

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, October 25, 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.	<u>KPB-3660</u>	Carl F Ahlstrom Subdivision RPM's Replat Number 2
		KPB File 2021-054

Attachments: Carl F Ahlstrom Sub RPM's Replat Number 2

b. <u>KPB-3661</u> FBO Subdivision No. 10

KPB File 2020-064

Attachments: FBO Sub No 10

c. KPB-3662 Holland Spur Highway Subdivision 2020 Addition

KPB File 2020-064

Attachments: Holland Spur Highway Sub 2020 Addition

d. KPB-3671 Veil O Mist No. 18

KPB File 2020-017

Attachments: Veil O Mist No 18 2020-017

e. KPB-3670 Doser Subdivision Eicher 2020 Replat

KPB File 2020-137

Attachments: Doser Subdivision Eicher 2020 Replat 2020-137

4. Plats Granted Final Approval (KPB 20.10.040)

a.	<u>KPB-3663</u>	Hall Subdivision No. 8 Addition No. 2 2021 Replat KPB File 2020-066
	Attachments:	Hall Subdivision No 8 Addition No 4 2021 Replat 2021-066
b.	<u>KPB-3672</u>	Ar-Ness Subdivision 2021 Replat KPB File 2021-125
	Attachments:	Ar-Ness Subdivision 2021 Replat 2021-125
c.	<u>KPB-3673</u>	Nikiski Village Subdivision Strong Replat KPB File 2021-132
	Attachments:	Nikiski Village Subdivision Strong Replat 2021-132

- 5. Plat Amendment Request
- 6. Commissioner Excused Absences

Blair Martin, Kalifornsky

City of Seward, Vacant City of Soldotna, Vacant Northwest Borough, Vacant

7. Minutes

a.	<u>KPB-3667</u>	October 11, 2021 Planning Commission Meeting
	Attachments:	PC Minutes_101121_Draft
b.	<u>KPB-3668</u>	September 27, 2021 Planning Commission Minutes
	Attachments:	PC Minutes 092721 Draft

- D. OLD BUSINESS
- E. NEW BUSINESS

KPB-3664 PC Resolution 2021-33: An amendment to PC Resolution 2020-23 for

highway improvements between MP 56-58 of the Sterling Highway at

Fuller Creek.

Attachments: 1 Vicinity Map - Fuller Creek

2 Site Plans ADOT

3 Staff Report 12663 ADOT 4 PC RES 2021-33 ADOT

5 Application ADOT

6 Resolution 2020-23 ADOT

KPB-3665 PC Resolution 2021-32: To install a wooden utility pole with an

overhead transformer and underground electrical services on a parcel

within the 50-foot Habitat Protection District of Daniels Lake.

<u>Attachments:</u> 1 Vicinity Map - HEA

2 Site Plan - HEA 3 Staff Report HEA

4 PC RES 2021-32 HEA

5 Application HEA

6 Public Hearing Notice

KPB-3666 SN Resolution 2021-05: Renaming a certain right of way within

Township 05 South, Range 12 West, Section 27; Seward Meridian

within Emergency Service Number (ESN) 202 to Kavik Court.

Attachments: 1.Staff Report SN2021-05

2.Resolution SN2021-05

3.Basemap AR58 SN2021-05

4.Petition_SN2021-05

5.PLAT HM86-102

6.Vicinity & Aerial Map 2021-05

7. Public Hearing Notice 2021-05

F. PLAT COMMITTEE REPORT

G. OTHER

H. PUBLIC COMMENT/PRESENTATION

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

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I. DIRECTOR'S COMMENTS

<u>KPB-3674</u> Director's Report

Attachments: Director's Report 102521

J. COMMISSIONER COMMENTS

K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS NO ACTION REQUIRED

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

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

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.

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Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision:

Carl F Ahlstrom Subdivision RPM's Replat Number 2

KPB File 2021-054

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 October 7, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this __

by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 05-06-2023

STATE OF ALASKA JULIE HINDMAN NOTARY PUBLIC MY COMMISSION EXPIRES

05-06-2023



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

Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision:

FBO Subdivision No 10

KPB File 2021-037

Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 12, 2021. The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision again as the plat created two new parcels 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 October 7, 2021.

Scott A. Huff Platting Manager OFFICIAL SEAL NOTARY PUBLIC PEGGY CLEMENTS STATE OF ALASKA

State of Alaska

Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this _

day of October

2021

by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7-31-2021



Planning Department

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

Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision:

Holland Spur Highway Subdivision 2020 Addition

KPB File 2020-064

Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 10, 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 October 12, 2021.

Scott A. Huff Platting Manager OFFICIAL SEAL
NOTARY PUBLIC
PEGGY CLEMENTS
STATE OF ALASKA

State of Alaska

Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this _

Uctober

2021

by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7-3|-2022



Planning Department

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

Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision:

Veil O Mist No 18

KPB File 2020-017

Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 24, 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 October 19, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

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

Notary Public for the State of Alaska

My commission expires: 5/12/2?

State of Alaska
OTARY PUBLIC
Madeleine Quainton
Pentission Expires May 12, 2023



Planning Department

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

Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision:

Doser Subdivision Eicher 2020 Replat

KPB File 2020-137

Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 30, 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 October 18, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18 day of 00 to 00 202 by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5112123

State of Alaska NOTARY PUBLIC

Madeleine Quainton
My Commission Expires May 12, 2023



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

Charlie Pierce Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision:

Hall Subdivision No. 8 Addition No. 2 2021 Replat

KPB File 2020-066

Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on October 11, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this

by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7.31-202

OFFICIAL SEAL NOTARY PUBLIC PEGGY CLEMENTS STATE OF ALASKA



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

Charlie Pierce Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision:

Ar-Ness Subdivision 2021 Replat

KPB File 2021-125

Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on October 18, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

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

Notary Public for the State of Alaska

My commission expires: 5/12/23

State of Alaska NOTARY PUBLIC Madeleine Quainton My Commission Expires May 12, 2023

Charlie Pierce Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision:

Nikiski Village Subdivision Strong Replat

KPB File 2021-132

Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on October 18, 2021.

Scott A. Huff

Platting Manager

State of Alaska

Kenai Peninsula Borough

Notary Public for the State of Alaska

My commission expires: 5/12/2?

State of Alaska
NOTARY PUBLIC
Madeleine Quainton
My Commission Expires May 12, 2023

Kenai Peninsula Borough Planning Commission

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

October 11, 2021 7:30 P.M. UNAPPROVED MINUTES

CALL TO ORDER

Chair Martin called the meeting to order at 7:41 p.m. (Late start due to Plat Committee meeting running overtime)

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
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

With 7 members of an 11-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director Sean Kelly, Legal Representative Marcus Mueller, Land Management Officer Julie Hindman, Platting Specialist Ann Shirnberg, Planning Administrative Assistant Avery Harrison, Land Management Administrative Assistant

AGENDA ITEM B. ROLL CALL

- *3. Plat Granted Administrative Approval
 - a. Barnett's South Slope Subdivision Quiet Creek Park Unit 4; KPB File 2014-016P2
 - b. Carl F. Ahlstrom Subdivision RPM's Replat Number 2; KPB File 2021-054
 - c. FBO Subdivision No. 10; KPB File 2021-037
- *6 Commissioner Excused Absences
 - a. Davin Chesser, Northwest Borough
 - b. Vacant, City Seat

Chair Martin asked if anyone present wanted to speak to any of the items on the consent or regular agendas.

Ms. Shirnberg noted that Commissioner Chesser had informed her that he would not be able to attend tonight's meeting.

Hearing no one else wishing to comment, Chair Martin returned the discussion to the Commission.

MAIN MOTION: Commissioner Venuti moved, seconded by Commissioner Ecklund to approve the consent agenda and the regular agenda.

Mr. Huff recommend that the Right-of-Way Vacation training be postponed until the vacant & soon to be vacant seats on the Commission are filled.

AMENDMENT: Commissioner Ruffner moved, seconded by Commission Ecklund to remove the Right-of-Way Vacation training from the agenda.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1	
Yes	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gilli	ham, Martin, Morgan, Ruffner, Venuti
Absent	Ches	ser				

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

MAIN MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1	
Yes	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gilli	ham, Martin, Morgan, Ruffner, Venuti
Absent	Ches	ser				

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

AGENDA ITEM E. NEW BUSINESS

ITEM E1. – BUILDING SETBACK ENCROACHMENT PERMIT LOT 17 BLOCK 3A IRONS SUBDIVISION

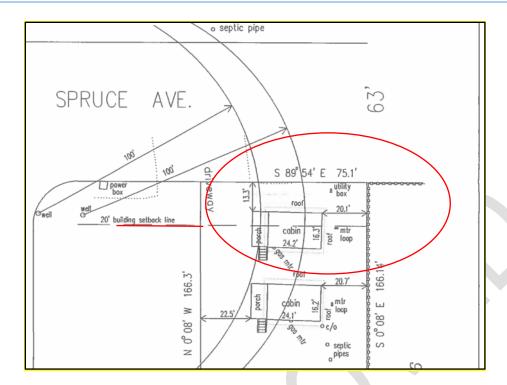
KPB File No.	2021-137
Planning Commission Meeting:	October 11, 2021
Applicant / Owner:	Kenneth Laing
Surveyor:	As-built completed by Johnson Surveying
General Location:	Ridgeway

Parent Parcel No.:	057-530-30
Legal Description:	Lot 17 Block 3A Irons Subdivision Portions of Block 3A, 9 and 10,
Legal Description.	KN 74-111
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Cabin on Lot 17 Block 3A is 7 feet into the setback.

<u>Site Investigation:</u> Per the as-built, a portion of a cabin is 6.7 feet within the 20 foot building setback adjoining Spruce Avenue E. The cabin is approximately 16 feet by 24 feet in size.



The lot is within the Irons Subdivision Portions of Block 3A, 9, and 10, Plat KN 74-111.

Lot 17 fronts Spruce Avenue E which is a constructed right of way maintained by the Kenai Peninsula Borough.

Staff obtained photos of the area and are included in the packet.

<u>Staff Analysis:</u> The lot is within the Irons Subdivision Portions of Block 3A, 9, and 10, Plat KN 74-111, and is located in the Ridgeway area. The lot is not within an Advisory Planning Commission boundary.

The building setback was in effect with the recording of Irons Subdivision Portions of Block 3A, 9, and 10, in 1974. The recording of the plat in 1974 predates the construction of the cabin on the lot. The application does not provide a reason or additional information about the structures. Per conversations with the petitioner and with a realtor, the encroachment was discovered when the as-built survey was prepared for the sale of the property.

The intersection of Spruce Avenue E and Forerunner Street is approximately 100 feet to the west of the cabin. The intersection of Spruce Avenue E and Irons Avenue is approximately 200 feet to the east of the cabin. The cabin is near to being parallel to the right of way allowing a straight line of sight along the structure.

Notice was mailed to 76 landowners within 600 feet of the subject lot.

A comment was received from Elizabeth Kane in objection to the permit request. Per her email, "My residence address is 44995 Spruce Ave, Soldotna, AK 99669. The petitioner had previous cleared the lot next to our property and we no longer have privacy. I do not agree with this permit request."

In addition to the petitioner owning Lot 17, which this application is for, he also owns Lot 18 Block 3A and Lots 8 and 9 Block 6 of Irons Subdivision, KN 1516. The comment received is from the owner of Lot 6 & 7 Block 6 of Irons Subdivision, KN 1516. Those lots are located west of Forerunner Street. These lots are shown on the vicinity map located in the packet and are labeled 6, 8, and 9. A 2021 image does show that Lots 8 and 9 have now been cleared. The comment made does has to do with the clearing of Lots 8 and 9 and does not directly relate to the encroachment issue located on Lot 17.

Findings:

- 1. The 20 foot building setback was created by Irons Subdivision Portions of Block 3A, 9, and 10, Plat KN 74-111.
- 2. The cabin is 6.7 feet within the building setback.
- 3. The road is constructed and maintained by the KPB Roads Department.
- 4. The area between the cabin and the right of way appears to be cleared.
- 5. It does not appear the cabin creates an issue with line of sight.
- 6. Spruce Avenue E is a straight road.
- 7. Forerunner Street is 100 feet to the west of the cabin.
- 8. Irons Avenue is 200 feet to the east of the cabin.
- 9. Spruce Avenue E. is posted at 25 miles per hour.
- 10. Spruce Avenue E. is a residential neighborhood.
- 11. Utilities have been placed in the Spruce Avenue E. right of way with pedestals located on Lot 17 and Lot 18.

20.10.110. - Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications:
 - 1. The building setback encroachment may not interfere with road maintenance.

Findings 3, 5-9, 11 appear to support this standard.

- 2. The building setback encroachment may not interfere with sight lines or distances. Findings 3, 5-9, 11 appear to support this standard.
- 3. The building setback encroachment may not create a safety hazard. Findings 3, 5-9, 11 appear to support this standard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept.	
Code Compliance	Eric Ogren - No comment

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2021-31, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

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

Mr. Huff then noted that two comments from the public had been received, one in opposition and one in

support of the building set encroachment permit.

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 Ruffner moved, seconded by Commission Venuti to adopt PC Resolution 2021-31 granting a building setback encroachment permit for Lot 17, Block 3A, Irons Subdivision portions of Block 3A, 9 & 10 (Plat KN 74-11).

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1	
Yes	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gilli	nam, Martin, Morgan, Ruffner, Venuti
Absent	Ches	ser				

ITEM E2 - ORDINANCE 2021-36

An ordinance adopting amendments to the "Comprehensive Plan: Moose Pass, February 1993" an element of the Kenai Peninsula Borough Comprehensive Plan regarding municipal entitlement land know as Kenai Area Plan Unit 380G(1).

Staff report by Aaron Hughes.

The borough has selected lands in the Moose Pass area through the State of Alaska Municipal Entitlement Program under AS 29.65. Approximately 40 acres of these selected lands referred to as Kenai Area Plan Unit380G(1) ("Unit 380G(1)"), were conditionally approved through a Final Finding and Decision (FFD) dated February 24, 2015. This FFD required specific conditions satisfied prior to the lands being conveyed from the state to the borough.

The initial deadline identified in the FFD to satisfy said conditions was February 24, 2020. At the request of Land Management, that deadline has been extended to February 24, 2022.

Conditional approval under the FFD requires that the borough make amendments to the Moose Pass Comprehensive Plan to address specific concerns only as they relate to Unit 380G(1) lands, including management and future use of these selected lands.

The proposed plan amendments were drafted and sent to the state for approval. The state after their review responded with feedback, final changes were made, and preliminary approval was received.

Mr. Hughes noted the Moose Pass Advisory Planning Commission met on October 7, 2021 to review this amendment and unanimously recommended approval of the plan amendment.

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.

MAIN MOTION: Commissioner Morgan moved, seconded by Commissioner Ruffner to forward to the Assembly a recommendation to adopt Ordinance 2021-36.

Commissioner Ecklund asked staff if there were minutes from the Moose Pass APC meeting. Mr. Hughes replied he had attended the APC meeting on October 7, 2021 via Zoom where the plan amendment was unanimously approved but the APC had not yet submitted the minutes from the meeting.

Commission Bentz then asked if the commission would need to approve the amendments that were submitted in the 10-11-21 Assembly memo as well as the ordinance. Mr. Hughes replied yes, the commission would need to recommend approval for the new amendments.

AMENDMENT MOTON: Commissioner Bentz moved, seconded by Commissioner Ecklund to amend the 3rd whereas clause and update it to <u>5 Tracts of Land</u> & <u>80 acres</u> and amend Section 1 to include <u>Plan Entitled</u> Comprehensive Plan and to add the date of <u>October 2021</u>.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1		
Yes	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gill	ham, Martin, Morgan, Ruffner, Venuti	

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

MAIN MOTION PASSED BY UNANIMOUS VOTE:

Υ	es	9	No	0	Absent	1	
Υ	es	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gill	ham, Martin, Morgan, Ruffner, Venuti

ITEM E3 – ORDINANCE 2021-19-20

An ordinance authorizing the acquisition of real property located at 203 West Pioneer Avenue, Homer Alaska on behalf of South Peninsula Hospital, appropriating \$975,000.00 from the South Peninsula Hospital Plant Replacement & Expansion Fund for the purchase, and authorizing an amendment to the SPH, Inc. Operating Agreement.

Staff report given by Aaron Hughes.

Property currently leased to the Kenai Peninsula Borough ("Borough") on behalf of the South Peninsula Hospital (SPH) located at 203 West Pioneer Avenue, Homer, Alaska has become available for purchase. Acquiring the property would support the South Peninsula Hospital operations by securing an important leased facility through Borough ownership.

The property is currently located in the City of Homer's Central Business District, which provides for this specific use.

The proposed purchase price is \$955,000.00, which is the independently appraised fair market value. Prior to completing the purchase, the property would be inspected for structural and environmental conditions. The purchase agreement provides up to 180 days to close and the Borough is responsible for all buyer related closing costs.

The ordinance would authorize the purchase of the property and appropriate \$975,000.00 from the SPH Plant Replacement and Expansion Fund to cover the costs associated with the purchase. This ordinance also provides for a second amendment to the SPH Operating Agreement to add this property to the list of property leased to SPH, Inc. under the operating agreement.

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 Venuti moved, seconded by Commissioner Ruffner to forward to the Assembly a recommendation to adopt Ordinance 2021-19-20.

Commissioner Venuti stated he is a Homer resident and understand how important local medical facilities are. He believe that SPH does a great job and that this purchase is a move in the right direction.

Commissioner Ecklund asked staff if SPH had all the funds available in the SPH Plant Replacement & Expansion fund for this purchase or would SPH be paying this off using future revenues. Mr. Hughes replied Land Management's due diligence process is to circulate a form call Real Property Need Questionnaire. This questionnaire goes through the Finance Department for review and they determined there were funds available for this acquisition.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1	
Yes	Bentz	, Brantle	ey, Eck	lund, Fike	s, Gilli	ham, Martin, Morgan, Ruffner, Venuti

ITEM E4 - ORDINANCE 2021-19-17

An ordinance authorizing retention or sale of certain real property obtained by the Kenai Peninsula Borough through tax foreclosure proceedings and appropriating funds to satisfy tax obligations for retained parcels.

Staff report given by Aaron Hughes.

Pursuant to AS 29.45.290 et. seq. and KPB 17.10.100(A), regarding tax foreclosure proceedings, the borough has received Clerk's Deeds for the real property listed in the subject ordinance. Pursuant to AS 29.45.460(c), notice of the sale is sent to the last owner(s) of record by certified mail within five days of the first publication of the notice of hearing of the ordinance.

A preliminary list of parcels proposed for the 2021 auction was sent for review and comment to the Kenai Peninsula School District, all borough administrative departments, cities, and KPB service areas. The ordinance will authorize those parcels shown on Exhibit B to be sold at public auction and authorize those parcels listed in Exhibit A to be retained for a public purpose with a classification recommendation. The number of parcels to be sold or retained is subject to change prior to sale should delinquent tax obligations be paid.

The tax foreclosure live and/or online auction is scheduled for December 4, 2021 at the Soldotna High School Auditorium. If approved, this ordinance would also appropriate \$6,921.64 to satisfy tax obligations for parcels retained for a public purpose.

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 Ruffner moved, seconded by Commissioner Venuti to forward to the Assembly a recommendation to adopt Ordinance 2021-19-17.

Commissioner Ruffner noted that many of the parcels being retained by the borough are in areas that would be considered wet. He asked staff what is the proposed land classification for those parcel. Mr. Hughes replied that for many of those parcel the proposed land classification is Preservation.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	9	No	0	Absent	1				
Yes	Bentz	z. Brantle	ev. Ecł	dund, Fike	s. Gill	am, Martin,	Morgan.	Ruffner,	Venuti

AGENDA ITEM I. DIRECTOR'S COMMENTS

Director Aeschliman brought up that fact that the commission is looking at having potentially three vacant seats. Staff is working on getting these seats advertised and filled as soon as possible. She wanted the

commission to be aware of this and how these vacant seats could affect having a quorum. She noted that possible if it becomes difficult to seat a plat committee, the commission might need to consider moving plat reviews to Planning Commission meetings. Director Aeschliman also let the commission know that she had received several complaints from the public regarding not having all Planning Commission members meeting in-person.

The general response from the commission was that they all appreciated having the option to attend meetings via Zoom. It was also noted that being able to attend via Zoom is a cost saving for the borough. Several commissioners felt that deliberations were more effective in person. It was also noted that overtime the commission had become better at managing meeting through Zoom.

Chair Martin informed the commission that he would not going to be available to attend at the October 25, 2021 meeting.

AGENDA ITEM J. COMMISSIONER COMMENTS

This was Commissioner Ecklund last Planning Commission meeting due to being elected to the Borough Assembly and many commissioners expressed their thanks for her expertise and many years of service to the commission.

AGENDA ITEM M. ADJOURNMENT – Commissioner Ruffner moved to adjourn the meeting at 8:20 p.m.

Ann E. Shirnberg Administrative Assistant

Kenai Peninsula Borough **Planning Commission**

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

September 27, 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 Jeremy Brantley, Sterling Diane Fikes, City of Kenai Pamela Gillham, Ridgeway Blair Martin, Kalifornsky Beach Virginia Morgan, East Peninsula Robert Ruffner, Kasilof/Clam Gulch Franco Venuti, City of Homer

With 7 members of an 11-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director Sean Kelly, Legal Representative Marcus Mueller, Land Management Officer Julie Hindman, Platting Specialist Ann Shirnberg, Planning Administrative Assistant Avery Harrison, Land Management Administrative Assistant

AGENDA ITEM B. ROLL CALL

- *3. Plat Granted Administrative Approval
 - Beaver Dam Estates Part Seven; KPB File 2021-025R1
 - b. FBO Subdivision No. 11; KPB File 2021-076
 - c. Marimac Subdivision Eischens Addition; KPB File 2021-044
 - Pipers Haven 2021 Replat; KPB File 2021-074
- Commissioner Excused Absences
 - Syverine Bentz, Anchor Point/ Ninilchik
 - b. Davin Chesser, Northwest Borough
 - c. Cindy Ecklund, City of Seward
 - d. Vacant, City Seat
- *7 Minutes
 - a. September 13, 2021 Planning Commission Meeting Minutes

Chair Martin asked if anyone present wanted to speak to any of the items on the consent or regular agendas.

Ms. Shirnberg noted that Commissioners Bentz, Chesser & Ecklund had contacted her and informed her that they would not be able to attend tonight's meeting.

Hearing no one else wishing to comment, Chair Martin returned the discussion to the Commission.

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	3			
Yes	Brant	Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
Absent	Bentz	Bentz, Chesser, Ecklund						

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

AGENDA ITEM E. NEW BUSINESS

AGENDA ITEM E.

Applicant / Owner:

ITEM 1 - UTILITY EASEMENT ALTERATION EDGINGTON SUBDIVISION NO. 2 (KN 79-195) LOTS 3 AND 4

KPB File No. 2021-129V1
Planning Commission Meeting: September 27, 2021

Jessica Seymour, Paul Kelly, Guy and Colleen Sherman, all of

Soldotna, Alaska

Surveyor: Jason Young, Mark Aimonetti / Edge Survey and Design, LLC

General Location: Sterling

Staff report given by Scott Huff.

<u>Specific Request / Purpose as stated in the petition:</u> None was stated. A preliminary plat to adjust the shared lot line the easement is centered on has been submitted.

Notification: Notice of vacation mailings were sent by regular mail to 34 owners of property within 600 feet. Notice of the proposed vacation was emailed to Borough agencies and interested parties.

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

<u>Staff Analysis:</u> The petition requests to vacate the entire utility easement that is on the common boundary between Lot 3 and Lot 4. It does not appear that any utility lines are currently located within the easement.

The petition was accompanied with a petition to vacate a portion of Fannie Mae Avenue and a preliminary subdivision plat. The preliminary plat will adjust the lot line between Lot 3 and 4 as well as finalize both the utility and right of way vacations.

The right of way vacation is scheduled to be heard by the Planning Commission on the September 27, 2021 meeting. The preliminary plat is scheduled to be heard by the Plat Committee at the September 27, 2021 meeting.

Edgington Subdivision No. 2, Plat KN 79-195 created the current lot configuration for lots 3 and 4 and the

owners at that time granted the utility easements. That plat granted a 5 foot utility easement along the straight portion of Midway Drive, now named Fannie Mae Avenue, within Lot 3. In addition, a 20 foot utility easement centered on the shared lot line for lots 3 and 4 was granted. Each lot has a 10 foot wide utility easement that is approximately 225 feet long.

The right of way vacation is proposing to vacate the bulb portion of Fannie Mae Avenue only and to grant that area as a utility easement. The plat will also be granting additional utility easements along Fannie Mae Avenue. The additional easements will provide full 15 foot wide utility easements abutting the dedicated right of way. The plat will also be granting a 20 foot electric distribution line easement and a 15 foot gas distribution line easement each centered on existing services.

The petition did not state the reason for the vacation request. Looking at KPB GIS Imagery, a structure on Lot 4 appears to be very close to the lot line if not crossing and within the utility easement. The preliminary plat will be adjusting a portion of the shared lot line by moving it to the east 25 feet. Leaving the utility easement in place will create a 20 foot utility easement running through a portion of proposed Lot 4A and may create a possible encroachment.

No objections were received from the utility providers.

Utility provider review:

HEA	Approved as shown
ENSTAR	Approved as shown
ACS	No objections
GCI	Approved as shown

Findings:

- 1. The petition states the easement is not in use by any utility companies.
- 2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
- 3. The Roads Service Area had no comment.
- 4. Edgington Subdivision No. 2, Plat KN 79-195, granted a 20 foot wide utility easement approximately 225 feet long on the shared lot line of lots 3 and 4.
- 5. Additional easements are proposed to be granted over existing services by platting action.
- 6. A 15 foot utility easement will be granted along the dedicated right of way, Fannie Mae Avenue.
- 7. The area of the cul-de-sac bulb right of way proposed for vacation will be granted as utility easement by platting action.
- 8. No surrounding properties will be denied utilities.
- 9. The property is located on Longmere Lake.
- 10. The utility easement runs along the lot line towards Longmere Lake.

RECOMMENDATION:

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

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

20.65.070 Alteration of platted utility easements

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

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

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

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

END OF STAFF REPORT

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 Venuti moved, seconded by Commissioner Fikes 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	7	No	0	Absent	3		
Yes	Brant	Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti					
Absent	Bentz, Chesser, Ecklund						

AGENDA ITEM E.

ITEM 2 - RIGHT OF WAY VACATION VACATE A PORTION OF FANNIE MAE AVENUE

KPB File No. 2021-129V

Planning Commission Meeting: September 27, 2021

Applicant / Owner: Jessica Seymour, Paul Kelly, Guy F. Sherman, and Colleen M.

Sherman all of Soldotna, Alaska

Surveyor: Jason Young, Mark Aimonetti / Edge Survey and Design, LLC

General Location: Sterling

Legal Description: Cul-de-sac portion of Fannie Mae Avenue / Edgington Subdivision

No. 2, Plat KN 79-195 / Section 30 Township 5 North Range 9

West S.M.

Staff report given by Scott Huff.

<u>Specific Request / Purpose as stated in the petition:</u> None stated. A preliminary plat has been submitted that depicts a shift in the shared lot line, the vacation of a utility easement on the shared boundary, and the vacation of the bulb portion of Fannie Mae Avenue.

Notification: Public notice appeared in the September 16, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the September 23, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

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

14 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 0 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 22 owners within 600 feet of the proposed vacation.

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

State of Alaska Dept. of Fish & Game Alaska Communication Systems (ACS)

State of Alaska DNR Enstar Natural Gas

State of Alaska DNR Forestry

State of Alaska DOT

General Communication Inc. (GCI)

Homer Electric Association (HEA)

Central Emergency Services

<u>Legal Access (existing and proposed):</u> The proposed vacation is located at the west end of Fannie Mae Avenue and adjoins Lots 3 and 4 of Edgington Subdivision No. 2, Plat KN 79-195. Access to this location is from milepost 88 of the Sterling Highway to St. Theresa Road to Edgington Road Fannie Mae Avenue.

Fannie Mae Avenue constructed and maintained by the Kenai Peninsula Borough.

Lots 3 and 4 front Longmere Lake on their west boundary, which provides water access and is commonly used by floatplanes.

The petition wishes to vacate only the bulb portion of Fannie Mae Avenue with a full 60 foot width right of way to remain. Fannie Mae Avenue was granted by Edgington Subdivision No. 2, Plat KN 79-195.

The block is not closed nor compliant in length due to the location of Longmere Lake. The proposed vacation does not affect the block, as it is only a portion of a bulb and the 60 foot wide right of ways will remain.

KPB Roads Dept. comments	Within jurisdiction, no comments
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SOA DOT comments	No comments.

<u>Site Investigation:</u> There does not appear to be any low wet areas within the lots or the proposed vacation area. Steep terrain does not affect the area requested to be vacated. It does not appear that the area to be vacated is needed or required for slope or maintenance easements.

Floodplain Hazard Review	Reviewer: Carver, Nancy		
·	Floodplain Status: Not within flood hazard area		
	Comments: No comments		
Anadromous Waters Habitat	Reviewer: Aldridge, Morgan		
Protection District Review	Habitat Protection District Status: Is NOT within HPD		
	Comments: No comments		
State Parks Review	Reviewer: Russell, Pam		
	Comments:		
	No Comments		

<u>Staff Analysis:</u> The subdivision Edgington Subdivision No. 2, Plat KN 79-195, dedicated a 30 foot width for Fannie Mae Avenue as well as a 50 foot radius partial bulb. The bulb is located on the northern side of the intersection with Hager Boulevard. The 30 foot dedication created a full 60 foot wide right of way as Sleepy Hollow Subdivision, Plat KN 78-79, dedicated the southern 30 foot width of the right of way.

The constructed roadways do not appear to be within the bulb portion proposed for vacation. Edgington Subdivision No. 2 was heard and approved at the September 24, 1979 plat committee meeting. The minutes from the September 24, 1979 meeting do not include any discussion or notes regarding the bulb dedication. It was not dedicated with the intent of a closed cul-de-sac as the right of way dedications already existed to the south.

The proposed lot line reconfiguration will increase the right of way frontage for Lot 4 by 23 feet (45 feet to 68 feet) and decrease the frontage for Lot 3 by 43 feet (285 feet to 242 feet).

There does not appear to be steep slopes along the right of way that would need that portion for slope or maintenance easements.

Lot 3 and 4 have existing constructed access. Having driveways access on an intersection is not ideal. The access is on the outside of the intersection providing a better line of sight. The vacation of the right of way will not change current access to their property.

A preliminary plat has been submitted to be heard by the Plat Committee on September 27, 2021. It appears that a structure is within the utility easement along the shared lot line and possibly across the property line. The preliminary plat is proposing to shift a portion of the shared lot line approximately 25 feet to the northeast. The lot line adjustment should resolve the encroachment issue if it exists or at least provide a buffer between the structure and the neighboring lot.

A petition to alter a platted utility easement has been submitted and is scheduled for hearing at the September 27, 2021 Planning Commission meeting. The easement to be vacated is the 20 foot easement along the shared lot line of lots 3 and 4 of Edgington Subdivision No. 2.

The preliminary plat states in plat note 2 the intent to dedicate additional utility easements along the dedicated right of ways to provide 15 foot easements. Plat note 9 as well as a label on the plat indicate the intent to grant a utility easement in place of the right of way vacation. Additional easements are proposed over existing service lines.

Neighboring lands will not be denied access nor utilities if the vacation is approved.

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:

- The right-of-way or public easement to be vacated is being used;
 Staff comments: While Fannie Mae Avenue is constructed and maintained, it appears that the bulb area is not being used by the public for access.
- A road is impossible or impractical to construct, and alternative access has been provided;
 Staff comments: The bulb portion of the right of way is able to be constructed. Fannie Mae Avenue and Hager Boulevard are full width dedicated right of ways with constructed roads maintained by the borough.
- 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
 - **Staff comments:** The area is developed with dedicated right of ways to all private lands.
- 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 portion to be vacated does not provide public access to a lake, river or other area with public interest or value.
- The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
 Staff comments: Right of ways have been dedicated to provide connectivity to adjacent parcels.
- 6. Other public access, other than general road use, exist or are feasible for the right-of-way; **Staff comments:** The bulb area is not generally used for other public access.
- 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 preliminary plat is proposing to grant easements atop existing services as well as full 15 feet along the dedicated right of way. The right of way to be vacated is proposed to be granted as a utility easement.
- 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

Staff comments:

If approved, Edgington Subdivision Sherman Addition will finalize the proposed right of way vacation. The Plat Committee is scheduled to review the preliminary plat on September 27, 2021.

Approval of the vacation is required to receive consent by the Kenai Peninsula Borough Assembly within 30 days. The vacation, if approved, will be scheduled for the October 12, 2021 Assembly meeting.

KPB department / agency review:

tti B dopartinonti agono y toviow	
Planner	
Code Compliance	Reviewer: Ogren, Eric
·	Comments: No comments
Addressing	Reviewer: Robinson, Celina
_	Affected Addresses:
	39084 FANNIE MAE AVE

	35495 HAGER BLVD
	Existing Street Names are Correct: Yes
	List of Correct Street Names: FANNIE MAE AVE HAGER BLVD
	Comments: 39084 FANNIE MAE AVE will remain on LOT 3A 35495 HAGER BLVD should be changed to FANNIE MAE AVE address due to shared driveway with 39084 FANNIE MAE AVE
Assessing	Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.
Advisory Planning Commission	

Utility provider review:

HEA		
ENSTAR	No comments or objections.	
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:

- Consent by KPB Assembly.
- 4. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
- 5. Grant utility easements requested by the utility providers.
- 6. 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
 - Objective A Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.
 - Strategy 1. Near Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.
 - Strategy 2. Near Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.
 - Strategy 3. Near Term: Identify potential utility routes on Borough lands.
- Housing
 - Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.
 - Strategy 1. Near Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.

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

- Focus Area: Transportation
 - 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

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 Fikes 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:

es	7 No	0	Absent	3
		Cilli		in M
'es	Brantley, Fike	es, Giiii	iam, iviam	m, ivi
Absent	Bentz, Chess	er. Ec	klund	

AGENDA ITEM E. NEW BUSINESS

ITEM 3. - BUILDING SETBACK ENCROACHMENT PERMIT LOT 1 BLOCK 5 KENAI RIVER KEYS AMENDED

KPB File No.	2021-131
Planning Commission Meeting:	September 27, 2021
Applicant / Owner:	Conatser Family Trust
Surveyor:	As-built completed by Swan Surveying
General Location:	Sterling

Parent Parcel No.:	065-280-01		
Legal Description:	Lot 1 Block 5 Kenai River Keys Amended, KN 92-44		
Assessing Use:	Residential		
Zoning:	Rural Unrestricted		

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Owner is selling house and the title company needs a waiver on the corner of the house being in the 20 foot building set back. Melissa Daugherty, our realtor, talked to Michael Swan of Swan Surveying and he gave permission to use the attached as built survey dated 8/23/21, in this permit application.

We purchased the property from the man that built it in the early 1970s. Cash sale, no as-built, therefore, no knowledge of the 20' setback.

<u>Site Investigation:</u> Per the as-built a corner of the house is up to 1.9 feet within the 20 foot building setback adjoining Chinook Run Drive private road easement. Also depicted on the as-built drawing is an apromitatly 16 x 10 shed with a covered portion that is nearly entirely within the 20 foot building setback adjoining Sockeye Lane private road easement.

The lot is within the Kenai Keys Subdivision. The property is located on the corner of Chinook Run and Sockeye Lane. These roads are constructed and located within the private road easements. Jurisdiction of the roadways is with the homeowners association. Per the parent plat "The road easements may be dedicated to public use if the majority of the lot owners so desire, this can be done by only the majority of the lot owners." The property lines extend to the center of the road easement but 20 foot building setbacks adjoin the roadway easements.

Photos were submitted of the house. The encroachments do not appear to create any line of sight issues for the traffic in this area.

<u>Staff Analysis:</u> The lot is within Kenai River Keys Subdivision Amended (KN 92-44) and is located on the Kenai River in the Sterling area. The subdivision is not within an Advisory Planning Commission boundary.

The building setbacks were put in place with the recording of the original plat (KN 72-62) in 1972. Per KPB Assessing records, the first structure was constructed in 1977. Per KPB Assessing records, all structures in place on the subject property were constructed after the setback was created.

Photos were submitted of the building but no photos were submitted of the shed. The foundation type of the shed is not known. The covered portion attached to the shed is difficult to detect within the 2014 aerial map. The 2021 image does show that there is a significant area covered that is attached to the shed.

Per aerial imagery, the encroaching structures do not create an issue with sight distances. The shed is located along a straight stretch and the house does not appear to create a sight obstruction.

Notice was sent to 84 landowners within 600 feet of the subject lot. New owners have acquired the property and they have notified us their desire to proceed with the application.

Findings:

- 1. The applicant purchased the property in 2012.
- The house was constructed in 1977.
- 3. The 20 foot building setbacks are from the edge of private road easements.

- 4. The setbacks were created by plat KN 72-62, which was later amended as KN 92-44.
- 5. The house is 1.9 feet into the setback.
- 6. The shed is almost entirely within the setback.
- 7. Trees are between the buildings and the roadway.
- 8. It does not appear the structures create a line of sight issue.
- 9. The roads are under private jurisdiction.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications:
 - 1. The building setback encroachment may not interfere with road maintenance. Findings 2, 7, 8, 9 appear to support this standard.
 - 2. The building setback encroachment may not interfere with sight lines or distances. Findings 2, 7, 8, 9 appear to support this standard.
 - 3. The building setback encroachment may not create a safety hazard. Findings 2, 7, 8, 9 appear to support this standard.
- F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.
- G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

IN D department / agency review.				
KPB Roads Dept. comments	Out of Jurisdiction: No			
	Roads Director: Painter, Jed			
	Comments: No comments			
Planner				
Code Compliance	Reviewer: Ogren, Eric			
	Comments: No comments			
Addressing	Reviewer: Haws, Derek			
	Affected Addresses:			
	34595 SOCKEYE LN			
	Existing Street Names are Correct: Yes			
	List of Correct Street Names:			
	SOCKEYE LN			
	CHINOOK RUN DR			
	Comments:			
	34595 SOCKEYE LN will remain with LOT 1			
Assessing	Reviewer: Bruns, Matthew			
	Comments: No concerns from Assessing Dept.			

Utility provider review:

HEA	
ENSTAR	

ACS	
GCI	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** <u>APPROVAL</u> and to adopt Resolution 2021-30, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

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

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

<u>Frank Turpin:</u> Mr. Turpin is the head of the HOA and spoke in favor of granting this building setback encroachment permit.

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 Fikes to adopt PC Resolution 2021-30 granting a building setback encroachment permit for Lot 1, Block 5, Kenai River Keys Subdivision Amended (Plat KN 92-44)

Commissioner Fikes noted that the aerial view map in the packet does appear to show more items within the setback than are listed in the staff report. Mr. Huff replied that the parcel lines on the aerial view are off and that the applicant submitted an as-built showing the location of the items within the setback.

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

MOTION PASSED BY UNANIMOUS VOTE:

AGENDA ITEM E

ITEM 4 - Proposed Classification of Certain Borough Land Pursuant to KPB Code of Ordinances, Chapter 17.10.080.

Staff report given by Marcus Mueller.

KPB Land Management proposes to classify certain parcels of borough owned land.

Basis for Classification: Subject parcels are being considered for future management decisions including disposal or lease. Classification provides guidance for the management of borough land. KPB land must be classified prior to disposal or leasing pursuant to KPB Code of Ordinances, Chapter 17.10.090.

Assessor's Parcel #	General Location	Legal Description	Acres	Proposed Classification	Current Zoning
169-050-71	Anchor Point	That portion of S1/2 NE1/4 as per WE Book 143, Page 830 Homer Recording District, Excluding that portion as per Commissioners OCD Book 194, Page 990, T5S, R15W, S.M.	14.43	Waste Handling Institutional Residential Utility Transportation	Rural
169-050-67	Anchor Point	That portion of S1/2 NE1/4 as per QCD Book 194, Page 985 Homer Recording District, T5S, R15W, S.M.	1.49	Waste Handling Institutional Residential Utility Transportation	Rural

Public Notice: Public notice was published in the Homer News, August 26, 2021, and September 3, 2021 and the Peninsula Clarion, August 31, 2021 and September 2, 2021. Public notice was sent to all land owners and/or leaseholders within a one-half mile radius of the land proposed to be classified, applicable agencies, and interested parties. Written public comments were requested to be returned by 5:00 p.m., September 14, 2021.

Overview: Subject properties are adjoining each other totaling approximately 16 acres. The parcels are located in Anchor Point bounded on the east by the Old Sterling Highway, north by School Ave, West by Birch Street, and South by Spinaker Ave and a private parcel. The property was acquired from the State of Alaska Department of Transportation and was formerly used as a materials site. Part of the property is currently used as the Anchor Point Solid Waste Transfer Facility which is accessed from the Old Sterling Highway. The Anchor Point Food Pantry has submitted an application for a negotiated lease of a portion of the property.

Findings of Fact:

- 1. Property Status: Borough received title by Commissioner's Quitclaim Deed through a land exchange authorized by Ordinance 2001-23 in accordance with a Memorandum of Agreement dated April 30, 2002. The memorandum of agreement references a public water well in the Northwest Corner of the Parcel with associated setbacks. WELTS ID 7497 and 7594 has been researched by the KPB Environmental Compliance Manager to determine the current well status. The wells have been identified as test wells that are not in use and can be decommissioned. The east side of the parcel is used the Anchor Point Solid Waste Transfer Facility, accessed from the Old Sterling Highway. The remainder of the property is vacant, serving partly as buffer to the solid waste activity. KPB receives occasional community-member complaints about trespass, squatting, and dumping on the parcel. This parcel is currently not classified (undesignated).
- 2. Zoning: Rural District pursuant to KPB21.04.010(B).
- 3. <u>Topography:</u> Parcel topography is shaped by prior material site uses, which includes various berms and depressions and areas without topsoil or having low vegetation. Some areas on the parcel are relatively flat and are forested. Water table appears to be about 10 feet below original ground elevation. Parcel is within the Anchor River Watershed.
- 4. <u>Soil</u>: The parent soil type on the parcel is Whitsol Silt Loam 0-4 percent slopes, which is a well-drained soil underlain by gravelly course sand found on till plains.

Source Data: Web Soil Survey, provided by the U.S.D.A. Natural Resources Conservation Service, Available online at the following link: https://websoilsurvey.sc.egov.usda.gov/. Accessed [Aug 31, 2021]. (Note: Soil information is not site-specific and does not eliminate the need for onsite testing and sampling).

- 5. <u>Surrounding Land Use</u>: No comprehensive land use plan has been developed for this area. Jacque Street is the nearest platted, undeveloped road located to the South of the both subject parcels. Surrounding land use includes residential single-family homes, commercial business, school, church, and light industrial development. Subject parcel is large for the area and is unplatted. Street Right-of-way dedications to match existing streets will be required if the property becomes platted.
- 6. <u>Surrounding Land Ownership</u>: Surrounding land is primarily in private ownership with a borough owned school parcel across School Ave to the northeast.
- 7. <u>Access</u>: Parcels are accessible from several location including frontage along School Avenue, Birch Street and Spinaker Avenue and a point of access along the Old Sterling Highway which is the location of the entrance to the Solid Waste Transfer Facility.
- 8. Utilities: Gas, electric and water utilities are in the area.
- 9. <u>Public Comment</u>: One public comment was received expressing concern in future development of these parcels, potential impacts on residents, wildlife and the atmosphere the area provides. Requested properties be retained in a preserved status.
- 10. <u>Advisory Planning Commission Review</u>: The Anchor Point Advisory Planning Commission held a public hearing on September 9, 2021 and defeated a motion to recommend approval of the land classification as proposed by a vote of 2 yes and 4 no.
- 11. <u>Department / Agency Comments</u>: No Comment or Non Objection to the plan of classification was received from the Kenai Peninsula School District, Western Emergency Service Area, Office of Emergency Management, the KPB Road Service Area, and the Kenai River Center.

Analysis:

This a large parcel of land with significant vacant areas. Some areas of the surface appear to be undisturbed from historic gravel pit excavations and some areas would become more useful with recontouring the surface. A water table may be encountered at approximately 10-feet below original grade. The parcel is centrally located on the southern side of downtown Anchor Point and would have many potential uses based on the location and qualities of the land. The Solid Waste Transfer Site uses are well established and the KPB Solid Waste intends to continue to operate the Anchor Point Solid Waste Transfer facility at the current location.

A plan of classification has been prepared by Land Management staff with considerations given to future right of way dedications, the solid waste transfer facility uses, residential use potential along birch street, and community type institutional uses such as the Anchor Point Food Pantry proposal.

The plan of classification includes a Transportation/Utility Classification for areas that would become dedicated to road right-of-way for School Avenue, Birch Street and Spinaker Ave. A 60' wide area is shown along Spinaker to provide connectivity options along the south side of the parcel.

The plan of classification includes a Waste Handling classification for any area that contains the Solid Waste Transfer site footprint, including its access, and surrounding land that provides an immediate buffer to the Solid Waste facility uses and contains space that may become useful for other purposes. Included in this classification is a strip of land to Spinaker Avenue to maintain access connectivity options for future design and uses. The area of land proposed for Waste Handling Classification is approximately 9.81 Acres

The birch street frontage is wooded and has newly developed ½ acre residential lots across the street. The lots are served by a public water system. The plan of classification includes a Residential Classification along Birch Street. A strip of land as 130 feet wide is shown for a total of 1.53 Acres. This would provide for up to three lots that could be subdivided and offered in a general land sale. Without specific zoning the actual use of the land would not be restricted by regulation, meaning that use of the

land other than residential would be lawful. This classification would prompt Land Management to prepare the land for sale, but would not create a land use regulation if the land were sold.

The plan of classification includes an Institutional Classification in the west-center of the parcel, fronting School Avenue and Spinaker Ave. The area shown is approximately 300 feet-wide and includes about 3.52 acres. The location and area could be useful for community type uses fitting with the land classification. If the land were classified as institutional, the borough could consider Anchor Point Food Pantry's proposal to lease the area.

Conclusions:

This parcel contains land that is important for right-of-ways and KPB solid waste operations. The parcel contains additional land that is available for the borough to consider options such as making land available for sale or lease. Adopting land classifications will guide the management actions by KPB.

Land Classification Plan 16.2 Acres in Anchor Point, Alaska Kenai Peninsula Borough Land Management Division





END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Melissa Martin, Anchor Point Food Pantry President; P.O. Box 266, Anchor Point, AK 99556: Ms. Martin stated that she supports land classification of industrial for these parcels. She then shared a brief history of the Anchor Point Food Pantry. She noted the parcel that the Food Pantry is interested in is surrounded by a residential area. However, the parcel is large enough to provide a nice barrier of trees between them and their neighbors. Currently the food pantry is serving between 60-80 families per week and they have over 220 names on their list. She noted that over the last year there has been a significant increase in the number of individuals/families using this service. They provide food boxes and hot meals. The food pantry needs a larger facility and they have formed a committee to work on this and are in a preplanning stage. She also noted that there is a great deal of community support for this project. The idea is to build a facility

that can be used as a community center and a food pantry.

John Cox; P.O. Box 1092, Anchor Point, AK 99556: Mr. Cox is an Anchor Point resident and supports the local food pantry. He would like to see them build a permanent facility. He then stated that the needs of the many outweigh the needs of a few. He noted that the need for this service within the Anchor Point community has grown from year to year. Anyone can fall on hard times and when that happens, they need assistance. He noted that Ms. Martin stated there were 220 names on the food pantry service list; he wanted the commission to know that it is actually 220 households and not just individuals. Some of the households have upwards of 11 members, so they are serving a large number of people. The food pantry out grew the church that they were using and started looking for an alternative. They have looked for another suitable building and there simply is not one. They have also looked for land to build on and these parcels provide the best option for them. He is aware that Marcus Mueller is recommending 3.5 acres, leaving the other 1.5 acres for residential development. He would recommend that the food pantry have the whole 5-acre lot. He noted that a good portion of this land is in a hole and has a tendency to flood. The best place to build would be on the far west side of the property. Having the 5 acres would allow the pantry to keep a barrier of trees between them and the residential area. The committee is working with an engineer and he is helping them move through the development process. The committee is working on securing funding for the project and the first domino is securing the land for the facility. Once they have the land they can really begin to fundraise.

Commissioner Venuti asked Mr. Cox what is the proposed size of this facility and do they have an idea of the costs. Mr. Cox replied that they are in the early stages of development and that has not yet been determined.

Donna Scovell; 69139 Sergeant Ave., Anchor Point, AK 99556: Ms. Scovell was the past president of the Anchor Point Food Pantry and she currently sits on the board. She noted that she has worked with the food pantry since 2007. The pandemic has really challenged and changed the structures of how food pantries work across the nation. The need for assistance in the Anchor Point area has really grown. November of last year was the highest usage of their services and that month they served over 1000 people. The food pantry is no longer associated with the church that they used for years. The church needed their building back and they had to find a new place to continue their work. The food pantry needs a place that they can call their own. The plans that they have for this new building would not just house the food pantry but would provide a place for the community to gather to do other activities. The space could be used for things such as conferences and weddings, which could provide income to offset the cost of maintaining the building. The committee has looked at land to build and this lot was really the only suitable place available within their area. This location is close to where the food pantry had operated for years so the community would be familiar with it and would be easy to find. While the current location of the food pantry is centrally located and easy to find, it is just temporary and does not provide space for growth. It does not allow folks to come into a building and sit down for a hot meal. When you serve 120 cars a day, it takes a lot of space. There needs to be space for folks to park as well as for a facility. The first step for the building to become a reality is to secure land. Once they have the land, they can begin to develop the plans for the facility.

Allison Trimble; POB 150, Anchor Point, AK 99556: Ms. Trimble stated that she is in opposition to the proposed classification of these parcels. She wanted to be clear that her opposition is not an opposition to the food pantry. She is the associated broker in charge at Coastal Reality and a partner in Home Grown Construction. Home Grown Construction has been integral in building the residential housing that surrounds this area. She asked the commission to look at the letter her sister wrote and the points that she highlighted regarding these parcels. It is not that they do not believe that the food pantry is very important. They put on a concert last year to benefit the food pantry. They just believe this is not the appropriate location for it. She noted that Anchor Point has a shortage of good residential housing areas, especially in this location. If these lots were developed as residential properties, it would bring in property taxes for the borough as well as jobs. She believes this area would be best to be classified as residential. She thinks that there are other properties better suited for the food pantry. Properties that would be a better fit for the Anchor Point community. She would like to see other locations considered for the food pantry.

<u>Brandi Taylor-Kelly; POB 10658 Phoenix, AZ 85064:</u> Ms. Taylor owns land in this area and she opposes the classification for these two parcels for the following reasons. These parcels are in close vicinity of the Anchor River, which is Alaska's only major steelhead stream accessible by road. The potential for harm

and degradation caused by the expansion of the Solid Waste Transfer could be devastating to the amazing natural resource. This location is close to the Chapman School. It would inexcusable to consider putting the health and safety of the children at risk by installing a solid waste transfer facility adjacent to a school. Locating the solid waste transfer site in this location would dramatically drive down property values in the areas, affecting numerous homeowners. As a landowner who would be impacted by this she would ask that the Assembly deny this land classification as proposed and that other locations be considered for the waste transfer facility.

Emmitt Trimble; P.O. Box 193, Anchor Point, AK 99556: Mr. Trimble stated that he has lived in the area since the 1970s and owns or has owned much of the land surrounding these parcels. This area has been developed as residential. His youngest daughter is a contractor and they are always looking for opportunities to develop new housing in the Anchor Point area. They have built five spec homes along the Birch Street boundary and they have all sold. There is water in that area and it is not public but private. They paid to bring the water main to the area. It does not mean that in the future there cannot be a cost share plan developed but he wanted it known that the water there is not a public utility. His family are big supporters of the Food Pantry. He believes that the location they are in now has great visibility and easy access. He understands that it is currently temporary. He noted that what is before the commission tonight is the classification of properties owned by the borough and its residents. They are not here to discuss the merits of the food pantry. He stated that for many years, they have tried to get the solid waste site moved and they are currently working with the chamber of commerce on this. They believe that a better location could be found, one that does not have the potential of allowing battery acid to flow down into the Anchor River. The area is in the location of an abandoned, unclaimed gravel pit and has a history of having contaminated sites. He would like to see an environmental study done on these lands before they are classified. He would like to see residential development along the Birch St. portion of the parcel. He would also like any land sale or lease sale on these properties to be open to the public. Again, he stated that he is supportive of the food pantry having a permanent location, but he does not believe this parcel would be the best option. He noted the food pantry has been offered the land where they are currently located, which he believes is a good option for them. He has offered to bring power to that location from an adjoining property that he owns. There are other solutions out there that he believes should be considered. Anchor Point has been asked to develop a comprehensive land plan by the borough. He would like to see more time for the area residents to develop this plan before developing any of the borough owned properties in the area. He would like to see this land classification delayed until this plan is developed.

Mary Trimble; P.O. Box 193, Anchor Point, AK 99556: Ms. Trimble stated that she and her family support the Anchor Point Food Pantry. She stated that the 5-acre lot that the food pantry is interested in is not really a recreational area. There is a history of this area being used by squatters and partiers. The Troopers have had to come out to that area numerous times to deal with issues related to the squatters and partiers. She noted the food pantry folks stated that they had spoken to everyone in town regarding their need for space. They did not approach them and they have a large building that they could possibly use space in during the winter. She and her husband recently walked the property and it is pretty much level, they did not see any large depressions. Her experience as a land investor, developer and realtor has taught her to consider the "highest and best use of land". This means a use that would produce the highest value regardless of its' current use, that is legally and feasibly possible, is financially feasible and brings the highest return to the developer. She would like to see the 5-acre parcel offered in a land sale. The area around this 5-acre parcel is residential and she would like to see it remain that way. She volunteered to sit on the Anchor Point APC to be involved with developing a land plan for the area. She believed her 40+ years of experience as a developer and an area resident could be a useful asset in this endeavor.

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Brantley to forward to the Assembly a recommendation to adopt Resolution 2021-__: A resolution classifying certain parcels of Borough owned land in the Anchor Point area.

<u>Commissioner Gillham</u> stated she reviewed the minutes from the Anchor Point APC meeting and she would like to support the APC's recommendation and for that reason, she will not be supporting the proposed land classifications for these parcels.

Sean Kelley, Borough Attorney: Mr. Kelley felt it was important to clear up some issues regarding the APC's recommendation that are in written comments included in the meeting materials. Public trust in the borough process requires that we follow code and the law. There was a request from several members of the public that the APC recommendation be set aside due to a perceived conflict of interest of one of the voting Mr. Kelley then noted that what is before the commission tonight is a land classification resolution only. Land Classification is not zoning, it does not tie the borough's hands on any type of future disposition of the land. If the borough does sell the property, the land classification goes away. It appears from some of the written comments that the alleged conflict of interest is an indirect financial interest. At least one APC member or their family could possibly down the road benefit from voting down the recommended classification. After reviewing the alleged conflict of interest, he concluded that it is speculative, remote and involves a broad class of individuals. Specifically if these parcels were ever put up for public auction, just because the individual is a realtor or developer does not give them any better shot than any other interested party who would want to bid. Even though tonight we have heard a lot of testimony about the food pantry, this is just a land classification. This land classification is not tied to a lease or sale piece of legislation. He wanted the commission to know that this alleged conflict of interest was reviewed by Legal and that is why they are not recommending that the APC's recommendation be set aside.

Commissioner Venuti thanked Mr. Kelley for addressing the issue and for the clarification that what they are considering tonight is just the land classification. He also wanted to state that he is a big supporter of food banks and believe they are very important to the communities that they serve. He then asked if the food pantry had considered approaching the Anchor River Inn, he thought the owners might be interested in their facilities being used for such a noble purpose. He will be voting in support of the land classification.

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

MOTION PASSED BY MAJORITY VOTE:

Yes	6 No	1	Absent	3		
Yes	Brantley, Fike	s, Mar	tin, Morga	ın, Ruf	fner,	Venuti
No	Gillham					
Absent	Bentz, Chess	er, Ec	klund			

AGENDA ITEM E

ITEM 5 - PC Resolution 2021-29

Resolution 2021-29, Establishing a Deadline for Submitting Written Comments on Matters Before the Planning Commission

Staff report given by Sean Kelley

This resolution would establish a deadline for submitting written documentation to the Planning Commission. The proposed deadline of the Friday before the Planning Commission meeting would allow the Commissioners and the public sufficient time to review materials in the packet. A deadline would also help to alleviate burden on staff to collate and distribute last-minute "desk packet" items. The deadline would apply to staff submissions as well as documents submitted by the public.

It is anticipated that a code change would eventually be proposed to codify this deadline should it prove to be beneficial to all parties involved.

Individuals that have items they want to submit after the deadline may speak to the item during the meeting and even read from the item verbatim. In addition, of course, anyone that missed the cut-off deadline that has material, relevant information to the matter at hand may also ask that the matter be postponed to allow for consideration of written materials that did not make the cut-off deadline.

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 Fikes to adopt PC Resolution 2021-29, a resolution establishing a deadline for submitting written comments on matter before the Planning Commission.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	3	
Yes	Brant	ley, Fike	es, Gilli	nam, Mart	in, Mo	rgan, Ruffner, Venuti

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Brantley informed the commission the plat committee approved 6 preliminary plats.

AGENDA ITEM G. OTHER

1. CLUP Modification - River Resources, LLC (PC RES 2021-10)

Staff report given by Sean Kelley.

The purpose of this scheduling discussion is for the Planning Commission to set a date to consider this matter consistent with the Hearing Officer's remand order. The Commission should not discuss the merits during the scheduling discussion.

On August 25, 2021, Z. Kent Sullivan, Administrative Law Judge / Hearing Officer in the matter of the appeal filed by River Resources LLC, issued an *Order Denying Motion to Stay and Granting Motion to Remand to the Kenai Peninsula Borough Planning Commission (Hereinafter "remand order")*. The remand order is attached and provided to the Planning Commission.

Page 6 of the orders states, "In issuing its decision, the Commission only purported to make three separate, single sentence findings. However, even these purported findings were not factual findings, but instead, were more accurately characterized as conclusion, statements, and questions. They do not provide a reasoned basis for the Commission, decision based on factual finding from substantial evidence in the record, as the KPB code requires. That said, this order should not be construed to suggest that the Planning Commission's decision was otherwise in error of the Commission must reach a different outcome. A decision on that point is left for another day. Instead, this order simply concludes that the Planning Commission's decision was not adequately reasoned and supported by specific factual finds. To be upheld, the KPB Code requires such findings. The record may or may not already contain the information needed to make the necessary findings. If sufficient facts are already in the record, the commission will simply need to articulate in writing specific factual findings based on that information. If the record does not contain sufficient factual detail allowing the Commission to so, then it may be required to schedule another hearing for such information to be provided."

In addition, an early order title *Order Inviting Response and Withdrawing Opening and Reply Statement Briefing Deadlines* is provided for the Commission's awareness and benefit. The remand order provides, in part, that the matter is remanded to the Planning Commission to:

- "1. Make factual findings supporting its decision based on substantial evidence in the record regarding the:
 - a. bonding requirements;
 - b. well monitoring timeline;
 - c. qualifications and independence of McLane Consulting, Inc.; and

- d. specific criterion contained in KPB Code §§ 21.29.040 and 21.29.050.
- 2. To the extent that factual Information does not presently exist in the record the Commission shall augment the record by conducting an additional hearing.

The motion seeking to remand this case to the KPB Planning Commission so that the Commission may provide reasoning and detailed factual findings supporting its decision in this matter is GRANTED." (See, pages 7-8 of Hearing Officer's remand order).

The recommendation is that the planning commission:

- 1) discuss whether or not it will reopen this matter for public hearing and take new evidence consistent with the above quoted portion of the Hearing Officer's Decision; and
- 2) set a date certain for the remand hearing and/or public hearing, whatever the case may be.

END OF STAFF REPORT

Chair Martin asked if they needed to decide if they would re-open public hearing on this matter first, to establish if public notice is required.

Ms. Shirnberg replied that if public noticing is required the earliest regular meeting the hearing could be scheduled for was October 25, 2021. That will give time for public notice to be sent out.

Mr. Kelley replied it would be helpful for the commission decides whether there is enough information in the record to decide the case on remand without reopening public hearing and accepting new evidence. He believes it is important to decide that issue so that the public will know what the hearing will look like.

Ms. Aeschliman reminded the commission that they do have another hearing scheduled for October 18, 2021 at 7:30 PM and the commission could add another hearing on that night if they so choose.

Commissioners Brantley & Fikes stated that they would be fine with adding this hearing to the one on October 18th.

Commissioner Morgan asked if the October 18th allowed time for public noticing. Mr. Kelley replied that if a one-off public notice needs to be sent out to interested parties that could be accomplished by October 18th. The October 25th date was if the hearing was going to be associated with a regularly scheduled Planning Commission meeting.

MOTION A: Commissioner Ruffner moved, seconded by Commissioner Fikes to set the rehearing date for October 18, 2021

Chair Martin noted there was a member of the public who wished to address the commission so he opened the meeting for public comment.

Joe Kashi; 205 E. Beluga Ave, Soldotna, AK 99669: Mr. Kashi noted that Dale McBride wished to address the commission on this issue and since he was not going to be available to attend this meeting asked Mr. Kashi to speak on his behalf. H noted in a recent decision regarding the Beachcomber gravel pit modification appeal the Alaska Superior Court at Kenai ruled as a matter of law that the planning commission has the power to deny a modification to a conditional land use permit that has already been granted. He believes that this particular modification application being discussed tonight is very similar, and it could be appealed all the way to the superior court as well. He believes if the commission tries to address this remand quickly without allowing time for the public to prepare for a public hearing would not be wise. He thinks that scheduling this for some time in November would be best. It is better to have more notice than less, more hearings than less hearings. The prior decision on this matter was made under the misconceptions that the ordinances and the law did not allow the commission to deny a permit. The Superior Court recently has determined that the commission does have the authority to deny a permit. He believes that because of this the commission should have another hearing on this matter, that they should

reopen the public hearing and accept new testimony and evidence. He also does not agree with the borough planning department and legal office joining up with the petitioner to have the planning commission's decision set aside for improper or inadequate findings. He believe that it would be much better position for the commission to reopen public hearing and have enough facts in the record as the administrative law judge has asked you to find. He believes that it would be appropriate for the commission to make a tentative decision and asked the borough legal department to work up a legally sufficient set of findings that could be adopted at the next hearing. He believes that the commission has a lot of things to sort out regarding this decision and they should take the time to do so, so that this decision is not bounced around the courts.

Commissioner Morgan stated that she believes this might require more time than would be available if it were attached it to the meetings on the 18th or 25th. She believes it might be best if this hearing had its' own date and not combined with any other hearings. She would support looking at a day in November.

Commissioner Brantley stated he believed they should decide whether or not to reopen public hearing and accept new evidence on this matter. Having that information would help them determine how much time is needed and decide on a date. Commissioner Fikes agreed with Commissioner Brantley.

MOTION TO AMEND MOTION A: Commissioner Morgan moved to change the hearing date to November 15, 2021

AMENDMENT A MOTION FAILED DUE TO LACK OF A 2ND.

Commissioner Fikes stated she believed they should decide whether they should reopen public hearing before selecting a date.

Commissioner Brantley stated that he did not think they would hear anything new on this matter so he did not believe it would be necessary to reopen public hearing. However reopening public hearing might assist the commission with coming up with good findings of fact. He did have some concerns that reopen public comment might turn into a 2 or 3 hour comment session. He stated that he was leaning towards not reopening public hearing. He then asked legal if revisiting this matter could potentially lead to a change in the results or are they limited to just coming up with additional findings for the existing decision. Mr. Kelley replied that according to the language in the order the commission has a plethora of options. The commission can deny, uphold and redo of the fact of findings or modify the decision.

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

MOTION A FAILED BY MAJORITY VOTE:

Yes	3	No	4	Absent	3
Yes	Fikes	, Ruffne	r, Mart	in	
No	Gillha	ım, Morg	gan, Ve	enuti, Brar	ntley,
Absent	Bentz	, Chess	er, Eck	dund	

MOTION B: Commissioner Brantley moved, seconded by Commissioner Gillham to reopen this item for public hearing.

Commissioner Brantley asked legal what it would look like if they do not reopen public hearing. Mr. Kelley stated to eliminate any confusion he wanted to state for the record that in the Legal Department, they have erected an ethical wall and he has not participated in or had any input at all in the appeal that is before the Office of Administrative Hearings. This was done so that he would be freed up to assist the Planning Commission on this matter and if need assist the commission in developing factual findings that are legally supported. If the Planning Commission did not reopen public testimony, and chose to use the existing record from the prior decision, the commission would enter their decision based factual findings supported by the substantial evidence in the existing record.

Commissioner Fikes agrees with Commissioner Brantley and believes there is enough evidence and public testimony in the record for them to come up with additional findings. She does not believe they need to reopen public testimony.

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

MOTION B FAILED BY MAJORITY VOTE:

Yes	1	No	6	Absent	3		
Yes	Morg	an					
No	Fikes, Gillham, Venuti, Brantley, Ruffner, Martin						
Absent	Bentz	z, Chess	er, Eck	dund			

Commissioner Brantley asked since they voted to not reopen the public hearing does that also address not accepting any new evidence. Mr. Kelley replied by not reopening the public hearing the commission will not be hearing any new testimony or receiving any new written comments. The information before the commission will be confined to what is in the current record.

Commissioner Fikes asked how would this hearing be different from an executive session. Mr. Kelley replied the hearing would be open and public would be able to come and hear the commission's deliberations. The commission could if they choose to move into an adjudicative session, leave the room to develop findings and then come back on record to vote and give your decision.

MOTION C: Commissioner Brantley moved, seconded by Commissioner Fikes to set the rehearing date for October 18, 2021 at 6:30 pm.

Commissioner Morgan stated that she still has concerns having this hearing on a night where there is already one appeal hearing scheduled. She believes this matter could require more time due to the contentious nature and wants to make sure there is enough time. She still would like to see this hearing scheduled on another date. This hearing could possibility go on a regular meeting with a light agenda. She does not think that this hearing will be a quick one.

Commissioner Fikes asked if the commission thought there would be enough time for this hearing to occur before that other appeal hearing on October 18th. Mr. Kelley replied the appeal of the director's decision hearing, which starts at 7:30, is scheduled for an hour. The commission could elect to hear this matter before the appeal hearing. The commission could set the start time for this matter at 6:30.

Commission Brantley as the maker of the motion requested to amend the motion and add a start time of 6:30 for the hearing, Commission Fikes as the second agreed.

MOTION C PASSED BY UNANIMOUS VOTE:

	7 No	0	Absent	3
3	Brantley,	Fikes, Gill	nam, Mart	in,

- 2. Plat Committee members for October/November/December, 2021.
 - Jeremy Brantley
 - Pamela Gillham
 - Morgan (Alternate)
 - Robert Ruffner
 - Franco Venuti (Alternate)

Ms. Shirnberg noted on the agenda was a presentation on right-of-way vacations. She noted the October 11, 2021 Planning Commission meeting was fairly light and if the commission would like they could reschedule the training for that meeting. All the commissioners agreed to moving the training to the October 11, 2021 meeting.

AGENDA ITEM I. DIRECTOR'S COMMENTS - None

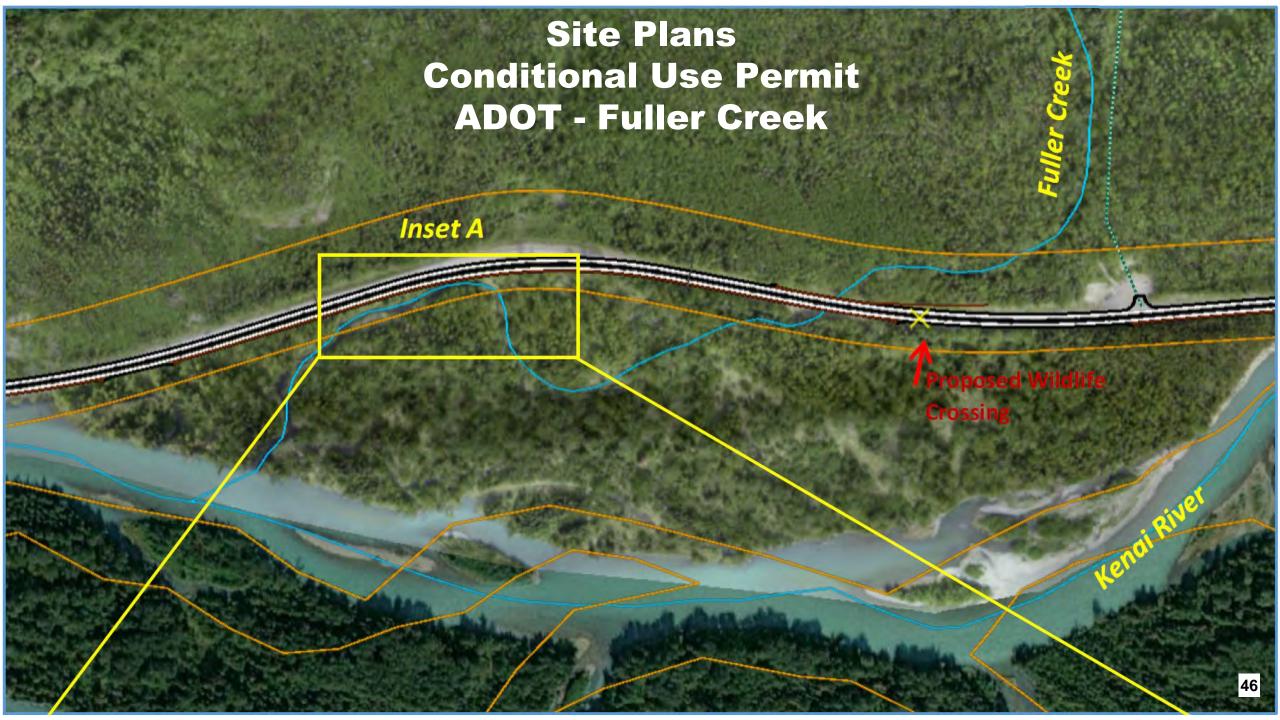
AGENDA ITEM J. COMMISSIONER COMMENTS – None

AGENDA ITEM M. ADJOURNMENT – Commissioner Brantley moved to adjourn the meeting at 9:16 p.m.

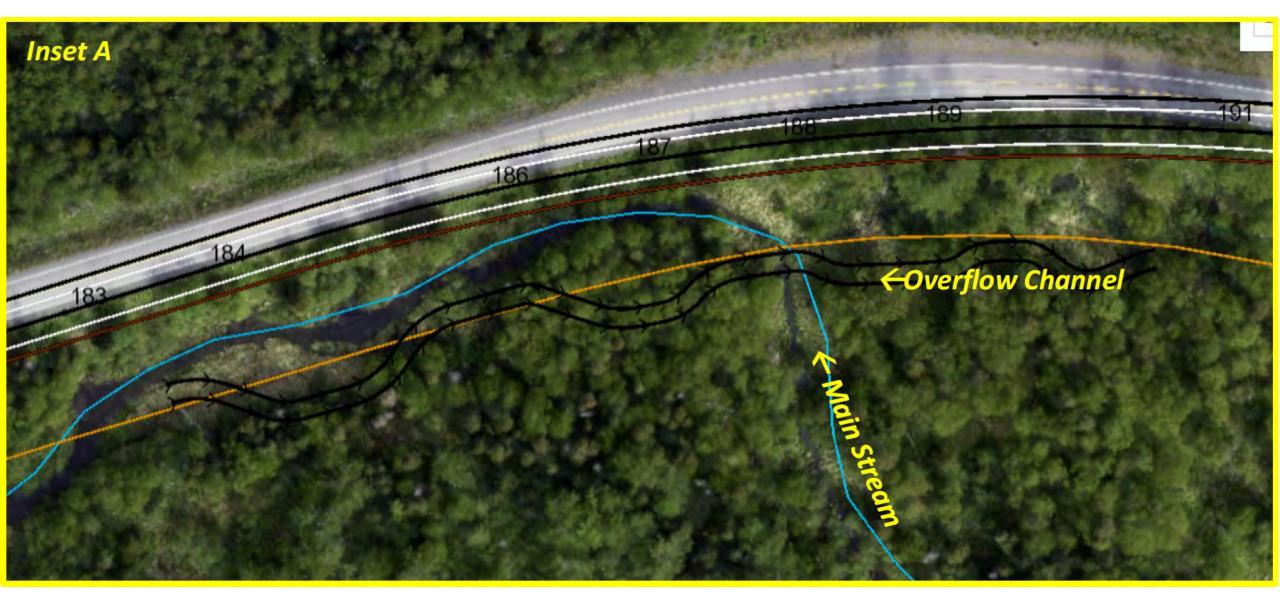
Ann E. Shirnberg Administrative Assistant

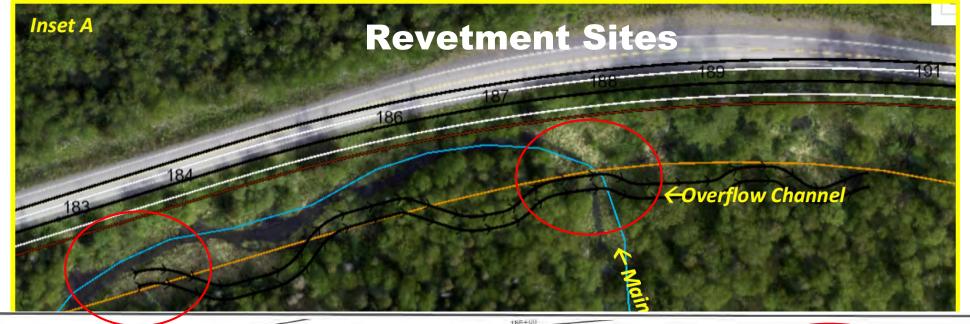


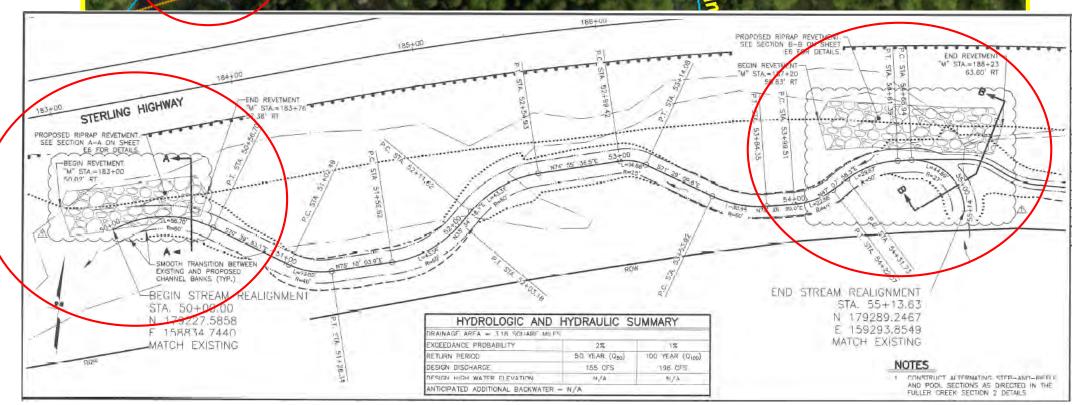


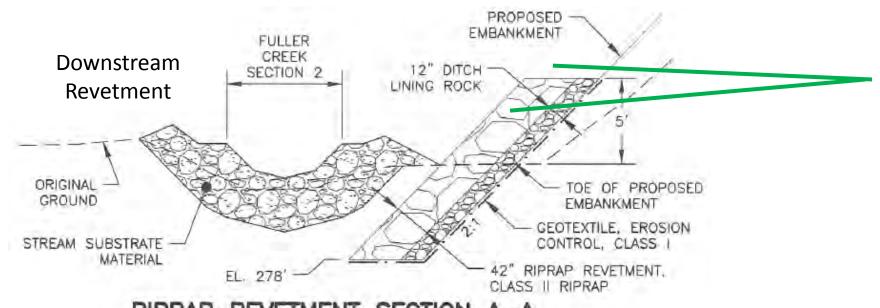


Site Plans - Conditional Use Permit - ADOT Fuller Creek



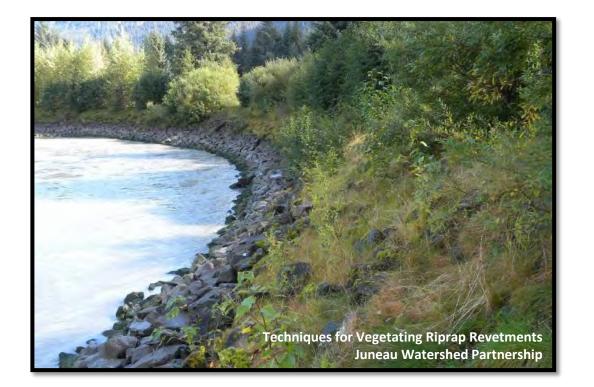


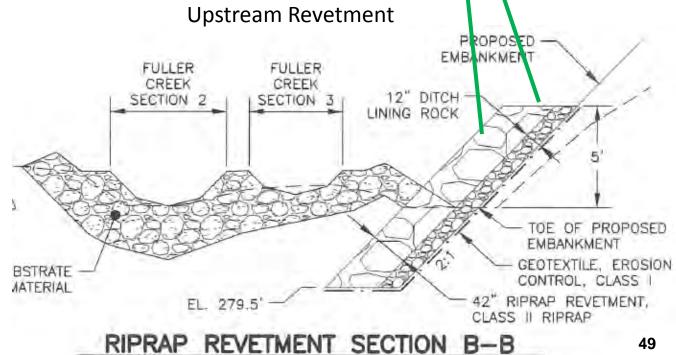




Will backfill the upper 8-12" of riprap with topsoil, hydroseed, and place live willow stakes

RIPRAP REVETMENT SECTION A-A





Conditional Use Permit Anadromous Waters Habitat Protection District Staff Report

KPB File No. 2021-33
Planning Commission Meeting: 10/25/2021

Applicant Alaska Department of Transportation

Mailing Address PO Box 196900

Anchorage, AK 99519-6900

Legal T 5N R 5W SEC 1 SEWARD MERIDIAN KN ALL OF SEC

24 25 & 37 & PORTION OF SEC 1 12 13 23 26 & 35

Physical Address Fuller Creek, MP 57.5 Sterling Highway near Cooper

Landing, AK

KPB Parcel Number 02518003

Project Description

The Alaska Department of Transportation is seeking to amend PC Resolution 2020-23 for highway improvements within the 50' Habitat Protection District of Fuller Creek near Cooper Landing. During construction activities in August 2021, one of the sections for Fuller Creek was discovered to be a small overflow/side channel of Fuller Creek rather than a main stem of the creek. The confluence of the overflow and main stem flows have been redesigned with reinforced road-side slopes to address the perpendicular angle coverage point. The existing angle of approach increases the chances of slope erosion and/or failure of the proposed channel, which may put the new roadway embankment at risk in the future if not reinforced. Riprap revetment is now proposed at two locations to add protection. The proposed embankments are made up of layers of geotextile, ditch lining rock, and class II riprap and stay within the previously identified impacted area and right-of-way. Applicant will also backfill the upper 8-12 inches of riprap with topsoil, place live willow stakes, and hydroseed.

Previously Permitted Project Details within the 50-foot Habitat Protection District

This project was approved by the Kenai Peninsula Borough Planning Commission on August 24, 2020 through PC Resolution 2020-23, and included the following activities within the 50-foot Habitat Protection District:

- 1. Widening the roadbed to add shoulders and improve drainage, and straightening the alignment to meet current design standards.
- 2. Replacing or improving drainage, signage, striping, and guardrail/guardrail end treatments.
- 3. Vegetation clearing and grubbing.
- 4. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the habitat protection district of Fuller Creek.
- 5. Installation of a large mammal wildlife crossing (120 feet long, 22 feet wide by 10 feet high structural plate pipe) that encompasses a stream crossing at Fuller Creek at MP 57.3.
- 6. Construction of 1,500 feet of new stream channel along Fuller Creek.
- 7. Approximately 700 feet of channel will route Fuller Creek through the new highway crossing, and 800 feet of new channel will shift a downstream segment outside of the new roadway embankment.

New Project Details within the 50-foot Habitat Protection District

- 1. Revetments will be constructed in two locations using geotextile and a total of 1,920 cubic yards of ditch-lining rock and class II riprap.
- 2. Impacted footprint will increase by approximately 2,500 square feet. This includes the additional connection of stream channels and revetments placed below the roadway embankment.
- 3. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the habitat protection district of Fuller Creek.
- 4. Backfill the upper 8-12 inches of riprap with topsoil, place live willow stakes, and hydroseed.

Findings of Fact Pursuant to KPB 21.18.081 Conditional Use Permit

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5), transportation infrastructure may be approved as a conditional structure/use within the habitat protection district.
- 3. The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
- 4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
- 5. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 6. 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.
- 7. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 8. The Planning Commission has approved the use of riprap in other projects where critical public infrastructure was at risk of erosion.
- 9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
- 10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
 - "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 11. Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway existing roadway and will not affect neighboring parcels.
- 12. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
- 13. Agency review was distributed on October 7, 2021. No comments or objections have been received from resource agencies to date.
- 14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on October 7, 2021. A total of 1 mailing was sent.
- 15. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 2021.

- 16. Permit application was forwarded to the Cooper Landing Advisory Planning Commission for review at their October 20, 2021 special meeting.
- 17. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

- 1. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
- 2. A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
- 3. Temporary stream diversions will be constructed using the method most practicable, subject to approval by ADOT&PF and resource agencies.
- 4. Temporary erosion and sediment control measures such as fiber rolls and temporary seeding would be used as necessary to stabilize disturbed soils until final stabilization is achieved.
- 5. Any temporary fill placed to facilitate installation of culverts, including stream diversions, would be removed upon project completion and revegetated.
- 6. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
- 7. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation.
- 8. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the habitat protection district.
- 9. Storage or use of fuel is prohibited within 50-feet of any open water.
- 10. The River Center shall be notified at least 3 days prior to the start of the project.
- 11. 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.
- 12. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 13. Applicant requests that the permit be valid through December 31, 2022. 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)).
- 14. 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).
- 15. 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.
- 16. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

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

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1 - 9 appear to support this standard.**

- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1 4, 6, 12 17 appear to support this standard.**
- 3. The development of the use or structure shall not physically damage the adjoining property; **Finding 11 appears to support this standard.**
- 4. The proposed use or structure is water-dependent; **Findings 2, 3, 8, 10 appear to support this standard.**
- 5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 17 appears to support this standard.**

Attachments

Multi-Agency Application Draft Resolution 2021-33 Resolution 2020-23

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 2021-33.

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 2021-33

A RESOLUTION GRANTING AN AMENDMENT TO PC RESOLUTION 2020-23 FOR A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR HIGHWAY IMPROVEMENTS WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF FULLER CREEK.

- **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 October 13, 2021 and October 20, 2021 as provided in Section 21.11.020; and
- **WHEREAS,** public testimony was received at the October 25, 2021 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

- 1. Revetments will be constructed in two locations using geotextile and a total of 1,920 cubic yards of ditch-lining rock and class II riprap.
- 2. Impacted footprint will increase by approximately 2,500 square feet. This includes the additional connection of stream channels and revetments placed below the roadway embankment.
- 3. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the habitat protection district of Fuller Creek.
- 4. Backfill the upper 8-12 inches of riprap with topsoil, place live willow stakes, and hydroseed.

Section 2. Findings of Fact Pursuant to KPB 21.18.081

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5), transportation infrastructure may be approved as a conditional structure/use within the habitat protection district.

- 3. The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
- 4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
- 5. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 6. 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.
- 7. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 8. The Planning Commission has approved the use of riprap in other projects where critical public infrastructure was at risk of erosion.
- 9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
- 10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
 - "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 11. Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway existing roadway and will not affect neighboring parcels.
- 12. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
- 13. Agency review was distributed on October 7, 2021. No comments or objections have been received from resource agencies to date.
- 14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on October 7, 2021. A total of 1 mailing was sent.
- 15. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 2021.
- 16. Permit application was forwarded to the Cooper Landing Advisory Planning Commission for review at their October 20, 2021 special meeting.
- 17. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

- 1. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
- 2. A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.

- 3. Temporary stream diversions will be constructed using the method most practicable, subject to approval by ADOT&PF and resource agencies.
- 4. Temporary erosion and sediment control measures such as fiber rolls and temporary seeding would be used as necessary to stabilize disturbed soils until final stabilization is achieved.
- 5. Any temporary fill placed to facilitate installation of culverts, including stream diversions, would be removed upon project completion and revegetated.
- 6. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
- 7. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation.
- 8. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the habitat protection district.
- 9. Storage or use of fuel is prohibited within 50-feet of any open water.
- 10. The River Center shall be notified at least 3 days prior to the start of the project.
- 11. 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.
- 12. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 13. Applicant requests that the permit be valid through December 31, 2022. 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)).
- 14. 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).
- 15. 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.
- 16. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. 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; **Conditions 1 9 appear to support this standard.**
- Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; Findings 1 – 4, 6, 12 – 17 appear to support this standard.
- 3. The development of the use or structure shall not physically damage the adjoining property; Finding 11 appears to support this standard.
- 4. The proposed use or structure is water-dependent; **Findings 2, 3, 8, 10 appear to support this standard.**

Applicant's or owner's complete Finding 17 appears to support	liance with other borough permits and order this standard.	dinance requirements
THIS CONDITIONAL USE PERMIT EF	FFECTIVE ON DAY OF	, 2021.
ATTEST:	Blair Martin, Chairperson Planning Commission	
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



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

Applicant Informati	on:	Agent Information: (if applicable)		
Name:		Name:		
Owner?	No			
Mailing:		Mailing:		
Phone:		Phone:		
Email:		Email:		
Project Location:				
KPB Parcel ID:		Subdivision:		
Physical Address:			ock: Addn/No.:	
r riyolodi 7 (ddi 000).		Directions to sit		
Waterbody Name:		200000	· .	
River Mile:	Riverbank:	-		
	looking downstream			
Permit Fees: (pleas	e select the applicable permit fees)			
☐ \$100 - ADNR Sta	te Parks Permit	KPB Conditional U	se Permit	
☐ \$50 - KPB Habita	t/Floodplain Permit	KPB Floodway De	velopment Permit	
	Пен	ala		
Project Description	<u>ı:</u>	idment to RC# _		
	escription of your project and all relate attention for all existing and proposed structure.		litional pages if needed. Include	
Project location &Waterbody descriProximity to OHW	ption & proximity • Filling/dredging	excavation:	 Fuel Storage: location, quantities Vegetation Removal: location, amount, type 	
KPR Tay Credit: (s	kip this section if your project is pri	or existing only a	nnlicable to NEW projects)	
	estimated project cost(s) below. Do no		• • • •	
, , , , , , , , , , , , , , , , , , ,		-		
	Elevated Light Penetrating Structure			
	Bank or Habitat Restoration & Prote Other Activities	ction \$ \$		
	Oniei Achvines	φ		

Project Questions:

<u>No</u>	te: Use Ordinary High Water (OHW) for no	on-tidal waters, and <u>Mean High Tide</u> (MHT) for tidal waters.						
1.	Start date: End date:	Estimated Days of Construction:						
2.	Is the project located within 50 feet of OHW or HTL a waterbody? ☐ Yes ☐ No							
3.	Does any portion of the project extend <u>below</u> the OHW or HTL of the stream or waterbody? ☐ Yes ☐ No							
4.	Does any portion of the project cantilever	or extend $\underline{\mathbf{over}}$ the OHW of the waterbody? \square Yes \square No						
5.	Will anything be placed below OHW or H	ΓL of the waterbody? ☐ Yes ☐ No						
6.	Will material be extracted or dredged from	n the site? Yes No						
7.	Total Area: Type of Ma	t is the total area (in acres) that will be excavated or dredged? terial:						
8.	· · · · · ·	and/or overburden) be used as fill?						
9.		this project, including access route to site, any stream or waterbody uipment will be used below OHW or HTL:						
10.	Is any portion of the work already comple If yes, describe:	te? Yes No						
Sic	nature & Certification:							
Th	is application is hereby made requesting	g permit(s) to authorize the work described in this application cation is complete and accurate to the best of my knowledge.						
and	d that the proposed project will be cons	ave not begun construction of the project on this the property tructed in a manner consistent with KPB 5.12 Real Property and t Protection Tax Credit, and other applicable ordinances.						
	Applicant Signature (required)	Date						
	Agent Signature (if applicable)	Date						



KRC Multi-Agency Permit Application Supplemental Project Information Amendment to KRC #12663

Sterling Highway MP 45-60, Stage 1A, Fuller Creek

Project Background

DOT&PF is improving the Sterling Highway from its intersection with Quartz Creek Road to its intersection with the east end of Skilak Lake Road near Cooper landing, Alaska. The purpose of the project is to bring the highway up to current standards to efficiently and safely serve through-traffic, local community traffic, and traffic bound for recreation destinations in the area. For further project description information, see the project website at http://sterlinghighway.net

Stage 1A consists of the western two miles of the project: approximately MP 56-58. The project includes the installation of two wildlife crossings, constructing and reconstructing pullout parking areas and widening and straightening the alignment. The project also includes the installation of several cross drainage culverts. The work proposed under Stage 1A has been permitted by Kenai River Center #12663.

The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage as well as a large mammal wildlife undercrossing. The proposed structure will be 10 feet tall and 22 feet wide, and about 120 foot long structural plate pipe. The culvert will contain a constructed channel of imported substrate, sized for stability at the flow depths and velocities generated by the 100-year flood flows. Starting approximately 200 feet upstream of the existing highway culvert crossing, the stream will be rerouted into a constructed channel and directed about 275 feet to the new structure. Downstream of the new highway crossing, Fuller Creek flow will continue for another 300 feet in new constructed channel where it will rejoin the existing streambed. Further west, another 600 feet of constructed channel will be used to shift Fuller Creek away from the road embankment.

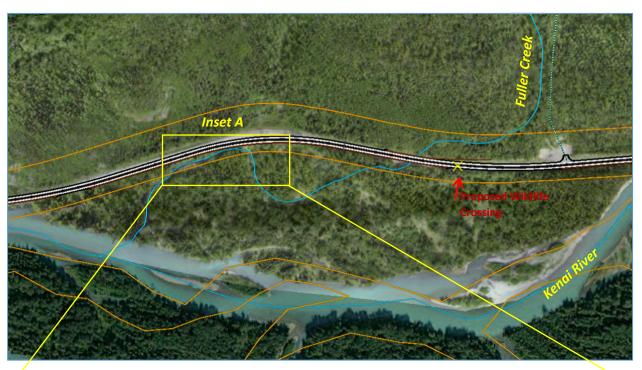
ADF&G has issued a Title 16 permit for the installation of the large wildlife crossing that would incorporate the flow of Fuller Creek (AWC 244-30-10010-2151) under the highway and to reconstruct upstream and downstream segments to shift the flows away from the highway embankment (20-V-0200, Fuller Creek_Culvert Replacement_ADOTPF).

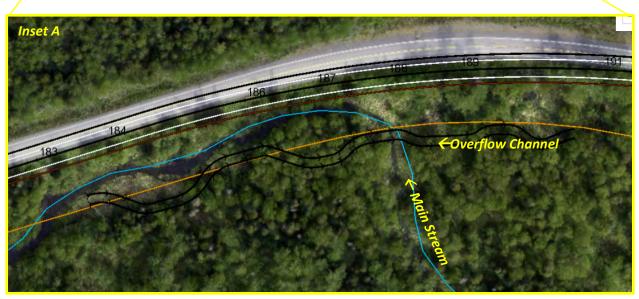
Amendment of Proposed Work

During construction activities for Stage 1A in August 2021, the surveyed creek segment located downstream of the existing Fuller Creek culvert was discovered to be a small overflow/side channel of Fuller Creek instead of the main stream channel. The overflow channel was observed as dry earlier in the season and only refilled after heavy rain events. The main stream of Fuller Creek was located and reenters the stream realignment perpendicular to the overflow channel and the roadway, around STA 187+50. The overflow channel carries less flow than the main stream and channel geometries indicate that the likelihood of flows shifting from the main stream to the overflow are unlikely in the near future.

Engineers in consultation with ADF&G (field visit (9/3/2021) recommend that the design of the overflow stream channel in this section be modified to better convey smaller flows from the upstream end of the realignment (at the downstream end of the proposed Fuller Creek wildlife crossing) to the confluence with the main stream channel. The overflow channel is sized to accommodate 11.5 cfs, which is (for

comparison) 30% of Fuller Creek's 2-year storm event (37 cfs). This overflow section was originally "Fuller Creek Section 2" and now is identified as "Fuller Creek Section 3" with corresponding details provided in the revised Plan Sheets (E6 - E7). Material quantities associated with the stream channel work have been revised (new volumes are attached below). The modified channel maintains the proposed stream meander but has eliminated the constructed pools and riffles to support fish passage as the water levels will be smaller and slower. Two levels of coir logs and willow staking will be used to vegetate the channel (see Sheet E6, Section 3 detail) compared to a single level (See E7, Section 2 detail). An aerial photo is shown below to provide context of the proposed Fuller Creek work, and the inset box shows the locations of the design modifications.





The confluence of the overflow and main stem flows has been redesigned with reinforced road-side slopes to address the perpendicular angle coverage point. The existing angle of approach increases the chances of slope erosion and/or failure of the proposed channel which may put the new roadway

embankment at risk in the future if not reinforced. Riprap revetment is now proposed at two locations to add protection. The proposed embankments are made up of layers of geotextile, ditch lining rock, and class II riprap and stay within the previously identified impacted area and right-of-way. The corresponding plan, profile, and details for the riprap revetments can be found in the revised Plan Sheets (E5-E6).

Project location

The proposed section of Fuller Creek that has been modified is just south of the Sterling Highway, MP 57.5. The project occurs solely within DOT&PF Right of Way as it traverses through the Kenai National Wildlife Refuge.

Proximity to OHW

Fuller Creek is a listed anadromous waterbody, and work would include impacts to both the existing waterbody and within its 50-foot Habitat Protection District. The impacted footprint will increase approximately 2,500 square feet over what was previously proposed. from the original permit. This includes the additional connection of stream channels, and revetment placed below the roadway embankment. ADF&G had agreed to the proposed wildlife crossing and channel construction activities under Title 16 permit (20-V-0200, Fuller Creek_Culvert Replacement_ADOTPF). DOT&PF requests the proposed design changes be approved as part of the Title 16 permit modification.

Construction:

Construction equipment and methods would remain unchanged. No motor vehicles would operate below OHW or cross waterbodies during stream flow. Work is anticipated to occur during the construction seasons of 2021 and 2022.

Vegetation:

Vegetation clearing and re-vegetation activities are unchanged from the original permit application. The activities associated with the new Fuller Creek wildlife crossing and channel construction include vegetation clearing and grubbing. Per KRC # 12663, revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the Fuller Creek habitat Protection District.

Project Question 7: Excavation and Dredging below OHW

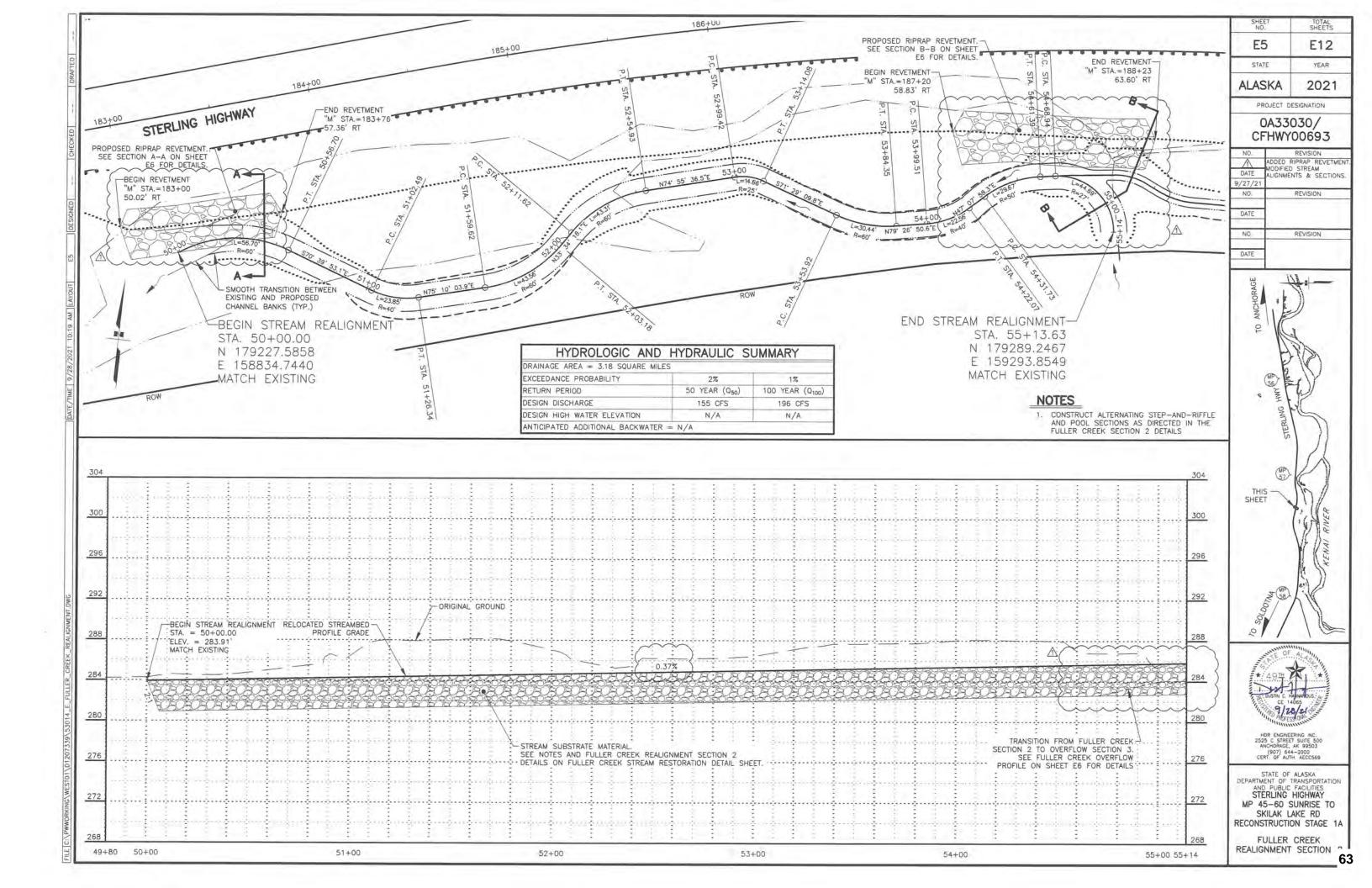
Construction activities would not occur within the waterbodies during stream flow. Excavation of soils and substrate would occur when the stream flows are redirected from the existing channel to the constructed channel. Fill materials such and soils and gravels may be used in the abandoned stream channels to recontour and revegetate. The proposed modifications would reduce the required volume of excavation below OHW by 3,200 cubic feet for a total of 49,800 cubic feet (1,845 cubic yards).

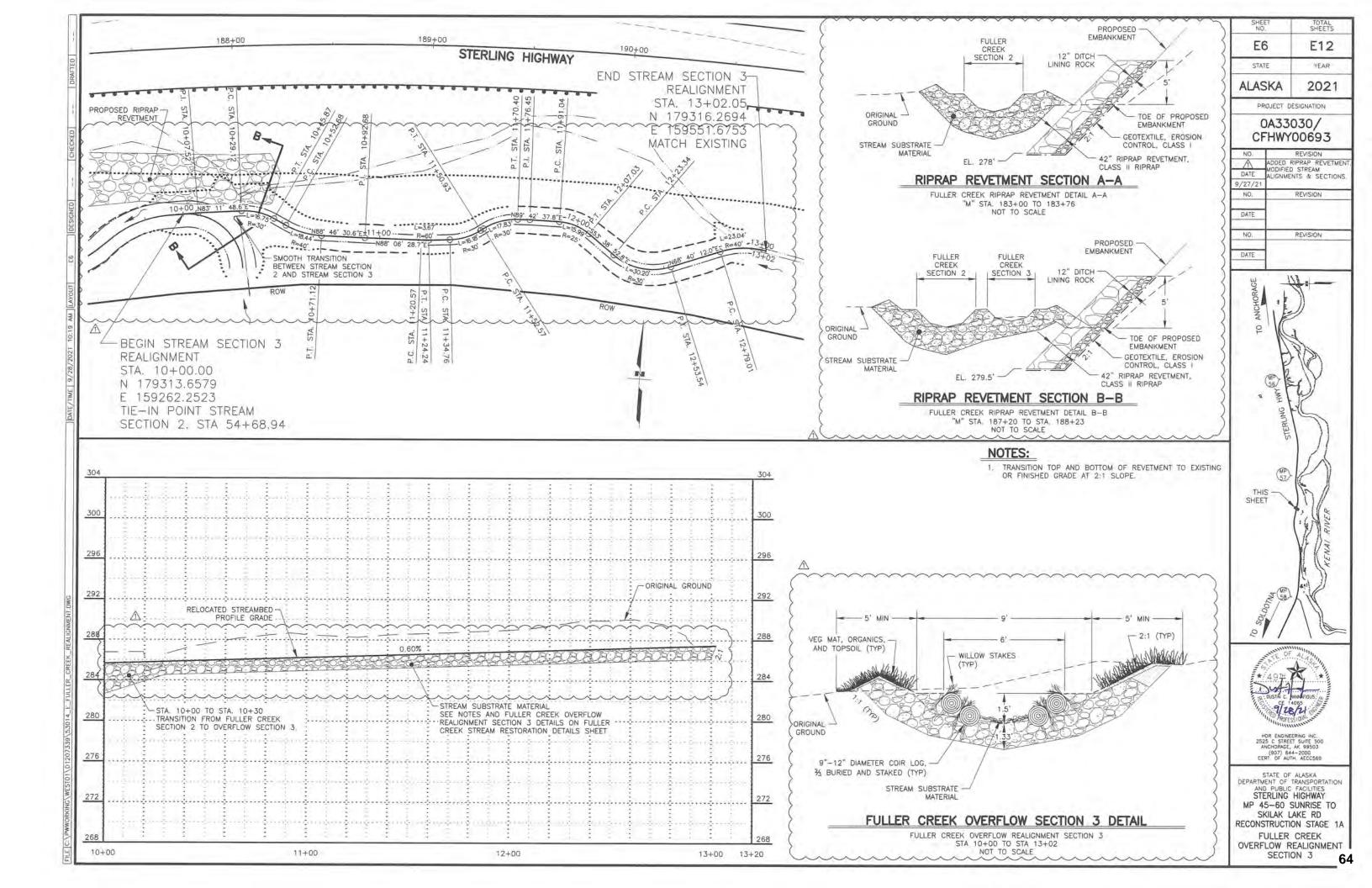
Project Question 8: Fill Materials

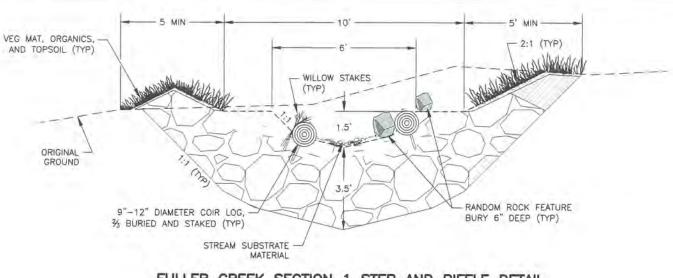
A detailed breakdown of fill materials has been developed for the entire Fuller Creek channel construction and has been appended to this document. While the proposed modifications would reduce the volume of fill materials required for the channel, they would require additional rock for the revetments and result in a similar total volume of approximately 53,000 cubic feet (1,920 cubic yards) of fill.

Project Question 9: Motorized Equipment and Access.

Motorized access will occur from the Sterling Highway corridor. No new access would need to be developed. Equipment will use the roadway to cross the waterbody.

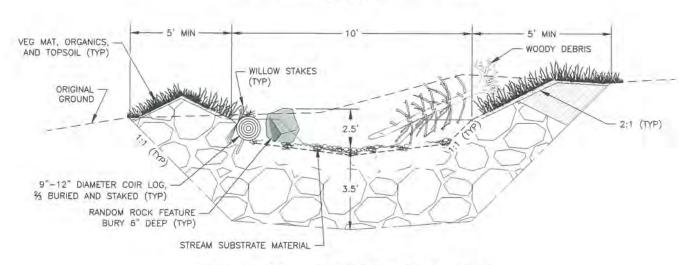






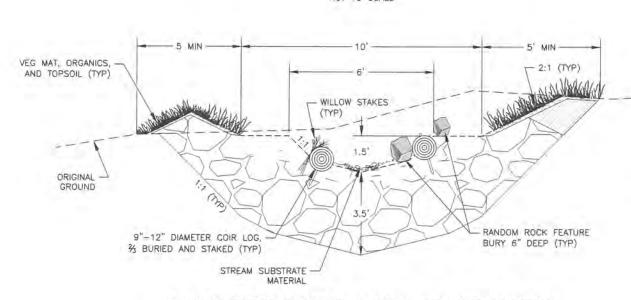
FULLER CREEK SECTION 1 STEP AND RIFFLE DETAIL

FULLER CREEK REALIGNMENT SECTION 1 STA 0+00 TO STA 2+55 & STA TO 3+90 STA 7+06 NOT TO SCALE



FULLER CREEK SECTION 1 POOL DETAIL

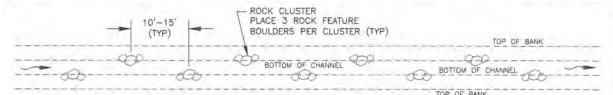
FULLER CREEK REALIGNMENT SECTION 1 STA 0+00 TO STA 2+55 & STA TO 3+90 STA 7+06 NOT TO SCALE



FULLER CREEK SECTION 2 STEP AND RIFFLE DETAIL

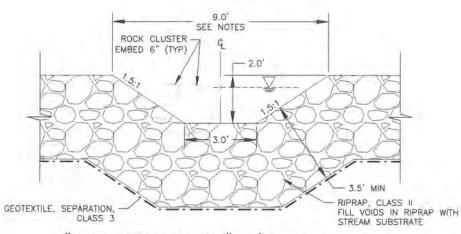
FULLER CREEK REALIGNMENT SECTION 2
STA 50+00 TO STA 55+13
NOT TO SCALE

PROJECT DESIGNATION UPDATED STREAM STATIONING /27/21 0A33030/CFHWY00693 ALASKA 2021 E7 E12



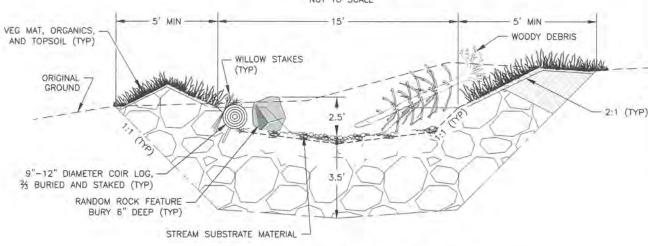
FULLER CREEK WITHIN #4121 STERLING WILDLIFE UP #6 STRUCTURE PLAN VIEW

FULLER CREEK REALIGNMENT SECTION 1 STA 2+55 TO STA 3+90 NOT TO SCALE



#4121 STERLING UP #6 / FULLER CREEK CHANNEL WITHIN STRUCTURE DETAIL

FULLER CREEK REALIGNMENT SECTION STA 2+55 TO STA 3+90 NOT TO SCALE



FULLER CREEK SECTION 2 POOL DETAIL

FULLER CREEK REALIGNMENT SECTION 2

STA 50+00 TO STA 55+13

NOTES:

- ALONG FULLER CREEK REALIGNMENT SECTION 1, CONSTRUCT THE STEP AND RIFFLE SECTION FOR 5-8 FEET, THEN CONSTRUCT THE POOL SECTION FOR 8-10 FEET. ALTERNATE SECTIONS ALONG THE UPSTREAM LIMITS OF WATERWAY RESTORATION AND AS DIRECTED BY THE ENGINEER.
- 2. ALONG FULLER CREEK REALIGNMENT SECTION 2, CONSTRUCT THE STEP AND RIFFLE SECTION FOR 8-10 FEET, THEN CONSTRUCT THE POOL SECTION FOR 10-15 FEET. ALTERNATE SECTIONS ALONG THE DOWNSTREAM LIMITS OF WATERWAY RESTORATION AND AS DIRECTED BY THE ENGINEER.
- WITHIN #4121 STERLING UP #6 STRUCTURE, CONSTRUCT FULLER CREEK CHANNEL OFF-CENTER TO ALLOW FOR ANIMAL PASSAGE THROUGH STRUCTURE WITHOUT ENTERING THE STREAM DURING ORDINARY HIGH WATER FLOW LEVEL.
- SEE #4122 STERLING WILDLIFE UP #7 DETAIL SHEETS FOR STREAM SUBSTRATE MATERIALS.



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

STERLING HIGHWAY MP 45-60 SUNRISE TO SKILAK LAKE RD RECONSTRUCTION STAGE 1A

FULLER CREEK STREAM RESTORATION DETAILS

1 of 7

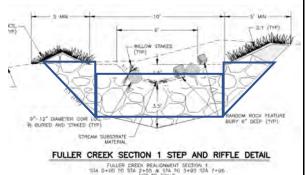
Updated 09/20/21 KG

H&H Material Quantity Estimates

Inputs Calculated

Note: All quantities given as the minimum material required.

Fuller Creek Section 1 Step and Riffle



Riffle Sections

Channel Dimensions-

Top Width:	10	ft
Depth:	3.5	ft
Area =	35	ft

Side Slope Dimensions-

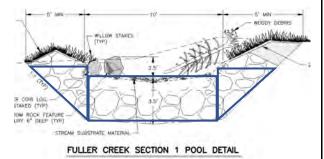
Side Width (min):	5	ft
Depth (total):	5	ft
Area =	25	ft ²

Length =	591	ft
Ratio of US Sect. =	42%	%
Length (section) =	247.84	ft

Required Min Area:	60	ft ²
Required Min		

14,870 ft³ Volume:

Fuller Creek Section 1 Pool



Pool Sections

Channel Dimensions-

Top Width:	10	ft
Depth:	3.5	ft
Area =	35	ft^2

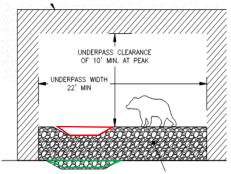
Side Slope Dimensions-

Side Width (min):	5	ft
Depth (total):	6	ft
Area =	30	ft ²

Length =	591	ft
Ratio of US Sect. =	58%	%
Length (section) =	343.16	ft

Required Min Area:	65	ft ²
Required Min		
Volume:	22,305	ft ³

Fuller Cr Wildlife Crossing



Within Structure

Channel Dimensions-

Assumed channel area is equal to material fill to provide required depth.

Fill Dimensions-

Volume:	8,855	ft ³
Required Min		
Area:	77	ft ²
Required Min		_
Danning d Min		
Length:	115	ft
·		
Fill Depth:	3.5	ft
Width:	22	ft
Structure		
Height:	10	ft
Structure		
Thi Difficusion.	3	

Sterling HWY MP 45-60 2 of 7

Before Quantities

before qualitaties		
Riprap Class I (10%)	73.6	ton
Riprap Class II (20%)	147.2	ton
Ditch Lining (50%)	252.4	yd ³
Surface Course E-1		
(20%)	101.0	yd ³

Current Quantities

Riprap Class I (10%)	80.3	ton
Riprap Class II (20%)	160.6	ton
Ditch Lining (50%)	275.4	yd ³
Surface Course E-1 (20%)	110.2	yd ³

Difference between before and after

Riprap Class I (10%)	6.7	ton
Riprap Class II (20%)	13.4	ton
Ditch Lining (50%)	22.9	yd^3
Surface Course E-1		
(20%)	9.2	yd ³

Riprap Class I (10%)	120.4	ton
Riprap Class II (20%)	240.9	ton
Ditch Lining (50%)	413.1	yd ³
Surface Course E-1 (20%)	165.2	yd ³

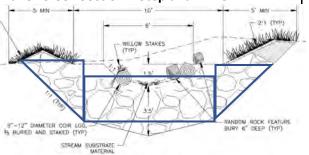
No change	
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Riprap Class I		
(10%)	47.8	ton
Riprap Class		
II (20%)	95.6	ton
Ditch Lining		
(50%)	164.0	yd ³
Surface Course		
E-1 (20%)	65.6	yd ³

No change

Sterling HWY MP 45-60

Fuller Creek Section 2 Step and Riffle



FULLER CREEK SECTION 2 STEP AND RIFFLE DETAIL

FULLER CREEK REALIGNMENT SECTION 2 STA 50+00 TO STA 55+13 NOT TO SCALE

Riffle Sections
Channel Dimensions-

Top Width: 10 ft
Depth: 3.5 ft
Area = 35 ft²

Side Slope Dimensions-

Side Width (min):	5	ft
Depth (total):	5	ft
Area =	25	ft²

Length = 513 ft
Ratio of US Sect. = 42% %
Length (section) = 214.74 ft

Required Min Area: 60 ft²

Required Min

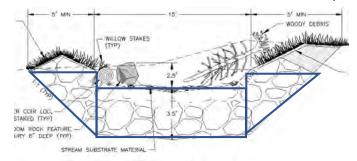
Volume: 12,885 ft³

Current Quantities

Riprap Class I (10%)	69.6	ton
Riprap Class II (20%)	139.2	ton
Ditch Lining (50%)	238.6	yd ³
Surface Course E-1		_
(20%)	95.4	yd ³

Fuller Creek Section 2 Pool

Updated 09/08/21 KG



FULLER CREEK SECTION 2 POOL DETAIL

JLLER CREEK REALIGNMENT SECTION : STA 50+00 TO STA 55+13 NOT TO SCALE

Pool Sections

Channel Dimensions-

Top Width:	15	ft
Depth:	3.5	ft
Area =	52.5	fť

Side Slope Dimensions-

Side Width (min):	5	ft
Depth (total):	6	ft
Area =	30	ft^2

Length = 513 ft
Ratio of US Sect. = 58% %
Length (section) = 298.26 ft

Required Min Area: 82.5 ft²

Required Min

Volume: 24,606 ft³

Riprap Class I (10%)	132.9	ton
Riprap Class II (20%)	265.7	ton
Ditch Lining (50%)	455.7	yd ³
Surface Course E-1		
(20%)	182.3	yd ³

4 of 7

Updated 09/21/21 KG

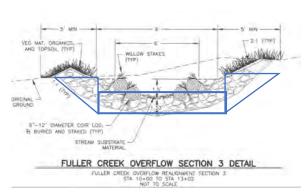
H&H Material Quantity Estimates

Calculated Inputs

Note: All quantities given as the minimum material required.

Fuller Creek Overflow Section 3

STA 60+00 to STA 63+02.05



Overflow Channel Section

Channel Dimensions-

Top Width:	9	ft
Depth:	1.33	ft
Area =	11.97	ft^2

Side Slope Dimensions-

Side Width (min):	5	ft
Depth (total):	2.83	ft
Area =	14.15	ft ²

Length (section) = 302 ft

26.12 ft² Required Min Area:

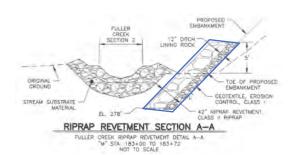
Required Min 7,888 ft³ Volume:

Current Quantities

Ditch Lining (33%)	96.4 yd ³
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Riprap Revetment Section A-A

STA "M" 183+00 to STA "M" 183+72



Revetment Section A

Class II Riprap-.

Volume	3,024	ft ³
Length =	72	ft
Width =	3.5	ft
Height =	12	ft

Ditch Lining-

Volume	864	ft ³
Length =	72	ft
Width =	1	ft
Height =	12	ft

Required Min

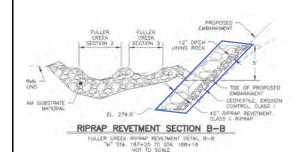
Riprap Class I

3,888 ft³ Volume:

163.3 ton

Riprap Revetment Section B-B

STA "M" 183+72 to STA "M" 188+18



Revetment Section B

Class II Riprap-

Volume	2,898	ft
Length =	72	ft
Width =	3.5	ft
Height =	11.5	ft

Ditch Lining-

Height =	11.5	ft
Width =	1	ft
Length =	72	ft
Volume	828	ft ³

Required Min

ricquired iviiii		_
Volume:	3,726	ft ³

Riprap Class I 156.5 ton

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2020-23

A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements between MP 56-58 of the Sterling Highway, and the installation of a 120 feet long, 22 feet wide by 10 feet high structural plate pipe wildlife crossing at MP 57.3 west of Cooper Landing, within the 50-foot Habitat Protection District of Fuller Creek as established in KPB 21.18.040. To accommodate the construction season, the applicant is requesting a time extension for this conditional use permit until December 31, 2022.

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; and

WHEREAS public notice was published in the *Peninsula Clarion* on August 13 and 20, 2020, as provided in Section 21.20.010; and

WHEREAS public testimony was received at the August 24, 2020 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

- 1. Widening the roadbed to add shoulders and improve drainage, and straightening the alignment to meet current design standards.
- 2. Vegetation clearing and grubbing.
- 3. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the (HPD) of Fuller Creek.
- 4. Replacing or improving drainage, signage, striping, and guardrail/guardrail end treatments.
- 5. Installation of a large mammal wildlife crossing (120 feet long, 22 feet wide by 10 feet high structural plate pipe) that encompasses a stream crossing at Fuller Creek at MP 57.3.
- 6. Construction of a 1,500 feet of new stream channel along Fuller Creek. Approximately 700 feet of channel will route Fuller Creek through the new highway crossing, and 800 feet of new channel will shift a downstream segment outside of the new roadway embankment.

7. Approximately 700 feet of channel will route Fuller Creek through the new highway crossing, and 800 feet of new channel will shift a downstream segment outside of the new roadway embankment.

Section 2. Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
- 3. The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
- 4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
- 5. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines waterdependent 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.
- 6. Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway existing roadway and will not affecting neighboring parcels.
- 7. The River Center found the application complete and scheduled a public hearing for August 24, 2020.
- 8. 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 14, 2020. A total of 1 mailing was sent.
- 9. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 13 and 20, 2020.
- 10. Agency review was distributed on August 14, 2020. No comments or objections have been received from resource agencies to date.
- 11. The applicant is currently in compliance with Borough permits and ordinances.

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

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;
 - Condition 1 A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.

- Condition 2 A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
- Condition 3 Temporary stream diversions will be constructed using the method most practicable, subject to approval by ADOT&PF and resource agencies.
- Condition 4 Temporary erosion and sediment control measures such as fiber rolls and temporary seeding would be used as necessary to stabilize disturbed soils until final stabilization is achieved.
- **Condition 5** Any temporary fill placed to facilitate installation of culverts, including stream diversions, would be removed upon project completion and revegetated.
- **Condition 6** All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
- Condition 7 The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation.
- Condition 8 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.
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough;
 - **Finding 1** Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
 - **Finding 2** Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
 - **Finding 3** The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
 - **Finding 4** Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
 - **Finding 7** The River Center found the application complete and scheduled a public hearing for August 24, 2020.
 - **Finding 8** Public notice was mailed to property owners within a radius of 300 feet (KPB 21.11.030) of the project on August 14, 2020. A total of 1 mailing were sent.
 - **Finding 9** Public notice was published in the *Peninsula Clarion* (KPB 21.11.020) on August 13 and 20, 2020.
 - **Finding 10** Agency review was distributed on August 14, 2020. No comments or objections have been received from resource agencies to date.
 - **Finding 11** At this time, the applicant is currently in compliance with Borough permits and ordinances.
- 3. The development of the use or structure shall not physically damage the adjoining property;

• **Finding 6** – Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway existing roadway and will not affect neighboring parcels.

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

- **Finding 3** The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
- **Finding 5** Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:

...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways

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

• **Finding 11** – At this time, the applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

- A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
- 2. A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
- 3. Temporary stream diversions will be constructed using the method most practicable, subject to approval by ADOT&PF and resource agencies.
- 4. Temporary erosion and sediment control measures such as fiber rolls and temporary seeding would be used as necessary to stabilize disturbed soils until final stabilization is achieved.
- 5. Any temporary fill placed to facilitate installation of culverts, including stream diversions, would be removed upon project completion and revegetated.
- 6. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
- 7. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation.
- 8. 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.
- 9. Storage or use of fuel is prohibited within 50-feet of any open water.
- 10. The River Center shall be notified at least 3 days prior to the start of the project.

- 11. 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.
- 12. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 13. 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)).
- 14. 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).
- 15. 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.
- 16. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. Decision:

The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit for highway improvements between MP 56-58 of the Sterling Highway, and the installation of a 120 feet long, 22 feet wide by 10 feet high structural plate pipe wildlife crossing that encompasses a stream crossing at Fuller Creek at MP 57.3 west of Cooper Landing, AK., with the mitigation measures as mandated. To accommodate the construction season, the applicant is requesting a time extension for this conditional use permit until December 31, 2022.

THIS CONDITIONAL USE PERI	MIT IS EFFECTIVE ON THISDAY OF
2020.	
	Blair Martin, Chairperson
ATTEST:	Planning Commission
7.1.1201.	
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.

HEA Conditional Use Permit Vicinity Map



HEA Conditional Use Permit Site Plan



05/17/2021

KPB Parcel ID 01326019, 01326017

Conditional Use Permit Anadromous Waters Habitat Protection District Staff Report

KPB File No. 2021-32

Planning Commission Meeting: October 25, 2021

Applicant Homer Electric Association

Mailing Address 280 Airport Way

Kenai, AK 99611

Legal Description T 8N R 11W SEC 33 SEWARD MERIDIAN KN PTN GLS 11 & 13

Physical Address 56172 Kenai Spur Hwy
KPB Parcel Number 01326019, 01326017

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 to install a wooden utility pole with an overhead transformer and underground electrical service within the 50-foot Habitat Protection District of Daniels Lake, as established in KPB 21.18.040. Per the utility company, there is no alternate location to provide electrical service to the location requested by the applicant.

Project Details within the 50-foot Habitat Protection District

- 1. A wheeled boom truck will use an auger attachment to drill and set the utility pole, which will be treated with Pentachlorophenol (PCP), a wood preservative agent.
- 2. Installation of the underground electrical cable will be performed with a rubber tracked bobcat excavator by digging a 36-inch-deep by 15-foot-long trench. Excavated material will be temporarily set adjacent to the trench. All excavated materials will be used to backfill the trench.
- 3. Applicant will hydroseed any disturbed areas within the habitat protection district.
- 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 habitat protection district.

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(B)(5), construction of utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
- 3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
- 5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 6. 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.
- 7. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:

- "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 8. While utility services are not a water-dependent use as described in Resolution 2015-35, they are listed as a permissible Conditional Use under KPB 21.18.081(B)(5).
- 9. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
- 10. Agency review was distributed on October 4, 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 October 5, 2021. A total of 10 mailings were sent.
- 12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 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 Daniels Lake.
- 2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
- 3. 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.
- 4. Storage or use of fuel is prohibited within 50-feet of any open water.
- 5. The River Center shall be notified at least 3 days prior to the start of the project.
- 6. 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.
- 7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 8. 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)).
- 9. 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).
- 10. 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.
- 11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

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

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1 4 appear to support this standard.**
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1 4, 9 13 appear to support this standard.**
- 3. The development of the use or structure shall not physically damage the adjoining property; **Finding 6 appears to support this standard.**
- 4. The proposed use or structure is water-dependent; **Findings 7 8 appear to support this standard.**
- 5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 13 appears to support this standard.**

Attachments

Vicinity Map
Site Plan
Application
Draft Resolution 2021-32
Public Hearing Notice

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 2021-32.

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 2021-32

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE INSTALLATION OF A WOODEN UTILITY POLE AND UNDERGROUND ELECTRICAL SERVICE WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF DANIELS LAKE.

- **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 October 13, 2021 and October 20, 2021 as provided in Section 21.11.020; and
- **WHEREAS,** public testimony was received at the October 25, 2021 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

- 1. A wheeled boom truck will use an auger attachment to drill and set the utility pole, which will be treated with Pentachlorophenol (PCP), a wood preservative agent.
- 2. Installation of the underground electrical cable will be performed with a rubber tracked bobcat excavator by digging a 36-inch-deep by 15-foot-long trench. Excavated material will be temporarily set adjacent to the trench. All excavated materials will be used to backfill the trench.
- 3. Applicant will hydroseed any disturbed areas within the habitat protection district.
- 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 habitat protection district.

Section 2. Findings of Fact Pursuant to KPB 21.18.081

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

- 2. Pursuant to KPB 21.18.081(B)(5), construction of utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
- 3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
- 5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 6. 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.
- 7. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as: "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 8. While utility services are not a water-dependent use as described in Resolution 2015-35, they are listed as a permissible Conditional Use under KPB 21.18.081(B)(5).
- 9. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
- 10. Agency review was distributed on October 4, 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 October 5, 2021. A total of 10 mailings were sent.
- 12. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 2021.
- 13. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

- 1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to Daniels Lake.
- 2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
- 3. 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.
- 4. Storage or use of fuel is prohibited within 50-feet of any open water.
- 5. The River Center shall be notified at least 3 days prior to the start of the project.
- 6. 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.
- 7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 8. 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)).
- 9. 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).
- 10. 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.
- 11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. 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; **Conditions 1 4 appear to support this standard.**
- Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; Findings 1 4, 9 13 appear to support this standard.
- 3. The development of the use or structure shall not physically damage the adjoining property; Finding 6 appears to support this standard.
- 4. The proposed use or structure is water-dependent; Findings 7 8 appear to support this standard.
- 5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 13 appears to support this standard.**

THIS CONDITIONAL USE PERMIT	EFFECTIVE ON DAY OF	, 2021.
	Blair Martin, Chairperson	
ATTEST:	Planning Commission	
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



Applicant Information:	Authorized Agent Information: (if applicable)			
Name:	Name:			
Homer Electric Association, Inc. (HEA)	Cody Neuendorf - Land Management Officer			
Owner? Yes No				
Mailing Address: (where permits will be mailed) 280 Airport Way	Mailing Address: Same			
Kenai, AK 99611				
Phone (Home/Work):	Phone (Home/Work): (907) 335-6209			
Cell Phone:	Cell Phone: (907) 398-6170			
E-Mail:	E-Mail: cneuendorf@homerelectric.com			
Project Location: Nearest Waterbody: Daniel's Lake	KPB Parcel Number: 013-26-017			
Physical Address: 54742 Kenai Spur Hwy.	City (if within incorporated limits):			
New Project Time extension request, maintenance, amend River Center Permit Number(s) Purpose of this project (bank stabilization, new residential structure Electrical Service Installation				
Proposed project start date: 10/1/2021 Estimated number of actual construction days: 1	Proposed project end date: 12/31/2021			
Has any of the work already been started? Yes X No	If yes, please provide details in the project description.			
Is the project located within 50 ft. of ordinary high water (OH	IW) or mean high water (MHW)? X Yes \(\bigcap \) No \(\bigcap \) Unsure			
Does any portion of the project cantilever or extend <u>over</u> OHV	W or MHW? ☐ Yes 🄀 No ☐ Unsure			
Does any portion of the project extend below OHW or MHW	? ☐ Yes 🔀 No ☐ Unsure			

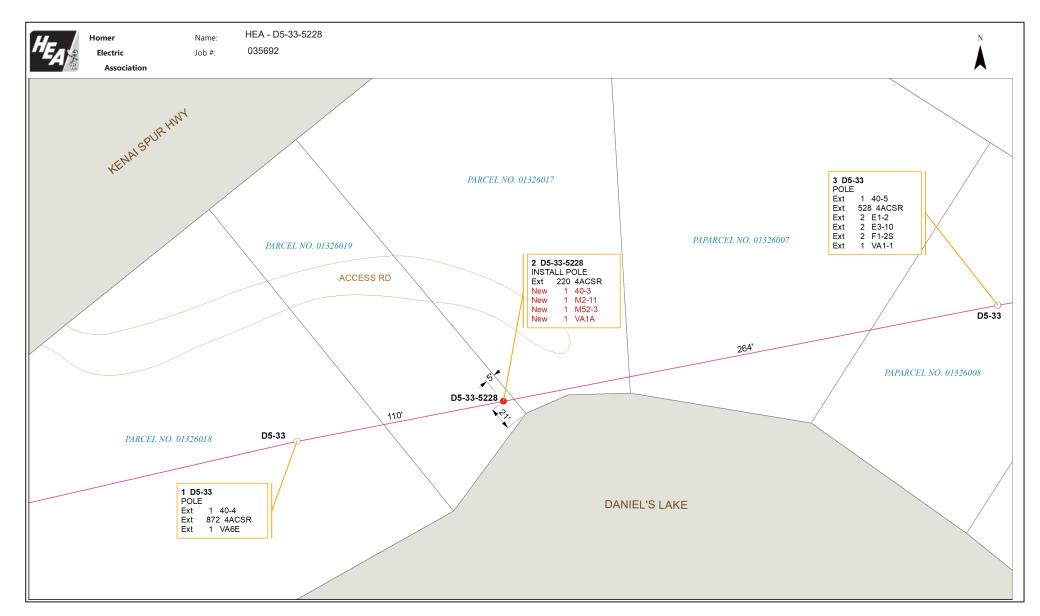
Project Description:

Please provide a detailed description of your entire proposed project. Include dimensions of all installations, volumes of fill added or excavated, the location of the project and project activities in relation to the ordinary high water (OHW) line of the nearest waterbody, equipment to be used, work that has already begun or has already been completed, and other information about your plans. If you are providing additional information to amend or revise existing permits, or applying for a time extension, you only need to describe any changes to your previous proposal.

Install wooden utility pole with overhead transformer and underground 120/240V electrical service within the 50' HPD.
Existing overhead electrical distribution line installed 1964.

Multi-Agency Permit Application – Page 3

Pro mini												ving	s of	the 1	prop	osed	l pro	ject,	, atta	chir	ng ac	lditi	onal	shee	ets i	fnec	essa	ry. A	Αt
	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 waterbodies.									Top and side view of project, including crosections, if applicable. Volumes/dimensions, type and locations of or extracted material.							of a	of added	1										
	de str ind	velo ucti	pmo	ent, i	inclu ban	ıdinş k re	g pla stora	tfor tion	of a ms, v tech terb	walk nniq	way ues.	Plea		T		 Locations of proposed clearing of vegetation, storage of fuel and stockpiling of material. Methods of anchoring and elevation, if application 							÷.						
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Signature Page:

You are responsible for obtaining all required permits for your project. This application will be distributed to agencies at the River Center including the Kenai Peninsula Borough, Alaska Department of Fish & Game (ADF&G), and Alaska State Parks. The application may also be distributed to other agencies including US Fish & Wildlife Service, the U.S. Army Corps of Engineers and city planners (if applicable). Individual agencies may contact you about your application. In some cases, additional information or applications may be required. Submitting this application to the River Center does not relieve you of your responsibility to ensure that all required permits are secured before beginning any work on your project.

A permit fee may be required. If your project is within State Park boundaries (which includes the waters of the Kenai River), a \$100 fee may be required. If you are not certain if a fee is required, contact State Parks at the River Center at (907) 714-2471.

Completed applications can take up to 30 days to be processed and reviewed for any required permits. Applications are reviewed in the order they are received. Applications that are incomplete, or that require additional information, agency comment or other special circumstances, may take longer than 30 days to process. Please plan ahead as work on a project may not begin until all required permits are secured.

Application is hereby made for a permit or permits to authorize the work described herein. By signing below, 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.

Neuendorf	Association, Inc. e-cneuendoriffthomeretectric.com Reason: I am the author of this document Location: Date: 2021-09-23 15:52-08:00	Land Management Officer	9/23/2021
Signature of	f Applicant/Prop	perty Owner	Date
accompany t	his application. It	f an agent, such as a contractor, is author	signed authorization from the property owner mustized to communicate with the River Center about the
project on th	e applicant's beh	alf, both the applicant/owner and the aut	horized agent must sign this application.

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 install a wooden utility pole with an overhead transformer and underground electrical service on a parcel within the 50-foot Habitat Protection District of Daniels Lake, near Nikiski, Alaska. You have been sent this courtesy notice because you are a property owner within 300 feet of the described property.

Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure 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 56172 Kenai Spur Hwy, Kenai, Alaska, 99611.

Petitioner: Homer Electric Association

280 Airport Way Kenai, AK 99611

The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on October 25, 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 comment to the Donald E. Gilman River Center at 514 Funny River Rd., Soldotna, Alaska 99669, by fax to (907) 260-5992, or by email to KenaiRivCenter@kpb.us. Written comments must be submitted no later than 1:00 pm Friday, October 22, 2021. This deadline does not affect the public's ability to provide verbal testimony at the public hearing.

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

AGENDA ITEM E NEW BUSINESS

2. Street Name Change: Del Urban Court, a public right of way originally dedicated by plat HM 83-23 Kings Creek Urban Addition; Section 27, T5S, R12W Seward Meridian, Kenai Peninsula Borough, AK; in the community of Fritz Creek; ESN 202

STAFF REPORT PC MEETING: October 25, 2021

Applicant: Ralph Crane of Homer, AK

Existing right-of-way names: Del Urban Ct

Name proposed by petitioner: Kavik Ct

Reason for Change: Petition from property owners

Background:

Name	Del Urban Ct
ESN	202
Community	Fritz Creek
YR Named	1983
Constructed	Yes
Total Lots	4
Residential	4
Commercial	0
E911 Address	4
Mailing	0

Review and Comments:

Notice was sent by mail to the owners of the four parcels fronting Del Urban Ct, 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 currently living on Del Urban Ct.

Per KPG GIS data, Del Urban Ct is a borough maintained road approximately 410 feet in length and provides access to four residential homes.

The petitioner has stated that the property owners would like a more Alaskan street name and that the work Kavik is a native Alaskan word for wolverine.

The petition included signatures from all owners fronting Del Urban Ct.

Staff reviewed the suggested name and found no conflict. There are currently no other streets within the borough using the word Kavik.

STAFF RECOMMENDATION: Rename Del Urban Ct to **Kavik Ct** by the adoption of Resolution SN 2021-04.

END OF STAFF REPORT

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION

RESOLUTION SN 2021-05

RE NAMING A CERTAIN RIGHT OF WAY WITHIN SECTION 27, T5S, R12W; SEWARD MERIDIAN; WITHIN EMERGENCY SERVICE NUMBER (ESN) 202

WHEREAS, a procedure has been developed to help implement the Enhanced 9-1-1 Street Naming and Addressing project; and

WHEREAS, eliminating duplicate and sound-alike street names will enable 9-1-1 Emergency Services to respond to emergencies in an efficient timely manner, thereby avoiding delays in providing necessary emergency services; and

WHEREAS, adding a post directional or changing the name of portions of jump streets will enable 9-1-1 Emergency Services to respond to emergencies in an efficient timely manner, thereby avoiding delays in providing necessary emergency services; and

WHEREAS, naming private roads that provide access to three or more structures will enable 9-1-1 Emergency Services to respond to emergencies in an efficient timely manner, thereby avoiding delays in providing necessary emergency services; and

WHEREAS, per KPB 14.10.060, the naming of an unnamed road will not constitute a legal dedication for public right-of-way or for road maintenance purposes; and

WHEREAS, on April 12, 2021 public hearings were held by the Kenai Peninsula Borough Planning Commission to address all concerns about the proposed private road naming; and

WHEREAS, Chapter 14.10 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish street name changes by Resolution.

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

<u>Section 1</u>. That the private road listed below is named as follows:

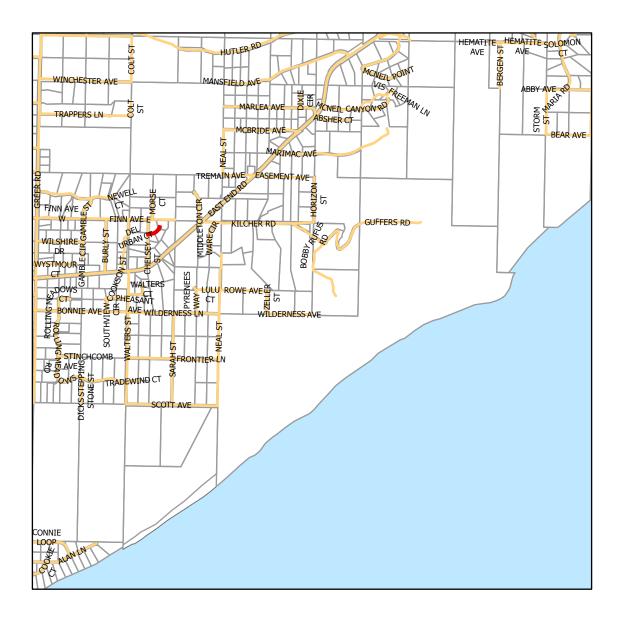
	DESCRIPTION	FROM	ТО	BASE MAP
a.	A public right of way originally dedicated by plat HM 83-23 Kings Creek Urban Addition; Section 27, T5S, R12W, Seward Meridian, Kenai Peninsula Borough, AK; in the community of Fritz Creek; ESN 202	Del Urban Ct	Kavik Ct	AR58

Section 2. That according to Kenai Peninsula Borough Code of Ordinance 14.10.030, the official street name map, 1:500 scale series base map, AR58; is hereby amended to reflect these changes.

Section 3. That the map showing the location of the renamed right-of-way be attached to, and made a permanent part of this resolution.

Section 4.	That this Resolution takes	s effect immediately upon adoption.	
ADOPTED BY OF OCTOBER		SSION OF THE KENAI PENINSULA BOROU	GH THIS 25 th DAY
		Blair J. Martin, Chairperson Planning Commission	
State of Alaska Kenai Peninsul			
	vorn to (or affirmed) in my	y presence this day of	2021 by
Notary Public		_	
My Commission	n expires	_	

Street Name Change Resolution SN 2021-05





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

PETITION TO NAME / RENAME A STREET

Kenai Peninsula Borough Planning Department ATTENTION: E911 Addressing Officer 144 North Binkley Street Soldotna, AK 99669-7520 (907) 714-2200

Petitioner's Name: (Pi	-						
Mailing Address:	986 Larkspur C	ourt					
E-mail Address:	Kummok@Farthlink Net						
Telephone:	951-218-6362						
Current Street Name:	Del Urban Cou	rt –					
Proposed Street Name	Kavik Co	ourt					
ocation of Current S		58	_ Range: _	12W	Section:	27	
	Subdivision: KINC	S CREE	K SUB UF	RBAN AD	DN NO 2		
The Right-of-	Way is: (Please Ch	eck)		Pub	olic	Private	
Is the Right-of-Way in use? ■ Yes							
Is the road constructed?							
Is there a stre	eet sign along the	Right-of-W	ay?	■ Y	'es	□ No	
Reason for Requested (change.		nds too So				
2. Kavik means wol	verine in the Inu	piaq lang	uage and	is Alaska	n name		
Existing name was	recorded for/by [el Urban,	a person n	o longer a	ssociated	here	
List Three (3) Choices for Kavik Court	or a new Street Nar	ne, in order	of preferen	ce.			
Kavik Circle							
-Kavik Place							

New Name Suggestions must not be on the Road Inventory List which can be found at: https://www.kpb.us/images/KPB/PLN/911/Road Inventory.pdf

New Street Names must be checked, and approved by the E911 Addressing Officer by email addressing@kpb.us; fax 714-2378; or phone 714-2200.

To be considered complete, the application must be accompanied by the following items:

- Petition signed by property owners (see instructions). 1.
- 2. A map showing the road to be named and surrounding property.
- The filing and sign fees are established by KPB Planning Commission Resolutions 96-22 and 85-3. 3, as follows:
 - For name changes or naming of public street dedications other than those named during (A) the subdivision process:

		Check Applical	ple Boxe	Š
(1)	Street Naming Petition and Hearing Advertising Fee	\$300	V	
(2)	Installation of each new Borough Service Area Sign, Post, etc. (per sign)	\$150		
(3)	Replacement of existing Borough Service Area Sign, due to change where no post is needed. (per sign)	\$ 80	V	

The minimum fee shall be either a combination of 1 and 2 OR 1 and 3 above; however, all signs that need to be changed and / or maintained by a Borough Service Area must be paid for upon completion of the project.

(B) For Private Road Naming:

(1)	Street Naming Petition and Hearing Advertising Fee	\$300
(2)	Installation of each new Borough Service Area sign, Post, etc. (per sign)	\$150
(3)	Replacement of existing Borough Service Area Sign, due to change where no post is needed. (per sign)	\$ 80
(4)	If no signs are required	No Fee
	TOTAL FEE SUBMITTED	\$ 380.00

Additionally, if the Right-of-Way was created by a document other than a recorded plat, a copy of that document must be submitted with this application.

NOTE: INCOMPLETE APPLICATIONS WILL BE RETURNED.

I, the undersigned, hereby affirm that all information made part of this application is true, correct and complete to the best of my knowledge.

PETITION FOR RENAMING A STREET

Existing Road Name: Del Urban Court		
Proposed Road Name: Kavik Court		
Name of Primary Petitioner: Ralph E Crane		
Identify the Owners of Land affected (include mortgage holders, contract corporation or partnership, provide the needed authority to sign): Name (print): Haura Touya Signature: Haura Touya	holders Phone:	406-40 7 -5761
DO Device Manage	-	
Mailing Address: P.O. BOX 610, Homer, AK 99603 T5S R 12W SEC 27 SEWARD MERIDIAN HM 0860102 KINGS CREEK SUB UI	RBAN ADDN	NO 2 LOT 1-C
Legal Description:		
Name (print): Sherry Robertson Signature: Sherry Robertson	Phone:	907-399-77
Mailing Address: P.O. Box 538, Homer, AK 99603 T 5S R 12W SEC 27 SEWARD MERIDIAN HM 0860102 KINGS CREEK SUB UI	DRAN ADDA	NO 2 LOT 1-P
Legal Description:	ADAN ADDN	NO 2 W 1 1-B
Name (print): lan M. Overson	Phone:	907-435-7619
Signature:	-	
Mailing Address: P.O. Box 2151, Homer, AK 99603		
T 5S R 12W SEC 27 SEWARD MERIDIAN HM 0860102 KINGS CREEK SUB UI Legal Description:	RBAN ADDN	NO 2 LOT 2-B
Logal Description.		
Name (print): Ralph Crane	Phone:	951-218-6362
Signature: Rall (Vu)		
Mailing Address: 986 Larkspur Court, Homer, AK 99603		
T 5S R 12W SEC 27 SEWARD MERIDIAN HM 0990024 KINGS CREEK URBAN	ADDN NO	LOT 3-A
Legal Description:	······································	
Name (print):	Phone:	W
Signature:		
Mailing Address:		
Legal Description:		

CURVE	RADIUS	DELTA	ARC
<u></u>	375.00	42° 51' 06"	280.46
2	50.00	62° 06' 44"	54.20
3	50.00	150° 55' 36"	131, 71
4	50.00	86° 51′ 48″	75.80
5	425.00	21° 55' 48"	162.67

NOTES

LEGEND

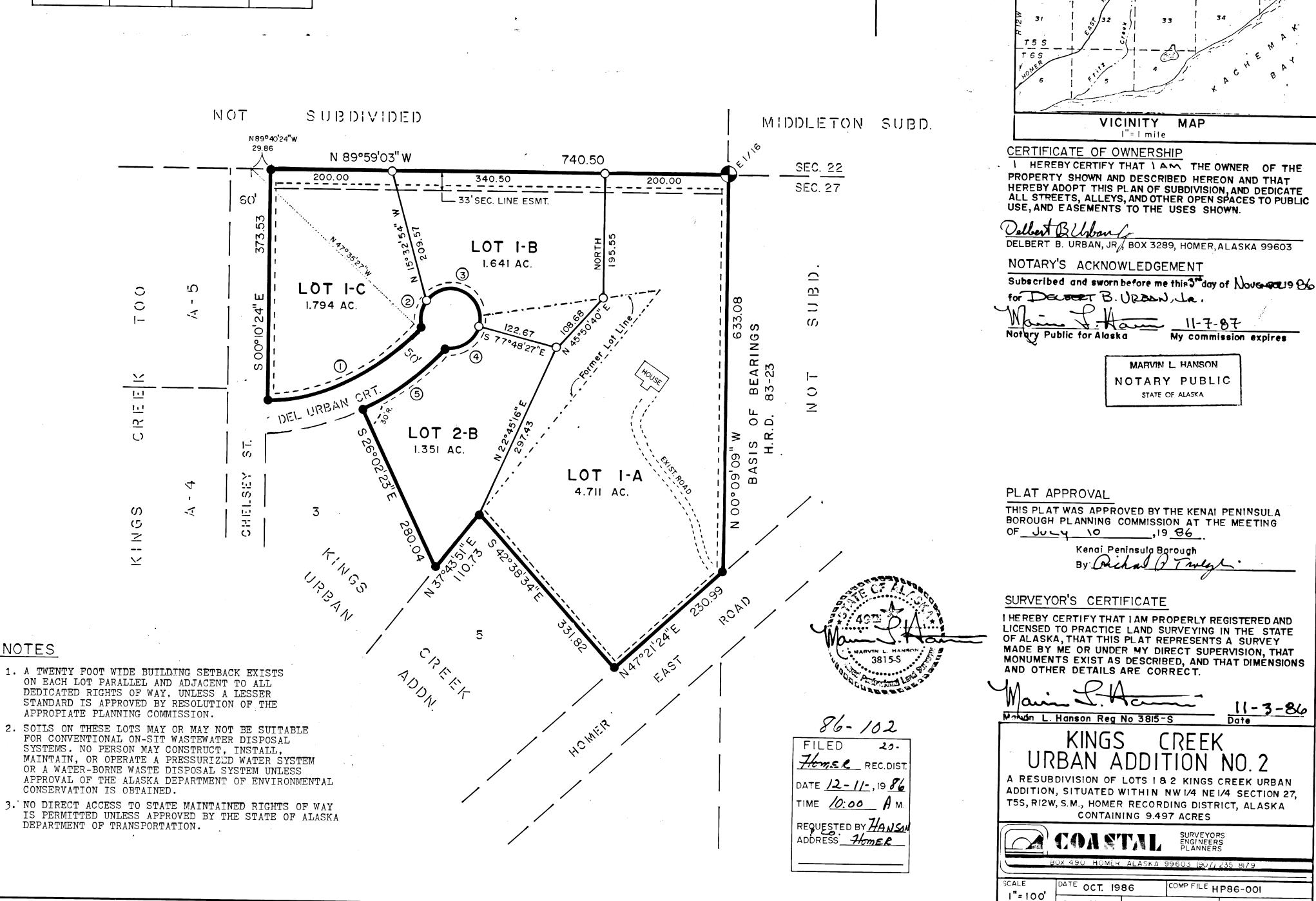
FOUND B.C. MONUMENT, 4129-S, 1980

● FOUND 1/2" REBAR, 3686-S

O SET 1-1/2"ALCAP ON 5/8"X30"REBAR

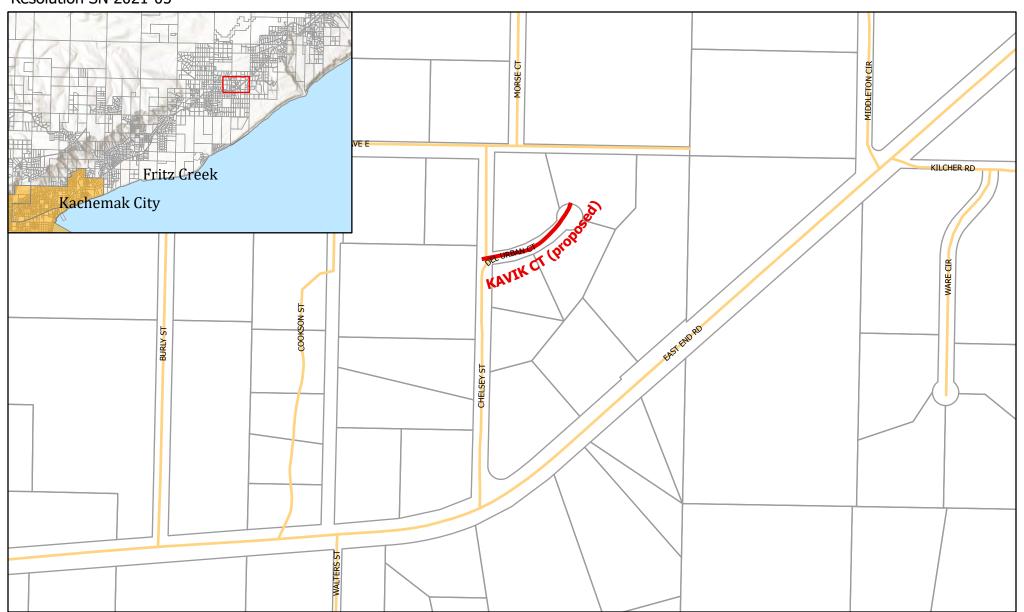
--- EXISTING 10' UTILITY EASEMENT





DRAFT MH | DWG No 86008-2 | JOB No 86008

Street Name Change Resolution SN 2021-05



Street Name Change Resolution SN 2021-05



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

Charlie Pierce Borough Mayor

PENINSULA CLARION

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING TO RENAME STREETS

Public notice is hereby given that a petition was received to rename Del Urban Ct in the Fritz Creek area. Area under consideration is described as follows:

A. **Location**: Del Urban Court, a public right of way originally dedicated by plat HM 83-23 Kings Creek Urban Addition; Section 27, T5S, Seward Meridian, Kenai Peninsula Borough, AK; in the community of Fritz Creek; ESN 202

Reason for Renaming: Petition from property owners

Proposed Name: Kavik Ct

B. Purpose as stated in petition: Applicant would like an Alaskan street name

C. Petitioner(s): Ralph Crane

Public hearing will be held by the Kenai Peninsula Borough Planning Commission on **Monday, October 25, 2021**, commencing at **7:30 p.m.**, or as soon thereafter as business permits. The meeting is being held in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 N. Binkley Street, Soldotna, Alaska.

Meeting materials may be found at https://www.kpb.us/planning-dept/planning-commission as well as any updates to meeting procedures.

Anyone wishing to testify, but cannot attend the zoom meeting, may submit a written statement to the attention of Addressing, Kenai Peninsula Borough Planning Department, 144 N. Binkley Street, Soldotna, Alaska 99669. The Planning Department recommends that written comments be received by **Friday, October 22, 2021.** [Written comments may also be sent by email to the address below or by Fax to 907-714-2378].

For additional information contact Addressing (addressing@kpb.us), Planning Department, 714-2200 (1-800-478-4441 toll free within Kenai Peninsula Borough).

New name suggestions must not be on the 911 Street Naming Master Street Address Guide List: https://www.kpb.us/images/KPB/PLN/911/Road Inventory.pdf AND new name suggestions must be checked and approved by the Planning Department.

PLEASE NOTE: The Planning Commission may approve a name suggested by landowners, interested parties, or the planning staff. An entirely different name can also be suggested and approved by the Commission during the public hearing.

PLEASE NOTE: Upon adoption of a street name change resolution, no reapplication or petition concerning the name of the same street may be filed within one calendar year of the final adoption, except in the case where



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new evidence or circumstances exist that were not available, present or reasonably ascertainable when the original resolution was adopted (KPB 14.10.050).



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Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building Melanie Aeschliman, Planning Director • Charlie Pierce, Borough Mayor

Land Management:

Land Management is beginning land use planning discussions on the 1000-acre land Unit 395, along Juneau Bench west of Cooper Landing. This land unit is Municipal Entitlement lands approved from the state along the Sterling Highway MP 45-60 project. Land Management is discussing bringing on a professional consultant and engaging a series of public meetings the Cooper Landing Advisory Planning Commission. A short presentation to introduce this effort will be given to the CLAPC on November 3, 2021.

Platting:

Platting manager Scott Huff met with the Homer Planning and Zoning Commission on 10/20 for a work session to discuss the platting process and what role the City Planning and Zoning has in platting and vacation reviews. The work session was well received with quite a bit of questions from the commissioners as well as from the City Public Works Director. Homer is working on a drainage plan for the City, which will help identify areas needed for drainage easements. This will provide connectivity with drainage issues and planning for future drainage needs.

Platting and Legal have been having more discussions regarding patent easement and small tract ROW's. I have contacted DNR, Muni of Anchorage, Fairbanks North Star Borough, and Mat Su borough to see how they handle patent easements. Legal and Platting will get together again to work on this question.

Planning:

If you have a chance please take a quick review of the 2021 Alaska Planning Commission Handbook (link below). It has been updated and brought forward by the Department of Commerce, Community and Regional Affairs, and is written in accordance with Alaska State law AS 44.99.210. This guide is to provide the residents of Alaskan communities a tool to make sounding planning decisions. We can grow and build our planning commission to encompass annual budget reviews with money for projects/studies. This book addresses regular review of the comprehensive plan, selecting projects and moving forward to implement and develop that selected task. The planning department (planners) will be working on projects in the future and bringing them forward to engage with the planning commission and start taking on pieces of the comp plan or other issues that we may need to address.

Planning Commission Handbook Oct 2021.pdf (alaska.gov)