



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
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, August 23, 2021

7:30 PM

Betty J. Glick Assembly Chambers

Zoom Meeting 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.

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

- a. [KPB-3437](#) McCorison Lindholm Subdivision; KPB File 2021-042
Attachments: [McCorison Lindholm Subdivision KPB 2021-042](#)
- b. [KPB-3438](#) Rappe Gallant Subdivision Unit 5 No. 2: KPB File 2021-064
Attachments: [Rappe Gallant Subd Unit 5 No 2 KPB 2021-064](#)
- c. [KPB-3456](#) Seldovia Townsite Pollack Subdivision; KPB File 2021-053
Attachments: [Administrative Approval Seldovia Townsite Pollack Addn](#)
- d. [KPB-3455](#) River Acres Subdivision; KPB File 2021-004
Attachments: [Administrative Approval River Acres](#)
- e. [KPB-3454](#) Guy Waddell Subdivision No. 3 June's Addn. Lot 1-E 2020 Replat
KPB File 2020-115
Attachments: [Administrative Approval Guy Waddell Sub No 3 Junes Addn KPB 2020](#)
- f. [KPB-3453](#) Buckingham Cove Chartier 2020 Replat; KPB File 2020-088
Attachments: [Administrative Approval Buckingham Cove Chartier 2020 Replat](#)
- g. [KPB-3452](#) Bluff Haven Estates 2021 Replat; KPB File 2021-030
Attachments: [Administrative Approval Bluff Haven Estates 2021 Replat](#)

- h. [KPB-3451](#) Barnett's South Slope Subdivision Quiet Creek Park Drake Replat
KPB File 2021-058

Attachments: [Administrative Approval Barnetts South Slope 2021-058](#)

4. Plats Granted Final Approval (KPB 20.10.040)
5. Plat Amendment Request
6. Commissioner Excused Absences
7. Minutes

[KPB-3435](#) August 9, 2021 Planning Commission Meeting Minutes

Attachments: [PC Minutes 080921 Draft](#)

D. OLD BUSINESS

E. NEW BUSINESS

1. [KPB-3436](#) Right-of-Way Vacation; KPB File 2021-111V
Vacate a 60' by 254' portion of Wildwood Drive on the southeast boundary of Lot 4-A Block 8, Black Gold Estates Subdivision No 2 (Plat KN 84-76) as dedicated on Black Gold Estates Subdivision Amended (KN 1399)

Attachments: [1. MAP Vicinity with Inset](#)
[2. MAP Aerial](#)
[3. Plat Prelim KPB 2021-111V Reduced](#)
[4. Staff Report Black Gold Estates 2021 Replat Wildwood Drive ROWV 2021-11](#)
[5. MAP Utility](#)
[6. Plat Parent KN 84-76](#)
[7. Plat Parent KN 1399](#)
[8. Parent Plat KN 1335](#)

2. [KPB-3439](#) Conditional Use Permit; PC Resolution 2021-27
Location: T05N, R10W, SEC 19, S.M., KN 0970046 Poacher's Cove
Moore Addn. Amended Lot 177B
- Attachments:* [1.Keating CUP Maps](#)
[2.Staff Report 12812 Keating 8.23](#)
[3.Resolution 12812 Keating 8.23](#)
[4.Keating Application 2021](#)
[5.PHN 12802 Keating 8.23.2021](#)
[6.12812 2021-07-16 Initial FP Permit](#)
3. [KPB-3440](#) Ordinance 2021-28: An ordinance authorizing a lease to Robert Gibson, DBA Alaska Land & Cattle Company for approximately 280 acres of Borough land in the Basargin Road area for agricultural use.
- Attachments:* [1.Memo PC & KBAPC Review](#)
[2.Memo](#)
[3.Ordinance 2021-28](#)
[4.Lease](#)
[4a.AK Land Cattle MAP](#)
[4b.AK Land Cattle Rate MAP](#)
[5.Farm & Rangeland Development Plan](#)
[5a.Farm Management Development Plan Amendment 8-12-21](#)
[6.PC Recommendation Memo to Assembly](#)
[E3-ORD 2021-28 APC Comment Desk](#)
4. [KPB-3441](#) PC Resolution 2021-28: A resolution establishing the appeal procedure for appeal of the Planning Director's decision approving a nonconforming use application within the C&H Estates LOZD.
- Attachments:* [1.C&H Appeal Procedure MEMO](#)
[2.C&H Appeal Procedure PC RES 2021-28](#)
[E4 Comment Cutler Desk Packet](#)
[E4 Comment Lang Desk Packet](#)

F. PLAT COMMITTEE REPORT

G. OTHER

1. [KPB-3442](#) Community Wildfire Protection Plan Update
- Attachments:* [MEMO to Planning Commission 081121](#)

2. [KPB-3457](#) 2021 Land Sale Auction Results

Attachments: [2021 Land Sale Results Report Desk](#)

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, September 13, 2021 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

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

Fax: 907-714-2378

e-mail address: planning@kpb.us

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

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

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

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: McCorison Lindholm Subdivision
KPB File 2021-04 2
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 26, 2021. 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 August 9, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 8th day of August 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:

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

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Rappe Gallant Subd Unit 5 No 2
KPB File 2021-064
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 14, 2021. 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 August 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 August 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.



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Seldovia Townsite Pollack Subdivision
KPB File 2021-053
Seldovia Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 10, 2021. 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 August 17, 2021. *both*

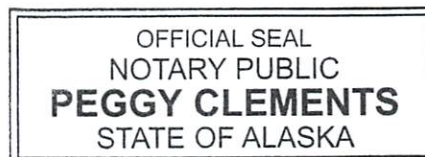
Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

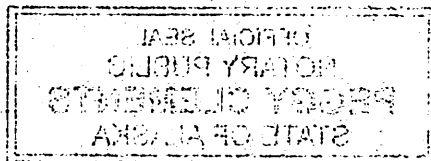
Signed and sworn (or affirmed) in my presence this 17th day of August 2021 by Melanie Aeschliman. *both*

Notary Public for the State of Alaska

My commission expires: 7.31.2022



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

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: River Acres Subdivision
KPB File 2021-004
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 8, 2021. 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 August 17, 2021.

Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18th day of August 2021 by Melanie Aeschliman.

Notary Public for the State of Alaska

My commission expires: 5-6-2023

STATE OF ALASKA
JULIE HINDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES: 05-06-2023

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

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Guy Waddell Subdivision No. 3 June's Addn. Lot 1-E 2020 Replat
KPB File 2020-115
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 12, 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 August 17, 2021.

Melanie Aeschliman

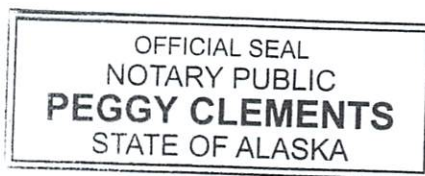
Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this ^{18th} 17th day of August 2021 by Melanie Aeschliman.

Peggy Clements

Notary Public for the State of Alaska



My commission expires: 7.31.2022

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.



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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Buckingham Cove Chartier 2020 Replat
KPB File 2020-088
Seldovia Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 14, 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 August 17, 2021.

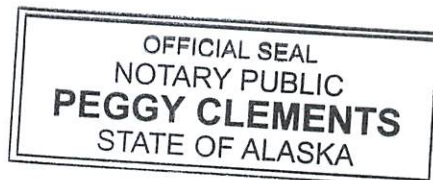
Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 17th day of August 2021 by Melanie Aeschliman.

Notary Public for the State of Alaska

My commission expires: 7.31.2022



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

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Bluff Haven Estates 2021 Replat
KPB File 2021-030
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 12, 2021 and May 24, 2021. Approval for the plat is valid for two years from the second date of approval.

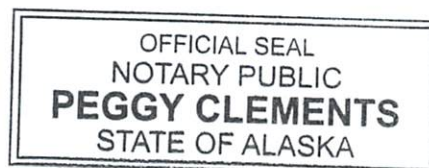
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on August 18, 2021.

Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18th day of August 2021 by Melanie Aeschliman.

Notary Public for the State of Alaska



My commission expires: 7-31-2022

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

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Barnett's South Slope Subdivision Quiet Creek Park Drake Replat
KPB File 2021-058
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 24, 2021. 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 August 20, 2021.

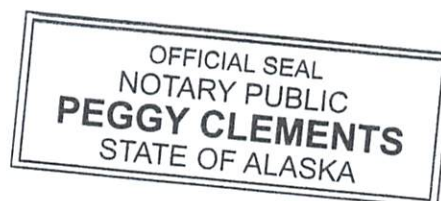
Melanie Aeschliman
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 20th day of August 2021 by Melanie Aeschliman.

Notary Public for the State of Alaska

My commission expires: 7.31.2022



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

August 9, 2021

7:30 P.M.

UNAPPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

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

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

Staff Present

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

AGENDA ITEM B. ROLL CALL

1. Oath of Office

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

2. Election of Officers

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

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

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

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

appointed Parliamentarian.

AGENDA ITEM C. CONSENT AGENDA

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

STAFF REPORT

2013

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

2014

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

2015

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

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

2016

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

2017

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

2019

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

2020

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

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

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

2021

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

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

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

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

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

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

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

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

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

NOTE: An appeal of a decision of the Planning Commission may be filed to the hearing officer in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the borough clerk within 15 days of date of notice of the decision; using the proper forms; and, be accompanied by the \$300 filing and records preparation fee.

END OF STAFF REPORT

**Passed by Consent Agenda*

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

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

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

STAFF REPORT

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

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

expires in one year.

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

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

RECOMMENDATION:

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

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

20.65.070 Alteration of platted utility easements

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

END OF STAFF REPORT

**Passed by Consent Agenda*

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

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

MOTION: Commissioner Venuti moved, seconded by Commissioner Gillham to approve the consent

agenda and the regular agenda.

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

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

AGENDA ITEM E.

ITEM 1 - Stanley's Meadow 2021 Utility Easement Vacations

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

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Utility provider review:

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

Findings:

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

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

RECOMMENDATION:

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

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

20.65.070 Alteration of platted utility easements

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

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

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

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

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

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

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

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

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

Staff report given by Scott Huff.

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

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

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

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

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

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

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

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

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

Utility provider review:

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

Findings:

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

RECOMMENDATION:

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

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

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

20.65.070 Alteration of platted utility easements

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

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

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

Staff report given by Marcus Mueller.

Applicant: David Reutov of Homer, AK

Existing right-of-way names: None

Name proposed by petitioner: Silver Falls Drive

Reason for Change: Private road that will serve multiple addresses

Background:

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

Review and Comments:

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

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

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

Staff Discussion:

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

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

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

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

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

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

END OF STAFF REPORT

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

MOTION: Commissioner Ecklund moved, seconded by Commissioner Fikes to postpone until brought back by staff.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

Staff report given by Marcus Mueller.

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

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

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

Staff report given by Marcus Mueller.

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

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

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

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM D. OLD BUSINESS

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

Staff report given by Bryan Taylor.

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

Chair Martin opened the meeting for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

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

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

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

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

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

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

MOTION PASSED BY MAJORITY VOTE:

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

AGENDA ITEM F. PLAT COMMITTEE REPORT

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

AGENDA ITEM G. OTHER

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

AGENDA ITEM H. PUBLIC PRESENTATION

AGENDA ITEM I. DIRECTOR'S COMMENTS

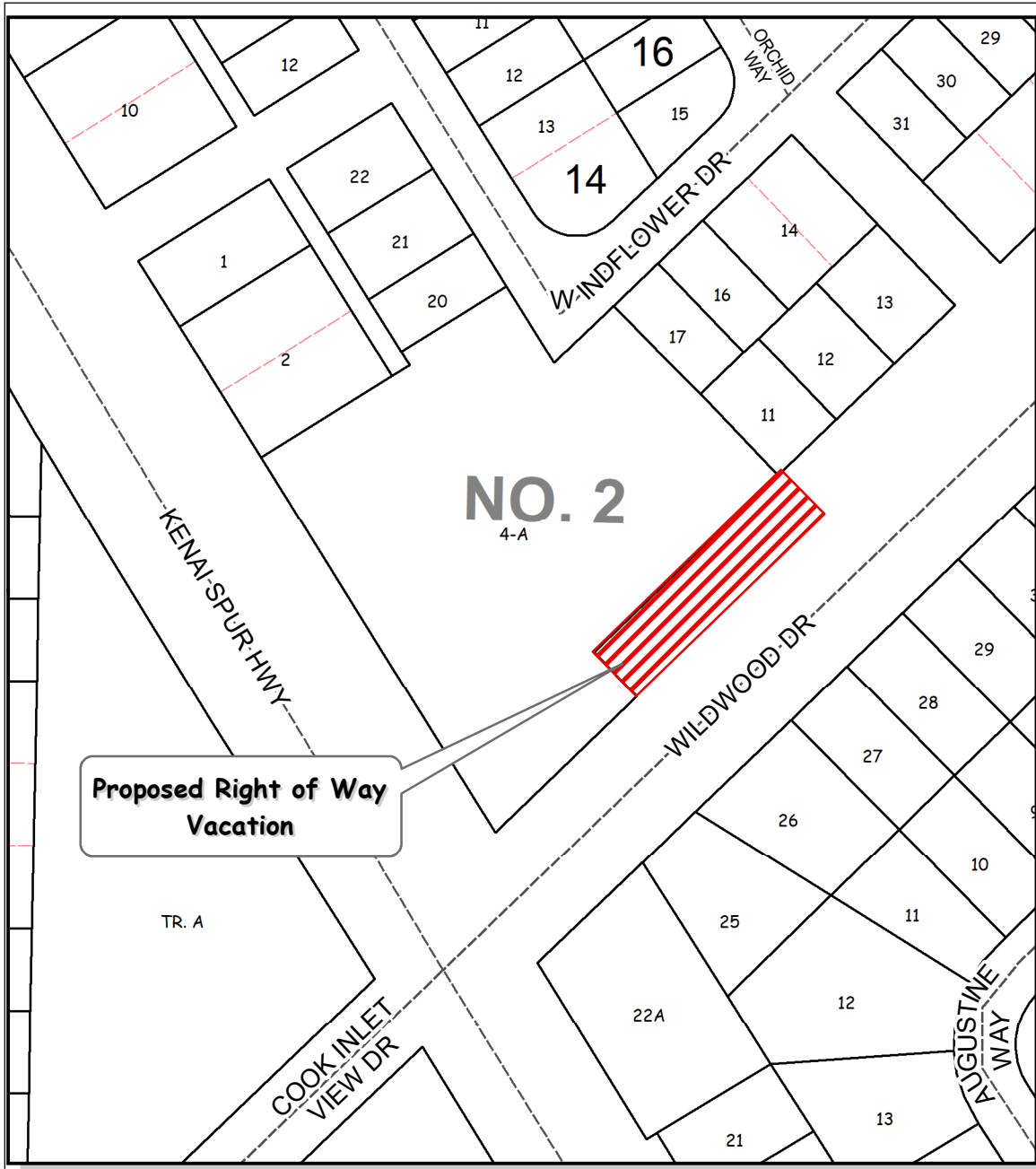
Ms. Shirnberg spoke briefly to one of the points in the director's report. She ask the commission if they would support the idea of establishing a hard deadline for desk packet items. The reason for the deadline would be to ensure that the commission has plenty of time to review items before a meeting.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

AGENDA ITEM J. COMMISSIONER COMMENTS

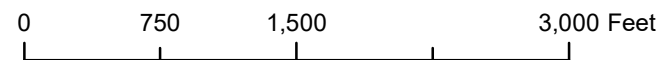
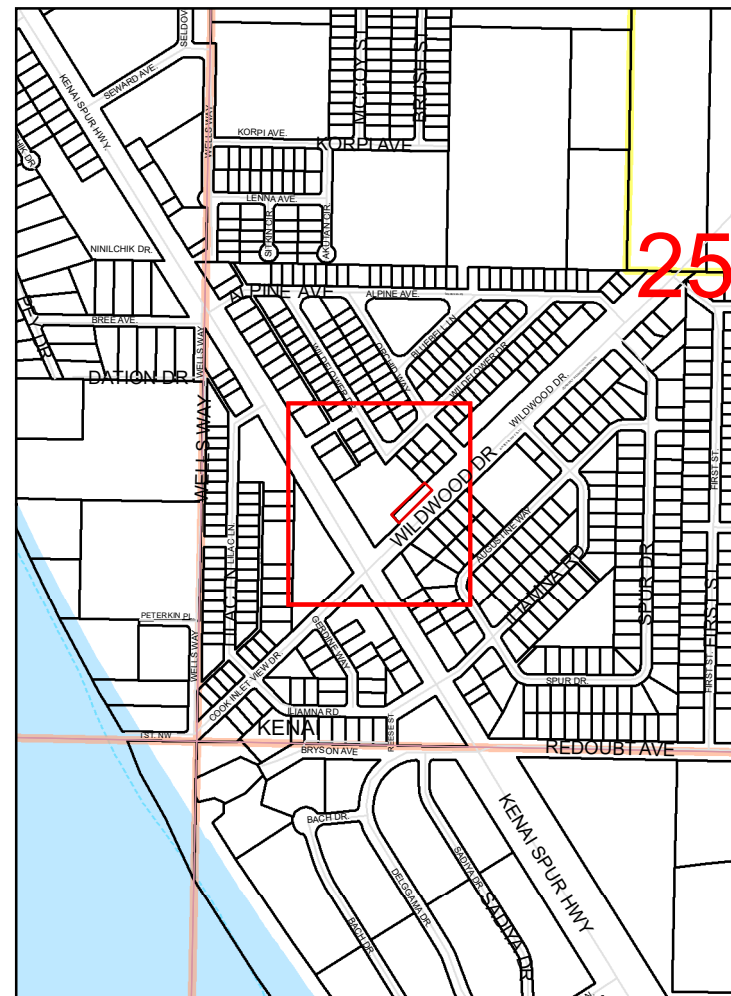
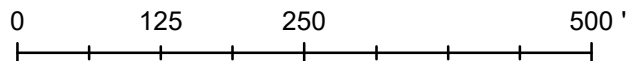
All commissioners spoke in favor of setting a hard deadline for desk packet materials, requested Planning move forward, and draft the ordinance.

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

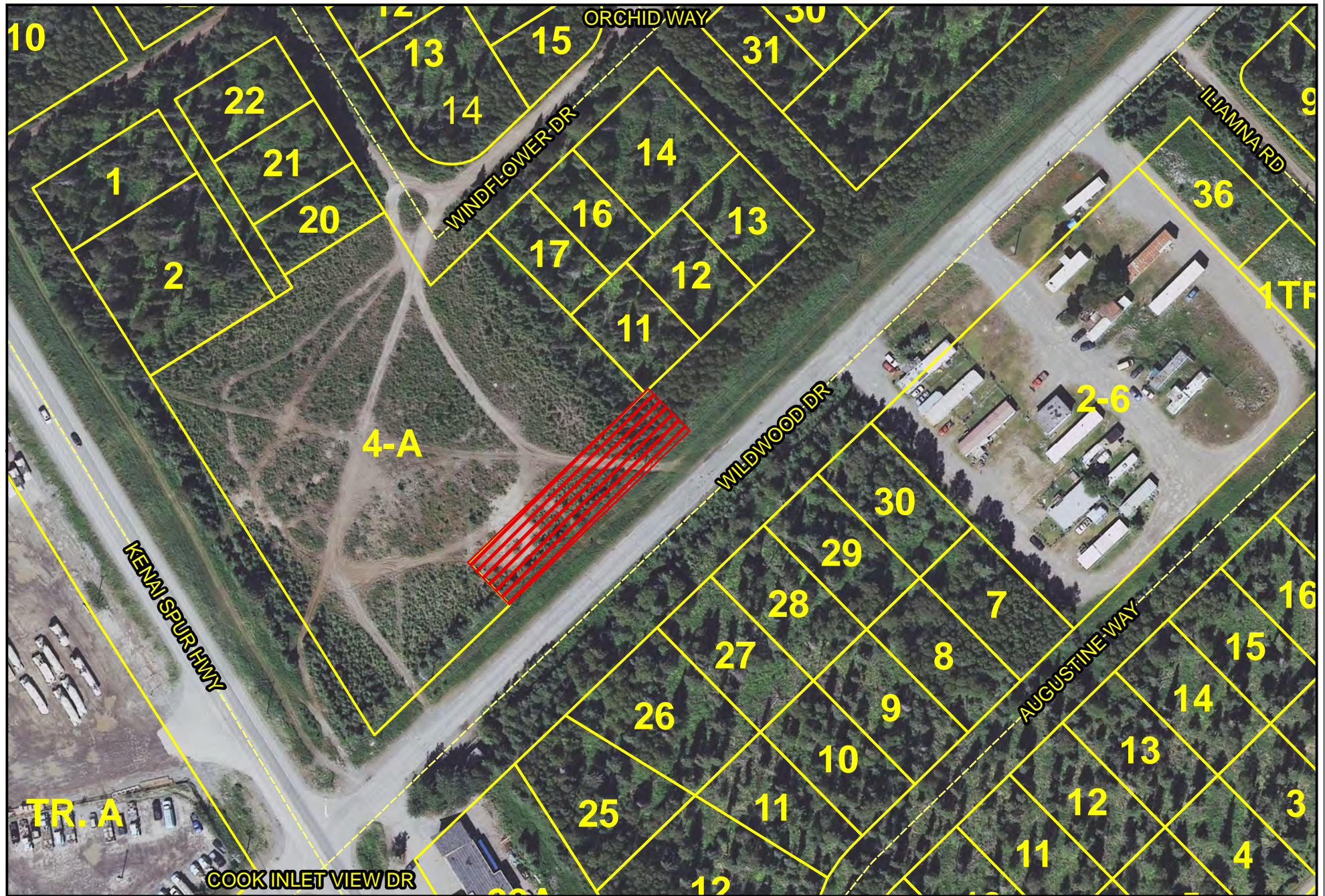
Ann E. Shirnberg
Administrative Assistant



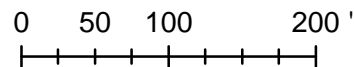
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



KPB 2021-111
S25 T06N R12W
CITY OF KENAI




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.

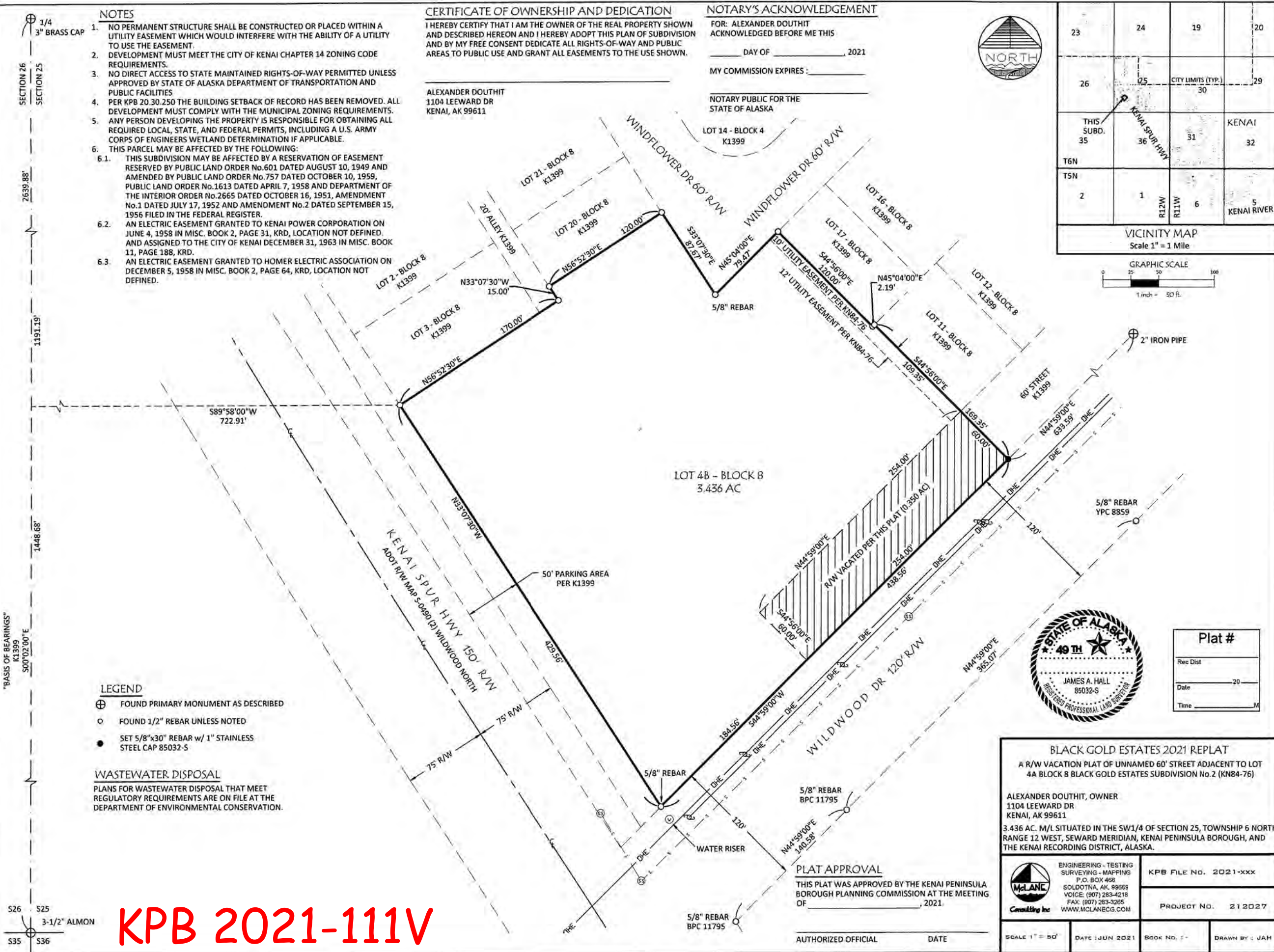


Aerial View



 Right of Way Vacation

PClements, KPB 2021-111
Imagery 2014 SixInch Kenai



NOTES

- 1. 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.
- 2. DEVELOPMENT MUST MEET THE CITY OF KENAI CHAPTER 14 ZONING CODE REQUIREMENTS.
- 3. NO DIRECT ACCESS TO STATE MAINTAINED RIGHTS-OF-WAY PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
- 4. PER KPB 20.30.250 THE BUILDING SETBACK OF RECORD HAS BEEN REMOVED. ALL DEVELOPMENT MUST COMPLY WITH THE MUNICIPAL ZONING REQUIREMENTS.
- 5. 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.
- 6. THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
 - 6.1. THIS SUBDIVISION MAY BE AFFECTED BY A RESERVATION OF EASEMENT RESERVED 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 DATED JULY 17, 1952 AND AMENDMENT No.2 DATED SEPTEMBER 15, 1956 FILED IN THE FEDERAL REGISTER.
 - 6.2. AN ELECTRIC EASEMENT GRANTED TO KENAI POWER CORPORATION ON JUNE 4, 1958 IN MISC. BOOK 2, PAGE 31, KR, LOCATION NOT DEFINED. AND ASSIGNED TO THE CITY OF KENAI DECEMBER 31, 1963 IN MISC. BOOK 11, PAGE 188, KR.
 - 6.3. AN ELECTRIC EASEMENT GRANTED TO HOMER ELECTRIC ASSOCIATION ON DECEMBER 5, 1958 IN MISC. BOOK 2, PAGE 64, KR, LOCATION NOT DEFINED.

CERTIFICATE OF OWNERSHIP AND DEDICATION

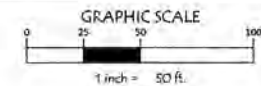
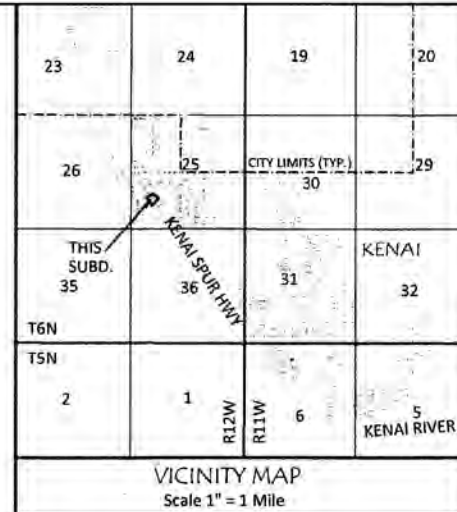
I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

ALEXANDER DOUTHIT
1104 LEEWARD DR
KENAI, AK 99611

NOTARY'S ACKNOWLEDGEMENT

FOR: ALEXANDER DOUTHIT
ACKNOWLEDGED BEFORE ME THIS
DAY OF _____, 2021
MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE
STATE OF ALASKA



LEGEND

- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
- FOUND 1/2" REBAR UNLESS NOTED
- SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S

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.

AUTHORIZED OFFICIAL

DATE



Plat #

Rec Dist	
Date	20
Time	M

BLACK GOLD ESTATES 2021 REPLAT

A R/W VACATION PLAT OF UNNAMED 60' STREET ADJACENT TO LOT 4A BLOCK 8 BLACK GOLD ESTATES SUBDIVISION No. 2 (KN84-76)

ALEXANDER DOUTHIT, OWNER
1104 LEEWARD DR
KENAI, AK 99611

3.436 AC. M/L SITUATED IN THE SW1/4 OF SECTION 25, TOWNSHIP 6 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, AND THE KENAI RECORDING DISTRICT, ALASKA.



KPB FILE NO. 2021-xxx

PROJECT NO. 212027

SCALE 1" = 50'

DATE: JUN 2021

BOOK NO. 2

DRAWN BY: JAH

KPB 2021-111V

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - RIGHT OF WAY VACATION

VACATE A 60' BY 254' PORTION OF WILDWOOD DRIVE ON THE SOUTHEAST BOUNDARY OF LOT 4-A BLOCK 8, BLACK GOLD ESTATES SUBDIVISION NO. 2 (PLAT KN 84-76)

KPB File No.	2021-111V
Planning Commission Meeting:	August 23, 2021
Applicant / Owner:	Alexander Douthit of Kenai, Alaska
Surveyor:	James Hall / McLane Consulting Inc
General Location:	City of Kenai
Legal Description:	Wildwood Drive, Black Gold Estates Subdivision No. 2 Plat KN 84-76, Kenai Recording District, Section 25, Township 06 North, Range 12 West, S.M.

STAFF REPORT

Specific Request / Purpose as stated in the petition: Vacate a portion of the frontage road along Wildwood Drive. Wildwood Drive is a dedicated right of way that is constructed and paved and provides legal access from the Kenai Spur Highway. The westerly portion of the right of way is 120 feet in width with the majority of the right of way 180 feet in width. The frontage road has not been improved and is not being used for access.

This right of way was originally dedicated by Black Gold Estates Subdivision (amended) in 1962. The right of way was dedicated as a frontage road to provide access to the residential lots. Black Gold Estates Subd No. 2 (KN 84-76) replatted 9 lots and vacated alleyways to create one parcel that is 3.085 acres in size.

Notification: Public notice appeared in the August 12, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the August 19, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

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

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

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

State of Alaska Dept. of Fish and Game	Post Office of Kenai
State of Alaska DNR	Nikiski Community Council
State of Alaska DOT	Alaska Communication Systems (ACS)
State of Alaska DNR Forestry	ENSTAR Natural Gas
Emergency Services of Kenai	General Communications Inc, (GCI)
Kenai Peninsula Borough Land Management	Homer Electric Association (HEA)
Library of Kenai	

Legal Access (existing and proposed): Lot 4-A Block 8 fronts the Kenai Spur Highway a state maintained right of way with a width of 150 feet abutting the lot. Any access to Kenai Spur Highway required approval from SOA DOT. Lot 4-A Block 8 fronts on Wildwood Drive, a City of Kenai maintained right of way.

There are no proposed dedications, as it will reduce the right of way width down to 120 feet from 180 feet.

The block is irregular in shape but does comply with length requirements and is closed. Wildwood Drive, Kenai Spur Highway, an unnamed 60 foot right of way, Windflower Drive, and an unnamed 60 foot right of way, that appears to be an extension of Orchid Way, define the block. Windflower Drive and Wildwood Drive are maintained

by the City of Kenai and Kenai Spur Highway is maintained by the State of Alaska. Other right of ways are not maintained or unconstructed.

No lots will be denied access if the vacation is approved.

KPB Roads Dept. comments	Out of jurisdiction, no comments
SOA DOT comments	Wildwood Drive is not a state road so we have no comments.

Site Investigation: The right of way proposed to be vacated is not affected by steep terrain or wetland areas. It does not appear that the right of way has been improved or is being used for vehicular access. There does appear to be local ATV trails that cut across Tract 4-A Block 8.

Floodplain Hazard Review	Within City of Soldotna/Kenai, no comments
Anadromous Waters Habitat Protection District Review	Is not within HPD, no comments
State Parks Review	No comments

Staff Analysis: The proposed vacation is along Wildwood Drive. The Wildwood complex was constructed in 1953 as a military communications base. In 1974, Wildwood was turned over to the Kenai Native Association as part of the native land settlement. In 1983, the State of Alaska began a lease with option to purchase, converted the structures, and opened the Wildwood Pretrial Facility.

Wildwood Drive was considered as a Federal Military right of way while it was operating as a military base. A subdivision, Black Gold Estates Subdivision (Plat KN 1335), subdivided the Carl F. Ahlstrom Homestead and it depicted the Wildwood Station Road as a military road. That plat was recorded in 1962. In 1964 the plat was revised, Black Gold Estates Subdivision Amended (Plat KN 1399). The amended plat depicted the federal right of way but provided a 60 foot wide right of way running adjoining the north edge of Wildwood Drive. This was to be a frontage road to provide access to the residential lots created by the plat.

When the ownership and use of the Wildwood Complex changed so did the ownership of the right of ways. The Wildwood Complex is under State of Alaska ownership and management but the right of way leading to the property is under the City of Kenai jurisdiction. Several right of ways intersect Wildwood Drive and private lots have direct access. Wildwood Drive right of way ends at the Wildwood Complex.

In 1984, the owner of nine lots combined the lots and vacated alleyways with the recording of Black Gold Estates Subdivision No. 2, Plat KN 84-76. This plat combined the land to create the current lot configuration for Lot 4A Block 8.

Wildwood Drive has a 120 foot width at the intersection of Kenai Spur Highway. Approximately 185 feet from the intersection, the width increases to 180 with the addition of the frontage right of way and continues at that width until it ends at the complex. While it was intended to be used as a frontage road, it was not constructed as such and there is no road name associated other than Wildwood Drive.

The proposed vacation will leave a width of 120 feet for Wildwood Drive. The portion being vacated will be combined back to Lot 4-A

No access to surrounding lots will be affected.

The original plats did not grant any utility easements along or abutting the proposed portion of the right of way vacation. The replat, KN 84-76, did grant a 10 foot utility easement along the eastern boundary. That easement stopped at the right of way dedication as right of ways may be used for utilities. To comply with subdivision code, the plat that will finalize the vacation will be required to grant 10 foot utility easements adjoining the right of ways. This requirement will provide a connection from the previously granted utility easement to Wildwood Drive.

The City of Kenai Planning and Zoning Commission reviewed the plat that will finalize the vacation, Black Gold Estates 2021 Replat, at their July 28, 2021 meeting. They have some conditions for the plat and stated the Kenai City Council must declare the right of way is not needed and approve the vacation.

The Kenai City Council will hear this at their September 2021 meeting if approved by the Planning Commission.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: This portion was intended to be a frontage road but has not been improved and is not being used for public access. Wildwood Drive will remain and has been improved. The remaining right of way is being used and will provide public access.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: Wildwood Drive will remain 120 feet wide abutting the vacation area and provides an alternate access for the public.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: The surrounding area has been subdivided with adequate right of ways and utility easements to provide access to all neighboring lots.
 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: The frontage road does not provide access to a lake, river, or other area with public interest as it only provides access to private lands.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: There are additional right of ways within the parent subdivision as well as alleys to provide interconnectivity of public access and utilities.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: The width of Wildwood Drive will provide adequate width for other uses, such as pedestrian walkways or placement of utility lines, as needed.
 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: The vacation has been sent to the utility companies for review and comments. Utility providers have existing lines in this area. No new utility easements were requested. This platting action will provide a minimum of 10 foot utility easements adjoining all right of ways.
 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: This section of the frontage road has not been improved and it not required as the separate lots have been replatted into one parcel.

If approved, Black Gold Estates 2021 Replat will finalize the proposed right of way vacation. The preliminary plat has not been submitted to schedule for a Plat Committee meeting at the time the staff report was prepared. If the sole purpose of the plat is to depict the area approved for vacation the preliminary plat may be submitted under KPB 20.10.080 – Vacation Plat. The plat will be reviewed by staff for completeness and will not require approval from the Planning Commission. If any exceptions from KPB code are requested the plat will need to be submitted for review by the Plat Committee and may not be reviewed under KPB 20.10.080.

KPB department / agency review:

Planner – Bryan Taylor	This is located within the City of Kenai and not subject to local option zoning districts or material site review by KPB.
Code Compliance – Eric Ogren	No comments
Addressing – Derek Haws	Affected Addresses: 14224 Kenai Spur Highway (will remain with Lot 4B – Block 8) Existing street names shown are correct
Assessing – Matt Bruns	No concerns from Assessing Department.

Utility provider review:

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

RECOMMENDATION:

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

1. Consent by Kenai City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Kenai 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 20.65.050 – Action on vacation application

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

concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

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

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

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

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

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

END OF STAFF REPORT

Legend

HEA Primary Conductor

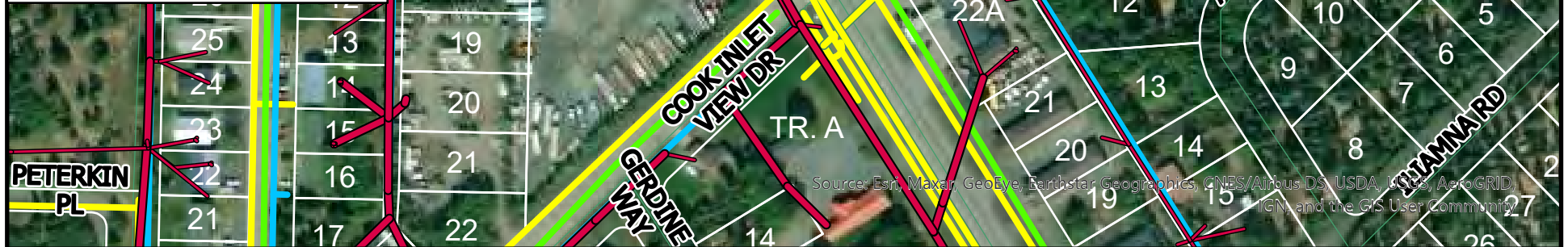
Placement

- overhead
- underground
- <all other values>
- KENAI WATER LINES
- KENAI SEWER LINES
- BOROUGH MAINTAINED ROADS
- KPBVector.DBO.Pipelines

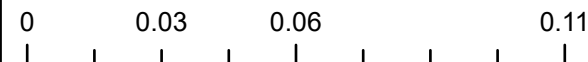
ENSTAR DistributionMain

Material

- <Unknown>
- Coated Steel
- Bare Steel
- Plastic
- Copper
- Xtrube
- <all other values>



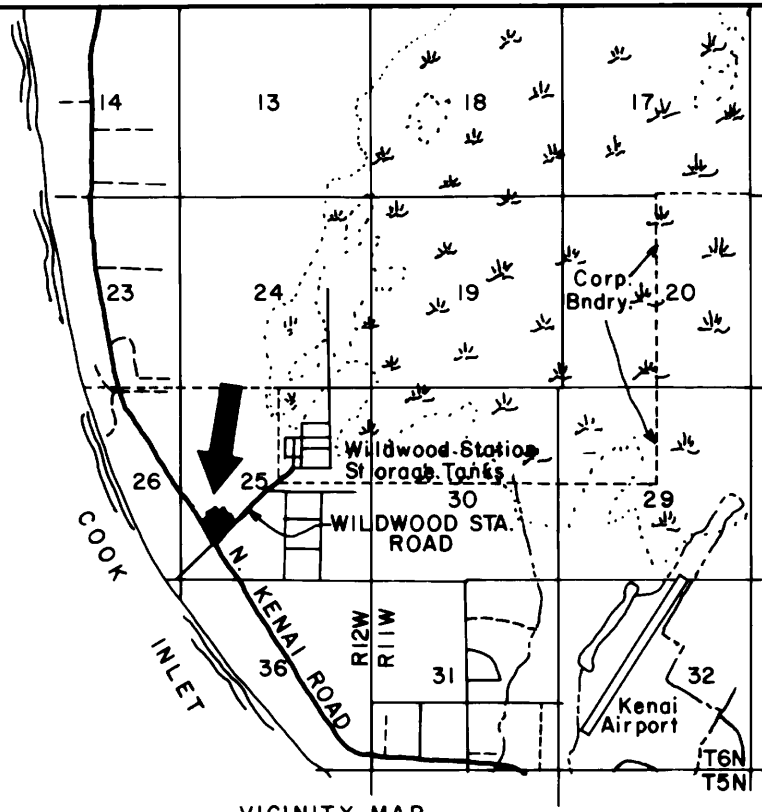
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



AERIAL IMAGERY 2019

UTILITY INFORMATION

Date: 5/28/2021
1:50 PM
Scott Huff
Plating Manager

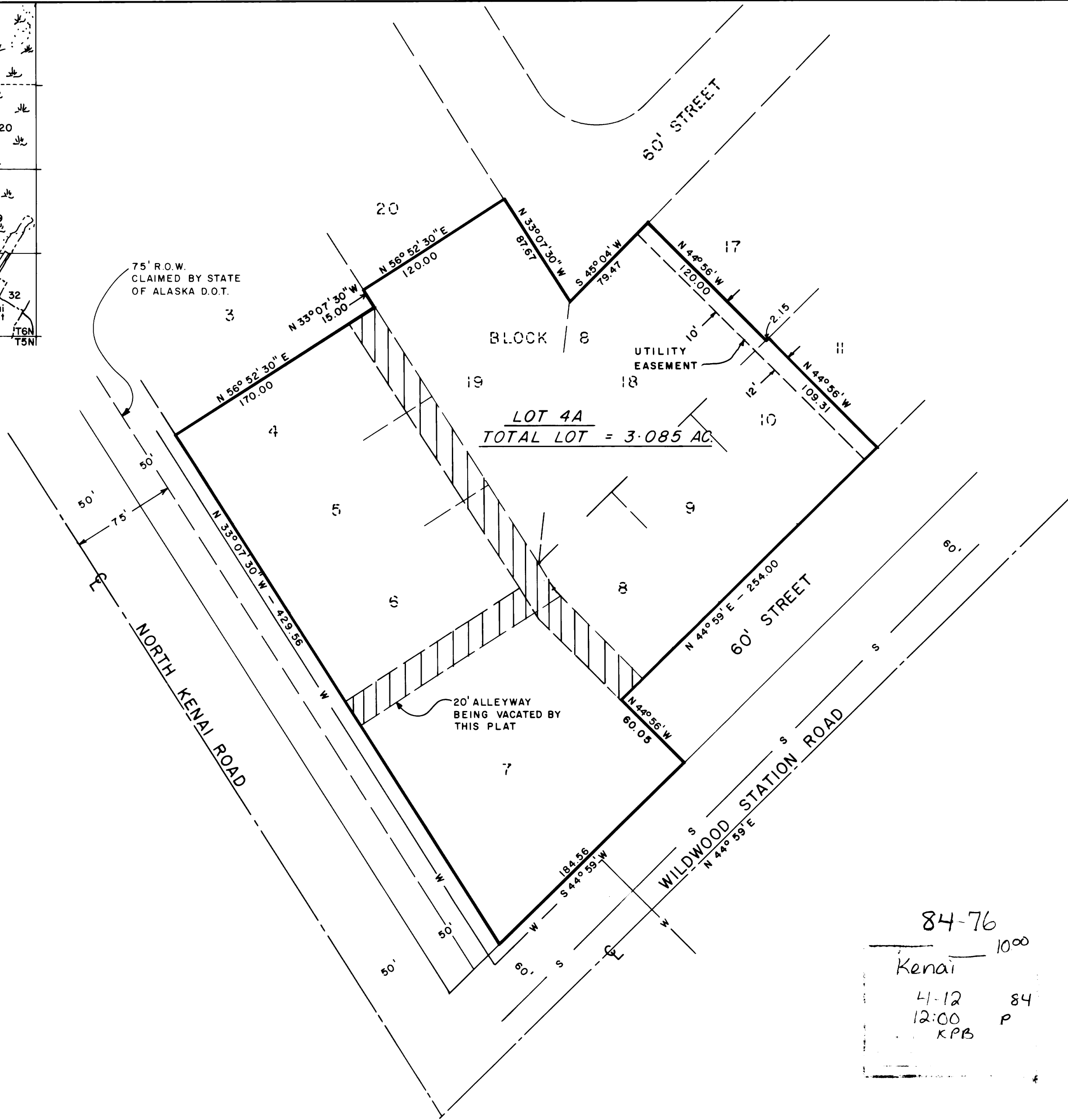


VICINITY MAP
KENAI(C-4)
1" = 1 mile



1" = 60'

— W — = CITY WATER LINE
— S — = CITY SEWER LINE



LOT 4A
TOTAL LOT = 3.085 AC.

20' ALLEYWAY
BEING VACATED BY
THIS PLAT

THIS PLAT IS A COMPILATION OF AVAILABLE RECORD
DATA. NO FIELD SURVEY WAS MADE BY ME, AND NO
STAKES OR MONUMENTS SET.

Patrick J. Malone
Patrick J. Malone, 6089-S

CERTIFICATE OF OWNERSHIP & DEDICATION

I HEREBY CERTIFY THAT KNA, INC. IS THE OWNER OF THE
PROPERTY SHOWN & DESCRIBED HEREON, THAT KNA, INC. ADOPTS THIS
PLAN OF SUBDIVISION, AND DO HEREBY DEDICATE ALL RIGHT-OF-
WAYS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE
USE SHOWN.

George Miller *President*
TITLE

KENAI NATIVES ASSOC., INC.
BOX 1210
KENAI, ALASKA 99611

NOTARY'S ACKNOWLEDGMENT FOR *George Miller* OF
THE KNA, INC.

SWORN & SUBSCRIBED TO BEFORE ME THIS 17th DAY OF
January, 1984.

Michelle A. Korte
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 8/19/85

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA
BOROUGH PLANNING COMMISSION AT THE MEETING OF
OCTOBER 10, 1983.

KENAI PENINSULA BOROUGH

BY: *[Signature]*
AUTHORIZED OFFICIAL

NOTE:

THE PURPOSE OF THIS PLAT IS A REVERSION TO ACREAGE.
THIS PROPERTY SERVED BY CITY WATER & SEWER.

**BLACK GOLD ESTATES SUBD. NO. 2 - BEING A
REPLAT & VACATION PLAT of LOTS 4 thru 10, 18 and 19,
BLOCK 8, BLACK GOLD ESTATES SUBD., AMENDED -
located within the SW1/4, Sec. 25, T6N, R12W, S.M.,
Alaska - within the City of Kenai, CONTAINING 3.085 ACRES**

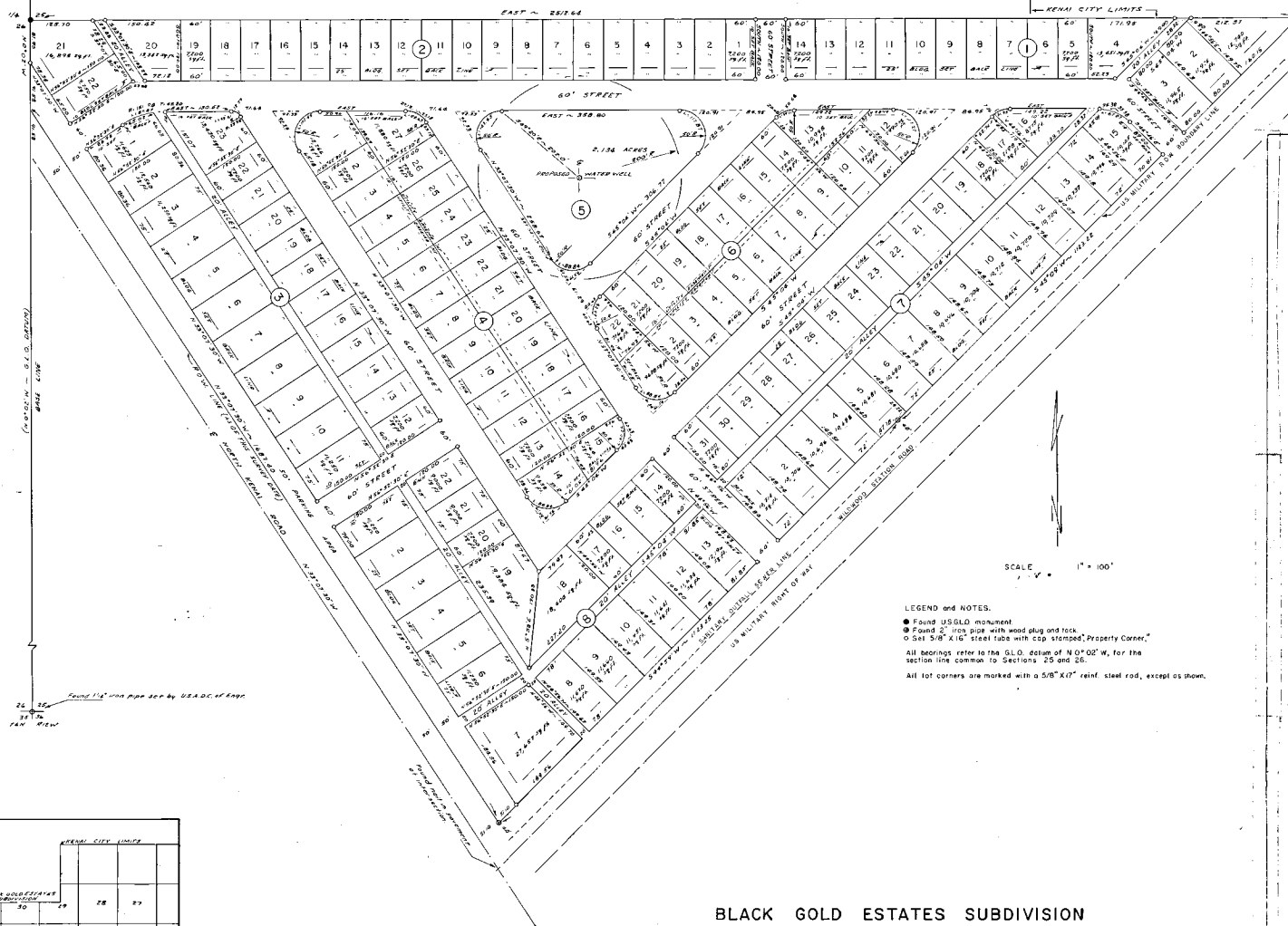
Drawn *[Signature]* Checked *[Signature]*

DATE Jan 15, 1984

KENAI NATIVES ASSOC., INC.
BOX 1210
KENAI, ALASKA 99611

MALONE SURVEYING
BOX 566
KENAI, ALASKA 99611

KN
84-76



LEGEND AND NOTES.

- Found USGLD monument.
 - Found 3" iron pipe with wood plug and tack.
 - Set 5/8" X 1/2" steel tube with cap stamped "Property Corner."
- All bearings refer to the G.L.D. datum of N 0° 02' W, for the section line common to Sections 25 and 26.
- All lot corners are marked with a 5/8" X 1/2" reinf. steel rod, except as shown.

SCALE 1" = 100'

BLACK GOLD ESTATES SUBDIVISION

CARL F. AHLSTROM and MARY C. AHLSTROM
OWNERS
RICHARD and JOAN WILLIAMS
DEVELOPERS

A PORTION OF THE CARL F. AHLSTROM, HOMESTEAD, LOCATED WITHIN THE SW 1/4 OF SECTION 25, T6N, R12W, OF THE SEWARD MERIDIAN, ALASKA, CONTAINING 47.558 ACRES OF LAND.

SURVEYED BY

STANLEY S. MCLANE, R.L.S.

Date: July 19, 1962.
End: Oct. 24, 1962.



LEGAL DESCRIPTION OF THE BLACK GOLD ESTATES SUBDIVISION.

Commencing from the U.S.G.L.D. Section corner monument common to Sections 25 and 26, 34° 02' 00" of the Seward Meridian, Alaska, this is the true point of beginning, thence 34° 02' 00" ft. along the corner line of Section 25 to the point of intersection with the U.S. Military Right of Way boundary, found 2" iron pipe with wood plug and tack, thence S 89° 04' 12" E, 1125.12 ft. to the corner of said lot, to a 2" iron pipe with wood plug and tack, thence continue along said Military R.O.W. S 89° 04' 12" E, 1125.12 ft. to the point of intersection with the North Rural Road boundary right of way line, 50 ft. from center line of said road, found 2" iron pipe with wood plug and tack, thence S 89° 04' 12" E, 1607.10 ft. to a point of intersection with the section line common to Sections 25 and 26, thence along the section line S 89° 04' 12" E, 1734.10 ft. to the U.S.G.L.D. Section corner monument common to Sections 25 and 26, and the true point of beginning thus enclosing 17,558 acres of land.

COVENANTS.

1. Said property shall be subject to all easements, reservations and restrictions of record or contained in the original patent issued to 2nd and Rev. J. Ahlstrom.
2. A building shall be erected with a distance of twenty five (25) feet from the front lot line, ten (10) feet from either side or rear lot line of any contiguous lot.
3. Any building erected on the above described premises shall be placed on a permanent foundation (no piles or other devices for moving structures may be installed in any building).
4. All buildings shall be finished on the exterior.
5. No industrial enterprise may be conducted on the above described premises, nor shall these premises be used for a trailer park, nor shall any trailer or housecar be placed thereon.
6. All debris from clearing shall be removed, dumped or buried.
7. Purchaser(s) and seller hereby covenant that the above-described property shall be subject to assessment for any of the improvements required by the ordinances of the City of Kenai when installed at a future time by the City or developers, unless prior to construction of such improvements by the City or developers, the owners of the property within this subdivision shall have joined together for the purpose of constructing such improvements.
8. Each purchaser will be assessed, for the purpose of road construction on the basis of ninety (90) cents per front foot. This cost will be included in the contract.
9. Final removal of the City Council on lots 1-13 of block 2 and lots 1-15 of block 7 and lots 1-3 of block 1, will be withheld until the Developer has written approval of action from the City or has constructed an additional road, etc. to meet city requirements.
10. Upon request of the City of Kenai, a safety barrier will be constructed along the North Rural Road R.O.W. line in front of the parking area by the individual lot owners of blocks 2, 3, and 5.
11. No individual owner will be allowed within this subdivision.

DEFINITIONS OF OWNERSHIP AND INTEREST.

We hereby certify that we are the owners of BLACK GOLD ESTATES SUBDIVISION as shown herein, and that we submit this plan with our free consent, and dedicate all streets, alleys, and parking strips for public use.

Date: June 14, 1963 *Carl F. Ahlstrom* owner
Mary C. Ahlstrom owner

CERTIFICATE OF REGISTERED LAND SURVEYOR.

I hereby certify that I am a registered land surveyor, and that this plat represents a survey made by me, and the monuments shown hereon actually exist as located, and that all dimensions and other details are correct.

Date: June 14, 1963 *Stanley S. McLane*
Registered Surveyor

STATE OF ALASKA
CITY OF KENAI

On this 22nd day of June, 1963, before me personally appeared *Carl F. Ahlstrom* and *Mary C. Ahlstrom*, known to me to be the persons whose names are subscribed to this instrument, and acknowledged to me that they executed the same for the purposes herein expressed.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal this day and year last written above.

By commission expires *Robert Public*

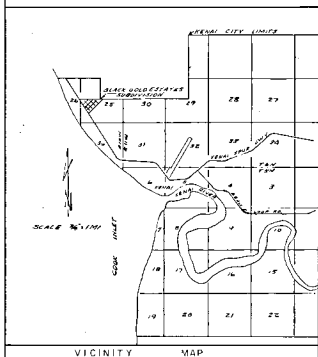
City Planning Commission.
Received *20 June 1963*
Chairman *Robert Public*

COUNCIL
This is to certify that the within plat was duly submitted to and approved by the Council of Kenai City, Alaska, by resolution a motion *22 June 1963* duly authenticated as passed this 22nd day of *June*, 1963.

Robert Public
Mayor
City Clerk

BLACK GOLD ESTATES

631



northern view Keating structure



© 2021 Pictometry

southern view Keating with fence



© 2021 Pictometry

Keating CUP



© 2021 Pictometry

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

KPB File No.	2021-27
Planning Commission Meeting:	August 23, 2021
Applicant	Sharon Keating
Mailing Address	134 Sierra Heights St Soldotna, AK 99669
Legal Description	T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0970046 POACHER'S COVE MOORE ADDN AMENDED LOT 177B
Physical Address	None
KPB Parcel Number	057-487-84

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a recreational structure within the 50-foot Habitat Protection District of the Kenai River, as established in KPB 21.18.040.

Background Information

Applicant proposes to remove a prior-existing trailer and replace with a new, two-story residential structure with a footprint measuring 17 by 37 feet. The portion of the structure that falls within the HPD is not along the flowing waters of the main stem of the Kenai River, but along the KPB regulated canal. The new structure will be built in compliance with the current FEMA Floodplain standards and will be elevated in accordance with the KPB Floodplain Permit 12812.

Project Details within the 50-foot Habitat Protection District

1. Construction of 17 by 37 foot cabin partially on prior existing structure footprint.
2. The footprint of this structure within the HPD will expand by approximately 150 square feet.
3. Placement of sonotubes into HPD to elevate in accordance to KPB Floodplain Permit RC #12812.
4. Revegetate any areas that are disturbed with the construction.

General Standards

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

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

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)(10) construction of an addition to a principal structure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Pursuant to KPB 21.18.081(B)(10)
 - a. The parcel boundaries were defined prior to January 1, 2012.
 - b. The parcel is served by a public sewer system or sewage holding tank or septic system, provided the holding tank or septic system are located entirely outside the Habitat Protection District.
 - c. The parcel has an area of .3 acres or less and less than 4,000 square feet of total developed impervious coverage.
 - d. The parcel has less than 4,000 square feet of suitable development area outside the habitat protection district.
 - e. On the portion of the parcel within the Habitat Protection District, the total impervious coverage may not exceed 50% of the area able to sustain native vegetation, or 3,000 square feet of area able to sustain native vegetation, whichever is less.
 - f. The standard for development is to first utilize suitable parcel areas outside the habitat protection district. Within the Habitat Protection District, it is preferred to minimize impact by preserving the nearshore areas which may sustain native vegetation.
7. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
8. 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."
9. The River Center found the application complete and scheduled a public hearing for August 23, 2021.
10. Agency review was distributed on August 5, 2021. No comments or objections have been received from resource agencies to date.
11. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 11, 2021. A total of 62 mailings were sent.
12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 12, 2021 and August 19, 2021.
13. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The structure must be designed and installed to meet KPB 21.06 Floodplain Management requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.

4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Attachments

Multi-Agency Application
Draft Resolution 2021-27
Floodplain Permit RC #12812

Recommendation

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

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2020-27.

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

END OF STAFF REPORT

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2021-27

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

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

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

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

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

WHEREAS, public notice was published in the Peninsula Clarion on August 12 and August 19 as provided in Section 21.11.020; and

WHEREAS, public testimony was received at the August 23, 2021 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

A Conditional Use Permit is sought pursuant to KPB 21.18 for the construction of a recreational cabin within the 50-foot Habitat Protection District of the Kenai River, as established in KPB 21.18.040.

**Section 2. Pursuant to 21.18.081(D) General Standards, the following standards shall be met
before conditional use approval may be granted:**

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

Section 3. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(10), construction of an addition to a principal structure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. Pursuant to KPB 21.18.081 (B)(10)
 - a) The parcel boundaries were defined prior to January 1, 2012.
 - b) The parcel is served by a public sewer system or sewage holding tank or septic system, provided the holding tank or septic system are located entirely outside the Habitat Protection District.
 - c) The parcel has an area of .3 acres or less and less than 4,000 square feet of total developed impervious coverage.
 - d) The parcel has less than 4,000 square feet of suitable development area outside the habitat protection district.
 - e) On the portion of the parcel within the Habitat Protection District, the total impervious coverage may not exceed 50% of the area able to sustain native vegetation, or 3,000 square feet of area able to sustain native vegetation, whichever is less.
 - f) The standard for development is to first utilize suitable parcel areas outside the habitat protection district. Within the Habitat Protection District, it is preferred to minimize impact by preserving the nearshore areas which may sustain native vegetation.
7. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
8. 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."
9. The River Center found the application complete and scheduled a public hearing for August 23, 2021
10. Agency review was distributed on August 5, 2021 No comments or objections have been received from resource agencies to date.
11. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 11, 2021. A total of 62 mailings were sent.
12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 12, 2021 and August 19, 2021.
13. The applicant is currently in compliance with Borough permits and ordinances.

Section 4. Permit Conditions

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

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2021.

Blair Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

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

Multi-Agency Permit Application



RIVER CENTER

Please answer all questions completely.

Applicant Information:

Name:

Sharon Keating

Owner? ☒ Yes ☐ No

Mailing Address:

(permits will be mailed to this address)

~~PO Box 1026~~

Sharon, AK 99669

Phone (Home/Work):

Cell Phone: 907-398-4115

Fax:

Agent Information:

Name:

Kevin Keating

Mailing Address:

8151 7th Ave., SW

Seattle, WA 98106

Phone (Home/Work):

Cell Phone: 206-679-5132

Fax:

E-Mail:

E-Mail: kevin@keating4homes.com

Project Location:

Please complete all information including the legal description of the property or site location. This information can be found on your tax bill or by visiting the KPB Assessing Department website at www.borough.kenai.ak.us/assessingdept/default.htm.

Waterbody Name: Kenai

River Mile: 17 ☒ Right or ☐ Left bank (looking downstream)

Subdivision: POACHER'S COVE MOORE ADDN AMENDED Lot: 177B Block:

Township: 5N Range: 10W Section: 19

KPB Parcel Number: 057-487-84 Physical Address: Lot 177B Poachers Cove

Directions to the site:

Please Complete the Following:

1) This activity is a: ☒ new project ☐ modification, addition, repair, or replacement to an existing project

2) What is the purpose of this project? Remove prior existing trailer and shed and replace a new recreational cabin.

Multi-Agency Permit Application – Page 2

3) Provide a detailed description of your entire project and all related activities. Attach additional pages if needed.

Please be sure that your description contains all of the following:

- ☐ The location and dimensions of all existing and proposed development, including buildings, roads/driveways, pathways, building pads, accessory structures, and fill, as well as the location of any water bodies.
- ☐ The type(s) and amount(s) of fill material to be used for the project. Include the location/source of the fill material.
- ☐ The measurements of all new development, including platforms, walkways, structures, and bank restoration techniques. Please include measurements from water bodies and lot lines.
- ☐ The area and volume of material to be dredged and the location of the disposal site.
- ☐ A description of the waterbody, including wetlands to be filled. Include the types and volumes of each type of fill material.
- ☐ A description of construction methods and types of equipment to be used.
- N/A ☐ If you are withdrawing water from a waterbody, a description of water use including location, methods of withdrawal, rate of withdrawal, and the total quantity of water required.
- N/A ☐ If fuel storage is required for your project, indicate the location, quantities, and types of fuel.
- N/A ☐ If vegetation or trees must be cleared as a result of your project, indicate the location, amount, and type of vegetation to be cleared.
- N/A ☐ The type(s) and amount(s) of material that will be excavated for the project. Include the location the excavated material will be placed.

WE will be removing the existing TRAILER AND building A
VACATION Cabin. Apx. dimensions will be 17' x 37', 2 stories.

4) Proposed project start date: _____ Proposed project end date: _____

Estimated number of actual construction days: _____

5) If this project is within the limits of an incorporated city, please indicate city: _____

6) Is the project located within 50 feet of ordinary high water (OHW) or mean high water (MHW) of a stream or waterbody? ☐ Yes ☒ No ☐ Not sure where OHW or MHW line is

Multi-Agency Permit Application – Page 3

7) Does any portion of the project cantilever or extend over the OHW or MHW of the stream or waterbody?
☐ Yes ☒ No ☐ Not sure where OHW or MHW line is

8a) Does any portion of the project extend below the OHW or MHW of the stream or waterbody?
☐ Yes ☒ No ☐ Not sure where OHW or MHW line is

8b) Will a structure (e.g., culvert, bridge support, dike) be placed below OHW, MHW, or High Tide Line (HTL) of the waterbody?
☐ Yes ☒ No

9) Will material be extracted or dredged from

☐ Floodplain of a river, lake, or ocean

☐ Tidal or non-tidal waters

If you checked one of the above boxes, what type of material? _____
What amount of material? _____
Where will the material be deposited? _____

10) Will material (including spoils, debris or overburden) be deposited in a

☐ Mapped floodplain or velocity zone of a river, lake or ocean

☐ Tidal or non-tidal waters

If you checked one of the above boxes, is the fill temporary ☐ or permanent ☐?

If temporary, how long will it be in place? _____

What type of material is it? _____ Amount? _____

Identify the location(s) of any deposited material on the attached top-view site plan drawing.

11) What is the surface area (in acres) that would be filled, excavated, or dredged of any waters, including areas below the HTL or MHW of tidal waters, below the OHW of non-tidal waters and/or wetlands adjacent to tidal or non-tidal waters? _____

12a) List all motorized equipment to be used in this project, including access route to site and any stream or waterbody crossings:

12b) How long will motorized equipment be used below OHW, MHW, or the HTL? _____

13) Are there any threatened or endangered species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work? ☐ Yes ☒ No If yes, list all species: _____

Multi-Agency Permit Application – Page 4

14) Are there any historic properties that may be affected by the proposed work? ☐ Yes ☒ No If yes, state which property or properties may be affected and/or attach a vicinity map including the location of the historic property or properties.

15) Is any portion of the work already complete? ☐ Yes ☒ No If yes, describe the completed work:

16) Will utility systems, including water, electric, gas, etc. be developed? ☐ Yes ☒ No If yes, describe:

Application Checklist

☐ Are pages 1 through 4 completely filled out? If a question does not pertain to your activity, write 'N/A'

☐ Did you include a detailed project description?

☐ Did you complete the Top View & Elevation/Side View drawings? Be sure to review the instructions for site plans and make sure all relevant information is included.

☐ Did you include your permit fee (if applicable)? If your project is within State Park Boundaries or cantilevers over a State Park (which includes the Kenai River) a \$100 fee is required at the time of application. Make checks payable to 'State of Alaska.' If you are not certain if a fee is required, contact State Parks at the River Center at (907) 714-2470.

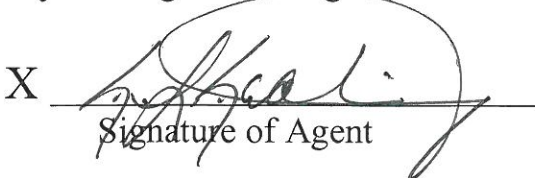
☐ Did you sign your application? If you have designated an agent to work the agencies on your behalf, they must also sign the application.

Application is hereby made for a permit or permits to authorize the work described in this application form. I certify the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

X 
Signature of Applicant


Date

If you designated an agent, both the applicant and agent must sign this application.

X 
Signature of Agent


Date



FLOODPLAIN DETERMINATION MAP

PARCEL ID: 05748784

6/17/2021 4:08

Definitions

Zone A4
Regulatory
1% Annual Chance Flood

Community Flood Insurance
Rate Map (FIRM) Panel(s):
0200122045C



The cities of Kenai and Soldotna do not participate in the National Flood Insurance Program (NFIP) and are outside the regulatory jurisdiction of the KPB Floodplain Management Program.

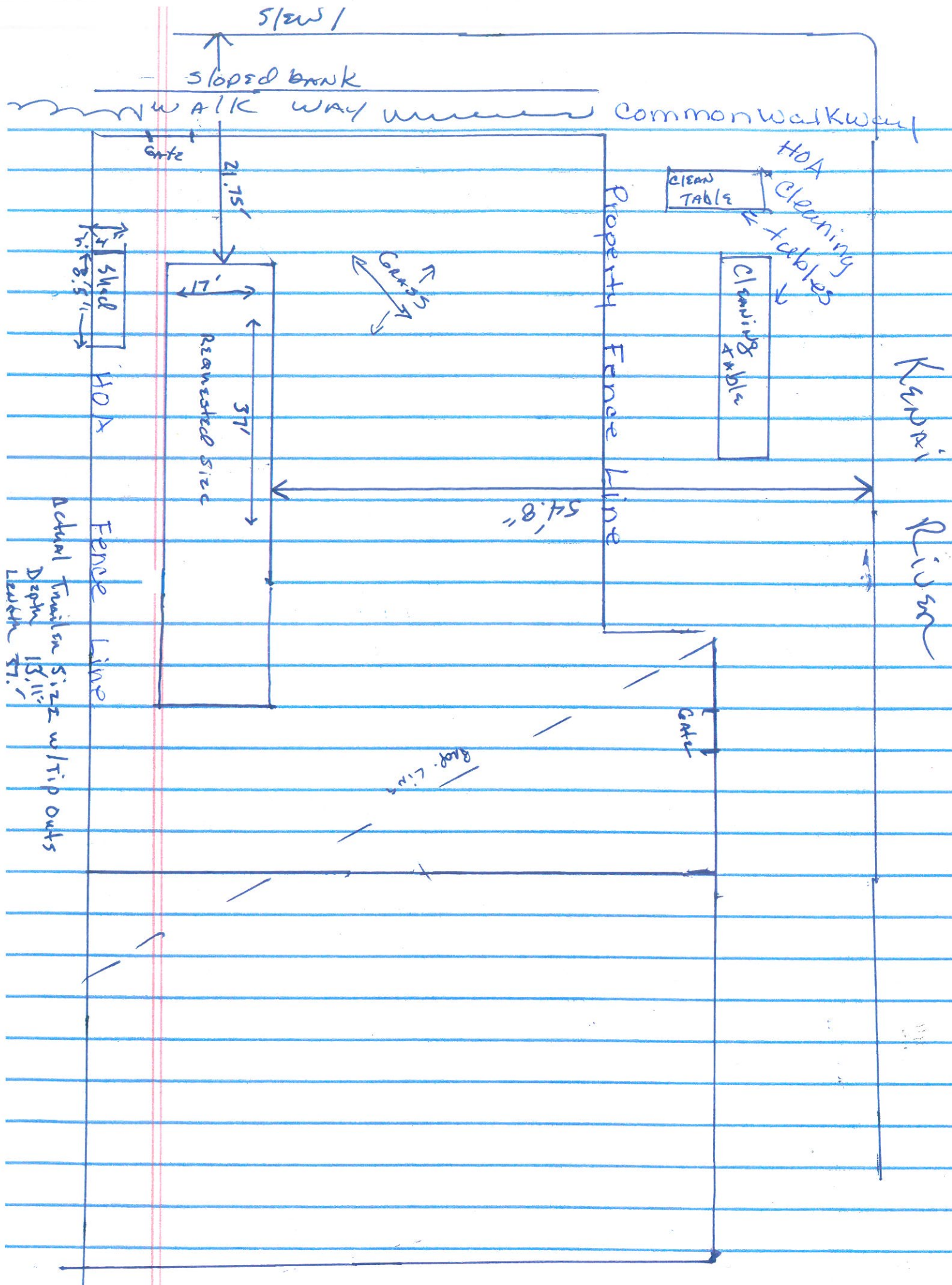
The data displayed herein is neither a legally recorded map nor survey and should only be used for general reference purposes. It is not intended to be used for measurement. Kenai Peninsula Borough assumes no liability as to the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.

KEATING
Lot 17A
B

← 17' →

← 37' →

Two Stories





Donald E. Gilman River Center

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

A Division of the Planning Department

Charlie Pierce
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to place a residential structure on a parcel within the 50-foot Habitat Protection District of the Kenai River, near Soldotna, Alaska. ***You have been sent this notice because you are a property owner within 300 feet of the described property.***

Pursuant to KPB 21.18.081(B)(10) construction of a principal structure and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission.

This project is located at T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0970046 POACHER'S COVE MOORE ADDN AMENDED LOT 177B, KPB Parcel 057-487-84, in Soldotna, Alaska.

Petitioner: Sharon Keating
134 Sierra Heights St
Soldotna, Alaska 99669

The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on August 23, 2021 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://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 # **208 425 9541**. If you connect by computer, and wish to comment but do not have a microphone, connect online and then select phone for audio. A box will come up with toll free numbers, the Meeting ID#, and your participant number.

Anyone wishing to testify may attend the above meeting to give testimony or may submit a written statement to the Donald E. Gilman River Center, 514 Funny River Rd., Soldotna, Alaska 99669. Written comments may also be sent by fax to (907) 260-5992 or by email to KenaiRivCenter@kpb.us. Note that written comments must be received by August 20, 2021 at 1:00 pm in order to be read at the Planning Commission meeting.

For additional information, contact the Donald E. Gilman River Center at (907) 714-2460 or by email at KenaiRivCenter@kpb.us.



Donald E. Gilman River Center

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



A Division of the Planning Department

Charlie Pierce
Borough Mayor

INITIAL FLOODPLAIN DEVELOPMENT PERMIT

7/16/2021

Sharon Keating
8151 7th Ave., SW
Seattle, WA 98106

RC Number: 12812

Issued: 7/16/2021

Expires: 12/31/2022

Dear Applicant:

Pursuant to KPB Chapter 21.06, Floodplain Management, this is the floodplain development permit for your proposed project. Please review the entire document, as you are responsible for meeting all terms and conditions contained herein, and all development must remain in compliance with these regulations as long as they are located in the regulatory floodplain. **There will be additional documentation required after your project is complete; see "Required Documentation" below. This documentation must be submitted prior to the expiration date shown above for your project to be in compliance.**

Project Location

KPB Parcel ID: 05748784
Legal Description: T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0970046 POACHER'S COVE MOORE ADDN AMENDED LOT 177B

Floodplain Determination

Map Panel: 020012-2045C
Effective Date: 12/6/1999
Flood Zone(s): A4,C
Base Flood Elevation: 32.1

Project Description

Applicant proposes to remove prior existing trailer and shed and replace with a new, two-story residential structure measuring 17 by 37 feet.

Permit Conditions

The proposed project and associated activities must comply with the following conditions in addition to all standards detailed in KPB Chapter 21.06. Development that occurs in the regulatory floodplain that

does not comply with these conditions or the provisions of KPB 21.06 is prohibited and constitutes a violation subject to enforcement under KPB 21.50. Each day a violation continues is a separate violation. In addition, this permit is only valid if all other federal, state and local permits are secured and if the project remains in full compliance with the regulations of those agencies.

1. Project activities may not result in an increase in Base Flood Elevation (BFE) above, within or below the project limits and they may not alter the course of a waterway. If your project causes a rise in BFE or alters the waterway such that other properties are affected, you may be held liable for any damage. In addition, you must consider any adverse effects that your development may have on your neighbors in terms of increased run-off or changes in local drainage during heavy rain events. This is especially important when bringing in large amounts of fill or building a structure with a large footprint on a small lot; you must have a strategy for run-off and drainage. The issuance of this permit does not relieve the applicant of any civil liability for how their development may affect their neighbors.
2. You are not permitted to conduct work in the regulatory floodway. Any work in the regulatory floodway requires the submission and review of a floodway analysis meeting FEMA-mandated guidelines, completed by a licensed and registered engineer, demonstrating that your project will not increase the base flood elevation or alter the conveyance of the waterway. If your project activities extend into the regulatory floodway, you will be in violation of this permit.
3. The first habitable floor of any new or substantially-improved residential structure must be elevated to or above the Flood Protection Elevation (FPE). KPB Floodplain Management strongly recommends elevating the first habitable floor to two feet above FPE.
4. Basements and crawlspaces that are below grade on all sides are prohibited in the regulatory floodplain. Fully enclosed areas that are not entirely below grade but which are below the Flood Protection Elevation (FPE) are also prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional engineer or architect, licensed and registered in the State of Alaska, or must meet or exceed the following criteria:
 - a. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area must be provided, one on each of at least two walls;
 - b. The bottom of these openings must be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters, and;
 - d. Enclosed areas below FPE cannot be finished for use as human habitation and may only be used for parking vehicles, limited storage, and access to the building. Open areas below the FPE must remain clear of unanchored objects.
5. If the completed structure includes an enclosed space below the FPE, the property owner must sign and record a Non-Conversion Agreement with the property title. This Agreement commits to keeping the enclosed area in compliance with the above requirements. Documentation that this Agreement

has been recorded must be submitted to the Floodplain Administrator before the final Floodplain Development Permit can be issued.

6. All electrical, heating, ventilation, plumbing, and air-conditioning equipment, as well as other service facilities, must be elevated to or above the Flood Protection Elevation (FPE) or designed by a registered professional engineer so as to prevent water from entering or accumulating within the components during flooding conditions.
7. Any new sanitary sewage system or well must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters. Tanks must have structural components capable of resisting the effects of buoyancy. Any well casing top must be at or above Flood Protection Elevation (FPE) with a water tight seal. If below FPE, a dome type cap with conduit seal for the wire must be used to ensure a water tight seal. Onsite septic, holding tanks, and water wells must be approved by the Alaska Department of Environmental Conservation (ADEC):

Alaska Department of Environmental Conservation
43335 Kalifornsky Beach Rd. - Suite 11
Soldotna, AK 99669-9792
(907) 262-5210/FAX (907) 262-2294

8. All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage and with materials and utility equipment that are resistant to flood damage. All structures in the regulatory floodplain must also be adequately anchored to resist floatation and lateral movement.

Required Additional Documentation

This permit constitutes authorization to proceed with the development activities described above. Your project is not in full compliance with KPB floodplain development regulations, however, until you have submitted the following documentation to confirm that your project was built as permitted and your final Floodplain Development Permit is issued. **All required documentation must be submitted prior to the expiration of this permit.** After construction is complete, you must submit:

- a. An Elevation Certificate for each enclosed structure, and
- b. If there are any enclosed spaces below the BFE, documentation confirming that you have signed and recorded with the Borough Clerk a Non-Conversion Agreement acknowledging that enclosed spaces below the BFE will never be finished for human habitation and will only be used for storage, parking and/or access.

Advisories

Federal regulation 44 CFR §59 states that this floodplain development permit is valid until the expiration date above, provided that work on this project begins within 180 days of the issue date. If work does not begin within 180 days, this permit will expire at the end of that period and you will be required to resubmit your application.

KPB Chapter 21.06 states that all proposed construction or development in the flood hazard areas of the Kenai Peninsula requires that a floodplain development permit be secured prior to beginning any work. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. This also includes "substantial improvement" of existing structures, which is defined as improvements that total in value more than 50% of the structures pre-improvement value. Structures that are substantially improved or that suffer substantial damage (damage in excess of 50% of the structure's pre-damage value) must be brought into full compliance with current floodplain development regulations, regardless of when they were originally constructed.

All encroachments in the regulatory floodway, including fill, new construction, substantial improvements, and other development are prohibited unless certification by an engineer or architect, licensed and registered in the State of Alaska, is provided demonstrating, through hydrologic and hydraulic analyses, that these encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge. This certification is known as a conveyance calculation or a "no-rise" certification and must be submitted and verified before a floodplain development permit will be issued.

The permittee named above is responsible for the actions of the contractors, agents, and any other persons who perform work to accomplish the approved plan. For any activity that deviates from the approved plan, the permittee shall notify the River Center and obtain written approval before beginning the activity.

Compliance with the conditions and stipulations of all other necessary local, state and federal permits is required. The permittee is solely responsible for obtaining all necessary local, state, and federal permits before beginning work.

Flood information used to issue this permit is based on the regulatory Flood Insurance Rate Maps (FIRMs) for the Kenai Peninsula Borough. This permit does not imply the referenced project areas will or will not be free from flooding or damage. Larger floods can and will occur on rare occasions. This information does not create liability on the part of the Borough, its officers or employees, or the Federal Insurance Administration, for any damage that results from reliance on this information.

Please contact me with any questions or modifications to the permitted project activities at 907-714-2468 or slopez@kpb.us.

Sincerely,

A handwritten signature in black ink that reads "Samantha Lopez". The signature is stylized with a large, sweeping flourish at the end.


Samantha Lopez, CFM
River Center Manager

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kenai Peninsula Borough Planning Commission
Kachemak Bay Advisory Planning Commission
Melanie Aeschliman, Planning Director
Bryan Taylor, KPB Planner

FROM: Marcus Mueller, Land Management Officer 

DATE: Aug 13, 2021

RE: APC & PC Review of Farm & Rangeland Development Plan;
Ordinance 2021-28

Ordinance 2021-28 would authorize an Agricultural Lease to Alaska Land & Cattle Company. The agricultural lease is structured to authorize use and development according to a Farm & Rangeland Development Plan.

During the initial review of Ordinance 2021-28, the Farm and Rangeland Development Plan was not available to the Kachemak Bay Advisory Planning Commission (KBayAPC), and the plan was presented to the Planning Commission as a laydown just prior to the meeting. The KPB Assembly postponed action on Ordinance 2021-28 in order that the KBayAPC could review the plan and that the Planning Commission could consider the KBayAPC comments.

The KPB Assembly additionally asked for clarification on aspects of the original plan, which the applicant has attempted to address in a plan amendment.

The applicant's Farm & Rangeland Development Plan and a Plan Amendment are included for review of the lease being considered by Ordinance 2021-28.

The meeting schedule for Ordinance 2021-28 is as follows:

Kachemak Bay APC Special Meeting	August 19
KPB Planning Commission	August 23
KPB Assembly Hearing	September 7

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *BAFC*
Melanie Aeschliman, Planning Director *MA*

FROM: Marcus Mueller, Land Management Officer *[Signature]*

DATE: June 24, 2021

RE: Ordinance 2021-28, Authorizing a Lease to Robert Gibson, dba Alaska Land and Cattle Company of Approximately 280 Acres of Borough Land in the Basargin Road Area for Agricultural Use (Mayor)

The borough owns approximately 280 acres of land near Basargin Road which has been classified as Agriculture and Resource Management per KPB resolutions 2017-024 and 2020-020. The land is bisected by Basargin Road, the Eagle Lake Material Site Haul Road, and by two designated trails.

Mr. Robert Gibson, DBA Alaska Land and Cattle Company, has applied for an agricultural lease of the land.

The lease rates were set by ordinance 2021-01, which are included in the borough's schedule of rates and fees.

The proposed lease is based on a farm management and development plan which is provided as an attachment to the lease. The proposed term is 20 years.

Your consideration of this ordinance is appreciated.

Introduced by:	Mayor
Date:	07/06/21
Hearing:	08/03/21
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-28**

**AN ORDINANCE AUTHORIZING A LEASE TO ROBERT GIBSON, DBA ALASKA
LAND AND CATTLE COMPANY FOR APPROXIMATELY 280 ACRES OF
BOROUGH LAND IN THE BASARGIN ROAD AREA FOR AGRICULTURAL USE**

WHEREAS, Robert Gibson, dba Alaska Land and Cattle Company, applied for an agricultural use lease of borough land in the Basargin Road area; and

WHEREAS, the parcel is described as NW1/4 & NW1/4NE1/4 & S1/2NE1/4, Section 22, Township 4 South, Range 11 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska (Parcel No. 18521053); and

WHEREAS, the parcel is subject to the Basargin Road right-of-way, a haul route to the borough's Eagle Lake Material Site, section line easements, and recreational trails; and

WHEREAS, the subject parcel is 280 acres +/- and is classified Agriculture and Resource Management per KPB Resolutions 2017-024 and 2020-020; and

WHEREAS, pursuant to KPB 17.10.100(I), assembly approval of the lease shall be by ordinance upon receipt of the planning commission's recommendation; and

WHEREAS, leasing borough land for agricultural purposes with enforceable lease terms is consistent with the KPB Comprehensive Plan Agriculture Focus Area, Objective A, Strategies 1 and 2; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of July 12, 2021, recommended approval by unanimous consent;

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

SECTION 1. That the assembly finds that leasing this land to Robert Gibson, dba Alaska Land and Cattle Company for agricultural use is in the best interest of the public and the borough. This finding is based on the following facts:

1. The borough will receive rent for the term of the lease.
2. The land will be used for grazing and agricultural production.

SECTION 2. The mayor is authorized, pursuant to KPB 17.10.100(I), Negotiated Sale or Lease, to negotiate and enter into a lease of the above-described parcel to Robert Gibson, dba Alaska Land and Cattle Company, subject to all lease conditions required by this ordinance and the applicable provisions of KPB 17.10, Borough Land and Resources.

SECTION 3. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 4. That this ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2021.

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

AGRICULTURAL LEASE

KPBL# xx-xxxx-xx

For good and valuable consideration, and pursuant to Ordinance 2021-xx, enacted MM-DD-YYYY, this Grazing Lease (hereinafter called "LEASE"), is made and entered into by and between the Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter called "LESSOR"), and Robert Gibson and Filip Martushev, DBA Alaska Land and Cattle Company, whose address is PO Box 650, Cooper Landing, AK 99572 (hereinafter called "LESSEE").

I. DESCRIPTION OF REAL PROPERTY

This LEASE grants LESSEE use of the following described real property, located in the Homer Recording District, Third Judicial District, State of Alaska:

Section 22, Township T04S, Range R11W

NW1/4 & NW1/4NE1/4 & S1/2NE1/4, Section 22, T04S, R11W, Seward Meridian, containing 280 gross (273.5 net) more or less (hereinafter called "PROPERTY").

Property is subject to ADL 63711, a 60' wide public access road and utility easement recorded on December 17, 2018 in the Homer Recording District as document number 1980-00067, and commonly referred to as Basargin Road. An additional 20 feet on either side of this easement is reserved by KPB for road construction, utilities, and public transportation.

Property is further subject to the reservation of a 80' wide roadway to the Eagle Lake Material Site. Property is further subject to CTMA 2021-01, a Community Trail Management Agreement to develop, use, and maintain open to the public recreational trails, with management widths to 50-feet.

Property is further subject to the reservation of sand and gravel materials and communication sites along with the right to enter the property for the exploration, development, and use of the same in the time and manner as may be convenient to Lessor.

II. PURPOSE OF LEASE

1. Authority. Pursuant to Ordinance 2021-xx and KPB 17.10.140(C), the purpose of this lease is for agricultural purposes according to the terms set forth herein including the applicable land classifications; and the use, improvements and development timetable specified in the approved Farm Management and Development Plan.

III. TERMS AND CONDITIONS

2. Performance. The LESSOR and the LESSEE agree that this LEASE is conditioned on satisfactory performance by the LESSEE of all covenants and conditions contained in this LEASE. Failure to substantially use and develop the lease in accordance with the approved Range Management and Development Plan within the time frame specified in the plan shall constitute grounds for cancellation.
3. Lease Term. This lease is for a term of 20 years commencing September 1, 2021, and ending August 30, 2041.
4. Lease Rental.
 - a. Rental Rates: The annual lease rental rates are set according to the Kenai Peninsula Borough Schedule of Rates, Charges, and Fees pursuant to KPBL 1.26, as may be amended from time to time by resolution of the Kenai Peninsula Borough Assembly.
 - b. Agricultural Lease Areas: The lease is divided into several lease areas according to allowed use/management, and soils/topographic features as shown on Attachment B "Lease Rates Map" and summarized below, which shall be the basis for applying lease rental:

i. Category C: Rangeland to Hayland	190.4 Acres
ii. Category D: Managed Forestland	55.9 Acres
iii. Category E: Non-Farmed Sensitive Land	13.7 Acres
iv. Category F: Access Reserves- Ungated	16.7 Acres
v. Category H: Barnyard Site	3.0 Acres (1 Each)
 - c. Rents are subject to any applicable sales taxes as may otherwise be required by law, which shall be due with each annual lease payment. The first annual lease rental payment shall be due within 30 days of the execution of this Lease. Thereafter, the annual lease payment is due and payable on or before September 1 of each year. Rent is subject to adjustment each lease year in according to the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees (KPBL 1.26).

d. Initial Rent, for the first year of the lease, is calculated as follows:

Agricultural Lease Area	Acres	KPB 1.26 Rate	2021 Rent
Category C: Rangeland to Hayland	190.4 Acres	\$5/Ac	\$952.00
Category D: Managed Forestland	55.9 Acres	\$2.5/Ac	\$139.75
Category E: Non-Farmed Sensitive Land	13.7 Acres	\$1/Ac	\$13.70
Category F: Access Reserves- Ungated	16.7 Acres	No Fee	\$0.00
Category H: Barnyard Site	(1 each) 3.0 Acres	\$25ea +\$10/Ac	\$55.00

1st Year Rent: \$1,160.45

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

To the extent allowed by law and subject to assembly appropriation of available lands, LESSOR shall indemnify, defend, save and hold LESSEE, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from the sole negligence or willful misconduct of LESSOR, its agents or employees.

6. Insurance.

- a. General terms. Insurance coverage required under this Agreement shall be primary and exclusive of any other insurance carried by the Borough. Minimum levels of insurance coverage required under this Agreement shall remain in effect for the life of this Agreement and shall be a part of the contract price. If

Contractor's policies contain higher limits, the KPB shall be entitled to coverage to the extent of such higher limits. There shall be no cancellation or material change of the insurance coverages, or intent not to renew the insurance coverages as specified in this Agreement, without thirty (30) calendar days' prior written notice to the Borough. Certificates of Insurance, acceptable in form and content, will be delivered to the Borough at the time of submission of the signed Agreement and updated certificates shall be provided upon insurance coverage renewal, where applicable.

At its option, the Borough may request copies of required policies and endorsements. Such copies shall be provided within (10) TEN CALENDAR DAYS of the Borough's request. All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Alaska. All policies required shall be written as primary policies and not contributing to nor in excess of any coverage the Borough may choose to maintain.

No Representation of Coverage Adequacy. By requiring insurance herein, the Borough does not represent that coverage and limits will necessarily be adequate to protect Contractor and its subcontractor(s) of any tier, and such coverage and limits shall not be deemed as a limitation on the liability of the Contractor and subcontractor(s) of any tier under the indemnities granted to the Borough in this Agreement.

- b. Commercial General Liability. LESSEE shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered

with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.

- c. Auto Liability. LESSEE shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.
 - d. Worker's Compensation. LESSEE shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The LESSEE shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included. Subrogation shall be waived.
7. Use of Leasehold. LESSEE may use and develop the property only for agricultural purposes as specified in the approved Farm Management and Development Plan, attached hereto and incorporated by reference; and within the scope of provisions of this lease.

Failure to use the Property in accordance with the provisions of this lease above may result in the LESSOR, at the LESSOR'S discretion and upon 60 days written notice, reducing the lease area to reflect the actual level of use or may constitute grounds for cancellation.

If utilization of the lease, even under an approved practice, causes or begins to cause substantial damage to vegetation, soil stability, water quality, or any other valuable resource it is the responsibility of the LESSEE to take immediate actions to abate and correct the problem. The LESSOR should be notified as soon as possible of the required actions that were taken and the proposed changes in

management that will address the situation into the future. Failure to take corrective actions or to notify the LESSOR shall be grounds for cancellation. The LESSEE shall use and occupy the leasehold in compliance with the all applicable laws, regulations, ordinances, and orders that a public authority has put into effect or may put into effect. The LESSEE shall properly locate all activities and improvements on the leasehold, and may not commit waste of the parcel. The LESSEE shall maintain and repair the leasehold including improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion, unreasonable deterioration, or destruction of the land or improvements.

8. Farm Management and Development Plan. A Farm Management and Development Plan is required for this lease. No activities or improvements are authorized on the leasehold unless they are in a plan approved by LESSOR.

A Range Management and Development Plan shall be a record containing explicit information specific to the leasehold, accompanied by supporting maps and references that serve to document existing and proposed improvements, operational details and activities, and schedules thereof. The planning process shall include technical guidance from the appropriate Soil and Water Conservation District. The plan must be based on sound farm management practices, it must be supported by technical procedures, and it must conform to the uses authorized by this lease.

The minimum requirements of a development plan are: 1) disclosure of use of the Property including crop or animal type, cultivation or feeding practices; crop volume or animal unit months as applicable; 2) location and nature of existing improvements and their estimated value; 3) location and nature of proposed improvements, their purpose, and their value; 4) a development, use, and construction time table.

The Farm Management and Development Plan is subject to approval by the mayor or mayor's designee, and may be modified with stipulations, conditions and/or exclusions by the mayor, or the mayor's designee, as deemed reasonable and appropriate to ensure that the use of the leasehold is within the scope of the lease and sound management practices. An approved Farm Management and Development Plan may be later modified and/or amended by mutual agreement subject to written approval by the mayor, or the mayor's designee. The LESSEE shall provide the LESSOR with an updated Farm Management and Development Plan within 120 days of the date a request is made by the LESSOR to update the Farm Management and Development Plan required by this lease.

Pursuant to 17.10.140(D)(4), failure on the part of the LESSEE to substantially use and develop the leasehold in accordance with the Farm Management and Development Plan within the timeframe specified in the plan shall constitute grounds for cancellation. Utilization or development of the leased land for uses other than those allowed by this lease and specified in the approved Farm Management and Development Plan shall be grounds for termination of the lease. The mayor or his designee shall determine whether the plan is substantially complete and may extend these deadlines for good cause shown or when the mayor determines it to be in the borough's best interests.

9. Identification of Livestock. All livestock permitted on a borough grazing lease shall be properly identified and, if applicable, such identification registered in accordance with AS 03.40.010 -03.40.270.
10. Health of Livestock. Prior to placing livestock on the lease all animals shall be examined by a veterinarian, experienced cattleman or other qualified professional, and if determined necessary treated for any diseases and parasites. Livestock shall be cared for using acceptable livestock husbandry practices at all times. Sick or dead animals shall be promptly treated or disposed of in a lawful manner which affords the greatest protection of humans, other livestock, wildlife and domestic animals. If applicable, AS 03.45 controls over this section.
11. Control of Livestock. LESSEE shall have sufficient control of livestock to keep all livestock within the boundaries of the leasehold at all times. It is the responsibility of the LESSEE, upon approval and at no expense to the LESSOR, to properly locate and place fencing or other deterrents to the movement of livestock.
12. Certified Seed, Forage and Other Plant Materials. Whenever possible, any plant seed introduced to the property shall be certified. Certification shall be by a state program or a state recognized program or authority. LESSEE shall take all other reasonable precautions to avoid the spread of noxious or invasive species through forage products, plant seeds, other plant materials, feedstuffs or any other means.
13. Surface Resources. Unless otherwise provided by this lease, Farm Management and Development Plan, or other written authorization, the LESSEE may not sell or remove from the leasehold any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes.

Up to 1,000 Cubic Yards of on-site materials may be utilized at the current rate set forth in the Kenai Peninsula Borough Schedule of Rates, Charges, and Fees pursuant to KPB 1.26, provided LESSEE includes the borrow site location and utilization plan in the Farm Management and Development Plan.

14. Petroleum Products, Chemicals, and Hazardous Materials. LESSEE shall comply with all applicable laws and regulations concerning petroleum products, chemicals, hazardous chemicals and other hazardous materials, and shall properly store, transfer and use all hazardous chemicals and other hazardous materials and not create any environmental hazards on the lands leased herein. In no event may LESSEE utilize underground storage tanks for the storage or use of hazardous chemicals or other hazardous materials including petroleum products.

Storage and use of petroleum products, pesticides, or other chemicals is allowed only in amounts necessary, only as specified in the approved Farm Management and Development Plan, and only upon condition that LESSEE exercise proper care, handling, and safe and proper storage, and according to labeled directions when applicable. Fuel may not be placed within 100 feet of any wetland or the mean or ordinary high water mark of any lakes, streams, or other bodies of water. Fuel and pesticides must be stored in leak proof containers and placed within a secondary containment, impermeable berms and basins capable of retaining 110 percent of storage capacity plus 12 inches of free board to minimize uncontained spills or leaks.

The LESSEE agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water. Pesticides may be used only according to labeled directions. Aerial spraying of pesticides shall not be allowed.

Should any hazardous chemicals or hazardous materials of any kind or nature whatsoever, or hazardous wastes be released upon the subject lands during the term of this lease, LESSEE shall IMMEDIATELY report such release to the KPB Planning Director or other appropriate KPB official and to any other agency as may be required by law, and LESSEE shall, at its own cost, assess, contain and clean up such spilled materials in the most expedient manner allowable by law.

As used herein, "hazardous chemical" means a chemical that is a physical hazard or a health hazard.

As used herein, "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the federal government, the state of Alaska or KPB, to pose a significant health and safety hazard.

As used herein, "hazardous waste" means a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261, and any other hazardous waste as defined by the federal government, the state of Alaska or KPB.

The covenants and obligations described in this article shall survive the termination of this lease.

15. Liens and Mortgages. LESSEE shall not cause or allow any liens of any kind or nature whatsoever to attach to the property during the term of this lease. In the event that any prohibited lien is placed against the property, LESSEE shall immediately cause the lien to be released. LESSEE shall immediately refund to LESSOR any monies that LESSOR may, at its sole discretion, pay in order to discharge any such lien, including all related costs and a reasonable sum for attorney's fees.

IV. RIGHTS RESERVED BY LESSOR

16. Reservation of Easements. The LESSOR expressly reserves the right to take for the use of the LESSOR and the right to grant to third parties, easements or rights-of-way of unlimited size across the parcel herein leased if it is determined to be in the best interest of the LESSOR to do so, even if the creation of the easement or right-of-way terminates the entire leasehold estate; provided, however, that the LESSEE shall be entitled to compensation for all improvements which are damaged or destroyed as a direct result of such easement or right-of-way. LESSEE will not be entitled to compensation for loss of available forage, however the rental rates may be adjusted to reflect any changes in total lease-hold acreage.
17. Surface Reservations. The LESSOR hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of exploring for, opening, developing, harvesting, drilling and working surface mines, excavations, or timber sales on these or other lands and taking out and removing therefrom all valuable surface resources such as timber, stone, gravel or any other material valuable for building or commercial purposes and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, power lines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient to such purposes, hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

The parties acknowledge and agree that this lease and land are subject to a reservation of rights by the State of Alaska to enter and extract minerals and to use the surface as provided in AS 38.05.125.

As the parties agree that these are reserved rights, which are reflected in the annual lease rental, in the event that LESSOR exercises a right in Items 1 or 2 above, it is agreed and understood that LESSEE shall receive no damages for such grant or action.

V. MISCELLANEOUS TERMS AND CONDITIONS

18. Assignments. Lessee may assign this Lease only if approved in advance by KPB. Applications for assignment shall be made in writing on a form provided by the Land Management Division. The assignment shall be approved if it is found that all interests of KPB are fully protected. The assignee shall be subject to and governed by the provisions of this Lease and laws and regulations applicable thereto. No agricultural lease may be assigned within two years of the anniversary date.
19. Subleasing. LESSEE shall not sublease the Premises or any part thereof without written permission of the KPB Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Lease.
20. Waste. LESSEE shall not commit waste upon or injury to the lands leased herein.
21. Fire Protection. LESSEE shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the PROPERTY, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the PROPERTY is located.
22. Safety. LESSEE shall be solely responsible for maintaining the premises in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the PROPERTY as needed for LESSEE's use of the PROPERTY. LESSEE is responsible for the safety of all persons conducting activities on the PROPERTY under this LEASE.
23. Sanitation. LESSEE shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The PROPERTY shall be kept in a clean and sanitary condition and every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.

24. Hazardous Materials and Hazardous Waste. Storage, handling and disposal of hazardous waste shall not be allowed on PROPERTY. LESSEE shall comply with all applicable laws and regulations concerning hazardous chemicals and other hazardous materials, and shall properly store, transfer and use all hazardous chemicals and other hazardous materials and not create any environmental hazards on the PROPERTY. In no event may LESSEE utilize underground storage tanks for the storage or use of hazardous chemicals or other hazardous materials.

Should any hazardous chemicals or hazardous materials of any kind or nature whatsoever, or hazardous wastes be released upon the PROPERTY during the term of this LEASE, LESSEE shall IMMEDIATELY report such release to LESSOR and any other agency as may be required by law, and LESSEE shall, at its own cost, assess, contain, and clean up such spilled materials in the most expedient manner allowable by law.

As used herein, "hazardous chemical" means a chemical that is a physical hazard or a health hazard.

As used herein, "hazardous material" means a material or substance, as defined in 49 CFR 171.8, and any other substance determined by the federal government, the State of Alaska or Kenai Peninsula Borough, to pose a significant health and safety hazard. The covenants and obligations described in this article shall survive the termination of this License.

25. Compliance with Laws. LESSEE shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. LESSEE is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.

26. Easements and Rights-of-Way. This LEASE is subject to all easements, rights-of-way, covenants and restrictions of which LESSEE has actual or constructive notice. LESSOR reserves and retains the right to grant additional easements for utility and public access purposes across the PROPERTY and nothing herein contained shall prevent LESSOR from specifically reserving or granting such additional easements and rights-of-way across the PROPERTY as may be deemed reasonable and necessary.

As the parties agree that this is a reserved right which is reflected in the annual lease rental, in the event that KPB grants future additional easements or rights-of-way across the PROPERTY, it is agreed and understood that LESSEE shall receive no damages for such grant.

27. Inspections. LESSEE shall allow LESSOR, through its duly authorized representative, to enter and inspect the PROPERTY at any reasonable time, with or without advance notice to LESSEE, to ensure compliance with the terms and conditions of this lease. LESSOR's right to enter and inspect shall be exercised at LESSOR's sole discretion and the reservation or exercise of this right, and any related action or inaction by LESSOR, shall not in any way impose any obligation whatsoever upon LESSOR, and shall not be construed as a waiver of any rights of LESSOR under this LEASE.
28. Property Taxes. LESSEE shall timely pay all real property taxes, assessments and other debts or obligations owed to the Kenai Peninsula Borough. Pursuant to KPB Code, Section 17.10.150(H), any taxes levied against the leasehold interest shall be the responsibility of the LESSEE to pay when due. Pursuant to KPB Code, Section 17.10.120(F) this LEASE will terminate automatically should LESSEE become delinquent in the payment of any such obligations.
29. Cancellation. At any time that this LEASE is in good standing it may be canceled in whole or in part upon mutual agreement by LESSEE and LESSOR, on such terms as the Mayor, or Mayor's Designee determines to be in the best interest of the Kenai Peninsula Borough.
30. Termination. Upon termination of this LEASE, LESSEE covenants and agrees to return the property to LESSOR in the condition which existed immediately prior to entry on the PROPERTY by LESSEE, and to immediately remove all items of personal property subject to the conditions of Section 24 below. All terms and conditions set out herein are considered to be material and applicable to the use of the PROEPRTY under this LEASE. Subject to the following, in the event of LESSEE's default in the performance or observance of any of the LEASE terms, conditions, covenants and stipulations thereto, and such default continues for thirty (30) calendar days after written notice of the default, LESSOR may cancel this lease, or take any legal action for damages or recovery of the PROPERTY. No improvements may be removed during the time in which the LEASE is in default.

In the event LESSEE breaches any provisions prohibiting the release of hazardous chemicals, hazardous materials, or hazardous waste on the PROPERTY, and fails to immediately terminate the operation causing such release upon notice from LESSOR, then LESSOR may immediately terminate this LEASE without notice to LESSEE.

31. Violation. Violation of any of the terms of this LEASE may expose LESSEE to appropriate legal action including forfeiture of lease interest, termination, or cancellation of its interest in accordance with state law.

32. Notice of Default. Notice of the default, where required, will be in writing and as provided in Section 27 of this LEASE.

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

34. Removal or Reversion of Improvements Upon Termination of Lease.

Improvements on the PROPERTY owned by LESSEE shall, within ninety (90) calendar days after the termination of the LEASE, be removed by LESSEE; provided such removal will not cause injury or damage to the land; and further provided that LESSOR may extend the time for removing such improvements in cases where hardship is proven. LESSEE may dispose of its improvements to a succeeding lessee with the consent of LESSOR.

If LESSEE fails to remove improvements or chattels upon LESSOR's request, the LESSOR may do so at the expense of LESSEE.

At LESSOR's sole option, it may choose to retain the improvements or chattels rather than having them removed. If LESSOR elects to retain the improvements and chattels, it shall give written notice of the election to LESSEE. Upon request, LESSEE shall convey said improvements and/or chattels by appropriate instrument to LESSOR.

35. Rental for Improvements or Chattels Not Removed. Any improvements and/or chattels belonging to LESSEE or placed on the PROPERTY during its tenure with or without its permission and remaining upon the premises after the termination of the contract shall entitle LESSOR to charge a reasonable rent therefor.

36. Resale. In the event that this LEASE is terminated, canceled, forfeited, or abandoned, LESSOR may offer said land for sale, lease, or other appropriate disposal pursuant to the provisions of KPB Code, Chapter 17.10 or other applicable regulations.

37. Notice. Any notice or demand, which under the terms of this LEASE must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

All notices shall be sent to both parties as follows:

LESSOR:

Planning Director
Kenai Peninsula Borough
144 N. Binkley Street
Soldotna, AK 99669

LESSEE:

Robert Gibson, Partner
Alaska Land and Cattle Company
PO Box 650
Cooper Landing, AK 99572

38. Responsibility of Location. It shall be the responsibility of LESSEE to properly locate itself and its improvements on the PROPERTY.

39. Liens and Mortgages. LESSEE shall not cause or allow any liens of any kind or nature whatsoever to attach to the property during the term of this lease. In the event that any prohibited lien is placed against the PROPERTY, LESSEE shall immediately cause the lien to be released. LESSEE shall immediately refund to LESSOR any monies that LESSOR may, at its sole discretion, pay in order to discharge any such lien, including all related costs and a reasonable sum for attorney's fees. For the purpose of interim financing or refinancing of the improvements to be placed upon the PROPERTY, and for no other purpose, LESSEE may, upon written approval of LESSOR, encumber by mortgage, deed of trust, assignment or other appropriate instrument, LESSEE's interest in the PROPERTY and in and to the LEASE, provided said encumbrance pertains only to the leasehold interest. Any such encumbrance shall be entirely subordinate to LESSOR's rights and interest in the PROPERTY.

A leasehold mortgagee, beneficiary of a deed of trust or security assignee shall have and be subrogated to any and all rights of the LESSEE with respect to the curing of any default hereunder by LESSEE.

In the event of cancellation or forfeiture of this LEASE for cause, the holder of a properly recorded mortgage, deed of trust, or assignment will have the option to

acquire the LEASE for the unexpired term thereof, subject to the same terms and conditions as in the original instrument, as may be amended.

40. Non-Waiver Provision. The receipt of payment by LESSOR, regardless of LESSOR's knowledge of any breach by LESSEE, or of any default on the part of LESSEE in observance or performance of any of the conditions or covenants of this LEASE, shall not be deemed to be a waiver of any provision of the LEASE. Failure of LESSOR to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of LESSOR to enforce the same in the event of any subsequent breach or default. The receipt by LESSOR of any payment of any other sum of money after notice of termination or after the termination of the LEASE for any reason, shall not reinstate, continue or extend the LEASE, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and the payment fully satisfies the breach.
41. Jurisdiction. Any lawsuits filed in connection with the terms and conditions of this LEASE, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.
42. Savings Clause. Should any provision of this LEASE fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of this LEASE or constitute any cause of action in favor of either party as against the other.
43. Binding Effect. It is agreed that all covenants, terms, and conditions of this LEASE shall be binding upon the successors, heirs and assigns of the parties hereto.
44. Full and Final Agreement. This LEASE constitutes the full and final agreement of the parties hereto and supersedes any prior or contemporaneous agreements. This LEASE may not be modified orally, or in any manner other than by an agreement in writing and signed by both parties or their respective successors in interest. LESSEE avers and warrants that no representations not contained within this LEASE have been made with the intention of inducing execution of this LEASE.
45. Warranty of Authority. LESSEE warrants that the person executing this LEASE is authorized to do so on behalf of LESSEE.

LESSEE: Robert Gibson and Filip
Martushev, DBA Alaska Land &
Cattle

LESSOR: Kenai Peninsula Borough

Robert Gibson, Partner

Charlie Pierce, Borough Mayor

Dated

Dated

Filip Martushev, Partner

Dated

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship
Borough Clerk

Sean Kelley
Deputy Borough Attorney

KPB NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

Notary Public in and for Alaska
Commission expires: _____

LESSEE NOTARY ACKNOWLEDGMENTS

STATE OF ALASKA)

Kenai Peninsula Borough
KPBL# «Authorization»; Alaska Land & Cattle Co

THIRD JUDICIAL DISTRICT) ss.
)

The foregoing instrument was acknowledged before me this _____ day of _____,
2021, by Robert Gibson, of Alaska Land and Cattle Company, for and on behalf of the
company.

Notary Public for State of Alaska
Commission Expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____,
2021, by Filip Martushev, of Alaska Land and Cattle Company, for and on behalf of the
company.

Notary Public for State of Alaska
Commission Expires: _____

LMD 19-36; Agricultural Use Lease
Alaska Land and Cattle Company

Ordinance 2020-XX

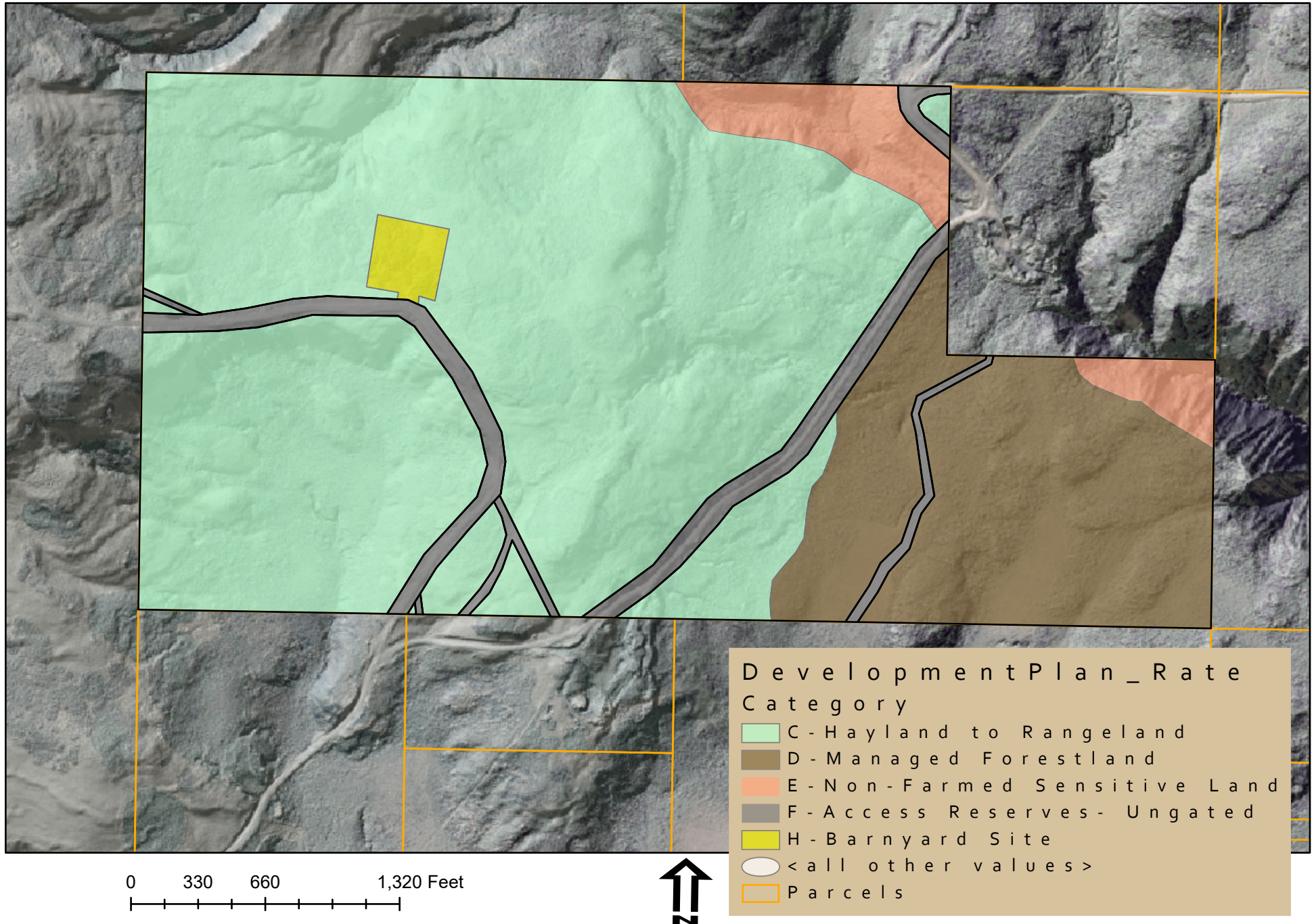


APN: 18521053 NW1/4 & NW1/4 NE1/4 & S1/2 NE1/4, Section 22,
280 acres +/- Township 04 South, Range 11 West, Seward Meridian,
Homer Recording District

Agriculture Lease Rate Map

Township 04 South, Range 11 West

Section 22: NW1/4 & NW1/4NE1/4 & S1/2NE1/4, Seward Meridian, containing 280 +/- acres



FARM- & RANGELAND

DEVELOPMENT PLAN for KENAI BOROUGH OWNED LAND Parcel # 18521053

The following plan is designed and submitted by
Robert Gibson for ALASKA LAND & CATTLE COMPANY.

Land parcel Description

The total land parcel size is 280 acres of undisturbed land
The land has never been cultivated and is massively overgrown by alder patches and thick willow brush.
There are some open alpine meadow patches of land with very thick tussock forming
Calamagrostis reed grass as well as other grasses and forbes.
Some noxious weeds has been found throughout these meadows.
The terrain is undulating and steep with multiple deep ravines parts of which will have to be graded
To provide access to farmable fields.
This land parcel is located 22 miles outside of the city of Homer proper.
There is no electricity nor any landline or cellular service provided in the vicinity.
The parcel is transected by the Basargin Road and the Echo Lake gravel pit.

Mission Statement and Use of Land

It is our desire to develop this virgin land for the purpose of
Production of Hay
Development and creation of Pastured land for livestock.
Utilize a portion of the land (Described in Contract as Managed Forestry) to harvest Forestry Products.

Fencing of Leased lands

Alaska Land & Cattle Company practices a Holistic and Permaculture approach to dealing with the land.
Therefore we will use the grazing technique called Rotational Grazing in which livestock is moved
frequently from paddock to the next paddock giving the grazed vegetation a better chance for

regenerated growth Upon which that regenerated area is again visited by livestock for fresh new grazing.

In this grazing method there is no need for permanent fencing , as the fences have to be moved frequently.

Barn yard site

A barn site of up to 3 acres in size will be created to provide ample space for

Hay Storage facilities

Tool Sheds

Livestock Sorting Corrals

Loading

Farm Machinery and Implements Storage

Cattlemen's Cabin

The Barnyard Site will be permanently fenced and marked for information of it's existence to the public

And trail users.

Location of the Barnyard Site is marked on attached map with the label B.

Water

Given the fact of Rotational Grazing It is obvious that drinking water stations for livestock also have to be rotated in their locations.

Therefor no permanent water troughs will be installed.

However, depending of weather and climatic conditions it may become necessary to excavated one or several ponds within the grazing area.

If that need arises the landowner will be notified.

Access

A few graded pads will later be constructed for egress to the different fields.

Livestock to graze the leased land

Beef Cows , Horses , Sheep and Goats.

Each animal will be verified and inspected by a licensed veterinarian or skilled livestock manager prior to placement on the land.

Each animal will carry proper Identification as required by Alaska Department of Agriculture.

Identification by bhy Branding and a numbered Ear Tag.

Sheep and Goats will be registered with a Scrapie NJumber Identifier.

Development Work Schedule and Time Table

The first 2 years will be mainly concentrated on clearing vegetation to give room for hay fields and p0astures.

There is a fairly good amount of vegetative biomass already on the land so we will initially allow some grazing with a controlled numbers of livestock on select and suitable meadow open land sections.

Weather allowing we will attempt to seed in some cleared areas.

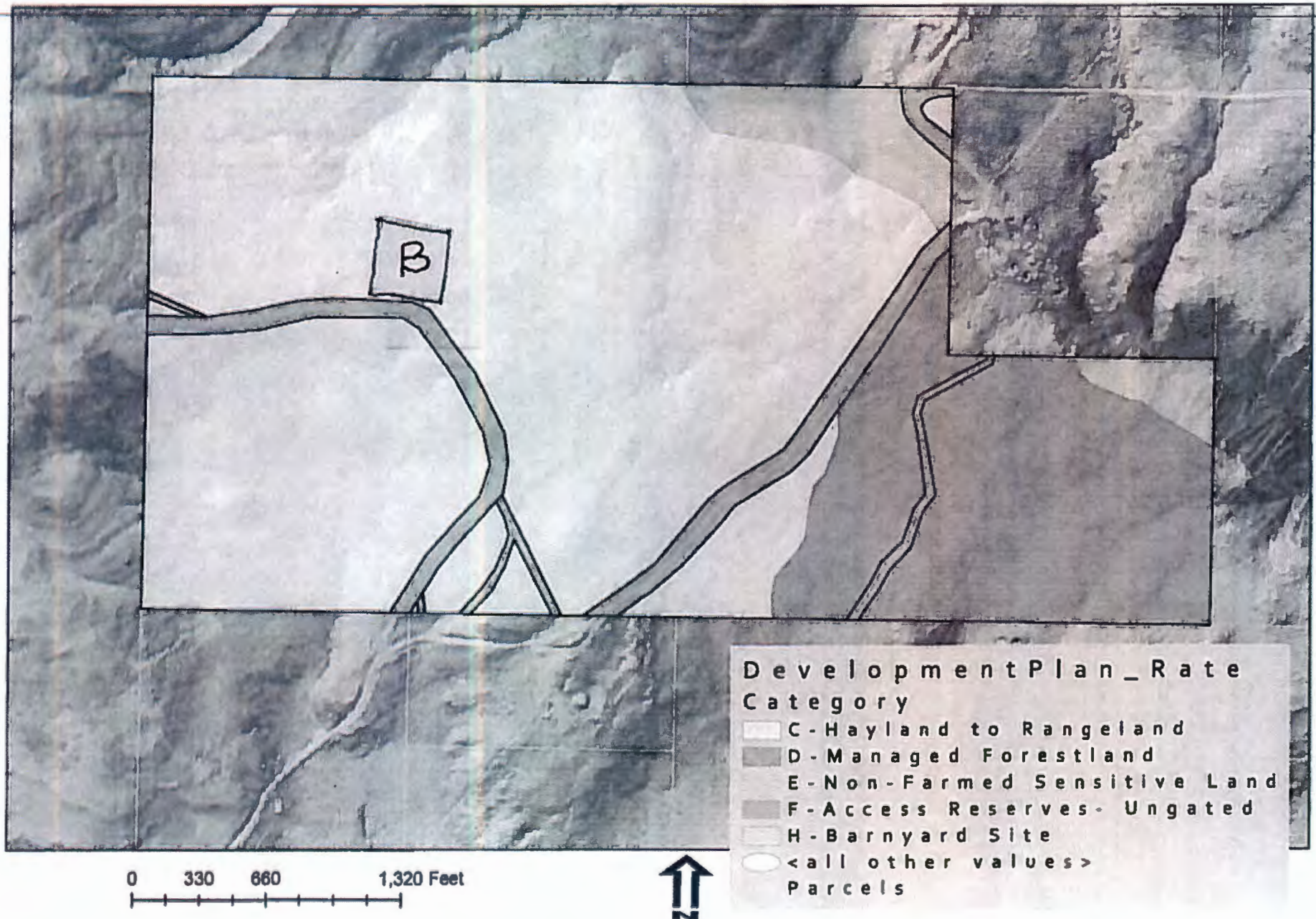
Third year continued clearing of bru8sh and alders growths with more areas seeded in.

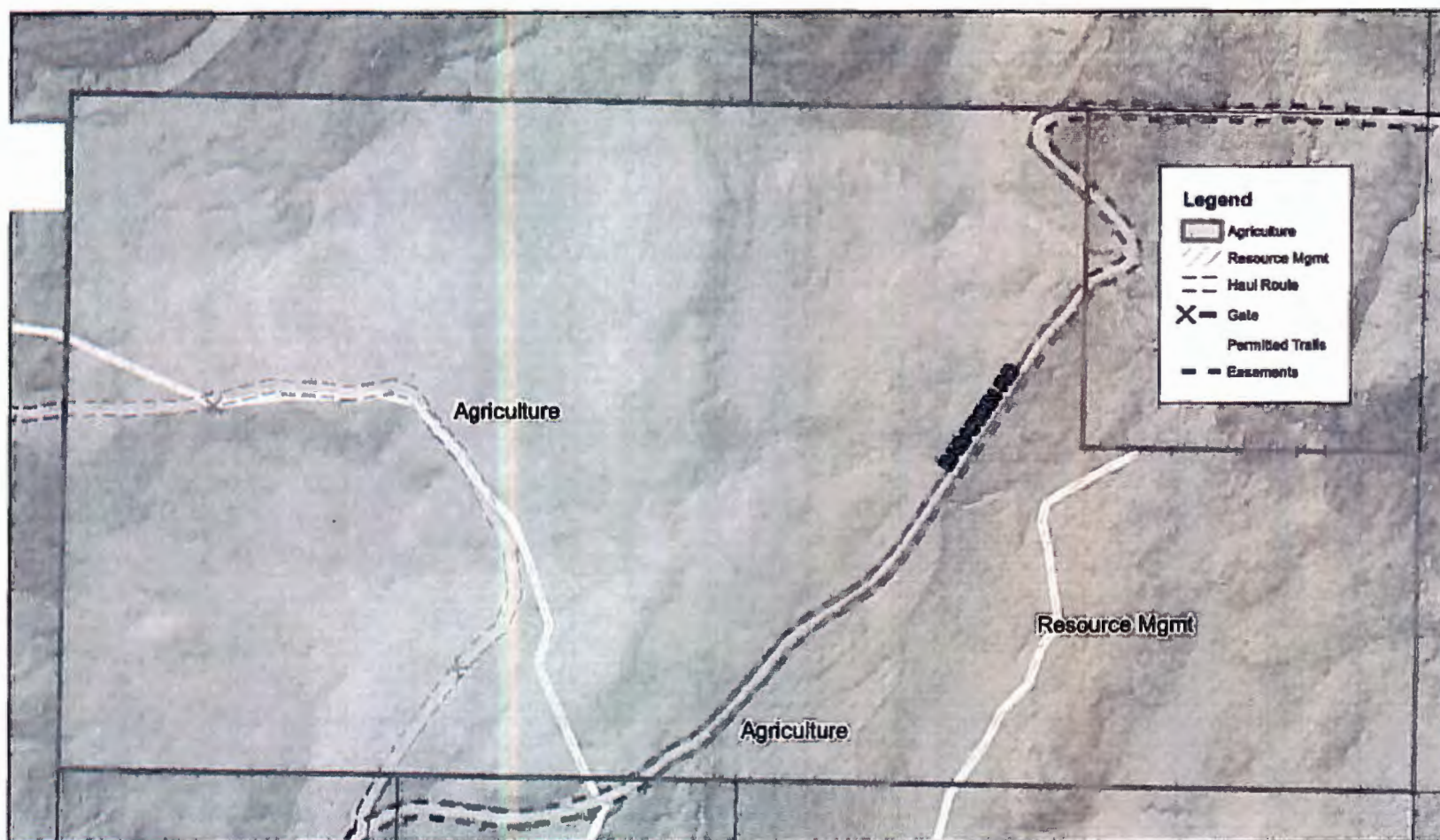
Consecutive years will hopefully see the first harvest of our efforts..

Agriculture Lease Rate Map

Township 04 South, Range 11 West

Section 22: NW1/4 & NW1/4NE1/4 & S1/2NE1/4, Seward Meridian, containing 280 +/- acres





APN: 18521053 NW1/4 & NW1/4 NE1/4 & S1/2 NE1/4, Section 22,
280 acres +/- Township 04 South, Range 11 West, Seward Meridian,
Homer Recording District

N
0 240 480 Feet
jd-07.01.20

AMENDMENT TO THE DE AGRICULTURAL LEASE DEVELOPMENT PLAN

0812221

For

ALASKA LAND AND CATTLE COMPANY

The following Amendment is meant to clarify some statements in the previously submitted plan, as well as provide some additional new information.

FENCING

Any responsible livestock operation shall always be fenced with a permanent PERIMETER FENCING , to provide safety for livestock and the public.

The outline of this type of fencing and its location and installation on the leased land is shown on the enclosed map.

To clarify: Rotational grazing is performed within the permanent fence -line with cross fenced temporary fence.

For obvious safety reasons the barnyard site will be protected with a permanent fence system.

LOCATION of WATER SOURCESFOR LIVESTOCK and Agricultural IRRIGATION.

The location of water sources are marked on the enclosed map.

NUMBER OF LIVESTOCK TO UTILIZE BTHE LAND

This all depends on how vegetation for livestock feed will respond to our effort in crop and Hay production

We figure the land can support 50-100 livestock taking into consideration what the land can produce In conjunction with supported feeding of stored hay and feed.

HOW MANY ACRES OF HAY PRODUCTION

Our calculated estimate is 75 acres

USE OF CATTLEMEN's CABIN

The installation of a cattlemen's cabin is meant to provide

A seasonal and temporary shelter for ranch workers and cowboys while working

On the leased land.

Based on historic weather conditions most likely the leased land (and cabin) will be occupied from month of May thru end of October.

Again weather depending.

The cabin will not be use as a permanent residence.

INSTALLATION of CATTLE Guards

Enclosed is a print out showing how a cattle guard will be constructed and their location on the leased land.

EXTRACTION of GRAVEL ON THE LEASED LAND<

Provide extractible gravel can be found within the leased parcel,

1000 yards will be excavated and used over the life of this lease contract

Compensation to KPB for extracted gravel is at the KPB rate of \$3.25 per yard.

Thank you for your consideration.



Robert Gibson, President

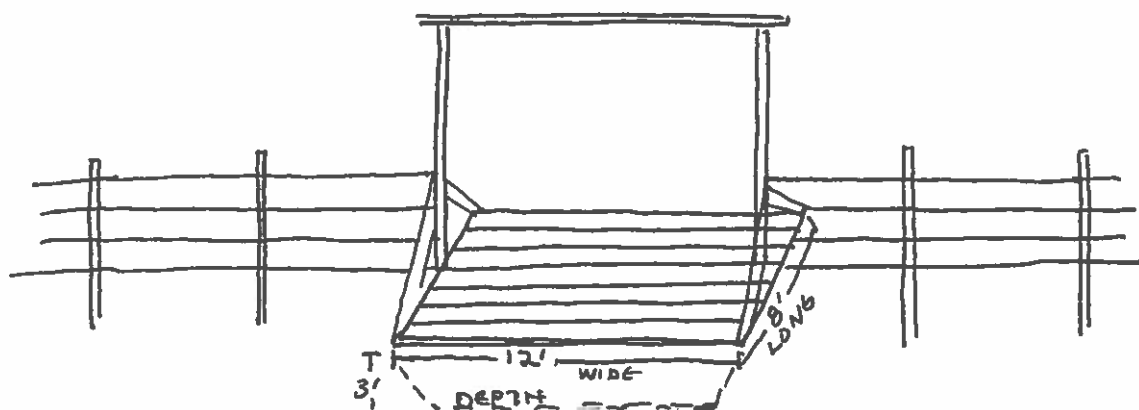
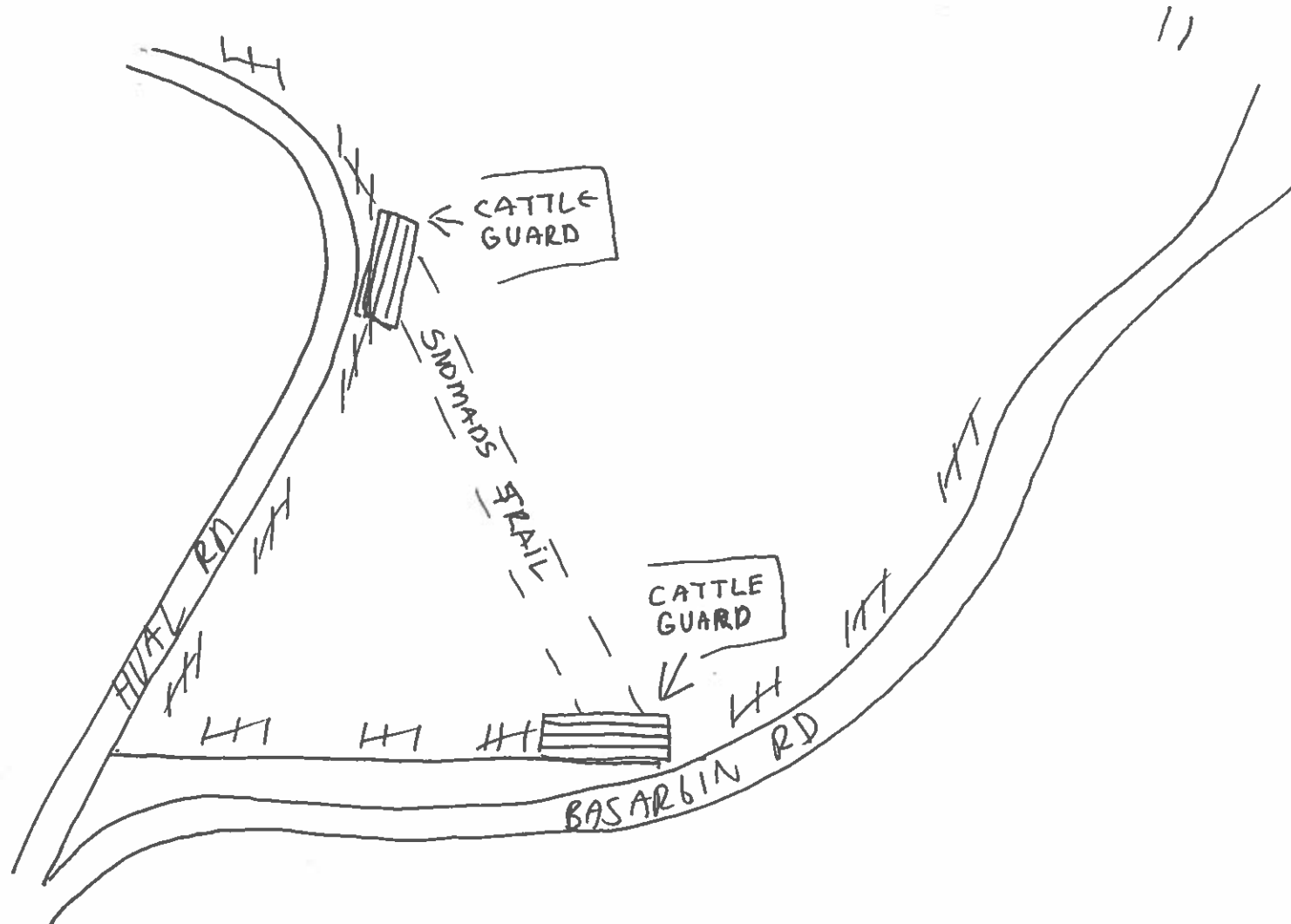
ALASKA LAND AND CATTLE COMPANY

PO X 650

Cooper Landing, AK 99572

907-5980-2000

robert@arctic.net.

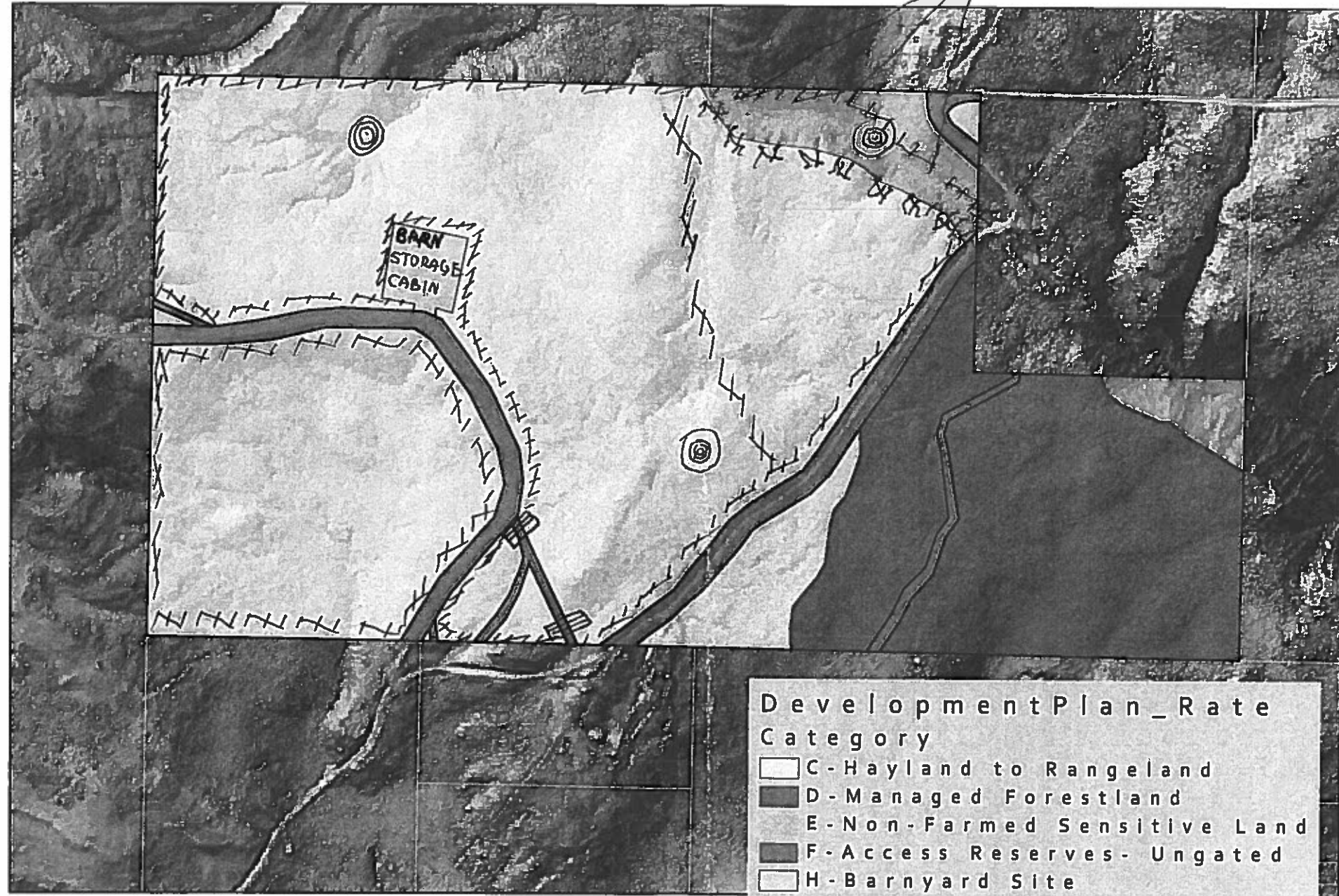


Delete this fencing
inside non-farmed area

Agriculture Lease Rate Map

Township 04 South, Range 11 West

Section 22: NW1/4 & NW1/4NE1/4 & S1/2NE1/4, Seward Meridian, containing 280 +/- acres



0 330 660 1,320 Feet



- Development Plan_Rate Category
- C-Hayland to Rangeland
 - D-Managed Forestland
 - E-Non-Farmed Sensitive Land
 - F-Access Reserves- Ungated
 - H-Barnyard Site
 - <all other values>
 - Parcels

- PERMANENT FENCE
- CATTLE GUARD
- WATER HOLES

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: June 28, 2021

RE: Ordinance 2021-28: Authorizing a Lease to Robert Gibson, dba Alaska Land and Cattle Company of Approximately 280 Acres of Borough Land in the Basargin Road Area for Agricultural Use (Mayor)

Per KPB 22.40.050(F), the borough clerk, or the clerk's designee in his or her absence, has the authority to revise pending resolutions and ordinances prior to assembly action, by filling in any blanks in the legislation stating advisory board recommendations made concerning the legislation. This serves as our memorandum to advise the assembly of same.

Conforming to the Planning Commission's actions, the final Whereas clause has been updated to read:

"WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of July 12, 2021, recommended approval by unanimous consent."

Thank you.

Turner, Michele

From: Shirnberg, Ann
Sent: Tuesday, July 13, 2021 2:20 PM
To: Blankenship, Johni; Turner, Michele
Subject: Ordinances Forwarded by PC Recommending Approval

Importance: High

Hi Johni,

The Planning Commission at its regularly scheduled meeting of July 12, 2021 voted unanimously (10-Yes, 0-No, 1-Absent) to forward to the Assembly a recommendation to adopt the following two ordinances.

1. Ordinance 2021-28: An ordinance authorizing a lease to Robert Gibson, DBA Alaska Land & Cattle Company for approximately 280 acres of Borough land in the Basargin Road area for agricultural use.
2. Ordinance 2021-27: An ordinance authorizing a WISP tower and ground lease agreement at certain locations with SPITwSPOTS Inc.

Thank You,

Ann Shirnberg
Administrative Assistant
Planning Department
(907) 714-2215

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to public upon request.

From: [Taylor, Bryan](#)
To: [Shirnberg, Ann](#)
Cc: [Fletcher, Sandra](#); [Mueller, Marcus](#)
Subject: FW: <EXTERNAL-SENDER>KB APC minutes
Date: Monday, August 23, 2021 8:29:01 AM
Attachments: [KACHEMAK BAY APC Unapproved Minutes 081921.docx](#)
[KACHEMAK BAY APC Approved Minutes 070821.docx](#)
[image001.png](#)

Ann,

Please pass on the recommendation below from the K-Bay APC to the Planning Commission. This recommendation is for the Gibson agricultural lease. The unapproved minutes from their August 19, 2021, meeting, at which the recommendation was made, are attached.

K-Bay APC recommendation:

- We approved a motion to support the Ordinance 2021-21 agricultural lease.

Thank you,

Bryan Taylor, AICP
Planner
(907) 714-2206
btaylor@kpb.us



From: Eric Knudtson <epknudtson@gmail.com>
Sent: Friday, August 20, 2021 9:25 AM
To: Fletcher, Sandra <sffletcher@kpb.us>; davelouiseandgalen@gmail.com; Taylor, Bryan <BTaylor@kpb.us>
Subject: <EXTERNAL-SENDER>KB APC minutes

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.

I've attached the approved minutes from June and the unapproved minutes from yesterday's meeting.

KACHEMAK BAY ADVISORY PLANNING COMMISSION
SPECIAL (VIDEO CONFERENCE) MEETING
LOCATION: ZOOM
Thursday, August 19, 2021
7:00 P.M.

UNAPPROVED MINUTES

A. CALL TO ORDER: 7:00 pm

B. ROLL CALL

Present: Eric Knudtson, Louise Seguela, Tim Whip, and Bruce Robinson
Two vacancies
Quorum has been met to move forward with the meeting.
Owen Meyer, Courtney Brod, and Robert Gibson also participated.

C. APPROVAL OF MINUTES

1. Approved June 8th, 2021 minutes.

D. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE

1. None

E. CORRESPONDENCE

1. None

F. REPORT FROM BOROUGH

1. None

G. OLD BUSINESS

1. We postponed Jim Kogstad's presentation until our next meeting.
2. Mr. Gibson answered our questions about his farm plan. We approved a motion to support the Ordinance 2021-21 agricultural lease.
3. We agreed to discuss and review our KB APC plan at our next meeting when a KPB planner will be in attendance.
4. We agreed to discuss again our role in reviewing plates with a KPB planner at our next meeting.

H. NEW BUSINESS

1. No comment on Falls Creek Estates Unit 5 KPB 2021110.
2. We accepted the resignation letter of Andrea Kostos from the commission.

3. ITEMS FROM COMMISSION

- a. None

I. ANNOUNCEMENTS

1. None

J. COMMISSIONERS' COMMENTS

K. ADJOURNMENT – 8:33 pm.

KACHEMAK BAY ADVISORY PLANNING COMMISSION
SPECIAL (VIDEO CONFERENCE) MEETING
LOCATION: ZOOM
Thursday, July 8, 2021
7:00 P.M.

APPROVED MINUTES

1. CALL TO ORDER: 7:45 pm
2. ROLL CALL
 - i. Present: Eric Knudtson, Tim Whip, Louise Seguela, and Bruce Robinson
 - ii. One vacancy
 - iii. Quorum was met.
3. APPROVAL OF MINUTES
 - A. We approve the April 4th and June 10th minutes.
4. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE
 - A. Karen Murdock and Bill Marshall shared their concerns about the Spruce Woods Subdivision. Specifically they expressed questioned how the existing septic systems on lots 1A and 1B will be affected by the subdivision .
5. CORRESPONDENCE
 - A. None.
6. REPORT FROM BOROUGH.
 - A. None.
7. OLD BUSINESS
 - A. The start of our meeting was delayed 45 minutes and the representative from the Cooper Landing APC didn't show up at our later meeting time. We would like to reschedule for our next meeting this presentation about the Cooper Landing APC's plan development.
 - B. We discussed having someone else write our plan introduction so we could proceed to examining land use within Kachemak Bay APC. We talked about initially limiting our scope or focusing to a small segment of land use within our area. At our next meeting commissioners will share their ideas on what we might initially focus on and how we might solicit public input.
 - C. We agreed that we would like to try to have an in-person meeting in September. Louise will inquire if an appropriate space is available at the Kachemak City Center or the Homer Public Library.
 - D. We again discussed what our role is in reviewing plates. We see our role being a conduit for local concerns about proposed plates in addition to looking for any potential conflicts with KPB planning code.
8. NEW BUSINESS

- A. We passed the following motion. We approve the Spruce Woods Subdivision, if the existing septic systems for lot 1A and lot 1B are contained within the respective lot boundaries and meet existing code.
 - B. We passed the following motion. We support agricultural use of KPB land, but oppose the AK Land and Cattle Ag Lease Ordinance until we are able to review the farm management and development plan.
 - C. We have no comment on the Stanleys Meadow 2021 Cove plat.
9. ITEMS FROM COMMISSION
- a. None
10. ANNOUNCEMENTS
11. COMMISSIONERS' COMMENTS
- a. Bryan will invite a representative from the Cooper Landing APC to speak at our next meeting.
12. ADJOURNMENT – All approved. 8:49 pm.

MEMORANDUM

TO: Blair Martin, Chair
Member, Kenai Peninsula Planning Commission

FROM: Sean Kelley, Deputy Borough Attorney *SK*

COPY: Melanie Aeschliman, Planning Director

DATE: August 6, 2021

RE: Resolution 2021-____, 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

Two appeals have been filed appealing the KPB Planning Director's Decision to the decision issued July 6, 2021 by KPB Planning Director Melanie Aeschliman to approve in part and deny in part a nonconforming use application for five (5) nonconforming uses of Lot 35A, C & H Estates, according to Plat 80-23, Homer Recording District (KPB Parcel ID #174-410-45).

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 two consolidated appeals (this "appeal").

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

It should be noted that I will be advising the Planning Commission in this matter, and Acting Borough Attorney Patty Burley will be representing the Planning Department. A copy of this resolution will be emailed to: (1) the KPB Planning Director; (2) Appellant Cutlers; and (3) Appellant/Applicant Lang.

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-28**

**A RESOLUTION ESTABLISHING THE APPEAL PROCEDURE FOR APPEALS OF
THE PLANNING DIRECTOR'S DECISION APPROVING IN PART AND DENYING IN
PART A NONCONFORMING USE APPLICATION FOR FIVE USES OF LOT 35A,
WITHIN THE C & H ESTATES LOZD**

WHEREAS, on July 6, 2021 the KPB Planning Director issued a decision approving in part and denying in part, a nonconforming use application for five (5) nonconforming uses of Lot 35A, C & H Estates, according to Plat 80-23, Homer Recording District (KPB Parcel ID #174-410-45).

WHEREAS, the applicant and a property owner within the C & H Estates Local Option Zoning District (LOZD) have appealed the planning director's decision;

WHEREAS, borough code does not provide an appeal procedure for an appeal of a planning director's nonconforming use decision to the planning commission; and

WHEREAS, this resolution will establish the procedure that the planning commission shall follow for the appeal hearing in this consolidated appeal matter;

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

SECTION 1. That the below procedure will govern the planning commission hearing for all three appeals filed in this matter concerning the July 6, 2021, decision on reconsideration issued by the KPB Planning Director. The two appeals will be consolidated and heard as a single appeal hearing.

SECTION 2. That the below procedure shall apply at the appeal hearing:

1. Chair will introduce the item on the agenda.
2. KPB Planning Director, Staff or Legal Counsel – presentation of issues and director's decision (10 minutes)
3. Appellant/Applicant Lang Opening Presentation (10 minutes)
4. Appellant Cutler Opening Presentation (10 minutes)
5. Lang Rebuttal & Closing (5 minutes)
6. Cutler Rebuttal & Closing (5 minutes)
7. KPB Rebuttal & Closing Statement (5 minutes)

Following the completion of closing statements, the planning commission may move into adjudicative session for deliberations. Following deliberations, the planning commission will, on record, either issue a decision at that time or provide notice to the parties that a written decision

will be issued at a later time. The planning commission may remand, affirm, reverse, or modify, in whole or in part, the appealed decision.

SECTION 3. The planning commission chair shall act as presiding officer. The parties are allowed to have witnesses and may be represented by counsel. Witness testimony shall be counted against the time of the party calling the witness. The parties will not be allowed to cross-examine other witnesses during the hearing. The presiding officer is authorized to grant or deny a request for a continuance or postponement of the appeal hearing to a later date. A party may not request more than one continuance in this matter and the presiding officer shall deny any request for a continuance made within 10 days of the date of the scheduled appeal hearing, unless the party requesting the continuance provides satisfactory evidence of a family or medical emergency necessitating a continuance on short notice. If the hearing date is continued, the planning department shall send, by first class U.S. Mail and e-mail if known, notice to the appellants, the applicant, and any other parties who have entered an appearance in the matter.

SECTION 4. With the potential exception of a request for a continuance, there will be no pre-hearing motion practice. All issues or objections must be raised during the hearing.

SECTION 5. Interested parties may submit any information the party deems relevant to the planning commission's deliberations in this matter. Written statements and other documents or information may be submitted to the planning commission on or before _____ by: (i) emailing the items to planning@kpb.us; or (ii) delivering, via either in-person or U.S. Mail delivery, physical copies of the information to the planning department administrative assistant located on the third floor of the borough building at 144 N. Binkley St. Soldotna, Alaska 99669.

SECTION 6. That the consolidated appeal hearing is scheduled for _____, 2021, at ____:____ PM, unless continued by order of the presiding officer.

SECTION 7. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH THIS _____ DAY OF _____, 2021.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

From: Craig C
To: [Planning Dept.](#); [Shirnberg, Ann](#); [O Craig Joanne](#); [Craig Cutler](#)
Subject: <EXTERNAL-SENDER>Appellant comment on Planning Commission Tentative Agenda for Aug 23, 2021
Date: Friday, August 20, 2021 11:11:54 AM

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.

Regarding the procedure for the appeal hearing as outlined in SECTION 2 of Resolution 2021-28:

I have no objections to the procedure as proposed.

Thank you.

Craig Cutler,

Appellant and parcel owner: C&H LOZD

From: Aaron
To: [Shirnberg, Ann](#)
Subject: RE: <EXTERNAL-SENDER>Re: Appeal of the Planning Director Decision - KPB Tax Parcel # 174-410-45
Date: Monday, August 23, 2021 10:47:56 AM

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.

Hi Ann,

Thanks very much for the email. Thank you also for the clarification and corrected packet that you sent last week. I don't have any problem at all with the way the appeal will be conducted. My only comment is a request that the appeal be in October or later. I will likely be out of town for the September meeting and since the appeal deals with my property I would like to attend the meeting in person.

I will not be able to zoom in to this week's meeting as I will be on the Kennecott crossing the Gulf of Alaska on Wednesday and completely out of all the reception. Thanks, Ann.

All the best,
Aaron

Wilderness Birding Adventures
www.wildernessbirding.com
907.299.3937

----- Original message -----

From: "Shirnberg, Ann" <ashirnberg@kpb.us>
Date: 8/23/21 7:32 AM (GMT-09:00)
To: Aaron Lang <aaron@wildernessbirding.com>
Subject: RE: Re: Appeal of the Planning Director Decision - KPB Tax Parcel # 174-410-45

Hi Aaron,

I am sorry I am so late in getting back to you. I was out of the office and didn't see your email until this AM. Just to let you know you do not have to attend the meeting in person. You can attend the meeting via zoom. The deadline for written comments for the PC meeting was last Friday (8/20/21). Since I was late in getting back to you if you send me your comments ASAP this morning I will push them out to the commissioners. Just to let you know I have added your earlier email expressing some of your concerns to the planning commission meeting packet so the commission will have that.

From: Aaron Lang
To: [Shirnberg, Ann](#)
Subject: <EXTERNAL-SENDER>Re: Appeal of the Planning Director Decision - KPB Tax Parcel # 174-410-45
Date: Monday, August 16, 2021 2:27:42 PM
Attachments: [image001.png](#)

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.

Hi Ann,

Thanks for the update. I tried to leave you a phone message today, but I think I got cut off so I thought email would be better. I may have some written comments to submit, but I have a few questions first. For instance, I have not received any details of the other appeal on my property, presumably it is being made by the Cutlers who are also copied on this message. Depending on which decision they are appealing, I may have some critiques on the proposed process. If the Cutlers are appealing a different decision than I am, then I think it would be fair to separate the process into two separate appeals. Otherwise, it appears that I will have to address both in my allowed ten minutes while they would have the same ten minutes for just one issue.

Can you please provide me with a copy of their appeal(s)? This will help clarify whether or not I have any comments regarding next weeks meeting.

Thanks so much, Ann!

All the best,
Aaron Lang

Wilderness Birding Adventures

aaron@wildernessbirding.com

www.wildernessbirding.com

(907) 299-3937

On 8/16/2021 12:44 PM, Shirnberg, Ann wrote:

Good Afternoon,

The Planning Commission Resolution 2021-28: Establishing the appeal procedure for the appeal of the Planning Director's decision approving a nonconforming use application within the C&H Estates LOZD, will be heard at the August 23, 2021 Planning Commission. Attached is the tentative agenda for the meeting and meeting packet information.

Those who wish to testify on this resolution may attend the August 23, 2021 meeting or may submit a written statement to the Planning Department, Kenai Peninsula

Borough, 144 N. Binkley St., Soldotna, AK 99669 or by email to planning@kpb.us . It is recommended that written comments be received by 1:00 pm, Friday August 20, 2021.

Please note: This is **not** the appeal hearing – this is a public hearing on the resolution which will set the hearing procedure and hearing date.

Thank You,

Ann Shirnberg
Administrative Assistant
Planning Department
(907) 714-2215

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to public upon request.

Kenai Peninsula Borough

Community & Fiscal Projects

MEMORANDUM

TO: Blair Martin, Chair & Planning Commission Members

THRU: Charlie Pierce, Mayor *ch*
Melanie Aeschliman, Planning Director *MA*
Marcus Mueller, Land Management Officer *MM*
Bryan Taylor, Planner – Advisory Planning Commission Liaison *BT*

FROM: Brenda Ahlberg, Community & Fiscal Projects Manager *BA*

DATE: 08/11/21

RE: Community Wildfire Protection Plan Update

Background: From 2006 to 2009, the Kenai Peninsula developed 17 Community Wildfire Protection Plans (CWPPs) representing all landscapes across the borough with the exception of Tyonek, Moose Pass, Bear Creek, Seward and Lowell Point. In 2018, the borough received federal pass-through funds in the amount of \$103,366 (O2018-19-11) and funds from the spruce bark beetle interest account in the amount of \$50,000 (O2019-19-02) to update these plans. The 2022 update, upon completion, combines the 17 CWPPs and incorporates the previously excluded communities.

The CWPP serves two audiences: 1) provides recommended projects designed to greatly reduce wildfire risk to residents, ensuring that communities live safely in this fire prone environment; and 2) provides guidance to fire and emergency managers, as well as agencies who manage large land holdings.

During the week of July 20th, open house meetings were conducted throughout the borough in communities that allowed maximum attendance with adjacent communities. The meetings were held in Seward, Cooper Landing, Homer, Soldotna, and Nikiski. The meeting format consisted of with four stations modeled on the National Cohesive Wildland Fire Management Strategy: 1) CWPP Overview, 2) Resilient Landscapes, 3) Fire-Adapted Communities, and 4) Safe and Effective Wildfire Response. On July 26th, the core team created initial response matrices to be included in the hazard analysis. The core team includes municipal, state, federal, Tribal and non-government agencies as well as subject matter experts that contributed to the 2006 – 2009 CWPPs. This team is tasked with driving the planning and decision-making process for this project.

For more information, visit the story map www.kpb.us/cwpp. This story map (an interactive project website designed to tell a story with maps) will be used as the

Page -2-

08/11/21

To: Blair Martin, Chair & Planning Commission Members

RE: Community Wildfire Protection Plan Update

primary two-way communication tool to provide information and gather community input about the project. Once the draft plan has been completed, it will be distributed to the cities, the KPB Advisory Planning Commissions, and to the public to provide feedback. The KPB Planning Commission will also be asked to provide input (estimated date of delivery December 2021).

Please contact Brenda Ahlberg, Community & Fiscal Projects Manager/Acting Emergency Manager at bahlberg@kpb.us or 907-714-2153.

This project is being completed by consulting firm SWCA and funded in part by the Kenai Peninsula Borough, Alaska Division of Forestry and Department of Natural Resources pursuant to USDA Forest Service Award No. 2018-DG-110106-810

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Brent Hibbert, Assembly President
Members of the Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor
Melanie Aeschliman, Planning Director

FROM: Marcus Mueller, Land Management Officer
Aaron Hughes, Land Management Agent

DATE: August 17, 2021

RE: Report on 2021 Kenai Peninsula Borough Land Sale

On Saturday August 14th, the Kenai Peninsula Borough held its 2021 Land Sale by public auction. The Land Management Division worked with Alaska Premier Auction & Appraisal to host an event at the Soldotna High School auditorium, simulcast online.

Sale Offering:

19 parcels of land were offered on the sale, with minimum bids totaling \$1,533,200.00.

Summary Sale Results:

16 parcels were sold on auction, with sale amounts totaling \$3,225,000.00

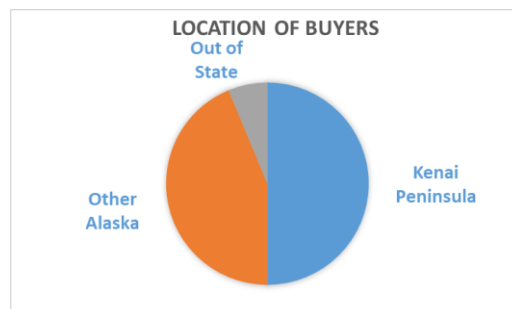
Registered Bidders:

76 Bidders registered for the auction. 32 were in-person, 44 on-line.

In-person bidders generated 81% of the total sales, online bidders contributed \$617,000 of total sales prices.

Demographics:

96% of parcels were sold to in-state buyers, 50% were sold to buyers from the Kenai Peninsula, 4% were out-of-state.



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RE: 2021 Land Sale Report

Auctioneering Services Cost:

Alaska Premier Auction & Appraisal provided services including marketing, bidder registration, live auctioneering, and online simulcasting for the amount of \$21,000.

Over-the-Counter Offering:

3 parcels will be offered over-the-counter on November 15th, those parcels are located in Soldotna & Sterling. A brochure will be posted on the Land Management webpage.

Land Management Recap:

The 2021 Kenai Peninsula Borough Land Sale was a great success. The auction format was open and fair, and yielded the best value to the people of the borough for the public land assets that were sold. The bid prices received are reflective of current strong land market conditions, and of a professionally assembled land offering. Alaska Premier Auction & Appraisal were very professional, easy to work with, clear in their delivery, and had an approach that was effective in meeting the goals for 2021 KPB Land Sale. Comments we heard from land sale participants were overall very positive.

The benefits of professional land management can be found throughout the sale preparation and delivery process. Most sale parcels are years in the making, particularly to offer a good parcel of land where the conditions of title, survey, resource assessments, sale preparation, mapping, and required public processes are in good order. The 2021 Kenai Peninsula Borough Land Sale was the product of a high functioning professional borough team. This year, land sales were led by Aaron Hughes with the assistance of Avery Harrison, Celina Robinson (GIS), Julie Denison, and our legal and finance departments. This year all land sales will be closed through Stewart Title Company of the Kenai Peninsula.

Land Sale revenues will be deposited into the Kenai Peninsula Borough's Land Trust Investment fund. As reported to the Finance Committee by the fund manager, Alaska Permanent Capital, on July 6, 2021 the Land Trust Investment Fund was \$7,746,803 at the end of the second quarter. Annualized account returns had been 11.91% since inception, yielding \$1,521,576 in investment earnings. The deposits from the 2021 Land Sale will bring the Land Trust Investment Fund to over \$10M. Department level near term goals are to increase the fund to \$13,000,000 in order that the fund can provide a sustainable funding component for managing KPB lands into the future.

2021 LAND SALE AUCTION SALE RESULTS

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PARCEL ID	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES +/-	MINIMUM BID	SALE PRICE
211-280-12	Beluga	Tract C, Block 4 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska	3.14	\$17,700.00	\$31,000.00
211-280-48	Beluga	Tract E, Block 8 of Three Mile Creek Subdivision Amended, according to the official plat thereof, filed under Plat Number 72-7, Anchorage Recording District, Third Judicial District, State of Alaska	3.3	\$18,200.00	\$39,000.00
025-440-21	North Nikiski	Lot 180, Moose Point Subdivision, according to Plat No. KN84-65, on file in the Kenai recording district, Third Judicial District, State of Alaska	6.8	\$19,200.00	\$51,000.00
013-216-01	Nikiski Wik Lake	Government Lot 4, Section 8, Township 7 North, Range 11 West, Seward Meridian, Alaska (Pending Record of Survey)	14	\$70,700.00	\$121,000.00
013-212-48	Nikiski Wik Lake	Government Lot 12, Section 5, Township 7 North, Range 11 West, Seward Meridian, Alaska. (Pending Record of Survey)	5.79	\$41,400.00	\$180,000.00
035-290-33	Hope	Lot 7 of Percy Hope Subdivision as shown on Plat No. 2010-8, Seward Recording District, State of Alaska	2.24	\$68,700.00	\$166,000.00
135-053-34	Caribou Island	Lot 4A of Block 4, Caribou Island Subdivision KPB 2020 Replat, as shown on Plat No. 2020-9, Seward Recording District, State of Alaska	1.23	\$7,500.00	\$18,000.00

Date: August 17, 2021
 To: KPB Assembly
 RE: 2021 Land Sale Report

119-071-05	Cooper Landing	Lot 16A of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska	0.98	\$80,000.00	\$105,000.00
119-070-06	Cooper Landing	Lot 17 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, SRD, AK	1.7	\$95,000.00	\$158,000.00
119-070-07	Cooper Landing	Lot 18 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska	1.83	\$95,000.00	\$156,000.00
119-070-08	Cooper Landing	Lot 19 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska	1.69	\$95,000.00	\$165,000.00
119-070-09	Cooper Landing	Lot 20 of US Survey 3306 in Section 28, Township 5 North, Range 3 West, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management on January 24, 1955, Seward Recording District, State of Alaska	1.54	\$95,000.00	\$167,000.00

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 RE: 2021 Land Sale Report

063-043-29	Sterling	The SW¼NW¼ of Section 3, Township 5 North, Range 9 West, situated in the Kenai Recording District, Seward Meridian, Alaska	40	\$220,800.00	No Sale: OTC
131-320-31	Soldotna	Lot 13, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska	0.9	\$22,000.00	No Sale: OTC
131-320-32	Soldotna	Lot 37, Journey's End Subdivision No. 4, according to the official plat thereof, fled under Plat Number 76-24, Kenai Recording District, Third Judicial District, State of Alaska	0.9	\$22,000.00	No Sale: OTC
055-072-76	Soldotna	Tract D, Kalifornsky Center Subdivision, as shown on Plat No. 2020-18, Kenai Recording District, Third Judicial District, State of Alaska	50.96	\$500,000.00	\$1,500,00.00
173-040-14	Homer	Government Lot 18, excepting therefrom Diamond Ridge Road, within Section 12, Township 6 South, Range 14 West, Seward Meridian, in the Homer Recording District, Third Judicial District, State of Alaska	2.05	\$15,000.00	\$41,000.00
179-080-03	Homer	Government Lot 7 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska	2.5	\$25,000.00	\$141,000.00
179-080-04	Homer	Government Lot 6 in Section 14, Township 6 South, Range 13 West, situated in the Homer Recording District, Seward Meridian, Alaska	2.5	\$25,000.00	\$186,000.00

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<i>Total Number</i>	<i>Total Number Sold</i>	<i>Number Available to go Over the Counter (Nov 15, 2021)</i>	<i>Total Acres</i>	<i>Total of Minimums</i>	<i>Total of Sale Amounts</i>
19	16	3	144.05 Acres	\$1,533,200	\$3,225,000