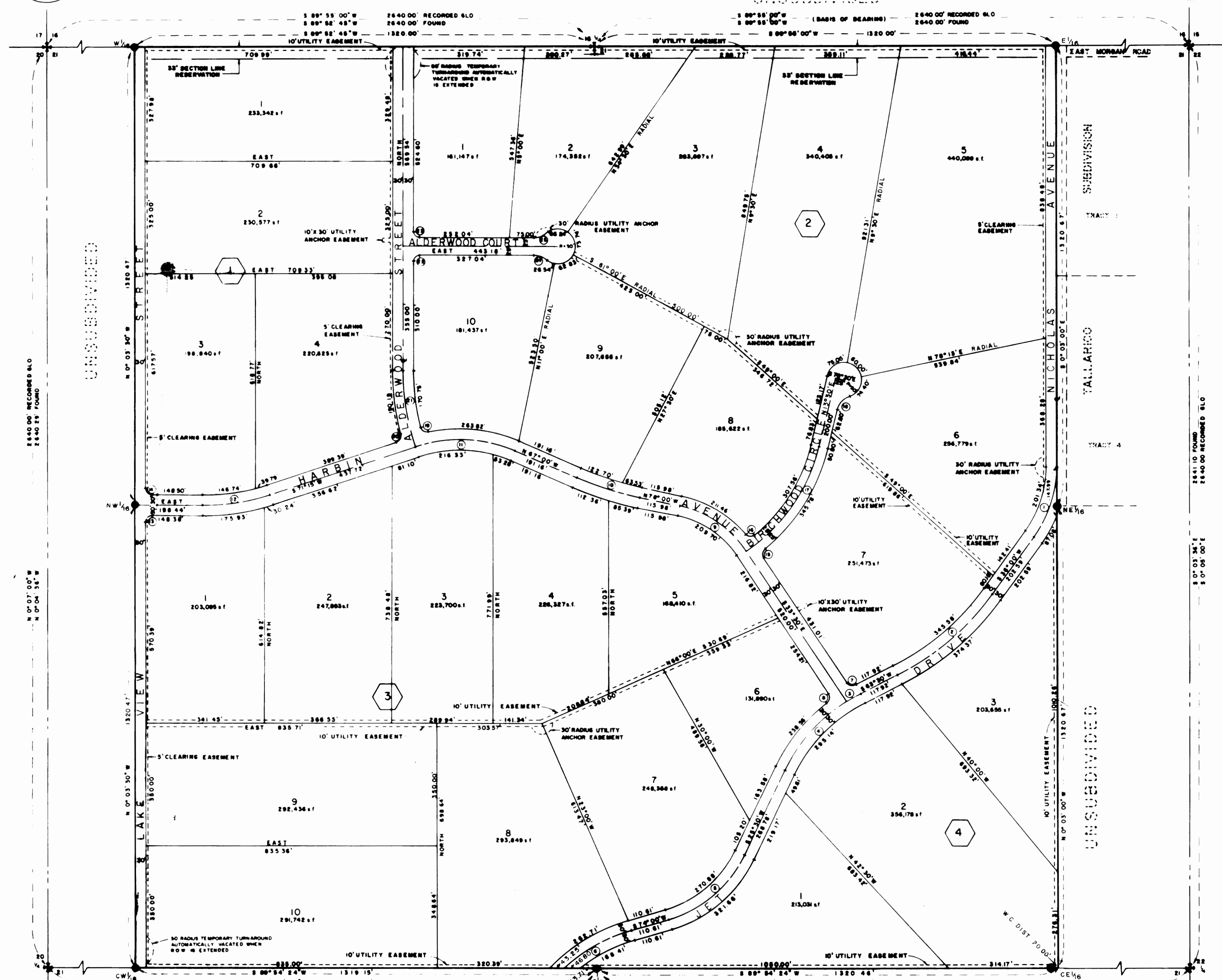
ROLLING HILLS SUBDIVISION
 A SUBDIVISION OF THE
 E1/2 NW1/4 & W1/2 NE1/4, SECTION 21, T5N, R9W
 SEWARD MERIDIAN, ALASKA

STAN SEARS AND ASSOCIATES
 REGISTERED LAND SURVEYORS
 6924 E. 6th AVENUE
 ANCHORAGE, ALASKA 99504

DATE MAY 1, 1976	SCALE 1" = 200'	GRID STERLING	DRAWN BY B. THOMAS	WORK ORDER 76 - 2
SHEET 1 OF 1			CHECKED BY STAN SEARS	FIELD BOOK 27 8 29 A

T5N R9W
S17 S16
S20 S21
1939

T5N R9W
S16 S15
S21 S22
1939



CURVE DATA

NO.	RADIUS	DELTA	TANGENT	CHORD	LENGTH
1	350.00'	36°03'00"	113.89'	216.60'	220.22'
2	750.00'	27°30'00"	183.52'	356.53'	359.97'
3	475.00'	5°18'48"	22.04'	44.03'	44.05'
4	475.00'	38°00'00"	163.56'	309.29'	315.03'
5	350.00'	48°30'00"	157.66'	287.50'	296.27'
6	475.00'	26°09'42"	110.37'	215.01'	216.89'
7	20.00'	83°00'00"	17.69'	26.50'	28.97'
8	20.00'	86°03'58"	18.67'	27.30'	30.04'
9	300.00'	44°30'00"	122.73'	227.19'	233.00'
10	1000.00'	11°00'00"	96.29'	191.69'	191.99'
11	400.00'	41°45'00"	152.55'	285.06'	291.47'
12	600.00'	18°45'00"	99.06'	195.47'	196.35'
13	20.00'	90°03'30"	20.02'	28.30'	31.44'
14	20.00'	89°56'30"	19.98'	28.27'	31.40'
15	20.00'	84°44'10"	18.24'	26.96'	29.58'
16	20.00'	88°06'55"	19.35'	27.82'	30.76'
17	500.00'	43°00'00"	196.96'	366.50'	375.25'
18	50.00'	60°00'00"	28.87'	50.00'	52.36'
19	20.00'	87°33'06"	19.16'	27.67'	30.56'
20	20.00'	86°10'38"	18.71'	27.33'	30.08'
21	700.00'	18°45'00"	115.57'	228.05'	229.07'
22	20.00'	90°00'00"	20.00'	28.28'	31.42'
23	20.00'	90°00'00"	20.00'	28.28'	31.42'
24	50.00'	41°24'35"	18.89'	35.36'	36.14'
25	50.00'	41°24'35"	18.89'	35.36'	36.14'

LEGEND

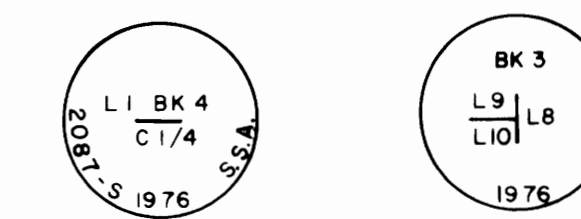
FOUND 1939 G.L.O. BRASS CAP MONUMENT

SET A-1 BERNSTEIN ALUMINUM FEDERAL MONUMENT

SET 5/8 X 30" REBAR ROD WITH SURVEY CAP AT ALL LOT CORNERS

CURVE NO. ① SEE CURVE DATA

TYPICAL IDENTIFIABLE MONUMENT CAP



A-1 BERNSTEIN ALUMINUM FEDERAL MONUMENT CAP SURV CAP

FOUND G.L.O. BRASS CAP MONUMENT 12" ABOVE GROUND SURFACE ON A 1" IRON PIPE. FROM WHICH

A SPRUCE 4" IN DIAMETER BEARS N 40° 40' E A DISTANCE OF 43.2'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

A G.L.O. BRASS CAP (FND.) ON A 1" PIPE (HEADER CORNER) BEARS S 6° 02' W A DISTANCE OF 9.50'.

A SPRUCE 4" IN DIAMETER BEARS N 32° 08' W A DISTANCE OF 38.1'. TREE IS DOUBLE BLAZED AND SCRIBED "R M".

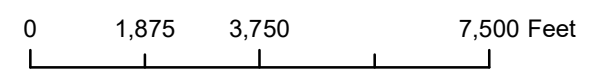
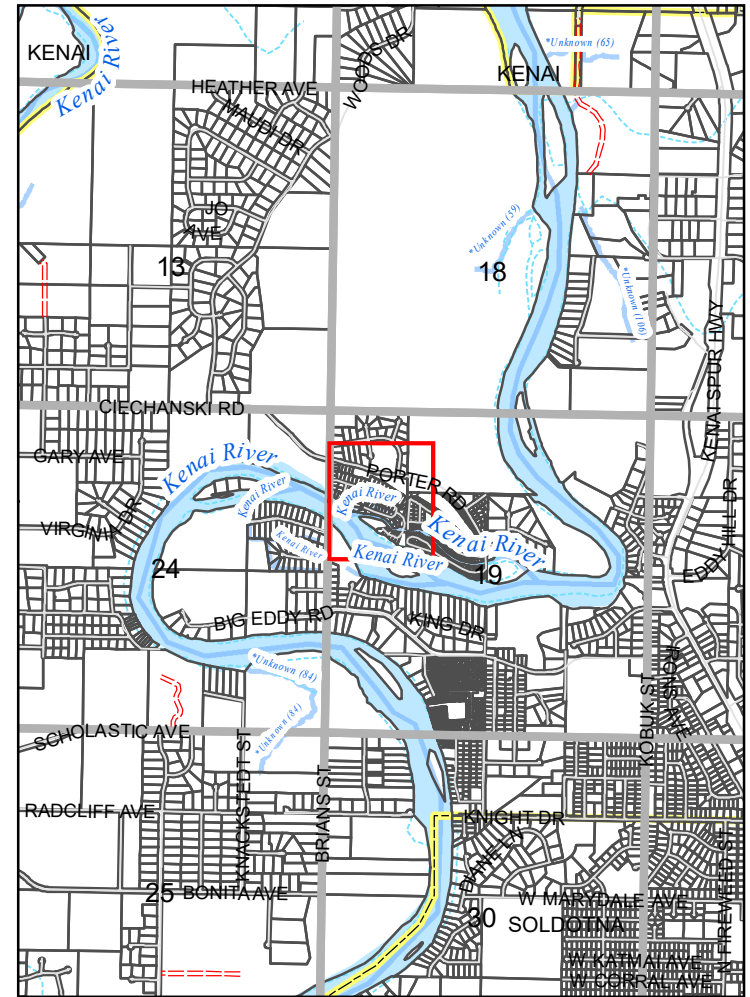
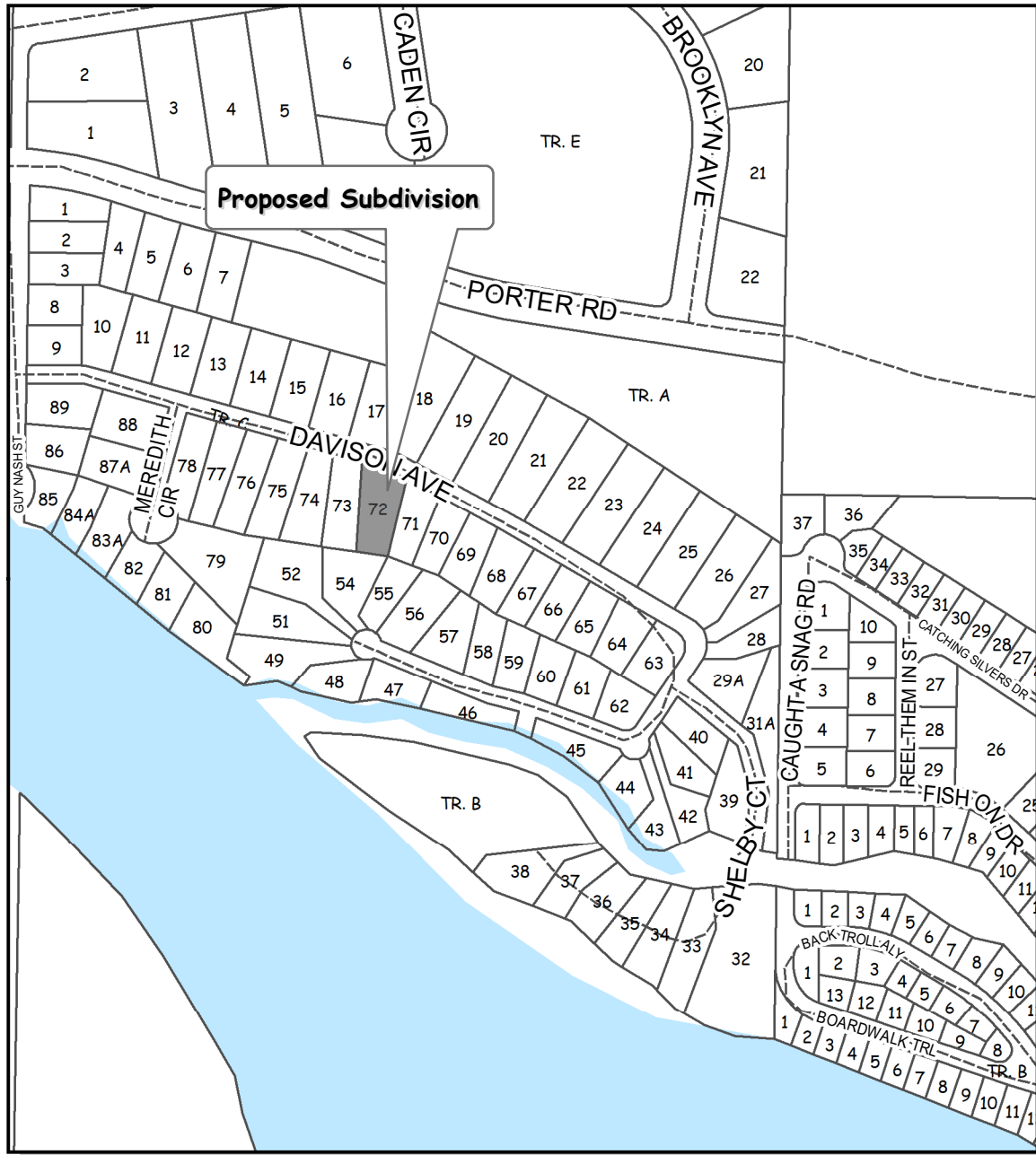
FOUND G.L.O. BRASS CAP MONUMENT ON A 1" IRON PIPE. THE PIPE IS BROKEN 8" BELOW THE CAP. THE G.L.O. PIPE AND BRASS CAP ARE INSIDE A 2" IRON PIPE. BRASS CAP IS FLUSH WITH GROUND SURFACE. FROM WHICH

A NAIL (SET) EMBEDDED 24" ABOVE GROUND ON THE NORTH SIDE OF POWER POLE RD. 672220 BEARS S 27° 38' E A DISTANCE OF 113.72'.

A DEAD SPRUCE (ORG. B.T.) 6" IN DIAMETER BEARS N 71° 33' E A DISTANCE OF 21.80'. TREE IS BLAZED AND SCRIBED 1/4 S22 BT WITH B.L.M. TAG.

A NAIL (SET) EMBEDDED 38" ABOVE THE ROOT CROWN ON THE WEST SIDE OF A 3" SPRUCE BEARS S 27° 54' E A DISTANCE OF 36.85'.

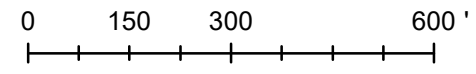
KN 76-129



KPB 2021-061
S19 T05N R10W
KALIFORNISKY



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.



Date: 5/2/2021
 JHindman, KPB 2021-061

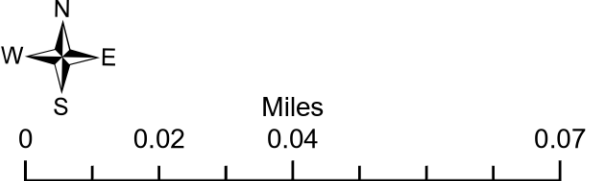


Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

PRELIMINARY PLATS

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.



AERIAL IMAGERY 2018

Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager

GLO TSN
R11W R10W
S13 | S18
S24 | S19
1921

FOUND 2-1/2" GLO BRASS CAP

1279.81'

N90°00'00"W 586.82'

1367.04'

R11W R10W

87.23'

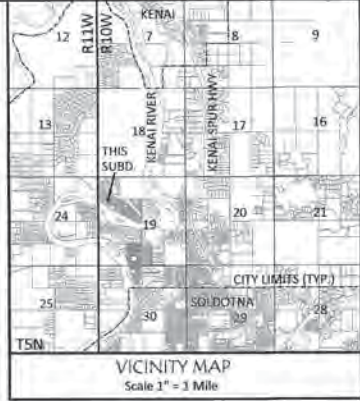
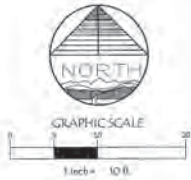
"BASIS OF BEARINGS"
N 50°00'00"E

SECTION 24 SECTION 19

FOUND 3-1/4" ALMON WCMC 268-S 1984



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
 - PAE PEDESTRIAN ACCESS EASEMENT
 - ▭ AREA SUBJECT TO INUNDATION
 - CONTOUR INTERVAL = 4'



CERTIFICATE OF OWNERSHIP AND DEDICATION

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

ROBERT SCHALKE
14728 180TH AVE SE, RENTON, WA 98059

NOTARY'S ACKNOWLEDGEMENT

FOR: ROBERT SCHALKE
ACKNOWLEDGED BEFORE ME THIS

____ DAY OF _____, 2021

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE STATE OF _____

- NOTES**
1. FLOOD HAZARD NOTICE: SOME OR ALL OF THE PROPERTY SHOWN ON THIS PLAT HAS BEEN DESIGNATED BY FEMA AS A FLOOD HAZARD AREA DISTRICT AS OF THE DATE THIS PLAT IS RECORDED WITH THE DISTRICT RECORDER'S OFFICE. SUBDIVISION IS LOCATED WITHIN THE FLOOD ZONE A PER FEMA MAP PANEL NUMBER 2045C. PRIOR TO DEVELOPMENT, THE KENAI PENINSULA BOROUGH FLOODPLAIN ADMINISTRATOR SHOULD BE CONTACTED FOR CURRENT INFORMATION AND REGULATIONS. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.06 OF THE KENAI PENINSULA BOROUGH CODE.
 2. FLOODWAY NOTICE: PORTIONS OF THIS SUBDIVISION ARE WITHIN THE FLOODWAY. PURSUANT TO KPB CHAPTER 21.06, DEVELOPMENT (INCLUDING FILL) IN THE FLOODWAY IS PROHIBITED UNLESS CERTIFICATION BY A PROFESSIONAL ENGINEER OR ARCHITECT IS PROVIDED DEMONSTRATING THAT ENCROACHMENTS SHALL NOT RESULT IN ANY INCREASES IN FLOOD LEVELS DURING THE OCCURRENCE OF THE BASE FLOOD DISCHARGE.
 3. ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION IF APPLICABLE.
 4. THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
 - 4.1. AN ELECTRIC EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION ON JULY 7, 1957 IN BOOK 3, PAGE 127, KENAI RECORDING DISTRICT, LOCATION NOT DEFINED.
 - 4.2. RIVER QUEST SUBDIVISION EASEMENTS:
 - 4.2.1. RECORDED SEPTEMBER 30, 2004 IN DOCUMENT No. 2004-009915-0 KRD
 - 4.2.2. AMENDED DECEMBER 17, 2007 IN DOCUMENT No. 2007-013142-0 KRD
 - 4.3. COVENANTS, CONDITIONS AND RESTRICTIONS:
 - 4.3.1. RECORDED AUGUST 20, 2004 IN DOCUMENT No. 2004-008260-0 KRD
 - 4.3.2. AMENDED OCTOBER 19, 2004 IN DOCUMENT No. 2004-010604-0 KRD
 - 4.3.3. AMENDED JULY 25, 2007 IN DOCUMENT No. 2007-007922-0 KRD
 - 4.3.4. AMENDED DECEMBER 17, 2007 IN DOCUMENT No. 2007-013142-0 KRD
 - 4.3.5. AMENDED MAY 20, 2008 IN DOCUMENT No. 2008-005250-0 KRD
 - 4.3.6. RE-RECORDED MAY 22, 2008 IN DOCUMENT No. 2008-005465-0 KRD
 5. EXCEPTION GRANTED TO LOT DIMENSIONS (KPB 20.30.190A) AND LOT SIZE (KPB 20.30.200A) BY THE PLANNING COMMISSION AT THE _____, 2021 MEETING.

WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2021.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE CROSSWHITE ESTATE, IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF THE CROSSWHITE ESTATE, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

LINDA IPSEN, EXECUTOR FOR THE CROSSWHITE ESTATE
7320 AUGUSTINE DR, ANCHORAGE, AK 99504

NOTARY'S ACKNOWLEDGEMENT

FOR: LINDA IPSEN
ACKNOWLEDGED BEFORE ME THIS

____ DAY OF _____, 2021

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE STATE OF _____

KPB File 2021-061



Plat #	
Rec. Dat	
Date	20
Time	AM

RIVER QUEST 2021 REPLAT

A RESUBDIVISION OF LOT 72, RIVER QUEST PHASE 1
AMENDED (KN2004-111)

ROBERT SCHALKE, OWNER
14728 180TH AVE SE
RENTON, WA 98059

CROSSWHITE ESTATE, OWNER
7320 AUGUSTINE DR
ANCHORAGE, AK 99504

0.215 AC. M/L SITUATED IN THE NW1/4 OF SECTION 19, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, AND THE KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK 99589
VOICE: (907) 285-6218
FAX: (907) 283-3065
WWW.MCLANECG.COM

KPB FILE No. 2021-XXX

PROJECT No. 212009

SCALE: 1" = 10'

DATE: MAR. 2021

BOOK No.: XXX

DRAWN BY: JAM

ITEM 6 – RIVER QUEST 2021 REPLAT

KPB File No.	2021- 061
Plat Committee Meeting:	May 24, 2021
Applicant / Owner:	Robert Schalke Crosswhite Estate Gregory and Laraine Willkie
Surveyor:	McLane Consulting Inc.
General Location:	Soldotna Area, (Kalifornsky Beach Road to Ciechanski Rd. to Porter Rd. within the Kalifornsky APC

Parent Parcel No.:	055-033-70
Legal Description:	Lot 72, River Quest Phase 1 Amended, KN 2004-111
Assessing Use:	Residential Dwellings 2-4
Zoning:	Unrestricted
Water / Wastewater	Community water and wastewater system

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 9,350 sq. ft. lot into two lots so that the two existing buildings are on separate lots. Proposed Lot 72A will be 4,704 sq. ft. and Lot 72B will be 4,617 sq. ft. Multiple owners own the lot and this subdivision will divide the improvements. An exception is required for 20.30.200 Lots - minimum lot size.

Legal Access (existing and proposed):

The existing access to the subdivision is on Davison Avenue which is a 30 foot private right of way within Tract C. Tract C is owned by Denco Inc. doing business as River Quest. Lot 72 does not front on a dedicated right of way that is open to the public. An exception is required for 20.30.210 Lots – Access to street.

A 2.5 foot pedestrian access easement affects both sides of the subdivision. A 5 foot pedestrian access easement affects the upland area adjoining the ordinary high water mark of the canal.

This subdivision is not within a closed block that complies with KPB code. The subdivision is affected by the Kenai River, sloughs, and existing development. **Staff recommends that the plat committee concur that this subdivision cannot dedicate a right of way to help with block length and an exception is not required.**

KPB Roads Dept. comments	Within KPB jurisdiction, no comments
SOA DOT comments	No comments

Site Investigation:

This subdivision is generally flat. A canal that provides water access to the Kenai River is located on the south boundary of the subdivision. The canal and the area around the canal is classified as ‘disturbed’ per the Kenai Watershed Forum wetland mapping. This lot wet area is depicted on the plat.

The property is affected by a 50 foot building setback from the canal per document recorded under serial no. 2004-009915-0 KRD.

A 50 foot Anadromous Waters Habitat Protection District affects this subdivision as the Kenai River and the canal are classified as anadromous waters.

This subdivision is located within a flood hazard area; zone A4 per FEMA map panel 020012-2045C. A floodway

does not affect this subdivision.

The correct notes for the flood hazard area and the anadromous waters habitat protection district are on the plat.

Floodplain Hazard Review	Floodplain Status: IS in flood hazard area Comments: Flood Zone: A4 Map Panel: 020012-2045C In Floodway: False
Anadromous Waters Habitat Protection District Review	Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD
State Parks Review	Reviewer: Russell, Pam Comments: No Comments

Staff Analysis

This subdivision is located with River Quest Subdivision, which is a planned community located on the Kenai River. After a remand of appeal by the KPB Board of Adjustment, the Planning Commission approved the plat in 2004. The subdivision encompasses an area that was grandfathered with seasonal cabins/trailers which did not comply with development standards under KPB Chapter 21. A conditional use permit was obtained with the parent plat and new development must comply with KPB Chapter 21.

Per the Declaration recorded under KN 2004-008260-0, River Quest Subdivision is subject to a Common Interest Ownership Community as allowed under AS 34.08. The Common Interest Ownership Community is managed by River Quest Subdivision Lot Owners Association, Inc.

Typically a Common Interest Ownership Community consists of individually owned units in addition to shared facilities and common areas. In this case, individuals own the units, which coincide with the lots depicted on parent subdivision plat, and they share ownership of common areas, which include Tract C (access road) and Tract D (community septic system). The declaration states that the development rights may be amended by a 100% vote, or 100% approval, of the owners. **Staff recommends documentation be provided showing that the River Quest Subdivision Lot Owners Association, Inc. has meet and agrees to the amendment of the development rights of the Common Interest Community.**

Canals and boat launches within the subdivision provide water access to the Kenai River. The lots within the subdivision are seasonal lots and used in the summer season as staff believes the water / wastewater system is turned off and the gate is closed during the winter.

A community water and wastewater system serve the development. **Staff recommends documentation be provided to show that both lots are served by the community water and wastewater system.**

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

Kalifornsky Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

The plat depicts an improvement located in the northwest corner of the subdivision. A street view image appears to show this improvement is a shed. The shed encroaches within the 2.5 foot pedestrian access easement. **Staff recommends that documentation is provided to show that the encroachment is remedied before the final plat is approved.**

It does not appear that this subdivision is affected by a local option zoning district or a material site under KPB review.

Utility Easements

The subdivision is served by HEA and ENSTAR utility providers. The record easements granted to HEA have been noted on the plat.

Staff recommends a plat note be added for the easement to ENSTAR per Bk. 595 Pg 181 KRD.

Staff recommendation: The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Grant utility easements requested by the utility providers.**

Utility provider review:

HEA	Reviewed / no comments
ENSTAR	
ACS	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	
Assessing – Adeena Wilcox	No comments.
City Advisory Comments	
Advisory Planning Commission	

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS
CORRECTIONS / EDITS

KPB 20.25.070 - Form and contents required.

- A. Within the Title Block
 - 1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
 - 2. Legal description, location, date, and total area in acres of the proposed subdivision;
 - 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: *Update the ownership information within the title block.*

- G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *Depict and label all parcels within 100 feet of the subdivision boundary. Provide a label for Tract C and note that Davison Avenue as a 30' private right of way.*

- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;
Staff recommendation: *Prior to final plat approval, provide documentation showing how the encroachment of the shed within the 2.5 foot pedestrian access easement will be resolved.*

20.30.030. Proposed street layout-Requirements.

- A. The streets provided on the plat must provide fee simple right-of-way dedications to the appropriate governmental entity. These dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Adequate and safe access for emergency and service vehicle traffic shall be considered in street layout.
Staff recommendation: *Concur that this subdivision plat fronts on a private right of way within Tract C and is not able to provide a fee simple right-of-way dedication.*

20.30.180. Pedestrian ways required when. Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

- Staff recommendation:** *Concur that the pedestrian access easements of record provide access for the neighboring land owners to access the canal and additional pedestrian ways are not required for this platting action.*

20.30.210. Lots-Access to street. Each lot shall abut on a fee simple dedicated street except as provided by KPB 20.30.030(B).

- Staff recommendation:** *Concur that access to the subdivision is via Tract C, which is a private right of way, and an exception is not required. This design was approved on the patent platting action.*

20.30.240. Building setbacks.

- A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:

Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

- Staff recommendation:** *Concur that this subdivision does not front on a dedicated right of way and is not subject to the 20 foot building setback per KPB 20.30.240.*

20.40.010 Wastewater disposal.

Platting Staff Comments: The proposed wastewater disposal will be to a community system.

Staff recommendation: *Comply with KPB 20.40 specifically KPB 20.40.070 Connection to an existing system.*

- A. *If any lots within a subdivision will be connected to an existing collector wastewater and treatment system, the following requirements must be met:*

1. *Proof that the owner of the collector wastewater and treatment system has agreed to allow the lots to be connected;*
2. *Documentation from the municipality, ADEC or system design engineer that the receiving system is adequate to accept the additional hydraulic and organic loading; and*
3. *The minimum lot size necessary to maintain the applicable separation distance pursuant to 18 AAC 72.020 from any part of the wastewater system.*

- B. *Before a final plat is filed for subdivision, the qualified engineer or surveyor, as applicable, must complete the following plat note which shall be placed on the plat:*

WASTEWATER DISPOSAL: *Plans for wastewater disposal that meet regulatory requirements are on file at the Department of Environmental Conservation.*

(Signature of) Engineer

License #

Date

Staff recommends comply with Chapter 20.60 Final plat.

The subdivision is affected by covenants, conditions, and restrictions. **Staff recommends** a plat note be added stating, 'The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170(B).'

Staff recommends labels be added to the drawing to identify the improvements.

EXCEPTIONS REQUESTED:

KPB 20.30.190A Lots – Dimensions

Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.)

KPB 20.30.200A Lots – Minimum size

Except in cities where zoning and subdivision regulations establish different minimums, lots must be designed to meet the following area requirements:

- A. Lots shall contain at least 6,000 square feet if served by public wastewater disposal and water systems.

Staff Discussion:

The two sections of code are being combined into one exception request as both deal with the shape and size of the lot split. The commission can vote on each exception request separately if they choose.

Parent Lot 72 has a 2.18:1 depth to width ratio and complies with the 3:1 depth with width ratio requirement. Proposed Lot 72A will have a 3.98:1 depth to width ratio and does not comply. Proposed Lot 72B will have a 4.7:1 depth to width ratio and does not comply.

The subdivision is affected by a 50 foot building setback from the canal which limits the area available to be developed. When this setback is taken into consideration. Lot 72A will have a developable area with a 2.13:1 depth to width ratio and Lot 72B will a developable area with a 2.53:1 depth to width ratio.

All lots in the parent subdivision are larger than 6,000 sq. ft. and were designed around existing improvements to comply with KPB minimum lot size requirements. Proposed Lot 72A will be 4,704 sq. ft. and proposed Lot 72B will be 4,617 sq. ft. When accounting for the 50 foot building setback from the canal, Lot 72A and 72B will each have approximately 2,960 sq. ft. of developable area.

KPB code states that lots served by community water and wastewater system shall be at least 6,000 sq. ft. in size.

Shared ownership on a parcel of land is allowable.

On site well and septic is not available as River Quest development is served by a community water and wastewater system.

No lots in the parent subdivision have been further subdivided. Only one subdivision has occurred within the parent subdivision and that was to combine 3 lots into 2 lots.

KPB 20.30.030(A) prohibits a person from transferring, selling, or offering to sell a portion of land that must be subdivided under KPB code. It does not prohibit a person from transferring any interest they may have in property.

If denied, the subdivision will not comply with KPB subdivision standards and cannot be completed.

Surveyor Findings:

1. The lot was purchased in November 2004 by Alan and Karen Crosswhite and Robert Schalke (50/50)
2. Two residences were constructed on the lot which was authorized by the River Quest Homeowners Association.
3. August 2007, the River Quest complex experienced a severe flood, and all the homes has to be moved back from the river and rebuilt.
4. Both Mr. Schalke and the Crosswhites built two substantial residences. Their locations are shown on the proposed River Quest Replat. Those two residences remain at the property.
5. When the Crosswhites built their residence on Lot 72 following the flood, they conveyed a 50% undivided interest to Gregory and Lorraine Wilke who contributed to the cost of rebuilding.
6. One which is shown as Lot 72B on the proposed replat has been treated by the parties as owned exclusively by the Crosswhites and Wilkes. The other shown as Lot 72A has been treated as exclusively owned by Robert Schalke.
7. Alan and Karen Crosswhite have passed away, and the Estate has no use for the residence it owns on Lot 72. The Wilkies are elderly, live Outside, and not interested in using Lot 72 in the future.
8. Mr. Schalke is aging and is not interested in owning two residences on Lot 72. For that reason, he is not interested in buying out the Estate.
9. The River Quest Homeowners Association lists Lot 72 as a lot for two separate residences.
10. The River quest Homeowners Association is not opposed to the proposed subdivision.
11. The River Quest community system for water and wastewater currently accommodates both residences.
12. KPBC 20.10.030 A indicates that were the estate to offer to transfer, sell or offer to sell its interest to someone other than Mr. Schalkle, or the Wilkes, it would be a violation of the code.
13. The use of Lot 72 with two discreet residences has been ongoing for more than 15 years, in full compliance with all of the Homeowners Association covenants, and rules, and all provisions of the KPB Code. Approval of the proposed Plat will normalize the status quo: and will cause no negative consequences to the neighborhood, or the homeowners association.

Staff findings:

14. Parent Lot 72 has a 2.2:1 depth to width ratio and complies with the 3:1 depth with width ratio requirement.
15. Proposed Lot 72A will have a 4.0:1 depth to width ratio and does not comply.
16. Proposed Lot 72B will have a 4.7:1 depth to width ratio and does not comply.
17. The subdivision is affected by a 50 foot building setback which limits the area available to be developed. When the 50 foot building setback from canal is taken into consideration Lot 72A will have a developable area with a 2.1:1 depth to width ratio and Lot 72B will a developable area with a 2.5:1 depth to width ratio.
18. All lots in the parent subdivision are larger than 6,000 sq. ft. and were designed around existing improvements to comply with KPB minimum lot size requirements.
19. Proposed Lot 72A will be 4,704 sq. ft. and proposed Lot 72B will be 4,617 sq. ft.
20. When accounting for the 50 foot building setback from the canal, Lot 72A and 72B will each have approximately 2,960 sq. ft. of developable area.
21. Shared ownership on a parcel of land is allowable.
22. On site well and septic is not available.
23. KPB code states that lots served by community water and wastewater system shall be at least 6,000 sq. ft.
24. No lots in the parent subdivision have been further subdivided.
25. Only one subdivision has occurred within the parent subdivision and that was to combine 3 lots into 2 lots.
26. KPB 20.30.030(A) prohibits a person from transferring, selling, or offering to sell a portion of land that must be subdivided under KPB code. KPB 20.30.030(A) does not prohibit a person from transferring any interest they may have in specific property.
27. This property is subject to a Common Interest Ownership Community.

Staff reviewed the exception and based on findings 4, 5, 9, 14-16, 18-21, 24, 26, 27 does not recommend approval.

Findings 6, 10, 11, 13 and 17 appear to support the exception request.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if

needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

STAFF RECOMMENDS DENIAL OF THE PRELIMINARY PLAT.

IF THE EXCEPTION IS GRANTED AND THE PLAT IS APPROVED, THEN STAFF RECOMMENDS

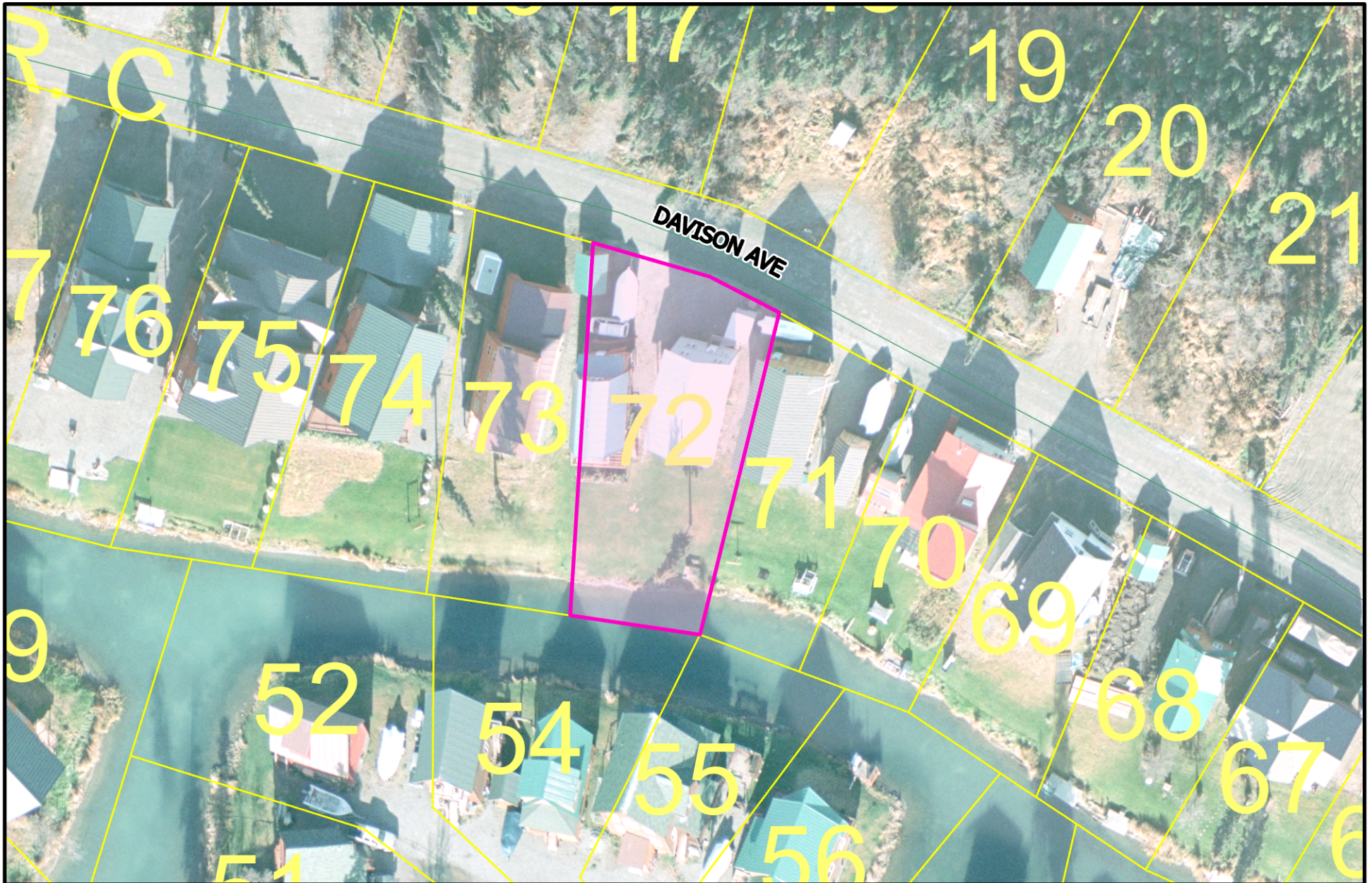
- **THE PRELIMINARY PLAT BE SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **THE PLAT COMPLIES WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

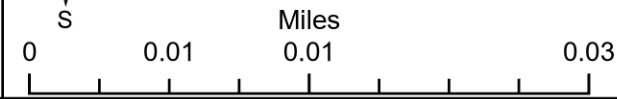
A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

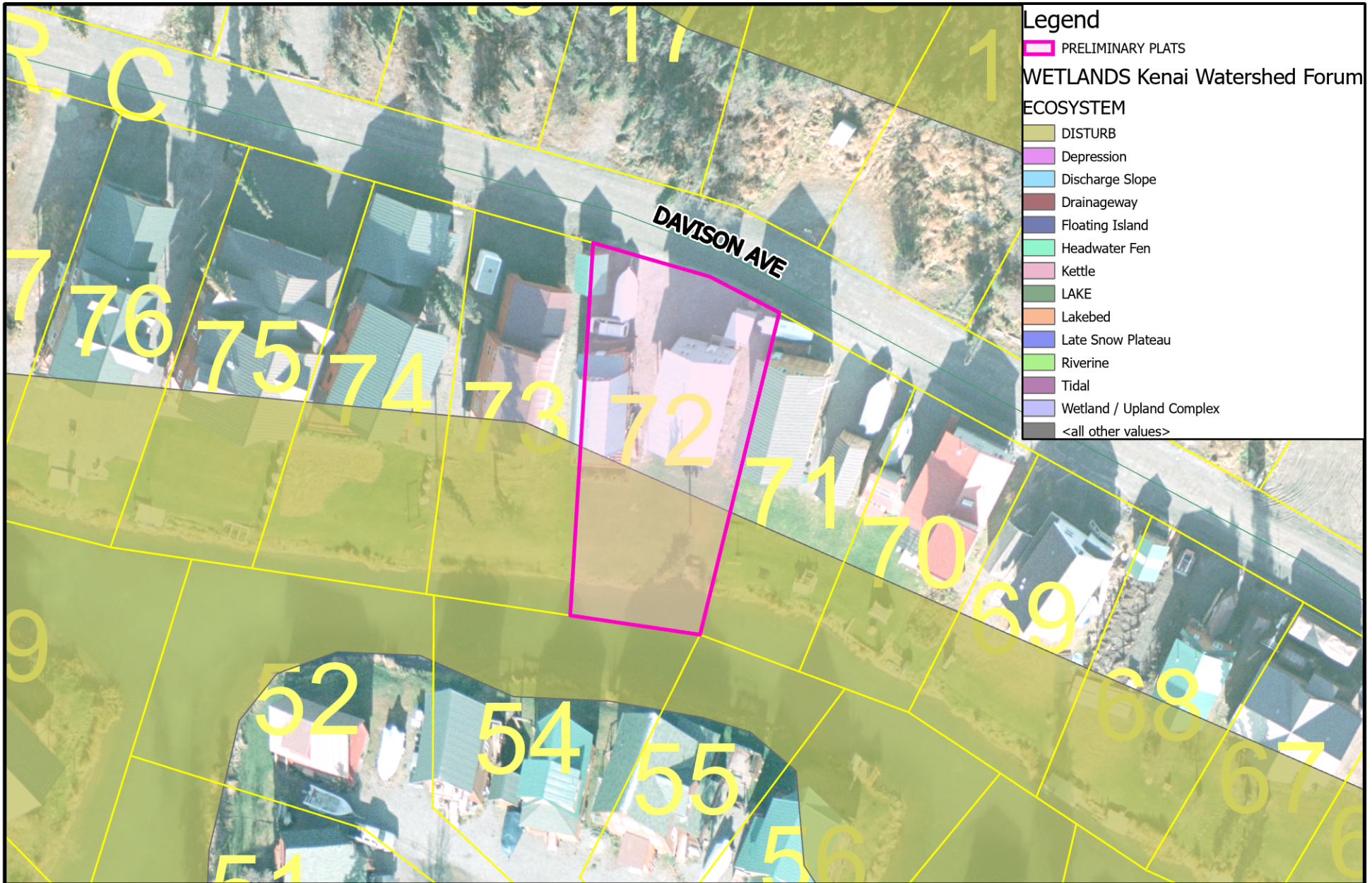


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



AERIAL IMAGERY 2010

Date: 5/5/2021
 3:16 PM
 Scott Huff
 Platting Manager



Legend

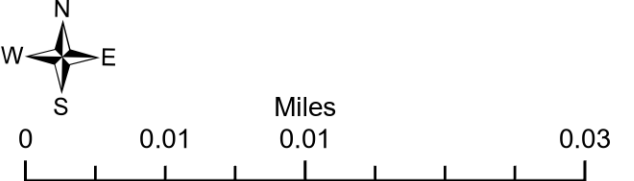
- PRELIMINARY PLATS

WETLANDS Kenai Watershed Forum

ECOSYSTEM

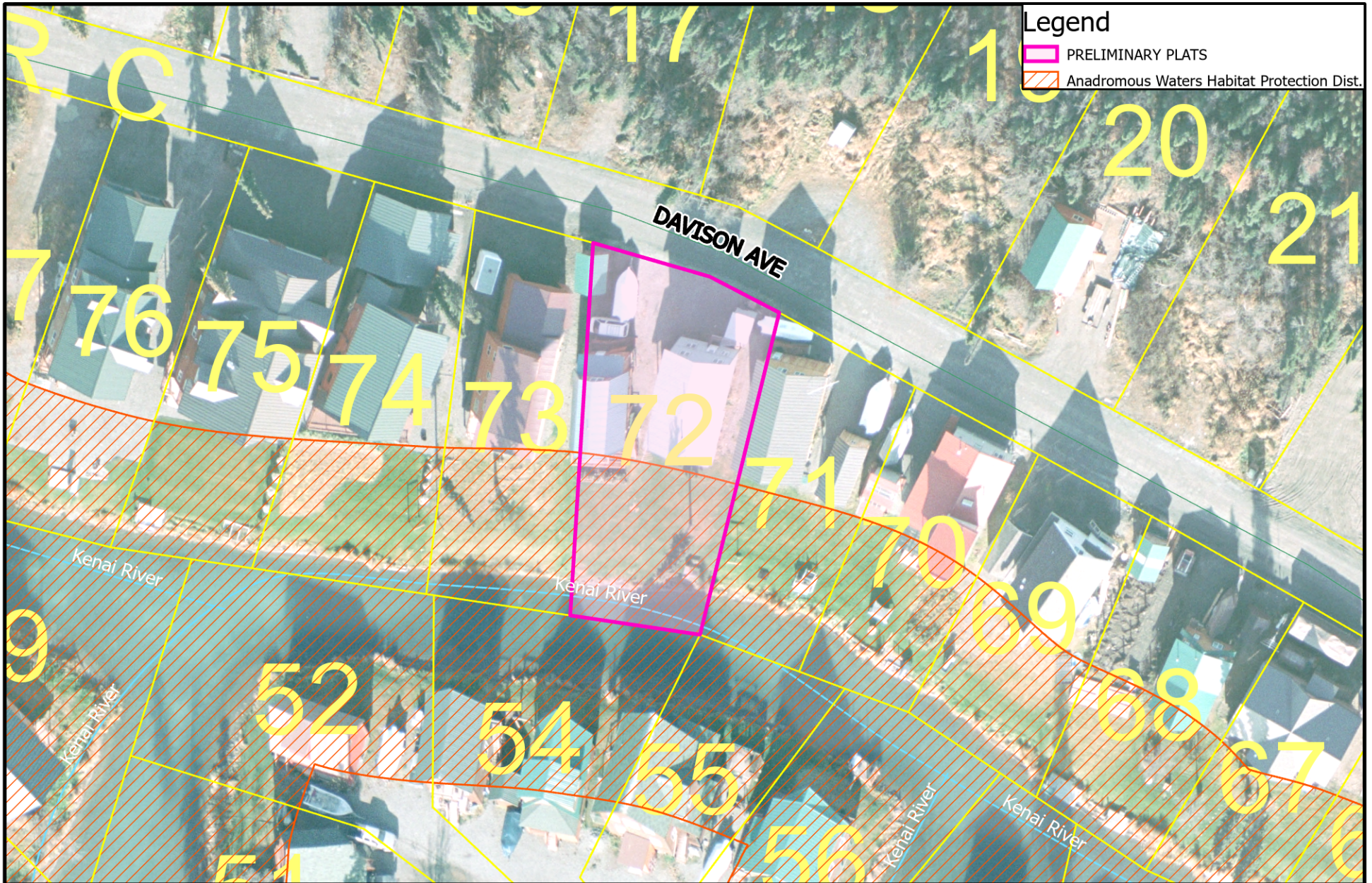
- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex
- <all other values>

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.

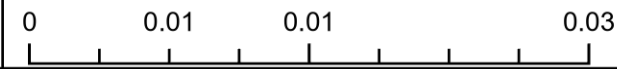


AERIAL IMAGERY 2010
Kenai Watershed Forum Ecosystem

Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager



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.



AERIAL IMAGERY 2010
Anadromous Waters Habitat Protection District

Date: 5/5/2021
3:16 PM
Scott Huff
Platting Manager

Google Maps 45714 Davison Ave



Image capture: Aug 2009 © 2021 Google

Kenai, Alaska



Street View



YES	ABSENT	YES	YES	YES	YES	2 ABSENT
-----	--------	-----	-----	-----	-----	----------

AGENDA ITEM H. SPECIAL CONSIDERATIONS

3. Remand of appeal by KPB Board of Adjustment – 7 factors; Riverquest preliminary plat approval; KPB File 2003-028; [Integrity(previously Whitford)/Riverquest RV Resort LLC]; Location: On Porter Road and Kenai River

Staff report as read by Max Best.

PC Meeting: 12-8-03

Timeline:

February 4, 2003 -- Plat reviewed by Plat Committee and granted conditional approval

April 14, 2003 -- Revised preliminary plat submitted addressing concerns of February 4, 2003 conditional preliminary approval

May 12, 2003 -- Planning Commission hears appeal of April 14, 2003 Plat Committee decision and upholds approval

June 4, 2003 -- Appeal of Planning Commission decision filed with KPB Clerk

September 17, 2003 -- Board of Adjustment hears appeal and goes into closed adjudicatory executive session

October 15, 2003 -- Written decision from Board of Adjustment remanding the matter back to the Planning Commission on seven points

On November 12, 2003 -- the developer submitted a revised preliminary plat and a submittal letter that addresses the Board of Adjustment's concerns on remand. Findings of fact and recommendations are included below

December 8, 2003 -- Planning Commission scheduled to consider remand

The Kenai Peninsula Borough Assembly sitting as the Board of Adjustment remanded the Planning Commission decision to uphold the Plat Committee approval of Riverquest Subdivision back to the Planning Commission. The BOA voted to remand the matter, directing the Commission to consider the following seven factors:

1. The minimum 100-foot lot depth must be addressed.

STAFF FINDINGS: The subdivider's surveyor has submitted a partially redesigned plat for preliminary/final approval. He has requested an exception to 20.20.180 100-foot minimum lot depth for Lots 8,9, 29, 31, 44, 47, 56, 61-64, 78 and 86.

Staff has been unable to determine the specific reason for the minimum 100-foot lot depth requirement.

STAFF FINDINGS:

1. Per submittal, Lots 8 and 9 were approved (as Lots 6 and 7) with an exception to 3:1; the new configuration is better for lot development.
2. In its prior configuration, Lot 6 would have been subject to a 20-foot building setback.
3. In its prior configuration, Lot 6 would have had a developable outside the building setback of 25 feet by 133 feet.
4. Lots 8 and 9 have developable areas outside the building setback of 60 feet by 70 feet.
5. Per submittal, Lot 31 is restricted in configuration due to the location of the existing bridge located at the end of Shelby Court.
6. Lot 31 is pre-configured by being bounded on the west by the existing travel way, on the east by Castaway Cove Subdivision and on the south by the Kenai River.
7. Per submittal, Lot 44 has a mean depth of over 97 feet.
8. Per submittal, configuration of Lot 44 is restricted by location of existing travel way.
9. Lot 44 is bounded on the southwest by the Kenai River.

10. Per submittal, Lots 47 and 56 are restricted by location of existing travel way.
11. Per submittal, location of existing travel way has been designed to fit between the Kenai River and the slough.
12. Per submittal, Lots 61-64 are restricted by the location of the existing travel way and canal.
13. Lot 78 has a mean lot depth of approximately 98 feet.
14. Lot 78 is configured to accommodate the existing travel way, the slough and a structure.
15. Per submittal, Lot 86 (originally Tract D) will be reserved for boat launch only.
16. Large parts of the subdivision are designed to accommodate existing travel ways, to maximize the use of existing development.
17. All lots are served by ADEC approved community water/sewer.
18. Area has been in use with rented or leased RV spaces since the 1970's.
19. Proposed subdivision significantly reduces the density due to the lot sizes.

20.24.010 provides that the commission may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-19 appear to satisfy this condition.
 2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-6, 8-12, 14, 16-19 appear to satisfy this condition.
 3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1, 3, 7, 13, 15, 16-19 appear to satisfy this condition.
2. **The extent of the reliance on grand fathered rights, if any, and the nature of the reliance require further consideration. The Board finds that temporary structures as defined in the current leases are not the type of grand fathered structures resulting in footprints for grand fathered continued further permanent use as intended by KPB Code 21.18.090.B. If existing activity will be considered to allow a continued similar activity on the same area of land as provided by KPB Code 21.18.090.C, then further clarification is required. This additional clarification is required, in part, in light of testimony at the September 17, 2003 hearing that the Appellee is not relying on grand fathered uses in subdividing and developing the area but instead will be seeking a conditional use permit for activities and structures that would otherwise be prohibited.**

STAFF FINDINGS: The owner has indicated that he is working with the Kenai River Center on a conditional use permit application that would substantially decrease the grand fathered impacts within the Habitat Protection Area. This is a development issue regulated under KPB Code 21, and is separate from the plat approval requirements. The subdivision plat will divide the land into legally conveyable lots under KPB Code 20.

According to John Mohorcich, Kenai River Center Coordinator, the developer is working with the Kenai River Center ("KRC") to obtain one CUP for all lots within the subdivision. This will allow the KRC to consider the overall development and its impacts in granting any conditional uses. The KRC is supportive of the CUP approach as opposed to the grandfather approach. The grandfather approach would result in numerous permanent structures being grandfathered on the very edge of the bank in the area most sensitive to habitat damage under KPB 21.18.090(C). To the extent that uses are activities under KPB 21.18.090(C) and not structures it would also allow non-permanent moveable campers to continue to park each summer on the bank as they have done in the past. However, in consideration of the developer forgoing grand father rights, the KRC is recognizing that structures did exist and will allow that square footage to be utilized farther away from the bank and in a less dense arrangement thereby reducing the negative impacts on the habitat, which will provide an opportunity for sensitive areas formerly subject to structures to revegetate.

While the plat was drawn around existing structures, a number of these structures, which were subject to yearly renewable leases, will be removed in favor of allowing a permanent structure on the lot in a manner that will provide a lesser negative impact on the habitat; however, some will remain as well. The details of the overall CUP continue to be worked on between the developer and the KRC. Conditions as authorized by KPB Chapter 21.18 will be placed on any uses; however, this is a development issue, and the platting code itself does not contain the process or the conditions

for these uses. The platting code contains requirements for lot sizes, and all but one lot on the plat before the board of adjustment (Tract D, designated boat ramp, now lot 86) comply with this requirement.

- 3. Turnaround areas identified in the testimony at the September 17, 2003 hearing as “bulbs” do not meet the minimum Borough size requirements for cul-de-sacs. The Board finds that further evidence is needed to show the “bulbs” would be sufficient for emergency vehicles to maneuver freely within the area.**

STAFF FINDING: The submittal letter states that the turnaround at the end of Meridith Circle has been increased to a 40-foot radius and the turnaround at the end of Davison Avenue has an additional 15-foot turnaround easement to make a total 40-foot radius.

Staff recommends the proposed turnaround areas meet the code to accommodate for adequate emergency vehicle turnaround. This can be achieved by utilizing an easement or expanding the portions of Tract C to provide the area needed. 503.2.5 of the International Fire Code provides for an alternate turnaround consisting of a Tee with a 40' radius and a minimum of 60' on each side.

- 4. On remand, reconsideration is required regarding construction of the portion of Tract C that is intended to be relocated along the river on the island. The Board finds that the goal of riparian protection in this area indicates a preference for leaving the existing access road where it is, unless it can be shown why the alternative is preferred.**

STAFF FINDINGS: The revised submittal shows an easement within the “island” lots that encompasses the existing travel way. The original intention of moving the travel way closer to the north boundary of the island was to limit structural development to one side of this island, with maximum area outside the 50-foot Habitat Protection Area being made available to each lot. The easement will accomplish this same purpose. Staff recommends the easement be granted by document and the recording information be provided on the final signed mylar. The movement of the travel way was not intended to require any new construction of a travel way, just to move the actual driving location closer to, but not on, the northerly bank. Most of the island is already developed and graveled.

- 5. For a private road not dedicated on the plat as a public right-of-way, there must be noted on any final plat that the roads are not designed or built to meet KPB standards and shall not be maintained by the Borough until such private access is brought up to Borough road standards and dedicated to, and accepted by, the Borough.**

STAFF FINDING: The final plat will contain the following note: Roads must be dedicated and meet the design and construction standards established by the borough in order to be certified for inclusion in the borough road maintenance program.

- 6. Many of the exceptions to KPB ordinances were based on specific findings with regard to continued seasonal use of the area. However, testimony at the hearing as well as further evidence in the record indicates the intent to utilize the subdivided areas for year-round use in the future. On remand, clarification regarding seasonal use is requested. The proposed preliminary plat includes a note stating that the subdivision is intended for seasonal use. See Finding No. 1 under paragraph 16 of the proposed Findings and Conclusions submitted by the Borough Planning staff dated September 2, 2003. In contrast, Mary Toll, Platting Officer, testified on September 17, 2003 that the seasonal use would not be noted on the final plat. The Board is troubled by an apparent reliance on continued seasonal use in light of the evidence indicating year-round use following subdivision.**

STAFF FINDING: The BOA did not indicate what reliable evidence was given that the use of this subdivision would be year-round. The only reliable assertion borough staff is aware of in this regard is that *if* the water and sewer systems are upgraded in compliance with DEC regulations, then year-round occupancy would be possible.

For now the staff's information indicates that the use of this area has always been seasonal based on the fishing season, that individual well and septic can't be placed on 6,000 square foot lots so the system would have to be upgraded in order for there to be year-round water and sewer, that historically the Riverquest development has been gated in the winter and the land access has not been plowed. Staff does not recommend against the seasonal use plat note because staff believes the use will not be seasonal; rather, staff recommends against the seasonal use note

because it is a land use restriction unrelated to the plat. It is the same reason that staff recommends against developer-placed notes that declare "residential use only."

Eventually, people buying into the plat expect the borough to enforce such developer-placed plat notes even where the borough has adopted no authority to do so. The seasonal use can only be enforced by ADEC (if the water and sewer systems are not shut down at the required seasonal time) or by the property owner through covenants, restrictions, homeowners' association or other such civil means. The Borough has no means to enforce the seasonal use. Additionally, with system upgrades and changes to the covenants or restrictions, the seasonal use could be changed. A note on the plat would incorrectly indicate to the public that the Borough has some enforcement powers regarding the seasonal use. If systems were legally upgraded or private restrictions were legally changed, a limiting note on the plat could cause a conflict upon sale or transfer of lots.

7. **The Board further finds that based on the testimony presented on September 17, 2003, the Appellee and the Borough Platting staff are requested to continue to work on preliminary plat design and requirements and that further changes be made prior to approval of a preliminary plat. The Board encourages such further discussion and refinement to comply with both the policy as well as the technical requirements of the KPB Code.**

STAFF FINDING: A new submittal letter and revised preliminary plat have been submitted by the developer to help meet the BOA's concerns. Both platting and the KRC staff continue to work with the developer toward a plat that complies with the code (to the extent feasible, 50 percent of all plats require exceptions; however, because of topography, existing and surrounding development--that percentage is higher for plats adjacent to waterways) as well as a plat that will promote a reduction of the negative impacts on the riparian habitat consistent with the goals of the KRO.

NOTE: An appeal of a decision of the Planning Commission may be filed to the Assembly sitting as a board of adjustment, 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 \$300 filing and records preparation fee.

END OF STAFF REPORT

STAFF RECOMMENDATION: The Planning Commission discuss and vote on each item separately.

Chairman Bryson asked if the newest preliminary plat had been made available to the appellants. Mr. Best did not know.

Chairman Bryson opened the meeting for public comment. He noted that the public hearing rules would be in effect.

1. Don Deitz, 6133 Staedem Drive, Anchorage

Mr. Deitz, Riverquest lessee, has followed this project since it began last year and has testified before the Commission in the past.

Mr. Deitz distributed a packet of information to the Commission. (*Clerk's Note: No copy was provided to staff or the subject file.*) He commented that a document in the packet was sent to the Clerk's office for the Board's hearing in September; however, it arrived too late to be included in the proceedings. A significant amount of information from the appellants was in this document. He referred to Page 4, which contained findings of fact, etc. He asked the Commission to review this information before their final discussion. The packet contained areas of concern to the appellants and residents of Riverquest. Mr. Deitz pointed out the copy of the notice to quit, which was a sample of the notice given to all residents in June and July. This is a legal document. Mr. Deitz commented about the turmoil that occurred during the height of the season with the subdivision process moving forward. Many residents were out of state and would have had a very difficult time moving their possessions, etc.

The developer, acting in the capacity of a landlord, gave a second document to residents. This document was an option agreement. Mr. Deitz estimated that 60-70 agreements had been negotiated and signed. He referred to Paragraph 11 in the packet. One reason he was the only person [of the appellants] testifying at this

meeting was due to a gag order placed on appellants and residents of Riverquest. Mr. Deitz believed the gag order restrained the public process. He questioned if the gag order was a violation of the Open Meetings Act; he deferred to the Borough Attorney's office. It set a tone for the month of August and clouded the concept of developing a subdivision that is supposed to be a positive, worthwhile project for the community.

Mr. Deitz had not seen the latest revised preliminary plat. He understood it would be provided to the Commission tonight. He had seen a revised plat; he thought the plat was still inadequate. He was concerned about a number of issues. He thought it was important to note that the sewer system, which is the linchpin to the subdivision, is not addressed. He believed there was some direction that the system on Lot 5 had connectivity to the replat. Often this matter is deferred to DEC, but this system is very important to the replat.

Chairman Bryson asked Mr. Deitz to summarize his comments.

Mr. Deitz thought the replat still had many flaws. He urged the Commission to not approve it. The subdivision is within the flood zone. He did not think the replat met the basic criteria for good public policy.

2. Cliff Baker, Integrity Surveys

Mr. Baker said he was representing the developer. He requested extra time to speak; he had information for the Commission, and he wished to address individual items. He noted that his presentation would mostly center on the second item of the remand.

Mr. Baker commented that Item 2 of the remand was really not a platting issue. He wished to address portions of Item 2, such as grandfather rights of the temporary structures. He distributed a spreadsheet of Riverquest structures and KPB tax parcel information for the parcels. (*Clerk's Note: A copy was provided for the subject file.*) The spreadsheet contained property values, existing structures, age of the structures, etc. One structure had been in place since 1960. Many structures have been on the parcels since the 1970s and 1980s. Mr. Baker questioned if these structures were actually temporary.

Mr. Baker distributed three large aerial photos to the Commission, which showed the structures. (*Clerk's Note: John Mohorcich, Kenai River Center Coordinator, has the three aerial photos.*) Numerous existing structures were in place long before the Borough enacted the Kenai River Habitat Protection Ordinance. Mr. Baker did not believe the structures were temporary, and the use was definitely not temporary. The photos depicted the congestion of the property, which the developer is trying to alleviate through the platting process.

Regarding grandfather rights and development of the proposed subdivision versus the current existing use, Mr. Baker showed the Commission a plat that depicted all the lease parcels fronting the water. (*Clerk's Note: No copy was provided for the subject file.*) Some parcels on the proposed Tract C were not shown on this plat. Approximately 145 lots are shown on this plat. If the property is left as it currently exists with lease lots, or if a co-op is formed, the subdivision would have about 180 lots. The proposed subdivision has about 92 lots. For the most part the lease plat's lot numbers correspond to the KPB tax parcel numbers. The Borough has been assessing tax on the parcels based on the lot numbers for a long time.

Mr. Baker commented that the existing uses were in place well before the current Kenai River Habitat Protection Ordinance was enacted. The existing structures do not need a conditional use to continue their current activity. Prior existing uses were allowed to continue when the Kenai River Habitat Protection Ordinance was enacted. The subject plat is proposed to replace the lease plat, which will help clean up the area and reduce the density. The intent is to have more aesthetically pleasing structures on the property. The proposed subdivision was designed to accommodate the current uses and current development. Some lots will have two owners. Mr. Baker did not think the owner needed to apply for a conditional use permit. The proposed plat subdivides the property and will allow those who have been leasing on a year-to-year basis an option to purchase their lot(s).

Structures to be moved away from the water will need a conditional use permit. Conditional use permits are not required for the subdivision approval process. The current uses on the property can continue. Any new uses will require a conditional use permit.

Regarding the turnarounds, Mr. Baker spoke with Gary Hale, CES Fire Marshall. Mr. Baker received a copy of

the International Fire Code. He offered to provide the Commission copies of the Code. He made some changes on the plat to comply with Code requirements. The plat now has through easements, and all cul-de-sacs and turnarounds will meet the International Code, which has been adopted by the Borough.

Mr. Baker distributed a handout to the Commission that addressed the travel way. A 10-foot nonvehicular strip has been provided adjacent to the Kenai River slough. (*Clerk's Note: A copy was provided for the subject file.*) The aerial photos show that the entire island is graveled up to the shoreline. The 10-foot nonvehicular area will allow for a vegetative buffer, boardwalk, or something to help protect the river bank.

Regarding Item 5 of the remand, the revised plat has the following note (Plat Note 8): Roads must be dedicated and meet the design and construction standards established by the borough in order to be certified for inclusion in the borough road maintenance program.

Mr. Baker concurred with staff on the remaining items.

Commissioner Massion asked Mr. Baker if he had a copy of the Board of Adjustment document given to the Commission tonight. Mr. Baker replied he had a copy of the staff report. Commissioner Massion offered to give Mr. Baker his copy of the Board of Adjustment document and asked him to comment on Items 12 and 13 regarding square footage. For the record, Mr. Best said this information was provided by Mr. Deitz and was not given to staff. Mr. Baker asked if this information was part of the Board of Adjustment's findings or the remand. Commissioner Massion asked Mr. Baker to comment on Items 12 and 13. Commissioner Massion added that this document was give to the Commission tonight, and they had not had much time to review it.

Chairman Bryson pointed out that the document referenced by Commissioner Massion was unsigned. Chairman Bryson was unsure if it was official. Mr. Best advised the Commission that the document was submitted late and was not accepted by the Borough Clerk for the Board of Adjustment hearing. He did not have a copy of the document, but he believed it was from the appellant.

Mr. Baker understood the document was from the appellant and was submitted to the Clerk's office too late to be included in the appeal, but now an attempt was being made to get it into the record. He understood the plat was remanded to the Commission based on seven items, and these items are all that can be addressed at this time. The rest of the approvals of the subdivision remain unchanged. If any decision made by the Commission tonight is appealed, the appeal would be based on the seven items. The appeal could not be based on prior approved items. Mr. Baker indicated he would like to be corrected if he was mistaken. Chairman Bryson asked for staff comments. Mr. Best concurred with Mr. Baker.

Commissioner Hutchinson asked if the plat provided in the mailout packet was the latest plat. Mr. Baker deferred to Ms. Toll. The latest plat had a table showing the parcel sizes with the exceptions that he provided to the Commission a few minutes ago showing the increased turnarounds to meet the International Fire Code.

Commissioner Hutchinson commented that Detail A did not match the plat. He wondered if Detail A was transferred from another plat. Mr. Baker believed this was a drafting error. He noted that the lines matched.

3. Kristine A. Schmidt

Ms. Schmidt said she represented the applicant. The staff report mentioned that the reason for moving the right-of-way to the northern side of the island was to have development on one side, and the active travel way went through the middle of the lot. She referred to the aerial photo. The northern side of the island is also a travel way. Campers drive to the edge of the bank and park throughout the season.

Ms. Schmidt asked the Commission to not consider the document [provided by Mr. Deitz]. She also had not seen the information provided by the appellant tonight. She asked the Commission to not look at or consider the proposed findings and conclusions of law because the Borough Assembly rejected this document since it was untimely. This document is not part of the record. She did not think new findings and new evidence that have been previously rejected could be included at this time. Ms. Schmidt offered to answer questions. No questions were heard.

4. Robert Nash, P.O. Box 3457, Soldotna

Mr. Nash was pleased that more than 70 percent of the people at Riverquest decided to stay and will be able to purchase their lots. He offered to answer questions.

Commissioner Isham asked Mr. Nash to elaborate on the septic system. Mr. Nash said the septic system had always been seasonal, and it will continue to be seasonal. Concern was expressed about the drainage of the septic system, which was on the other side of the subdivision as far from the river as possible. The septic system is now part of the subdivision. The homeowners association will manage, regulate, and maintain the septic system. The septic system was installed in 2000 when he purchased the property so that a septic pumping truck would not have to be utilized. The system has worked very well. Mr. Tauriainen designed the septic system, and Foster Construction installed it. Mr. Nash believed the system has been a very successful community septic system.

Commissioner Johnson asked how many people the septic system had been designed for. Mr. Nash believed the system was designed for 130-135. Testing by Northern Test Labs (Mike Tauriainen) has indicated 0 percent nitrates. According to DEC it could be increased. However, the plat has fewer lots, which was one of the goals of the subdivision. The septic system will serve 92 lots.

Mr. Deitz asked if he could speak again. Chairman Bryson asked Mr. Deitz if he had new information. Chairman Bryson cautioned Mr. Deitz against rebutting previous testimony. Seeing and hearing no objection, Chairman Bryson recognized Mr. Deitz.

5. Don Deitz

Mr. Deitz commented that he was not able to comment about this because he ran out of time. He asked the Commission to refer to Paragraph 11 of the document that the residents had to sign. The document talked about Government Lot 5. It is the intention of the developer to add density to this subdivision. Although statements have been made that density is being reduced, the density is being increased.

Many lots still have questionable area for construction when the setbacks of 20 feet and 50 feet are considered. Most lots on the southern side of the canal area and the northern side of the slough have virtually no area for construction.

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

Chairman Bryson asked if staff had further comments. Staff indicated no.

Chairman Bryson asked if the plat was a final plat. Mr. Best replied yes. Chairman Bryson asked if the plat had a reference, e.g., Amendment No. 2. Mr. Best said it did not have a reference at this point.

MOTION: Vice Chairman Clark moved, seconded by Commissioner Hutchinson, to approve per staff recommendations.

Commissioner Troeger asked if the motion included all the remand items. Vice Chairman Clark replied yes.

Mr. Best noted that some Commissioners were not present for a previous remand addressed by the Commission. A single motion was made to cover all points on appeal, which the Assembly found unacceptable. Mr. Best recommended the Commission address each item in the remand individually and vote on each item separately.

Chairman Bryson noted that information was given to the Commission tonight, e.g., the revised plat, which might not have been provided to the appellants. He asked staff if it would be appropriate to continue the hearing to the next meeting. Ms. Toll advised the Commission that a copy of the plat was sent to all parties who received the Clerk's remand decision.

MOTION WITHDRAWN: Vice Chairman Clark withdrew his motion. Commissioner Hutchinson withdrew the second. No objection was heard.

Ms. Toll explained that the final plat would go through a very extensive in-house final review for items such as lot numbers, boundary closure, adherence with all the required notes, etc.

Commissioner Johnson said the Commission was presented with a document from Birch, Horton, Bittner & Cherot by Mr. Deitz. Commissioner Johnson asked if the Commission could look at this document. Mr. Best believed the Commission could look at information. He asked the Commission to address the points on remand.

MOTION: Vice Chairman Clark moved, seconded by Commissioner Hutchinson, to address Remand Item No. 1, minimum 100-foot lot depth, and adopt staff findings 1-19.

Chairman Bryson asked if staff had further comments. Mr. Best replied no.

STAFF FINDINGS: The subdivider's surveyor has submitted a partially redesigned plat for preliminary/final approval. He has requested an exception to 20.20.180 100-foot minimum lot depth for Lots 8,9, 29, 31, 44, 47, 56, 61-64, 78 and 86.

STAFF FINDINGS:

1. Per submittal, Lots 8 and 9 were approved (as Lots 6 and 7) with an exception to 3:1; the new configuration is better for lot development.
2. In its prior configuration, Lot 6 would have been subject to a 20-foot building setback.
3. In its prior configuration, Lot 6 would have had a developable outside the building setback of 25 feet by 133 feet.
4. Lots 8 and 9 have developable areas outside the building setback of 60 feet by 70 feet.
5. Per submittal, Lot 31 is restricted in configuration due to the location of the existing bridge located at the end of Shelby Court.
6. Lot 31 is pre-configured by being bounded on the west by the existing travel way, on the east by Castaway Cove Subdivision and on the south by the Kenai River.
7. Per submittal, Lot 44 has a mean depth of over 97 feet.
8. Per submittal, configuration of Lot 44 is restricted by location of existing travel way.
9. Lot 44 is bounded on the southwest by the Kenai River.
10. Per submittal, Lots 47 and 56 are restricted by location of existing travel way.
11. Per submittal, location of existing travel way has been designed to fit between the Kenai River and the slough.
12. Per submittal, Lots 61-64 are restricted by the location of the existing travel way and canal.
13. Lot 78 has a mean lot depth of approximately 98 feet.
14. Lot 78 is configured to accommodate the existing travel way, the slough and a structure.
15. Per submittal, Lot 86 (originally Tract D) will be reserved for boat launch only.
16. Large parts of the subdivision are designed to accommodate existing travel ways, to maximize the use of existing development.
17. All lots are served by ADEC approved community water/sewer.
18. Area has been in use with rented or leased RV spaces since the 1970's.
19. Proposed subdivision significantly reduces the density due to the lot sizes.

20.24.010 provides that the commission may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-19 appear to satisfy this condition.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-6, 8-12, 14, 16-19 appear to satisfy this condition.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1, 3, 7, 13, 15, 16-19 appear to satisfy this condition.

MOTION: Commissioner Johnson moved, seconded by Commissioner Isham, to postpone action to the January 12, 2004 meeting.

Commissioner Johnson commented about the significant amount of information the Commission needed to consider.

Commissioner Troeger said he would vote against the postponement motion. He believed the information the Commission needed to base their decisions on was in the mailout packet. The other documents received tonight were interesting, but they were not part of the remand received from the Borough Assembly. Commissioner Troeger was prepared to make decisions tonight based on the packet information only.

VOTE: The motion to postpone action failed by a majority vote.

BRYSON NO	CLARK NO	FOSTER NO	GROSS NO	HOHL ABSENT	HUTCHINSON NO	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION NO	PETERSEN NO	TAURIAINEN NO	TROEGER NO	9 NO 2 YES 2 ABSENT

VOTE: The motion to address No. 1, minimum 100-foot lot depth, and adopt staff findings 1-19 passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

MOTION: Commissioner Hutchinson moved, seconded by Commissioner Gross, to adopt staff findings for Remand Item No. 2 (*The extent of the reliance on grand fathered rights, if any, and the nature of the reliance require further consideration. The Board finds that temporary structures as defined in the current leases are not the type of grand fathered structures resulting in footprints for grand fathered continued further permanent use as intended by KPB Code 21.18.090.B. If existing activity will be considered to allow a continued similar activity on the same area of land as provided by KPB Code 21.18.090.C, then further clarification is required. This additional clarification is required, in part, in light of testimony at the September 17, 2003 hearing that the Appellee is not relying on grand fathered uses in subdividing and developing the area but instead will be seeking a conditional use permit for activities and structures that would otherwise be prohibited.*)

Vice Chairman Clark commented that the Assembly appeared to have placed a development issue, as opposed to platting issues, before the Commission. Some existing uses will continue, and some will not. Issues in Item 2 need to be dealt with by the Kenai River Center and other appropriate agencies. He supported staff's findings.

After the Commission addressed all remand items, Commissioner Troeger asked if the Commission would take action on the final plat. Chairman Bryson commented it would be appropriate. Mr. Best indicated affirmatively.

STAFF FINDINGS: The owner has indicated that he is working with the Kenai River Center on a conditional use permit application that would substantially decrease the grand fathered impacts within the Habitat Protection Area. This is a development issue regulated under KPB Code 21, and is separate from the plat approval requirements. The subdivision plat will divide the land into legally conveyable lots under KPB Code 20.

According to John Mohorcich, Kenai River Center Coordinator, the developer is working with the Kenai River Center ("KRC") to obtain one CUP for all lots within the subdivision. This will allow the KRC to consider the overall development and its impacts in granting any conditional uses. The KRC is supportive of the CUP approach as opposed to the grandfather approach. The grandfather approach would result in numerous permanent structures being grandfathered on the very edge of the bank in the area most sensitive to habitat damage under KPB 21.18.090(C). To the extent that uses are activities under KPB 21.18.090(C) and not structures it would also allow non-permanent moveable campers to continue to park each summer on the bank as they have done in the past. However, in consideration of the developer forgoing grand father rights, the KRC is recognizing that structures did exist and will allow that square footage to be utilized farther away from the bank and in a less dense arrangement thereby reducing the negative impacts on the habitat, which will provide an opportunity for sensitive areas formerly subject to structures to revegetate.

While the plat was drawn around existing structures, a number of these structures, which were subject to yearly renewable leases, will be removed in favor of allowing a permanent structure on the lot in a manner that will provide a

lesser negative impact on the habitat; however, some will remain as well. The details of the overall CUP continue to be worked on between the developer and the KRC. Conditions as authorized by KPB Chapter 21.18 will be placed on any uses; however, this is a development issue, and the platting code itself does not contain the process or the conditions for these uses. The platting code contains requirements for lot sizes, and all but one lot on the plat before the board of adjustment (Tract D, designated boat ramp, now lot 86) comply with this requirement.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

MOTION: Vice Chairman Clark moved, seconded by Commissioner Isham, to adopt staff findings for Remand Item No. 3 (*Turnaround areas identified in the testimony at the September 17, 2003 hearing as “bulbs” do not meet the minimum Borough size requirements for cul-de-sacs. The Board finds that further evidence is needed to show the “bulbs” would be sufficient for emergency vehicles to maneuver freely within the area.*)

STAFF FINDING: The submittal letter states that the turnaround at the end of Meridith Circle has been increased to a 40-foot radius and the turnaround at the end of Davison Avenue has an additional 15-foot turnaround easement to make a total 40-foot radius.

Staff recommends the proposed turnaround areas meet the code to accommodate for adequate emergency vehicle turnaround. This can be achieved by utilizing an easement or expanding the portions of Tract C to provide the area needed. 503.2.5 of the International Fire Code provides for an alternate turnaround consisting of a Tee with a 40’ radius and a minimum of 60’ on each side.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

MOTION: Commissioner Hutchinson moved, seconded by Commissioner Isham, to adopt staff findings and recommendations for Remand Item No. 4 (*On remand, reconsideration is required regarding construction of the portion of Tract C that is intended to be relocated along the river on the island. The Board finds that the goal of riparian protection in this area indicates a preference for leaving the existing access road where it is, unless it can be shown why the alternative is preferred.*)

Commissioner Tauriainen asked staff for clarification on the easement. Ms. Toll suggested the Commission consider the revised easement (sketch) provided tonight that showed a nonvehicular easement along the bank of the river and incorporate it into the findings. The intent of the easement was to prohibit vehicles from accessing the actual bank.

AMENDMENT TO THE MOTION: Commissioner Hutchinson moved, seconded by Commissioner Tauriainen, to amend the motion to include staff recommendations and references to the easement on the new plat for a nonvehicular easement.

Chairman Bryson noted a copy of the sketch was provided to the Commission tonight.

VOTE: The amendment passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

STAFF FINDINGS: The revised submittal shows an easement within the “island” lots that encompasses the existing travel way. The original intention of moving the travel way closer to the north boundary of the island was to limit structural development to one side of this island, with maximum area outside the 50-foot Habitat Protection Area being

made available to each lot. The easement will accomplish this same purpose. Staff recommends the easement be granted by document and the recording information be provided on the final signed mylar. The movement of the travel way was not intended to require any new construction of a travel way, just to move the actual driving location closer to, but not on, the northerly bank. Most of the island is already developed and graveled.

VOTE: The motion as amended passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

MOTION: Vice Chairman Clark moved, seconded by Commissioner Tauriainen, to adopt staff findings for Remand Item No. 5 (*For a private road not dedicated on the plat as a public right-of-way, there must be noted on any final plat that the roads are not designed or built to meet KPB standards and shall not be maintained by the Borough until such private access is brought up to Borough road standards and dedicated to, and accepted by, the Borough.*)

STAFF FINDING: The final plat will contain the following note: Roads must be dedicated and meet the design and construction standards established by the borough in order to be certified for inclusion in the borough road maintenance program.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

MOTION: Commissioner Hutchinson moved, seconded by Commissioner Gross, to adopt staff findings for Remand Item No. 6 (*Many of the exceptions to KPB ordinances were based on specific findings with regard to continued seasonal use of the area. However, testimony at the hearing as well as further evidence in the record indicates the intent to utilize the subdivided areas for year-round use in the future. On remand, clarification regarding seasonal use is requested. The proposed preliminary plat includes a note stating that the subdivision is intended for seasonal use. See Finding No. 1 under paragraph 16 of the proposed Findings and Conclusions submitted by the Borough Planning staff dated September 2, 2003. In contrast, Mary Toll, Platting Officer, testified on September 17, 2003 that the seasonal use would not be noted on the final plat. The Board is troubled by an apparent reliance on continued seasonal use in light of the evidence indicating year-round use following subdivision.*)

STAFF FINDING: The BOA did not indicate what reliable evidence was given that the use of this subdivision would be year-round. The only reliable assertion borough staff is aware of in this regard is that *if* the water and sewer systems are upgraded in compliance with DEC regulations, then year-round occupancy would be possible.

For now the staff's information indicates that the use of this area has always been seasonal based on the fishing season, that individual well and septic can't be placed on 6,000 square foot lots so the system would have to be upgraded in order for there to be year-round water and sewer, that historically the Riverquest development has been gated in the winter and the land access has not been plowed. Staff does not recommend against the seasonal use plat note because staff believes the use will not be seasonal; rather, staff recommends against the seasonal use note because it is a land use restriction unrelated to the plat. It is the same reason that staff recommends against developer-placed notes that declare "residential use only."

Eventually, people buying into the plat expect the borough to enforce such developer-placed plat notes even where the borough has adopted no authority to do so. The seasonal use can only be enforced by ADEC (if the water and sewer systems are not shut down at the required seasonal time) or by the property owner through covenants, restrictions, homeowners' association or other such civil means. The Borough has no means to enforce the seasonal use. Additionally, with system upgrades and changes to the covenants or restrictions, the seasonal use could be changed. A note on the plat would incorrectly indicate to the public that the Borough has some enforcement powers regarding the seasonal use. If systems were legally upgraded or private restrictions were legally changed, a limiting note on the plat could cause a conflict upon sale or transfer of lots.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	11 YES 2 ABSENT

Commissioner Massion asked for clarification for Remand Item No. 7. If No. 7 was approved, he asked if the plat would have to be approved at a later date. Ms. Toll replied the plat was submitted as a preliminary/final, which is not uncommon when staff has reviewed various designs of the preliminary plat. When the Commission takes action, it will be for the revised preliminary and the final plat subject to the final staff review.

Commissioner Massion asked if the Commission would review the plat again. Ms. Toll replied that if any final plat is submitted with major changes, staff brings it back to the Commission. For example, a major change would be a change in right-of-way pattern. It is staff's opinion that by reviewing the subject plat the Commission is complying with the remand requirement. The plat is a revised preliminary/final plat. Staff has been working with the developer for a long time. The Board of Adjustment was not allowed to see any revisions because the appeal precluded the Board from seeing any of the revised plats. The subject plat before the Commission at this time has been greatly refined compared to the original preliminary plat.

MOTION: Vice Chairman Clark moved, seconded by Commissioner Hutchinson, to adopt staff findings for Remand Item No. 7 (*The Board further finds that based on the testimony presented on September 17, 2003, the Appellee and the Borough Platting staff are requested to continue to work on preliminary plat design and requirements and that further changes be made prior to approval of a preliminary plat. The Board encourages such further discussion and refinement to comply with both the policy as well as the technical requirements of the KPB Code.*)

Commissioner Troeger commented that Item 7 was the major item. Items 1-6 addressed technical matters. Approval of Item 7 would grant revised/final approval to the plat. Commissioner Troeger did not support the motion. He previously voted against the plat when he served on the Plat Committee and during the reconsideration by the Planning Commission. He agreed the ordinance requirements had been met.

Commissioner Troeger recalled the aerial photos presented during this meeting. He could not vote to approve the plat because of the safety of the river. The original subdivision would not be approved today. Commissioner Troeger doubted that many long-time residents would ask for a conditional use permit because they would have too much respect for the river. He commended staff for a good job and noted that the developer had worked hard to comply with the ordinance. He remarked that sometimes the Commission had to take a position that was in the best interest of the public. Commissioner Troeger supported preserving private property rights if the public interest is not harmed. He believed in this case that the public interest would be harmed by continuing this development on the river. The river is an interest locally, Borough wide, and State wide. Commissioner Troeger objected to final approval of the plat.

Commissioner Massion did not wish to stop the development, but he still had some questions. He inquired about the result of a negative vote. Chairman Bryson deferred to the Planning Director. Mr. Best commented that the owner answered all the questions the Board of Adjustment asked the Commission to consider. He believed the plat before the Commission represented findings and evidence that staff has worked with the developer to bring the plat into compliance with the Code.

Commissioner Johnson recalled that the last time the plat was before the Commission, it was approved by a 6/5 vote. Now the subdivision has 92 lots. He inquired about the number of lots for the previous preliminary plat. Ms. Toll believed the first plat had 107 lots.

Commissioner Hutchinson commented that if the Commission voted affirmatively, the process would move forward under the watchful eye of the Kenai River Center and the Planning Department. This would probably be a better situation than it is now.

STAFF FINDING: A new submittal letter and revised preliminary plat have been submitted by the developer to help meet the BOA's concerns. Both platting and the KRC staff continue to work with the developer toward a plat that complies with the code (to the extent feasible, 50 percent of all plats require exceptions; however, because of topography, existing and surrounding development, that percentage is higher for plats adjacent to waterways) as well as a plat that will promote a reduction of the negative impacts on the riparian habitat consistent with the goals of the KRO.

VOTE: The motion passed by a majority vote.

BRYSON YES	CLARK YES	FOSTER NO	GROSS YES	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER NO	9 YES 2 NO 2 ABSENT

Chairman Bryson read the appeal statement. He thanked everyone for their comments.

AGENDA ITEM I. SUBDIVISION PLAT PUBLIC HEARINGS

Plat Committee Chairman Johnson reported that the Committee reviewed and granted conditional approval to nine plats.

AGENDA ITEM J. ANADROMOUS STREAM HABITAT PROTECTION (KPB 21.18) - None

AGENDA ITEM K. COASTAL MANAGEMENT PROGRAM CONSIDERATIONS - None

AGENDA ITEM L. OTHER/NEW BUSINESS

1. Choose new Plat Committee. New members will serve January, February, and March 2004.

Vice Chairman Clark and Commissioners Massion, Tauriainen, and Petersen volunteered to serve as Plat Committee members. Chairman Bryson and Commissioner Gross volunteered to serve as Plat Committee alternates.

AGENDA ITEM M. ASSEMBLY COMMENTS

Chairman Bryson noticed that Assembly Member Chay was present. Chairman Bryson asked Assembly Member Chay if he would like to comment. Assembly Member Chay declined.

AGENDA ITEM N. DIRECTOR'S COMMENTS

A telephone survey for the Comprehensive Plan update has begun. As of last weekend, approximately 80 people have been polled. The survey will continue throughout the next week.

Tomorrow morning staff and Tom Brigham, consultant, will meet with the Assembly regarding the Transportation Plan. The Assembly is scheduled to take action on the Plan December 16.

Mr. Best offered to answer questions. No questions were heard. He advised the Commission that he would still like to receive questions for ground water and gravel pits.

AGENDA ITEM O. COMMISSIONER COMMENTS

The Commission exchanged holiday greetings.

Commissioner Troeger complimented staff for their energy and effort on all items brought to the Commission. He noted that often there was frustration with changes and the workload. Many changes have occurred throughout the year, especially at the State level. Commissioner Troeger thanked the entire staff of the Planning Department for their fine work throughout the year.

Commissioner Foster thanked Assembly Member Chay for attending. Commissioner Foster thanked staff for supporting Mr. Bevington's work with the Kachemak Bay Research Reserve on the Coastal Dynamics Workshop scheduled to be held in March 2004.

Commissioner Gross thanked Commissioner Troeger for his sincere conscientious consideration of the issues and supporting what he believed in. She also thanked staff.



2004-008260-0

Recording Dist: 302 - Kenai

8/20/2004 11:38 AM Pages: 1 of 34

A
L
A
S
K
A



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
RIVER QUEST SUBDIVISION

404-1186

**THIS COVER SHEET HAS BEEN ADDED
TO THIS DOCUMENT
BY
FIRST AMERICAN TITLE OF ALASKA
TO PROVIDE SPACE FOR RECORDING
DATA. THIS COVER SHEET APPEARS
AS THE FIRST PAGE OF THE
DOCUMENT IN THE OFFICAL PUBLIC
RECORD.**

DO NOT DETACH

404-1186

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RIVER QUEST SUBDIVISION

THIS DECLARATION is made on 8/19/04, by Declarant DENCO, INC., an Alaska corporation, doing business as RIVER QUEST, 110 So. Willow St., Ste. 101, Kenai, Alaska 99611.

RECITALS:

A. Declarant is the Owner of real property located in the Kenai Peninsula Borough, Alaska, described as:

Government Lots 5 and 6, Section 19, T5N, R10W, S.M., Kenai Recording District, Third Judicial District, State of Alaska;

B. Declarant has established a general plan, set forth in this Declaration, for the subdivision, improvement, and development of a portion of the property described above, as a planned community named River Quest Subdivision ("the Property"), which includes the real property described as:

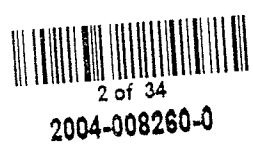
River Quest Subdivision, Phase 1, according to Plat No. KN-2004-39, recorded on July 16, 2004 at Serial No. 2004-006959, Kenai Recording District, Third Judicial District, State of Alaska;

including each and every subdivision lot, tract and parcel within the Property, and any additional property that may be annexed to this Declaration;

C. Declarant desires to secure the development of the Property in accordance with this plan.

DECLARATION:

Declarant declares that the Property, and each and Lot, Tract and Parcel within it, is, and shall be, held, conveyed, encumbered, leased, rented, used and occupied subject to the following conditions, restrictions, reservations, covenants, servitudes (including easements), liens and charges; all of which are declared and agreed to be in furtherance of and pursuant to a general plan for the development of the Property as the planned community named River Quest Subdivision, and for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. These provisions are imposed upon Declarant, the Owners and the Association, and are for the benefit of all Lots, Parcels, Tracts and the Common Area, and shall bind the Owners and the Association. These provisions shall be a burden upon and a benefit to not only the original Owner of each Lot, Tract, Parcel and the Association, but also to their successors and assigns. All covenants are intended as and are declared to be covenants running with the land as well as equitable servitudes upon the land.



ARTICLE I - DEFINITIONS

Section 1. Act. The "Act" refers to AS 34.08.010-995, the Alaska Uniform Common Interest Ownership Act, as amended, or successor legislation.

Section 2. Architectural Control Committee. "Architectural Committee" means the committee of persons appointed and acting pursuant to Article X of this Declaration.

Section 3. Articles. "Articles" means the Association's Articles of Incorporation and any amendments.

Section 4. Association. "Association" means the River Quest Subdivision Lot Owners Association, Inc., an Alaska nonprofit corporation, and its successors and assigns.

Section 5. Board. "Board" or "Board of Directors" means the Board of Directors of the Association.

Section 6. Bylaws. "Bylaws" means the Association's Bylaws and any amendments.

Section 7. Canal. "Canal" means the waterway included in a portion of the area of lots 39-42, 49, 51-52, 54-80, as shown on the River Quest Subdivision Plat.

Section 8. Common Area. "Common Area" (also known as "Common Elements") means all real property, including all improvements thereon, owned by the Association, and all servitudes granted for the benefit of the Association, for the common use and enjoyment of some or all of the Owners, and any other plot of land conveyed to the Association, or servitude granted to the Association, and designated as "Common Area," in any Amendment to the Declaration.

Section 9. Conditional Use Permit. "Conditional Use Permit" or "CUP" means any Conditional Use Permit obtained by Declarant, its successors or assigns, from the Kenai Peninsula Borough, affecting development of Lots with frontage on the Canal, Kenai River or Slough.

Section 10. Declarant. "Declarant" means DENCO, Inc. (d.b.a. River Quest), and its successor and assigns, if such successor and assigns acquire or are assigned the rights of Declarant pursuant to this Declaration.

Section 11. Declaration. "Declaration" or "CCRs" means this Declaration of Covenants, Conditions and Restrictions and its amendments.

Section 12. Family. "Family" means a married or co-habiting couple, and children, if any; and limited to two adult children in residence at a time.

Section 13. Kenai River. "Kenai River" means the waterway adjacent to Lots 32-38, 80-85, Tract B, and Guy Nash Street, River Quest Subdivision.

Section 14. Limited Common Area. "Limited Common Elements" (also known as "Limited Common Area") means that portion of the Common Area designated in this Declaration limited to the use of one or more, but fewer than all, of the Owners.



ARTICLE I - DEFINITIONS, cont.

Section 15. Lot. "Lot" means any plot of land as shown on the River Quest Subdivision Plat, including those plots denominated as a lot, tract, parcel or, those plots which are unnamed or untitled, unless such plot of land is specifically excepted from a provision of this Declaration.

Section 16. Member. "Member" means every person or entity holding a membership in the Association. Membership in the Association is restricted to Owners.

Section 17. Mortgage; Mortgagee. "Mortgage" means a mortgage or deed of trust encumbering a Lot or any other portion of the Project. "Mortgagee" means the person or entity with certain rights under a mortgage, and shall include the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage.

Section 18. Owner. "Owner" means the record owner or owners of fee simple title to any Lot, which is part of the Property, including Declarant, but excluding the Association or any person or entity having an interest in the Property as security, lien or other charge on the Property.

Section 19. Parcel. "Parcel" means Guy Nash Street, as shown on the River Quest Subdivision Plat.

Section 20. Phase 2. "Phase 2" or "River Quest Subdivision Phase 2" means all lots, tracts and parcels, as shown on Plat No. _____, recorded on _____ at Serial No. _____, Kenai Recording District, Third Judicial District, State of Alaska.

Section 21. Plat. "Plat" or "River Quest Subdivision Plat" means Plat No. KN-2004-39, recorded on 7/16/04, at Serial No. 2004-006959, Kenai Recording District, Third Judicial District, State of Alaska.

Section 22. Project. "Project" or "Development" means the Property and any other additional real property that may be annexed under this Declaration, and the improvements on the Property.

Section 23. Property. "Property" means that certain real property contained within River Quest Subdivision, Phase 1, Plat No. KN-2004-39, recorded on 7/16/04, at Serial No. 2004-006959, Kenai Recording District, Third Judicial District, State of Alaska; and any additional real property as may later be annexed to the Property pursuant to this Declaration.

Section 24. River Quest Subdivision Easements. "River Quest Subdivision Easements" or "Easements" means that instrument, recorded on _____ at Serial No. _____, Kenai Recording District, Third Judicial District, State of Alaska.

Section 25. Rules. "Rules" or "Association Rules" means the rules and regulations regulating the use and enjoyment of the Common Area, and other areas, adopted by the Board from time to time.



ARTICLE I - DEFINITIONS, cont.

Section 26. Slough. "Slough" or "Kenai River Slough" means the waterway adjacent to lots 31, 32-38, 39, 42-49, 80, Tract B and Tract C, River Quest Subdivision.

Section 27. Subdivision. "Subdivision" means River Quest Subdivision, Phase 1, as shown on Plat No. KN-2004-39, recorded on 7/16/04, at Serial No. 2004-006959, Kenai Recording District, Third Judicial District, State of Alaska.

Section 28. Tract. "Tract" means Tracts A, B and C, River Quest Subdivision, and Tract D, River Quest Subdivision Phase 2.

Section 29. Waterway Traffic Plan. "Waterway Traffic Plan" means that plan, established by the Declarant, showing boat moorage assignments and pedestrian access for the Canal, Kenai River and Slough, a copy of which is attached as Exhibit C to this Declaration.

ARTICLE II - ESTABLISHMENT, COMMON INTERESTS

Section 1. Name and Type. This Declaration establishes and governs River Quest Subdivision, a planned community, consisting of the Property described in this Declaration.

Section 2. Association. River Quest Subdivision, the planned community, is managed by the River Quest Subdivision Lot Owners Association, Inc., an Alaska not for profit corporation, or its successors and assigns, pursuant to this Declaration and the Association's Articles, Bylaws and Rules.

Section 3. Governing Documents. The documents which govern the River Quest Subdivision planned community are: this Declaration, the River Quest Subdivision Plat, the River Quest Subdivision Easements, the Association Articles of Incorporation, the Association Bylaws, the Association Rules, the River Quest Subdivision Conditional Use Permit, for its term, and the Act, where applicable.

Section 4. Common Area. At the time this Declaration is executed, the Common Area consists of the following:

A. Property Owned By the Association:

1. Guy Nash Street, River Quest Subdivision, which is dedicated on the River Quest Subdivision Plat as a public right of way.
2. Tract C, River Quest Subdivision, which is dedicated on the River Quest Subdivision Plat as a private right of way, for the use and benefit of the Owners.
3. Tract D, River Quest Subdivision Phase 2, intended to be used for the River Quest Subdivision community septic system and for parking of boat trailers, if available and permitted.

B. Easements Granted To the Association for the Benefit of All Members: as described in the River Quest Subdivision Easements. See summary, Exhibit A.



ARTICLE II - ESTABLISHMENT, COMMON INTERESTS, Sec. 4, cont.

C. Easements Granted to the Association for the Benefit of Less Than All Members (Limited Common Elements): as described in the River Quest Subdivision Easements. See summary, Exhibit B.

D. Common Facilities owned by the Association:

1. The bridge over the Kenai River Slough, attached to Tract C and Lot 32.
2. Roads providing access to Lots 1-49, 51, 52, 54-89, and to Tracts A, B, C, D; and any future roads, planned or installed as part of the development of the Project.
3. Utilities, including sewer, water, electric, telephone, gas (if provided), located within River Quest Subdivision, in the rights of way and utility easements; and any related facilities, including, but not limited to, well house, lift stations, control panels, valve boxes; and any future utilities, planned or installed as part of the development of the Project.

ARTICLE III - PROPERTY RIGHTS

Section 1. Non-exclusive Common Area Easement.

A. Every Owner has a non-exclusive, nonpossessory easement of use, enjoyment, ingress and egress in, to and throughout the Common Area, and any improvements or facilities on those areas, except as otherwise provided in this Declaration. Such Common Area easements shall be subordinate to, subject to, and shall not interfere with, easements specifically described in the River Quest Subdivision Easements.

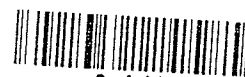
B. Each such Common Area easement shall be appurtenant to the respective Lot, and shall pass with the title to the Lot.

Section 2. Association Rights. Each such Common Area easement shall be subject to the following Association rights and restrictions:

A. The right of the Association to limit the number of non-Owners using the Common Area easement(s), and to adopt and enforce other reasonable Association Rules governing such easement(s).

B. The right of the Association to expend and borrow money to alter, improve, repair, or maintain the Common Area.

C. The right of the Association to assign, rent, license or otherwise designate and control use of any unassigned parking and storage space within, and any facility situated upon, the Common Area, and to charge reasonable fees for admission and use.



ARTICLE III - PROPERTY RIGHTS, Sec. 2, cont.

D. The right of the Association to suspend the right of an Owner to use any facility in the Common Area as provided in this Declaration.

E. The right of the Association to adopt and enforce Association Rules governing the control and use of any private streets, roadways, bridges, and paving areas located upon or across the Common Area.

Section 3. Entry and Use Rights. Each Lot or the Common Area, as the case may be, shall be subject to the following rights of entry and use:

A. The right of Declarant or its designees, or the Association, to enter upon any portion of the Project to maintain, repair and construct improvements to the Property, or to remedy construction defects of such improvements, provided that such entry shall not substantially interfere with the use and occupancy of any occupied Lot, unless authorized by its Owner, which authorization shall not be unreasonably withheld.

B. The right of the Association, or its agents, to enter any Lot, to cure any violation or breach of this Declaration or the Bylaws or the Association Rules, provided that at least thirty (30) days prior written notice of such violation or breach has been given to the Owner, except in case of emergency; and provided that, within the thirty (30) day period such Owner has not acted to cure such violation or breach. The rights of entry and cure shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not its Owner is present.

C. The right of the Association, or its agents, to enter any Lot to perform its obligations and duties under this Declaration. The rights of entry and performance shall be immediate in case of an emergency originating upon or threatening any Lot, whether or not its Owner is present.

Section 4. Subdivision Easements. Each Lot is subject to all easements, dedications and rights of way granted or reserved in, on, over or under the Property and each Lot as shown on the River Quest Subdivision Plat, and River Quest Easements, and the public record on the date of conveyance to the Owner.

Section 5. Power to Grant Easements. Declarant or the Association shall have the power to grant and convey in the name of all the Owners easements and rights of way in, on or over the Common Area, to Owners or other parties, for the purpose of constructing, maintaining, repairing, operating or re-locating utilities and roads, for emergency service vehicle access, or for other similar related improvements, facilities or services. Each purchaser, in accepting a deed to a Lot, consents to such easements or rights of way. However, no such easement shall be granted if it would permanently interfere with the use, occupancy or enjoyment by any Owner of that Owner's Lot.



ARTICLE IV - USE, OCCUPANCY AND ALIENATION RESTRICTIONS

Section 1. Residential Use. All Lots shall be used for single family residential purposes only; except that, for Lots which were developed by the Declarant for two separate families, there may be two-family residential use. No Lot shall be used for business or commercial purposes, unless otherwise provided in this Declaration.

Section 2. Owner Occupancy. No Owner may lease or rent a Lot, except as otherwise provided in this Declaration. Guest stays are limited to 90 days per guest, no more than six (6) guests at a time, unless otherwise approved by the Association.

Section 3. Seasonal Use. Residential use of all Lots is seasonal; the "season" being defined as May 1 to September 30 of each year. However, the Declarant or Association may set the seasonal opening or closing date after May 1 or before September 30, if the common roads or utilities are not fully operational, because of weather conditions.

Section 4. Vehicles. No boat, trailer, van or other auto, camper, recreational vehicle, mobile home, motor home or tent shall be used as a living area while located within the Project; except that guests of Owners may use vehicles or a tent as a living area on a Lot for a period of 90 days or less, during the season. No more than two boats, two boat trailers, and one recreational vehicle may be placed on any Lot at any time; except that two-family Lots may have two boats, two boat trailers, and one recreational vehicle per family.

Section 5. Delegation of Use. An Owner may not assign, delegate, sever or separately convey, lease or rent, Owner's rights of use and enjoyment in the Common Area, including (but not limited to) boat moorage, except on transfer of title to a Lot, and then only to the transferee.

Section 6. Community Septic System. Human waste disposal facilities for the Project are provided, owned and operated by the Association; no other such sewage disposal facilities shall be located on any Lot. Tract D, and the access easement for ingress and egress to Tract D, shall be used for, and is restricted to use as, a community septic system, subject to the terms of any necessary permit, and for boat trailer parking, if permitted, and space is available, until such time as this Tract is no longer needed for those purposes, at which time the Association may re-allocate its property rights in this Tract for other purposes as needed for, and consistent with, the Project.

Section 7. Kenai River Boat Launch. The Association's Lot 85 easement, as described in the River Quest Subdivision Easements, is restricted to use as a boat launch and for related activities, including (but not limited to) loading and unloading boats and vehicles, temporary vehicle parking and temporary boat tie-up, in order to put boats into and take boats out of, the Kenai River.



ARTICLE IV - USE RESTRICTIONS, cont.

Section 8. Canal Boat Launch. The Association's Lot 56-57 easement, as described in the River Quest Subdivision Easements, is restricted to use as a boat launch and for related activities, including (but not limited to) loading and unloading boats and vehicles, temporary vehicle parking and temporary boat tie-up, in order to put boats into and take boats out of, the Canal.

Section 9. Parking.

A. Vehicle parking is allowed on all Lots, Tracts, and Parcels, except as otherwise provided in this Declaration.

B. No vehicle parking is allowed in the Common Area, except as follows:

1. Construction equipment, for the purposes of construction, maintenance and repair by Declarant or approved by the Association, as long as the flow of traffic is not impeded;
2. If a vehicle breaks down in the Common Area, in which case the vehicle may remain overnight, but must be moved the next day, as long as it does not block traffic, in which case it must be moved immediately.
3. Temporary parking: (a) for emergency vehicles; (b) for boat launching and taking out, loading and unloading vehicles, on Guy Nash Street, Lots 56-57 (only within the easement), Lot 85, and the Access Easement (outside the Non Vehicle Buffer area, as shown on the Plat).

Section 10. Resource Extraction. No mining, oil drilling or other natural resource extraction or related activities shall be permitted on or in the Project.

Section 11. Signs. No signs of any kind shall be displayed to the public view on or from any Lot, Tract or Parcel without the approval of the Association; except that signs may be used by Declarant for the purpose of developing, selling or improving Lots owned by the Declarant; and except that Owners may post "For Sale" signs on Lots, Tracts or Parcels for sale by the Owner.

Section 12. Fences and Screens. No fences, awnings, ornamental screens, or walls of any kind shall be erected or maintained on or around any portion of such structure or elsewhere in the Project except those that are authorized and approved by the Association (or the Architectural Committee, if any).

Section 13. Gas or Liquid Storage. No tank for the storage of gas or liquid shall be installed in the Project unless such installation is done by Declarant or has been approved by the Association (or the Architectural Committee, if any).



ARTICLE IV - USE RESTRICTIONS, cont.

Section 14. Vegetation. No plants or seeds harboring noxious insects or infected with plant diseases shall be brought upon, grown, or maintained within the Project. Vegetation or re-vegetation within setback areas described in a CUP must be in compliance with the CUP. No Owner shall cut, trim, prune, remove or replace any living tree, plant or other vegetation located in any portion of the Common Area without the prior written consent of the Association; and, if any Owner should fail to comply with this restriction, the Association may recover from such Owner the cost of restoring or replacing any such vegetation.

Section 15. Trash Disposal. Each lot shall be kept neat and clean. No Owner shall allow trash or debris to accumulate on a Lot. Trash, garbage and other waste shall be kept only in sanitary containers. Owners shall deposit trash or refuse in customary receptacles, located in places specifically designated for such purpose by the Association. Hazardous waste shall not be placed in any trash receptacle, but shall be disposed according to Kenai Peninsula Borough hazardous waste disposal program.

Section 16. Animals.

A. No living animal, reptile, rodent, bird, fish, livestock or poultry shall be kept on a Lot or elsewhere in the Project, except that no more than two (2) domestic cats or dogs, fish (no number limit) in an indoor tank, birds (no more than two) in an indoor cage, may be kept as household pets within a Lot, if such animals are not kept, bred or raised for sale or other commercial purpose. The Association may adopt other animal control rules.

B. Each person bringing or keeping a pet upon the Project shall be liable to other Owners, their family members, guests, invitees, lessees, tenants and contract purchasers (and their respective family members, guests and invitees) for any damage to persons or property caused by any pet brought upon or kept upon the Project that person or members of that person's family, guests or invitees.

Section 17. Outside Storage. No more than two outbuildings, such as a shed, are allowed on a Lot; except that two-family lots may have two outbuildings per family. Such buildings shall be constructed to the size, location and other design standards established by the Association or Architectural Control Committee. Only green or white tarpaulins may be used for outdoor coverage on a Lot; blue or other colored tarps are prohibited. Personal property (other than vehicles) must be stored inside the Owner's residence or outbuilding during the off-season. The Association may adopt other outside storage rules.

Section 18. Antennae and External Fixtures. No television and radio poles, or satellite dishes, or other such external fixtures other than those originally installed by the Declarant or approved by the Association, shall be constructed, erected or maintained on or within a Lot. Such fixtures may only be constructed or approved by the Association if they are not blocking the Kenai River view of any Lot owner, and are as unobtrusive as possible.



ARTICLE IV - USE RESTRICTIONS, cont.

Section 19. Nuisance. No noxious or offensive activities shall be carried on within the Project. Nothing shall be done on or within the Project that may be or may become an annoyance or nuisance to the residents of the Project, or that in any way interferes with the quiet enjoyment of occupants of Lots.

ARTICLE V - THE ASSOCIATION

Section 1. Establishment; Powers and Duties. The Association was incorporated on 7/3/03, as an Alaska nonprofit corporation, pursuant to AS 10.20. The Association is vested with the following powers and duties:

A. All the powers of a nonprofit corporation set forth in AS 10.20.011, and all the powers delineated in the Act, AS 34.08; subject only to limitations on the exercise of those powers as set forth in the Articles and Bylaws, and this Declaration.

B. The power to do any lawful thing that may be authorized, required or permitted to be done by the Association under the Act, this Declaration, the Articles, Bylaws and Rules; and to do and perform any act that may be necessary or proper for, or incidental to, the exercise of any of the powers of the Association.

C. Duties as described in, or as limited by, this Declaration, the Articles, Bylaws, Rules, and the Act.

Section 2. Right to Establish Rules. The Association may adopt, amend and repeal Association Rules as it considers necessary and proper to carry out the purposes of this Declaration, including (but not limited to) rules regulating the use and enjoyment of the Common Area. A copy of the Association Rules, and any amendments, shall be mailed to each Owner at the Owner's last known address, and shall be posted in a conspicuous place within the Project. If any Association Rule is inconsistent with this Declaration, the Articles or Bylaws, the Declaration, Articles or Bylaws shall control to the extent of such inconsistency.

Section 3. Board of Directors; Managers. Except as to matters requiring the approval of Owners as set forth in this Declaration, the Articles, Bylaws, or the Act, the affairs of the Association, including the exercise of its powers and duties, shall be managed by the Board of Directors. The Board may delegate management authority to a person or company qualified by training and experience to manage a Project such as the River Quest Subdivision planned community. Any management agreement for the Project may be terminated by the Board, with or without cause, and with or without payment of any fee, upon thirty days' written notice thereof. The term of any such agreement may not exceed one year, although such agreement may be renewed from year to year by the Association.

Section 4. Effective Date. The Association's power to perform any act authorized, required or permitted to be done by the Association under this Declaration goes into effect at the recording of the first Lot sale to an Owner. Before the election of the first Board, as provided for in the Bylaws, the Declarant, or the Declarant's successors or assigns, shall have all the rights, powers and obligations of the Association provided in this Declaration, the Articles, or the Bylaws.



ARTICLE VI - MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each Owner, including Declarant, shall be a member of the Association; Association membership is restricted to Owners. Membership is appurtenant to each Lot. No Owner shall hold more than one membership, even if the Owner has an interest in more than one Lot. Membership shall terminate automatically when the Owner no longer holds any ownership interest in a Lot. Membership may not be assigned, transferred, or alienated in any way, except on transfer of title to a Lot, and then only to the transferee, in which case membership shall transfer automatically to the transferee. Any party that holds an interest in a Lot merely as security for performance of an obligation shall not be a member of the Association. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, Bylaws and Association Rules.

Section 2. Voting Rights. Owners shall be entitled to one vote for each Lot owned, except that the Association is not entitled to a vote for a Lot owned by the Association as part of the Common Area. When more than one person holds an interest in any Lot, only one vote may be cast with respect to that Lot.

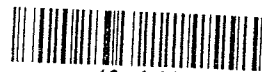
Section 3. Voting by Proxy. A vote may be cast under a proxy duly executed by an Owner. An Owner may revoke a proxy given under this section by written notice of revocation delivered to the person presiding over a meeting of the Association, and the revocation is effective upon delivery. A proxy is void if it is not dated, or purports to be revocable without the notice required in this section. A proxy terminates after one year of its date, unless it specifies a shorter term.

Section 4. Majority Approval Required. Except as otherwise provided in this Declaration, the Articles or Bylaws, all matters requiring the approval of Owners shall be deemed approved if a majority of the total voting power of all Owners assents by written consent; or, if a majority of votes are cast, either in person or by proxy, to approve the matter, at any duly called regular or special meeting of Association members, at which a quorum is present, either in person or by proxy.

Section 5. Multiple Ownership Lots. If a Lot has more than one Owner, and if only one of the Owners is present at a meeting of the Association, the vote of that Owner shall bind all the Owners of that Lot. If more than one Owner is present at a meeting of the Association, in person or by proxy, and the Owners do not all agree on how the vote should be cast, the vote for that Lot shall be forfeited on the matter in question.

ARTICLE VII - ASSESSMENTS

Section 1. Assessment Rights. The Association shall establish, fix and levy common expense and special assessments against the Owners; and shall levy such assessments, collect and enforce payment of such assessments, in accordance with the provisions of this Declaration.



ARTICLE VII - ASSESSMENTS, cont.

Section 2. Agreement to Pay. The Declarant covenants and agrees, for each Lot owned by it in the Project that is expressly made subject to assessments as set forth in this Declaration, and each Owner of any Lot by acceptance of a deed, covenants and agrees for each Lot owned, to pay the Association the common expense and special assessments levied in accordance with the provisions of this Declaration, and to allow the Association to enforce any assessment lien established in accordance with the provisions of this Declaration by non judicial proceedings under a power of sale or by any other means authorized by law.

Section 3. Effective Date. Declarant shall pay all common expense and special assessments for all property owned by Declarant. The personal obligation of each Owner to pay common expense and special assessments shall commence upon acceptance of a deed conveying a Lot to such Owner.

Section 4. Lien for Assessments. Common expense and special assessments, together with interest, late fees, and costs of collection (including reasonable attorneys' fees), shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, until paid in full. Each such assessment, together with interest, late fees, costs of collection (including reasonable attorneys' fees), shall also be the personal obligation of each person who is an Owner of such property at the time that the assessment became due and payable. For lots with more than one Owner, each Owner shall be jointly and severally liable for such assessments, interest, late fees and costs of collection.

Section 5. Scope of Assessment Authority.

A. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the members of the Association; to operate, maintain, repair, improve or replace the Common Area and its improvements and personal property, Common Facilities, and other real or personal property owned by the Association (or for which the Association has a grant, license or permit to use); to pay the costs of utilities, insurance, taxes, landscaping, permitting or other services billed to the Association or otherwise payable by it; to provide funds necessary for the performance of the duties of the Association as set forth in this Declaration; and for any other purpose that is for the common benefit of the Owners in this use and enjoyment of the Property.

B. The responsibility of the Association for common utility service lines shall be up to the junction of the common lines with the lines providing individual household service to the individual Lots, Tracts or Parcels. Maintenance and repair of the individual household service lines are the responsibility of each Lot Owner. Provided, however, that the Association shall charge back to the Owners of lots served by a particular common line, pro rata, costs incurred to repair plug-ups or freeze-ups along that particular common line.

ARTICLE VII - ASSESSMENTS, cont.

Section 6. Common Expense Assessments. The Board shall adopt a budget for common expenses, and levy an assessment for common expenses, no less than annually, as follows.

A. **Amount.** The amount of the annual common expense assessment shall be based upon the anticipated costs of operation, maintenance and repair of the Common Area, costs of common utilities, insurance, taxes, landscaping and other services, or any other annual or recurring cost of the type described in Section 5, above; plus an amount sufficient to maintain an adequate reserve.

B. **Budget; Levy.** The Board shall adopt the annual common expense budget and levy the annual common expense assessment, no later than 60 days before the beginning of each fiscal year of the Association.

Section 7. Special Assessments.

A. The Board may levy a special assessment if the Board determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate reserves, for a particular fiscal year for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repair or replacement of capital improvements or otherwise. The Board shall determine the amount necessary to meet the estimated expenses and, if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board may levy the entire assessment immediately or levy it in installments over a period it considers appropriate.

B. The Board may levy a special assessment against a particular Lot to reimburse the Association for costs incurred in repairing damage to the Common Area or any improvements or personal property located thereon, for which the Owner was allegedly responsible, or in bringing the Owner or Owner's Lot into compliance with this Declaration, the Articles, Bylaws or Rules.

C. The Board may levy a special assessment for new capital improvements upon the Common Area, including fixtures and personal property related thereto, and general landscaping, with the approval of no less than 67 percent (67%) of the voting rights of all the Owners.

D. The Board may not levy any special assessment that either by itself or in the aggregate with other special assessments levied for that fiscal year would be in excess of five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the approval by vote or written consent of the Owners holding 51 percent (51%) of the voting rights of all the Owners, and the Owners, other than Declarant, holding 51 percent (51%) of the voting rights of all the Owners other than Declarant. This sub-section does not apply to a special assessment levied against an Owner to reimburse the Association for the cost of bringing the Owner into compliance with this Declaration, the Articles, Bylaws or Rules.



ARTICLE VII - ASSESSMENTS, cont.

Section 8. Allocation of Assessments.

A. A common expense or special assessment shall be allocated among each Lot subject to the assessment by dividing the total amount of the assessment by the total number of Lots subject to the assessment, excluding Lot 85, Guy Nash Street, Tract C and Tract D, which shall be exempt from assessment; and except as otherwise provided in this Declaration.

B. A common expense associated with the maintenance, repair or replacement of a limited common element shall be assessed exclusively against each Lot, Tract or Parcel to which that limited common element is assigned, equally.

C. Common expenses for water and sewer shall be assessed by the number of water or sewer hookups per Lot, or per family, for Lots which were developed by the Declarant for two separate families.

D. Costs of common utilities other than water or sewer shall be assessed in proportion to usage, if usage for each Lot can be determined.

E. Costs of individually metered utilities, including, but not limited to, electric, telephone, and gas (if provided), are the sole and exclusive responsibility of the Owner, and no liability for such costs shall accrue to the Association.

F. Costs associated with the Common Area, not including the Limited Common Elements, shall be shared uniformly as a common expense.

G. Costs incurred to bring an Owner into compliance with this Declaration, the Articles, Bylaws and Rules, shall be assessed exclusively against that Owner.

H. If a common expense is caused by the misconduct of an Owner, the association may assess that expense exclusively against that Owner's Lot.

I. This section applies to all property annexed or added to the Project.

Section 9. Assessment Period; Due Date.

A. **Common Expense.** The annual common expense assessment shall commence as to all Lots on the first day of the month following the first sale by Declarant of a Lot. The first annual common expense assessment shall begin with fiscal year 2005, and shall be pre-paid as part of closing the sale of a Lot. Written notice of each subsequent annual common expense assessment shall be sent to every Owner or co-Owner, not less than 30 days before the beginning of the fiscal year of the Association. The annual common expense assessment is due and payable by the 15th day of the Association's fiscal year (January 15), and shall be paid in equal monthly installments, payable in advance on the first day of each month.



ARTICLE VII - ASSESSMENTS, Sec. 9, cont.

B. **Special Expense.** At least thirty (30) days prior to the commencement of any special assessment, the Board shall give each Owner or co-Owner written notice of the amount of the special assessment, the due date, or due dates if paid in installments, and the amount of the installment. The notice need only be given once for any assessment paid in installments. All special assessments shall be adjusted according to the number of days remaining in the fiscal year, and shall be payable in equal monthly installments, payable in advance on the first day of each month, unless the Board adopts some other payment method.

Section 10. Late Charges; Interest. An assessment payment, including any installment payment, shall become delinquent if not received by the Association within 30 days after its due date. There shall be a late charge of \$10 imposed for each delinquent payment. The Board may impose a higher late charge provided it does not exceed one and one-half percent of the first \$1000 of the delinquent payment and one percent of any amount in excess of \$1000. Interest shall accrue on any delinquent payment at the rate of 10% per annum or at such rate as the Board may impose. Late charges and interest shall accrue from the first day following the due date of the assessment through and including the date full payment is received by the Association. All assessments are due without demand.

Section 11. Association Remedies. The Association may, in addition to other legal remedies available to it, bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien described in Section 4, above, against the property. The lien is subordinate to the lien of any first mortgage or first deed of trust recorded before the due date of the assessment sought to be enforced. Sale or transfer of any lot shall not affect the assessment lien or the Owner's personal liability for the assessment; except that the sale or transfer of any Lot pursuant to a mortgage or deed of trust foreclosure shall extinguish the lien of an assessment which became due after the recording of such mortgage or deed of trust.

Section 12. Waiver of Homestead Exemption. Each Owner, to the extent permitted by law, waives the protection of any declared homestead or homestead exemption under the laws of Alaska as applied to any action to enforce the assessments levied by the Association.

Section 13. Certificate. The Association shall, upon demand by an Owner, furnish a certificate signed by an Association officer, to the Owner, stating the amount of annual and monthly common expense assessments, and any unpaid common expense or special assessment on the Owner's Lot. Such certificates are conclusive evidence of assessment data for that Lot. The Association may charge a reasonable fee for preparation of this certificate.

Section 14. Procedures. The Board may adopt other specific procedures for budgeting, assessment, payment and collection of common expense or special assessments, as necessary; and, if adopted, shall incorporate such procedures into the Bylaws or Rules.



ARTICLE VIII - INSURANCE AND TAXES

Section 1. Association Insurance. The Association shall maintain, to the extent reasonably available, insurance as follows: property insurance on the Common Area, the improvements and personal property located on the Common Area; liability insurance for the use of the Common Area; and any other insurance required by applicable law. Property and liability insurance policies must provide the coverage required by the Act. The Association shall maintain directors and officers insurance covering directors and officers of the Association. The Association may carry other types of insurance necessary for performance of the Association's duties, or for the business operations of the Association, or otherwise necessary to protect the Association or Owners.

Section 2. Owner's Insurance. An Owner may carry personal liability and property damage insurance with respect to a Lot, at the Owner's discretion; provided, however, that any such policy shall include a waiver of subrogation clause acceptable to the Association.

Section 3. Indemnification. Directors and officers and former directors and officers of the Association are indemnified to the fullest extent of the law as provided in the Alaska Statutes 10.20.011(14), or any successor provision or amendment thereto, against expenses actually and reasonably incurred by such person in connection with the defense of any action, suit or proceeding, civil or criminal, in which that person is made a party by reason of being or having been a director or officer, except in relation to matters in which that person was adjudged, in the action, suit or proceeding, to be liable for negligence or misconduct in the performance of his/her corporate duties.

Section 4. Taxes. The Association shall pay all real and personal property taxes and assessments, and all other taxes levied against the Association, the Common Area, or the personal property owned by the Association.

ARTICLE IX - MAINTENANCE AND UTILITIES

Section 1. Common Area. The Association shall manage and maintain in good condition and repair the Common Area, including the facilities and other improvements, and personal property, located on or within the Common Area and any other real property or personal property owned by, acquired by, or subject to the control of the Association.

Section 2. Utilities. The Association may provide any utility it deems necessary or desirable, to the Common Area, or to separate Lots. The Association has the right to construct improvements necessary to provide any utility service to the Common Area, or to separate Lots. The Association shall maintain and repair utility facilities or services provided in or to the Common Area. Lot Owners shall comply with any usage restrictions on utilities, imposed by the terms of any applicable permit, by this Declaration, or by the Association.

ARTICLE X - ARCHITECTURAL CONTROL

Section 1. Building Restrictions. No building shall be erected, altered, placed or permitted to remain on any Lot, other than single-family residences, which shall not exceed two stories in height, or have less than a six hundred (600) square feet footprint (Lots 1-26), or three hundred (300) square feet footprint (all other Lots), except as otherwise provided in this Declaration, or unless otherwise approved by the Association. Lots which were developed by the Declarant for two separate families may contain two separate single-family residences.

Section 2. Architectural Control. No building, structure or other improvement shall be erected, altered, placed or permitted to remain on the Property, nor shall any exterior addition to or change or alteration therein be made, until plans with specifications showing the nature, kind, shape, height, materials and location of the structure have been submitted to, and approved in writing by, the Association or Architectural Committee, if any, as to the harmony of external design and location with respect to topography and finished grade elevation, and the quality of workmanship and materials, and compliance with the Governing Documents. In the event the Association or Committee fails to act on such plans within sixty (60) days after said plans have been submitted to it, approval will not be required, and this section will be deemed to have been fully complied with.

Section 3. Building Setbacks. No building, structure or other improvement shall be erected, altered, placed or permitted to remain on or within the following building setbacks: 3 feet from side and back Lot lines, 3 feet from front (adjacent to right of way) Lot lines, and any other building setback shown or described in the Governing Documents, or otherwise provided in this Declaration.

Section 4. Permits. Buildings, structures, improvements, roads, utilities, or any other activities on or uses of any Lot, shall be subject to, and comply with, permits obtained from any government agency by Declarant, its successors and assigns, relating to that Lot.

Section 5. Architectural Committee. Whenever in this Declaration the prior consent or approval of the Association is required as a condition to any action by an Owner relating to construction of structures or improvements, the Association through the Board may delegate to an Architectural Committee the right and duty to grant or withhold such consent or approval. The Architectural Committee is a committee of the Board, and the Board shall make provisions for this Committee, including its powers and duties, in the Bylaws.

Section 6. Habitat Protection Area Lots. Lots, and improvements on the Lots, that are within the 50 foot Anadromous Stream Protection Area, shall be in compliance with KPB 21.18. The permanent setbacks for structures on such Lots are as established in the CUP approved by the Borough Planning Commission on 5/24/04, or permit issued by the Borough Planning Director pursuant to that approval, or any amendments to that CUP or permit.



ARTICLE X - ARCHITECTURAL CONTROL, cont.

Section 7. Flood Plain and Floodway. Lots, and improvements on the Lots, in the Project that are within the 100-year (Zone A) flood hazard area Kenai River Floodplain or Floodway shall be in compliance with KPB 21.06.

Section 8. Bank Restoration and Stabilization. Each Owner of a Lot with frontage along the Canal, River or Slough shall provide for stabilization of the bank along that frontage, in compliance with all existing state laws or regulations, or Kenai Peninsula Borough ordinances. The Association may establish other standards for bank restoration and stabilization in the Project; and each Lot shall be in compliance with such standards.

Section 9. Application to Declarant. Sections 1, 2 and 3 do not apply to improvements owned or constructed by Declarant prior to the date this Declaration is recorded. Sections 1 and 2 do not apply to improvements constructed by Declarant after the date this Declaration is recorded, in any phase of the Project.

ARTICLE XI - ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Annexation. The Declarant may, at any time, annex or add real property to the Property or Project or Development described herein, and so add membership to the Association, during the period of Declarant control, as defined in the Act. The Association may, at any time, annex or add real property to the Property or Project or Development described herein, and so add membership to the Association; provided that any such annexation or addition must be approved before annexation or addition by the affirmative vote of 75% of the total number of votes eligible to be cast, according to Article VI, Section 2, above.

Section 2. Procedure. Annexation or addition to the Property shall be by a written Supplement to this Declaration, which shall describe the real property to be annexed or added, shall state that the real property to be annexed or added is subject to all terms and conditions of this Declaration, and any amendments, and shall be recorded in the Kenai Recording District. Upon recording the Supplement as provided in this Declaration, the real property described in the Supplement shall be part of the Project and subject to the provisions of this Declaration, and any amendments, and to the rights and powers of the Association, pursuant to the terms of the Governing Documents, and any amendments. Upon recording the Supplement as provided in this Declaration, all Owners of any portion of the annexed property shall automatically be members of the Association, with voting rights commencing on the date common expense assessments commence, as provided in Article VII, Section 9; or upon acceptance of a deed conveying a Lot to such Owner, whichever is earlier.

Section 3. Assessments. Common expense and special assessments commence with respect to the annexed or added real property at the time and to the extent described in Article VII, Section 9. The assessment ratios described in Article VII, Section 8 shall be modified to take into account the greater number of Lots in the Project, using the same method of calculating such ratios as in that Section.



ARTICLE XII - MORTGAGE RIGHTS

Section 1. Mortgage Permitted. An Owner may encumber a Lot with a mortgage or deed of trust. The Association may encumber the Common Area with a mortgage or deed of trust; provided, however, that any such mortgage or deed of trust must be approved before execution by the affirmative vote of 67% of the total number of votes eligible to be cast, according to Article VI, Section 2, above.

Section 2. Protection of Mortgagees. A lien created or claimed under Article VII, Section 4, for assessments, is expressly made subject to and subordinate to the rights of any first mortgage or deed of trust that encumbers all or a portion of the Project, or any Lot, made in good faith and for value, without notice of the levy of an assessment, and recorded prior to the due date of the assessment.

ARTICLE XIII - DEVELOPMENT RIGHTS

Section 1. Development Rights. The Declarant reserves the right to further develop the River Quest Subdivision project. It is contemplated that further development shall occur in two or more phases; however, no assurances are made or given that all phases will be undertaken or completed. The two other contemplated phases of River Quest Subdivision project are defined below.

A. Phase 2. The portion (approximately 27 acres) of Government Lot 5, Section 19, T5N, R10W, S.M, Kenai Recording District, north of Porter Road. Declarant reserves the right to create a maximum of 100 Lots, and provide access to the Kenai River (including boat launching and moorage) by easement.

B. Phase 3. Further subdivision of Tract A, River Quest Subdivision. Declarant reserves the right to create a maximum of 20 Lots, and provide access to the Kenai River (including boat launching and moorage) by easement.

C. If neither Phase 2 or Phase 3 is in fact completed, Phase 1 (Lots 1-89, Tracts A, B, C, D) shall constitute a complete, fully operational common interest community, and the land described for Phase 2 or Phase 3 may be used for any other lawful purpose in Declarant's discretion.

Section 2. Special Declarant Rights. Declarant reserves the following rights, as they may apply to any phase of the Project.

A. Right to Use for Development. Declarant may use any Lot or Tract owned by Declarant for sales, management, models, and construction related to developing, improving and selling lots, tracts or parcels in the Project.

B. Right of Access. Access over and across Phase 1 and any other phase subsequently established is reserved to Declarant or Declarant's successors or assigns over existing and planned easements, roadways, travel ways and utility lines established in and for Phase 1, and subsequent phases (described in Section 1), and the right to connect thereto is reserved, such reservations being for the purpose either of completing the subsequent phases, or developing portions of the land, if not completed as a common interest community, for other purposes.



ARTICLE XIII - DEVELOPMENT RIGHTS, Sec. 2, cont.

C. **Right to Appoint or Remove.** The Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board, during the "period of declarant control of the association," as described in the Act, until the termination of that period, as described in the Act, or until the Declarant voluntarily surrenders these rights, in a writing delivered to the Board. The voluntary surrender of such rights is effective upon delivery.

D. **Right to Continue Prior Existing Activities.** The Declarant may use Lots owned by Declarant for seasonal recreational business purposes; and the restrictions in Article IV, Sections 1, 2, 4, 5, 11, 13, 17 and 19 do not apply to these uses. These seasonal business rights include (but are not limited to) the following: (1) rental/leasing of campsites, recreational vehicle spaces, cabins, boat launch; (2) guide services and booking services; (3) lodging, restaurant; (4) boat moorage along the Canal, River or Slough frontage of Lots owned by Declarant. Declarant's seasonal business use rights as stated in this sub-section terminate upon transfer of title from Declarant to a transferee, unless Declarant expressly assigns such use rights to the transferee in the conveyance; in which case the rights described in this sub-section (D) shall accrue to the assignee.

E. **Right to Develop Year-Round Residential Property.** Declarant, for itself or the Association, reserves the right to develop or upgrade Lots in the Project or any subsequent phase for year-round residential use. The use restrictions of Article IV, Section 3 shall not apply to such year-round residential lots.

G. **Other Rights.** Other special Declarant rights are as described in this Declaration. Declarant reserves any other "special declarant right" described in the Act, not otherwise described in this Declaration.

ARTICLE XIV - AMENDMENT

Section 1. By Declarant. During the period of Declarant control, as defined in the Act, the Declarant may, without the joinder or consent of any persons having an interest in the existing Lots, amend this Declaration to create additional lots and common areas, change the boundaries of Lots, change the allocated interests of a Lot, create additional special declarant rights, and add, withdraw, realign and grant utility and right of way easements over, under, across and upon the Common Areas, or for any other purpose necessary for development of any phase of the Project, or take any other action allowed under the Act, provided that amendments do not materially impair the use of any Lot. Such amended Declaration may contain complementary additions and modifications of the provisions in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration.

Section 2. By Owners. This Declaration may be amended by vote of, or an instrument signed by, no less than 67% of Owners, unless otherwise provided in this Declaration; except that Article XIII can only be amended by vote of, or an instrument signed by, 100% of Owners.



ARTICLE XIV - AMENDMENT, cont.

Section 3. Procedure. The amendments authorized under this Article shall be made effective by executing and recording a written instrument signed either by the Declarant, or Owners or Association, as applicable. Amendments are effective as of the last date of execution of the amendment, and additional property shall be subject to this Declaration, as of the last date of execution of the amendment.

ARTICLE XV - GENERAL PROVISIONS

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty years from the date this Declaration is recorded, after which time they shall be extended automatically for successive periods of ten years.

Section 2. Binding Effect. By accepting title to any Lot, a Lot Owner is bound by, charged with knowledge of, and agrees to comply with, the Governing Documents, and their terms, any existing statutes, regulations, ordinances, or other legal rules governing the use or development of the Owner's Lot, or any existing permits affecting any use or development of the Owner's Lot.

Section 3. Performance. The Declarant reserves the right to perform any acts required to be performed, or permitted to be performed, by the Declarant, in this Declaration. The Association reserves the right to perform acts required to be performed, or permitted to be performed, by the Association, in this Declaration. No Owner may perform any act so reserved, or bind the Declarant or the Association for another's performance of such act, without prior approval of the Declarant, or Association.

Section 4. Enforcement. The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws or Rules, shall give rise to a cause of action in the Association and any aggrieved Owner, for the recovery of damages or for injunctive relief, or both. In addition, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all provisions of this Declaration. Failure by the Association or by any Owner to take any action to enforce any provision of this Declaration shall in no event be deemed a waiver of the provision or the right to enforce the provision thereafter.

Section 5. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a subdivision project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provisions or any other provisions hereof.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.



ARTICLE XV - GENERAL PROVISIONS, cont.

Section 7. Proof of Ownership. Except for Owners who initially purchase a Lot from Declarant, any person or entity on becoming an Owner shall furnish to the Secretary of the Association and Project manager, if any, a conformed or a certified copy of the recorded instrument vesting that person or entity with an interest of ownership in the Lot, which copy shall remain in the files of the Association.

Section 8. Access to Books and Records. An Owner may, at any reasonable time during business hours, and upon reasonable notice to the Board or Project manager, if any, inspect and copy Association books and records. The Association may charge a reasonable fee for copying such records.

Section 9. Mailing Address. The Owner or Owners of an individual Lot shall have one official mailing address to be used by the Association for mailing of statements, notices, demands and all other communications; except that two-family Lots may have one official mailing address per family. This official address shall be furnished by the Owner(s) to the Secretary of the Association and Project manager, if any, within fifteen (15) days after transfer of title, or after a change of mailing address, in writing, and signed by all of the Owners of the Lot (or each family's Owners, for two-family Lots), or by such person(s) authorized by law or power of attorney to represent all Owners of a Lot.

Section 10. Notification of Sale. Concurrently with the consummation of the sale of any Lot, under circumstances where the transferee becomes an Owner of the Lot, or within fifteen (15) business days thereafter, the transferee shall notify the Association in writing of such sale. Such notification shall set forth the name and mailing address of the transferee and any mortgagee or deed of trust beneficiary, the legal description or street address of the Lot purchased by the transferee, and the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the Project manager, shall be deemed to be duly and timely made if given to the transferee's transferor. For purposes of this section, "sale" includes a contract of sale.

Section 11. Partial Damage or Destruction. In the event that any lot, building, structure or other improvement within the project is damaged or destroyed by any casualty loss, partially or completely, the Owner and/or the Association shall promptly repair or replace such property. Failure of a Lot Owner to promptly repair or replace any property damaged or destroyed within a Lot, shall give rise to a right in the Association to undertake such repair or replacement and to charge the Owner of such Lot therefore. In the event that any such damage or partial destruction shall affect more than 25% of the Lots in the Project, or shall cause a diminution in the market value of Lots within the Project equal to or greater than 25% of the market value of all such Lots immediately prior to the casualty loss, the Association shall determine by majority vote, whether or not to undertake the repair or replacement of such property. The Association shall promptly notify all holders of first mortgages or first deeds of trust of any loss, damage or destruction of Common Areas and facilities which exceeds ten thousand dollars (\$10,000).



ARTICLE XV - GENERAL PROVISIONS, cont.

Section 12. Minor Encroachments. Each lot and its Owner(s) shall have and is granted an easement over all adjoining Lots and the Common Area for the purpose of accommodating any minor encroachment caused by engineering errors, errors in original construction, settlement or shifting of structures. However, in no event shall a valid easement for such encroachment exist in favor of an Owner if the encroachment is more than minor, or was caused by the knowing or willful conduct of the Owner.

Section 13. Claims Against Declarant/Association. No Owner shall have or make any claim against the Declarant, related to Declarant's powers or duties under this Declaration. No Owner shall have or make any claim against the Association, except for negligence in connection with the Association's duties set forth in this Declaration. By accepting the conveyance of a Lot, each Owner agrees to indemnify and hold harmless the Declarant or Association from any liability, claim, demand or suit for any injury or damages to persons or property on the Owner's Lot, the Common Area, or on another Owner's Lot, or arising from any Owner's, family member's or guest's use of the Owner's Lot, the Common Area or another Owner's Lot. Each Lot Owner is strictly liable for any injury or damages to persons or property on that Owner's Lot, whatever the cause, and for injury or damages to persons or property caused by that Lot Owner, and that Lot Owner's family member or guest in the Common Area or on another Owner's Lot.

Section 14. Right to Impose Sanctions for Violations. In addition to any other enforcement rights described in this Declaration or the Articles or Bylaws, or authorized by law and subject to any restrictions on the association's enforcement rights, including any due process requirements imposed by law, this Declaration, or the Bylaws, the Association may take any of the following actions against any person or entity whose act or failure to act violates or threatens to violate any provision of this Declaration, the Articles, Bylaws or Rules: impose monetary penalties, in an amount consistent with the infraction, or, if such an amount cannot be ascertained, in a reasonable amount, including late charges and interest; suspend voting rights in the Association; suspend use privileges for the Common Area; commence a legal action for damages, injunctive relief, or both.

Section 15. Mandatory Mediation. In the event of a dispute between the Declarant, Association or Lot Owner over the terms and conditions of any of the Governing Documents, the disputing parties shall first attempt to resolve the matter in dispute by mediation that shall be in accordance with the Mediation Rules of the American Arbitration Association currently in effect, or other rules agreed to by the disputing parties. A demand for mediation under this section shall be submitted in writing by any disputing party to the other disputing party. No lawsuit may be brought for a period of at least 60 days from the date of submission of the demand. The disputing parties shall share mediation fees equally. The mediation shall be held in the Kenai Venue District. Agreements reached in the mediation are enforceable as settlement agreements in any court having jurisdiction thereof.



ARTICLE XV - GENERAL PROVISIONS, cont.

Section 16. Incorporation of Exhibits. All exhibits referred to are attached to this Declaration and incorporated herein by reference.

ARTICLE XVI - TRANSITION PROVISIONS

Section 1. Application. The conditions, covenants and restrictions in this Article relate to the transition of the Project from a seasonal recreational resort to a subdivision with multiple owners, with common areas and facilities managed by the Association.

Section 2. Roads. At the time this Declaration is executed, there are existing vehicle road ways, for which the Association has been or will be granted an easement. Some of these road ways may not be located in the public or private rights of way shown on the Plat. Beginning in 2004, Declarant will relocate existing vehicle road ways to the public and private rights of way (including access easement) shown on the Plat. The Declarant (or the Association) shall notify Owners when this project is completed. Existing vehicle road ways may be used until this project is completed, or until August 31, 2006, whichever is earlier; after which, vehicle road ways are restricted to the public and private rights of way shown on the Plat. Each Owner takes title subject to the road ways that exist at the time this Declaration is recorded, and the rights of way shown on the Plat.

Section 3. Utilities. At the time this Declaration is executed, there are existing utilities, and related facilities, for which the Association has been or will be granted ownership or an easement, as follows: community water and septic system, electric, telephone, and natural gas (if approved, but not to Lots 32-38). Beginning in 2004, the Declarant will relocate, upgrade or complete installation of some existing utility lines and facilities. The Declarant (or the Association) shall notify Owners when this project is completed. The end result will be that all Project utility lines and facilities will be located in documented locations, the utility easements re-established in the documented locations, and the utilities and easements transferred to Association control on or before August 31, 2006. Each Owner takes title subject to the utility easements that exist at the time this Declaration is recorded, including those noted on the Plat, and as re-established in the documented location.

Section 4. Conditional Use Permit Setbacks. Each Owner of a Lot with structures existing on the date this Declaration is recorded has until August 31, 2006 to bring such structures into compliance with the applicable setbacks contained in the Conditional Use Permit approved by the Kenai Peninsula Borough Planning Commission on 5/24/04, or any subsequent permit, CUP amendment or amended permit. In the event that structure on any Lot is not in compliance by that deadline, the Declarant (or Association) may bring the structure into compliance, or remove the structure, without the requirement of any further notice or due process to the Owner, and assess the cost of doing so against the Owner per Article VII(7)(B).

ARTICLE XVI - TRANSITION PROVISIONS, cont.

Section 5. Bank Restoration and Stabilization. Each Owner of a Lot with frontage along the Canal, River or Slough has until August 31, 2006 to provide for stabilization of the bank along that frontage, according to standards set by Kenai Peninsula Borough ordinances or publications, and any standards set by the Association. The Association is responsible for compliance with this Section, for Slough frontage along the Access Easement on Lots 32-38 and Tract B. In the event that any Lot is not in compliance with this Section 5 by that deadline, the Declarant (or Association) may bring the Lot into compliance, without the requirement of any further notice or due process to the Owner, and assess the cost of doing so against the Owner pursuant to Article VII(7)(B).

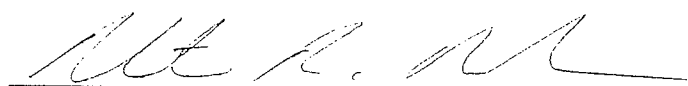
Section 6. Flood Hazard Area. Each Owner of a Lot with structures existing on the date this Declaration is recorded has until August 31, 2006 to bring such structures into compliance with the development requirements for structures contained in the KPB 21.06. In the event that any structure on any Lot is not in compliance by that deadline, the Declarant (or Association) may bring the structure into compliance, or remove the structure, without the requirement of any further notice or due process to the Owner, and assess the cost of doing so against the Owner pursuant to Article VII(7)(B). Structures on Lots 22, 23, 29, 52, 87 and 88, existing at the time of the execution of this Declaration, are not subject to this requirement.

Section 7. Waterway Traffic Plan. The Waterway Traffic Plan, attached hereto and incorporated by reference as Exhibit C, shall go into effect on May 1, 2005, and all Lots are subject to the terms and conditions of that Plan. The Waterway Traffic Plan is subject to the River Quest Subdivision Easements and other provisions of this Declaration; particularly, Article XIII, Section 2(D).

Section 8. Declarant's Duty to Pay Assessments. Notwithstanding the provisions of Article VII, Sections 2 and 3, Declarant has no duty to pay any common expense or special assessment for Lots 1-30, until such time as such Lot is conveyed by Declarant, or leased by Declarant or assigns for commercial purposes, pursuant to Article XIII, Section 2(D), above. At the time such Lot is so conveyed or leased, that year's common expense assessment is due in full from Declarant, or assigns, at the time of conveyance or execution of lease. No special assessment may be levied on Lots 1-30, until after such a Lot is conveyed by Declarant.

DECLARANT

DATED: 8-19-04



DENCO, INC.

BY: ROBERT R. NASH

ITS: President

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT) ss.

THE FOREGOING INSTRUMENT was acknowledged before me this 19th
day of August, 2004, by ROBERT R. NASH, President,
DENCO, INC., an Alaska corporation, BUYER, on behalf of the corporation.

Kristine Schmidt
Notary Public for the State of Alaska
My Commission Expires: 7/28/05

RECORD IN: Kenai Recording District

AFTER RECORDING RETURN TO:

First American Title
105 Trading Bay Road, Suite 103
Kenai, Alaska 99611



EXHIBIT A
to River Quest Subdivision CCRs

Easements Granted To the Association

Easements granted to the Association, as described in the River Quest Subdivision Easements, are summarized below. All easements granted to the Association are non-exclusive and non-possessory. The full description of easement rights, including restrictions on use, is found in the Easement Document, and controls in the event of conflicts with the summary.

1. Boat Launch. The Association has an easement for ingress and egress, and to launch (put in and take out) boats, including temporary vehicle parking and temporary boat tie up, and to use the boat launch ramp, on and over Lot 85, River Quest Subdivision, to the Kenai River.
2. Boat Launch. The Association has an easement for ingress and egress, and to launch (put in and take out) boats, including temporary vehicle parking and temporary boat tie up, over Lots 56-57, River Quest Subdivision to the Canal. This easement is subject to water levels being high enough to allow for boat launching.
3. Canal. The Association has an easement for ingress and egress to and from the Kenai River, for boat moorage, and for maintenance and repair (including dredging) along and through the Canal, and through Lots 48, 49 and 80, for bringing equipment to conduct maintenance, repair and dredging operations.
4. Kenai River Slough. The Association has an easement for ingress and egress, and boat moorage, and for maintenance and repair (including dredging) along and through the Kenai River Slough.
5. Bank Restoration and Stabilization. The Association has an easement five (5) wide, from the ordinary high water line, around the perimeter of the Canal, Kenai River Slough, or Kenai River, for bank restoration and stabilization.
6. Turnaround Areas. The Association has turnaround and utility easements: (a) one from the end of Tract C, over Lots 47-49, 51, 52, 54-56, River Quest Subdivision; (b) one from the end of Meredith Circle over Lots 78, 79, 82, 83, 87, River Quest Subdivision, which is also a utility easement. These easements are shown on the River Quest Subdivision Plat.
7. Access Easement. The Association has a restricted use "Access Easement" for vehicular and pedestrian traffic, across Lots 32-38, and Tract B, River Quest Subdivision, subject to a ten (10) feet wide Non Vehicle Use Buffer along the Slough. This easement is shown on the River Quest Subdivision Plat.



EXHIBIT A, cont.

8. Pedestrian Walkway to Kenai River. The Association has a pedestrian walkway easement across Lot 38, River Quest Subdivision, to access the Kenai River.

9. Tract B. The Association has a pedestrian walkway easement across Tract B.

10. Existing Roads and Utilities. The Association has right of way and utility easements for existing roads and utilities, including utility lines and facilities (pump house, lift stations, meter boards, etc.). The existing right of way easements will be relinquished and re-established on September 1, 2007, as the public (Guy Nash Street) and private (Tract C, Access Easement) rights of way shown on the River Quest Subdivision Plat. Existing utility easements will be relinquished and re-established in documented locations on or before September 1, 2007.

11. Tract D. The Association has an access easement over Government Lot 5, or through the section line easement on the west side of River Quest Subdivision, Phase 2, for ingress and egress to Tract D.

12. Borderline - Castaway Cove. The Association has a pedestrian walkway easement along the border between River Quest Subdivision and Castaway Cove Subdivision, over Tract A, Lots 27, 28, 30, 31.



EXHIBIT B
to River Quest Subdivision CCRs

The Limited Common Elements

Easements Granted to the Association for the Benefit of Less Than All Members (Limited Common Elements) are summarized below. All easements granted to the Association are non-exclusive and non-possessory. The full description of easement rights, including restrictions on use, is found in the Easement Document, and controls in the event of conflicts with the summary.

1. **Boat Moorage.** There is a limited common area easement for boat moorage, one space per Lot, along the Canal, Kenai River or Slough, as assigned in the Waterway Traffic Plan. Lots within or along the Canal, River or Slough are assigned the one space for boat moorage within that Lot, or along that Lot line. This boat moorage easement includes the right to put a launch pad adjacent to or on the boat moorage space, as long as the launch pad is in compliance with applicable federal, state and municipal laws governing Kenai River waterways. This easement may contain other conditions and restrictions, described in the Easement document. All boat moorage is subject to water levels.

2. **Additional Boat Moorage.**

a. **Two Family Lots.** Lots which were developed by the Declarant for two separate families, are assigned two boat moorage spaces per Lot, subject to the same conditions and restrictions as set forth in Section 1, above.

b. **Waterway Owners.** The Declarant may provide in the purchase and sale documents for an Owner with a Lot within or along the Canal, River or Slough to reserve other boat moorage space within that Lot, or along that Owner's Lot line, upon payment of a premium, to the Declarant at the time of sale of the Lot; subject to the condition that there is sufficient space for boat moorage along the Canal, Kenai River or Slough to accommodate boat moorage space for all other Owners. The Declarant reserves the right to assign additional boat moorage space within or along Lots owned by Declarant.

3. **Walkway Easements (Boat Moorage).**

a. **Gap Areas.** There is a restricted use, limited common area easement for a pedestrian walkway, the width of the Canal, from Tract C to the Canal, over Lots 39, 40, 62 and 63, for the purpose of ingress and egress to the Canal, in order to access boat moorage along the Canal, as assigned in the Waterway Traffic Plan.

b. **Access to Boat Moorage.** There is a restricted use, limited common area easement, for each Lot with boat moorage space assigned along the Canal, Kenai River or Slough, for a pedestrian walkway, five (5) feet wide, centered on a side lot line, and five (5) feet wide, along the bank of the Canal, Kenai River or Slough, for the purpose of ingress and egress to the Canal, Kenai River or Slough, in order to access that Lot's boat moorage along the Canal, Kenai River or Slough, as assigned in the Waterway Traffic Plan.



EXHIBIT B, cont.

c. **Walkway Easement.** There is a restricted use, limited common area easement, for each Lot with boat moorage space assigned along the Canal frontage of Lot 39, for a pedestrian walkway, five (5) feet wide, for the purpose of ingress and egress to the Canal, in order to access that Lot's boat moorage along Lot 39, as assigned in the Waterway Traffic Plan.

4. **Driveway Easements.**

a. There is a restricted use, limited common area driveway easement, for Lots 79-82, fifteen (15) feet wide, centered along the lot line common to Lots 79, 81 and 82, as shown on the River Quest Subdivision Plat.

b. There is a restricted use, limited common area driveway easement, for Lots 41, 42, and 43, the width of the "flag" portion of Lots 42 and 43, along the lot line common to Lots 42 and 43, as shown on the River Quest Subdivision Plat.

c. There is a restricted use, limited common area driveway easement, for Lot 84, consisting of the north fifteen (15) feet of Lot 83, along the lot line common to Lots 83 and 87.



EXHIBIT C - River Quest Subdivision Phase 1 - Waterway Traffic Plan

Lot	CUP Setback	Boat Moorage Spaces		
		No.	Location	Assignment
31	20-feet from the Slough 30 feet from the Canal	4	Slough	Reserved by Declarant
32	15-feet from the River	5	River	1 - Lot 32 Owner 4 - Reserved by Declarant
	50-feet from the Slough	5	Slough	5 - Reserved by Declarant
33	35-feet from the River	3	River	1 - Lot 33 Owner 2 - Reserved by Declarant
	50-feet from the Slough	3	Slough	3 - Reserved by Declarant
34	20-feet from the River	3	River	1 - Lot 34 Owner 2 - Reserved by Declarant
	50-feet from the Slough	2	Slough	2 - Reserved by Declarant
35	35-feet from the River	3	River	1 - Lot 35 Owner 2 - Reserved by Declarant
	50-feet from the Slough	2	Slough	2 - Reserved by Declarant
36	5-feet from the River	3	River	1 - Lot 36 Owner 2 - Reserved by Declarant
	50-feet from the Slough	2	Slough	2 - Reserved by Declarant
37	10-feet from the River	3	River	1 - Lot 37 Owner 2 - Reserved by Declarant
	50-feet from the Slough	2	Slough	2 - Reserved by Declarant
38	15-feet from the River	4	River	1 - Lot 38 Owner 3 - Reserved by Declarant
	50-feet from the Slough	1	Slough	1 - Reserved by Declarant
39	10-feet from the Canal	R	Canal	Reserved by Declarant
	20-feet from the Slough	10	Slough	1 - Lot 39 Owner 9 - Reserved by Declarant
40	10-feet from the Canal	2	Canal	1 - Lot 40 Owner 1 - Reserved by Declarant
41	10-feet from the Canal	3	Canal	1 - Lot 41 Owner 2 - Reserved by Declarant
42	10-feet from the Canal	R	Canal	Reserved by Declarant
	10-feet from the Slough	3	Slough	1 - Lot 42 Owner 2 - Reserved by Declarant
43	10-feet from the Slough	3	Slough	1 - Lot 43 Owner 2 - Reserved by Declarant
44	10-feet from the Slough	3	Slough	1 - Lot 44 Owner 2 - Reserved by Declarant
45	8-feet from the Slough	4	Slough	1 - Lot 45 Owner 3 - Reserved by Declarant
46	8-feet from the Slough	5	Slough	1 - Lot 46 Owner 4 - Reserved by Declarant



EXHIBIT C, cont.

Lot	CUP Setback	Boat Moorage Spaces		
		No.	Location	Assignment
47	8-feet from the Slough	3	Slough	1 - Lot 47 Owner 2 - Reserved by Declarant
48	5-feet from the Slough	3	Slough	1 - Lot 48 Owner 2 - Reserved by Declarant
49	10-feet from the Canal 5-feet from the Slough	3	Canal	1 - Lot 49 Owner 2 - Reserved by Declarant
50	DOES NOT EXIST			
51	10-feet from the Canal	3	Canal	1 - Lot 51 Owner 2 - Reserved by Declarant
52	10-feet from the Canal	4	Canal	1 - Lot 52 Owner 3 - Reserved by Declarant
53	DOES NOT EXIST			
54	15-feet from the Canal	2	Canal	1 - Lot 54 Owner 1 - Reserved by Declarant
55	10-feet from the Canal	2	Canal	1 - Lot 55 Owner 1 - Reserved by Declarant
56	15-feet from the Canal	3	Canal	1 - Lot 56 Owner 2 - Reserved by Declarant
57	10-feet from the Canal	3	Canal	1 - Lot 57 Owner 2 - Reserved by Declarant
58	20-feet from the Canal	2	Canal	1 - Lot 58 Owner 1 - Reserved by Declarant
59	20-feet from the Canal	2	Canal	1 - Lot 59 Owner 1 - Reserved by Declarant
60	15-feet from the Canal	2	Canal	1 - Lot 60 Owner 1 - Reserved by Declarant
61	10-feet from the Canal	2	Canal	1 - Lot 61 Owner 1 - Reserved by Declarant
62	10-feet from the Canal	3	Canal	1 - Lot 62 Owner 2 - Reserved by Declarant
63	50-feet from the Canal	2	Canal	1 - Lot 63 Owner 1 - Reserved by Declarant
64	50-feet from the Canal	2	Canal	1 - Lot 64 Owner 1 - Reserved by Declarant
65	50-feet from the Canal	2	Canal	1 - Lot 65 Owner 1 - Reserved by Declarant
66	50-feet from the Canal	2	Canal	1 - Lot 66 Owner 1 - Reserved by Declarant
67	50-feet from the Canal	2	Canal	1 - Lot 67 Owner 1 - Reserved by Declarant



EXHIBIT C, cont.

Lot	CUP Setback	Boat Moorage Spaces		
		No.	Location	Assignment
68	50-feet from the Canal	2	Canal	1 - Lot 68 Owner 1 - Reserved by Declarant
69	50-feet from the Canal	2	Canal	1 - Lot 69 Owner 1 - Reserved by Declarant
70	50-feet from the Canal	2	Canal	1 - Lot 70 Owner 1 - Reserved by Declarant
71	50-feet from the Canal	2	Canal	1 - Lot 71 Owner 1 - Reserved by Declarant
72	50-feet from the Canal	2	Canal	1 - Lot 72 Owner 1 - Reserved by Declarant
73	50-feet from the Canal	2	Canal	1 - Lot 73 Owner 1 - Reserved by Declarant
74	50-feet from the Canal	2	Canal	1 - Lot 74 Owner 1 - Reserved by Declarant
75	50-feet from the Canal	2	Canal	1 - Lot 75 Owner 1 - Reserved by Declarant
76	50-feet from the Canal	2	Canal	1 - Lot 76 Owner 1 - Reserved by Declarant
77	50-feet from the Canal	2	Canal	1 - Lot 77 Owner 1 - Reserved by Declarant
78	50-feet from the Canal	2	Canal	1 - Lot 78 Owner 1 - Reserved by Declarant
79	10-feet from the Canal	R	Canal	Reserved by Declarant
80	10-feet from the Canal 15-feet from the River	R R	Canal River	Reserved by Declarant Reserved by Declarant
81	20-feet from the River	4	River	1 - Lot 81 Owner 3 - Reserved by Declarant
82	20-feet from the River	4	River	1 - Lot 82 Owner 3 - Reserved by Declarant
83	20-feet from the River	R	River	Reserved by Declarant
84	20-feet from the River	R	River	Reserved by Declarant
85				Association easement reserved for boat launch
B		R R	River Slough	Reserved by Declarant Reserved by Declarant

- R (as used in above chart) = total number of spaces reserved by Declarant.
- All boat moorage subject to water levels.
- No boat shall be parked such that it blocks any other Lot's assigned moorage space, ingress and egress to the Kenai River through the Canal or Slough, or pedestrian access easements. This may mean that the boat must be parked parallel to the Canal or Slough waterline. Association Rule 4.



E. NEW BUSINESS

- 8. Conditional Land Use Permit (CLUP)
Modification of CLUP for Material Extraction
PC Resolution 2021-10
Applicant: River Resources, LLC
Location: 34386 Patson Rd., Soldotna, AK 99669
PINs: 135-243-13 & 135-243-29**

Conditional Land Use Permit for a Material Site

STAFF REPORT

PC MEETING: April 12, 2021

Applicant: River Resources, LLC

Landowner: River Resources, LLC

Parcel Numbers: 135-243-13 &-29

Legal Description: T 5N R 10W SEC 34 SEWARD MERIDIAN KN NW1/4 SE1/4 EXCLUDING PATSON PROPERTIES PART 1

T 05N R 10W SEC 34 SEWARD MERIDIAN KN 2019068 PATSON PROPERTIES 2019 REPLAT TRACT C1

Location: 34386 Patson Road

GENERAL OVERVIEW: The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on December 16, 2019, to allow for gravel extraction below the groundwater elevation. A copy of the application, including the required water monitoring information, is included as **Attachment A**. The applicant is also requesting an exemption for dewatering as part of the extraction activities. Dewatering will only be conducted within the permitted material site and water will not leave the property.

KPB 21.29.050(A)(5) provides that the planning commission may approve excavation in the water table provided the applicant completes certain water monitoring requirements carried out by an independent civil engineer or professional hydrogeologist, submits the monitoring data, and has certification by the engineer or hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

As required by KPB 21.29.050(A)(5), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources. The excavation and reclamation site plan submitted with the application states that monitor wells will be maintained and measurements recorded for the life of the material site. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

According to the modification application received on March 3, 2021, the applicant seeks to excavate an area of approximately 31.2 acres to a maximum depth of 32' below original ground. The groundwater elevation data provided indicates that groundwater elevation is approximately 17' below original ground. The aquifer-confining layer of dense blue-gray silt is estimated to be approximately 35' below original ground and approximately 30' thick.

As in the original application, primary ingress and egress to the site is directly onto Funny River Road, a state maintained road, with alternate access proposed to Kenai River Avenue, a City of Soldotna maintained road, and then to Funny River Road. The groundwater excavation plan for the site is the same as the phased development originally approved, with material being excavated in the southern portion of the parcel and working northerly. Dewatering will be localized and will remain within the same property to re-enter the groundwater table. The required buffers will remain the same. As originally permitted, the impacted area remains at approximately 52 acres, with excavation within the water table on approximately 31.2 acres; the annual quantity of material expected to be removed is 45,000cy; and, the site has an expected lifespan of 40 years.

PUBLIC NOTICE: Public notice of the application was mailed on March 19, 2021 to the 233 landowners or leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Public comments received prior to the packet deadline are included as **Attachment H**. Any public comments received by the

Planning Department prior to the hearing will be included as desk packet items at the April 12, 2021, meeting.

FINDINGS OF FACT:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On December 16, 2019, the planning commission passed resolution 2019-39, which approved a conditional land use permit to River Resources, LLC, for material extraction on KPB tax parcels #135-243-13 & 135-243-29.
 - D. On February 26, 2021, River Resources, LLC, submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcels #135-243-13 & 135-243-29 to allow for excavation below groundwater elevation. After a request from staff, additional information was provided on March 3, 2021.
 - E. KPB 21.29.050(A)(5) provides the conditions upon which the planning commission may permit excavation within the water table greater than a 300-foot distance from a water source. Conditions include installation of at least three monitoring wells, completion of monitoring requirements, certification by a qualified independent civil engineer or professional hydrogeologist that the excavation will not negatively impact the quantity of an aquifer serving existing sources, and a prohibition on operations breaching an aquifer confining layer.
 - F. The applicant contracted McLane Consulting to measure groundwater monitor wells and analyze the data in accordance with KPB 21.29.050(A)(5).
 - G. McLane Consulting collected groundwater elevation measurements in three month intervals from five monitor wells over the course of one year.
 - H. From the measurements and data from the Alaska Department of Natural Resources, McLane Consulting determined the flow direction at the site to be northwesterly, and the flow rate, or hydraulic conductivity, to be typical of dense gravel and coarse sand.
 - I. As required by KPB 21.29.050(A)(5)(a), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources.
 - J. The excavation and reclamation site plan states that at least three monitor wells will be maintained and measurements recorded for the life of the material site.
 - K. A staff site visit was conducted on March 25, 2021.
 - L. In accordance with KPB 21.29.050(A)(4-5), all excavation between 300 and 100 horizontal feet of existing wells must remain at least two feet above groundwater.
 - M. In accordance with KPB 21.29.050(A)(4), material extraction is prohibited within 100 horizontal feet of wells existing prior to the original permit issuance.
 - N. A public hearing of the planning commission was held on April 12, 2021, and notice of the application was mailed on March 19, 2021, to the 233 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Soldotna requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the April 1, 2021, & April 8, 2021, issues of the Peninsula Clarion.
 - O. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has

- inspected the proposed site and has verified that stakes have been placed along the permit boundaries.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each property boundary that will provide visual and noise screening to adjacent properties:
50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
 4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 17.9-acre processing area that is located 300 feet from the permit boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows three wells with 300 feet of permit area but none of them is within 100 feet of the proposed excavation.
 - B. An exemption has been requested for dewatering within the permitted area. If granted, borough staff will regularly monitor the site to ensure that dewatering takes place only within the permitted material site.
 - C. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement between 100 and 300 feet of a water source.
 - D. The requirement that the permittee post a bond of \$30,000 for liability to potential accrued damages for dewatering activities will be met by permit condition number 8.
 6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification seeks permission to excavate within the water table.
 - B. Five monitoring tubes have been installed to monitor ground water within the permitted site. At least three wells will be maintained and measurements taken for the life of the material site.
 - C. Data and interpretation for groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three month intervals by a qualified independent civil engineer at least one year prior to the modification application has been provided.
 - D. Certification by a qualified, independent engineer that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources has been provided.
 7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction. The Kenai River and its associated floodplain and riparian wetland is approximately 350 feet north of the proposed material site at its closest point.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50

gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

- A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original submitted site plan indicates that the haul route will be directly to Funny River Road, a state maintained road. Two alternate access points are proposed to Kenai River Avenue, a Soldotna City maintained road, then to Funny River Road.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. Updated drawings for the original reclamation plan were submitted with the modification application. The reclamation plan indicates that reclamation will be completed annually before the growing season ends (September), that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust, and that the southwesterly portions of the site will be utilized for future buildings.
 - B. The site plan indicates that the reclamation will include recontouring using strippings, overburden, waste import and topsoil to a condition that allows for reestablishment of natural vegetation, slopes no steeper than 2:1, with slopes covered with a minimum of 4 inches of topsoil mix and seeded. Reclamation slopes within water table will be the same where above the water table, with unseeded slopes no steeper than 2:1 below the water table.
 - C. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 - D. The permittee is exempt from the state bond requirements until he exceeds a disturbed area of 5 acres or he extracts more than 50,000 cubic yards per year.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. No additional conditions have been volunteered.

16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Operations under the permit have already commenced.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
Northern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
Southern boundary - 50 feet of undisturbed natural vegetation.
These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
8. Prior to dewatering, the permittee shall post a bond for liability for potential accrued damages pursuant to KPB 21.29.050(A)(4)(d) in the amount of \$30,000.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.

10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any 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, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). 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 \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-10
KENAI RECORDING DISTRICT**

A resolution granting modification to a conditional land use permit for a material site to allow for excavation within the water table on properties described as Tract C1, Patson Properties 2019 Replat, according to Plat 2019-68, and the Northwest ¼ Southeast ¼, Section 34, Township 5 North, Range 10 West, Seward Meridian, excluding Patson Road right-of-way, Kenai Recording District.

- WHEREAS,** the KPB Planning Commission approved PC Resolution 2019-39 on December 16, 2019, which established a conditional land use permit for material extraction on KPB tax parcel ID#s 135-243-13 and 135-243-29; and
- WHEREAS,** on February 26, 2021, the applicant, River Resources, LLC, submitted an application to modify the existing conditional land use permit by allowing for excavation within the water table within KPB Parcels 135-243-13 and 135-243-129; and
- WHEREAS,** KPB Chapter 21.29.090 provides for the modification of material site permits when changes in operations approved in the original permit are proposed; and
- WHEREAS,** KPB Chapter 21.29.050(A)(5) provides that the Planning Commission may approve excavation in the water table upon certification by a qualified independent civil engineer, completion of certain water monitoring requirements, and submission of the monitoring data to the planning commission; and
- WHEREAS,** on March 3, 2021, the permittee submitted the certification letter and water monitoring data to the Planning Department; and
- WHEREAS,** notice of the application was mailed on March 19, 2021, to the 233 landowners or leaseholders of the parcels within one-half mile of the subject parcels pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the April 1, 2021, & April 8, 2021, issues of the Peninsula Clarion; and
- WHEREAS,** a public hearing of the Planning Commission was held on April 12, 2021; and

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On December 16, 2019, the planning commission passed resolution 2019-39, which approved a conditional land use permit to River Resources, LLC, for material extraction on KPB tax parcels #135-243-13 & 135-243-29.
 - D. On February 26, 2021, River Resources, LLC, submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcels #135-243-13 & 135-243-29 to allow for excavation below groundwater elevation. After a request from staff, additional information was provided on March 3, 2021.
 - E. KPB 21.29.050(A)(5) provides the conditions upon which the planning commission may permit excavation within the water table greater than a 300-foot distance from a water source. Conditions include installation of at least three monitoring wells, completion of monitoring requirements, certification by a qualified independent civil engineer or professional hydrogeologist that the excavation will not negatively impact the quantity of an aquifer serving existing sources, and a prohibition on operations breaching an aquifer confining layer.
 - F. The applicant contracted McLane Consulting to measure groundwater monitor wells and

- analyze the data in accordance with KPB 21.29.050(A)(5).
- G. McLane Consulting collected groundwater elevation measurements in three month intervals from five monitor wells over the course of one year.
 - H. From the measurements and data from the Alaska Department of Natural Resources, McLane Consulting determined the flow direction at the site to be northwesterly, and the flow rate, or hydraulic conductivity, to be typical of dense gravel and coarse sand.
 - I. As required by KPB 21.29.050(A)(5)(a), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources.
 - J. The excavation and reclamation site plan states that at least three monitor wells will be maintained and measurements recorded for the life of the material site.
 - K. A staff site visit was conducted on March 25, 2021.
 - L. In accordance with KPB 21.29.050(A)(4-5), all excavation between 300 and 100 horizontal feet of existing wells must remain at least two feet above groundwater.
 - M. In accordance with KPB 21.29.050(A)(4), material extraction is prohibited within 100 horizontal feet of wells existing prior to the original permit issuance.
 - N. A public hearing of the planning commission was held on April 12, 2021, and notice of the application was mailed on March 19, 2021, to the 233 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Soldotna requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the April 1, 2021, & April 8, 2021, issues of the Peninsula Clarion.
 - O. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. **Parcel boundaries.** KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site and has verified that stakes have been placed along the permit boundaries.
 3. **Buffer zone.** KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each property boundary that will provide visual and noise screening to adjacent properties:
50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
 4. **Processing.** KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 17.9-acre processing area that is located 300 feet from the permit boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. **Water source separation.** KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows three wells with 300 feet of permit area but none of them is within 100 feet of the proposed excavation.
 - b. An exemption has been requested for dewatering within the permitted area. If granted, borough staff will regularly monitor the site to ensure that dewatering takes place only within the permitted material site.
 - c. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement between 100 and 300 feet of a water source.
 - d. The requirement that the permittee post a bond of \$30,000 for liability to potential accrued damages for dewatering activities will be met by permit condition number 8.
 6. **Excavation in the water table.** KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification seeks permission to excavate within the water table.
 - b. Five monitoring tubes have been installed to monitor ground water within the permitted site. At least three wells will be maintained and measurements taken for the life of the material site.
 - c. Data and interpretation for groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three month intervals by a qualified independent civil engineer at least one year prior to the modification application has been provided.
 - d. Certification by a qualified, independent engineer that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources has been

- provided.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction. The Kenai River and its associated floodplain and riparian wetland is approximately 350 feet north of the proposed material site at its closest point.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original submitted site plan indicates that the haul route will be directly to Funny River Road, a state maintained road. Two alternate access points are proposed to Kenai River Avenue, a Soldotna City maintained road, then to Funny River Road.
 10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
 11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - a. Updated drawings for the original reclamation plan were submitted with the modification application. The reclamation plan indicates that reclamation will be completed annually before the growing season ends (September), that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust, and that the southwesterly portions of the site will be utilized for future buildings.
 - b. The site plan indicates that the reclamation will include recontouring using strippings, overburden, waste import and topsoil to a condition that allows for reestablishment of natural vegetation, slopes no steeper than 2:1, with slopes covered with a minimum of 4 inches of topsoil mix and seeded. Reclamation slopes within water table will be the same where above the water table, with unseeded slopes no steeper than 2:1 below the water table.
 - c. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 - d. The permittee is exempt from the state bond requirements until he exceeds a disturbed area of 5 acres or he extracts more than 50,000 cubic yards per year.
 14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
 15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. No additional conditions have been volunteered.
 16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Operations under the permit have already commenced.

SECTION 2. That the material site operations are described and shall be conducted as follows:

- A. KPB tax parcel ID#: 135-243-13 & 135-243-29, containing approximately 51.4 acres.
- B. Legal description: Tract C1, Patson Properties 2019 Replat, according to Plat 2019-68, and the Northwest ¼ Southeast ¼, Section 34, Township 5 North, Range 10 West, Seward

- Meridian, excluding Patson Road right-of-way, Kenai Recording District.
- C. The permittee, River Resources, LLC, proposes to: 1) Extract and process gravel and sand in three phases from the subject parcels; 2) Excavate within the water table, maintaining the required 2-foot vertical separation from the seasonal high water table when excavating between 300 and 100 feet from any water source existing prior to issuance of the original permit; 3) Reclaim excavated areas as outlined in the reclamation plan provided as part of the original permit application and the modification application.

SECTION 3. That the existing permit conditions are hereby replaced by the following:

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
Northern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
Southern boundary - 50 feet of undisturbed natural vegetation.
These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
8. Prior to dewatering, the permittee shall post a bond for liability for potential accrued damages pursuant to KPB 21.29.050(A)(4)(d) in the amount of \$30,000.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the

- revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS _____ DAY OF _____, 2021.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

Return to: KPB PLANNING DEPARTMENT
144 NORTH BINKLEY STREET
SOLDOTNA, ALASKA 99669

For information call: (907) 714-2200, or (800) 478-4441,
within the borough.

PC Resolution # _____
App. Complete _____

21.29 Conditional Land Use Permit Modification Application

Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant <u>River Resources, LLC</u>	Landowner <u>same</u>
Address <u>PO Box 3036</u>	Address _____
City, State, Zip <u>Soldotna, AK 99669</u>	City, State, Zip _____
Telephone <u>907-394-1915</u> Fax _____	Telephone _____ Fax _____
Cell Phone <u>907-394-1915</u>	Cell Phone _____
Email <u>kyle@fosterco.biz</u>	Email _____

II. CURRENT PERMITTED PARCEL INFORMATION

KPB Tax Parcel ID# 135-243-13 & 135-243-29 Township 5N Range 10W Section 34

Subdivision _____ Lot _____ Block _____ Parcel acreage 51.4

Legal description Patson Properties Replat Tr C1 & T5N R10W Sec 34 SM NW1/4 SE1/4 Excluding Patson Properties Part 1

III. INFORMATION/ DOCUMENTATION – "Check" boxes to confirm all items are included.

- \$300.00 processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- Site Plan Diagram, to scale, showing:

<input checked="" type="checkbox"/> parcel boundaries	<input checked="" type="checkbox"/> existing and/or proposed processing area(s)
<input checked="" type="checkbox"/> existing required buffers	<input checked="" type="checkbox"/> all encumbrances on parcel, <u>including</u> easements
<input checked="" type="checkbox"/> existing permitted extraction area(s)	<input checked="" type="checkbox"/> site ingress and egress
<input checked="" type="checkbox"/> proposed additional extraction area(s) and/or other requested permit modification(s)	<input checked="" type="checkbox"/> a north arrow and diagram scale
	<input checked="" type="checkbox"/> the preparer's name and date
- Permit Modification Worksheet (attached)

IV. CERTIFICATION STATEMENT

The information contained on this form and the attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit modification request.

	<u>2/26/21</u>		
Applicant Signature	Date	Property Owner Signature (if not applicant)	Date

Permit Modification Worksheet

Applicant River Resources LLC Owner River Resources LLC

CURRENT PERMITTED KPB Tax Parcel ID # 135-243-13 & 135-243-29 Parcel Acreage 51.4

1. Reason(s) for requesting permit modification:

Requesting modification to allow for excavation in the water table and for temporary, localized dewatering during excavation below groundwater elevation. Dewatering will be outlet within the same property.

2. Additional cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 0 acres

3. Additional type(s) of material to be mined (circle all that apply): (N/A) gravel sand peat other _____

4. Additional equipment to be used (circle all that apply): (N/A) excavation processing other _____

5. Modification(s) is requested on current permit buffers: _____yes Xno

CURRENT PERMIT REQUIRED BUFFERS – “check” all types, and circle all directions that apply:

- | | | | | |
|---|---|---|---|---|
| <input type="checkbox"/> 50 ft. of natural or improved vegetation | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

MODIFIED BUFFER REQUEST, if applicable – “check” all types, and circle all directions that apply:

- | | | | | |
|---|---|---|---|---|
| <input type="checkbox"/> 50 ft. of natural or improved vegetation | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

6. Permit modification is requested due to subdivision of originally permitted parcel? _____yes Xno

7. Permit modification to enter the water table is requested: Xyes _____no (check “yes” if excavation in water table is desired on property not permitted under KPB 21.26)

8. Additional annual quantity of material, including overburden, to be extracted: _____ cubic yards

9. Additional excavation depth beyond permitted depth: 10 ft. Depth to groundwater: 19-21 ft.

10. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.):

- A. _____
B. _____
C. _____

MCLANE

CONSULTING, INC.

March 2, 2021

Kenai Peninsula Borough Planning Department
144 North Binkley
Soldotna, Alaska 99669

SUBJECT: PC Resolution 2019-39
KPB Tax Parcel No. 135-243-13 & 135-243-29

RE: Conditional Land Use Permit Modification Application

Dear Mr. Taylor:

River Resources, LLC, the property owner of KPB 135-243-13 & 135-243-29, is applying for modification of CLUP approved by PC Resolution 2019-39. The modification would allow for excavation in the water table on approximately 31.2 acres of the permitted property.

River Resources, LLC contracted McLane Consulting, Inc. to measure groundwater monitor wells and analyze the measurements in accordance with KPB 21.29. Five monitor wells were installed in April 2020 Foster Construction in accordance with recommendations by McLane Consulting. McLane Consulting has measured the monitor wells using standard surveying and engineering practices on the dates as shown below. Measurements to date are as follows:

Monitor Well	Ground Elevation	Top of MW	GW Elev. 5/4/2020	GW Elev. 7/15/2020	GW Elev. 10/15/2020	GW Elev. 1/18/2021
1	101.53	102.27	82.47	83.97	83.17	82.77
2	97.40	104.89	83.69	84.79	83.49	83.59
3	100.67	103.53	84.03	85.23	84.63	83.73
4	101.61	102.96	85.16	84.16	84.26	83.56
5	100.03	104.92	-	84.22	84.22	83.52

From these measurements it has been determined that flow direction is northwesterly, as shown on the exhibits attached to the CLUP Modification Application. The hydraulic conductivity is typical of dense gravel and coarse sand ranging from 2.95×10^{-6} to 9.8×10^{-2} ft/s.

Excavation is only proposed within the upper unconfined aquifer, not to exceed approximately 32' below original ground (approximate elevation 68.0). Local confining layer is estimated by reviewing well driller logs within the CLUP vicinity on the ADNR WELTS website. The confining layer consists of dense blue-gray silt (a non-marketable material) and is greater than 30' thick in this area. It is estimated at approximate elevation 65.0. Proposed excavation within the groundwater table at this site will not breach the confining layer.

Dewatering will be conducted on a temporary and intermittent basis while extracting below the groundwater table. Excavation dewatering temporarily depresses shallow groundwater within the

P.O. BOX 468; SOLDOTNA, ALASKA 99669
PHONE (907) 283-4218 FAX (907) 907-283-3265

MCLANE

CONSULTING, INC.

immediate area of the dewatering but groundwater level will recover to pre-dewatering elevations upon termination of dewatering. Waters from the dewatering process will be outlet within the permit property to re-enter the groundwater table.

This letter is to certify that the excavation plan included in the CLUP Modification Application will not negatively impact the quantity of the aquifer serving the existing water sources.

If you have questions, please contact me.

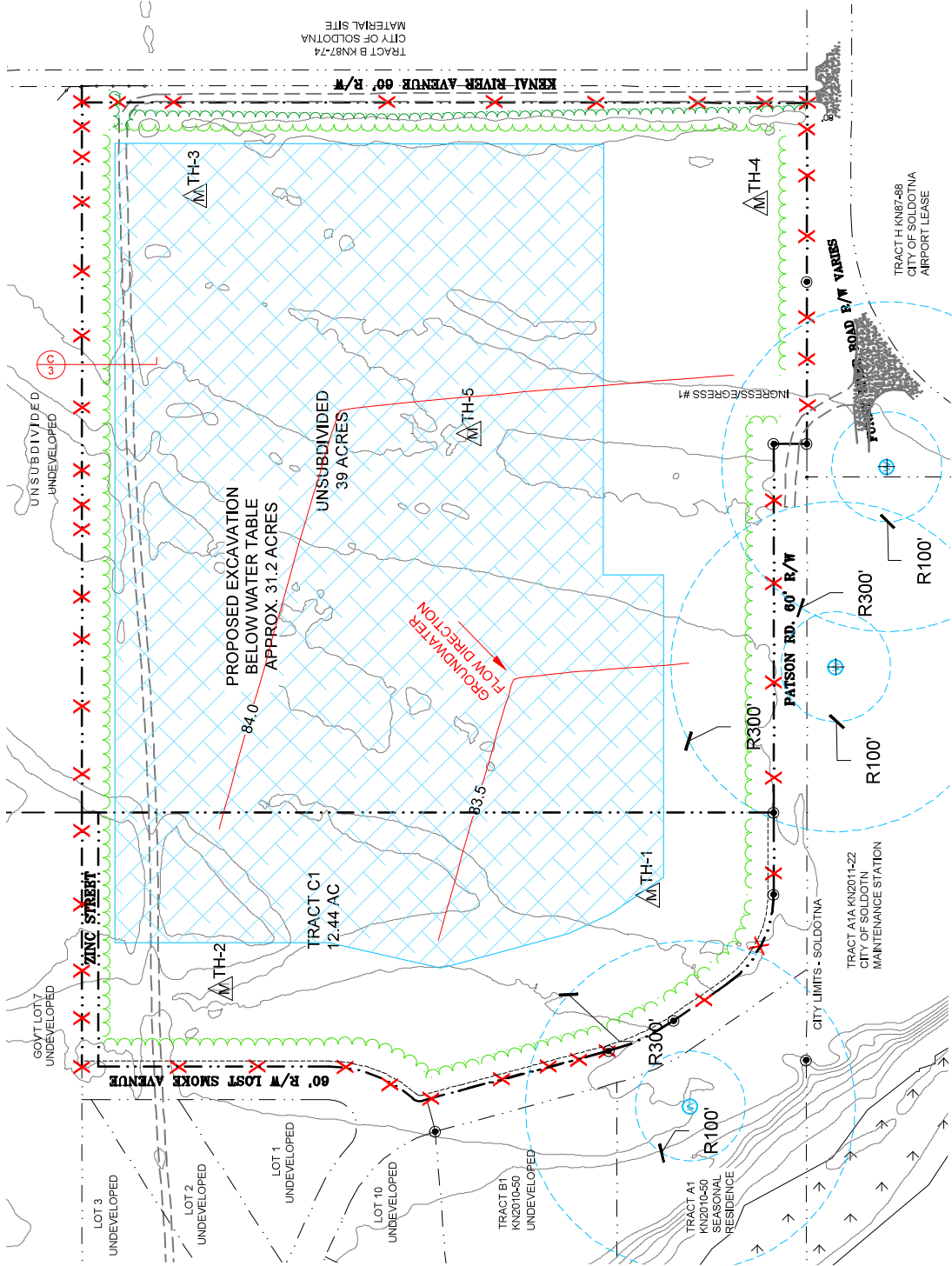
Sincerely,



Gina DeBardelaben, PE
McLane Consulting, Inc.

CONDITIONAL LAND USE PERMIT - MODIFICATION

APPLICANT / OWNER:
 ATTN: KYLE FOSTER
 RIVER RESOURCES, LLC
 P.O. BOX 3036
 SOLDOTNA, ALASKA 99669



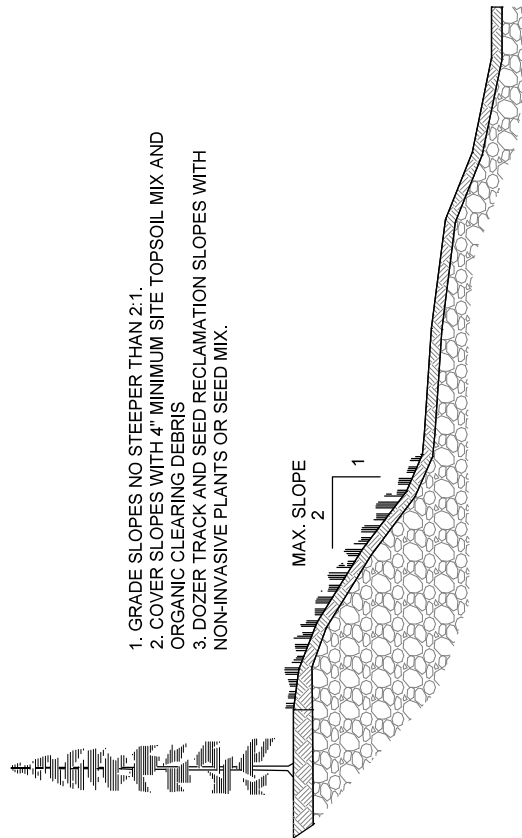
LEGEND	
—	PROPERTY LINE
- - -	UTILITY EASEMENT
△	MONITOR WELL & TESTHOLE
○	WATER WELL
●	RECORD MONUMENT
○	PROPERTY CORNERS
○	POWER POLE
- - -	EXISTING GRAVEL SHOULDER
- - -	WELL SETBACK
X	INTERVISIBLE FLAGGING
- - -	EXISTING TREELINE
- - -	PROPOSED BUFFER TREELINE
- - -	GROUNDWATER CONTOUR



CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

CLUP DEVELOPMENT NOTES

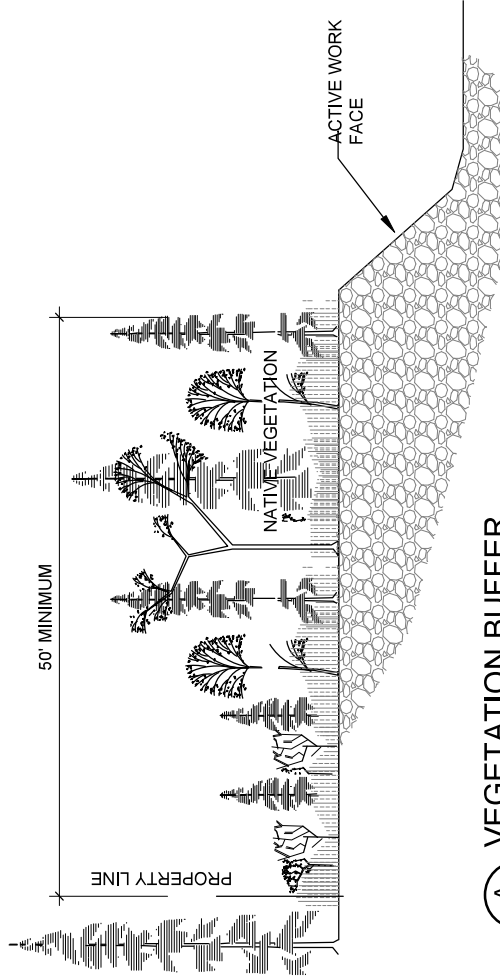
1. THIS PERMIT APPLICATION MODIFICATION IS FOR KPB PARCEL 13524313 AND 13524329, TOWNSHIP 5N, RANGE 10W, SECTION 34 SEWARD MERIDIAN.
2. A KENAI PENINSULA BOROUGH CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE EXTRACTION ABOVE THE WATER TABLE WAS ISSUED BY PC RESOLUTION 2019-39. REFERENCE ORIGINAL CLUP APPLICATION FOR EXCAVATION PLAN, PROCESS AREA AND PHASING.
3. MONITOR WELLS WERE INSTALLED IN APRIL 2020 AT FIVE LOCATIONS AS SHOWN AND GROUNDWATER ELEVATION MEASURED IN EACH OF THESE MONITOR WELLS AT THREE MONTH INTERVALS.
4. GROUNDWATER ELEVATIONS IN THE MONITOR WELLS WERE UTILIZED TO COMPUTE THE AVERAGE GROUNDWATER ELEVATIONS, FLOW DIRECTION AND FLOW RATE.
5. EXCAVATION IN THE WATER TABLE WILL BEGIN IN THE SOUTHERN PORTION OF THE PROPERTY AND PROCEED NORTHERLY WITH THE NORTH PROCESS AREA BEING THE LAST AREA EXCAVATED BELOW THE WATER TABLE.
6. MONITOR WELLS WILL BE MAINTAINED, OR RE-SET AS NEEDED, AND MEASUREMENTS OF A MINIMUM OF THREE MONITOR WELLS RECORDED FOR THE LIFE OF THE MATERIAL SITE.
7. DEWATERING WILL BE USED IN LOCALIZED EXCAVATION AREAS DURING EXTRACTION ACTIVITIES BELOW THE GROUNDWATER ELEVATION. DEWATERING WILL BE OUTLET WITHIN THE SAME PROPERTY TO RE-ENTER THE GROUNDWATER TABLE.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS
3. DOZER TRACK AND SEED RECLAMATION SLOPES WITH NON-INVASIVE PLANTS OR SEED MIX.

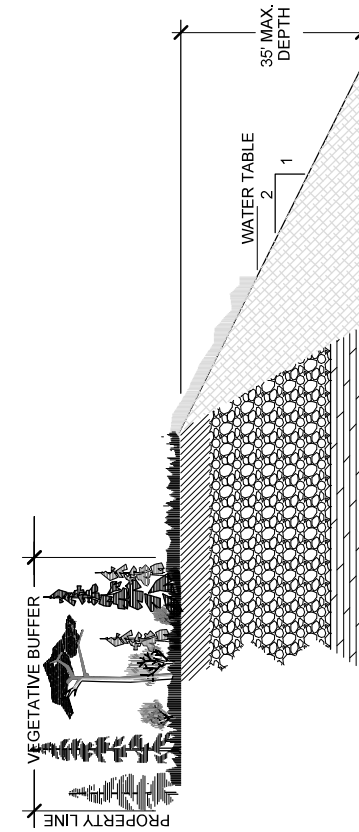
B RECLAMATION SLOPE

3 SCALE: 1" = 10 FT.



A VEGETATION BUFFER

3 SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. DO NOT EXCAVATE INTO THE AQUIFER CONFINING LAYER.
3. ORGANICS AND SILT STRIPPED FROM PIT MAY BE STOCKPILED AND USED FOR RECLAMATION SLOPE FLATTENING.
4. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS.
5. DOZER TRACK AND SEED ALL RECLAMATION SLOPES ABOVE GROUNDWATER LEVEL WITH NON-INVASIVE PLANTS OR SEED MIX.

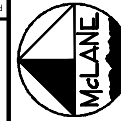
C RECLAMATION SLOPE WITHIN WATER TABLE

3 NOT TO SCALE



REV	DATE	DESCRIPTION
1	2/28/2021	PERMIT MODIFICATION

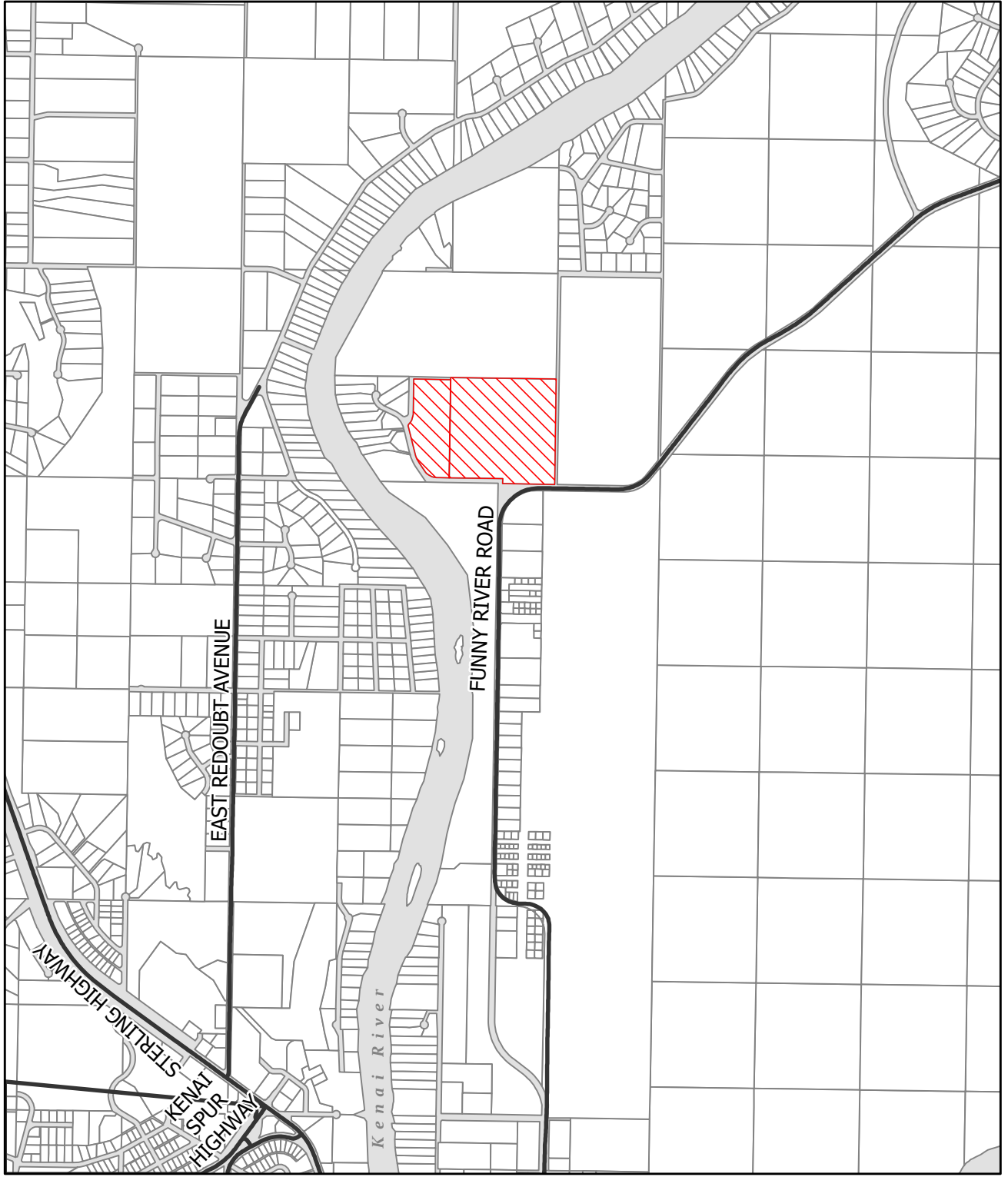
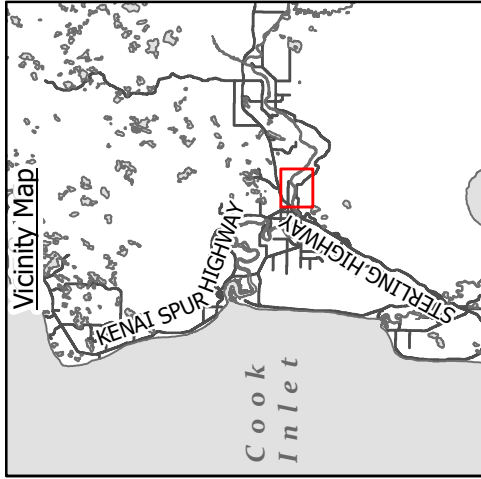
JOB NO.	204014
FIELD BOOK NO.	15-1
FIELD WORK DATE	9/17/2019 & 10/20/19
RIVER RESOURCES, LLC FUNNY RIVER - PATSON CLUP MODIFICATION	



McLane Consulting Inc.
ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 465
SOLDOTNA, AK 99669
PHONE: (907) 283-3253
FAX: (907) 283-3255
WWW.MCLANECS.COM

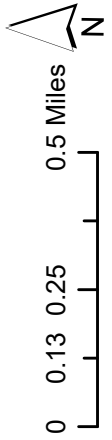
DRAWN BY:	BGB/AND
CHECKED BY:	GMD
HORIZ. SCALE:	1" = 300'
VERT. SCALE:	N/A
SHEET:	P2

Parcels: 135-243-13 & -29
Applicant: River Resources LLC



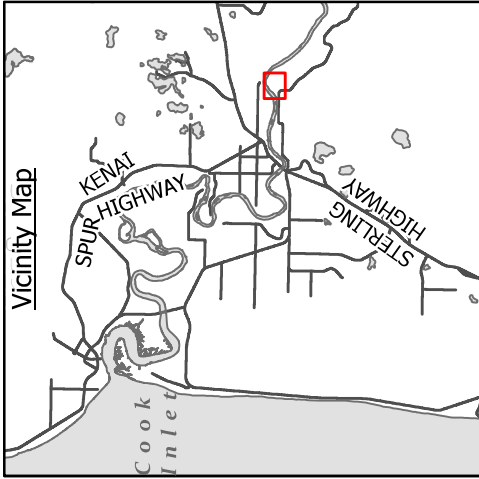
LEGEND

- KPB Tax Parcels
- Subject Parcels



The information depicted hereon is a graphical representation only and should not be used as a substitute for the most current available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Parcels: 135-243-13 & -29
Applicant: River Resources LLC



LEGEND

-  KPB Tax Parcels
-  Subject Parcels

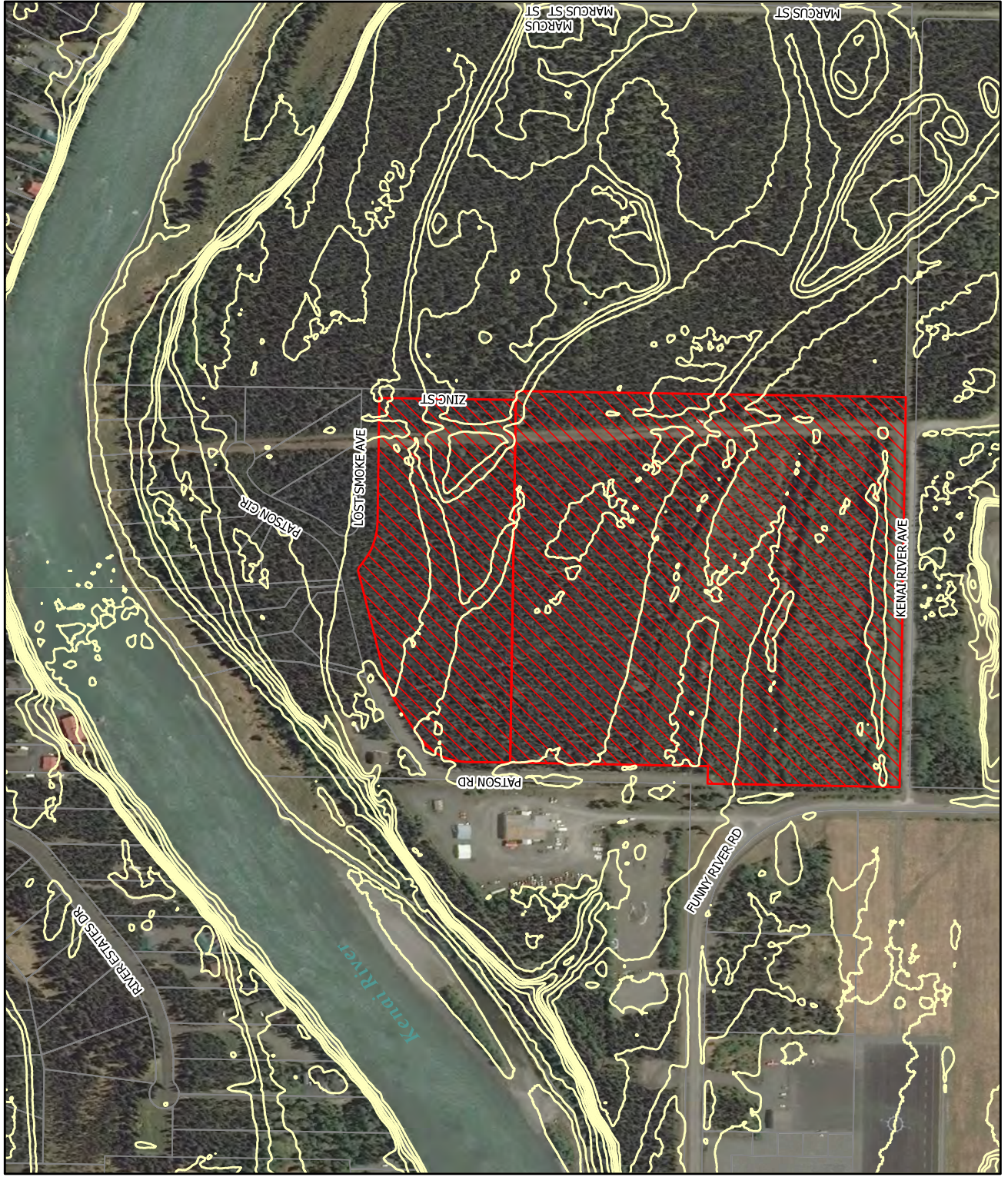
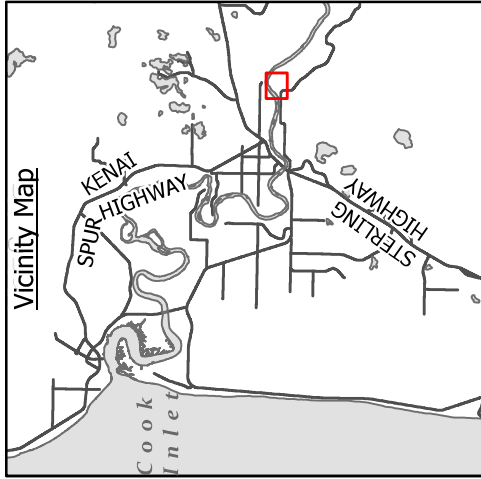
Aerial Imagery:
June 2018



The information depicted hereon is a graphical representation only and should not be used as the sole basis for any decision. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Kenai Peninsula Borough Planning Commission -- April 12, 2021
Modification to Conditional Land Use Permit for a Material Site

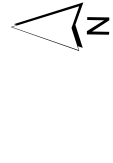
Parcels: 135-243-13 & -29
Applicant: River Resources LLC



LEGEND

- KPB Tax Parcels
- Contours 4 ft
- Subject Parcels

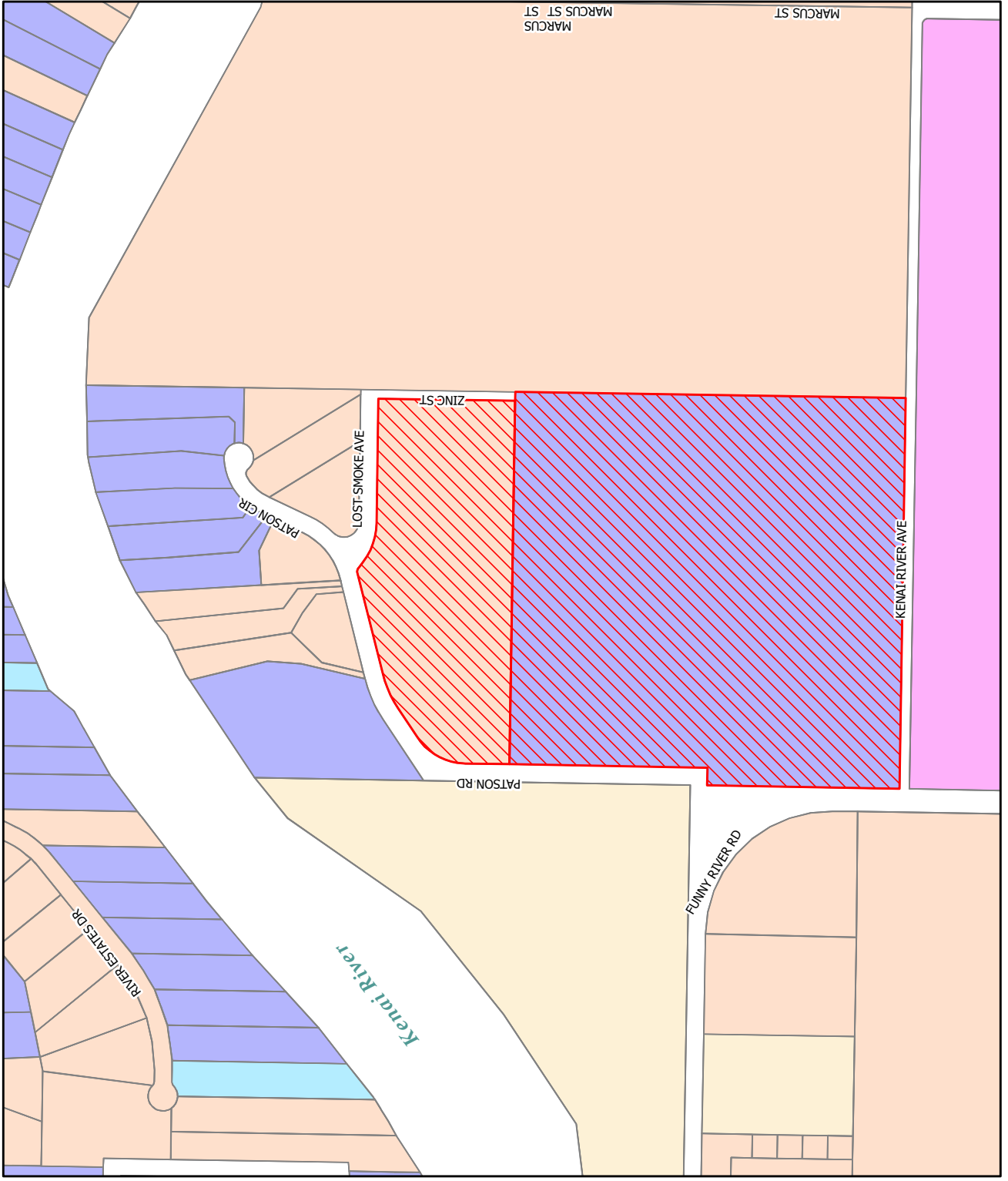
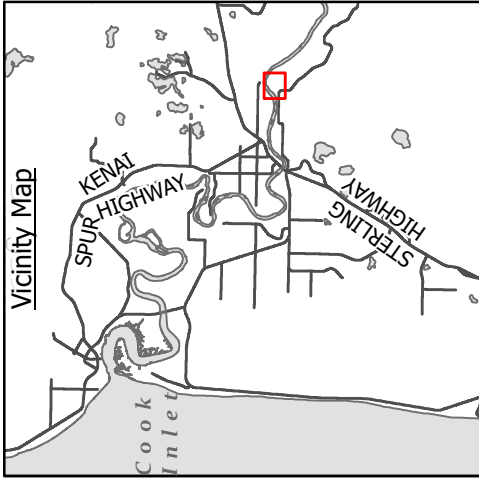
Aerial Imagery:
June 2018



The information depicted hereon is a graphical representation only and is not to be used for any purpose other than that for which it was prepared. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Kenai Peninsula Borough Planning Commission -- April 12, 2021
 Modification to Conditional Land Use Permit for a Material Site

Parcels: 135-243-13 & -29
 Applicant: River Resources LLC

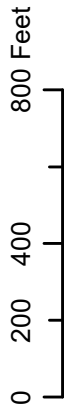


LEGEND

- KPB Tax Parcels
- Subject Parcels

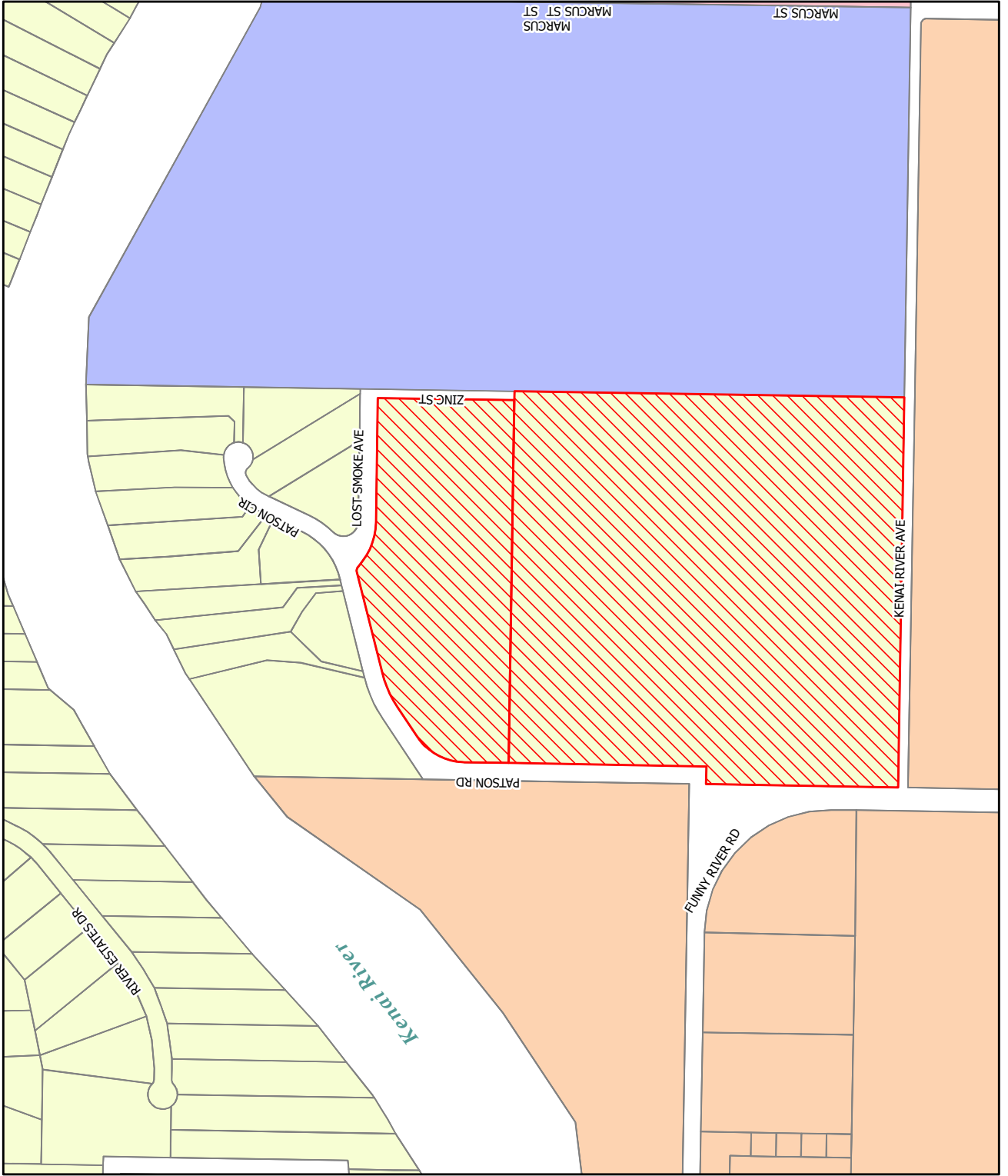
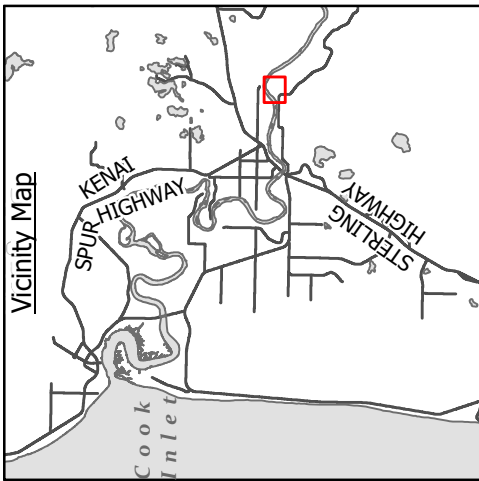
Grouped Assessor's Usage Records

- Vacant
- Residential
- Multiple-Dwelling Residential
- Industrial
- Institutional



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

Parcels: 135-243-13 & -29
 Applicant: River Resources LLC



LEGEND

KPB Tax Parcels

Subject Parcels

Ownership

Municipal

Native Allotment

Private

State



0 200 400 800 Feet

The information depicted hereon is a graphical representation only and is not available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application to modify an approved conditional land use permit for material extraction has been received for a parcel in the Soldotna area. This notice is being sent to landowners located within ½ mile of the subject property. All members of the public are invited to comment. Details of the application under consideration are as follows:

Applicant: River Resources, LLC

Landowner: River Resources, LLC

Parcel Numbers: 135-243-13 & 135-243-29

Legal Description: **T 5N R 10W SEC 34 SEWARD MERIDIAN KN NW1/4 SE1/4 EXCLUDING PATSON PROPERTIES PART 1**

T 05N R 10W SEC 34 SEWARD MERIDIAN KN 2019068 PATSON PROPERTIES 2019 REPLAT TRACT C1

Location: 34386 PATSON RD

Proposed Land Use: The applicant wishes to modify an existing material site permit to allow for sand and gravel extraction in the water table.

KPB Code: Conditional land use permit modification applications for material extraction are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or at: www.kpb.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday, April 12, 2021**, commencing at 7:30 p.m., or as soon thereafter as business permits.

Please be aware that due to the recent COVID-19 pandemic and based on CDC guidelines, the meeting will not be physically open to the public. Instructions are as follows:

The meeting will remain open to the public. The Planning Commissioners, along with staff members, will be attending via teleconferencing. The public will be able to listen or participate with the same methods. The meeting will be held through Zoom. To join the meeting from a computer visit <https://zoom.us/j/2084259541>. 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 of **208 425 9541**. If you connect by computer and do not have speakers or a microphone, connect online and then select phone for audio. A box will come up with the toll free numbers, the Meeting ID, and your participant number. Instructions will be posted on the Planning Commission's

webpage prior to the meeting. <https://www.kpb.us/planning-dept/planning-commission>

If you have question or experience technical difficulties, please contact the Planning Department at (907) 714-2200.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to btaylor@kpb.us. Please provide written statements by Thursday, April 8, 2021.

The staff report will be available on the Planning Commission website a week prior to the meeting. For additional information please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Borough).

Bryan Taylor

Planner

Ph: (907) 714-2206

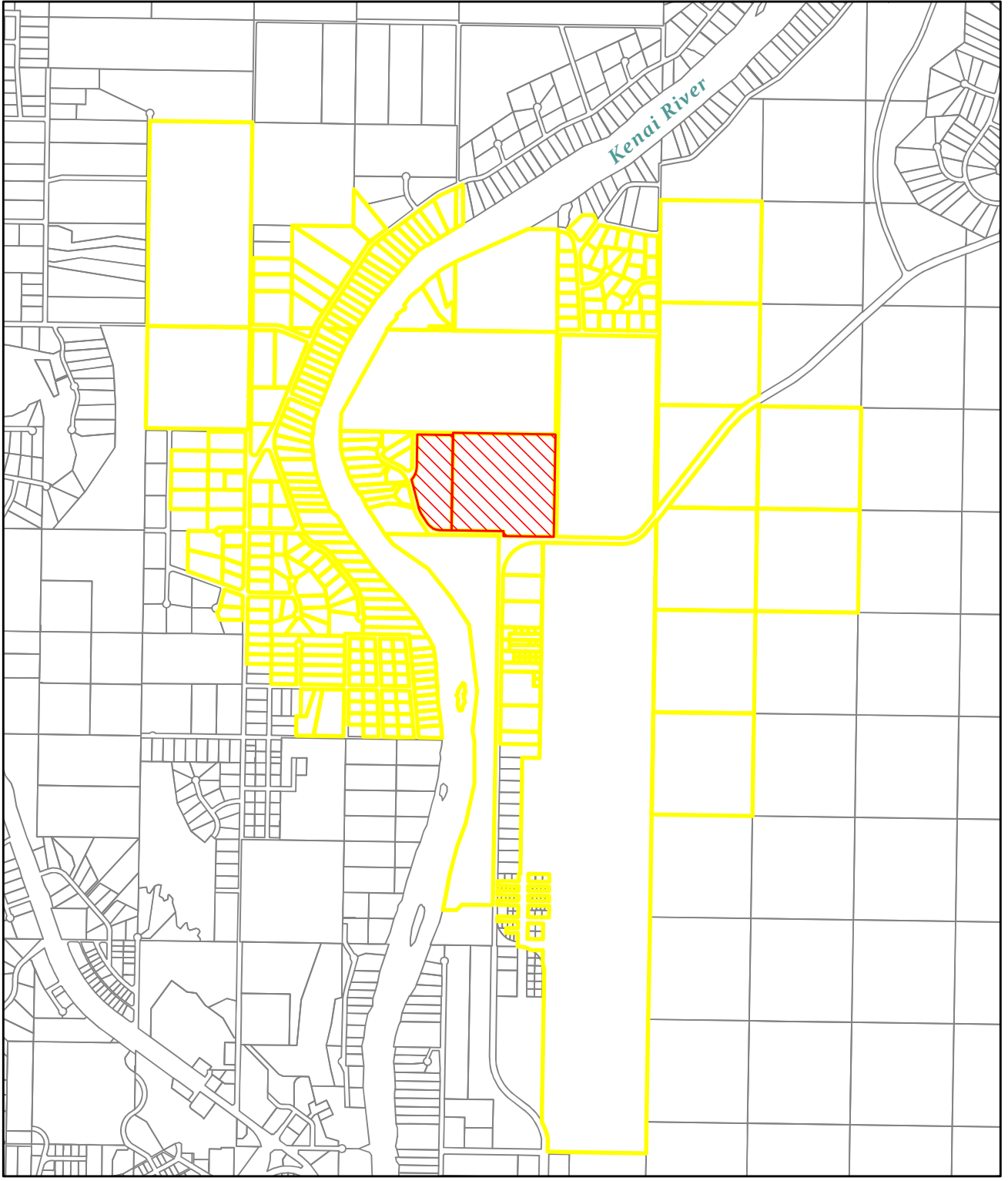
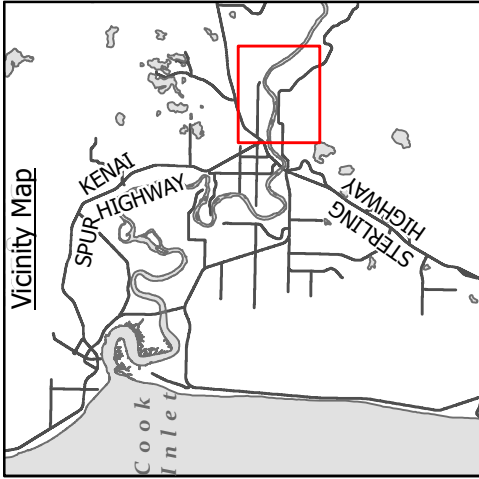
Fx: (907) 714-2378

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669






**Kenai Peninsula Borough Planning Commission -- April 12, 2021
Modification to Conditional Land Use Permit for a Material Site**

**Parcels: 135-243-13 & -29
Applicant: River Resources LLC**



LEGEND

-  KPB Tax Parcels (1006)
-  Subject Parcels (2)
-  Properties 1/2-Mile Radius (285)



0 5001,000 2,000 Feet

The information depicted hereon is a graphical representation only and should not be used as a substitute for the most current available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Attachment H

Taylor, Bryan

From: Richard McCartan <rmccartan109@gmail.com>
Sent: Monday, March 29, 2021 5:45 PM
To: Taylor, Bryan
Subject: <EXTERNAL-SENDER>Opposition to conditional land use permit for parcels
135-243-13 & 135-243-29
Attachments: Conditional Use Permit Application, Notice of.pdf

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

We are writing to express our opposition to the granting of the conditional land use permit described in the attached letter from your department..We are landowners within a half mile of the described property. We feel that the proposed gravel pit will degrade both the Kenai River and our property value.

Thank you.

Richard and Michele McCartan
1085 Keystone Drive
Soldotna, AK 99669

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

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

AGENDA ITEM E CONDITIONAL LAND USE PERMIT MODIFICATION

8. Conditional Land Use Permit Modification for an Existing Material Site Operation

Applicant: River Resources, LLC

Landowner: River Resources, LLC

Parcel Numbers: 135-243-13 & 29

Legal Description:

- T05N, R10W, SEC 34, Seward Meridian, KN NW1/4 SE1/4, Excluding Patson Properties Part 1
- T05N, R10W, SEC 34 Seward Meridian, KN 2019-068, Patson Properties 2019 Replat Tract 1C

Location: 34386 Patson Road

Staff report given by Bryan Taylor

GENERAL OVERVIEW: The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on December 16, 2019, to allow for gravel extraction below the groundwater elevation. A copy of the application, including the required water monitoring information, is included as **Attachment A**. The applicant is also requesting an exemption for dewatering as part of the extraction activities. Dewatering will only be conducted within the permitted material site and water will not leave the property.

KPB 21.29.050(A)(5) provides that the planning commission may approve excavation in the water table provided the applicant completes certain water monitoring requirements carried out by an independent civil engineer or professional hydrogeologist, submits the monitoring data, and has certification by the engineer or hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

As required by KPB 21.29.050(A)(5), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources. The excavation and reclamation site plan submitted with the application states that monitor wells will be maintained and measurements recorded for the life of the material site. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

According to the modification application received on March 3, 2021, the applicant seeks to excavate an area of approximately 31.2 acres to a maximum depth of 32' below original ground. The groundwater elevation data provided indicates that groundwater elevation is approximately 17' below original ground. The aquifer-confining layer of dense blue-gray silt is estimated to be approximately 35' below original ground and approximately 30' thick.

As in the original application, primary ingress and egress to the site is directly onto Funny River Road, a state maintained road, with alternate access proposed to Kenai River Avenue, a City of Soldotna maintained road, and then to Funny River Road. The groundwater excavation plan for the site is the same as the phased development originally approved, with material being excavated in the southern portion of the parcel and working northerly. Dewatering will be localized and will remain within the same property to re-enter the groundwater table. The required buffers will remain the same. As originally permitted, the impacted area remains at approximately 52 acres, with excavation within the water table on approximately 31.2 acres; the annual quantity of material expected to be removed is 45,000cy; and, the site has an expected lifespan of 40 years.

PUBLIC NOTICE: Public notice of the application was mailed on March 19, 2021 to the 233 landowners or Kenai Peninsula Borough. Page 15

leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Public comments received prior to the packet deadline are included as **Attachment H**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the April 12, 2021, meeting.

FINDINGS OF FACT:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On December 16, 2019, the planning commission passed resolution 2019-39, which approved a conditional land use permit to River Resources, LLC, for material extraction on KPB tax parcels #135-243-13 & 135-243-29.
 - D. On February 26, 2021, River Resources, LLC, submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcels #135-243-13 & 135-243-29 to allow for excavation below groundwater elevation. After a request from staff, additional information was provided on March 3, 2021.
 - E. KPB 21.29.050(A)(5) provides the conditions upon which the planning commission may permit excavation within the water table greater than a 300-foot distance from a water source. Conditions include installation of at least three monitoring wells, completion of monitoring requirements, certification by a qualified independent civil engineer or professional hydrogeologist that the excavation will not negatively impact the quantity of an aquifer serving existing sources, and a prohibition on operations breaching an aquifer confining layer.
 - F. The applicant contracted McLane Consulting to measure groundwater monitor wells and analyze the data in accordance with KPB 21.29.050(A)(5).
 - G. McLane Consulting collected groundwater elevation measurements in three month intervals from five monitor wells over the course of one year.
 - H. From the measurements and data from the Alaska Department of Natural Resources, McLane Consulting determined the flow direction at the site to be northwesterly, and the flow rate, or hydraulic conductivity, to be typical of dense gravel and coarse sand.
 - I. As required by KPB 21.29.050(A)(5)(a), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources.
 - J. The excavation and reclamation site plan states that at least three monitor wells will be maintained and measurements recorded for the life of the material site.
 - K. A staff site visit was conducted on March 25, 2021.
 - L. In accordance with KPB 21.29.050(A)(4-5), all excavation between 300 and 100 horizontal feet of existing wells must remain at least two feet above groundwater.
 - M. In accordance with KPB 21.29.050(A)(4), material extraction is prohibited within 100 horizontal feet of wells existing prior to the original permit issuance.
 - N. A public hearing of the planning commission was held on April 12, 2021, and notice of the application was mailed on March 19, 2021, to the 233 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Soldotna requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the March 31, 2021, & April 7, 2021, issues of the Peninsula Clarion.
 - O. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site and has verified that stakes have been placed along the

permit boundaries.

3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each property boundary that will provide visual and noise screening to adjacent properties:
50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 17.9-acre processing area that is located 300 feet from the permit boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows three wells with 300 feet of permit area but none of them is within 100 feet of the proposed excavation.
 - B. An exemption has been requested for dewatering within the permitted area. If granted, borough staff will regularly monitor the site to ensure that dewatering takes place only within the permitted material site.
 - C. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement between 100 and 300 feet of a water source.
 - D. The requirement that the permittee post a bond of \$30,000 for liability to potential accrued damages for dewatering activities will be met by permit condition number 8.
6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification seeks permission to excavate within the water table.
 - B. Five monitoring tubes have been installed to monitor ground water within the permitted site. At least three wells will be maintained and measurements taken for the life of the material site.
 - C. Data and interpretation for groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three month intervals by a qualified independent civil engineer at least one year prior to the modification application has been provided.
 - D. Certification by a qualified, independent engineer that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources has been provided.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction. The Kenai River and its associated floodplain and riparian wetland is approximately 350 feet north of the proposed material site at its closest point.

8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original submitted site plan indicates that the haul route will be directly to Funny River Road, a state maintained road. Two alternate access points are proposed to Kenai River Avenue, a Soldotna City maintained road, then to Funny River Road.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. Updated drawings for the original reclamation plan were submitted with the modification application. The reclamation plan indicates that reclamation will be completed annually before the growing season ends (September), that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust, and that the southwesterly portions of the site will be utilized for future buildings.
 - B. The site plan indicates that the reclamation will include recontouring using strippings, overburden, waste import and topsoil to a condition that allows for reestablishment of natural vegetation, slopes no steeper than 2:1, with slopes covered with a minimum of 4 inches of topsoil mix and seeded. Reclamation slopes within water table will be the same where above the water table, with unseeded slopes no steeper than 2:1 below the water table.
 - C. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 - D. The permittee is exempt from the state bond requirements until he exceeds a disturbed area of 5 acres or he extracts more than 50,000 cubic yards per year.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for

enforcement.

15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. No additional conditions have been volunteered.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Operations under the permit have already commenced.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
Northern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
Southern boundary - 50 feet of undisturbed natural vegetation.
These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
8. Prior to dewatering, the permittee shall post a bond for liability for potential accrued damages pursuant to KPB 21.29.050(A)(4)(d) in the amount of \$30,000.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.

10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any 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, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). 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 \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

Vice Chair Ruffner opened the item for public comment.

Kyle Foster, Petitioner; 34717 Sentinel, Soldotna AK, 99669: Mr. Foster and his brother are the owners of River Resources, LLC. He and his brother are petitioning to modify their existing material site permit to allow them to dig down into the water table and to do localized dewater within their pit. Their de-watering plans are relatively small. They plan to build two 50' x 50' cells with an 8' levy in between them to pump water out of one and into the other to allowing for a 50' x 50' excavation area. The dewatering activity will run only a few days at a time.

Commissioner Ruffner understood the plans for dewatering for the project. He asked Mr. Foster to verify that there would be no additional runoff because of the pumping of water between the cells. In addition, the water being pumped will stay within the 50' x 50' foot cell. Mr. Foster replied that he was correct. That the pump will only be run while they are trying to excavate the gravel in the other cell. Commissioner Ruffner asked if this activity would require a DNR permit. Mr. Foster replied that he did not believe so.

Commissioner Fikes asked Mr. Foster if the pumping of the water between the two cells would negatively affect any of the area wells. Mr. Foster replied that he believe this activity would not negatively affect any of the area wells as they are not removing the water but just moving over to the next cell.

Commissioner Venuti wanted to know what happens to the water level of the receiving cell. Mr. Foster stated the cell receiving the water would only be dug down about 6" above the water table, which will allow for plenty of room for the pumped water. Commissioner Venuti then ask what was the reclamation plan for this pit. Mr. Foster said it would become a manmade lake.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna AK, 99669: Ms. DeBardelaben was the author of the well monitoring report for this project. Ms. DeBardelaben assisted the petitioner with completing their application and stated that the application met the standards of borough code. She realizes that the commissions does not see many applications for gravel extraction from within the water table however this a common occurrence. She is aware of many gravel pits on the peninsula that currently are extracting gravel from within the water table. Ms. DeBardelaben reviewed all the comments from surrounding neighbors regarding this permit modification and found that most all of them were upgrade of the material site, with the closest neighbor being about 1400' east of the pit. None of the commenters were owners of wells within 300' of the pit. She then reviewed the results of the well monitoring report (which was contained in the meeting packet) with the commission. She noted one of the questions the neighboring landowner had was the type of monitoring well used. The wells are 4" PVC pipes, approximately 25' in length with the lower 10' – 15' of the pipe having curve cuts. The wells were surveyed on a quarterly schedule and the collected data was utilized to determine the ground water depth, ground water directional flow and the hydraulic connectivity. The petitioners have no incentive to extract into the confining layer as this material is not used in construction and if excavated is considered waste material. In the course of preparing her report she contacted the DEC and DNR to analyze any well log data in the area. She noted that many logs were missing from the database. State statute requires that well drillers to register wells in the system but unfortunately, the State does not have a means to enforce well registration. The petitioner plans to dig to a depth to a maximum of 32' below existing ground elevation, which is approximately 15' in to the ground water table. They will not be digging into the confining layers. While dewatering is not a requirement to excavating into the water table, it does provide for a cleaner means of excavation and line of site. The dewatering process would be conducted over a 5-7 day period. Day 1 would be excavating the cells to begin dewatering. Days two to five would be excavation and stockpiling of materials. Days 6 and 7 would be slope dressing of the excavated cell and decommission of the water pumps. She noted some of the neighbors were concerned about dewatering affecting their private wells, which is known as well draw down. Using a pump to remove ground water creates what is called a cone of depression within the water table. Using the information from the petitioners dewatering plan she calculated that within a 300' radius of the operation the drawdown would be approximately .7 of a foot on day-1, 1.1 feet by day-7 and it would be 1.2 feet by day-10. She noted the majority of the comments from neighboring property owners were 1400' or more from the site. Using the same data, she calculated that at ¼-mile radius, the drawdown on day-1 would be approximately .1 of foot, by day-7 it would be .5 of a foot and by day-10, the drawdown would be .6 of a foot. This data shows that the proposed dewatering process will have minimal impact on the surrounding wells. The ground water being pumped in the proposed excavation process will become a non-factor, as it will be reintroduced within the same property and will be allowed to infiltrate back into the ground water table, recharging the aquafer. The operators will have to meet DEC requirements for dewatering as well as protection of water rights and quality. The petitioners would like to ask the commission to potentially separate the permit modification from the exemption from dewatering request. Doing this would limit the bonding requirements to the timeframe of the dewatering process only and not for the entire life of the permit. This petition meets all the requirements of code and they would ask that the commission approve the request.

Commissioner Venuti wanted to know how long would the pumps in the dewatering operation run on average. He noted when he ran pumps for dewatering during commercial project the pumps were required

to run 24 hours a day and they were loud. He wondered what the noise factor would be for this pump operation. Ms. DeBardelaben replied that the pumps would not be overly loud and would only run 3-5 days during the 7-day excavation period.

Commissioner Ruffner asked Ms. DeBardelaben what the maximum drawdown would be for the three closest wells. Ms. DeBardelaben replied that the maximum drawdown within 300' of the operation during a 10 period would 1.2 feet.

Commissioner Ecklund asked if McLane Consulting had a hydrologist on staff or was one hired to consult on her research for this project. Ms. DeBardelaben replied that she is a licensed civil engineer and meets the requirement under borough code to consult on this project. She did talk with a hydrologist regarding this project but a hydrologist was not hired as a consultant.

Mr. Taylor provided clarification on the bonding requirements. Permit condition number eight states that prior to dewatering the permittee shall post a bond for liability for potential accrued damages for \$30,000.00. There is no need to separate the modification permit from the exemption from dewatering request.

Michael Pomplin; 41918 River Park Dr., Soldotna AK, 99669: Mr. Pomplin would like to ask that a decision on this permit be delayed to allow time for the neighboring properties to conduct their own research. He only received notice on this permit application two weeks ago. This did not give him adequate time to do any research. In his subdivision, he is one of eight landowners who have 30' wells. He has concerns about the dewatering aspect of this permit. The operator is talking about pumping 1000 gallons a minute during this process over the 40-year life of this site. He is very concerned how this will affect the water table. There will also be trucks and excavating equipment being used and he wants to know what measures are going to be put in place regarding spills and leakage from the equipment. He has concerns about contamination of the water due to exposure. He appreciates Ms. DeBardelaben trying to answer some of his questions but not all were answered. In the meantime, he has applied for his water rights because that is the only thing that he knows to do to try to protect himself. He also has concerns about noise from the pumps; they already have to deal with the noise of the trucks backing up and tailgates slamming. The pumps would just add to an already noisy pit operation. He wonders how the effects of this permit modification will affect his property value. He would really like more research into how many wells could be affected by the dewatering. He knows there are more wells in the area than are showing up on the DEC logs. He also noted that a \$30,000 bond would not do a whole lot if a lot of the area well were affected.

Michael Gravier; 34540 Marcus St., Soldotna AK, 99669: Mr. Gravier has a well that is 1400' away from this pit. He found a gravel pit study, not in the Kenai Peninsula area, regarding drawdown. As far away as his well is, he should not be affected by the drawdown of this project. However, the study did state that open pits could affect groundwater flow direction causing a local increase in the hydrologic gradient. He is concerned that should the groundwater flow shift it could negatively affect his well. He also does not believe that the \$30,000 bond is enough; there are more than just three wells in the area. He just wants assurance that this project will not negatively affect his well.

Commissioner Venuti asked Mr. Gravier if he has had his water quality tested recently. He stated that it is important to have a benchmark place to have something to compare to. Mr. Gravier said his water was tested last year when he refinanced his house. He also is currently in the process of have a more comprehensive water test done and should get the results within the next week or two.

Bill Ferguson; 34484 Marcus St., Soldotna AK, 99669: Mr. Ferguson is a neighbor to Mr. Gravier and he has lived on his property since 1970. He well is within 150' of Mr. Ferguson's property. He stated that area well logs are incomplete. He recently found out his well is more shallow than he believed. He was shocked to find out the reclamation plan for the 31.2-acre pit is to turn it into a lake. The lake will most likely be pretty stagnate and will provide a wonderful breeding ground for mosquitos. He is also concerned that the standing water during the dewatering process could become contaminated and negatively affect his well. He is a retired slope worker and knows that spill and contamination can happen, even with the best practices in place. This application does not contain information on a safety plan, what they will do if there are spills or if the water is contaminated. Also with this pit being so close to the Kenai River, he has concerns regarding possible negative affects to the river. There are a whole lot of unknowns associated with this project and there is only one viewpoint being heard here tonight. He would also request that a

decision on this permit be delayed to allow the area residents more time to do research. There is only one engineer's report being considered here. He believes that the area residents should have the opportunity to hire their own experts and have that information considered as well.

Commissioner Ruffner asked Mr. Ferguson how much time he thought it would take, if the commission delayed a decision on this permit, for the residents to do their own research. Mr. Ferguson replied anywhere of 30-60 days. Commissioner Ruffner then asked Mr. Ferguson if he had applied for his water rights from DNR. Mr. Ferguson stated that he is in the process of doing so. Commissioner Ruffner then stated one way the area residents could protect themselves would be to apply for their water rights.

Commissioner Fikes asked Mr. Ferguson if he had any idea how many of his neighbors might be seasonal residents and may not have received notification about this material site permit. Mr. Ferguson stated that he could not answer that question.

Joseph & Billie Hardy; 41937 River Park Dr., Soldotna AK, 99669: Mr. Hardy lives approximately ¼ mile from the pit. He stated he shares the same concerns that the neighbors before him have expressed. He is particularly concerned that there is no baseline information on any of the local well around this pit. He believes that information should have been a part of the study. While he respects the McLane Consulting firm, their information is based on hypotheticals; he would like to see hard numbers. He also noted that the state requires a dewatering permit and he does not believe the operators have obtained one yet. He believes that question should be answered before the commission makes a decision on the permit. He wants to see the spill plan for this operation. He is also concerned about them using Kenai River Ave. to access Funny River Rd. This is a dangerous intersection for regular vehicles; there is no way it would be safe from large trucks to use. He also believes that the \$30,000 bond is a joke. They too would request that the commission delay making a decision on this permit for 30-60 days. The delay would allow the residents time to hire their own hydrologist.

Lillian Weed; 34054 Snow Lane, Soldotna AK, 99669: Ms. Weed stated the others have already brought up many of her concerns. She then stated that she is very concerned about how this operation could negatively affect the Kenai River and the surrounding habitat. She would ask that the delay be upwards of 60 days due to the challenges associated with the COVID pandemic.

Bill Elam; 47320 Jefferson Ave., Soldotna AK, 99669: As an assembly member, he would support the area residents request to delay the decision on this matter. The delay would allow time for them to bring in a hydrologist to conduct a study. He believes that this would be a nice accommodation to extend to the residents.

Lindsey Holland; 41750 River Park Dr., Soldotna AK, 99669: Ms. Holland stated that she shares Ms. Weed's concern about negative impacts to the river. She would like to know what kind of safe guards would be put in place for the river. She noted the engineer from McLane stated there are numerous pits in the area that have extracted into the water table. She wondered how many of them were within 350 feet of a river. She believed that a 350' buffer was practically nothing in the grand scheme of things. She too would like to ask the commission to delay making a decision on this permit until the neighborhood can hire their own hydrologist.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna AK, 99669: Ms. DeBardelaben wanted the public testifiers to know that other permitting processes for material sites, outside of the borough permitting process, will address the concerns expressed regarding spill mitigation and other environmental concerns. This information has not been requested or provided with this application because it is not a required part of the borough permitting process.

Commissioner Fikes asked if this permit had been reviewed by the Kenai River Center. Mr. Taylor responded the application had not been sent to the River Center for review because this project is not within the 50 ft. Habitat Protection District and was not within their jurisdiction. Commissioner Fikes also noted several members of the public stated that there was a discrepancy in the number of wells in the area. She asked if the applicant would be prepared to increase the amount of their bond if it was discovered there were more well in the area than have been reported. Mr. Foster stated that going out further from the project seem to be a bit extreme to him. He noted that their application meets the requirements of borough

code and does not believe additional bonding should be required.

Commissioner Venuti asked Mr. Foster if equipment to be used at this site would have white noise backup alarms. Mr. Foster replied no, the equipment does not have white noise alarms.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Brantley to approved PC Resolution 2021-10 granting a modification to a conditional land use permit issued to River Resources, LLC.

Commissioner Gillham would like to know what would be a reasonable amount of time to allow the area residents to secure a hydrologist to conduct survey.

Commissioner Fikes stated that she would support a delay to allow the area residence to bring in their own hydrologist. She does not believe that is an unreasonable request.

Commissioner Ecklund also agreed with postponement to allow the residents more time to conduct their research.

Commissioner Gillham thought a 30-day postponement would be fair to both the applicant and the area residents.

Planning Director stated she and Bryan Taylor would be on vacation for the first part of May. Should the commission wish to postpone the application, she would suggest moving it to the May 24, 2021 meeting as they both will be back from vacation by then.

AMENDMENT MOTION: Commissioner Gillham moved, seconded by Commissioner Carluccio to postpone this item to the May 24, 2021 meeting.

Commissioner Carluccio noted that she believed May 24th meeting was a good compromise as it was between the 30-60 day timeframe.

Mr. Taylor asked for clarification in regards to the delay and the commission's expectations of him. What did they expect from him in regards to research. Commissioner Ruffner stated that was a fair question and posed the question to the commission.

Commissioner Fikes asked if Mr. Taylor if he could secure an expert that could address any potential impact to local wells because of the dewatering process and spill containment plans. She would also like to have additional information regarding any noise impacts. Concerns have been brought up and the information in the application does not address these issues. She believes they are being asked to make a decision without having the information needed. Mr. Taylor replied several of the permit conditions do address contamination concerns. As far as what borough codes lays out to address the issues such as drawdown and contamination he believes the application has addressed them. He is not sure what would be considered outstanding with this application.

Commissioner Ecklund asked Mr. Taylor if the borough had a hydrologist on staff. Mr. Taylor replied no, the borough does not have a hydrologist on staff. Commissioner Ecklund then asked if Mr. Taylor made any calls to or sought the input from a hydrologist on this permit. Mr. Taylor replied that he did not consult with a hydrologist. He stated he did reach out to DNR regarding reclamation and bonding requirements.

Commissioner Ruffner stated what he heard was a request to delay making a decision, which would allow the area residents time to research and/or hire a hydrologist. Then they could bring their information back to the commission. He did not hear any expectations for staff to conduct additional research.

Commissioner Venuti wanted to state that he did not believe the borough should bear the cost of hiring a hydrologist. Commissioner Ruffner stated he believed it was understood that the residents would bear the cost of the hydrologist.

Commissioner Fikes asked if there was a way to know for sure how many wells are within the affected area, since it was brought up that there was a discrepancy in the number. Mr. Taylor replied that the site plan was an on the ground survey, so he does not believe there were wells missed in the immediate vicinity. For wells within the ¼ mile area, if they are not registered in the DNR log the only way to determine the number would be to conduct an on the ground survey. If the commission wanted to identify an area, he might be able to do some research. Commissioner Fikes stated she just wanted to know if there were any other wells in the immediate area, say along Kenai River Ave., other than the three identified in the report. Mr. Taylor stated that he could do some additional research and see if there were any other wells in that immediate area.

Commissioner Ruffner passed the gavel to Jeremy Brantley so he could make a statement on the motion. He stated that he is inclined to support the motion to postpone giving the landowners a little bit more time to assess this proposal. He stated he does have some professional association with ground water and geology and does not see anything in the application that would give him pause in approving the permit in the future. He believed that quantifying how much water is moved and being able to put some sort of limits or expectation on it would be beneficial, however he recognizes that code does not address this issue. He noted that it is the responsibility of the applicant to protect the water surrounding the pit. Having reviewed these types of applications for a long time, the water quality issues and spill mitigation associated with digging in this pit are no different from any other pit. He does have concerns with over dewatering and it causing water loss in area wells as he has seen this happen here on the peninsula.

AMENDMENT MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

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

AGENDA ITEM E. PUBLIC HEARING

9. State application for a marijuana establishment license; Kalifornsky area.

Applicant: Greenstar, Inc. dba Gold Star Concentrates
Landowner: Otium Sanctum, LLC
Parcel ID#: 055-040-33
Legal Description: T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1
Location: 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

BACKGROUND INFORMATION: On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Retail Marijuana Store license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 16, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed Retail Marijuana Store on the above-described parcel. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KP.B 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant complies with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers,

MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

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

AGENDA ITEM E CONDITIONAL LAND USE PERMIT MODIFICATION

8. Conditional Land Use Permit Modification for an Existing Material Site Operation

Applicant: River Resources, LLC

Landowner: River Resources, LLC

Parcel Numbers: 135-243-13 & 29

Legal Description:

- T05N, R10W, SEC 34, Seward Meridian, KN NW1/4 SE1/4, Excluding Patson Properties Part 1
- T05N, R10W, SEC 34 Seward Meridian, KN 2019-068, Patson Properties 2019 Replat Tract 1C

Location: 34386 Patson Road

Staff report given by Bryan Taylor

GENERAL OVERVIEW: The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on December 16, 2019, to allow for gravel extraction below the groundwater elevation. A copy of the application, including the required water monitoring information, is included as **Attachment A**. The applicant is also requesting an exemption for dewatering as part of the extraction activities. Dewatering will only be conducted within the permitted material site and water will not leave the property.

KPB 21.29.050(A)(5) provides that the planning commission may approve excavation in the water table provided the applicant completes certain water monitoring requirements carried out by an independent civil engineer or professional hydrogeologist, submits the monitoring data, and has certification by the engineer or hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.

As required by KPB 21.29.050(A)(5), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources. The excavation and reclamation site plan submitted with the application states that monitor wells will be maintained and measurements recorded for the life of the material site. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

According to the modification application received on March 3, 2021, the applicant seeks to excavate an area of approximately 31.2 acres to a maximum depth of 32' below original ground. The groundwater elevation data provided indicates that groundwater elevation is approximately 17' below original ground. The aquifer-confining layer of dense blue-gray silt is estimated to be approximately 35' below original ground and approximately 30' thick.

As in the original application, primary ingress and egress to the site is directly onto Funny River Road, a state maintained road, with alternate access proposed to Kenai River Avenue, a City of Soldotna maintained road, and then to Funny River Road. The groundwater excavation plan for the site is the same as the phased development originally approved, with material being excavated in the southern portion of the parcel and working northerly. Dewatering will be localized and will remain within the same property to re-enter the groundwater table. The required buffers will remain the same. As originally permitted, the impacted area remains at approximately 52 acres, with excavation within the water table on approximately 31.2 acres; the annual quantity of material expected to be removed is 45,000cy; and, the site has an expected lifespan of 40 years.

PUBLIC NOTICE: Public notice of the application was mailed on March 19, 2021 to the 233 landowners or Kenai Peninsula Borough. Page 15

leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Public comments received prior to the packet deadline are included as **Attachment H**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the April 12, 2021, meeting.

FINDINGS OF FACT:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On December 16, 2019, the planning commission passed resolution 2019-39, which approved a conditional land use permit to River Resources, LLC, for material extraction on KPB tax parcels #135-243-13 & 135-243-29.
 - D. On February 26, 2021, River Resources, LLC, submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcels #135-243-13 & 135-243-29 to allow for excavation below groundwater elevation. After a request from staff, additional information was provided on March 3, 2021.
 - E. KPB 21.29.050(A)(5) provides the conditions upon which the planning commission may permit excavation within the water table greater than a 300-foot distance from a water source. Conditions include installation of at least three monitoring wells, completion of monitoring requirements, certification by a qualified independent civil engineer or professional hydrogeologist that the excavation will not negatively impact the quantity of an aquifer serving existing sources, and a prohibition on operations breaching an aquifer confining layer.
 - F. The applicant contracted McLane Consulting to measure groundwater monitor wells and analyze the data in accordance with KPB 21.29.050(A)(5).
 - G. McLane Consulting collected groundwater elevation measurements in three month intervals from five monitor wells over the course of one year.
 - H. From the measurements and data from the Alaska Department of Natural Resources, McLane Consulting determined the flow direction at the site to be northwesterly, and the flow rate, or hydraulic conductivity, to be typical of dense gravel and coarse sand.
 - I. As required by KPB 21.29.050(A)(5)(a), McLane Consulting has certified that the excavation plan proposed by the applicant will not negatively impact the quantity of the aquifer serving the existing water sources.
 - J. The excavation and reclamation site plan states that at least three monitor wells will be maintained and measurements recorded for the life of the material site.
 - K. A staff site visit was conducted on March 25, 2021.
 - L. In accordance with KPB 21.29.050(A)(4-5), all excavation between 300 and 100 horizontal feet of existing wells must remain at least two feet above groundwater.
 - M. In accordance with KPB 21.29.050(A)(4), material extraction is prohibited within 100 horizontal feet of wells existing prior to the original permit issuance.
 - N. A public hearing of the planning commission was held on April 12, 2021, and notice of the application was mailed on March 19, 2021, to the 233 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Soldotna requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the March 31, 2021, & April 7, 2021, issues of the Peninsula Clarion.
 - O. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site and has verified that stakes have been placed along the

permit boundaries.

3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each property boundary that will provide visual and noise screening to adjacent properties:
50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 17.9-acre processing area that is located 300 feet from the permit boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows three wells with 300 feet of permit area but none of them is within 100 feet of the proposed excavation.
 - B. An exemption has been requested for dewatering within the permitted area. If granted, borough staff will regularly monitor the site to ensure that dewatering takes place only within the permitted material site.
 - C. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement between 100 and 300 feet of a water source.
 - D. The requirement that the permittee post a bond of \$30,000 for liability to potential accrued damages for dewatering activities will be met by permit condition number 8.
6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification seeks permission to excavate within the water table.
 - B. Five monitoring tubes have been installed to monitor ground water within the permitted site. At least three wells will be maintained and measurements taken for the life of the material site.
 - C. Data and interpretation for groundwater elevation, flow direction, and flow rate for the subject parcel, measured in three month intervals by a qualified independent civil engineer at least one year prior to the modification application has been provided.
 - D. Certification by a qualified, independent engineer that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources has been provided.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction. The Kenai River and its associated floodplain and riparian wetland is approximately 350 feet north of the proposed material site at its closest point.

8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original submitted site plan indicates that the haul route will be directly to Funny River Road, a state maintained road. Two alternate access points are proposed to Kenai River Avenue, a Soldotna City maintained road, then to Funny River Road.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. Updated drawings for the original reclamation plan were submitted with the modification application. The reclamation plan indicates that reclamation will be completed annually before the growing season ends (September), that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust, and that the southwesterly portions of the site will be utilized for future buildings.
 - B. The site plan indicates that the reclamation will include recontouring using strippings, overburden, waste import and topsoil to a condition that allows for reestablishment of natural vegetation, slopes no steeper than 2:1, with slopes covered with a minimum of 4 inches of topsoil mix and seeded. Reclamation slopes within water table will be the same where above the water table, with unseeded slopes no steeper than 2:1 below the water table.
 - C. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 - D. The permittee is exempt from the state bond requirements until he exceeds a disturbed area of 5 acres or he extracts more than 50,000 cubic yards per year.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for

enforcement.

15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. No additional conditions have been volunteered.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Operations under the permit have already commenced.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
Northern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation to be replaced by a sight limiting minimum six-foot high fence when excavation is within 50 feet of the permit boundary and its associated utility easement, if applicable. The fence will be replaced with a minimum six-foot high berm with 2:1 slopes when excavation in that area is exhausted.
Southern boundary - 50 feet of undisturbed natural vegetation.
These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
8. Prior to dewatering, the permittee shall post a bond for liability for potential accrued damages pursuant to KPB 21.29.050(A)(4)(d) in the amount of \$30,000.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.

10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any 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, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). 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 \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

Vice Chair Ruffner opened the item for public comment.

Kyle Foster, Petitioner; 34717 Sentinel, Soldotna AK, 99669: Mr. Foster and his brother are the owners of River Resources, LLC. He and his brother are petitioning to modify their existing material site permit to allow them to dig down into the water table and to do localized dewater within their pit. Their de-watering plans are relatively small. They plan to build two 50' x 50' cells with an 8' levy in between them to pump water out of one and into the other to allowing for a 50' x 50' excavation area. The dewatering activity will run only a few days at a time.

Commissioner Ruffner understood the plans for dewatering for the project. He asked Mr. Foster to verify that there would be no additional runoff because of the pumping of water between the cells. In addition, the water being pumped will stay within the 50' x 50' foot cell. Mr. Foster replied that he was correct. That the pump will only be run while they are trying to excavate the gravel in the other cell. Commissioner Ruffner asked if this activity would require a DNR permit. Mr. Foster replied that he did not believe so.

Commissioner Fikes asked Mr. Foster if the pumping of the water between the two cells would negatively affect any of the area wells. Mr. Foster replied that he believe this activity would not negatively affect any of the area wells as they are not removing the water but just moving over to the next cell.

Commissioner Venuti wanted to know what happens to the water level of the receiving cell. Mr. Foster stated the cell receiving the water would only be dug down about 6" above the water table, which will allow for plenty of room for the pumped water. Commissioner Venuti then ask what was the reclamation plan for this pit. Mr. Foster said it would become a manmade lake.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna AK, 99669: Ms. DeBardelaben was the author of the well monitoring report for this project. Ms. DeBardelaben assisted the petitioner with completing their application and stated that the application met the standards of borough code. She realizes that the commissions does not see many applications for gravel extraction from within the water table however this a common occurrence. She is aware of many gravel pits on the peninsula that currently are extracting gravel from within the water table. Ms. DeBardelaben reviewed all the comments from surrounding neighbors regarding this permit modification and found that most all of them were upgrade of the material site, with the closest neighbor being about 1400' east of the pit. None of the commenters were owners of wells within 300' of the pit. She then reviewed the results of the well monitoring report (which was contained in the meeting packet) with the commission. She noted one of the questions the neighboring landowner had was the type of monitoring well used. The wells are 4" PVC pipes, approximately 25' in length with the lower 10' – 15' of the pipe having curve cuts. The wells were surveyed on a quarterly schedule and the collected data was utilized to determine the ground water depth, ground water directional flow and the hydraulic connectivity. The petitioners have no incentive to extract into the confining layer as this material is not used in construction and if excavated is considered waste material. In the course of preparing her report she contacted the DEC and DNR to analyze any well log data in the area. She noted that many logs were missing from the database. State statute requires that well drillers to register wells in the system but unfortunately, the State does not have a means to enforce well registration. The petitioner plans to dig to a depth to a maximum of 32' below existing ground elevation, which is approximately 15' in to the ground water table. They will not be digging into the confining layers. While dewatering is not a requirement to excavating into the water table, it does provide for a cleaner means of excavation and line of site. The dewatering process would be conducted over a 5-7 day period. Day 1 would be excavating the cells to begin dewatering. Days two to five would be excavation and stockpiling of materials. Days 6 and 7 would be slope dressing of the excavated cell and decommission of the water pumps. She noted some of the neighbors were concerned about dewatering affecting their private wells, which is known as well draw down. Using a pump to remove ground water creates what is called a cone of depression within the water table. Using the information from the petitioners dewatering plan she calculated that within a 300' radius of the operation the drawdown would be approximately .7 of a foot on day-1, 1.1 feet by day-7 and it would be 1.2 feet by day-10. She noted the majority of the comments from neighboring property owners were 1400' or more from the site. Using the same data, she calculated that at ¼-mile radius, the drawdown on day-1 would be approximately .1 of foot, by day-7 it would be .5 of a foot and by day-10, the drawdown would be .6 of a foot. This data shows that the proposed dewatering process will have minimal impact on the surrounding wells. The ground water being pumped in the proposed excavation process will become a non-factor, as it will be reintroduced within the same property and will be allowed to infiltrate back into the ground water table, recharging the aquafer. The operators will have to meet DEC requirements for dewatering as well as protection of water rights and quality. The petitioners would like to ask the commission to potentially separate the permit modification from the exemption from dewatering request. Doing this would limit the bonding requirements to the timeframe of the dewatering process only and not for the entire life of the permit. This petition meets all the requirements of code and they would ask that the commission approve the request.

Commissioner Venuti wanted to know how long would the pumps in the dewatering operation run on average. He noted when he ran pumps for dewatering during commercial project the pumps were required

to run 24 hours a day and they were loud. He wondered what the noise factor would be for this pump operation. Ms. DeBardelaben replied that the pumps would not be overly loud and would only run 3-5 days during the 7-day excavation period.

Commissioner Ruffner asked Ms. DeBardelaben what the maximum drawdown would be for the three closest wells. Ms. DeBardelaben replied that the maximum drawdown within 300' of the operation during a 10 period would 1.2 feet.

Commissioner Ecklund asked if McLane Consulting had a hydrologist on staff or was one hired to consult on her research for this project. Ms. DeBardelaben replied that she is a licensed civil engineer and meets the requirement under borough code to consult on this project. She did talk with a hydrologist regarding this project but a hydrologist was not hired as a consultant.

Mr. Taylor provided clarification on the bonding requirements. Permit condition number eight states that prior to dewatering the permittee shall post a bond for liability for potential accrued damages for \$30,000.00. There is no need to separate the modification permit from the exemption from dewatering request.

Michael Pomplin; 41918 River Park Dr., Soldotna AK, 99669: Mr. Pomplin would like to ask that a decision on this permit be delayed to allow time for the neighboring properties to conduct their own research. He only received notice on this permit application two weeks ago. This did not give him adequate time to do any research. In his subdivision, he is one of eight landowners who have 30' wells. He has concerns about the dewatering aspect of this permit. The operator is talking about pumping 1000 gallons a minute during this process over the 40-year life of this site. He is very concerned how this will affect the water table. There will also be trucks and excavating equipment being used and he wants to know what measures are going to be put in place regarding spills and leakage from the equipment. He has concerns about contamination of the water due to exposure. He appreciates Ms. DeBardelaben trying to answer some of his questions but not all were answered. In the meantime, he has applied for his water rights because that is the only thing that he knows to do to try to protect himself. He also has concerns about noise from the pumps; they already have to deal with the noise of the trucks backing up and tailgates slamming. The pumps would just add to an already noisy pit operation. He wonders how the effects of this permit modification will affect his property value. He would really like more research into how many wells could be affected by the dewatering. He knows there are more wells in the area than are showing up on the DEC logs. He also noted that a \$30,000 bond would not do a whole lot if a lot of the area well were affected.

Michael Gravier; 34540 Marcus St., Soldotna AK, 99669: Mr. Gravier has a well that is 1400' away from this pit. He found a gravel pit study, not in the Kenai Peninsula area, regarding drawdown. As far away as his well is, he should not be affected by the drawdown of this project. However, the study did state that open pits could affect groundwater flow direction causing a local increase in the hydrologic gradient. He is concerned that should the groundwater flow shift it could negatively affect his well. He also does not believe that the \$30,000 bond is enough; there are more than just three wells in the area. He just wants assurance that this project will not negatively affect his well.

Commissioner Venuti asked Mr. Gravier if he has had his water quality tested recently. He stated that it is important to have a benchmark place to have something to compare to. Mr. Gravier said his water was tested last year when he refinanced his house. He also is currently in the process of have a more comprehensive water test done and should get the results within the next week or two.

Bill Ferguson; 34484 Marcus St., Soldotna AK, 99669: Mr. Ferguson is a neighbor to Mr. Gravier and he has lived on his property since 1970. He well is within 150' of Mr. Ferguson's property. He stated that area well logs are incomplete. He recently found out his well is more shallow than he believed. He was shocked to find out the reclamation plan for the 31.2-acre pit is to turn it into a lake. The lake will most likely be pretty stagnate and will provide a wonderful breeding ground for mosquitos. He is also concerned that the standing water during the dewatering process could become contaminated and negatively affect his well. He is a retired slope worker and knows that spill and contamination can happen, even with the best practices in place. This application does not contain information on a safety plan, what they will do if there are spills or if the water is contaminated. Also with this pit being so close to the Kenai River, he has concerns regarding possible negative affects to the river. There are a whole lot of unknowns associated with this project and there is only one viewpoint being heard here tonight. He would also request that a

decision on this permit be delayed to allow the area residents more time to do research. There is only one engineer's report being considered here. He believes that the area residents should have the opportunity to hire their own experts and have that information considered as well.

Commissioner Ruffner asked Mr. Ferguson how much time he thought it would take, if the commission delayed a decision on this permit, for the residents to do their own research. Mr. Ferguson replied anywhere of 30-60 days. Commissioner Ruffner then asked Mr. Ferguson if he had applied for his water rights from DNR. Mr. Ferguson stated that he is in the process of doing so. Commissioner Ruffner then stated one way the area residents could protect themselves would be to apply for their water rights.

Commissioner Fikes asked Mr. Ferguson if he had any idea how many of his neighbors might be seasonal residents and may not have received notification about this material site permit. Mr. Ferguson stated that he could not answer that question.

Joseph & Billie Hardy; 41937 River Park Dr., Soldotna AK, 99669: Mr. Hardy lives approximately ¼ mile from the pit. He stated he shares the same concerns that the neighbors before him have expressed. He is particularly concerned that there is no baseline information on any of the local well around this pit. He believes that information should have been a part of the study. While he respects the McLane Consulting firm, their information is based on hypotheticals; he would like to see hard numbers. He also noted that the state requires a dewatering permit and he does not believe the operators have obtained one yet. He believes that question should be answered before the commission makes a decision on the permit. He wants to see the spill plan for this operation. He is also concerned about them using Kenai River Ave. to access Funny River Rd. This is a dangerous intersection for regular vehicles; there is no way it would be safe from large trucks to use. He also believes that the \$30,000 bond is a joke. They too would request that the commission delay making a decision on this permit for 30-60 days. The delay would allow the residents time to hire their own hydrologist.

Lillian Weed; 34054 Snow Lane, Soldotna AK, 99669: Ms. Weed stated the others have already brought up many of her concerns. She then stated that she is very concerned about how this operation could negatively affect the Kenai River and the surrounding habitat. She would ask that the delay be upwards of 60 days due to the challenges associated with the COVID pandemic.

Bill Elam; 47320 Jefferson Ave., Soldotna AK, 99669: As an assembly member, he would support the area residents request to delay the decision on this matter. The delay would allow time for them to bring in a hydrologist to conduct a study. He believes that this would be a nice accommodation to extend to the residents.

Lindsey Holland; 41750 River Park Dr., Soldotna AK, 99669: Ms. Holland stated that she shares Ms. Weed's concern about negative impacts to the river. She would like to know what kind of safe guards would be put in place for the river. She noted the engineer from McLane stated there are numerous pits in the area that have extracted into the water table. She wondered how many of them were within 350 feet of a river. She believed that a 350' buffer was practically nothing in the grand scheme of things. She too would like to ask the commission to delay making a decision on this permit until the neighborhood can hire their own hydrologist.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna AK, 99669: Ms. DeBardelaben wanted the public testifiers to know that other permitting processes for material sites, outside of the borough permitting process, will address the concerns expressed regarding spill mitigation and other environmental concerns. This information has not been requested or provided with this application because it is not a required part of the borough permitting process.

Commissioner Fikes asked if this permit had been reviewed by the Kenai River Center. Mr. Taylor responded the application had not been sent to the River Center for review because this project is not within the 50 ft. Habitat Protection District and was not within their jurisdiction. Commissioner Fikes also noted several members of the public stated that there was a discrepancy in the number of wells in the area. She asked if the applicant would be prepared to increase the amount of their bond if it was discovered there were more well in the area than have been reported. Mr. Foster stated that going out further from the project seem to be a bit extreme to him. He noted that their application meets the requirements of borough

code and does not believe additional bonding should be required.

Commissioner Venuti asked Mr. Foster if equipment to be used at this site would have white noise backup alarms. Mr. Foster replied no, the equipment does not have white noise alarms.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Brantley to approved PC Resolution 2021-10 granting a modification to a conditional land use permit issued to River Resources, LLC.

Commissioner Gillham would like to know what would be a reasonable amount of time to allow the area residents to secure a hydrologist to conduct survey.

Commissioner Fikes stated that she would support a delay to allow the area residence to bring in their own hydrologist. She does not believe that is an unreasonable request.

Commissioner Ecklund also agreed with postponement to allow the residents more time to conduct their research.

Commissioner Gillham thought a 30-day postponement would be fair to both the applicant and the area residents.

Planning Director stated she and Bryan Taylor would be on vacation for the first part of May. Should the commission wish to postpone the application, she would suggest moving it to the May 24, 2021 meeting as they both will be back from vacation by then.

AMENDMENT MOTION: Commissioner Gillham moved, seconded by Commissioner Carluccio to postpone this item to the May 24, 2021 meeting.

Commissioner Carluccio noted that she believed May 24th meeting was a good compromise as it was between the 30-60 day timeframe.

Mr. Taylor asked for clarification in regards to the delay and the commission's expectations of him. What did they expect from him in regards to research. Commissioner Ruffner stated that was a fair question and posed the question to the commission.

Commissioner Fikes asked if Mr. Taylor if he could secure an expert that could address any potential impact to local wells because of the dewatering process and spill containment plans. She would also like to have additional information regarding any noise impacts. Concerns have been brought up and the information in the application does not address these issues. She believes they are being asked to make a decision without having the information needed. Mr. Taylor replied several of the permit conditions do address contamination concerns. As far as what borough codes lays out to address the issues such as drawdown and contamination he believes the application has addressed them. He is not sure what would be considered outstanding with this application.

Commissioner Ecklund asked Mr. Taylor if the borough had a hydrologist on staff. Mr. Taylor replied no, the borough does not have a hydrologist on staff. Commissioner Ecklund then asked if Mr. Taylor made any calls to or sought the input from a hydrologist on this permit. Mr. Taylor replied that he did not consult with a hydrologist. He stated he did reach out to DNR regarding reclamation and bonding requirements.

Commissioner Ruffner stated what he heard was a request to delay making a decision, which would allow the area residents time to research and/or hire a hydrologist. Then they could bring their information back to the commission. He did not hear any expectations for staff to conduct additional research.

Commissioner Venuti wanted to state that he did not believe the borough should bear the cost of hiring a hydrologist. Commissioner Ruffner stated he believed it was understood that the residents would bear the cost of the hydrologist.

Commissioner Fikes asked if there was a way to know for sure how many wells are within the affected area, since it was brought up that there was a discrepancy in the number. Mr. Taylor replied that the site plan was an on the ground survey, so he does not believe there were wells missed in the immediate vicinity. For wells within the ¼ mile area, if they are not registered in the DNR log the only way to determine the number would be to conduct an on the ground survey. If the commission wanted to identify an area, he might be able to do some research. Commissioner Fikes stated she just wanted to know if there were any other wells in the immediate area, say along Kenai River Ave., other than the three identified in the report. Mr. Taylor stated that he could do some additional research and see if there were any other wells in that immediate area.

Commissioner Ruffner passed the gavel to Jeremy Brantley so he could make a statement on the motion. He stated that he is inclined to support the motion to postpone giving the landowners a little bit more time to assess this proposal. He stated he does have some professional association with ground water and geology and does not see anything in the application that would give him pause in approving the permit in the future. He believed that quantifying how much water is moved and being able to put some sort of limits or expectation on it would be beneficial, however he recognizes that code does not address this issue. He noted that it is the responsibility of the applicant to protect the water surrounding the pit. Having reviewed these types of applications for a long time, the water quality issues and spill mitigation associated with digging in this pit are no different from any other pit. He does have concerns with over dewatering and it causing water loss in area wells as he has seen this happen here on the peninsula.

AMENDMENT MOTION PASSED: Hearing no further discussion or objection the motion passed by the following vote:

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

AGENDA ITEM E. PUBLIC HEARING

9. State application for a marijuana establishment license; Kalifornsky area.

Applicant: Greenstar, Inc. dba Gold Star Concentrates
Landowner: Otium Sanctum, LLC
Parcel ID#: 055-040-33
Legal Description: T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1
Location: 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

BACKGROUND INFORMATION: On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Retail Marijuana Store license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 16, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed Retail Marijuana Store on the above-described parcel. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant complies with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers,