



**Meeting Agenda
Planning Commission**

Monday, January 10, 2022

7:30 PM

ZOOM ONLY

Zoom Meeting ID: 907 714 2200

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

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

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

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

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

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

1. Time Extension Request

2. Planning Commission Resolutions

3. Plats Granted Administrative Approval

- a. [KPB-3824](#) ASLS 2020-08 Fitz Creek Heights Subdivision; KPB File 2021-011
Attachments: [ASLS 2020-08 Fritz Creek Heights Subdivision](#)
- b. [KPB-3825](#) ASLS 2019-34 Tract ASLS 96-42; KPB File 2021-019
Attachments: [ASLS No 2019-34 Tract A ASLS 96-42 KPB 2021-019](#)
- c. [KPB-3826](#) Barnett's South Slope Subdivision Quiet Creek Park 2021 Replat
KPB File 2021-057
Attachments: [Barnett's South Slope Subdivision Quiet Creek Park 2021 Replat](#)
- d. [KPB-3827](#) Birchwood Subdivision Sherman Addition No. 2; KPB File 2021-090
Attachments: [Birchwood Subdivision Sherman Addition No 2](#)
- e. [KPB-3828](#) Bunnell's Subdivision Haige 2021 Replat; KPB File 2021-134
Attachments: [Bunnells Subdivision Haigh 2021 Replat 2021-134](#)
- f. [KPB-3829](#) Eventyr Subdivision Number 3; KPB File 2020-079
Attachments: [Eventyr Subdivision Number 3](#)
- g. [KPB-3830](#) Falls Creek Estates Unit 5; KPB File 2021-110
Attachments: [Falls Creek Estates Unit 5 2021-110](#)
- h. [KPB-3831](#) Fowler's Bench; KPB File 2021-067
Attachments: [Fowlers Bench 2021-067](#)
- i. [KPB-3832](#) Green Forest Subdivision Carew Addition; KPB File 2021-106
Attachments: [Green Forest Subdivision Carew Addition 2021-106](#)
- j. [KPB-3833](#) Hylen 2021 Addition; KPB File 2021-024
Attachments: [Hylen 2021 Addition](#)
- k. [KPB-3834](#) Jack Foster Subdivision 2018 Addition Phase 2; KPB File
2018-012R1P2
Attachments: [Jack Foster Subdivision 2018 Addition Phase 2](#)

- l. [KPB-3835](#) Mansfield Subdivision Wolter 2021 Replat; KPB File 2021-121
Attachments: [Mansfield Subdivision Wolter 2021 Replat 2021-121](#)
- m. [KPB-3836](#) McFarland Subdivision 2021 Replat; KPB File 2021-130
Attachments: [McFarland Subdivision 2021 Replat](#)
- n. [KPB-3837](#) S & S Subdivision; KPB File 2021-112
Attachments: [S & S Subdivision KPB 2021-112](#)
- o. [KPB-3838](#) Skyline Drive Subdivision N. 7A; KPB File 2021-083
Attachments: [Skyline Drive Subdivision No 7A](#)
- p. [KPB-3839](#) Townsite of Kenai Kenaitze Courthouse Replat; KPB File 2021-118
Attachments: [Townsite of Kenai Kenaitze Courthouse Replat](#)
- q. [KPB-3840](#) USS 4901 C Street ROW Vacation 2021 Replat; KPB File 2021-085
Attachments: [USS 4901 C Street ROW Vacation 2021 Replat 2021-085](#)

4. Plats Granted Final Approval (KPB 20.10.040)

- a. [KPB-3842](#) Dahler Subdivision Revis Replat; KPB File 2021-155
Attachments: [Dahler Sub Revis Replat](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

- [KPB-3843](#) December 13, 2021 Planning Commission Meeting Minutes
Attachments: [PC Minutes 121321 Draft](#)

D. OLD BUSINESS

1. [KPB-3844](#) Remand Hearing - CLUP Modification
PC Resolution 2021-26
Applicant: Cook Inlet Region, Inc.
Attachments: [1.CIRI Remand MEMO w attachments](#)
[2. Staff report -12.08.2021](#)
[3. Appeal Packet_CIRI CLUP](#)

2. [KPB-3845](#) Remand Hearing - CLUP Application
PC Resolution 2018-23
Applicant: Beachcomber, LLC

Attachments: [1. Beachcomber MEMO w attachments](#)
 [2. Appeal Record - Beachcomber_R](#)
 [PC D2 - Public Comment](#)

E. NEW BUSINESS

1. [KPB-3846](#) UEV - Barabara Heights Subdivision (KN 79-6) Lot 6 Block 14
KPB File 2021-156V

Attachments: [1. MAP Vicinity](#)
 [2. MAP Aerial Map](#)
 [3. Plat Prelim KPB 2021-156V Reduced](#)
 [4. Staff Report Barbara Heights Sub Griffith Addn UEV 2021-156V](#)
 [5. Plat Parent SL 79-6](#)

2. [KPB-3847](#) UEV - Kachemak Vista Subdivision (HM 83-93) Lots 1 & 3
KPB File 2021-023V

Attachments: [1. MAP Vicinity](#)
 [2. MAP Aerial Map](#)
 [3. Plat Prelim KPB 2021-023V Reduced](#)
 [4. Staff Report Kachemak Vista Sub 2021 UEV 2021-023V](#)
 [5. Plat Parent HM 83-93](#)

3. [KPB-3848](#) ROWV - 426' Portion of Arneson Avenue
KPB File 2021-160V

Attachments: [1. MAP Vicinity](#)
 [2. MAP Aerial Map](#)
 [3. Plat Prelim KPB 2021-160V Reduced](#)
 [4. Staff Report Cabin Hoppers Sub Arneson Ave ROWV KPB 2021-160V](#)
 [5. MAP Aerial Map 2](#)
 [6. MAP Contour](#)
 [7. Plat ROW Encroachment](#)
 [8. Plat Parent HM 84-115](#)
 [9. Plat Parent HM 2007-126](#)
 [10. Plat Parent HM 2000-64](#)
 [11. Plat Waiver PC Res 93-07](#)
 [12. Comment State of Alaska DNR](#)

4. [KPB-3849](#) Ordinance 2022-01: An ordinance authorizing a communications site lease agreement with Vertical Bridge S3 Asset, LLC at Nikiski Fire Station 1.

Attachments: [1 Vertical Bridge Site Lease \(NFS #1\) MEMO](#)
[2 Vertical Bridge Site Lease \(NFS #1\) ORD](#)
[3 Vertical Bridge - Tower Site Map & Drawings \(NFS #1\)](#)
[4 Vertical Bridge Site AGR \(NFS #1\)](#)

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)

- a. [KPB-3850](#) Update on Sterling Highway Project MP 45-60
- b. [KPB-3851](#) Land Management Presentation - Mass Timber Sale Project Proposal

Attachments: [PC Presentation 1.10.21 Land Management](#)

I. DIRECTOR'S COMMENTS

J. COMMISSIONER COMMENTS

K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS NO ACTION REQUIRED

[KPB-3852](#) APC Meeting Minutes

Attachments: [PC Misc Info_010522 CLAPC Minutes UNAPP](#)
[PC Misc Info_010622 Anchor Point Minutes UNAPP](#)
[PC Misc Info_040622 K-BAY APC UNAPP](#)

NEXT REGULARLY SCHEDULED PLANNING COMMISSION

The next regularly scheduled Planning Commission meeting will be held Monday, January 24, 2022 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215

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

Fax: 907-714-2378

e-mail address: planning@kpb.us

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

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

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

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



Planning Department

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

Charlie Pierce
Borough Mayor

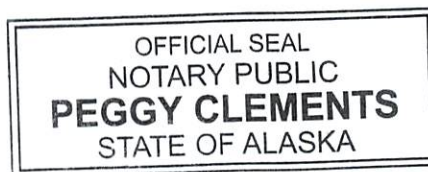
ADMINISTRATIVE APPROVAL

Subdivision: ASLS 2020-08 Fritz Creek Heights Subdivision
KPB File 2021-011
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 15, 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 Wednesday, December 15, 2021.

Scott Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 15th day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 7.31.2022

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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: ASLS No 2019-34 Tract A ASLS 96-42
KPB File 2021-019
Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 15, 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 Thursday, December 30, 2021.

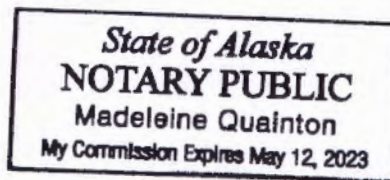
Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Barnett's South Slope Subdivision Quiet Creek Park 2021 Replat
KPB File 2021-057
Homer Recording District

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

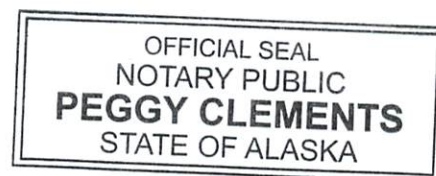
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on December 10, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 10th day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska



My commission expires: 7-31-2022

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



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Charlie Pierce
Borough Mayor

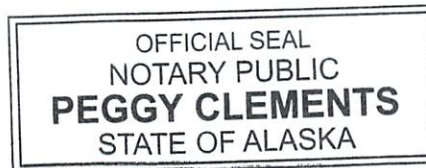
ADMINISTRATIVE APPROVAL

Subdivision: Birchwood Subdivision Sherman Addition No 2
KPB File 2021-090
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on July 12, 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 December 9, 2021.

Scott A. Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 9th day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7-31-2022

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Bunnell's Subdivision Haigh 2021 Replat
KPB File 2021-134
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 11, 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 December 22, 2021.

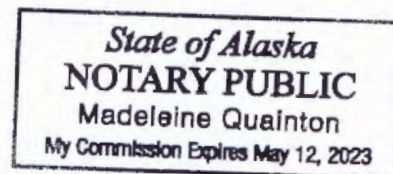
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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Charlie Pierce
Borough Mayor

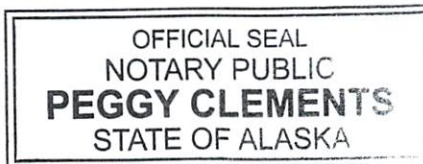
ADMINISTRATIVE APPROVAL

Subdivision: Eventyr Subdivision Number 3
KPB File 2020-079
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 Thursday, December 16, 2021.

Scott Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 16th day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 7.31.2022

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Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Falls Creek Estates Unit 5
KPB File 2021-110
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 23, 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 Wednesday, December 22, 2021.

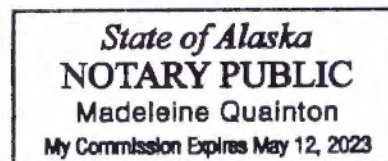
Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Fowler's Bench
KPB File 2021-067
Homer 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.

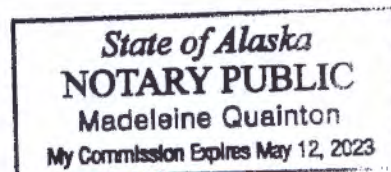
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on December 22, 2021.

Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska



My commission expires: 5/12/23

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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Green Forest Subdivision Carew Addition
KPB File 2021-106
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 23, 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 Monday, December 27, 2021.

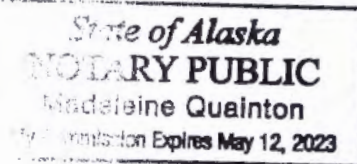
Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 27 day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Hylén 2021 Addition
KPB File 2021-024
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 12, 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 December 2, 2021.

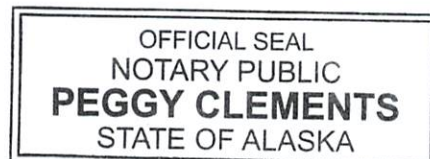
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 2nd day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7-31-2022



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



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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

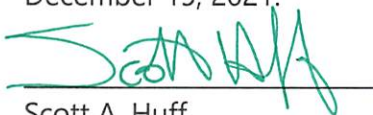
Subdivision: Jack Foster Subdivision 2018 Addition Phase 2
KPB File 2018-012R1P2
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary phase design plat on March 12, 2018. Approval for the plat is valid for two years from the date of approval, which is valid through March 12, 2020.

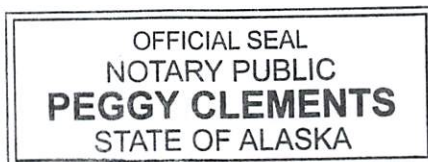
The preliminary phase design was revised and again, conditionally approved on May 14, 2018. Approval for the plat is valid for two years from the date of approval, which is valid through May 14, 2020.

Phase 1 recorded September 7, 2018 by plat KN 2018-47, per **20.25.110 (B)** the approval of a final plat for a portion of the phased preliminary shall extend the preliminary approval for two years for the remaining land within the phased subdivision which is valid through September 7, 2020.

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 December 15, 2021.

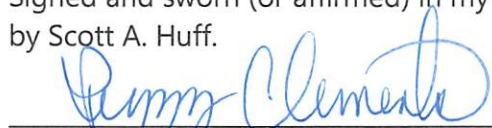


Scott A. Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 15th day of December 2021
by Scott A. Huff.


Notary Public for the State of Alaska

7-31-2022
My commission expires:

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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Mansfield Subdivision Wolter 2021 Replat
KPB File 2021-121
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 11, 2021. Approval for the plat is valid for two years from the date of approval.

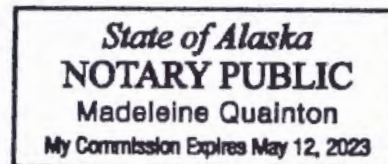
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, December 22, 2021.

Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska



My commission expires: 5/12/23

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



Planning Department

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Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: McFarland Subdivision 2021 Replat
KPB File 2021-130
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 27, 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 Wednesday, December 15, 2021.

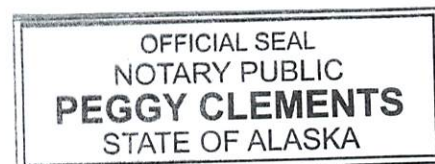
Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 15th day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 7.31.2022



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



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: S & S Subdivision
KPB File 2021-112
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on October 25, 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 Thursday, December 30, 2021.

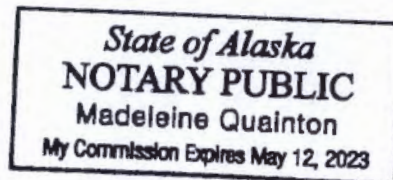
Scott Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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

Charlie Pierce
Borough Mayor

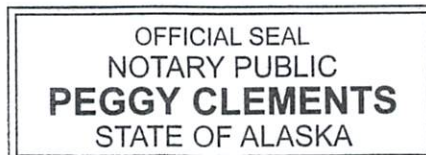
ADMINISTRATIVE APPROVAL

Subdivision: Skyline Drive Subdivision No 7A
KPB File 2021-083
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 28, 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 Thursday, December 09, 2021.

Scott Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 9th day of December 2021 by
Scott Huff.

Notary Public for the State of Alaska

My commission expires: 7.31.2022

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



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Townsite of Kenai Kenaitze Courthouse Replat
KPB File 2021-118
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 13, 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 December 6, 2021.

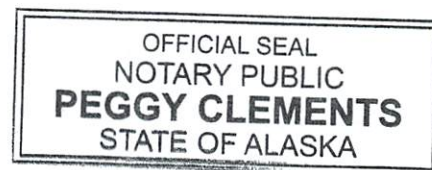
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 6th day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7.31.2022



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



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: USS 4901 C Street ROW Vacation 2021 Replat
KPB File 2021-0B5
Seldovia Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 27, 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 December 22, 2021.

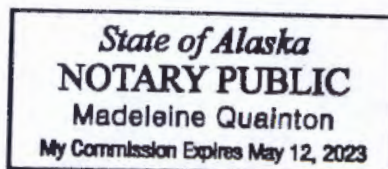
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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

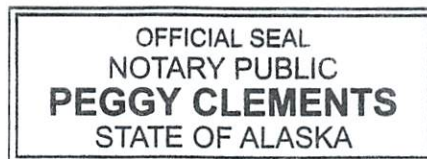
Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Dahler Subdivision Revis Replat
KPB File 2021-155
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 December 14, 2021.

Scott A. Huff
Platting Manager



State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 14th day of December 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 7-31-2022

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

Kenai Peninsula Borough Planning Commission

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

December 13, 2021
7:30 P.M.
UNAPPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

Syverine Bentz, Anchor Point/ Ninilchik
Jeremy Brantley, Sterling
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

With 5 members of an 14-member commission (eight seats currently filled) in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director
Sean Kelley, Borough Attorney
Scott Huff, Platting Manager
Julie Hindman, Platting Specialist
Samantha Lopez, KRC Manager
Eric Ogren, Code Compliance
Avery Harrison, LMD Administrative Assistant
Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***3. Plats Granted Administrative Approval**

- a. AK State Land Survey No. 2020-10 Captain Cook North Subdivision.; KPB File 2021-052
- b. Baleen Cove Subdivision; KPB File 2021-045
- c. Bodnar Subdivision 2021 Replat; KPB File 2021-114
- d. Cliff House Acres Subdivision; KPB File 2021-041
- e. Emery Subdivision; KPB File 2021-100
- f. Kings Creek 2021 Replat; KPB File 2021-081
- g. McReed Subdivision 2021 Replat; KPB File 2021-093
- h. Moose Range Ridge Estates Oehler Replat; KPB File 2020-155
- i. Poage Subdivision Chaloux Replat; KPB File 2021-059
- j. Self Subdivision Bilben Replat; KPB File 2021-092

***4. Plats Granted Final Approval (20.10.040)**

- a. Jeffery Park Subdivision No. 4; KPB File 2021-139

***6. Commissioner Excused Absences**

- a. Diane Fikes, City of Kenai
- b. Pamela Gillham, Ridgeway
- c. Blair Martin, Kalifornsky
- d. City of Soldotna, Vacant
- e. City of Seward, Vacant
- f. Northwest Borough, Vacant

***7. Minutes**

- a. November 29, 2021 Plat Committee Meeting Minutes
- b. November 29, 2021 Planning Commission Meeting Minutes

Vice Chair Ruffner asked Ms. Shirnberg to read the consent agenda items into the record. He then asked if anyone wished to speak to any of the items on the consent agenda.

MOTION: Commissioner Brantley moved, seconded by Commissioner Bentz to approve the consent agenda and move agenda item D1 to the end of new business and approving the regular agenda as amended.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

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

AGENDA ITEM E. NEW BUSINESS**ITEM E1 - PORCUPINE LAKE SUBD NO 6**

KPB File No.	2021-152
Plat Committee Meeting:	December 13, 2021
Applicant / Owner:	Gerald Johnson Brent Johnson Judith Johnson, all of Clam Gulch, AK
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Cohoe Loop Road, Cohoe area

Parent Parcel No.:	137-010-66
Legal Description:	Government Lot 2 lying southwesterly of Cohoe Loop Road and Government Lot 5 in Section 9, Township 2 North, Range 12 West, excluding therefrom Porcupine Lake Subdivision No. 4, Plat KN 2005-1 and Porcupine Lane, Plat KN 79-116
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 40-acre parcel into three tracts that will be 5.1, 9.2, and 23.7 acres.

Location and Legal Access (existing and proposed): The subdivision is located near mile 2 of Cohoe Loop Road.

This plat will dedicate a 60 foot wide right of way between Tract H and Tract I to provide legal and physical access to Tract J. The right of way dedication appears to encompass an existing travel way.

This plat will dedicate a portion of Swan Lake Drive in the southeast corner of the subdivision. Swan Lake Drive is a road located off Cohoe Loop Road. Although not is a fully dedicated right of way, a travel way does exist from Cohoe Loop Road to Tract E located south of this subdivision. Porcupine Lake Subdivision #3, KN 2000-66, dedicated a 30 foot wide and 100 foot long portion of Swan Lake Drive. This plat is proposing to dedicate the matching 30 foot width and an angle to allow the existing road to be within the dedication. ***Staff recommends that a detail sketch may be necessary to clearly depict the dimensions of the Swan Lake Road right of way dedication.***

An exception has been requested to not dedicate additional right of way for Swan Lake Drive or along the

eastern boundary.

The block is defined by section line easements and partial dedications. Cohoe Loop Road, McReed Avenue, Henning Street, and section line easement define the block. An additional dedication is located to the north, Porcupine Lane, which is currently not a through dedication and does not improve the block. The block exceeds allowable lengths and is not closed due to lacking dedications. Multiple lakes are within the block. The future continuation of proposed Bottleneck Lake Road, in addition to future dedications of Swan Lake Drive will improve the block configuration.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	The ROW for Cohoe Loop Road is as shown on State of Alaska Department of Highways Right of Way Map Alaska Project S-0461(1) sheet 4 of 11, and appears to be shown correctly based on recovered concrete ROW monuments from adjacent plat 2005-1. Staff recommends that a reference be added to the plat for the Right of Way Map.

Site Investigation: Steep terrain, lakes, and areas with low wet lands affect this subdivision. The plat depicts the contour information and provides shading for slopes greater than 25 percent. Except near the intersection with Cohoe Loop Road, steep slopes do not affect the location of proposed Bottleneck Road. An existing travel way has been constructed within the proposed Bottleneck Lake Road. Per KPB Code, grades shall not exceed 10 percent or 4 percent within 130 feet of any centerline intersection. **Staff recommends** that the committee concur that cross-sections and centerline profiles are not required for Bottleneck Road as there is already a constructed travel way within this proposed right of way.

Bottleneck Lake forms the northeast boundary of this subdivision. The plat is providing the 2002 Ordinary High Water Line as the boundary. **Staff recommends** the source of the OHW line be stated on the face of the plat or within a plat note and the following plat note be added "The natural meanders of ordinary high water is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders."

Additional wetlands are depicted within Tract H. Per KPB GIS data, there are additional drainage ways within proposed Tract J. **Staff recommends** all low wet areas be depicted and labeled with the following plat note added, "Any person developing the property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable."

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis The proposed subdivision will subdivide a remainder portion of Government Lots. The surrounding lots are large acreage tracts and this plat will create similar sized parcels.

The three tracts will all be greater than 200,000 square feet. A soils analysis report will not be required and an engineer will not need to sign the plat.

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

The property is not within an advisory planning commission.

Utility Easements The plat is proposing to grant easements adjoining all dedicated right of ways as outlined in KPB Code. Overhead power lines are depicted on the plat. Plats for surrounding areas showed power lines and granted 20 foot utility easements centered on the lines. As the lot within this subdivision has not been previously surveyed, utility easements have not been granted at this time. If existing easements are in place they will need to be depicted and noted on the plat. Any easements granted by this plat will need to be depicted and labeled. **Staff recommends** the surveyor/owners work with the utility companies to determine if easements exist or grant easements over the existing lines.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

HEA	
ENSTAR	No comments or objections
ACS	
GCI	Approved as shown.

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: None Existing Street Names are Correct: Yes List of Correct Street Names: COHO LOOP RD Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: BOTTLENECK LAKE RD Comments: BOTTLENECK LAKE RD exceeds maximum street name length of 17 characters including spaces. Staff recommends using the name BOTTLENECK RD for the newly dedicated ROW.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>
Advisory Planning Commission	

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 – Form and contents required

Staff recommendation: final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

- A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation:

- The subdivision description should be updated. "Portion of Government Lot 2 lying southwesterly of Cohoe Loop Road and Government Lot 5 excluding therefrom Porcupine Lake Subdivision #4, Plat KN 2005-1 and Porcupine Lane, Plat KN 79-116, within NE ¼ Section 9, Township 2 North, Range 12 West, S.M., State of Alaska, Kenai Recording District."
- KPB Assessing records show a different mailing address for Brent and Judith Johnson. Please update.
- The scale appears to be slightly off.

- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff recommendation: Scale appears to be off. Adjust character spacing in Sterling Hwy as the "I" and "N" appear to overlap.

- G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation:

- Add "Portion" or "PTN" to the Government Lot located north of Cohoe Loop Road.
- Add "Unsubdivided" to the lot located to the southeast of the subdivision.
- Correct the suffix for Swan Lake Drive.

KPB 20.30 – Subdivision Design Requirements

Staff recommendation: final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.

KPB 20.40 – Wastewater Disposal

Staff recommendation: final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.

20.40.010 Wastewater disposal.

Platting Staff Comments: All lots larger than 200,000 square feet. Soils analysis not required. Provide correct wastewater disposal note. "WASTEWATER DISPOSAL: Lots which are at least 200,000 square feet in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation."

Staff recommendation: comply with 20.40.

KPB 20.60 – Final Plat

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

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

Staff recommendation: Provide a certificate of acceptance for right of ways being dedicated.

20.60.180. Plat notes.

- A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required, Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

Staff recommendation: *Place the following notes on the plat.*

- *"No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation."*
- *Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program (KPB 14.06).*
- *Add a plat note for any exceptions granted.*

Update plat note 3, "...No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; and Department of the Interior..."

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *comply with 20.60.190.*

EXCEPTIONS REQUESTED:

KPB 20.30.030 – proposed street layout-requirements & KPB 20.30.170 – blocks-length requirements

Surveyor's Discussion: Exceptions requested for ROW dedication matching Swan Lake Road or along east boundary due to steep grades and lack of need for providing access to other properties. ROW dedication to provide access from Bottleneck Lake Road to Tract D, would require additional subdivision and both lots J & D will have the same owner.

Staff Discussion: The subdivision is within a non-compliant block as it currently is not closed and the distances are all larger than the allowable limits. Dedications could help improve the block length as well as provide additional access to large acreage lots. Swan Lake Drive is a small portion of a right of way. The proposed right of way dedication will atop existing travelways. Large acreage tracts are being created that can be further subdivided in the future where they can provide access that complies with subdivision standards and fits with the terrain and site features.

Denial of the exception will require dedications along the south and eastern boundary of the subdivision as well as a continuation of Bottleneck Lake Road so that a connection with Sean Lake Drive would be possible in the future.

Findings:

1. The tracts are large enough to be further subdivided in the future.
2. Lakes are found along the east border of the subdivision and within a portion of the western area of Tract J.
3. The lakes make it difficult to acquire closed blocks.
4. The subdivision contains areas with steep slopes.
5. The subdivision contains areas with low wet areas.
6. The proposed dedications are within areas that provide feasible construction.
7. Proposed Bottleneck Lake Road appears to be over an existing travelway.
8. The three tracks will have access via the proposed right of way.
9. The right of way proposed has a turnaround area but can be extended in the future if Tract J is further subdivided.
10. The design, length, and suffix proposed indicate future extension of the right of way is possible.
11. One of the owners of this subdivision owns the 50 acre lot located south of the subdivision.
12. The eastern portion of Swan Lake Drive is dedicated along a constructed travelway.
13. The proposed plat will dedicate a portion of Swan Lake Drive to match past dedication.
14. The proposed plat is dedicating a portion of Swan Lake Drive atop the constructed travelway.
15. A continuation of Swan Lake Drive within this subdivision will not match the current travelway.
16. A continuation of Swan Lake Drive along the southern boundary will cross steep areas.
17. A dedication along the eastern boundary will result in crossing steep slopes and will end at Bottleneck Lake.

Staff reviewed the exception request and recommends granting approval.

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

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

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

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-5, 8-11, 15-17 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-5, 8-11, 15-17 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-5, 8-11, 15-17 appear to support this standard.

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

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

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

NOTE: 20.25.120. - REVIEW AND APPEAL.

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

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

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Venuti moved, seconded by Commissioner Brantley to grant preliminary approval to Porcupine Lake Subdivision No. 6 based on staff recommendations and compliance with borough code.

AMENDMENT: Commission Venuti moved, seconded by Commissioner Brantley to grant exception request to KPB 20.30.030-Proposed Street Layout Requirements & KPB 20.30.170-Block Length Requirements citing findings 1-5, 8-11 & 15-17 in support of standards one, two & three.

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

AMENDMENT PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E2 - TOWLE SUBDIVISION 2021 REPLAT

KPB File No.	2021-153
Plat Committee Meeting:	December 13, 2021
Applicant / Owner:	Robert S. Rima, Jr. of Cooper Landing, AK
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Near mile 48 of the Sterling Highway in the Cooper Landing area

Parent Parcel No.:	119-020-08, 119-020-09, 119-020-10
Legal Description:	Lots 13 thru 17 of Towle Subdivision No. 1 (Unrecorded) within H.E.S. 95
Assessing Use:	Residential / Lodge
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The plat will be reconfiguring five lots into two lots that will be 1.2 acres and 1.5 acres.

Location and Legal Access (existing and proposed): The subdivision is located near mile 48 of the Sterling Highway in Cooper Landing. Both lots will have access from the Sterling Highway. The lots are also located along the Kenai River, providing water access.

Three existing driveways are depicted on the preliminary plat and may be removed for the final plat.

The block does not comply with code. Due to the proximity of the Kenai River, the narrow area between the river and the highway, the ability to acquire a closed block with compliant lengths will not be possible.

Staff recommends the plat committee concur that an exception is not needed, as there are no dedications that can be granted to improve the block.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	The ROW for Sterling Highway is as mentioned on Right of Way Deed Book 9, Page 88 SRD and appears to be shown correctly. (We do not currently have mapping for this section of highway.)

Site Investigation: Contours are shown on the plat. The land is sloping towards the Kenai River with a drainage that crosses through the middle of the subdivision. The new lot boundary will generally follow the existing drainage. Areas with steep slopes exist near the shore of the Kenai River and the slopes greater than 25 percent are depicted with shading. Per KPB GIS data, there are no low wet areas on the plat. Plat

note 5 states that there are no low wet areas except for the depicted creek and the Kenai River.

The plat shows the ordinary high water line from 2019. **Staff recommends** the source information for the ordinary high water line be noted.

A portion of Lot 15 is within a flood plain. The areas should be depicted and labeled with the required plat note to be added. The subdivision also is located along the Kenai River. The Anadromous Waters Habitat note must be added. **Staff recommends** depict any flood hazard areas and provide the correct plat notes regarding flooding and anadromous waters habitat protection districts.

KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: AE,X (shaded),Floodway Map Panel: 02122C-1380E In Floodway: False Floodway Panel:</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: KPB\maldrige</p> <p>C. State Parks</p> <p>Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis The parent lots are within Homestead Entry Survey No. 95. The survey for those lands was completed in 1919 and created 108.84 acres along the Kenai River and within the Chugach National Forest. The lots within this subdivision were considered the Towle Subdivision No. 1 and the lots were created by deeds of record. A subdivision plat was never recorded. Another Towle Subdivision No. 1 exists but does not contain the lots within the proposed subdivision. Record of surveys have been completed for Lots 13 through 15. The final acreage will need to be verified and may not match current KPB records due to the lack of surveys and changes with the water boundary of the Kenai River.

In the past, the KPB Assessing department allowed lots to be combined for tax purposes, but they are legally separate lots. Per KPB Assessing and GIS records, the lots are shown as three parcels instead of the five. Lot 13 is shown as a single lot while Lots 14 and 15 are combined as well as Lots 16 and 17 being combined.

The current lot configurations are narrow lots that do not comply with the current 3:1 depth to width ratio standard. Multiple improvements cross the parcel boundaries. Encroachment easements were granted by the land owner for the buildings and improvements that cross the parcel boundaries. The replatting of the lot lines will terminate the easement with merger of title. **Staff recommends** that a plat note be added stating, 'Encroachment easements of record as recorded in Bk. 85 Pg 517 and Serial No. 2011-000496-0 Seward Record District will be terminated with merger of title with the recording of this subdivision plat.'

The lots are increasing in size and a soil analysis report will not be required.

Notice of the proposed plat was mailed to two beneficial interest holders on November 19, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

Cooper Landing Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Fixed wing imagery indicates structure(s) are very close to the lot line of proposed Lot 15A and lot 18. It is the duty of a surveyor to report any encroachments found during a survey to his client. **Staff recommends**

*the surveyor confirm whether an encroachment affects the replat. If a permanent structure or structures cross a lot line, **staff recommends** a plat note be placed on the final plat to indicate that acceptance of the plat by the Borough does not indicate acceptance of any encroachments.*

Utility Easements As the parcels involved have not been part of a recorded subdivision plat, the only existing utility easements have been granted by recorded documents. There is currently an easement to Chugach Electric with no definite location. **Staff recommends** a plat note be added with the document information for the easement granted to Chugach Electric Association, Inc.

An easement has been recorded for the benefit of Chugach Electric that is located on the east 10 feet of the south 200 feet of Lot 17. This easement is depicted. **Staff recommends** the label state that the easement was granted by Book 76 Page 273 of the Seward Recording District or refer to a plat note that provides the information for the creation of the easement.

The plat will be granting the required utility easements as set out in KPB Code. They are depicted and labeled within the drawing and identified within plat note 1.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

HEA	
ENSTAR	No comments or objections.
ACS	
GCI	Approved as shown
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 18364 STERLING HWY 18368 STERLING HWY 18374 STERLING HWY 18404 STERLING HWY Existing Street Names are Correct: Yes List of Correct Street Names: STERLING HWY Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 18364 STERLING HWY will remain with lot 13A 18368 STERLING HWY will remain with lot 13A 18374 STERLING HWY will remain with lot 15A 18404 STERLING HWY will remain with lot 15A</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>
Advisory Planning Commission	Comments not received when staff report was prepared.

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

STAFF RECOMMENDATIONS**CORRECTIONS / EDITS****KPB 20.25.070 – Form and contents required**

Staff recommendation: *final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.*

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation:

- *The lots being replatted are currently shown as part of the Towle Subdivision No. 1, which was never recorded. Update the description to "Lots 13 – 17 of Towle Subdivision No. 1 (unrecorded) within H.E.S. 95, located in SW1/4 of Section 28, ..."*
- *The scale appears to be off. Please verify before submitting the final for review.*
- *The Certificate to Plat states the owner is Robert J. Rima, Jr. The deeds attached do show Robert S. Rima, Jr. Work with the title company to correct the name. On the plat, update "SR" to "JR".*
- *The name of the business may remain in the title block but for the signature line and the notary, he will be signing, as an individual as that is how title was taken.*

D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff recommendation: *Depict and label the boundary for Chugach National Forest.*

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the proposed subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *The Sterling Highway is shown as 66 feet wide in this area. Provide status labels and lot line depictions to the parcels south of the Sterling Highway.*

N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;

Staff recommendation: *The existing buildings cross property boundaries and encroachment easement have been recorded to resolve this issue in the past. With all the lands under common ownership the easement has been terminated with merger of title. The bridge depicted on the plat crosses over the lot line. An easement for the bridge is not required at this time as both lots are under common ownership. If the lots are to be sold separately, **Staff encourages** the landowner to consider granting an easement for the bridge.*

KPB 20.30 – Subdivision Design Requirements

Staff recommendation: *final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.*

20.30.280. Floodplain requirements.

- A. All subdivision plats which are within areas where the floodplain has been identified by the Federal Emergency Management Agency (FEMA), and which involve 50 lots or five acres whichever is lesser, shall include the base flood elevation source.
- B. Any area of the subdivision within the floodplain, floodway or Seward Mapped Flood Data Area (SMFDA) is to be shown and labeled on the plat.

- C. All subdivisions which are wholly or partially located within flood hazard areas as defined by KPB 21.06.030 must comply with KPB 21.06.050 standards for Floodplain Management.
- D. All subdivisions or replats within the Flood Insurance Rate Map (FIRM) area or SMFDA, as amended, as defined by KPB 21.06.020, shall contain the following note:

FLOOD HAZARD NOTICE:

Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough Seward Mapped Flood Data Area as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code.

- E. All subdivisions or replats that include any portion of the mapped floodway shall contain the following note:

FLOODWAY NOTICE:

Portions of this subdivision are within the floodway. Pursuant to KPB Chapter 21.06, all development (including fill) in the floodway is prohibited unless certification by an engineer or architect is provided demonstrating that encroachments shall not result in any increases in flood levels during the occurrence of the base flood discharge.

- F. Each plat within a city which has met the requirements of this section shall contain the following statement: "The first finished and habitable floor of a building constructed within a floodplain shall be built at or above the 100-year flood level."
- G. This section applies to all cities which adopt a resolution requesting participation in the FEMA floodplain program and which are subsequently recognized by the state as participants.
- H. A city may adopt an ordinance as part of its building code with greater restrictions than those set forth in KPB 20.30.280(A). A note shall be placed on the plat to indicate that the developer is responsible for contacting the city to determine the restrictions prior to any development.

Staff recommendation: *Comply with 20.30.280*

- 20.30.290. Anadromous Waters Habitat Protection District. If any portion of a subdivision or replat is located within an anadromous waters habitat protection district, the plat shall contain the following note:

ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.

Platting Staff Comments:

Staff recommendation: *comply with 20.30.290.*

KPB 20.40 – Wastewater Disposal

Staff recommendation: *final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.*

- 20.40.010 Wastewater disposal.

Platting Staff Comments: Per KPB 20.40.020(A)(2), a soils analysis report will not be required as the lots will be increasing and adding more than 1,000 square feet of suitable area. Add plat note "WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."

Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

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

20.60.180. Plat notes.

C. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

D. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

Staff recommendation: Place the following notes on the plat.

- "No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation."
- The natural meanders of ordinary high water is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.
- Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments.
- Subject to a right of way easement granted to Chugach Electric Association, Inc., to construct, operate, and maintain an electric transmission and/or telephone distribution line as found in Seward Recording District Book 33R Page 310. No definite location defined.

Plat note 3 needs the word "Amendment" correct in the second to last line.

RECOMMENDATION:

STAFF RECOMMENDS:

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

NOTE: 20.25.120. - REVIEW AND APPEAL.

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

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

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Venuti moved, seconded by Commissioner Brantley to grant preliminary approval to Towle Subdivision 2021 Replat based on staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E3 - FAUERBACH COURT RIGHT OF WAY VACATION AND ASSOCIATED UTILITY EASEMENTS AND ANCHOR EASEMENT

KPB File No.	2021-150V
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	James E. Glendening of Kenai, Alaska and Daniel John Sims of Columbia Falls, Montana
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Russell Ave., Keener Dr., and Bartolowitz St. / Clam Gulch
Legal Description:	Lots 4, 5, 6 and 27, Clam Gulch Heights Glendening 1979 Subdivision Plat No 81-135

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Lots are being combined with an associated replat, eliminating the need for this ROW.

Notification: Public notice appeared in the December 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 9, 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 Clam Gulch

Post Office of Clam Gulch

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

Seventeen public hearing notices were mailed to agencies and interested parties as shown below:

State of AK Dept. of Fish & Game

Ninilchik Traditional Council

State of AK DNR

Alaska Communication Systems (ACS)

State of AK DOT

ENSTAR Natural Gas

State of AK DNR Forestry

General Communications Inc. (GCI)

Central Emergency Services

Homer Electric Association (HEA)

Legal Access (existing and proposed): Fauerbach Court a 60 foot wide and 350 feet in length right of way that ends in a cul-de-sac. Fauerbach Court is unconstructed and not maintained by KPB Roads Department. It is located off of Bartolowitz Street, a 60 foot wide right of way that is only partially constructed and not maintained by the borough.

A replat has been submitted that will reconfigure four lots into three. Proposed Lot 4A and 27A will have access via Bartolowitz Street. Lots 5 and 6 will be combined into proposed Lot 5A and will have access from Keener Drive. Keener Drive is a 50 foot wide borough maintained right of way. Both Keener Drive and Bartolowitz Street are located off Russell Avenue, a 60 foot wide borough maintained right of way located

near mile 117 of the Sterling Highway.

No new dedications are proposed.

The block is irregular in design. The block does close but the block length exceeds code requirements. Sterling Highway, Russell Avenue, Bartolowitz Street, Kizer Avenue, Glendening Street, and Sesame Avenue define the block. As the right of way proposed for vacation is a cul-de-sac, it does not improve block lengths or help provide a closed block. The vacation will not affect the block requirements.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

Site Investigation: The right of way and lots adjoining this right of way are not affected by low wet areas. The right of way is free of any steep slopes. There are steep slopes that will divide the newly proposed Lot 5A and access to the northern portion may be more difficult without the right of way. Vacating the right of way may reduce the ability or design options for Lot 5A to be further subdivided.

River Center Review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments
River Center Review	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
	C. State Parks Reviewer: Russell, Pam Comments: No Comments

Staff Analysis: The subdivision is located in the Clam Gulch area and is not within an advisory planning commission boundary. It is located near mile 117 of the Sterling Highway.

The subject parcels and right of way were originally subdivided by Clam Gulch Heights, Plat KN 72-61. That plat created aliquot description lots. Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135, further subdivided the parcels and dedicated Shady Court. Resolution SN 2005-07 renamed Shady Court to Fauerbach Court.

Fauerbach Court provides the only legal access to Lot 5 and provides a secondary access to Lots 4, 6, and 27. A replat, Clam Gulch Heights 2021 Addition KPB File 2021-150, has been submitted. The proposed plat will combine Lots 5 and 6 into one lot with access from Keener Drive. Lot 4 and Lot 27 will continue to have access via Bartolowitz Street.

A 20 foot building setback was put in place adjoining Fauerbach Court. The parent plat granted the full setback as a utility easement. A 10 foot by 30 foot anchor easement was also granted within Lot 5 along the cul-de-sac, which extends beyond the granted easement by 10 feet. The proposal includes vacating the associated utility easement and the anchor easement. A 20 foot utility easement will be granted along the new lot line boundaries abutting Bartolowitz Street. Review has been sent to the utility companies for comment and staff recommends that requested easements be worked out with the utility companies and be granted.

20.65.050 – Action on vacation application

D. The planning commission shall consider the merits of each vacation request and in all cases the

planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right of way is currently not constructed and does not appear to be used.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The road is relatively flat and contains no wet lands. Alternative access is provided by previously dedicated right of ways.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: Additional right of ways are in place, as well as utility easements, to provide adequate access and utilities to all surrounding parcels.
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: This right of way does not provide access to any water body or area with public interest.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposed vacation will not limit opportunities for interconnectivity with adjacent parcels and adequate right of ways and utility easements have been dedicated.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Other public access does not appear to be needed as the cul-de-sac provides access to private property.
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: Utility easements will be provided that exceed requirements but follows the parent plat dedications. Any requested easements from utility providers shall be worked out with the land owners before final plat approval.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The right of way provided access to four lots. The reconfiguration proposed will allow all lots to have adequate access.

If approved, the plat Clam Gulch Heights 2021 Addition will finalize the proposed right of way vacations. The Planning Commission is scheduled to review the plat on December 13, 2021. If the vacation is approved, the consent by the Kenai Peninsula Borough Assembly is required. The Assembly must hear the vacation within thirty days of the Planning Commission decision. The Assembly should hear the vacation at their January 4, 2022 meeting.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: No comments

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 55450 FAUERBACH CT 17635 BARTOLOWITZ ST 17610 KEENER DR 17615 BARTOLOWITZ ST</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: FAUERBACH CT BARTOLOWITZ ST KEENER DR KIZER AVE</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 55450 FAUERBACH CT will be deleted. 17635 BARTOLOWITZ ST will remain with lot 4A. 17610 KEENER DR will remain with lot 5A. 17615 BARTOLOWITZ ST will remain with lot 27A.</p>
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>

Utility provider review:

HEA	No comments.
ENSTAR	No comments or objections.
ACS	No objections
GCI	Approved as shown.

RECOMMENDATION:

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

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

KPB 20.65.050 – Action on vacation application

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

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

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

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

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

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

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

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Brantley moved, seconded by Commissioner Venuti to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E4 - CLAM GULCH HEIGHTS 2021 ADDITION

KPB File No.	2021-150
Plat Commission Meeting:	December 13, 2021
Applicant / Owner:	James E. Glendening of Kenai, Alaska Daniel John Sims of Columbia Falls, Montana
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Keener Drive, Bartolowitz Street and Fauerbach Court, Clam Gulch

Parent Parcel No.:	137-370-04, 137-370-05, 137-370-06, 137-370-07
Legal Description:	Lots 4, 5, 6 and 27, Clam Gulch Heights Glendening 1979 Subdivision Plat No 81-135
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat creates three lots from four lots and finalizes a right of way vacation of Fauerbach Court including the associated utility easements.

Location and Legal Access (existing and proposed): The subdivision is located in the Clam Gulch area, near mile 117 of the Sterling Highway. The four parent lots have access from Fauerbach Court, a 60 foot wide right of way that ends in a cul-de-sac. Former Lot 6 has secondary access from Keener Drive.

If approved by the KPB Planning Commission and the KPB Assembly, this plat will finalize the vacation of Fauerbach Court.

The new lot configuration will result in Bartolowitz Street providing access to proposed lots 4A and 27A. Bartolowitz Street is a 60 foot wide right of way that is partially constructed and not maintained by the borough. Proposed Lot 5A is the combination of Lots 5 and 6 and will have access off Keener Drive, a 50 foot wide borough maintained right of way. Both Keener Drive and Bartolowitz Street are located off Russell Avenue, a 60 foot wide borough maintained right of way that connects to the Sterling Highway.

The block is irregular in design. The block does close but some of the lengths exceed code requirements. Sterling Highway, Russell Avenue, Bartolowitz Street, Kizer Avenue, Glendening Street, and Sesame Avenue define the block. Fauerbach Court is a cul-de-sac, intended to remain permanently closed, and does not provide any improvement to the block requirements. **Staff recommends the Planning Commission concur that an exception is not required, as any required dedications will not improve the block.**

Keener Drive was dedicated on Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135. It was dedicated as a 50 foot wide right of way without a cul-de-sac at the end. Beary Tracts #2, Plat KN 2008-88, provided the cul-de-sac right of way dedication. The cul-de-sac is in alignment with the 50 foot width of Keener Drive.

Keener Drive will provide access to four lots. Three of the four lots have other access available. Keener Drive is constructed and maintained by the Kenai Peninsula Borough. Per KPB Code, right of ways widths shall be a minimum of 60 feet. Additional dedication of 10 feet is required to create a compliant right of way. If this plat were to dedicate 10 feet, or 5 feet with the expectation to receive 5 feet from the lots on the other side of the right of way, it will not align with the platted cul-de-sac. **Staff recommends that the Planning Commission concur that an exception is not required and additional right of way dedication is not required at this time as KPB already maintains this road, it serves four parcels, and any right of way dedication will not align with the cul-de-sac bulb.**

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No comments.

Site Investigation: The subdivision does not contain any low wet areas. Contours are present with shading for the areas with steel slopes over 25 percent. The steeper slopes are not located along the right of ways. The steep slopes will be located within proposed Lot 5A and 27A. The access to Lot 5A will be from Keener Drive.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam – No Comment</p>
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Staff Analysis The plat will be finalizing a right of way vacation and associated utility easements. The current lot configuration and right of way dedication were created by Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135.

Lot 5 and 6 will be combined along with a portion of the cul-de-sac to create Lot 5A and will be 4.007 acres. Lot 4 and Lot 27 will both receive half of the right of way being vacated. Lot 4 will be Lot 4A and will increase from 1.85 acres to 2.071 acres. Lot 27 will be Lot 27A and will increase from 1.729 acres to 1.953 acres.

A soils report will not be required. Per KPB 20.40.020(A)(2), lots increasing in size by 1,000 square feet or more of area suitable for conventional development, a wastewater system review is not required.

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

The property is not within an advisory planning commission.

Utility Easements Clam Gulch Heights, Plat KN 72-61, did not grant any utility easements within the proposed subdivision. Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135, granted the area affected by the 20 foot building setback as the limits for the utility easements. A 20 by 30 anchor easement was also granted within Lot 5 off the bulb for Fauerbach Court.

The right of way vacation will include the vacation of the utility easements adjoining Fauerbach Court as well as the 10' x 30' anchor easement. A 20 foot wide utility easement will remain in place adjoining Bartolowitz Street within the vacated right of way. Full 20 foot utility easements will be adjoin Bartolowitz Street and Keener Drive rights-of-way.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

HEA	
ENSTAR	No comments or objections
ACS	No objections.
GCI	Approved as shown.

KPB department / agency review:

Addressing	<p>Affected Addresses: 55450 FAUERBACH CT 17635 BARTOLOWITZ ST 17610 KEENER DR 17615 BARTOLOWITZ ST</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: FAUERBACH CT BARTOLOWITZ ST KEENER DR KIZER AVE</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 55450 FAUERBACH CT will be deleted. 17635 BARTOLOWITZ ST will remain with lot 4A. 17610 KEENER DR will remain with lot 5A. 17615 BARTOLOWITZ ST will remain with lot 27A.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 – Form and contents required

Staff recommendation: final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff recommendation: Update the label for C.G. Wayside to Clam Gulch Road. Provide a label for Clam Gulch Recreational Area that is within sections 20, 28, and 29.

KPB 20.40 – Wastewater Disposal

Staff recommendation: final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils report is not required as all lots are increasing by more than 1,000 square feet. Add the required plat note.

Staff recommendation: comply with 20.40.

KPB 20.60 – Final Plat

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

20.60.150. Utility easements.

- A. The utility easements approved by the planning commission shall be clearly shown on the final plat in dimensioned graphic form or as a note.

- B. The following note shall be shown on the final plat:

No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.

Staff recommendation: Provide a plat note for the utility easement of record as recorded in Bk. Misc. 3 Pg. 128a, Kenai Recording District. Comply with 20.60.150.

20.60.180. Plat notes.

E. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

F. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required, Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

Staff recommendation: Place the following notes on the plat.

- Subject to covenants, conditions, and restrictions recorded within the Kenai Recording District in Book 513 Page 542 and amended in Book 536 Page 510.
- The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.
- Easement for electric lines or system and/or telephone lines together with right to enter, maintain, repair and clear shrubbery granted to Homer Electric Association, Inc. in Book Misc. 3 Page 128a within the Kenai Recording District. No definite location given.
- WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

Within plat note 1, correct the recording number to 81-135.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Make sure the former lots are listed with the signature lines. Comply with 20.60.190.

KPB 20.70 – Vacation Requirements

Staff recommendation. Plat must be recorded within one year from Assembly consent or new petition will be required for the right of way vacation.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

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

NOTE: 20.25.120. - REVIEW AND APPEAL.

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

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

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

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

MOTION: Commissioner Brantley moved, seconded by Commissioner Venuti to grant preliminary approval to Clam Gulch Heights 2021 Addition based on staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E5 - ENDICOTT DRIVE CUL-DE-SAC RIGHT OF WAY VACATION

KPB File No.	2021-151V
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	James Markley Willingham and Pandora Bane Willingham of Soldotna, AK
Surveyor:	James Hall / McLane Consulting, Inc.
General Location:	Kalifornsky Beach Road, Endicott Drive and Jan Avenue, City of Soldotna
Legal Description:	Lot 1 Block 1 Slikok Creek Alaska Subdivision Plat No K-1361

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition:

Right of way vacation: Endicott Drive as it extends north to the Kenai River has a 75 foot radius cul-de-sac that encumbers Lot 1 Block 1 K1361. KPB Code 20.30.100 requires a minimum 50 foot radius cul-de-sac design.

Current right of way width is 50 feet with additional 10 foot "walkway" per KN 79-21 for a 60 foot wide r/w for access to the Kenai River.

Proposed vacation is approximately 1,940 square feet.

No alternate r/w is being dedicated. The vacated r/w is a sliver edge of an of an over-size cul-de-sac that encumbers a smaller lot.

Reasoning: Property is encumbered by an over-sized cul-de-sac design that is not constructed nor used.

Property is situated between steep slopes to the Kenai River, 80 foot R/W of Endicott Drive on the south and 60 foot R/W of Endicott Drive on the east as it extends to the Kenai River.

Notification: Public notice appeared in the December 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 9, 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

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

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

Sixteen public hearing notices were mailed to agencies and interested parties as shown below:

State of AK Dept. of Fish & Game

Ninilchik Traditional Council

State of AK DNR

Alaska Communication Systems (ACS)

State of AK DOT

ENSTAR Natural Gas

State of AK DNR Forestry

General Communications Inc. (GCI)

Central Emergency Services

Homer Electric Association (HEA)

Legal Access (existing and proposed): The proposed vacation is a portion of an unnamed right of way that is in extension of Endicott Drive where the road intersects Kalifornsky Beach Road near mile 21. The dedicated right of way extends north from the intersection of Endicott Drive and Jan Avenue to the Kenai River.

At the intersection, the constructed Endicott Drive is located to the west while constructed Jan Avenue is to the east. The proposed vacation of the cul-de-sac bulb is to the north of the intersection. The road is being referred to as Endicott Drive although Endicott Drive turns to the west.

The vacation will remove of the 75 foot radius bulb located on the west side of the 50 foot wide dedicated right of way. This will result in the right of way extending to the Kenai River with a constant width of 50 feet with an adjoining 10 foot walkway right of way.

Per KPB data, a 50 foot section line easement coincides with the 50 foot dedication with a 33 foot section line easement adjoining to the east. This provides a 83 foot wide public access.

The block is not closed due to the Kenai River. The block length along Endicott Drive exceeds allowable lengths. The subject lot is a corner lot and is bordered by right of way along the south and east. The Kenai River borders along the north. This parcel cannot provide any additional right of way dedications to improve the block. The vacation of the portion of the cul-de-sac will not change the existing block configuration.

KPB Roads Dept. comments	Out of Jurisdiction: Yes Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

Site Investigation: Steep slopes are present to the north where sloping to the river edge. As this property is along the Kenai River, it will be subject to the Anadromous Waters Habitat Protection District. This is within the City of Soldotna; they do not participate in the FEMA program.

River Center Review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Within City of Soldotna/Kenai Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis: The right of way was dedicated on Slikok Creek Alaska Subdivision, K1361, recorded in 1963. It was dedicated as a 50 foot wide right of way with a 75 foot radius bulb at the end on the top of the river bank. K-Beach Park Subdivision Addition No. 2, KN 79-21, is located to the east of the dedication. That plat dedicated an additional 10 foot right of way designated as a walkway. The access width to the

river to 60 feet.

While the bulb proposed to be vacated does provide a potential turn around area for vehicles, the 50 foot wide right of way adjacent to the bulb contains steep slopes making the construction of a turnaround area for vehicle use difficult within this portion of the right of way.

The parent plat did not grant utility easements adjoining the rights of way. Per plat note 2 of the preliminary plat, a 10 foot utility easement will be granted adjoining all right of ways.

Per KPB GIS imagery from 2021, it appears that improvements, (possibly a raised bed garden) on Lot 1 may be very close to the right of way or possibly within the portion to be vacated. Additionally, a set of stairs appear to be constructed with a platform along the river. Staff is unable to determine if the walkway is within the right of way or within the boundary of Lot 1.

The proposed lot is showing an increase in acreage that is more than the area within the vacated right of way. This is due to the meander line information used on the original plat. K1361 states, "The natural meanders along the Kenai River form the bounds of the lots adjoining the river. The traverse line, as shown, is for survey computations and data only. All corners, as set on said traverse line, are witness corners being on the extension of lot lines and the natural meanders." Due to the steep terrain, the additional portion of the lot was not designated nor were any additional measurements or bearings given to help make the depiction more accurate. The surveyor is showing more recent meander information from the west and east and using that to compute a more accurate meander for this lot.

The City of Soldotna Planning and Zoning Commission heard the vacation at their November 3, 2021 meeting. Per the staff report prepared for that meeting, the Director of Public Works had no objection and stated the 75 foot radius was excessive. That 50 foot is usually good in commercial areas while 30 foot in residential areas can be done. The Director of Streets and Maintenance had no objection to the vacation and stated an important culvert is in that area to drain parts of Kalifornsky Beach Road and Endicott Drive and could cause some issues with development. The City of Soldotna Planning and Zoning Commission approved the vacation.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: The public is not using the area proposed to be vacated.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: A 83 foot wide public access will remain to the river. Steep terrain is located within the right of way where near the proposed vacation. Endicott Drive and Jan Avenue are constructed streets and provide a turnaround area.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: 10 foot utility easements will be granted along dedicated right of ways. Additional requests were not made by the City of Soldotna Streets and Maintenance. Owners are to work with the utility companies to ensure all utility easement needs are met. Dedicated right of way provides legal access to all nearby parcels.
 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 83 foot wide access to the Kenai River will remain in place.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The right of way ends at the Kenai River and will not connect with other right of ways.

6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Although affected by steep terrain, the public can use this access to the Kenai River.
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: Grant requested utility easements.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: This is a right of way managed by the City of Soldotna and the State of Alaska DNR. Any vacation of the Section Line Easement would require review and approval by the State of Alaska.

If approved, a right of way vacation plat (Slikok Creek 2021 Replat) will finalize the proposed right of way vacation. As allowed under KPB 20.10.080, the planning director may review the preliminary vacation plat. If for any reason, the preliminary plat may not be reviewed as a vacation plat it will be scheduled for review by the Plat Committee.

If approved by the Kenai Peninsula Borough Planning Commission, the decision will be forwarded to the City of Soldotna to be heard by their City Council. They will have 30 days to review the decision and either consent or veto the vacation.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 476 ENDICOTT DR Existing Street Names are Correct: Yes List of Correct Street Names: ENDICOTT DR Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: City of Soldotna will advise on affected address.
Assessing	Reviewer: Wilcox, Adeena Comments: Property improvements appear to be in the public right of way. This parcel is not considered river frontage.

Utility provider review:

HEA	No comments.
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:

5. Consent by Soldotna City Council.
6. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
7. Grant utility easements requested by the Soldotna City Council and utility providers.

8. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

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

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

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

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

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

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

- *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

James Markley; 476 Endicott Dr., Soldotna, AK 99669: Mr. Markley is the landowner requesting the right-of-way vacation and made himself available for any questions the commission might have.

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 Venuti to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM 6 - KOTO COURT RIGHT OF WAY VACATION AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2021-154V
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	Marshall Martin of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	Murray Lane, Sterling area
Legal Description:	Lots B1 AND B2 Murray Subdivision Buck Addition, Plat KN 2017-59

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: My client, Marshall Martin, wants to vacate the line between Lots B1 and B2 and include the vacation of Koto Court. Koto Court was dedicated to provide legal access to Lot B2 and does not provide access to the adjoining property.

Notification: Public notice appeared in the December 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 9, 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 Sterling

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

Public hearing notices were sent by regular mail to 20 owners within 600 feet of the proposed vacation.

Seventeen public hearing notices were mailed to agencies and interested parties as shown below:

State of AK Dept. of Fish & Game
State of AK DNR

Ninilchik Traditional Council
Alaska Communication Systems (ACS)

State of AK DOT
State of AK DNR Forestry
Central Emergency Services

ENSTAR Natural Gas
General Communications Inc. (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The proposed vacation is for Koto Court, a 60 foot wide right of way that is approximately 275 feet long and ends with a cul-de-sac. Koto Court is currently unconstructed and not maintained. Three lots abut Koto Court, Lots B1 and B2 of Murray Subdivision Buck Addition, KN 2017-59, and Lot 2D of Murray Subdivision Reed Addition, KN 2003-17.

If approved, Murry Lane will be the legal access for Lot 2D as well as proposed Lot B1A. Lot B1A will be the combined parcels of Lot B1 and Lot B2.

Murray Lane is a dedicated right of way with varying width. The portion abutting the area included in the petition is 100 foot wide. Murray Lane is constructed and maintained by the State of Alaska. Murray Lane connects to the Sterling Highway near mile post 89.

No new dedications are proposed. Lot 2D, adjoining the north boundary of Koto Court, has a driveway to Murray Lane.

The block is not closed and is not compliant. Murray Lane, Dudley Avenue, Dayspring Street, and Hallelujah Drive define the block. A vacation has removed the section line easements that would have provided a closed and compliant block. Murray Lane ends at an intersection with Lakeshore Drive while Hallelujah Drive ends at a lot. This block is bordered by Longmere Lake and the ability to get a closed block will be difficult due to existing structures and low wet areas. The distance along Dayspring Street exceed allowable lengths. When the plat is reviewed, staff will request that the plat committee concur that an exception to block length requirements is not required as this subdivision will not be able to provide any dedications to improve the block length. Koto Court is a cul-de-sac and by KPB code definitions is to be permanently closed. Approval or denial of the vacation of Koto Court will not affect block compliance.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	DOT ROW Engineering has no comments.

Site Investigation: The right of way area and the lots abutting do not contain any low wet areas. Steep slopes are not present.

River Center Review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis: Koto Court was dedicated on Murray Subdivision Buck Addition, Plat KN 2017-59. That plat dedicated the right of way and created the current lot configurations for Lots B1 and B2. The land within this proposal has been part of past subdivisions starting with the creation of a 16 acre tract with Murray Tract "A", Plat KN 76-26. Several subdivisions that subdivided that original Tract A and then lot reconfigurations have occurred until Plat KN 2017-59 created the current configuration.

Murray Subdivision Buck Addition, Plat KN 2017-59, dedicated Koto Court as a 60 foot wide cul-de-sac. Three lots abut the right of way, Lot 2D of Murray Subdivision Reed Addition (Plat KN 2003-17), and Lot B1 and Lot B2 of Murray Subdivision Buck Addition.

Murray Subdivision Buck Addition, Plat KN 2017-59, granted 15 foot utility easements along dedicated right of ways. The proposed vacation includes the associated utility easements. All utility easements along the Koto Court dedication will be vacated. A 15 foot wide utility easement adjoining Murray Lane will remain in place including the area within the vacated Koto Court right of way.

Murray Subdivision Replat of Lot 2 and Martin 1986 Subdivision of Tract A-1 and Replat of Tract D, Plat KN 88-38, granted a 20 foot utility easement centered on the common boundary of Lot 2D and former Lot 5D. This 10 foot utility easement was carried forward on Murray Subdivision Martin Addition No. 2, Plat KN 2007-85, and Murray Subdivision Martin Addition No. 3, Plat KN 2013-124. The dedication of Koto Court was atop the utility easement. Utilities within a right of way are allowable with the correct permitting.

This application requests all associated utility easements to be vacated and that would include the easement granted by Plat KN 88-38 located on the north 10 feet of Koto Ct. If the owners wish to leave that easement intact or a utility provider requests the easement remain, it must be depicted and noted. **Staff recommends that a plat note be added that states, 'The 10 foot utility easement granted per KN 88-38, where located within Koto Court, will be vacated with the recording of this plat.'**

The proposed vacation is not within an advisory planning commission boundary.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right of way is not constructed and does not appear to be used.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: Koto Court is possible to construct as it is not affected by steep terrain or wetlands. No alternative access is proposed as all lots, and proposed lots, abutting Koto Court will have access via Murray Lane.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: The area has been subdivided with all sufficient right of way dedications to provide legal access to all parcels.
 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 right of way does not provide access to any public interest area or water body.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: This is a cul-de-sac with no intention to be further extended and will not limit interconnectivity.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Other use is not needed. The current right of way provides access to private lands and does not connect to any public lands or provide connection to walkways or pedestrian easements.
 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: 15 foot wide utility easements will remain along Murray Lane. The 10 foot utility easement per KN 88-38, where located within Koto Court, will be vacated with this platting action. The utility providers did not request any additional utility easement.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

Staff comments: The proposed lot configuration will provide that all lots front on a dedicated right of way.

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

The Assembly or City Council will hear the vacation at their scheduled January 4, 2022 meeting.

If approved, a subdivision plat will finalize the proposed right of way vacations. A preliminary plat has not been submitted at this time.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: None Existing Street Names are Correct: Yes List of Correct Street Names: SEWARD AVE LENORA CT DAYSPRING ST MURRAY LN KOTO CT Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: No addresses affected.
Assessing	Reviewer: Wilcox, Adeena Comments: No comment

Utility provider review:

HEA	No comments
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:

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

KPB 20.65.050 – Action on vacation application

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

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

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

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

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

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

END OF STAFF REPORT

Vice Chair Ruffner 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 Brantley to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E7 - Shady Acres Lot 14 Plat Waiver

KPB File No.	2021-149
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	Rebecca A. Turner of Homer, Alaska Sheryl Combs, Sheela Lloyd, and Joyce Matthews all of Anchorage, Alaska
Surveyor:	None
General Location:	Wahoo Street, Leann Avenue, Solitude Street and Ashley Avenue / Funny River

Parent Parcel No.:	066-050-26
Legal Description:	Lot 14 Shady Acres, Plat No KN 2003-100
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On-Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat waiver will subdivide a 23.568 acre lot into four aliquot lots being 5.9 acres more or less.

Location and Legal Access (existing and proposed): The parent lot is 24 acres with dedicated right of way bordering along all sides. Leann Avenue (60 feet wide), Solitude Street (60 feet wide), Ashley Avenue (30 feet wide), and Wahoo Street (60 feet wide) define the block and surround the lot.

Some clearing appears to exist within portions of the right of ways. Per KPB GIS data, none of the right of ways are maintained. Leann Avenue is located near mile 14 of Funny River Road, a state maintained right of way. To the west of the subdivision, Ashley Avenue intersects Rabbit Run Road, a state maintained right of way that intersects with Funny River Road and Leann Avenue.

An 80 acre private parcel is located to the south of Ashley Avenue and will be required to provide a matching dedication when subdivided in the future.

A 33 foot section line easement is located within the area of the Leann Avenue right of way and will affect Lot 14A and 14B.

The block is closed and compliant to length requirements.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
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Site Investigation: The subject area is relatively flat and contains no low wet areas.

Improvements appear to be in place within the area that will be designated as Lot 14A.

The property north of Leann Avenue has been subdivided and is the Funny River Grove local option zoning district. The subject property is not within a local option zoning district.

The parcel is not affected by a material site.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis The proposed plat waiver will subdivide a 23.57 acre lot into four aliquot parcels. The parent parcel is Lot 14 of Shady Acres, Plat KN 2003-100. Shady Acres was a subdivision of an aliquot parcel that was 80 acres in size. That subdivision dedicated the 60 foot wide Wahoo Street as well as 30 foot wide dedications for Leann Avenue, Solitude Street, and Ashley Avenue.

Each of the proposed lots are over 200,000 square feet. A soils analysis report is not required.

Funny River Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

The 20 foot building setback per KN 2003-100 will carry forward with the plat waiver.

Lot 14 will be subdivided by aliquot division with the boundary lines established at the midpoint of the north, east, south and west boundaries and extended to the opposite boundary midpoint location. Lot 14A will be the northwest aliquot division, Lot 14B will be the northeast aliquot division, Lot 14C will be the southwest aliquot division, and Lot 14D will be the southeast aliquot division.

Utility Easements Shady Acres, Plat KN 2003-100, granted 10 foot utility easements adjoining the dedicated right of ways. An additional 100 foot wide electrical transmission line easement is within the lot and will remain within proposed Lot 14D. No new utility easements will be granted and all existing utility easements will remain in place.

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 34475 LEANN AVE</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: LEANN AVE WAHOO ST ASHLEY AVE SOLITUDE ST</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 34475 LEANN AVE will remain with lot 14A.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>

Advisory Planning Commission	Comments not received when staff report was prepared
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The applicants wish to replat a 23.57 acre lot into four 5.90 +/- acre lots. If the Plat Waiver is approved, staff recommends the sketch be recorded with the resolution, as an attachment to and as the final page of the resolution. The following are the requirements to qualify for a plat waiver as outlined in KPB Code.

KPB 20.10.050 – Plats-Required when – Waivers

- A. Waiver standards. A plat, prepared and submitted in accordance with the applicable provisions of this title, is required for all subdivisions of land, except for subdivisions which qualify under the provision of AS 29.40.090(b), provided an application is submitted with satisfactory evidence to support a finding that:
1. A single existing division of property is not subdivided into more than four lots.
The sketch shows four lots. This condition has been met.
 2. Legal and physical access is provided to a public highway or street for each lot created by the subdivision.
The property adjoins Wahoo Street (60'), Leann Avenue (60'), Solitude Street (60') and Ashley Avenue (30') as dedicated by the parent plat (KN 2003-100). The right-of-way match for Ashley Avenue will be obtained with the 80 acre parcel to the south when subdivided. This condition has been met.
 3. The subdivision does not contain or require a dedication of a street, public right-of-way, or other area.
No additional public right-of-way or other area is required to be dedicated. This condition has been met.
 4. The subdivision does not require a vacation of a public dedication of land.
The subdivision is not vacating a public dedication of land. This condition has been met.
 5. The subdivision does not require a variance from KPB Title 20 Subdivision regulations.
No exceptions to KPB Code are required. This condition has been met.
 6. Each lot created by the subdivision is five acres or larger.
Each new parcel will be 5.90 +/- acre lots. This condition has been met.
- B. Notice. In addition to the requirements for notice by publication in this title, all beneficial interest holders in the land subject to the plat waiver application who have not provided written non-objection to the plat waiver shall be given notice of the waiver application and the planning commission hearing at least 30 days prior to the planning commission meeting where the waiver will be considered. Applications for plat waivers within a city shall be submitted to the city by the subdivider for comment at least 30 days prior to submittal to the borough for planning commission consideration.
Platting staff comments: *The property is not within a city. The Certificate to Plat did not contain any beneficial interest holders. This condition has been met.*
- C. All plat waivers must meet the following requirements:
1. A certificate of ownership for plat waiver, which meets the requirements of KPB 20.60.190(A)(2) for a certificate to plat, shall be submitted with the application. The certificate of ownership shall be updated and be current to no earlier than three business days prior to the planning commission meeting where the waiver is scheduled for consideration.
Platting staff comments: *A Certificate to Plat was provided with the submittal. This condition has been met.*
 2. A certificate from the borough finance department must be obtained indicating that all taxes due and payable on the land subject to the waiver application have been paid.
Platting staff comments: *The 2021 borough property taxes have been paid. If the resolution is not recorded prior to December 31, 2021, the estimated taxes for 2022 will be required to be paid in full prior to recording of Plat Waiver Resolution 2021-36. This condition has been met.*

- D. Upon satisfactory showing by the subdivider that all provisions of KPB 20.10.050 (A), (B), and (C) have been met a waiver of the preparation, submission for approval, and recording of a plat shall be granted by resolution of the commission which shall be recorded in the appropriate district within 30 days after adoption or the waiver shall lapse. The applicant shall pay a plat waiver fee in the amount listed in the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees, and recording fees. **All of the requirements of KPB 20.10.050 have been met.**

Staff recommendation: the Planning Commission adopt KPB PC Resolution 2021-36, thereby approving the requested plat waiver, subject to:

1. Submittal of a certificate from the borough finance department that all taxes due and payable on the land subject to the waiver application have been paid.
2. Submit an updated Certificate to Plat current to no earlier than three business days prior to the planning commission meeting and is valid for 30 days.
3. The Planning Department is responsible for filing the Planning Commission resolution.
4. The applicant will provide the recording fee for the resolution and exhibit drawing to the Planning Department.
5. File the PC Resolution, with the exhibit drawing, in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
6. The Plat Waiver will be recorded within 30 days after adoption or the waiver shall lapse.
7. The Plat Waiver is subject to all notes, easements, set-backs, and dedications as delineated on Plat No. 2003-100.

Staff Note: A plat waiver does not constitute a survey. A field survey and monumentation of lot lines is not performed. A Record of Survey will be required to find true property boundaries.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

GRANT APPROVAL OF THE PLAT WIAVER SUBJECT TO STAFF RECOMMENDATIONS AND SUBJECT TO THE CONDITIONS LISTED.

NOTE: 20.25.120. - REVIEW AND APPEAL.

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

END OF STAFF REPORT

Vice Chair Ruffner 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 Bentz to adopt PC Resolution 2021-36 granting a plating waiver for certain lands within Lot 14, Shady Acres (Plat KN 2003-100), KPB File 2021-149.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

**D1 – Remand Hearing
River Resources CLUP Modification; PC Resolution 2021-10**

Attorney Sean Kelley reviewed the hearing procedures as set out in the Oct 18, 2021 Planning Commission hearing decision. He noted the applicant would be given 15 minutes to speak. After the applicant speaks

the public will be allowed to testify and each person will be given 3 minutes with public testimony being capped at a total of 45 minutes.

Vice Chair Ruffner opened the meeting for public comment.

Kyle Foster, Applicant; 34717 Sentinel Street, Soldotna, AK 99669: Mr. Foster addressed some of the comment and concerns from the neighboring landowners. He noted that the photo submitted by the Fergusons showing water in the bottom of a gravel pit was not his pit, the pit in the photo is the City of Soldotna pit. Mr. Foster then noted that the City of Soldotna has a permit that allows them to mine into the water table and for dewatering. He then noted the aerial photo submitted by Mr. McBride is of a pit he owns. This particular pit has a sediment pond and they have a wash plant on site to wash their aggregate gravel. These are approved activities under the CLUP they have on this property. He also noted that the City of Soldotna was contacted and they did not express any objections to this project. They also have all the field survey notes related to the monitoring wells, which have been surveyed seven times. He noted that their excavation and dewatering would be done in relatively small steps. It would be done in small areas, maybe 50' x 50' area. This would be a small-scale operation. Their reclamation plan would be to eventually turn this area in to a residential subdivision.

Gina DeBardelaben, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Ms. DeBardelaben is the engineer on this project. She noted that Coble Geophysical Service (CGS) makes many unsubstantiated and broad-stroke statements in the CGS Memo dated 12/3/21. They do not include site-specific support for the statements, analysis of the publicly available data, or of applicant provided data. Much of their data and statements are based on 2003 & 2006 well studies for the City of Soldotna. Well E, that is referenced many times, is located 3500' from the River Resource site and is a different lower confined aquifer.

The Planning Commissioner requested that information be provided regarding the location of existing wells in relation to the dewatering area. A map was provided to the commission and found on page 102 of the packet contains this information. The map shows offsets from the proposed dewatering. The yellow line on the map is the property line; inside of that line is a magenta line, which shows the proposed excavation & dewatering areas. The other lines shown on the map are 300', 500' & 1000' from the excavation area. The used DNR WELTS tracking system, Kraxberger & Smith well drilling records to determine which properties had wells on them, the depths of the wells, whether they draw their water from the confined or unconfined aquifers and their exact locations; which were located by McLane surveying crews. There were no wells within the 300' setback area. The closest well was the City of Soldotna well at 312' and this well is not part of the City water system, their maintenance department uses it for onsite water only. The next closest well was the McBride's well at 378' from the excavation area.

Another area that the CGS report gets wrong is the groundwater contours and the groundwater flow direction. The groundwater flow northwesterly, towards the Kenai River. This is clearly represented on the map on page 102 of the packet and on maps submitted with the MCLUP application submitted back in April. Her best guess is that CGS failed to recognize that the map on page 102 is rotated 90 degrees and so when he referred to it in his report he noted the groundwater is flowing towards the airport. CGS also did not glean from the record that the wells shown on this exhibit are monitoring wells and are not drill and encased wells with pumps. These wells are strictly used to measure groundwater elevation and utilizing balers to extract water samples.

She then noted that there are 10 wells within a 1000' radius of the extraction area. There was only one well they could not find a well log on. The other nine wells harvest their water from the confined aquifer. The existing strata within the excavation area is consistent and within a singular unconfined aquifer. The next adjacent aquifer is a confined aquifer with 40' to 60' of aquitar separation. The River Resources proposed extraction area would be within the unconfined aquifer. This will allow the water from the dewatering pond to quickly infiltrate back into the unconfined aquifer.

Ms. Debardelaben noted groundwater hydraulic conductivity was defined, as well as aquifer transmissivity and aquifer storability, and was provided during the April 2021 public hearing. These figures were utilized in the Thesis Equation to calculate the pump drawdowns for the previously submitted Excavation Dewater Plan. She computed this number using the computation tool on the State of Utah Division of Water Rights website.

Much of CGS's report is pertinent to City of Soldotna Well E, how it interacts with the confined aquifer, and how that may be affected if the aquitar is disturbed. According to CGS, Well E has a large effect on wells

up to a 9000' radius. River Resource' proposed dewatering potential drawdown does not exceed a 1000' radius. Recharging the confined aquifer is a slow process it can take months or years. Dewatering in the unconfined aquifer does not function the same. The re-watering will be readily reintroduced to immediately recharge the unconfined aquifer.

Coble on page three of his memo states that this area has a safe drinking water supply. Ferguson's water results are from March of 2021. She noted that the Ferguson's well draws from the confined aquifer and is over 1500' from this property. The report shows that there is no detection of arsenic. She then noted that the City of Soldotna Water Quality Report 2020 documents that all four of the city wells, including Well E and the distribution system test no detection for arsenic during the monitoring period. Well E is in an unconfined aquifer. This shows that there is no arsenic in either aquifer and negates that statement that the city utilizes Well E to bring city water into EPA standards and that arsenic is even a concern in River Resources excavation aquifer.

Turbidity and hydrocarbon contaminant are valid concerns that are only briefly suggested by any of the involved parties and was the only concern expressed from the City of Soldotna. Both turbidity and hydrocarbons are monitored through ADEC permit processes. Turbidity is quickly settled in sediment ponds and filtration through sandy gravel substrates, as seen in the aerial photos submitted by the applicant. There are multiple rules and regulations set forth by ADEC for protection and monitoring of hydrocarbons. A brief glimpse at a few of these are any spills over 1-gallon are reportable, fuel storage exceeding 100-gallons must have secondary containment, notice of intents must be filed for excavation dewatering within 1500' of a contaminated site or non-construction related discharge, and well separation distances. Best management practices are required by ADEC as well, i.e. spill kits onsite, secondary containment under maintenance and pumps, proper hazardous materials containment and signage.

Ms. DeBardelaben referred to the map on page 148 of the packet. On the map, the material sites are highlighted in pink. She noted some of these sites are active and some are reclaimed. The map shows the River Resources & City of Soldotna material sites and an area that was once an open pond and is now reclaimed with cabins on it. All of these sites have entered the groundwater at some time. There are historical photos of the area that show that this type of work has been ongoing in this area for over 40 years, the ADEC shows no cataloged cases of groundwater contamination or well damage on these sites or any of the neighboring properties.

We interact with aquifers every day, by installing basements, ditches, culverts, residential and commercial wells, bridges, oil & gas development and septic systems. Septic systems and leach fields are installed immediately above shallow, unconfined aquifers. We load septic systems with human wastes, household solvents and many other things. The ADEC only requires that they be 100' from a residential well and 200' from commercial water systems. The Alaska Department of Environmental Conservation allows for excavation in the groundwater and dewatering. The US Corp of Engineers, who has jurisdiction over waters of the US, allows for excavation in water tables and dewatering.

Commissioner Brantley then asked the applicant if they had kept up the well logs. Ms. DeBardelaben stated that the monitoring wells were installed in September of 2019 and have been surveyed seven times. The most recent survey was just a couple of months ago. When averaged the groundwater flow remained the same and moved in the same directions. There was one variable, whether it was a mismeasurement or some water perched she could not be sure. It might have been that the electronic tape picked up a lens of water at a slightly higher level. Mr. Coble noted this variable in his report and they believe that this was an anomaly.

Commissioner Bentz noted that there had been a number of comments from the public on how the proposed dewatering plan, with the plan to excavate 50' x 50' cells around the property, how this plan could influence the groundwater table and how far would that influence be felt. Specifically how this influence would affect area wetlands, seepage effects or runoff into the river. Ms. DeBardelaben noted that the dewatering plan estimated the dewatering process during a ten-day period there would be a drawdown at 300' from the excavation area of approximately 1/10 of a foot, which is considered minimal, in the unconfined aquifer. She again noted that all the residential wells draw from the confined aquifer, which is below the unconfined aquifer, so the wells would not see any effect from the dewatering process. Drawdown in the unconfined aquifer within 300' from the excavation area should not exceed 1/10 of a foot. The closest wetlands to the excavation area are approximately 1000' away and should not be negatively affected by the drawdown.

Joseph L. Kashi; 205 W. Beluga Ave., Soldotna, AK 99669: Mr. Kashi is the attorney representing

landowner Dale McBride. He noted that he had submitted a written report to the commission and he would have to try to summarize the findings since he only has been allotted three minutes to speak. Regarding Well E, it has been their position that the aquifer in that area has been so inadequately characterized. There is a potential that the confined aquifer could be negatively impacted. He does not believe that the commission has adequate data to make this decision. He believes that this decision should be postponed until there is sufficient data. Why is there such a rush to make a decision on this matter? It is the middle of winter, there is a geophysicist, who is very familiar with this area, stating in his report that there is not enough data to know what the cumulative effect will be. He believes that the ultimate cumulative effect would be removing most of the aquifer downstream, upon which the seepage in the wetlands would occur. It could negatively affect the aquifer that many landowners in the area depend on. The Coble report states eleven possible negative impacts should the aquifer upstream be destroyed or compromised. When you go into the water table, you mix thing up and expose the water table, potentially damaging the water supply. There is no rush to permit these activities; there is plenty of gravel that can be mined on the surface.

Commissioner Ruffner noted he did not see where the City of Soldotna had stated that they had any concerns regarding impacts to their well. He asked Mr. Kashi if he had received any communications from the city expressing concerns with this permit. Mr. Kashi stated that he had sent the city a copy of the Coble report. He contacted the city last Friday to ask if he could get copies of any correspondence related to this permit and he had not heard back from them. Therefore, he cannot answer Commissioner Ruffner's question with any specifics. He noted that he does not know if the city has had the chance to review the Coble report. Again, Mr. Kashi stated he does not understand what the rush is to make a decision on this tonight. He does not believe that the commission has the information they need to move forward. He also noted that the ADEC has identified two contaminated sites in the area, one at the old city gravel pit and the other at the old mechanical shop. State regulations say that you cannot go into the water table within 1000' of a contaminated site and both these sites are within 1000' of this material site.

Geoff Coble, Coble Geophysical Service; P.O. Box 1637, Homer AK 99603: Mr. Coble is a professional hydro-geologist and geophysicist. He stated that he is very familiar with the groundwater in the Soldotna area. He stands by the report that he submitted and encouraged the commission to take the time to read it. He reviewed the McLane report and he had few comment about the way the groundwater potentials were drawn, which is how you determine the flow direction. He does have issue when you take out a certain well reading and say that it is perched when it reads water low. No one would want someone to excavate into the aquifer that you are using for water when the effects of that have not been fully modeled. He believes that it is likely that the area well will be affected by this proposed action. Just saying that there is a confined aquifer and that there will not be any damage to it. To determine that requires a pumping test that has not been done. You cannot just label it a confining layer and that it completely seals off from the unconfined aquifer. More often than not, there are ways to get through that layer. You also need to think about what the consequences will be if there is a spill or some other disaster over a public water supply. What is being proposed here is to excavate the unconfined aquifer, all the way down to the confining layer. In figure 4 of his report, you can see how the Kenai River for its buffer uses the water in that aquifer. McLane's report states that other have excavated into the confining layer and so they should be able to do so as well. There is a cumulative effect to allowing more to do so.

Commissioner Ruffner asked Mr. Coble if he knew how thick the confining layer was. Mr. Coble replied could not state for sure, he would recommending that a pumping test be conduct to know for sure. The thickness of the confining layer cannot be determined by doing well tests.

Ann Gravier; 34540 Marcus Street, Soldotna, AK 99669: Ms. Gravier is a neighboring landowner. She noted that the application submitted evidence including engineering modeling data that indicated little or no impact to nearby or adjacent properties. As an area resident, if she could be assured, by the information that was provided, she would not have any objections to the permit. Given what has been presented, she does object to this permit. She would ask that the commission review the reports in light of the validity of the results. As you have heard, different experts can have differing opinions. As a decision maker, taking the information provided at face value, she would ask, what do we know about the margin of error related to the results. What kind of risk is the commission willing to take in approving this application? After all a model is just something that mimics man's understanding of natural process to varying degrees of success. For example, weather forecasting is just modeling and we all know how accurate those forecasts can be. Another example would be floodplain mapping and we know that Mother Nature does not always follow the lines of a manmade map. The purpose of her statement tonight is to not debate the information provide but to present the perspective that modeling is not facts. She would ask that the commission give this deep consideration and understand that the true risk of the proposed activity most likely has not been fully

realized. We do not yet fully understand the potential risks and the range of this proposed activity and that is why as an area resident she is not in favor of this application.

Michael Gravier; 34540 Marcus Street, Soldotna, AK 99669: Mr. Gravier is a neighboring landowner. He noted that this summer the water table on his property came up to cover about 3" of the plant stands on his property. He suspects that this was not modeled as his property is a distance greater from the gravel pit than what has been discussed. His property is approximate 1800' from this pit. The increase of the water level is not from the river or an increase in rainfall, so it must be groundwater. He noted that Mr. Coble report shows what could happen if they mess with or take gravel out. The water will not be able to flow so easily and it could start backing up. Given the location of his property, he is concerned that it could possibly back-up and cover his property. The modeling did not predict the rise of the water table on his property, so in this case we know that the modeling was not accurate. Models are just that model, they are not necessarily reality. If the weatherman says it is not going to snow, you go outside, and it is snowing, the model was not correct and it is the snow that is real.

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

MOTION: Commissioner Brantley moved, seconded by Commissioner Bentz to go into adjudicative session and requested legal counsel Sean Kelley and Administrative Assistant Ann Shirnberg join the commission for the session.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

Commission went into adjudicative session at 8:54 PM.

Commission came back into session at 10:47 PM.

MOTION: Commissioner Bentz moved seconded by Commissioner Brantley to adopt PC Resolution 2021-37, granting a modification to a conditional land use permit for a material site to allow excavation within the water table and an exception for de-watering with a copy of the resolution to be distributed within 10 days.

Vice Chair Ruffner noted again for the public that a copy of this resolution with conditions would be made available within 10 days.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

AGENDA ITEM F. **PLAT COMMITTEE REPORT** – Plat Committee did not meet.

AGENDA ITEM G. **OTHER**

Ms. Shirnberg asked for volunteers for the Plat Committee for January, February & March

- Commissioner Brantley
- Commissioner Bentz (January Only)
- Commissioner Venuti

Vice Chair Ruffner noted that if there is not enough folks to sit a plat committee those agenda items will just have to be moved to the Planning Commission meeting;

AGENDA ITEM H. PUBLIC COMMENT

Mr. Kashi asked if with the adoption of Ordinance 2021-41, increasing the planning commission to fourteen seats, were there enough commissioners present tonight for a quorum. He noted that there were only five commissioner present tonight. Mr. Kelley replied that a quorum was present since a quorum is based on seated/appointed commissioners. The commission has eight seated commissioners so a requirement for a quorum would be five members.

AGENDA ITEM I. DIRECTOR'S COMMENTS

Director Aeschliman noted for the commission that on December 7, 2021 the Assembly enacted Ordinance 2021-41 increasing the planning commission to fourteen seats. In the report is a map showing the new districts and a tentative membership roster showing what seats the current commissioner will be representing. At the next several meeting she will be bringing information for the commission to discuss on how we will move forward seating the new commissioners.

AGENDA ITEM J. COMMISSIONER COMMENTS - None

AGENDA ITEM M. ADJOURNMENT – Commissioner Venuti moved to adjourn the meeting 10:58 p.m.

Ann E. Shirnberg
Administrative Assistant

MEMORANDUM

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

FROM: Sean Kelley, Borough Attorney

DATE: December 21, 2021

RE: Setting the Remand Hearing Date ITMO: Cook Inlet Region, Inc. CLUP modification application

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

On December 2, 2021, Administrative Law Judge Rebecca Kruse entered an *Order for Remand* in the matter of *Rosenberg v. Cook Inlet Region, Inc.* (CIRI) regarding a conditional land use permit (CLUP) modification application filed by CIRI. The order highlights that the KPB Planning Commission decision on appeal states that “[c]ompliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in the KPB 21.29.040.”

The Order for Remand, at page 2-3, provides that:

“On remand, in light of the superior court's holding in *Bilben*, the Planning Commission should review CIRI's CLUP modification application to determine whether it meets the standards of KPB 21.29.040, not merely whether it includes the mandatory conditions in KPB 21.29.050 – similar to how the Commission reviewed CIRI's CLUP application in 2017.

It does not appear that the Commission's understanding of its discretion under KPB 21.29.040 impacted the development of the factual record. Thus Commission should be able to review CIRI's CLUP modification on remand without opening the record for

December 21, 2021

RE: ITMO: Rosenberg v. Cook Inlet Region, Inc. Remand Order

new evidence. If the Commission determines that it is has insufficient facts to proceed, however, the Borough Code does not prohibit opening the record.

One issue where the record is lacking relates to a procedural argument raised by CIRI in its opening statement. As CIRI points out, only a party of record may appeal a Planning Commission decision. One of the requirements to be a party of record is to own land within the "notification radii." It is thus unclear from the record whether Mr. Rosenberg had the right to appeal the Planning Commission's decision. A list of the landowners within the half mile radius who were mailed notice would clear up any question about who is a potential party of record."

The Order for Remand and the motion for joint stipulation filed by the parties in this matter are attached for review.

On January 10, 2021 the Planning Commission should determine when to set a remand hearing and the procedure that will be followed on remand, including whether or not the Commission finds it necessary to open the record for new evidence.

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
REFERRAL BY THE KENAI BOROUGH PLANNING COMMISSION**

In the matter of the Kenai Peninsula Borough)	
Planning Commission's decision to approve the)	
Modification of a conditional land use permit)	
That was requested for KPB Parcel 06508118,)	
legally described as the East ½, the East ½ of the)	
West ½, and the Northwest ¼ of the Northwest ¼,)	
Of Section 16, Township 5 North, Range 8 West,)	
Seward Meridian)	
)	
ERIC F. ROSENBERG,)	
Appellant.)	
)	
v.)	
)	
COOK INLET REGION, INC.,)	OAH No. 21-2058-MUN
Applicant.)	Agency No. 2021-03-PCA
)	

ORDER FOR REMAND

On December 6, 2021, Appellant Eric Rosenberg and Applicant Cook Inlet Region, Inc. ("CIRI") filed a joint motion and stipulation to remand this matter to the Kenai Peninsula Borough Planning Commission. The motion states that the Borough does not oppose the motion. Thus time for response does not need to be provided under KPB Code 21.20.300(B).

The parties have requested a remand in response to a September 2, 2021 superior court decision in *Hans Bilben v. Kenai Peninsula Borough, Planning Commission*, which Mr. Rosenberg attached to his Opening Statement.¹ In *Bilben*, the court explained that the Commission had previously interpreted KPB 21.29 as providing it discretion to approve or disapprove a Conditional Land Use Permit ("CLUP"), even when the application includes the mandatory conditions set forth in KPB 21.29.050.² In a 2018 appeal, a hearing officer held that the Commission did not have this discretion and remanded to the Commission for further findings.³ On appeal of the Commission's decision on remand, the superior court held that the Commission does, in fact, have discretion to adjudicate CLUP applications that include the mandatory conditions.⁴

¹ 3KN-20-00034CI (Sept. 2, 2021).

² *Id.* at 2.

³ *Id.* at 3.

⁴ *Id.* at 10-15.

The record in this matter tracks the changing code interpretations at play in *Bilben*. The Planning Commission approved CIRI's CLUP in 2017 at a time when the Commission interpreted the code as providing discretion to approve or disapprove applications. Indeed, the Commission exercised that discretion in requiring an additional condition not included in the KPB 21.29.050 mandatory conditions.⁵ When CIRI applied to modify this CLUP in 2021, however, the Commission had received the hearing officer's decision in *Bilben* stating that it did not have discretion to scrutinize a CLUP application that complied with KPB 21.29.050. Thus the decision on appeal here states that "[c]ompliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in the KPB 21.29.040."⁶

When an appeal raises changed circumstances that could not have been presented to the Planning Commission, the matter will be remanded to the Commission for further proceedings.⁷ While changed circumstances would typically mean changes to the facts, there can also be a change to the law — or in how the Commission is to interpret the law. Here, the Commission reviewed CIRI's application and issued its decision August 9, 2021 based on how a hearing officer in *Bilben* had instructed it to interpret KPB 21.29. The superior court's decision a month later held the Commission needs to apply a different interpretation. That change in how the Commission should interpret the Borough Code is a changed circumstance that requires remand.

On remand, in light of the superior court's holding in *Bilben*, the Planning Commission should review CIRI's CLUP modification application to determine whether it meets the standards of KPB 21.29.040, not merely whether it includes the mandatory conditions in KPB 21.29.050 — similar to how the Commission reviewed CIRI's CLUP application in 2017.

It does not appear that the Commission's understanding of its discretion under KPB 21.29.040 impacted the development of the factual record. Thus Commission should be able to review CIRI's CLUP modification on remand without opening the record for new evidence. If the Commission determines that it is has insufficient facts to proceed, however, the Borough Code does not prohibit opening the record.

One issue where the record is lacking relates to a procedural argument raised by CIRI in its opening statement. As CIRI points out, only a party of record may appeal a Planning

⁵ R-38 (requiring CIRI's reclamation plan to include the requirements set forth in KPB 21.29.060(C)(3)).

⁶ R-10.

⁷ KPB 21.20.330(A).

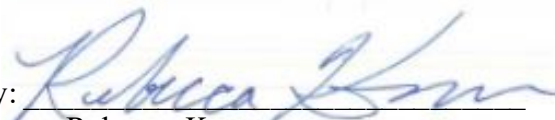
Commission decision.⁸ One of the requirements to be a party of record is to own land within the “notification radii.”⁹ The record states that notice was mailed to 255 landowners and leaseholders within a one-half mile radius of “subject parcels.”¹⁰ The record also includes a map depicting this notification radius.¹¹ The record indicates that Mr. Rosenthal is an attorney practicing law in Maryland, but also includes statements from Mr. Rosenthal that he owns and operates a business on Moonshine Drive in Soldotna.¹² CIRI argued that Mr. Rosenberg’s land is not within the notification radius and therefore he is not a party of record who could appeal.¹³ Mr. Rosenberg responded that he “lives on Moonshine Drive” and pointed to the notification radius map.¹⁴ But according to the map, not all parcels of land along Moonshine Drive are within the notification radius.¹⁵ It is thus unclear from the record whether Mr. Rosenberg had the right to appeal the Planning Commission’s decision. A list of the landowners within the half mile radius who were mailed notice would clear up any question about who is a potential party of record. Presumably the Borough has documentation of the notice it provided. On remand, the Commission is encouraged to add this information to the record.

Accordingly, Planning Commission Resolution 2021-26 is remanded to the Commission to review whether CIRI’s CLUP modification application meets the standards of KPB 21.29.040 in addition to including the mandatory conditions set forth in KPB 21.29.050. The Commission may, but is not required to, open the record for additional input from parties or the public. The Commission is, however, encouraged to add information to the record identifying the landowners within the notification radius.

This is not a final decision and therefore it is not appealable to superior court under KPB 21.20.360. Because this matter is remanded to the Commission, the hearing scheduled for December 7, 2021 is cancelled.

DATED: December 6, 2021.

By:



Rebecca Kruse
Administrative Law Judge

⁸ KPB 21.250(A); CIRI Opening Statement at 9.

⁹ KPB 21.20.210(A)(5).

¹⁰ R-10.

¹¹ R-47.

¹² R-53-55

¹³ CIRI Opening Statement at 9-10.

¹⁴ Rosenberg Reply at 3.

¹⁵ R-47.

Certificate of Service: I hereby certify that on the December 6, 2021 a true and correct copy of this document was served on the following by e-mail to the following listed below:

Eric Rosenberg
ERosenberg@rosenberg-fayne.com

Niki Pereira
niklnuk@gci.net

Suzanne Settle
ssettle@ciri.com

Kenai Cabin LLC
janecklopfer@gmail.com

Andrea Jacuk
ajacuk@ciri.com

Richard Schiefelbein
rick@anchorconstruction.info

Carol Plancich
cplancich@gmail.com

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Patty Burley
KPB Deputy Attorney
legal@kpb.us
pburley@kpb.us

Richard Schiefelbein
rick@anchorconstruction.info

Melanie Aeschliman
KPB Planning Director
maeschliman@kpb.us

Cindy Hamlin
mrhceh@gci.net

Johni Blankenship
JBlankenship@kpb.us

By: Haley Canfield
Office of Administrative Hearings

BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON BEHALF
OF THE KENAI PENINSULA BOROUGH PLANNING COMMISSION

In the matter of the Kenai Peninsula Borough
Planning Commission's decision to approve the
Modification of a conditional land use permit That
was requested for KPB Parcel 06508118, legally
described as the East 1/2, the East 1/2 of the West
1/2, and the Northwest 1/4 of the Northwest 1/4,
Of Section 16, Township 5 North, Range 8 West,
Seward Meridian

ERIC F. ROSENBERG,
Appellant,

v.

COOK INLET REGION, INC.,
Applicant.

OAH No. 21-2058-MUN
Agency No. 2021-03-PCA

MOTION ON JOINT STIPULATION TO REMAND

Pursuant to KPB 21.20.300, Applicant Cook Inlet Region, Inc. ("CIRI") and Appellant Eric F. Rosenberg (together, the "Parties") hereby submit the following joint stipulation to remand of the Kenai Peninsula Borough Planning Commission's ("Commission's") approval CIRI's modification of its Conditional Land Use Permit, PC Resolution 2021-26. The Parties have agreed that PC Resolution 2021-26 should be remanded to the Commission in light of the September 3, 2021 order issued by the Alaska Superior Court in *Hans Bilben, et al. v. Kenai Peninsula Borough Comm'n and*

JOINT STIPULATION FOR REMAND
ERIC F. ROSENBERG v. COOK INLET REGION, INC.
OAH No. 21-2058-MUN
Page 1 of 3

Beachcomber, LLC, et al., Appeal Case 3KN-20-00034CI¹ (hereinafter “*Beachcomber* decision”). The Parties request that OAH, pursuant to KPB 21.20.300.C, instruct the Commission on remand to determine whether it can make the necessary factual findings to ensure consistency with the *Beachcomber* decision based off the existing record or if it should augment the existing record with a public hearing.

The Parties have conferred with the Kenai Peninsula Borough and the other parties who entered appearances in this appeal, and the Parties have confirmed that there is no opposition to this stipulation. A proposed order granting remand is attached.

DATED: December 3, 2021.

PERKINS COIE LLP

By: /s/ Cameron Jimmo
Cameron Jimmo, Alaska Bar No. 1711055
CJimmo@perkinscoie.com

Attorneys for Appellee
COOK INLET REGION, INC.

By: /s/ Eric F. Rosenberg
Eric F. Rosenberg
ERosenberg@rosenberg-fayne.com

Appellant

¹ See Appellant’s Opening Statement (Nov. 12, 2021), at Exhibit A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that
on December 3, 2021, a true and correct copy
of the foregoing document was served by
email on:

Eric Rosenberg
ERosenberg@rosenberg-fayne.com

Richard Schiefelbein
rick@anchorconstruction.info

Suzanne Settle
ssettle@ciri.com

Cindy Hamlin
mrhceh@gci.net

Niki Pereira
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Mark R. Hughes
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Sean Kelley
KPB Borough Attorney
legal@kpb.us
skelley@kpb.us

/s/ Tae Kim

Tae Kim
Legal Practice Assistant

Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Blair Martin, Planning Commission Chair
Kenai Peninsula Borough Planning Commissioners

THRU: Melanie Aeschliman, Planning Director *MA*
Samantha Lopez, River Center Manager *SL*

FROM: Eric D. Ogren, Code Compliance Officer *EO*

DATE: December 7, 2021

RE: Additional Information for Remand of PC Resolution #2021-26

-
- On December 6, 2021, Appellant Eric Rosenberg and Applicant Cook Inlet Region, Inc. ("CIRI") filed a joint motion and stipulation to remand this matter to the Kenai Peninsula Borough Planning Commission.
 - The Borough does not oppose the motion.
 - The parties have requested a remand in response to a September 2, 2021 superior court decision in *Hans Bilben v. Kenai Peninsula Borough, Planning Commission*
 - Planning Commission Resolution 2021-26 is remanded to the Commission to review whether CIRI's CLUP modification application meets the standards of KPB 21.29.040 in addition to including the mandatory conditions set forth in KPB 21.29.050.
 - The Commission may, but is not required to, open the record for additional input from parties or the public. The Commission is, however, encouraged to add information to the record identifying the landowners within the notification radius.
 - The staff recommends the Commission schedule a hearing on this matter at the next scheduled hearing date January 10, 2022
 - Possible optional hearing dates:
 - January 24, 2022 – PC meeting date

- February 14, 2022- PC meeting date
- February 28, 2022- PC meeting date
- Alternative Date January 11, 2022
- Alternative Date January 25, 2022
- A date of Planning Commission's choosing

End of report

PC RESOLUTION 2021-26

**APPEAL OF THE KENAI PENINSULA BOROUGH
PLANNING COMMISSION
APPROVAL OF A MODIFICATION TO
CONDITIONAL LAND USE PERMIT
IN THE SOLDOTNA**

KPB Tax Parcel ID#: 065-081-18

Legal Description:

**East ½, East ½ of the West ½ , & the Northwest ¼ of the
Northwest ¼ of Section 16, Township 5 North, Range 8 West,
Seward Meridian, Alaska, Excluding the Sterling Highway
Right-of-Way**

Applicant:

Cook Inlet Region, Inc.

Landowner:

Cook Inlet Region, Inc.



Planning Department

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

Charlie Pierce
Borough Mayor

"I, Melanie Aeschliman, the Kenai Peninsula Borough Planning Director, do hereby certify that to the best of my knowledge the attached record contains true and correct copies of all documents required by KPB 21.20.270 to be included in the record on appeal in the matter of a approval of conditional land use permit modification application for a material site to allow for additional excavation on property described the East ½, the East ½ of the West ½ & the Northwest ¼ of the Northwest ¼, of SEC 16, T05N. R08W, S.M. AK, excluding the Sterling Highway ROW.

Melanie Aeschliman
Planning Director
Kenai Peninsula Borough

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

)
)ss.
)

STATE OF ALASKA
ANN E. SHIRNBERG
NOTARY PUBLIC
My Comm Exp: 2/1/22

The foregoing instrument was acknowledged before me this 15 day of September, 2021 by Melanie Aeschliman of the Kenai Peninsula Borough, a municipal corporation, on behalf of the corporation.

Notary Public for the State of Alaska

My commission expires: 2/1/22

INDEX

Record Page #	Document Name
R-1 to R-8	Conditional Land Use Permit Application
R-9 to R-13	KPB Planning Commission Resolution 2021-26
R-14 to R-18	August 12, 2021 Notice of Decision
R-19 to R-70	Meeting Packet & Desk Packet July 12, 2021 Memo to Planning Commission July 27, 2021
R-71 to R-76	Miscellaneous / Additional Information
R-77 to R-86	Planning Commission Minutes July 12, 2021
R-87 to R-95	Planning Commission Minutes August 9, 2021

VERBATIM TRANSCRIPT

T1 to T-16	Verbatim Transcript / Index July 12, 2021
T-17 to T-39	Verbatim Transcript / Index August 9, 2021

CONDITIONAL LAND USE PERMIT APPLICATION



Planning Department

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

Charlie Pierce
Borough Mayor

PC Resolution #. _____

App. Complete _____

KPB 21.29 Conditional Land Use Permit Modification Application

For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant Cook Inlet Region, Inc. Landowner Same as Applicant

Address PO Box 93330 Address _____

City, State, Zip Anchorage, AK 99509-3330 City, State, Zip _____

Telephone 907-263-5150 Fax _____ Telephone _____ Fax _____

Cell Phone 907-240-6861 Cell Phone _____

Email ssettle@ciri.com Email _____

II. CURRENT PERMITTED PARCEL INFORMATION

KPB Tax Parcel ID# 065-081-18 Township 5N Range 8W Section 16

Subdivision _____ Lot _____ Block _____ Parcel acreage _____

Legal Description T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

III. INFORMATION/DOCUMENTATION "Check" boxes below to indicate items included.

☐ \$300.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)

☐ Site Plan Diagram, to scale, showing:

- ☐ parcel boundaries
- ☐ existing required buffers
- ☐ existing and/or proposed processing area(s)

Permit Modification Worksheet

Applicant Cook Inlet Region, Inc. Owner Same as applicant

CURRENT PERMITTED KPB Tax Parcel ID # 065-081-18 Parcel Acreage appr. 600

- Reason(s) for requesting permit modification: Excavation of material to improve the Sterling highway, competent to meet Alaska Transportation Department specifications for highway construction

- Additional cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 61 acres

- Additional type(s) of material to be mined (circle all that apply): gravel sand peat other

- Additional equipment to be used (circle all that apply): excavation processing other

- Modification(s) is requested on current permit buffers: yes X no

CURRENT PERMIT REQUIRED BUFFERS – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other | N | S | E | W |

MODIFIED BUFFER REQUEST, if applicable – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input checked="" type="checkbox"/> minimum 6 ft. earthen berm | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other | N | S | E | W |

- Permit modification is requested due to subdivision of originally permitted parcel? yes X no

- Permit modification to enter the water table is requested? yes X no

- Additional excavation depth beyond permitted depth: 20 ft.

Depth to groundwater: More than 20 ft.

- Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.):

A. Berms along North (Sterling Highway), West (Tikahtnu Road) and East (Keani Keys Road) edge of excavation

B. _____

- ☐ all encumbrances on parcel, including easements
- ☐ points of ingress and egress
- ☐ existing permitted extraction area(s)
- ☐ proposed additional extraction area(s) and/or other requested permit modifications(s)
- ☐ a north arrow and diagram scale
- ☐ preparer's name and date
- ☐ Permit Modification Worksheet (attached)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit modification request.

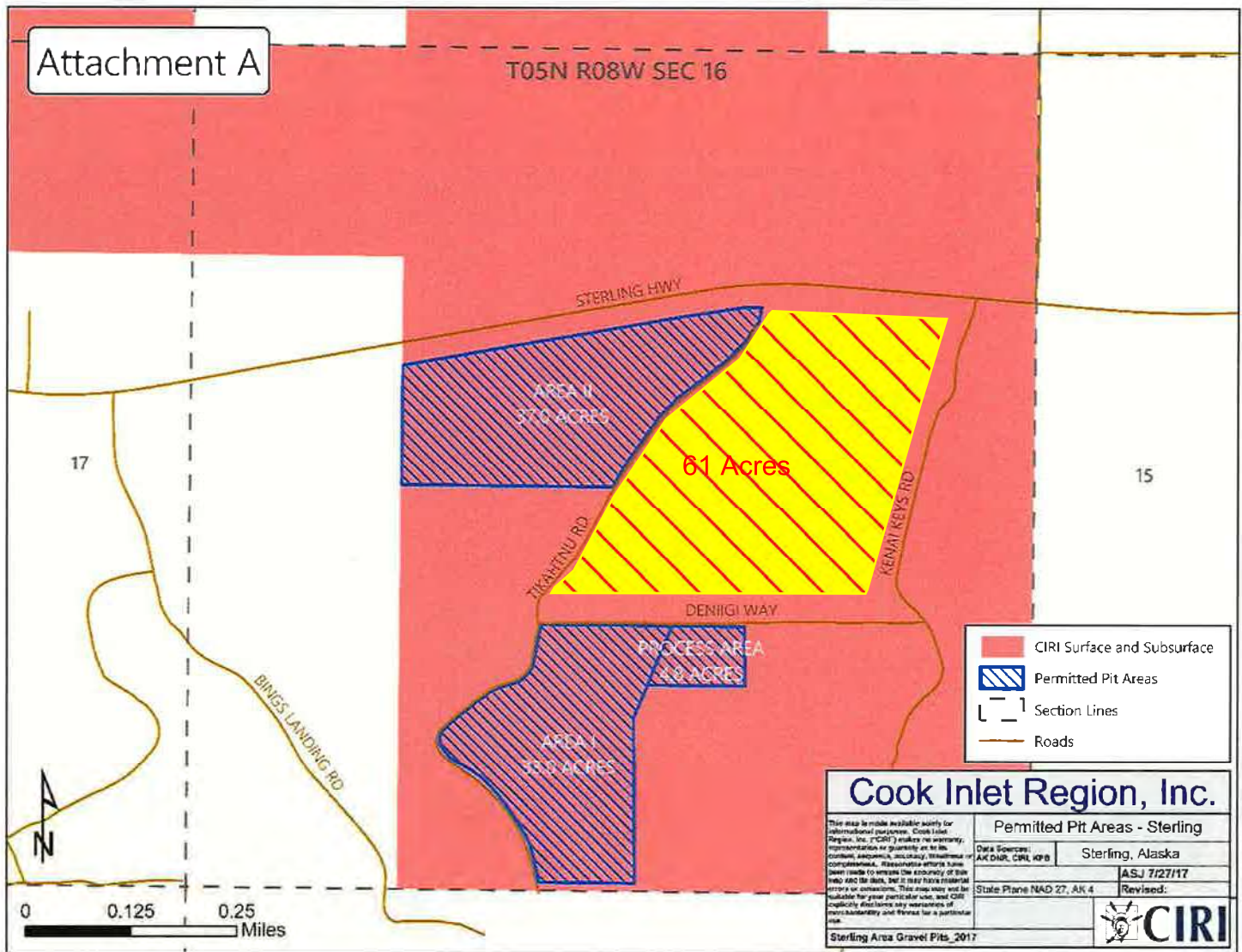

Applicant Signature

June 21, 2021
Date

Property Owner Signature
(required if not applicant)

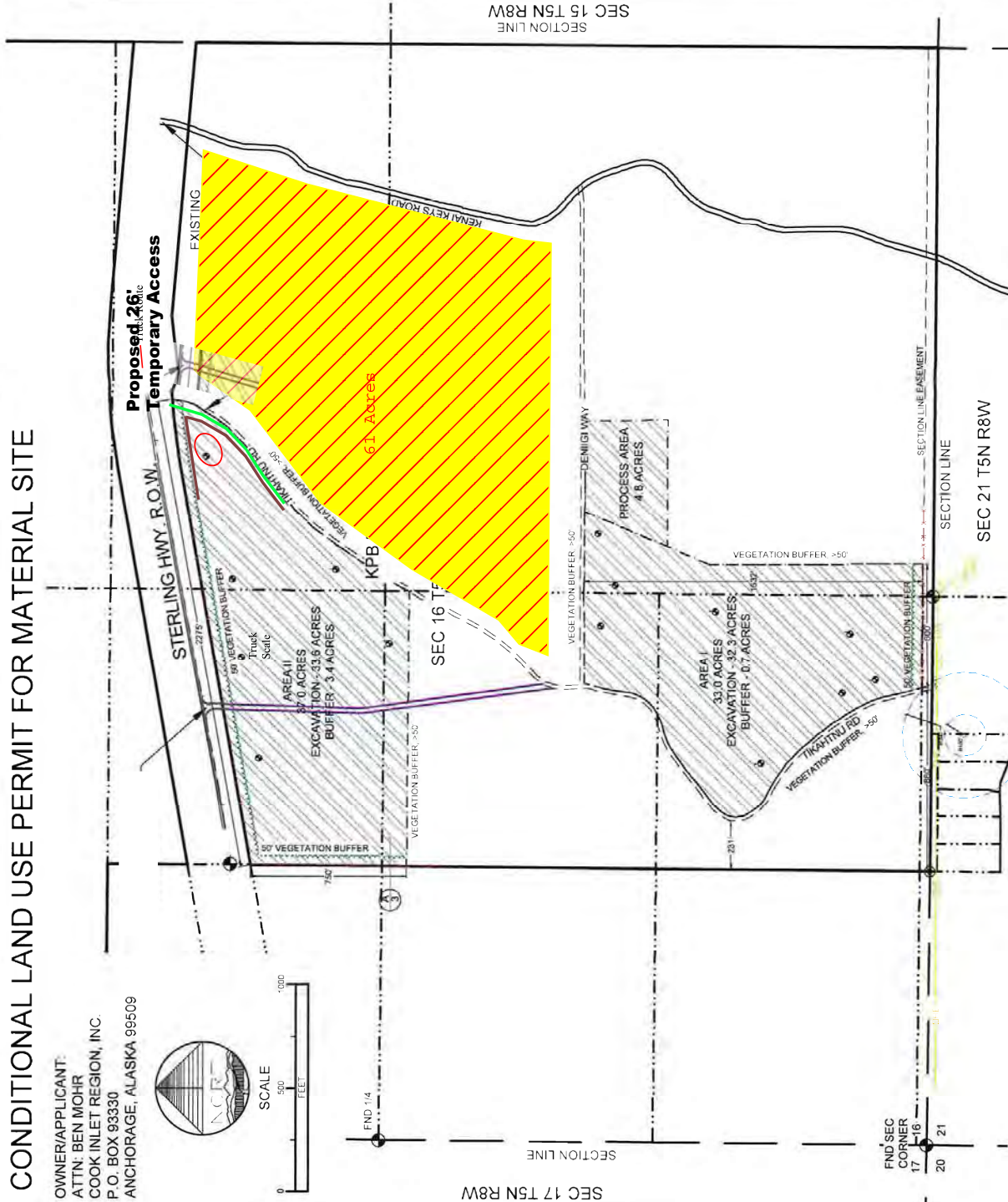
Date

Exhibit A
Map of Contract Area



CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



LEGEND

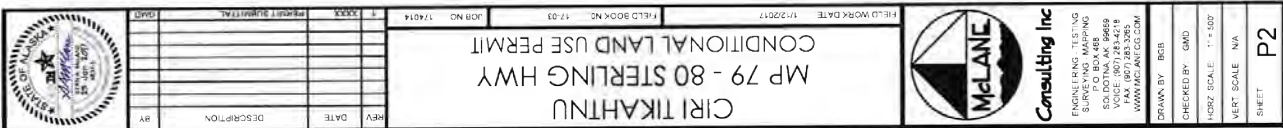
- RECORD MONUMENT
- PROPERTY CORNERS
- INGRESS/EGRESS
- WELL SETBACK
- INTERVISIBLE FLAGGING
- PROPOSED BUFFER TREELINE
- APPROX TESTHOLE LOCATION

CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS FOR THE PORTION OF KPB PARCEL 06508118 SOUTH OF THE STERLING HIGHWAY, T5N R8W SECTION 16 SEWARD MERIDIAN, E1 & E1/2 W1/2 & NW1/2 NW1/2 EXCEPT THAT PORTION PER WID 383 @ 681.
2. THE PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED INGRESS IS FROM TO KENAI KEYS ROAD AND EGRESS IS TO THE STERLING HIGHWAY, AS SHOWN. AN ADOT APPROACH ROAD REVIEW APPLICATION WILL BE NECESSARY.
4. THE PREFERRED BUFFERS ARE 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS ON ALL SIDES OF THE EXCAVATION AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED.
5. THERE ARE NO WELLS WITHIN 100' OR 300' OF THE EXCAVATION AREA.
6. THERE ARE NO MAPPED WETLANDS AND/OR SURFACE WATER.
7. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION VIA PHYTOREMEDIATION OF ANY SITE RUN-OFF.
8. GROUNDWATER IS >20' BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. TEST HOLES WERE EXCAVATED IN 32 LOCATIONS BY THE OWNER OR OTHER REPRESENTATIVES.
9. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPINGS OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEEDED.
10. A CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA. PROCESS AREA IS GREATER THAN 300' FROM ALL PROPERTY LINES.
11. THE PROPERTY CORNERS WERE LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS WITHIN 300' OF THE EXCAVATION AREA, AS SHOWN ON THE EXHIBIT.

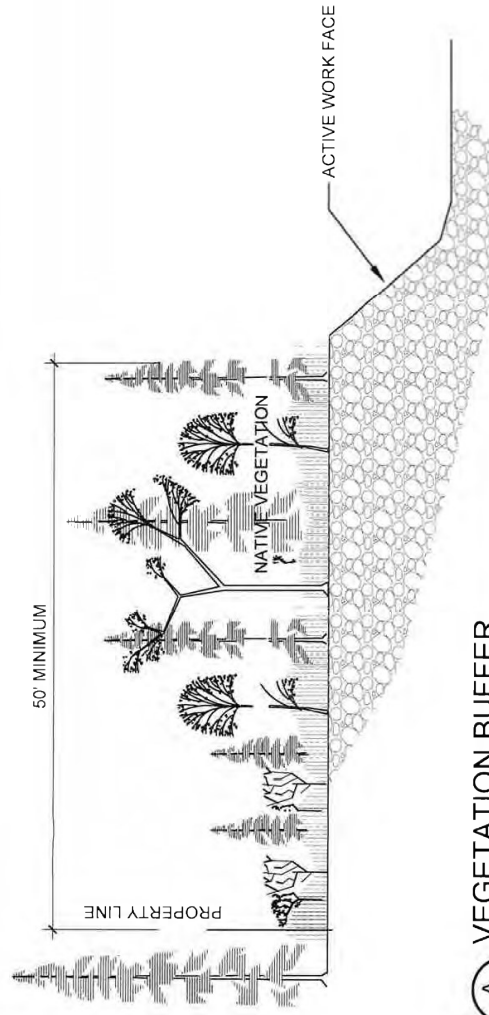
		FIELD WORK DATE: 11/20/2017 FIELD BOOK NO: 17-03 JOB NO: 174014	
ENGINEERING - TESTING SURVEYING - MAPPING SOLIDOTRY AL 0688 VOICE (907) 283-4381 FAX (907) 283-4381 WWW.MCLANECORP.COM		DRAWN BY: BSB CHECKED BY: GMD HORIZ SCALE: 1" = 50' VERT SCALE: N/A SHEET: P1	
CONDITIONAL LAND USE PERMIT MP 79 - 80 STERLING HWY CIRI TIKAITNU		REV: _____ DATE: _____ DESCRIPTION: _____	

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



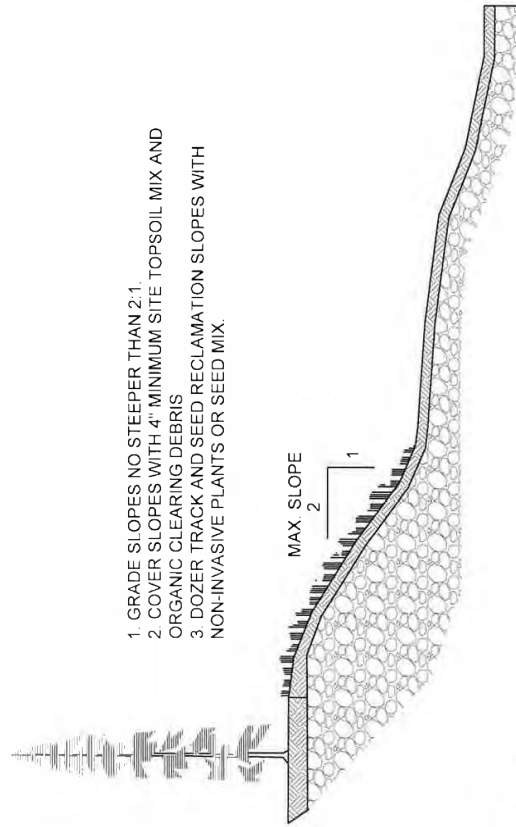
CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



A VEGETATION BUFFER

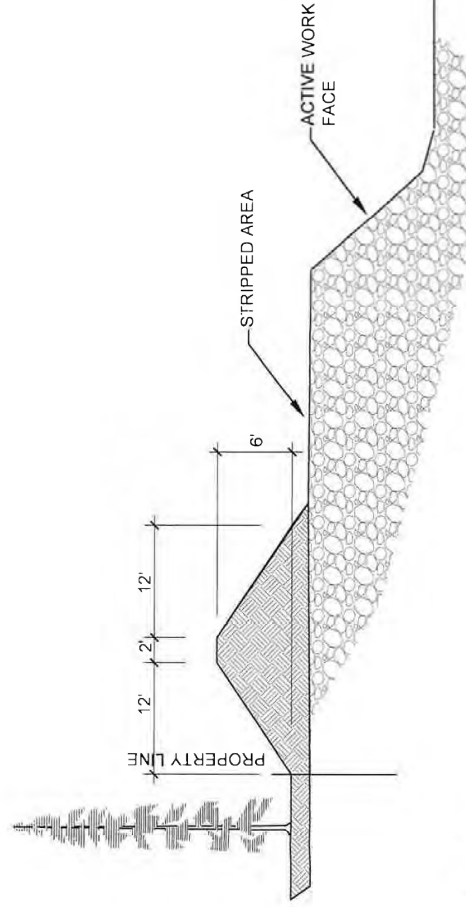
SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS
3. DOZER TRACK AND SEED RECLAMATION SLOPES WITH NON-INVASIVE PLANTS OR SEED MIX

B RECLAMATION SLOPE

SCALE: 1" = 10 FT.



C EARTHEN BERM BUFFER

SCALE: 1" = 10 FT.



REV	DATE	DESCRIPTION	BY
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

PROJECT NO.	174014
FIELD BOOK NO.	17-03
DATE	1/15/2017
PROJECT NAME	MP 79 - 80 STERLING HWY
PROJECT TYPE	CONDITIONAL LAND USE PERMIT



McLane Consulting Inc.
ENGINEERING, TESTING
SURVEYING, MAPPING
P.O. BOX 408
COOK INLET, ALASKA 99509
VOICE: (907) 253-4276
FAX: (907) 253-3202
WWW.MCLANECI.COM

DRAWN BY	BOB
CHECKED BY	GMD
HORIZ. SCALE	1" = 500'
VERT. SCALE	N/A
SHEET	P3

PLANNING COMMISSION RESOLUTION 2021-26

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-26
KENAI RECORDING DISTRICT**

A resolution granting modification to a conditional land use permit for a material site to allow for additional excavation are on property described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way

- WHEREAS,** the KPB Planning Commission approved PC Resolution 2017-08 on March 27, 2017, which established a conditional land use permit for material extraction on KPB tax parcel ID# 065-081-18; and
- WHEREAS,** on June 22, 2021, the applicant, Cook Inlet Region, Inc., submitted an application to modify the existing conditional land use permit by expanding the area for excavation by 61-acres south of the Sterling Highway within KPB Parcel 065-081-18; and
- WHEREAS,** KPB Chapter 21.29.090 provides for the modification of material site permits when changes in operations approved in the original permit are proposed; and
- WHEREAS,** notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion; and
- WHEREAS,** public notice was sent to the postmaster in Sterling requesting that it be posted at the post office; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 12, 2021.

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

- SECTION 1.** That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near

- proposed excavation areas in the original permit were flagged.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows no wells within 300 feet of an excavation area.
 - b. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification does not seek an exemption to excavate within the water table.
 7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
 11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.

- a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
- 15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
- 16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.

SECTION 2. That the material site operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The expanded material site area overall within the parcel is approximately 131.7 acres.
- B. The East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

SECTION 3. That the existing permit conditions are hereby replaced by the following:

PERMIT CONDITIONS

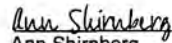
- 1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
- 2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.
 - These buffers shall not overlap an easement.
- 3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
- 5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
- 6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
- 7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
- 8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
- 9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
- 10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
- 11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
- 12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
- 13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
- 14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
- 15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC

- water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 17. The permittee shall be limited to disturbing 20 acres during the first two years of the permit. The open area shall be reclaimed upon completion of excavation activities.
 18. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 19. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 9TH DAY OF AUGUST, 2021.


Blair J. Martin, Chairperson
Planning Commission

ATTEST:


Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

NOTICE OF DECISION & RECIPIENT LIST



Planning Department

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

Charlie Pierce
Borough Mayor

August 12, 2021

«Contact»
«Attention»
«Address»
«City_State_ZIP»

NOTICE OF DECISION

At its August 9, 2021, meeting, the Kenai Peninsula Borough Planning Commission approved the modification of a conditional land use permit that was requested for KPB Parcel 065-081-18, legally described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian.

This decision was based on the findings of fact listed below.

Findings of Fact:

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.
3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise

screening to adjacent properties:

50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.

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8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
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 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to

cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.

- a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
 15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
 16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
-

Per KPB 21.20.250, any party of record may file an appeal of a decision of the planning commission within 15 days of the date of this notice of decision. The appeal must be filed with the borough clerk on the forms provided, and by paying the filing and records preparation fee in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. An appeal may be filed by personal delivery or mail as long as it is complete and received in the clerk's office by 5:00 p.m. on the day the notice of appeal is due. Appeal forms are available online at <https://www.kpb.us/assembly-clerk/clerks-office/clerks-forms>

Please contact the Kenai Peninsula Borough Clerk's Office at 907-714-2160 for questions regarding filing an appeal.

Contact	Attention	Address	City, State ZIP	Email	Telephone
Eric Rosenberg		5400 Kenilworth Avenue	Riverdale, MD 20737	ERosenberg@rosenberg-fayne.com	(301) 980-5598
Mark Hughes		32177 West Hills Court	Sterling, AK 99672	mrhceh@gci.net	
Cindy Hamlin		32177 West Hills Court	Sterling, AK 99672	mrhceh@gci.net	
Lisa Smith		37220 Steelhead Circle	Sterling, AK 99672	bdilisa@gmail.com	(801) 372-4479
Yulia Vassiliev		32123 West Hills Court	Sterling, AK 99672		(925) 588-4144
Alexie Vassiliev		32123 West Hills Court	Sterling, AK 99672		(408) 772-0406
Charles Clasby		32167 West Hills Court	Sterling, AK 99672	calman.ck@gmail.com	(907) 230-0516
Karol Schiefelbein		37105 Steelhead Circle	Sterling, AK 99672	karol3510@hotmail.com	(907) 260-3577
Richard Schiefelbein		37105 Steelhead Circle	Sterling, AK 99672	rick@anchorconstruction.info	(907) 260-3577
Kathleen Fogel		37065 Steelhead Circle	Sterling, AK 99672	kgfogle1951@gmail.com	(916) 539-1342
Ken Killian		37468 Samsel Road	Sterling, AK 99672	kakillian@att.net	(907) 232-6188
Gary Bailey		PO Box 1265	Sterling, AK 99672	gyb7772@hotmail.com	(907) 301-8941
Roxie Little		37455 Samsel Road	Sterling, AK 99672	lesrox3@gmail.com	(907) 262-6288
David Skieens		PO Box 421	Sterling, AK 99672	dskieens@gmail.com	(907) 242-1343
Perry Hershberger		37060 Steelhead Circle	Sterling, AK 99672	plhersh60@gmail.com	(330) 827-1022
Linda Hershberger		37060 Steelhead Circle	Sterling, AK 99672	lchersh65@gmail.com	(330) 827-1024
Claire Lewis		8046 Endicott Street	Anchorage, AK 99502	siwela.claire@gmail.com	(907) 306-6978
Dan Lewis		8046 Endicott Street	Anchorage, AK 99502	siwela.claire@gmail.com	(907) 306-6978
Cook Inlet Region, Inc.	Andrea Jacuk	PO Box 93330	Anchorage, AK 99509-3330	aiacuk@ciri.com	(907) 263-5197
Bill Elam		47320 Jefferson Ave.	Soldotna, AK 99669	belam@kpb.us	(907) 690-4339
Scarsella Bros., Inc.	Tamarah Knapp	PO Box 68697	Seattle, WA 98168-0697	tamarah@scarsellabros.com	(253) 872-7173
Marc Walch		430 N Lake Sybelia Drive	Maitland, FL 32751		
Gretchen Cuddy		7531 Sportsmens Point Circle	Anchorage, AK 99502	niklnuk@gci.net	
Niki Pereira		37195 Steelhead Circle #14	Sterling, AK 99672	ssettle@ciri.com	
Cook Inlet Region, Inc.	Suzanne Settle	PO Box 93330	Anchorage, AK 99509-3330		(907) 263-5150

**PC MEETING PACKET MATERIALS
JULY 12, 2021
&
PC MEMO JULY 27, 2021**



Planning Commission

Meeting Packet

**July 12, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH
ASSEMBLY CHAMBERS
144 NORTH BINKLEY ST.
SOLDOTNA, ALASKA 99669**

E. NEW BUSINESS

- 9. Conditional Land Use Permit Modification**
Applicant/Land Owner: Cook Inlet Region Inc.
Parcel ID#: 06508118
Sterling Area

Modification of a Conditional Land Use Permit for a Material Site STAFF REPORT

PC MEETING: July 12, 2021

Applicant: Cook Inlet Region, Inc.
Landowner: Cook Inlet Region, Inc.
Parcel Number: 065-081-18
Legal Description: East ½, East ½ of the West ½, and the Northwest ¼ of the Northwest ¼ of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
Property Location: Approximately at MP 79.5 of the Sterling Highway

GENERAL OVERVIEW: On June 22, 2021, the applicant submitted payment and a modification application for a material site. The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on March 27, 2017, and extended on May 4, 2021. The modification is to expand the permitted extraction area by approximately 61 acres as shown on the site plan submitted with the application. The application states that the expanded area is to support an Alaska Department of Transportation improvement project for the Sterling Highway. A copy of the application is included as **Attachment A**. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

KPB 21.29.030(A) REQUIRED APPLICATION ITEMS

1) Location of modification: The applicant seeks to excavate and an additional area of approximately 61 acres in an area bounded by the Sterling Highway to the north, Kenai Keys Road to the east, Deniigi Way to the south, and Tikahtnu Road to the west (see Attachment A).

2) Lifespan: The original permit application stated an expected lifespan of 15 years. No change is proposed.

3) Buffers: In addition to buffers in the original permit, the proposed 61-acre expansion area would be buffered on all sides by 50 feet of natural vegetation and 6-foot earthen berms.

4) Reclamation: No modification to the reclamation plan is proposed. The original application indicated that 5-25 acres would be reclaimed each year before the end of September using a loader and dozer. Seeding would be applied each season to areas that achieve final grade.

5) Depth of excavation: The maximum depth of proposed excavation is 20 feet, the same as the original permit.

6) Type of material: Gravel will be mined from the proposed expansion area.

7) Voluntary permit conditions: Berms along the north, south, west, and east edges of the proposed expansion area.

8) Site plan: The original site plan prepared by McLane Consulting Inc. was submitted as part of the modification application with markups and annotations indicating proposed modifications. The original plan included a north arrow, scale, and preparer's name, date and seal. The property has not been subdivided or changed ownership since the original site plan was developed in 2017, so the modified site plan was considered sufficient by staff. Required site plan elements are as follows:

a-b): addressed above.

c) encumbrances: In addition to Tikahtnu, Kenai Keys, and Deniigi Way roads, the site plan

shows a section line easement along the southern property boundary.

d) points of ingress/egress: The proposed modification would add a 26-foot wide ingress/egress from the excavation area directly onto the Sterling Highway.

e) haul routes: ingress/egress for the expanded extraction area would be directly onto the Sterling Highway.

f) test holes/depth of groundwater: The application states that 32 test holes have been dug throughout the property and that the water table is greater than 20 feet below original ground. The original site plan shows test well locations in the permitted excavation area.

g) location of neighboring wells: The site plan shows one well south of the property. No wells are within 300 feet of the proposed expansion area.

h) waterbodies/wetlands: no waterbodies or wetlands are indicated on the site plan.

i) surface water protection measures: No measures were indicated on the site plan.

j) processing areas: One 4.8-acre processing area was identified south of Deniigi Way on the original site plan. No modification of the processing area is proposed.

l-m): addressed above

n) boundary staking: with the original permit, the property corners were located and the property boundary flagged at visible intervals within 300 feet of the excavation areas.

PUBLIC NOTICE: Notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the July 12, 2021, meeting.

FINDINGS OF FACT:

1. *Procedural Findings.*

- A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
- B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
- C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
- D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
- E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
- F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.

2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.

- A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.

3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.

- A. Permit condition number 2 requires that the permittee maintain the following buffers

for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:

50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.

4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows no wells within 300 feet of an excavation area.
 - B. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification does not seek an exemption to excavate within the water table.
7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction.
8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.

13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - B. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter

for the 61-acre expanded extraction area.

These buffers shall not overlap an easement.

3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB

- 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT



Planning Department

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

Charlie Pierce
Borough Mayor

PC Resolution #. _____

App. Complete _____

KPB 21.29 Conditional Land Use Permit Modification Application

For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant Cook Inlet Region, Inc. Landowner Same as Applicant

Address PO Box 93330 Address _____

City, State, Zip Anchorage, AK 99509-3330 City, State, Zip _____

Telephone 907-263-5150 Fax _____ Telephone _____ Fax _____

Cell Phone 907-240-6861 Cell Phone _____

Email ssettle@ciri.com Email _____

II. CURRENT PERMITTED PARCEL INFORMATION

KPB Tax Parcel ID# 065-081-18 Township 5N Range 8W Section 16

Subdivision _____ Lot _____ Block _____ Parcel acreage _____

Legal Description T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

III. INFORMATION/DOCUMENTATION "Check" boxes below to indicate items included.

☐ \$300.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)

☐ Site Plan Diagram, to scale, showing:

- ☐ parcel boundaries
- ☐ existing required buffers
- ☐ existing and/or proposed processing area(s)

Permit Modification Worksheet

Applicant Cook Inlet Region, Inc. Owner Same as applicant

CURRENT PERMITTED KPB Tax Parcel ID # 065-081-18 Parcel Acreage appr. 600

- Reason(s) for requesting permit modification: Excavation of material to improve the Sterling highway, competent to meet Alaska Transportation Department specifications for highway construction

- Additional cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 61 acres
- Additional type(s) of material to be mined (circle all that apply): gravel sand peat other
- Additional equipment to be used (circle all that apply): excavation processing other
- Modification(s) is requested on current permit buffers: _____ yes X no

CURRENT PERMIT REQUIRED BUFFERS – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. earthen berm | N | S | E | W |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

MODIFIED BUFFER REQUEST, if applicable – “check” all types, and circle all directions that apply:

- | | | | | |
|--|----------|----------|----------|----------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input checked="" type="checkbox"/> minimum 6 ft. earthen berm | <u>N</u> | <u>S</u> | <u>E</u> | <u>W</u> |
| <input type="checkbox"/> minimum 6 ft. fence | N | S | E | W |
| <input type="checkbox"/> other _____ | N | S | E | W |

- Permit modification is requested due to subdivision of originally permitted parcel? _____ yes X no
- Permit modification to enter the water table is requested? _____ yes X no
- Additional excavation depth beyond permitted depth: 20 ft.
Depth to groundwater: More than 20 ft.

- Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.):

A. Berms along North (Sterling Highway), West (Tikahtnu Road) and East (Keani Keys Road) edge of excavation

B. _____

- ☐ all encumbrances on parcel, including easements
- ☐ points of ingress and egress
- ☐ existing permitted extraction area(s)
- ☐ proposed additional extraction area(s) and/or other requested permit modifications(s)
- ☐ a north arrow and diagram scale
- ☐ preparer's name and date
- ☐ Permit Modification Worksheet (attached)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit modification request.


Applicant Signature

June 21, 2021
Date

Property Owner Signature
(required if not applicant)

Date

Exhibit A
Map of Contract Area

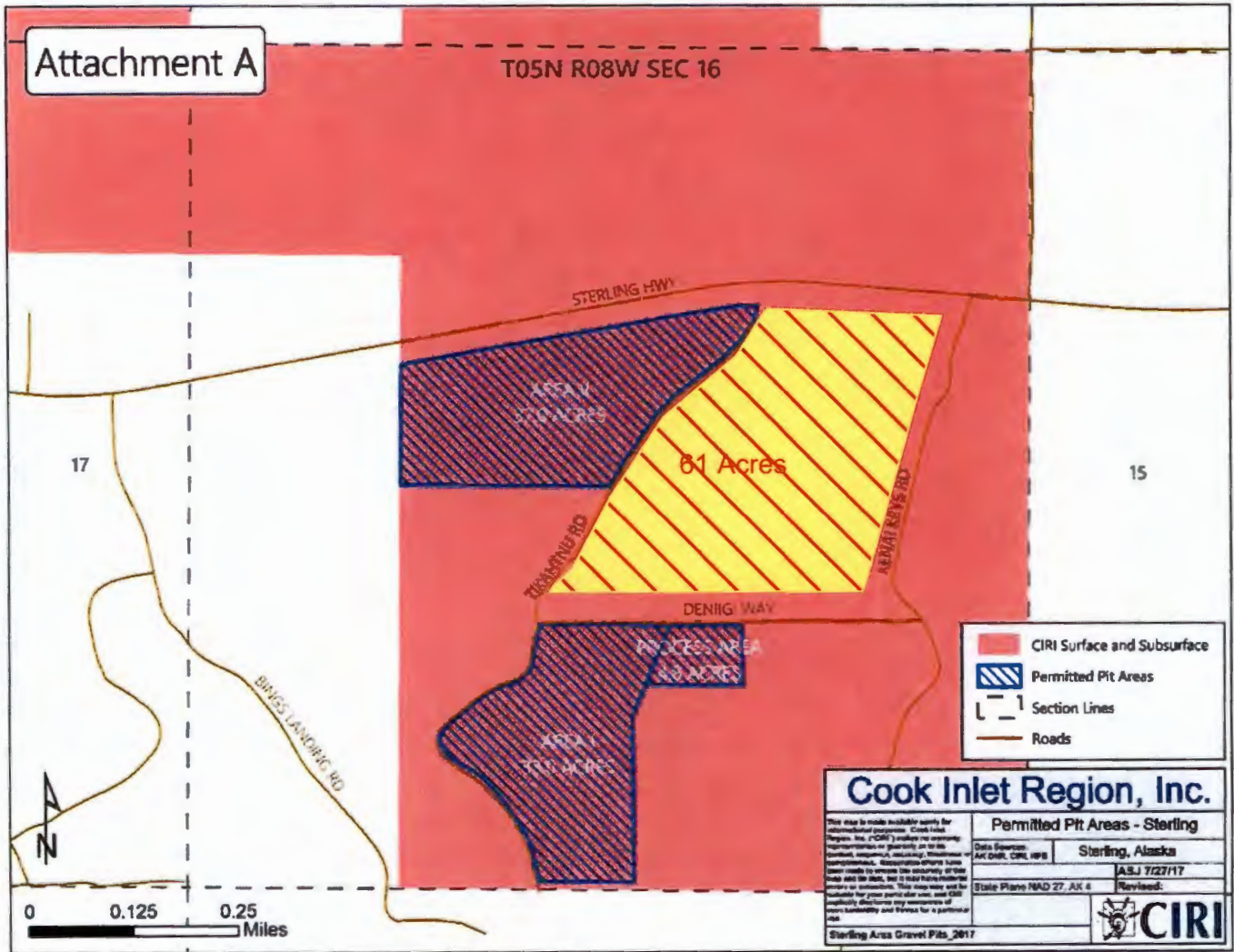
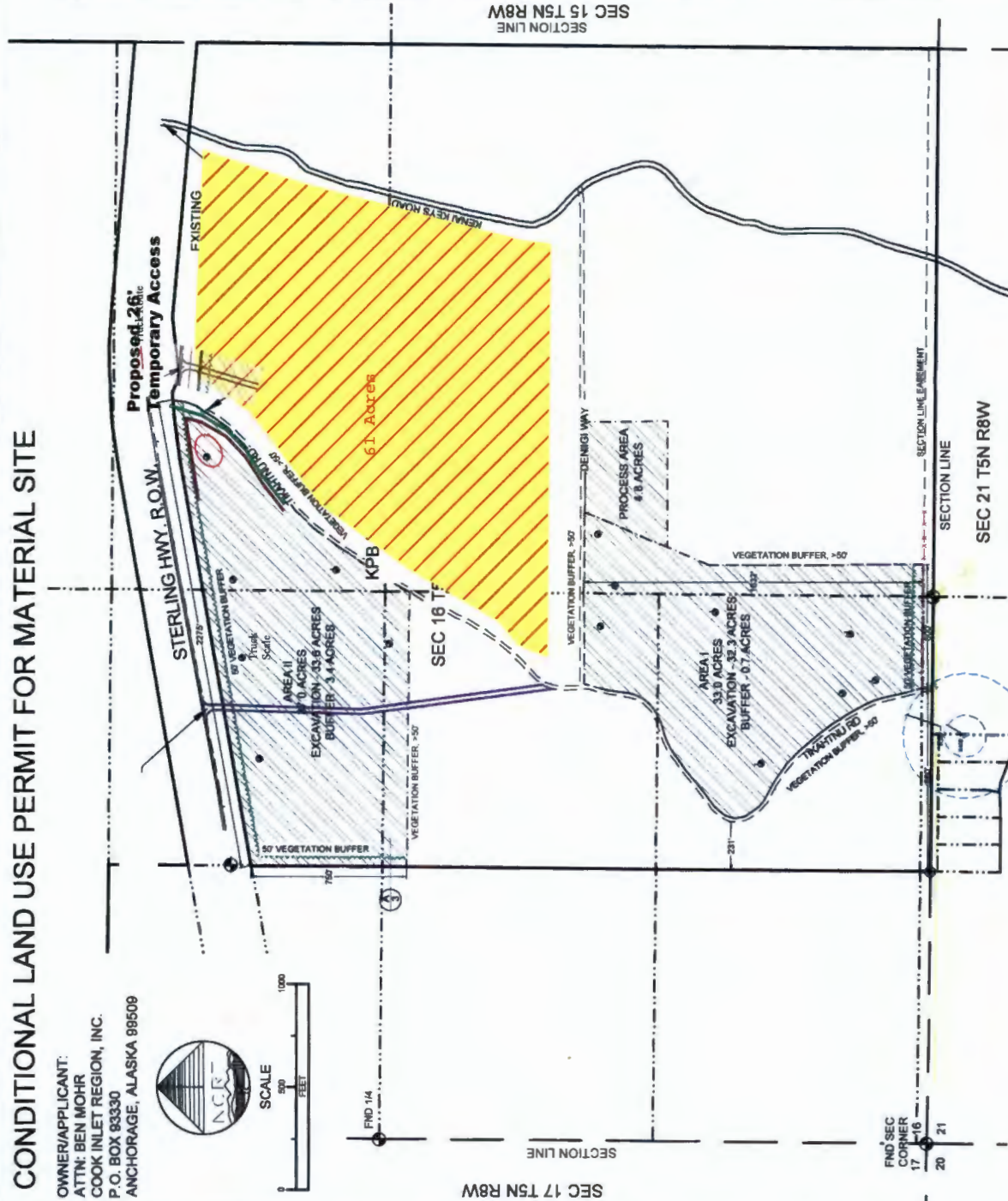


EXHIBIT A - SAND AND GRAVEL EXTRACTION CONTRACT
STERLING GRAVEL PIT

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 83330
ANCHORAGE, ALASKA 99509



LEGEND

- RECORD MONUMENT
- PROPERTY CORNERS
- INGRESS/EGRESS
- WELL SETBACK
- INTERSURFACE FLAGGING
- PROPOSED BUFFER TREELINE
- APPROX TESTHOLE LOCATION

CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS FOR THE PORTION OF MPB PARCEL 06081118 SOUTH OF THE STERLING HIGHWAY; T5N R8W SECTION 16 SEWARD MERIDIAN, E2 & E3 W/4 & NW/4 NW/4 EXCEPT THAT PORTION PER WID 303 @ 681.
2. THE PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION.
3. PROPOSED INGRESS IS FROM TO KENAI KEYS ROAD AND EGRESS IS TO THE STERLING HIGHWAY, AS SHOWN. AN ADOT APPROACH ROAD REVIEW APPLICATION WILL BE NECESSARY.
4. THE PREFERRED BUFFERS ARE 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS ON ALL SIDES.
5. THERE ARE NO WELLS WITHIN 100' OR 300' OF THE EXCAVATION AREA. EXCAVATION BELOW WATER TABLE IS NOT PROPOSED.
6. THERE ARE NO MAPPED WETLANDS AND/OR SURFACE WATER.
7. NATIVE VEGETATION WILL PROVIDE SURFACE WATER PROTECTION VIA PHYTOREMEDIATION OF ANY SITE RUN-OFF.
8. GROUNDWATER IS >20' BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. TEST HOLES WERE EXCAVATED IN 32 LOCATIONS BY THE OWNER OR OTHER REPRESENTATIVES.
9. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPINGS, OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEEDED.
10. A CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA. PROCESS AREA IS GREATER THAN 300' FROM ALL PROPERTY LINES.
11. THE PROPERTY CORNERS WERE LOCATED AT VISIBLE INTERVALS WITHIN 300' OF THE EXCAVATION AREA, AS SHOWN ON THE EXHIBIT.



REV	DATE	DESCRIPTION
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MP 79 - 80 STERLING HWY
CIRI TIKAHNU
CONDITIONAL LAND USE PERMIT



McLane Consulting Inc.
ENGINEERING TESTING
SURVEYING LAND SURVEYING
P.O. BOX 488
ANCHORAGE, ALASKA 99501
PHONE (907) 263-3291
FAX (907) 263-3291
WWW.MCLANECORP.COM

DRAWN BY: BMB
CHECKED BY: GMD
MORE SCALE: 1" = 800'
VERT SCALE: 1" = 10'
SHEET: P1

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



A horizontal scale bar with tick marks at 0, 500, and 1000 feet. The word "SCALE" is written vertically above the bar, and "FEET" is written vertically below the bar.

[illegible]

CIRI TIKAHINU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT

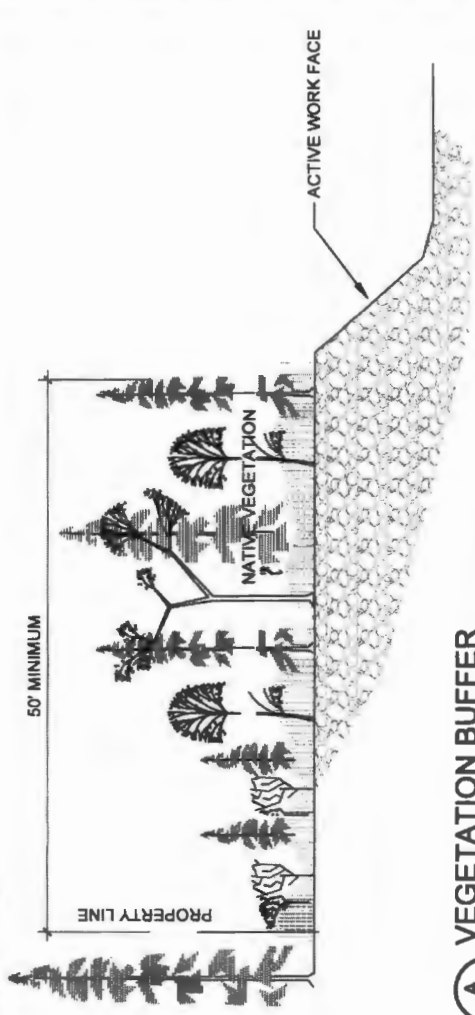


Consulting Inc
ENGINEERING • TESTING
SURVEYING • MAPPING
P.O. BOX 468
BOLDOTHA, AK 99809
VOICE: (807) 283-4218
FAX: (807) 283-3265
WWW.MCLANE.CO.COM

DRAWN BY: BOB
CHECKED BY: GMD
HORIZ SCALE: 1" = 80'
VERT SCALE: N/A
SHEET: D2

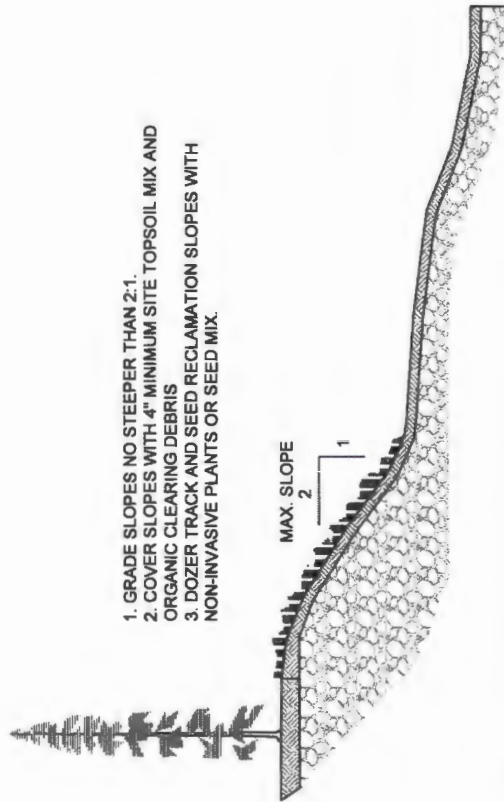
CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
ATTN: BEN MOHR
COOK INLET REGION, INC.
P.O. BOX 93330
ANCHORAGE, ALASKA 99509



A VEGETATION BUFFER

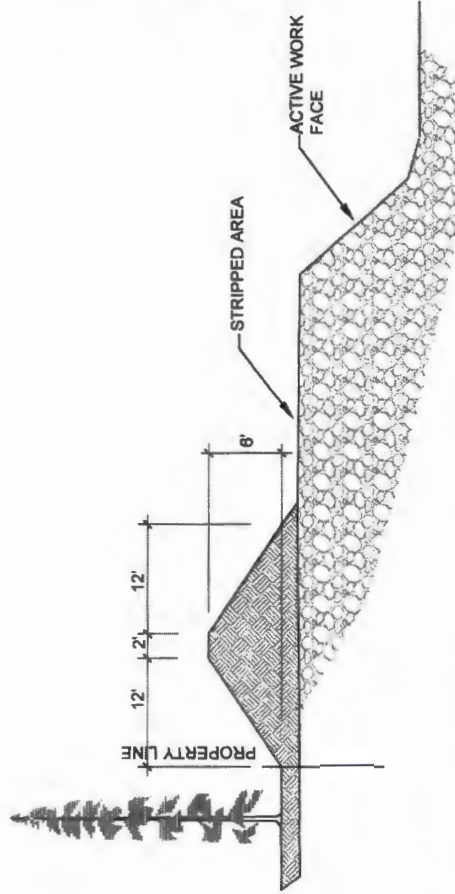
SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS
3. DOZER TRACK AND SEED RECLAMATION SLOPES WITH NON-INVASIVE PLANTS OR SEED MIX.

B RECLAMATION SLOPE

SCALE: 1" = 10 FT.



C EARTHEN BERM BUFFER

SCALE: 1" = 10 FT.



REV	DATE	DESCRIPTION	BY
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

JOB NO. 174014

CIRI TIKAHNU
MP 79 - 80 STERLING HWY
CONDITIONAL LAND USE PERMIT

FIELD BOOK NO. 17-03
FIELD WORK DATE: 1/13/2017



McLane Consulting Inc.
ENGINEERING - TESTING
SURVEYING - DESIGN
P.O. BOX 886
SOLDOTNA, AK 99669
TEL: 907.261.1234
FAX: 907.261.1235
WWW.MCLANECORP.COM

DRAWN BY: BMB
CHECKED BY: GMD
HORIZ. SCALE: 1" = 100'
VERT. SCALE: 1" = 10'
SHEET: P3

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L
A
S
K
A

2021-004891-0

Recording Dist: 302 - Kenai

5/5/2021 01:54 PM Pages: 1 of 1



Return to:
Suzanne Settle
PO Box 93330
Anchorage, AK 99509-3330

**EXTENSION OF CONDITIONAL LAND USE PERMIT
FOR MATERIAL EXTRACTION**

Pursuant to KPB 21.29, the Kenai Peninsula Borough Planning Department hereby extends for a period of 5 years the conditional land use permit for material extraction described below, subject to the conditions of the said permit and the procedures set forth in KPB code.

Permittee:
Cook Inlet Region, Inc.
PO Box 93330
Anchorage, AK 99509-3330

Legal Description: **T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4
NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681**

Parcel: **065-081-18**

Property Owner:
Cook Inlet Region, Inc.
PO Box 93330
Anchorage, AK 99509-3330

Permit Information:

Permit #**2017-08**

Excavation acreage: Approximately 70.7

Date of issue: 03/27/2017

Recorded as: **2017-006765-0** in the ^{Kenai} ~~Homer~~ recording district

New Expiration date: **3/27/2027**

KPB Planning Director: 

Date: **5/4/21**

SEE ORIGINAL PERMIT FOR CONDITIONS

cc.

ALASKA

2017 – 006765 – 0

Recording District 302 Kenai

08/31/2017 03:05 PM

Page 1 of 3



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2017-08
KENAI RECORDING DISTRICT**

A resolution granting approval of a conditional land use permit to operate a sand, gravel, or material site for a parcel described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 18, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.25.040 provides that a permit is required for a sand, gravel or material site; and
- WHEREAS,** on February 24, 2017 the applicant, Cook Inlet Region, Inc., submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 065-081-18, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on March 6, 2017 to the 184 landowners or leaseholders of the parcels within one-half mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the March 16, 2017 & March 23, 2017 issues of the Peninsula Clarion; and
- WHEREAS,** a public hearing was held at the March 27, 2017 meeting of the Kenai Peninsula Borough Planning Commission;

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On February 24, 2017 the applicant, Cook Inlet Region, Inc., submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 065-081-18, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed total disturbed area is approximately 70.7 acres, consisting of two excavation areas of about 33 acres each and a processing area of about 5 acres.
6. To meet material site standard 21.29.040(A1), the proposed activity must protect against aquifer disturbance by maintaining a 2-foot vertical separation from the seasonal high water table and by ensuring that no material extraction takes place within 100 horizontal feet of any existing water source.
7. The test holes on the property indicate that the ground water is greater than 20 feet below existing grade.
8. The applicant's intended depth of excavation is up to 20 feet below the existing grade.
9. The site plan indicates that there is a well located within 300 feet of the property but none within 100 feet of the proposed excavation.
10. To meet material site standard 21.29.040(A2), the proposed activity must be conducted in a manner to protect against physical damage to adjacent properties by complying with the required permit conditions of KPB 21.29.050.
11. To meet material site standard 21.29.040(A3), the proposed activity must be conducted in a manner which minimizes the off-site movement of dust by complying with required permit condition KPB 21.29.050(10), Dust Control.
12. The submitted site plan indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
13. To meet material site standard 21.29.040(A4), the proposed activity must be conducted in a manner which minimizes noise disturbance to other properties by complying with permit

condition KPB 21.29.050(2), Buffer Zone; KPB 21.29.050(3), Processing; and KPB 21.29.050(11), Hours of Operation.

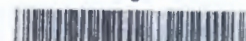
14. The site plan and application proposes the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers will reduce the noise disturbance to other properties.
15. The site plan indicates that material processing will take place greater than 300 feet from the property boundaries. Rock Crushing is not allowed to take place between 10:00 p.m. and 6:00 a.m. These material processing restrictions will reduce the noise disturbance to other properties.
16. To meet material site standard 21.29.040(A5), the proposed activity must be conducted in a manner which minimizes visual impacts by complying with the permit condition KPB 21.29.050(2), Buffer Zone.
17. The site plan and application proposes the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers will reduce the visual impacts to adjacent properties.
18. To meet material site standard 21.29.040(A6), the proposed activity must be conducted in a manner which provides for alternate post-mining land uses by complying with the permit condition KPB 21.29.050(12).
19. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project.
20. The inclusion of the requirements contained in KPB 21.29.060(C3) is necessary to meet the material site standard contained in KPB 21.29.040(A6).
21. The bonding requirement of KPB 21.29.050(12b) will apply to this material site unless it qualifies for exemption from the state bond requirements pursuant to AS 27.19.050.
22. A public hearing of the Planning Commission was held on March 27, 2017 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

SECTION 2. That the land use and operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The material site area within the parcel is approximately 70.7 acres.
- B. The East $\frac{1}{4}$, the East $\frac{1}{2}$ of the West $\frac{1}{4}$, and the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers:
North: 50-foot vegetated buffer.
South: 50-foot vegetated buffer.
East: 50-foot vegetated buffer.
West: 50-foot vegetated buffer.
These buffers shall not overlap an easement.
3. The permittee shall maintain at least a 2:1 slope between the inner buffer zones and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. Rock Crushing shall not take place between 10:00 p.m. and 6:00 a.m.
5. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
6. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
7. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
8. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
9. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
10. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a

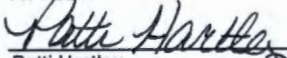


- material site and all original permit conditions can be met.
11. The permittee shall apply water or calcium chloride, as needed, on haul roads within the boundaries of the subject parcel.
 12. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 13. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 14. The permittee is responsible for determining the need for any other municipal, state or federal permits and acquiring the same. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 15. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 16. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 17. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS 27 DAY OF March 2017.


Blair J. Martin, Chairperson
Planning Commission

ATTEST:


Patti Hartley
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough Planning Department
144 North Binkley St.
Soldotna, AK 99669



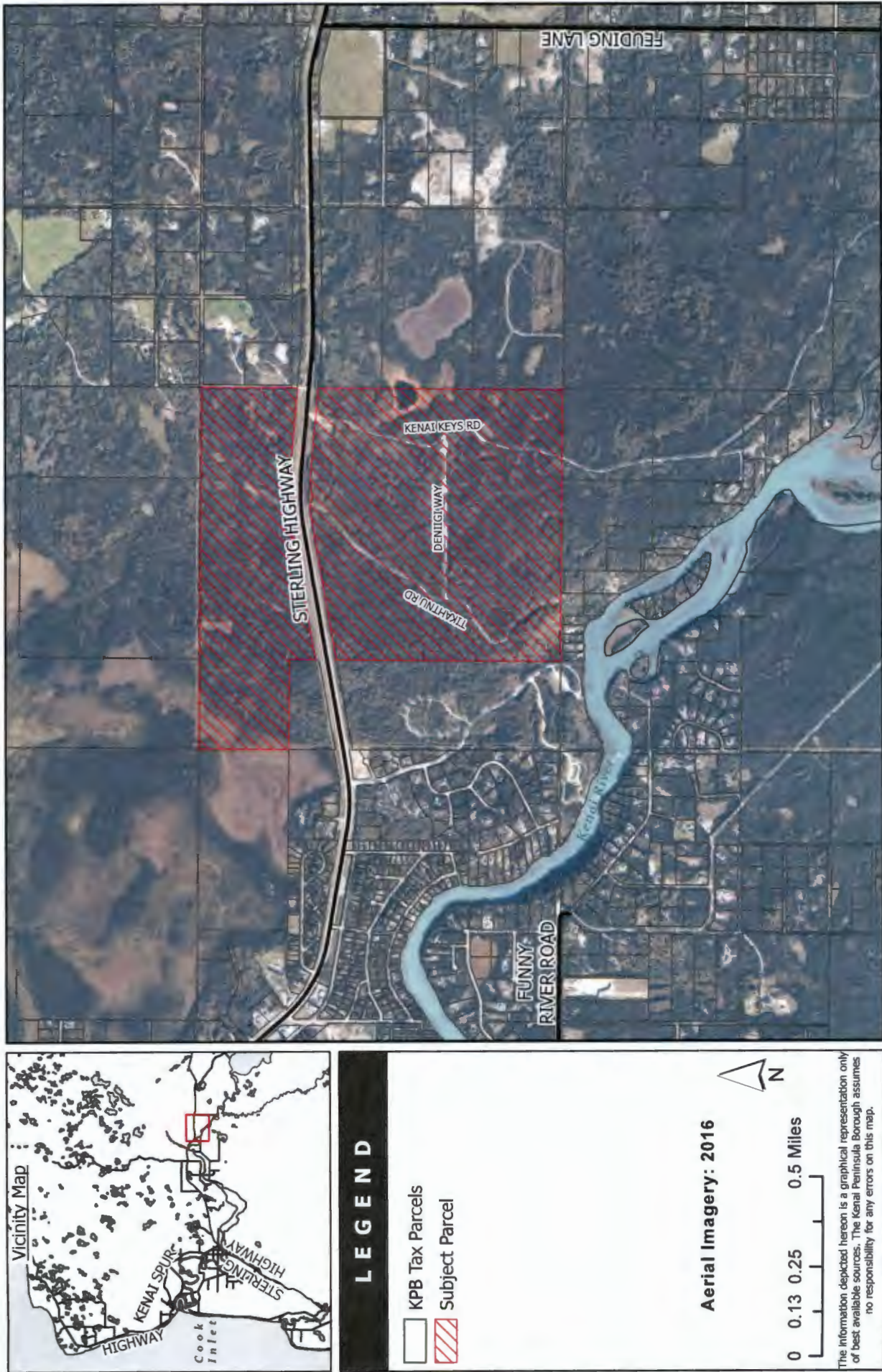
Kenai Peninsula Borough Planning Commission -- July 12, 2021 Modification to Conditional Land Use Permit for a Material Site

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



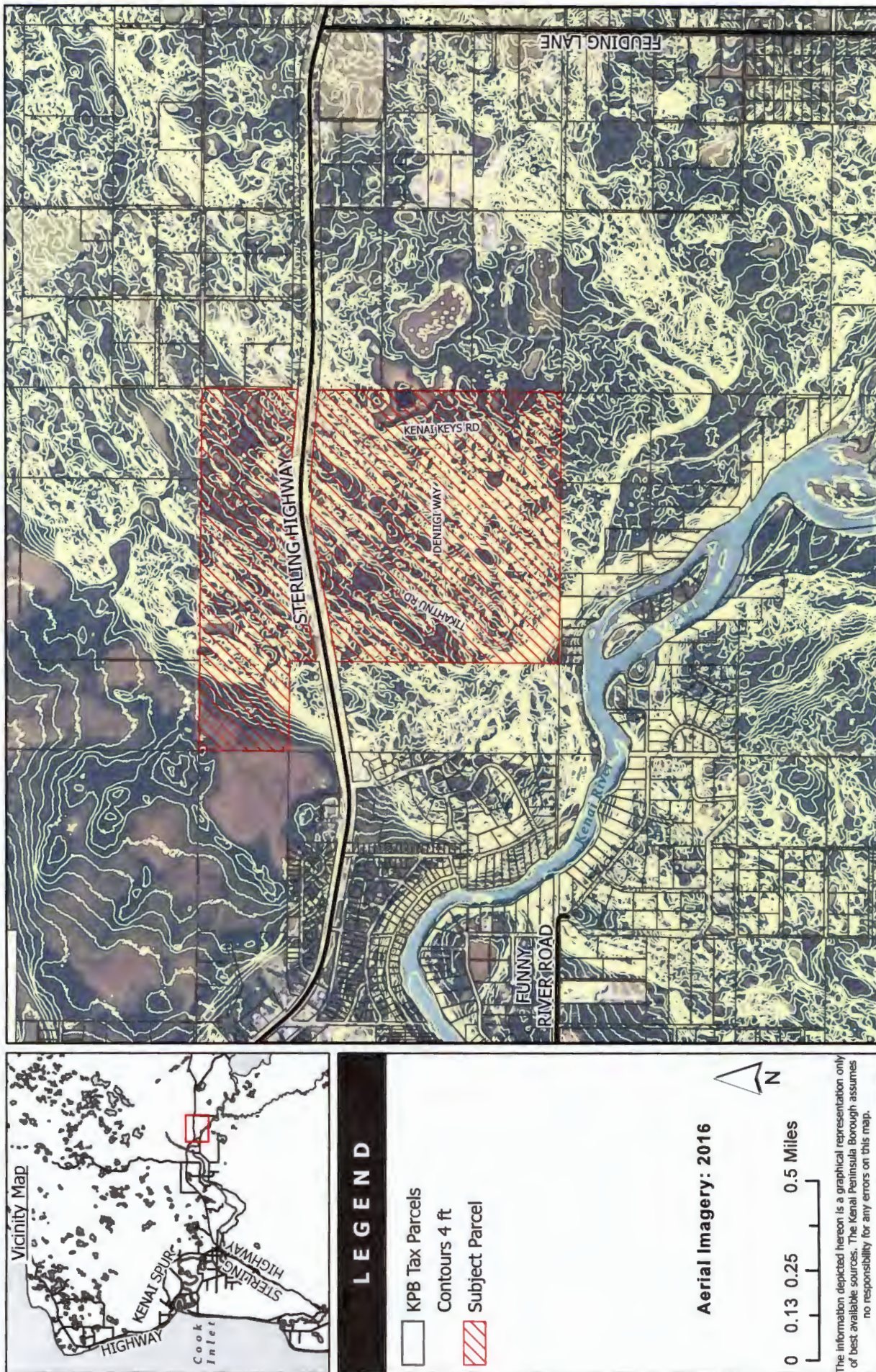
Kenai Peninsula Borough Planning Commission -- July 12, 2021 Modification to Conditional Land Use Permit for a Material Site

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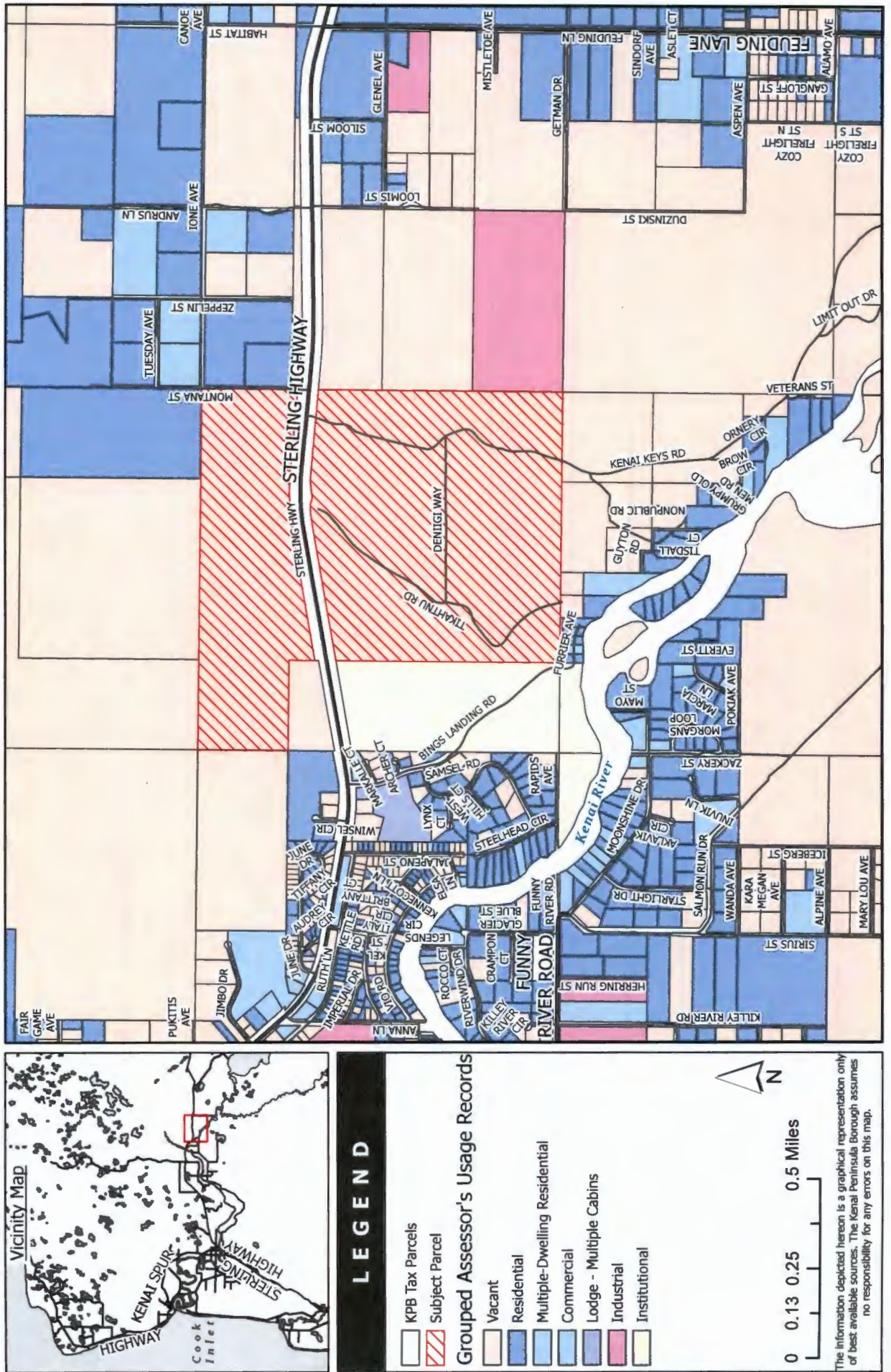
**Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site**

**Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.**



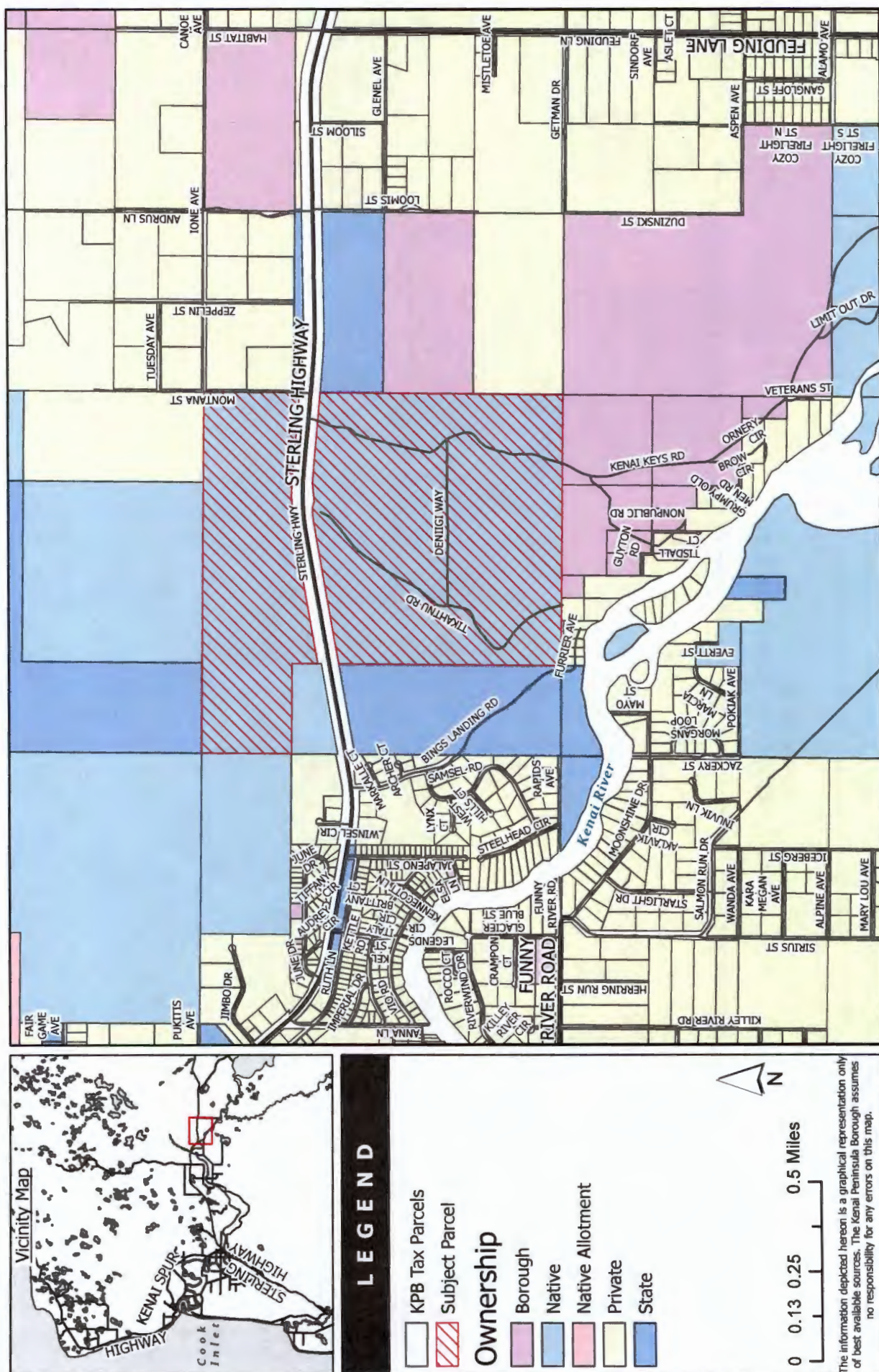
Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



Kenai Peninsula Borough Planning Commission -- July 12, 2021

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.





Planning Department

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

Charlie Pierce
Borough Mayor

«OWNER»
«ATTENTION»
«ADDRESS»
«CITYSTATEZIP»

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application to modify an approved conditional land use permit for material extraction has been received for a parcel in the Soldotna area. This notice is being sent to landowners located within ½ mile of the subject property. All members of the public are invited to comment. Details of the application under consideration are as follows:

Applicant: Cook Inlet Region, Inc.

Landowner: Cook Inlet Region, Inc.

Parcel Number: 065-081-18

Legal Description: T 5N R 8W SEC 16 SEWARD MERIDIAN KN E1/2 & E1/2 W1/2 & NW1/4 NW1/4 EXCEPT THAT PORTION PER W/D 383 @ 681

Location: Sterling Highway mile 79.5

Proposed Land Use: The applicant wishes to modify an existing material site permit to add an additional 61 acres to the permitted extraction area.

KPB Code: Conditional land use permit modification applications for material extraction are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or at: www.kpb.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday, July 12, 2021**, commencing at 7:30 p.m., or as soon thereafter as business permits.

Please be aware that due to the recent COVID-19 pandemic and based on CDC guidelines, the meeting will not be physically open to the public. Instructions are as follows: The meeting will remain open to the public. The Planning Commissioners, along with staff members, will be attending via teleconferencing. The public will be able to listen or participate with the same methods. The meeting will be held through Zoom. To join the meeting from a computer visit <https://zoom.us/j/2084259541>. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID of **208 425 9541**. If you connect by computer and do not have speakers or a microphone, connect online and then select

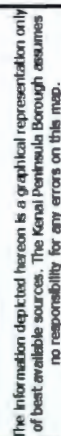
phone for audio. A box will come up with the toll free numbers, the Meeting ID, and your participant number. Instructions will be posted on the Planning Commission's webpage prior to the meeting. <https://www.kpb.us/planning-dept/planning-commission>

If you have question or experience technical difficulties, please contact the Planning Department at (907) 714-2200.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to btaylor@kpb.us. Please provide written statements by Thursday, July 9, 2021.

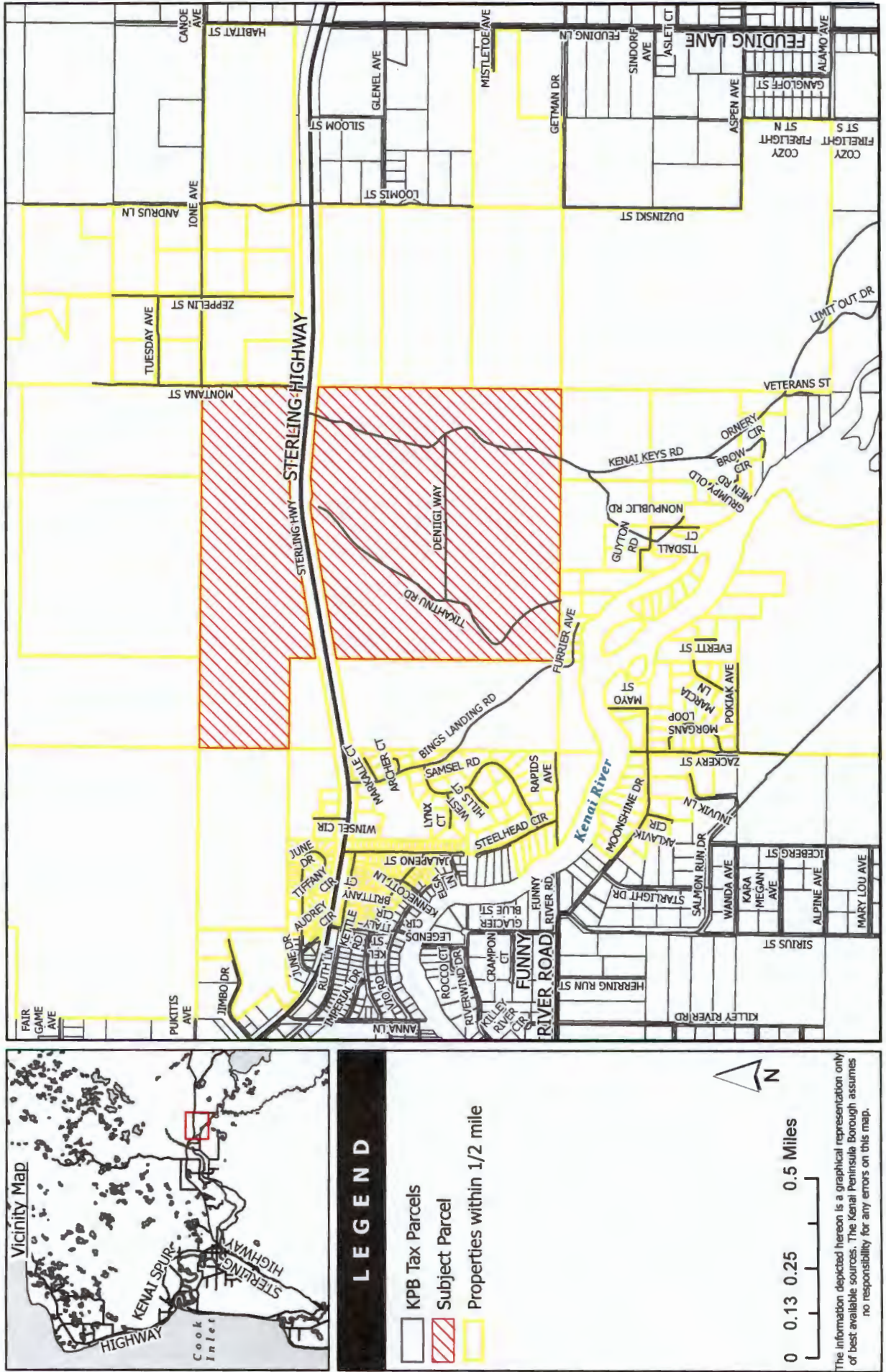
The staff report will be available on the Planning Commission website a week prior to the meeting. For additional information please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Borough).

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



Kenai Peninsula Borough Planning Commission -- July 12, 2021
Modification to Conditional Land Use Permit for a Material Site

Parcels: 065-081-18
Applicant: Cook Inlet Region, Inc.



Kenai Peninsula Borough

PLANNING COMMISSION DESK PACKET

**July 12, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2021-26
KENAI RECORDING DISTRICT**

A resolution granting modification to a conditional land use permit for a material site to allow for additional excavation are on property described as the East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way

- WHEREAS,** the KPB Planning Commission approved PC Resolution 2017-08 on March 27, 2017, which established a conditional land use permit for material extraction on KPB tax parcel ID# 065-081-18; and
- WHEREAS,** on June 22, 2021, the applicant, Cook Inlet Region, Inc., submitted an application to modify the existing conditional land use permit by expanding the area for excavation by 61-acres south of the Sterling Highway within KPB Parcel 065-081-18; and
- WHEREAS,** KPB Chapter 21.29.090 provides for the modification of material site permits when changes in operations approved in the original permit are proposed; and
- WHEREAS,** notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion; and
- WHEREAS,** public notice was sent to the postmaster in Sterling requesting that it be posted at the post office; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 12, 2021.

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. *Procedural Findings.*
 - A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
 - B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
 - C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
 - D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
 - E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
 - F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near

- proposed excavation areas in the original permit were flagged.
3. **Buffer zone.** KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. **Processing.** KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. **Water source separation.** KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - a. The site plan shows no wells within 300 feet of an excavation area.
 - b. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. **Excavation in the water table.** KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - a. This modification does not seek and exemption to excavate within the water table.
 7. **Waterbodies.** KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - a. There are no water bodies within 100 feet of the proposed extraction.
 8. **Fuel storage.** KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. **Roads.** KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - a. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. **Subdivision.** KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.
 - a. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
 11. **Dust control.** KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 12. **Hours of operation.** KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - a. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
 13. **Reclamation.** KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - a. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - b. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
 14. **Other permits.** KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.

- a. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - a. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - a. Borough staff will regularly monitor the material site to ensure compliance with this condition.

SECTION 2. That the material site operations are described and shall be conducted as follows:

- A. A portion of KPB Tax Parcel Number 065-081-18. The expanded material site area overall within the parcel is approximately 131.7 acres.
- B. The East ½, the East ½ of the West ½, and the Northwest ¼ of the Northwest ¼, of Section 16, Township 5 North, Range 8 West, Seward Meridian, Alaska, excluding the Sterling Highway right-of-way.
- C. The applicant, Cook Inlet Region, Inc., proposes to: 1. Extract gravel and sand from the subject parcel; 2. Reclaim the site to a stable condition upon depletion of material.

SECTION 3. That the existing permit conditions are hereby replaced by the following:

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:

Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.

These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC

water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

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

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

Taylor, Bryan

From: Eric F. Rosenberg <ERosenberg@rosenberg-fayne.com>
Sent: Thursday, July 1, 2021 9:08 AM
To: Taylor, Bryan
Subject: <EXTERNAL-SENDER>Fwd: Commnets on 065-081-18

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Can you confirm receipt.

Eric F. Rosenberg
Rosenberg & Fayne
5400 Kenilworth Avenue
Riverdale, Maryland 20737
301-864-2900
301-864-2903--fax
301-980-5598--mobile
erosenberg@rosenberg-fayne.com

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Begin forwarded message:

From: "Eric F. Rosenberg" <ERosenberg@rosenberg-fayne.com>
Date: June 30, 2021 at 9:03:57 AM AKDT
To: btaylor@kpb.com
Cc: Rick Scheifelbien <rick@anchorconstruction.info>, Meatzbart@aol.com, Christine Price <4rosenbergs@gmail.com>
Subject: Commnets on 065-081-18

Chairman Blair Martin
Kenai Peninsula Borough Peninsula Planning Board

Re: 065-081-18
Cook Inlet Region, inc

Dear Chairman Martin:

I am writing you with regard to the proposal to allow CIR to expand the gravel pit directly in eye sight and down from the commercial property I own and operate at 3235 Moonshine Drive, Soldotna, Alaska 99669. This project is in Full view of my commercial property and not a single person though to reach out which is deep concerning to me how this process is being undertaken.

This expansion is a poor idea for the following reason and needs to be rejected outright.

1. My property elevation is 292 feet and would look directly into the Pit in violation of 21.29 and is a visual disturbance that cannot be abated. No one has taken the time to evaluate these issues prior to an expansion request which is disturbing at best but shows putting profits over people. I trust my rights, are equal to those of others and if that is accurate, there can be no way to approve the expansion without suggesting, there is favoritism to CIR. Are you not troubled by the lack of preparation? How hard would it have been to travel to affected areas beforehand and talk to us. It tells me that someone is rushing or undue influence is in play. I am interested in the influence CIR has over the board or its independence but before I go asking these questions, I will allow you time to respond.
2. My property can already hear the the traffic from Sterling Highway. A gravel pit will amplify the sounds and there is no noise abatement that can be done to rectify this. Has the audio calculation been done pursuant to the federal MSHA guidelines? Again, why hasn't anyone asked for the effects of the noise. Are you concerned about the PIT noise to residents or the river and wildlife or has that been overlooked. Again, is this profits over people? When is someone going to come and do the audio testing or is that not a requirement?
3. I can tell you from personal experience that any ground disturbance within .75 miles of the river causes major wash outs on the bluff. Are you concerned what a washout or an environmental hazard could cause and damage the River. What environmental studies have been done on the issues of noise, accidents, and traffic. The Kenai River is famous and in pristine condition, why is the Board willing to take a chance on a project so close to the River and risk it. I am worried that there is something else going on that we would approve a project so close to our most Prized River. Please do not let a quick dollar influence the decision to risk Nature. Does the board want to over look the River and what it means to Alaska? What is the point of expanding the road to Kenai if you are going to risk destroying the River? What is being done to prevent environmental issues? There are others areas to get gravel that can benefit CIR, please vote to have them use their other subsidies.

I ask that you reject this project as it cannot be done with any acceptable risk and my Rights are Equal to others and there is no way to follow the statutory requirements. What about my neighbors and the issues that they have?

Should this project not be rejected I will file an Injunction in Federal Court for the Environmental Concerns and in State Court for breaches of my right to Quiet Enjoyment so I would ask that you pass this along to the Project Manager who didn't think to even contact the folks most affected in Soldotna let alone Sterling.

Please don't allow Profits to Come before People..

I am available anytime to discuss this further.

I can be reached at 301-980-5598.

Eric F. Rosenberg

Eric F. Rosenberg
Rosenberg & Fayne LLP
5400 Kenilworth Avenue
Riverdale, Maryland 20737
Telephone: (301) 864-2900
Facsimile: (301) 864-2903

ERosenberg@rosenberg-fayne.com
www.rosenberg-fayne.com



The information contained in this transmittal is intended only for the personal and confidential use of the designated recipient named above. Any attachments accompanying this transmission contain information from Rosenberg & Fayne, LLP is confidential and/or privileged. The information is intended to be for the individual(s) or entity(ies) named on this E-mail. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you receive this in error, please notify us at 301.864.2900 or e-mail immediately and delete the original document. Thank you.

Taylor, Bryan

From: Mark and Cindy <mrhceh@gci.net>
Sent: Wednesday, July 7, 2021 10:23 PM
To: Taylor, Bryan; Hibbert, Brent; Derkevorkian, Richard; Bjorkman, Jesse; Cox, Tyson; Elam, Bill; Carpenter, Kenn; Johnson, Brent; lchesle@kpb.us; Dunne, Willy; Pierce, Charlie
Cc: Niki Pereira; cindy Hamlin E; stutzer@gci.net
Subject: <EXTERNAL-SENDER> Land Use Permit for Material Extraction - Sterling Highway mile 79.5
Attachments: Gravel Pit 2021.docx

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Kenai Peninsula Borough Planning Commission Chairman, Assembly Members, and Mayor:

Thank you for notifying us by US Postal Service mail, at our primary residence in Anchorage, regarding the Cook Inlet Region, Inc. application to modify an approved conditional land use permit for material extraction near our recently constructed home in Sterling. The information in the letter has taken us by surprise as we were never informed, nor given any opportunity to comment about the original land use permit that was granted in this area for material extraction.

For the past 28 years, we have enjoyed recreating on the property at West Hills Court and the beautiful surrounding area. So much so that we decided to build a home on the property and make it part of our retirement plan. Construction on our home at West Hills Court was completed in March 2018 and we have been residing there on a part-time basis for vacations, weekends and holidays year round. Upon my retirement in September 2022, our plan was to downsize from our home in Anchorage and relocate to our home in Sterling. Your public notice letter has come as a shock to us. An expansion of a material extraction project (gravel pit) near our home will threaten our financial investment and disrupt our dream of a safe, quiet, peaceful retirement.

We have many questions and concerns about this short-notice request to expand the "material extraction" site. Two weeks notice for public comment is unfair and insufficient. Have there been any studies performed regarding noise, air quality, water/well disruption, roadway degradation, traffic hazards, impact on wildlife, fisheries, the river? Why is an Alaska Native corporation harvesting gravel from this beautiful, pristine area? Isn't there another area with less impact on people, fish, wildlife, the river? One of CIRI's values includes "honor - do the right thing the right way. Honor is the heartbeat of the company." This project doesn't align with honor and isn't prudent stewardship of Alaska resources?

We join our Bing's Landing Subdivision neighbors (see attachment) and strongly object to the application to modify (expand) the land use permit for material extraction for the parcel number 065-081-18. Please consider our concerns and please be prepared to respond to our questions at the upcoming public hearing scheduled July 12, 2021 at 7:30pm via Zoom.

Thanks for your time and attention to this important matter.

Respectfully submitted,
Cindy E. Hamlin and Mark R. Hughes
32177 West Hills Court
Sterling, AK 99672

Taylor, Bryan

From: Claire Lewis <siwela.claire@gmail.com>
Sent: Thursday, July 8, 2021 11:42 AM
To: Taylor, Bryan
Cc: Aeschliman, Melanie; Elam, Bill; ray@longlivethekings.com; krpga1@gmail.com; ben@krsa.com; shannon@krsa.com; Planning Dept.; kakillian@att.net
Subject: <EXTERNAL-SENDER>Fwd: Kenai Borough Planning 7/12/21 Meeting Agenda Parcel Number 065-081-18

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Subject: Kenai Borough Planning 7/12/21 Meeting Agenda Parcel Number 065-081-18

July 8, 2021

Brian Taylor, Borough Planner
Kenai Peninsula Borough
144 N. Binkley St.
Soldotna, AK, 99669

Dear Brian,

This is a request to delay the planned agenda item at the Borough Planning meeting scheduled Monday, July 12th at 1930. My husband and I received our notification on 6/24/21 in the mail, since our home is in Anchorage, yet we own two undeveloped acres in the Bings Landing Subdivision. Our lots are within a ½ mile of the planned gravel/ "material extraction" from 61+ acres. The time line of 2 ½ weeks from when we received our letter, is not enough time to voice concerns for this planned development by CIRI.

Our current Anchorage home is on well and septic and water preservation is dear to our neighbors and us. We live within a ½ mile of a past gravel excavation that took place in the 1970's, in the now neighborhood called Westpark Subdivision. It is unknown if our well water is linked to the 7+acre aquifer that was exposed during the 1970s gravel mining in Westpark; yet, many reports and data collection exist due to this aquifer exposure and wells impacted. In the 1970s, 2 private wells noticed sediment and contamination that occurred within weeks of gravel excavation in Westpark. When the gravel excavation went below the water table, disturbing the clay/soil/ and sand layers, their clear well water turned, brown, silty and sandy within weeks of excavation. I understand the developer did not intend harm to drinking water, yet it happened.

When my husband and I met 4 years ago with other Bings Landing neighbors, we expressed concern for the potential impact to well water to the CIRI, Kenaitze Tribe, and Foster Brother representatives (all reaping the benefit of money from the most recent gravel excavation). Our concern for impact to well water with "material excavation"/gravel has Not changed.

The meeting delay request, is so all stakeholders concerned by this development have time to gather information and voice concerns. I have cc:d key members of the Borough and other Kenai River water stewards in this letter. Presumably, these below members do not drink water from the Kenai River; however, their enjoyment of the Kenai River via fishing guide services and preservation of the river is at risk of impactation by noise, erosion of the embankment, and other known side effects when this proposed extensive gravel excavation takes place nearby.

We cannot personally afford to legally fight CIRI on their proposed development, but the Kenai Borough can and should be observant of existing home/Well owners, land owners, and Kenai River users, (all tax payers to the Borough), and take time to listen to concerns before bulldozing the issue forward. Again, we ask the meeting be delayed, and necessary time outside the busy summer season, be given to concerned citizens impacted by the proposed development.

Respectfully,

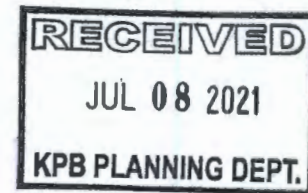
Claire and Dan Lewis

Land owners of Bings Landing Sub Part 1 Lot 1 and 6, Blk 3
907-306-6978

cc: Melanie Aeschliman, Planning Director, Kenai Borough
Bill Elam, Assembly Representative, Bings Landing
Ray Debardeleben, President of Kenai River Professional Guide Association/KRPGA
Ben Mohr, Director of Kenai River Sports Fishing Association/ KRSA
Shannon Martin, KRSA

and **Ken Sterling, Bings homeowner (whose 7/8 submitted letter we support!!)**

July 8, 2021



Melanie Aeschliman, Planning Director
Brian Taylor, Borough Planner
Kenai Peninsula Borough
144 N. Binkley St.
Soldotna, AK. 99669

Cc: Jeremy Brantley
PO Box 1444
Soldotna, AK. 99669

We, some residents of the Bing's Landing subdivision, are writing to you to ask for a postponement of agenda item E.9 on July 12th, Conditional Land Use Permit Modification, Parcel ID #06508118.

The first permit issued several years ago was highly contested by surrounding residents. After many meetings with CIRI and Foster Construction where our concerns were placated then never fully addressed, the borough planning commission forged ahead and released the permit. Now CIRI has come back with plans to grow the gravel pit.

We have MANY concerns with the borough process and timeline from permit application to public notice and, finally, permit approval. This permit application was filed on June 22, 2021. Public notice started hitting mailboxes near the end of June and into the first of July. The planning commission meeting to address the permit is July 12, 2021. The brief timing of this, from application to approval, is no small matter! We are the residents saddled with the impact of this for many years. It's rare you will find a lawyer among us. We are common citizens who have worked hard, and many have put their life savings into where we live and our preferred way of living in this quiet, pristine area. WE CANNOT MOUNT A PROPER RESPONSE TO THESE ASSAULTS ON OUR WAY OF LIVING IN LESS THAN THREE WEEKS!!!

This permit application comes at the beginning of our busiest season for us common folks! It's summer. The fish are coming in. Families are coming in. Many of us travel around our state to enjoy the short summer we experience up here. Even the planning commission takes time off from its' duties in the summer to do the very thing we are trying to do. We write this letter to you on Thursday before the upcoming meeting on Monday. It took us this long to get a few of our ducks in a row just to mount a request for a postponement. We are asking you to postpone this until AT LEAST August. September would be better as that moves us more out of the busy summer season.

Our concerns related to the permit you originally extended to CIRI for the original gravel pit were brushed aside; the noise, the dust, the water table issues, etc. It is our understanding that

residents surrounding the big gravel pit south of us (used to facilitate roadwork) are having well and water problems. We are in the process of verifying that information. This was one of our biggest concerns. If true, the borough is complicit in approving material extraction sites without allowing enough time for testing, environmental and other impact studies, nor the requirement thereof.

We Alaskans hate zoning and regulation. However, when our elected and appointed official's side with business in a way that excludes or minimizes the impact to residential and recreational users, we must address it. This issue happens all over the Kenai Peninsula Borough and in other non-incorporated areas of Alaska.

There is plenty of gravel in areas that are not adjacent to residential and pristine designated recreational areas. We understand they are more expensive to utilize, but something must give here. We, the taxpayers of this borough, need more of an opportunity to have a voice in what happens around us.

In addition to all the above-mentioned issues, this upcoming meeting is not even available for face-to-face public comment. It is now only open to phone or zoom as an option. Many of us do not have capability for zoom meetings. Hearing our voices over the phone reduces the impact of our testimony as you do not have the capability to see our facial expressions. Just because the meeting room was occupied the night of the planning commission meeting does not excuse you from making accommodations for the public to address you personally.

We are imploring you to give this permit application more time before approving it. The borough's rules do not give sufficient time to mount a defense against one of the biggest corporation's in Alaska. It's time to decide who you serve, the small taxpayers, or the big corporations?

Please postpone this meeting at least one month, if not two!

Ken Killian
Bing's Landing Subdivision
Sterling, Alaska
907-232-6188

Bing's Landing Subdivision
Sterling, Alaska

Name Lisa Smith Signature _____
Lisa Smith


Address
37220 Steelhead Circle
Sterling, AK 99672

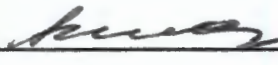
Phone 801-372-4479 Email _____
bdlisa@gmail.com

Name _____ Signature _____

Address

Phone _____ Email _____

Name Yulia Vasilyeva Signature 
Address 32123 W Hills Ct. Sterling AK
Phone 925-588-4144 Email u.little@sbctobal.net

Name Alexei Vassiliev Signature 
Address 32123 W Hills Ct Sterling AK
Phone 408-772-0406 Email avassiliev@sbctobal.net

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Int
Name Tim and Denise Martin Signature Denise Martin
Address 37865 ~~Babcock~~ Steelhead Ct
Phone (907) 2607564 Email tmartin@verizon.net

Name John & Linda Halsen Signature John Halsen
Linda Halsen
Address 32151 Rapier Ave
Phone 907-252-1707 Email mechalsen@gmail.com

Name ROBERT PEREIRA Signature Rob P.
Address 37195 STEELHEAD CIR STERLING AK 99672
Phone (907) 830-0888 Email fishcrazy@comcast.net

Name Niki Pereira Signature Niki Pereira
Address 37195 Steelhead Cir. Sterling, AK 99672
Phone 907-830-6543 Email nikinuk@qci.net

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name Charles K. Clasby Signature Charles K. Clasby
Address 32167 West Hills Ct. Sterling, AK 99672
Phone 907-230-0516 Email Calman.CK@gmail.com

Name Karol Schiefelbein Signature Karol Schiefelbein
Address 37105 Steelhead Circle Sterling, AK 99672
Phone 907-260-3577 Email Karol3510@hotmail.com

Name Richard Schiefelbein Signature Richard Schiefelbein
Address 37105 Steelhead Circle Sterling, AK
Phone 907-260-3577 Email Kick-A-Nachor Construction, Inc.

Name Kathleen G. Fogle Signature Kathleen G. Fogle
Address 37065 Steelhead Circle Sterling AK 99672
Phone 916-539-1342 Email Kgfogle1951@gmail.com

Name Ken Killian Signature Ken Killian
Address 37468 SAMSEL Rd STERLING AK 99672
Phone 907-232-6188 Email KAKILLIAN@ATT.NET

Name _____ Signature _____
Address _____
Phone _____ Email _____

Subject: Land Use Permit for Material Extraction - Sterling Highway mile 79.5
Date: Wednesday, July 7, 2021 at 10:22:31 PM Alaska Daylight Time
From: Mark and Cindy
To: btaylor@kpb.us, bhibbert@kpb.us, rderkevorkian@kpb.us, jbjorkman@kpb.us, tysoncox@kpb.us, belam@kpb.us, kcarpenter@kpb.us, bjohnson@kpb.us, lchesle@kpb.us, wdunne@kpb.us, cpierce@kpb.us
CC: Niki Pereira, cindy Hamlin E, stutzer@gci.net
Attachments: Gravel Pit 2021.docx

Kenai Peninsula Borough Planning Commission Chairman, Assembly Members, and Mayor:

Thank you for notifying us by US Postal Service mail, at our primary residence in Anchorage, regarding the Cook Inlet Region, Inc. application to modify an approved conditional land use permit for material extraction near our recently constructed home in Sterling. The information in the letter has taken us by surprise as we were never informed, nor given any opportunity to comment about the original land use permit that was granted in this area for material extraction.

For the past 28 years, we have enjoyed recreating on the property at West Hills Court and the beautiful surrounding area. So much so that we decided to build a home on the property and make it part of our retirement plan. Construction on our home at West Hills Court was completed in March 2018 and we have been residing there on a part-time basis for vacations, weekends and holidays year round. Upon my retirement in September 2022, our plan was to downsize from our home in Anchorage and relocate to our home in Sterling. Your public notice letter has come as a shock to us. An expansion of a material extraction project (gravel pit) near our home will threaten our financial investment and disrupt our dream of a safe, quiet, peaceful retirement.

We have many questions and concerns about this short-notice request to expand the "material extraction" site. Two weeks notice for public comment is unfair and insufficient. Have there been any studies performed regarding noise, air quality, water/well disruption, roadway degradation, traffic hazards, impact on wildlife, fisheries, the river? Why is an Alaska Native corporation harvesting gravel from this beautiful, pristine area? Isn't there another area with less impact on people, fish, wildlife, the river? One of CIRI's values includes "honor - do the right thing the right way. Honor is the heartbeat of the company." This project doesn't align with honor and isn't prudent stewardship of Alaska resources?

We join our Bing's Landing Subdivision neighbors (see attachment) and strongly object to the application to modify (expand) the land use permit for material extraction for the parcel number 065-081-18. Please consider our concerns and please be prepared to respond to our questions at the upcoming public hearing scheduled July 12, 2021 at 7:30pm via Zoom.

Thanks for your time and attention to this important matter.

Respectfully submitted,
Cindy E. Hamlin and Mark R. Hughes
32177 West Hills Court
Sterling, AK 99672

Name Mary L. Bailey Signature Mary L. Bailey
Address PO Box 1265 Sterling AK 99672
Phone 907-301-8941 Email 9467772@hotmail.com

Name Roxie Little Signature Roxie Little
Address 37455 Samuel Sterling AK 99672
Phone 262-6288 Email lesrox3@gmail.com

Name David Skieens Signature D
Address PO Box 421 Sterling AK 99672
Phone 907 242 1343 Email dskieens@gmail.com

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name Penny Hershberger Signature P 7L
Address 37060 Steelhead Circle, Sterling, AK 99672
Phone 330-827-1022 Email p/hersh60@gmail.com

Name Linda Hershberger Signature Linda Hershberger
Address 37060 Steelhead Circle Sterling AK 99672
Phone 330 827 1024 Email lchersh65@gmail.com

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____

Name _____ Signature _____

Address _____

Phone _____ Email _____



Planning Commission Meeting Packet

**August 9, 2021
7:30 p.m.**

**KENAI PENINSULA BOROUGH
ASSEMBLY CHAMBERS
144 NORTH BINKLEY ST.
SOLDOTNA, ALASKA 99669**

***Please Note:**

Packet Materials for August 9, 2021 PC Meeting Contained the Meeting Materials from the July 12, 2021 PC Meeting with the Addition of the August 27, 2021 Planning Commission Memo

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Blair Martin, Planning Commission Chair
Kenai Peninsula Borough Planning Commissioners

THRU: Melanie Aeschliman, Planning Director
Samantha Lopez, River Center Manager

FROM: Bryan Taylor, Planner

DATE: July 27, 2021

RE: Addendum to CIRI CLUP Modification Application PC Resolution 2021-26

On July 27, 2021, we received an addendum to the above application. The applicant proposes the following voluntary condition be added to their application:

Applicant shall be limited to disturbing 20 acres during the first two years of the permit. The open area shall be reclaimed upon completion of excavation activities.

MISCELLANEOUS INFORMATION

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Doug Munn, being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

PC NPH
07/01/21

x Doug Munn

SUBSCRIBED AND SWORN before me on this

8th day of July, 2021.

Elizabeth A. McDonald
NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024

Kenai Peninsula Borough Planning Commission
NOTICE OF PUBLIC HEARINGS
Monday, July 12, 2021

The following items are scheduled for public hearings to be held by the Kenai Peninsula Borough Planning Commission on Monday, July 12, 2021 commencing at 7:30 p.m., or as soon thereafter as business permits. Due scheduling conflicts, the meeting will not be physically open to the public. The public is invited to participate via teleconferencing. The meeting will be held through Zoom. To join the meeting from a computer, visit <https://zoom.us/j/2084269541>. To attend the Zoom meeting by telephone call toll free 1-888-788-0099 or 1-877-863-5247. When calling in you will need the Meeting ID of 208 426 9541. If you connect by computer and do not have speakers or a microphone, connect online and then select phone for audio. A box will come up with toll free numbers, the Meeting ID, and your participant number. Detailed instructions will be posted on the Planning Commission's webpage prior to the meeting:
<https://www.kpb.us/planning-dept/planning-commission>

1. Ordinance 2021-__: An ordinance authorizing communication tower lease agreements at certain locations with SPITWSPOTS Inc.
Written comment for the above item may be submitted to the Land Management Division, Kenai Peninsula Borough, 144 N. Binkley St., Soldotna, AK 99689 or by email to lmweb@kpb.us. It is recommended that comments be received by 1:00 P.M., Friday July 9, 2021.

2. Public notice is hereby given that an application to modify an approved conditional land use permit for material extraction has been received for a parcel in the Soldotna area. Applicant & Landowner: Cook Inlet Region, Inc. Location: Sterling Hwy. mile 79.5. Parcel ID#: 06508118.
Written comment for the above item may be submitted to the Planning Commission Chairman, 144 N. Binkley St., Soldotna, AK 99689 or by email to btaylor@kpb.us. It is recommended that comments be received by 1:00 P.M., Friday July 9, 2021.

2587330

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden, being first duly sworn, on oath deposes
and says:

That I am and was at all times here in this affidavit
mentions, Supervisor of Legals of the Sound
Publishing / Peninsula Clarion, a newspaper of general
circulation and published at Kenai, Alaska, that the
advertisement, a printed copy of which is hereto
annexed was published in said paper on the dates
listed below:

PC agenda
07/08/21

x Jeff Hayden

SUBSCRIBED AND SWORN before me on this

13th day of July, 2021.

Elizabeth McDonald

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24.

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024



**Kenai Peninsula Borough
Planning Commission
JULY 12, 2021 TENTATIVE AGENDA**

The next regularly scheduled Planning Commission meetings will be held Monday, July 12, 2021. Please note this meeting will be conducted online only. The Planning Commission and staff members will be attending via teleconferencing. The public may listen or participate in the meeting via Zoom. To join the meeting via Zoom from a computer visit:

<http://zoom.us/j/2084259541>

To attend the meetings by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID number of 208 425 9541. Detailed instructions will be posted on the Planning Commission webpage prior to the meeting:

<https://www.kpb.us/planning-dept/planning-commission>

PLAT COMMITTEE – 6:00 P.M.

New Business

1. Tide View Heights #2; KPB File 2021-088; Johnson Surveying/Padget & Smith; Location: Ames Road; City of Kenai
2. Kenai Landing Subdivision 2021 Addition; KPB File 2021-089; Edge Survey & Design LLC/PRL Logistics Inc. & Kenai Landing Inc.; Location: Bowpicker Lane, Seacatch Drive & Columbia Street; City of Kenai
3. Birchwood Subdivision Sherman Addition No. 2; KPB File 2021-090; McLane Consulting Inc./Ciufu & Seymour; Location: Reger Road & Edgington Road; Sterling Area
4. Bay View subdivision 2018; KPB File 2021-087; Ability Surveys/Freeman Holdings of Arkansas LLC; Location: Lake Shore Drive; City of Homer
5. Spruce Woods Subdivision 1975 Addition, Tract 1 Replat; KPB File 2021-091; Ability Surveys/Roth; Location: Saber Avenue E., Yukon Street & East End Road; Fritz Creek Area; Kachemak Bay APC

PLANNING COMMISSION – 7:30 P.M.

New Business

1. Utility Easement Vacation; KPB File 2021-084V; PC Resolution 2021-22; Location; Vacate the 10' wide utility easement on the north boundary of Lot 14 Block 1 excluding the portion within 10' of Barbara Drive, granted by Banta Subdivision Addition No 1 and Resubdivision of Lot 4 Block 1 Plat HM 78-21; Petitioner(s)/Owner(s): Mark and Micki Salinas of Ninitchik, AK.
2. Right-Of-Way Vacation; KPB File 2021-085V; Location; Vacates a portion of C Street right of way adjoining Lot 1 Block 2 and Lot 3 Block 3 as dedicated on U.S. Survey No 4901 Tracts A through D, Townsite of English Bay, Plat SL 71-62; Petitioner(s): Nanwalek Village C/O Village Council of Nanwalek, AK.
3. Right-Of-Way Vacation; KPB File 2021-086V1; Location: Vacates a 60' right of way and cul-de-sac on adjoining lots 8-A, 9-A, 10-A and 18A per Stanley's Meadow Subdivision No 11 ADEC Power-Trip Replat (Plat HM 93-60) as dedicated on Stanley's Meadow No 11 (Plat HM 91-47); Petitioner(s): Ina L., Cecil R., Stephanie J. and Billy R. Jones of Fritz Creek, AK.
4. Conditional Use Permit; PC Resolution 2021-24; Petitioner: USDA Forest Service; PINs: 125-324-07 & 12532404; Location: Moose Pass Area
5. Ordinance 2021-27: An ordinance authorizing communication tower lease agreements at certain locations with SPITWSPOTS Inc.
6. Ordinance 2021-28: An ordinance authorizing a lease to Robert Gibson, DBA Alaska Land & Cattle Company for approximately 280 acres of Borough land in the Basargin Road area for agricultural use.
7. Resolution 2021-046: A resolution classifying 420 acres of Borough land located within Section 1, T05S, R14W, Seward Meridian, Alaska as rural & agriculture.
8. Marijuana Concentrate Manufacturing Facility License; Applicant: Leaf & Larf, LLC dba Purgatory Cannabis; Landowner: Zan Inc.; Location: 43280 Kenai Spur Hwy., Kenai, AK 99611
9. Conditional Land Use Permit Modification; Applicant: Cook Inlet Region Inc. / Land Owner: Cook Inlet Region; Parcel ID#: 06508118; Sterling Area

Anyone wishing to testify may attend in person or via Zoom to give testimony. It is highly recommended that at this time written statements be submitted by email (planning@kpb.us) or fax (907-714-2378). Written comments may be submitted by hand-delivery or mail (Planning Department, 144 N. Binkley St., Soldotna, AK 99690).

FUTURE MEETINGS

The next regularly scheduled Plat Committee meeting will be held Monday August 9, 2021. The Plat Committee meeting will begin at 5:30 p.m. The next regularly scheduled Planning Commission meeting will be held Monday August 9, 2021. The Planning Commission meeting will begin at 7:30 p.m.

KPB PLANNING DEPARTMENT

Ann Shimberg, Administrative Assistant
Phone: (907) 714-2215 / Fax: (907) 714-2378
Toll free within the Borough 1-800-478-4441

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PUBLISHER'S AFFIDAVIT

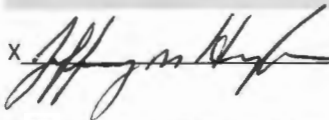
UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden, being first duly sworn, on oath deposes
and says:


That I am and was at all times here in this affidavit
mentions, Supervisor of Legals of the Sound
Publishing / Peninsula Clarion, a newspaper of general
circulation and published at Kenai, Alaska, that the
advertisement, a printed copy of which is hereto
annexed was published in said paper on the dates
listed below:

PC agenda
08/05/21

X  _____

SUBSCRIBED AND SWORN before me on this

5th day of August, 2021.

 _____
NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3/6/2024.

Elizabeth A. McDonald Notary Public, State of Alaska Commission #200306009 My Commission Expires March 6, 2024



**Kenai Peninsula Borough
Planning Commission
August 9, 2021 TENTATIVE AGENDA**

The next regularly Planning Commission meetings will be held Monday, August 9, 2021 at the KPB George A Navarre Administration Building, 144 N. Binkley St., Soldotna, AK. The public may also listen or participate in the meeting via Zoom. To join the meeting via Zoom from a computer visit:

<http://zoom.us/j/2084259541>

To attend the meetings by telephone call toll free 1-888-788-0099 or 1-877-853-5247. When calling in you will need the Meeting ID number of 208 425 9541. Detailed instructions will be posted on the Planning Commission webpage prior to the meeting:

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PLAT COMMITTEE – 5:30 P.M.

New Business

1. Stanleys Meadow 2021; KPB File 2021-086; Ability Surveys / Jones; Location: Off Perkins Road & Cove View Court; Fritz Creek Area
2. Tulin West Highlands Green 2021 Replat; KPB File 2021-104; Seabright Surveying / Green; Location: Joe Super Street & West Highlands Blvd.; Diamond Ridge Area
3. Self Subdivision Bilben Replat; KPB File 2021-092; Peninsula Surveying LLC / Bilben & Gregory; Location: Stol Road; Cohoe Area
4. Ninilchik Airport Heights 2021 Replat; KPB File 2021-103; Geovera LLC / Terrastar Properties LLC; Location: Tailwind Road, Cessna Street & Smart Street; Ninilchik Area
5. Fireweed Meadows 2021 Replat; KPB File 2021-095 Geovera, LLC / Emmitt & Mary Trimble Revocable Trust, Home Grown Construction LLC; Location: Milo Fritz Avenue & Granross Street; Anchor Point Area
6. McReed Subdivision 2021 Replat; KPB File 2021-093; Johnson Surveying / Hame; Location: Cohoe Loop Road; Cohoe Area
7. Melickian Subdivision 2021 Addition; KPB File 2021-094; Johnson Surveying / Waggoner, Jaso, Munter & Rinck; Location: Resurrection Creek Road & Katday Court; Hope Area
8. Horse Creek Subd 2021 Addition; KPB File 2021-099; Johnson Surveying / Deford; Location: Resurrection Creek Road; Hope Area
9. Hinz subdivision No. 2; KPB File 2021-102; Segesser Surveys / Hinz; Location: Irish Hills Avenue & Bethula Street; Kalifornsky Area
10. Mac McGahn Subdivision 2020 Replat; KPB File 2021-096; Segesser Surveys / The Estate of Dolores Mae McGahan, The Estate of Dolores M. McGahan, Merrill M. McGahan, Carmen M. McGahan, Dolores M. Rappe, The Estate of Merrill Mazie McGahan; Location Nikishika Beach Road & Kenai Spur Highway; Nikiski Area
11. Bown Landing Subdivision Marlow Replat; KPB File 2021-101; Segesser Surveys / Marlow; Location: Stephens Drive; Sterling Area
12. Emery Subdivision; KPB File 2021-100; Segesser Surveys / Emery; Location: Wendy Lane; Kalifornsky Area

PLANNING COMMISSION – 7:30 P.M.

Old Business

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

New Business

1. Utility Easement Vacation; KPB File 2021-086V; Vacate a 20' utility easement within Lot 10A Stanley's Meadow No. 11 (HM 93-60); Petitioners/Owners: Cecil R., Ina L., Billy Ray, Stephanie Joy Jones; Location: Fritz Creek Area
2. Utility Easement Vacation; KPB File 2021-054V; Vacate 10' utility easements along the side lot lines of Lots 19, 20, 21, Block 13 Carl F. Ahlstrom Subdivision (KN-216) & Lot 22A, Block 13, Carl F. Ahlstrom Subdivision RPM's Replat (KN 2017-66), excluding the 15' adjoining the Kenai Spur Hwy & the 10' adjoining the northeast boundary; Petitioners/Owners: RPM's LLC & John Mellish; Location: City of Kenai
3. Street Naming Resolution; SN 2021-04: Naming a certain private road within Section 24, T04S, R11W, Seward Meridian; within Emergency Service Number (ESN) 202
4. Ordinance 2021-32: An ordinance authorizing a negotiated lease at fair market value with Edward & Kathleen Martin, DBA Cozy Inn, in Kenai for a parking area.
5. Ordinance 2021-31: An ordinance authorizing an amendment to a master land lease development agreement with the Alaska Department of Transportation & Public Facilities in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing to include a staging area at Tract C Quartz Creek Subdivision and appraisal provisions.

Anyone wishing to testify may attend in person or via Zoom to give testimony. Written statements should be submitted by 1:00 PM Friday August 6, 2021. Written statements may be submitted by email (planning@kpb.us) or fax (907-714-2378). Written comments may also be submitted by hand-delivery or mail (Planning Department, 144 N. Binkley St., Soldotna, AK 99609).

FUTURE MEETINGS

The next regularly scheduled Plat Committee meeting will be held Monday August 23, 2021. The Plat Committee meeting will begin at 5:30 p.m. The next regularly scheduled Planning Commission meeting will be held Monday August 23, 2021. The Planning Commission meeting will begin at 7:30 p.m.

KPB PLANNING DEPARTMENT

Ann Shimberg, Administrative Assistant
Phone: (907) 714-2215 / Fax: (907) 714-2378
Toll free within the Borough: 1-800-478-4441

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**PLANNING COMMISSION
MEETING MINUTES
JULY 12, 2021**

Kenai Peninsula Borough Planning Commission

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

**JULY 12, 2021
7:30 P.M.
APPROVED MINUTES**

CALL TO ORDER

Chair Martin called the meeting to order at 7:32 p.m.

ROLL CALL

Commissioners Present

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

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

Staff Present

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

AGENDA ITEM B. ROLL CALL

AGENDA ITEM C. CONSENT AGENDA

- *3. Plat Granted Administrative Approval
 - a. Baranoff Terrace Subdivision Johnson-Quale Addition; KPB File 2019-082
 - b. Big Dipper Ranch; KPB File 2020-153
 - c. Bremond Farms Estates Bella Woods Phase 2; KPB File 2016-022P2
 - d. Gerhart Homestead 2020 Replat; KPB File 2020-149
 - e. Lakewood Estates 2021 Replat; KPB File 2021-035
 - f. Rex W. Eagle Homestead 2021 Replat; KPB File 2021-033
 - g. Seater View Subdivision; KPB File 2009-085
 - h. Surreal Subdivision 2021 Replat; KPB File 2021-002
 - i. Valhalla Heights 2021 Replat; KPB File 2021-077
- *6 Commissioner Excused Absences
 - a. Pamela Gillham, Ridgeway
- *7 Minutes
 - a. June 28, 2021 Planning Commission Meeting Minutes

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

3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KP.B 7.30.020(A).

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 the application for a marijuana cultivation facility license for Leaf & Larf, LLC., dba Purgatory Cannabis with staff's findings and recommending the three conditions be placed on the state license.

Commissioner Fikes noted there have been an increase in new marijuana businesses like this in the area. She asked staff if there is any way to gather information on the health effects of edible marijuana products. Mr. Taylor replied he could not answer that but he could contact AMCO and see if they have any data on this topic.

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM E. NEW BUSINESS

- 9. Conditional Land Use Permit Modification; PC Resolution 2021-26**
Applicant: Cook Inlet Region Inc. / Land Owner: Cook Inlet Region
Parcel ID#: 06508118
Sterling Area

Staff report given by Bryan Taylor.

GENERAL OVERVIEW: On June 22, 2021, the applicant submitted payment and a modification application for a material site. The applicant wishes to modify the existing conditional land use permit for material extraction on the above property, approved by the planning commission on March 27, 2017, and extended on May 4, 2021. The modification is to expand the permitted extraction area by approximately 61 acres as shown on the site plan submitted with the application. The application states that the expanded area is to support an Alaska Department of Transportation improvement project for the Sterling Highway. A copy of the application is included as **Attachment A**. Vicinity, aerial, topography, land use and ownership maps are included here as **Attachments B – F**.

KPB 21.29.030(A) REQUIRED APPLICATION ITEMS

1) Location of modification: The applicant seeks to excavate and an additional area of approximately 61 acres in an area bounded by the Sterling Highway to the north, Kenai Keys Road to the east, Deniigi Way to the south, and Tikahtnu Road to the west (see Attachment A).

2) Lifespan: The original permit application stated an expected lifespan of 15 years. No change is proposed.

3) Buffers: In addition to buffers in the original permit, the proposed 61-acre expansion area would be buffered on all sides by 50 feet of natural vegetation and 6-foot earthen berms.

4) Reclamation: No modification to the reclamation plan is proposed. The original application indicated that 5-25 acres would be reclaimed each year before the end of September using a loader

and dozer. Seeding would be applied each season to areas that achieve final grade.

5) Depth of excavation: The maximum depth of proposed excavation is 20 feet, the same as the original permit.

6) Type of material: Gravel will be mined from the proposed expansion area.

7) Voluntary permit conditions: Berms along the north, south, west, and east edges of the proposed expansion area.

8) Site plan: The original site plan prepared by McLane Consulting Inc. was submitted as part of the modification application with markups and annotations indicating proposed modifications. The original plan included a north arrow, scale, and preparer's name, date and seal. The property has not been subdivided or changed ownership since the original site plan was developed in 2017, so the modified site plan was considered sufficient by staff. Required site plan elements are as follows:

a-b): addressed above.

c) encumbrances: In addition to Tikahtnu, Kenai Keys, and Deniigi Way roads, the site plan shows a section line easement along the southern property boundary.

d) points of ingress/egress: The proposed modification would add a 26-foot wide ingress/egress from the excavation area directly onto the Sterling Highway.

e) haul routes: ingress/egress for the expanded extraction area would be directly onto the Sterling Highway.

f) test holes/depth of groundwater: The application states that 32 test holes have been dug throughout the property and that the water table is greater than 20 feet below original ground. The original site plan shows test well locations in the permitted excavation area.

g) location of neighboring wells: The site plan shows one well south of the property. No wells are within 300 feet of the proposed expansion area.

h) waterbodies/wetlands: no waterbodies or wetlands are indicated on the site plan.

i) surface water protection measures: No measures were indicated on the site plan.

j) processing areas: One 4.8-acre processing area was identified south of Deniigi Way on the original site plan. No modification of the processing area is proposed.

l-m): addressed above

n) boundary staking: with the original permit, the property corners were located and the property boundary flagged at visible intervals within 300 feet of the excavation areas.

PUBLIC NOTICE: Notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within ½ mile of the subject parcel, pursuant to KPB 21.25.060. A copy of the public notice and notice radius map are included as **Attachment G**. Any public comments received by the Planning Department prior to the hearing will be included as desk packet items at the July 12, 2021, meeting.

FINDINGS OF FACT:

1. Procedural Findings.

- A. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
- B. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
- C. On March 27, 2017, the planning commission passed resolution 2017-08, which approved a conditional land use permit to Cook Inlet Region, Inc., for material extraction on KPB tax parcel #065-081-18.
- D. On June 22, 2021, Cook Inlet Region, Inc., submitted to the KPB Planning Department an application to modify its existing conditional land use permit for parcel #065-081-18 to add an additional 61-acre excavation area.
- E. A public hearing of the planning commission was held on July 12, 2021, and notice of the application was mailed on June 22, 2021, to the 255 landowners or leaseholders of the parcels within one-half mile of the subject parcels. Public notice was sent to the postmaster

- in Sterling requesting that it be posted at the Post Office. Public notice of the application was scheduled for publication in the July 1, 2021, & July 8, 2021, issues of the Peninsula Clarion.
- F. Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.
2. *Parcel boundaries.* KPB 21.29.050(A)(1) provides that all boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
 - A. Permit condition number 1 requires the placement of stakes. Borough staff has inspected the proposed site. With the original permit, the property boundaries near proposed excavation areas in the original permit were flagged.
 3. *Buffer zone.* KPB 21.29.050(A)(2) provides that a buffer zone shall be maintained around the excavation perimeter or parcel boundaries.
 - A. Permit condition number 2 requires that the permittee maintain the following buffers for each excavation area identified on the site plan that will provide visual and noise screening to adjacent properties:
 - 50 feet of undisturbed natural vegetation with additional 6-foot earthen berms around the expanded 61-acre excavation area.
 4. *Processing.* KPB 21.29.050(A)(3) provides that any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries.
 - A. The original permit site plan indicates a 4.8-acre processing area that is located greater than 300 feet from the parcel boundaries. Borough staff will regularly monitor the material site to ensure compliance with this setback requirement.
 5. *Water source separation.* KPB 21.29.050(A)(4) provides that all permits shall be issued with a condition that prohibits any material extraction within 100 horizontal feet of any water source existing prior to original permit issuance. Excavation within the water table shall not be within 300 feet of a water source. There shall be no dewatering by either pumping, ditching or some other form of draining without an exemption from the planning commission. In the event an exemption is granted, the contractor must post a bond for liability for potential accrued damages.
 - A. The site plan shows no wells within 300 feet of an excavation area.
 - B. Borough staff will regularly monitor the material site to ensure compliance with the two-foot vertical separation from the water table requirement.
 6. *Excavation in the water table.* KPB 21.29.050(A)(5) provides that excavation in the water table greater than 300 horizontal feet of a water source may be permitted with the approval of the planning commission.
 - A. This modification does not seek an exemption to excavate within the water table.
 7. *Waterbodies.* KPB 21.29.050(A)(6) provides that an undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.
 - A. There are no water bodies within 100 feet of the proposed extraction.
 8. *Fuel storage.* KPB 21.29.050(A)(7) provides that fuel storage for containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.
 9. *Roads.* KPB 21.29.050(A)(8) provides that operations shall be conducted in a manner so as not to damage borough roads.
 - A. The original permit indicates that the material site haul route is Deniigi Way and Kenai Keys Road to Sterling Highway. The modified site plan also indicates a new secondary access directly to Sterling Highway. The permittee must provide dust suppression to the portion of the haul route that is located on site.
 10. *Subdivision.* KPB 21.29.050(A)(9) provides that any further subdivision or return to acreage of a

parcel subject to a conditional land use or counter permit requires the permittee to amend their permit.

- A. Borough planning staff reviews all subdivision plats submitted to the Borough to ensure compliance with this requirement.
11. *Dust control.* KPB 21.29.050(A)(10) provides that dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
12. *Hours of operation.* KPB 21.29.050(A)(11) provides that rock crushing equipment shall not be operated between 10:00 p.m. and 6:00 a.m.
 - A. If Borough staff becomes aware of a violation of this requirement, action will be taken to ensure compliance.
13. *Reclamation.* KPB 21.29.050(A)(12) provides that reclamation shall be consistent with the reclamation plan approved by the planning commission. The applicant shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement shall not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
 - A. No modification of the reclamation plan was proposed. As in the original permit, the permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 - B. Borough staff will inspect the material site once the reclamation has been completed to ensure compliance with the reclamation plan.
14. *Other permits.* KPB 21.29.050(A)(13) provides that permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits.
 - A. Any violation federal, state or local laws, applicable to the material site operation, reported to or observed by Borough staff will be forwarded to the appropriate agency for enforcement.
15. *Voluntary permit conditions.* KPB 21.29.050(A)(14) provides that conditions may be included in the permit upon agreement of the permittee and approval of the planning commission.
 - A. In addition to the 50-foot vegetation buffer, 6-foot earthen berms will be placed around the 61-acre expanded extraction area.
16. *Signage.* KPB 21.29.050(A)(15) provides that for permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit, the permittee shall post notice of intent on parcel corners or access.
 - A. Borough staff will regularly monitor the material site to ensure compliance with this condition.

STAFF RECOMMENDATION

In reviewing the modification application, staff has determined that the requirements for modification have been met and that the six standards contained in KPB 21.29.040 will be met. Staff recommends that the planning commission approve the modification to the conditional land use permit with listed conditions and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as necessary prior to the issuance of the material site permit.
5. The conditions of the modified permit will replace those of the original permit.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:
 - Northern, southern, eastern, and western boundaries - 50 feet of undisturbed natural vegetation. The addition of a 6-foot earthen berm around the perimeter for the 61-acre expanded extraction area.
 - These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall not operate any equipment which conditions or processes material within 300 feet of the property boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
9. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
10. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
12. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The permittee shall reclaim the site as described in the reclamation plan for this parcel and as approved by the planning commission.
14. The permittee shall post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This bonding requirement does not apply to sand, gravel or material sites for which an exemption from state bond requirements for small operations is applicable pursuant to AS 27.19.050.
15. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
16. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
17. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50,

a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.

18. The modification does not change the effective date of the permit. The conditional land use permit is valid for five years from the effective date of the original permit. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Andrea Jacuk, Land Manager; Cook Inlet Region Inc., POB 93330, Anchorage, AK 99509-3330: Ms. Jacuk noted she and her family are members of the Kenaitze Tribe. Her grandfather grew up fishing the Kenai River, as did his father. The Kenai River is especially important to her and her family. CIRI owns 7% of the bank space on the Kenai River, which is a cultural cornerstone for their shareholders. CIRI has been a good steward of these privately held lands for decades. CIRI is the largest private landowner on the Kenai Peninsula, owning over 33,000 acres of surface estate. Of these 33,000 acres, only 600 acres have been developed for resource or other commercial development purposes, which is less than 2% of CIRI landholdings. The other 98% of these lands have been kept in a raw and undeveloped state. She understands community members have concerns about the development of this material site. They met with community members in 2017 to hear and address their concerns and as a result implemented additional mitigation efforts. None of the mitigation efforts will change with their proposed modification. This is a simple modification to an already approved permit. The sole purpose for modifying this permit is to provide low cost sand and gravel resources for the Sterling Highway reconstruction project. This material site is the best currently permitted source available for the project. The proximity to the project will minimized impact to borough maintained roads, ultimately increasing the life of these roads compared to other resources in the Kenai or Soldotna areas. This modification seeks to move the excavation area. The area for excavation under the prior CLUP has shown to have insufficient structurally competent gravel resources. This modification meets all conditions of KPB code. Scarcella Construction is a respected and experienced operator who has met not only all KPB requirements but also all the additional requirements within the CIRI lease agreement. Scarcella has submitted their operation plans to CIRI, which either meets or exceeds the requirements of the already approved CLUP. CIRI will have direct oversight of the operator to ensure their interests as landowners are met. Scarcella is contractually obligated to comply with borough code at all times. The revised extraction area is 30 feet higher vertically from the water table and is further away from the Kenai River and residential neighborhoods as well as being closer to the Sterling Hwy. CIRI has met all the requirements of borough code and state statute in regards to this permit modification.

Bill Elam, KPB Assemblyman: Mr. Elam stated appreciates all the efforts CIRI has put in to meet all the requirements of code with this CLUP modification application. He noted over the last several weeks he has been contacted by a number of the folks that live in the area of this gravel pit and they have expressed concerns about this application. Some have concerns about surface water issues as well as potential issues for their well water. They have also expressed concerns about the increase in traffic and dust in their neighborhoods. He told them that he would reach out to the commission to request a delay in this process to allow the residents time to get their water tested to create some benchmarks. This information would be important if there were to be any water issues in the future. This seems to be a reasonable request to him.

Marc Walch: 32280 Moonshine Drive, Soldotna, AK 99669: Mr. Walch stated he owns property across the river from this material site. Moonshine Drive is directly across the river from Bings Landing. He noted he is a professional environmental engineer. One page 335 of the meeting packet under the heading of *Surface Water Protection Measures* he noted it states that *no measure were indicated on the site plan*. He expressed concerns that a 60+ acre gravel mine within the drainage basin of the Kenai River would have significant impact. He reviewed the topo map provided in the report and it was not sufficient for him to determine the true slope and elevations of the area. As a resident, he is as concerned about gravel pits as the applicant made it sound like they are environmentally conscience and prepared. Putting a gravel pit in this area sets a dangerous precedent and he and his neighbors are opposed to it.

Mark Hughes: 11094 Bluff Creek Circle, Anchorage, AK 99515: Mr. Hughes and his wife just recently built their retirement home in the Bings Landing Subdivision. They have owned their lot there since 1993. He wanted to know if most of the gravel that will be mined would be go to the Cooper Landing Bypass project. If so he noted there is a gravel pit, about four miles east from Cooper Landing near the power substation where Scarcella Construction is currently staged. It appears to him there is still plenty of gravel in that area that could be used. The area is not heavily populated and it does not border the Kenai River. Why truck gravel over 30 miles? If this pit is not acceptable, why can't a pit be put in along the bypass area instead? If the gravel from the CIRI pit is not only going to be used for the bypass project, what other large-scale project are planned? What has been approved already in 2017 was a late night deal because nobody in Bings Landing Subdivision knew it was approved until this new application was received. It feels to him that somebody is trying to do this thing without tell everyone and that is not right. This pit does not make environmental sense; there is a lot of gravel in other places. This shows no respect to the surrounding community and to those that want to enjoy the river. Who wants to see a gravel pit while they are floating the river? This gravel pit should have never been approved and he would ask that the commission not approve this modification and repeal the approval that was granted by in 2017.

Gretchen Cuddy: 2439 Karluc Street, Anchorage, AK 99508: Ms. Cuddy stated she owns property on Furrier Ave., which is near this gravel pit. Her father built the cabin on this property in 1983. She would question the statement made by the applicant that the water table in the area is 30 feet higher. She stated on her property, they have issues with their well; it is almost like an artesian well. She has concerns how this gravel pit will affect their well. She agrees with what others have testified to about not knowing that this pit was approved in 2017. She only learned about this pit when she received notice about this current application. She is not in favor of this application. Commissioner Fikes asked Ms. Cuddy when was the last time she had her well water tested. She asked if she had observed any changes in her well since the material site was approved in 2017. Ms. Cuddy replied her well is not running at this time. Commissioner Fikes then asked if this was a seasonal property, or did they live on it year round. Ms. Cuddy replied that it was a season property but that they did visit it throughout the year.

Eric Rosenberg: 32350 Moonshine Drive, Soldotna, AK 99669: Mr. Rosenberg runs a business on his property called Kings of the Kenai Fishing Cabins. When this was approved back in 2017, area one of the material site had a buffer zone of .7 acres that directly butts the river. He is concerned because there has not been a hydrology report. There are environmental concerns, noise issues and the lack of visual buffers. His property sits high on a bluff and he is concerned he will be able to look directly down into this proposed pit. When he asked Mr. Taylor about this issue, he could not tell him if folks on Moonshine were going to experience any visual disturbances. He reached out to CIRI with some of his concerns and questions and was not pleased with the answers he received. He believes the planning that has gone into this project is lacking. There has been a lack of noticing to and input from area residents. It would have helpful if they had done this before presenting their application for modification. He recognizes that regulations here in Alaska are not as stringent as in other places in the US, but he would ask that the commission deny this application for modification.

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 Bentz to adopt PC Resolution 2021-26 granting a modification to a conditional land use permit issued to Cook Inlet Region, Inc.

Commissioner Fikes stated she would support a motion to postpone allowing further testimony from folks living along Furrier Avenue. She would like to know whether or not they have experienced any impacts from the material site since it was approved in 2017. They have heard from several folks who live on Moonshine but she would like to hear from others in the area.

Commissioner Brantley stated he would also support postpone action on this item. He had received several phone calls from people in the Sterling area who did not receive notice on this and thought they should have. There were also folks who were not able to join the Zoom meeting this week because of technology issues or were out of town.

Commissioner Ruffner noted the closest section of this material site to residential housing and the river is area one. He was curious if there has been any activity in that area to date. CIRI Representative Ms. Jacuk stated they have concluded the gravel sources in that area is not structurally competent gravel for the current phase of the Sterling Highway Reconstruction project. That is why they submitted the modification application. Since the permit has been approved in 2017, there have been no operations on this land whatsoever. Commissioner Ruffner then asked if CIRI had considered relinquishing those undeveloped areas where the gravel was not up to competency. Ms. Jacuk stated they had considered that but have not come to a conclusion yet. Commissioner Ruffner noted area one is the closest area to residential housing and the river, which are the two main concerns expressed by the testifiers tonight. He would encourage CIRI to consider relinquishing that area.

Commissioner Ecklund said she thought area one, which Commissioner Ruffner referred to, was one of the new sites being proposed for development. Ms. Jacuk replied the application before them tonight is adding a regarding third area, it is the third area that they are proposing to develop. Commissioner Ecklund then stated the CLUP approved in 2017 states that five acres a year would be reclaimed and she asked if that had been done. Ms. Jacuk replied there has been no operations on areas one or two, so no reclamation has been required. Commissioner Ecklund then asked staff whose responsibility is it to mail out notices. Mr. Taylor replied code requires notice to be sent to property owners within a ½-mile radius of the site. Two hundred and fifty-five notices were mailed out to area property owners. The addresses used are the ones the borough has on file for tax notices and to date only two notices had been returned. Commissioner Ecklund then stated she would be in support of postponing action on this item, to at least allow residents time to get their wells tested. She too has concerns about how close this material site is to the river.

Commissioner Fikes asked that since no activity has taken place on this material site, she wondered if there was any bonding required on the first permit. Mr. Taylor replied since there has been no operations conducted on the site no bond required has been required. He then noted if there is an approved permit and operations began, it would disqualify them from the State exemption and bonding would be required.

Commissioner Brantley stated if the applicant relinquished area one he believes it would go a long way with public. He would encourage them to consider that option.

Commissioner Ruffner agreed with Commissioner Brantley and he would encourage the applicant to consider relinquishing area one.

AMENDMENT: Commissioner Ruffner moved, seconded by Commissioner Brantley to postpone this item until it is brought back by staff.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

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

**PLANNING COMMISSION
MEETING MINUTES
AUGUST 9, 2021**

Kenai Peninsula Borough Planning Commission

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

August 9, 2021

7:30 P.M.

APPROVED MINUTES

CALL TO ORDER

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

ROLL CALL

Commissioners Present

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

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

Staff Present

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

AGENDA ITEM B. ROLL CALL

1. Oath of Office

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

2. Election of Officers

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

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

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

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

AGENDA ITEM E. NEW BUSINESS

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

Staff report given by Marcus Mueller.

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

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

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

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

AGENDA ITEM D. OLD BUSINESS

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

Staff report given by Bryan Taylor.

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

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

END OF STAFF REPORT

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

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

Chair Martin opened the meeting for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT MOTION PASSED BY MAJORITY VOTE:

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

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

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

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

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

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

MOTION PASSED BY MAJORITY VOTE:

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

AGENDA ITEM F. PLAT COMMITTEE REPORT

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

AGENDA ITEM G. OTHER

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

AGENDA ITEM H. PUBLIC PRESENTATION

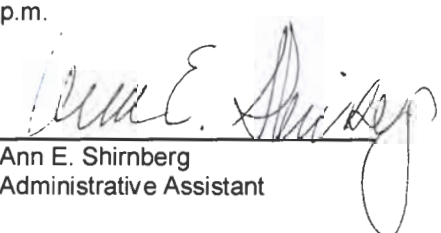
AGENDA ITEM I. DIRECTOR'S COMMENTS

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

AGENDA ITEM J. COMMISSIONER COMMENTS

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

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


Ann E. Shirnberg
Administrative Assistant

VERBATIM TRANSCRIPT / INDEX

JULY 12, 2021

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

Betty J. Glick Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna, Alaska 99669

July 12, 2021
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 28, inclusive

Commissioners Present:

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

Staff Present:

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

Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 0:00</p> <p>3 (This portion not requested)</p> <p>4 53:17</p> <p>5 CHAIRMAN MARTIN: ... and that would bring</p> <p>6 us to item E-9. Staff report, please.</p> <p>7 BRYAN TAYLOR: Thank you. Through the</p> <p>8 chair.</p> <p>9 We've received a modification application</p> <p>10 from Cook Inlet Region, Incorporated. And this is for</p> <p>11 an -- the existing permit is on a large tract of land,</p> <p>12 over 400 acres. Roughly Mile 79.5 of the Sterling</p> <p>13 Highway is where the modification is being applied for.</p> <p>14 So we received the application on June</p> <p>15 22nd. The applicant wishes to modify the existing</p> <p>16 conditional land use permit for material extraction on</p> <p>17 the above property, approved by the Planning Commission</p> <p>18 on March 27th, 2017. It was recently extended this</p> <p>19 past May for an additional five years.</p> <p>20 The modification is to expand the</p> <p>21 permitted extraction area by approximately 61 acres as</p> <p>22 shown on the site plan. The application states that</p> <p>23 the expanded area is to support an Alaska Department of</p> <p>24 Transportation improvement project for the Sterling</p> <p>25 Highway.</p>	<p style="text-align: right;">Page 4</p> <p>1 using a loader and dozer. Seeding would be applied</p> <p>2 each season to areas to achieve final grade.</p> <p>3 Depth of excavation is being proposed at</p> <p>4 20 feet, and this is the same as the original permit.</p> <p>5 Gravel mined -- the type of material would just be</p> <p>6 gravel from the proposed expansion area.</p> <p>7 And the site plan was originally prepared</p> <p>8 by McLane Consulting, and that was submitted again with</p> <p>9 some modifications, markups on it and annotations</p> <p>10 indicating where the proposed modifications are.</p> <p>11 The original plan was sufficient, had the</p> <p>12 preparer's name, date, and seal. The property has not</p> <p>13 been subdivided or changed ownership since the original</p> <p>14 plan in 2017. So this was considered sufficient.</p> <p>15 And specifics of the site plan, in</p> <p>16 addition to Tikahtnu, Kenai Keys, and Deniigi Way</p> <p>17 Roads, there is a section line easement shown on the</p> <p>18 southern property boundary.</p> <p>19 The proposed modification would add a</p> <p>20 26-foot wide ingress and egress from the excavation</p> <p>21 area directly onto the Sterling Highway to the north,</p> <p>22 and that would be all it proposed, ingress and egress,</p> <p>23 for the work on the Sterling Highway at this point.</p> <p>24 Test holes -- the original application</p> <p>25 had -- there were 32 test holes dug in the area, and</p>
<p style="text-align: right;">Page 3</p> <p>1 And you can find attachments to my staff</p> <p>2 report, you'll find a copy of the application as</p> <p>3 Attachment A. And they have got vicinity area</p> <p>4 topography -- aerial topography land use and ownership</p> <p>5 maps attached as B through F.</p> <p>6 If you're looking at -- if you're</p> <p>7 familiar with the Kenai Keys Road, that would form the</p> <p>8 eastern boundary of this new expanded area, and the</p> <p>9 Sterling Highway forms the northern boundary. So</p> <p>10 it's -- just south of the Sterling Highway is the</p> <p>11 proposed 61 acres. Deniigi Way to the south and</p> <p>12 Tikahtnu Road to the west also bound the modified</p> <p>13 expanded area.</p> <p>14 The life span of the original permit was</p> <p>15 15 years, and there has not been any proposed change</p> <p>16 there.</p> <p>17 For buffers, the original buffers had 50</p> <p>18 foot of natural vegetation. The expanded area here,</p> <p>19 they are also proposing 50 feet of natural vegetation,</p> <p>20 but they are also volunteering six-foot berms in</p> <p>21 addition to the 50 feet.</p> <p>22 Reclamation plan. There has been no</p> <p>23 proposed modification to the reclamation plan here.</p> <p>24 The original application indicated 5 to 25 acres would</p> <p>25 be reclaimed each year before the end of September</p>	<p style="text-align: right;">Page 5</p> <p>1 those can be seen on the site plan.</p> <p>2 Neighboring wells, there is the -- the</p> <p>3 site plan showed one well south of the property, but</p> <p>4 there are no wells within 300 feet of the proposed</p> <p>5 expansion area.</p> <p>6 No water bodies or wetlands are indicated</p> <p>7 on the site plan, and therefore there are no measures</p> <p>8 indicated for protection.</p> <p>9 Processing area, the originally permitted</p> <p>10 processing area, there was one of 4.8 acres just south</p> <p>11 of Deniigi Way, and there has been no modification</p> <p>12 proposed there.</p> <p>13 And the original permit, the property</p> <p>14 corners were located and flagging within 300 feet of</p> <p>15 the excavation areas was placed.</p> <p>16 There has been public notice that was</p> <p>17 mailed out on June 22nd to 255 land owners or</p> <p>18 leaseholders within half a mile of the subject parcel.</p> <p>19 And a copy of the public notice and the radius map that</p> <p>20 you can find as Attachment G in the staff report. And</p> <p>21 any public comments received have been provided in your</p> <p>22 desk packet at this point.</p> <p>23 And I have here -- we have findings of</p> <p>24 fact, procedural findings, parcel boundaries, buffer</p> <p>25 zone.</p>

<p style="text-align: right;">Page 6</p> <p>1 And there have not been changes except 2 for the expanded 61 acres. And then the addition of -- 3 or the buffers, the voluntary six-foot berms have been 4 added to those conditions. 5 And in reviewing the modification 6 application, we have determined that the requirements 7 for modification have been met, and the six standards 8 of KPB 21.29.40 will be met. 9 Staff recommends that the Planning 10 Commission approve the modification to the conditional 11 land use permit with the listed conditions and adopt 12 the findings of fact subject to the following: Filing 13 of the PC resolution in the appropriate recording 14 district after deadline to appeal the Planning 15 Commission's approval has expired, so 15 days from the 16 notice of decision unless there are no parties with 17 appeal rights; the planning department is responsible 18 for filing the Planning Commission resolution; the 19 applicant will provide the recording fee for the 20 resolution to the planning department; any driveway 21 permits must be acquired from either the state or 22 borough as necessary prior to the issuance of a 23 material site permit modification; and the conditions 24 of the modified permit will replace those of the 25 original permit.</p>	<p style="text-align: right;">Page 8</p> <p>1 That is less than 2 percent of all CIRI land holdings 2 within the Kenai Peninsula Borough. 3 The remaining 98 percent of the CIRI land 4 has been kept in a raw, undeveloped state for moose, 5 bear, and other wildlife habitat. This raw land is 6 also managed to allow permitted access to the public 7 and subsistence hunting opportunities for CIRI 8 shareholders and descendants. 9 I understand the community has 10 apprehensions about this gravel pit. CIRI has met with 11 community members, heard their concerns, and addressed 12 them in 2017 by implementing additional mitigation 13 efforts. Neither these concerns nor CIRI's mitigation 14 efforts have since changed. CIRI seeks a simple 15 modification to an already approved permit. 16 The sole purpose CIRI has for modifying 17 the existing permit is to provide low cost sand and 18 gravel resources for the Sterling Highway 19 reconstruction project. 20 As many of us know, this highway project 21 has been stalled for 40 years to improve environmental 22 conditions around the river and preserve the most 23 significant archeologic district in Southcentral 24 Alaska. 25 This material site before the commission</p>
<p style="text-align: right;">Page 7</p> <p>1 And that's the end of the staff report. 2 CHAIRMAN MARTIN: Thank you. At this 3 time I'll open the meeting to public comment starting 4 with the petitioner. 5 ANDREA JACUK: Hi, thank you. That is 6 Andrea Jacuk speaking on behalf of CIRI today. 7 First, I just wanted to thank you for the 8 opportunity to speak today about this application for 9 modification. 10 My name is Andrea Jacuk, CIRI's land 11 manager. I am also a tribal citizen of the Kenaitze 12 Indian Tribe and of the Dolchok family. My grandfather 13 grew up fishing the Kenai River, as did his father. 14 This river is especially important to me now, as it has 15 been to my family for many generations. 16 As you may know, CIRI owns 7 percent of 17 the bank space on the Kenai River, a cultural 18 cornerstone for our shareholders, and CIRI has been a 19 good steward of these privately owned lands for 20 decades. 21 CIRI is the largest private land owner on 22 the Kenai Peninsula, owning over 33,000 acres of 23 surface estate within the borough. Out of that 24 acreage, less than 600 acres have been developed for 25 resource and other commercial development purposes.</p>	<p style="text-align: right;">Page 9</p> <p>1 today is the best currently permitted source available 2 for the project. Its proximity to the project will 3 minimize impact to borough maintained roads, ultimately 4 increasing the life of these roads compared to other 5 sources located in Kenai or Soldotna. 6 This CLUP modification is simply that, to 7 move the excavation area as the prior areas under the 8 CLUP proved to have insufficient structurally competent 9 gravel resources. 10 This permit modification meets all 11 conditions of the KPB code. Scarcella is a respected 12 and experienced operator who has met not only all KPB 13 requirements, but all those additional requirements 14 within the CIRI lease agreement. Scarcella has 15 submitted its operations plan to CIRI, of which meets 16 or exceeds the requirements of the already approved 17 conditional land use permit. 18 CIRI has direct oversight of the operator 19 to ensure that our interests as a land owner are 20 protected, and Scarcella is contractually obligated to 21 be in compliance with borough code at all times. 22 Additionally, the revised extraction area 23 is 30 feet higher vertically from the water table, 24 further away from the Kenai River, further away from 25 residential neighborhoods, and closer to the Sterling</p>

<p style="text-align: right;">Page 10</p> <p>1 Highway.</p> <p>2 Borough Code 21.29.70 states that an</p> <p>3 application shall be processed pursuant to KPB Code</p> <p>4 21.29.30 through .50.</p> <p>5 CIRI has met all of its requirements</p> <p>6 outlined in the aforementioned sections and is</p> <p>7 compliant with both state and KPB code.</p> <p>8 The Sterling Highway realignment will</p> <p>9 bring long awaited safety improvements for residents</p> <p>10 and visitors to the Kenai Peninsula.</p> <p>11 In closing, I commend and thank the</p> <p>12 Planning Commission for taking the time to hear from us</p> <p>13 today and request the amendment be approved so that</p> <p>14 construction of the highway realignment may commence.</p> <p>15 Thank you.</p> <p>16 CHAIRMAN MARTIN: Thank you. Are there</p> <p>17 any questions from commissioners?</p> <p>18 ANN SHIRNBERG: I see no hands,</p> <p>19 Commissioner Martin.</p> <p>20 CHAIRMAN MARTIN: Thank you. Next</p> <p>21 testifier, please.</p> <p>22 ANN SHIRNBERG: I see that assemblyman</p> <p>23 Bill Elam has his hand raised.</p> <p>24 CHAIRMAN MARTIN: Mr. Elam, go ahead.</p> <p>25 BILL ELAM: Thank you, thank you. And I</p>	<p style="text-align: right;">Page 12</p> <p>1 BILL ELAM: Thank you.</p> <p>2 ANN SHIRNBERG: Seeing no hands,</p> <p>3 Commissioner Martin.</p> <p>4 CHAIRMAN MARTIN: Thank you. Next</p> <p>5 testifier, please.</p> <p>6 ANN SHIRNBERG: Mark Walch has his hand</p> <p>7 raised.</p> <p>8 CHAIRMAN MARTIN: Go ahead, Mr. Walch.</p> <p>9 MARC WALCH: Commissioner Martin and</p> <p>10 commissioners, I'm a resident, I'm a homeowner across</p> <p>11 the river on Moonshine Drive. If you look on your map</p> <p>12 in your packet on page 351, Moonshine Drive is directly</p> <p>13 across from Bing Landing.</p> <p>14 We are a community of about nine</p> <p>15 homeowners that are on the bluff that overlook Bings</p> <p>16 Landing and this property.</p> <p>17 So I'm also, just for the record, a</p> <p>18 registered professional environmental engineer, and I</p> <p>19 have a question to staff. Because in looking at the</p> <p>20 report, there is an item on page 335 under the category</p> <p>21 "surface water protection measures," the comment is,</p> <p>22 "No measures were indicated on the site plan."</p> <p>23 So as an environmental engineer, I'm</p> <p>24 concerned that a 60-plus acre gravel mine within the</p> <p>25 drainage basin of the Kenai River is going to have a</p>
<p style="text-align: right;">Page 11</p> <p>1 just was going to make a few comments.</p> <p>2 I do appreciate all the effort that CIRI</p> <p>3 has done to be within the code and all of the</p> <p>4 permitting requirements.</p> <p>5 I have received over the few couple of</p> <p>6 weeks now quite a few calls from folks that live in the</p> <p>7 area of the gravel pit with some concerns, and some of</p> <p>8 them have concerns over their surface water, their</p> <p>9 wells, traffic, noise, dust, you know, all the various</p> <p>10 things that typically come with the gravel pits.</p> <p>11 So I told them that I would reach out.</p> <p>12 It didn't seem unreasonable. They were requesting to</p> <p>13 have the process delayed just a little bit so that they</p> <p>14 could get their waters tested and have some benchmarks</p> <p>15 to go on in case there were any kind of problems in the</p> <p>16 future.</p> <p>17 And I'm sure you guys have already</p> <p>18 received some of the e-mails and the phone calls, but I</p> <p>19 thought I would come in and comment and just ask if you</p> <p>20 guys would be interested in possibly delaying it.</p> <p>21 They were, again, looking to just get</p> <p>22 some tests done locally there for their sites, and it</p> <p>23 seemed reasonable to me.</p> <p>24 CHAIRMAN MARTIN: Thank you. Any</p> <p>25 questions, commissioner questions?</p>	<p style="text-align: right;">Page 13</p> <p>1 significant impact.</p> <p>2 The topo map that was provided in the</p> <p>3 packet wasn't sufficient for me to determine the actual</p> <p>4 topo and slope and elevations. But as an engineer, as</p> <p>5 a resident, I'm concerned about gravel pits. As much</p> <p>6 as the applicant made it sound they were</p> <p>7 environmentally conscious and prepared, as a homeowner</p> <p>8 and as a resident, I think this is a dangerous</p> <p>9 precedent and we object to it.</p> <p>10 CHAIRMAN MARTIN: Thank you for your</p> <p>11 testimony.</p> <p>12 ANN SHIRNBERG: Mr. Walch, could I please</p> <p>13 get your address.</p> <p>14 MARC WALCH: Yes. We have two</p> <p>15 properties, 32280 Moonshine Drive, and 32260 Moonshine</p> <p>16 Drive in Soldotna.</p> <p>17 CHAIRMAN MARTIN: Thank you. Anyone else</p> <p>18 in the public wishing to testify?</p> <p>19 ANN SHIRNBERG: Cindy Hamlin has her hand</p> <p>20 raised.</p> <p>21 CHAIRMAN MARTIN: Go ahead, Ms. Hamlin.</p> <p>22 MARK HUGHES: Yes, this is Mark Hughes</p> <p>23 and Cindy Hamlin. Currently reside at 11094 Bluff</p> <p>24 Creek Circle, Anchorage, Alaska.</p> <p>25 Cindy and I just recently built our</p>

<p style="text-align: right;">Page 14</p> <p>1 future retirement home in Bings Landing Subdivision at 2 32177 West Hills Court. We have enjoyed that lot since 3 1993. It was previously owned by our good friends the 4 Barns. 5 We aren't new to the local community and 6 how very special the location is. I wrote this out in 7 questions, I'm kind of new to this. 8 But is most of the gravel that is planned 9 to be mined going to the Cooper Landing projects? And 10 if so, there is a pit about four miles east of Cooper 11 Landing near the power substation that Scarcella has 12 trucks staged -- currently staged at. It appears that 13 there is plenty of gravel still available. I was just 14 there this weekend. There is no population issues, and 15 it's not bordering the famous Kenai River, the river 16 that can never be replaced. 17 Why truck the gravel for over 30 miles? 18 If this pit is not acceptable, why can't a pit go in 19 along the bypass at Cooper Landing? If the gravel 20 isn't planned for there, what large projects are 21 planned for the use of approximately 400-plus acres of 22 gravel that no one knows about? 23 What has been approved already in 2017 24 was a late night deal somehow, because nobody in our 25 Bings Landing subdivision knew it was approved until</p>	<p style="text-align: right;">Page 16</p> <p>1 According to your map, our property would 2 be at the southwest corner of this gravel pit. It's 3 the first one on Furrier Road right past the gate. 4 My father built it in '83. And I would 5 question the statement by Andrea about the water table 6 being at 30 feet. 7 We do have a problem with water. It's 8 almost an artesian well that comes up behind our cabin, 9 or house, whatever you want to say it is. So I would 10 question what that would do to bringing up the water 11 table with a gravel pit directly behind our place. 12 I agree with both the two Marks with 13 their comments about not knowing anything about the 14 2017 development. And we were only advised when this 15 new 61 acres were added. That's about all I have to 16 say. We are not in favor of this. 17 CHAIRMAN MARTIN: Thank you for your 18 testimony. Is there anyone else out there? 19 UNIDENTIFIED SPEAKER: Chair Martin, Ms. 20 Fikes have a question. 21 CHAIRMAN MARTIN: Ms. Fikes, go ahead. 22 COMMISSIONER FIKES: Yes, through the 23 chair to the applicant that just testified, Ms. Cuddy. 24 How recently have you had your wells 25 tested? If you were in the area in '83 and then this</p>
<p style="text-align: right;">Page 15</p> <p>1 the 60-acre addition was there. So somebody has just 2 swept this under the rug without telling anybody, and 3 that's not right. 4 This makes no environmental sense. There 5 is a lot of gravel. It shows no respect for the 6 surrounding community and all the people that come to 7 Alaska and live nearby in Soldotna and surrounding 8 areas that enjoy the river. Who wants to go by a 9 gravel pit when they are floating a pristine river? 10 And it borders -- it goes all the way 11 down to a row of houses there at Furrier. So however 12 the first 340 acres got approved, that was entirely 13 wrong. 14 Please don't let this happen, and repeal 15 the 2017 March passage of the original gravel pit. 16 It's not right, what you're doing is not right. Thank 17 you very much. 18 CHAIRMAN MARTIN: Thank you. Next 19 testifier, please. 20 ANN SHIRNBERG: Gretchen has her hand 21 raised. 22 CHAIRMAN MARTIN: Go ahead testifier, 23 state your name and address for the record. 24 GRETCHEN CUDDY: My name is Gretchen 25 Cuddy. My address is 2439 Karluk, Anchorage, Alaska.</p>	<p style="text-align: right;">Page 17</p> <p>1 also was recently approved in 2017, from '17 until now, 2 have you observed any changes in your well? 3 GRETCHEN CUDDY: Not that I could 4 substantiate anything. But I do have to say at this 5 point our well is not running. So I have no data to 6 give you at this point. 7 COMMISSIONER FIKES: And is that property 8 that you're speaking of, is that a seasonal property or 9 is that a full-time, year-round property? 10 GRETCHEN CUDDY: It is seasonal, but we 11 do use it year round. But nobody lives there year 12 round. 13 COMMISSIONER FIKES: Okay, super, thank 14 you. 15 GRETCHEN CUDDY: You're welcome. 16 CHAIRMAN MARTIN: Anyone else in the 17 public wishing to testify? 18 ANN SHIRNBERG: If you're on the phone, 19 star 9 will raise your hand. I see no hands, 20 Commissioner Martin. 21 UNIDENTIFIED SPEAKER: Ann, I do see Mr. 22 Rosenberg has his hand raised. 23 CHAIRMAN MARTIN: Mr. Rosenberg, state 24 your name and address for the record. 25 ERIC ROSENBERG: Commissioner Martin --</p>

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1 Chairman Martin, my name is Eric Rosenberg. I live at
2 32350 Moonshine Drive in Soldotna.
3 **CHAIRMAN MARTIN:** Thank you, go ahead.
4 **ERIC ROSENBERG:** Chairman, I run a
5 business called Kings Of the Kenai Fishing Cabins. As
6 you know, I have e-mailed you. I lost Internet
7 somehow, and I apologize, but I've got several
8 concerns.
9 One of my concerns that, as I've listened
10 to the testimony today, is when this was approved in
11 2017, and we have Area 1 -- if you look at the map --
12 Area 1 has a buffer zone of .7 acreage, 32 acres that
13 directly abuts the river right behind me.
14 I'm concerned, as you've heard from
15 others in my e-mails, that we haven't had a hydrologist
16 come out. I'm concerned about the environmental
17 concerns. I'm concerned about noise issues and the
18 visual buffers that just don't exist.
19 I'm 292 feet in the air on a bluff. I'm
20 going to look directly down into it. When I spoke with
21 Mr. Taylor, Mr. Taylor was unable to tell me whether or
22 not there is going to be any disturbance, a visual
23 disturbance for the folks here on Moonshine.
24 I did reach out to the people at CIRI. I
25 don't appreciate the response I got, and I let them

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1 know that I didn't appreciate the response I got. I
2 asked them, why didn't they come out to the folks at
3 Moonshine and speak to us prior to this. And the
4 response was, "Well, why would I? Would you be there?"
5 And I'm not casting any aspersions, maybe
6 it's a great organization. But my concern is the
7 planning that's gone into this, or the lack thereof,
8 the lack thereof of the notice of folks, the lack
9 thereof giving us an opportunity to be heard prior to
10 doing this modification.
11 I realize that oftentimes why people are
12 here in Alaska is to -- regulations are not as
13 stringent as they are in other areas, but here I would
14 ask that this board deny this application and deny the
15 modification.
16 **CHAIRMAN MARTIN:** Thank you for your
17 testimony. Anyone else in the public wishing to
18 testify?
19 **ANN SHIRNBERG:** I see no hands,
20 Commissioner Martin.
21 **CHAIRMAN MARTIN:** That being the case,
22 we'll close public comment and bring it to the
23 commission for a motion.
24 **COMMISSIONER RUFFNER:** I'll move to adopt
25 PC Resolution 2021-26 granting a modification to a

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1 conditional land use permit issued to CIRI.
2 **COMMISSIONER BENTZ:** Second.
3 **CHAIRMAN MARTIN:** We have a motion and a
4 second. Discussion?
5 **ANN SHIRNBERG:** Commissioner Fikes has
6 her hand raised.
7 **CHAIRMAN MARTIN:** Ms. Fikes.
8 **COMMISSIONER FIKES:** Yes, I would be for
9 coming up with a motion to postpone so we can have
10 further testimony from some of those closer. I'd like
11 to hear some more folks that are on Furrier Avenue and
12 what kind of impacts since 2017 to now. And having
13 only heard from one so far, I heard from several on
14 Moonshine, and not have any kind of impact study, that
15 would be something worth, I think, hearing from.
16 I understand you can't really unring the
17 bell. This permit has already been granted, but it's a
18 modification that's before us today. So seeing how big
19 the area is and how much it's going to impact folks
20 around there, I would like to -- I would certainly be
21 for more a motion to postpone to have more opportunity
22 to study more things, it may impact a greater number of
23 folks. That's just my two cents.
24 **ANN SHIRNBERG:** Commissioner Brantley has
25 his hand raised.

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1 **CHAIRMAN MARTIN:** Mr. Brantley.
2 **COMMISSIONER BRANTLEY:** I would also be
3 in favor of postponement. I got a few phone calls from
4 people out in Sterling that either didn't get a notice
5 that thought they should or weren't able to join the
6 Zoom meeting this week because of technology or just
7 out of town. So I would support a postponement.
8 **ANN SHIRNBERG:** Commissioner Ruffner has
9 his hand raised.
10 **CHAIRMAN MARTIN:** Mr. Ruffner.
11 **COMMISSIONER RUFFNER:** Thank you, Mr.
12 Chairman. So I was kind of curious either to hear from
13 staff or the applicant about -- in looking at this and
14 listening to the testimony tonight, the closest
15 residential housing and closest to the river is in Area
16 1, and that was a 33-acre portion of the previous
17 permit. But I was just kind of curious, what's
18 happened in that area?
19 **ANDREA JACUK:** May I address that
20 question, Chairman Martin?
21 **CHAIRMAN MARTIN:** Please, go ahead.
22 **ANDREA JACUK:** So I will go ahead and say
23 that due to certain test pits, we have come to the
24 conclusion that those gravel resources located in those
25 other areas are not structurally competent gravel

<p style="text-align: right;">Page 22</p> <p>1 resources for this phase of the project, and so that's 2 why we submitted this modification to add on this area 3 that would actually be processed through. 4 And for other questions that have been 5 raised, since this permit has been approved since 2017, 6 there has been no operations on this land whatsoever, 7 thank you. 8 COMMISSIONER RUFFNER: So if I could 9 follow up. Did CIRI consider relinquishing that 10 portion if the material is not of competency and 11 nothing has happened yet? 12 ANDREA JACUK: That is something that 13 we've thought about, given the two separate areas. 14 It's something that we would potentially consider, but 15 we have not come to a final conclusion on that yet. 16 COMMISSIONER RUFFNER: Okay. Well, you 17 know what, I'm not sure what's going to happen tonight 18 with voting or postponing or so forth, but it does seem 19 like that's an area that's closer to the residents and 20 closer to the river, which are the two concerns we 21 heard. So it's just something I would encourage you to 22 consider it at least. 23 ANN SHIRNBERG: Commissioner Ecklund has 24 her hand raised. 25 CHAIRMAN MARTIN: Ms. Ecklund.</p>	<p style="text-align: right;">Page 24</p> <p>1 notices, and when were the notices mailed for this 2 application? 3 BRYAN TAYLOR: Thank you Commissioner 4 Ecklund. Through the chair. 5 Staff mails the notices out to property 6 owners, and these notices were mailed on June 22nd, as 7 it states in the report, to 255 property owners and 8 leaseholders. 9 We're using record information, what's in 10 the property records. So it's mailed to the address on 11 file. And I received two back, two letters back that 12 were not deliverable to the address, even though it was 13 correct based on what's in our system, but otherwise I 14 didn't receive any back. 15 COMMISSIONER ECKLUND: Thank you. I'll 16 just state that I'm going to vote for a postponement 17 when that motion is made due to timing so that people 18 can at least get test wells done so they know if their 19 water has been affected. And I too am concerned about 20 how close all of this work has been to the river, thank 21 you. 22 CHAIRMAN MARTIN: Further discussion? 23 ANN SHIRNBERG: Commissioner Fikes has 24 her hand raised. 25 COMMISSIONER FIKES: Yes, through the</p>
<p style="text-align: right;">Page 23</p> <p>1 COMMISSIONER ECKLUND: Thank you. 2 Through the chair, I just want right now to clarify. 3 Mr. Ruffner's comment is about the property that's 4 closest to the river. And the way I read the 5 application, that was one of the new sites they wanted 6 to go to, is that correct? 7 ANDREA JACUK: If I may address this. So 8 we have Areas 1 through 3, and Area 3, that's the area 9 that we're adding with this modification that is closer 10 to the highway, it's directly adjacent to the highway. 11 So Area 1 and Area 2 and the process area were approved 12 by the 2017 conditional land use permit. 13 COMMISSIONER ECKLUND: Okay, thank you. 14 A couple of followups, and this could be for staff or 15 the applicant. 16 According to the original application, 17 five acres a year were supposed to be reclaimed. Has 18 that been done? 19 ANDREA JACUK: No operations have taken 20 place on any of the area. So no reclamation has been 21 required since. It's still in a raw, undeveloped 22 stage. 23 COMMISSIONER ECKLUND: Then I guess my 24 last one is to staff. 25 Whose responsibility is it to mail out</p>	<p style="text-align: right;">Page 25</p> <p>1 chair and to the applicant or possibly staff. 2 Since no activity has taken place on the 3 original permit, is anybody aware of any bonding that 4 is required or was there any bonding required of that 5 first permit? 6 BRYAN TAYLOR: Through the chair, this is 7 staff. 8 On the first permit, since there wasn't 9 any operations conducted, there hasn't been bonding 10 required. That would be required if there is an 11 approved permit and operations began, that would 12 disqualify them from the state exemption. 13 CHAIRMAN MARTIN: Is there any more 14 comment? Mr. Brantley has your hand up. 15 COMMISSIONER BRANTLEY: Yeah, I would 16 just like to add to the applicant that I really think 17 that if they relinquished Area 1, it would go a long 18 way with the public in general, and it would be 19 something I think that should be looked into before the 20 next meeting if this is postponed. 21 COMMISSIONER RUFFNER: This is Robert 22 again. I'll reiterate that same thing that Mr. 23 Brantley said and hope that they will consider it. 24 And with that, I'll move to postpone this 25 until the next meeting -- no, rather I'll move to</p>

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1 postpone it until it's brought back by staff.
2 **COMMISSIONER BRANTLEY:** Second.
3 **CHAIRMAN MARTIN:** Discussion on the
4 motion?
5 **ANN SHIRNBERG:** See no hands,
6 Commissioner Martin.
7 **CHAIRMAN MARTIN:** Roll call, please.
8 **ANN SHIRNBERG:** Bentz?
9 **COMMISSIONER BENTZ:** Yes.
10 **ANN SHIRNBERG:** Brantley?
11 **COMMISSIONER BRANTLEY:** Yes.
12 **ANN SHIRNBERG:** Carluccio?
13 **COMMISSIONER BOKENKO-CARLUCCIO:** Yes.
14 **ANN SHIRNBERG:** Chesser?
15 **COMMISSIONER CHESSER:** Yes.
16 **ANN SHIRNBERG:** Ecklund?
17 **COMMISSIONER ECKLUND:** Yes.
18 **ANN SHIRNBERG:** Fikes?
19 **COMMISSIONER FIKES:** Yes.
20 **ANN SHIRNBERG:** Morgan?
21 **COMMISSIONER MORGAN:** Yes.
22 **ANN SHIRNBERG:** Venuti?
23 **COMMISSIONER VENUTI:** Yes.
24 **ANN SHIRNBERG:** Ruffner?
25 **COMMISSIONER RUFFNER:** Yes.

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1 **ANN SHIRNBERG:** Martin?
2 **CHAIRMAN MARTIN:** Yes.
3 Motion to postpone until brought back by
4 staff passes unanimously. And I want to thank
5 everybody in the public for their testimony.
6 1:27:16
7 (End of requested portion)
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1 **CERTIFICATE**
2 **I, LEONARD J. DiPAOLO, Registered Professional**
3 **Reporter, Certified Realtime Reporter, Certified CART**
4 **Provider, and Notary Public in and for the State of**
5 **Alaska, do hereby certify:**
6 **That the tape recording, CD #07/12/21 Planning**
7 **Commission was transcribed under my direction by**
8 **computer transcription; that the foregoing is a true**
9 **record of the testimony and proceedings taken at that**
10 **time to the best of my ability; and that I am not a**
11 **party to nor have I any interest in the outcome of the**
12 **action herein contained.**
13 **IN WITNESS WHEREOF, I have hereunto set my**
14 **hand and affixed my seal this 8th day**
15 **of September, 2021.**
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22 **LEONARD J. DiPAOLO, RPR, CRR, CCP**
23 **Notary Public for Alaska**
24 **My Commission Expires: 2-3-2024**
25 **#3767**

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VERBATIM TRANSCRIPT / INDEX

AUGUST 9, 2021

KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

Betty J. Glick Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna, Alaska 99669

August 9, 2021
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 47, inclusive

Commissioners Present:

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

Staff Present:

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

Transcribed by: Leonard J. DiPaolo, RPR, CRR, CCP

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 0:00</p> <p>3 (This portion not requested)</p> <p>4 34:03</p> <p>5 CHAIRMAN MARTIN: That will bring us down</p> <p>6 to Item D-1 that we moved to this part of the meeting.</p> <p>7 There currently is a motion on the floor,</p> <p>8 and public testimony has been closed. If anyone on the</p> <p>9 commission decides to reopen public testimony, a motion</p> <p>10 will be required.</p> <p>11 So at this time staff will give a report</p> <p>12 and any updates.</p> <p>13 BRYAN TAYLOR: Thank you. Through the</p> <p>14 chair.</p> <p>15 There hasn't been any changes to the</p> <p>16 staff report, so I'll just give a brief overview and a</p> <p>17 few updates.</p> <p>18 Subject property, again, this is roughly</p> <p>19 a 500-acre property. It's between Mile 79 and 80 of</p> <p>20 the Sterling Highway. It straddles the highway there</p> <p>21 near Kenai Keys Road.</p> <p>22 And the Planning Commission did approve</p> <p>23 this permit back in March 27th of 2017. So what you</p> <p>24 have in front of you is a modification request that was</p> <p>25 received on June 22nd this year. And that modification</p>	<p style="text-align: right;">Page 4</p> <p>1 21-26 has been prepared with the staff finding</p> <p>2 supporting approval.</p> <p>3 In order to incorporate the additional</p> <p>4 volunteer condition of the permit, I would just</p> <p>5 recommend you take Resolution 21-26, and then the</p> <p>6 amendment would need to be made to insert the voluntary</p> <p>7 condition under Section 3 where the conditions on the</p> <p>8 permit are. And you could insert that as permit</p> <p>9 condition No. 17 and just renumber the following</p> <p>10 conditions.</p> <p>11 Due to the postponement of the decision</p> <p>12 on this application, and in order to allow some work to</p> <p>13 commence on the property this season, CIRI did apply</p> <p>14 for a counter permit. They were applied -- and granted</p> <p>15 a counter permit for a 2.5 acre material site in the</p> <p>16 same location as the expansion.</p> <p>17 No further comments have been received</p> <p>18 regarding the modification application. And that's all</p> <p>19 I have.</p> <p>20 CHAIRMAN MARTIN: Thank you. Before we</p> <p>21 move, are there any questions for staff to help us</p> <p>22 decide whether to open public testimony or not?</p> <p>23 COMMISSIONER ECKLUND: What was the</p> <p>24 location of the additional two-and-a-half that you</p> <p>25 approved?</p>
<p style="text-align: right;">Page 3</p> <p>1 is just -- it's expanding the extraction area by 61</p> <p>2 acres to include an area of land directly adjacent to</p> <p>3 the Sterling Highway.</p> <p>4 A properly noticed public hearing was</p> <p>5 held by this commission at your July 12th meeting.</p> <p>6 After closing public hearing, the Planning Commission</p> <p>7 began deliberations and voted to postpone further</p> <p>8 consideration of the application until it was brought</p> <p>9 back by staff. Because the application had already</p> <p>10 been determined sufficient by staff, it was just put on</p> <p>11 tonight's agenda, which was the next available meeting.</p> <p>12 Updates would be on July 27th, CIRI did</p> <p>13 submit an addendum to the modification application to</p> <p>14 include an additional volunteer condition.</p> <p>15 The applicant volunteers to add a</p> <p>16 condition that excavation activities would be limited</p> <p>17 to disturbing only 20 acres during the first two years</p> <p>18 of the permit, and that open area would be reclaimed</p> <p>19 upon completion of excavation activities. And I did</p> <p>20 send you a memo providing their wording on that</p> <p>21 volunteer condition.</p> <p>22 No changes to the staff report. Staff</p> <p>23 finds that the application and proposed site and</p> <p>24 reclamation plans meet the standards of KPB 21.29.040</p> <p>25 and recommends approval of the application. Resolution</p>	<p style="text-align: right;">Page 5</p> <p>1 BRYAN TAYLOR: It was within the 60-acre</p> <p>2 modification area that was applied for. It was within</p> <p>3 that, directly adjacent to the Sterling Highway.</p> <p>4 COMMISSIONER ECKLUND: Was it in the</p> <p>5 center? Was it on the northwest corner? South corner?</p> <p>6 BRYAN TAYLOR: It was about in the center</p> <p>7 of that 60-acre.</p> <p>8 COMMISSIONER ECKLUND: Center of that 60</p> <p>9 acres?</p> <p>10 BRYAN TAYLOR: I'd say in the middle</p> <p>11 right adjacent to the highway. So it's right up</p> <p>12 against the Sterling Highway, but in the center from</p> <p>13 east to west, yeah.</p> <p>14 CHAIRMAN MARTIN: Any other questions?</p> <p>15 Mr. Venuti? No, okay. I'll bring it to the commission</p> <p>16 for a decision to open public testimony or not. Mr.</p> <p>17 Brantley.</p> <p>18 COMMISSIONER BRANTLEY: I move to open up</p> <p>19 public testimony for Item D-1.</p> <p>20 COMMISSIONER ECKLUND: Second.</p> <p>21 CHAIRMAN MARTIN: Roll call, please.</p> <p>22 ANN SHIRNBERG: Bentz?</p> <p>23 COMMISSIONER BENTZ: Yes.</p> <p>24 ANN SHIRNBERG: Ecklund?</p> <p>25 COMMISSIONER ECKLUND: Yes.</p>

<p style="text-align: right;">Page 6</p> <p>1 ANN SHIRNBERG: Fikes?</p> <p>2 COMMISSIONER FIKES: Yes.</p> <p>3 ANN SHIRNBERG: Gillham?</p> <p>4 COMMISSIONER GILLHAM: Yes.</p> <p>5 ANN SHIRNBERG: Morgan?</p> <p>6 COMMISSIONER MORGAN: Yes.</p> <p>7 ANN SHIRNBERG: Brantley?</p> <p>8 COMMISSIONER BRANTLEY: Yes.</p> <p>9 ANN SHIRNBERG: Venuti?</p> <p>10 COMMISSIONER VENUTI: Yes.</p> <p>11 ANN SHIRNBERG: Martin?</p> <p>12 CHAIRMAN MARTIN: Yes.</p> <p>13 Motion to open the public testimony</p> <p>14 passes unanimously. Therefore, I will offer the first</p> <p>15 opportunity to the petitioner or the applicant.</p> <p>16 ANDREA JACUK: Great. This is Andrea</p> <p>17 Jacuk. Thank you for the opportunity to speak today</p> <p>18 about this conditional land use permit application for</p> <p>19 modification on behalf of CIRI.</p> <p>20 As I said previously, my name is Andrea</p> <p>21 Jacuk, CIRI's land manager. I'm speaking on behalf of</p> <p>22 CIRI, but before I launch into their remarks, I want to</p> <p>23 speak personally.</p> <p>24 I'm a member of the Kenaitze Indian</p> <p>25 Tribe, and my late grandfather grew up subsistence</p>	<p style="text-align: right;">Page 8</p> <p>1 operators dig over 50 test pits on this additional area</p> <p>2 as well as the currently permitted areas. All of the</p> <p>3 test pits were dug at a maximum of 20 feet below</p> <p>4 ground, showed a uniform overburden, and the water</p> <p>5 table was not once encountered in any of these 50-plus</p> <p>6 test pits.</p> <p>7 My second point, compliance. The</p> <p>8 currently permitted areas have proven to abide by</p> <p>9 borough and state guidelines and regulations and have</p> <p>10 been approved for development. This additional area we</p> <p>11 are speaking about today is at least 50 feet higher</p> <p>12 vertically above the water table than the currently</p> <p>13 permitted areas, farther away from residential areas,</p> <p>14 and farther away from the Kenai River.</p> <p>15 This modification provides a win/win</p> <p>16 situation for local residents by addressing their</p> <p>17 claims on this already preapproved project and for</p> <p>18 CIRI's right to develop it's privately owned land for a</p> <p>19 public works and safety improvement project that has</p> <p>20 been stalled for over 40 years.</p> <p>21 And my third point, why this particular</p> <p>22 gravel pit does matter. First off, it improves access</p> <p>23 to resources. It's a shorter distance versus</p> <p>24 alternatives in Kenai or Soldotna, which would create</p> <p>25 hazards and congestion along the Sterling Highway</p>
<p style="text-align: right;">Page 7</p> <p>1 fishing the Kenai River as did his father. This river</p> <p>2 and the land surrounding it are especially important to</p> <p>3 me, as is the safety of local residents and all</p> <p>4 Alaskans who find themselves navigating the Sterling</p> <p>5 Highway, especially during the busy fishing season.</p> <p>6 I've listened to the testimony both as a</p> <p>7 representative of CIRI, but also as a stakeholder</p> <p>8 looking at how this project will impact future</p> <p>9 generations of my tribe as well as all of Alaska's</p> <p>10 people.</p> <p>11 I wouldn't be here today advocating for</p> <p>12 this project if I didn't believe it was in the best</p> <p>13 interest of my family and all of yours.</p> <p>14 On behalf of CIRI, there are three key</p> <p>15 points I would like to cover today. First the concerns</p> <p>16 about the water table; second, permit regulation</p> <p>17 compliance; and third, why this particular gravel pit</p> <p>18 matters.</p> <p>19 So my first key point. I understand the</p> <p>20 community has apprehensions about this gravel pit.</p> <p>21 CIRI met with community members, heard their concerns,</p> <p>22 and addressed them in 2017 and now in 2021 by</p> <p>23 implementing additional mitigation efforts. These</p> <p>24 claims have not since changed.</p> <p>25 CIRI has had five separate experienced</p>	<p style="text-align: right;">Page 9</p> <p>1 ultimately decreasing the life of borough maintained</p> <p>2 roads.</p> <p>3 It also lowers costs. As stated in the</p> <p>4 last Planning Commission meeting, the main purpose CIRI</p> <p>5 has for modifying this existing permit is to provide</p> <p>6 low cost sand and gravel resources for the Sterling</p> <p>7 Highway reconstruction project. This ultimately</p> <p>8 reduces public funds expended on the project, which is</p> <p>9 the longest running EIS in our nation's history.</p> <p>10 This Sterling Highway realignment project</p> <p>11 will bring long awaited safety improvements for</p> <p>12 residents and visitors to the Kenai Peninsula.</p> <p>13 In closing, I commend and thank the</p> <p>14 Planning Commission for taking the time to hear from us</p> <p>15 today and request the amendment be approved so that</p> <p>16 construction of the highway realignment may commence.</p> <p>17 Thank you.</p> <p>18 CHAIRMAN MARTIN: Thank you. Next</p> <p>19 testifier, please. Anyone from the public? Anyone in</p> <p>20 the audience? Please state your name and address at</p> <p>21 the microphone for the record.</p> <p>22 NICKI PEREIRA: My name is Nicki Pereira.</p> <p>23 I live at 37195 Steelhead Circle in Bings Landing</p> <p>24 Subdivision.</p> <p>25 This is very frustrating. I think I'm</p>

<p style="text-align: right;">Page 10</p> <p>1 going to start with an overall look at what's been 2 going on on the Kenai Peninsula and elsewhere in this 3 state for a long time. 4 This gravel pit issue has been and 5 continues to be a problem for residential areas around 6 our state, not just here. We're Alaskans. We hate 7 zoning. We're not into it. However, we're getting to 8 a point where I think that's going to be necessary. 9 As an example, our subdivision decided to 10 get an R-1 zone as the marijuana industry moved in, and 11 now we're darn glad we did because there is a big grow 12 going in on the other side near Feuding, and the 13 residents are jumping up and down saying, "How do we 14 fix this?" And all we can say is, "You're too late. 15 You're too late." 16 Well, when is the issue going to be fixed 17 with gravel pits for the residents? Ms. Andrea, with 18 all due respect, you don't live next door. We do. 19 Thank you for what you have done. Apparently, we 20 didn't know about the 50 test holes. Gee, nobody ever 21 gets back to us. Nobody tells the residents what's 22 going on before, during, or after. 23 And there are some things that 24 happened -- I'm sorry if I'm being passionate, but I'm 25 pretty upset.</p>	<p style="text-align: right;">Page 12</p> <p>1 You guys have seen countless -- we're 2 just faces in the crowd that come through here 3 constantly, I'm sure, residents who are having to 4 listen to this and put up with this. And it goes on 5 year after year after year. And it's time for it to 6 stop. 7 I'm not a lawyer. I don't have time to 8 be competent enough to understand the nuances of all 9 the ordinances and the scientific intricacies of a 10 surface mine near my home. I'm a mom and a grandma and 11 I work and I'm busy. 12 The commission has got to take a look at 13 fixing this. I know that something did happen several 14 years ago and it went to the assembly, and I'm not sure 15 that whole story. But I know you guys have tried to 16 fix some of this, and the assembly has something to 17 bear in terms of blame. 18 But I want you to know that we're mad 19 now, and I know a lot of other people that are mad. I 20 know that there is one of these cases in Superior Court 21 right now. And I'm hoping that something good comes 22 out of that that's going to help residential areas, 23 because this is really frustrating for all of us. And 24 I really want some answers from some of those questions 25 that were raised at the last meeting that I heard</p>
<p style="text-align: right;">Page 11</p> <p>1 With the last meeting, there were a lot 2 of things that were brought forward, and all we heard 3 at the end was it's going to be brought back by staff. 4 Well, apparently it was just brought back by staff. 5 What does staff do to answer any of the questions that 6 came up in the last meeting? I didn't hear any answers 7 here. 8 So this is really frustrating for those 9 of us who have to live near this stuff, when we know 10 that there are other gravel pits -- Mystery Creek, for 11 example, is closer to the project. Why does it have to 12 be right where it is? Is there something going on with 13 CIRI we need to know about? I mean, does something 14 make them special? 15 Yeah, it's further away from the Cooper 16 Landing site. Why not go closer? Why not go somewhere 17 else? Oh, is it the weigh station for the state that 18 they want to avoid, which is what CIRI told us four 19 years ago in a meeting, that they wanted it on that 20 side of the weigh station. That was an interesting 21 comment that happened. Sorry. 22 So here we are. It's clear that the 23 current ordinance does not work and has not been 24 working for years except for those who develop the 25 gravel pits. It doesn't work for the residents.</p>	<p style="text-align: right;">Page 13</p> <p>1 nothing about tonight. Thank you. 2 CHAIRMAN MARTIN: Thank you. Next 3 testifier, please. Oh, Mr. Brantley has a question, 4 ma'am. Ma'am, would you mind returning? And one 5 online. So go ahead, Mr. Brantley. 6 COMMISSIONER BRANTLEY: Thank you. What 7 do you think would be an acceptable distance from a 8 house to a gravel pit, in your opinion? 9 NICKI PEREIRA: Well, that's a loaded 10 question. It depends on what the gravel pit is doing. 11 Are they crushing rocks? I mean, in my opinion, miles. 12 You know, where we live on the river, 13 we've got a canyon, and the sound just bounces back and 14 forth. So that's a question I can't answer because it 15 depends so much on topography. 16 COMMISSIONER BRANTLEY: Thank you. 17 CHAIRMAN MARTIN: And we have a question 18 online, too. Ms. Hamlin. 19 MARK HUGHES: Hi, this is Mark Hughes 20 saying Cindy Hamlin, 11094 Bluff Creek Circle, 21 Anchorage. We own property at 32177 West Hills Court. 22 I spoke last meeting about all the 23 reasons that I thought this was inappropriate for our 24 area. And since then I noticed that Granite had been 25 in Mystery Creek. And I have talked to some people, I</p>

<p style="text-align: right;">Page 14</p> <p>1 was in the gravel industry before I retired. I think 2 there is good gravel up Mystery Creek. 3 On the way home last weekend I drove one 4 way from the entrance of the new gravel pit there by 5 Kenai Keys, and it's 24 miles one way from there to the 6 end of the job site. So you've got a 48-mile round 7 trip. 8 Andrea was just saying how convenient it 9 was and great for everybody to shorten up the gravel 10 haul. 48 miles round trip is not shortening up one 11 semi load of gravel. 12 UNIDENTIFIED SPEAKER: Nor does it 13 enhance any safety on the roadway at all. 14 MARK HUGHES: No, that's 48 miles of 15 semis back and forth for one load. And it's 8.4 miles 16 one way, so 17 miles round trip from Mystery Creek. 17 So now Andrea needs to say why this is 18 such a good deal. She said just a minute ago it's 19 win/win, win for the people, win for CIRI. Sorry, 20 Andrea, I think it's win/lose. I think it's win for 21 CIRI and lose for the people, the neighbors in the 22 community, and the river. 23 So I don't know, it's just not right. 24 There has got to be a better solution, either some 25 gravel off the new bypass, Mystery Creek, something a</p>	<p style="text-align: right;">Page 16</p> <p>1 disturbances, because that, when we're looking at the 2 code -- 3 CHAIRMAN MARTIN: Yeah, I understand 4 drone photography is very useful. We just don't have 5 the technology to accommodate that. 6 ERIC ROSENBERG: I understand. I have 7 the ability, if you'd like, to show you. 8 The problem I have is when we met on July 9 17th, we heard from CIRI that they were concerned and 10 they were listening to our concerns. And we heard Ms. 11 Jacuk tell you that she was -- from the last meeting, 12 that there were some issues. But we had no meetings. 13 Nobody came by and said, "Hey, what's going on? How 14 can we help you?" 15 Commissioner Brantley at the end of the 16 meeting and Commissioner Fikes said to us, "Hey, we've 17 got some questions." None of those questions have been 18 addressed. So all that's passed is that we're having 19 another meeting, but we still have all these unanswered 20 questions, and you're asking to modify a permit to 21 allow the gravel pit to begin without addressing the 22 concerns of the folks that actually live there. 23 While I hear that Ms. Jacuk wants to tell 24 us about she's concerned about the river, you have the 25 Naptowne Rapids there are there, and we heard at the</p>
<p style="text-align: right;">Page 15</p> <p>1 little closer. 2 We've got a brand new highway there. Now 3 you're going to haul 20 tons probably a load or more, 4 48 miles round trip, and that's a win/win? Sorry. 5 It's just not right what you're doing to our 6 neighborhood. There is other places that doesn't have 7 a community beside it and a river along it. So 8 hopefully something changes here. Thank you very much. 9 CHAIRMAN MARTIN: Thank you. Will you 10 stand for questions from commissioners? Seeing no 11 requests from commissioners, thank you for your 12 testimony. Next testifier, please. We have one in the 13 audience. Please state your name and address for the 14 record. 15 ERIC ROSENBERG: 32350 Moonshine Drive in 16 Soldotna. I have a photograph from a drone, that, if 17 possible, I would like to put up. Is there a way that 18 I could put that photograph up? 19 CHAIRMAN MARTIN: We're limited by 20 sitting and hearing your testimony. 21 ERIC ROSENBERG: Well, I think it's 22 important that you actually see what it looks like from 23 folks on the Soldotna side so you can actually see when 24 you look at a map what we're talking about with the 25 auditory issues, the visual issues, and the</p>	<p style="text-align: right;">Page 17</p> <p>1 last meeting from a geologist who was concerned about 2 if there is a failure, what happens to the mixture? 3 That's a very busy part of the river that it's going to 4 mix in. 5 Nobody has told us what, if any, type of 6 analysis has been done. Nobody has come over to the 7 Soldotna side to understand what the auditory issues 8 are. 9 I can hear my neighbors over in Sterling 10 when they speak. Nobody has told us what the sounds 11 are. It's in the code that they are supposed to. It's 12 in the code that there is a visual disturbance. Nobody 13 has come over. And that's why this map issue -- while 14 I understand you don't have the IT -- nobody from CIRI 15 thought it was important to say, "Let's take a look 16 what it's like at 304 feet looking down into this pit." 17 So I think that I have many issues. 18 I am a lawyer, so I do have a little bit 19 of a different perspective. I do have land use issues 20 behind me. And one of the things that's going to come 21 here is these folks have not done their due diligence 22 to come and meet with us to try and listen to our 23 concerns. 24 So my time is coming to an end, but I 25 believe this project -- or this modification should be</p>

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1 denied, it should be denied because CIRI hasn't done
2 anything other than Ms. Jacuk coming in and telling us
3 how wonderful the project is and it's going to help
4 Alaskans.
5 The Alaskans are here today right now
6 before you, they are your neighbors, they are the
7 people who live there, and they have done nothing for
8 us other than tell us how great the project is. What's
9 so great about it? That's all I have to say.
10 **CHAIRMAN MARTIN:** If there is any
11 questions from commissioners? Mr. Brantley.
12 **COMMISSIONER VENUTI:** Mr. Chair, I have a
13 question.
14 **CHAIRMAN MARTIN:** Go, Mr. Venuti.
15 **COMMISSIONER VENUTI:** This is for the
16 testifier. You state that you are an attorney. Are
17 you representing a specific entity in this case?
18 **ERIC ROSENBERG:** Myself. And my -- who I
19 stand before you, Commissioner Venuti, I'm just as
20 equal as CIRI.
21 At the end of the last meeting,
22 Commissioner Venuti, you voted to approve this, and
23 then Mr. Brantley very bravely said, "You know what, I
24 have a question about the one area of the pit that is
25 so close to the river." Where CIRI came back and said,

1 **ERIC ROSENBERG:** I understand that,
2 but --
3 **COMMISSIONER BRANTLEY:** So I just had one
4 question for you, just a hypothetical.
5 If Area 1 and, say, Area 2 produced
6 gravel results that were so-so, like maybe they passed,
7 but maybe it's going to be really hard to process the
8 D-1 and the asphalt, maybe they found better material
9 closer to the highway in this new area.
10 Now, if that -- excuse me, if that
11 encourages them to then stay within that area and stay
12 away from the river, do you think that would be a
13 reasonable trade off?
14 **ERIC ROSENBERG:** Yes. And let me explain
15 this to you, Commissioner Brantley. I spoke to -- I've
16 forgotten your name, sir, but.
17 **BRYAN TAYLOR:** Brian Taylor.
18 **ERIC ROSENBERG:** I spoke to Mr. Taylor,
19 and I said, "Look, can you show me on a map?"
20 My issues don't become right for what's
21 called injunctive relief until the sounds are there.
22 My issues for injunctive relief don't become right
23 until they are starting to work. They haven't. So I
24 do understand that they have been permitted, but my
25 issues don't rise to that level until certain times.

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1 "Well, we've gone and we don't think that that area had
2 good gravel."
3 And Commissioner Brantley said, "Well,
4 why don't we go and why don't you change it so that
5 area -- you've told these residents that you're not
6 going to mine in that area." We've heard nothing from
7 that.
8 I mean, do you recall at the end of the
9 meeting there was an area close to the river -- and I'm
10 concerned about the river -- the section -- thank
11 you -- commissioner, you said, "Is that area going to
12 be mined?" And they said, "No." But they did nothing
13 in that time period, other than the planning board came
14 to us and just said, "Okay, here is the new date."
15 Nothing has happened.
16 I mean, let's take the time to do this in
17 a measured approach rather than just making the
18 approval. Make CIRI work for this. Make CIRI do their
19 job and make CIRI have to approach the residents that
20 live here and do the right thing.
21 **CHAIRMAN MARTIN:** Go ahead with your
22 question, Mr. Brantley.
23 **COMMISSIONER BRANTLEY:** Just to be clear,
24 you do understand that Area 1 and 2 are already
25 approved? Those can be mined.

1 I really thought at the end of the
2 meeting CIRI took it seriously and would have come over
3 and taken a look, but they didn't. They just came with
4 a four-minute speech of how wonderful it is for the
5 river, and I've lived here my whole life and nothing is
6 going to happen. I'm not buying it, and I don't think
7 you guys should.
8 Your role as a commission --
9 **CHAIRMAN MARTIN:** Yeah.
10 **ERIC ROSENBERG:** Sorry.
11 **CHAIRMAN MARTIN:** Thank you. We
12 appreciate -- is there any other questions? Yeah, I
13 got to keep everything moving.
14 **ERIC ROSENBERG:** Understood.
15 **CHAIRMAN MARTIN:** Okay, thank you for
16 your testimony. Is there anyone on Zoom willing to
17 testify? Cindy Hamlin, you're next.
18 **CINDY HAMLIN:** Well, my comments are just
19 similar to my husband and to the gentleman that just
20 testified, that our questions really weren't answered
21 from last meeting.
22 We expressed our issues and concerns
23 about our well water. Specifically the Cuddy family on
24 Furrier Avenue was granted time to get baseline testing
25 on their well water since they were potentially the

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1 most impacted. I've heard nothing about that. No
2 response about what the baseline testing showed or even
3 if they had time to have that performed.
4 We also had many questions about road
5 hazards and safety on the roadways, a threat to the
6 river, the wildlife fisheries. What about the noise
7 level and the dust? We haven't heard any responses to
8 those questions or concerns from our last meeting.
9 And I concur with the other speakers, Ms.
10 Jacuk hasn't answered any of those questions in her
11 presentation.
12 **CHAIRMAN MARTIN:** Thank you. Are there
13 any questions from commissioners for Ms. Hamlin?
14 Seeing no requests, thank you for your testimony, Ms.
15 Hamlin.
16 And I'll take testimony from someone in
17 the audience. Please state your name and address for
18 the record.
19 **RICK SCHIEFELBEIN:** It's a long cord,
20 she's keeps me on a short leash, and I like my short
21 leash.
22 My name is Rick Schiefelbein. I live at
23 37105 Steelhead Circle in the Bings Landing
24 Subdivision. You'll kind of have to excuse me, I run
25 out of air quickly, and I'll try to keep this very

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1 brief.
2 I concur with everything that has been
3 brought forward so far, and I am pretty familiar with
4 water testing. I know the engineer that owns the well
5 drilling company that does the test wells up and down
6 the Sterling Highway, and is currently doing test wells
7 on the Cooper Landing bypass. They test the water
8 before the construction, they test the water after.
9 Has any well testing, water testing been
10 done in the CIRI pit project that you guys know of?
11 And if not, why not? I mean, they are tearing the
12 dickens out of that place. You know, they tear the
13 dickens out of a narrow strip of land going, and they
14 run a test every I don't know how many miles or what
15 the distance is, I just know they do it.
16 We've had no environmental impact
17 studies. We've had no testing of the water. We know
18 in the Bings Landing Subdivision that our aquifers, and
19 there is a bunch much them, come downhill from the hill
20 that CIRI is mining on, they come our direction.
21 Are they going to impact our water? We
22 don't know. Do they? Has anybody done any kind of
23 study to ascertain what's going to happen to our water
24 if they have a massive fuel spill or some other kind of
25 catastrophe that can happen with that number of -- that

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1 amount of traffic?
2 And the distance for the Cooper Landing
3 roadwork from the pit right around the corner from my
4 house is ridiculous. It's just absolutely bizarre.
5 We've got a brand new highway that they are going to be
6 rolling these trucks down, and they got pits up there
7 right down the road from where the new road is going
8 in.
9 I think it is time to -- for you guys to
10 curtail this project if you see fit to; if you don't,
11 well, there is not much we can do about it I don't
12 guess.
13 But you've heard from a number of us both
14 back in '17, the last meeting, and now. And I would
15 seriously appreciate you all considering stopping this
16 until these issues can be addressed and we can get some
17 form of satisfaction that this thing is, yea, it's good
18 for Alaska. What part of Alaska? It isn't good for
19 Bings Landing Subdivision. It's not good for the noise
20 level across the -- especially the guys across the
21 river, because sound rises. Are they going to have
22 rock crushers in there? Does anybody know if they are
23 going to be doing rock crushing? That's some noisy
24 stuff.
25 Is there going to be any restrictions on

Page 25

1 jake brakes and back-up buzzers, the bleep-bleep things
2 that go on and on? I don't think that we'll be able to
3 hear much of it. My house is so well insulated I don't
4 hear the neighbors shooting their guns, but not
5 everybody is like that. And especially the guys across
6 the river up on the hill.
7 I know, I used to have a place on a river
8 up on a bluff, and I could hear every word that the
9 people, you know, over a quarter of a mile away from
10 me, they were saying, because the noise just goes up.
11 That's something that hasn't been looked at or
12 addressed I don't think by CIRI, and I don't guess CIRI
13 much cares about that.
14 But at any rate, I'll stop my blathering
15 because I'm just about to run out of air, and entertain
16 any questions you have for me.
17 **CHAIRMAN MARTIN:** Thank you. Are there
18 any questions from commissioners? Mr. Brantley?
19 **COMMISSIONER BRANTLEY:** Yeah, I would
20 like to just frame a question for you. So this is just
21 to be clear, this is a modification.
22 **RICK SCHIEFELBEIN:** I understand.
23 **COMMISSIONER BRANTLEY:** So the pit is
24 already approved.
25 **RICK SCHIEFELBEIN:** I understand.

1 **COMMISSIONER BRANTLEY:** And what's
2 already approved is closer to your home, and what they
3 are trying to move modify is further away from your
4 home.
5 **RICK SCHIEFELBEIN:** By how much?
6 **COMMISSIONER BRANTLEY:** By quite a bit,
7 actually, from Area 1 and area 2. I mean --
8 **RICK SCHIEFELBEIN:** I've driven that
9 whole thing, and it's not that much. There is hardly
10 any difference.
11 **COMMISSIONER BRANTLEY:** Well, I mean, it
12 depends on where they start. Some of it is over a half
13 mile. So if they start at the entrance, which they
14 probably will do, and work their way back towards your
15 house --
16 **RICK SCHIEFELBEIN:** You're sure about
17 that?
18 **COMMISSIONER BRANTLEY:** -- and who knows
19 how much they will use. They might get halfway down
20 and just -- but just hypothetically, though --
21 **RICK SCHIEFELBEIN:** Well, the guy that
22 just testified said they were going to start in the
23 middle of it.
24 **COMMISSIONER BRANTLEY:** Okay, that's
25 where the counter permit is. But if it's approved they

1 turn off? Where is your access point to get into
2 Steelhead?
3 **RICK SCHIEFELBEIN:** Bings Landing Drive,
4 just down the road from the entrance to the -- I guess
5 that's going to be their exit. They will probably come
6 in on Feuding, go into the pit, come out on -- I don't
7 know, I'm not sure what -- but I think that's -- if I
8 was doing it, that's the way I would do it. If I'm
9 coming from that way, I would come in from -- not
10 Feuding, Kenai Keys into the pit, come out down by --
11 pretty close to the Bings Landing drive. That's our
12 access point to Bings Landing Subdivision.
13 **CHAIRMAN MARTIN:** Any other questions
14 from commissioners? Seeing none, thank you for your
15 testimony.
16 Is there anyone online wishing to
17 testify? Seeing none, we'll bring in the next person
18 from the audience. Please state your name and address
19 for the record.
20 **CHARLES CLASBY:** My name is Charles
21 Clasby. I live at 32167 West Hills Court, and that's
22 also in Bings Landing, Sterling.
23 First I want to agree with everything
24 that public has -- my friends here, neighbors have
25 talked about.

1 might change their plans. I don't know, but I just --
2 I know that (indiscernible) north.
3 **RICK SCHIEFELBEIN:** Well, okay. They can
4 pretty much do whatever they want to do, am I wrong
5 here?
6 **CHAIRMAN MARTIN:** Middle by the highway.
7 **RICK SCHIEFELBEIN:** So they can pretty
8 much do anything they want.
9 **COMMISSIONER BRANTLEY:** Yeah, basically.
10 **RICK SCHIEFELBEIN:** Once guys approve it,
11 they can do anything they want.
12 **COMMISSIONER BRANTLEY:** You stated that
13 you live down steelhead?
14 **RICK SCHIEFELBEIN:** Yes.
15 **COMMISSIONER BRANTLEY:** Okay. Which is
16 much closer to Area 2 than the new proposed area.
17 So I'm just saying that if we deny this,
18 they still have the permit to go into Area 2.
19 **RICK SCHIEFELBEIN:** Right. But if you do
20 approve it, then you're approving that kind of wear and
21 tear on our brand new Sterling Highway, right? You're
22 approving that kind of wear and tear on our highway.
23 **CHAIRMAN MARTIN:** I think we got the
24 question. Ms. Fikes, do you still have a question?
25 **COMMISSIONER FIKES:** So where would you

1 And my concerns about a gravel pit, there
2 is a lot of problems with people wanting -- or putting
3 a gravel pit in. They are never something that anybody
4 wants to have in their backyard. This is in our
5 backyard, whether it's Area 2 or Area 1.
6 Mr. Brantley, you said that this stuff
7 has already been approved. Is that to say it can never
8 be disapproved? I don't know.
9 CIRI made their comments here at the
10 beginning about a win/win. And I have to agree with
11 Mark who says no, it's not a win/win.
12 This is a money maker for CIRI. It's
13 nothing financially for us. We sit downstream of the
14 groundwater from where these pits are being proposed to
15 be dug.
16 I know recently on KTUU TV about three or
17 four weeks ago they had a little story about a gravel
18 pit that was disapproved up around the Wasilla area
19 because of the problem of it being impacted on the
20 residents. One person had their offer withdrawn on
21 their property, home, whatever it was because of the
22 pit. Eventually they got their wish, they got the pit
23 denied.
24 Mr. Brantley, you said these things have
25 already been approved. That sounds like it can't be

<p style="text-align: right;">Page 30</p> <p>1 undone. I don't think that's true. I think you guys 2 can deny it. 3 And I asked a rhetorical question, even 4 to CIRI. "You want this in your backyard?" 5 The lady in the beginning stated in her 6 CIRI -- or the CIRI person stated that 20-foot test 7 drills were made. I'm not really sure what she meant 8 by that. As far as testing to see what kind of gravel 9 or whether or not -- I think she did comment about 10 there was no water near. 11 Well, I have to let you know that my well 12 is right about 70 feet. That's about 50 feet deeper 13 than they drilled. And if I'm not mistaken, my 14 neighbor Mark -- I don't know if Mark even knows 15 this -- I think their well is somewhere around 2- or 16 300 feet in order to get usable water. 17 All of this is flowing towards the 18 magnificent Kenai River, and CIRI and their history 19 with this area and their living here, you know, they 20 talk about, you know, this is a win/win thing. 21 I am concerned about my property value in 22 the future if or when this gravel pit is started, I'm 23 worried about the noise that it will create. 24 Obviously, there is going to be a magnificent scar on 25 the ground.</p>	<p style="text-align: right;">Page 32</p> <p>1 wife and I, off of Bings Landing on Steelhead last 2 fall, and had no idea that this was even an issue or 3 would be an issue. 4 Given that we're residential, I would 5 surely think that our residential properties and 6 property values and water tables would be protected. 7 And so I'm learning a lot tonight that -- to know that, 8 you know, there is an issue here. 9 And gosh, I don't know, if I would have 10 known had a year ago, I'm not sure I would have 11 invested in the property that we now own and are 12 actually improving, making further investments and 13 hoping to bring people in to visit our state. 14 We love it here, we love our neighborhood 15 and our neighbors, we got a great neighborhood and 16 great people. 17 But, you know, if this turns out to be a 18 bad thing by expanding this gravel pit and affecting 19 our water tables, then who is going to want to buy our 20 properties in the future? Who is going to want to live 21 there. Who would want to live next to an open gravel 22 pit? CIRI? No, I don't think they would either. 23 So I guess I'm here just tonight to say I 24 support everything that's been said from our 25 neighborhoods, from the folks in our neighborhood, and</p>
<p style="text-align: right;">Page 31</p> <p>1 And I think the gentleman who said he had 2 a drone visual, too bad you guys couldn't hook him up, 3 but it's going to be an awful thing to see when all 4 those tourist planes are flying along, and they fly 5 over my house every day, floatplanes, and they see this 6 horrible scar in the ground not too far from the 7 diagram that you guys sent to us, this red shaded area, 8 shows the Sterling Highway cutting right across. And 9 this is our neighborhood right here. That's pretty 10 close. 11 I appreciate your time and letting us 12 come up here and speak. That would pretty much 13 conclude what I have to say. 14 CHAIRMAN MARTIN: Thank you, sir. Are 15 there any questions from commissioners? Online? 16 Thanks for your testimony. Anyone online wishing to 17 testify? Seeing none, next in line in the audience. 18 Please, state your name and address for the record. 19 PERRY HERSHBERGER: My name is Perry 20 Hershberger, I live at 37060 Steelhead Circle, 21 Sterling. 22 And I'm learning a lot tonight. I 23 haven't really been involved and engaged with this 24 process because basically we're new Alaska residents. 25 We purchased our property on Bings, my</p>	<p style="text-align: right;">Page 33</p> <p>1 I just hope you really consider our position on this. 2 I appreciate your time tonight, and thank you very 3 much. 4 CHAIRMAN MARTIN: Thank you. Next 5 testifier in the audience, please. Anyone in the 6 audience wishing to testify? Anyone online? Seeing no 7 further questions, we'll close public comment for the 8 evening and bring it back to the commission for 9 discussion. 10 COMMISSIONER ECKLUND: Chair Martin, it's 11 Commissioner Ecklund. 12 CHAIRMAN MARTIN: Go ahead. 13 COMMISSIONER ECKLUND: I believe that one 14 of the reasons we postponed this was because there was 15 a very short noticed timeline to the residents in order 16 for them to assess their wells and then have a 17 measuring rod for if and when something happens to 18 their wells. 19 I don't know if the people from that 20 meeting gave any comments regarding whether they got 21 their wells tested. 22 And I know it's sad to say that that 23 expense would go back on the area residents to have 24 that, but at least then if something happened down the 25 road after CIRI started digging, they would have a way</p>

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1 to prove that there has been damage to their wells. I
2 don't know who then they would take that to.
3 I want them to understand that the
4 Planning Commission is currently the people who approve
5 material site permits and conditional use permits that
6 are modifications to those permits.
7 I think I've been on this commission for
8 about 11 years, and we did a lot of effort, a lot of
9 work on rewriting the material site ordinance. But
10 ordinances aren't approved by the commission, they are
11 approved by the counsel -- I mean, by the assembly.
12 And so they didn't pass that ordinance
13 that we wrote, which allowed us to deny permits if they
14 didn't meet the requirements.
15 The current code as we've been told
16 doesn't allow us to deny. It's a very hard proof --
17 hard to prove that the visual, the noise, the health of
18 the neighbors are going to be affected, the safety on
19 the roads.
20 I agree with everything that's said
21 tonight. That brand new highway is going to be
22 damaged. I live in Seward. Our highway gets damaged
23 by, you know, the tourists and the buses and
24 everything, but I can't imagine what a dump truck,
25 loads of stuff, and 48 miles is a big round trip. I

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1 know there are closer pits. I've seen them as I drive
2 to my meetings in Soldotna.
3 I would hope that those of you that have
4 the ability to get some baseline figures, do that so
5 that you have some recourse if something happens.
6 There is nothing in code that requires an EIS from -- I
7 mean, the borough is not going to pay for that. The
8 borough is not going to pay for -- you know, to test
9 your wells.
10 So I just -- I hear you, but I would ask
11 that you talk to the assembly so they hear you as well,
12 thank you.
13 **CHAIRMAN MARTIN:** Thank you, Ms. Ecklund.
14 Further discussion from commissioners? Mr. Brantley.
15 **COMMISSIONER BRANTLEY:** Yeah, I guess I
16 should explain what I'm thinking on this.
17 There is really nothing we can do about
18 the two areas that are currently approved. And those
19 areas are much closer to the residents down Bings
20 Landing Road, Steelhead Circle, this new area.
21 And just because CIRI says that the
22 material isn't quite what they wanted, doesn't mean
23 it's not usable. It just might require more processing
24 to get there. So what they are trying to -- possibly
25 doing is finding a better quality material closer to

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1 the highway.
2 I wish they would have, like we asked
3 last meeting, that they would relinquish then Area 1 at
4 least that's close to the river. They haven't offered
5 that volunteer condition. There is nothing we can --
6 can't force them to give that up as far as I
7 understand.
8 But what I'm thinking is that approving
9 this 61 acres will encourage them not to use Area 1 and
10 2. So really I'm going to support this modification
11 because it's, as far as I can tell, over half a mile
12 away from any residences, and it's an area that would
13 be a better place to operate and to process. I guess
14 that's what I'm thinking so far on this.
15 **CHAIRMAN MARTIN:** Mr. Taylor, staff,
16 would you help us -- would you reiterate how best to
17 amend this for including the conditional -- I mean, the
18 voluntary conditions.
19 **BRYAN TAYLOR:** Yes, through the chair.
20 If you're making a motion to approve, then if you want
21 to incorporate the volunteered condition, just --
22 someone will need to make an amendment to the
23 resolution in Section 3 to include the voluntary
24 condition as permit condition No. 17, and then renumber
25 those that follow it.

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1 **CHAIRMAN MARTIN:** Thank you. So moved
2 would be a great way to consolidate that for any of the
3 commissioners willing to consider the amendment.
4 Ms. Ecklund, you have your hand up.
5 **COMMISSIONER ECKLUND:** Yeah. I'm looking
6 at the "I Legislate" paperwork, and I don't see that we
7 asked them for any other volunteer conditions like the
8 silent or white noise back-up beeper, limiting the
9 hours of crushing, or anything else. And I didn't see
10 where they had offered any of that up.
11 So Mr. Taylor, could you enlighten me if
12 any of those items were volunteered.
13 **BRYAN TAYLOR:** No. The only volunteer
14 permit condition is the one limiting the 20 acres for
15 the first two years of the permit. That's the only one
16 I've received.
17 **COMMISSIONER ECKLUND:** And a followup.
18 Can we do a mandatory -- I mean, this is a
19 modification. Can we modify what we're going to allow
20 by saying they have to use white noise backup beepers
21 and crushing can only happen between these hours? Can
22 we modify those requirements?
23 **BRYAN TAYLOR:** The permit conditions --
24 you're limited to which conditions you can apply, and
25 they are the ones that are in code. So you would be

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1 limited to applying the conditions that are in code.
2 **COMMISSIONER ECKLUND:** Can you list those
3 for us, please?
4 **BRYAN TAYLOR:** I can. I'll have to pull
5 them up. I can come back here in just a second.
6 **COMMISSIONER ECKLUND:** Okay, thank you.
7 **BRYAN TAYLOR:** Through the chair.
8 Commissioner Ecklund, is there a condition -- in
9 21.29.50 the permit conditions list mandatory
10 conditions. Is there something you have in mind
11 specifically? You mentioned white noise?
12 **COMMISSIONER ECKLUND:** Yeah, several of
13 the gravel pits in the last couple of years, since we
14 were working on the amendments to this ordinance,
15 volunteered that they would take off the backup beepers
16 and put in white noise backup alarms that meets the
17 requirement of their organizations, their safety.
18 **BRYAN TAYLOR:** I understand what you're
19 saying.
20 So those voluntary permit conditions are
21 just that. If you're asking whether you can make them
22 mandatory, I believe the answer is no. If they are
23 being volunteered by the applicant, that's one thing;
24 but if the white noise is not specifically mentioned
25 here, which it's not, then there is not really a way

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1 that you can make that mandatory.
2 **COMMISSIONER ECKLUND:** So is there any
3 conditions that we can add? Because it's a conditional
4 use permit. I believe most of the ones I've looked at
5 allow us to apply conditions.
6 **BRYAN TAYLOR:** 21.29.40 states the
7 standards for sand and gravel material sites, which is
8 those standards are what you're trying to meet by
9 applying the conditions.
10 And part A, the second sentence there:
11 Only the conditions set forth in KPB 21.29.50 may be
12 imposed to meet these standards.
13 There are certain conditions in 21.29.15
14 that can be taken inclusively. It says you can have,
15 for instance, buffers, 50 feet of natural vegetation,
16 or minimum six-foot earthen berm, or a minimum six-foot
17 fence.
18 So I believe you would be limited to
19 treating that inclusively and stacking those on top of
20 one another.
21 **COMMISSIONER ECKLUND:** Yeah. And I
22 believe when we approved the first two areas in this
23 pit, we looked at that very closely. And I think when
24 this came before us the last time we estimated that
25 they were meeting those conditions already in what they

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1 were asking, but we can't add any other.
2 These new white noise backup beepers are
3 something that is newer, and I don't know how old that
4 section of the code is. But, again, those were some of
5 the things that we recommended to the assembly to
6 modify in a new ordinance that would change the
7 material site permits.
8 So thank you for looking those up for me.
9 **BRYAN TAYLOR:** Yes, thanks.
10 **CHAIRMAN MARTIN:** Further discussion?
11 Ms. Bentz has her hand up.
12 **COMMISSIONER BENTZ:** Yes, thank you. I
13 just wanted to follow up on one of the questions that
14 Commissioner Ecklund hand about the operating time.
15 And it is one of the conditions in the
16 permit to limit the hours of operation for rock
17 crushing. So rock crushing equipment shall not be
18 operated between 10 p.m. and 6 a.m., and I think those
19 are the only hours of operations conditions that we can
20 apply. So anything else would be voluntary for
21 processing.
22 The other thing I wanted just to mention
23 about our code, and maybe this can help clarify a
24 couple of the water questions, is that this permit, I
25 believe, does not propose any excavation within the

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1 water table.
2 So in the application I think you stated
3 there were something like 32 test holes were dug
4 without encountering the water table. So that was the
5 indication that excavation would be above the water
6 table.
7 And our code does say that for our water
8 source separation conditions, that the conditional land
9 use permits require two-foot vertical separation from
10 the seasonal high water table to be maintained.
11 And just thinking through some of the
12 testimony that we heard as well, usually the water
13 monitoring isn't really required by the Planning
14 Commission unless there is an application to excavate
15 within the water table. And it's at that point that
16 the applicant would be responsible of installing water
17 monitoring tubes to really understand that groundwater
18 elevation, flow direction, and flow rate for the parcel
19 for the excavation area, and it needs to be monitored
20 for a year prior to the application.
21 So if there was any excavation by this
22 project in the water table, there would be
23 requirements -- or if it was modified future down the
24 road, it would be a requirement to have those
25 monitoring wells in place well in advance, a year in

<p style="text-align: right;">Page 42</p> <p>1 advance.</p> <p>2 So I just wanted to make sure that the</p> <p>3 testifiers heard that and that those were kind of the</p> <p>4 conditions that the Planning Commission has to work</p> <p>5 with when we're applying the code for these types of</p> <p>6 applications.</p> <p>7 CHAIRMAN MARTIN: Thank you. Further</p> <p>8 discussion? I'll entertain a motion for accepting the</p> <p>9 new items that Mr. Taylor suggested.</p> <p>10 COMMISSIONER BENTZ: I move to amend the</p> <p>11 motion to add the voluntary condition as outlined in</p> <p>12 the planner's memo.</p> <p>13 COMMISSIONER BRANTLEY: Second.</p> <p>14 CHAIRMAN MARTIN: It's been seconded by</p> <p>15 Mr. Brantley. Discussion? Anyone online, hands</p> <p>16 raised? If not, roll call, please.</p> <p>17 ANN SHIRNBERG: Bentz?</p> <p>18 COMMISSIONER BENTZ: Yes.</p> <p>19 ANN SHIRNBERG: Ecklund?</p> <p>20 COMMISSIONER ECKLUND: No.</p> <p>21 ANN SHIRNBERG: Fikes?</p> <p>22 COMMISSIONER FIKES: No.</p> <p>23 ANN SHIRNBERG: Gillham?</p> <p>24 COMMISSIONER GILLHAM: Yes.</p> <p>25 ANN SHIRNBERG: Morgan?</p>	<p style="text-align: right;">Page 44</p> <p>1 CHAIRMAN MARTIN: Ms. Bentz?</p> <p>2 COMMISSIONER BENTZ: Thank you, Ms.</p> <p>3 Jacuk. And I guess this is a question. At this time</p> <p>4 would you be willing to have that voluntary condition</p> <p>5 added to this conditional land use permit?</p> <p>6 ANDREA JACUK: Thank you, Ms. Bentz. I</p> <p>7 can say that I don't have the authority to make that</p> <p>8 decision right now, but that's something that we can</p> <p>9 discuss at a later time, I would be more than happy to.</p> <p>10 CHAIRMAN MARTIN: Thank you, further</p> <p>11 discussion.</p> <p>12 COMMISSIONER ECKLUND: Yes, it's Cindy</p> <p>13 again. Thank you, Chair Martin.</p> <p>14 I'm just going to say this. I don't know</p> <p>15 any other way to get the point across to the assembly</p> <p>16 that this ordinance, this section of code has got to be</p> <p>17 fixed. It's got to be looked at.</p> <p>18 I mean, I understand the not in my</p> <p>19 backyard thing, but we didn't even really address the</p> <p>20 noise or the safety on the road or -- we have in the</p> <p>21 past, but, you know, we just get to the point where we</p> <p>22 just -- you know, we throw our hands up in the air</p> <p>23 because our code doesn't allow us to do any of that.</p> <p>24 So, you know, our government is supposed</p> <p>25 to be with the people, not with organizations making</p>
<p style="text-align: right;">Page 43</p> <p>1 COMMISSIONER MORGAN: Yes.</p> <p>2 ANN SHIRNBERG: Venuti?</p> <p>3 COMMISSIONER VENUTI: No.</p> <p>4 ANN SHIRNBERG: Brantley?</p> <p>5 COMMISSIONER BRANTLEY: Yes.</p> <p>6 ANN SHIRNBERG: Martin?</p> <p>7 CHAIRMAN MARTIN: Yes.</p> <p>8 Motion passes 5 to 3. And further</p> <p>9 discussion on the main motion as amended?</p> <p>10 COMMISSIONER BENTZ: Chair Martin?</p> <p>11 CHAIRMAN MARTIN: Yes, Mrs. Bentz.</p> <p>12 COMMISSIONER BENTZ: I have a suggestion</p> <p>13 or a question for the applicant if they are available</p> <p>14 to see if they would add another voluntary condition to</p> <p>15 use white noise alarms rather than the beepy alarms on</p> <p>16 the equipment at this excavation site.</p> <p>17 CHAIRMAN MARTIN: Ms. Jacuk, are you</p> <p>18 available for questions?</p> <p>19 ANDREA JACUK: Hi, yes. This is Andrea</p> <p>20 Jacuk. Thank you, Ms. Bentz.</p> <p>21 So white noise backup alarms, that is</p> <p>22 something that we are willing to discuss with our</p> <p>23 operator, but I will say that white noise backup alarms</p> <p>24 are not MSHA required, but it is something that we're</p> <p>25 willing to explore further if needed. Thank you.</p>	<p style="text-align: right;">Page 45</p> <p>1 the money off of a new road, you know. And it's</p> <p>2 supposed to be for the good of the people as a whole.</p> <p>3 Yes, the road around Cooper Landing is</p> <p>4 going to be wonderful, that bypass. That road is</p> <p>5 probably going to be a big improvement for the people</p> <p>6 as a whole.</p> <p>7 But in the meantime, who are we listening</p> <p>8 to when we cannot make conditions on these permits?</p> <p>9 Who is, you know, holding our hands, I mean, holding us</p> <p>10 back from doing something to help mitigate what the</p> <p>11 residents in the area are going to have to go through</p> <p>12 and what the road is going to be going through.</p> <p>13 And, you know, I know the code says this</p> <p>14 is what the code says and we have to vote yes. But I</p> <p>15 don't know how to get the assembly's attention. So I'm</p> <p>16 just saying that now, thanks.</p> <p>17 CHAIRMAN MARTIN: Yeah, Ms. Ecklund, I</p> <p>18 hear you loud and clear. It's -- in trying to get the</p> <p>19 assembly's attention, which it's critical that,</p> <p>20 regardless of which way you vote, that you have sound</p> <p>21 findings that will pass muster in court.</p> <p>22 Further discussion? Seeing no one on</p> <p>23 line, none in the audience, roll call, please.</p> <p>24 ANN SHIRNBERG: Bentz? I'm sorry, turn</p> <p>25 my microphone on. Bentz?</p>

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1 COMMISSIONER BENTZ: Yes.
2 ANN SHIRNBERG: Ecklund?
3 COMMISSIONER ECKLUND: No.
4 ANN SHIRNBERG: Fikes?
5 COMMISSIONER FIKES: No.
6 ANN SHIRNBERG: Gillham?
7 COMMISSIONER GILLHAM: Yes.
8 ANN SHIRNBERG: Morgan?
9 COMMISSIONER MORGAN: Yes.
10 ANN SHIRNBERG: Brantley?
11 COMMISSIONER BRANTLEY: Yes.
12 ANN SHIRNBERG: Venuti?
13 COMMISSIONER VENUTI: Yes.
14 ANN SHIRNBERG: Martin?
15 CHAIRMAN MARTIN: Yes. Motion passes 6
16 to 2. Thank you, everyone. That brings us closer to
17 the end.
18 1:36:33
19 (End of requested portion)
20
21
22
23
24
25

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1 CERTIFICATE
2 I, LEONARD J. DiPAOLO, Registered Professional
3 Reporter, Certified Realtime Reporter, Certified CART
4 Provider, and Notary Public in and for the State of
5 Alaska, do hereby certify:
6 That the tape recording, CD #08/09/21 Planning
7 Commission was transcribed under my direction by
8 computer transcription; that the foregoing is a true
9 record of the testimony and proceedings taken at that
10 time to the best of my ability; and that I am not a
11 party to nor have I any interest in the outcome of the
12 action herein contained.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my seal this 8th day
15 of September, 2021.
16
17
18
19
20
21
22 LEONARD J. DiPAOLO, RPR, CRR, CCP
23 Notary Public for Alaska
My Commission Expires: 2-3-2024
24 #3767
25

	2:18;40:4;44:13	3:8,9,13,23,25;4:12,18;6:18;41:2,14,20	28:18;31:17;33:5,6;45:23	5:22,23;40:11,12;42:10,17,18;43:10,11,12,20;44:1,2,6;45:24,25;46:1
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MEMORANDUM

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

FROM: Sean Kelley, Borough Attorney

DATE: December 30, 2021

RE: Setting the Remand Hearing Date ITMO: Beachcomber, LLC

The purpose of this scheduling discussion is for the Planning Commission to set a date to consider this matter consistent with the Superior Court's decision. The Commission should not discuss the merits during the scheduling discussion.

On September 2, 2021, Kenai Superior Court Judge Jason M. Gist issued a *Memorandum Decision and Order* in the matter of *Hans Bilben, et al. v. Kenai Peninsula Borough, Planning Commission, and Beachcomber LLC, et al.*, Appeal Case No. 3KN-20-00034CI (the "decision"). The Court's decision is attached. Two excerpts from the remand decision, at page 15 of 17 and page 17 of 17, are provided to highlight the direction and guidance from the Court:

"Having reviewed the record in this case, this court agrees that the findings of fact in Resolution 2018-23 are supported by substantial evidence. However, the court finds that the findings of fact related to the Buffer Zone in Section 17 of the Resolution are legally insufficient under KPB 21.29.050(A)(2). Under that Code section, "[t]he vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission ... " The findings of fact in Section 17 of the Resolution detail what conditions are imposed on the CLUP, and those findings repeatedly indicate that some of the proposed conditions will "increase visual and noise screening." (See, decision at page 15.)

....

"The Commission did not specifically find whether the conditions imposed on the CLUP were *deemed appropriate* to satisfy the standards set forth in KPB 21.29.040. By all accounts from the record, it appears that the Commission operated under the incorrect assumption that KPB 21.29.040 was "necessarily satisfied" so long as the CLUP contained conditions in KPB 21.29.050. It is unclear from the record whether the Commission

deemed the conditions appropriate to satisfy those standards. For these reasons, the case is REMANDED back to the Commission for further review and/or clarification. If the Commission does in fact deem the conditions set forth in Resolution 2018-23 appropriate to satisfy the standards set forth in KPB 21.29.040, then it shall grant the CLUP. If, however, the Commission finds that no conditions in KPB 21.29.050 could adequately minimize visual and noise impacts to the standards set forth in KPB 21.29.040, then it may deny the CLUP.” (Emphasis original). (*See*, decision at page 17.)

It is recommended that as part of this scheduling discussion the Planning Commission consider scheduling a special meeting for the sole purpose of deciding two adjudicatory proceedings on remand, to wit: (1) the *Bilben v. Beachcomber LLC* remand hearing; and (2) the *Rosenberg v. Cook Inlet Region, Inc.* remand hearing. A special meeting for this purpose can be arranged for the week of January 17th or the week of January 24th.

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² Excerpt of Record ("Exc."), pp.1-21.

Beachcomber's CLUP application contained information required by the KPB Code, including a reclamation plan and proposed buffers to minimize impact on the surrounding community.³

Notice of the CLUP was posted and public comment was invited at a meeting set for July 16, 2018. Prior to the meeting, the Commission received nearly 200 documents for consideration. At the meeting, the Commission heard hours of public testimony from over 30 people affected by the CLUP. Due to the volume of testimony, the meeting continued beyond the Commission's ordinary adjournment time. Following the meeting, the Commission deliberated on the proposed gravel mine and voted to disapprove the application by a vote of 6-3.⁴ The Commission identified two primary reasons under KPB Code 21.29.040 for disapproving the CLUP application: (1) the noise disturbance will not be sufficiently reduced with any buffer or berm that could be added, and (2) the visual impact to the neighboring properties will not be sufficiently reduced.⁵

On August 2, 2018, Beachcomber appealed the Commission's denial of the CLUP. In advance of the appeal proceeding, the Planning Director submitted a brief in which he described the Commission's decision to deny the CLUP as "hasty and reactionary [...] made to accommodate the fears and concerns of the crowd."⁶ The Planning Director requested that the Hearing Officer either approve the CLUP or remand the decision back to the Commission for further analysis.⁷

On December 6, 2018, Hearing Officer Holly Wells was assigned to preside over the administrative appeal. In her decision, Officer Wells discussed KPB Code 21.29.050, and held that the Commission exceeded the scope of its authority in denying the CLUP application.⁸, Officer Wells found that:

³ Exc. 1-4.

⁴ Exc. 36.

⁵ Exc. 36.

⁶ Exc. 227.

⁷ The Planning Director stated that the Commission did not make sufficient findings to support its denial. Specifically, "[p]ursuant to KPB 21.29.050(A)(2) the planning commission determines the appropriate height and density of the buffers for a material site within the confines of the code section. However, no exploration or effort was made to determine whether the buffers proposed by staff, or different or additional buffers, could be fashioned to screen the material site. If the planning commission believed that buffers were not feasible it should have made findings to support that position and then waived the buffers under KPB 21.29.050(e). Further, the decision lacked any reference as to whether the other 14 conditions set forth in KPB 21.29.050 were also useless to afford any protection to the surrounding property owners." See Exc. 224.

⁸ Exc. 60.

“the Code does not provide the Commission discretion to deny such a permit when the application has been properly submitted [...] The Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code [...] the [Kenai Peninsula Borough] Assembly, in adopting the Code, only granted the Commission authority to impose these conditions and ensure that any application complied with these application requirements [...] the Commission may only apply the conditions under KPB 21.29.050 when issuing a material site conditional use permit.”⁹

Officer Wells remanded the CLUP application back to the Commission for further findings. In ruling on a *Motion for Reconsideration* by Bilben, Hearing Officer Wells reiterated that “the Commission’s findings were not sufficient to determine whether the denial was properly within the Commission’s authority.”¹⁰ Bilben did not appeal Officer Wells’ decision. On remand, the Planning Department issued a staff report and provided background information to the Commission with excerpts from the hearing with Officer Wells.¹¹

Beginning in March, 2019, the Commission again considered Beachcomber’s CLUP application at a series of hearings and deliberations held over five days.¹² Commissioners expressed ongoing concerns about the CLUP application, including that Beachcomber’s proposed buffer would not adequately reduce the noise disturbance and visual impact on the surrounding properties.¹³

Beachcomber voluntarily added conditions to mitigate the visual and noise impacts, including (1) using roaming (rather than stationary) berms to be moved as the extraction area expanded, (2) operating onsite equipment with multi-frequency (white noise) back-up alarms instead of traditional (beep-beep) back-up alarms, and (3) restricting operating hours for rock crushing on holiday weekends during the summer.¹⁴ Following deliberations, the Commission voted to approve the application by a vote of 8-2.¹⁵ The Commission adopted Resolution 2018-23, which included 30 findings of fact and outlined 22 permit conditions.¹⁶ The

⁹ *Id.*

¹⁰ Exc. 56.

¹¹ *Id.*

¹² March 25, April 8, April 22, June 10, June 24, 2019, with public comments heard only on June 10, 2019.

¹³ Exc. 94-96.

¹⁴ Exc. 115, 117-119.

¹⁵ Exc. 113.

¹⁶ Exc. 114-119.

Resolution adhered to the instructions provided on remand that “[c]ompliance with the mandatory conditions in KPB [Code] 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.”¹⁷

Bilben appealed the Commission’s approval of the CLUP. On October 30, 2019, Hearing Officer Goldsmith presided over the appeal. Officer Goldsmith gave deference to the Commission’s interpretation of the Code, and found that the “Commission’s interpretation that these two provisions must be read together, and that compliance with KPB 21.29.050 necessarily means compliance with KPB 21.29.040, is reasonable.”¹⁸ Hearing Officer Goldsmith upheld the Commission’s decision, finding that the “Commission acted within the scope of its authority in approving the Application, and finding that “the additional facts presented at the Commission’s 2019 public meetings on this Application provide the evidence to support the Commission’s findings of fact.”¹⁹

II. PARTIES’ ARGUMENTS

a. Standard of Review

The parties agree on which standards of review are appropriate for administrative decisions, but disagree as to which should be applied in this case. Bilben argues that the court should apply the independent judgment standard, arguing that deference to agency decisions are not warranted where the matter is one of purely statutory interpretation for which no agency expertise or questions of fundamental policy are involved.²⁰ Bilben argues that the question of whether the Commission has authority to disapprove a completed permit application is one of purely statutory interpretation. Bilben notes that courts have accorded deliberative weight to “what the agency has done, especially where the agency interpretation is longstanding.”²¹ However, Bilben asserts that the Commission’s final interpretation of the Code in this case (that compliance with KPB Code 21.29.050 necessarily means compliance with KPB Code

¹⁷ Exc. 115.

¹⁸ Exc. 182.

¹⁹ Exc. 177.

²⁰ *Balough v. Fairbanks North Star Borough*, 995 P.2d 245 (Alaska 2000).

²¹ *State, Dep’t of Health and Human Services, Div. of Public Assistance v. Gross*, 347 P.3d 116 (Alaska 2015).

21.29.040) is due little deference based on longevity because (1) the final interpretation of the Code did not originate from the agency, but rather from Hearing Officer Wells, and (2) the Commission has not previously been required to approve a CLUP application in a residential area with overlooking surrounding properties where the standards in KPB Code 21.29.040 could not feasibly be met.

Bilben argues that if the court applies deference to agency interpretation, it should defer to the Commission's 2018 interpretation rather than the 2019 interpretation. Bilben argues that when the Commission voted to disapprove the CLUP application in 2018, the majority of the Commission understood that the Commission was authorized to determine whether the standards in KPB Code 21.29.040 had been met prior to approving the permit.

Conversely, Appellees argue that the court should apply the reasonable basis standard of review because (1) the Commission has expertise in approving or denying CLUPs pursuant to the KPB Code and should be afforded deference; (2) one of the Commission's core statutory functions is to consider and approve properly-submitted CLUPs; (3) the Commission has maintained a longstanding and continuous policy of approving CLUPs that comply with KPB Code; and (4) the Alaska Supreme Court has specifically directed courts to be deferential when considering a zoning board's determination.²²

b. Discretion of the Planning Commission

Bilben argues that the instruction provided to the Commission on remand – that it lacked the discretion to judge whether the CLUP application met the KPB Code 21.29.040 standards and that it lacked the authority to disapprove a completed permit application – was incorrect. Bilben argues that KPB Code 21.25.050(b) explicitly provides the Commission with discretion to “either approve, modify, or disapprove the permit application.”²³ Bilben asserts that the purpose of Chapter 21.25 is to “require advance notice, to provide an opportunity for public

²² *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 173 n.12 (“When a planning agency does, in fact, provide its interpretation of an ordinance within its area of expertise, we will give that interpretation considerable deference.”); See also, *Griswold v. Homer Advisory Planning Commission et al.*, No. S-17669, Op. No. 7515 (Alaska Apr. 9, 2021).

²³ KPB Code 21.25.050(b).

comment, and *impose minimum standards*” for certain land uses, including CLUPs.²⁴ Bilben further asserts that “before granting the permit, the Commission must find *at a minimum* that the proposed activity complies with the requirements” of Chapter 21.25.²⁵ Therefore, Bilben argues that the standards outlined in the Code represent the floor of the Commission’s discretionary authority, not the ceiling.

Bilben contends that statutory construction indicates that the Commission does indeed have authority to disapprove a CLUP application that does not meet the KPB 21.29.040 standards. Bilben asserts that if the Commission were prohibited from denying a completed application, various portions of the Code would be rendered obsolete, including (1) the responsibility of the Planning Director to assess the completeness of an application provided in KPB 21.25.050(A); (2) the Commission’s authority to “either approve, modify or disapprove the permit application” provided in KPB 21.25.050(B); and (3) the utility and meaning of the standards in KPB 21.25.050(B),²⁶ 21.25.020,²⁷ and 21.29.040.²⁸

A more straightforward interpretation, Bilben argues, is that the Legislature imposed minimum standards that must be met prior to granting permission to engage in activities on a parcel of land. To that end, Bilben asserts that the Legislature divided responsibility between the Planning Director, who is responsible for assessing completeness of an application, and the Commission, which is responsible for assessing whether the standards have been met.

Moreover, Bilben asserts that the Code’s stated purpose is to “provide advance public notice, to provide an opportunity for public comment, and impose minimum standards for certain land uses which may be potentially damaging to the public health, safety and welfare, in a manner that recognizes private property rights.”²⁹ As such, Bilben argues that it would be unreasonable to adopt an interpretation of the Code that prohibits the Commission from

²⁴ KPB Code 21.25.020 (emphasis added).

²⁵ KPB 21.25.050(B) (emphasis added).

²⁶ KPB Code 21.25.050(B) (“Before granting the permit, the commission must find at a minimum that the proposed activity complies with the requirements of this chapter.”).

²⁷ KPB Code 21.25.020 (“It is the purpose of this chapter... to impose minimum standards for certain land uses which may be potentially damaging to the public health, safety and welfare...”).

²⁸ Setting forth the list of six standards applicable to Material Site Permits.

²⁹ KPB 21.25.020.

disallowing a CLUP, regardless of the outcome of public comment, public health, safety and welfare, or whether or not the application satisfies standards imposed by KPB 21.29.040.

Bilben concedes that the Commission's authority to impose standards on material site permits is limited by KPB Code 21.29. Specifically, KPB Code 21.29.050 provides sixteen permit conditions which the Commission may impose to meet the six specific standards outlined in KPB 21.29.040. However, Bilben argues that while KPB Code 21.29.040 states that "[o]nly the conditions set forth in KPB 21.29.050 may be imposed to meet the standards," it does not otherwise restrict or define the Commission's authority to deny an application in the event that the standards are, nevertheless, not met by the applicant. Bilben argues that the word "only" in KPB Code 21.29.040 serves to limit the universe of allowable conditions that the Commission could impose on a gravel mine operator, not eviscerate the Commission's discretion to deny an application altogether.³⁰ Therefore, Bilben argues that the Commission was not in error when it disapproved the CLUP in 2018 for failure to sufficiently reduce noise or visual impacts.

In opposition, Appellees argue that the word "only" in KPB Code 21.29.040 limits the Commission's discretion to deny a completed CLUP application. Namely, that the Commission may *only* impose conditions listed in KPB Code 21.29.050 to meet the standards outlined in KPB Code 21.29.040. Appellees note that KPB Code 21.29.040 provides a list of six goals, including minimizing noise disturbances and visual impacts. However, Appellees argue that KPB Code 21.29.040 illustrates the Legislative Assembly's aspirational intent; it does not seek to eliminate *all* noise disturbances or visual impacts - instead it only aspires to *minimize* them. Appellees argue that KPB 21.29.050(A)(2)(e) explicitly gives the Commission the ability to "waive buffer requirements" entirely "where the topography of the property [...] makes screening not feasible or necessary." Appellees contend that the Commission must view a CLUP application through the lens of KPB 21.29.050 while keeping the six aspirational goals of KPB 21.29.040 in mind. Appellees argue that because the six standards of KPB 21.29.040 are aspirational, it would be improper for the Commission to deny a CLUP based only on those standards if the applicant otherwise meets the sixteen mandatory conditions outlined in KPB 21.29.050.

³⁰ KPB 21.29.040 ("Only the conditions set forth in KPB 21.29.050 may be imposed to meet these [six] standards").

Appellees argue that the Assembly crafted legislation that favors minimal restrictions on landowners to use and control their land. In support, they assert that in 1999 the Assembly removed a Code provision that required the Commission to deny a permit application if it was either detrimental to the public welfare or injurious to other property in the area.³¹ Instead, the Assembly adopted Code provisions that limit the Commission's discretion to deny a CLUP solely to situations in which the application fails to meet the mandatory conditions of KPB Code 21.29.050.

Both parties agree that when various Code chapters conflict, the more specific chapter controls. Appellees argue that KPB 21.29, which outlines mandatory permit conditions, is more specific than the provisions in KPB 21.25. Therefore, Appellees argue, the discretion afforded to the Commission in chapter 21.25 to "either approve, modify or disapprove" a permit application gives way to the limited discretion provided to the Commission in KPB 21.29 to deny a permit application if and only if it fails to meet the mandatory conditions of KPB 21.29.050. Appellees assert that the Commission does not have authority to impose additional conditions or requirements beyond those listed in KPB 21.29.050.³² Appellees argue that in 2019, the Commission found that Beachcomber's application met all of the mandatory conditions and that approval of the CLUP was, therefore, proper.

In reply, Bilben asserts that he is not seeking to impose *additional* conditions to the CLUP, but rather only aim to apply the standards already listed in the Code.³³ Bilben asserts that mapped depictions of the proposed CLUP area that were created using the Borough's mapping technology demonstrates that the visual and noise impacts will not be minimized.³⁴ He further insists that conditions listed in the CLUP may be ineffective at minimizing the visual and aural impact. For example, he argues, a condition that requires a screen or buffer to be placed near the material excavation site would do nothing to minimize the impacts for the transportation routes or processing sites. For those reasons, he argues that the Commission had authority to deny the CLUP.

³¹ See former KPB Code 21.13.

³² See Warrington, Memorandum Decision and Order, 3KN-05-00206CI, at 8.

³³ *Id.* Bilben argues that Warrington is distinguishable because in that case the agency found that the proposed gravel mining pit would not affect the neighboring water sources.

³⁴ Exc. 12-13.

c. Substantial Evidence

Bilben argues that substantial evidence does not support the Commission's findings in Resolution 2018-23 and that Hearing Officer Goldsmith's decision upholding the Resolution must be reversed. Bilben asserts that Officer Goldsmith reasoned that substantial evidence existed for the Resolution approving the CLUP because "due consideration must be given to the Commission's interpretation of the Code."³⁵ However, Bilben asserts that it cannot be discerned whether the Commission determined that the standards had been met in 2019 because the only finding relating to standards states that the standards in KPB 21.29.040 are "necessarily met" when the mandatory conditions in KPB 21.29.050 are imposed.³⁶ Bilben contends that the evidence presented in 2019 was not sufficiently different from the evidence presented in 2018 when the Commission denied the CLUP due to visual and noise impacts.

In opposition, Appellees argue that the Commission made factual findings concerning the topography of the properties, as well as the ability of buffers to minimize noise and visual impacts. Specifically, the Commission discussed how Beachcomber's CLUP could "mar the view," and recognized that the "material site cannot be conditioned so that all adjacent parcels are equally screened by the buffers."³⁷ Appellees argue that after reviewing the evidence and detailing the findings, the Commission "deemed appropriate" the conditions imposed on Beachcomber's CLUP application.³⁸

III. DISCUSSION

A. Standard of Review

When the superior court sits as a court of appeal from an administrative decision, there are four principle standards of review. The court applies the "substantial evidence test to

³⁵ Appellant's Brief at p.35-36; Exc. 184-85.

³⁶ Exc. 115.

³⁷ Exc. 116.

³⁸ Appellee's Brief at p.24.

questions of fact,”³⁹ the “reasonable basis test to questions of law involving agency expertise,”⁴⁰ the “substitution of judgment test” for questions of law that do not involve agency expertise, and the “reasonable and not arbitrary standard applies to review of administrative regulations.”⁴¹ The Alaska Supreme Court has recognized that planning commissions “receive deference equal to that accorded to an administrative agency,” and that “their interpretations of zoning ordinances should be given great weight and...accepted whenever there is a reasonable basis for the meaning given by the board.”⁴²

B. Authority of the Planning Commission to Deny a CLUP

A significant dispute between the parties concerns the scope of the Commission’s authority in reviewing a CLUP application. Appellants argue that the Commission initially interpreted the Borough Code to allow them to deny an application that did not sufficiently satisfy the requirements of KPB 21.29.040 even after imposing conditions contained in KPB 21.29.050. As such, Appellants urge this court to defer to the Commission’s interpretation of the Borough Code at that time. Appellee’s urge the court to adopt the Commission’s interpretation of the Borough Code as it was during the 2019 hearings. Appellant’s respond that the Commission did not interpret the Borough Code in 2019, but rather, adopted the required interpretation as ordered by Hearing Officer Wells.

At the July 16, 2018, hearing before the Commission, the commissioners discussed whether they had the authority to deny the CLUP. Commissioner Ecklund believed that the Commission had “sufficient findings to deny this permit based on...the borough code as it is written now.”⁴³ Commissioner Ruffner felt otherwise, stating that “as commissioners, our hands are tied.”⁴⁴ Commissioner Carluccio questioned whether the intent of the law was to

³⁹ *Frank Griswold v. Homer Advisory Planning Comm’n, et.al.*, 484 P.3d 120, 127 (Alaska 2021) (internal citations and quotations omitted).

⁴⁰ *Id.*

⁴¹ *State, Dep’t of Nat. Res. V. Alaska Crude Corp.*, 441 P.3d 3939, 398 (Alaska 2018).

⁴² *Griswold*, 484 P.3d at 127 (citing *Griswold v. City of Homer*, 55 P.3d 64, 67-68 (Alaska 2002) (quoting *S. Anchorage Concerned Coal, Inc. v. Coffey*, 862 P.2d 168, 173 (Alaska 1993))).

⁴³ Exc. 34.

⁴⁴ *Id.* at 35.

protect surrounding landowners, giving the Commission authority to deny the CLUP.⁴⁵ As evidence by the vote of 6-3 to deny the CLUP, Other Commissioners also interpreted the Borough Code in such a way that gave the Commission the authority to deny the CLUP due to their findings that any conditions imposed would fail to sufficiently minimize noise or visual impacts.⁴⁶

On appeal, Hearing Officer Wells found that the Commission exceeded the scope of its authority in denying the permit based upon its determination that the conditions would not afford adequate protection from noise and visual blight.”⁴⁷ She further held that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code.”⁴⁸ On remand at the June 10, 2019, hearing, some commissioners continued to recognize that they did not believe the conditions in KPB 21.29.050 would sufficiently minimize the noise and visual impacts of the material site.⁴⁹ At the July 24, 2019, hearing, Commissioner Ruffner, however, expressed his long-held belief that “if a permit application comes in and it’s complete and it meets the conditions that have been set forth in 21.29, then those....if those conditions are met, then we don’t have the ability to deny the permit.”⁵⁰

As noted above, this court is to apply its own independent judgment to questions of law that do not involve agency expertise, but is to give deference to planning commissions in interpreting their zoning ordinances involving agency expertise “whenever there is a reasonable basis for the meaning given by the board.”⁵¹ Appellants argue that this court should apply its

⁴⁵ *Id.* Commissioner Carluccio eventually voted to deny the CLUP. *Id.* at 36.

⁴⁶ *Id.* at 36 (Commissioner Bentz noting that “I don’t think these conditions will minimize noise disturbance...and the conditions won’t minimize visual impacts either; Commissioner Morgan stated that she did not “see how the 50-foot buffer or berms are going to minimize visual impact or sound impact because of the unique topography.”; Exc. 96 (Commissioner Whitney expressed concern that “I just don’t think the berms that proposed and anything that’s going on here is adequate to control the visual impact...”)).

⁴⁷ Exc. 46.

⁴⁸ Exc. 50.

⁴⁹ Exc. 90 (Commissioner Ernst expressed concern that “in this unique situation...[i]s there any possible buffer that could be reasonably used to protect the, you know, the noise levels and visual impact of this pit...?; Exc. 95, Commissioner Ecklund worried that while KPB 21.29.050(14) required consideration of the “best interest of the borough and the surrounding property owners,” the limit of the Commission’s authority gave them “no meat to help [surrounding property owners] in this ordinance.”)

⁵⁰ Exc. 103.

⁵¹ *Griswold*, 484 P.3d at 127 (citing *Griswold v. City of Homer*, 55 P.3d 64, 67-68 (Alaska 2002) (quoting *S. Anchorage Concerned Coal, Inc. v. Coffey*, 862 P.2d 168, 173 (Alaska 1993))).

independent judgment in interpreting the Borough Code in this instance, as the scope of the Commission's authority does not involve agency expertise. Appellees argue that the Commission's interpretation of the Borough Code is entitled to deference, as it does in fact involve agency expertise.

While both arguments have merit, this court finds that under either standard of review, the Commission has authority to deny a CLUP if it determines that the requirements of KPB 21.29.040 cannot be met. It is clear that the Commission interpreted the Borough Code in 2018 in such a way that provided it with the authority to deny the CLUP, as it voted 6-3 to deny the CLUP. While the Commission voted 8-2 in favor of the CLUP in June 2019, the record is not entirely clear as to whether this decision hinged on the commissioners' belief that they were obliged to do so per Hearing Officer Wells' decision, or whether they actually found that the visual impacts and noise levels were sufficiently minimized. Thus, if this court were to apply a deferential standard of review, it would defer to the agency's interpretation as it was in June 2018.

Applying the independent judgment standard, the court finds that the Commission had the authority to deny the CLUP if the standards in KPB 21.29.040 cannot not be satisfied. KPB 21.25 details the procedure for obtaining a CLUP. KPB 21.25.040 requires a permit for "material site pursuant to KPB 21.29."⁵² Under KPB 21.25.050, there must be a public hearing where those wishing to contest the permit can be heard. Following the hearing, the Commission "*shall either approve, modify, or disapprove the permit application.*"⁵³ KPB 21.25 contains general provisions, while KPB 21.29 are more specific provisions. While this court recognizes that "where the provisions of [KPB 21.25] and a CLUP chapter regulating a specific use conflict, the more specific chapter shall control,"⁵⁴ the court does not find a conflict between KPB 21.25.050's requirement that the Commission "approve, modify, or disapprove" and any provision in KPB 21.29. Simply put, there is no specific provision in KPB 21.29 that precludes

⁵² The parties agree that the proposed gravel pit in this case falls within the definition of a "material site," and that it is of sufficient magnitude to require a CLUP rather than a "Counter Permit" under 21.29.020.

⁵³ KPB 21.25.050(B).

⁵⁴ KPB 21.25.010.

the Commission from denying a CLUP when it finds that the conditions in KPB 21.29.050 will not satisfy the standards in KPB 21.29.040.

KPB 21.29.040 states that the material site regulations are “intended to protect against...noise and visual impacts,” listing six standards that include “minimiz[ing] noise disturbances to other properties,” and “minimiz[ing] visual impacts.” That section also states that “*Only* the conditions set forth in KPB 21.29.050 may be imposed to meet these standards.”⁵⁵ Appellees assert that this language requires the Commission to grant a CLUP application so long as the conditions in KPB 21.29.050 are met. This argument is supported by Hearing Officer Wells’ finding that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code.”⁵⁶

The language in KPB 21.29.040(A) that “*Only* the conditions set forth in KPB 21.29.050 may be imposed to meet these standards” undoubtedly limits the Commission’s authority. If the Commission believes that certain steps must be taken to meet the standards set forth in KPB 21.29.040, the only tools at its disposal to meet such standards are those conditions listed in KPB 21.29.050. Planning authorities are “bound by the terms and standards of the applicable zoning ordinance, and are not at liberty to either grant or deny [permits] in derogation of legislative standards.”⁵⁷ CLUP applicants may voluntarily agree to additional types of conditions that are not contained in KPB 21.29.050, but the authority of the Commission to impose such conditions is legislatively restricted.⁵⁸ Indeed, Appellees agreed to a number of voluntary conditions in this case.⁵⁹

While KPB 21.29.040 limits the types of conditions the Commission can impose, KPB 21.29.050 provides the Commission with some latitude as to those specific conditions. For example, material sites must maintain a “buffer zone” of at least “50 feet of undisturbed natural vegetation, *or* ... a minimum six-foot earthen berm, *or*... a minimum six-foot fence.”⁶⁰

⁵⁵ KPB 21.29.040(A) (emphasis added).

⁵⁶ Exc. 50.

⁵⁷ *So. Anch. Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 174-75 (Alaska 1993).

⁵⁸ KPB 21.29.050(A)(14).

⁵⁹ Exc. 117-18.

⁶⁰ KPB 21.29.050(A)(2)(i)-(iii) (emphasis added).

However, while only one type of these conditions is required, the Commission has the authority to designate “a combination of the above *as it deems appropriate*.”⁶¹ While Hearing Officer Wells found that “the Code does not afford the Commission discretion to judge the effectiveness of the conditions identified in the Code,”⁶² this finding appears to be in direct conflict with KPB 21.29.050’s requirement that “[t]he vegetation and fence *shall* be of sufficient height and density to provide visual and noise screening of the proposed use *as deemed appropriate by the planning commission*.”⁶³ In other words, the Commission is specifically tasked with determining the effectiveness of the conditions that are to be imposed and whether they will meet the standards set forth in KPB 21.29.040. If after judging the effectiveness of the potential conditions in its toolbox under KPB 21.29.050(A)(2) the Commission finds that no combination of buffers could be “deem[ed] appropriate” to satisfy the standards set forth in KPB 21.29.040, the Commission is not required to approve the CLUP nonetheless. Nothing in KPB 21.29 suggests otherwise, nor do any of KPB 21.29’s provision conflict with KPB 21.25.050(B) grant of authority to “approve, modify, or deny” a CLUP.⁶⁴

Appellees argue that the conclusion that the Commission is required to approve the CLUP is “consistent with the unzoned rural area at issue in this appeal, along with the general approval-oriented framework adopted by the Assembly.”⁶⁵ Appellees cite to *Warrington v. Kenai Peninsular Borough Board of Adjustments, Cecil Jones and In Jones*, where Judge Huguelet found that “[t]he Assembly has specifically adopted ordinances that are protective of material site operators,” and “could have chose a policy that favors residential property owners, but instead it chose to adopt a policy that favors material site operators.”⁶⁶

⁶¹ KPB 21.29.050(A)(2)(c).

⁶² Exc. 50.

⁶³ *Id.* (emphasis added).

⁶⁴ The court is not persuaded by Appellee’s argument that an “application cannot be denied based on inadequate buffers, when under KPB Code either enhancing the buffers or waiving the buffers are the authorized resolution to a situation where buffers are not feasible.” See Appellee Brief, p.10, n.18. KPB 21.29.050(e) states that “*At its discretion*, the planning commission *may* waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary.” Waiving the buffer requirements are clearly within the discretion of the Commission. Moreover, it seems to this court that the Commission would be derelict in its duties to waive the requirements in this instance given that under that Code section, “[b]uffer requirements *shall* be made in consideration of and in accordance with existing uses of adjacent property at the time of the approval of the permit.”

⁶⁵ Appellee’s Brief, p.18.

⁶⁶ Memorandum Decision and Order, 3KN-05-00206C1, at 9-10 (May 31, 2006) (Appendix A to Appellee’s Brief).

Indeed, the Borough Code significantly favors material site operators. The Commission recognized as much in its June 10, 2019, hearing.⁶⁷ That favoritism is not unlimited, however. Nothing in the Borough Code requires the Commission to approve a CLUP even where it finds that the conditions imposed cannot possibly minimize the visual and noise impacts to surrounding neighbors. In fact, Judge Huguelet even recognized the interplay between KPB 21.25.050's grant of authority to "approve, modify, or disapprove" permit applications where certain conditions cannot be sufficiently satisfied.⁶⁸

For these reasons, the court finds that the Commission does have the authority under KPB 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied, even after implementing the tools at its disposal listed in KPB 21.29.050.

C. Why Remand to the Planning Commission is Necessary

As noted above, this court finds that the Commission does have the authority under KPB 21.25.050(B) to deny a CLUP if it finds that the standards set forth in KPB 21.29.040 cannot be sufficiently satisfied by conditions in KPB 21.29.050. Under KPB 21.25.050(B)-(C), the Commission must detail their findings in writing by way of a resolution, which they did in this case in Resolution 2018-23. The court will uphold the Commission's factual findings if they are supported by substantial evidence.⁶⁹

Having reviewed the record in this case, this court agrees that the findings of fact in Resolution 2018-23 are supported by substantial evidence. However, the court finds that the findings of fact related to the Buffer Zone in Section 17 of the Resolution are legally insufficient under KPB 21.29.050(A)(2). Under that Code section, "[t]he vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as

⁶⁷ Exc. 095 (Commissioner Ecklund noted that the Planning Commission had only denied two gravel pits in the ten years he had been on the commission, noting that both of those denials had been overturned).

⁶⁸ *Warrington* Memorandum Decision and Order, 3KN-05-00206C1, at 6, 8 (recognizing the authority of the Planning Commission to deny a permit under KPB 21.25.050, and recognizing the authority of the Planning Commission to "consider the evidence, as they did in the case at hand, to determine whether gravel mining will negatively impact the quality and quantity of water" in a nearby aquifer.).

⁶⁹ *State, Dep't of Nat. Res. v. Alaska Crude Corp.*, 441 P.3d at 398.

deemed appropriate by the planning commission...” The findings of fact in Section 17 of the Resolution detail what conditions are imposed on the CLUP, and those findings repeatedly indicate that some of the proposed conditions will “increase visual and noise screening.”⁷⁰

However, the findings in Section 17 do not detail whether the Commission found those conditions to in fact be *deemed appropriate* or sufficient to satisfy the standards set forth in KPB 21.29.040. Rather, the Resolution concedes that “Compliance with the mandatory conditions in KPB 21.29.050, as detailed in the following findings, necessarily means that the application meets the standards contained in KPB 21.29.040.”⁷¹ This concession is well-founded only if the Commission did in fact deem the buffer zone appropriate and sufficient to satisfy the standards set forth in KPB 21.29.040.

Throughout the hearings in both 2018 and 2019, multiple commissioners questioned whether any buffers could adequately provide visual and noise screening of the material site. In 2018, a majority of the commissioners found that the neighboring properties could not be adequately screened, with similar conditions imposed. Commissioners Bentz, Morgan and Carluccio were adamant that they did not believe the buffer or berms would minimize the noise and sound impacts because of the “unique topography.”⁷² As a result, the Commission denied the CLUP.

In 2019, commissioners again questioned whether buffers could adequately satisfy the noise and visual standards set forth in KPB 21.29.040. Commissioner Ecklund expressed great concern that the conditions imposed would not minimize the visual and noise impacts. While he recognized that the Commission would never ask an applicant “to put a 53 [foot] high earthen berm” into place (calling the proposal “ridiculous”), he also asked whether it was in their authority to do so if necessary, to which the Borough Planner replied “Yes, and staff did...propose a 12-foot berm in most locations.”⁷³ Despite these expressed concerns,

⁷⁰ Resolution 2018-21, Sec 17, ¶¶H, I, J, M, N.

⁷¹ *Id.*, ¶15.

⁷² Exc. 35-36.

⁷³ Exc. 95.

Commissioner Ecklund voted to grant the CLUP. Commissioner Carluccio questioned “but is a 12-foot berm enough to minimize visual and noise impacts?”⁷⁴

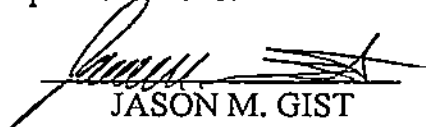
The Commission did not specifically find whether the conditions imposed on the CLUP were *deemed appropriate* to satisfy the standards set forth in KPB 21.29.040. By all accounts from the record, it appears that the Commission operated under the incorrect assumption that KPB 21.29.040 was “necessarily satisfied” so long as the CLUP contained conditions in KPB 21.29.050. It is unclear from the record whether the Commission deemed the conditions appropriate to satisfy those standards. For these reasons, the case is REMANDED back to the Commission for further review and/or clarification. If the Commission does in fact deem the conditions set forth in Resolution 2018-23 appropriate to satisfy the standards set forth in KPB 21.29.040, then it shall grant the CLUP. If, however, the Commission finds that no conditions in KPB 21.29.050 could adequately minimize visual and noise impacts to the standards set forth in KPB 21.29.040, then it may deny the CLUP.

IV. CONCLUSION

For the reasons stated herein, this case is REMANDED back to the Commission for further consideration consistent with this *Order*.

Dated at Kenai, Alaska, this 2nd day of September, 2021.

I certify that a copy of the foregoing was
✓ mailed to KPB
_____ place in court box to _____
_____ faxed to _____
✓ scanned to Elmer/Gottstein/Stone
AK 9-3-21
Clerk Date


JASON M. GIST
SUPERIOR COURT JUDGE

⁷⁴ *Id.*

In the Supreme Court of the State of Alaska

Beachcomber, LLC,
Petitioner,

v.

Hans Bilben, Philip Brna, George Krier, Lawrence ‘Rick’ Oliver, Shirley Gruber, Todd Bareman, Xochill Lopez-Ayala, Richard Carlton, Marie Carlton, Mike Patrick, Linda Patrick, Joseph Sparkman, Vickey Hodnik, Gary Cutlip, John Girton, Linda Bruce, Steve Thompson, Lynn Whitmore, Donald Horton, Lori Horton, James Gorman, Linda Stevens, Gary Sheridan, Eileen Sheridan, Thomas Brook, Joshua Elmaleh, Christine Elmaleh, Angela Roland, Michael Brantley, Teresa Jacobson, David Gregory, Pete Kinneen, Lauren Isenhour, Allison Paparoa, Danica High, Gina Debardelaben, and Kenai Peninsula Borough Planning Commission,

Respondents.

Supreme Court No. **S-18187**

Order

Petition for Review

Date of Order: **12/29/2021**

Trial Court Case No. **3KN-20-00034CI**

Before: Winfree, Chief Justice, Maassen, Carney, Borghesan, and Henderson, Justices

On consideration of the Petition for Review filed on **11/16/2021**, and the Response filed on **11/29/2021**,

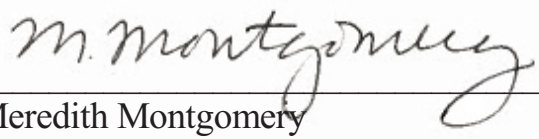
IT IS ORDERED:

The Petition for Review is **DENIED**.

Entered at the direction of the court.

Beachcomber, LLC v. Bilben, et al.
Supreme Court No. S-18187
Order of 12/29/2021
Page 2

Clerk of the Appellate Courts


Meredith Montgomery

cc: Judge Gist
Trial Court Clerk - Kenai

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Resolution 2018-23

**Appeal of the Kenai Peninsula Borough
Planning Commission's Denial of
A Conditional Land Use Permit
in the Anchor Point area.**

**KPB Tax Parcel ID# 169-010-67
Tract B, McGee Tracts
Deed of Record Boundary Survey (Plat 80-104)
Deed recorded in Book 4, Page 116,
Homer Recording District.**

**Applicant
Beachcomber, LLC**

**Landowner
Beachcomber, LLC**



Planning Department

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

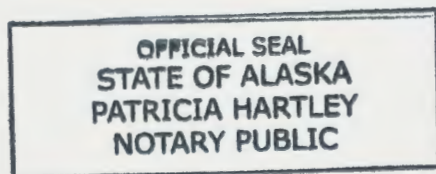
Charlie Pierce
Borough Mayor

"I, Max J. Best, the Kenai Peninsula Borough Planning Director, do hereby certify that to the best of my knowledge the attached record contains true and correct copies of all documents required by KPB 21.20.270 to be included in the record on appeal in the matter of a conditional land use permit denial for sand and gravel extraction in the Anchor Point area at the Kenai Peninsula Borough Planning Commission meeting of July 16, 2018."

Max J. Best
Planning Director
Kenai Peninsula Borough

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this day of by Max J. Best
of the Kenai Peninsula Borough, a municipal corporation, on behalf of the corporation.



Notary Public for the State of Alaska

My commission expires: 3-7-21

INDEX

Record Page Numbers	Document Name
R through R	Conditional Land Use Permit Application
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R through R	Notice of Decision
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R through R	Miscellaneous / Additional Information
R through R	Planning Commission Minutes July 16, 2018

VERBATIM TRANSCRIPT

T through T	Verbatim Transcript / Index July 16, 2018
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CONDITIONAL LAND USE PERMIT

APPLICATION

KPB 21.29

Conditional Land Use Permit Application

For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

Applicant Beachcomber LLC ATTN: Emmitt Trimble Landowner same
Address PO Box 193 Address _____
City, State, Zip Anchor Point AK 99556 City, State, Zip _____
Telephone 907-299-1459 Cell _____ Telephone _____ Cell _____
Email emmitttrimble@gmail.com Email _____

II. PARCEL INFORMATION

KPB Tax Parcel ID# 16901067 Legal Description _____
T5S R15W Section 5 S.M., McGee Tracts Deed of Record Boundary Survey Tract B
If permit is not for entire parcel, describe specific location within parcel to be material site, e.g.: "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".
Easterly 27.7 acres

III. APPLICATION INFORMATION ☒ "Check" boxes below to indicate items included.

- ☒ \$300.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- ☒ Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
- | | |
|--|--|
| <input type="checkbox"/> parcel boundaries | <input type="checkbox"/> location/depth of testholes, and depth to groundwater, if encountered |
| <input type="checkbox"/> location of boundary stakes within 300 ft. of excavation area (to be in place at time of application) | <input type="checkbox"/> location of all wells within 300 ft. of parcel boundary |
| <input type="checkbox"/> proposed buffers, or requested buffer waiver(s) | <input type="checkbox"/> location of water bodies on parcel, including riparian wetlands |
| <input type="checkbox"/> proposed extraction area(s), and acreage to be mined | <input type="checkbox"/> surface water protection measures |
| <input type="checkbox"/> proposed location of processing area(s) | <input type="checkbox"/> north arrow and diagram scale |
| <input type="checkbox"/> all encumbrances, including easements | <input type="checkbox"/> preparer's name, date and seal |
| <input type="checkbox"/> points of ingress and egress | |
| <input type="checkbox"/> anticipated haul routes | |
- ☒ Site Plan Worksheet (attached)
- ☒ Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

Please Note: If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

Emmitt D. Trimble Date _____ Landowner (required if not applicant) _____ Date _____
Applicant

Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant Beachcomber LLC

Owner Beachcomber LLC

KPB Tax Parcel ID # 16901067

Parcel Acreage 41.72

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 27.7 acres
2. Material to be mined (check all that apply): ☒ gravel ☒ sand ☒ peat ☐ other(list) _____
3. Equipment to be used (check all that apply): ☒ excavation ☒ processing ☐ other _____
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

☒ 50 ft. of natural or improved vegetation

☒ minimum 6 ft. earthen berm

☐ minimum 6 ft. fence

☐ other _____

☒ N ☐ S ☐ E ☒ W

☒ N ☒ S ☒ E ☒ W

☐ N ☐ S ☐ E ☐ W

☐ N ☐ S ☐ E ☐ W

5. Proposed depth of excavation: 18' ft. Depth to groundwater: +20' ft.
6. How was groundwater depth determined? Testhole on parcel & exposed surface water to north
7. A permit modification to enter the water table will be requested in the future: X Yes No
8. Approx. annual quantity of material, including overburden, to be mined: <50,000 cubic yards
9. Is parcel intended for subdivision? Yes X No
10. Expected life span of site? 15 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)

Kindly see page 4.

12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)

A. _____

B. _____

C. _____

R2

Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a "non-invasive" plant species.
3. Total acreage to be reclaimed each year: 2-5 acres
4. List equipment (type and quantity) to be used in reclamation:

Loader & dozer

5. Describe time schedule of reclamation measures:

Reclamation will be completed annually before the growing season ends (September). Seeding will be applied

as necessary each season to areas that achieve final grade in order to minimize erosion and dust.

6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – ☒ **"check" all that apply to your plan.**

☒ Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

☒ The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

☐ Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

☒ Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

☐ Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

☐ Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

R3

ADDITIONAL APPLICATION COMMENTS

(Please indicate the page and item # for which you are making additional comments.)

Page 2 Item 11.

This material site will be developed in Phases on an "as-needed" extraction basis. Development will begin at the Phase I area in the northeastern corner. There is an existing ingress/egress in this area to Denver Street and the associated section line easement. Phase I is 6.2 acres with an additional 0.9 acres in buffer area. A process area is proposed in Phase I and is located 300 feet from all property lines, excluding the south property line of PID 16902208. A waiver to the process area setback is being requested. The Phase II area is immediately south of the Phase I area and is 3.9 acres plus 0.6 acres buffer. Phase III area is westerly of both Phase I & Phase II areas.

Monitor wells are planned for installation deem if the site is viable for extraction below the water table at a future time.

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
BEACHCOMBER LLC
PO BOX 193
ANCHOR POINT, ALASKA 99556

LEGEND

RECORD MONUMENT

PROPERTY CORNERS

PROPOSED INGRESS/EGRESS

WELL SETBACK

INTERVISIBLE FLAGGING

EXISTING TREELINE

PROPOSED BUFFER TREELINE

WETLAND

APPROX. TESTHOLE LOCATION

EXISTING FENCELINE

0

200

400

SCALE

FEET

CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS KPB PARCEL 16901067; T5S R15W SECTION 5 SEWARD MERIDIAN, MCGEE TRACTS DEED OF RECORD BOUNDARY SURVEY TRACT B.

2. THE EASTERLY PORTION OF THIS PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION AND GRASS FIELD.

3. THE EXISTING AND PROPOSED INGRESS/EGRESS IS TO DANVER STREET AND/OR SECTION LINE EASEMENT, AS SHOWN.

4. THE PREFERRED BUFFERS ARE A COMBINATION OF 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS AND 6' HIGH BERM.

5. WELLS WITHIN 100' AND/OR 300' OF THE EXCAVATION AREA ARE SHOWN HEREON. EXCAVATION BELOW WATER TABLE MAY BE PROPOSED AT A FUTURE TIME.

6. THERE IS MAPPED WETLAND AND SURFACE WATER, AS SHOWN, IN THE NORTHEAST CORNER OF THE PARCEL. PROPOSED EXCAVATION IS A MINIMUM OF 100' FROM WATERBODIES. THIS SURFACE WATER SETBACK WILL PROVIDE PROTECTION VIA PHYTOREMEDIATION OF ANY RUN-OFF PRIOR TO ENTERING THE SURFACE WATER.

7. GROUNDWATER IS ESTIMATED AT APPROXIMATELY 20' (AVERAGE) BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. THIS ESTIMATE IS FROM TEST HOLE EXCAVATED BY THE OWNER OR OTHER REPRESENTATIVES.

8. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPINGS, OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEEDED.

9. PROPOSED MATERIAL EXTRACTION INCLUDING STRIPPING WILL BE DONE IN INCREMENTALLY BEGINNING AT THE NORTHERN LIMITS, AS SHOWN, AND PROCEEDING SOUTHERLY AS MARKET FOR MATERIAL SALES JUSTIFIES. THE CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA.

10. PROPOSED PROCESS AREA IS SHOWN. A PROCESS WAIVER WILL BE REQUESTED FOR SEPARATION TO THE NORTH PROPERTY LINE.

11. THE PROPERTY CORNERS, WITNESS CORNERS, OR SECTION LINE EASEMENT WAS LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS AS SHOWN HEREON.

12. ALASKA DEC USER'S MANUAL, BEST MANAGEMENT PRACTICES FOR GRAVEL/ROCK AGGREGATE EXTRACTION PROJECTS, PROTECTING SURFACE WATER AND GROUNDWATER QUALITY IN ALASKA, SEPTEMBER 2012 WILL BE UTILIZED AS A GUIDELINE TO REDUCE POTENTIAL IMPACTS TO WATER QUALITY.

REV	DATE	DESCRIPTION	BY	GMD
1	5/31/2018	CLUP APPLICATION EXHIBIT		
2	6/21/2018	NOTE 6, 7 & 12 REVISION		

BEACHCOMBER LLC

ANCHOR POINT RD

ROAD CONDITIONAL LAND USE PERMIT

FIELD WORK DATE: 5/16/2018 - 5/17/2018

FIELD BOOK NO. 18-01

JOB NO. 184018

ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK. 99669
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANECG.COM

DRAWN BY:	BGB/GMD
CHECKED BY:	GMD
HORZ. SCALE:	1" = 50'
VERT. SCALE:	R6 = 25'
SHEET:	P1.1

244



REV	DATE	DESCRIPTION	BY
2	6/21/2018	NOTE 6, 7 & 12 REVISION	GMD
1	5/31/2018	CLIP APPLICATION EXHIBIT	GMD

BEACHCOMBER LLC	JOB NO. 18-018
ANCHOR POINT RD	FIELD BOOK NO. 18-01
ROAD CONDITIONAL LAND USE PERMIT	FIELD WORK DATE: 5/16/2018 - 5/17/2018



Consulting Inc

ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK. 99669
VOICE: (907) 283-4218
FAX: (907) 283-3265
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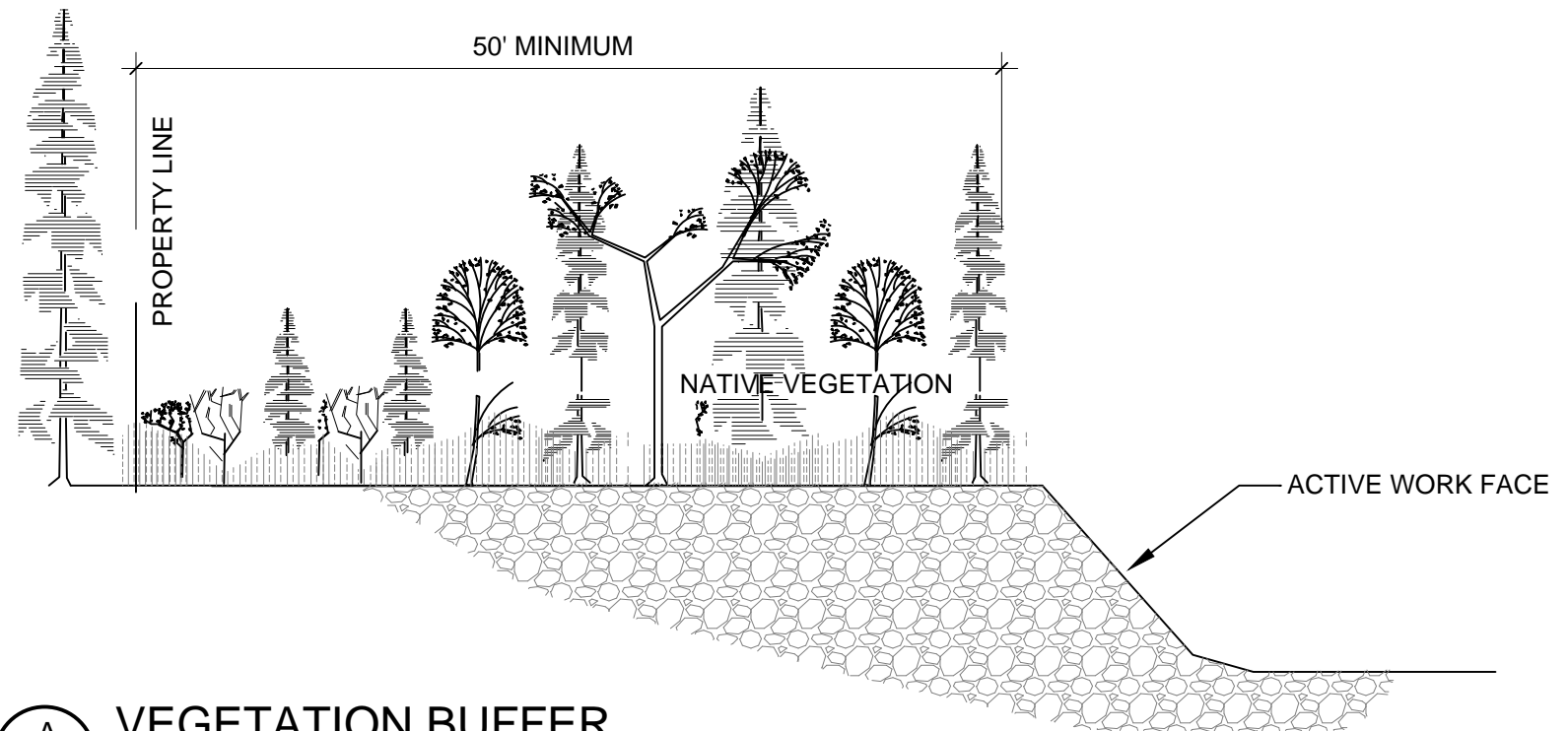
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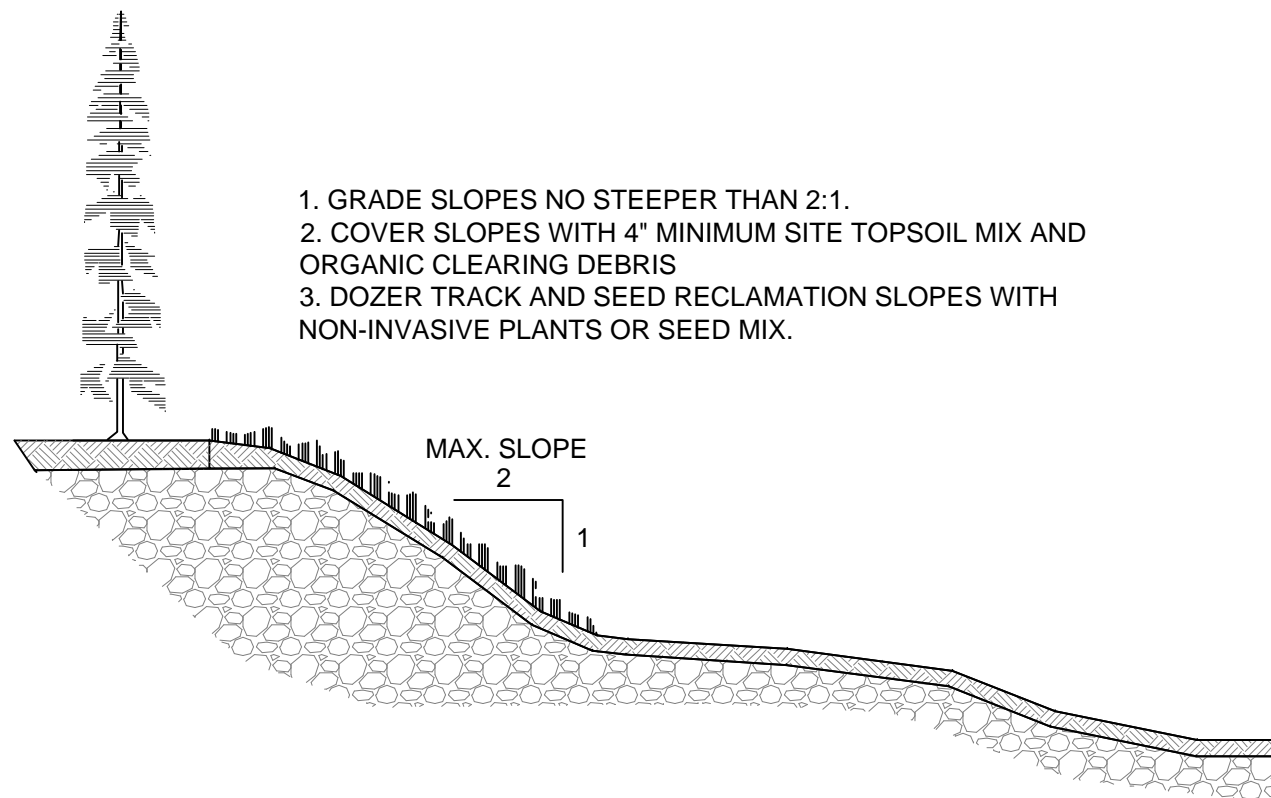
HORZ. SCALE: 1" = 50'

VERT. SCALE: 1" = 25'

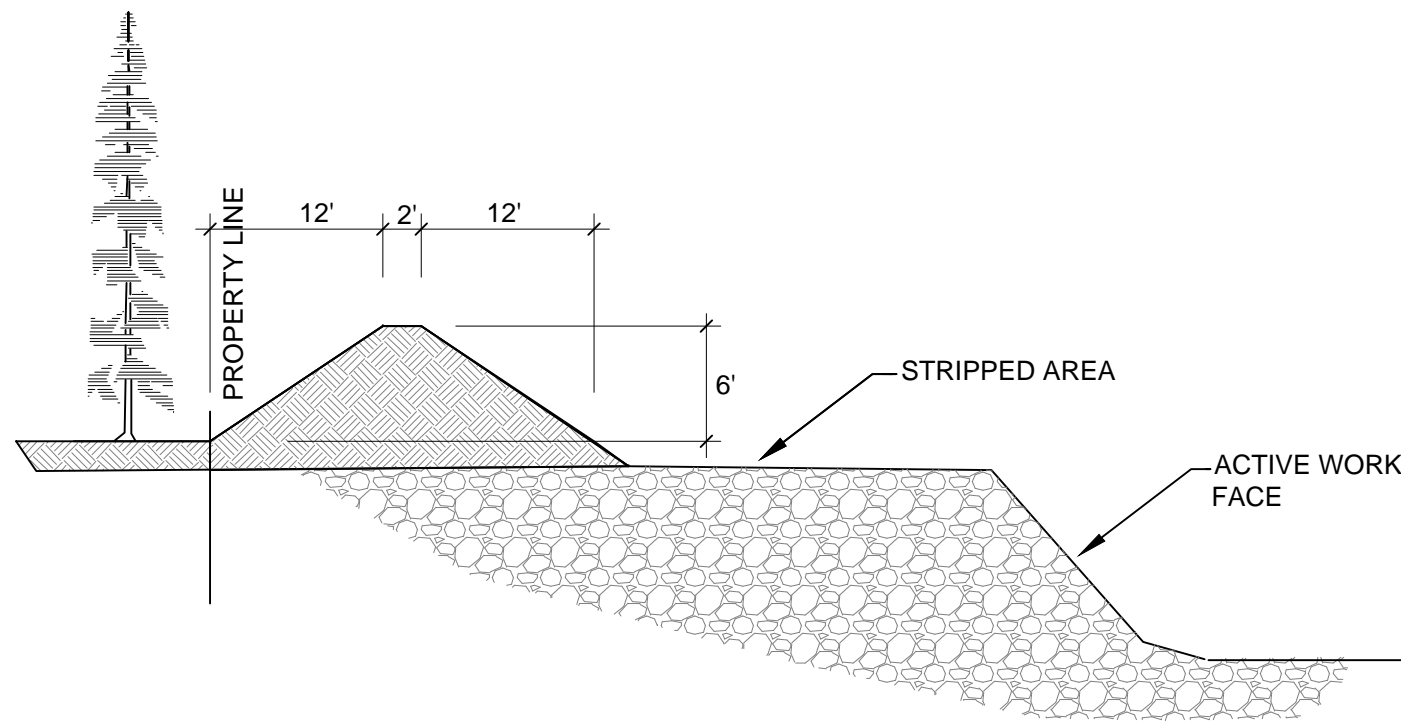
SHEET: P2



A
3 VEGETATION BUFFER
SCALE: 1" = 10 FT.



B
3 RECLAMATION SLOPE
SCALE: 1" = 10 FT.



C
3 EARTHEN BERM BUFFER
SCALE: 1" = 10 FT.

R7

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
BEACHCOMBER LLC
PO BOX 193
ANCHOR POINT, ALASKA 99556

LEGEND

RECORD MONUMENT

PROPERTY CORNERS

PROPOSED INGRESS/EGRESS

WELL SETBACK

INTERVISIBLE FLAGGING

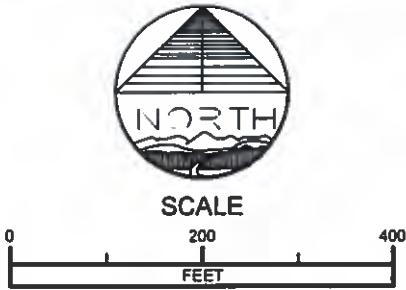
EXISTING TREELINE

PROPOSED BUFFER TREELINE

WETLAND

APPROX. TESTHOLE LOCATION

EXISTING FENCELINE



CLUP DEVELOPMENT NOTES

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6. THERE IS MAPPED WETLAND AND SURFACE WATER, AS SHOWN, IN THE NORTHEAST CORNER OF THE PARCEL.

7. GROUNDWATER IS ESTIMATED AT APPROXIMATELY 18" BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. THIS ESTIMATE IS FROM TEST HOLE EXCAVATED BY THE OWNER OR OTHER REPRESENTATIVES.

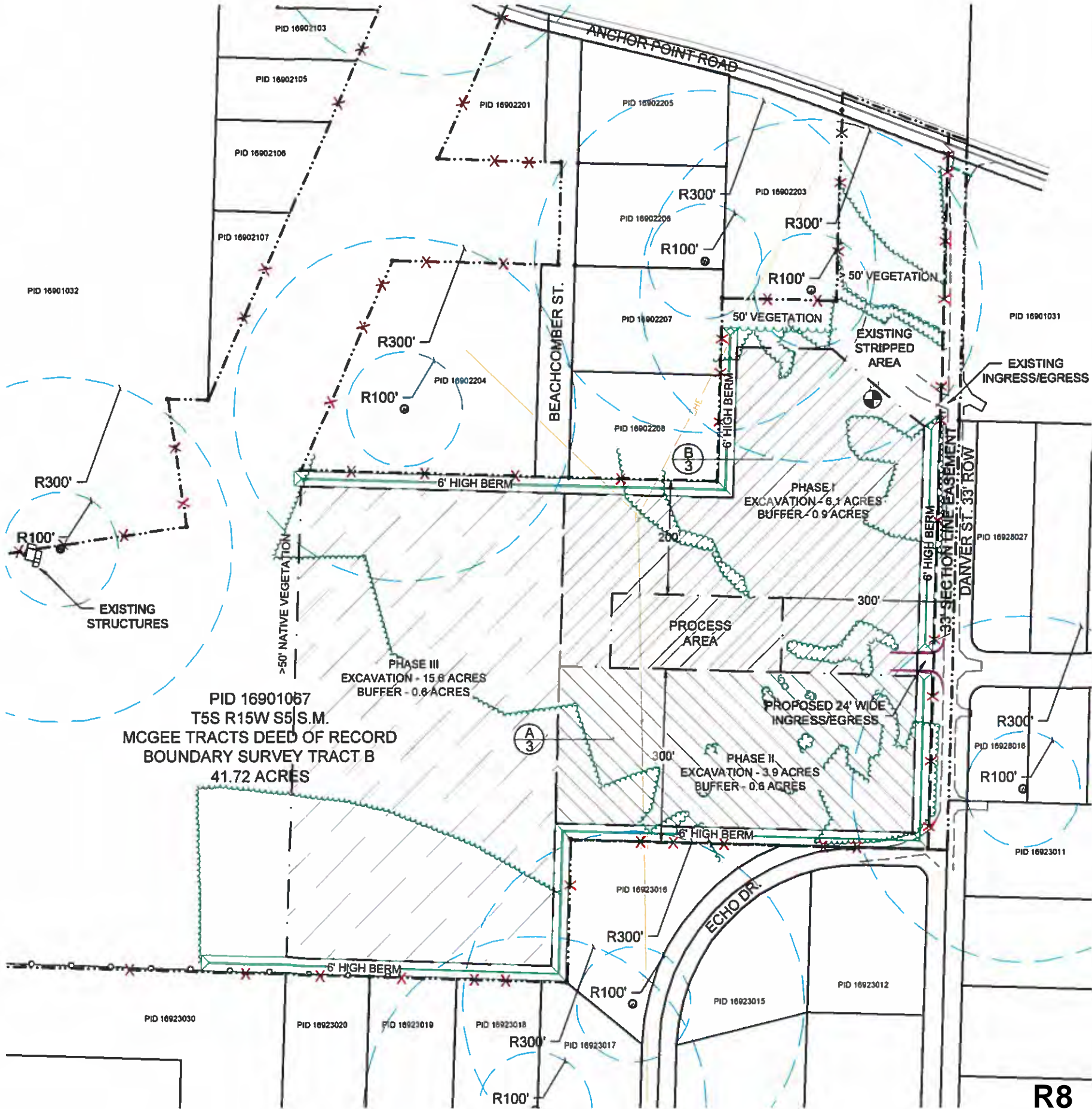
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ORIGINAL SITE PLAN



CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT:
BEACHCOMBER LLC
PO BOX 193
ANCHOR POINT, ALASKA 99556

LEGEND

RECORD MONUMENT

PROPERTY CORNERS

PROPOSED INGRESS/EGRESS

WELL SETBACK

INTERVISIBLE FLAGGING

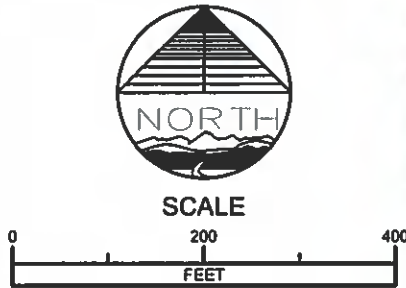
EXISTING TREELINE

PROPOSED BUFFER TREELINE

WETLAND

APPROX. TESTHOLE LOCATION

EXISTING FENCELINE



CLUP DEVELOPMENT NOTES

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ORIGINAL SITE PLAN



BEACHCOMBER LLC
ANCHOR POINT RD
ROAD CONDITIONAL LAND USE PERMIT

ENGINEERING - TESTING
SURVEYING - MAPPING
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SOLDOTNA, AK 99669
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DRAWN BY: BGB/GMD

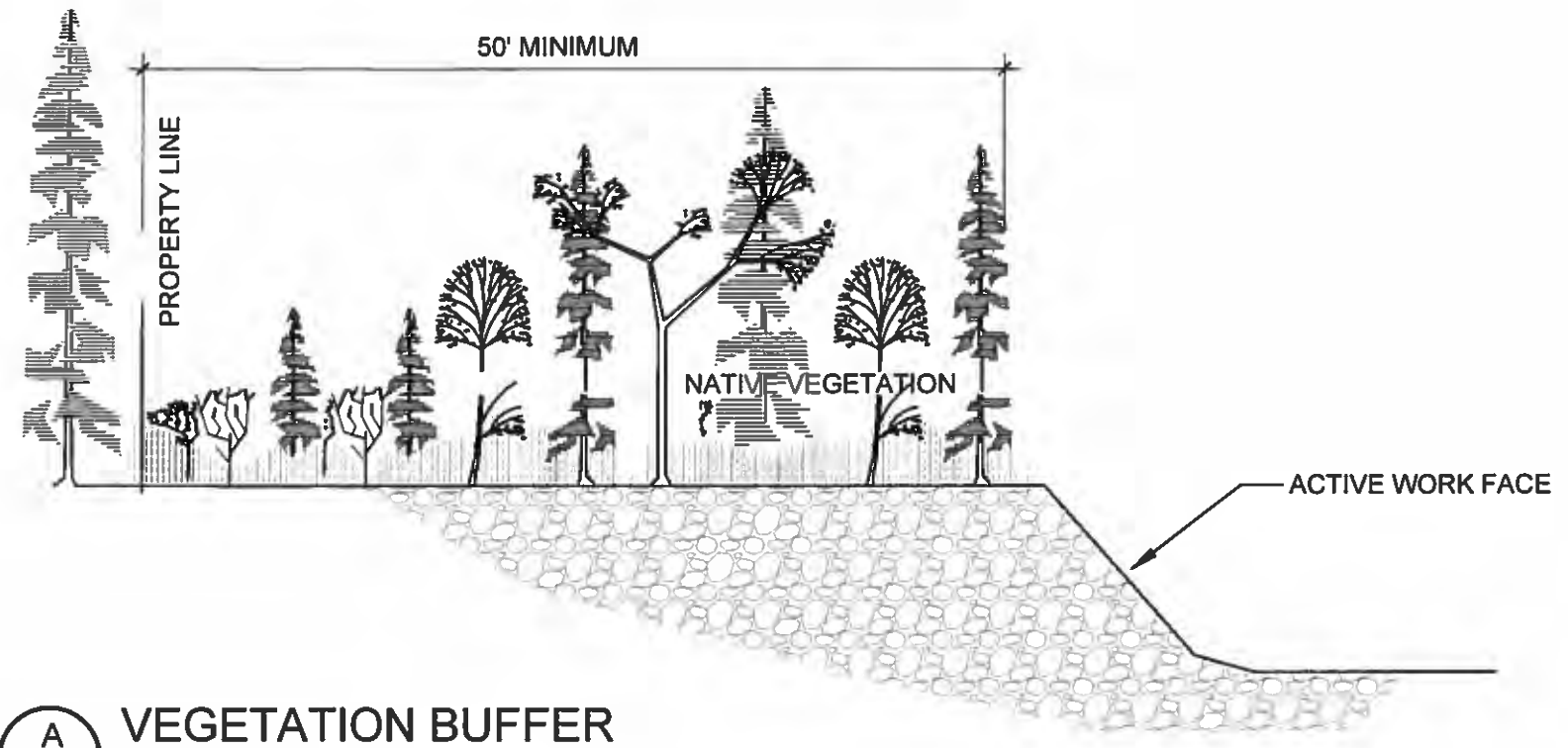
CHECKED BY: GMD

HORZ. SCALE: 1" = 50'

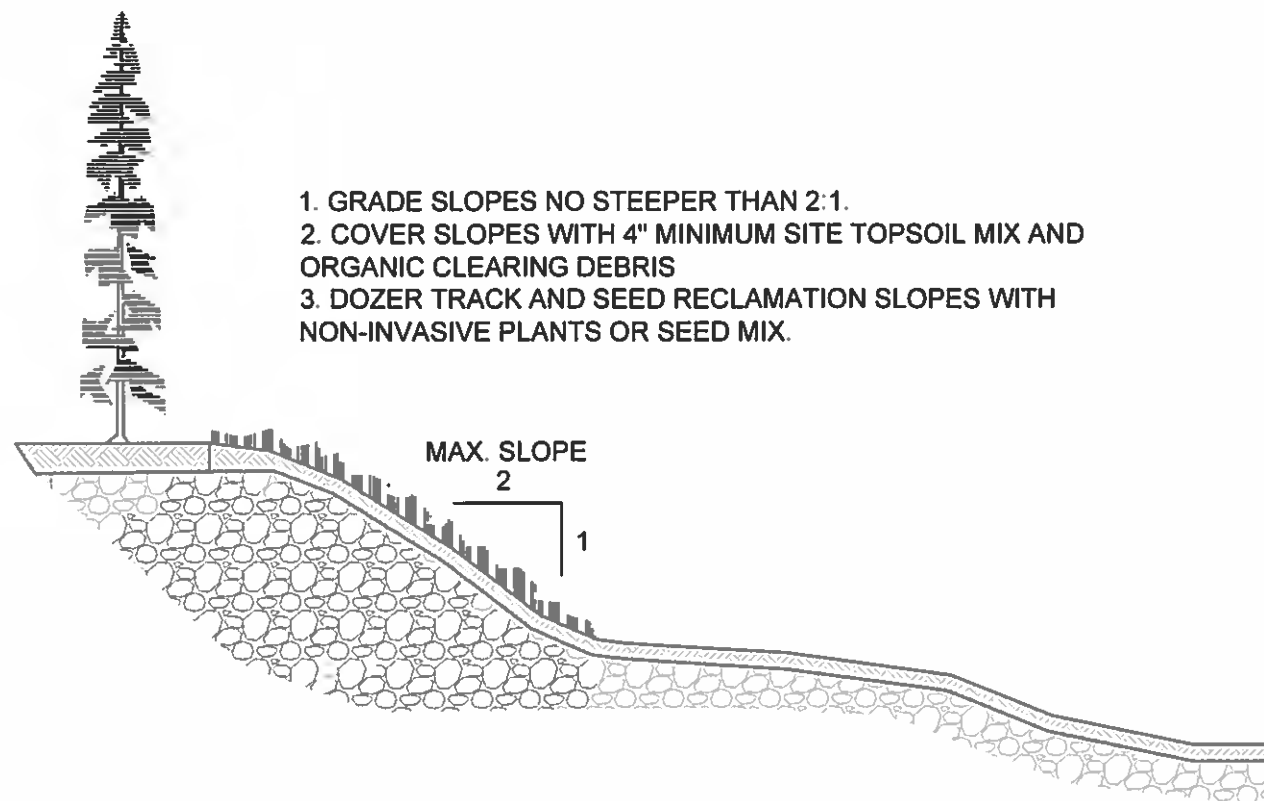
VERT. SCALE: 1" = 25'

SHEET R9
P1.1

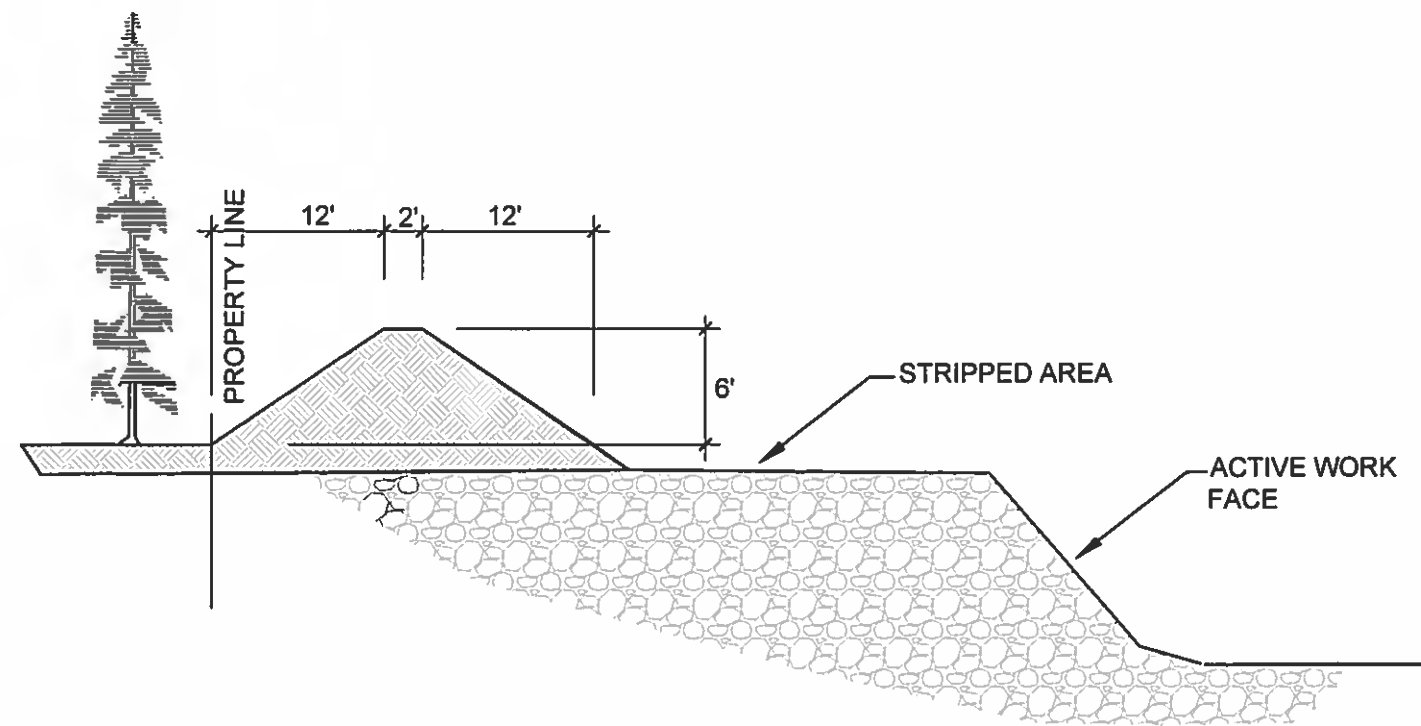
BY	DESCRIPTION	DATE	REV	CLUP APPLICATION EXHIBIT	CLUP NO.	JOB NO.	FIELD BOOK NO.	FIELD WORK DATE	5/16/2018 - 5/17/2018
				1	501/2018	18-01	18-01		



A
3 **VEGETATION BUFFER**
SCALE: 1" = 10 FT.



B
3 **RECLAMATION SLOPE**
SCALE: 1" = 10 FT.



C
3 **EARTHEN BERM BUFFER**
SCALE: 1" = 10 FT.

ORIGINAL SITE PLAN

R10



REV	DATE	DESCRIPTION	BY

BEACHCOMBER LLC
ANCHOR POINT RD
ROAD CONDITIONAL LAND USE PERMIT

FIELD BOOK NO. 18-01
JOB NO. 184018
FIELD WORK DATE: 5/18/2018 - 5/17/2018



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DRAWN BY: BGB/GMD
CHECKED BY: GMD
HORZ. SCALE: 1" = 50'
VERT. SCALE: 1" = 25'
SHEET: P2

PLANNING COMMISSION

RESOLUTION 2018-23

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2018-23
HOMER RECORDING DISTRICT**

A resolution granting a conditional land use permit to operate a sand, gravel, or material site for a parcel described as Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.

- WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and
- WHEREAS,** KPB 21.25.040 provides that a permit is required for a sand, gravel or material site; and
- WHEREAS,** on June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district; and
- WHEREAS,** public notice of the application was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS,** public notice of the application was published in the July 5, 2018 & July 12, 2018 issues of the Homer News; and
- WHEREAS,** a public hearing of the Planning Commission was held on July 16, 2018;

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

SECTION 1. That the Planning Commission makes the following findings of fact pursuant to KPB 21.25 and 21.29:

Findings of Fact

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed disturbed area is approximately 27.7 acres.
6. A public hearing of the Planning Commission was held on July 16, 2018 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
7. The site plan indicates that the processing area is 300 feet from the south and east property lines and is greater than 300 feet from the west property line. A waiver was requested from the north property line.

8. The site plan shows the proposed processing area being 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's daughter.
9. A 200-foot separation distance to the property boundaries for the processing area is not sufficient to minimize noise disturbance to other properties.
10. The proposed extraction meets material site standard 21.29.040(A1); "Protects against the lowering of water sources serving other properties", as evidenced by:
 - A. Permit condition number 6 requires that the permittee not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 - B. The submitted site plan shows several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high water table.
 - D. The application indicates that the depth to groundwater is greater than 20 feet and that the depth of the proposed excavation is 18 feet.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
11. The proposed extraction meets material site standard 21.29.040(A2); "Protects against physical damage to other properties". There is no evidence in the record to indicate that physical damage will occur to any other properties as a result of the operations of a material site at this location.
12. The proposed extraction meets material site standard 21.29.040(A3); "Minimizes off-site movement of dust", as evidenced by:
 - A. Permit condition number 13 requires that the permittee provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
13. The proposed extraction meets material site standard 21.29.040(A4); "Minimizes noise disturbance to other properties" as evidenced by:
 - A. Permit condition number 2 requires that the permittee maintain the following buffers that will reduce the noise disturbance to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
 - B. Permit condition number 5 requires that the processing area be located greater than 300 feet from the property boundaries.
14. The proposed extraction meets material site standard 21.29.040(A5); "Minimizes visual impacts" as evidenced by permit condition number 2 that requires that the permittee maintain the following buffers that will reduce the visual impacts to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm

- shall take place prior to removing the existing vegetation in the western portion of the material site.
- Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
15. The proposed extraction meets material site standard 21.29.040(A6); "Provides for alternate post-mining land uses" as evidenced by:
- A. The submitted application contains a reclamation plan as required by KPB 21.29.060.
 - B. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project. The inclusion of the requirements contained in KPB 21.29.060(C3) is necessary to meet this material site standard.
 - C. Permit condition number 15 requires that the permittee reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable

- surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
 12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
 13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
 14. The permittee shall not operate rock crushing equipment between the hours of 10:00 p.m. and 6:00 a.m.
 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
 17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
 18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 19. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 20. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS _____ DAY OF _____, 2018.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Patti Hartley
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669

NOTICE OF DECISION



Planning Department

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

Charlie Pierce
Borough Mayor

July 24, 2018

«OWNER»
«ATTENTION»
«ADDRESS»
«CITYSTATEZIP»

NOTICE OF DECISION

At their July 16, 2018 meeting, the Planning Commission disapproved a conditional land use permit for a material site that was requested for KPB Parcel 169-010-67; Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.

FINDINGS OF FACT

1. The noise will not be sufficiently reduced with any buffer or berm that could be added.
2. The visual impact to the neighboring properties will not be reduced sufficiently.

This decision may be appealed through the Borough Clerk within fifteen days of the date of the Notice of Decision.

Bruce Wall, AICP
Planner

July 24, 2018
Date

ATTENTION

OWNER

GIRTON JOHN & BARBARA
 GORMAN JAMES
 BROOK THOMAS J
 CLINE ANN AND RC
 DRINKHOUSE MARIE L
 CARLTON RICHARD D & MARIE
 GORDON GARY & PAMELA
 MILLARD DANIEL C
 DAN & CATHY MILLARD
 SHERIDAN GARY L & EILEEN D
 BAKER R O
 VICKEY HODNIK
 HORTON DON & LORI
 DON HORTON
 GEORGE KRIER
 TESAR DAVID J & BONITA G
 WARTBURG MICHAEL G
 SHARON FROMONG
 YALE MARK & LEE
 YALE MARK & LEE
 BILBEN HANS & JEANNE
 BRNA PHILIP J
 COOWE WALKER
 SPARKMAN JOSEPH J & DENISE
 SPARKMAN JOSEPH J & DENISE
 LORRI DAVIS
 GREGORY DAVID & TERESA ANN JACOBSON
 SHIRLEY GRUBER
 SHIRLEY GRUBER
 PATRICK MIKE & LINDA
 ALEXANDER TOM & PATTY
 JOSEPH ALLRED
 ROBERT W CORBISIER
 COSMAN TERESA
 DAVID DRIGGERS
 MARIE HERDEGEN
 HOMER SOIL & WATER CONSERVATION DIST
 OLIVER RICK
 REID JIM & SUSAN
 REID JIM & SUSAN
 LEAH & BILL SCOTT
 CARLA MILBURN
 BRANTLEY MICHAEL
 CULLIP GARY
 TODD BAREMAN
 TODD BAREMAN

ROBERT O BAKER II TRUSTEE

KBNERR

ADDRESS

PO BOX 869
 PO BOX 1239
 PO BOX 39004
 61 TRILLIUM TRL
 5949 S HAYFIELD RD
 772 W 45TH AVE
 PO BOX 876130
 2266 PANORAMA WAY W
 35060 DAVNER ST
 PO BOX 661
 PO BOX 870
 35031 MOFFIT LN
 221 ELLEN CIR
 PO Box 2552
 PO BOX 1165
 PO BOX 871567
 PO BOX 849
 PO BOX 849
 PO Box 429
 74140 SEAWARD AVE
 PO BOX 1176
 5601 E 98TH AVE
 2181 KACHEMAK DR
 PO BOX 767
 73884 SEAWARD AVE
 PO BOX 946
 PO BOX 904
 73510 TWIN PEAKS LP
 13701 ERVIN RD
 PO BOX 335
 785 CASCADE CT
 PO BOX 708
 500 L ST SUITE 300
 PO BOX 563
 PO BOX 745
 69195 KAREN CIR
 432 E PIONEER AVE, STE D
 PO BOX 1444
 PO BOX 85
 73820 SEAWARD AVE
 PO BOX 1193
 66090 MOOSEWOOD CT
 PO BOX 950
 1523 SW 58TH LN
 PO BOX 1462
 74294 ANCHOR POINT RD

CITY/STATE/ZIP

ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 NINILCHIK, AK 99639
 UNDERWOOD, WA 98651
 WASILLA, AK 99623
 KENNEWICK, WA 99337
 WASILLA, AK 99687
 GUNTERSVILLE, AL 35976
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
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 ANCHOR POINT, AK 99556
 ANCHORAGE, AK 99515
 HOMER, AK 99603
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 HOMER, AK 99603
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 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 HOMER, AK 99603
 ANCHOR POINT, AK 99556
 EVERGLADES CITY, FL 34139
 EVERGLADES CITY, FL 34139
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 CAPE CORAL, FL 33914
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556

captainboomer@hotmail.com

RICHARD CLINE <captrichie@icloud.com>

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Gary and Eileen Sheridan <twoshar@acsalaska.net>

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AK Don H <hortons6@gmail.com>

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Mark Yale <markyale2001@yahoo.com>

Hans <catchalaska@alaska.net>

Phil Brna <fishyeak@gmail.com>

Coowe Walker <cmwalker9@alaska.edu>

Joseph Sparkman <jay1332@att.net>

Lorri Davis <homesteadart@gmail.com>

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shirley gruber <shirleytdx@yahoo.com>

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malito:kyra@homerswcd.org

L Rick Oliver <roliverb747@me.com>

Bill Scott <naturesventures@gmail.com>

Carla Milburn <cjm2@me.com>

PETE KINNEEN
BLAIR GERALD
BOB SHAVELSON
OVERSON ELDON
WHITMORE LYNN
XOCHITL LOPEZ-AYALA
ELMALEH JOSHUA L
ISENHOUE LAUREN
Gina M. DeBardelaben
EMMITT TRIMBLE
CARLTON RICHARD D
STEVE HABER
Marie Carlton

34969 DANVER ST
PO BOX 978
3734 BEN WALTERS LN
PO BOX 1318
PO BOX 355
PO Box 2552
PO BOX 542
PO BOX 317
PO Box 468
PO BOX 193
722 W 45TH AVE
PO BOX 2429
PO Box 29

BEACHCOMBER LLC

ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
HOMER, AK 99603
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
HOMER, AK 99603
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
SOLDOTNA, AK 99669
ANCHOR POINT, AK 99556
KENNEWICK, WA 99337
HOMER, AK 99603
Anchor Point, AK 99556

Biocharalaska@gmail.com

Bob Shavelson <bbob@inletkeeper.org>

Gina DeBardelaben <ginadebar@mcjane-g.com>
Emmitt Trimble <emmitttrimble@gmail.com>

MEETING PACKET

&

LAY DOWN PACKET

JULY 16, 2018

**(Please note that some information has been
dispersed throughout the record so that
there was not duplicate information.)**

AGENDA ITEM F. **PUBLIC HEARING**

4. **Conditional Land Use Permit for a Material Site; Anchor Point Area**

STAFF REPORT

PC MEETING: July 16, 2018

Applicant: Beachcomber LLC

Landowner: Beachcomber LLC

Parcel Number: 169-010-67

Legal Description: Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.

Location: 74185 Anchor Point Road

BACKGROUND INFORMATION: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

The submitted site plan indicates that the material site haul route will be Denver Street, which is a Borough maintained road. The site plan and application proposes the following buffers:

North: 6-foot high berm except along the east 400 feet where a 50-foot vegetated buffer is proposed.
South: 6-foot high berm.
East: 6-foot high berm.
West: Greater than 50-foot vegetated buffer.

The application indicates that the depth to groundwater is 20 feet and that the depth of the proposed excavation is 18 feet. The groundwater depth was determined by a test hole on the property and exposed surface water to the north. The site plan indicates that the processing area is 300 feet from the south and east property lines. It is greater than 300 feet from the west property line. A waiver is being requested from the north property line. The site plan indicates that the proposed processing area is located 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's daughter. Staff does not recommend approval of the processing distance waiver request.

The site plan indicates that there are several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area. The site plan indicates 100-foot setback from the wetlands area located in the northeast corner of the property and that this setback will provide protection via phytoremediation of any site run-off prior to entering the surface water. The site plan also indicates that the Alaska DEC user's manual, Best Management Practices for Gravel/Rock Aggregate Extraction Projects, Protecting Surface Water and Groundwater Quality in Alaska, will be utilized as a guideline to reduce potential impacts to water quality.

The application states that reclamation will be completed annually before the growing season ends (September) and that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust. The applicant estimates a life span of 15 years for the site with an approximate annual quantity of less than 50,000 cubic yards.

Much of the vegetation was removed from this property 20-30 years ago. The neighboring properties adjacent to the southeast corner of the proposed material site are at a higher elevation than the subject property. The proposed 6-foot high berm alone will do little to minimize the visual impact or noise disturbance to other properties. Staff recommends that a 50-foot vegetated buffer be required adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer. Staff also recommends that a 50-foot vegetated buffer be required adjacent to the Echo Drive right-of-way

and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer. Staff recommends that a 12-foot high berm be placed along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm should take place prior to removing the existing vegetation in the western portion of the material site.

PUBLIC NOTICE: Public notice of the application was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their Post Office. Public notice of the application was published in the July 5, 2018 & July 12, 2018 issues of the Homer News.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on July 6, 2018.

ATTACHMENTS

- Conditional Land Use Permit application and associated documents
- Aerial map
- Area land use map
- Ownership map
- Contour map

FINDINGS OF FACT

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed disturbed area is approximately 27.7 acres.
6. A public hearing of the Planning Commission was held on July 16, 2018 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
7. The site plan indicates that the processing area is 300 feet from the south and east property lines and is greater than 300 feet from the west property line. A waiver was requested from the north property line. The site plan shows the proposed processing area being 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's daughter. A 200-foot separation distance to the property boundaries for the processing area is not sufficient to minimize noise disturbance to other properties.
8. The proposed extraction meets material site standard 21.29.040(A1); "Protects against the lowering of water sources serving other properties", as evidenced by:
 - A. Permit condition number 6 requires that the permittee not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 - B. The submitted site plan shows several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high water table.
 - D. The application indicates that the depth to groundwater is greater than 20 feet and that the depth of the proposed excavation is 18 feet.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
9. The proposed extraction meets material site standard 21.29.040(A2); "Protects against physical damage to other properties". There is no evidence in the record to indicate that physical damage will occur to any other properties as a result of the operations of a material site at this location.
10. The proposed extraction meets material site standard 21.29.040(A3); "Minimizes off-site

movement of dust", as evidenced by:

- A. Permit condition number 13 requires that the permittee provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
11. The proposed extraction meets material site standard 21.29.040(A4); "Minimizes noise disturbance to other properties" as evidenced by:
 - A. Permit condition number 2 requires that the permittee maintain the following buffers that will reduce the noise disturbance to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
 - B. Permit condition number 5 requires that the processing area be located greater than 300 feet from the property boundaries.
12. The proposed extraction meets material site standard 21.29.040(A5); "Minimizes visual impacts" as evidenced by permit condition number 2 that requires that the permittee maintain the following buffers that will reduce the visual impacts to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
13. The proposed extraction meets material site standard 21.29.040(A6); "Provides for alternate post-mining land uses" as evidenced by:
 - A. The submitted application contains a reclamation plan as required by KPB 21.29.060.
 - B. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project. The inclusion of the requirements contained in KPB 21.29.060(C3) is necessary to meet this material site standard.
 - C. Permit condition number 15 requires that the permittee reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.

STAFF RECOMMENDATION

In reviewing the application staff has determined that the six standards contained in KPB 21.29.040 will be

met and recommends that the Planning Commission deny the processing distance waiver request, approve the conditional land use permit with listed conditions, and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit.

PERMIT CONDITIONS

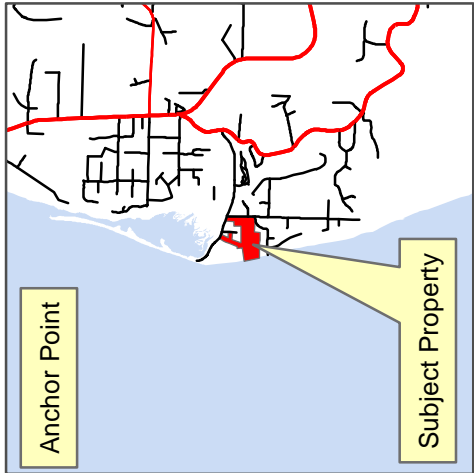
1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
8. The permittee shall not dewater either by pumping, ditching or any other form of draining.
9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.

13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 p.m. and 6:00 a.m.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
19. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
20. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

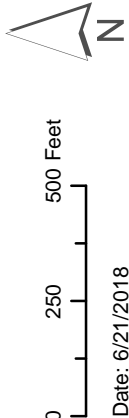
Parcel Number: 169-010-67
Applicant: Beachcomber LLC



LEGEND

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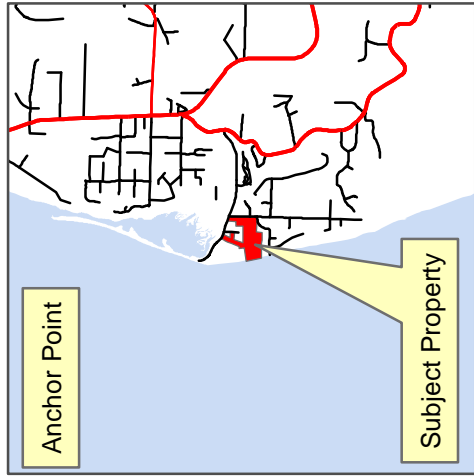
Subject Parcel



Date: 6/21/2018
The information depicted hereon is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

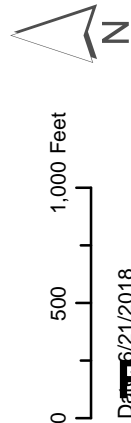


Parcel Number: 169-010-67
 Applicant: Beachcomber LLC

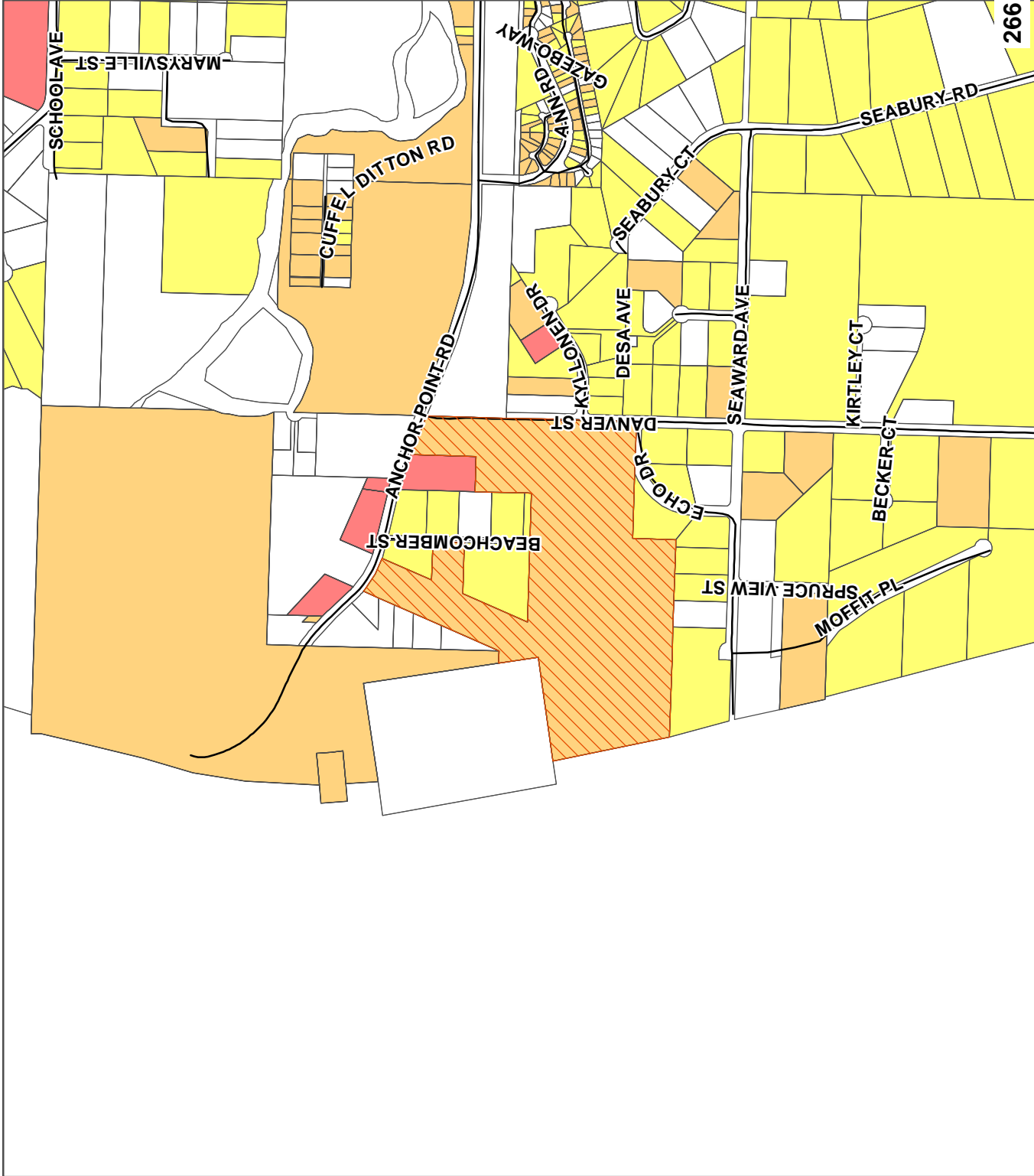


LEGEND

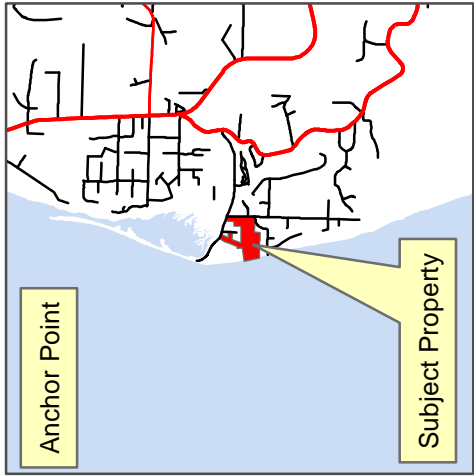
- Subject Parcel
- Vacant
- Residential
- Commercial
- Institutional
- Industrial
- Accessory Building



Date: 6/21/2018
 The information depicted hereon is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Parcel Number: 169-010-67
Applicant: Beachcomber LLC



LEGEND

	Subject Parcel
	Private
	Native Allotment
	Federal
	State
	Borough
	Native

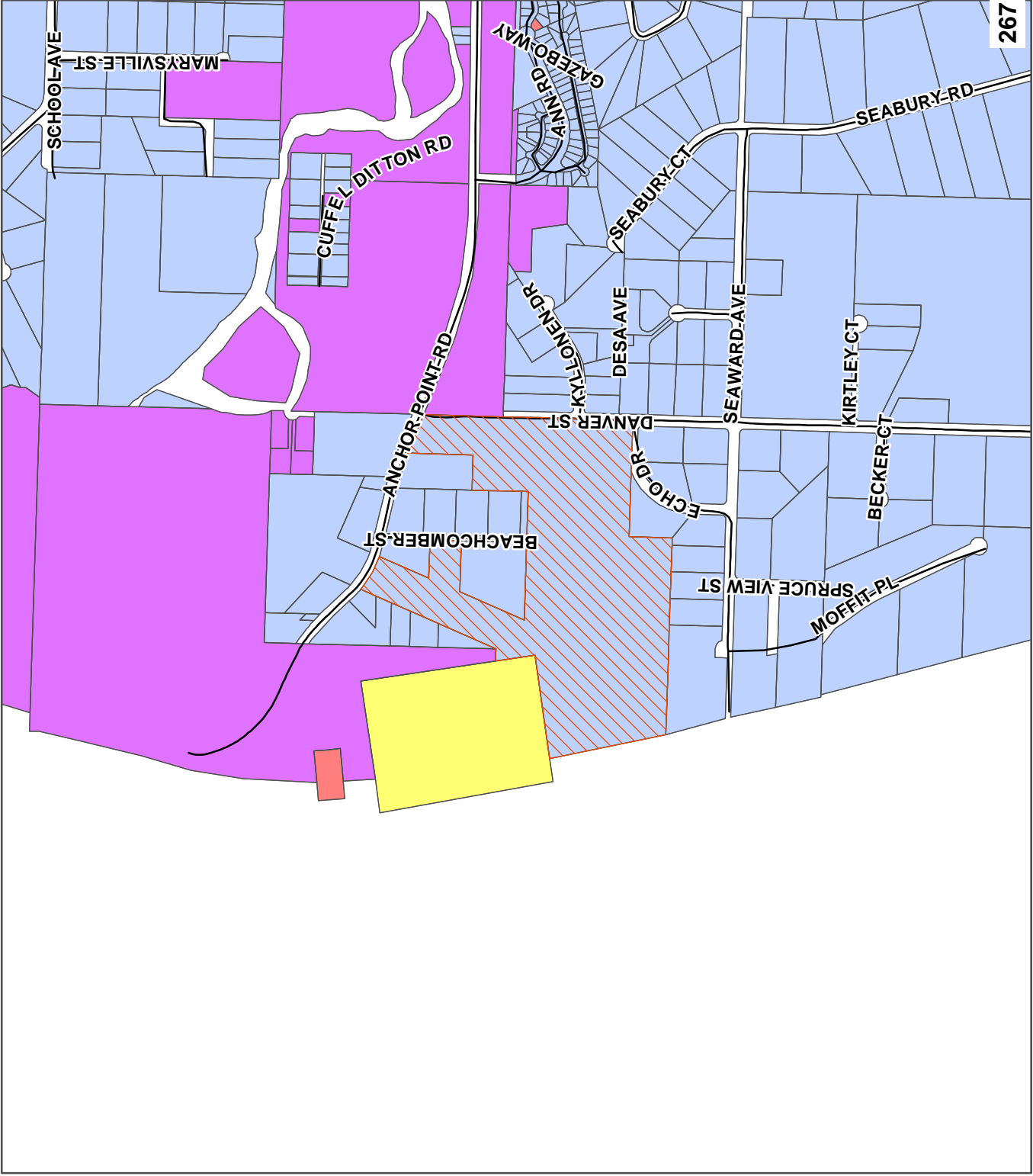
OWNERSHIP

0 500 1,000 Feet

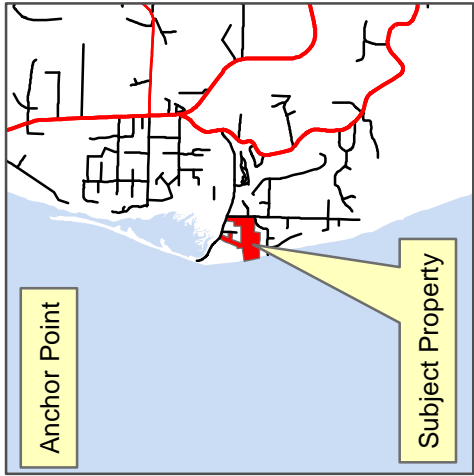
Date: 6/21/2018

R26

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

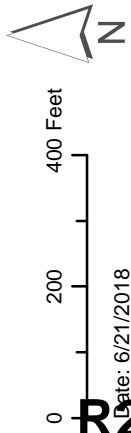


Parcel Number: 169-010-67
Applicant: Beachcomber LLC

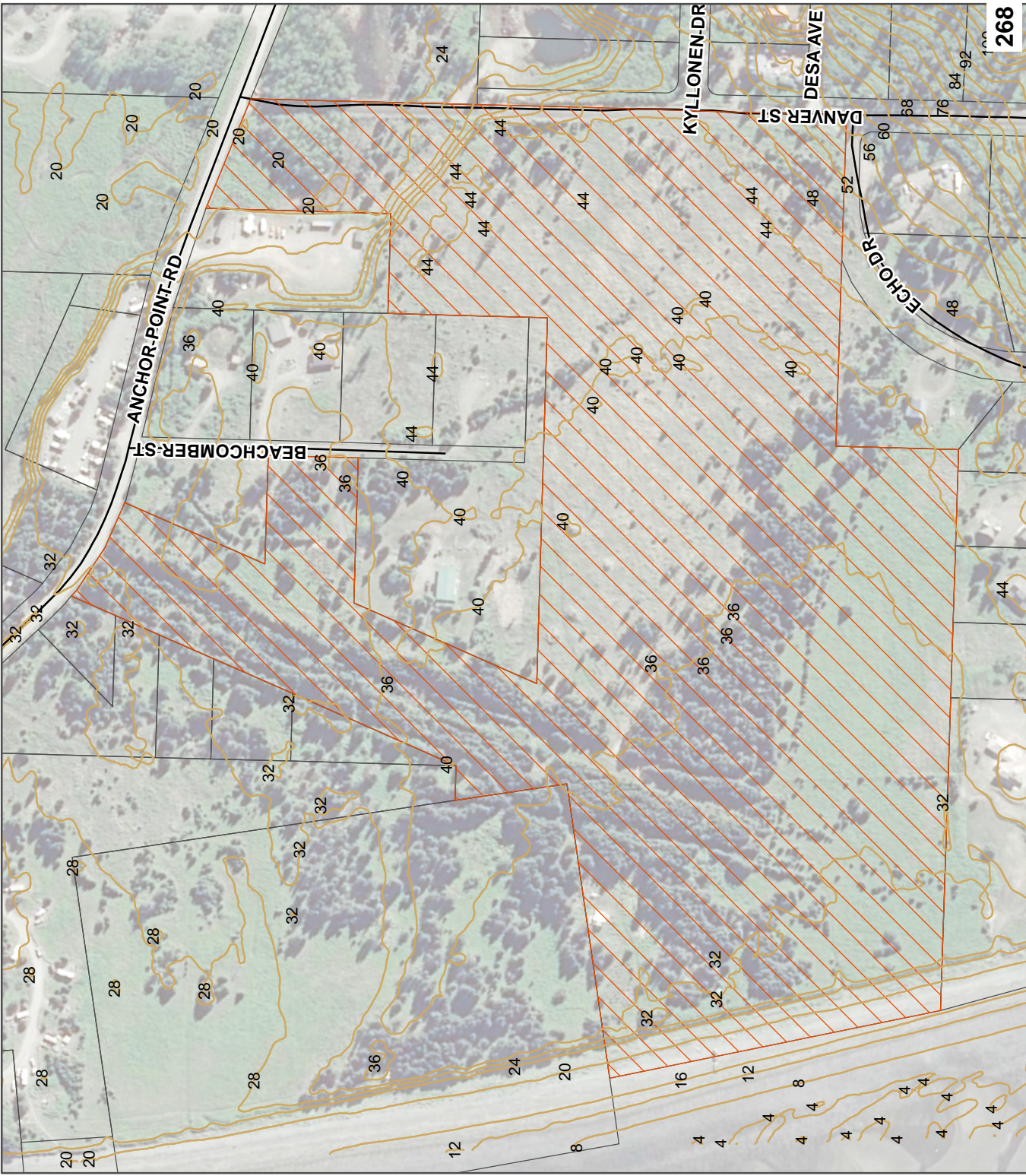


LEGEND

- 4' Contours
- Subject Parcel



Date: 6/21/2018
The information depicted hereon is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



KENAI PENNINSULA PLANNING BOARD

144 BINKLEY STREET

SOLDOTNA, AK 99669

JUNE 26, 2018

I AND MY NEIGHBORS STRONGLY OBJECT TO THE PERMITTING OF THIS PLANNED GRAVEL PIT. THE ROADS THAT WILL BE USED BY THE THOUSANDS OF COMMERCIAL TRUCKS ARE IN DEPLORABLE CONDITION AND WITH THE PLANNED TRUCK TRAFFIC IN AND OUT OF THIS PIT THE ROADS WILL BE DESTROYED. UNLESS BEACHCOMBER LLC POSTS A BOND TO REPLACE AND MAINTAIN THE ROADS THAT THE TRUCKS WILL BE TRAVELING, THIS PERMIT SHOULD NOT BE GRANTED. THE PLANNING BOARD OWES THE RESIDENTS AND CURRENT USERS OF THESE ROADS THE PROTECTION THEY ARE ENTITLED TO FROM BEACHCOMBER LL WHO WILL DO NOTHING BUT RAPE THE LAND AND LEAVE AN UNSIGHTLY MESS AND HOLE IN THE GROUND.

IF THE COMMERCIAL TRUCKS ARE ALLOWED TO USE "THE BEACH ROAD" IT WILL CAUSE HUGE PROBLEMS WITH THE BOATS THAT TRAVEL THIS ROAD TO AND FROM THE TRACTOR LAUNCH WHICH IS A CRITICAL PART OF THE ANCHOR POINT ECONOMY.

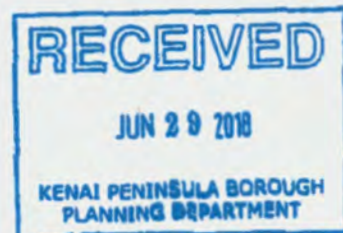
JOHN AND BARBARA GIRTON

PO BOX 869

73460 TWIN PEAKS LOOP

ANCHOR PONT, AK 99556

John R. Gorton
Barbara Gorton



Wall, Bruce

From: james gorman <captainboomer@hotmail.com>
Sent: Tuesday, June 26, 2018 8:31 AM
To: Wall, Bruce
Subject: Beachcomber LLC gravel pit

Dear Chairman-

I received a letter yesterday regarding this proposed development. Although I have no objections to the extraction of the materials from this site, I do have reservations about the transport of same. The corridor, what we call the beach road, is a narrow two-lane road in serious need of an upgrade. The pavement is separating in several places and it has very narrow shoulders, making it hazardous to pedestrians when two wide vehicles travel in opposite directions. Given that there is a popular boat launch and several RV parks along this route, this is not uncommon. Boat and Rv traffic is heavy at times during the summer months.

I would recommend wider shoulders along the beach road portion and repaving this corridor.

I also have a question about the route these trucks would take. Would they cross the Anchor River bridge or use the Old Sterling? If the bridge, I have concerns about it's integrity and it's narrow width. The Old Sterling is another road in need of an upgrade if that is the route taken.

In conclusion, my concerns are about conflicts in the corridor with the various user groups and the poor condition of the roads.

Any addition information your could forward to me on these matters would be appreciated.

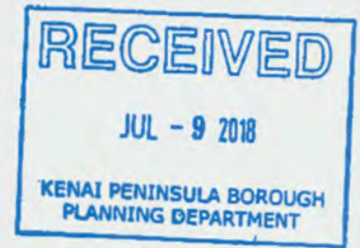
Sincerely,

James Gorman
Anchor Point

Sent from my iPad

Thomas J Brook
PO Box 39004
Ninilchik, AK 99639

July 1, 2018



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

To Whom It May Concern,

I am in receipt of the KPB Planning Commission Notice of Public Hearing on the proposed sand, gravel and peat extraction request by Beachcomber LLC, Parcel No 169-010-67 at 74185 Anchor Point Road.

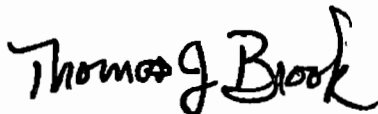
I will not be available on July 16 to attend the meeting and give oral testimony, thus this letter should serve as my input. I am **vehemently and adamantly opposed to the issuance of a permit for sand, gravel, and peat extraction on this site.** Such an endeavor will dramatically detract from the property I currently own abutting Echo Drive and Spruce View Street. This is a developing home site community and the currently existing homes and home values would be seriously devalued should a permit of this type be granted in this area. The deterrents to lot sales and existing homes would be numerous but some of the most serious would be the devaluation of property, the ugly sight of a gravel pit from the road, specifically Denver Street which I use to access Echo and Spruce View Streets, plus along Anchor Point Road, the daily noise of a "gravel pit" which, at the very least is obnoxious, and the dust generated which can have a serious impact on anyone with allergies or lung conditions aggravated by dust and dirt (pollutants) in the air, not to mention the housekeeping nightmares. There is also no way to measure the damage to the ground and surrounding ground with the gravel pit activity and you can't possibly tell me or others that this absolutely **WILL NOT** affect the ground water servicing our wells. I realize you think berms are meant to provide a barrier, however a 6 foot berm does nothing to alleviate or eradicate the above listed concerns. I don't think it's adequate to say that the Planning Commission approve the conditional land use permit because all six standards have been met.

There's far more at stake here than just meeting the borough's six standards. This is no longer the wild west of Alaska and because Anchor Point has not traditionally been a highly populated area does not automatically make it eligible for a gravel pit land use off Anchor Point Road.

I am shocked that this proposal is even being given consideration. This area has been growing in popularity as a housing area of development for many years now, especially view lots and beachfront (both high and low bluff) and is a highly inappropriate area to put a pit. The Planning Department should have denied this usage request before it even got to this stage. Just imagine for a moment if this were your home or your valuable property and now the view you have from any surrounding hill is this gravel pit. Would you allow this proposal in your neighborhood? I think not, so just because an application meets your technical criteria does not mean it's an appropriate or even necessary usage type. I completely understand the pressure exerted to grant this permit because the owner(s) of this land are obviously anxious to make the potential money, as gravel pits are trying to pop up seemingly everywhere in the borough as very lucrative endeavors. However, this particular one is at the expense of the homes, people and potential for land development in this immediate area. I don't think that can be ignored nor sacrificed for the lucrative potential of a gravel pit just because your criteria does not specifically prohibit this activity.

Again, I cannot stress this point enough, I do not, cannot, and will not support the application for a gravel pit as proposed. Please reconsider your inclination and recommendation to approve this permit.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Brook". The signature is written in a cursive, slightly slanted style.

Thomas J. Brook

Friday, July 6, 2018

Mr. Bruce Wall
Planner
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669

Dear Mr. Wall,

We are writing to you on behalf of our small community of Anchor Point neighbors who are upset about a proposed sand, gravel, and peat extraction permit submitted by Emmitt and Mary Trimble of Beachcomber LLC/Coastal Realty. The 40+ acre property in question is located on the west side of Danver St. between Anchor River Road and Echo. We respectfully request that you reconsider your draft recommendation of approval and reject the proposed permit.

We are sorry we cannot be present at your public hearing to be held July 16, 2018 in Soldotna at 7:30 P.M. Unfortunately, Richard and I are already obligated in Washington State, but we hope that this letter can be read to those present at the meeting. The following are our key concerns:

[1] Visual enjoyment of property

Currently, the hillside view overlooking the proposed gravel pit is of a lovely green meadow, spruce and alder trees, and spectacular Cook Inlet and Alaska Range beyond. A dusty gravel pit is not what we had in mind when we purchased our lots here. Those neighbors who abut the property are naturally quite concerned about the potential loss of property value as well as the aesthetics of losing their Alaskan green space. Of course we would all be thrilled to have enough money to purchase enough acres to completely ensure our privacy and solitude. Not being in a financial position to do so, we have trusted our realtors to speak the truth about the land we consider purchasing. We trust the borough officials to protect our interest and desire to live peacefully with our neighbors. We hope that we can together find a solution that will render everyone contented. Surely there must be a suitable, alternative location that the Trimbles can find to locate their sand, gravel, and peat business that does not so negatively impact local Alaskan residents.

[2] Noise

Alaskans take pride in the beauty of their land. Some, like Richard and I, love the pastoral setting and mountain views afforded by a hillside home. Others

prefer the quiet solitude of a home nestled hidden among spruce and alder. **ALL** of us are adamantly opposed to an unpleasant drone of gravel excavators, machinery, and dump trucks next door. Several years ago when the Trimble cleared the property, there was a constant obnoxious noise from heavy equipment, easily heard from all surrounding properties. As you review the proposed three phases of sand, gravel, and peat extraction, we implore you to consider thoughtfully the full import of your decision on our neighborhood as well as the precedent it could set for future Kenai Peninsula communities.

[3] Dust

Richard and I have built our cabin over the past four summers. We have experienced first hand the weather and winds here in Anchor Point. We can appreciate the dismay of Marie Drinkhouse, Lee and Mark Yale, Bob Baker (to name a few) when they were apprised of the proposed permit application. The Anchor Point winds would carry excavation dust, dirt, and debris straight south to their houses. All of us within at least a half mile would be negatively effected by the dust pollution created by such an operation. Today is a sunny, clear day. I hate to imagine what the air would smell, taste, look, or feel like with an excavation project underway.

We understand that there are several sand, gravel, and peat excavation permits under current consideration. Each will succeed or fail on its individual merits or problems. We hope that as you deliberate and examine the concerns, goals, and plans of all parties involved, you also include the honorable aspect of this issue. When all is said and done, it is our hope that everyone will feel good about the outcome. Perhaps someone can offer the Trimble assistance in locating a more suitable location for the business of sand, gravel, and peat. In the end, we are neighbors and a community that wants the best for each and every citizen.

Thank you for your consideration, Mr. Wall. We look forward to hearing from you. If there is anything else we can do to plead our case, please let us know.

Respectfully,

Ann and RC Cline

Wall, Bruce

From: Rokos, Jay M (DNR) <jay.rokos@alaska.gov>
Sent: Friday, July 6, 2018 1:41 PM
To: Wall, Bruce
Subject: Re: KPB CLUP Material Site Application - Parcel 169-010-67
Attachments: Reclamation Plan.pdf

Bruce,

Thank you for the opportunity to comment on the subject public notice. Per AS 27.19, a mining operation must have Reclamation Plan approval with the State of Alaska prior to operations. This requirement is for all land ownerships.

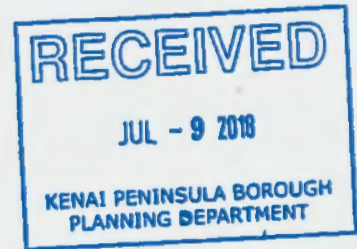
To date, DNR does not have an approved Reclamation Plan for the subject parcel. DNR requests for the applicant to apply for a Reclamation Plan at the Southcentral Regional Office at 269-8503. An application is attached.

Applicant: Beachcomber LLC
Landowner: Beachcomber LLC
Parcel Number: 169-010-67
Legal Description: Tract B, McGee Tracts – Deed of Record Boundary Survey (Plat 80-104) – Deed recorded in Book 4, Page 116, Homer Recording District

Jay Rokos
Natural Resource Technician II
Alaska Department of Natural Resources
Division of Mining, Land and Water
Southcentral Region Office
Leasing Unit
550 W. 7th Ave. Suite 900C

Phone: (907) 269-5047
Fax: (907) 269-8913

July 6, 2018



Bruce Wall, AICP
Planner
Planning Commission Chairman
144 N Binkley Street
Soldotna, AK 99669

Re: Parcel Number 169-010-67, 74185 Anchor Point Road

I would like to pose some questions and concerns on this proposed gravel pit.

Is DEC involved in this process?

Is Beachcomber LLC required to submit a 15 year time line action plan?

Are there other places in the area where this process has been completed and the reclamation process also complete? It would be nice to see this process at various stages. Does the applicant have a history in this type of endeavor? Could we see one of their reclamations?

What are the hours of operation and the usual season of operation? Will the truck traffic be going over the old bridge?

What type of soil is left after this process? What is the reclamation process?

With the tides rising over extended periods of time and this lowering the land by 10 feet close to the inlet don't you have some concern for the long term affect?

There has to be someplace further away from the water and further away from homes that could provide these resources!

How does Fish and Game feel about this operation? Poor Anchor Point has so struggled to get tourism going in the area and this surely can't help the cause.

Does the Anchor Point Chamber of Commerce know about this?

Have you walked the property? What happens to the trees on the property?

Thank you for taking my concerns into consideration. I look forward to your thoughtful answers.. I own the property @ 34925 Echo Drive in Anchor Point.

Marie Drinkhouse
5949 S Hayfield Road
Wasilla, AK 99623
907-3540847

Wall, Bruce

From: Carver, Nancy
Sent: Friday, July 6, 2018 1:30 PM
To: Wall, Bruce
Subject: RE: KPB CLUP Material Site Application - Parcel 169-010-67

No Habitat concerns

Nancy Carver
Habitat Resource Planner
907-714-2463
ncarver@kpb.us

KENAI PENINSULA BOROUGH
514 Funny River Road
Soldotna, Alaska 99669



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

Wall, Bruce

From: Marie Carlton <seaburyroad@live.com>
Sent: Sunday, July 8, 2018 11:32 PM
To: Wall, Bruce
Subject: regarding the proposed Beachcomber LLC Gravel Pit site

Dear Bruce, My husband and I live at Parcel 16936027, 73500 Seabury Rd. T5S R 15 W Sec 9 Seward Meridian HM 2001035 Meadow View Estates Tract 15A. We are responding to the public announcement document provided to us by the Kenai Peninsula Borough June, 22 2018 and wish to respond and object to the Beachcomber LLC application as stated. We have grave concerns about the proposed "Gravel Pit." We have a retirement home with a substantial investment and chose Alaska for its beauty, wildlife and solitude. The reviewed documents do not reflect an environmental impact study regarding the proposed "Gravel Pit." This proposed "Gravel Pit" will run the risk of negatively impacting wildlife and wetlands. This is a critical Moose calving area as well as Bald Eagle nesting sites. With rock crushing, dust and noise, we will lose the very reason we chose Alaska as a place to retire. This would terminate the beauty of the wildlife we value and enjoy. With children bicycling, walking to the beach the increased truck congestion may reveal disastrous results. The Anchor Road is always congested but with increased traffic, a failing, narrow road with no path to walk, the risks of a fatality increase substantially. I have witnessed current loaded rock trucks rarely adhering to the speed limit. The dust pollution will affect many areas. We don't look forward to the smell, taste and appearance of blowing dust. This not why we chose Alaska. In Alaska we love the quiet, beauty and solitude of our home and not the unpleasant drone of truck engines and rock crushers. I believe the property value of our homes will plummet. Who wants to purchase a home with a gravel pit in their backyard? We hope you will not approve the application for Beachcomber LLC. We have worked very hard to be able to retire in this beautiful area. Thank you for allowing us a voice. Rick and Marie Carlton 509-430-4304
seaburyroad@live.com

Wall, Bruce

From: Gary L. Gordon <garygordon4@gmail.com>
Sent: Monday, July 9, 2018 12:55 PM
To: Wall, Bruce
Subject: Fwd: Beachcomber LLC Gravel Pit Application

>> My name is Gary L. Gordon, my wife Pamela C. Gordon and I own an assessed \$280,000 view home at 34919 Fisher Court, directly above the proposed gravel pit. We also own two more lots off Danver and High Seas Court, assessed at over \$120,000. We don't want a gravel pit in our view, nor the additional traffic on Danver, resulting in excessive noise and dust. I own and operate a commercial gravel pit here in Dillingham, AK. They are noisy and dusty even if the operator or operators of the gravel pit maintain the public roads. Applicant is not going to operate this gravel pit, nor does he have the experience or equipment to develop the pit. He intends to sell gravel to highest bidder; therefore, if a project, say Anchor Point Bridge comes out to bid, applicants representative will solicit his gravel pit as the extraction source. The contractor will most likely use it, for it is the closest source. That contractor will further develop the source, move man camp in, job trailers, offices, rock crushing plant and an asphalt plant. They will work 84 hours a week, maybe more if weather hinders paving operation. We the land owners and tax payers now get an asphalt smoke screen and an enormous amount of noise and dust blown on us from tidal winds through the summer.

>> Developing the proposed commercial gravel pit operation in heart of the only recreation site Anchor Point has, is not acceptable. There are State camping parks, boat launch facilities, private RV parks and guiding businesses, plus us the home and land owners that will be adversely affected. Locals, other Alaskans and visiting tourists all travel these wore out roads and bridge now, putting fifty or more loaded dump trucks on these roads a day is going to ruin them. Our State has no funding to repair or rebuild this infrastructure that our lives require to occupy our homes and businesses.

>> Another serious consideration is line 7 on page 2 of 4 of permit, gravel extraction into OUR water table, stated again on page 4, monitoring wells. This has a potential to be very bad for all surrounding owners and businesses.

>> I hope the federal land owners between this site and the beach have been notified, as well as the wet land issues north of this site.

>>

>> Bottom Line, This is not good for Anchor Point it's residents or businesses.

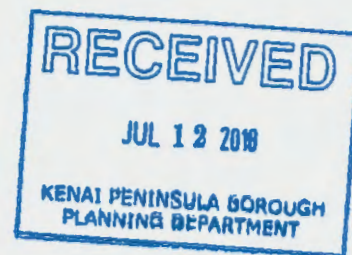
>>

>> Cordially, Gary L. Gordon

>>

>>

Dan and Cathy Millard
 35060 Denver St
 Anchor Point, AK 99556



July 9, 2018

Dear Planning Commission Chairman,

In regards to the proposed gravel pit, please address that this is in the middle of recreational and residential area. Also, the road is weak and broken already. At times it has extremely heavy traffic as well as pedestrian traffic with no shoulder or walking trails.

There is the problem of silt generated from the pit flowing to wetlands which will not be able to be controlled.

The view property in the area will need to be reassessed for the change of value, as part of the view becomes a large hole/gravel pit.

We are extremely against this proposed gravel pit. It will forever change a much loved and used recreational area as well as devalue residential property.

Kind regards,

Dan and Cathy Millard

R39

July 9, 2018

Planning Commission Chairman
144 N. Binkley St.
Soldotna, Alaska. 99669

Re: Public Testimony Regarding Beachcomber LLC's Application for a Permit for Sand, Gravel, and Peat Extraction on A Portion of Parcel Number 169-010-67, Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104), Location: 74185 Anchor Point Road

Dear Planning Commission:

We are property owners and Party of Record in the vicinity of the above proposed "Gravel Pit". Our property is located at 34860 Seabury Court, Anchor Point, Alaska 99556 (Lot 6-A Silver King Ten, Plat No. 97-41 Homer Recording District). We built our house here in 2004 and have a substantial investment in our property and home.

We are deeply concerned about the proposed "Gravel Pit" and wish to document our objection to the Beachcomber LLC's application as described in public announcement provided us by the Kenai Peninsula Borough June 22, 2018.

Environmental Impact Statement:

There is no reference to there being an Environmental Impact Statement regarding the proposed location of the "Gravel Pit". While the Borough may not deem it is required for this proposal, it is evident that the proposal will effect wildlife and birds in the area which includes the wetlands.

Moose: The specific location and surrounding area is an annual moose calving and rearing area. We know this to be a fact as having lived here for 14 years. Each year, cow moose wander throughout the proposed extraction area and across all the extraction area boundaries to give birth to young moose. This is a critical time for young moose as they are literally born in this area and are nursed and oversaw by cow moose until they are able to fend for themselves. In the 14 years we have lived here, we have personally observed more and more habitats made less available to cow moose birthing due to new home construction and other development. They are extremely sensitive to noise and human activity during this period. There's also concern that cows may abandon their young if enough pressure is brought to bear as proposed by this "Gravel Pit" application.

Birds and Small Game Animals: The specific location and surrounding area is home to numerous birds and small wild animals. From the smallest Chickadee to the largest eagle, they use this area daily and are seen throughout the proposed "Gravel Pit" site. We have personally observed Eagles abandon their nests with young in them due to too much human activity and noise. While there may not be a large number of Eagle nests immediately in the proposed site boundaries, there may be, but we know there are a number of Eagle nests in adjacent locations.

The addition of a 'Rock Crusher' in the project will exacerbate the already large impact of noise and activity many birds and wildlife can't withstand. The noise and intrusion of a 'Rock Crusher' in this critical moose calving area will do immeasurable harm to them.

The area being proposed as a "Gravel Pit" is a disastrous breach of our husbandry of Alaska's bird and wild life. It is near to the State Park and camp ground and world renown fishing river.

If an Environmental Impact Statement isn't demanded by the Kenai Borough regarding this application then we question the integrity of the Borough's interest in the proposed project.

Public Safety:

The Anchor River Road (from the Anchor River Bridge/Old Sterling Highway to the end of it at the Tractor Launch is narrow and in complete disrepair. Major pavement cracks, pot holes, heaving, and other roadway hazards currently exist. During the summer heavy traffic from commercial fishing charters, tourists, and local residents battle these bad road conditions.

The roadway is extremely narrow without any significant shoulders for pedestrians, and bike riders to get away from the heavy summer traffic. There are a number of "blind" corners making even more dangerous for people walking or bike riders. While this roadway is posted with a 25 mile per hour speed limit, very few drivers observe the limit and often are traveling at least 35 miles per hour and even more.

With the proposed application, the applicant will be introducing another layer of traffic to an already problematic roadway. However, this won't be light weight vehicles. They will be at minimum, large dump trucks filled with heavy loads of gravel and sand. In fact, there is no restrictions regarding the size of heavy trucks that can be used. If it's in the applicant's interests to haul using large 'belly dump' rigs he'll likely do so. Regular 'dump trucks' will soon tear up the Anchor River Road to the point it will be unusable for all of us. Lets face it, dump truck operators are on the clock and inevitably push the speed limit as it is. Already, with the limited amount of dump truck use of the Anchor River Road, we observe them driving well over the 25 mph speed limit.

Even if the Anchor River Road surfaces were brought up to standard, there would continue to be a major public safety issue due to the lack of shoulders and blind corners making pedestrian and bike traffic perilous.

No where in the proposed application are these problems addressed. For these reasons alone, we oppose the application for a 'Gravel Pit' in this area.

If the Borough is insistent upon granting this permit, then the applicant and/or Borough should provide a new roadway from Denver to the Old Sterling Highway, thereby, eliminating the Anchor River Road from the equation. There has been a proposal to make this connection by extending Seaward Avenue to the Old Sterling for a number of years.

At minimum, the Kenai Borough should photographically document the existing condition of the Anchor River Road prior to the applicant's engaging in and hauling activity in order to ensure applicant's compliance with KPB 14.40.175 and KPB 14.40 .

Property Values:

When we built our home in 2004, the area adjacent to the proposed "Gravel Pit" was little developed and there were very few homes in our area. We selected our home site understanding that Anchor Point was a tourist destination to enjoy the Anchor River fishing and the beautiful flora and fauna found here. Our home location was and remains relatively quiet and peaceful. We have a secondary view of Cook Inlet and our home's value has increased

substantially since we built it. There was no 'talk' about a 'Gravel Pit' being made near our home. If there had been, we wouldn't have even considered building our house anywhere near it. Now, instead of an almost pristine environment with quiet and solitude, a beautiful river nearby, and almost constant opportunities for bird and wildlife viewing, we will be subject to a layer of human impact that can only subject our home's value to degradation. If this application granted we will be lucky to regain our original investment. No one will be interested in property that is near to a large 'Gravel Pit' operation.

General Comments:

1. Under discussion of groundwater as being 20' and that the depth of the proposed excavation is 18 feet, we are concerned about two issues: 1) This was apparently established by only one test hole on the proposed project site. This seems to be a very limited testing approach given that the project is over 25 acres in scope. It would seem prudent to require additional test hole at various locations throughout the project area to ensure the water table is consistent; 2) There does not appear to be any consideration related to the water table level upon the removal of all surface vegetation. It seems obvious the groundwater level will be effected by such removal. Provisions should be made to protect groundwater throughout the project and adjacent properties to the extent possible.
2. 50 foot buffer zones- We were pleased to see that the Staff have recommended these 50 foot buffer zones be required. However, we would like to see the applicant be required to create a 12 foot berm all along the East boundary of the project inside the 50 foot buffer zone if this project is going to be approved.
3. Staff have recommended that, "The permittee shall not operate rock crushing equipment between the hours of 10:00 p.m. and 6:00 a.m." It has been traditional throughout Alaska that construction activities be between the hours of 9:00 a.m. and 9:00 p.m. to give families brief periods of respite from loud noise and general neighborhood disturbances. We believe this should not only include rock crushing activities but hauling activities as well.
4. Regarding permit renewal at the end of five years, we believe it should be required that the public also be notified of a request for permit extension at least 30 days prior to the permit extension and a public hearing be held by the Borough to determine how the applicant has performed under the original permit if its given.

We wish to thank you for your consideration of our comments.

Sincerely,

Gary and Eileen Sheridan

PO Box 661
Anchor Point, Alaska 99556

907-235-5542
twoshar@acsalaska.net

Cc Bruce Wall, AICP
bwall@kpb.us

Wall, Bruce

From: R. O. Baker II <bobkleen@acsalaska.net>
Sent: Tuesday, July 10, 2018 5:39 PM
To: Wall, Bruce; susan@reevesamodio.com
Cc: leeyale2008@yahoo.com; markyale2001@yahoo.com
Subject: Photos taken by you 7.02.18 / 1020 ADT

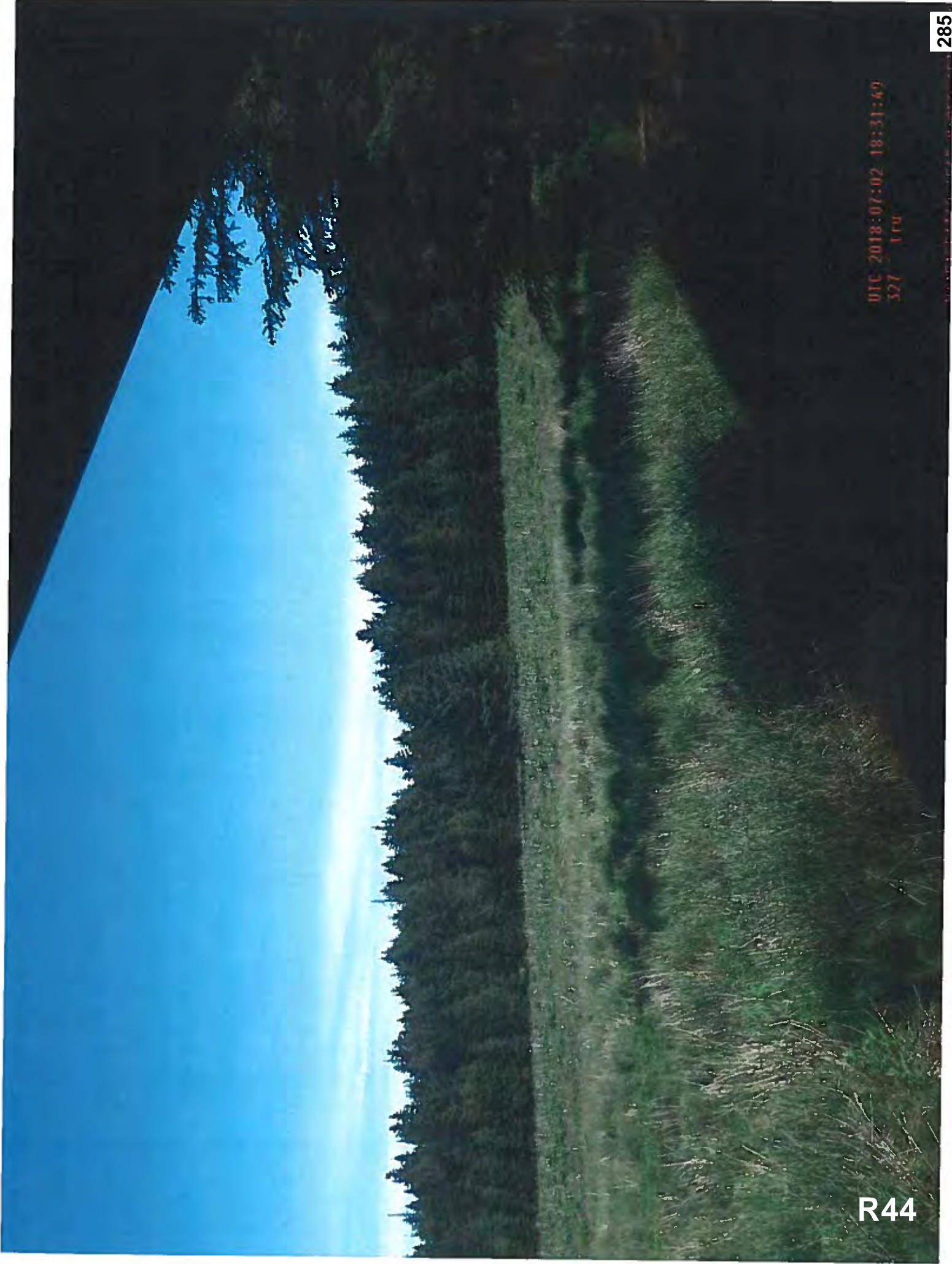
Hi Bruce,

Please insure that enlarged copies of the photos, which you took from my porch, are available for viewing at the meeting scheduled for Monday, 16 July.

Yours,

Bob

Sent from Mail for Windows 10



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327 100

R44

July 10, 2018

Borough Planning Commission,

I am writing in regard to the following agenda item: Applicant for
Conditional Use Permit: Beach Comber LLC

Parcel: 169-010-67

Tract: Tract B, McGee Subdivision

I live within 500 ft. of this proposed gravel pit and am asking that the Planning Commission look hard and long before granting this permit. The community is on the Inlet and adjacent to a state park. Those of us that live there have peace and quiet, and such beautiful scenery, that it is hard to quantify how much it means to us. I am sure those that come to the park also feel that they have rarely seen anything more beautiful.

It may be news to those on the Planning Commission that many people who are living in this area are retired and have invested in new homes and have a quiet, rural lifestyle. We have much pride in our homes and gardens and love this community. This isn't just a summer fishing place where tourists come to visit. The tourists are a part of summer life but Anchor Point is a real community that is growing.

Please ask yourself if you would like to have a 40 acre gravel pit next to your home. Please make this decision as if it was your neighborhood that was about to be invaded with heavy equipment, loud noises, dirt and dust filling the air you breathe, possible loss of water in your well and loss of animals that have been habitating in that 40 acres. How would you like 5,000 loads of gravel traveling on your road that isn't designed well enough to manage the traffic it already has. How would you like to not be able to ride your bike along the road anymore, or even take a walk, because of the large equipment, including dump trucks. Remember that in that world "time is money" and these vehicles don't go slow. How would you like to think that these trucks may not keep the rules that regulate the 11 ton limit going over the old and rickety bridge that covers the Anchor River.

I have no objection to gravel pits that are isolated and away from public view. Gravel is important, but there seems to be adequate gravel pits in our area. I think a "certificate of need" should be required when so much raw land is dug up. There are, potentially, many repercussions that may ensue if this permit is granted to Beach Comber LLC, or if that corporation doesn't follow the requirements specified in the permit.

Is the borough prepared to reduce our personal property taxes? As you might imagine, the property values will go down and our availability to sell our homes will be lost toodue to the 40 acre gravel pit just out our front door.

I ask you once again to really think this permit over as there are many, many peoples lives that will be changed due to this project. Why should one land owner's needs be met in front of the many that have lived in the community for a long time, and have so much to lose.

Thank you for the ability to express my concerns.

Sincerely,

A handwritten signature in black ink that reads "Vickey Hodnik". The signature is written in a cursive, flowing style.

Vickey Hodnik
35031 Moffit Ln.
Anchor Point, Alaska

Wall, Bruce

From: AK Don H <hortons6@gmail.com>
Sent: Tuesday, July 10, 2018 5:59 PM
To: Wall, Bruce
Subject: Gravel pit on Danver st in Anchor Point

Dear Sir,

My wife and I own the lot to the south of purposed gravel pit, we bought it for recreational and maybe to build on someday.

Our only view is looking across the property in question, we have great view of Mt. Redoubt it would suck to look across a gravel pit to see it. I can give you lots of reasons not to approve the permit like noise, dust, dump truck traffic on the beach access rd and danver st both of are already pos roads, a old bridge over the river that is need of repair and isn't rated for that kind of weight anyway, environmental issues to surrounding area, ground water issues to near by wells and the Anchor River, not to mention it will drop mine and everybody else's property value to almost 0. There is no way I would build a house across the street to a gravel pit and wouldn't be able to sell if I wanted to. I'm sure that no one on this planning comision would want this in their front yard like it would be in mine.

Please do not approve this permit in no fashion it will literally ruin the little slice of Heaven/Alaska that we own!

Don and Lori Horton

July 10, 2018

Borough Planning Commission,

I would like to tell you of my concern for the gravel pit permit being sought by Beach Comber LLC, of Anchor Point.

The gravel pit will potentially cover 40 acres and it located near the state park and tractor launch, and the bluff, south of the tractor launch. This area is both park and residential, with gravel roads and nice homes. These homes are expensive and have their own wells and septic systems. Vacation homes make up some of these residences and these people come to relax and enjoy the quiet and beauty of Cook Inlet and the beach.

I chose to move to Anchor Point for my retirement years; I sold everything I owned in Homer and now have invested that money in a new home. Two weeks ago the news of the gravel pit was delivered by mail. If that pit happens, my land values will decrease, and no one would want to buy my property as it is within 500 ft. of the gravel pit.

My concerns lie with the noise, dust, disruption of beautiful property, what happens to the salmon who return to this area, ground water and private wells and the danger of the dump trucks on Danver, River Road and the Old Sterling Highway. The bridge over the Anchor River is not capable of handling more than 11 tons.

Those at the borough have stated that "these permits are never withheld"....really? Do the adjoining residents not have a say about what happens in their neighborhood? Why does a new landowner have his/her desires met over those who have been there for sometime and paid considerable tax dollars to the borough. Will the borough pay the home owners for the lost value of their property due to this gravel pit?

A dramatic change like this in our neighborhood would be heart breaking and also ruin the ambiance of the state park. The parcel of land that this pit could be developed on is beautiful and is a lovely habitat for wildlife, or could become awesome home lots. A gravel pit is not appropriate for this neighborhood.

Upon issuing this permit, who is liable for the dust, noise, disruption of view, increased traffic, possible loss of water for private wells, decline of salmon and disruption of wildlife. Who will make sure that the 5,000/yr. dump truck-loads don't cross the old bridge and that speed violations don't happen on the Old Sterling highway? Who will monitor that this pit doesn't operate 24/7 so that there is no relief for those living near it?

In 2018 why do we have to beg for quality of life in our neighborhoods? There are plenty of gravel pits up and down the Sterling Highway. I don't think there is a need for this pit and I think families and lifestyle should come first.

Respectfully,

A handwritten signature in cursive script that reads "G. George Krier".

George Krier
PO Box 1165
35031 Moffit Ln.
Anchor Point, Alaska

July 10, 2018

Planning Commission Chairman
144 North Binkley Street
Soldotna, AK 99669

Re: Beachcomber LLC Application for Conditional Land Use Permit
for material extraction of sand, gravel, and peat on
a portion of Tract B, McGee Tracts

Location : Anchor Point, AK

Parcel #: 169-010-67

To Whom it May Concern,

My partner and I live at 1/2 mile south Danver Street, Anchor Point – approximately 1/4 mile south of the proposed site for extraction of sand, gravel by Beachcomber LLC. Other than Danver Street traffic, this is a quiet neighborhood and has been since we moved here in 1990.

We are opposed to a business that will create noise, dust, and more traffic on Danver Street, which is well known to have great deal of truck traffic as it is. Danver Street is notorious for people who like to speed and ignore stop signs at the corner of Echo Drive, Kyllonen Drive, Desa Avenue, and Seaward Avenue and cut the corner at Danver and Anchor Point Road.

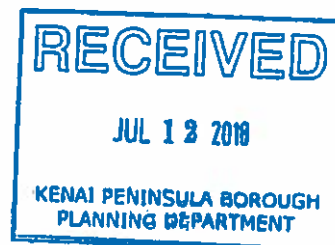
One issue that wasn't mentioned in the Public Hearing Notice is the use and condition of Anchor Point Road. Anchor Point Road is notorious for the lack of maintenance by the State of Alaska. It is a narrow road that has no bike trails, no shoulders, is full of cracks and holes that get filled but never fixed. Add to that in the summer, traffic consists of motor homes driving in and out of four campgrounds, pickups hauling boats and trailers to and from the Cook Inlet boat launch, people driving four wheelers, people walking on the edge of a road that has no shoulders or walking trails, bicyclists sometimes 20 at a time riding in single file in either lane, trucks delivering water, fuel oil, wood etc., not to mention the locals who use it every day – we don't need more traffic on Anchor Point Road, especially trucks hauling sand and gravel to add to the chaos.

Finally, we are opposed to a business in our neighborhood that will likely lower our property values.

Thank you for your consideration.


Mike Wartburg


Sharon Fromong
Co-Owners 35236 Danver Street, Anchor Point, AK
(907) 235-2626



Beachomber L.L.C.

?

Concern:

Noise

Dust

Traffic

Roads

What is the plan for reclamation
of the land. ? When the develop
planning on selling all the pet?

What is to be used for top soil
for reclaiming.

Concer Home owners
David J. Tesar
Bonnie D. Tesar

Wall, Bruce

From: Mark Yale <markyale2001@yahoo.com>
Sent: Tuesday, July 10, 2018 6:56 PM
To: Wall, Bruce; susan@reevesamodio.com
Cc: R. O. Baker II; mariedrinkhouse@yahoo.com
Subject: Re: Property Line to the house
Attachments: property line 2.jpg; property line.jpg

On Tuesday, July 10, 2018 06:50:05 PM AKDT, Mark Yale <markyale2001@yahoo.com> wrote:

Bruce,

Per our conversation of today of, how close the proposed Gravel Pit Property line is to out back deck on the back sided of our home, please find attached two photographs showing the line is only 5 yards from our home!

The map reflects a 6 foot berm and you stated that the engineer is recommending at least a 12 foot berm. Both of which are going to be insufficient!

Please forward these photos to all commission personnel to convey how unconsciousable this proposal is to all three of properties on the south border.

Respectfully Submitted,

Mark and Lee Yale





Wall, Bruce

From: Hans <catchalaska@alaska.net>
Sent: Wednesday, July 11, 2018 4:47 PM
To: Wall, Bruce
Subject: Anchor Point Road CLUP

Hi Bruce,

I am attaching two pictures taken from my deck, and overlooking the property which would become a gravel pit if the CLUP for Beachcomber LLC (Emmit Trimble) is granted. As is true with all properties (of which there are many) located at higher elevations than the proposed pit, it is not possible for the applicant to meet Standard #5 — Minimize visual impacts. Because of the unique topography of the area surrounding the proposed site and the way sound is transmitted within the bowl, Standard #4 — Minimize noise disturbance to other properties is also not attainable. In light of the inability of the applicant to meet these two standards, as well as a multitude of other legitimate concerns, this CLUP needs to be denied.

The parcel is located in the very heart of a residential/recreational gem and development of a gravel mine upon it would adversely affect the quality of life for residents, drastically lower property values in the surrounding area, and in all likelihood impact tourism (the lifeblood of Anchor Point) when visitors to the area find camping next to the noise and dust generated by a gravel mine is unacceptable.

Hans Bilben
 35039 Danver St
 Anchor Point



R56



Philip J. Brna
5601 E. 98th Avenue
Anchorage, AK 99507
(907) 346-2131

July 11, 2018

Planning Commission Chairman
 Kenai Peninsula Borough
 144 N. Binkley St.
 Soldotna, AK 99669
 Via email to bwall@kpb.us

RE: Comments on Conditional Land Use Permit for Material Site; Beachcomber LLC; 169-010-67

I am providing comments on the referenced Land Use Permit application.

1. I am opposed to development of a material site and approval of a land use permit at this location. I request that the KPB deny the permit.
2. I am the owner of the residential parcel (PID 169-022-08), which is immediately to the north of the proposed processing area and which is almost completely surrounded by the proposed material site.
3. I purchased this property in 2001 and installed an access road and pad. My intent is to build a recreational cabin at this location. I own another cabin in the Clark Peterson subdivision near the Steelhead Campground and adjacent to the Anchor River. This cabin has experienced flooding in recent years and my wife and I have been investigating building another cabin on our property at PID 169-022-08.
4. Approval of the proposed material site application will preclude me from building another cabin because of noise and dust related disturbances. Additionally, a material site will significantly diminish my property value and will impact my ability to sell this property. Development of a material site at this location effectively constitutes a taking of my property value.
5. This is a residential and recreational area and it is inappropriate for the KPB to allow development of a material site at this location. A material site will significantly impact property values and use and enjoyment of residential and recreational property, including the Anchor River Recreational Unit, a part of the State Park System. A material site will conflict with existing residential and recreational use of the area.

6. There is considerable recreational use of the Anchor Point Road and Denver Street by people, including children, walking, running, walking dogs, bicycle tours, and riding bikes in the summer. Use of these roads by gravel trucks is a disaster waiting to happen.
7. I am concerned that this project could affect ground water input to the Anchor River and its estuary but these affects cannot be quantified without better groundwater data.

If the KPB approves this material site application over the objections of local people, the permit conditions must be adequate for protection of residential and recreational use of adjacent properties. I therefore recommend:

1. There be no onsite processing of gravel, especially crushing. This would mitigate many concerns related to noise and dust.
2. There must be a minimum of a 6 foot high vegetated berm and a separate 50 foot vegetated buffer along the entire northern boundary of the property.
3. The requested waiver from the 300 foot setback of the processing area from the northern boundary should not be approved.
4. There shall be no equipment operations between the hours of 6 p.m. and 8 a.m.
5. If the KPB approves this material site application property taxes of all adjacent properties should be reduced.

Philip J. Brna

Wall, Bruce

From: Coowe Walker <cmwalker9@alaska.edu>
Sent: Wednesday, July 11, 2018 4:55 PM
To: Wall, Bruce
Subject: Fwd: Anchor River estuary, salmon and new potential gravel operations
Attachments: T-1T-31-13 Estuary habitat use by juvenile chinook and coho salmon in a Kenai Lowlands (Anchor) River_Final Report9-20-16.pdf; Hoem-Neher et al. 2013 Estuarine environ as rearing habs TAFS.pdf

Hello Bruce,

I am sharing information from my perspective as an ecologist regarding the potential new gravel operations on the parcels to the east of the Anchor River estuary. I have been studying this estuary (as well as other estuaries in the Kachemak Bay region) since 2009. I am attaching a couple of documents - a final report and a peer reviewed journal article that reflect data on juvenile salmon use specifically in the Anchor River estuary. A few salient points are:

- 1) There are thousands of juvenile salmon (Coho and Chinook salmon primarily), as well as other species (Steelhead, Dolly Varden, Starry Flounders, sculpins, sticklebacks) rearing in the Anchor River estuary;
- 2) Juvenile fish rearing in the Anchor estuary exhibit many different life history patterns, and preliminary data indicates that these patterns reflect genetic diversity in the salmon populations of the estuary.
- 3) Juvenile salmon move broadly throughout the estuary, using tidal channels, pools, as well as river habitats,
- 4) Juvenile salmon are present in the Anchor River estuary year round.
- 5) Conductivity measurements taken in the estuary indicate that groundwater flows are supporting juvenile salmon habitats

I am very concerned that the proposed gravel operations could impact groundwater flows that support salmon habitat, and also create dust that could settle on the surface and adversely affect salmon. The estuary of the Anchor River is relatively small, but is an extremely important component of the Anchor River watershed. All salmon use the estuary as habitat at least twice in their lives, as adults returning from the ocean, and as juveniles transitioning to the ocean. As I pointed out earlier, we know that some juveniles rear in the estuary for prolonged periods, and that these may represent genetically distinct fish. There is no other 'alternative' estuary habitat for the fish of the Anchor River to use. In my opinion, it would better to have more understanding of the potential consequences before any of the proposed operations proceed.

Unfortunately, I won't be able to attend the public meeting. Please let me know if I can provide any more information.

Thanks,
 Coowe

Coowe Walker
 Reserve Manager
 Program Watershed Ecologist
 2181 Kachemak Drive
 Homer, Alaska
 (907) 235-4792



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Estuarine Environments as Rearing Habitats for Juvenile Coho Salmon in Contrasting South-Central Alaska Watersheds

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^f U.S. Geological Survey, Missouri Cooperative Fish and Wildlife Research Unit, Department of Fisheries and Wildlife Sciences, University of Missouri, 303H Anheuser-Busch Natural Resources Building, Columbia, Missouri, 65211, USA

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ARTICLE

Estuarine Environments as Rearing Habitats for Juvenile Coho Salmon in Contrasting South-Central Alaska Watersheds

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Christian E. Zimmerman

U.S. Geological Survey, Alaska Science Center, 4210 University Drive, Anchorage, Alaska 99508, USA

Coowe M. Walker and Steven J. Baird

Kachemak Bay Research Reserve, 95 Sterling Highway, Suite 2, Homer, Alaska 99603, USA

Abstract

For Pacific salmon, estuaries are typically considered transitional staging areas between freshwater and marine environments, but their potential as rearing habitat has only recently been recognized. The objectives of this study were two-fold: (1) to determine if Coho Salmon *Oncorhynchus kisutch* were rearing in estuarine habitats, and (2) to characterize and compare the body length, age, condition, and duration and timing of estuarine occupancy of juvenile Coho Salmon between the two contrasting estuaries. We examined use of estuary habitats with analysis of microchemistry and microstructure of sagittal otoliths in two watersheds of south-central Alaska. Juvenile Coho Salmon were classified as estuary residents or nonresidents (recent estuary immigrants) based on otolith Sr : Ca ratios and counts of daily growth increments on otoliths. The estuaries differed in water source (glacial versus snowmelt hydrographs) and in relative estuarine and watershed area. Juvenile Coho Salmon with evidence of estuary rearing were greater in body length and condition than individuals lacking evidence of estuarine rearing. Coho Salmon captured in the glacial estuary had greater variability in body length and condition, and younger age-classes predominated the catch compared with the nearby snowmelt-fed, smaller estuary. Estuary-rearing fish in the glacial estuary arrived later and remained longer (39 versus 24 d of summer growth) during the summer than did fish using the snowmelt estuary. Finally, we observed definitive patterns of overwintering in estuarine and near shore environments in both estuaries. Evidence of estuary rearing and overwintering with differences in fish traits among contrasting estuary types refute the notion that estuaries function as only staging or transitional habitats in the early life history of Coho Salmon.

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²Present address: U.S. Geological Survey, Missouri Cooperative Fish and Wildlife Research Unit, Department of Fisheries and Wildlife Sciences, University of Missouri, 303H Anheuser-Busch Natural Resources Building, Columbia, Missouri 65211, USA.

Received December 5, 2012; accepted June 10, 2013

Pacific salmon exhibit multiple life histories in response to variability in selection pressures and habitat conditions (Healey 1994, Groot and Margolis 1991). Early marine entry and presmolt growth just prior to entry is a time of severe selective pressure due to the physiological and environmental changes experienced by salmon smolts (Williams 1996; Thorpe et al. 1998; Beamish et al. 2004). This life stage has been linked to an optimal out-migration survival period that corresponds to a period when ocean conditions provide suitable temperatures and abundant resources for growing and feeding (Gargett 1997; Johnsson et al. 1997; Beamish et al. 2008). The period and duration of optimal out-migration timing may change from year to year depending on precipitation levels, wind patterns, and solar energy inputs (Gargett 1997; Beamish et al. 2008). Fish size, body condition, and timing of marine entry are instrumental for optimal timing and to ensure coincidence with both the quantity and quality of available prey and the ability of the individual to use it (Beamish and Mahnken 2001; Hobday and Boehlert 2001).

Estuaries play an important role as transitional habitats prior to the ocean entry phase of salmon smolt. The mixing zone of freshwater and saltwater environments buffers against osmoregulatory and physiological stress in smolts (Healey 1982; McMahon and Holtby 1992; Miller and Sadro 2003; Beamish et al. 2004; Bottom et al. 2005a). Estuaries, however, also have potential to serve as important salmon rearing habitats; Chinook Salmon *Oncorhynchus tshawytscha*, in particular, have increased survival rates (Magnusson and Hilborn 2003) and life history variability (Bottom et al. 2005a; Campbell 2010; Volk et al. 2010) with estuarine habitat use. Factors expected to impact individual fish survival include the duration of estuary occupancy, timing of early marine entry, and environmental conditions that affect body condition (Healey 1982; Bohlin et al. 1993; Beamish et al. 2004). Given their importance for rearing, we anticipated that strong spatial and temporal variability in environmental conditions within estuaries may play a key role in trait expression of individuals subject to overall conditions within these habitats.

Estuaries fed by different freshwater hydrologic regimes may provide contrasting rearing environments for resident biota (Saltveit et al. 2001). Freshwater influx into northern estuaries is expected to be particularly high during snowmelt periods; however, within Alaska, many estuarine habitats are fed by glacial river systems. For these systems, peak freshwater discharge occurs in midsummer rather than early spring, yielding cold, sediment-laden discharge during the warmest months. Differences between glacial and snowmelt-fed estuaries may therefore contribute to variability in the timing and duration of estuarine use for juvenile salmon.

Previous investigations into estuary ecology of juvenile Coho Salmon *O. kisutch* are limited, but indicate that the transition from fresh to salt water life stages is complicated and may differ by age or life stage (McMahon and Holtby 1992). For example, young-of-year fish undertake seasonal migrations within the up-

per estuarine ecotone and freshwater river channels and sloughs, and residency between these areas is estimated to be as long as 8 months (Miller and Sadro 2003; Koski 2009). Fingerling (age-1 and -2) Coho Salmon were present in estuaries for only 2 months (McMahon and Holtby 1992), and individuals within these populations were reported to have short estuary residence times (up to 17 d; Chittenden et al. 2008). Understanding some of the environmental conditions that lead to the differences in use by young salmon may provide insight into critical rearing habitats for conservation and management.

Direct and unbiased documentation of estuarine habitat use by juvenile salmon is difficult, given a limited suite of tracking and marking techniques applicable to small fish. The use of otolith microchemistry in combination with examination of microstructure (incremental growth layers) can be used to determine ontogenetic patterns of habitat occupancy when water chemistry contrasts strongly between habitats (Neilson et al. 1985; Campana 1999; Kennedy et al. 2002; Réveillac et al. 2008). The salinity of the surrounding environment, in particular, has been linked to ratios of strontium to calcium (Sr : Ca) deposited in otoliths, a useful feature for measuring life history patterns in diadromous fishes (Zimmerman 2005). In tandem with microchemical analysis, microstructural analysis of incremental growth patterns and age of fish can allow discernment of habitat transitions through time (Campana and Neilson 1985; Neilson et al. 1985; Volk et al. 2010). It can be difficult, however, to determine and validate daily incremental growth patterns, particularly during periods of low growth (Campana and Neilson 1985). In that case, seasonal growth patterns may provide sufficient resolution to determine history, particularly in the case of estuarine or marine versus freshwater habitat use.

In this study, we investigated and compared the ecology and life history patterns of juvenile Coho Salmon captured within two contrasting estuary environments. Our first question was two-fold: (1) were juvenile Coho Salmon rearing within estuary systems, and (2) did fish rearing within estuaries show trait differences (condition, dates of entry, and weights) from those that did not? Using otolith microanalyses, we determined the timing and duration of use and correspondence with fish traits of different ages of juvenile salmon captured within estuary channels. We hypothesized that fish using estuaries, having a longer time for osmoregulatory adjustment and thereby benefiting from these environments, would exhibit greater lengths and body condition than those without evidence of estuary residence. The second question of our work was, did patterns of estuary use by juvenile Coho Salmon, including timing and duration of occupancy, differ between two estuaries with contrasting freshwater environments? We hypothesized that differences in freshwater discharge regimes (i.e., a glacial-fed versus snowmelt-fed estuary) that result in differences in thermal regimes and available habitats may be factors that drive use of differing estuary systems. This would suggest that physical processes are important drivers of ontogenetic variability in use of estuarine environments and therefore life history expression in juvenile salmon.

STUDY SITE

The large tidal range (>8 m depth) of Kachemak Bay and Cook Inlet (NOAA 2012) in south-central Alaska can create extensive estuarine ecotones with diverse habitat conditions, particularly in glacial rivers with heavy silt deposition zones. Our study compared environmental conditions and fish collected from similar channel habitat types sampled within two contrasting estuaries of the Anchor and the Fox rivers, located approximately 29 km apart, (Figure 1). Juvenile salmon were captured within channels located in the intertidal zone of each estuary, bordered by mud flats and vegetation. Channels were chosen to maximize habitat similarity between the estuaries (i.e., similar connectivity to the main-stem river, locations within the intertidal zones respective of the estuary size, channel shape, and channel length).

The Anchor River delta is a snowmelt and spring-fed, bar-built estuary that abruptly transitions into the marine environ-

ment of southern Cook Inlet; its estuary length is about 0.8 km (measured from the high-water tide line to its confluence with the Cook Inlet). The Fox River delta is a glacially fed estuary that transitions through a large delta, approximately 6 km long, into Kachemak Bay. The Fox River watershed is located in a smaller, more constrained valley and lacks freshwater back-channel areas in the lower river, whereas the Anchor River has numerous side-channel areas in the lower river. Compared with the Anchor River estuary, the Fox River estuary has more gradual, extended ecotones between the marine environments of Cook Inlet and freshwater environments of the Fox River.

METHODS

Habitat characteristics.—We sampled fish and recorded environmental data in tidal channels spaced within the intertidal zone of each estuary. Habitats upstream of these channels are

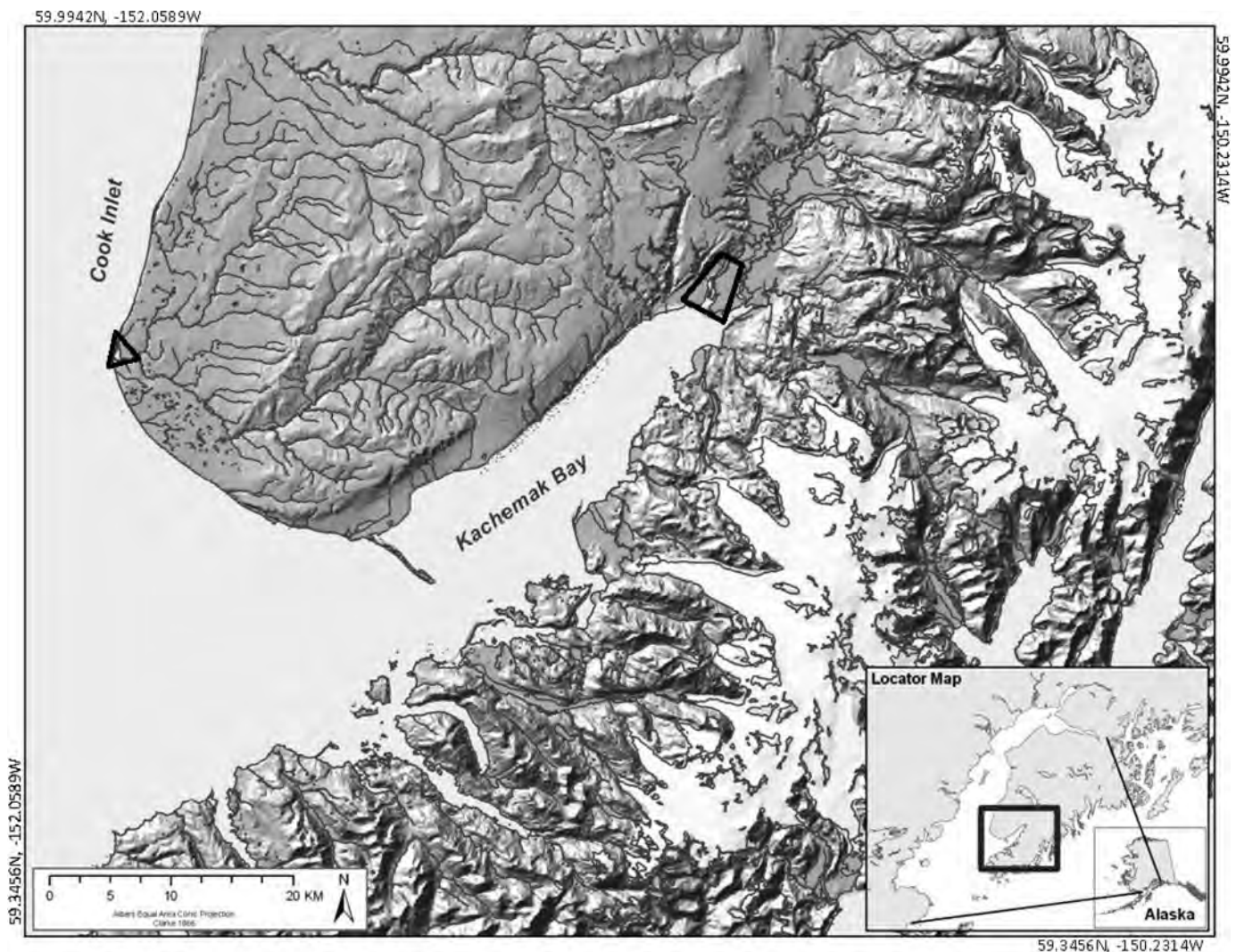


FIGURE 1. The study area on the lower Kenai Peninsula, Alaska, where age-0 to age-2 Coho Salmon were sampled from the Anchor River (triangle) and Fox River (trapezoid) estuaries.

not tidally influenced and therefore were not considered estuary habitats for this study. Four channels were sampled in the Fox River estuary and two channels were sampled in the Anchor River estuary, twice monthly from April through September for a total of 10 sampling events in the Anchor River and 11 sampling events in the Fox River. Sampling occurred during moderate tide levels in both estuaries because some channels could not be sampled at high tide. Sample events in each estuary usually occurred within 7 d of one another, often within the same week. Temperature and depth were measured and recorded using Solinst TM 3001 level loggers (Solinst Canada Ltd., Ontario, Canada) calibrated with a Solinst TM 3000 barologger set onsite. Level loggers were set at 15-min recording intervals and placed in 5 × 25 cm plastic PVC housings attached to steel fence posts driven approximately 25 cm into the substrate. Fence posts were located five meters upstream from the channel mouth in each of the six channels sampled, and one logger was placed along the margin of each river channel. In addition, measurements were taken for each sampling event at a cross-section downstream of the fence posts for each sampling event. Thalweg depth, conductivity (direct and standardized for temperature), salinity (measured as salt concentration), and temperature (with probe at the surface, mid water column, and channel bottom) were measured using a YSI model 30.

Habitat data were summarized for analyses as follows: continuous water level data as 7-d mean, minimum, and maximum depths for each estuary channel and the main-stem river. Continuous temperature data were summarized as daily averages summed for accumulated thermal units by week and month. Point measurements of salinity collected at each sampling event were combined and expressed as monthly mean, minimum, and maximum recordings.

Fish capture.—Juvenile Coho Salmon were captured in tidal channels of the intertidal zones of Fox and Anchor river estuaries within 25-m reaches using three depletion passes with a pole-seine (2.2 × 6.1 m, 0.31 cm mesh) twice per month from late April through September 2011. Prior to fish sampling, each unit was closed with blocking nets (2.2 × 6.1 m, 0.31 cm mesh) secured along the sides and bottom with stakes to prevent fish escape. Fish from each pass were placed in separate, 19-L aerated tubs filled with water from the channel. All fish captured were identified to species and counted. Fifty juvenile Coho Salmon captured from each of three passes of the seine (total, 150 fish/site per each event) were anesthetized in tricaine methanesulfonate (MS-222) at 70 mg/L of water (Bailey et al. 1998; Chittenden et al. 2008) and measured for FL (mm). If more than 150 Coho Salmon were captured at each site, samples were indiscriminately selected by gently stirring the incarcerated fish and removing samples with a hand dip net. Age-classes of Coho Salmon were apparent by length; therefore, three juvenile cohorts ($\leq 10\%$ of the catch) at each were indiscriminately collected at each site: small (age 0, <50 mm FL), medium (age 1, 50–85 mm FL), and large (age 2, >85 mm FL) and sacrificed via overdose of MS-222 at

140 mg/L, labeled, placed on ice, returned to the laboratory, and frozen.

Fish condition.—We used dry weight and Fulton's condition factor measured from the frozen specimens for metrics of condition (Jonas et al. 1996; Pope and Kruse 2007). Fulton's condition, $K = (W/L^3)100,000$, was calculated using laboratory measures of fish length (FL; mm) and whole fish weight (W; g). Dry weights were determined from dissected samples with all tissue other than stomachs and otoliths returned to the sample prior to drying. Coho Salmon samples were placed in a drying oven at 65–70°C for 3 d, weighed, and returned to the oven for 24 h, and then re-weighed. Samples were considered dried when minimal change was detected between consecutive daily weights (Jonas et al. 1996).

Estuary residence time.—We used analysis of otolith microchemistry combined with microstructural analysis to determine if juvenile Coho Salmon were rearing in the saline environments of estuaries. Sagittal otoliths were removed from both sides of the cranial cavity of fish prior to condition analyses, rinsed, and stored in plastic vials. Otoliths were mounted in thermoplastic cement on sections of cover slips and glued to standard microscope slides (Donohoe and Zimmerman 2010). Otoliths were mounted sulcus down, and the sagittal plane was ground with 2,000-grit sand paper to expose a clean, flat surface. The sample was reheated, turned over to expose the sulcus, and ground to expose the nucleus (Zimmerman 2005; Donohoe and Zimmerman 2010). The sample was labeled and aged via winter counts, and the cover slip was cut to remove the mounted sample. The sample was then glued in a 2.54-cm-diameter circle centered on a petrographic slide for analysis. Once the slide was filled, it was washed, rinsed with deionized water, and allowed to air dry prior to processing.

We used the Laser-ablation Inductively Couple Plasma Mass Spectrometer (Agilent mass spectrometer 7500ce fitted with a CS lens stack combined with a New Wave UP213 laser, LA-ICPMS) housed at the Advanced Instrumentation Laboratory of the University of Alaska Fairbanks to complete the microchemical analyses. Transects were ablated from the primordia perpendicular to the growth increments into the mounting medium beyond the distal edge of one otolith from each fish. Count data were collected for the elements strontium (^{88}Sr) and calcium (^{43}Ca). Calcium (^{43}Ca) was used as an internal standard and background-subtracted counts of Sr were adjusted to Ca and calibrated to glass standard reference material (NIST 610, National Institute of Standards and Testing). Calibration standards were run for 10 samples or less, depending on the number of samples on the slides, and one sample duplicate (both sagittal otoliths from one fish) was run for the entire batch. Laser speed was set at 5 $\mu\text{m/s}$ with a 25- μm spot diameter on a single pass transect set to 80% power. The elemental count/s output of the LA-ICPMS was then converted to concentration and sampling distance using the elemental weights for each constituent and the laser settings, respectively. Strontium : calcium (Sr : Ca) ratios were then calculated for each of the distance

measures. Otoliths were photographed under $4\times$, $10\times$, $20\times$, and $40\times$ magnification using a Leica DM1000 compound light microscope fitted with a Leica DFC425 digital camera housed at the Alaska Science Center (Anchorage, Alaska). Images were taken using a 1,000- μm stage standard at all magnifications to calibrate otolith measurements, and the images were digitally processed to enhance clarity of incremental growth patterns. ImageJ software (version 1.46 h, <http://imagej.nih.gov>) was used to process digital images and to overlay distance-ratio graphs on the image, calibrated to the laser distance.

Estuarine residence time was determined by counting incremental growth marks on otoliths from juvenile salmon captured in the estuary (Miller and Simenstad 1997; Neilson et al. 1985). We defined residence time as the daily growth within the saline reaches of the estuary. Residence time was calculated as the number of incremental growth bands following the point of estuarine entry determined by the Sr : Ca inflection point with the distance-matched ratio graph overlaid on the otolith digital image. The inflection point, or estuary signature, was defined as an abrupt increase in Sr : Ca, as visually determined as the consecutive ratio increase of >0.3 per reading; levels remaining at >1.0 followed the freshwater mean ratios (Figure 2). Inflection points often correspond with dark banding, identified by some researchers as an estuary growth check (Lind-Null and Larsen 2011). These growth checks, though not always easily identifiable or consistent among individuals, corresponded to inflection points and provided additional support in identifying the points of estuary entry. All fish were categorized according to the presence or absence of an estuarine salinity signature (inflection point followed by growth), and incremental growth counts were completed to determine duration of estuary use on those with estuary signatures. Duration of estuarine rearing was determined by using a digital image of the otolith taken at $20\times$ magnification overlaid with the distance-matched (μm) Sr : Ca graph. Inflection points were digitally marked on the image and were considered the point of estuarine entry. Growth increments were counted along two different radii from the distal edge of the otolith to the inflection point to determine days of residence (Figure 2). If counts differed between readings, a third count was made, and the median of the three counts was used. One group of salmon overwintered in estuarine/marine environments, therefore comparisons were made using summer season (April–September) residence times calculated as the date of capture less the incremental growth count (days) to the first discernible daily growth increment. The growth increment–time relationship was validated by marking a sample of four fish with alizarin complexone (Zimmerman 2005), holding them in a small net pen in an estuary channel for 6 d, sacrificing the fish, and counting the increments past the Alizarin mark on prepared otoliths. The results from this test verified that incremental growth rings indeed represented a 24-h period, all fish showing six increments corresponding to the 6 d held in captive nets in the estuary.

Statistical analyses.—Based on our study questions, we wanted to determine whether (1) estuaries were used by Coho Salmon for rearing purposes, (2) those salmon that used estuaries for rearing differed from those that showed no evidence of estuarine rearing, (3) salmon rearing in two different estuaries show differences in traits and residence times related to environmental conditions, and (4) factors that contribute most to the variability in fish traits (e.g., presence of estuarine rearing, estuary habitat conditions, or the age of the fish) could be identified. The otolith microchemistry and microstructural analysis described above addressed whether fish were using estuaries for rearing, and we used analyses of empirical data to address the remaining objectives. When possible, confounding sources of variability, such as timing of capture, were included in these analyses, along with several potential sources of error and bias.

Because samples were a subset of the total catch and collected over the summer season, potential sources of bias and error must be addressed. Our protocol sampled evenly across age-classes for fish retained for laboratory analyses; therefore, the composition of the laboratory fish sample did not correspond to catch composition. We therefore tested (chi-square goodness of fit) for differences in age-class composition of measured fish between estuaries and in the laboratory sample versus the measured group age structure. Finding significant differences on both accounts, we ran analyses to compare length, age-class composition, and capture date based on two subsamples of the total catch: those that were caught, measured, and released (hereafter, measured group) versus those sacrificed and analyzed in the laboratory (hereafter, laboratory group). For each sampling event we inferred age-class composition of the measured group via their length-frequency histograms from length groups validated via otolith-determined ages of the laboratory group. Analyses completed with all age-classes pooled were weighted to ensure that the laboratory sample results reflected the composition of the population relative to the total catch of fish; laboratory fish data were weighted by percent composition of each age-class from the measured group of fish for each estuary. We also examined the relationship between capture date and residence time using simple linear regression for each estuary; a strong linear relationship between residence time and date of capture would indicate bias.

For the second objective, we compared those juvenile Coho Salmon that had a marine signature in their otolith, indicating estuarine rearing, with those salmon that were captured in the estuary but lacking detectable marine signature in the otolith. Those comparisons were done to determine whether fish in these groups showed differences in trait patterns (time of entry, condition, length, and weight). Two separate analyses were used: ANCOVA for all age-classes pooled, and Student's *t*-tests for individual age-classes (due to small sample lengths and disproportionate distribution of age-classes between estuaries). We tested data from the laboratory fish group captured in each estuary via ANCOVA analyses. This analysis used the independent

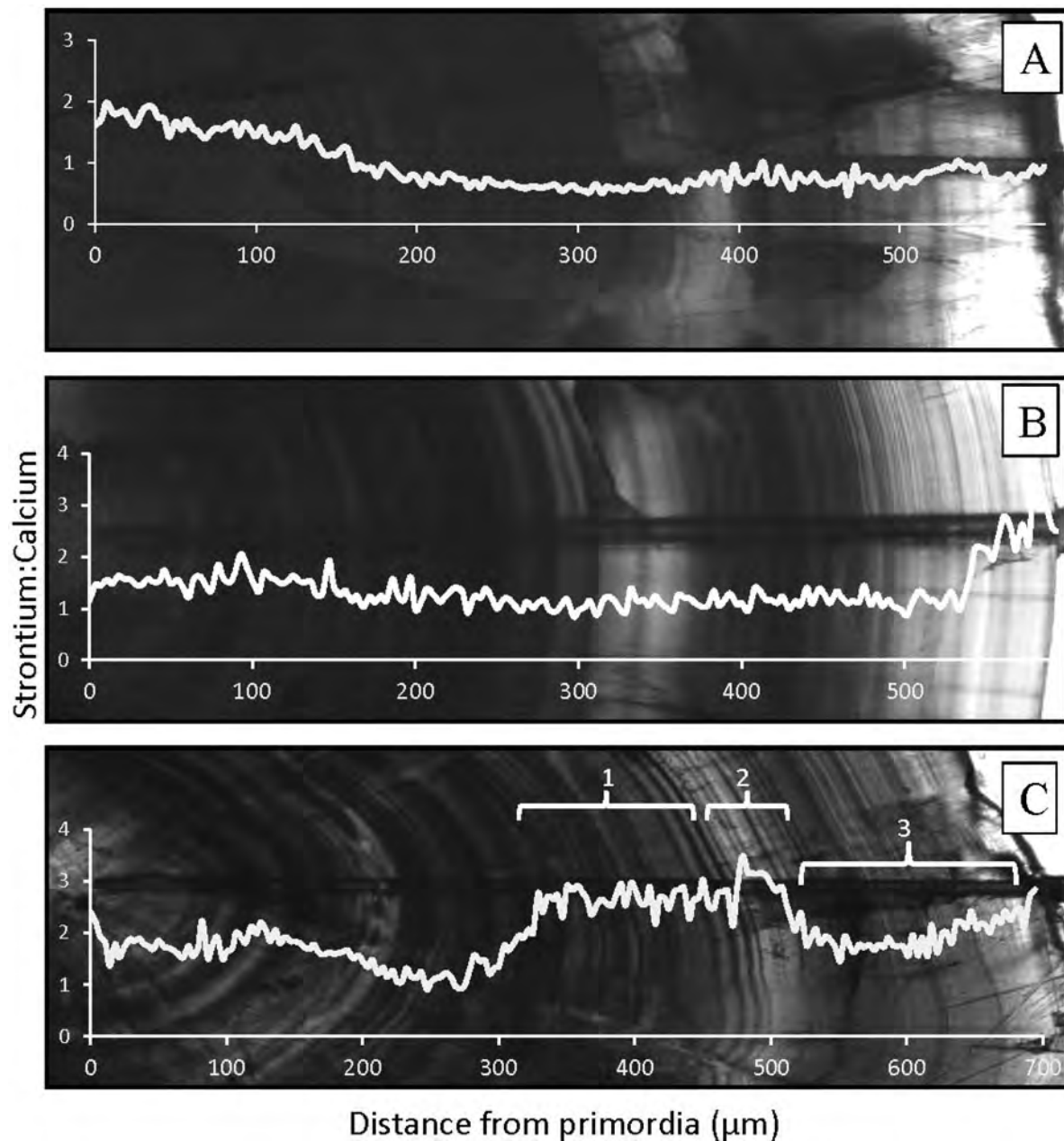


FIGURE 2. Images of otoliths of Coho Salmon from the Fox and Anchor River estuaries showing Sr : Ca ratio graphs overlaid with laser transect distances. Different estuary use patterns are depicted: (A) no estuary use, (B) summer season estuary use signature, and (C) age-2 fish with overwintering signature and variable use of salinities during the summer season, where (1) is the first summer estuary signature, (2) is the winter estuary signature, and (3) is the second summer estuary signature.

variable (condition) and dependent variable (date of capture) with estuary rearing as the covariate for fish comparison for all ages pooled (weighted bycatch). For the age-class comparisons, we compared traits (length, condition, dates of entry, and weights) between signature patterns using Student's unpaired two-sample *t*-tests for each age-class; estuaries were analyzed separately. Because, in this scenario, each variable was repeat tested a total of four times (for age-0 and age-1 classes by two es-

tuaries), we adjusted our alpha values accordingly (Dunn Sidak correction alpha level 0.013; Abdi 2007).

Our third objective focused on whether fish using the glacial Fox River estuary showed differential trait expression from those using the snowmelt, spring fed Anchor River estuary. Two separate analyses were performed as described above. For the between-age-class comparisons, traits were examined for differences between estuaries using Student's unpaired

two-sample *t*-tests for each age-class. To compare fish traits with all age-classes pooled, we used an ANCOVA analysis with each dependent variable (length, dry weight, condition) and capture date as the independent variable with estuary of capture as the covariate.

The final objective was to examine the influence of three potential factors (age, estuary type, and presence of an estuary signature) in explaining variability in Coho Salmon traits. We used a three-way catch-weighted ANOVA with the laboratory group data to address this question.

Data were standardized to the mean of each variable and fourth-root transformed (when necessary) to meet homogeneity assumptions for all linear tests. Data were checked for equal variance using *F*-tests for age-class comparisons. If samples had unequal variances and could not be transformed to meet this assumption, a Welch two-sample, unpaired *t*-test was used for comparison of age-class data.

RESULTS

Estuary Habitats

Temporal trends in habitat features followed trends and differences anticipated for snowmelt versus glacially fed estuaries. Minimum salinities were higher and more variable in the snowmelt-fed Anchor River estuary channels, particularly in midsummer (Student's two-sample unpaired *t*-test: $t = 1.32$, $P < 0.001$, $df = 18$; Figure 3; Table 1). Data from the stationary loggers placed in the sampling sites showed expected patterns in trends associated with each watershed type. The glacial Fox River showed seasonal increases in water depth and decreases in temperature associated with the glacial runoff, whereas the snowmelt and spring-fed Anchor River exhibited peak water depths and coolest temperatures in the early spring. The highest 7-d average estuarine water temperatures occurred in late May (13.3°C) for the Fox River and late July (15.3°C) for the Anchor River.

Fish

We captured a total of 1,743 Coho Salmon in the Anchor River and measured 532. In the Fox River we captured 4,232 individuals and measured 1,621. We sacrificed and retained 35

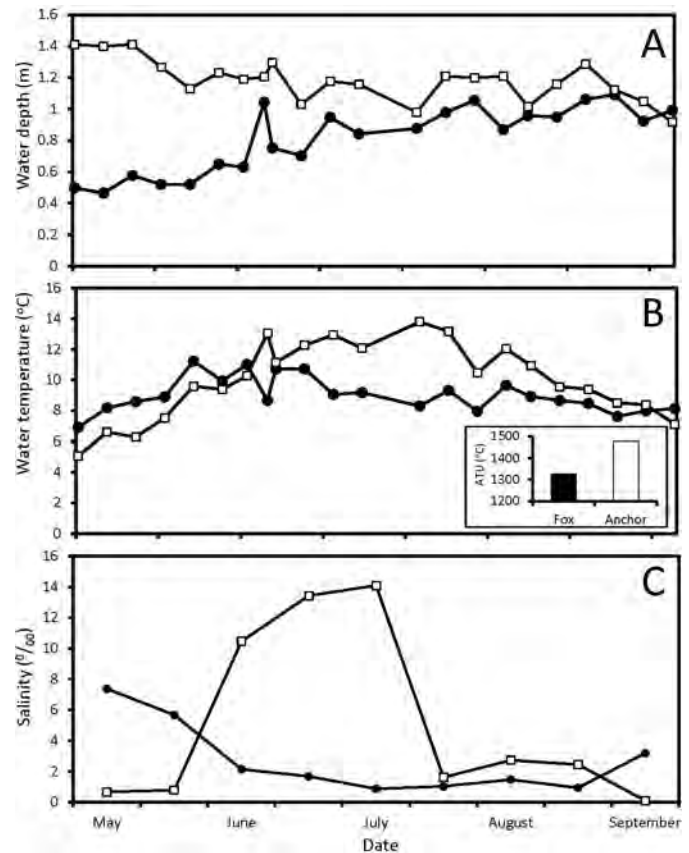


FIGURE 3. Continuous data logger results for the Fox River (black circles) and Anchor River (open squares) estuaries showing the summer-season 7-d average (A) water levels, and (B) water temperatures with an inset in accumulated thermal units (ATU). (C) Average weekly point measurements of salinity.

from the Anchor River estuary and 73 fish from the Fox River estuary for laboratory analysis.

Three age-classes of Coho Salmon were captured in both estuaries (0, 1, 2), though the relative dominance of age-classes within the measured group differed significantly between estuaries ($\chi^2 = 338.4$, $P < 0.001$, $df = 2$, Table 2; Figure 4). Fish captured in the Fox River estuary were primarily composed of younger age-classes (age-0 and age-1 fish), with less than 5% of the catch composed of age-2 fish. The Anchor River estuary

TABLE 1. Mean monthly measures of environmental conditions for the south-central Alaska's Fox and Anchor river estuary channels. Metrics were calculated for all channels combined within the Fox or Anchor estuaries. Water temperature is in accumulated thermal units (ATU).

Month	Fox River: mean (var)			Anchor River: mean (var)		
	Temperature ATU (°C)	Depth (m)	Salinity (mS/cm)	Temperature ATU (°C)	Depth m (var)	Salinity (mS/cm)
May	50.2 (17.3)	0.7 (0.1)	7.8 (4.5)	52.4 (11.4)	1.3 (0.3)	0.7 (1.2)
Jun	74.8 (5.0)	0.7 (0.4)	2.0 (2.5)	78.7 (13.2)	1.2 (0.2)	8.5 (11.1)
Jul	60.0 (10.3)	0.9 (0.4)	1.3 (2.3)	90.7 (9.3)	1.1 (0.2)	7.9 (10.8)
Aug	58.6 (4.0)	1.0 (0.3)	1.5 (1.5)	74.6 (10.6)	1.2 (0.2)	2.5 (1.1)

TABLE 2. Numbers of measured and laboratory Coho Salmon grouped by age for the Fox River and Anchor River estuaries. Counts of fish showing estuary use is denoted for the laboratory group in parentheses.

Estuary	Age 0	Age 1	Age 2	Total
Measured group composition: numbers of fish				
Fox	785	760	76	1,621
Anchor	291	133	108	532
Total	1,076	893	184	2,153
Laboratory group composition: numbers of fish				
Fox	24 (6)	45 (17)	4 (1)	73 (24)
Anchor	9 (3)	14 (11)	12 (10)	35 (24)
Total	33 (9)	59 (28)	16 (11)	108 (48)
Percent of total laboratory group with estuary signature				
Laboratory group	41	48	69	44

measured fish group was composed of over 20% age-2 fish and had a smaller proportion of age-1 fish than the Fox River (Table 2). We were restricted in retaining age-2 fish for individual analysis from the Fox River estuary due to low catch rates of this age-class in the system.

A substantial proportion of laboratory group fish displayed elevated Sr : Ca signatures, indicating growth within the saline reaches of the estuary (44%, 48 of 108 collected fish). Of these, 10 individuals overwintered in saline environments (either estuarine or near shore environments), 13 exhibited summer season use patterns of residence in saline environments followed by use of less saline environments (e.g., Figure 2A). Of the 35 Anchor River fish and 73 Fox River fish analyzed, 24 from each river exhibited evidence of estuary rearing. The Fox River fish showed a significantly lower proportion of fish with estuary signatures. Only two fish from the Fox River estuary showed estuary–marine overwintering signatures (one individual each from age-classes 1 and 2).

Disparity in patterns of capture, estuary use, and entry dates were apparent in comparisons of fish captured in the two estuaries (Table 3). The highest total capture of Coho Salmon occurred in the Anchor River estuary in late August and in late July in the Fox River (Figure 4). In both estuaries, most age-2 individuals were captured in April–June. Age-1 individuals predominated the June and early July catches, and age-0 individuals were not captured until later in June. Fish captured in the Anchor River estuary entered earlier during the sampling period and had shorter and less variable times of use than those captured in the Fox River estuary; however, these differences were not statistically significant (weighted 2-way linear model) for the pooled, catch-composition-weighted data for laboratory group with estuarine rearing: entry dates ($F = 1.71$, $P = 0.20$, $df = 46$) and residence ($F = 2.06$, $P = 0.16$, $df = 463.69$; Table 3). Only two variables were significant (Student's unpaired t -test) among comparisons made between estuaries by

TABLE 3. Mean residence times and capture dates for the laboratory group of Coho Salmon captured in the Fox and Anchor rivers in 2011.

Estuary	Age 0	Age 1	Age 2
Average summer season use (d)			
Fox	49.33	39.23	6.00
Anchor	36.33	29.72	14.80
Mean capture dates (estuary signature)			
Fox	Aug 21	Jul 31	May 28 ^a
Anchor	Aug 8	Jul 20	May 29
Mean capture date (no estuary signature)			
Fox	Jul 13	Jul 18	Jun 17
Anchor	Aug 23	Jul 13	Jul 4

^aSample size was 1.

age-class: laboratory group age-0 entry date ($t = -2.50$, $df = 30$, $P = 0.02$) and condition ($t = -1.92$, $df = 30$, $P = 0.06$).

Generally, fish captured and measured within the two estuaries differed in length, weight, and body condition; however this was only statistically significant when single age-classes were compared (Table 4). Compared with Fox River fish, the Anchor River mean FL at age was significantly (Student's unpaired t -tests) larger and less variable for each age-class in the measured group, i.e., age 0 ($t = -151.15$, $P < 0.01$, $df = 306$), age 1 ($t = -6.22$, $P < 0.01$, $df = 889$), and age 2 ($t = -3.35$, $P < 0.01$, $df = 108$; Table 5). Fish in the laboratory group followed a similar pattern as the measured group; however, these differences were statistically significant only in some comparisons made by separate age-classes (Table 5).

The age and presence or absence of an estuary signature significantly contributed to variability between traits (length, condition, dates of capture, and weights), whereas the estuary of capture did not. Fish that demonstrated more extended estuary use tended to be captured in the estuaries later than those that showed little to no estuary use (weighted 2-way linear model: $F = 5.14$, $P = 0.02$, $df = 103$; Table 5). Fish using the estuary were significantly (weighted 2-way linear models) greater in length and had higher condition when samples from both estuaries were pooled: length ($F = 5.75$, $P < 0.01$, $df = 103$) and condition ($F = 13.12$, $P < 0.01$, $df = 103$; Table 4). Finally, the evidence of estuarine rearing significantly (ANCOVA) accounted for variation in fish condition over time for both the Anchor ($F = 11.06$, $P < 0.01$) and Fox ($F = 6.42$, $P = 0.01$) river estuaries. Generally, fish in both estuaries increased in condition over time. However, fish lacking estuary signatures showed smaller sizes and lower condition when captured, and the condition increased at a greater rate over the summer season than it did among fish with an estuary signature (Figure 5).

In summary, juvenile Coho Salmon used estuaries for rearing, the greatest variability in fish traits (body condition, length, weight, capture date) being explained by the age-class and the presence or absence of estuary rearing. All fish exhibiting estuary use were significantly larger and had greater weights and

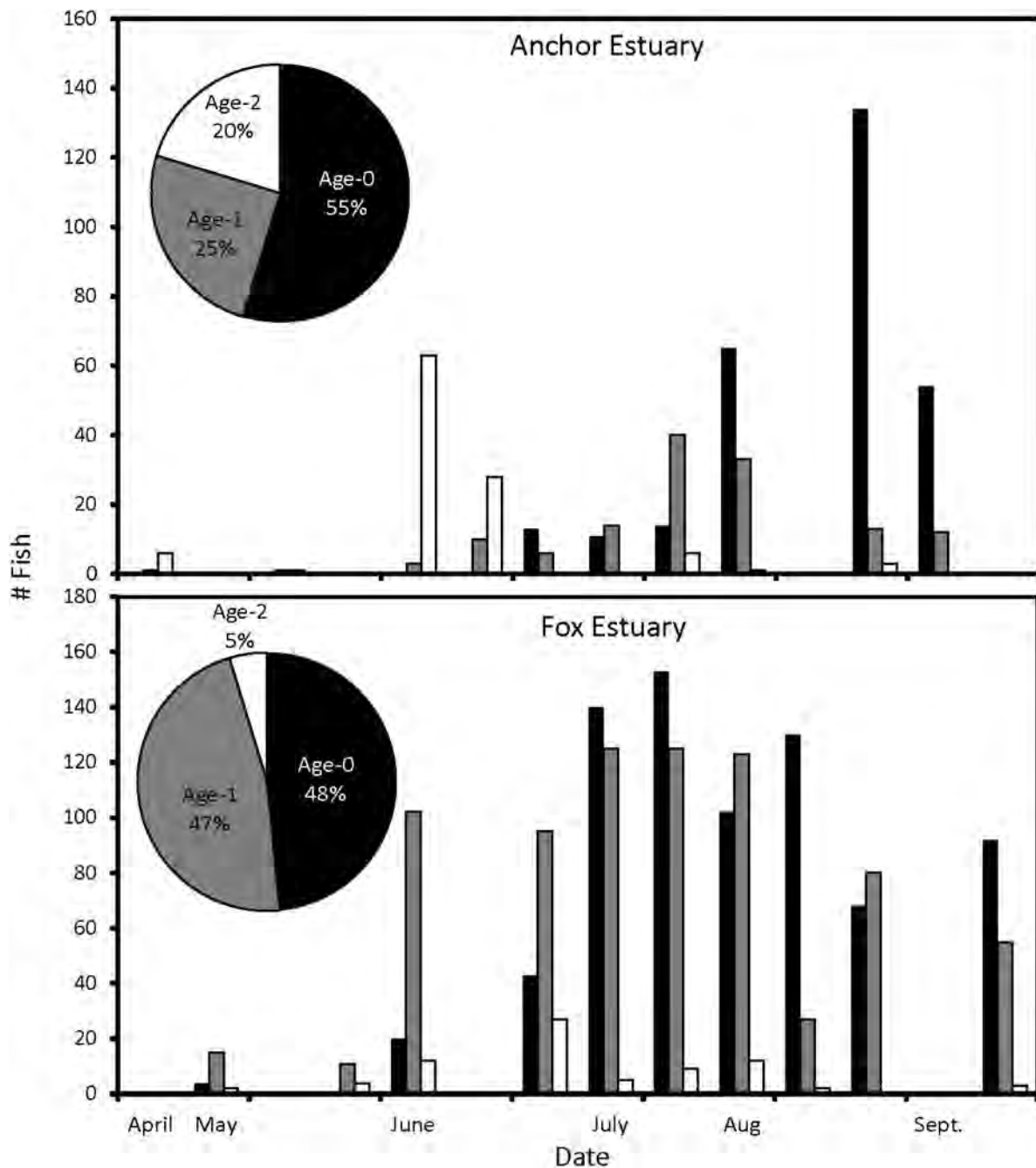


FIGURE 4. Comparison of total sample catch of Coho Salmon separated by age-class in the Fox and Anchor river estuaries. Inset pie charts illustrate age composition.

higher body condition than those lacking estuary-use signatures. Patterns of trait differences between estuaries were apparent, though not statistically significant given our limited sample sizes of estuary residents. Compared with fish in the Fox River estuary, those using the Anchor River estuary showed a higher proportion of overwintering use, and the summer composition of residents was higher in older individuals with greater body condition, length, earlier entry, and shorter times of use.

Finally, we addressed the potential for capture date to bias residence. We found a weak, though significant, positive relationship between capture date and residence days for fish from the Fox River estuary ($P < 0.01$, adjusted $r^2 = 0.18$) but not for fish from the Anchor River estuary ($P = 0.28$, adjusted $r^2 = 0.01$). This relationship could potentially be explained by the differences in behavior patterns of the fish from the two estuaries.

TABLE 4. Mean and variance of body size, weight, and condition for measured ($n = 2,153$) and laboratory ($n = 108$) groups of Coho Salmon captured in the Fox River and Anchor River estuaries.

Estuary	Age 0	Age 1	Age 2
Measured group mean size (variance)			
Fox	40.68 (73.16)	72.86 (176.75)	85.34 (166.70)
Laboratory group mean size (variance)			
Fox	41.91 (117.63)	76.11 (332.58)	90.75 (189.30)
Estuary signature	51.50 (96.30)	79.10 (214.74)	80.10 ^a
No signature	38.50 (85.01)	74.10 (411.18)	93.00 (207.33)
Anchor	48.22 (84.94)	77.90 (173.91)	99.75 (86.75)
Estuary signature	53.30 (114.33)	79.10 (137.69)	98.10 (76.98)
Laboratory group mean dry weight (variance)			
Fox	0.15 (0.02)	1.13 (0.80)	1.47 (0.42)
Estuary signature	0.30 (0.03)	1.22 (0.42)	0.96 ^a
No signature	0.09 (0.01)	1.08 (0.89)	1.60 (0.45)
Anchor	0.25 (0.02)	1.04 (0.40)	1.99 (1.05)
Estuary signature	0.32 (0.04)	1.11 (0.42)	1.91 (1.12)
No signature	0.18 (0.01)	0.70 (0.36)	2.40 (1.08)
Laboratory group Fulton's mean condition (variance)			
Fox	0.91 (0.04)	1.08 (0.02)	1.05 (0.01)
Estuary signature	1.12 (0.01)	1.12 (0.01)	1.14 ^a
No signature	0.84 (0.03)	1.06 (0.04)	1.03 (0.01)
Anchor	1.05 (0.02)	1.12 (0.01)	1.00 (0.02)
Estuary signature	1.12 (0.01)	1.15 (0.00)	1.00 (0.02)
No signature	1.02 (0.03)	0.99 (0.00)	1.02 (0.02)

^aSample size too small for variance calculations.

DISCUSSION

Fish using the estuaries in our study exhibited substantially greater estuary use times in the saline reaches of the estuary than previously reported for juvenile Coho Salmon, particularly older

cohorts (age-1 and age-2 juveniles; McMahon and Holtby 1992; Thorpe 1994; Magnusson and Hilborn 2003). Juvenile Coho Salmon in all age-classes used estuaries for extended periods of time, including overwintering in estuaries or nearshore areas,

TABLE 5. Trait comparisons between estuaries and signature groups for pooled, catch weighted data shown by age-class for Coho Salmon captured in the Fox River and Anchor River estuaries. Only tests with probability values <0.10 are reported.

Metric	Statistical significance	Pattern
Comparisons between estuaries		
Age 0		
Size	$t = 61.27, P < 0.01^a, df = 751$	Measured fish, Anchor fish larger
Entry date	$t = -2.50, P = 0.02, df = 30$	Laboratory fish, Anchor fish earlier entry date
Condition (Fulton's)	$t = -1.92, P = 0.06, df = 30$	Laboratory fish, Anchor fish higher condition
Age 1		
Size (FL)	$t = -5.95, P < 0.01^a, df = 889$	Measured fish, Anchor fish larger
Age 2		
Size (FL)	$t = -3.36, P < 0.01^a, df = 182$	Measured fish, Anchor fish larger
Comparisons between estuary signatures		
Condition (Fulton's)	$F = 13.12, P < 0.01^a, df = 103$	Fish with signature had higher, less variable condition
Dry weight	$F = 3.34, P = 0.07, df = 103$	Fish with signatures had higher, less variable dry weight
Capture date	$F = 5.14, P = 0.02, df = 103$	Fish with signatures showed later entry dates
Size (FL)	$F = 5.75, P = 0.02, df = 103$	Fish with signatures showed larger, less variable size

^aData are shown for all tests, Dunn-Sidak $\alpha = 0.013$ for significant tests.

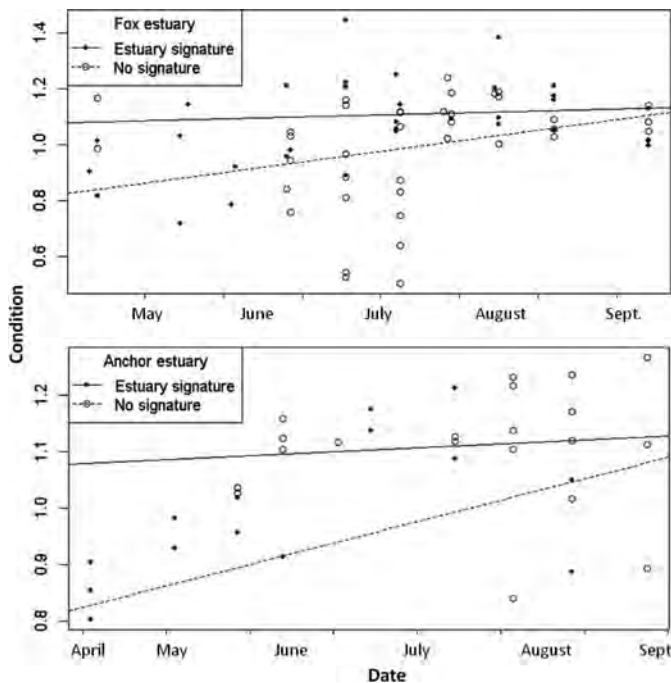


FIGURE 5. Fulton's condition factor for Coho Salmon shown by signature group and collection data from laboratory analyzed fish captured in the Fox River (upper panel) and Anchor River (lower panel) estuaries.

and these patterns of use differed between the two estuaries. The smaller, Anchor River estuary fed by snowmelt and spring water had larger, older fish that overwintered in the estuary or nearshore environments, and these fish used the estuary for shorter and earlier summer season periods prior to outmigration than did juveniles in the Fox River estuary. Fish in the larger, more complex, glacially fed Fox River estuary were composed of younger age-classes with longer summer residence times and few estuarine overwintering fish. Direct measurements of residence of older age-classes (ages 1–2) previously described were substantially shorter than those in our findings: up to 16 d (Chittenden et al. 2008) to 18 d (Miller and Sadro 2003).

Our observation of estuarine and nearshore overwintering juvenile Coho Salmon has theoretical implications regarding life history variability throughout the species range, though our observations are restricted to a central Alaska coastal population. This estuarine–marine overwintering life history pattern may be simply random movement or a response to a saturated or poor quality lower-river rearing habitat (Murphy et al. 1997) or, conversely, high estuarine habitat quality. Alternatively, it could represent exploitation of higher coastal productivity, forage, and nearshore habitat quality. All of these factors are expected to differ over the species range, even among adjacent systems within the same region. We note that incorporation of materials into the otolith matrix and our sampling regime do not allow us to distinguish between overwintering in the estuary channels themselves or the near shore environments of Kachemak Bay and Cook Inlet. The possibility exists that Coho Salmon enter nearshore

marine environments and rear by moving between a number of fjords and estuary habitats such as those that exist along the shoreline of Kachemak Bay and Cook Inlet. Further research is necessary for an understanding of the drivers and full range of overwintering areas used by these estuarine-resident juveniles.

Although we did not examine the mechanisms driving differential patterns of estuarine habitat use, we speculate that differences in timing of use among estuaries may be due to spatial variability in water turbidity, temperature regimes, and environmental factors that affect channel depths. Use of channels by juvenile salmon is often associated with water depth (Miller and Simenstad 1997; Webster et al. 2007; Hering et al. 2010), which in the glacially fed Fox River estuary increased gradually from mid-June to late August. The glacial run-off led to cooler and less variable water temperatures. Anchor River estuary channels are deepest in early spring during peak snowmelt and become most shallow and warm in mid-July and early August, cooling thereafter with fall rains. We captured most fish in late August in the Anchor River and in late July in the Fox River, suggesting a suitable combination of water temperature and channel depth to accommodate most estuary use.

Our findings also suggest variable use of estuaries by young-of-year and older age-classes of Coho Salmon. Miller and Sadro (2003) and Koski (2009) discuss the potentially important role of the “nomad” or young-of-year Coho Salmon that spend up to 8 months in the upper estuary ecotone and then return to freshwater to overwinter. Although a large proportion of young-of-year migrants exhibited summer season patterns of movement between freshwater and estuaries, we found no evidence of movement to freshwater environments to overwinter. The discrepancy here could be due to differences in the relative size and the definition of the estuary ecotones between our study and others or differences in methods. We defined the upper and middle estuary ecotones in which the sampling sites were located as the intertidal zone (point from highest to lowest tidal fluctuations) and may contain some channels with lower mean salinity levels at the upstream region of the intertidal zone. This may result in fewer fish from lower-salinity channels showing estuary use. We did examine the point measures of salinity across the tidal inundation zone and found that the most upstream channel of the Fox River estuary had generally low salinity (average, <2 mS/cm) with the exception of the spring tidal periods. However, we do not believe this biased our results because the sample size of fish was small and the relative proportion of fish with estuary signatures; i.e., fish lacking estuary signatures was similar to the overall sample (1:5 upper channel, 24:73 in the Fox River sample). Additional differences in our study may result from the variability of the tidal range (>8 m) because the Cook Inlet region is most likely very different from locations where other studies have been completed in lower latitudes. Finally, the methods we employed to determine estuarine residency were direct measures of Sr : Ca ratios (salinity of environment) and fish growth, as determined from the otoliths. Many other studies provide inference from mark–recapture work, which may be

biased to shorter periods and short-distance movements in areas where fish can be efficiently recaptured (Gowan et al. 1994).

Our study raises several interesting questions regarding the importance of the freshwater environment and watershed characteristics and their influence on exploitation of the estuarine environment—a point for future investigation. The influence of the watershed type and availability of suitable upstream rearing habitat may play a role in estuary use. Murphy et al. (1997) discuss the importance of lower-river freshwater areas in large glacial river systems for juvenile salmon rearing. We noted that the Fox River lacks the lower-river freshwater areas discussed by Murphy et al., whereas the Anchor River has ample lower-river habitats. The Anchor River estuary had a large proportion of older, larger resident fish with early entrance dates and shorter summer residence times, whereas the Fox River estuary had a smaller proportion of younger residents entering later and staying longer. This suggests that more suitable and extensive freshwater rearing habitat upstream may exist in the Anchor watershed (to allow for greater growth prior to estuary entry) and that temperature differences (cold glacier melt water versus warmer snowmelt and spring water) may contribute to patterns in growth and emergence timing. All but two of the Anchor River age-2 fish exhibited estuary overwintering during their second winter, implying an important role for the estuary, despite its small extent.

We did not determine the overall proportion of fish using the estuary during the juvenile phase in each population. It is possible that fish using the estuary for any amount of time may only contribute small numbers to the overall population within each river; it is probable that this varies from year to year. Simultaneous study of emigrating juvenile populations in the Anchor River (Gutsch 2012) noted a sudden drop in average length of Coho Salmon juveniles from approximately 100 mm to 80 mm toward mid-summer. These smaller individuals may overwinter within the estuary rather than move to the oceanic environment during a suboptimal period or body size—another possibility that warrants investigation. Regardless of the proportion of the reproductive population that these strategies compose, they contribute a unique suite of behaviors that increase trait diversity of each river's Coho Salmon population, diversity that represents adaptive potential that could contribute to population resilience to environmental change (Schindler et al. 2010).

Some interesting directions for future work include investigating the mechanisms for the differences in length, condition, residence times, and age composition found between fish using contrasting estuaries. We note that a possible nonlinear relationship between fish condition and time may exist in both estuaries (Figure 5). Though we are unable to address this question with our study sample, the possibility of influences of other estuarine environmental conditions on smolt condition (such as temperature and salinity) raises interesting questions for further investigation. A broader understanding of the importance of estuaries to different runs of salmon could be ascertained by determining the proportion of estuary residents in adult returns and how this

proportion varies over space, time, and estuarine complexity. Additionally, an understanding of the connections between the watershed, estuary, and near-shore environments during early marine rearing in Coho Salmon will facilitate strategic and knowledge-based management of these fragile and dynamic areas, thereby providing for resilient fisheries.

Prolonged use of estuary habitats (months during the summer and throughout the winter) may represent a distinct life history strategy that contributes to the overall population life history portfolio (Schindler et al. 2010). It follows, then, that pristine, functioning estuary habitats can contribute to resilience of salmon populations to environmental changes in two ways: (1) by providing a place for some individuals to increase in length and condition prior to ocean entry to improve survival, and (2) by providing for alternative life history strategies. Maximizing both the availability of supplemental habitats and life history diversity is particularly important given increasing human populations that stress land and water resource development and fishery resource use. Gaps in our understanding of environmental influences on life history expression arise from the fact that many of the highly studied salmon ecosystems in the Northeast Pacific are disturbed or substantially altered in some manner that has caused loss of variability in life history traits within populations (Miller and Simenstad 1997; Cornwell et al. 2001; Magnusson and Hilborn 2003; Bottom et al. 2005b; Healey 2009). Managers require a thorough understanding of the suite of environmental factors that influence the structure and survival of exploited fish populations to make decisions that provide the greatest benefit to all stakeholders (Bottom et al. 2009). This need stresses the importance of understanding functioning watersheds to inform management of endangered or threatened stocks.

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STATE WILDLIFE GRANT (SWG)

STATE: Alaska

GRANT: T-31-13

PROJECT: P-01

WORK LOCATION: Homer

PERIOD DURATION: February 1, 2015–June 30, 2016

PROJECT REPORTING PERIOD: February 1, 2015–June 30, 2016

PROJECT TITLE: Estuary Habitat Use by Juvenile Chinook and Coho Salmon in a Kenai Lowlands (Anchor) River.

PROJECT AUTHORS: Coowe Moss Walker and Brianna Pierce

Project Objectives:

The purpose of the project: This project investigates key aspects of juvenile salmon use of estuaries in south-central, Alaska, including patterns of movement and residence in different estuary habitats.

Objective 1: Research demographic patterns of juvenile Chinook and Coho Salmon movement and residence through different reaches and channel systems in the estuary.

Objective 2: Identify characteristics (metrics) of tidal channels that potentially relate to fish occupancy, residence and feeding.

Summary of Project Accomplishments:

This project explores key aspects of juvenile salmon estuarine habitat use in a snowmelt, groundwater supported estuary of south-central Alaska. We investigated patterns of juvenile fish movement and residence in estuary habitats (objective 1), including different marsh channels and mainstem sites along a tidal gradient, through repeated fish sampling at the sites, tagging, recaptures and antenna detections. Features of those habitats that related to fish use (objective 2) were investigated through stationary loggers and point sampling. Our results revealed distinct environmental characteristics of the different habitats, with dissolved oxygen and water stratification explaining much of the variability between marsh channels and mainstem sites. Eight fish species were regularly captured in the estuary, including Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Dolly Varden (*Salvelinus malma*), Sockeye Salmon (*O. nerka*), staghorn sculpin (*Leptocottus armatus*), starry flounder (*Platichthys stellatus*), steelhead (*O. mykiss*), and three-spine sticklebacks (*Gasterosteus aculeatus*). Fish community assemblages differed between the habitats. In 2016, juvenile Chinook Salmon characterized the middle and upper mainstem habitats; however chinook were rarely captured in 2015, likely due to the low adult return of the previous year. After excluding highly abundant young of the year sticklebacks, juvenile Coho Salmon were the most abundant species in the estuary in both 2015 and 2016, averaging at least 25% of the total catch in all of the habitats. Small, age 0 Coho Salmon continued to enter the estuary from June through November. Marsh channel habitats were utilized by juvenile Coho Salmon, and to a lesser degree by juvenile Chinook Salmon. These marsh channels were characterized by large numbers of staghorn sculpin and three-spine sticklebacks in addition to the salmon. Starry flounder and staghorn sculpin were most

characteristic of the lower mainstem site. Data from tagged, recaptured and antenna detected salmon revealed juvenile Coho Salmon residing in the estuary for nearly 11 months, and juvenile Chinook residing for nearly 1 month. Both juvenile Chinook and Coho were documented moving upstream and downstream throughout the estuary, between mainstem and marsh channel habitats. Collectively, project results demonstrate that juvenile salmon use on a broad array of habitat types within the estuary, and highlight the importance of even small estuaries to juvenile salmon growth and resilience.

Study Site:

The Anchor River is located at the southern end of Cook Inlet (Figure 1), where there is a large tidal range (> 8 m depth) that can potentially create broad ecotones of habitat conditions within estuaries. Hydrology in the Anchor River watershed is driven by snowmelt and shallow ground water. The watershed encompasses over 580 square kilometers, including 266 river kilometers accessible to anadromous fishes (Kervliet *et al.* 2013). The estuary at the mouth of the Anchor abruptly transitions into the marine environment of Cook Inlet after flowing through an expansive marsh habitat, protected from maritime storms and erosion by a gravel and sand bar that extends along the shoreline. Measured from high-water tide line to the confluence with Cook Inlet, the estuary is nearly 3 km in length (Hoem Neher *et al* 2013b).

We established five sites within the Anchor River estuary, representing a range of conditions, including two marsh sites, one located at the lower extent of the vegetated marsh, and one located in a mid-marsh area, and three sites along the river mainstem (Figure 2).



Figure 1. Overview of the middle marsh area of the Anchor River estuary in mid-summer.



Figure 2. Aerial image of the Anchor River estuary, showing sampling locations. Sampling sites: orange stars = estuary marsh habitat; blue stars = mainstem river sampling sites along a gradient from the upper extent of saltwater influence (light blue) to the lower extent of marsh vegetation (dark blue).

Methods

We collected data in 2015 and 2016, at the five established sites. In 2015, sites were sampled approximately once per week from late-July to early-September, with additional sampling in October and November. In 2016 sites were sampled every other week beginning in late May and continuing through September. Continuous depth, temperature and salinity data were collected from stationary loggers placed in each of the marsh channel habitats (Solinst TM 3001 level loggers, Solinst Canada Ltd., Ontario, Canada), calibrated with a Solinst TM 3000 barologger set onsite. Level loggers were set at 15-min recording intervals and placed in 5 × 25 cm plastic housings attached to steel fence posts driven into the substrate. Point measurements were taken for each sampling event at all of the sites to collect data on maximum depth, flow, temperature, salinity, and dissolved oxygen, taken at three points in the water column (just below the surface, mid-water column, and just above the substrate) using a YSI model 30. Turbidity data were collected using a YSI 6600 series data sonde, with a YSI 6136 turbidity sensor (YSI Instruments Inc.)

Fish were sampled by seining; in the marsh channels, block nets (0.3 cm mesh) were placed at both ends of the 25 m reach and fish were captured in three passes with a pole seine (2.2 × 6 m, 0.3 cm mesh). At mainstem sites, a pole seine was pulled 25 m parallel to the bank in the upstream direction in 2015; and in 2016, we used a 20 ft beach seine, pulling either upstream, or across the channel (Figure 3). Fish were counted, identified to

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species, weighed, measured, and returned to the channel. Salmon over 55 mm in length received a Passive Integrated Transponder (PIT) tag, and a subset of fish had their stomach contents sampled via gastric lavage. Fish were held in recovery pens in the channel prior to release.

PIT tag reading antennas were established in four sites in 2015, reduced to three sites for 2016 due to one of the sites becoming too dry (Figure 4). Each antenna array consisted of two antennas so that direction of movement could be detected. Antenna efficiency was calculated for segments of time between each sampling event by dividing the number of unique tags detected at the antenna by the number of tags known to have passed through (as determined by detection or recapture) (Table 1).

To compare fish catch samples across sites, we used log transformed catch per unit effort (CPUE), using the first pass from each sampling event.

$$CPUE = \frac{\text{\#fish per area sampled}}{\text{area sampled}}$$

*area sampled = transect length*net curved-width for mainstem sites and
transect length*average channel width for marsh channels.
average channel width = mean wetted width at 5m intervals along the transect at low tide.
CPUE was log transformed*

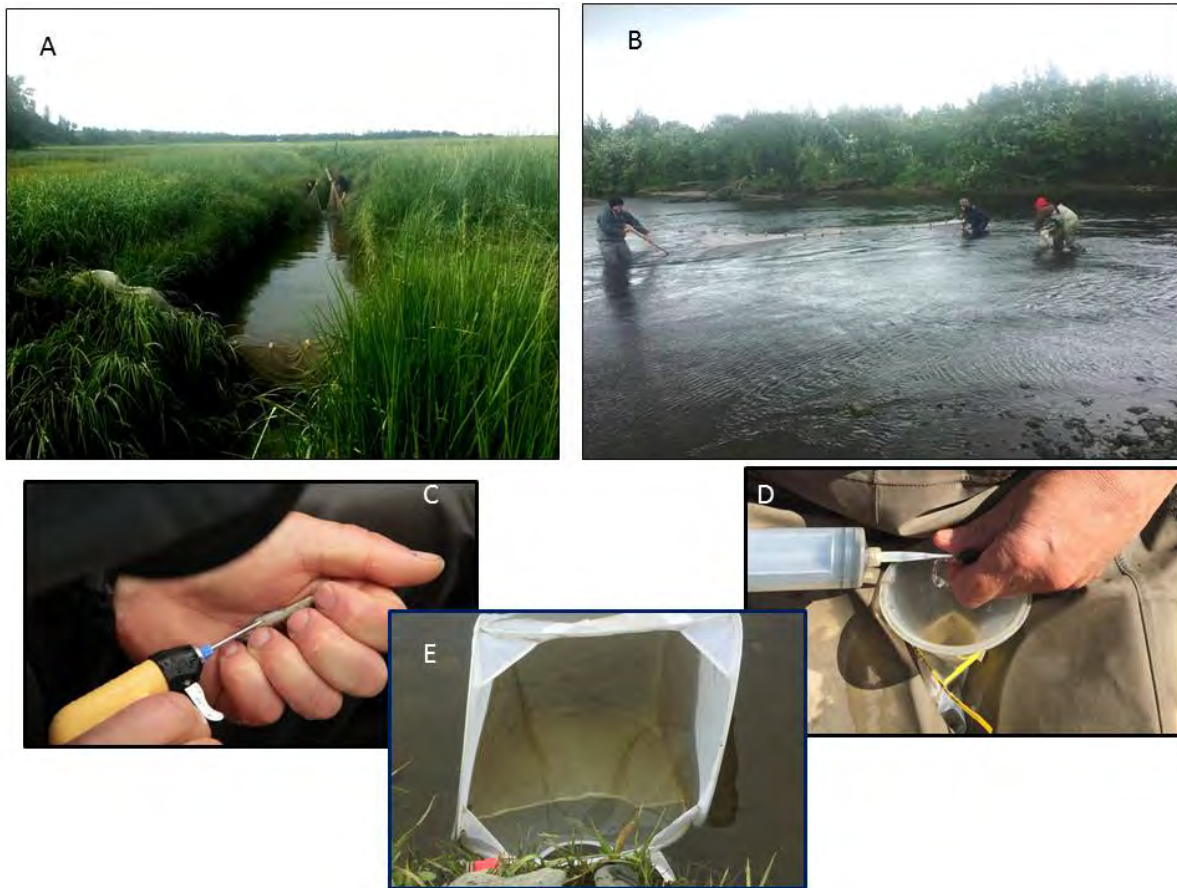


Figure 3. Fish were captured using pole seines in block-netted marsh channels (A), or beach seining in the mainstem (B). Salmon > 55 mm in length were PIT tagged (C); gastric lavage was used to collect stomach samples from representatives of all age classes of juvenile Coho and Chinook Salmon (D); fish recovered in protected in-stream pens (E).

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To estimate the standard growth rate (SGR) of PIT tagged Coho Salmon and staghorn sculpin, we measured the length and weight of recaptured fish (excluding recaptures within ten days of tagging):

$$\text{Standard Growth Rate} = \ln(\text{recap weight}/\text{initial weight})/\text{days since tagging}$$



Figure 4. PIT tag reading antenna locations, shown as yellow bars.

Results

Channel metrics

Environmental conditions varied temporally and spatially in the different estuary habitats (Figure 5). Mainstem sites were consistently deep (~1 m), with stronger flows (> 20 cm/s), salinities near zero, and consistently high dissolved oxygen levels (> 10 mg/L). Both marsh channels had consistently low flows. Marsh channel B (closest to the river mouth), showed a marked response to extreme tide events, with higher and more variable salinities. This is likely due to each channel's connectivity to the mainstem, where a silt sill at the mouth of the channel requires the tide to reach approximately 4.5 m before the channel is inundated. The mid marsh channel, Marsh channel A, by contrast, is always connected to the mainstem. This physical feature enables Marsh channel B to maintain environmental stability during low and moderate tides. Temperatures at all sites generally increased over the course of the field season, although July rains lowered the temperature and correspondingly increased turbidity in mainstem sites, but not in the marsh channels. At times during mid-summer temperatures in mainstem sites consistently exceeded 15°C. Marsh channel sites were generally cooler (rarely exceeding 15°C), and had much lower dissolved oxygen levels, with the mid marsh channel (A) dropping below 4 mg/L in August.

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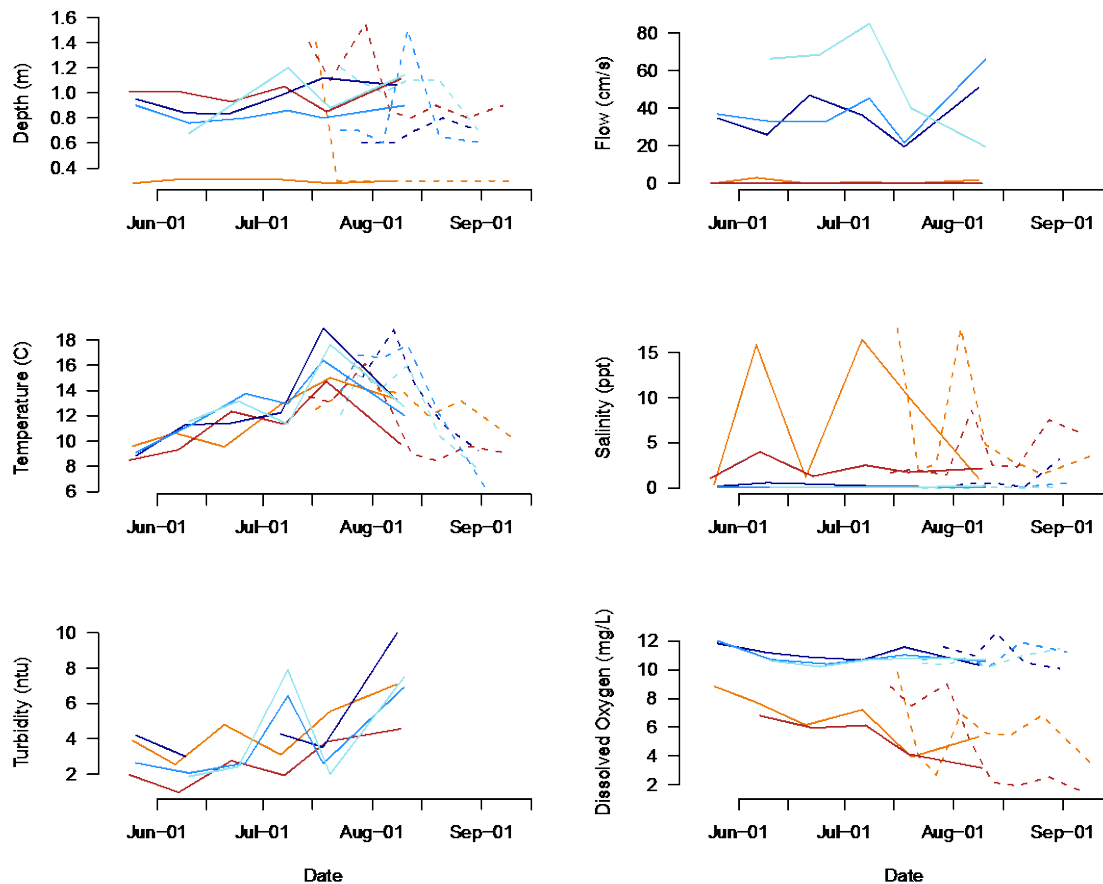


Figure 5. Point measurements of environmental variables over time at each sampling site in 2015 (dashed lines) and 2016 (solid lines). Line colors correspond to sites as indicated in Figure 2 (red = Marsh A, orange = Marsh B, purple = lower mainstem, dark blue = middle mainstem, light blue = upper mainstem). Note: Turbidity and flow were not recorded in 2015.

A Principle Components Analysis (PCA) of environmental variables for 2015 and 2016 revealed that the two marsh channels were distinct from each other, and from the mainstem sites (Figure 6). Substantial variability in the two marsh channels contrasted with the mainstem sites, where the environmental conditions were much more stable. In both years, higher dissolved oxygen levels in the mainstem, and a greater degree of water stratification in the marsh channels were primary drivers of differences in environmental conditions between the different habitats.

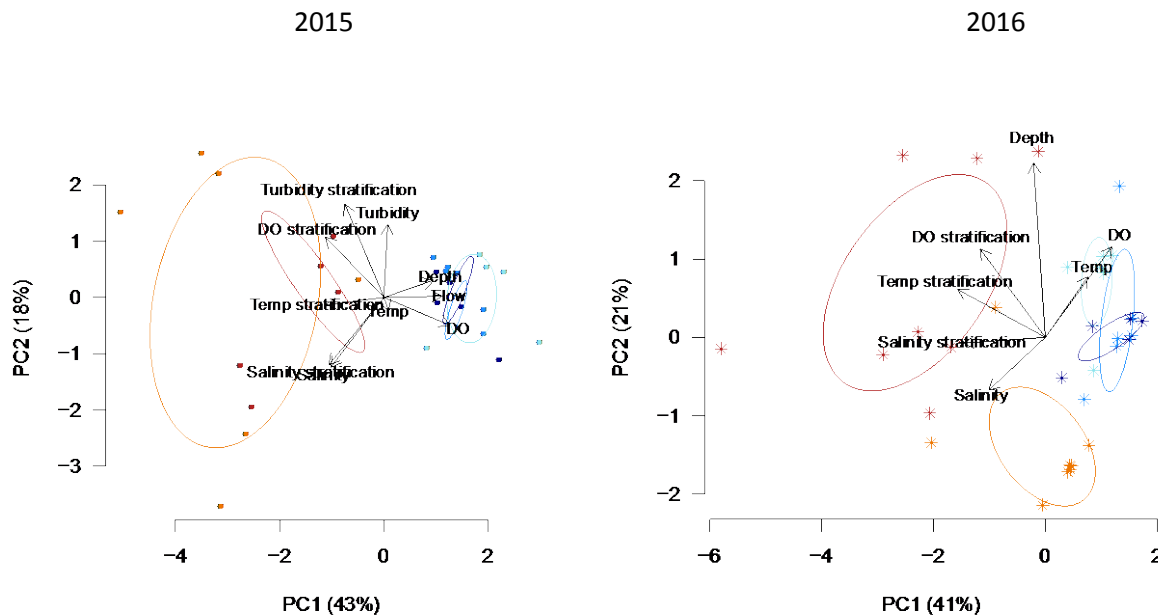


Figure 6. Principle components analysis (PCA) of environmental variables collected during each sampling event for 2015 (left) and 2016 (right). In both years, PC1 explains significantly more variability than would be expected from the null distribution ($p < 0.01$). PC2 is not significant. Points represent individual sampling events and are colored by site, corresponding to colors indicated in Figure 2. Ellipses denote the standard deviation from each site centroid. The association of environmental variables with the principle component axes is illustrated by the vector arrows, with the length of arrow proportional to the variance explained. DO = dissolved oxygen, Temp = temperature. Point readings were taken at three points in the water column (bottom, middle, and surface).

Fish

Similar to other estuaries in Alaska, the Anchor River estuary has relatively low fish diversity. Of the over 16,400 fish sampled, fifteen species were represented, nine of which were present at multiple life history stages, including large numbers of young of the year (< 20 mm) staghorn sculpin and three-spine sticklebacks (Figure 7).

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Figure 7. The most abundant captured fish included three age classes of juvenile Coho Salmon (A), juvenile Chinook Salmon (B), starry flounder (C) including young of year (D) staghorn sculpin (E) including young of the year (G), and three-spine stickle backs (H) including young of the year.

Species composition varied across the sites (Figures 8 and 9). Coho Salmon were abundant in all sites, comprising on average nearly three-quarters of the total catch in the mid marsh channel (Marsh A), but only 25% in marsh channel B. In the mainstem channels, Coho were most abundant (although much less so than Chinook Salmon) in the middle mainstem site during late June. Two main pulses of Coho Salmon, one in early June and one in early August, occurred in the marsh channels, and to a lesser degree in the lower mainstem channel, and small, age 0 Coho Salmon continued to enter the estuary into November (Figure 15). Chinook Salmon comprised less than 1% of the catch in 2015, but were commonly found in mainstem sites in 2016. They were abundant early in the season at the upper mainstem site and to a lesser degree in Marsh channel A, with another pulse of juvenile Chinook Salmon at the upper mainstem site in late August. The highest abundance of Chinook Salmon (densities of 4 fish/m²), were in the middle mainstem site in early June. Staghorn sculpin were most abundant in the lower marsh channel (Marsh B), where they increased from June to July, reaching and maintaining densities of 3 fish/m² through early August. Starry flounder were most abundant in the lower mainstem site, and lower marsh channel (Marsh B), with a marked increase in abundance in early August in both marsh channel habitats, as well as the upper mainstem. Dolly Varden were only present in small numbers in the mainstem sites, and three-spine sticklebacks were only present, but in large numbers, in the marsh sites. Small numbers of Sockeye Salmon were captured in all sites, except for the lower mainstem, although they were most abundant in the marsh channels, and Steelhead were found only in the upper and rarely in the middle mainstem site.

Overall, the two marsh channel habitats generally had higher densities of fish than the mainstem sites, with the exception of the middle mainstem site, which had high densities of Chinook Salmon in early June, steadily decreasing throughout the summer. Trends in abundance appear relatively consistent between 2015 and 2016;

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with the exception of Chinook Salmon, which were only present in very small numbers overall in 2015, and juvenile steelhead, which were rare in 2016.

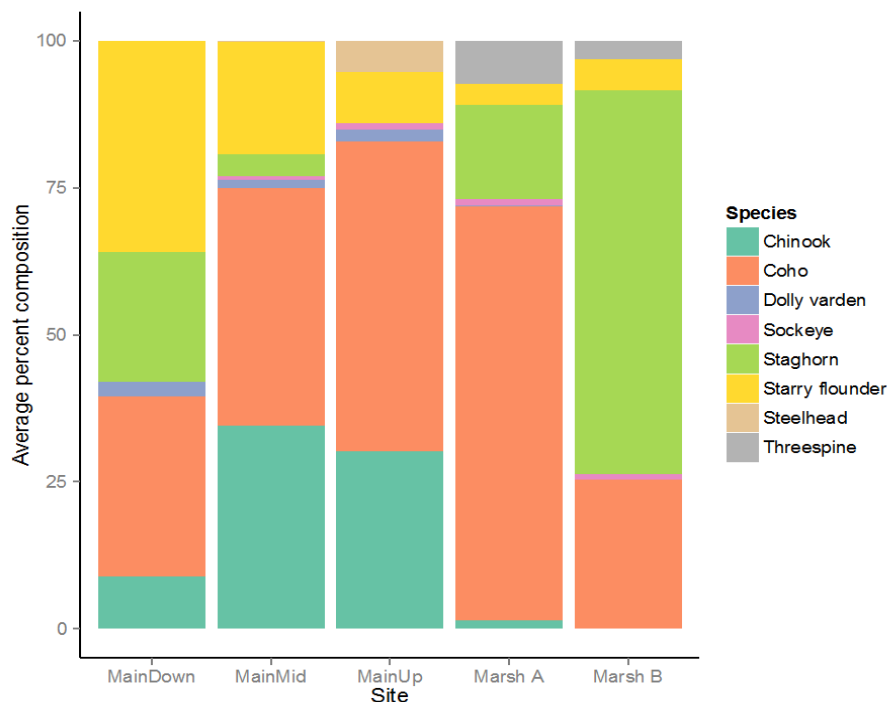


Figure 8. Average species composition at each site (2015 and 2016 data combined) based on log-transformed catch per unit effort. Staghorn = staghorn sculpin, Threespine = three-spine stickleback.

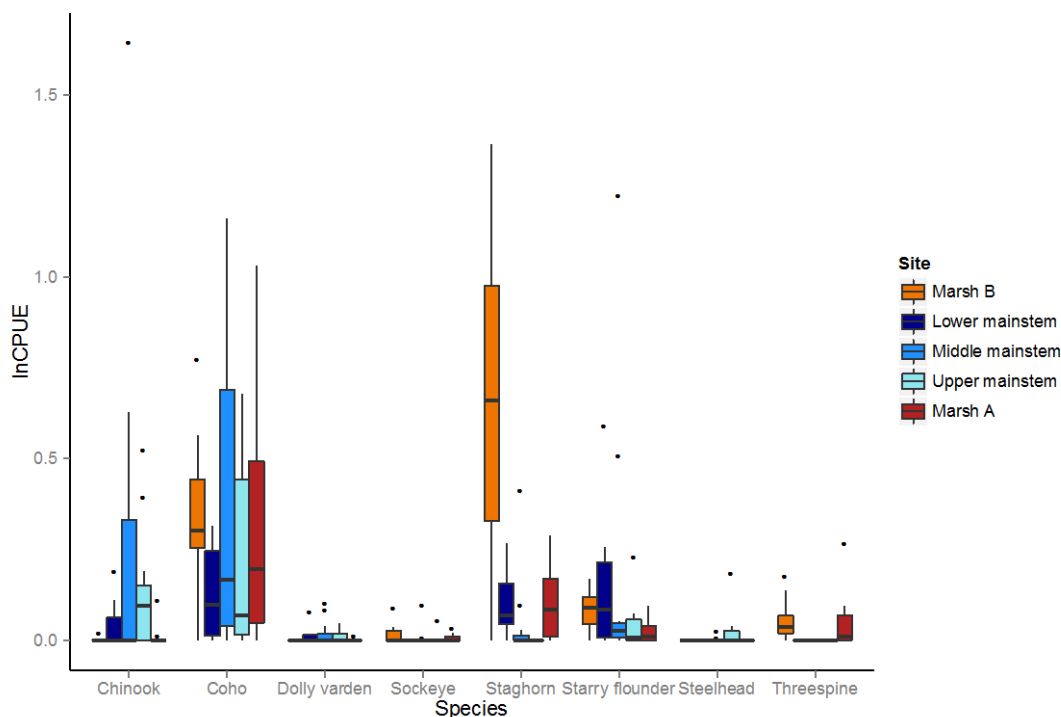


Figure 9. Boxplot of catch per unit effort of the primary fish species at each site (2015 and 2016 data combined). Staghorn = staghorn sculpin, Threespine = three-spine stickleback.

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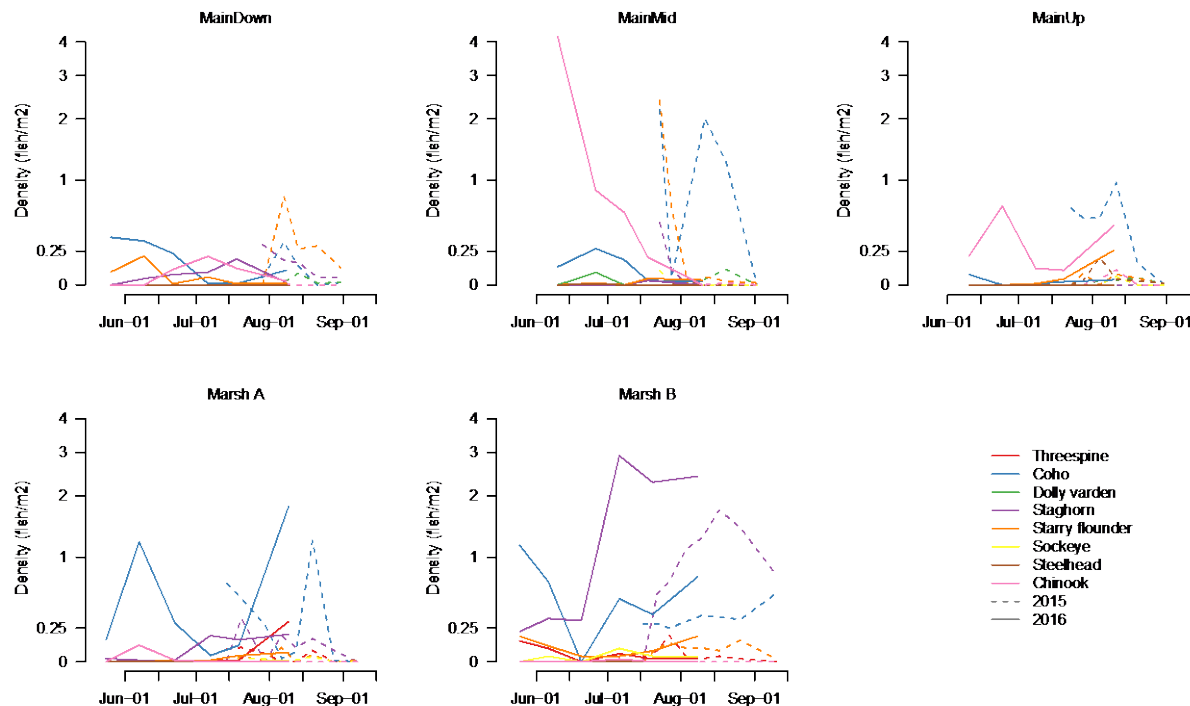


Figure 10. Catch per unit effort over time at each site for the primary fish species. Note log scale on the y-axis. Staghorn = staghorn sculpin, Threespine = three-spine stickleback. Dashed lines are 2015 data, solid lines are 2016 data.

A non-metric multidimensional scaling (NDMS) analysis of relative fish species abundance revealed distinct differences that remained fairly consistent for the two marsh habitats and the lower mainstem habitats. Newly hatched three-spine sticklebacks numerically dominated the fish community in the mid marsh site (Marsh A), staghorn sculpins dominated the lower marsh site (Marsh B), and a mix of staghorn sculpin and starry flounder typified the lower mainstem site (Figure 11). The middle and upper mainstem sites were characterized by Coho Salmon and steelhead in 2015; however Chinook Salmon were the characteristic species for these two sites in 2016 (Figure 11). The middle mainstem site exhibited the most variable fish assemblage in both years, as evidenced by the wide spread of sample points.

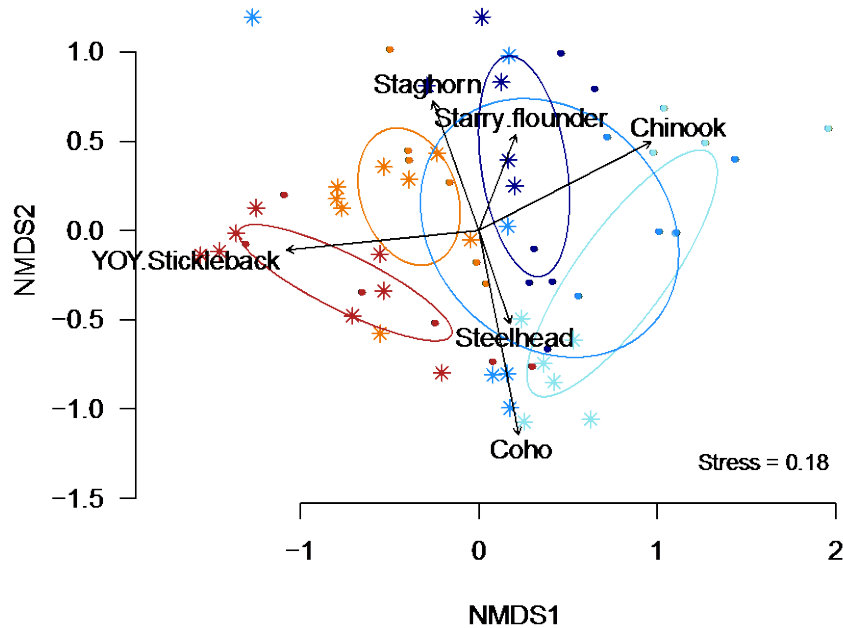


Figure 14. Two-dimensional nonmetric multidimensional scaling plot of relative species abundance for 2015 (stars) and 2016 (points) using Bray-Curtis dissimilarity. CPUE was log-transformed because the data were heavily right-skewed, and then row-standardized to compare relative species abundance across samples. Points represent samples and are colored according to site as indicated in Figure 2. Ellipses represent the dispersion of each site, and are based on the standard deviation to the site centroid. Vectors indicate the magnitude and direction of species loadings (variable weights) on the composite axes. Only those species that significantly contribute to the ordination ($p < 0.01$) are displayed. YOY = young of year sticklebacks (< 20 mm fork length), Staghorn = staghorn sculpin.

In both 2015 and 2016, three age classes of Coho Salmon were present in the estuary habitats. Length frequency distributions for 2015 and 2016 indicates that small, age 0 fish continue to enter the Anchor River estuary throughout the summer and fall (June – November) (Figures 15 and 16).

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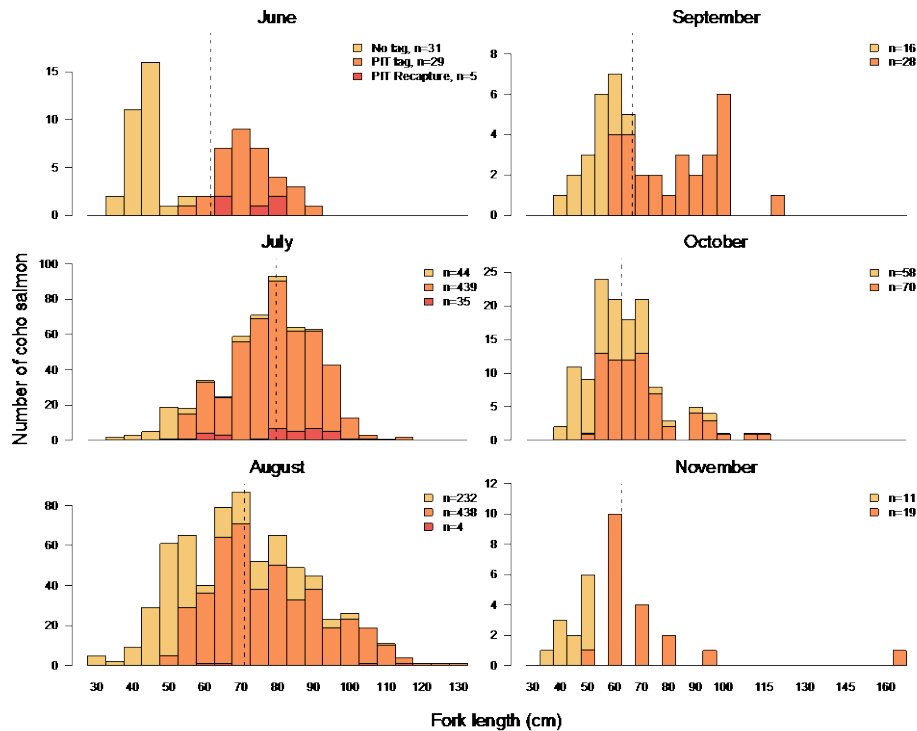


Figure 15. Length frequency histograms for Coho Salmon sampled in 2015. Bars are colored to indicate fish that were not PIT tagged (yellow), PIT tagged (orange), and PIT tagged fish that were later recaptured (pink). The vertical dashed line marks the median length.

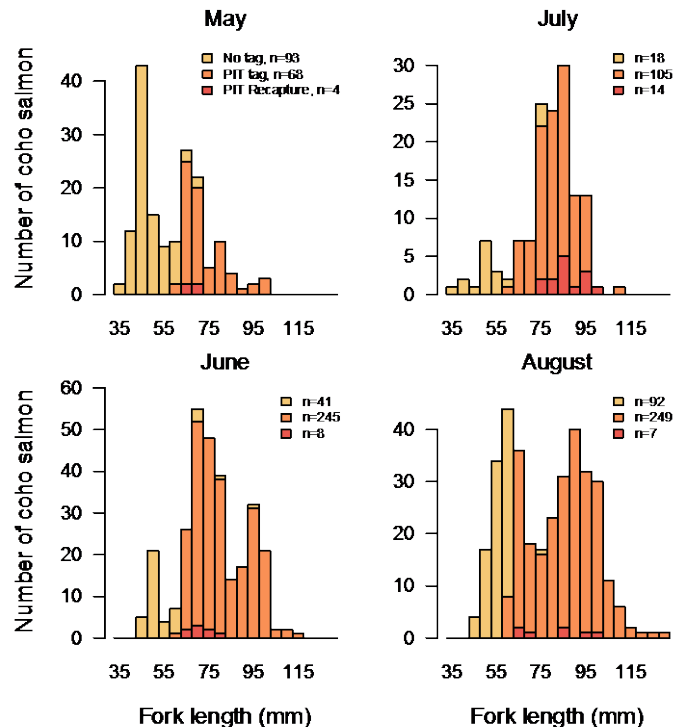


Figure 16. Length frequency histograms for Coho Salmon sampled in 2016. Bars are colored to indicate fish that were not PIT tagged (yellow), PIT tagged (orange), and PIT tagged fish that were later recaptured (pink).

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Movement and residence

Unfortunately, the PIT tag detecting antenna arrays were rarely working in synchrony in 2015, and were inoperable during the winter due to severe icing and tidal movement of large pieces of wood debris. Antenna operation was re-established in April 2016, and we calculated detection efficiencies for each antenna that was consistently operational as the number of unique tags detected by the antenna divided by the number of tags known to have passed through (as determined by detection or recapture). As Table 1 shows, detection efficiencies were marginal during most periods (Connolly *et al* 2011).

Table 1. Detection efficiencies for each PIT antenna in 2016 in approximately two-week intervals corresponding to tagging events at each site.

Data range	Marsh A up	Marsh A down	Marsh B up	Marsh B down
Late May – early June	0.381 (8/21)	0.532 (25/47)	0.571 (16/28)	0.571 (8/14)
Mid June	0.097 (3/31)	0.419 (13/31)	0.533 (8/15)	0.00 (0/2)
Late June – early July	0.654 (17/26)	0.442 (19/43)	--	0.500(2/4)
Mid July	0.714 (5/7)	0.000 (0/4)	0.500 (8/16)	0.00 (0/5)
<i>Overall efficiency</i>	<i>0.388 (33/85)</i>	<i>0.456 (57/125)</i>	<i>0.542 (32/59)</i>	<i>0.400 (10/25)</i>

Over three-hundred Chinook Salmon, the majority of which were in the upper and middle mainstem sites, as well as approximately sixteen-hundred Coho Salmon, the majority of which were tagged in the marsh channels, were PIT tagged between 2015 and 2016; (Figure 17). Although recapture rates of PIT tagged fish were low, they appear to reflect the size distribution of tagged fish, indicating that recapture is not biased by fish size (Figures 15 and 16).

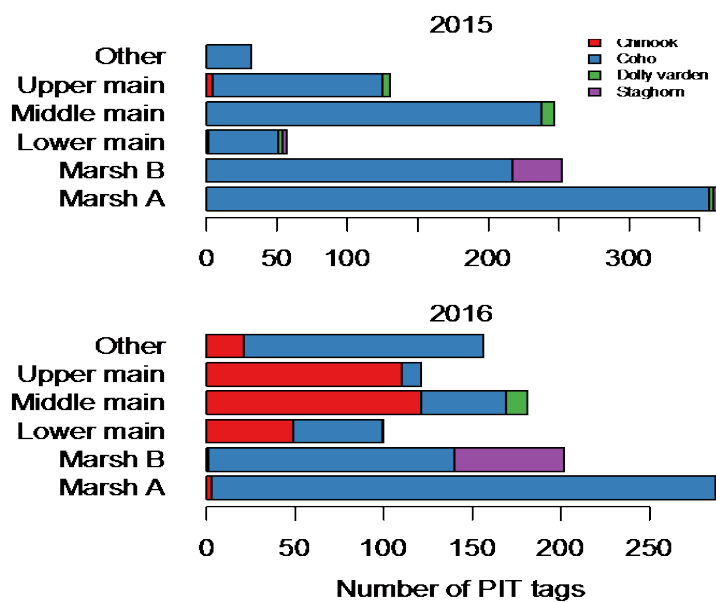


Figure 17. Distribution of PIT tags by site and species in 2015 and 2016. Data extends through 9/2/16.

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Through a combination of antenna data and recaptures, we were able to detect fish movement between sites. Although fish were commonly recaptured in the same site that they were first tagged in, they were also frequently recorded in other habitats, indicating a broad range of movement, including upstream and downstream, from the mainstem into marsh channels, and from marsh channels into mainstem habitats (Figure 18).



Figure 18. (left top) A chord diagram indicating the number of recaptured Coho Salmon and their movement among sites (colored by original tagging location); and (right) generalized observed patterns of movement.

Recaptured juvenile Coho Salmon and staghorn sculpin showed an average standard growth rate (% increase in body weight per day) of 1.43% and 3.06%, respectively, over the 2016 season. In terms of length, this corresponds to approximately 0.37 mm/d for Coho Salmon and 0.91 mm/d, for staghorn sculpin (Figure 19).

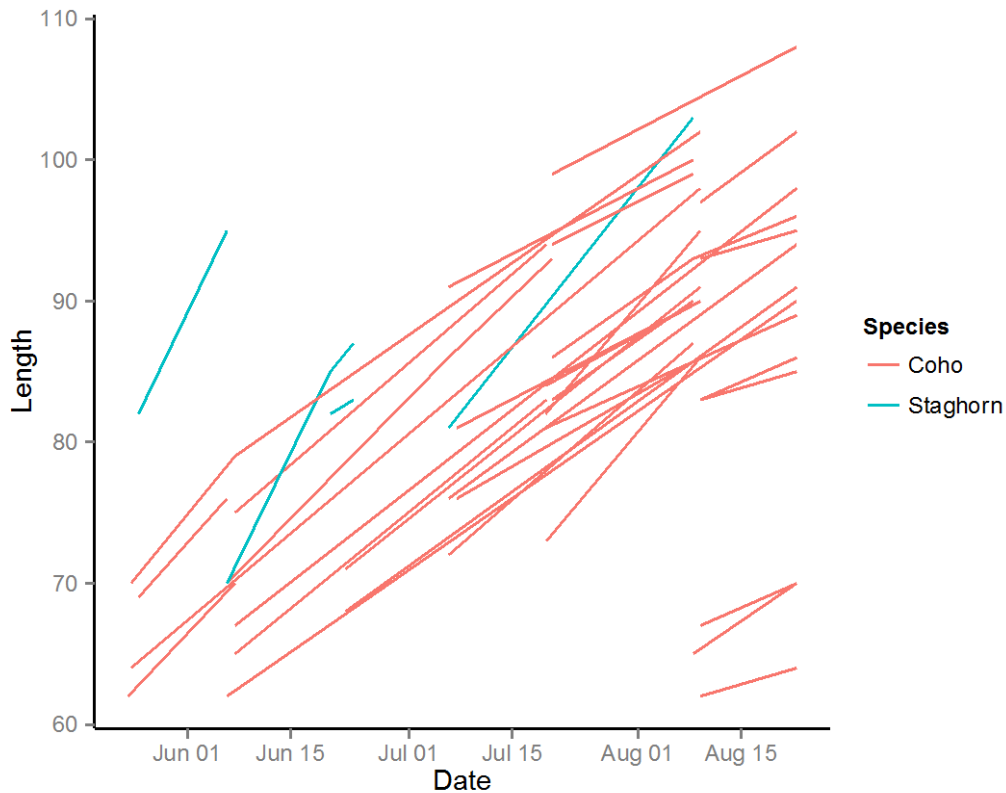


Figure 19. Growth of recaptured fish over time. Each line segment refers to an individual fish indicating its length when it was initially tagged and subsequently recaptured. Data presented here are from 2016 only, extending through 9/2/16.

Discussion

Coho and Chinook Salmon have different life history types, with some individuals spending considerable portions of their life cycle (1-3 years) in freshwater and estuarine environments before migrating to open ocean. It is believed that this diversity in life histories results in high resilience of these salmon populations to environmental variability and change (Bottom *et al.* 2011). Results from this project show that distinct environmental conditions can exist even within a rather small estuary, such as the Anchor, and that juvenile salmon are present across a broad range of habitats. Juvenile Coho Salmon were present in marsh channels and mainstem habitats, with pulses of small, age 0, fish coming into the estuary throughout the summer and fall. The longest record of estuary residence from this study was a Coho Salmon that was initially tagged in mid-June of 2015 in a small channel near the upper mainstem site that went dry soon after the tagging event. Although we thought that the fish present at that site would be trapped by low river flows, it is likely that high tide events allowed the fish to escape, enter the mainstem, and eventually make its way to the mid marsh channel, where it was recaptured 327 days later (mid-June 2016). Residing nearly a year in the estuary, this fish illustrates the long term use of estuary habitats that may be a distinct life history strategy for juvenile Coho Salmon (Miller and Sadro 2003; Koski 2009, Hoem Neher *et al* 2013a). This adds to the growing recognition that estuaries may support alternative life history strategies of Coho Salmon that contribute to overall population resilience and health (Schindler 2010; Hoem Neher *et al* 2013a; Hoem Neher *et al* 2013b).

Chinook Salmon were predominantly present in mainstem sites, although there was some movement into the marsh channel sites as well. In general, Chinook Salmon had lower residence times within the estuary than Coho Salmon, with the longest record being a juvenile Chinook that was tagged in the middle mainstem site in

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early July, and was detected at a PIT antenna nearly 30 days later in the mid marsh channel. Interestingly, two other species; staghorn sculpin and Dolly Varden, also exhibited long residence times within the estuary (189 days, and 231 days, respectively). Few Chinook Salmon were captured in 2015, which is likely due to the very low adult returns of the previous year. In 2014, roughly 2,500 adults returned, whereas in 2015, over 10,000 adults Chinook Salmon returned to the Anchor River, with the result that far more juvenile Chinook Salmon were rearing in the estuary in the 2016 season.

The range of environmental conditions present at the different sites in the Anchor, including fast flowing mainstem sites that are well mixed, with high dissolved oxygen levels, to marsh channel sites that have low flows, and a high degree of stratification, provide a broad suite of conditions, and juvenile salmon apparently take advantage of their ability to move between habitats, as evidenced by the observed movement patterns. Further study is needed to understand the drivers of movement. The presence of other fish species likely has some influence on juvenile salmon. For example, small staghorn sculpin were observed as prey for juvenile salmon, yet will become predators of juvenile salmon when they are larger.

The high densities, prolonged residence, movement and growth of juvenile salmon in the Anchor River estuary support the importance of even relatively small estuaries to juvenile salmon rearing. The amount of movement among estuary habitat types supports the concept of conservation for the entire estuary in order to maintain full habitat potential and resilience.

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- Miller BA, Sadro S. 2003. Residence time and seasonal movements of juvenile Coho Salmon in the ecotone and lower estuary of Winchester Creek, South Slough, Oregon. *Transactions of the American Fisheries Society* 132: 546-559.

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Schindler DE, Hilborn R, Cghasco B, Boatright CP, Quinn TP, Rogers LA, Webster MS. 2010.
Population diversity and the portfolio effect in an exploited species. Nature 465: 609-612.

Final Report Status: This performance report is the final report for this project during the reporting period (February 1, 2015–June 30, 2016).

Prepared By:

Coowe Moss Walker

Watershed Ecologist, Kachemak Bay National Estaurine Research Reserve, UAA

Brianna Pierce,
MS candidate, University of Washington

Date: September 2016

Wall, Bruce

From: Joseph Sparkman <jay1332@att.net>
Sent: Friday, July 13, 2018 1:41 AM
To: Wall, Bruce
Subject: Proposed gravel pit on Danver street in Anchor Point

Bruce Wall, My wife and I are another couple who are very disturbed by this proposed gravel pit.

We would first ask you to put yourself in our and our fellow neighbors positions of having a mining operation in our back yard. How would you feel about this for you and your family?? Any other state I have lived in this proposal would not have a chance. This is an area of private homes, not of commercial enterprise! The key points you will consider as I understand it are: dust, noise, and visual impacts. All these are inarguably detrimental to all of us around this proposed mining operation and they can not be minimized.

The destruction of our visual enjoyment of our property can not be minimized because we are on a hill overlooking the proposed mine about 80 feet up, a 6 foot berm is not going to hide this operation. We will then have our retirement home overlooking the Anchor River, Cook Inlet and a gravel Pit! It is also obvious there is nothing they can do to minimize the dust, How?? Excavators, Loaders, rock crushers, dump trucks etc = dust and lots of noise. I hope you will consider your fellow neighbors when making this decision.

thanks for your time and consideration of this matter,

Sincerely,

Joseph and Denise Sparkman
 73884 Seaward ave
 Anchor Point, AK

Wall, Bruce

From: Noyes, Karyn
Sent: Tuesday, July 10, 2018 12:08 PM
To: Wall, Bruce
Subject: RE: KPB CLUP Material Site Application - Parcel 169-010-67

Bruce,

I have reviewed the proposed Conditional Land Use Permit application for a Material Site located in the Anchor Point Area, indicated by the parcel listed below.

Legal Description

T 5S R 15W SEC 5 SEWARD MERIDIAN HM 0800104 MCGEE TRACTS DEED OF RECORD BOUNDARY SURVEY TRACT B

KPB Parcel ID

16901067

Although the State of Alaska has allowed the Coastal program to lapse, the Kenai Peninsula Borough has the coastal program set in Ordinance.

This project is consistent with the Kenai Peninsula Borough's Coastal Management Plan. Future plans to excavate below the water table may require further evaluation to assess the impact changes in groundwater may have on the anadromous Anchor River.

Please feel free to contact me if you have any questions.

Sincerely,

Karyn Noyes

Resource Planner

Ph: (907) 714-2468

KENAI PENINSULA BOROUGH

514 Funny River Road

Soldotna, Alaska 99669



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

From: Wall, Bruce

Sent: Friday, July 06, 2018 9:34 AM

To: Best, Max; Carver, Nancy; CEPOA-RD-KFO, POA; Chandler Long (chandler.long@alaska.gov); Charley Palmer (charley.palmer@alaska.gov); Christopher Miller (chris.miller@alaska.gov); Clark Cox (clark.cox@alaska.gov); David May (DMay@kpbsd.k12.ak.us); Dearlove, Tom; Dustin Firestine (firestine.dustin@dol.gov); Harris, Bryr; Jeff Green (jeffrey.green@alaska.gov); Kyle Graham; Malone, Patrick; Mark Fink (mark.fink@alaska.gov); Michael Walton

(michael.walton@alaska.gov); Montague, Holly; Mueller, Marcus; Ninilchik Tribe (ntc@ninilchiktribe-nsn.gov); Noyes, Karyn; Shears, Jennifer; Simpson, Danika L (DOT)

Cc: Gina Debardelaben; emmitttrimble@gmail.com

Subject: KPB CLUP Material Site Application - Parcel 169-010-67

Please see the attached public notice, staff report, application, and associated documents for a conditional land use permit application.

Thanks,

Bruce Wall, AICP

Planner

208-369-0089

KENAI PENINSULA BOROUGH
144 North Eklakley Street
Girdonia, Alaska 99669



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

Wall, Bruce

From: Lorri Davis <homesteadart@gmail.com>
Sent: Thursday, July 12, 2018 1:01 PM
To: Wall, Bruce
Subject: Gravel pit at Danver and beach access, Lorri Davis

My comments concerning the proposal for a gravel pit on Danver and the beach access road.

I am a resident of Anchor Point. I was shocked when I heard of a plan to operate a gravel pit in an area where it is quite obvious it is a well established *residential* and *recreation* area. It makes no sense to put one persons desire to run a business of this kind in the area where it will have an impact on all people coming to recreate and live in that area. Anchor Point is a beautiful and bountiful location for families and fisherman. It has been this way for years and a gravel pit right in the middle of it all will become a deterrent to people visiting and enjoying the area. It would adversely affect the economy of Anchor Point in many ways from small businesses, to the boat launch and campgrounds. Here are the reasons I see to not permit this gravel pit.

1. We have well established campgrounds, one that borders on this property and others close by, run privately. A gravel pit next to or near by makes no sense. The noise and dust would be a great downer to anyone trying to enjoy these areas. These businesses will suffer because of it and how can a business so opposite to fishing, wildlife, and recreation fit in this area? This would no longer be a place for recreation. It is like oil and water. They do not mix. It will change the whole perception of the entire area.

2. The beach access road or Anchor Point Rd. will not be able to handle the traffic of large boats, large RV"s and gravel trucks going back and forth. Right now, a person walking on the road is taking their lives into their own hands. The road is somewhat narrow, not to mention the bridge is basically a one lane bridge. Recently there was a gas pad proposal approved on private property just up the hill off the Old Sterling Hwy that will increase truck traffic going back and forth. I am not sure this was even considered with that proposal but I see a huge increase of big trucks on these small windy roads is a disaster waiting to happen.

3. I feel heartsick for the residents who already established homes in the area of the pit. I am sure they never thought they would wake up one day to find their backyard of vegetation, trees and wildlife are to be scoured to unearth gravel. The noise is another factor. Who doesn't enjoy the sound of trucks and machinery over the sound of the ocean and peace and quiet? Many, many of us! I think it is really irresponsible and shows lack of respect for neighbors living in Anchor Point. This will have an impact on everyone's home prices and business prices for sure.

4. The environmental impact to the area is not known but it is not a positive step forward. The Kachemak Bay Bird Festival draws lots of people, every year, from out of state, to the area. One of the areas they encourage Birders to drive to, to observe all kinds of migrating birds is Anchor Point. We all have wildlife sharing our beaches and properties. Take out many acres from this very sensitive area and it will have a direct impact to the amount of wildlife. Noise, dust and loss of habitat is not a positive thing. Personally this is a big concern of mine. I am an artist and have been working on establishing children's art academy for Anchor Point that focuses on introducing kids to the habitat and beauty of Anchor Point. I was looking to purchase a small property in the area for a studio but have now reconsidered due to lack of support for the environment coming from all the proposals that seem to want to change Anchor Point to an industrial area. Frankly, I am really discouraged about the mindset. We have a world class area of recreation known for fishing in the Anchor River and ocean and it seems we would sooner destroy it all for a few people to make financial gains. It goes counter to all groups trying their hardest through volunteer time to their own finances to preserve the river and ocean at Anchor

Point. These are not "tree huggers". They are people wanting to see the area preserved in a way that supports the beauty, wildlife and small businesses that are springing up in Anchor Point that cater to those using the area. The focus is not on gravel for everyone.

In closing, I would like to say there are other profitable things Mr. Trimble can do with that land. It takes getting creative sometimes but subdividing for small cabins or something else that fits in with the mindset when people think of Anchor Point. This would be best for EVERYONE! Gravel pits are a dime a dozen around our area. We do not need more gravel pits! Just take a look at google maps to see all the properties scoured into gravel pits along the Anchor River and other locations. We need the planning committee to understand there are lots of people living in Anchor Point trying to develop a beautiful area for this world class fishing area that draws people to the area including the winter months. I frequent the beach year round and find many others do as well. This is a beloved area and space for people around Ak including those who live out of state but especially those who in live in Anchor Point. Please do not allow this proposal to go forward.

Thank you,
Lorri Davis

72640 Norwegian Woods Road
P.O. Box 946
Anchor Point, AK 99556

Wall, Bruce

From: Palmer, Charley (DEC) <charley.palmer@alaska.gov>
Sent: Thursday, July 12, 2018 1:41 PM
To: Wall, Bruce
Cc: DEC.TWUA@alaska.gov; Forgue, Scott A (DEC); Forgue, Geraldine E (DEC)
Subject: FW: KPB CLUP Material Site Application - Parcel 169-010-67
Attachments: 169-010-67_2018-07-06_Notice.pdf; 169-010-67_2018-07-03_Staff_report.pdf; 169-010-67_2018-06-21_Site_Plan.pdf; 169-010-67_2018-06-18_Application.pdf; 169-010-67_2018-06-21_Contour_Map.pdf; 169-010-67_2018-06-21_Land_Use_Map.pdf; 169-010-67_2018-06-21_Ownership_Map.pdf; 169-010-67_2018-06-21_Aerial_Map.pdf; DEC_PWS_Map.jpg; DEC-EH_DW_Recommendations for General Construction Projects_June_2016.pdf

Bruce,

Thank you for the opportunity to comment with respect to public water system (PWS) sources. Given the location(s) provided, work associated with this CLUP application is near an active registered PWS source (see attached "DEC_PWS_Map.JPG" and summary table below). For this reason, we ask that the applicant please adhere to the attached **Recommendations for General Construction Projects**, where applicable. Also, because this project is associated with a rock/gravel extraction project, we ask that the applicant adhere to the requirements and recommendations in the "[ADEC User's Manual: Best Management Practices for Gravel/Rock Aggregate Extraction Projects](#)" (Revised September 2012).

PWSID: [AK2249882](#)

Water System Name: DIV PARKS SLIDEHOLE

Water System Type: GW (Groundwater)

Water System Classification: NC (Transient, Non-Community water system)

Water System Activity Status: A (Active)

State Assigned Source ID: WL001

Source Name: WL DIV PARKS SLIDEHOLE

Source Facility ID: 35331

Source Type: WL (Well)

Source Activity Status: A (Active)

Regards,

--

Charley Palmer, *Hydrologist*

Alaska DEC Drinking Water Protection

907-269-0292

Legend

Active Public Water System (PWS) Source Locations

Community Water System (CWS)

Non-Transient Non-Community Water System (NTN)

Non-Community Water System (NC)

PWS Drinking Water Protection Areas

A: (GW) Several Months Time of Travel or SW 1000 ft

B: (GW) 2 Yr Time of Travel or SW 1 mile buffer

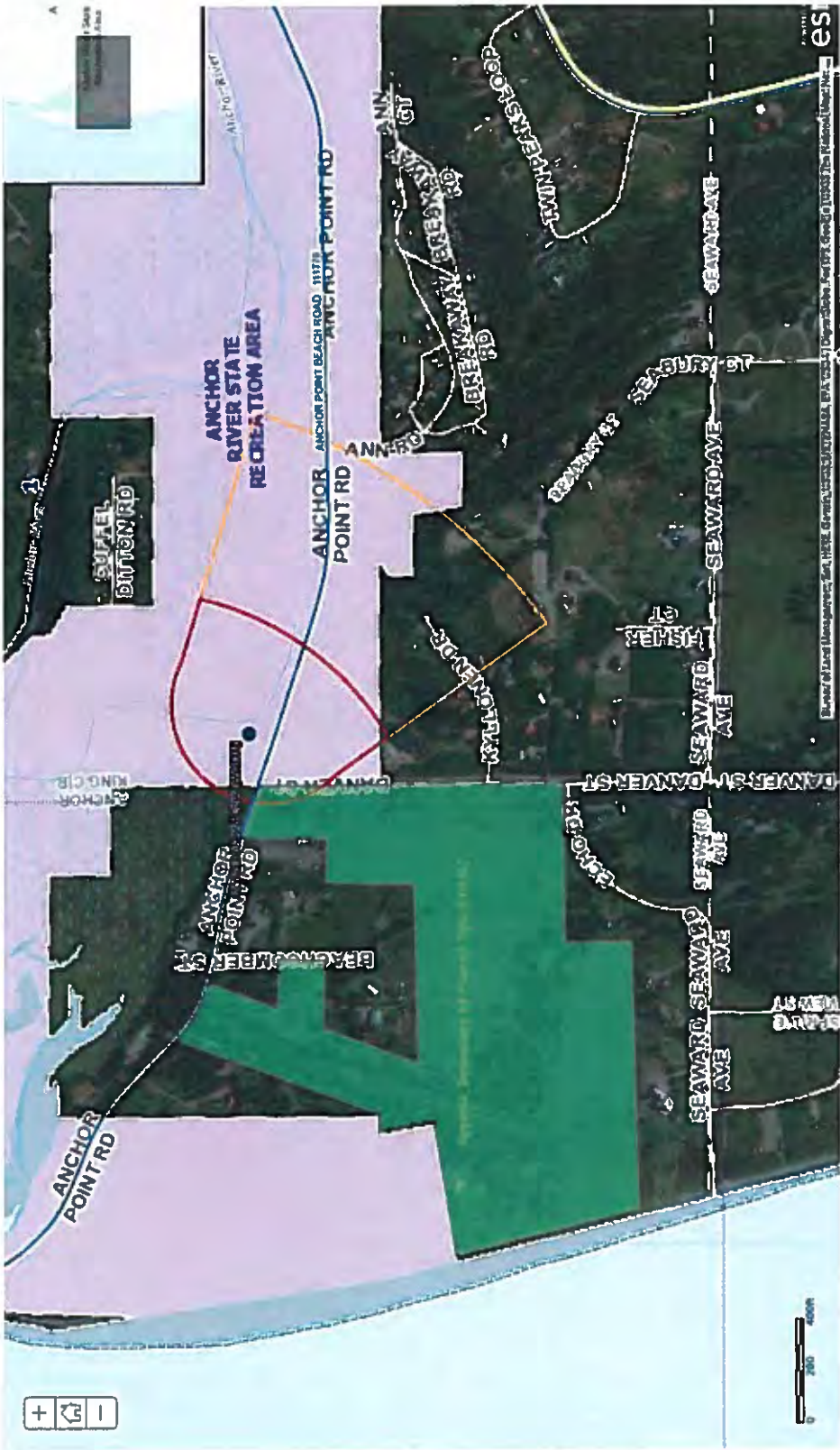
C: Surface Water (Watershed Boundary)

E: Ground Water Surface Water Influence 1000 ft

F: Ground Water Surface Water Influence 1 mile buffer

G: Ground Water Surface Water Influence (Watershed boundary)

Other Protection Areas





Alaska DEC/Division of Environmental Health-Drinking Water Program

Recommendations for General Construction Projects associated with, or near, a Public Water System (PWS)

1. Identify on a legible map the location of existing public water system (PWS) drinking water protection areas (DWPA) for PWS sources (e.g. springs, wells, or surface water intakes) that intersect the boundary of the proposed project/permit area. The DWPAs can be found using the interactive web map application, "*Alaska DEC Drinking Water Protection Areas*", located at <http://dec.alaska.gov/das/GIS/apps.htm>. Basic instructions for using this web map can be found at http://dec.alaska.gov/eh/dw/DWP/protection_areas_map.html.
2. Where the project/permit intersects a PWS DWPA, notify the PWS contact. PWS contact information can be obtained using the online application, *Drinking Water Watch*, <http://dec.alaska.gov/DWW/>, by entering the appropriate 6-digit PWS ID (e.g. 220025).
3. Within the identified DWPA, control stormwater discharge.
4. Within the identified DWPA, restrict project/permit activities that could significantly change the natural surface water drainage or groundwater gradient.
5. All data related to the project/permit, including but not limited to, water quality results (field and lab), survey data, water levels, subsurface lithologic descriptions and depth, and groundwater flow direction and gradient information, should be made available to the permitting agency upon request.
 - a. When associated with the development, construction, modification, or operation of a PWS, all water quality sampling and hydrologic data collection should be accomplished under the supervision of a qualified professional and follow a written sampling plan approved by the permitting entity.
6. Limit the amount of equipment storage, maintenance and operation, and other potential sources of contamination, within the following DWPAs:
 - a. Zone A DWPA (several-months-time-of-travel for contributing groundwater, or 1,000-foot buffer of the contributing surface water body and its immediate tributaries);
 - b. Zone E DWPA (1,000-foot buffer of the contributing surface water body and its immediate tributaries for a source using groundwater under the direct influence of surface water (GWUDISW)); or
 - c. *Provisional* DWPA (1,000-foot radius around a PWS source).
7. Implement best management practices where equipment storage, maintenance and operation, or other potential sources of contamination are located within a PWS DWPA and that will minimize the potential for contamination to enter the water source used by a PWS.
8. Immediately notify the nearby PWS of any identified potential contamination, such as spills or excess erosion.

Wall, Bruce

From: Teresa Ann <tajg1234567@gmail.com>
Sent: Thursday, July 12, 2018 11:22 PM
To: Planning Dept,
Cc: Wall, Bruce
Subject: Gravel permit hearing Monday July 16,2018

Kenai Peninsula Borough Planning Commission
 144 N Binkley St Soldotna, Ak 99669

July 12, 2018

Greetings to the Planning Commission Members,

I am an Alaska resident of Anchor Point and a land owner. This letter is regarding the notice we received concerning a Conditional Land use Permit Application for sand, gravel and peat extraction on their beachfront property of 41.72 acres - proposed excavation is 25.6 acres over a 15 year period by Beachcomber LLC which is owned by Emmett and Mary Trimble of Coastal Realty Anchor Point.

The proposed area is located on Anchor Point Road right in the central recreation area of the Anchor River and the Anchor Point Beach area.

Public Hearing Monday July 16, 2018 7:30pm

A gravel pit operation in this location would negatively impact our neighborhood, our community and the Anchor Point Recreation area. 15 years is a very long time to have a gravel pit operation in our residential area and in the Anchor River, Anchor Point Beach Recreational area!

I would Hope the Commission members would drive to this area before even voting on the application and studying the surrounding map of the area.

In the KPB AK code of ordinances 21.29.040.

Standards for sand, gravel or material sites. A. These material site regulatins are intended to protect against aquifer disturbance, roade damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:1-6.

1. Protects against the lowering of water sources serving other properties.

Concerning #1

The one test hole that was dug on the North end of the property indicates the the groundwater is 18 feet but does not indicate which way the ground water is moving. The question needs to be proved -does the ground water re- charge the Anchor River?

Also will the gravel pit affect the nearby residential water wells?

On the map made by the McLane Consulting Engineering.....

5 of the Clup Development Notes states.....

Wells within 100' and/or 300' of the excavation area are shown hereon

Excavation below the water table may be proposed at a future time.

Ground water is indicated at 18 ft and proposed excavation is 10 ft deep.

2. Protects against physical damage to other properties

Concerning #2

Lowering the area's properties value seems to me to be "physical damage".

3. Minimizes off-site movement of dust

Concerning #3

The dust will be on a gravel site and the winds in the area will be blowing dust into residents homes, campsites, rv parks.

4. Minimizes noise disturbance to other properties

Concerning #4

I am a year round resident living up the hill from this proposed gravel pit area.

The neighbor hood around the proposed gravel pit is a very quiet area where we can hear the eagles and seagulls even the ocean surf at times carries up the hill.

The Alaska State Halibut Campground is within hearing distance of where the equipment will be operating.

5. Minimizes visual impacts

Concerning #5

Many residents live above this proposed area so we all will be "visually affected".

There are many homes above this property that look out over this area towards the inlet view. A 6ft berm will not be able to cover the gravel pit from the hillside and hill top residents. The gravel pit area is surrounded immediately by residents and an RV park on the North side.

Further impact is the State Parks on the Anchor Point Road which is the only route for the trucks to haul the sand, gravel, and peat from this proposed gravel site. Campers and visitors to the Anchor River and Anchor Point Beach walk this road with their families and children walk and bike along the Anchor Point road back and forth to the beach area very close by.

6. Provides for alternate post-mining land uses

Concerning #6

Alternate land uses were not listed.

According to the Material Site PermittingCulp.....Conditional Land use permits are valid for only 5 years. This permit is requested for 15 years.

I want to state again:

A gravel pit operation in this location would negatively impact our neighborhood, our community and the Anchor Point Recreation area.

I sincerely Hope that you as members will not allow this gravel pit permit application.

Thank you kindly for reading and listening to our concerns for our community.

Teresa Ann Jacobson Gregory
PO Box 904
Anchor Point, Alaska 99556
907-399-0063

I am adding pictures of the area.....the highlighted area is the property proposed for the gravel pit. As you can see the Anchor River and the State recreation areas are very close.

In the second picture you can see all the residential lots in the area where our homes arethese are on a hill above the proposed gravel pit.

The bottom picture shows they have already begun to remove gravel.





This picture is on Denver Rd.



Wall, Bruce

From: shirley gruber <shirleytdx@yahoo.com>
Sent: Thursday, July 12, 2018 5:26 PM
To: Wall, Bruce
Subject: KPB CLUP Material site App AKA Beachcomber LLC GRAVEL PIT

Dear Mr. Bruce Wall

Bruce ,

Thank you for fielding and organizing all the public comments in the permitting process, for Beachcomber LLC gravel pit request. It is not an easy job, in my mind.

Therefore, I too appreciate the chance to submit my (our) concerns with regards to the material extraction...IE: Gravel pit. I see staff recommendation is to approve this permit, it appears to be a boiler plate request, but I ask you to reconsider that assessment for the following reasons.

I am aware of section 21.29.040 and .050 list regulations meant to protect the surrounding areas.

So Resolution 2018-23 Section 1 of Finding the Facts

Paragraph 10 item D states water is below 20 Ft, with intention to dig to only 18'

- Permit requester advocates he can dig down 40' for all the gravel he wants. The borough never checks. Thus my concern is to have water holes for swimming, or teenage hang outs bringing increased crime to the area.

Paragraph 10 item E, does not allow the removal of said water.

- Thus in a round about way the Borough has approved these potential water pits. Yes pumping it would bring habitat issues that would allow contaminated water to end up directly into the neighboring property and the Anchor River itself. Thus I also disagree with Nancy Carver that there is no habitat concerns, the loss of gravel will no longer cleanse the ground water that runs to and into the Anchor River, thus this brings us to damages.

Paragraph 11, Other property damage.

- Damage comes in two ways, physical and financial, it has been noted that the connecting property values will decline, while that gravel pit's value will have increased.

- Will the loss of tax revenue from the existing home/property owners be offset by the increase tax revenue from this pit? In this case it is likely that even the Borough will have some damages (monetary) if approving this permit.

- There is a complete buffer now in one section next to Beachcomber street and a new camp ground. To tear down those trees only to replace it with a berm for visual buffer, will cause revenue damage since a treed back drop is one reason campers stay there.

Paragraph 12, Dust control:

- As noted in the permit, Danver Road is the haul out road, Danver road is gravel road so calcium chlorides or water would be sufficient, HOWEVER this borough road is not the only haul out road to be used. Danver Road is a dead end road. In order to reach the Sterling Highway, trucks must travel the Anchor Point Beach access road. This is a paved 2 lane no shoulder road. Calcium Chloride does not work on pavement and to continually wet this road would only create a muddy and slippery surface for the other road users. And this does not address the Anchor River Bridge, which cannot support the load.

Paragraph 13 and 14 Minimizing noise and visual impacts

- Other Road users will be extremely impacted with both noise, sights and added dangers from the haul trucks. The Anchor Point Road (beach access road) is a road that is loved to death. It is a highly used road, kids, bikes boats, pets, tourists, 4th of July parades, but not eligible for much financial or DOT support. Heavy commercial use on this already loved to death road will meet its end or someone on it will.
- It is the only way in and out for the families from their home and for beach goers that utilize the boat launch plus there are 5 Camp grounds on this road. And if anything bad happens, no evacuation could occur and no emergency vehicles could get in. There needs to be an alternate route to take out the gravel.
- The vegetation berms, are good, but only if you live at the flat ground level, any one who has a home that looks to the ocean also will have to watch equipment, rock crusher, gravel shaker, the full blown commercial operation.

For these reasons I don't think it passes the grade of the Code,-but each has there own interpretation, do I think it could pass, yes with a bit of fine tuning, versus a standard boiler plate permit version, as it appears now.

Lastly, yes everyone is of the nature that "not in my back yard", so it is easy to protest and complain, but hard to have a solution. Progress comes with a price, and heck who does not have a gravel drive, or pad on their lot, **I simply ask** that the commission post pone the approval until an alternate route can be established. And some of the concerns listed be fined tuned to allow the permitting, Currently there is another gravel pit on the docket, so getting gravel should not be a hardship, and if the Borough needed a reason to finish Danver Road to the south, well that time is now.

Respectfully

Shirley Gruber

73510 Twin Peaks Loop

Anchor Point.

Wall, Bruce

From: Coowe Walker <cmwalker9@alaska.edu>
Sent: Thursday, July 12, 2018 11:13 AM
To: Wall, Bruce
Cc: Bob Shavelson; Lynn Whitmore; Sue Mauger; Blackwell, Jack D (DNR); Steven Baird; Jacob Argueta Jacobs
Subject: groundwater flow paths south of the Anchor River estuary
Attachments: AnchorEstuaryFlowpaths.jpg

Good morning.

I am attaching an image showing groundwater flowpaths associated with the Beachcomber gravel site and the Anchor River. Parcels owned by Beachcomber LLC are outlined in blue, the Anchor River watershed is outlined in yellow, and groundwater flowpaths supporting the river are shown in purple. It will be very important to not disrupt the flowpaths and keep all potential gravel operations out of the Anchor River watershed, meaning no operations north or east of the yellow line.

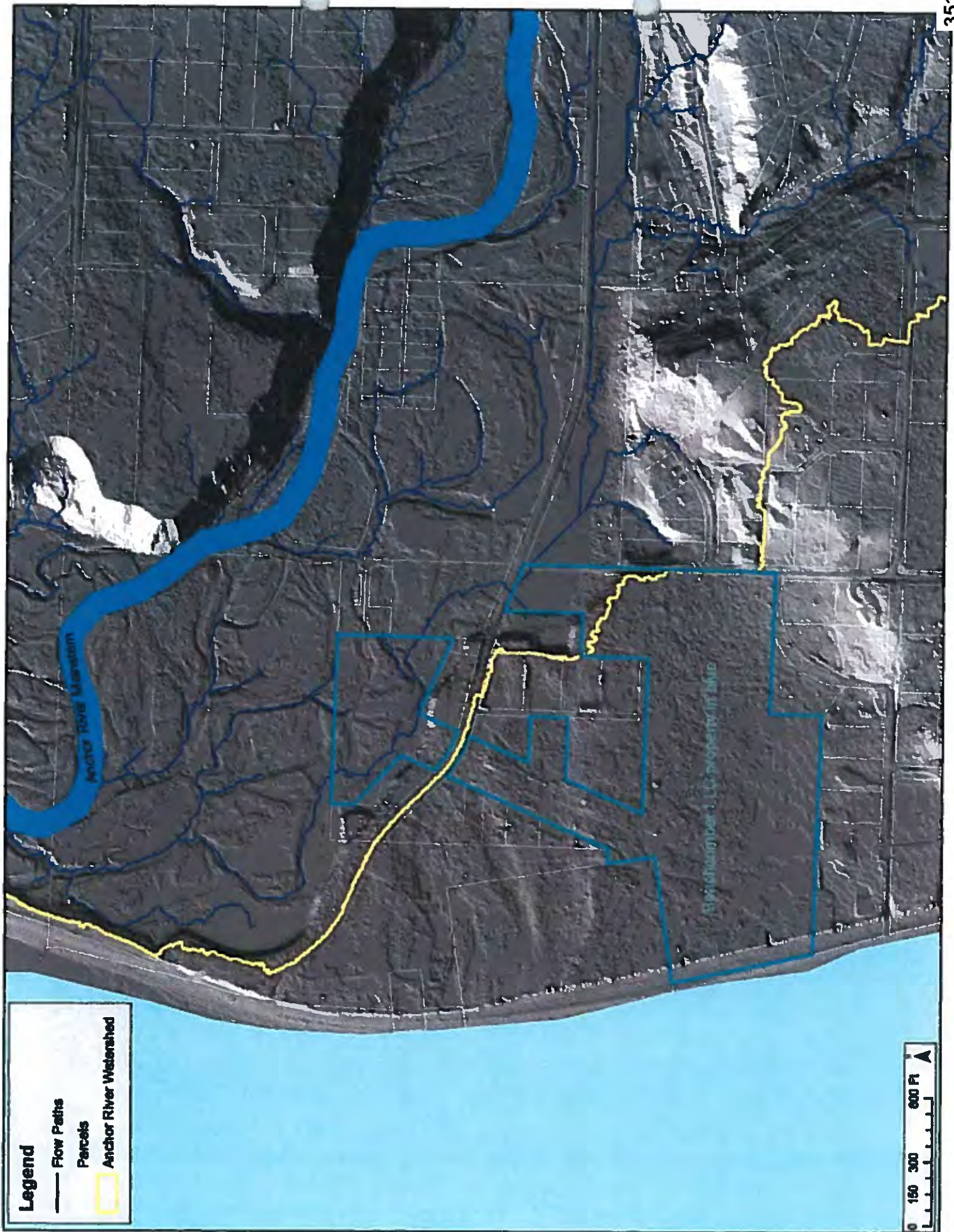
Please let me know if you have any questions, or would like more information.

Coowe

Coowe Walker
 Reserve Manager
 Program Watershed Ecologist
 2181 Kachemak Drive
 Homer, Alaska
 (907) 235-4792



Kachemak Bay National Estuarine Research Reserve
 Alaska Center for Conservation Science
 UNIVERSITY of ALASKA ANCHORAGE



To: Kenai Borough Planning Commission Chairman
 From: Linda and Mike Patrick
 34897 Fisher Ct.
 Anchor Point, Ak.
 Phone: 907-299-2165
 Subject: Beachcomber LLC proposed surface mining project

We object to the development of the site on the following grounds:

1. At a public meeting in Anchor Point(July 11, 2018), the Owner of the said Beachcomber LLC. , did not demonstrate much knowledge of the water sources in this area. Water sources are complex, full of wells at different depths and underground springs flowing towards the inlet. In my opinion, this site requires a lot more scrutiny than some other possible inland sites. I cannot prove it will interfere with water supplies, nor can Beachcomber LLC prove that it won't. * Should we not do more than drill one hole in the ground to determine the water ecology in this area due to the close proximity to residential area, Cook Inlet, and the Anchor River.
2. How does this plan protect against damage to other properties? For example, 50,000 cubic yards of material, equates to approximately 5,000 truck loads at about 52,000 pounds each, will this not damage Danver/River Road intersection, River Road itself (which is already falling apart), and a very fragile bridge over the Anchor Point river. This pathway is not only essential to Anchor Point residents, tourists from all over the world, charter businesses, campers in the State Park, and the safety of all who use the narrow road for access to their homes, State Parks, Cook Inlet, and the farthest westerly point on the United States highway system.
3. What is the plan to minimize off-site movement of dust? Regular residential traffic on Danver Rd. stirs up dust. I cannot imagine the amount of dust that will be generated by 1000's of dump trucks, gravel processors, excavating machinery, and gravel loaders. This area is subject to a sea breeze and a land breeze cycle. Sea breezes blow the dust towards residential areas and

land breezes directs dust towards beach habitat where eagles, gulls, shore birds, and marine mammals frequent, not to mention birders and other beachcombers roam. These breezes are substantial. Exactly how is the dust going to be abated and who will monitor this? Will the dust have an effect on human inhabitants near the site? Will dust affect the salmon/trout that swim nearby to enter the river and leave the river? Will dust enter the river itself and effect the reproduction of said fish? Will the dust impact plants, birds, moose, and domestic animals. Will the quality of water in Danver Lake directly across the street from the proposed site be impacted? Will the water level in that lake be impacted? Will lakes be created similar to Danver Lake during land reclamation by Beachcomber LLC. Do these lakes serve as expanded breeding grounds for mosquitoes?

4. Noise pollution abatement plan?

Land structure around the Anchor Point area in question is like an amphitheater, I can hear dogs barking on the bluffs across the river, a rooster crow just down the hill, neighbors talking on their porches, and the surf falling on the beach. I can't imagine how loud the noise would be from a gravel mine a few hundred yards away. How pleasant will it be for people to camp at the state campground with dump trucks roaring by, dust permeating the air from the operating pit and dust blowing off the trucks themselves. And yes, there is a private RV park adjacent to the proposed gravel mine. Several residences are nearby and elevated above the site, 18 foot berms (permit indicated 6ft berms) would not impact sound transmission to elevated residences. My house is about 200 yards away and approximately 80 feet above the tract of land in question. Over the past 26 years I have witnessed over 2 dozen moose born on or adjacent to my property. Will this level of noise impact the moose population in the Anchor Point area?

5. Visual impact? What is the plan to spare the several homes that overlook this area from a higher elevation from an unobstructed view of the pit?
6. Property values? The owner of Beachcomber LLC, a real estate agent, stated this permit would improve the value of his land and in response to another question, he said it could decrease the

value of the surrounding view properties. There were approximately 50 people there at the meeting at the VFW in Anchor Point on the 11th of July. Very few of them were happy.

****** This permit should not be issued for this area because of a lack of healthy infrastructure to support it. It will create an safety hazard to all that travel the River Road and Denver Road. It will impact living organisms (humans, plants, animals) in a negative way with its noise and dust. Keep in mind that this will impact thousands of people who visit this area during the summer. And, it will destroy the property of the Alaskan people in the form of the state maintained road and bridge at a time when the state is in financial turmoil and cannot afford to fix this infrastructure.**

July 12, 2013

Planning Commission Chairman
144 N. Binkley St.
Soldotna, Alaska 99669

RE: Addendum to our written Testimony dated July 9, 2018, Regarding Beachcomber LLC's Application for a Permit for Sand, Gravel, and Peat Extraction on A Portion of Parcel Number 169-010-67, Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104), Location: 74185 Anchor Point Road

Dear Planning Commission:

We attended a meeting last night with Emmitt Trimble at the Anchor Point VFS, who we found out was owner of the land, and Beachcomber LLC's. At the meeting he said, that he had not had anyone come to him about his plan for the above Gravel Pit. He also mentioned he had given his mineral rights over to some (he was not specific on who) oil and gas company, and he only planned to do a small amount of extraction at this time and as neighborhood persons attending this meeting, we should trust him. When asked why he was then asking for these permits covering the whole area, he said he was asking for this permit as there were suppose to be a changes to Kenai Peninsula Borough more stringent regulations sometime in September for Gravel Pits. He wanted to get the permits to cover so he'd have the permit before any new requirements were made.

At the meeting we were told the Planning Board made your determination as to if a party could get these permits was by satisfying the current Regulations: "21.29.040. - Standards for sand, gravel or material sites."

A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise, and visual impacts. Only the conditions set forth in KPB 21.29.050 may be imposed to meet these standards:

1. Protects against the lowering of water sources serving other properties: (if an oil and gas company took this property area, this might be a factor, which Mr. Emmitt has the right to sell it to.) Plus, the wetland areas, water birds, etc. would be affected by this. Water is like "gold" here to make it drinkable.

2. Protects against physical damage to other properties; our way of exit from Anchor point is from Danver and the State Road, Anchor Point Road, and the Borough Roads, of the old Sterling Highway. (The problems of the roads and physical damage is covered in our original message Under **Public Safety**. We know you aren't interested in hearing about the State road; however, Danver is very important to us. Actually, our road Seabury Court is more a trail then a road in the borough.

3. Minimize the off-date movement of dust: that is pretty hard to do and would require a lot more water, etc. to do this. We lived in an apartment near a gravel area with trucks moving a lot, and the extra dust in the house is tremendous even with care. This can cause more upper respiratory conditions.

4. Minimizes noise disturbance to other properties. In our original written testimony we address that under **General Comments, and Environmental Impact Statement**. The proposed gravel pit site is centered in a large bowl enclosed by 50 to 100 foot hill sides on two sides and most of a 3rd side on the South side. We can hear loud noises in the Park area throughout the summer so we know a large gravel operation to include a major rock crushing operation will disturb us. Heavy trucks that now infrequently use the Anchor River Road and Danver Ave. create noise levels that already create a disturbance. The increased use of heavy trucks and a rock crusher will make our peace and quiet a thing of the past. When asked, if the development of a gravel pit where it is proposed will lower all the homeowner property values at a meeting with him last night, he admitted that all our property values will be lowered due to such activity. The application proposes to operate the gravel pit from 6:00 a.m. to 10:00 p.m.

July 12, 2013

This is unacceptable to us as a private property owners. The idea that a 50 foot buffer on some of the sides of the project is ludicrous. We already know how periodic noise from heavy duty trucks and road graders negatively effect our enjoyment of our property. And thats before the applicant has even removed more trees and natural habitat in the proposed gravel pit area. What are we to do when the applicant himself admits that a gravel pit where he proposes to place it will lower all our property values? It seems this regulation is the only one that has any hope of protecting us from the noise pollution the gravel pit will create.

5. Minimizes visual impacts..even a 12 foot berm is not something to eliminate or minimize the visual impact. (Our testimony on Property Value and General Comments talks to that.)

6. Provides for alternate post-mining land uses. Selling the area to an Oil and Gas Company or another big Gravel Pit company could be done, etc. The permitting doesn't talk to that.

Sincerely,

Gary L. Sheridan
Eileen D. Sheridan
P.O. Box 661
Anchor Point, Ak 99556-0661

1-907-235-5542
CC: Bruce Wall, AICP. bwall@kpb.us

Wall, Bruce

From: Tom Alexander <pmedic1568@yahoo.com>
Sent: Friday, July 13, 2018 4:59 PM
To: Wall, Bruce
Subject: Opposition to Denver Gravel Pit Project

Dear Sir,

This letter constitutes my wife and I's objection to the placement of a gravel pit at the southwest corner of the intersection of Denver Road and Anchor Point Beach Road. We are property owners and taxpayers at 73734 Seaward Avenue, Anchor Point, Alaska 99665. In our opinion, Beachcomber, LLC has not shown, and has no intention of showing any good faith as a responsible gravel pit owner/operator at this location. The myriad concerns brought up during a recent public meeting at the Anchor Point VFW were met with very negative remarks by Beachcomber, LLC, and with no attempts at offering any solutions to any of the concerns. Our wish would be that Beachcomber, LLC NOT be granted a permit to continue with this venture. Thank you in this matter.

Sincerely,

Tom and Patty Alexander

Wall, Bruce

From: Joseph Allred <hungryegret@outlook.com>
Sent: Friday, July 13, 2018 6:32 PM
To: Wall, Bruce
Subject: Tremble gravel pit.

I hope that the borough will look at this

Project critically.. while I understand the value and necessity of gravel in our lives, I also understand the not so obvious value. There is an estuary just north, homes all around. And in summer, Anchor points economic engine. All at ground zero. Water migrates thru the whole area, (into the estuary/river) as a purifying system, its value inestimable.

Also there will be an economic Loss to all who own real estate in the area. Thanks for your careful consideration.

Safety and The condition of the roads must be

Factored in as well. Thanks.

Get [Outlook for Android](#)

REEVES AMODIO LLC
ATTORNEYS AT LAW



Direct Phone
(907) 222.7107

Direct Facsimile
(907) 222.7199

E-Mail
rob@reevesamodio.ca

July 13, 2018

Blair Martin
Chairman
Kenai Peninsula Borough Planning Commission
144 N. Binkley Street
Soldotna, AK 99669

Re: Conditional Use Permit application for a Material Site by Beachcomber, LLC, at Parcel Number 169-010-67

Dear Mr. Martin:

Reeves Amodio, LLC, submits comments on a Conditional Use Permit application for a Material Site by Beachcomber, LLC, at Parcel Number 169-010-67, on behalf of Robert Baker II as Trustee for the R O Baker II Revocable Trust ("Baker"). Baker owns Parcel Number 169-230-19, at 74160 Seaward Avenue, Anchor Point, AK 99556 ("Baker Parcel"). The Baker Parcel is one of six residential properties bordering Parcel Number 169-010-67, 74185 Anchor Point Road, Anchor Point, AK 99556 ("Beachcomber Parcel") to the south. Beachcomber LLC ("Beachcomber") owns the Beachcomber Parcel.

Baker opposes Beachcomber's application for a Conditional Use Permit for a gravel pit on the Beachcomber Parcel ("Application").

1. A gravel pit at this location cannot be adequately regulated to protect the environment.

The Beachcomber Parcel is bounded to the west by a Cook Inlet beach where eagles regularly feed, seals and sea otters rest and swim, Boy Scouts camp, and local homeowners regularly picnic. To the north is a large undeveloped Bureau of Land Management Parcel (which itself backs up to the Anchor River State Recreation Area), and immediately across the Anchor Point Road is a world-class estuary for the Anchor River itself, which supports three anadromous salmon (king, silver, and pink salmon) plus Dolly Varden and steelhead trout.

Dewatering and drainage will impact groundwater flowing downgradient from the pit and into the Anchor River. The current Application proposes to provide a 2' vertical buffer to groundwater, half of the 4' vertical separation between extraction operations and

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www.reevesamodio.com

the seasonal high water table¹ recommended by the Alaska Department of Environmental Conservation (ADEC). Increasing the risk to groundwater even further, the Application also states that Beachcomber intends to modify the permit and enter the water table in the future. This seems likely to mean that Beachcomber will be dewatering the pit, altering groundwater flow. Fish are sensitive to such alterations, including both dewatering and flooding activities.²

Beachcomber's application is misleading regarding depth to groundwater. Beachcomber drilled its well at essentially the highest point in the parcel,³ adjacent to the lowest point in the parcel.⁴ We believe that sampling at this location, due to the extreme differential from the embankment, provides insufficient data to accurately measure depth to groundwater. In fact, we question whether groundwater is at a 20' depth. Considering that most of the property is at around 40' in elevation, with the highest portion to the southeast, the groundwater is likely to be encountered at much shallower depths throughout most of Beachcomber's property.

Coastal erosion is also factor. Development of this gravel pit adjacent to the beach will exacerbate erosion. Kenai Peninsula Borough (KPB or Borough) records show that the adjacent beach is eroding at a rate of between 0.5-0.9 feet per year. Although Beachcomber is suggesting a buffer of at least 50' to the beach, over the development's lifespan that buffer is estimated to be cut down by up to 13.5'. Climate change and rising sea levels will only exacerbate this erosion. Water is likely to eventually spill into the pit and erode into other adjacent properties.

The Beachcomber Parcel itself holds numerous nesting sites, and our client observed one or more eagle nests. The noise from equipment, traffic, and the crusher, which is likely to exceed 90 dB(A),⁵ the equivalent of operating a lawnmower or a motorcycle,⁶ will harass wildlife and drive it away. Developing a gravel pit at this site will also destroy the high habitat values of the parcel.⁷ Fugitive dust also will be driven by wind from the gravel pit into the estuary, potentially adversely affecting water quality in the Anchor River. Calcium chloride and water will be used to reduce dust generated by trucks and mining operations within the pit, but it cannot be used in winter. Furthermore, calcium chloride will do nothing to address dust generated by operating

¹ SHANNON & WILSON, INC., ALASKA DEP'T OF ENVTL. CONS., BEST MANAGEMENT PRACTICES FOR GRAVEL/ROCK AGGREGATE EXTRACTION PROJECTS 12 (2012) (hereinafter "ADEC USER MANUAL").

² LA ROCHE + ASSOCIATES & KENAI PEN. BOROUGH COASTAL MGMT. PROGRAM STAFF, KENAI PENINSULA BOROUGH COASTAL ZONE MANAGEMENT PLAN 119 (2008) (hereinafter "CZMP").

³ Excepting an outlier peak in the southeast corner, which is a component of the larger substantial uphill grade to the southeast.

⁴ Excepting the beach itself, below the 30' bluff.

⁵ E. R. BAUER & E. R. SPENCER, SNAPSHOT OF NOISE AND WORKER EXPOSURES IN SAND AND GRAVEL OPERATIONS 1 (2018), available at <http://www.vyccares.ca/wp-content/uploads/2018/01/sonaw.pdf> (last accessed July 13, 2018).

⁶ IAC ACOUSTICS, SOUND SEAL INC., COMPARATIVE EXAMPLES OF NOISE LEVELS 1 (2018), at <http://www.industrialnoisecontrol.com/comparative-noise-examples.htm> (last accessed July 13, 2018).

⁷ While clearing the trees will also destroy habitat, even a residential development will destroy significantly less habitat, and will ultimately provide continued space for wildlife corridors.

equipment such as the crusher and/or aggregate separator. The Coastal Zone Management Plan adopted by the Borough as a planning document states that, in siting facilities and development activities, the KPB should “[s]ite developments away from highly sensitive wildlife habitats and use area including . . . waterfowl and shorebird nesting, molting, and staging areas; . . . [and] marine mammal haul-outs”⁸

2. A gravel pit at this location will undermine recreational values.

As earlier discussed, noise and habitat destruction could drive wildlife away not only from the Beachcomber Parcel, but also from adjacent federal and state lands, including the Anchor River State Recreation Area. Anchor Point’s economy is significantly influenced by seasonal recreation, in the summer, when construction activities and the gravel pit’s operations will be heaviest. Anglers fishing on the Anchor River only 1500’ away will be negatively affected by equipment noise and fugitive dust. Similarly, campers in the Anchor River State Recreation Area campgrounds, as close as 750’ away, will be affected. With wildlife being pushed away, the opportunities to observe and photograph birds and marine mammals will also be gone.

The Anchor Point Road is the public access to the Anchor River State Recreation Area and the tractor launch permitted by Alaska State Parks. This road is extremely narrow and not designed to withstand the regular use from heavy dump trucks.⁹ Nonetheless, Beachcomber proposes to use the Anchor River Road, adding its dump trucks to the existing car, boat and motor home traffic. It is easy to foresee incidents between local residents or tourists with trucks. There is no shoulder on this road, and it is bordered by ditches. There is a legitimate safety concern.

3. A gravel pit at this location will destroy the residential character of the neighborhood.

Beachcomber is proposing to place a 27.7-acre industrial site in the center of a residential neighborhood. KPB records show 13 “residential” classified parcels either bordering the Beachcomber Parcel or very near to it. Without including the dozen or so parcels classified as “undeveloped” and likely destined to have houses, there are approximately 40 “residential” parcels within 1500’ of Beachcomber’s proposed pit.

There are wetlands in the parcel’s extreme northeast corner. Beachcomber’s only access route will be down Denver Street (which presently serves only residences), onto the Anchor River Road and to the Old Sterling Highway. Denver Street does not satisfy ADEC’s best management practices for access to material extraction sites because it is not a dedicated haul road and it is too narrow.¹⁰ Further, there are well over 100 residences that depend on the Anchor River Road for access. Each of those home owners and their families will be forced to compete with heavy dump trucks in trips to and from their homes, in addition to the summer seasonal traffic. Although the

⁸ CZMP, *supra* n.2, at 114.

⁹ The road suffers significantly just from the existing traffic; even after being paved, the increased seasonal recreational traffic with the tractor launch’s opening, combined with the lack of quality underlayment, causes substantial cracks, ruts, and dips in the road even today.

¹⁰ ADEC USER MANUAL, *supra* n.1 at 46.

Anchor River Road is maintained by the State, Danver Street is maintained by the Borough. The Borough will see increased road maintenance costs.

Beachcomber proposes only 6' high berms as a buffer for the adjacent residential parcels. This berm will do very little to impede noise into those homes, especially since most were built above grade with crawlspaces because of the high-water tables in the area. A house built on a 3' crawlspace places the top of the berm at a homeowner's waist height. Noise will travel directly to and through windows and doors, even on a first floor. As noted above, noise will exceed 90 dB(A). The windows on the second floors will provide a clear views of Beachcomber's industrial activities; namely, the rock crusher.

A berm will do nothing to prevent children from crossing into the industrial area. It will be an attractive nuisance. Children could play in or on the equipment, creating a public safety hazard. The Beachcomber Parcel is less than a mile from Chapman Elementary School, and children ride bicycles and ATVs to/from the school (as a play area when it is closed) and to and from the Anchor Point beach. Children using the school playground could also be affected by fugitive dust, and, perhaps more significantly, the learning environment will be disturbed by noise from the gravel pit's operation.

Recent testimony before the Materials Site Working Group documented how winds carry gravel fugitive dust from pits onto adjacent residences. One commenter in particular described how in the winter, extreme winds effectively sandblast his home, vehicles, etc. Given the proximity to Cook Inlet and the Anchor River flats, which is located within a HUD wind classification Zone III,¹¹ even a generous application of water or calcium chloride will not stop a 110 mph wind from blasting dust throughout the area.

A person's home is his family's largest financial investment. During recent testimony before the Material Site Working Group, the Borough Assessor stated that although a gravel pit nearby does not automatically reduce an assessment, any comparable sales that show a reduction in home value based on the gravel pit will cause the assessor to reduce assessments for all homes near the operation. Families do not want to live next to an industrial operation, particularly one that runs nearly continuously during the summer. Residents along Danver Street can expect their property appraisals (and assessments) to fall by approximately 36%¹² if the Planning Commission approves the Application.

While Baker recognizes Beachcomber's right to develop its property, he reasonably did not expect a 27.7-acre industrial facility adjacent to his backyard and within his view shed. Based on the development patterns off Danver Street, he reasonably expected low-density rural residential and/or recreational property development for the Beachcomber Parcel. This would

¹¹ FEDERAL EMERGENCY MANAGEMENT AGENCY, WIND ZONE COMPARISONS G-3 (2013), available at https://www.fema.gov/media-library-data/20130726-1501-20490-5921/fema_p85_apndx_g.pdf (last accessed July 13, 2018).

¹² See DIANE HITE, SUMMARY ANALYSIS: IMPACT OF OPERATIONAL GRAVEL PIT ON HOUSE VALUES, DELAWARE COUNTY, OHIO 2 (2006).

bring more neighbors, more back yards and houses. Under no circumstances is it reasonable to replace those houses with a large industrial complex.

Fundamentally, gravel pits are not pretty. While the 50' buffer the staff recommends may alleviate some of the impacts to the east, it does nothing for Baker and others on the Seaward Avenue parcels to the south. Even the proposed 12' high berm, with no buffer, will not mitigate fugitive dust or muffle sound in second story bedrooms. If it issues a permit, the Planning Commission should require both a 12' high berm and a 50' vegetated buffer around the entire Beachcomber Parcel as a permit condition under its authority in KPB 21.29.050(A)(2)(c).

The staff recommends prohibiting operation of rock crushing equipment between 10:00 p.m. and 6:00 a.m. This condition does not help residents who work nights. Baker, for example, travels to and from his work assignments at odd hours. Furthermore, the noise and dust from a rock crusher operating between 3:00 p.m. to 5:00 p.m. will interfere with after-school activities, including play and homework. Noise and dust from 5:00 p.m. to 10:00 p.m. interferes with families' evening activities (reading, watching television, or conversing with family over dinner). Certainly, 90 dB(A) of noise eliminates the possibility of enjoying any outdoors time in the backyard.

4. Anchor Point does not need an additional gravel pit.

As the Planning Commission is certainly aware, gravel pit development is rampant, and permitting such pits has been a hotly contested issue in the Anchor Point community in the past. KPB records show at least 50 parcels in the area that either qualify as a Prior Existing Use pit or have a Conditional Land Use Permit to operate a gravel pit. While the availability of low cost gravel and a few jobs in the materials industry could be important for a small community, Anchor Point is flush with gravel sites. Many of these pits are in more rural areas. There is no need to authorize a new gravel pit in a residential and recreational area close to Anchor Point's downtown core. There is much gravel already available locally.

5. The Application should be denied until the Kenai Peninsula Borough implements recommendations from the Material Site Work Group.

Earlier this year, the KPB adopted Resolution 2018-004, establishing a Material Site Work Group. The resolution discusses the fact that the last code update took place over 12 years ago and that members of the public expressed many concerns "about dust, noise, water, and negative secondary impacts of material sites." The KPB Assembly's stated intent was to collaborate with the public and industry to discuss changes to the material site code. Numerous homeowners living near existing gravel pits voiced concerns regarding their individual experiences with ruined water, flooding, noise (both from crushers and hauling), and dust. Although the Material Site Work Group took public testimony and considered reclamation, buffers, noise, dust, roads, public safety, and quality of life for home owners, it took no action and adjourned for the summer of 2018 *at industry request* due to the construction season.

Beachcomber wishes to avoid the public concerns being addressed by seeking authorization *while* the changes are being addressed. The Planning Commission should not allow

July 13, 2018

Page 6

Beachcomber to use industry's requested delay to avoid community concerns. Rather than grant the application, the Planning Commission should deny or stay the application and process it only after the Material Site Work Group's recommendations are considered and acted upon by the KPB Assembly.

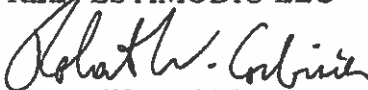
If the Planning Commission is unwilling to deny or stay the Application, it should only approve Beachcomber's Phase I development: the 6.2-acre area in the northeast. At Beachcomber's proposed cumulative acreage disturbance plan over 15-year life, it would take 3.3 years to develop Phase I. This would give the Material Site Working Group and the KPB enough time to develop and implement a comprehensive regulatory scheme that addresses homeowner concerns.

CONCLUSION

For the foregoing reasons, Baker urges the Planning Commission to deny the permit. If it issues any permit, even for the limited Phase I development, the commission should require additional conditions to restrict operational times and require Beachcomber to provide a 50' or greater vegetated buffer along the southern border along with the 12' high berms.

Sincerely,

REEVES AMODIO LLC



Robert W. Corbisier

Counsel for Robert Baker, II, as Trustee

Cc: Cook Inlet Keeper
3734 Ben Walters Lane
Homer, AK 99603

R123

13 July 2018

Kenai Peninsula Planning Commission
144 Binkley Street
Soldotna, AK 99669

To Whom It May Concern:

Thank you for the opportunity to comment on the purposed conditional land use permit for parcel 169-010-67 (applicant Beachcomber LLC).

I am the current owner of Sleepy Bear Cabins LLC located at 34053 North Fork Road, Anchor Point, AK 99556. I have the following concerns and proposals:

1. **Issue - Negative impact to the Anchor River State Recreational Area:** The Anchor Point Community and its businesses rely heavily on the recreation area. Whether directly or indirectly the residents and businesses will be negatively impacted by the noise pollution and industrial traffic the location of this gravel pit will cause. The recreational area is financially vital to the Anchor Point tourism industry. My business as well as others rely on the tourist activity that the park brings for the river, boat launch, and beach. The additional noise of the heavy equipment coming from the gravel pit will disrupt the visitors and park guests. This will drive down the number of tourists wishing to visit the recreational area and therefore Anchor Point, which will financially impact and potentially devastate our local businesses and economy.
2. **Issue - Condition of and safety issue with the Anchor Point Road:** Due to its current condition, the Anchor Point Road is currently not equipped to handle the additional industrial trucks and heavy equipment. The road does not have adequate shoulders or any sidewalks / bike paths for pedestrians and bicyclists. There is great potential not only for the road to be devastated and therefore access to the recreational area to be heavily impacted, but also an increase for accident and injury.

Proposals:

1. **Postpose a decision on this permit:** Allow more time for the Planning Commission as well as residents to further investigate and understand the overall impact to residential property, the Anchor Point Road, the state recreation area, and the Anchor Point community as a whole, and better determine additional requirement that must be met in order for the permit to be issued. the location of the property is unique and therefore poses unique issues. The application appears to abide by the regulations currently in place. However, the current regulations do not take into account the uniqueness of the surrounding properties and recreation area.
2. **If the permit is approved the following additional requirements should be considered:**
 - a. Larger vegetation buffer: The minimum buffer should be more than 50 feet
 - b. All berms should be 12 feet
 - c. The entire property should be required to have vegetation buffers and 12-foot berms (with the exception of the access point to the property)
 - d. The minimum distance from waterbodies should be more than 100 feet and digging below the water table should not be permitted

- e. The applicant should voluntarily restrict operation days and hours to include digging, processing, and hauling as to not impede the quality of life for residents and recreational area visitors (i.e. operating hours 9am-6pm, no operation on weekends, etc.)
- f. Improvements to Anchor Point road should be done to correct the before mentioned issues prior to the permit being approved. A maintenance / repair provision on the part of the applicant should be in place as well

When I moved back home to Alaska four years ago and chose Anchor Point as my new permanent home, I did so to live back in a rural community where nature and the wild of Alaska are out my front door. I am not one to impede another's ability to prosper and do as they wish with their land. However, I do find I am put in a position to speak up when it impedes myself and others from doing the same.

As a community we need to find ways to work together to resolve conflicts of interest to ensure harmony with our neighbors. What is best for one may not be what is best for the majority or the community. Open communication and cooperation are needed to ensure a healthy community. Like myself, I don't believe the majority here wish to live, work, and play in an industrial area.

Thank you for taking the time to read and carefully / thoughtfully consider my comments and proposals.

Sincerely,

Teresa Cosman
 Sleepy Bear Cabins LLC
 907-235-5625
 Sleepybear@alaska.net

Wall, Bruce

From: David Driggers <david.driggers@gmail.com>
Sent: Friday, July 13, 2018 8:51 PM
To: Planning Dept.; Wall, Bruce
Cc: Pierce, Charlie; Representative.Paul.Seaton@akleg.gov
Subject: Beachcomber LLC Gravel Pit Anchor Point

Dear Mr. Wall,

I am writing to provide public comment on the proposed material site permit on parcel 169-010-67. As the owner of property adjacent to the proposed material site, I was disappointed that I did not receive a mailed notice from the borough. I did however attend a locally organized public meeting at the VFW at which there was nearly universal opposition to proposed material site.

My primary concerns for the permit are based around safety along Anchor Point Road. As you know, the proposed material site is in the middle of the Anchor River State Recreation Area which is heavily used during the summer months. The community has already met with Representative Seaton, Assemblyman Dunne, Mayor Pierce, and various representatives from the State of Alaska to address the safety issues along Anchor Point Road. We have heavy pedestrian and vehicle traffic on the shoulder-less Anchor Point Road during the summer months, and adding heavy traffic to the road in the form of dump trucks will just exacerbate an already dangerous situation. I have had to move off the road very quickly to avoid being hit multiple times already this year. Adding even more heavy traffic with drivers who are motivated to make quick runs is a recipe for disaster.

This is especially concerning as we've already met with representatives at all levels of the government, and explained our concerns. We have made this concern public via meetings and the press:

http://www.homertribune.com/article/1728anchor_point_petitions_for_state_help

I also thought that it was a bit ironic that as I was driving to the community meeting about the material site, I was tailgated on Anchor Point Road by a 14 yard dump truck. I would ask the planning commission to please solve the access issue (or at least investigate options) prior to issuing a material site permit.

Kind Regards,

David Driggers

Wall, Bruce

From: David Gregory <davidgregory0754@gmail.com>
Sent: Friday, July 13, 2018 12:53 PM
To: Wall, Bruce
Subject: Gravel pit application by Beachcomber llc. on Denver St.

Planning Commission Chairman

Mr Chairman,

I am David Gregory. I live on Seaward Ave where my wife and I own our home, and within 1/2 mile of the proposed sand gravel and peat operation proposed by Beachcomer LLC.

The first and foremost reason I oppose the permit for this operation is the possibility for it to alter the well water activity of wells in the area. This operation would be in the lowest possible point in the area and could cause a lowering of water level in nearby wells.

Secondly is the noise and dust created by machinery and equipment necessary to operate the operation.. Noise travels upward very well. A 6 ft berm is totally insufficient to control that noise. Nor will it control the dust created. Dust is a health hazard to many people and will travel a great distance with the prevailing winds, which quite often blow very strong in that area.

The increase of heavy truck traffic will only increase the undesirable noise and dust. It will also be destructive to the road surfaces.

David Gregory
 P O Box 904
 Anchor Point, AK 99556
 907 399 2510

Hartley, Patricia

From: Planning Dept,
Sent: Friday, July 13, 2018 10:03 AM
To: Wall, Bruce
Cc: Hartley, Patricia
Subject: FW: BeachcomberLLC Permit request

-----Original Message-----

From: Marie Herdegen [mailto:marieherdegen@icloud.com]
Sent: Friday, July 13, 2018 10:01 AM
To: Planning Dept,
Subject: BeachcomberLLC Permit request

Dear Planning Commission Chairman,
I would like to voice my opposition to Beachcomber LLC, tract number 169-010-67, 74185 Anchor Point Rd, Anchor Point, Ak 99556 request for conditional land use permit extraction. I believe this is an inappropriate use of residential property.

Marie Herdegen
69195 Karen Circle
Anchor Point, Ak 99556

Sent from my iPad



Homer Soil & Water CONSERVATION DISTRICT

432 E Pioneer Ave, Ste D
Homer, AK 99603
(907) 235-8177
info@homerswcd.org

July 13, 2018

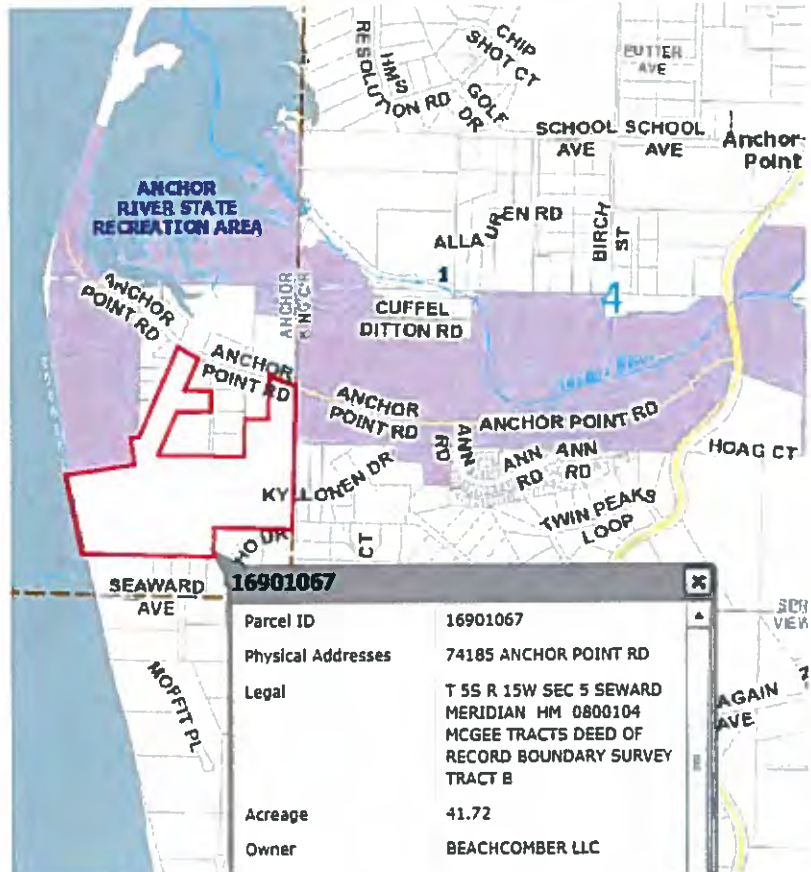
Dear Borough Planning Commission members

At its monthly meeting on July 11, the Homer Soil and Water Conservation District was asked to comment on the Notice of Public Hearing for a Conditional Land Use Permit for a material site. The site is located on parcel number 16901067 and is outlined in red in the map below. Homer Soil and Water supports responsible development of peninsula resources.

We note that the landowner who made this request was given less than a week to submit comments from the date they received the notification in the mail.

Homer Soil and Water Conservation District Board of Supervisors identified a number of questions, issues, and concerns related to the Land Use Permit application. Although the board took no further action at its meeting, it emphasizes that this location for a gravel pit is unique on the peninsula, as outlined below, and that proper vetting of this project is essential.

The LUP site presents unique challenges because of its proximity to the Cook Inlet coast and to coastal processes, including saltwater intrusion, storm surges, and tsunamis. The site is also unique because of its proximity to the mouth of the Anchor River. Finally, the site is adjacent to the Anchor River State Recreation Area (see above). Two campgrounds are very near the parcel.



The Board recommends that the Borough Planning Commission take the extra time it needs to properly consider the unique features of this site before making a final decision on the LUP application. The commission may want to seek information from entities such as the Anchor Point Chamber of Commerce, Alaska Division of Parks and Outdoor Recreation, Alaska Department of Fish and Game, and Alaska Department of Environmental Conservation (because of possible saltwater intrusion impacts to water quality in wells close to the gravel pit). Homer Soil and Water would also urge the Borough Planning Commission to take such comments into full and careful consideration during its decision making.

"To provide education and leadership in the conservation and sustainable use of soil- and water-related resources through cooperative programs that protect, restore and improve our environment."

Thank you for this opportunity to comment, and below is the list of questions, issues, and concerns identified during our board meeting.

- What impacts to the gravel pit are likely given its vulnerability to winter storms and storm surges?
- Specifically, what design features of the proposed coastal berm have been included to prevent storm surges from eroding the berm and causing its collapse?
- Has the applicant identified increased traffic volumes and weight likely on Anchor Point Road as a result of material site operations? How will road impacts be addressed?
- What information has been gathered to determine the likelihood of saltwater intrusion into gravel pit subsoils as a result of reductions in hydraulic pressure caused by removal of gravel?
- Is the gravel pit site within the historic Anchor River floodplain and, if so, what impacts to the river system might occur if the mainstem channel migrated into the gravel pit, for example, during 100-year or larger storm events?
- What information about local rates and impacts of sea level rise have been considered during project planning?
- Is there a long-term goal to establish a harbor at this site? If so, what comprehensive, integrated planning process is now underway to evaluate the long-term use of the area?
- What data have been collected about local noise levels from proposed gravel operations, including gravel trucks, and the effects of noise on campers and residents? Will noise-generating activities be restricted to certain hours?
- Are site-specific reclamation plans available for public and agency review?
- Have the potential economic impacts to tourism been evaluated by the applicant or any other entity?
- As shown in the maps and elevation profile below, much of the site is between 30 and 40 ft above sea level. What will be the greatest depth of material excavation above sea level? What impacts will removal of this overburden have on groundwater levels and nearby water quality?



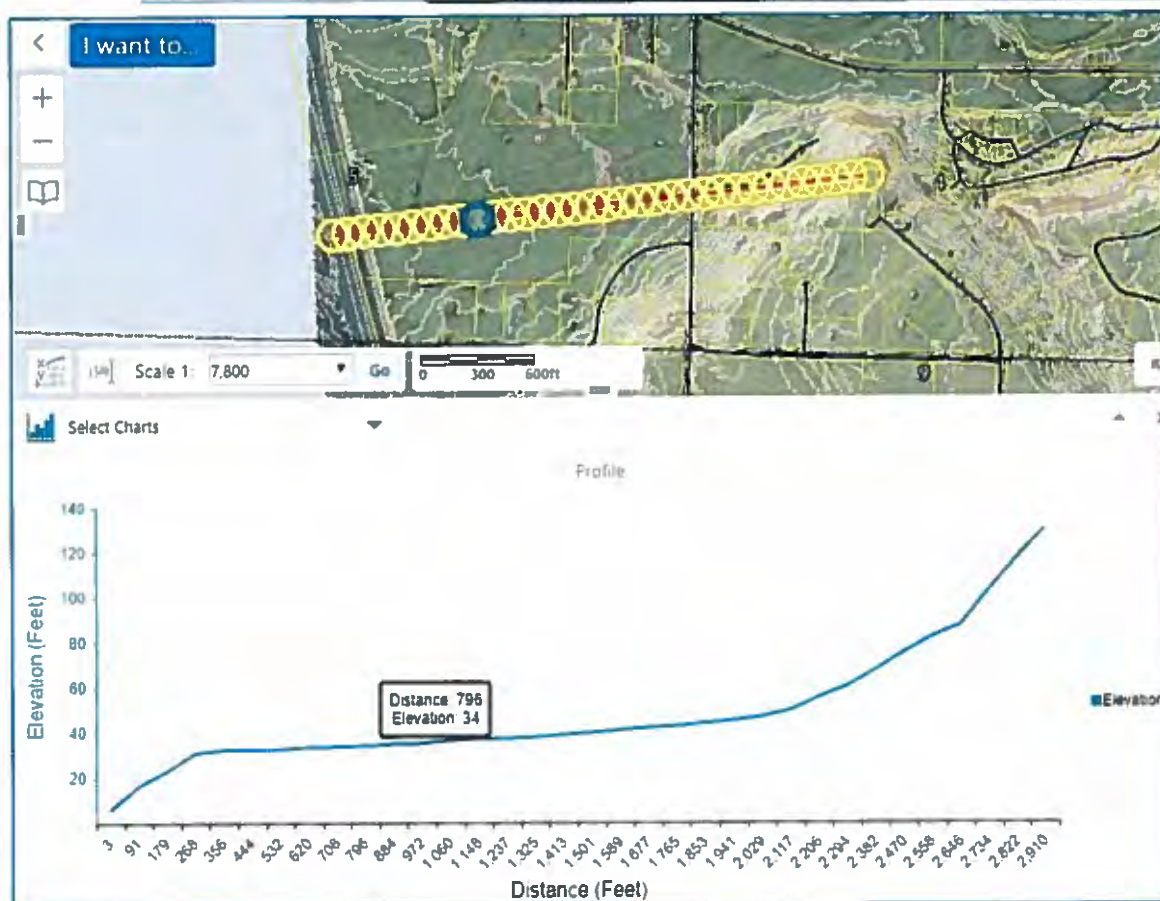
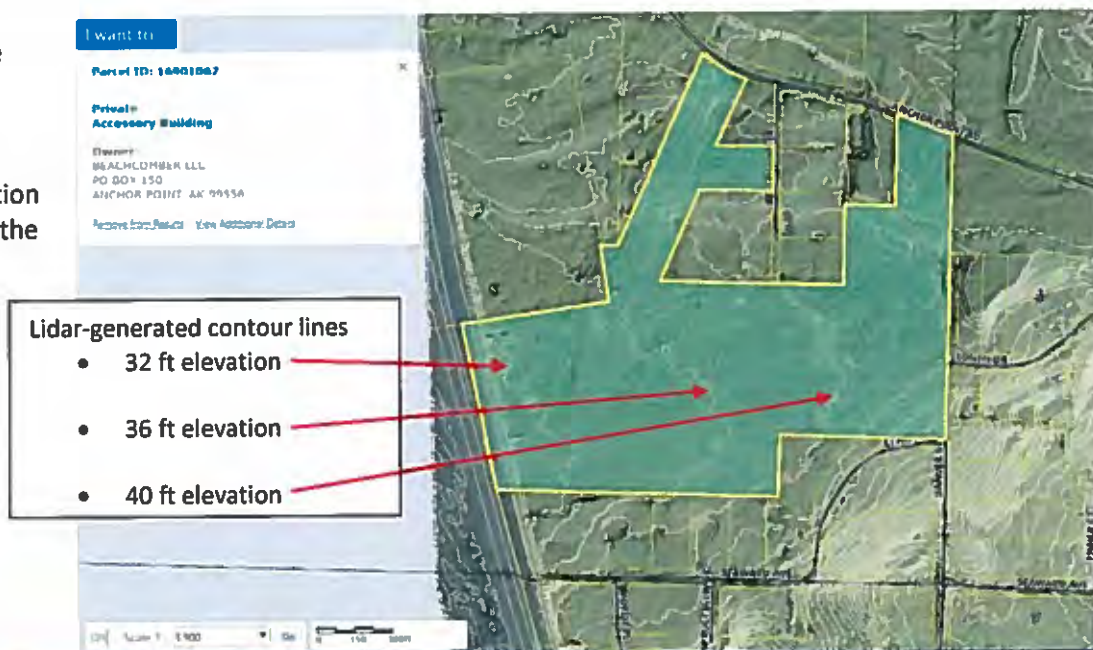
Finally, the borough maintains outstanding geographic information resources readily accessible to the public. Two of these were used to develop the maps included here: the kpb parcel viewer at <http://mapserver.borough.kenai.ak.us/kpbmapviewer/> and the terrain viewer at

<https://gis.kpb.us/map/index.html?viewer=terrain>. Other outstanding kpb gis sites include the anadromous habitat viewer at https://maps.kpb.us/gc/Html5Viewer/Index.html?viewer=P_KRCViewer (which shows recently mapped anadromous stream channel locations in blue, as on the Anchor River above) and the wetlands viewer at <http://maps.kpb.us/wetlands/>.

Providing links to these resources in public notifications, or even better, including such information in notification packets, would enable the public to provide much more informed comments.

Thank you again for this opportunity to comment.

Chris Rainwater, Chair



Wall, Bruce

From: L Rick Oliver <roliverb747@me.com>
Sent: Friday, July 13, 2018 9:30 AM
To: Wall, Bruce
Cc: Hans Bilben
Subject: Gravel mining of Beacomber LLC Tract B McGee Tracts Plat (80-104)
Attachments: Gravel Pit Pictures.zip

To the Planning Commission Chairman,

My name is Lawrence (Rick) Oliver and a longtime resident of Anchor Point. My property is directly adjacent to, and above, the proposed mining sight. Enclosed are pictures of the sight as it is today, as taken from my front deck, and additional pictures of the smaller parcel (adjacent to the proposed plat) from which the applicant has already removed significant material. It is my understanding that the applicant must adhere to certain standards for the removal of material from the proposed sights.

#1 of said standards addresses the lowering of water sources serving other properties. The existence of the substantial lake just below my property indicates that a major mining operation can't help but affect the water source of my property. I'm told there is significant additional information regarding this standard to be presented.

#3 addresses the "minimization of dust to off-site areas". Due to the proposed placement of the processing equipment, ANY on shore breeze will bring that dust to my home, directly across the street.

#4 addresses the noise disturbance to other properties. According to the radii shown on the application, the processing equipment is to be set much less than 300' from my front door. How can the noise and vibration from this equipment be, in any way, "minimized" in my home ?

#5 addresses (again) the "minimization" of visual impact. I'll let the pictures tell that story.

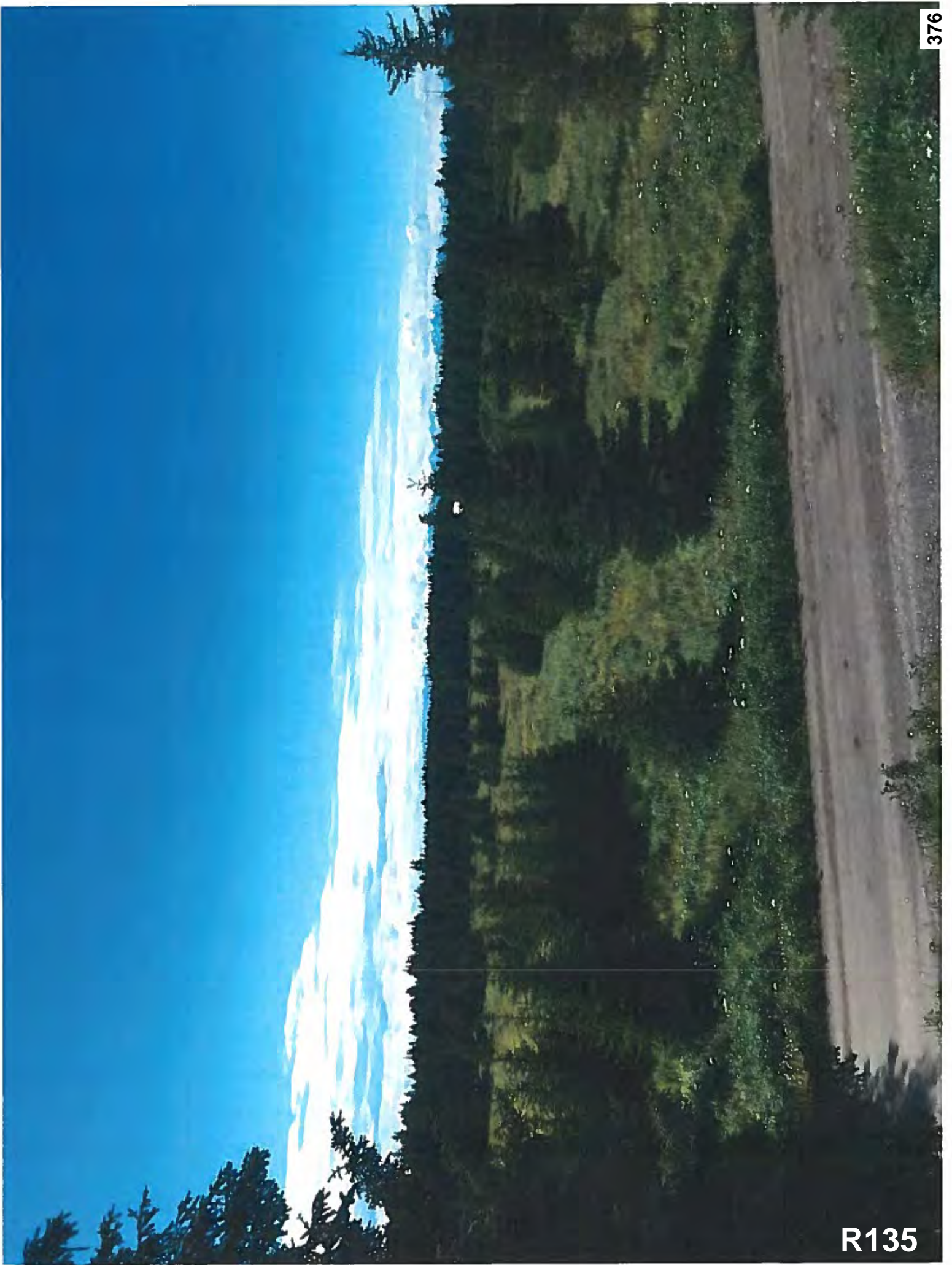
For the record, let it be known that my family and I (along with the other several hundred other people residing in this area) vehemently oppose the granting of this permit.

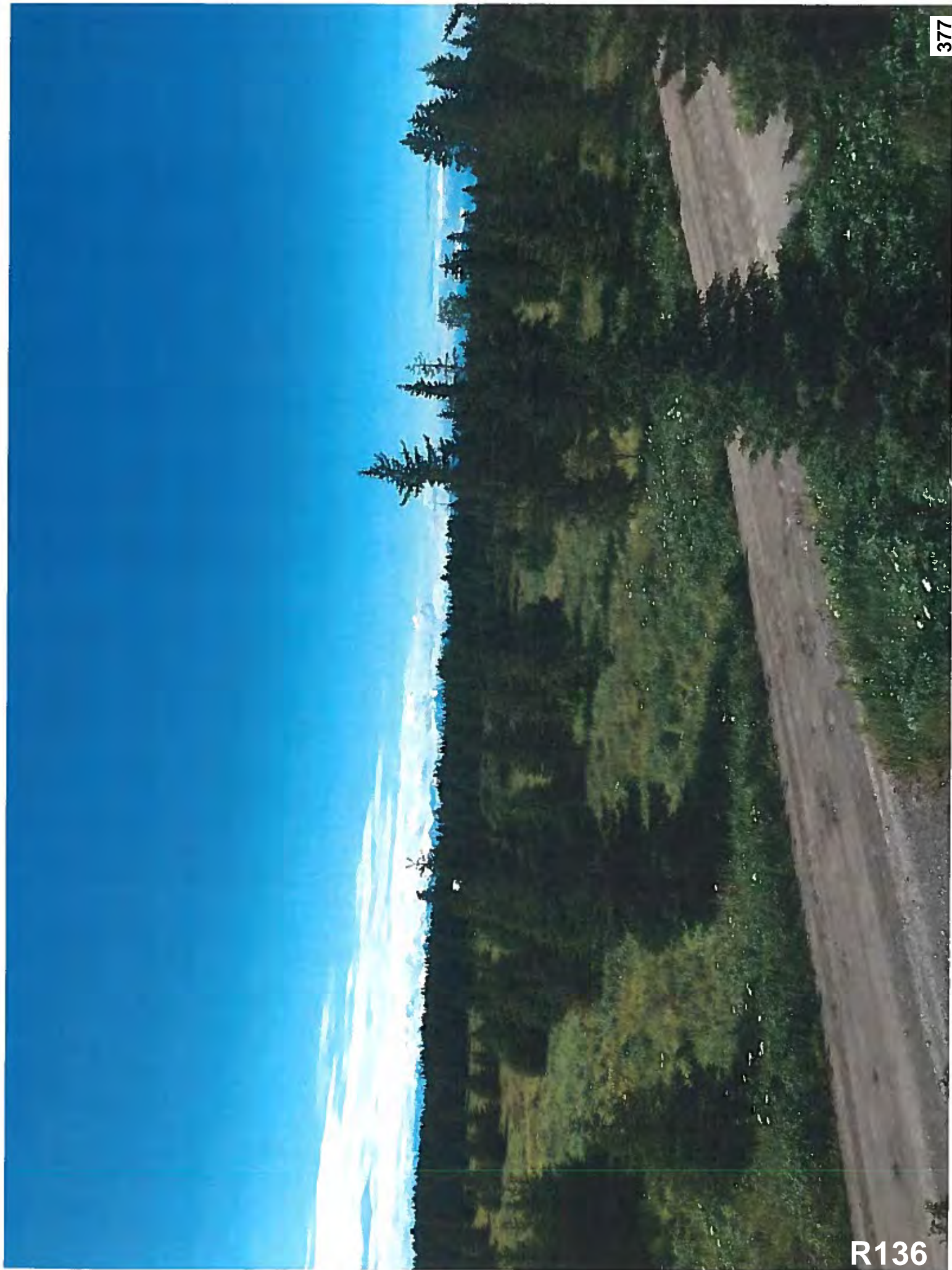
Sincerely,

Lawrence R. Oliver



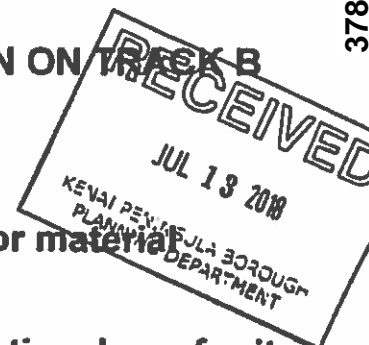






OPPOSITION TO THE PROPOSED MATERIAL EXTRACTION ON TRUCK B MCGEE TRACTS

APPLICANT: BEACHCOMER LLC



We, the undersigned adamantly oppose the proposed permit for material extraction in the McGee Tracts / Anchor Point area.

The community of Anchor Point is heavily dependent on recreational use for its annual revenue. There are 5 state campgrounds providing 136 campsites and 31 day use parking and a private RV park providing 58 spaces. During the season there are approximately 40 boats launched each day. The main access to these campgrounds and the boat launch is the Anchor River Beach Road.

Sharing the road with the estimated additional truck traffic will negatively impact the fragile structure of the Anchor Point Beach Road. The proposed seasonal removal of approximately 50,000 cubic yards of material equates to 5,000 truck loads, each weighing 52,000 lbs. The road surface is not such that could withstand this heavy use.

In addition the pedestrian traffic safety would be in jeopardy. The road does not have the standard 2 foot shoulder.

Printed Name	Signature	Address	Date	Comments
Goeny Culley	[Signature]	1 Sea Perry Ct	7/9/18	
Larry Kelsoy	[Signature]	1 Twin Peaks	7-9-18	NOTE NEW
John Ferrell	[Signature]	1 Shoreland Lane	7-9-18	
Matt Fournier	[Signature]	1 Shoreland Lane	7-9-18	
Reese Yount	[Signature]	12199 S. Bristol St.	7-9-18	rediculous
Todd Baran	[Signature]	1 73300 old skilling Hwy	7-9-18	
B. H. Smith	[Signature]	1 28249 Steepway	7/9/18	
Charles L. Gillen	[Signature]	PO Box 3240 KENAI, AK 99611	7/9/18	ND
Van H	[Signature]	14575/44 Yellow	7-9-18	
Steve Mastre	[Signature]	PO Box 309 A.P.	7/12/18	Road can't handle it!
Teresa Cosman	[Signature]	PO Box 563 AP	7-12-18	Road infrastructure issues Environmental issues, nuisances/econom Impact to Econ & AP issues, noise
Delcena Cosman	[Signature]	PO Box 563 AP	7-12-18	environment/economic issues
Walter Hanks	[Signature]	11503 Taylor Way Kenai AK	7-12-18	

OPPOSITION TO THE PROPOSED MATERIAL EXTRACTION ON TRACK B
MCGEE TRACTS

APPLICANT: BEACHCOMER LLC

<u>Mike Caputo</u>	<u>[Signature]</u>	<u>1 P.O. Box 247</u>	<u>Slidona</u>	<u>7/11/11</u>	
<u>Dale Griner</u>	<u>[Signature]</u>	<u>1 Box 101 A.P.</u>			<u>IF APPROVED THAN THIS</u>
<u>Briana Hark</u>	<u>[Signature]</u>	<u>1465 Kunkle</u>	<u>17-19-18</u>		<u>WHOLE PROCESS IS A JOKE</u>
<u>Ryan Johnson</u>	<u>[Signature]</u>	<u>P.O. Box 798</u>	<u>Anchor point, AK</u>	<u>7-12-19</u>	

To: Kenai Peninsula Borough Planning Commission

From: James and Susan Reid

73820 Seward Ave.

Anchor Point, AK 99556

Phone: 299-226-3418

Subject: Beachcomber LLC proposed surface mining permit

We object to the issuance of the permit: for the following reasons:

1. Have Mary and Emmet Trimbull submitted their reclamation plan to DNR as of 7/6/2018?
2. Regarding the hours of 6: AM to 10:00 PM for the use of the machinery, we consider that time period being excessive because this is a residential area. For example Dibble Creek's hours of operation are 9:00 AM to 4:00 PM.
3. In regard to the P code 21.29.040, what is the plan to protect the water aquifer and road damage. One test hole does not seem adequate. Also the current river road is falling apart. How will that be addressed?
4. What is the seasonal high water table level? How was it determined?
5. We are concerned about this highly congested residential and recreational area in the summer. There are literally thousand of people that live and visit this area.
6. In regard to the water filtration, removal of gravel and topsoil will effect filtration properties of the surface water as is exhibited in "Danver Lake". Will it possibly contribute pollutants to the Anchor River?
7. What is the definition of waiver in regard to the North property line? Staff does not recommend approval of the processing distance waver request. Why?

Wall, Bruce

From: Bill Scott <naturesventures@gmail.com>
Sent: Friday, July 13, 2018 10:33 AM
To: Wall, Bruce
Subject: Anchor Point Road gravel pit

Dear Mr. Wall,

I am writing today to oppose the gravel pit permits being requested on Anchor Point Rd. I strongly disagree to the possibility of having a gravel pit right by the Anchor River. I believe that area should be under some kind of protection from any kind of ground disturbances.

The people of Anchor Point rely on the tourism and fisheries of this this river and gravel pits and drilling rigs put the area at risk.

A great way to kill a town is to make it ugly and kill the river.

People invest in this Anchor Point because of the fishery and it's peaceful.

I am fed up with our state and borough passing out permits that impact people's livelihoods and investments to line the pockets of the few.

Concerned AP citizens

Leah and Bill Scott
 28279 Sterling Hwy
 PO Box 1193
 Anchor Point, AK 99556
 218-380-0623
 907-399-0623

Sent from my iPhone

Wall, Bruce

From: Carla Milburn <cjm2@me.com>
Sent: Saturday, July 14, 2018 3:00 AM
To: Wall, Bruce
Subject: Anchor Point Gravel Pit

I just got word that about the prospect of a gravel pit somewhere in the vicinity of Danver street in Anchor Point. I strongly object to this project due to its location in a residential and recreational area. Please carefully consider other options elsewhere for this activity!

Thank you,
Carla J. Milburn
66090 Moosewood Ct
Anchor Pt, Alaska 99556
907-235-4192

July 10, 2018



Dear planning commission,

I am writing this letter to express grave concerns and objection to the proposed Gravel Pit permit that is pending for Beachcomber LLC. here in Anchor Point. I have listened to many folks speak of the noise and the lost view that will impact their homes, but my concern goes beyond a personal level.

This gravel pit has no business being allowed with the Anchor River flowing within 200 yards of the Northside of the property. The fisheries are a resource that many enjoy and the potential for damages to our water is real and likely. The roadway that follows the anchor river is a rural, narrow, road and is in need of repair. The State and the Borough, both do not have the funding to fix this recreational road, let alone, allow heavy equipment and trucks to run the road daily.

There are many gravel pits in the Anchor Point area, several are taken good care of, but there are others that are an absolute mess and eye sore. I read the regulations and they state that ADEC and others enforce the rules. I find that interesting since the North Fork road has open, unsightly pits at this very minute. Who will tell Beachcombers LLC, to fix the roads and waterways when they violate these rules, how can we be sure that we don't end up with one of those less maintained areas?

The coastal water runs on the edge of this property, and the area is wet normally, the chances of hitting ground water and mixing the surface and ground water is huge. Surely, you do not think that this group will self-report that they have violated the water rules before it becomes a massive expensive cleanup?

I find this permit request surreal. The level of greed that this landowner demonstrates is of no benefit to the community. The fact that the borough could allow one person to effect so many taxpayers and landowners in one area, is shocking. I have heard the tale that this landowner could not sale the land and that is why he is requesting to have this permit. I did my homework and he was offered money for that land several times and each time he quoted an unreasonable amount , this information alone indicates that this individual had another plan and a one sided plan it is!

Gravel pits are not meant to be dug in river bottom areas especially along a fishery such as the Anchor River. This is a disastrous plan and will effect generations of citizens if allowed to move forward. Please consider the ramifications and reject this permit.

Respectfully

Mark and Lee Yale

74140 Seaward Ave.

Anchor Point

AK 99556

Wall, Bruce

From: L Rick Oliver <roliverb747@me.com>
Sent: Sunday, July 15, 2018 5:29 PM
To: Wall, Bruce
Cc: Hans Bilben
Subject: Denver St. Gravel mining application

Hey Bruce,

Here's a picture of me at 6' (almost) holding a board 10' tall. I'm sure you can see my concern with "minimizing" visual impact from my house with a 6' berm. I'm standing 50' inside the newly designated property line. Hope this will help.

Sincerely,

Rick Oliver



Hartley, Patricia

Subject: FW: KPB CLUP Material site App AKA Beachcomber LLC GRAVEL PIT

From: Planning Dept,
Sent: Monday, July 16, 2018 1:57 PM
To: Hartley, Patricia
Cc: Wall, Bruce
Subject: FW: KPB CLUP Material site App AKA Beachcomber LLC GRAVEL PIT

From: shirley gruber [<mailto:shirleytdx@yahoo.com>]
Sent: Monday, July 16, 2018 1:51 PM
To: Planning Dept,
Subject: KPB CLUP Material site App AKA Beachcomber LLC GRAVEL PIT

This message is for Syverine Bentz, and perhaps any other commissioner with an interest regarding the above referenced item.

Good Afternoon, Syverine

My name is Shirley Gruber, and through contact with W. Dunne, he has suggested that I reach out to you with regards to the subject gravel permit request.

Currently at this point, I am sending my comments that were already submitted, but did not see them included in the meeting packet. I guess I just want to make sure they are available and perhaps considered in the decision process. Yes, they were submitted in time...

Please note that I am not really in support of a gravel pit, but then who is, but an alternative product removal route would really ease some of the stress myself and the community are experiencing. I understand, progress brings compromise.

I wish to thank you in advance for any consideration you can give to address my concerns.

Regards

Shirley Gruber
 73510 Twin Peaks Loop
 Anchor Point

----- Forwarded Message -----

From: shirley gruber <shirleytdx@yahoo.com>
To: bwall@kpb.us <bwall@kpb.us>
Sent: Thursday, July 12, 2018, 5:26:14 PM AKDT
Subject: KPB CLUP Material site App AKA Beachcomber LLC GRAVEL PIT

Dear Mr. Bruce Wall

Bruce ,

Thank you for fielding and organizing all the public comments in the permitting process, for Beachcomber LLC gravel pit request. It is not an easy job, in my mind.

Therefore, I too appreciate the chance to submit my (our) concerns with regards to the material extraction...IE: Gravel pit. I see staff recommendation is to approve this permit, it appears to be a boiler plate request, but I ask you to reconsider that assessment for the following reasons.

I am aware of section 21.29.040 and .050 list regulations meant to protect the surrounding areas.

So Resolution 2018-23 Section 1 of Finding the Facts

Paragraph 10 item D states water is below 20 Ft, with intention to dig to only 18'

- Permit requester advocates he can dig down 40' for all the gravel he wants. The borough never checks. Thus my concern is to have water holes for swimming, or teenage hang outs bringing increased crime to the area.

Paragraph 10 item E, does not allow the removal of said water.

- Thus in a round about way the Borough has approved these potential water pits. Yes pumping it would bring habitat issues that would allow contaminated water to end up directly into the neighboring property and the Anchor River itself. Thus I also disagree with Nancy Carver that there is no habitat concerns, the loss of gravel will no longer cleanse the ground water that runs to and into the Anchor River, thus this brings us to damages.

Paragraph 11, Other property damage.

- Damage comes in two ways, physical and financial, it has been noted that the connecting property values will decline, while that gravel pit's value will have increased.
 - Will the loss of tax revenue from the existing home/property owners be offset by the increase tax revenue from this pit? In this case it is likely that even the Borough will have some damages (monetary) if approving this permit.
 - There is a complete buffer now in one section next to Beachcomber street and a new camp ground. To tear down those trees only to replace it with a berm for visual buffer, will cause revenue damage since a treed back drop is one reason campers stay there.

Paragraph 12, Dust control:

- As noted in the permit, Denver Road is the haul out road, Denver road is gravel road so calcium chlorides or water would be sufficient, HOWEVER this borough road is not the only haul out road to be used. Denver Road is a dead

end road. In order to reach the Sterling Highway, trucks must travel the Anchor Point Beach access road. This is a paved 2 lane no shoulder road. Calcium Chloride does not work on pavement and to continually wet this road would only create a muddy and slippery surface for the other road users. And this does not address the Anchor River Bridge, which cannot support the load.

Paragraph 13 and 14 Minimizing noise and visual impacts

- Other Road users will be extremely impacted with both noise, sights and added dangers from the haul trucks. The Anchor Point Road (beach access road) is a road that is loved to death. It is a highly used road, kids, bikes boats, pets, tourists, 4th of July parades, but not eligible for much financial or DOT support. Heavy commercial use on this already loved to death road will meet its end or someone on it will.
- It is the only way in and out for the families from their home and for beach goers that utilize the boat launch plus there are 5 Camp grounds on this road. And if anything bad happens, no evacuation could occur and no emergency vehicles could get in. There needs to be an alternate route to take out the gravel.
- The vegetation berms, are good, but only if you live at the flat ground level, any one who has a home that looks to the ocean also will have to watch equipment, rock crusher, gravel shaker, the full blown commercial operation.

For these reasons I don't think it passes the grade of the Code,-but each has there own interpretation, do I think it could pass, yes with a bit of fine tuning, versus a standard boiler plate permit version, as it appears now.

Lastly, yes everyone is of the nature that "not in my back yard", so it is easy to protest and complain, but hard to have a solution. Progress comes with a price, and heck who does not have a gravel drive, or pad on their lot, **I simply ask** that the commission post pone the approval until an alternate route can be established. And some of the concerns listed be fined tuned to allow the permitting, Currently there is another gravel pit on the docket, so getting gravel should not be a hardship, and if the Borough needed a reason to finish Danver Road to the south, well that time is now.

Respectfully

Shirley Gruber

73510 Twin Peaks Loop

Anchor Point.

Wall, Bruce

From: Hans Bilben <catchalaska@alaska.net>
Sent: Monday, July 16, 2018 2:19 PM
To: Wall, Bruce
Subject: Fwd: Anchor Point Gravel Point
Attachments: humanremainshandout.pdf; contractorlistcurrent.pdf

Hi Bruce,

Here is more info on the proposed site in Anchor Point—I hope you'll pass it along to the Planning Commission,

See you tonight,

Hans Bilben

Begin forwarded message:

From: "Johnson, McKenzie S (DNR)" <mckenzie.johnson@alaska.gov>
Subject: RE: Anchor Point Gravel Point
Date: July 16, 2018 at 1:05:55 PM AKDT
To: Hans <catchalaska@alaska.net>

File No.: 3130-4R Private-Jeanne Bilben
 2018-00873

Ms. Bilben,

The Alaska State Historic Preservation Office (AK SHPO) received your request for information regarding known historical sites in the area of a proposed gravel mine. Upon review of the Alaska Heritage Resources Survey (AHRs) database there are two reported cultural resource sites in the area of the proposed mining.

- SEL-00280, prehistoric site, reported to consist of two house pits. Location is represented as a large polygon, exact location of features is unknown but current projected boundaries are within the proposed mining area.
- SEL-00281, historic graves and possible cache pits, reported to consist of 5 graves that at one time had grave markers, depressions tentatively described as cache pits were reported north of the graves. Location is represented as a large polygon, exact location of features is unknown but current projected boundaries are within the proposed mining area.

In Alaska there are two historic preservation laws that *may* apply unless the project is entirely private in nature:

- Alaska Historic Preservation Act (AHPA): State law requires all public construction or improvement activities conducted by, or requiring licensing or permitting from, the State of Alaska to comply with the Alaska Historic Preservation Act (AS 41.35.070). This also

includes required reporting of historic and archaeological sites on lands covered under contract with or licensed by the State or governmental agency of the State. This would include any material sources used under contract with the State.

- **National Historic Preservation Act (NHPA):** If there is Federal involvement (financial assistance, permit, license or approval) with the project it is the statutory obligation of the lead Federal agency to comply with Section 106 (36 CFR § 800) of the National Historic Preservation Act, which requires the Federal agency to take into account the effects that their undertaking may have on historic properties.

Were either of those laws to apply, our office would be likely to request that an archaeological survey is conducted to verify the site locations and assess the potential effects of the project pursuant to the applicable historic preservation law. In addition, there are State laws regarding the discovery and/or intentional disturbance of human remains, this pertains to ALL lands in Alaska, including private. I have attached our handout regarding human remains.

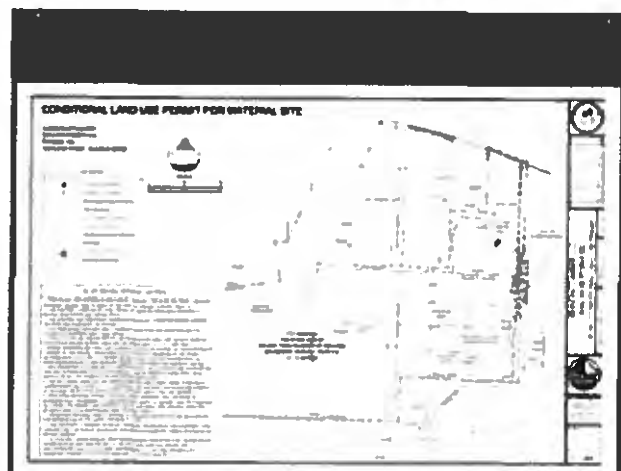
Due to the lack of clear information regarding the site locations our office strongly encourages the use of a qualified cultural resource professional to verify the site locations/boundaries, and offer recommendations to avoid adverse impacts to cultural resource sites by the proposed gravel mine. I have attached a list of cultural resource professionals for your reference if a survey is chosen to be conducted.

Thank you for contacting our office, if we can be of further assistance please let me know. Our website may also provide useful reference at <http://dnr.alaska.gov/parks/oha/index>.

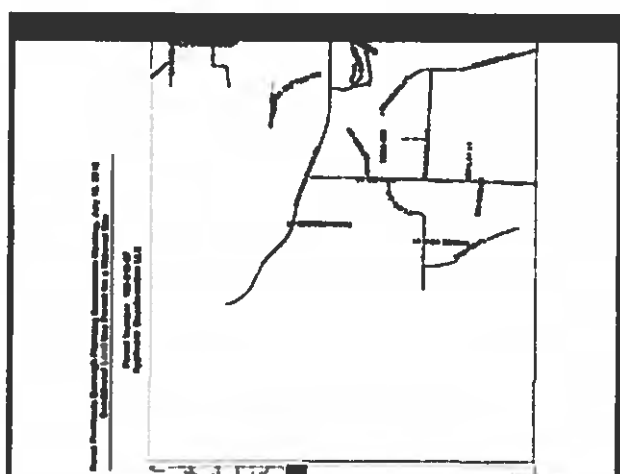
McKenzie S. Johnson
Archaeologist I
Alaska State Historic Preservation Office/Office of History and Archaeology
550 W. 7th Ave, Suite 1310
Anchorage, AK 99501
Phone: 907-269-8726
E-mail: mckenzie.johnson@alaska.gov

From: Hans [<mailto:catchalaska@alaska.net>]
Sent: Monday, July 16, 2018 10:44 AM
To: Johnson, McKenzie S (DNR) <mckenzie.johnson@alaska.gov>
Subject: Anchor Point Gravel Point

Hi, please send any info you might have concerning the historical importance of this potential gravel mine location. These are the maps of the proposed area. Thanks, Jeanne Bilben. (399-6156)



Sent from my iPad



GUIDELINES

Laws and Protocols Pertaining to the Discovery of Human Remains in Alaska

The treatment of human remains following inadvertent discovery is governed by state and federal laws, land status, postmortem interval (time since death), and biological/cultural affiliation. First and foremost, the site of discovered remains should be regarded a potential “crime scene” until a person with appropriate expertise and authority determines otherwise.

State Laws:

Several State laws are applicable to the discovery of human remains in Alaska. The State Medical Examiner (SME) has jurisdiction over all human remains in the state (with rare exceptions, such as military aircraft deaths), regardless of age.

AS 12.65.5 requires immediate notification of a peace officer of the state (police, Village Public Safety Officer, or Alaska State Trooper [AST]) and the State Medical Examiner when death has “been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning.”

In this regard, contact the Alaska State Troopers in the applicable region first. (See list of contacts on following page.) The AST has interpreted notification procedures as applicable to all remains, including ancient remains.

AS 11.46.482(a)(3), which applies to all lands in Alaska, makes the “intentional and unauthorized destruction or removal of any human remains or the intentional disturbance of a grave” a class C felony.

AS 41.35.200, which applies only to State lands, makes the disturbance of “historic, prehistoric and archeological resources” (including graves, per definition) a class A misdemeanor.

AS 18.50.250, which applies to all lands in Alaska, requires permits for the disinterment, transport, and reinterment of human remains. Guidance and permits are available from Health Analytics & Vital Records (see attached list of contacts).

Federal Laws:

On Federal lands and Federal trust lands, the unauthorized destruction or removal of archaeological human remains (i.e., more than 100 years old) is a violation of 16 USC 470ee (Archeological Resources Protection Act). If human remains on federal or federal trust lands are determined to be Native American, their treatment and disposition are also governed by the Native American Graves and Repatriation Act (NAGPRA) of 1990 (PL 101-601; 25 USC 3001-30013; 104 Stat. 3048-3058; 43 CFR 10). NAGPRA also applies to Native American human remains from any lands if the remains are curated in any institution that receives federal funds.

General Guidance:

Your first contacts should be the regional Alaska State Troopers, the Alaska State Medical Examiner’s Office, local law enforcement, AST/Missing Persons Clearinghouse, the Alaska Office of History and Archaeology, and the landowner.

In many instances, the field archaeologist must make a judgement call regarding the age of the remains, his/her level of confidence in the evaluation, and whether further investigation by a specialist is warranted. While notification under State Law is required, peace officers and the SME generally regard archaeologists competent to make these type determinations and welcome input that may assist with the investigation. With regard to ancient remains (> 100 years old), the SME and AST will generally defer to the opinion of the field archaeologist and require no further criminal investigation. However, the remains and a surrounding buffer area should not be disturbed until appropriate reporting and consultation have occurred.

CONTACT INFORMATION FOR STATE OFFICIALS INVOLVED WITH HUMAN REMAINS ISSUES IN ALASKA

**Denotes suggested contact person in list below.*

1.) Alaska State Troopers, Missing Persons Clearinghouse:

Phone: (907) 269-5038

Fax: (907) 337-2059

Lt. Paul Fussey

Phone: (907) 269-5682

E-mail: paul.fussey@alaska.gov

*Malia Miller

Phone: (907) 269-5038

E-mail: malia.miller@alaska.gov

*After contact by phone, send e-mail with relevant information and photos to Lt. Fussey and Malia Miller.

2.) Alaska State Medical Examiner's Office:

* Reporting Hotline (Death Hotline) to speak with on-duty investigator.

Phone: (907) 334-2356

1-888-332-3273 (Outside Anchorage)

Stephen Hoage, Operations Administration

Phone: (907) 334-2202

Fax: (907) 334-2216

e-mail: stephen.hoage@alaska.gov

Dr. Gary Zientek, Chief Medical Examiner

Phone: (907) 334-2200

Fax: (907) 334-2216

e-mail: gary.zientek@alaska.gov

3.) Alaska Office of History and Archaeology (State Historic Preservation Office):

Office Phone: (907) 269-8700

*State Archaeologist

Fax: (907) 269-8908

Email: oha.permits@alaska.gov

4.) Health Analytics & Vital Records

For burial transit permits and disinterment/transit/reinterment questions:

* Registration Help Line

Phone: (907) 465-5423

[illegible][illegible]

Contractor's List! The consultants listed are not certified in any way by this office. It is up to the individual to make sure the consultant is qualified to do the work for which they were hired.

Lastname	First name	Company	Address	City	State	Zip	Phone	Fax	Email	Web	Archaeological	Historic Preservation	HABSHAFER Photographers	Cultural Anthropological	AHHS Research Ltr Review	Other
Conlon	Royce	POC Engineers	1028 Aurora Drive	Fairbanks	AK	99712	907-452-1414	907-456-2707	royceconlon@poceng.us	www.conlonarchitectural.com						
Conwin	Don	West Wind Woodworking	P.O. Box 2095	Kodiak	AK	99515	907-973-2021		dconwin@hdmal.com							millwork as well as rehabilitation work
Costello	John	North Wind Inc.	235 East 8th Avenue, Suite 210	Anchorage	AK	99501	907-277-5488	907-277-5422	jcostello@northwind-inc.com	www.northwind-inc.com						
Dunst	Charisse W.	Hardlines Design Company	4808 Indiana Avenue	Columbus	OH	43214	614-784-8733	614-784-8336	cdunst@hardlinesdesign.com	www.hardlinesdesign.com						
Erdale	Julie	Alaska Heritage Preservation	2170 Tribulation Trail	Fairbanks	AK	99709	907-378-9034		julieerdale@gmail.com							
Fath, MS	Rogan	Historic Wehnusa	1957 Hillcrest Drive	Anchorage	AK	99517	907-274-0202	907-274-0204	hwehnusa@gmail.net							
Falk, PhD	Mervyn W.		885 Gold Pan Road	Fairbanks	AK	99712	907-474-3816		mervyn@alaska.edu							
Fotland, AIA	Richard	Fotland Studio Ltd.	1841 First Avenue South, Suite 2E	Seattle	WA	98134	206-834-0136		richard@fotlandstudio.com	www.fotlandstudio.com						historic documentation, landmark nominations, historic restoration, EIS
Greenhagen	Paul	Westwood Professional Services	7699 Anagram Drive	Eden Prairie	MIN	55344	952-937-5150	952-937-5822	paul.greenhagen@westwoodps.com	www.westwoodps.com						
Greiser	T. Weber	Historical Research Associates, Inc.	125 Bank Street, Fifth Floor	Missoula	MT	59802	406-721-1958, call 408-546-2483	408-721-1964	weber@hrrasoc.com							
Grover	Margan	Bold Peak Archaeological Services	P.O. Box 670562	Chugiak	AK	99567	907-498-0810, call 907-244-9168		boldpeak@gmail.com							
Harbury	Mary Ruffin	Harbury Preservation Consulting	P.O. Box 8049	Raleigh	NC	27628	919-828-1905	919-828-7151	maryruffin@harburypreservation.com	www.harburypreservation.com						Historic Tourism, Preservation Planning
Harritt	Dr. Roger	RK Harritt and Associates, LLC	P.O. Box 244346	Anchorage	AK	99524-4346	907-272-7500	907-272-7500	rharritt@rksoc.com							
Hicks, MA, RPA	Brent	Historic Research Associates, Inc	1804 Third Ave., Suite 240	Seattle	WA	98101	206-343-0220, ext 17		bhicks@hrrasoc.com	www.hrrasoc.com						

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Last Name	First Name	Company	Address	City	State	Zip	Phone	Fax	Email	Web	Archaeological	Historic Preservation	HABS/HAER Photographers	Cultural Anthropological	AHRS Research Lit Review	Other
Higgs, MA, RPA	Andrew	Higgs Research & Consulting	1120 Huffman Rd., Suite 24-782	Anchorage	AK	99515	907-310-8817		andy@higgsr.com		x	x			x	
Holmes	Charles M	Holmes Cultural Resource Consulting	15140 Moss Place	Anchorage	AK	99516	907-250-0805	907-345-1904	bmammoth@gmail.com		x	x			x	
Hunter	Andrea	Hunter Environmental Associates, Inc.	3570 Basin Street	Fairbanks	AK	99709	907-451-5563	907-451-5563	neirc@accalaska.net						x	
Jentzen	Anna M.	UIC Science LLC	P.O. Box 638	Barrow	AK	99723	907-852-7387	907-852-5783	anna.jentzen@uicscience.com		x	x			x	
Krauthoelter	Tracee	Convus Culture	2506-B Fairbanks St	Anchorage	AK	99503	907-230-2384		tracee@convus-culture.com	www.convus-culture.com	x	x			x	
Lane	Donna	Donna Lane Associates	P.O. Box 2644	Valdez	AK	99686	907-435-2780		dl@convnet.net						x	
Lawrence, AJA	Rhoda	BOLA Architecture and Planning	159 Western Ave W Ste 400	Seward	AK	99118	208-447-4749	208-447-4462	rhodala@bolarch.com	www.bolarch.com		x				Historic documentation, landmark nominations, HABS/HAER, ES.
Lewis	Maria	MLP & Associates	446 Bliss Street	Anchorage	AK	99508	907-301-8088	907-929-2383	maria.protop.jewell@gmail.com						x	
Lyon	Bob	Lyon Photographica	9301 Brookridge Drive	Anchorage	AK	99504	303-514-0079		bobbyon001@yahoo.com				x			
Marin	Richard	Knit Tribal Council	P.O. Box 871585 - 1744 N. Prospect Drive, Palmer, AK	Wasilla	AK	99667	907-373-7891	907-373-2178	marin@knittribe.org		x	x			x	Section 108 Reviews, Field Surveys, Commissioned Anchorage Historic Preservation Commission
Mason	Owen K.	Geosarch Alaska	220 W Sky Dr	Boise	ID	83702	907-441-5598	907-336-0053	geosarch5@gmail.com		x				x	
Matheson, AJA	Janet	Janet Matheson Architect	P.O. Box 80587	Fairbanks	AK	99708	907-474-2800	907-374-2875	jimm1@accalaska.net						x	
McKiehan	J. David	McKiehan Consulting	10218 Meadowbrook Rd	Ashland City	TN	37015	907-230-8880		ugnuat@hotmail.com		x				x	
Mierhardt	Robert	True North Sustainable Develop Solutions, LLC	P.O. Box 874135	Wasilla	AK	99617-4135	907-841-4080		robert.mierhardt@truenorthsolutions.com		x	x	x	x	x	

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Merrill	Bruce		3301 Madison Way	Anchorage	AK	99508-4422	907-277-0019		merrellb@comcast.net							
Miller	Robyn	ASRC Energy Services Alaska	3900 C Street, Suite 700	Anchorage	AK	99503	907-334-1567	907-335-5475	robyn.miller@asrcenergy.com	http://www.asrcenergy.com/						
Mobley	Charles M	Charles M. Mobley & Associates	200 West 34th Avenue, #534	Anchorage	AK	99503	907-853-1937		charlesm.mobley@gmail.com	http://www.charlesmobley.com/						
Mobley	Ottar	Heritage Consulting Services	200 W. 34th Ave. #706	Anchorage	AK	99503	703-678-8737		ottar.mobley@gmail.com							
Morehouse	Jana	Beyond Environmental Services Technology, LLC.	1118 Northeast Drive	Rapid City	SD	57701	605-366-1802		jana@beyondservices.com	www.beyondservices.com						NEPA, History, GIS services
Morris	Holly	Michael L. Foster & Associates, Inc.	13135 Old Glenn Highway, Suite 200	Engle River	AK	99577	907-698-6200	907-698-6202	hlm@mllfassociates.com	http://www.mllfassociates.com						
Morrison	Audrey	Cultural Resource Consultants LLC - CRC	5604 East 67th Avenue	Anchorage	AK	99507	907-349-3443, mobile 205-408-5987	480-772-4185	am@crcalaska.com	http://www.crcalaska.com/						
Ottal	Molly	Alutiq Museum	215 Mission Rd, First Floor	Kodiak	AK	98015	844-435-8844	868-335-7767	molly@alutiqmuseum.org	alutiqmuseum.org						preparing collections for curation
Painter	Diana J.	Painter Preservation	3618 N. C Street	Spokane	WA	99205	707-783-8500		diana@preservationplans.com	www.preservationplans.com						
Perry	Elizabeth	SWCA, Inc.	1130 West 8th Avenue, Suite 110	Anchorage	AK	99501	907-278-7922	907-278-7944	eperry@swca.com							
Pierson, RPA	Larry J.	Brian F. Smith and Associates	14010 Power Road, Suite A	Power	CA	92084	858-484-0915	858-579-9898	brian@bfsa-ca.com	www.bfsa-ca.com						
Pipkin	Mark	Walking Dog Archaeology	P.O. Box 244752	Anchorage	AK	99524-4762	907-227-4413	907-278-9725	walkingdog@alaska.com							
Prozorak	Michael A.	iqib architects	425 G Street, Suite 800	Anchorage	AK	99501	907-274-7443	907-274-7407	michael@iqibarchitects.com	www.iqibarchitect.com						
Ramsey Ford	Dawn	HDR, Inc	2525 C Street, Suite 500	Anchorage	AK	99503	907-644-2145	907-644-2022	Dawn.Ramsey@hdrinc.com	www.hdrinc.com						

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Lastname	First name	Company	Address	City	State	Zip	Phone	Fax	Email	Web	Archaeological	Historic Preservation	HA/BSHA/ER Photographers	Cultural Anthropological	AHRS Research/ Lit Review	Other
Ramirez	Amy	True North Sustainable Develop Solutions, LLC	P.O. Box 874135	Wasilla	AK	99617	907-841-4000		amy.ramirez@yahoo.com		X	X	X	X	X	
Raymond-Yakoubian	Julie	Julie M. Raymond-Yakoubian	P.O. Box 1828	Nome	AK	99762	907-443-4273		julie@hybeard.com		X					
Reamer, PhD	Richard E.	Reamer & Associates, Inc.	1215 Southwest 170th Street	Seattle	WA	98106	206-242-7817	206-242-7817	reamer@eskins.com		X	X				
Rieger	Douglas	Rieger Archaeological Consulting	P.O. Box 2887	Soldotna	AK	99606	907-282-9447		dougl@gcd.net		X				X	
Rogers	Monty	Cultural Alaska	P.O. Box 200013	Anchorage	AK	99520	907-748-1888		culturalalaska@gmail.com	www.culturalalaska.com	X			X	X	Section 106 & NEPA services; CR survey, analysis, document prep. Additional services
Rushmore	Paul	Paleo Logics	P.O. Box 2132	Wrangell	AK	99929	907-874-2842	907-874-1444	Paul@gcd.net		X					
Sakundall	Patrick	Aleutiq Museum	215 Mission Rd, First Floor	Kodiak	AK	99615	944-435-8844	907-335-7767	patrick@aleutiqmuseum.org	aleutiqmuseum.org	X	X			X	preparing collections for curation
Saenger-Boss	Frien	Kwik Tribal Council	P.O. Box 871595 - 1744 N. Prospect Drive, Palmer, AK	Wasilla	AK	99687	907-375-7829	907-375-2178	tsaengerboss@linktel.net		X				X	Section 106 research and nominations for listing in the National Register of Historic Places, 106 Reviews, Field Surveys, Field investigations/ excavations
Slaughter	Dale	Dale C. Slaughter Archaeologist	808 W 56 Avenue	Anchorage	AK	99518	907-562-1907	907-677-6016	archdale@ak.net		X					
Steffen, RPA	Amy	Aleutiq Museum	215 Mission Rd, First Floor	Kodiak	AK	99615	944-435-8844	907-335-7767	amy@aleutiqmuseum.org	aleutiqmuseum.org	X	X			X	preparing collections for curation
Stern, PhD	Richard O.	Alaska Cultural Resources Consultants	P.O. Box 190592	Anchorage	AK	99519-0592	907-242-1947	907-243-0054	DRStern107@aol.com		X			X	X	
Stone	Daniel E.	Cultural Resource Evaluators	P.O. Box 111414	Anchorage	AK	99511	907-345-5783		AUCargo@aol.com		X			X	X	
Stratke	Corey	Speerfish Research	5675 Old Ridge Trail	Fairbanks	AK	99709	907-452-3828		corey@speerfishresearch.com	www.speerfishresearch.com	X					
Teeter	Sean	HDR, Inc.	2525 C Street, Suite 500	Anchorage	AK	99503	907-644-2150	907-644-2022	Sean.Teeter@hdrinc.com	www.hdrinc.com	X					

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Tobey	Jennifer	ASRC Energy Services Alaska	3900 C Street, Suite 700	Anchorage	AK	99503	907-339-5481	907-339-5475	jennifer.tobey@asrcenergy.com	http://www.asrcenergy.com	X	X		X	X	Ethnohistory, NEPA
Veltre	Douglas W.	DWV Consulting	1319 G Street	Anchorage	AK	99501	907-277-1735	907-277-1736	veltre@gci.net		X					
Welsh, AIA	Amenda	Welsh Whiskey Architects, LLC	327 Bowden Street	Ketchikan	AK	99901	907-225-2412	907-225-2422	amenda@welshwhiskey.com	www.welshwhiskey.com	X	X				Historic Architect, HABS/HAER Drawings
Whitehead	John S.	John S. Whitehead	4211 Misty Morning Way, Apt. 2502	Gainesville	GA	30606	770-534-0960		jwhite@bellsouth.net							
Whiskey, AIA	Timothy	Welsh Whiskey Architects, LLC	327 Bowden Street	Ketchikan	AK	99901	907-225-2412	907-225-2422	tw@welshwhiskey.com	www.welshwhiskey.com	X	X				Historic Architect, HABS/HAER Drawings
Whitney	James	Circa 89	1750 Barn Swallow Way	Fairbanks	AK	99709	907-590-1720		edwhitney@gmail.com		X					Preparing Collections for Curation
Wilcox	David	Golden Associates, Inc.	2247 Fox Heights Lane, Suite A	Green Bay	WI	54304	820-481-2500		dwilcox@golder.com		X					Section 106 & NEPA services; CR survey, analysis, document preparation, historic documentation
Wiley	Anastasia	ISIS Corp	P.O. Box 1718	Haines	AK	99827	907-786-3513	907-786-3523	wileycorple@isincorp.net	www.isincorp.net	X	X	X	X	X	
Wills	Susan	Beltzworth North Architects and Planner Inc.	212 Front Street	Fairbanks	AK	99701	907-456-5780	907-451-8522	info@beltzworthnorth.com	www.beltzworthnorth.com	X	X				
Yarborough	Uinda Elm	Cultural Resource Consultants LLC - CRC	3504 East 67th Avenue	Anchorage	AK	99507	907-349-3445, mobile 907-230-5835	480-772-4185	fy@crclaska.com	http://www.crclaska.com/	X	X		X	X	
Yarborough	Michael	Cultural Resource Consultants LLC - CRC	3504 East 67th Avenue	Anchorage	AK	99507	907-349-3445, mobile 907-308-8065	480-772-4185	mry@crclaska.com	http://www.crclaska.com/	X	X		X	X	
Yeener	David R.	David R. Yeener, Archaeological Consultant	21741 Woodcliff Drive	Chugiak	AK	99587	907-688-0864	907-786-6850	dfy@uas.alaska.edu, merrimodm@gci.net	www.uas.alaska.edu/ethnood/	X					
CrQuinn	Luzi Flynn	DOWL HQM	4041 B Street	Anchorage	AK	99503	907-563-2000	907-563-3953	lquinn@dowl.com	www.dowl.com	X	X	X	X	X	

From: Wall, Bruce
To: Hartley, Patricia
Subject: FW: Denver Gravel Pit
Date: Monday, July 16, 2018 4:17:36 PM

From: Paul Roderick [mailto:pauls.services1970@gmail.com]
Sent: Monday, July 16, 2018 3:17 PM
To: Wall, Bruce <bwall@kpb.us>
Subject: Denver Gravel Pit

Dear Mr Wall,

It has come my attention that I must address the land valuation issue concerning a gravel pit owned by Emmitt Trimble on Denver Street in Anchor Point. A neighbor mentioned they were just sold a piece of land (of high value) and was never informed by the realtor, Coastal Realty, Mr Trimble, that he owned a gravel pit nearby. A terrible breach of ethics concerning our new community members! This is not the only neighbor expressing concern.

As any prospective land owner would have considered for this neighborhood on Denver Street, I would not have chosen to buy land at the value I purchased it at had I known it would be devalued by the installation of a gravel pit in this vicinity.

There is an older gravel pit owned by Buzz Kyllonnen that has caused much controversy in the area. The care for it has been problematic and dangerous. The pond there has high sides with little slope and no attempt to warn or protect the public of the whereabouts or dangers contained therein. Furthermore, the Beach Rd is considered a lower category highway, too narrow for heavy traffic.

It is my observation that many of the land owners with \$.25million or more homes in this area would be displeased at the prospect of a gravel crusher in their front yard. The Kenai Peninsula Borough may find themselves looking at potential lawsuits concerning this matter.

Respectfully Yours,
Paul Roderick



Kachemak Bay Conservation Society

3734 Ben Walters Ln, Homer, AK 99603

907 235.8214

kbayconservation@gmail.com

Filed Electronically
: bwall@kpb.us.

June 16, 2018

Kenai Peninsula Planning Department
144 N. Binkley St.
Soldotna AK. 99669

Dear Planning Commission,

Kachemak Bay Conservation Society (KBCS) is a nonprofit grassroots organization with over 80 members who live and work in the area of Kachemak Bay at the southern end of the Kenai Peninsula. For over 35 years KBCS has come together to work for protection of the environment of the Kachemak Bay region and encourage sustainable use and stewardship of local natural resources through advocacy, education, information, and collaboration. Please accept the following comments on behalf of the members of KBCS.

The proposed Resolutions 2018-22 & 2018 13, before you this evening have major ramifications to the health of the Anchor River Drainage and fishing industry that depends on the Anchor River. The fact that the proposed Resolution 2018- 22 spans the North Fork of the Anchor is appalling. The question of water quality ramifications has certainly not been answered nor has a ground water flow been considered. The effects of these two developments is not understood nor considered at this point.

Fort the above reasons it is prudent, and paramount that these Resolutions, 2018-23 & 2018-22 be rejected or postponed.

With the Borough looking at new Gravel Pit Extraction Regulations in the near future it would be prudent to put off any decision until such time as this is accomplished and a better understanding of the effects these pits could have on the surrounding ecosystem is understood.

The Kachemak Bay Conservation Society (KBCS) which represents all it's members on this issue strongly states that more thought has to go into these two resolutions and hopes that NO Action will be taken to move these forward at tonights meeting.

Sincerely,
Roberta Highland
President, Kachemak Bay Conservation Society

Hartley, Patricia

From: Christy Cupp <christycupp5@hotmail.com>
Sent: Monday, July 16, 2018 4:33 PM
To: Hartley, Patricia
Subject: Comments for tonight's meeting
Attachments: Comments for tonights meeting.docx

Good afternoon,

Please give these comments to tonight's meeting on Beachcomber LLC's proposed gravel pit. Comments are attached.

Thank you,
Christy Elmaleh

Dear Kenai Peninsula Borough Planning Committee,

I am unable to make it to tonight's meeting because of my work schedule, but I wanted to submit my comments on Beachcomber, LLC's proposed gravel pit.

I am opposed to this gravel pit.

My husband, two young children, and I own a property on Seabury. I take my dog, infant, and six year old walking past that property on a regular basis. Sadly, if this proposed gravel pit is approved, the increase in traffic will prohibit me from being able to safely take my children on a walk down that road.

I am also opposed to this gravel pit because it will lower the property values in our neighborhood.

Another reason I am opposed to this gravel pit is that it is right across the road from a state recreation campsite. Revenues that the state gathers from this campsite will be lowered, as many people prefer not to camp across for an industrialized area.

My family bought our house specifically because of the proximity to the state recreation area. We want our children to grow up in a natural, peaceful, and safe part of town.

Please join me in opposing Beachcomber LLC's request for a gravel pit. Thank you for your consideration.

Sincerely,

Christina Elmaleh

Cook Inletkeeper
3734 Ben Walters Lane
Homer, Alaska 99603



p. 907.235.4068
f. 907.235.4069
www.inletkeeper.org

VIA EMAIL ONLY
(mbest@kpb.us)

July 16, 2018

Max Best, Planning Director
Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, Alaska 99669

Re: Resolution 2018-23; Beachcomber LLC Proposed Gravel Pit & Milling Operation at the Mouth of the Anchor River (KPB Parcel No. 16901067)

Dear Mr. Best & Planning Commission Members:

Please accept these comments on the above-referenced gravel pit and milling operation proposed at the mouth of the Anchor River.

Cook Inletkeeper is a community-based nonprofit group formed by concerned Alaskans in 1995 to protect the Cook Inlet watershed and the life it sustains. Inletkeeper is intimately familiar with gravel pits and their potential impacts: over the past twenty-plus years, Inletkeeper has reviewed many dozens of gravel pit proposals, and responded to many groundwater, surface water, habitat and other concerns regarding gravel pits.

Gravel pits provide an invaluable service to our community; we all use gravel and it's literally and figuratively a foundation for our local communities. At the same time, gravel pits highlight some of the thorniest conflicts between allowable uses, because in the alluvial systems found on the Kenai Peninsula, extractable gravel resources often lie in close proximity to the lakes, streams and wetlands that support our wild salmon. And wild salmon drive our local economies, and in many ways, define what it means to be Alaskan.

The current KPB Material Sites Ordinance is woefully inadequate to protect the water and wetlands resources that support our salmon, and other local, state and federal laws and rules fall far short too. That said, the current application fails to meet even current KPB gravel pit standards.

The Material Site Ordinance is “intended to protect against aquifer disturbance...to protect[] against the lowering of water resources serving other properties.” KPB Ordinance 21.29.040(A)(1). For all Conditional Land Use Permits (CLUPS), the applicant must maintain a two-foot vertical separation from the “seasonal high water table.” KPB Ordinance 21.29.050(A)(4)(c) (emphasis added). Yet the application merely states groundwater depth was determined by “[t]esthole on parcel and exposed surface water to the north.” The application does not indicate the timing of the test hole, and whether it accurately reflects the “seasonal high water table.” As a result, the application is incomplete and should be rejected because it fails to provide the information needed to “protect against aquifer disturbance” as required by KPB Ordinance.

The complexity of our salmon systems cannot be overstated, and the interplay between surface water and groundwater near the mouth of the Anchor River is vitally important for the health of our wild salmon. The comments from the National Estuarine Research Reserve highlight the connectivity between the proposed gravel pit site and the Anchor River estuary, and reveal the importance of the estuary to salmon at various life stages. These issues take on additional importance because the application states a desire to mine into the water table at some point in the future.

While many believe the Planning Commission has its “hands tied” by the KPB Material Site Ordinance, the fact is that the Planning Commission has broad delegated authorities to investigate and make recommendations to the Assembly:

Investigation and recommendation authority. The planning commission may consider and investigate subject matter tending to the development and betterment of the borough and make recommendations as it considers advisable to any department of the borough government and to the assembly. The commission may make or have made surveys, maps or plans.

KPB Ordinance 2.40.050.

Accordingly, the Planning Commission has considerable discretion here, and due to the considerable public controversy surrounding this application, and in light of its close proximity to the mouth of one of the most recognized salmon streams on the Kenai Peninsula, we recommend the Planning Commission undertake additional investigations to answer the following questions:

- What is the seasonal high water level?
- What is the rate and direction of groundwater flow?
- What effects will flow from the removal of peat and other vegetation with regard to surface runoff?
- How much dust and dirt will enter the Anchor River through airborne deposition from gravel extraction, milling and hauling activities under prevailing conditions?

These are but a sampling of questions which need to be answered if we hope to maintain the ecological integrity of the Anchor River. As we all know, the Anchor River is under incredible stress, and piecemeal development, warming stream temperatures, overharvest and habitat impacts are playing out the "death by a thousand cuts" problem that has plagued wild salmon systems elsewhere.

Therefore, in addition to the request to reject this application – or at least defer it for future consideration until the application is complete - we call on the Kenai Borough Assembly and the Planning Commission to put a moratorium on all gravel pit authorizations until the Material Sites Task Force has completed its work and adopted enforceable standards that will protect our public land, water and fish resources.

Thank you for your attention to this important issue, and please do not hesitate to contact me with any questions at 907.299.3277 or bob@inletkeeper.org

Yours for Cook Inlet,

A handwritten signature in black ink, appearing to read "Bob Shavelson". The signature is fluid and cursive, with the first name "Bob" being more prominent than the last name "Shavelson".

Bob Shavelson
Inletkeeper

MISCELLANEOUS

&

ADDITIONAL INFORMATION

Petition to Reject Proposed Sand, Gravel, and Peat Extraction near Denver St., Anchor Point, Alaska

We, the citizens of the town of Anchor Point, petition the Kenai Borough to reject the proposed sand, gravel, and peat extraction permit application submitted by Mary and Emmitt Trimble of Beachcomber LLC.

The negative impact to the surrounding residential properties renders the proposed operation intolerable with regard to noise, dust/dirt, damage to roadways, decrease in property values, and devastation of the natural beauty of the view we currently enjoy.

We respectfully demand that the Kenai Peninsula Planning Commission reject the proposed permit. We hope that the Trimbles will find a more suitable location for their excavation business.

Name	Address	Phone #	Signature
Ann Cline	34926 Denver St.	(425) 449-3540	Ann Cline
Richard Cline	34926 Denver St.	(907) 715-7237	RL Cline
Joseph Sparkman	73884 Seaward Ave	707-321-4404	Joseph Sparkman
Chris Spillman	73884 Seaward Ave	(907) 321-4406	Chris Spillman
Richard Poth	73572 Seaward Ave	507-437-6430	Richard Poth
Pete Kinnear	34969 Denver	727-3323	Pete Kinnear
Maurice Poth	73572 Seaward Ave	507-437-6430	Maurice Poth
Mike Patrick	34897 Fisher Ct.	907-299-2165	Mike Patrick
Jinda Patrick	34897 Fisher Ct.	907-299-2619	Jinda Patrick
Janice Krutel	73884 Seaward Ave	970 3008940	Jan Krutel
Teresa J. Gryn	73850 Seaward	907-399-0063	Teresa J. Gryn
David D. Gryn	73850 Seaward	907-399-2510	David D. Gryn

SUSAN REID	73820 SEAWARD AVE	907- 226-3418	Susan J. Reid
J.D. REID	73820 SEAWARD AVE	907 226 3418	J.D. Reid
WAYNE TOURANGEA	38940 SEABURY CR	907-295 4345	Wayne Tourangea
CHERYL RATES	" "	907-295 8387	Cheryl Rates
Josh Etnak	34885 Seaburyport	311-8675	Josh Etnak
Eileen Skanden	34860 Seaburyport	10335-5542	Eileen D. Skanden
GARY L Skanden	34860 Seaburyport	907.235-5542	Gary L. Skanden
Chawn Allen	13931 Seaburyport Seabury Ave		Chawn Allen

From: **Johnson, McKenzie S (DNR)** mckenzie.johnson@alaska.gov
 Subject: RE: Anchor Point Gravel Point
 Date: July 16, 2018 at 1:06 PM
 To: Hans catchalaska @alaska.net

File No.: 3130-4R Private-Jeanne Bilben
 2018-00873

Ms. Bilben,

The Alaska State Historic Preservation Office (AK SHPO) received your request for information regarding known historical sites in the area of a proposed gravel mine. Upon review of the Alaska Heritage Resources Survey (AHRs) database there are two reported cultural resource sites in the area of the proposed mining.

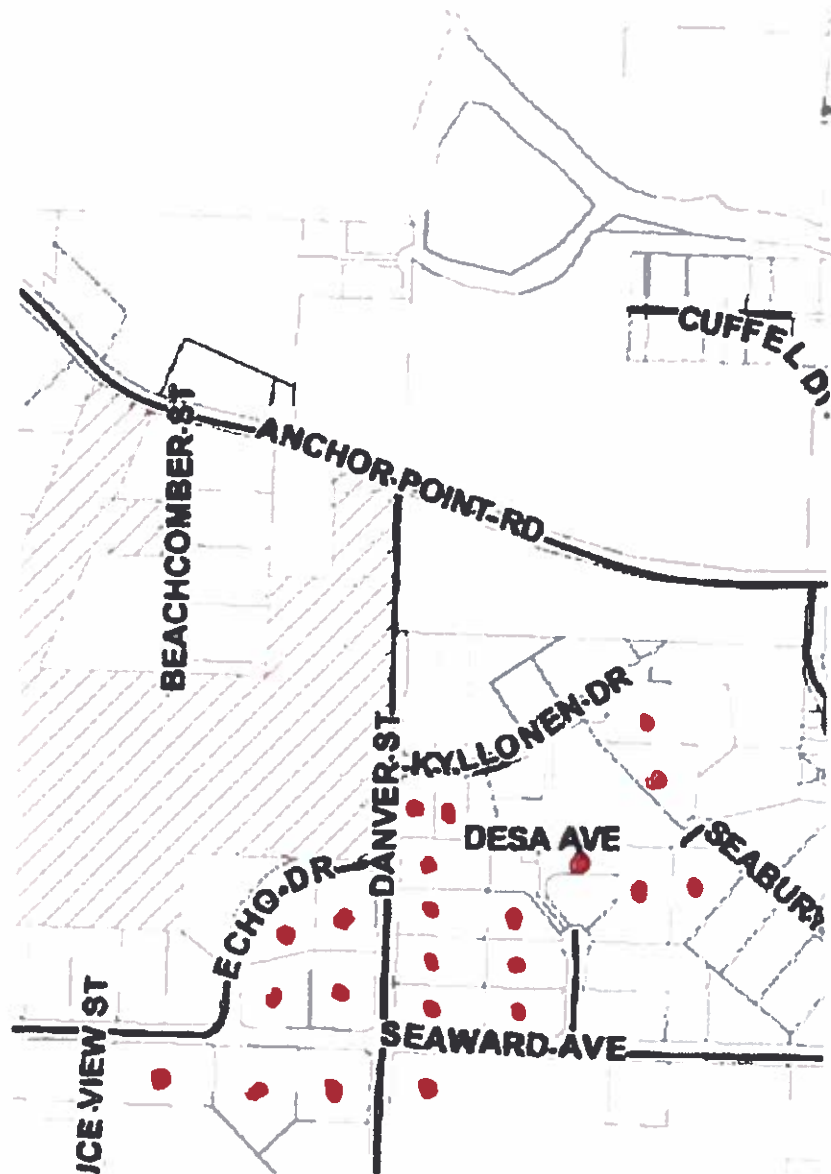
- ✓ • SEL-00280, prehistoric site, reported to consist of two house pits. Location is represented as a large polygon, exact location of features is unknown but current projected boundaries are within the proposed mining area.
- ✓ • SEL-00281, historic graves and possible cache pits, reported to consist of 5 graves that at one time had grave markers, depressions tentatively described as cache pits were reported north of the graves. Location is represented as a large polygon, exact location of features is unknown but current projected boundaries are within the proposed mining area.

In Alaska there are two historic preservation laws that *may* apply unless the project is entirely private in nature:

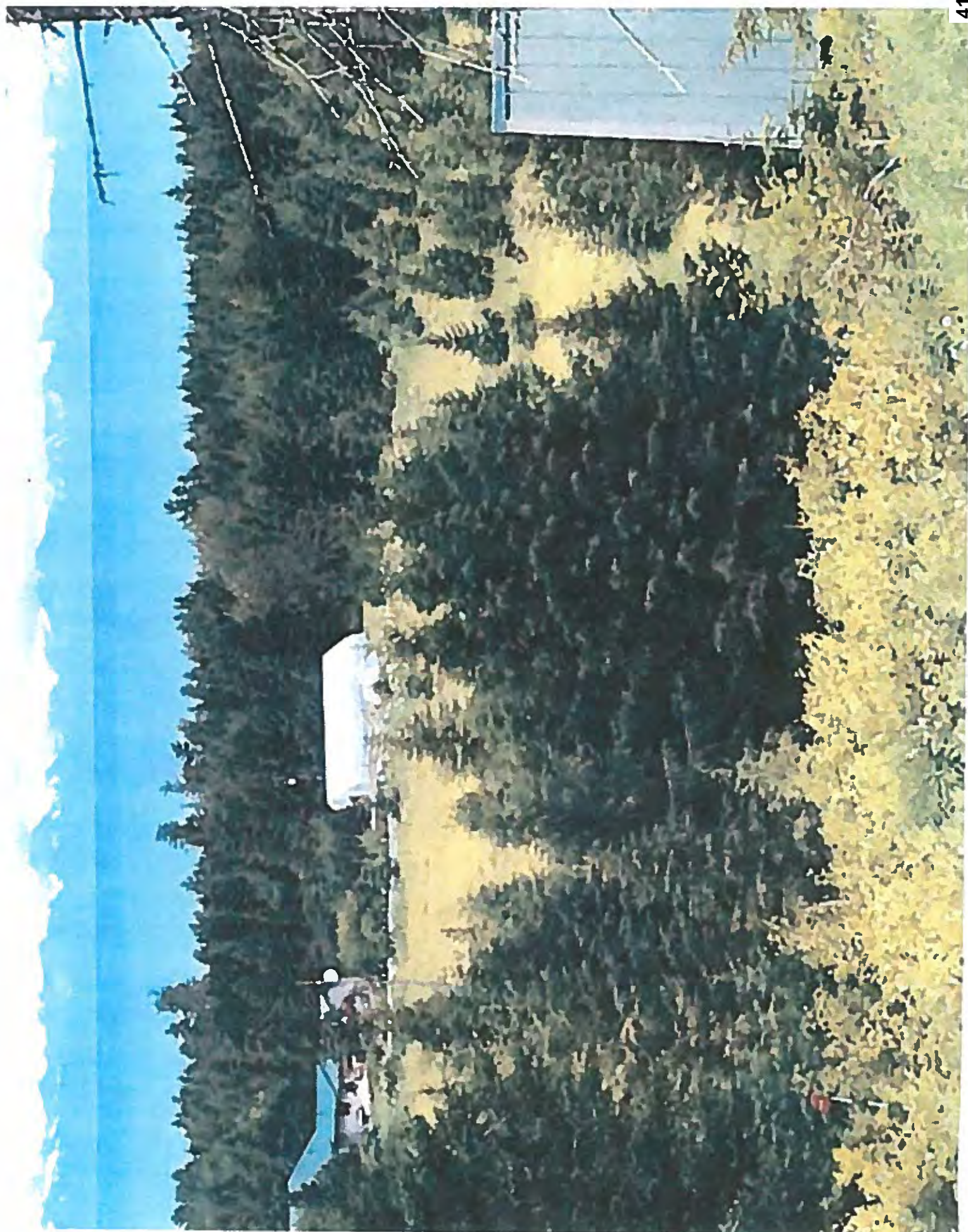
- Alaska Historic Preservation Act (AHPA): State law requires all public construction or improvement activities conducted by, or requiring licensing or permitting from, the State of Alaska to comply with the Alaska Historic Preservation Act (AS 41.35.070). This also includes required reporting of historic and archaeological sites on lands covered under contract with or licensed by the State or governmental agency of the State. This would include any material sources used under contract with the State.
- National Historic Preservation Act (NHPA): If there is Federal involvement (financial assistance, permit, license or approval) with the project it is the statutory obligation of the lead Federal agency to comply with Section 106 (36 CFR § 800) of the National Historic Preservation Act, which requires the Federal agency to take into account the effects that their undertaking may have on historic properties.

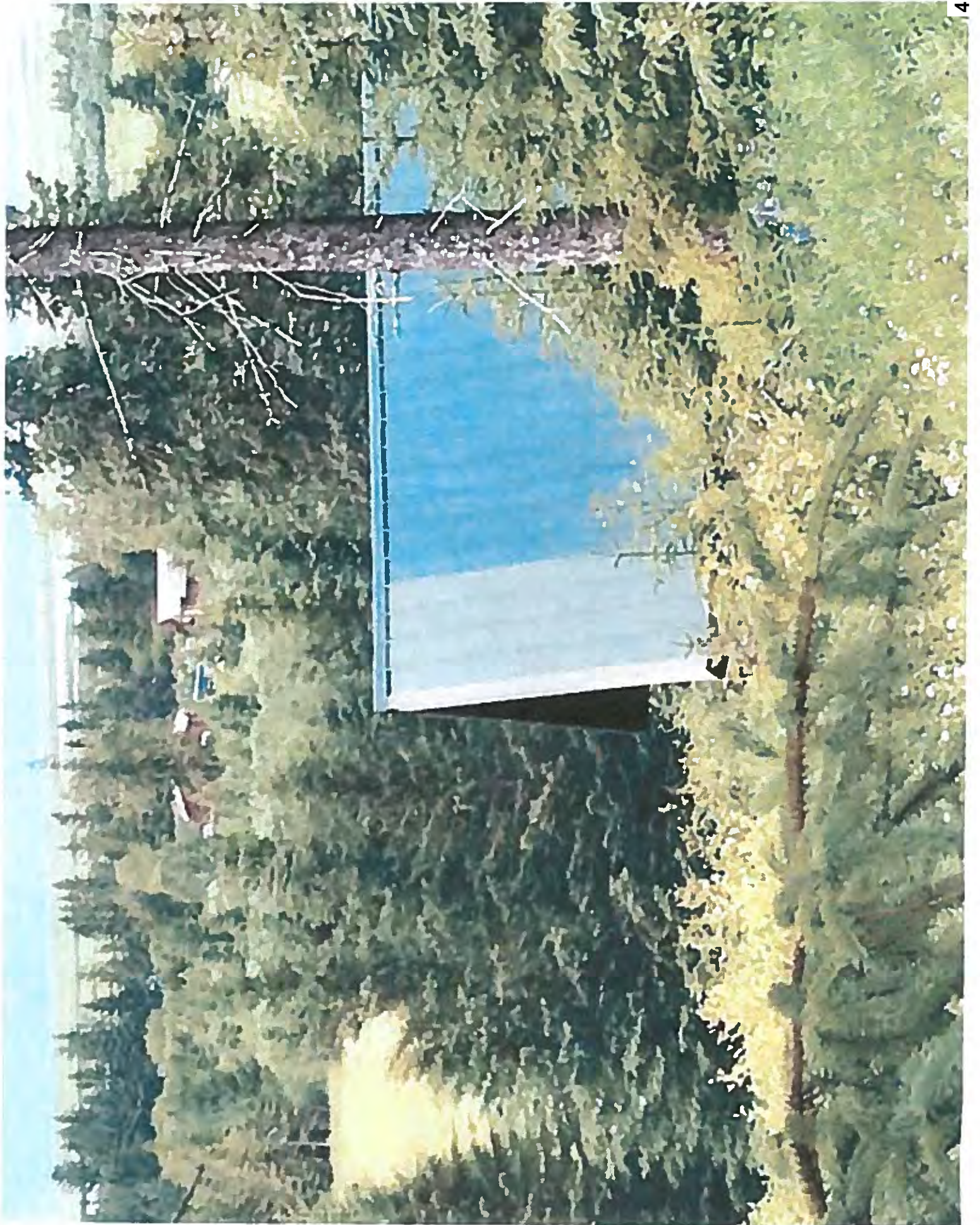
Were either of those laws to apply, our office would be likely to request that an archaeological survey is conducted to verify the site locations and assess the potential effects of the project pursuant to the applicable historic preservation law. In addition, there are State laws regarding the discovery and/or intentional disturbance of human remains, this pertains to ALL lands in Alaska, including private. I have attached our handout regarding human remains.

Due to the lack of clear information regarding the site locations our office strongly encourages the use of a qualified cultural resource professional to verify the site

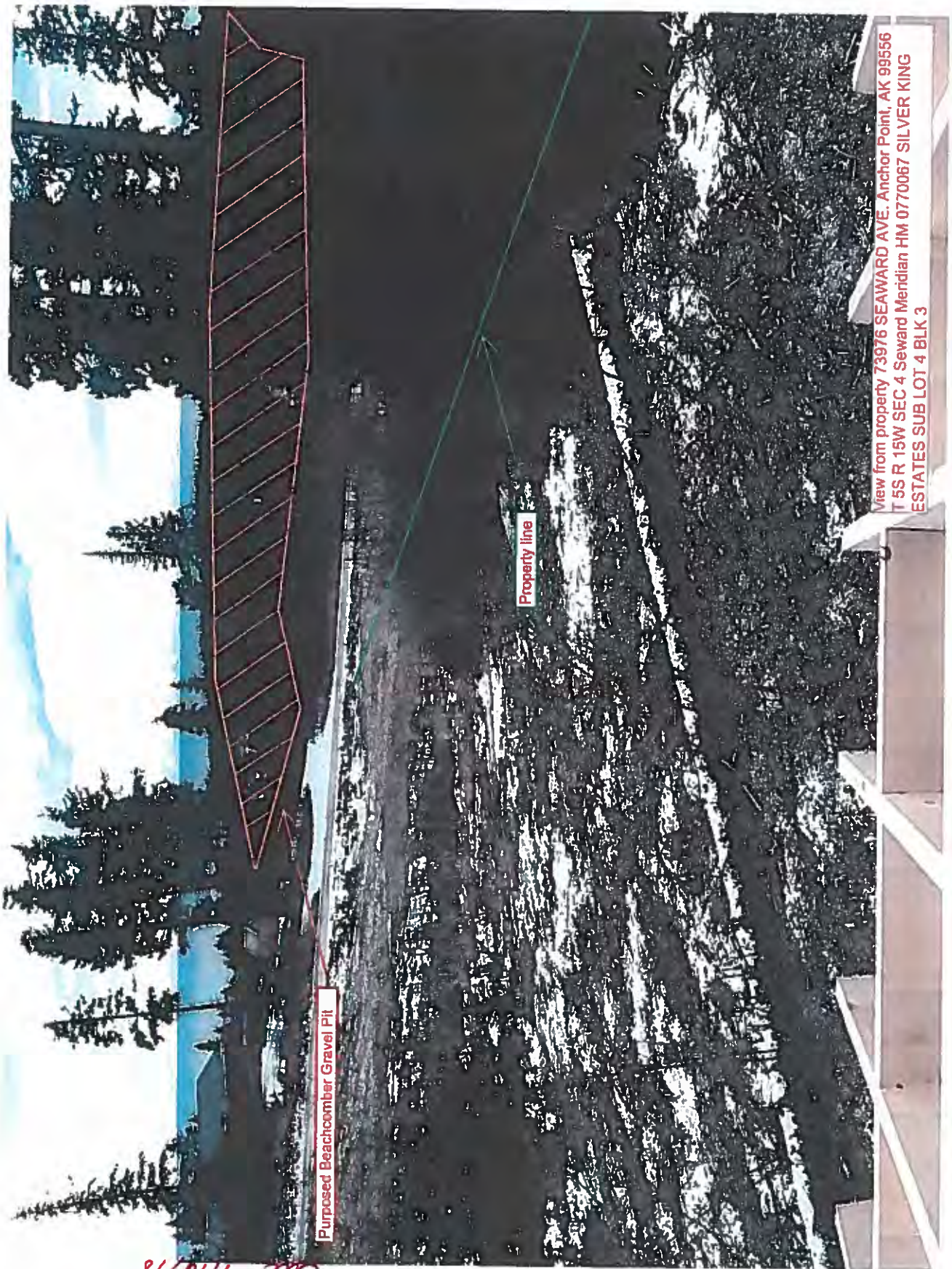


• RED DOT INDICATES PROPERTIES AT ELEVATIONS THAT CANNOT BE PROTECTED FROM NOISE OR VISUAL IMPACT BY BERMS OR BUFFERS. MORE NORTH OF PROJECT







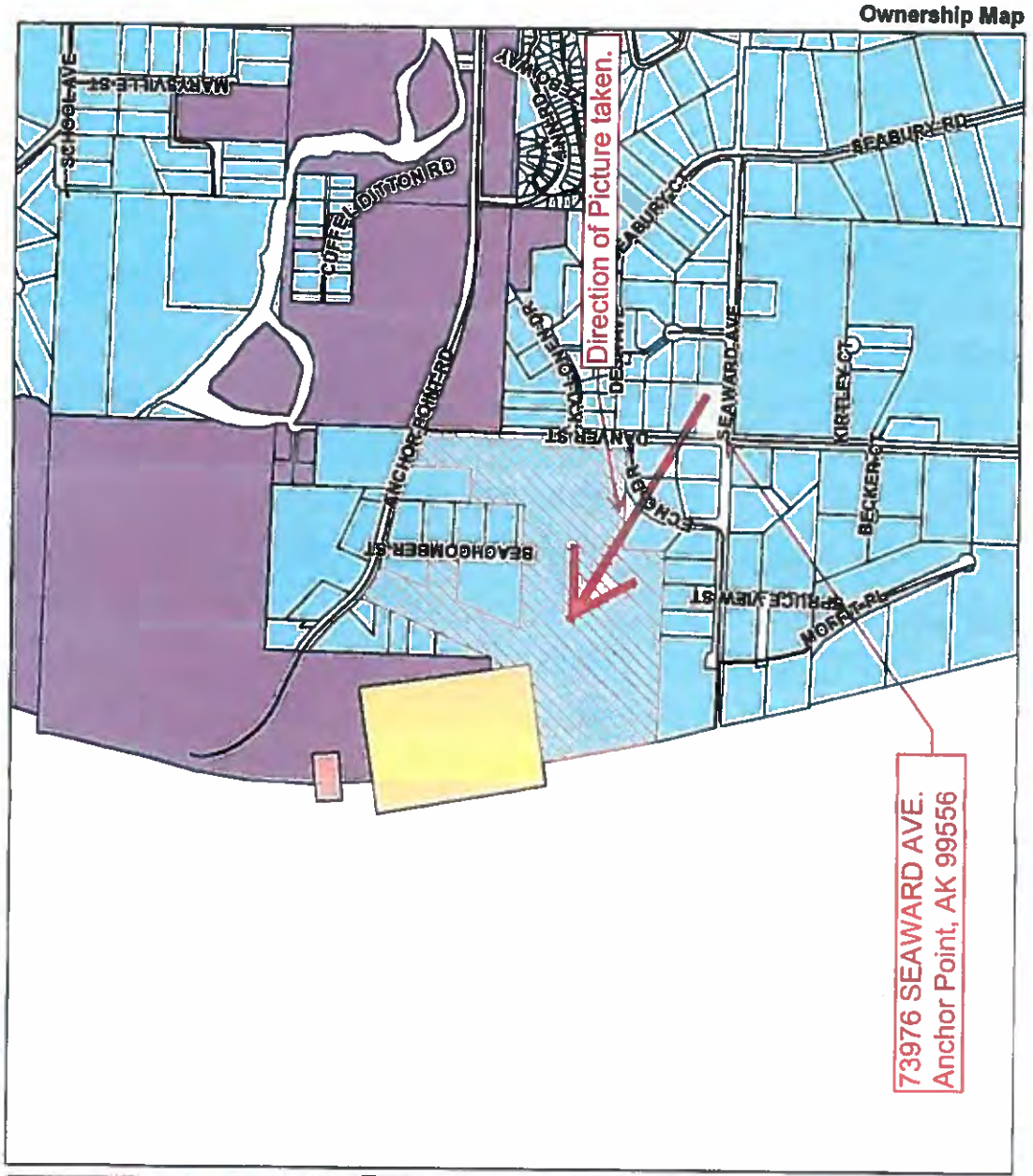
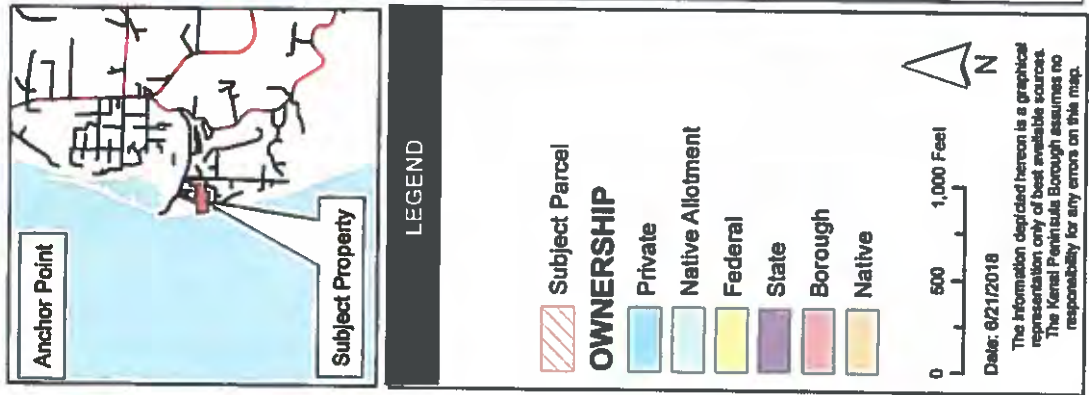


View from property 73976 SEAWARD AVE. Anchor Point, AK 99556
T 5S R 15W SEC 4 Seward Meridian HM 0770067 SILVER KING
ESTATES SUB LOT 4 BLK 3

Handout at Meeting
Beachcomber material
Site 7/14/18

Kenai Peninsula Borough Planning Commission Meeting, July 16, 2018
Conditional Land Use Permit for a Material Site

Parcel Number: 169-010-67
Applicant: Beachcomber LLC







418



R176



Wall, Bruce

From: Emmitt Trimble <emmitttrimble@gmail.com>
Sent: Monday, July 16, 2018 11:11 AM
To: Wall, Bruce
Subject: FW: Video
Attachments: IMG_0843.MOV; Untitled attachment 00596.txt

Hi Bruce,

This was done yesterday in 3 hours, and can be reproduced each time I would expand to the south, where at most 5 homes have a very limited view of the area now.

Emmitt











Planning Department

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

Charlie Pierce
Borough Mayor

«OWNER»
«ATTENTION»
«ADDRESS»
«CITYSTATEZIP»

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that a conditional land use permit application has been received for material extraction on a parcel in the **Anchor Point** area. This notice is being sent to landowners located within ½ mile of the subject properties. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Beachcomber LLC
Landowner: Beachcomber LLC
Parcel Number: 169-010-67
Legal Description: Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.
Location: 74185 Anchor Point Road
Proposed Land Use: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

KPB Code: Conditional land use permit applications for material extraction are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or at: kpb.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday, July 16, 2018**, commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held in the assembly chambers of the borough administration building located at 144 N Binkley St, Soldotna.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to: bwall@kpb.us. Please provide written statements by Friday July 13, 2018. Aggrieved persons, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

The application and staff report will be available on the Planning Commission website a week prior to the meeting. For additional information or to obtain a copy of the application materials earlier, please call the planning department at (907) 714-2206, or 1-800-478-4441 (toll free within the Borough).

Bruce Wall, AICP
Planner

Kenai Peninsula Borough Planning Commission Meeting, July 16, 2018
Conditional Land Use Permit for a Material Site

Parcel Number: 169-010-67
Applicant: Beachcomber LLC

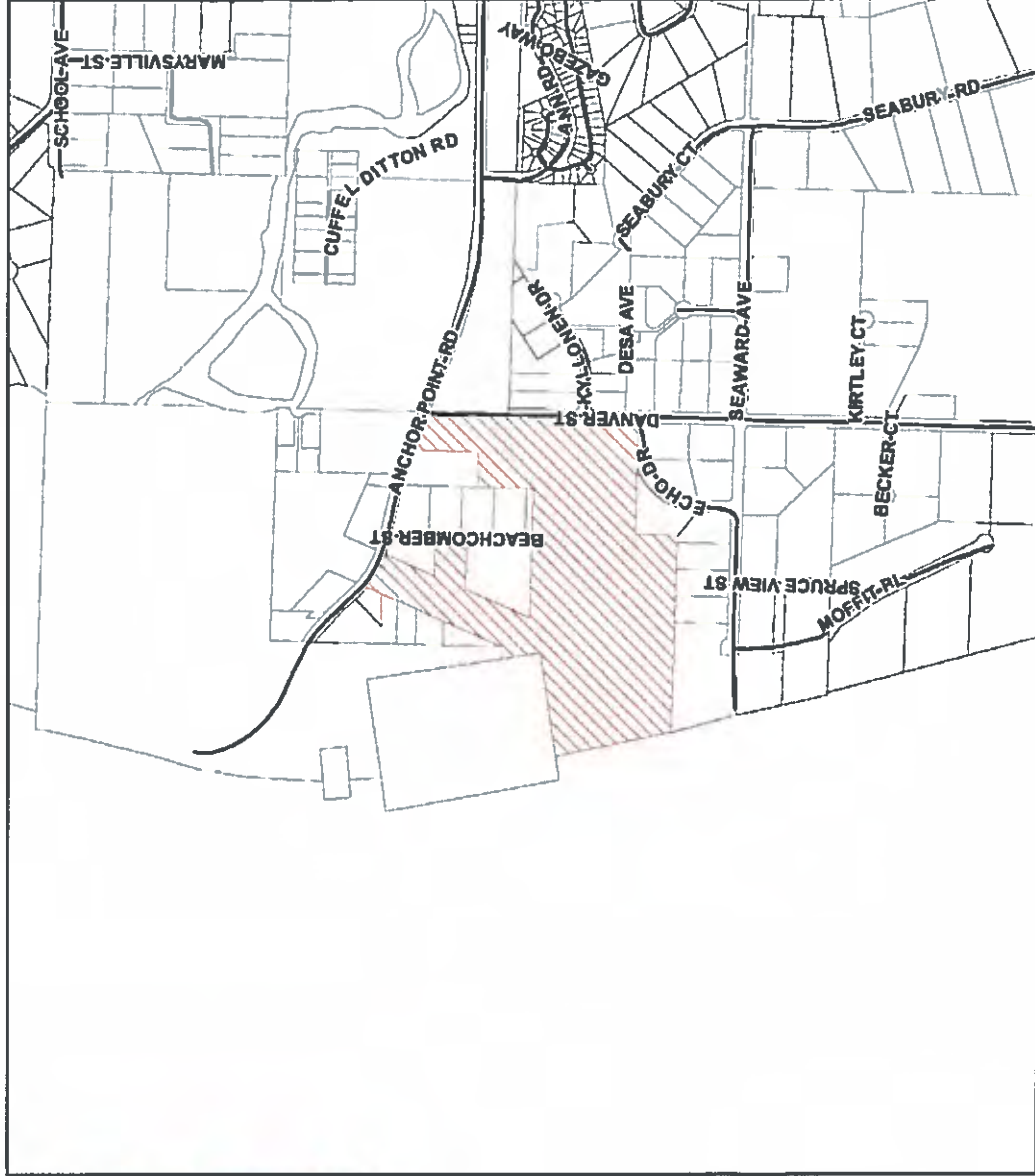


LEGEND

 **Subject Parcel**



Date: 6/21/2018
 The information depicted herein is a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



ABBREVIATED STAFF REPORT

PC MEETING: July 16, 2018

Applicant: Beachcomber LLC**Landowner:** Beachcomber LLC**Parcel Number:** 169-010-67**Legal Description:** Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.**Location:** 74185 Anchor Point Road

BACKGROUND INFORMATION: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

The submitted site plan indicates that the material site haul route will be Danver Street, which is a Borough maintained road. The site plan and application proposes the following buffers:

- North: 6-foot high berm except along the east 400 feet where a 50-foot vegetated buffer is proposed.
- South: 6-foot high berm.
- East: 6-foot high berm.
- West: Greater than 50-foot vegetated buffer.

The application indicates that the depth to groundwater is 18 feet and that the depth of the proposed excavation is 10 feet. The groundwater depth was determined by a test hole on the property and exposed surface water to the north. The site plan indicates that the processing area is 300 feet from the south and east property lines. It is greater than 300 feet from the west property line. A waiver is being requested from the north property line. The site plan indicates that the proposed processing area is located 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's daughter. The site plan indicates that there are several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area.

The application states that reclamation will be completed annually before the growing season ends (September) and that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust. The applicant estimates a life span of 15 years for the site with an approximate annual quantity of less than 50,000 cubic yards.

STAFF RECOMMENDATION

It is anticipated that staff will recommend that additional buffers be required in the southern portion of the site where a 6-foot berm may not be sufficient to provide visual and noise screening of the proposed use. It is anticipated, that with the additional buffer requirement, that the six standards contained in KPB 21.29.040 will be met and that staff will recommend that the Planning Commission approve the conditional land use permit with the conditions listed in the full staff report.

ADDITIONAL INFORMATION

The application and complete staff report, including staff recommended findings and conditions, will be available on the Planning Commission website a week prior to the meeting. For additional information or to obtain a copy of the application materials earlier, please call the planning department at (907) 714-2206, or 1-800-478-4441 (toll free within the Borough).

CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

OWNER/APPLICANT
BEACHCOMBER LLC
PO BOX 193
ANCHOR POINT, ALASKA 99556



LEGEND	
	RECORD MONUMENT
	PROPERTY CORNERS
	PROPOSED INGRESS/EGRESS
	WELL SETBACK
	INTERVISIBLE FLAGGING
	EXISTING TREE LINE
	PROPOSED BUFFER TREE LINE
	WETLAND
	APPROX. TESTHOLE LOCATION
	EXISTING FENCELINE

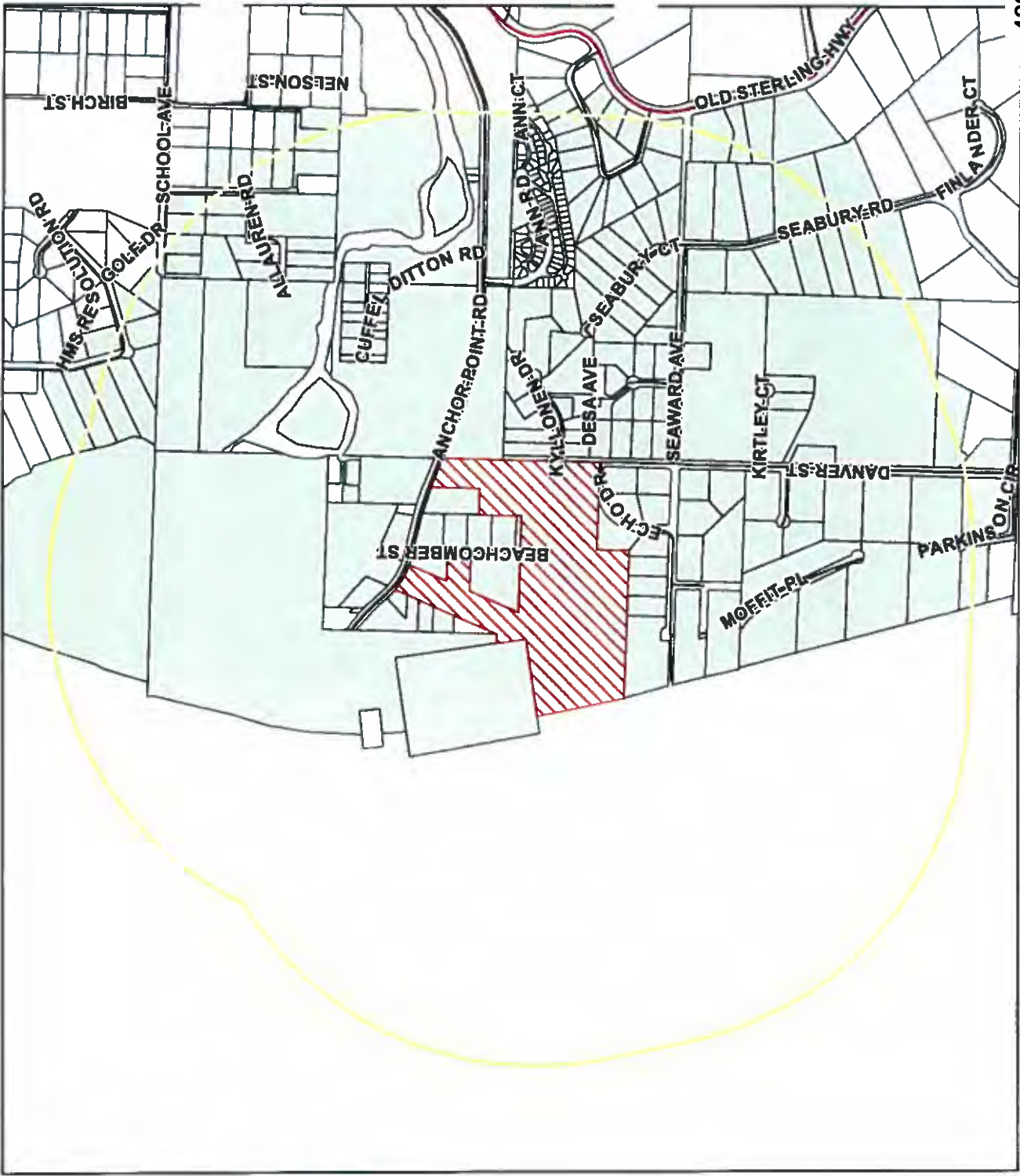


CLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS FOR PARCEL 16001067 TSS R15W SECTION 5 SEWARD MERIDIAN, MC GEE TRACTS DEED OF RECORD BOUNDARY SURVEY TRACT B
2. THE EASTERN PORTION OF THIS PARCEL IS UNDEVELOPED AND COVERED IN NATIVE VEGETATION AND GRASS FIELD.
3. THE EXISTING AND PROPOSED INGRESS/EGRESS IS TO DANVER STREET AND/OR SECTION LINE EASEMENT AS SHOWN.
4. THE PROPOSED BUFFERS ARE A COMBINATION OF 50' (OR GREATER) NATIVE VEGETATIVE BUFFERS AND 6' HIGH BERM.
5. WELLS WITHIN 100' AND/OR 300' OF THE EXCAVATION AREA ARE SHOWN HEREON. EXCAVATION BELOW WATER TABLE MAY BE PROPOSED AT A FUTURE TIME.
6. THERE IS MAPPED WETLAND AND SURFACE WATER, AS SHOWN, IN THE NORTHEAST CORNER OF THE PARCEL. PROPOSED EXCAVATION IS A MINIMUM OF 100' FROM WATERBODIES. THIS SURFACE WATER SETBACK WILL PROVIDE PROTECTION VIA PHYTOREMEDIATION OF ANY RUN-OFF PRIOR TO ENTERING THE SURFACE WATER.
7. GROUNDWATER IS ESTIMATED AT APPROXIMATELY 20' (AVERAGE) BELOW EXISTING GROUND IN PROPOSED EXCAVATION AREAS. THIS ESTIMATE IS FROM TEST HOLE EXCAVATED BY THE OWNER OR OTHER REPRESENTATIVES.
8. THE RECLAIMED AREA WILL BE GRADED AND RECONTOURED USING STRIPPINGS, OVERBURDEN AND TOPSOIL TO A CONDITION THAT ALLOWS FOR RE-ESTABLISHMENT OF NATURAL VEGETATION AND SLOPES STEEPER THAN 2:1 WILL BE SEED.
9. PROPOSED MATERIAL EXTRACTION INCLUDING STRIPPING WILL BE DONE IN INCREMENTALLY BEGINNING AT THE NORTHERN LIMITS, AS SHOWN, AND PROCEEDING SOUTHERLY AS MARKET FOR MATERIAL JUSTIFIES. THE CENTRAL AREA WILL BE MAINTAINED AS A PROCESSING AND STAGING AREA.
10. PROPOSED PROCESS AREA IS SHOWN. A PROCESS WAIVER WILL BE REQUESTED FOR SEPARATION TO THE NORTH PROPERTY LINE.
11. THE PROPERTY CORNERS, WITNESS CORNERS, OR SECTION LINE EASEMENT WAS LOCATED AND THE PARCEL BOUNDARY HAS BEEN FLAGGED AT VISIBLE INTERVALS AS SHOWN HEREON.
12. ALASKA DEC USER'S MANUAL, BEST MANAGEMENT PRACTICES FOR GRAVEL/ROCK AGGREGATE EXTRACTION PROJECTS PROTECTING SURFACE WATER AND GROUNDWATER QUALITY IN ALASKA, SEPTEMBER 2012 WILL BE UTILIZED AS A GUIDELINE TO REDUCE POTENTIAL IMPACTS TO WATER QUALITY

		BEACHCOMBER LLC ANCHOR POINT RD ROAD CONDITIONAL LAND USE PERMIT			
DATE	REV	DATE	REV	DATE	REV
10/27/2018	1	10/27/2018	1	10/27/2018	1
DESCRIPTION		DESCRIPTION		DESCRIPTION	
BY		BY		BY	
CHECKED BY		CHECKED BY		CHECKED BY	
SCALE 1" = 50'		SCALE 1" = 50'		SCALE 1" = 50'	
VERT SCALE 1" = 20'		VERT SCALE 1" = 20'		VERT SCALE 1" = 20'	
SHEET		SHEET		SHEET	
P1		P1		P1	

Parcel Number: 169-010-67
Applicant: Beachcomber LLC



LEGEND

- Notification Area
- Subject Parcel
- Parcels selection 2

0 640 1,280 Feet

Date: 6/21/2018

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

Wall, Bruce

From: Wall, Bruce
Sent: Tuesday, July 10, 2018 2:26 PM
To: 'susan@reevesamodio.com'
Subject: Beachcomber - Wetlands map
Attachments: 169-010-67_2018-07-09_Wetland_Map.pdf

Susan,

I am not aware of a wetlands delineation being done on this property. In my visits to the property I did not observe any additional areas that would be considered wetlands by casual observation.

Thanks,

Bruce Wall, AICP
Planner
208-369-0089

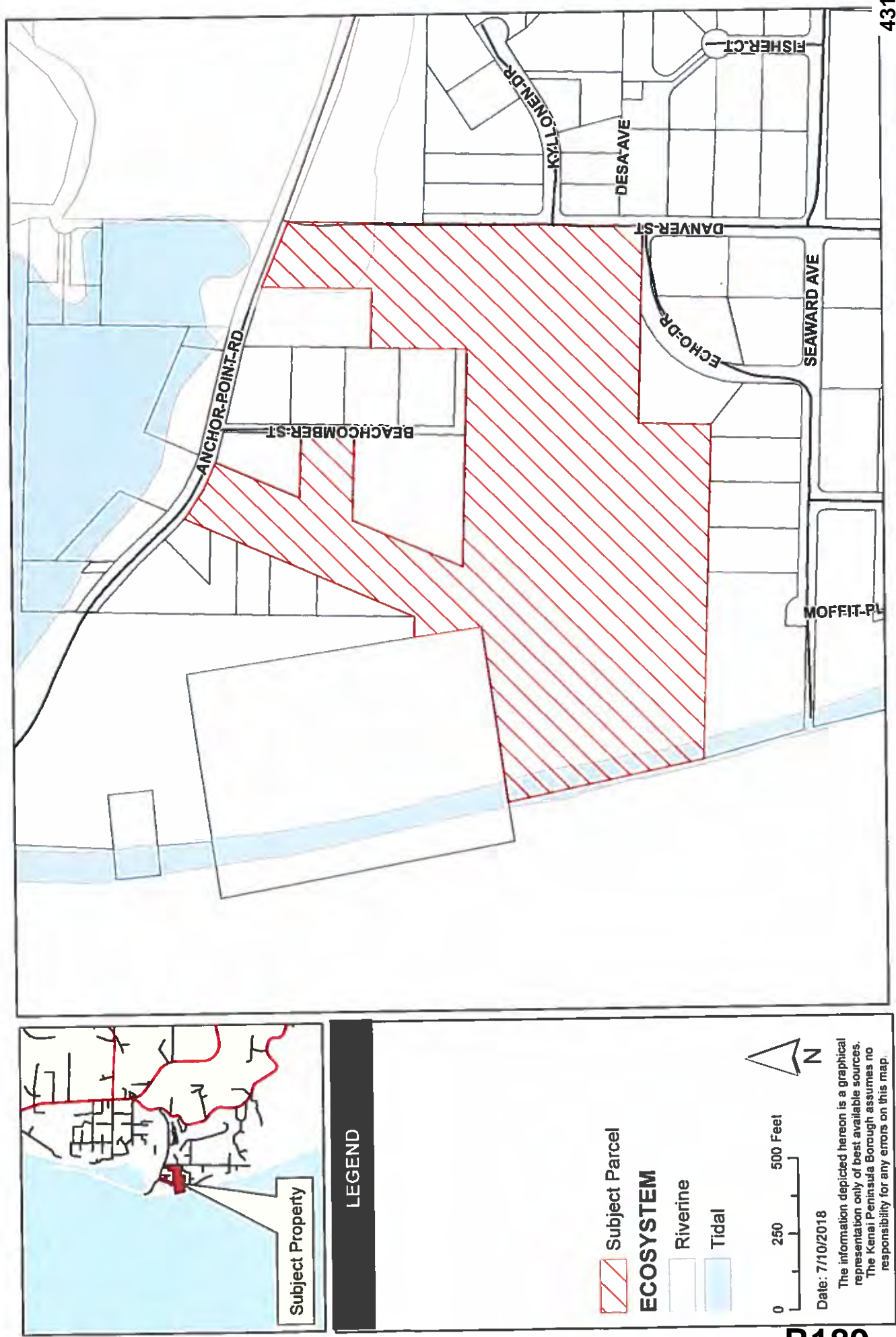
KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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

Kenai Peninsula Borough Planning Commission Meeting, July 16, 2018
Conditional Land Use Permit for a Material Site

Parcel Number: 169-010-67
Applicant: Beachcomber, LLC



Wall, Bruce

From: Wall, Bruce
Sent: Monday, July 9, 2018 9:11 AM
To: 'R. O. Baker II'
Subject: RE: Beachcomber staff report and related documents
Attachments: 169-010-67_2018-06-19_Notification_List.pdf

Bob,

An email notification was sent to the following:

Ninilchik Traditional Council

Alaska DEC
 Alaska DNR
 Alaska Mental Trust
 Alaska Fish and Game
 Alaska DOT&PF

US Fish & Wildlife
 US Army Corp of Engineers
 US Dept. of Labor

Kenai Peninsula School District
 KPB Anadromous Waters Protections District
 KPB Floodplain Manager
 KPB Coastal Zone Management
 KPB Roads
 KPB Code Compliance
 Other KPB Legal & Planning staff

CIRCAC AND CIRI were not notified. If they would like to be notified of future material site application in the Borough please have them get in touch with me.

If there are additional people at ADEC that would like to be notified of future material site application in the Borough please have them get in touch with me.

Thanks,
 Bruce

From: R. O. Baker II [mailto:bobkleen@acsalaska.net]
Sent: Monday, July 9, 2018 7:27 AM
To: Wall, Bruce <bwall@kpb.us>
Cc: mariedrinkhouse@yahoo.com
Subject: RE: Beachcomber staff report and related documents

Hi Bruce,

Firstly, I hope that you had a pleasant holiday week!

Secondly, I have forwarded your email below onto counsel.

Thirdly, as the week unfolds you will continue to hear from me. A request, please. Would you furnish a list of all of those individuals and entities to whom you had your office send the Notice of Public Hearing. For example, several residents did not receive same and, entities such as CIRCAC, ADEC, and CIRI are unaware of the notice.

I look forward to hearing from you

Yours,

Bob

Sent from [Mail](#) for Windows 10

From: [Wall, Bruce](#)

Sent: Friday, July 6, 2018 5:27 PM

Subject: FW: Beachcomber staff report and related documents

From: Wall, Bruce

Sent: Friday, July 6, 2018 4:22 PM

To: 'eldon.overson12@gmail.com' <eldon.overson12@gmail.com>; 'twoshar@acsalaska.net' <twoshar@acsalaska.net>; 'bobkleen@acsalask.net' <bobkleen@acsalask.net>; 'anndotcalm@gmail.com' <anndotcalm@gmail.com>

Subject: Beachcomber staff report and related documents

Bruce Wall, AICP

Planner

208-369-0089

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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Wall, Bruce

From: Wall, Bruce
Sent: Wednesday, June 27, 2018 1:51 PM
To: 'Hans'
Subject: RE: Question about a conditional land use permit??

Hans,

Thank you for your email. I became aware that he was extracting material from his property a year or two ago. Somebody else contacted me a couple of months ago concerned about the extraction on this property. I visited the site both times and have determined that he is not in violation of the Borough code. The Borough code exempts extraction that disturbs less than an acre from the requirements to obtain a permit. I spoke to Emmitt Trimble about this in the past and I will continue to keep an eye on the property before and after he obtains a permit.

Thanks,

Bruce Wall, AICP
 Planner
 208-369-0089

KENAI PENINSULA BOROUGH
 144 North Binkley Street
 Soldotna, Alaska 99669



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

From: Hans [mailto:catchalaska@gci.net]
Sent: Wednesday, June 27, 2018 12:41 PM
To: Wall, Bruce <bwall@kpb.us>
Subject: Question about a conditional land use permit??

Hi Bruce,

My name is Hans Bilben and I live at 35039 Danver Street in Anchor Point. I want to find out if Emmit Trimble (Beachcomber LLC) is in violation of Borough Code by selling gravel and transporting it from the parcel he owns on Danver Street. I believe he is! Emmit has applied for a CLUP on this parcel and the hearing will be held on July 16th. I would certainly hope that his blatant disregard of the rules (which has always been his standard operating procedure) will be taken into consideration when reviewing his application. The pictures I have attached were taken today, July 27. You can see that he has hauled several hundred yards of material from the site, and has been doing so for several months, as recently as yesterday. I would appreciate hearing back from you on this matter. Thanks, Hans





Wall, Bruce

From: Gina Debardelaben <ginadebar@mcclanecg.com>
Sent: Thursday, June 21, 2018 10:08 AM
To: Wall, Bruce; 'emmitttrimble@gmail.com'
Subject: RE: Beachcomber LLC

Bruce,

You can expect revised submittal today to address the surface water protection.

Other items:

1. North boundary – you already sorted.
2. The Borough mapping is not correct. I knew you would ask, so we went through the plats/easements/re-tracing before submittal.
3. Process waiver. Although it is a large parcel, the configuration has limited potential process area. The waiver is requested to the north as 169-022-04 is owned by the applicant's daughter & 169-02-208 is not developed.
4. South buffer. It seems like a berm is the best option due to the limited vegetation at the south boundary. We could propose a higher berm but I'm not sure that makes sense either.

Revisions to follow....if my phone quits ringing. (I start this email 2 hours ago)

Thanks

Gina

Gina M. DeBardelaben, PE
 Principle
 McLane Consulting, Inc.
 P.O. Box 468; Soldotna, Alaska 99669
 907-283-4218 office
 907-398-8143 cell

From: Wall, Bruce [mailto:bwall@kpb.us]
Sent: Thursday, June 21, 2018 8:58 AM
To: Gina Debardelaben <ginadebar@mcclanecg.com>
Subject: FW: Beachcomber LLC

Disregard this paragraph. Now that I looked at the plat ... it all makes sense to me.

I was unable to determine the north boundary along Anchor Point Road near Danver Street during my site visit. There were no stakes along Anchor Point Road except one on the south side of the road near the NW corner of that portion of the property, but it was marked as property line rather than property corner. There was also a stake on the north side of the road near the NE corner of the property but it did not appear to line up with the stakes along Danver Street and it was not labeled at all. I suspect that the Borough's mapping is incorrect in this case. Can you help me better understand the staking?

From: Wall, Bruce
Sent: Wednesday, June 20, 2018 3:23 PM
To: Gina Debardelaben; 'emmitttrimble@gmail.com'
Subject: Beachcomber LLC

Gina,

KPB 21.29.030(A)(8)(i) states that the site plan must include the following:

Surface water protection measures for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence; provide designs for substantial structures; indicate which structures will remain as permanent features at the conclusion of operations, if any;

I don't see this on the site plan. Am I overlooking something?

Parcel 169-022-08 is shown as abutting the subject parcel. The Borough's GIS shows it being separated by a portion of Parcel 169-022-04. Is the Borough mapping incorrect?

I was unable to determine the north boundary along Anchor Point Road near Denver Street during my site visit. There were no stakes along Anchor Point Road except one on the south side of the road near the NW corner of that portion of the property, but it was marked as *property line* rather than *property corner*. There was also a stake on the north side of the road near the NE corner of the property but it did not appear to line up with the stakes along Denver Street and it was not labeled at all. I suspect that the Borough's mapping is incorrect in this case. Can you help me better understand the staking?

The application is requesting a waiver of the 300-foot processing distance requirement. Because of recent feedback from the planning commission

I am undecided about how I will handle the request in my staff report.

The site plan and application proposes a 6-foot high berm along the south property line. However, some of the houses south of the property sit several feet higher than the subject property. It does not appear that the 6-foot high berms will provide sufficient visual and noise screening in some of these areas.

Thanks,

Bruce Wall, AICP
Planner
907-714-2206

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA, }
STATE OF ALASKA } SS:

Elizabeth A. Ulricksen being first duly sworn,
on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing/Homer News, a newspaper of general circulation and published at Homer, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

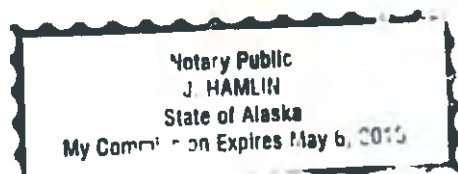
PHN: Beachcomber

July 5, 2018

X *Elizabeth A. Ulricksen*
SUBSCRIBED AND SWORN to me before
this 11 day of July, 2018.

NOTARY PUBLIC in favor for the State of
Alaska.

My commission expires May 6, 2019



KENAI PENINSULA BOROUGH PLANNING COMMISSION
NOTICE OF PUBLIC HEARING
Monday, July 16, 2018

Public notice is hereby given that a conditional land use permit application has been received for material extraction on a parcel in the Anchor Point area. The project under consideration are described as follows:
Applicant / Landowner: Beachcomber LLC, Parcel #: 168-010-67, Legal Description: Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District. Location: 74185 Anchor Point Road.

Proposed Land Use: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

KPB Code: Conditional land use permit applications for material extraction are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or at www.kpb.us.

Public Hearing: A hearing will be held by the KPB Planning Commission to consider the application on Monday, July 16, 2018, commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held in the assembly chambers of the borough administration building located at 144 N Binkley St, Soldotna.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99683. A statement addressed to the chairman may also be emailed to: bwel@kpb.us. Please provide written statements by Friday July 13, 2018. Any person, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

The application and staff report will be available on the Planning Commission website a week prior to the meeting. For additional information or to obtain a copy of the application materials earlier, please call the planning department at (907) 714-2206, or 1-800-478-4441 (toll free within the Borough).

Bruce Weil, AUCP
bwel@kpb.us
2180344
PUBLISHED: Homer News, July 5, 2018

PLNG



HOMER NEWS

Kenai Peninsula Borough
144 North Binkley Street
Soldotna, AK 99689

Invoice: 2160344

07/05/18	Legal - PHN Beachcomber	101.01
	EPntFee	2.50
	Affidavit	10.00
Total Due		\$113.51

RECEIVED

JUL 19 2018

KPB
FINANCE DEPT ACCOUNTING



Planning Department

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

Charlie Pierce
Borough Mayor

July 9, 2018

Postmaster
33790 Sterling Hwy
Anchor Point, AK 99556-9606

Enclosed is a notice for a public hearing. Kenai Peninsula Borough Ordinance (21.25.060) requires that notice of public hearings for Conditional Land Use Permits be posted in the post office of the impacted community.

Can you post this for me in the Anchor Point Post Office?

Thanks,

Bruce Wall, AICP
Planner
bwall@kpb.us



Planning Department

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

Charlie Pierce
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that a conditional land use permit application has been received for material extraction on a parcel in the **Anchor Point** area. This notice is being sent to landowners located within ½ mile of the subject properties. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Beachcomber LLC

Landowner: Beachcomber LLC

Parcel Number: 169-010-67

Legal Description: Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.

Location: 74185 Anchor Point Road

Proposed Land Use: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

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Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday, July 16, 2018**, commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting will be held in the assembly chambers of the borough administration building located at 144 N Binkley St, Soldotna.

Public Comment: Those wishing to comment may come to the above meeting to give testimony or may submit a written statement addressed to: Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. A statement addressed to the chairman may also be emailed to: bwall@kpb.us. Please provide written statements by Friday July 13, 2018. Aggrieved persons, who participate in the public hearing, either by written or oral statement, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

The application and staff report will be available on the Planning Commission website a week prior to the meeting. For additional information or to obtain a copy of the application materials earlier, please call the planning department at (907) 714-2206, or 1-800-478-4441 (toll free within the Borough).

Bruce Wall, AICP
Planner

Wall, Bruce

From: Wall, Bruce
Sent: Friday, July 6, 2018 9:34 AM
To: Hartley, Patricia
Subject: FW: KPB CLUP Material Site Application - Parcel 169-010-67
Attachments: 169-010-67_2018-07-06_Notice.pdf; 169-010-67_2018-07-03_Staff_report.pdf; 169-010-67_2018-06-21_Site_Plan.pdf; 169-010-67_2018-06-18_Application.pdf; 169-010-67_2018-06-21_Contour_Map.pdf; 169-010-67_2018-06-21_Land_Use_Map.pdf; 169-010-67_2018-06-21_Ownership_Map.pdf; 169-010-67_2018-06-21_Aerial_Map.pdf; 169-010-67_2018-07-03_Staff_report.doc

From: Wall, Bruce
Sent: Friday, July 6, 2018 9:34 AM
To: Best, Max <MBest@kpb.us>; Carver, Nancy <ncarver@kpb.us>; 'CEPOA-RD-KFO, POA' <CEPOA-RD-Kenai@usace.army.mil>; 'Chandler Long (chandler.long@alaska.gov)' <chandler.long@alaska.gov>; 'Charley Palmer (charley.palmer@alaska.gov)' <charley.palmer@alaska.gov>; 'Christopher Miller (chris.miller@alaska.gov)' <chris.miller@alaska.gov>; 'Clark Cox (clark.cox@alaska.gov)' <clark.cox@alaska.gov>; 'David May (DMay@kpbsd.k12.ak.us)' <DMay@kpbsd.k12.ak.us>; Dearlove, Tom <tdearlove@kpb.us>; 'Dustin Firestine (firestine.dustin@dol.gov)' <firestine.dustin@dol.gov>; Harris, Bryr <bharris@kpb.us>; 'Jeff Green (jeffrey.green@alaska.gov)' <jeffrey.green@alaska.gov>; 'Kyle Graham' <kyle_graham@fws.gov>; 'Malone, Patrick' <PMalone@borough.kenai.ak.us>; 'Mark Fink (mark.fink@alaska.gov)' <mark.fink@alaska.gov>; 'Michael Walton (michael.walton@alaska.gov)' <michael.walton@alaska.gov>; 'Montague, Holly' <HMont@borough.kenai.ak.us>; 'Mueller, Marcus' <MMueller@borough.kenai.ak.us>; 'Ninilchik Tribe (ntc@ninilchiktribe-nns.gov)' <ntc@ninilchiktribe-nns.gov>; Noyes, Karyn <KNoyes@kpb.us>; Shears, Jennifer <jshears@kpb.us>; 'Simpson, Danika L (DOT)' <danika.simpson@alaska.gov>
Cc: Gina Debardeleben <ginadebar@mclanecg.com>; 'emmitttrimble@gmail.com' <emmitttrimble@gmail.com>
Subject: KPB CLUP Material Site Application - Parcel 169-010-67

Please see the attached public notice, staff report, application, and associated documents for a conditional land use permit application.

Thanks,

Bruce Wall, AICP
 Planner
 208-369-0089

KENAI PENINSULA BOROUGH
 144 North Binkley Street
 Soldotna, Alaska 99669



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Members:

Best, Max
 Carver, Nancy
 CEPOA-RD-KFO, POA
 Chandler Long (chandler.long@alaska.gov)

Charley Palmer (charley.palmer@alaska.gov)

Christopher Miller (chris.miller@alaska.gov)

Clark Cox (clark.cox@alaska.gov)
 David May (DMay@kpbsd.k12.ak.us)
 Dearlove, Tom
 Dustin Firestine (firestine.dustin@dol.gov)

Harris, Bryr
 Jeff Green (jeffrey.green@alaska.gov)

KPB Road Service Area
 Kyle Graham
 Mark Fink (mark.fink@alaska.gov)
 Michael Walton (michael.walton@alaska.gov)

Montague, Holly
 Mueller, Marcus
 Ninilchik Tribe (ntc@ninilchiktribe-nsn.gov)

Noyes, Karyn
 Shears, Jennifer
 Simpson, Danika L (DOT)

MBest@kpb.us
 ncarver@borough.kenai.ak.us
 CEPOA-RD-Kenai@usace.army.mil

chandler.long@alaska.gov

charley.palmer@alaska.gov

chris.miller@alaska.gov
 clark.cox@alaska.gov
 DMay@kpbsd.k12.ak.us
 tdearlove@borough.kenai.ak.us

firestine.dustin@dol.gov
 bharris@kpb.us

jeffrey.green@alaska.gov
 roads@kpb.us
 kyle_graham@fws.gov
 mark.fink@alaska.gov

michael.walton@alaska.gov
 HMont@borough.kenai.ak.us
 MMueller@borough.kenai.ak.us

ntc@ninilchiktribe-nsn.gov
 KNoyes@kpb.us
 jshears@kpb.us
 danika.simpson@alaska.gov

Wall, Bruce

Contact Group Name:

Material Site Notice

First Name	Last Name	Company	Job Title	Business Street	Business City
Chandler	Long	Department of Natural Resources	Natural Resource Specialist II	Division of Mining, Land & Water-	Anchorage
Charley	Palmer	Environmental Conservation	Hydrologist III	555 Cordova St	Anchorage
Christopher	Miller	Environmental Conservation	Environ Program Spec IV	555 Cordova St	Anchorage
Clark	Cox	Alaska Dept of Natural Resources	Natural Resource Mgr II	550 W 7th Ave Ste 900c	Anchorage
Danika	Simpson	Alaska Dept of Transportation & PF	Right of Way Agent	PO Box 196900	Anchorage
David	May	Kenai Peninsula Borough School District	Planning and Operations Director		
Dustin	Firestine	U.S. Department of Labor			
Jeff	Green	Alaska Mental Health Trust Land Office	Southcentral Lands Manager	Mine Safety and Health 2600 Cordova Street, Suite 100	Anchorage Anchorage
Kyle	Graham				
Mark	Fink	Fish and Game	Habitat Biologist IV	333 Raspberry Road	Anchorage
Michael	Walton	Alaska Dept of Natural Resources Ninilchik Tribe	Natural Resource Mgr II	550 W 7th Ave Ste 1020 P.O. Box 39070	Anchorage Ninilchik

OWNER	ATTENTION	ADDRESS	CITYSTATEZIP
AARON BRIAN K		PO BOX 5511	CHINIAK, AK 99615
ABBOTT RYAN E		PO BOX 3479	CHAPEL HILL, NC 27515
AKEE BRITTNAY		PO BOX 514	ANCHOR POINT, AK 99556
ALASKA STATE D N R		550 W 7TH AVE STE 650	ANCHORAGE, AK 99501
ALASKA STATE PARKS DIVISION		550 W 7TH AVE STE 1380	ANCHORAGE, AK 99501
ALEXANDER THOMAS		785 CASCADE CT	PALMER, AK 99645
ALLEN DANIEL J		PO BOX 1463	ANCHOR POINT, AK 99556
ALLEN LEE D & CHARLOTTE A		9101 E MILE 6 RD	PALMER, AK 99645
ANCHOR RIVER RV LLC	DAVID DRIGGERS	PO BOX 745	ANCHOR POINT, AK 99556
ANDERSON MELISSA L & JOHN S Jr		PO BOX 1466	ANCHOR POINT, AK 99556
AURORA SMC INC	STEVEN & MICHELLE CROUSEY	1960 E AGUA VIEW RD	MOHAVE VALLEY, AZ 86440
BAIR FRED D		1227 ALDER AVE TRLR 44	LEWISTON, ID 83501
BAKER R O II REVOCABLE TRUST	ROBERT O BAKER II TRUSTEE	PO BOX 870	ANCHOR POINT, AK 99556
BALLAND D THOMAS		66437 OUT THERE AVE	ANCHOR POINT, AK 99556
BANKS JEAN L		PO BOX 127	ANCHOR POINT, AK 99556
BARNETT MARY JO		PO BOX 2782	HOMER, AK 99603
BARTLETT DOUGLAS C		PO BOX 670162	CHUGIAK, AK 99567
BARTLEY INVESTMENTS LLC		PO BOX 147	EUREKA, NV 89316
BEACHCOMBER LLC		PO BOX 150	ANCHOR POINT, AK 99556
BEASLEY ALAN		PO BOX 311	ANCHOR POINT, AK 99556
BELLAMY LEHUA NANI M		3801 JAMES DR	ANCHORAGE, AK 99504
BERKBIGLER WILLIAM J		2313 W TUDOR RD	ANCHORAGE, AK 99517
BILBEN HANS & JEANNE		PO BOX 1176	ANCHOR POINT, AK 99556
BLAIR GERALD A TRUST		PO BOX 978	ANCHOR POINT, AK 99556
BLISS GORDON A & ELIZABETH A		3415 HOLLYWOOD AVE	MEDFORD, OR 97501
BLOCK 16 LLC		395 E SUNSET RD	LAS VEGAS, NV 89119
BODDE BRAD & MARY		25245 CRYSTAL CREEK DR	EAGLE RIVER, AK 99577
BRANTLEY MICHAEL JOHN LIVING TRUST		7764 BOUNDARY AVE	ANCHORAGE, AK 99504
BRATCHER EDITH BERNICE		6214 BIG HOUSE RD	BLACKSHEAR, GA 31516
BREESE DONALD N		35090 OLD STERLING HWY	ANCHOR POINT, AK 99556
BREZINA STEPHEN D		12012 SWEETWATER CIR UNIT B	EAGLE RIVER, AK 99577
BRINCKERHOFF SCOTT & DONNA E		269 PLAINS RD	HADDAM, CT 06438
BRNA PHILIP J		5601 E 98TH AVE	ANCHORAGE, AK 99507
BROOK THOMAS J		PO BOX 39004	NINILCHIK, AK 99639
CANNON JAMES E		PO BOX 886	ANCHOR POINT, AK 99556
CARLSON STANLEY D & BECKY ANN		4002 E SUMAC DR	SPOKANE, WA 99223
CARLTON RICHARD D		722 W 45TH AVE	KENNEWICK, WA 99337
CARTER HAROLD J		3492 LARK RDG	WAYCROSS, GA 31503
CATHEY SHYAN		PO BOX 1066	ANCHOR POINT, AK 99556
CATLIN DEANNA C		PO BOX 34	ANCHOR POINT, AK 99556
CHICARELL DONALD L & EDNA M		211 RHODODENDRON DR	SEQUIM, WA 98382
CLINE ANN G AND RICHARD L LEGACY TRUST		61 TRILLIUM TRL	UNDERWOOD, WA 98651
CNUDE MATTHEW		10046 W RHETT ST	BOISE, ID 83709
COBURN JAMES		1112 COLONIAL DR	KENAI, AK 99611
COMBS ROGER		2560 FRUITVALE GLENDALE RD	FRUITVALE, ID 83612
COX CHARLES B		905 RICHARDSON VISTA RD APT 37	ANCHORAGE, AK 99501
CULLIP GARY L & SANDRA L		1523 SW 58TH LN	CAPE CORAL, FL 33914
C-VIEW CABINS LLC		38797 FRITZ CREEK VALLEY DR	HOMER, AK 99603
DEAL THOMAS W		1200 W DIMOND BLVD SPC 905	ANCHORAGE, AK 99515
DESTEXHE ELEONORE	22 PLUVIER LANN	1933 STERREBEEK	BELGIUM
DITTON ROBERT L & CHARLENE R		PO BOX 601	HOMER, AK 99603
DRINKHOUSE MARIE L		5949 S HAYFIELD RD	WASILLA, AK 99623
DUKE PHILIP B & TOMOKO		19809 EAGLE RIVER RD	EAGLE RIVER, AK 99577
DUNCAN BRYAN & CAVALIER NICOLE		PO BOX 1436	ANCHOR POINT, AK 99556
DUNCAN CHARLES M LIVING TRUST		911 JAYME CT	ANCHORAGE, AK 99518
DURAN BILLIE F & LANE FRED H		PO BOX 1417	ANCHOR POINT, AK 99556
EDELEN H C		13840 HIGHWAY PP	NEW HARTFORD, MO 63359
EHMEN JARED		1926 MAPLEWOOD DR	CEDAR FALLS, IA 50613
ELLISON JEFFREY S		PO BOX 569	ANCHOR POINT, AK 99556
ELMALEH JOSHUA L		PO BOX 542	ANCHOR POINT, AK 99556
ENGLISHBEE VIRGIL W LIVING TRUST		PO BOX 201	ANCHOR POINT, AK 99556
FAULK SAMANTHA		12641 FOSTER RD	ANCHORAGE, AK 99516
FINNEY PAUL G & SUANNE Y		1588 HILLSIDE PL	HOMER, AK 99603
FIRTH BENJAMIN A		1802 GOLF COURSE RD	LITTLETON, NC 27850

FLEMING LEON R
FOUSEL SKIP
FUGITT DEBORAH
GIRTON JOHN & BARBARA
GO FOR IT
GORDON GARY & PAMELA
GORMAN FAMILY TRUST
GORMAN MICHAEL LEE
GREGOR FORREST E & WILMA J
GREGORY DAVID DEAN
Gregory Krier
HABER MCKENZY SAGE
HALEY KATHLEEN
HART STEVEN E
HARTVIGSEN RICHARD M
HENDERSHOT SANDY
HENDRIKS JERRY L & RITA D
HERBST BRIAN
HERBST GREGORY J
HERRICK JOHN B & JOAN A COMMUNITY PROPERTY TRUST
HIBBERT KIM
HIBBERT KIM O
HOLMES NATHAN W J
HORTON DONALD LEE Jr
HOUGLUM HOWARD & ELIZABETH
HOUGLUM JOHN
HOZA ANTHONY J FAMILY TRUST
ISELL CAROLYN YORK
ISENHOUR LAUREN
JENKINS GINGER N
JENSEN JAY F
JERMAIN JANE B
JOHNSON EDWIN D & DENISE
JOHNSON JANET R
JORGENSEN JUDY LOUISE
JOSLYN SEAN A
KEEFER DONALD C & VICKI T
KENAI PENINSULA BOROUGH
KENAI TRUST
KLOBERDANZ THOMAS W
KOCH DOUGLAS A & VALERIE D
KYLONEN H V
LANZ STEPHEN H
LARSON ERIC & MONICA
LAWRENCE KATHY M
LEIGHTY ROBIN L & JONES MICHAEL A
LEWIS DARRELL L & CAROLYN FRANCES
MADSEN MARCY
MANSEER HOWARD TRUST
MAPSTON DAVID AND LADONNA LIVING TRUST
MARKS DALE L & CHARLENE L
MARSH MICHAEL J & LILY A
MATTER BERNADINE R
MAXWELL BRIAN MONTGOMERY LIVING TRUST
MCCURLEY FRANK J Jr
MCGAW HELEN G
MCVEE CURTIS V REVOCABLE TRUST DECLARATION
MEADS ALFRED TRUST
MIKESSELL JAMES DAVID
MILLARD DANIEL C
MILLER ROBERT E
MISHLER LINDA J
MORINO PAUL
MUNSELL GEORGE R III & CYNTHIA J
MYERS BRANDON

Vickey Hodnik

DIANNE JENNINGS-TRUSTEE

C/O KYLLONEN ENTERPRISES

BRIAN MAXWELL

13943 W KNIGHTS DR
860 W PLACITA DOS LOMAS
PO BOX 1454
PO BOX 869
33881 STERLING HWY
PO BOX 876130
PO BOX 1239
4 TOOMEY CIR
PO BOX 169
PO BOX 904
PO Box 1836
PO BOX 2429
PO BOX 1194
4008 W LANE AVE
2339 N 1000 E
1508 BUMBLEBEE AVE
PO BOX 709
959 MILAM HEIGHTS RD
244 COATES RD
PO BOX 87
13020 GALVESTON CIR
2940 WESTWIND CT
10 DORMAN RD
221 ELLEN CIR
PO BOX 1379
PO BOX 1336
PO BOX 1177
2333 TIMOTHY DR
PO BOX 317
3126 W 80TH AVE
PO BOX 447
PO BOX 292
PO BOX 3244
4915 NE TOLO RD
PO BOX 1352
PO BOX 34492
12231 KINLIEN CIR
144 N BINKLEY ST
~~PO BOX 895~~
PO BOX 330
PO BOX 554
PO BOX 49
3531 W 80TH AVE
2208 LINCOLN AVE
PO BOX 403
PO BOX 91865
18231 SANCTUARY DR
PO BOX 1104
PO BOX 1091
13900 MULLIGAN RD
PO BOX 875035
1564 CACHE DR
140 CARLSON PKWY APT 220
1001 S ANDERSON ST
12531 TURKS TURN ST
PO BOX 1286
1601 BAYLOR WAY
170 PETTIS RD
PO BOX 772
2266 PANORAMA WAY W
PO BOX 7088
PO BOX 2193
7360 WHITE HAWK DR
PO BOX 596
371 OBANNON AVE

WASILLA, AK 99623
TUCSON, AZ 85704
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
STERLING, AK 99672
WASILLA, AK 99687
ANCHOR POINT, AK 99556
BURLINGTON, MA 01803
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
HOMER, AK 99603
HOMER, AK 99603
STERLING, AK 99672
PHOENIX, AZ 85051
LEHI, UT 84043
KENAI, AK 99611
ANCHOR POINT, AK 99556
WATERLOO, SC 29384
INMAN, SC 29349
ANCHOR POINT, AK 99556
ANCHORAGE, AK 99516
ANCHORAGE, AK 99516
CAMPOBELLO, SC 29322
ANCHORAGE, AK 99515
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
HOMER, AK 99603
COOKEVILLE, TN 38506
ANCHOR POINT, AK 99556
ANCHORAGE, AK 99502
PAULDEN, AZ 86334
INDEX, WA 98256
SEWARD, AK 99664
BAINBRIDGE ISLAND, WA 98110
ANCHOR POINT, AK 99556
JUNEAU, AK 99803
ANCHORAGE, AK 99516
SOLDOTNA, AK 99669
~~MINDEN, NV 89423-0895~~
WAPITI, WY 82450
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
ANCHORAGE, AK 99502
ANCHORAGE, AK 99517
HEALY, AK 99743
ANCHORAGE, AK 99509
EAGLE RIVER, AK 99577
ANCHOR POINT, AK 99556
ANCHOR POINT, AK 99556
ANCHORAGE, AK 99516
WASILLA, AK 99687
ANCHORAGE, AK 99507
MINNETONKA, MN 55305
TACOMA, WA 98405
ANCHORAGE, AK 99516
HOMER, AK 99603
ANCHORAGE, AK 99508
ANCHORAGE, AK 99515
ANCHOR POINT, AK 99556
GUNTERSVILLE, AL 35976
OCEAN VIEW, HI 96737
HOMER, AK 99603
ANCHORAGE, AK 99507
ANCHOR POINT, AK 99556
NEWARK, OH 43055

NELSON ROBERT W & KERRY E
 NORCROSS JAMES H II
 OLIVER LAWRENCE R
 ORCUTT BETTE L
 ORCUTT STEPHEN
 OSBORNE DONALD G & VIVIAN A
 OVERSON ELDON
 PALAKOVICH JOHN N
 PARKER MICHAEL H
 PARKINSON STANLEY KIRT Jr
 PATRICK WILLIAM M & LINDA M
 PETERSON FRANK R
 PETRIE JOAN A
 POINDEXTER DUSTIN
 POLLOCK JOHN MARK
 PRITCHARD CHARLES E & REBECCA A
 REID JIM & SUSAN
 RELAXING TRUST
 REYES RAMON VICENTE
 RICHARDSON WILLIAM CLAIRE
 RICHTER FRANCIS J
 ROLAND ANGELA
 SCHLOTT ALFRED O Jr
 SCHMIDT KATHERINE A
 SEAWARD DAVID CHULE
 SGLK LIVING TRUST
 SHAFER RONALD A & CHARLOTTE M
 SHERIDAN GARY L & EILEEN D
 SHOWALTER GLEN
 SILVER KING CAMP ASSOCIATION
 SIMONDSER ERIC
 SLATER CAROL A
 SLUSHER TERRY L
 SMITH CHAD
 SMITH FRANK R & KAZUKO
 SPARKMAN JOSEPH J & DENISE
 STAMPS DOUGLAS
 STAREGOWSKI VINCENT F Jr
 STERLING TRUST CO CUSTODIAN FBO MICHAEL J TONER
 STRONG KIMBERLY L & JOHNSON ERIC W
 SWICK KENNETH A Jr
 SWISHER BRIAN
 SYME DANIEL R
 TALLMAN PAUL
 TESAR DAVID J & BONITA G
 THOMPSON KRETA JO
 THOMPSON RUTH E
 THOMPSON STEVEN P
 THOMSON JOHN J & LAURA E
 TIGERT ALLEN
 TOURANGEAU WAYNE
 TRIMBLE EMMITT & MARY JOINT REVOCABLE TRUST
 TRUITT JOHN W
 TUSTIN CLARK PAGE
 UDELHOVEN JAMES
 UNITED STATES BLM
 UYEMA STANLEY K & MARY N
 VANHAUWAERT MARC
 VARNER ALLEN J & UNSOON
 VINCENT MICHAEL T & TAMI D
 VROMAN ROBERT H REVOCABLE TRUST
 WARREN WILLIAM F
 WARTBURG MICHAEL G
 WASLER ANN M & PETERSON ROY S
 WASLER ANN M & STACIE A

22 PLUVIER LANN

PO BOX 205
 PO BOX 3676
 PO BOX 1444
 PO BOX 39243
 PO BOX 39222
 7009 WARFIELD PL
 PO BOX 1318
 622 MAIN ST
 PO BOX 201407
 PO BOX 1446
 PO BOX 335
 29492 RIDGE RD
 11438 UPPER SUNNY CIR
 PO BOX 1163
 535 MOREMEN RD
 10750 COUNTY ROAD 204
 PO BOX 85
 17255 E RELAXING RD
 PO BOX 1418
 PO BOX 1325
 PO BOX 532
 4014 BEN WALTERS LN APT C6
 PO BOX 98
 PO BOX 39273
 912 E 6TH AVE
 13701 ERVIN RD
 24044 ALPENGLOW DR
 PO BOX 661
 PO BOX 7
 PO BOX 242491
 PO BOX 1186
 1143 BAINBRIDGE BLVD
 40 ANTLER CT
 49 JESSE CT
 2067 CRATAEGUS AVE
 PO BOX 767
 420 SCORPIO CIR
 3705 ARTIC BLVD
 2309 GREEN MEADOWS WAY
 8521 FLAMINGO DR
 PO BOX 112
 PO BOX 24
 PO BOX 1457
 1211 KAHIKOA RD
 PO BOX 871567
 111 PAULA ST
 3742 W 79TH AVE
 PO BOX 310
 1618 W PARK AVE
 1192 GLEN ASPEN DR
 PO BOX 197
 PO BOX 193
 1430 DAHLIA ST
 PO BOX 1083
 PO BOX 126
 222 W 7TH AVE STOP 13
 1623 KALAUPO ST
 1933 5TERREBEEK
 12051 FORELANDS CIR
 52901 HOYT LN
 PO BOX 466
 PO BOX 906
 PO BOX 849
 6983 E SHORECREST DR
 6983 E SHORECREST DR

KASILOF, AK 99610
 HOMER, AK 99603
 ANCHOR POINT, AK 99556
 NINILCHIK, AK 99639
 NINILCHIK, AK 99639
 ANCHORAGE, AK 99502
 ANCHOR POINT, AK 99556
 ANACONDA, MT 59711
 ANCHORAGE, AK 99520
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 SAN JUAN CAPISTRANO, CA 92675
 EAGLE RIVER, AK 99577
 ANCHOR POINT, AK 99556
 BRANDENBURG, KY 40108
 DE BEQUE, CO 81630
 EVERGLADES CITY, FL 34139
 PALMER, AK 99645
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 HOMER, AK 99603
 SELDOVIA, AK 99663
 NINILCHIK, AK 99639
 ANCHORAGE, AK 99501
 ANCHORAGE, AK 99516
 EAGLE RIVER, AK 99577
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 ANCHORAGE, AK 99524
 ANCHOR POINT, AK 99556
 FAIRBANKS, AK 99701
 SEQUIM, WA 98382
 TAYLORS, SC 29687
 ANCHORAGE, AK 99508
 ANCHOR POINT, AK 99556
 ANCHORAGE, AK 99508
 ANCHORAGE, AK 99503
 ASHLAND, OR 97520
 ANCHORAGE, AK 99502
 SELDOVIA, AK 99663
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 HAIKU, HI 96708
 WASILLA, AK 99687
 KENAI, AK 99611
 ANCHORAGE, AK 99502
 ANCHOR POINT, AK 99556
 ANACONDA, MT 59711
 BELLEVUE, ID 83313
 ANCHOR POINT, AK 99556
 ANCHOR POINT, AK 99556
 DENVER, CO 80220
 ANCHOR POINT, AK 99556
 KASILOF, AK 99610
 ANCHORAGE, AK 99513
 PEARL CITY, HI 96782
 BELGIUM
 ANCHORAGE, AK 99515
 KENAI, AK 99611
 PALMER, AK 99645
 KENAI, AK 99611
 ANCHOR POINT, AK 99556
 ANAHEIM, CA 92807
 ANAHEIM, CA 92807

WEISEL KEVIN
WELSH ALAN
WHITMORE NATHAN LYNN
WIERSUM KIM
WILLIAMS DEBORAH A
WILSON RONALD GARY & THOMAS ROBERT STERLING
YALE MARK M
YOUNG ROBERT D & TRUDY M

785 MOSQUITO LN SW
13020 FOSTER RD
PO BOX 355
2808 244TH AVE SE
3041 RIVERWOOD DR
9902 PACIFIC AVE
74140 SEAWARD AVE
1120 HUFFMAN RD STE 24

ALEXANDRIA, MN 56308
ANCHORAGE, AK 99516
ANCHOR POINT, AK 99556
SAMMAMISH, WA 98075
JUNEAU, AK 99801
ANAHEIM, CA 92804
ANCHOR POINT, AK 99556
ANCHORAGE, AK 99515

Wall, Bruce

From: Wall, Bruce
Sent: Monday, July 30, 2018 10:02 AM
To: 'markyale2001@yahoo.com'
Subject: NOD
Attachments: Yale from 169-010-67_2018-07-24_Merged_Notice_of_Decision.pdf

I have updated your contact information to PO Box 429. The Borough clerk will mail your notice of appeal to the updated address.

Thanks,

Bruce Wall, AICP
Planner
208-369-0089

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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

Wall, Bruce

From: Wall, Bruce
Sent: Monday, July 30, 2018 12:59 PM
To: 'homerdental@homernet.net'
Subject: NOD
Attachments: Hodnik 169-010-67_2018-07-24_Merged_Notice_of_Decision.pdf

This mailing was returned. Future correspondence on this matter will be sent to your PO box in Homer.

Bruce Wall, AICP
Planner
208-369-0089

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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

Wall, Bruce

From: Wall, Bruce
Sent: Monday, July 30, 2018 1:04 PM
To: 'Biocharalaska@gmail.com'
Subject: NOD address
Attachments: Kinneen 169-010-67_2018-07-24_Merged_Notice_of_Decision-2.pdf

Pete,

Please supply me with your mailing address. This notice was returned as undeliverable.

Thanks,

Bruce Wall, AICP
Planner
208-369-0089

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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

Wall, Bruce

From: Wall, Bruce
Sent: Monday, July 30, 2018 1:24 PM
To: 'shirleytdx@yahoo.com'
Subject: NOD
Attachments: Gruber 169-010-67_2018-07-24_Merged_Notice_of_Decision-3.pdf

This was returned to us as undeliverable. Please provide me with your email address for future correspondence on this matter.

Thanks,

Bruce Wall, AICP
Planner
208-369-0089

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



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



KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 99669-7520

July 24, 2018

SPARKMAN JOSEPH J & DENISE
73884 SEAWARD AVE
ANCHOR POINT, AK 99556

99669-7520



RECEIVED
JUL 30 2018
KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

NIXIE 995 DE 1 0007/27/18
RETURN TO SENDER
NO MAIL RECEIPTABLE
UNABLE TO FORWARD
BC: 99669752044 *1989-06154-25-01



KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 99669-7520

July 24, 2018

DAN & CATHY MILLARD
35060 DAVNER ST
ANCHOR POINT, AK 99556

99669-7520



RECEIVED
JUL 30 2018
KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

NIXIE 995 DE 1 0007/27/18
RETURN TO SENDER
NO MAIL RECEIPTABLE
UNABLE TO FORWARD
BC: 99669752044 *1989-06169-25-01



KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 99669-7520

July 24, 2018

TODD BAREMAN
74294 ANCHOR POINT RD
ANCHOR POINT, AK 99556

99669-7520
99669-7520



KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 99669-7520

July 24, 2018

SHIRLEY GRUBER
73510 TWIN PEAKS LP
ANCHOR POINT, AK 99556

99669-7520
99669-7520



ZIP 99669 \$ 000.47⁰
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0001361487 JUL 24 2018

RECEIVED

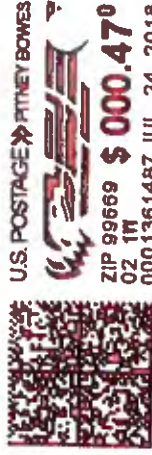
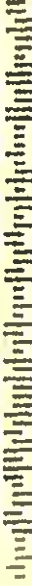
JUL 30 2018

KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

NIXIE 993 DE 1 0007/27/18

RETURN TO SENDER
NO MAIL RECEIPTABLE
UNABLE TO FORWARD

BC: 99669752044 *1989-06135-25-01



ZIP 99669 \$ 000.47⁰
02 1W
0001361487 JUL 24 2018

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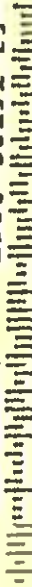
JUL 30 2018

KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

NIXIE 993 DE 1 0007/27/18

RETURN TO SENDER
NO MAIL RECEIPTABLE
UNABLE TO FORWARD

BC: 99669752044 *1989-06151-25-01





July 24, 2018

PETE KINNEEN
34969 DANVER ST
ANCHOR POINT, AK 99556

U.S. POSTAGE  PITNEY BOWES

ZIP 99669 \$ 000.470
02 1W
0001361487 JUL 24 2018



393 DE I 9987/27118

NO MAIL
RETURN
TO SEPTEMBER
TO RECAPTULE
TO FORWARD

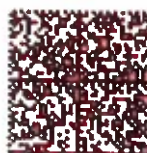
BC: 966975204 #1989-06134-25-01

996697520



July 24, 2018

YALE MARK & LEE
74140 SEAWARD AVE
ANCHOR POINT, AK 99556

U.S. POSTAGE  PITNEY BOWES

ZIP 99669 \$ 000.47°
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WIESE DE 1 0307/27/26

RETURN TO SENDER
UNABLE TO
RECEIVE
TO SEPTEMBER

BC: 9966975204 *1989-06159-25-01

996692520



KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 99689-7520

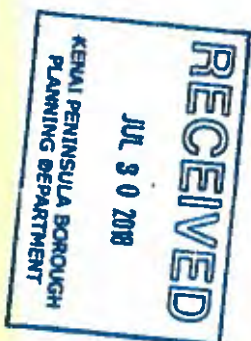
July 24, 2018

VICKEY HODNIK
35031 MOFFIT LN
ANCHOR POINT, AK 99556

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U.S. POSTAGE® METER BONES
ZIP 99669 \$000.470
02 1M
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NIXIE 995 DE 1 0007/27/18

RETURN TO SENDER
NO MAIL RECEIPT
UNABLE TO FORWARD

BC: 99669752044 *1989-06166-25-01
99669752044

AK 995
22 JUN 2018
PM 11



JUL - 2 2018

KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

**YALE MARK M
74140 SEAWARD AVE
ANCHOR POINT, AK 99556**

95669-7520

RETURN TO SENDER
NO MAIL RECEIPT
UNABLE TO FORWARD

BC: 99669752044 *1620-01630-22-39

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KENAI PENINSULA BOROUGH
144 N. BINKLEY ST. • SOLDOTNA, ALASKA • 98868-7520

ANCHORAGE
AK 995
22 JUN 2018
FM 11



RECEIVED

JUL - 2 2018

**KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT**

JORGENSEN JUDY LOUISE
PO BOX 1352
ANCHOR POINT, AK 99556

99669-7528

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RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 99669752044 *1620-02077-22-39

[illegible]

Wall, Bruce

From: Steve Thompson <stevethompson1961@yahoo.com>
Sent: Saturday, July 7, 2018 9:07 PM
To: Wall, Bruce
Subject: Proposed gravel pit , Anchor Point

Dear Mr. Walls , This letter to you is to let you know that I am against the proposed gravel pit , just off Danver street in the Anchor Point area. This gravel pit will ruin what is currently a beautiful view of the inlet and the land leading up to the beach. It is also in close proximity to the river as well as the beach. The noise and dust this pit will create would not be too pleasant. This is primarily a residential area , and I would think that this land would be put to better use as future homesites. I've seen some of the other gravel pits on the peninsula and most of them aren't located right in the middle of residential area's. I am currently out at work and am not scheduled to be off until the 19th. So , unfortunately can't attend the meeting.

sincerely yours: Steve Thompson (resident)@34900 Danver St. Anchor Point , Alaska 99556
Ph#907-306-6690 work#907-754-6016

Omitted from the Planning Commission Packet

PLANNING COMMISSION

MINUTES

JULY 16, 2018

KENAI PENINSULA BOROUGH PLANNING COMMISSION
ASSEMBLY CHAMBERS
GEORGE A. NAVARRE ADMINISTRATION BUILDING
144 NORTH BINKLEY STREET
SOLDOTNA, ALASKA 99669

July 16, 2018 - 7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

Chairman Martin called the meeting to order at 7:54 p.m.

AGENDA ITEM B. ROLL CALL

Commissioners Present

Syverine Abrahamson-Bentz, Ninilchik / Anchor Point
Paulette Bokenko-Carluccio, City of Seldovia
Cindy Ecklund, City of Seward
Diane Fikes, City of Kenai
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Clam Gulch / Kasilof
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

With 9 members of a 13-member Commission in attendance, a quorum was present.

Staff Present

Max Best, Planning Director
Patti Hartley, Administrative Assistant
Scott Huff, Platting Manager
Holly Montague, Deputy Borough Attorney
Jordan Reif, Platting Technician
Bruce Wall, Planner

Others Present

Xochitl Lopez-Ayala
Todd Bareman
Hans & Jeanne Bilben
Gerald Blair
Walt Blauvelt, Axtel Enterprises
Michael Brantley
Phil Brna
Tammy Buss
Richard Carlton
Robert Corbisier, Attorney, Reeves Amodio, LLC
Gary Cullip
Gina DeBardelaben, McLane Consulting, Inc.
Josh Elmaleh
Kate Finn
John Girton
James Gorman
David Gregory
Steve Haber
Don Horton (Father)

Don Horton (Son)
 Lauren Isenhour
 Pete Kinneen
 Rick Oliver
 Eldon Overson
 William Michael & Linda Patrick
 Jim & Susan Reid
 Bob Shavelson, Cook Inletkeeper
 Eileen Sheridan
 Emmitt Trimble, Beachcomber, LLC
 Josh Updike, Peninsula Paving, LLC

AGENDA ITEM F. **PUBLIC HEARING**

4. Conditional Land Use Permit for a Material Site; Anchor Point Area

Staff Report given by Bruce Wall

PC MEETING: July 16, 2018

Applicant: Beachcomber LLC

Landowner: Beachcomber LLC

Parcel Number: 169-010-67

Legal Description: Tract B, McGee Tracts - Deed of Record Boundary Survey (Plat 80-104) - Deed recorded in Book 4, Page 116, Homer Recording District.

Location: 74185 Anchor Point Road

BACKGROUND INFORMATION: The applicant wishes to obtain a permit for sand, gravel, and peat extraction on a portion of the parcel listed above.

The submitted site plan indicates that the material site haul route will be Denver Street, which is a Borough maintained road. The site plan and application proposes the following buffers:

North: 6-foot high berm except along the east 400 feet where a 50-foot vegetated buffer is proposed.
 South: 6-foot high berm.
 East: 6-foot high berm.
 West: Greater than 50-foot vegetated buffer.

The application indicates that the depth to groundwater is 20 feet and that the depth of the proposed excavation is 18 feet. The groundwater depth was determined by a test hole on the property and exposed surface water to the north. The site plan indicates that the processing area is 300 feet from the south and east property lines. It is greater than 300 feet from the west property line. A waiver is being requested from the north property line. The site plan indicates that the proposed processing area is located 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the proposed processing area; this parcel is owned by the applicant's daughter. Staff does not recommend approval of the processing distance waiver request.

The site plan indicates that there are several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area. The site plan indicates 100-foot setback from the wetlands area located in the northeast corner of the property and that this setback will provide protection via phytoremediation of any site run-off prior to entering the surface water. The site plan also indicates that the Alaska DEC user's manual, Best Management Practices for Gravel/Rock Aggregate Extraction Projects, Protecting Surface Water and Groundwater Quality in Alaska, will be utilized as a guideline to reduce potential impacts to water quality.

The application states that reclamation will be completed annually before the growing season ends (September) and that seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust. The applicant estimates a life span of 15 years for the site with an approximate annual quantity of less than 50,000 cubic yards.

Much of the vegetation was removed from this property 20-30 years ago. The neighboring properties adjacent to the southeast corner of the proposed material site are at a higher elevation than the subject property. The proposed 6-foot high berm alone will do little to minimize the visual impact or noise disturbance to other properties. Staff recommends that a 50-foot vegetated buffer be required adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer. Staff also recommends that a 50-foot vegetated buffer be required adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer. Staff recommends that a 12-foot high berm be placed along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm should take place prior to removing the existing vegetation in the western portion of the material site.

With the proposed 6-foot berm, staff was not able to state that the standards in KPB 21.29.040 had been met but with the addition of the 50-foot vegetated buffer in portions of the property staff then was able to draft the findings stating that the standards had been met. This decision concerning buffers is entirely up to the Planning Commission. The code states, *"The vegetation and fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission."*

PUBLIC NOTICE: Public notice of the application was mailed on June 22, 2018 to the 200 landowners or leaseholders of the parcels within one-half mile of the subject parcel. Public notice was sent to the postmaster in Anchor Point requesting that it be posted at their Post Office. Public notice of the application was published in the July 5, 2018 & July 12, 2018 issues of the Homer News.

Numerous letters from adjacent property owners and agencies were received.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on July 6, 2018.

ATTACHMENTS

- Conditional Land Use Permit application and associated documents
- Aerial map
- Area land use map
- Ownership map
- Contour map

FINDINGS OF FACT

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. On June 4, 2018 the applicant, Beachcomber LLC, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 169-010-67, which is located within the rural district.
4. KPB 21.29 provides that a conditional land use permit is required for material extraction that disturbs more than 2.5 cumulative acres.
5. The proposed disturbed area is approximately 27.7 acres.
6. A public hearing of the Planning Commission was held on July 16, 2018 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
7. The site plan indicates that the processing area is 300 feet from the south and east property lines and is greater than 300 feet from the west property line. A waiver was requested from the north property line. The site plan shows the proposed processing area being 200 feet south of Parcel 169-022-08, which is undeveloped. Parcel 169-022-04 is developed and located within 300 feet of the

- proposed processing area; this parcel is owned by the applicant's daughter. A 200-foot separation distance to the property boundaries for the processing area is not sufficient to minimize noise disturbance to other properties.
8. The proposed extraction meets material site standard 21.29.040(A1); "Protects against the lowering of water sources serving other properties", as evidenced by:
 - A. Permit condition number 6 requires that the permittee not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 - B. The submitted site plan shows several wells located within 300 feet of the parcel boundaries but none within 100 feet of the proposed excavation area.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high water table.
 - D. The application indicates that the depth to groundwater is greater than 20 feet and that the depth of the proposed excavation is 18 feet.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
 9. The proposed extraction meets material site standard 21.29.040(A2); "Protects against physical damage to other properties". There is no evidence in the record to indicate that physical damage will occur to any other properties as a result of the operations of a material site at this location.
 10. The proposed extraction meets material site standard 21.29.040(A3); "Minimizes off-site movement of dust", as evidenced by:
 - A. Permit condition number 13 requires that the permittee provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
 11. The proposed extraction meets material site standard 21.29.040(A4); "Minimizes noise disturbance to other properties" as evidenced by:
 - A. Permit condition number 2 requires that the permittee maintain the following buffers that will reduce the noise disturbance to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
 - B. Permit condition number 5 requires that the processing area be located greater than 300 feet from the property boundaries.
 12. The proposed extraction meets material site standard 21.29.040(A5); "Minimizes visual impacts" as evidenced by permit condition number 2 that requires that the permittee maintain the following buffers that will reduce the visual impacts to other properties:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.

- 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.
13. The proposed extraction meets material site standard 21.29.040(A6); "Provides for alternate post-mining land uses" as evidenced by:
- A. The submitted application contains a reclamation plan as required by KPB 21.29.060.
 - B. The applicant has submitted a reclamation plan that omits KPB 21.29.060(C3), which requires the placement of a minimum of four inches of topsoil with a minimum organic content of 5% and precludes the use of sticks and branches over 3 inches in diameter from being used in the reclamation topsoil. These measures are generally applicable to this type of excavation project. The inclusion of the requirements contained in KPB 21.29.060(C3) is necessary to meet this material site standard.
 - C. Permit condition number 15 requires that the permittee reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.

STAFF RECOMMENDATION

In reviewing the application staff has determined that the six standards contained in KPB 21.29.040 will be met and recommends that the Planning Commission deny the processing distance waiver request, approve the conditional land use permit with listed conditions, and adopt the findings of fact subject to the following:

1. Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.
2. The Planning Department is responsible for filing the Planning Commission resolution.
3. The applicant will provide the recording fee for the resolution to the Planning Department.
4. Driveway permits must be acquired from either the state or borough as appropriate prior to the issuance of the material site permit.

REVISED STAFF RECOMMENDATIONS

The staff report in the packet recommends approval of the conditional land use permit, however, because of the amount of written materials staff recommends conducting the public hearing and continuing the hearing to the next meeting of August 13 to allow time to read the written comments that have been received.

PERMIT CONDITIONS

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries:
 - 50-foot vegetated buffer adjacent to the section line easement on the east property line with a 6-foot high berm inside the vegetated buffer.
 - 50-foot vegetated buffer adjacent to the Echo Drive right-of-way and the north and west property line of the adjacent Lot 1, Block 1, Silver King Estates with a 6-foot high berm inside the vegetated buffer.
 - 12-foot high berm along the south property line where a 6-foot high berm is shown on the site plan adjacent to Lots 2 - 6, Block 1, Silver King Estates. The placement of the berm shall take place prior to removing the existing vegetation in the western portion of the material site.
 - Greater than 50-foot vegetated buffer west of the material site as shown on the site plan.
 - 50-foot vegetated buffer in the east 400 feet adjacent to the northern boundary of the material site as shown on the site plan.
 - 6-foot high berm along the northern property as shown on the site plan.

These buffers shall not overlap an easement.
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts

- adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the parcel boundaries.
 6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
 7. The permittee shall maintain a 2-foot vertical separation from the seasonal high water table.
 8. The permittee shall not dewater either by pumping, ditching or any other form of draining.
 9. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
 10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
 11. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
 12. The permittee shall notify the planning department of any further subdivision or return to acreage of this property. Any further subdivision or return to acreage may require the permittee to amend this permit.
 13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
 14. The permittee shall not operate rock crushing equipment between the hours of 10:00 p.m. and 6:00 a.m.
 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel with the addition of the requirements contained in KPB 21.29.060(C3) and as approved by the planning commission.
 16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the borough's flood plain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
 17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
 18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
 19. This conditional land use permit is subject to review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.50, a permit may be revoked for failure to comply with the terms of the permit or the applicable provisions of KPB Title 21. The borough clerk shall issue notice to the permittee of the revocation hearing at least 20 days but not more than 30 days prior to the hearing.
 20. Once effective, this conditional land use permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070.

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. A "party of record" is any party or person aggrieved by the decision where the decision

has or could have an adverse effect on value, use, or enjoyment of real property owned by them who appeared before the planning commission with either oral or written presentation. Petition signers are not considered parties of record unless separate oral or written testimony is provided (KPB Code 21.20.210.A.5b1). An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the \$300 filing and records preparation fee. (KPB Code 21.25.100)

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment.

1. Rob Corbisier, Attorney

Mr. Corbisier is a resident of Anchor Point and was representing Rob Baker of the R.O. Baker Trust who is an adjacent property owner.

Mr. Corbisier gave the following points:

- There was no way that a conditional use permit in this location could adequately protect the environment. Fugitive dust was going to be coming off of the gravel pit into the adjacent wetlands, the Anchor River and the estuary.
- There are going to be drainage and dewatering issues although the applicant has stated at this time that he will be staying above the water table. The application states that sometime in the future, he intends of going into the water table. The well location itself is deceptive in that the gradient of where the test hole was dug is at a high point in the area adjacent to the bluff that drops way off. Naturally there will be a lower water table at the spot. This also violates the ADEC Best Practices Manual which suggests having a four-foot separation.
- There will also be noise that will damage wildlife habitat. This proposal violates the Borough's Coastal Zone Management Plan.
- Also, this will not be able to preserve recreational values. There are two State Park campsites adjacent to the area. Anglers fishing on the Anchor River and camping on the beach and campsites are going to be able to hear the noise. The heavy truck traffic will interfere with recreational traffic going to and from the beach and tractor launch site.
- That road is quite narrow which will be ripe for disaster.
- It was going to impact residential values dramatically. There are 13 classified residential classified parcels that are adjacent to this proposed site. There are approximately 40 within 1,500 feet. A 6-foot berm was not going to be sufficient for either visual separation or auditory separation especially when there are second story houses.
- This is going to create and attract nuisance. There is the Chapman Elementary School which is not far from this location. Children go down and play near the beach all the time.
- In the Borough's working group on the Material Site regulations there was testimony describing that winds in the wintertime turn vacant gravel pits into sand blasting facilities that absolutely knock out someone's house next door. In this location, it is adjacent both to Cook Inlet and the Anchor River flats. There will undoubtedly going to be high winds.
- It will impact property values. He understood the Borough Assessor does not necessarily drop property values based on the existence of a gravel pit, however studies in the lower 48 show a documented drop of around 33 or higher percent when a gravel pit was developed.
- Although staff has recommended a buffer on the east and north side, there is not a buffer that was being recommended on the south side. There will still be residential parcels with nothing other than a 6-foot berm.
- Danver St does not comply with the ADEC Best Management Practices for a dedicated access point.
- This material site is not needed. There are approximately 50 parcels in the greater Anchor Point area either off the Old Sterling Highway, the Sterling Highway or the North Fork Road that either have conditional land use permits or are existing prior use gravel pits.
- The borough should just wait until the new regulations come out. There is no reason for the Planning Commission to improve this application right now. Let the process that has been started by the Assembly finish before the conditional use permit was authorized. If the Planning

Commission felt a need to do something, then the alternative that should be considered would be to only develop the Phase 1 portion of the project and then allow the applicant to come back for the other phases after the new regulations are in place.

His client asked him to make the following additional points at this meeting.

- To his knowledge, the applicant has no experience operating a gravel pit. Beachcomber LLC is a brand new LLC and has no business history.
- There are questions about what the financing was for the extraction, the startup costs, the ability for the applicant to post a requisite bond, what was the insurance going to be like, and what was the LLC solvency in the event that the LLC was to become insolvent. There is a potential of an outside operator to come in and continue to decimate the mouth of the Anchor River.

Mr. Corbisier was available to answer questions.

Chairman Martin asked if there were questions for Mr. Corbisier. Hearing none the public hearing continued.

2. Michael Brantley, 74057 Anchor Point Rd.

Mr. Brantley stated that his property is 300 feet west of Denver Rd which was going to be the access road for this pit. He just retired after 41 years working for the Federal Government of which 31 years of that working history had been working with gravel pits and quarries.

Mr. Brantley has seen and heard a lot of noise. He expressed concern that these gravel pits create carcinogens which is cancer. Imagine someone with their family driving down with their RV or SUV with their windows down and their children breathe in all this air.

Mr. Brantley also expressed the concern of the traffic problem on the beach road. To be exact that road is a disaster and hazard. His opinion is that it's a liability to the Kenai Peninsula Borough that needs to be rectified.

This proposed pit is on the back side of his lot and borders it on the north of the applicant's line. Mr. Brantley stated that he has spent hundreds of thousands of dollars to build his dream, his business which is a fly tying shop and now there was a pit going in next door. He has guests that get up at all hours to fish because they go according to the tide and weather so he felt that if they are going to put a berm up then they should also put up a wall.

Mr. Brantley commented that they will need to have regular ADEC inspections if this was going to happen. He has 12 certificates dealing with hazardous waste working for the Air Force so he has experience in all this.

Mr. Brantley felt that this is not right for the neighborhood. He has spent tens of thousands of dollars to get his ADEC engineer approved water system installed. Four wells have been drilled right next to one that was producing 26 gallons a minute. Mr. Brantley went down a few hundred feet and still couldn't find water. Fortunately for him, the Borough came back and changed the regulations and now his well is classified as private however that well is only 38 feet deep. He stated that ADEC has approved his system.

When Mr. Brantley first bought his property he found out an interesting story about it. His property was previously owned by Albert & Dawn Magee from Oregon. The story was that they had a son that had passed away so he buried his son on the subject property. He has been in contact with the family members to verify this and will inform the Commission with what he finds out.

Chairman Martin asked if there were questions for Mr. Brantley.

Mr. Wall asked if his well was approved as a public water supply system. Mr. Brantley replied yes. Mr. Wall asked when that was approved. Mr. Brantley replied that he received approval a couple of weeks ago.

Mr. Brantley stated that the ancestry of the deceased son that was buried on the property was Cherokee. He hoped the commission would make the right decision on this application. The community can't have this. If this was going to be pushed through then he would like the road to be completely redone from the boat launch all the way to the bridge.

There being no further comments or questions, the public hearing continued.

3. Gary Cullip, Seabury Ct.

Mr. Cullip overlooks this whole proposed gravel pit area. The applicant may meet all of the regulations but thought there was circumstantial evidence that was involved that the Commission really needs to take a hard look at. He thought this needed to be tabled to the August 13 meeting.

Mr. Cullip expressed concerns regarding the condition of the road. He knows the Borough does not have the money to rebuild the road. If that has to happen then there needs to be a condition on the permit to make the permittee liable for it. The number one safety issue is that the road is the main access for people to get from the State Parks down to the beach. There are all kinds of foot traffic on a very, very narrow road. There are up to 40 boats traveling that road to get launched every day. It will be a disaster to include the dump truck traffic in that. This is a very different permit that is being talked about since it is in the middle of a residential area. Lots and lots of people will be affected by it.

Mr. Cullip recommended tabling this at this time, get all the information and then make a wise decision at the next meeting.

Chairman Martin asked if there were questions for Mr. Cullip. Hearing none the public hearing continued.

4. William Michael Patrick, 34897 Fisher Ct, Anchor Point

Mr. Patrick ran away from the Lower 48 in 1990 and came up here and taught in rural Alaska for a long time. He came to Anchor Point because it was a beautiful place. Mr. Patrick picked a lot on a hill. When he looks out his front window he can see Mt. Iliamna, when he looks out his side window he can see Mt. Redoubt and then he goes to his neighbor's house and they can see Mt. Augustine.

Over the past six years he has had the pleasure, the ecstatic pleasure of a lifetime, a quality of life to see three sets of twin calves born in his front yard. In the fall, there are Sand Hill Cranes that fly above the amphitheater bowl that is at the mouth of the Anchor River. They land on the hillside and down in the very area where the pit is going to be. Mr. Patrick stated that he can drive down to the beach and see people walking on the beach and enjoying it. There is much beauty there so this is a very unique area. It is not down some dirt road. He stated that this is the farthest westerly point on the America Highway system is right here.

Mr. Patrick stated that he doesn't begrudge anyone making money or doing business. Below are a few questions that he asked as a Science teacher.

- Is the groundwater subject to pollution when people develop gravel pits and let them fill up with water because it was now in contact with the atmosphere?
- What attractive nuisance is there when they allow them to dig that out and put a pond in there?
- Would the gradient in the pond be too steep if a neighbor kid or a moose falls in there so they couldn't get out of the hole that was covered up with water so that the gravel operator didn't have to reclaim it?
- What types of viruses or bacteria would be there? Would they be helpful or harmful?
- What happens when they are made airborne on dust particles and they blow around.

Mr. Patrick's house sits at a 110-foot elevation which is about 150 yards from the entrance of this pit. The pit was at 44-foot elevation. They would have to put a dome over it to keep him from seeing into it. He also stated that Mt. Iliamna and Mt. Redoubt would disappear which might cause a big stir in the National Geographic Society.

The sea and land breezes cause dust to blow on his property and on the surrounding properties. As someone comes up his private road, he had three more neighbors and these people are closer than 150 yards. There is a rise in elevation of approximately 66 feet.

Mr. Patrick has two wells at his house. When he drilled his first well he ran into an underground stream which was perfect water but it gave out in a couple of years so he had to drill another well which is about 70 feet down. If they go 70 feet down from his house into the aquifer that he is in that puts the ground level estimate to be about 4 feet above the water table. He suggested that the applicant dig more than one hole to determine the validity of the water table in that area. Particularly in that area because it has many underground streams. The gravel filters water and that water runs down toward the Anchor River.

Mr. Patrick stated that he was going to get the noise, dust and visual impacts. He was going to be subjective to safety by pulling out of his road and not getting run over by a dump truck and so are many of other people. He has seen the kids at the elementary school on walking field trips on this road. The bridge that services that Anchor River road is currently condemned.

Chairman Martin asked if there were questions for Mr. Patrick.

Commissioner Bentz asked what the depth of his first well. Mr. Patrick replied that it was 20 feet.

There being no further comments or questions, the public hearing continued.

5. Todd Bareman

Mr. Bareman lives on the Old Sterling Highway in Anchor Point and owns the tractor launch at the beach. He stated that the road needs some addressing. It was in terrible shape, that's not what they were here for but they were here to not make it any worse and cut into the recreational use.

Mr. Bareman stated that if this pit if was permitted then there would be a crusher where five campgrounds, a trailer park and two RV parks that would be able to hear it. He wondered how the recreational people were going to get along with that much less than all the residents that have a problem with it.

Mr. Barman also stated that they are at this meeting because there are not enough regulations. He felt this should be tabled until new regulations are in place. This is not a normal gravel pit and is not in a normal area.

Mr. Barman asked that the commission be a little bit lenient about people testifying since this was very personal because it was their property and their livelihood that are going to be affected.

Chairman Martin asked if there were questions for Mr. Bareman. Hearing none the public hearing continued.

6. Linda Patrick, 34897 Fisher Ct.

Ms. Patrick expressed concern with the noise level that would be created by the gravel pit. There is currently excavating going on at the north corner of the designated area. There is digging already going on and trucks going in and out of there which starts sometimes at 7:00 a.m. and runs all day. They can close their doors and windows but that noise still permeates their house. She questioned where their hearing and safety protection was.

Chairman Martin asked if there were questions for Ms. Patrick. Hearing none the public hearing continued.

7. John Girton, Twin Peaks Loop

Mr. Girton stated that he was about a mile from this proposed gravel site so it wouldn't affect him as much. There are at least two graves in the middle of this site; one is the son of John & Gladys Dandona and the other is a son of the McDonald's.

Mr. Girton moved to Anchor Point 25 years ago for the use of the beach road and launch because he fishes. That road is so bad that someone is going to get killed the way it is now. Three times in the last 25 years, he has had gravel trucks that hit his boat and his tow vehicle. There is not a lot of room to move over to make room for these gravel pit trucks and boats. Also there is no place to go now that the berm was dug out. He stated that there are sometimes up to 125 boats down that road plus there are the campers and motor homes. It is going to be a very serious problem when these trucks start moving as there are a lot of walkers, kids and bicyclers.

Mr. Girton recommended that they put in a restriction that there be no Jake brakes if this gets approved which he hoped would not get approved. Those trucks that go down the hill on the Old Seward Highway use their Jake brakes and it is horrible. There is no enforcement. He had a couple of gravel pit operators tell him that once they get the permit then they can do whatever they want.

Mr. Girton felt that this would be signing a death warrant for Anchor Point if this gets approved. He also felt that if the tractor launch cannot continue to operate because of the road conditions and the lack of boats going down to launch then there will be nothing to do in Anchor Point. It is a very serious thing they were going to do to Anchor Point if they allow this gravel pit to go in. Safety is his whole concern.

Chairman Martin asked if there were questions for Mr. Girton. Hearing none the public hearing continued.

8. Hans Bilben, 35039 Danver St.

Mr. Bilben has resided at his home for the last 15 years. He presented a handout that was distributed to the Planning Commissioners.

Mr. Bilben read the following statement which sums up why they and most of the people reside in Anchor Point: *"The natural beauty, the authenticity of the people, the adventure and the peaceful life come together to make Alaska a place to realize dreams."* The funny thing about that statement is that it was the first paragraph from the Coastal Realty website which is the company that is owned by the same people who want to destroy the lifestyle that they claim to promote. They want to develop a mine in the very heart of Anchor Point.

Mr. Bilben felt there were an unlimited number of well qualified reasons not to have a gravel pit in this location but greed was truly the only driving force for its creation. They realize that the Planning Commission is bound by the borough code of ordinances in their decision making process but unfortunately these codes are severely lacking and vague in some areas. The six standards that the applicant must satisfy are pretty skimpy but that is what the commission has to live by for now. In the case of this application there was no possible way that the applicant can meet those standards due to the topography of the area surrounding this proposed mine. No amount of berming or vegetated buffer will meet the standards pertaining to minimizing noise or visual impact on other properties and other homes as required by the code because of the steep rise in elevation to the north, east and south of the proposed mine. He stated his property is 500 feet south of the proposed area and 75 feet above the existing floor. From their property they have clear view and ear shot of the large percentage of the proposed site.

Mr. Bilben referred to the two photos that were in his handouts which shows what they look at out their window. There are a lot of people that are much more impacted by this pit than they are. Recently he and a friend walked through and talked with neighbors and actually looked at the view from the area. He referred to his handout which had red dots on the parcels in the map. The red dot indicates properties at elevations that cannot be protected from noise or visual impacts by berms or buffers. They counted 22 homes and most of those people will be impacted by visual and noise because no amount of berming could cover that up.

Again, Mr. Bilben referred again to a photo in his handout which shows his friend, Mr. Oliver in the picture. The vegetated buffer is shown in the photo which is the one tree to the left. The road that he is standing on is the access road to the pit which will be to the processing plant. Mr. Oliver walked onto Mr. Trimble's property about 50 feet. He was standing with a 10 foot 2x6 board. The trees

behind him will all be lost because it will be part of the pit. Mr. Bilben noticed that Mr. Oliver's house will be impacted by the visual, noise and dust of the proposed pit.

Mr. Bilben stated that Mr. Trimble handed out a handout with pictures before the meeting which stated that it took only 3 hours to do what he did and that only 5 homes have limited view now. He questioned how many homes do they need to destroy and decimate before they say no to a gravel pit. The truth of the matter is that this doesn't have anything to do with homes but has to do with properties. People who own property there are going to lose value and will be impacted by the visual and noise of the gravel pit. There is no way he can get around it because of the topography of the area.

Mr. Bilben stated that the proposed mine is within the heart of a residential recreational gem which is called Anchor Point. This property could be a very desirable addition to the community if this property is properly developed. It is the function of the elected and appointed officials to represent and hold up these ordinances and not merely to rubber stamp this application. He felt this pit is in the wrong place and has no business getting this far in the process.

Chairman Martin asked if there were questions for Mr. Bilben. Hearing none the public hearing continued.

9. Pete Kinneen, 34969 Denver St.

Mr. Kinneen was at the meeting with a slightly different take. He was an Irishman and was as passionate as anyone else however he was going to put that to the side.

Mr. Kinneen stated that there are reasons that the commission can cite to not approve this application. It does not meet the six standard conditions. There are valid concerns about the safety of the road but that was not within the toolbox that the commission could use to make a decision. He thought that none of the conditions could be met just going on the ordinance and the exact interpretation of the code. If this was not a permit of right, then they must come and ask permission and comply with the conditions. Mr. Kinneen suggested that if this were to pass then there would be no other operation in the Kenai Peninsula Borough because of the uniqueness of the area then they might as well rip up the ordinance and say they can do anything they want. Title 21.29.050A(2)(c) states that "*Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit.*" He stated that shall is a mandatory word and is not permissive. The commission must do that and they must keep this in mind. The road and the kids getting run over is real but it was not what the commission used to make their decision.

Mr. Kinneen stated that the tall bluffs were the uniqueness of this area with an amphitheater that inundates right there on the subject property which was caused by the outflow of the Anchor River. It is a small flat area surrounded by a bathtub type shape. The noise comes in from the water and the noise cannot be minimized. He felt there can be all the buffers but it will not minimize the noise.

Mr. Kinneen handed out photos of the area that was taken from his living room. They are pictures that look out over the top of the trees. Just beyond the house with the blue roof is the material site property. A 6 foot or 12-foot fence and a buffer of 50 feet or 150 feet will not make a difference with visual and sound. He felt this was a unique situation all the way around.

Mr. Kinneen felt that the stated intent was found in Title 21.29.040(A) which states, "intent". He questioned what the intent was and wondered if the intent was just to shovel out to anyone who comes in and asks for a gravel mine anywhere and at any time. That was not what the intent says. The intent says protect. It is the six conditions that gives protection against dust, noise and visual impact. If there ever was a gravel mine application that should be denied this is it because of the uniqueness of this area. He doesn't understand how a permit could be issued for this under these ordinances.

Mr. Kinneen invited Mr. Wall to come to his home to look at the site. There are a lot of people that will be impacted by this. He could see the entire mine from his house and questioned how they could protect them per the ordinance. There are original, vibrant, green mature spruce trees up to Echol Rd

because of the atmospheric conditions. Past that and coming up the hill doesn't because the ecosystem that comes in behind them was the uplands forest that has been decimated by the beetle kill.

Mr. Kinneen was available for questions. He felt this permit application could be denied because all they need is one condition not being met. As he challenged and asked Mr. Wall how they follow the intent of the code. They are open to ideas but a 50-foot buffer wasn't going to do anything at all.

Chairman Martin asked if there were questions for Mr. Kinneen. Hearing none the public hearing continued.

10. Rick Oliver, 34880 Danver St

Mr. Oliver stated that his home was above and somewhat directly opposite of the proposed site. The activity allowed by this application will totally decimate the property value of their home as well as the quality of life that they now enjoy. They are definitely not alone in this regard. Obviously, the standard set for the sand, gravel and material site are set to protect against aquifer disturbance, road damage, visual damage to adjacent properties dust, noise and visual impacts. He stated unequivocally that the proposed setbacks, berms, vegetation, buffers, etc. will not and cannot protect their homes from these disturbances.

Mr. Oliver made the following statements:

- Number 1 of said standards addresses the lowering of water sources serving other properties. The existence of the substantial lake just below my property indicates that a major mining operation can't help but affect the water source of my property. I'm told there is significant additional information regarding this standard to be presented.
- Number 3 addresses the "minimization of dust to off-site areas". Due to the proposed placement of the processing equipment, ANY on shore breeze will bring that dust to my home, directly across the street.
- Number 4 addresses the noise disturbance to other properties. According to the radii shown on the application, the processing equipment is to be set much less than 300' from my front door. How can the noise and vibration from this equipment be, in any way, "minimized" in my home? He explained the photo of him holding the 10' tall board which shows the concern he has with "minimizing" visual impact from my house with a 6' berm. He was standing 50' inside the newly designated property line.
- Number 5 addresses (again) the "minimization" of visual impact.

Mr. Oliver stated that Mrs. Trimble approached a neighbor of his after the informal meeting last Wednesday and stated that she and her husband had walked the property and said that they could only see six houses. This does not include other properties as addressed by the code that could at some point be developed. He questioned how many homes does the project have to decimate in order to convince this body that it should not happen.

For the record, let it be known that he and his family along with the other several hundred other people residing in this area vehemently oppose the granting of this permit.

Chairman Martin asked if there were questions for Mr. Oliver. Hearing none the public hearing continued.

11. Jeanne Bilben

Ms. Bilben is the wife of Hans Bilben who has already testified. She gave a handout that includes information that they discovered. She stated they love this beautiful recreation area. Some of them have bought and built homes there. They own land there just as the permit owner owns land but they are not digging a gravel pit in his front or back yard.

Ms. Bilben stated that they are not against a gravel pit but they do not want them in their neighborhoods. She thought that they would have just as many rights as a gravel pit since they also pay their taxes.

Ms. Bilben commented that this so called gravel pit will be disturbing the peace of their beautiful area. She understood that once this permit was issued then it goes with the land no matter who owns it making it even more valuable to the owner and making their property values go down.

Ms. Bilben stated that this was not only is a recreational area but it was also a historic area. They have been in contact with the State Historic Preservation Office that there is a highly potential historic archeological site at this location. She asked that they stop this permit and keep this area away from mining and gravel. The State Recreational area in Anchor Point is where people come to see the beauty and history of this part of the world.

Ms. Bilben questioned if they really want a gravel pit in this place for them to see. She requested that the commission keep gravel pits away from their neighborhoods, historical lands and recreational areas.

Chairman Martin asked if there were questions for Mr. Bilben. Hearing none the public hearing continued.

12. Jim Reid, 73820 Seaward Ave.

Mr. Reid was a retired paramedic and fire fighter and stated that his issue had to do with the safety factor. He stated that in the wintertime someone is not stopping when the gravel trucks come down off that hill down Danver because of the iced over road. Everybody in the neighborhood has complained about it.

Mr. Reid expressed that his other concern had to do with the kids. There are five parks in the area where gravel trucks have to pass by three of them with every load. They are not talking about a couple hundred trucks a year but about 5,000 trucks. With the amount of aggregate that the applicant wants to take out of there, there would be 10 yards a truck at 5,000 trucks. This is not a little operation. He stated that no matter what happens he would write a letter on this. This is what he did and he does not like picking up kids.

Mr. Reid stated that one day he believed he saw Mr. Trimble's daughter walking with his grandson as he was coming out with his boat to go to Homer. There was another car coming down the road when he was leaving and he had to stop and he saw the woman push her kid off the side of the road because it was too narrow to walk and have cars go by. He felt this was really a serious problem.

Mr. Reid stated that someone has to turn right and go out 7 or 8 miles to the Sterling Highway since the bridge was condemned. That road is like a snake so staff should have included notice to all those people that live down that road who are going to be looking at those 5,000 trucks. He reiterated that the road is dangerous.

13. Susan Reid, 38720 Seaward Ave.

Ms. Reid stated that they stand there in support of all of their friends and neighbors as well as the community to let the commission know that they are really opposed to this proposed gravel site. She stated they object to the applicant for all the reasons everybody stated from the bridge that will not hold the weight, from the property values of the properties. She assumed that if their property values do go down then the borough would be very happy to lower their taxes. In addition, she assumed that if the commission approves the permit then the road will be widen because right now it was not wide enough for all of this traffic. It will probably cost the borough about 1½ million dollars to fix the road.

Mr. Reid interjected that right now the trucks that are empty go across the bridge. They just lowered the weight to 11 tons, which is 22,000 pounds. Right now they are not abiding by the law with an empty truck weighing about 26,000-28,000 pounds.

Ms. Reid stated that the road is a highly, highly congested residential area. She stated that all of the residents want the commission to know that they are not taking this. They do not want the commission to approve and grant the permit for this application.

Ms. Reid understood that the applicant has a right to make money off his land but years ago, they all bought into this beautiful neck of the woods because it was quiet with not a lot of noise. She has been hearing a beeping backup noise and did not care how much white noise alarms are put on the trucks, they are still going to hear it.

Ms. Reid thanked the commissioners for listening to them.

14. Don Horton, 34910 Echo St

Mr. Horton lives directly across the street from the proposed gravel pit. They bought this property 15 years ago for recreational purposes and maybe someday to build a house on when he retires. A month ago he retired and then gets a letter stating that he was going to be looking at a gravel pit. His only view is the field that will be used for the proposed gravel pit. He looks across this field and looks at Mt. Redoubt. If the applicant builds a 6, 8, or 12-foot berm then he will be looking at a berm, a gravel pit and Mt. Redoubt.

Mr. Horton felt that this proposal would virtually ruin the property. He would now never even consider building on it with what was going on now. Mr. Horton could never even give the property away. He has three sons, a daughter and a grandson that hopefully this property could be theirs someday, Mr. Horton would hate to see the commission ruin his little slice of heaven.

15. Eileen Sheridan, 34860 Seabury Ct., Anchor Point

Ms. Sheridan is a 50-year resident of Alaska. They have lived in Juneau, Sitka, Palmer and now lives in Anchor Point. She stated they are above this proposed gravel site area.

Ms. Sheridan understood the noise issue because they can feel the wind when it blows up and down that river. She felt there was no way berms or vegetation like that will take away that noise. It was so distracting when they had the oil gas people out there in the bay, running their sonograms all summer long so this gravel pit will be distracting too.

Ms. Sheridan stated that they put their retirement into this home and felt their property value will go down if this gravel pit goes in. Even Mr. Trimble said that a gravel pit would make the property values go down. They had hoped that their kids could enjoy this property later in life also. They have worked hard to do what they are doing so she understood him wanting to do something too but not a gravel pit that they have to live with.

Ms. Sheridan expressed concern regarding the dust that will be created by this gravel pit. She had terrible allergies up in the valley so they moved down here because her allergies were better here living right by the ocean instead of by the hay fields. Ms. Sheridan reiterated her concern regarding the noise and dust. They already get dust from their dirt roads. She stated that the trucks speed down that road so there is no other way that they don't get the dust from the roads. They lived next to a gravel pit when they were building their home and was very glad to get up to their peaceful house to look at Mt. Iliamna and Mt. Redoubt.

Ms. Sheridan realized that if the applicant receives the permit then he has the right to sell and maybe even have a bigger gravel pit in there. She noticed that there was only one test hole shown and was wondering if there was any consideration of the loss of vegetation and the lowering of water sources. It appeared that there were some wetlands in the area after she looked at the maps.

Ms. Sheridan said when they go down Danver to the right just across from this property there are ducks and moose have their babies there. She felt that if there is noise from the gravel pit then those moose mothers will get so disturbed that they could be leaving their babies.

Chairman Martin asked if there were questions for Ms. Sheridan. Hearing none the public hearing continued.

16. Gerald Blair, 73600 Twin Peaks Loop

Mr. Blair stated that most of what he was going to say has already been said by prior speakers probably far more eloquently than what he would have.

Mr. Blair stated that there was one issue that has not been covered which is not just the safety of the road but the cost of the road. What he has been able to determine is that the road started as a cat trail that went from the Sterling Highway out to the beach. It was never engineered or properly built so it has no base. It does not even have enough right-of-way to be any wider than it is in spots and that is barely wide enough. He felt that two trucks could lose their mirrors if they are not careful because there was no way to get off the road particularly with a loaded truck. An estimate to fix that road to where it will handle these dump trucks will cost in excess of \$2 million and bring it up to par. There will also be right-of-way work that will need to be done as well as achieving the necessary right-of-way to make the road wide enough.

Mr. Blair also stated that the trucks that he sees going up the North Fork weigh well in excess of 100,000 pounds. There are tractors pulling two side dump trailers that haul 20 yards of rock a piece which is about 60,000 worth of rock per trailer plus the truck and the trailers. Over the lifespan of this pit if the road isn't totally fixed in the beginning then they could spend \$6 million in maintenance maintaining that road for 15 years if the pit stops at 15 years. He doesn't know if the Kenai Borough has that kind of money laying around that they would want to put into that when all they are going to get is minimal separation fees which won't amount to much money.

Mr. Blair felt lucky enough to be far enough away from the pit that the dust and noise will be minimal. The truck noise will be there but by in large the cost to the Borough to maintain that road or to rebuild that road would not be a business that he would go into because it would cost \$2-\$3 million and would get back almost nothing.

Mr. Blair thought the bridge was going to be built anyway and did not know if the gravel pit will have much to do with that.

17. Bob Shavelson, Director of Advocacy for the Cook Inletkeeper

Mr. Shavelson stated he has heard many concerns from the property owners. It brings to mind the whole notion of private property, which is vital to their economic system. One of the central tenants of property rights is that someone can do what they want on their own property but cannot harm folks around them. It includes private and public property, which is the issue he wanted to address at this meeting.

Mr. Shavelson referred to the ground and surface water resources. Finding of Fact 8 states, "*The permittee must maintain a 2-foot vertical separation from the seasonal high water table.*" Again, he was going to come back to the issue that he raised the last time. There was nothing in the application that says that the test hole was drilled and monitored to ascertain the seasonal high water mark so he questioned how the planning commission or the staff could know what that level was. He felt they could not.

Mr. Shavelson felt that the permit could not be approved, if they want to abide by the ordinance. If the permit is approved, then it was just guesswork. They should not be gambling with the resources that they have in the estuary of the Anchor River. He referred to the scientist from the National Estuarine Research Reserve who provided them with the groundwater flow that shows that this parcel, at least partially flows into the Anchor River and that water plays a vital role in the life stage of various salmon. When he first thought about an estuary, he thought salmon goes down, goes through the estuary, and then comes back, and goes through the estuary again but it was a lot more complicated than that. They are just beginning to scratch the surface on this complexity. All the ecology of the salmon systems is kind of like fabric, when the threads are pulled then the fabric will unravel. He stated that they have to be really careful, this is one of the things that really concerns him.

Mr. Shavelson also stated that the ordinance states that it has to comply with other environmental laws and rules. There is something that he calls the myth of rigorous permitting. The myth of rigorous permitting is that there is this whole alphabet soup of Local, State and Federal laws and rules so if all the i's are dotted and all the t's are crossed then there will salmon habitat protection.

He has been doing this for 25 years and he can tell them that this is not the case. There is the 50-foot buffer on the salmon streams in the Kenai Peninsula Borough but he also knows that Mayor Pierce was looking actively to revoke some or all of those protections. There is Title 16 in the State law, which is the Habitat Protection law. It is one law in the State that protects habitat. It was one sentence long and was adopted at Statehood. There is an effort now to revise that in a ballot measure that was causing a lot of controversy but many people feel that there is this whole alphabet soup of laws and rules that don't protect the habitat.

Mr. Shavelson commented that this reminds him of a book entitled, "The King of Fish" by a professor named David Montgomery at the University of Seattle. Mr. Montgomery talks about the demise of salmon from Europe, to New England and to the Pacific Northwest. The thing that is taken from this book was that it was not neglect that led to the loss of salmon runs across the world but knowing the neglect. It was that they knew what they were doing was wrong but did it anyway. That is how he felt about these permits that continue to get rubber-stamped through this process.

Mr. Shavelson thought that many of the commissioners feel like their hands are tied. There is the ordinance that puts them in a strait jacket so they think they cannot do anything. He felt that the commission does have enormous discretion. They have discretion that was given to them by the borough. According to KPB Ordinance 2.40.050, the planning commission has broad discretion to investigate and make recommendations including to the Assembly.

Mr. Shavelson assumed this would be postponed to the August 13 so he encouraged the commission to ask the questions that need to be answered to do this right because the mouth of the Anchor River is a special place. He felt this body needed to represent the public interest. The private interest was always adequately represented and the public interest needs to be represented which he felt was the job of the Planning Commission.

Chairman Martin asked if there were questions for Mr. Shavelson. Hearing none, the public hearing continued.

18. Eldon Overson, 73976 Seaward Ave.

Mr. Overson gave a handout to the commissioners showing the view that he has from his property. He read the following statement into the record.

"I would like to thank you guys for hearing my thoughts on the proposed Beachcomber gravel pit that is being submitted by Emmitt and Mary Trimble in our community. I will thank even more after this meeting, if you reject the proposed land use permit that will decimate my neighbors' and my view for the next 15 to 20 years.

I was at work on the slope when I got the email for this planning meeting and I flew today and drove down from Anchorage, just for today. I have to drive up and fly back up to work tomorrow. I say this to show the importance that this proposed gravel means to me and how much I do not wish it to go forward. I feel that this is a very bad proposal and deserves more of his time and effort.

I bought my lot on the corner of Denver and Seaward about eight years ago and it's the spot that I would eventually build my dream home. I started to build a cabin on the lot to use for summertime camping, this winter. That picture is of me standing on my loft from that cabin. The red area that is marked is where the proposed gravel pit will be. I am approximately 65 feet above the gravel pit so I will be looking directly into it. The view of Iliamna, the ocean and the river was the main reason for me purchasing my property.

As the permit states, that the six-foot-high berm in the plan will offer little to no relief from the visual impact of the gravel pit. This is true for my lot, my neighbors' and many others. I don't feel that they have offered mitigating factors to lowering our value of the surrounding properties to increase his. Noise is also another factor that will keep me from using my property in the future

as I intended. The machinery that it will be working in the daytime hours will make me, basically not want to be there. There is no buffer between me and the gravel pit so I will have to hear the constant droning of the processing of the sand and gravel for the next 15 plus years. This was a very tranquil neighborhood and I enjoyed hanging out there in the summer months.

In closing, I find it very disingenuous and unethical that Emmitt & Mary Trimble have profited from selling many of the lots in our neighborhood and now singlehandedly want to undermine the enjoyment, the view and the property values of the same people that they sold the property to. I find it very disrespectful that they did not consider anybody but themselves and do not wish to accurately describe what they want to use the property for. I have heard from many of the neighbors from the meeting that they attended that they said that they only wanted to down 10 feet. The permit states that they want to go down 18 and then apply further in the future for going down even further.

I would like him to address those and also on the permit it says that this land was not intended for future subdivision which he also claims that's why he was only going down 10 feet to later subdivide the property which will also make all the septic's in that area lower to the water table.

The questions I have are:

- How could the Borough simultaneously tax him for my view while also approving a big eyesore right in the middle of it? In Homer, they have started to assess view on top of property.
- Will there be a waiver granted for all of them who are being impacted by this gravel pit and if so what was the loss revenue to the Borough?

I mention the campgrounds but that has already been addressed, better then he would have. Also, there is some incorrect or wrong statements on the permit concerning that there were no wells within 100 feet of the property boundary. I do believe, though that "We Tie Fly" has a well within 100 feet so that is inaccurate on the permit. I don't know how they can claim there was no wells within 100 feet of the property when there is.

Thank you for your time."

Chairman Martin asked if there were questions for Mr. Overson. Hearing none, the public hearing continued.

Chairman Martin called for a recess at 10:07 p.m. Chairman Martin reconvened the meeting at 10:15 p.m.

19. Phil Brna, 5601 E. 98th Ave, Anchorage

Mr. Brna spent a good number of his springs, summers and falls in Anchor Point for the last 24 years. He owns a cabin on the Anchor River inside the State Park and has a piece of property that is surrounded by the proposed gravel pit.

Mr. Brna stated that in the last 41 years he spent 21 years with the Alaska Department of Fish & Game as a Habitat Biologist and 14 years with the US Fish & Wildlife Service. He has retired from both so he has lots of experience with large development projects like Pebble Mine, Donlin Mine, and Chitina Mine. Mr. Brna was their fish and wildlife service biologist on all those projects. He stated that the science related to groundwater and the other gravel permit was a total joke. He has worked with some of the best groundwater hydrologists in the country and in Canada. It's pretty stunning that they are making decisions based on groundwater with no groundwater data other than one test hole that was dug who knows where. As former Governor Jay Hammond once said about Pebble Mine, "The only worse place for a mine would be in my backyard." This proposed gravel pit was in his backyard. In fact, it surrounds his one-acre property on three sides. Mr. Brna owned the last lot on Beachcomber. He bought the property to build a small house when he fully retired which he did two years ago. This proposal will pretty much destroy his plans to do that and will destroy his property value.

Mr. Brna thought that in 2018, it was ludicrous to think that someone could develop a gravel pit in the middle of a residential area and in one of the most heavily used recreational areas in Alaska. It was really unthinkable.

Mr. Brna expressed concern about the noise. When the property was being cleared and the other little gravel pit across the street was being built he could hear every truck that was backing up, every truck that was going down the road and the tractors. Someone can hear everything in that valley and it was not going to be any better with a gravel pit.

Mr. Brna also stated that there were archeological sites on his property. There were old cache pits and probably one house pits. He walked the gravel pit property a long time ago and there were a lot of house pits and cache pits on that property as well. There was an old wagon road that goes off the end Beachcomber that was built in the 1920's to get to an old homestead. It goes across his property and through the gravel pit.

Mr. Brna submitted written comments and asked the commission to read them. He hoped the Kenai Borough Planning Commission denies the proposal for this project because it was not good for Anchor Point, not good, for the people who live there and it's not good for the people that come there to recreate. There are people from all over the world that come to this area. He was fishing the Anchor River today and probably spoke to 20 people from all over the world. This is not a good thing.

Chairman Martin asked if there were questions for Mr. Brna. Hearing none, the public hearing continued.

21. Lynn Whitmore, 34680 Beachcomber

Mr. Whitmore's lives adjacent to the proposed project, which is literally in his backyard. When the applicant first bought the property, he was told that they were going to subdivide it and put homes on the property. He considered moving since he had a nice piece of the world to himself for a long time with just one neighbor.

Mr. Whitmore stated that when he was told it was going to be a gravel pit then he went to the staff who told him that this pretty much flies through if it meets the six conditions. Everybody he talked to said that the proposal was just going to fly through. It is a frustrating thing to watch all these people speak knowing that it was just going to fly through so he asked why was there a public hearing. He asked what the purpose was and what was being gained out of it, if the applicant meets the conditions. Maybe that would not be the best way to approach this thing to tell everyone that it was going to fly through.

Mr. Whitmore asked the commission that if there was a chance to consider their feelings and what they are going to listen to and what he was going to hear and listen to and they can reduce or stop that that then it would be a great benefit to him.

22. James Gorman, 73608 Twin Peaks Loop, Anchor Point

Mr. Gorman stated he looks right down on the beach road. He sees the things these people say every day. Mr. Gorman was a history major in college and read the following letter.

"The Alaska State Historic Preservation Office (AK SHPO) received your request for information regarding known historical sites in the area of a proposed gravel mine. Upon review of the Alaska Heritage Resources Survey (AHAS) database there are two reported cultural resource sites in the area of the proposed mining.

- *SEL-00280, prehistoric site, reported to consist of two house pits. Location is represented as a large polygon; exact location of features is unknown but current projected boundaries are within the proposed mining area.*
- *SEL-00281, historic graves and possible cache pits, reported to consist of 5 graves that at one time had grave markers, depressions tentatively described as cache pits were*

reported north of the graves. Location is represented as a large polygon; exact location of features is unknown but current projected boundaries are within the proposed mining area.

In Alaska there are two historic preservation laws that may apply unless the project is entirely private in nature:

Alaska Historic Preservation Act (AHPA): State law requires all public construction or improvement activities conducted by, or requiring licensing or permitting from, the State of Alaska to comply with the Alaska Historic Preservation Act (AS 41.35.070). This also includes required reporting of historic and archaeological sites on lands covered under contract with or licensed by the State or governmental agency of the State. This would include any material sources used under contract with the State.

National Historic Preservation Act (NHPA): If there is Federal involvement (financial assistance, permit, license or approval) with the project it is the statutory obligation of the lead Federal agency to comply with Section 106 (36 CFR § 800) of the National Historic Preservation Act, which requires the Federal agency to take into account the effects that their undertaking may have on historic properties.

Were either of those laws to apply, our office would be likely to request that an archaeological survey is conducted to verify the site locations and assess the potential effects of the project pursuant to the applicable historic preservation law. In addition, there are State laws regarding the discovery and/or intentional disturbance of human remains, this pertains to ALL lands in Alaska, including private. I have attached our handout regarding human remains.

Due to the lack of clear information regarding the site locations our office strongly encourages the use of a qualified cultural resource professional to verify the site."

Mr. Gorman was available to answer questions. He stated that the State Park owns both sides of the beach road and will not permit a widening of the road according to the recently retired chief ranger of the park system.

Chairman Martin asked if there were questions for Mr. Gorman. Hearing none, the public hearing continued.

22. Xochitl Lopez-Ayala, 34910 Echo, Corner of Danver & Echo

Ms. Ayala stated that she currently resides in Homer but her family owns the property directly across from the proposed gravel pit. They would be looking up at a berm if they were standing at the edge of their property. She submitted a photo of what their proposed view would look like if this goes through.

Ms. Ayala wanted the commission to see that everyone drove down from Anchor Point, Homer and Anchorage to attend this meeting. She wanted the commission to make that same commitment to them that they are making at this meeting. Since there is a proposal to postpone, Ms. Ayala asked the commission to drive down to Anchor Point and look at this proposed site. That way they would see what the neighborhood is so passionate about.

Ms. Ayala stated that this has been really great for the community since it has brought them all together and she has gotten to know many of the neighbors that she didn't know before. They have all grouped together and found one common thing that they have all loved which is Anchor Point.

Ms. Ayala felt this proposal should be designated as a mine and not a pit. A mine is not good for them and is not good for Anchor Point. She stated there is a lot of passion that is at this meeting and asked that the commissioners recognize that. There are tons of people who want to talk and want the commission to hear their testimony. She asked that they read over the information and understand and do what is right for the public, not necessarily just to a private owner because it is affecting all of them.

Ms. Ayala asked that they realize that it was kind of odd that there are a lot of gravel pits and mine proposals going up now that the new gravel pit ordinance has been pushed back a year. She asked how many more they were going to see which creates a lot of red flags that should be seen to make sure someone isn't trying to skirt around something or get past something. Ms. Ayala asked that they look into why they are trying to do this; are they trying to sell to a corporation up in Anchorage or sell to an out of state investor.

Ms. Ayala asked that they keep what they love which is why they moved here to the Peninsula. She and her husband just relocated here from Juneau and now they are going to get to look at a mine pit and a berm.

Ms. Ayala thanked the commission and for everyone who attended this meeting. She felt this was hard on everyone.

24. Josh Elmaleh, 34885 Seabury Ct.

Mr. Elmaleh stated that he and his wife looked over many properties over the last couple of years. They purchased their place a year ago overlooking several probably half a dozen to a dozen houses that were beautiful houses and beautiful land but they were close to a gravel pit. He expressed opposition to the proposed pit.

Mr. Elmaleh stated that he caught his first king salmon in the Anchor River. He wants that same thing for his four-month old son and for his six-year-old daughter. He wants them to be able to enjoy the things that he got to enjoy. This is a piece of heaven.

Chairman Martin asked if there were questions for Mr. Elmaleh. Hearing none, the public hearing continued.

25. Lauren Isenhour, 34737 Beachcomber St.

Ms. Isenhour is the daughter of Emmitt & Mary Trimble. She lives on three acres that borders this subject property so this project is in her backyard. Ms. Isenhour understood and respects everyone's concerns and opinions. Also she understood the scope of what the permit allows, which is a lot and again reiterated that she certainly understood and respects everyone's concerns.

Ms. Isenhour stated that she and her husband live at their location for all the same reasons that everyone else has chosen to live in Anchor Point. They recreate, walk on that road, go to the beach, do all the things everyone else does, and loves it there. She was born and raised in Anchor Point.

Ms. Isenhour's parents have been in Anchor Point for 40 years and have made a living in real estate by developing and improving land. They have a great reputation of improving land, selling it and caring for the land. They are very meticulous in how they care for things and everyone can see that because they look out at this beautiful property. Her parents have bought the property and invested \$60,000 into improving it by clearing all the stumps, burning the burn piles, mowing it and caring for this property because that is how they care for land. They have done it for a long time.

Ms. Isenhour's parents have other subdivisions that they have developed in Anchor Point that are on solid gravel but they chose not to develop that into a gravel pit. They are land developers and not pit developers. As someone mentioned they do not have equipment and don't have a plan for operating procedures as people have been asking for detail information about that. She understood the scope of the permit and the concerns.

Ms. Isenhour stated that there is obviously a benefit to gravel and everyone in that community has benefited by the road development in that subdivision. All the subdivisions back in there all have used the gravel for their driveways and foundations and the majority of it from a previous pit right off of Danver that has been reclaimed, subdivided, sold and now homes are on the property. There is a balance and a need for gravel in Anchor Point. She stated that gravel is a main cornerstone to the infrastructure of Anchor Point and for the families that are employed by road construction, building residential construction and by the equipment that operates in the area. There are a lot of families that not represented here that are employed by it.

Ms. Isenhour reiterated that she understood and respected everyone's concerns and they do represent a portion of Anchor Point but there is another portion of Anchor Point that is fine with pit development. They understand the balance of it and that is why there are the regulations. They do need gravel. She respects her parents' ability to develop land in such a strategic and thoughtful way. There is a way with the regulations that the borough set to excavate some gravel and reclaim it. There are pit developers like Mr. Walt who use the permit as soon as they get it and start immediately to excavate gravel.

Ms. Isenhour's stated that her parents' primary interest in this property is the property. Other land developers' primary interest would be the resource below the property for financial gain. She understood that they are requesting a permit with a large scope and that it could be a gravel pit.

Ms. Isenhour lives right there too and her parents would like to build a house on the property. It is in their best interest as real estate investors who have fought for a long time to help maintain property and home values in Anchor Point. They have roots in the community and have an invested interest in maintaining a quality of life in Anchor Point. Their first home in the 1970's was on Beach Access Rd when it was a dirt trail where they operated a tackle shop. They have had an invested interest in this area for many decades and they have managed to develop land and provide a living for them and their family in this small area. They have done that with great care for property and for land and is something, they have instilled in her and her sister which is care for the land.

Again, Ms. Isenhour reiterated that she understood the concerns in this room about the scope of the permit and what could potentially be there. This is her area too and she has a lot of respect for her parents and how they care for the land. Some previous speakers, Lynn Whitmore who has been a good friend of her parents for a long time and Phil Brna who has the property next door, neither chose to mention that her parents' voluntarily built a 14-foot berm along their property at their own cost; to try to protect them when they were not required to do so. Her parents are the type of people to do those things.

Chairman Martin asked if there were questions for Ms. Isenhour.

Commissioner Carluccio asked if she was saying that her parents don't have any plans to develop this right now, that they just want to get this gravel pit on the books. Ms. Isenhour replied that she could speculate at what she thought their plans were. She understood that their primary plan for the property was to own it and what they want above all else is to own the property in its entirety. They have plans to subdivide it but that doesn't mean they are going to enact that plan. Her opinion is that they would like the permit to potentially do a gravel pit.

Commissioner Fikes understood that she was near the location of the mining and asked what kind of impact would there be on her personal well. She also asked how far her well was from this proposed pit. Ms. Isenhour replied that she wasn't sure.

Hearing no further comments or questions, the public hearing continued.

26. Gina DeBardelaben, McLane Consulting, Inc.

Ms. DeBardelaben was a principle engineer for McLane Consulting and was hired by the property owner to survey and prepare the permit application.

Ms. DeBardelaben pointed out that the Anchor River Road is a State owned and maintained road. DOT enforces the required gross vehicle weight measure on the bridge, speed, proper use of lane, shoulders, the health and use of the road. It doesn't apply to the borough CLUP permitting process.

Ms. DeBardelaben stated that there is a well within 100 feet of the property but not within the proposed extraction area. There are fine points about the permit that always needs to be read that sometimes isn't interpreted well in public meetings. She hoped that the commission would read the fine points and read the notes in the permit application.

Ms. DeBardelaben stated that gravel extraction from a material site is usually based on perspective sales as it is with this site. This site is not being permitted for a DOT or a commercial development project. The amount of material to be utilized is just a perspective, which is why the application states less than 50,000 square cubic yards. That number is usually based on the area and DNR permitting changes with greater than and less than 50,000 yards. The reality of 50,000 cubic yards coming out of this material site in a year is not very realistic. A large gravel sale in a rural area like this would be 10,000 yards or maybe 25,000 yards which would equate (it is still a lot) to less than 1,500 trucks, not 5,000 trucks. If they are going to sell a large amount of material, then they are not going to run it in a 10-yard end dump but would be running a side dump or belly dump.

Ms. DeBardelaben stated that there was one test hole dug at the time of application. There have been additional test holes dug since then. She continues to state that a developer or an operator continue test hole for groundwater and for different materials that meet specification as they enter the pit. All roads have a specification that the material has to meet. They are going to move around, dig test holes and constantly test groundwater if it varies. The whole requirement is that they stay 2 feet above it.

Ms. DeBardelaben stated that the owner would be installing monitor wells. She stated that it is a great benefit to the owner and the borough by putting monitor wells on the property. It gives them some comprehensive data on a quarterly or monthly basis of where the groundwater was. They are proposing that they might do that in the future even though this permit is not to enter the groundwater table.

Ms. DeBardelaben also referred to the other concerns of site buffers that were mentioned. She was available to answer questions.

Chairman Martin asked if there were questions for Ms. DeBardelaben. Hearing none the public hearing continued.

27. Emmitt Trimble

Mr. Trimble was the managing member of the Beachcomber, LLC and the principal applicant. He was available to answer questions as he did, voluntarily, in Anchor Point last Wednesday. There were a number of things that could be clarified but most of them were not pertinent to what the commission will be deliberating on so he was not going to try to counter those things.

Chairman Martin asked if there were questions for Mr. Trimble.

Commissioner Ruffner asked what his thoughts were on staff's recommendation for postponement. Mr. Trimble replied that he had no problem with postponement. Commissioner Ruffner stated that there will be the opportunity to ask further questions since staff was recommending postponement and the applicant had no problem with postponement.

Mr. Trimble stated that he gave some photos to staff that showed the berm that he put up. They were able to install an extensive berm in about three hours, mostly as a demonstration as to what could be done blocking those homes. There were about five homes that he could not see from the top level of excavation area with the berm, which could be replicated moving back. Mr. Trimble stated that he was not in the gravel business but it was part of the asset value of this property and it was incumbent upon him to protect his family and their investment to maximize that possible value. What he would like to do with the property was really his own business. He has a subdivision plan but he has no intention for preliminary approval, it is just that he wants to know that he has done his homework ahead of time. They have taken a few loads of gravel out of the pit for the ramp at the boat launch ramp and for the expansion of the parking area. He does intend to pursue this.

Commissioner Carluccio asked if he had intention of developing this property as a gravel pit. Mr. Trimble replied that they have already started developing this as a small gravel pit that was within the one-acre confines. He wants to go through this procedure, submit himself to the process, live up to the permit if and when he gets it so that he would be able to do whatever the permit will allow him to do. His plan was a small

scale being for local projects. All of those home and people have those properties because Buzz Kyllonen took a small pit, built all those roads and driveways, and provided the gravel for almost all of those people or those properties would not be there now. It was now one of the nicest looking properties in the area.

Commissioner Venuti asked if he heard the concerns from the people regarding the hazards of trucks on the haul road as well as the condition of the bridge that goes over the Anchor River. He presumed that any haul road out of the pit would go over the bridge. Mr. Trimble replied that it is not possible to go over that bridge now. It has been condemned which is why people are having to drive from the North Fork Road all the way to Eight Mile and back down the Old Sterling Highway to bring gravel to the beach. He stated that it was going to be rebuilt within a year or two. Right now, there are gravel trucks going up and down Danver all the time. Mr. Trimble stated that he has no problem with the big boats going up and down that road. He and Mr. Kyllonen got that road paved through a maintenance budget with DOT for \$150,000 because they gave them permission to go through their properties.

Hearing no further comments or questions, the public hearing continued.

28. Don Horton, 34910 Echo

Mr. Horton stated that his father said that the property was directly across the street from the proposed gravel pit. He asked if the permit was attached to the property or attached to the owners of the property if a permit is issued. If the property was sold, does the permit stay with the property.

Chairman Martin replied that the permit is attached to the property.

Mr. Horton stated that the applicant wants to maximize the value of his property while it was at the expense everyone's property around it. He thought that was not right.

29. Richard Carlton, 73500 Seabury Rd.

Mr. Carlton was a retired lineman and fell in love with the Anchor Point River area in 1996 when he started coming up here regularly. He and his wife purchased a piece of ground in 2007. Mr. Carlton stated that this was very emotional thing for him because he fell in love with the place which has a lack of noise. He spent 40 years hearing backup alarms and backhoes.

Mr. Carlton goes to his property and sits on his patio and looks out at Iliamna and drinks his coffee and he is in heaven. It is a wonderful thing. He has wonderful neighbors that care about one another. If they need something, then they help each other. If they are making too much noise, then they say something and they quiet down. It is a great life.

Mr. Carlton doesn't know why it matters who owns the road that goes to the beach. The bridge is condemned. The Old Sterling Highway is a hazard and if they take just a 10 -12-yard dump truck by itself and drive it up and down that road with its Jake brakes, that quiet goes away.

Mr. Carlton stated that there are all these RV Parks. The Buzz Kyllonen RV Park was where they fell in love with the area. They come here year after year and it's right across where one of the entrances is to this Beachcomber road. He would take a rubber boat out and catch a halibut and then drive down to southeast Washington and plan for next year to come back up here. That will all change if a big hole is dug.

Mr. Carlton was kind of like the other people, he doesn't begrudge anyone making a living but this proposal has no place where it's at. People raise concerns about the Pebble Mine but it's a long way away. Maybe it could trash a lot of streams and salmon runs but he doesn't see it so it's not personal to him.

Mr. Carlton stated that if he has to drive to the Post Office and has to come up Danver and hear backup alarms or white noise then he was not going to enjoy the place liked he used to. He thought the commission should be able to have an input on this project regarding the road, safety and all the things expressed even though the borough doesn't have any jurisdiction with the road because it's a State Road. He asked that the commission to the right things.

MOTION: Commissioner Ruffner moved, seconded by Commissioner Carluccio to suspend the rules so that public comment can be extended and to be able to finish the business beyond the normal closing time of 11:00 p.m.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST ABSENT	FIKES ABSENT	FOSTER ABSENT	ISHAM ABSENT
MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES		9 YES 3 ABSENT

30. Steve Haber

Mr. Haber felt that someone was going to die if this project goes through. He unfortunately had a high school incident with his son's school many years ago. A traffic light couldn't get installed until after three kids were killed. Mr. Haber stated that the commission might be under such tremendous pressure from the way they do this that this will be approved. This won't work with this beach road. Everything that everybody else has said about the views doesn't compare with the bike companies going up and down that road. The boat trailers are going 60 miles per hour who aren't obeying the laws either. He reiterated that somebody was going to die on that road but it could be prevented.

31. David Gregory, 73850 Seaward

Mr. Gregory lives near the proposed gravel excavation site, which is really a mine. He works at a mine and felt there was a place for mines. The mine that he works at is way out in a remote area.

Mr. Gregory expressed concern regarding noise and dust. The noise goes uphill where there are numerous homes. There may be only five homes that could be seen from one particular point but there are dozens up this hill that the noise will carry right up there as well as the dust. The dust can be carried by the wind or if the wind is still, it just hangs in the air.

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

MOTION: Commissioner Ruffner moved, seconded by Commissioner Bentz to postpone action and continue the public hearing until the next meeting of August 13, 2018.

Commissioner Ecklund stated that she would like to take action on this agenda item rather than postponing to the next meeting of August 13, 2018. They have heard the public and have read through the material prior to the meeting.

Commissioner Whitney concurred with Commissioner Ecklund.

There being no further comments or questions, Chairman Martin called for a roll call vote.

VOTE: The motion failed by majority consent.

BENTZ YES	CARLUCCIO NO	ECKLUND NO	ERNST ABSENT	FIKES NO	FOSTER ABSENT	ISHAM ABSENT
MARTIN YES	MORGAN NO	RUFFNER YES	VENUTI YES	WHITNEY NO		4 YES 5 NO 2 ABSENT

MOTION: Commissioner Ecklund moved, seconded by Commissioner Carluccio to approve the conditional land use permit application for a material extraction site on a parcel in Anchor Point.

Commissioner Ecklund believed they have sufficient findings to deny granting this permit based on the public testimony, the borough code as it is written now and the facts that were written in the staff report.

Commissioner Ecklund asked if they could even address this because the applicant requested a waiver for the processing portion of the pit and staff recommends denying the waiver request which would not allow them enough area for a processing plant. She asked if that would require a new submission of their application. Mr. Wall replied that the permit would be for the material extraction but to process the material there would be a narrow area within the material site. The material extraction would be approved but they would not be able to process outside of that narrow area which would be quite narrow if it was narrowed down to the 300 foot from the property lines. Commissioner Ecklund thought it would be 50 feet wide which would be a fairly narrow area.

Commissioner Ecklund stated that the motion was to approve the material site and asked if they had to address the waiver request. Mr. Wall understood the motion to approve as recommended in the staff report, which would include the denial of the waiver.

Commissioner Ruffner had hoped this would have been postponed as he had a couple of legal questions that he wanted to ask. He didn't think they had time to go through a memo that he was going to ask for. Commissioner Ruffner summarized where he believed they stood legally with looking at this and why he had to give this talk a number of times in an uncomfortable way. The Borough Assembly has given them the rules by which they are allowed as Planning Commission members to work under so they have put the sideboards up there that says what they can and cannot approve. The six criteria that staff have laid out which shows in their opinion that it meets those conditions. What he wanted to hear from his fellow commissioners is of those six criteria which ones, if they were going to vote against this, were not being met. That way he can understand where they would be deviating from what was presented in the staff report.

Commissioner Ecklund suggested the following findings.

Findings

1. Ordinance 21.29.040(A)(4), minimizes the noise disturbance to other properties. From the testimony she heard and the documents that have been submitted she felt the berms or the vegetated buffers will do justice to minimize the noise to other properties.
2. Ordinance 21.29.040(A)(5), minimizes visual impacts. She felt that the visual effects will not be reduced sufficiently with buffers and berms as they can't be built high enough.
3. The application was submitted without the seasonal high water determination. This was not sufficiently delineated in the application.
4. They need to determine if that well was within 100 feet of the material site.

Commissioner Ecklund stated that was her case and the vote would determine if they stated it in and if the motion failed to approve then there was follow up procedures that could be taken by the applicant.

Commissioner Ecklund asked what the appeal process would be for the applicant if this were denied. Mr. Wall replied that there is a 15-day appeal period once the notice of decision is issued. That appeal would go through the Clerk's office to a hearing officer. Anyone who testified or submitted written comments would have the ability to appeal. Commissioner Ecklund asked if the hearing officer would receive a transcript of any comments either those who verbally testified or submitted written comments. Mr. Wall replied yes, a transcript would be provided to the hearing officer.

Commissioner Ruffner explained the legal standing that they have at this meeting. They have the broad authority that has been given to the Planning Commission according to Borough Code. It is 240.050 which authorizes the planning commission to consider all the factors in everything they do and make a good determination. Later on, KPB 21.25 lays out the procedures for when they would authorize a conditional land use permit which has several steps. Now there is KPB 21.29 which is the code specifically relating to gravel pits. His understanding of their interpretations of how they have gotten to this point in the past has been that KPB 21.29 really lays out what can be done with buffers and what limitations they could put on a pit operator. Those are handed down to them from the Assembly. Previously, they have heard that the KPB 21.29 is the code that governs their decisions. Looking further up the code where they have broader latitude has not been afforded to them in the past. That has been his understanding and asked if legal counsel could give any clarification or corrections to that.

Ms. Montague replied that was a good summary. One thing that she would add would be that it was not just a matter of the ordinance that was adopted later in time but also the ordinance that was most specific to what they are reviewing which in this case is KPB 21.29. KPB 21.29 very specifically addresses materials sites so that has more weight than a very general purpose clause. For example, the Planning Commission can review the public health, safety and welfare. She stated that the very specific criteria in KPB 21.29 is how the Assembly has chosen to protect the public health, safety and welfare.

Commissioner Carluccio stated that KPB 21.29 says that 50 feet of vegetation and a ten-foot berm was one of the criteria yet the pit was lower than all the surrounding area so the 50 foot does not do anything. She asked if they have some authority to say that this is the letter of the law but was not the intent of the law because the intent of the law was to protect the surrounding landowners. Ms. Montague replied that the intent of the law was to protect the surrounding landowners in the way that the Assembly has laid out in the Borough Code.

Chairman Martin felt it was the unique topography that gets them in this corner right now. It is hard to foresee all the different ramifications of a crater.

Commissioner Carluccio agreed and stated that she would not be able to support the motion in granting approval of the permit.

Commissioner Bentz observed that the staff report states that the proposed extraction meets the material site standards in KPB 21.29, minimizing noise disturbance from other properties but she does not agree with that. She thought that these conditions would not minimize noise disturbance to other properties and will not minimize visual impacts.

Commissioner Morgan agreed as well and did not see how the 50-foot buffer or berms would minimize visual impact or sound impact because of the unique topography.

Commissioner Ruffner thought the commissioners did a good job of laying out the record of why and how they were going to vote. This will most likely be appealed if it is not approved. If it is appealed, then he thought the hearing officer will have a good record from the Planning Commission of why they thought it might not meet those criteria of being able to screen the vegetation.

There being no further comments or questions, Chairman Martin called for a roll call vote.

VOTE: The motion failed by majority consent.

BENTZ NO	CARLUCCIO NO	ECKLUND NO	ERNST ABSENT	FIKES NO	FOSTER ABSENT	ISHAM ABSENT
MARTIN YES	MORGAN NO	RUFFNER YES	VENUTI YES	WHITNEY NO		3 YES 6 NO 3 ABSENT

Chairman Martin thanked everyone for the effort and sacrifice it took to come to this hearing. He encouraged them to stay connected as a community.

AMENDMENT MOTION: Commissioner Ecklund moved, seconded by Commissioner Carluccio to attach the following findings to the denial of the conditional land use permit for the Anchor Point material extraction site.

Findings

1. Borough Code 21.29.040(A)(4), the noise will not be sufficiently reduced with any buffer or berm that could be added.
2. Borough Code 21.29.040(A)(5), the visual impact to the neighboring properties will not be reduced sufficiently.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST ABSENT	FIKES YES	FOSTER ABSENT	ISHAM ABSENT
MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES		9 YES 3 ABSENT

AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION (KPB 21.18) - None

AGENDA ITEM H. VACATIONS NOT REQUIRING A PUBLIC HEARING – None

AGENDA ITEM I. SPECIAL CONSIDERATIONS - None

AGENDA ITEM J. SUBDIVISION PLAT PUBLIC HEARINGS

Chairman Carluccio reported that the Plat Committee reviewed and conditionally approved 5 preliminary plats.

AGENDA ITEM K. OTHER/NEW BUSINESS - None

AGENDA ITEM L. ASSEMBLY COMMENTS – None

AGENDA ITEM M. LEGAL REPRESENTATIVE COMMENTS - None

AGENDA ITEM N. DIRECTOR'S COMMENTS

Mr. Best reported that the Assembly did not have a meeting since the last Planning Commission meeting.

Chairman Martin asked if there were questions for Mr. Best. Hearing none, the meeting continued.

AGENDA ITEM O. COMMISSIONER COMMENTS

AGENDA ITEM P. PENDING ITEMS FOR FUTURE ACTION

AGENDA ITEM Q. ADJOURNMENT

MOTION: Commissioner Carluccio moved to adjourn the meeting at 11:24 p.m. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Patti Hartley
Administrative Assistant

VERBATIM TRANSCRIPT

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KENAI PENINSULA BOROUGH PLANNING COMMISSION

LOCATION

Assembly Chambers
George A. Navarre Administration Building
144 North Binkley Street
Soldotna, Alaska 99669

July 16, 2018
7:30 p.m.

TRANSCRIPT OF PROCEEDINGS - EXCERPT
Pages 1 - 111, inclusive

Commissioners Present:

Syverine Abrahamson-Bentz, Ninilchik/Anchor Point
Paulette Bokenko-Carluccio, City of Seldovia
Cindy Ecklund, City of Seward
Diane Fikes, City of Kenai
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Clam Gulch/Kasilof
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

Staff Present:

Max Best, Planning Director
Patti Hartley, Administrative Assistant
Scott Huff, Platting Manager
Holly Montague, Deputy Borough Attorney
Jordan Reif, Platting Technician
Bruce Wall, Planner

Others Present:

Xochitl Lopez-Ayala
Todd Bareman
Hans & Jean Bilben
Gerald Blair
Walt Blauvelt, Axtel Enterprises
Michael Brantley
Phil Brna
Tammy Buss
Richard Carlton
Robert Corbisier, Attorney, Reeves Amodio, LLC

Transcribed by: Sheila Garrant, Notary Public

<p style="text-align: right;">Page 2</p> <p>1 Others present: (Continued)</p> <p>2 Gary Cullip 3 Gina DeBardelaben, McLane Consulting, Inc. 4 Josh Elmaleh 5 Kate Finn 6 John Girton 7 James Gorman 8 David Gregory 9 Steve Haber 10 Don Horton (father) 11 Don Horton (son) 12 Lauren Isenhour 13 Pete Kinneen 14 Rick Oliver 15 Eldon Overson 16 William Michael & Linda Patrick 17 Jim & Susan Reid 18 Bob Shavelson, Cook Inletkeeper 19 Eileen Sheridan 20 Emmitt Trimble, Beachcomber, LLC 21 Josh Updike, Peninsula Paving, LLC</p> <p>22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 will do little to minimize the visual impact or noise 2 disturbance to other properties. Staff recommends that 3 a 50-foot vegetated buffer be required adjacent to the 4 section line easement on the east property line; that 5 would be along Denver Road. 6 Part of Denver Road is a half dedication. 7 Part of it is not -- well, let me rephrase that. Part 8 of it is -- Denver Road is platted, and the portion on 9 his property is a section line easement. And then also 10 the northern part, both sides of the roadway is a 11 section line easement. 12 So in simple terms, the staff is 13 proposing that a 50-foot vegetated buffer be required 14 along Denver Road beginning at the edge of the section 15 line easement, and then a six-foot berm inside of that. 16 And then down along Echo Drive and going 17 to the west, the same buffer is being proposed by 18 staff: 50-feet of vegetation and then a six-foot berm 19 on the inside of the vegetated buffer. And then 20 wrapping around to the south there, that little leg 21 there adjacent to that parcel, the same buffer. 22 And then from there to the west, there's 23 a few subdivision lots down on the south side there and 24 there's really no vegetation there at all. There staff 25 recommends a 12-foot high berm to provide the visual</p>
<p style="text-align: right;">Page 3</p> <p>1 PROCEEDINGS</p> <p>2 7:52:35 3 (This portion not requested) 4 8:44:01</p> <p>5 CHAIRMAN MARTIN: We'll move to Item F4, 6 Resolution 2018-23. Staff report, please. 7 MR. WALL: Thank you, Mr. Chairman. 8 This is an application for a conditional 9 land use permit for a material site in the Anchor Point 10 area. It is located at 74185 Anchor Point Road. The 11 parcel number is 169-010-67. The applicant is 12 Beachcomber, LLC. The site plan and application 13 proposes the following buffers: 14 On the north, a six-foot high berm, 15 except along the east 400 feet where a 50-foot 16 vegetated buffer is proposed; the south and east, a 17 six-foot high berm; the west, greater than 50 feet of 18 vegetation. 19 Much of the vegetation was removed from 20 this property 20 to 30 years ago. The neighboring 21 properties adjacent to the southeast corner of the 22 proposed material site are at a higher elevation than 23 the subject property. This may be easiest to see on 24 the contour map on page 119 of your packet. 25 The proposed six-foot high berm alone</p>	<p style="text-align: right;">Page 5</p> <p>1 impacts there. 2 The west side, he's not excavating in the 3 far west portion of the property, he's going to leave 4 that vegetated. And then the berms as he proposed, a 5 six-foot berm along the other property lines except for 6 that in the northeast corner there where he's proposing 7 natural vegetation. 8 So with the proposed six-foot berm, I was 9 not able to state in the staff report that the 10 standards in KPB 21.29.040 had been met, but with the 11 addition of the 50-foot vegetated buffer in portions of 12 the property, I was then able to draft the findings 13 stating that the standards had been met. 14 Of course, this decision concerning 15 buffers is entirely up to the Planning Commission. The 16 code states, "The vegetation and fence shall be of 17 sufficient height and density to provide visual and 18 noise screening of the proposed use as deemed 19 appropriate by the Planning Commission." 20 While we are still on the map on page 21 119, some of the property lines are not accurately 22 depicted on these maps that I created. We've been 23 updating the -- once I discovered the error, we've been 24 updating the borough's mapping system, but I wasn't 25 able to generate a new map for tonight's meeting.</p>

<p style="text-align: right;">Page 6</p> <p>1 What I'm getting at there is Beachcomber 2 Street on the north portion of the property coming off 3 of Anchor Point Road, where it ends it looks like 4 there's a gap between that parcel -- at the end of 5 Beachcomber Street and the parcel, and that's 6 inaccurate. 7 To get a better representation of that 8 would be to go to the site plan on page 113 where you 9 can see that there's not that gap there. Like I say, 10 we're fixing that. 11 So now that we are looking at the site 12 plan, it indicates that the proposed processing area is 13 located 200 feet from the south of the last lot of 14 Beachcomber Street, which is currently undeveloped. 15 The parcel across the street from that one is developed 16 and it is located within 300 feet of the proposed 17 processing area. 18 This parcel is owned by the applicant's 19 daughter. A waiver is being requested for the 300-foot 20 processing distance requirement from this property 21 line. Staff does not recommend approval of the 22 processing distance waiver request. 23 We have numerous letters from adjacent 24 property owners and agencies in your desk packet 25 tonight. The staff report in your packet recommends</p>	<p style="text-align: right;">Page 8</p> <p>1 representing Robert Bob Baker on behalf of the R.O 2 Baker Trust. He is an adjacent property owner. I have 3 submitted written comments, I'd like to briefly 4 summarize them orally though. 5 I primarily make five points in the 6 written comments. First of all, there's no way that a 7 conditional use permit in this location could 8 adequately protect the environment. Fugitive dust is 9 going to be coming off of the gravel pit into the 10 adjacent wetlands, the Anchor River, and the estuary. 11 There is going to be drainage issues. 12 There's going to be dewatering issues. Although the 13 applicant has stated at this time he's planning on 14 staying above the water table, the application does 15 state at some point in the future he intends on going 16 into the water table. 17 The well location itself is deceptive 18 when you look at the gradient of where the test hole 19 was dug. It is at a near -- it's at a high point in 20 the area adjacent to a bluff that drops way off, and so 21 naturally you are going to have a lower water table at 22 that spot. It also violates the ADEC best practices 23 manual, which suggests having a four-foot separation. 24 You are also going to have noise that is 25 going to damage wildlife habitat and it violates the</p>
<p style="text-align: right;">Page 7</p> <p>1 approval of the conditional land use permit, however 2 because of the amount of written materials that you 3 have received tonight, I'm recommending that you 4 conduct the public hearing tonight and then continue 5 the hearing to your August 13th meeting to allow 6 yourselves time to read the written comments that you 7 have received. 8 That is the end of my report. 9 CHAIRMAN MARTIN: Thank you. Anyone here 10 wishing to testify? Please state your name and address 11 at the microphone. 12 ROBERT CORBISIER: This is the right 13 gravel permit? 14 CHAIRMAN MARTIN: Yes, sir. 15 ROBERT CORBISIER: Mr. Chairman, I do 16 apologize. I was working on my notes, and all of a 17 sudden I heard "materials site extraction," and I 18 wanted to jump. I was like, "Why isn't anybody else 19 saying anything?" 20 My name is Rob Corbisier. I do have 21 prepared statements. I would ask for ten minutes, I 22 think I can still get through it in five. 23 CHAIRMAN MARTIN: Go for it. 24 ROBERT CORBISIER: I am a resident of 25 Anchor Point, however, I'm an attorney here</p>	<p style="text-align: right;">Page 9</p> <p>1 borough's Costal Zone Management Plan. 2 Second, it's not going to be able to 3 preserve recreational values. There are two state park 4 campsites adjacent to the area. Anglers fishing on the 5 Anchor River and camping on the beach and in the 6 campsites are going to be able to hear the noise, and 7 the heavy truck traffic is going to interfere with 8 recreational traffic going to and from the beach and 9 the tractor launch site. That road is quite narrow, 10 that is going to be ripe for disaster. 11 It is going to impact residential values 12 dramatically. There are 13 classified -- residential 13 classified parcels that are adjacent to right next to 14 it. There are -- I counted approximately 40 within 15 1,500 feet. 16 A six-foot berm is not going to be 17 sufficient for either visual separation or auditory 18 separation especially when you consider second-story 19 houses. 20 This is going to create an attractive 21 nuisance. You have Chapman Elementary School that is 22 not far from that. Children go down and play near the 23 beach and in that area all the time. 24 In the borough's working group on the 25 material site regulations there was testimony</p>

<p style="text-align: right;">Page 10</p> <p>1 describing how winds in the wintertime turn otherwise 2 vacant gravel pits into sandblasting facilities that 3 absolutely knock out somebody's house next door. 4 In this location, it is adjacent both to 5 Cook Inlet and the Anchor River flats there, there is 6 undoubtedly going to be high winds. It is the highest 7 level HUD wind zone. 8 It is going to impact property values. I 9 understand the borough assessor does not necessarily 10 drop property values just based on the existence of a 11 gravel pit; however, studies in the Lower 48 show a 12 documented drop of around 33 or higher percent when a 13 gravel pit is developed. 14 Although staff has recommended a buffer 15 on the east side and the north side, there is not a 16 buffer that is being recommended even on the south 17 side. And so you are still going to have residential 18 parcels with nothing other than a six-foot berm. 19 Lastly, for residential values, Denver 20 Street does not comply with the ADEC best management 21 practices for a dedicated access point. 22 Third, this is not needed. There are 23 approximately 50 parcels in the greater Anchor Point 24 area either off the Old Sterling Highway, the Sterling 25 Highway, or the North Fork Road that either have</p>	<p style="text-align: right;">Page 12</p> <p>1 insolvent, there is a potential for an outside operator 2 that could come in and continue to decimate the mouth 3 of the Anchor River and its recreational values in the 4 event that there's a sale. 5 Thank you very much. I will otherwise 6 defer to my comments. Are there any questions? 7 CHAIRMAN MARTIN: Any questions? 8 ROBERT CORBISIER: Thank you. 9 CHAIRMAN MARTIN: None at this time. 10 Thank you. Next testifier, please. 11 MICHAEL BRANTLEY: Good day, ladies and 12 gentlemen of the assembly. You are here today to 13 represent -- 14 CHAIRMAN MARTIN: Name and address for 15 the -- 16 MICHAEL BRANTLEY: Pardon me? 17 CHAIRMAN MARTIN: Name and address for 18 the record. 19 MICHAEL BRANTLEY: Yes, ma'am -- yes, 20 sir. 21 My name is Michael Brantley. My address 22 is 74057 Anchor Point Road, 300 miles west -- I mean, 23 300 feet west of Denver Road, which is going to be the 24 access road for this pit. 25 I just retired after 41 years and three</p>
<p style="text-align: right;">Page 11</p> <p>1 conditional use permits as gravel pits or are existing 2 prior uses. 3 So lastly, the borough should simply just 4 wait for the regs to come out. There's no reason for 5 the Planning Commission to approve this application 6 right now. Let the process that has been started by 7 the assembly finish before the conditional use permit 8 is authorized. 9 If the Planning Commission feels a need 10 to do something, an alternative that should be 11 considered would be only developing the Phase 1 portion 12 of the project allowing then the applicant to come back 13 for later phases after the regulations are in place. 14 Now lastly, my client asked me to make 15 several additional points here at this meeting. To his 16 knowledge, the applicant has no experience operating a 17 gravel pit. I mean, simply from an LLC standpoint, 18 Beachcomber, LLC is a brand new LLC, it has no business 19 history. 20 He has questions about what -- what is 21 the financing for the extraction? The start-up costs? 22 The ability for the applicant to post a requisite bond? 23 What is the insurance going to be like? What is the 24 LLC's solvency? 25 In the event that the LLC is to become</p>	<p style="text-align: right;">Page 13</p> <p>1 months working for the federal government. 31 years of 2 that working history I worked gravel pits and quarries. 3 I've seen a lot of noise, or heard a lot of noise too 4 actually, and these things create carcinogens, and 5 carcinogens is cancerous. 6 Imagine somebody with their family 7 driving down with their RV or SUV, windows down, and 8 their children breathing in all this air every day that 9 this is going on. Just imagine that. 10 We have a traffic problem as it is on the 11 beach road. And to be exact, that road is a disaster, 12 it is a hazard, it is a liability to the Kenai 13 Peninsula Borough as of this day, that is my opinion. 14 This needs to be rectified. 15 This pit is on the backside of my lot, it 16 borders it. I am north of his line there. I spent 17 hundreds of thousands of dollars the past couple of 18 years to build my dream, my business down there, a 19 fly-tying shop. And now I will have a pit going in 20 next door. 21 I've got guests that gets up at all types 22 of hours to fish, you all know that, they go according 23 to the tide and the weather. So if they are going to 24 put a berm up there, they better also put up a wall. 25 They also need to have DEC inspections if</p>

<p style="text-align: right;">Page 14</p> <p>1 this is going to happen, and I mean on a regular basis. 2 I had 12 certificates dealing with hazardous waste 3 working for the Air Force, so I have experience in all 4 of this, and I'm telling you that it's not right for 5 the neighborhood. 6 I've spent tens of thousands of dollars 7 to get my DEC engineer-approved water system put in. 8 That was quite the experience. I drilled four wells 9 right next to one that was producing 26 gallons a 10 minute. I went down a few hundred feet and still 11 couldn't find water. Fortunately for me the borough 12 came back and changed the regulations and now my well 13 is classified as private, so therefore I can use it. 14 However, the well is only down 38 feet. And I'll let 15 you know again, Kenai Peninsula Borough/DEC has 16 approved this. 17 There is something that came to my 18 attention some time ago when I first bought this 19 property. The property was previously owned by Albert 20 Don Magee from Oregon. Now some time ago I heard a 21 story, so I did some inquiring. The story I understand 22 was that he had a son that had passed away and he 23 decided to bury his son on this property that we are 24 talking about today. I have been in contact with the 25 family members down there trying to get verification of</p>	<p style="text-align: right;">Page 16</p> <p>1 that property. It so happens to be his ancestry is 2 Cherokee. 3 I shall leave you with that, and you all 4 have a good evening. I hope you make the right 5 decision on this. The community can't have this. 6 If you are going to put this in and you 7 push it through, there's three things that I want. I 8 want that road to be completely redone from the boat 9 launch all the way to the bridge. 10 The borough came down the other day and 11 did some shoulder work. There is no shoulder on one 12 side of that road half the way down. If you fall -- if 13 you go over that line, white line, you are down four 14 feet, your car is ruined, and you guys will get a bill. 15 I've seen a lot of foot traffic. I got 16 photos. I have a photo of a woman pushing three babies 17 in a cart down that road. I have one of two babies. I 18 have a group of six people. Unfortunately, rushing 19 here from my place, I left all that information there, 20 but I'll gladly dig it up and send it to any one of you 21 that want to look at that. 22 CHAIRMAN MARTIN: Thank you. 23 GARY CULLIP: My name is Gary Cullip and 24 I'm a resident there. I'm up on the end of Seabury 25 Court, and I overlook this whole area for the gravel</p>
<p style="text-align: right;">Page 15</p> <p>1 this as we speak, and as I get this information I will 2 pass it on to the appropriate people. 3 And this is all I have to say. Let me 4 check my notes. 5 CHAIRMAN MARTIN: Do you have any 6 questions? 7 MR. WALL: Mr. Chairman, if I could. 8 CHAIRMAN MARTIN: Yes. 9 MR. WALL: You mentioned that you have 10 well. Did you indicate that's approved as a public 11 water supply system? 12 MICHAEL BRANTLEY: Yes, sir. 13 MR. WALL: And when was that approved? 14 MICHAEL BRANTLEY: Here I got -- finally 15 got the approval last -- a couple weeks ago. 16 MR. WALL: Okay. Because I was going to 17 say that doesn't -- in our comment letter from DEC they 18 didn't mention that. 19 MICHAEL BRANTLEY: Sure. 20 MR. WALL: So I'll do some follow up with 21 them. Thank you. 22 MICHAEL BRANTLEY: Sure, sure, that's 23 fine. I appreciate that. 24 Something else I want to talk about this 25 possible deceased son that possibly could be buried on</p>	<p style="text-align: right;">Page 17</p> <p>1 permit. 2 My biggest concerns I have -- he might 3 meet all of the regulations, but I think there's 4 circumstantial evidence that's involved here that you 5 really need to take a hard look. I think you really 6 need to table this, take it up on your August 13th 7 meeting. 8 My biggest concerns I have is the 9 condition of the road, number one. I know the borough 10 does not have the money to go rebuild that road. So if 11 that has to happen, you need to put a condition to the 12 permit to make the permittee liable for it. 13 And I don't know how in the world anybody 14 could really address the safety issues. Number one 15 safety as I see, is that road is the main access for 16 people to get from the state parks down to the beach. 17 So you have all kinds of foot traffic on a very, very 18 narrow road as is. You have up to 40 boats traveling 19 that road to get launched every day, and you are going 20 to put these dump trucks and stuff in there, it's going 21 to be a disaster. It really, really -- you people need 22 to take a hard look at it. 23 And like I said, it's a very different 24 permit that we are talking about here. This is in the 25 middle of a residential area, lots and lots of people</p>

<p style="text-align: right;">Page 18</p> <p>1 to be affected by this.</p> <p>2 Now if you at all can find yourselves to</p> <p>3 go ahead and table this, take all the rest of the</p> <p>4 information that you are going to receive from all</p> <p>5 these people that are here and then make a wise</p> <p>6 decision. Thank you.</p> <p>7 CHAIRMAN MARTIN: Thank you. Any</p> <p>8 questions? None at this time. Next testifier, please.</p> <p>9 Name and address for the record.</p> <p>10 WILLIAM PATRICK: William Michael Patrick</p> <p>11 at 34897 Fisher Court in Anchor Point.</p> <p>12 I'm a coward. I ran away from the Lower</p> <p>13 48 in 1990 and came up here and taught in rural Alaska</p> <p>14 for a long time. I came to Anchor Point because it's a</p> <p>15 beautiful place. I picked a lot on a hill. I look out</p> <p>16 my front window and I can see Mt. Iliamna. I look out</p> <p>17 the side window, I see Mt. Redoubt. I go over to my</p> <p>18 neighbor's house across the street and we can even see</p> <p>19 Mt. Augustine.</p> <p>20 Over the past six years I've had the</p> <p>21 pleasure, the ecstatic pleasure of a lifetime -- talk</p> <p>22 about quality of life -- to see three sets of twin</p> <p>23 calves born in my front yard. I actually got to see</p> <p>24 them coming out, and I got to enjoy them running around</p> <p>25 on the front lawn.</p>	<p style="text-align: right;">Page 20</p> <p>1 groundwater to pollution? Because it's in contact with</p> <p>2 the atmosphere now.</p> <p>3 When you allow them to dig that out and</p> <p>4 put a pond in there, what about attractive nuisance?</p> <p>5 Let's say a neighborhood kid falls in there. Is the</p> <p>6 gradient on the pond steep enough to where he can't get</p> <p>7 out? Or you've got moose walking around, they'll -- if</p> <p>8 you've ever watched a moose, he'll walk right into</p> <p>9 something like that. Would he end up drowning because</p> <p>10 he can't get out of the hole in the ground that's</p> <p>11 covered up with water so that the gravel guy didn't</p> <p>12 have to reclaim it? I don't know.</p> <p>13 Flora and fauna, very unique. You've got</p> <p>14 a collision between freshwater systems and saltwater</p> <p>15 systems. What is on the ground there? What type of</p> <p>16 viruses? What types of bacteria? Are they helpful?</p> <p>17 Harmful? And what happens when you make them airborne</p> <p>18 on dust particles and they blow around? I personally</p> <p>19 am allergic to dust.</p> <p>20 But my house sits at 110 feet elevation</p> <p>21 about 150 yards from the entrance to this pit. The pit</p> <p>22 is at 44 feet elevation. You can't -- you'd have to</p> <p>23 put a dome over there to keep me from seeing into it.</p> <p>24 But then you would also make Mt. Iliamna and Mt.</p> <p>25 Redoubt disappear and that might cause a big stir in</p>
<p style="text-align: right;">Page 19</p> <p>1 In the fall, sandhill cranes fly about</p> <p>2 that amphitheater bowl that we have there at the mouth</p> <p>3 of the Anchor River, and they are just squawking, and</p> <p>4 the way sounds carry there it sounds like they are in</p> <p>5 your living room. They will land on the hillside and</p> <p>6 down in the very area where this pit is going to be and</p> <p>7 they walk around. They are a majestic bird to see.</p> <p>8 I can drive down by the beach and I can</p> <p>9 see people walking on the beach, enjoying it. There is</p> <p>10 much beauty there. This is a very unique area. It's</p> <p>11 not down some dirt road. The farthest westerly point</p> <p>12 on the American highway system is right down there, and</p> <p>13 I can just see the tourist now, "Hey, I drove out as</p> <p>14 far west as I can in the United States and there's a</p> <p>15 gravel pit there." You know, "Go West, young man, go</p> <p>16 West." I guess you have to go farther west to get away</p> <p>17 from the gravel pits.</p> <p>18 I don't begrudge anybody making money, I</p> <p>19 don't. As a school teacher, I wish I could have found</p> <p>20 a way to make a little more money, but I don't begrudge</p> <p>21 business, any of that, but I do have some questions as</p> <p>22 a science teacher.</p> <p>23 You guys are talking about water tables.</p> <p>24 When these people make gravel pits and they let them</p> <p>25 fill up with that water, does that subject your</p>	<p style="text-align: right;">Page 21</p> <p>1 the National Geographic Society.</p> <p>2 But sea breezes, land breezes. We always</p> <p>3 get a sea breeze. Sometimes it's hurricane force. But</p> <p>4 when that sea breeze comes in every evening, guess</p> <p>5 what, it blows the dust right on my house, but not just</p> <p>6 mine, I've got a neighbor just to the right of me, I've</p> <p>7 got a neighbor behind me. Mr. Cullip there lives just</p> <p>8 within 100 yards of me.</p> <p>9 As you come up my private road, Deesa</p> <p>10 (ph) Road -- it's not really a road, it's kind of a</p> <p>11 path, but I have one, two, three more neighbors there.</p> <p>12 And on the left-hand side I have another neighbor</p> <p>13 there.</p> <p>14 These people are even closer than 150</p> <p>15 yards. But picture that, over 150 yards you have a</p> <p>16 rise in elevation of, like, 66 feet.</p> <p>17 Now I have two wells at my house. The</p> <p>18 reason I have two wells is I drilled the first one and</p> <p>19 I ran into an underground stream, an underground</p> <p>20 stream. Perfect water, okay.</p> <p>21 But through happenstance it gave out in</p> <p>22 just a couple of years, so I had to drill another well.</p> <p>23 Now that's 70 feet down. Now if you go 70 feet down</p> <p>24 from my house into the aquifer that I'm in --</p> <p>25 CHAIRMAN MARTIN: Could you wrap up?</p>

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1 That's five minutes.
2 **WILLIAM PATRICK:** All right. Could I
3 just --
4 **CHAIRMAN MARTIN:** Yes.
5 **WILLIAM PATRICK:** -- you carry that over,
6 that puts the ground level estimate down there at four
7 feet above the water table. That's just an estimate.
8 But I would suggest that you would have
9 to drill more than one hole to determine the validity
10 of the water table in that area, particularly in that
11 area because it has many underground streams. Gravel
12 filters water. That water is running down towards the
13 ocean and towards the Anchor River.
14 So, you know, scientifically if you look
15 at these things it's fine, but I'm going to get the
16 noise, I'm going to get the dust, I'm going to have the
17 visual impact. I'm going to be subjected to safety
18 pulling out of my road and not getting run over by a
19 dump truck and so are many, many other people.
20 I've seen the kids at the elementary
21 school down there on walking field trips. And the
22 bridge that services that Anchor River Road is
23 condemned, it's condemned.
24 **CHAIRMAN MARTIN:** Thank you.
25 **WILLIAM PATRICK:** Thanks.

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1 **CHAIRMAN MARTIN:** Questions? Ms. Bentz?
2 We have a question, sir.
3 **COMMISSIONER BENTZ:** What was the depth
4 of your first well?
5 **WILLIAM PATRICK:** 20 feet.
6 **COMMISSIONER BENTZ:** Thanks.
7 **CHAIRMAN MARTIN:** Thank you.
8 **TODD BAREMAN:** My name is Todd Bareman,
9 and I live on the Old Sterling in Anchor Point, and I
10 own the tractor launch down there at the beach.
11 I would like to say that that road does
12 need some addressing. It's in terrible shape. That's
13 not what we are here for, but we are here to not make
14 it any worse and cut into the recreational use that's
15 going on down there.
16 This pit, if it's permitted, there will
17 be a crusher that five campgrounds are able to hear, a
18 trailer park and two RV parks.
19 How are recreational people going to get
20 along with that, much less all the residents here that
21 do have a problem with it.
22 I'd like to say we are here because
23 there's not enough regulations and that's why you are
24 changing this permit process. And I think it should be
25 tabled until you get some new regulations. This is not

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1 a normal gravel pit and it's not in a normal area as
2 you can see by this testimony.
3 And I would ask that you be a little bit
4 lenient about people here testifying. This is very
5 personal, because this is their property and their
6 livelihoods that are going to be affected here.
7 That's all I have.
8 **CHAIRMAN MARTIN:** Thank you. Any
9 questions? No questions at this time. Next testifier,
10 please.
11 **UNKNOWN SPEAKER:** Come on, stand right
12 behind me. Come on, stand here.
13 **LINDA PATRICK:** My name is Linda M.
14 Patrick, I live at 34897 Fisher Court. That was my
15 husband that spoke earlier.
16 And I too want to mention all of the
17 points that he mentioned, however, I'm going to stick
18 to just one, and that's the noise level.
19 Now there is excavating going on
20 presently at that north corner of the designated area,
21 already been dug out, consistently digging and hauling
22 gravel and trucks in and out of there right now. That
23 can sometimes start by 7:30, 7:00 in the morning -- the
24 other day it was 7:00, and it runs all day. We can
25 hear it. We can close our doors and our windows; that

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1 noise still permeates our house. Where is our
2 protection? Where is our safety, our visual, our
3 hearing? I just want to know, where is our protection?
4 **CHAIRMAN MARTIN:** Any questions? None.
5 **JOHN GIRTON:** Hello, my name is John
6 Girton, and I live on Twin Peaks Loop. I'm about a
7 mile from this construction site, so it's really not
8 going to affect me much as far as what most of the
9 people here are concerned about.
10 Before I get into my concern, there is at
11 least two graves in the middle of this site. One is
12 the son of Joe and Gladys Dandona, their son is buried
13 there. And I think there's another one, I think the
14 McDonalds' have a son buried there also. I can't take
15 you right to where it is, but it's definitely right in
16 the middle of this plot.
17 I'm moved to Anchor Point 25 years ago,
18 and for one reason, the use of the beach road and the
19 beach launch because I fish. And that road is so bad
20 that somebody is going to get killed on it the way it
21 is now.
22 Three times in the last 25 years I have
23 had gravel trucks coming down Danver from a project up
24 there that hit my boat and my tow vehicle. Once it
25 took my left-hand mirror off and twice it hit the back

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1 of my trailer. There's not enough room to move over to
2 make room for these boats and the gravel pit trucks.
3 And believe me, the gravel drivers are
4 not going to get out of way of the boats, they just
5 push us off. Now that they put in -- they dug out the
6 berm, there's no place to go.
7 And my boat is wide, my boat is 11-foot
8 wide. And somebody said 40 boats a day. There are
9 days when there are 100, 125 boats down that road.
10 There's a lot of traffic. Plus you have the campers
11 and the motorhomes that, you know, they need room. And
12 these trucks, when they start rolling, it's going to be
13 a very, very serious problem.
14 There's a lot of walkers, a lot of kids,
15 a lot of bicyclers, and it's -- right now when you
16 drive onto the beach or back, you always have to move
17 over to the side of the road to make room for the
18 people walking along the road.
19 I don't know if you've ever been down
20 there. I mean, maybe you guys all live up here and
21 don't know this road and don't know the problems, but
22 you should get down and take a look at it before you
23 make a decision, because it's a very serious problem.
24 The road is in very, very bad shape and somebody is
25 going to get killed.

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1 If you do approve it, which God, I hope
2 you don't, you put in one of these restrictions. One
3 of the restrictions should be no Jake brakes, because
4 those trucks go down that hill on the Old Seward
5 Highway down the left hand appearing to the beach, and
6 they run those Jake brakes, and it is horrible where I
7 live.
8 I only live 150, 200 feet off the Old
9 Sterling Highway, but it's a big problem when they do
10 that. And they all do it, and there's no -- there's no
11 enforcement. I mean, you guys can tell them not to do
12 it, but nobody is going to enforce it.
13 Just like -- I've had a couple of gravel
14 pit operators tell me -- they just laughed. They said,
15 "Well, once we get the permit we do anything we want.
16 We come to this, we get our permit, and they tell us
17 what we can do and what we can't do, but we do it
18 anyway once we have it."
19 And that really concerns me especially
20 with some of the people involved in this project.
21 So I really hope you do not approve this.
22 It's like -- it's just like signing a death warrant to
23 Anchor Point if you do, because if that tractor and
24 launch cannot continue to operate because of the road
25 conditions and the lack of boats going down to launch,

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1 there's nothing else in Anchor Point to do. That is,
2 like, 95 percent of our commerce in Anchor Point. It's
3 a very serious thing you are going to do to Anchor
4 Point if you allow this gravel pit to go in.
5 Todd was going to expound it a lot more
6 on what it would do to his business, but I guess he's
7 just more of a gentleman than I am. But I'll tell you,
8 it will be devastating if -- to that whole community if
9 we lose that beach launch. That is the only thing
10 anybody -- that's the only thing Anchor Point has. We
11 don't even have a restaurant anymore. We have a beach
12 launch, and you take that away from us, you are going
13 to hurt a lot of people.
14 **CHAIRMAN MARTIN:** Thank you.
15 **JOHN GIRTON:** I guess that's all.
16 **CHAIRMAN MARTIN:** Any questions? No
17 questions at this time. Thank you for your testimony.
18 **JOHN GIRTON:** Safety is my whole thing.
19 I don't know anything about that pit. I'm not going to
20 live by it and I'm not going to smell it, I'm not going
21 to get the dust from it, it's the safety of that road.
22 Thank you.
23 **CHAIRMAN MARTIN:** Thank you.
24 **HANS BILBEN:** We have some handouts to
25 hand out to -- for the Commission.

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1 **CHAIRMAN MARTIN:** Patty will take care of
2 it for you.
3 **HANS BILBEN:** My name is Hans Bilben. I
4 live at 35039 Danver Street where we built our home,
5 and we've resided there for the past 15 years.
6 I'm going to read a little statement here
7 that kind of sums up why Jeanne and I, as well as most
8 people in Anchor Point, live where we do.
9 The statement says, "The natural beauty,
10 the authenticity of the people, the adventure and the
11 peaceful life come together to make Alaska a place to
12 realize dreams.emm
13 Funny thing about that statement, it's
14 the first paragraph from the Coastal Realty website.
15 That's the company that's owned by the same people who
16 want to destroy the lifestyle that they claim to
17 promote in their website. They want to develop a mine
18 in the very heart of Anchor Point.
19 There's an unlimited number of
20 well-qualified reasons not to have a gravel pit in this
21 location, while greed is truly the only driving force
22 for its creation. We realize that the Planning
23 Commission is bound by the Borough Code of
24 Ordinances -- pardon me -- okay.
25 We realize that the Planning Commission

<p style="text-align: right;">Page 30</p> <p>1 is bound by the Borough Code of Ordinances in their 2 decision making process, and unfortunately these codes 3 are severely lacking and vague in some areas. The six 4 standards that the applicant must satisfy are pretty 5 skimpy, but that's what you guys have to live by for 6 now.</p> <p>7 In the case of this application, there's 8 no possible way that the applicant can meet those 9 standards due to the topography of the area surrounding 10 this proposed mine. No amount of berming or vegetated 11 buffer will meet the standards pertaining to minimizing 12 noise or visual impact on other properties and not 13 other homes, as Emmitt would like to say, as required 14 by the code because of the steep rise in elevation to 15 the north, the east, and the south of the proposed 16 mine.</p> <p>17 Our property is 500 feet south of the 18 proposed area and 75 feet above the existing floor. 19 From our property we have clear view and earshot of a 20 large percentage of the proposed site. If you look at 21 page 2 and 3 on that handout, it shows some not so good 22 pictures of what we look at out of our window. But you 23 can see where the proposed area would be down below us. 24 There is a lot of people that are much more impacted 25 than we are.</p>	<p style="text-align: right;">Page 32</p> <p>1 edge of Danver Street in the picture, okay. The road 2 he's standing on or the cleared area that he's standing 3 on is the access road to the pit, which would be to the 4 processing plant, which would be right in front of his 5 house.</p> <p>6 Rick walked in 50 feet on Emmitt's 7 property, and he trespassed probably. He is standing 8 there, he's almost six feet tall he claims, and he's 9 got a ten-foot two-by-six or something in his hand. 10 The trees behind him will all be lost to excavation, 11 they will be part of the pit. So what do you think 12 about the visual impact, the noise impact, and the dust 13 impact on Rick Oliver's house? Okay.</p> <p>14 One thing -- we just got here a few 15 minutes ago, Emmitt handed out a little handout and he 16 says, "In only three hours we did this. Only five 17 homes have been -- they have a limited view now." How 18 many homes do we have to destroy or decimate before we 19 say no to a gravel pit? Only five homes?</p> <p>20 And the truth of the matter is it doesn't 21 matter if it's 50 homes, it doesn't have anything to do 22 with homes, it has to do with properties. People that 23 own property up there are going to lose value, they are 24 impacted by the visual and the noise part of that 25 thing, and there's no way he can get around it because</p>
<p style="text-align: right;">Page 31</p> <p>1 Recently myself and a friend walked 2 through and talked with neighbors and actually looked 3 at the view from the area. On the first page of my 4 handout -- and you can see that one that has a bunch of 5 little red dots all over it -- okay, that crosshatched 6 area is the mine, proposed mine area.</p> <p>7 The red dots, when we walked through the 8 neighborhood and talked with neighbors and looked at 9 them -- and we didn't really just look at homes, 10 because the code doesn't say you can't impact homes, it 11 says you can't impact other properties.</p> <p>12 We counted -- on the red dots you can see 13 on this thing, we counted 22 homes and talked to those 14 people in most of those places, and they were impacted, 15 and they will have visual and noise impact because no 16 amount of berming can cover that up. You'd have to 17 build a 100-foot berm down there to block that view.</p> <p>18 Let's see. And in talking about this 19 berm thing again and the vegetated buffer, the picture 20 that we handed out to you -- and again, I'm a little 21 premature on that, but this one right here, this is my 22 neighbor Rick Oliver, he lives on Danver Street, he's 23 going to speak here in a few minutes, but you can see 24 the vegetated berm is that one tree to his left.</p> <p>25 Now Rick lives on Danver, you can see the</p>	<p style="text-align: right;">Page 33</p> <p>1 of the topography of that area. It's like being in an 2 amphitheater when you go there.</p> <p>3 The property, the proposed mine is in the 4 heart of a residential recreational gem, and we call it 5 Anchor Point. This property could, if properly 6 developed, could be a very desirable addition to the 7 community.</p> <p>8 CHAIRMAN MARTIN: That's five minutes. 9 HANS BILBEN: Okay. 10 CHAIRMAN MARTIN: Can you wrap up? 11 HANS BILBEN: I need about one more 12 second.</p> <p>13 CHAIRMAN MARTIN: Yep. 14 HANS BILBEN: It's the function of our 15 elected and appointed officials to represent and hold 16 up these ordinances and not merely to rubber stamp this 17 thing. This pit is at the wrong place and it has no 18 business even getting this far in the process.</p> <p>19 CHAIRMAN MARTIN: Any questions? None at 20 this time. Thank you. Yep, name and address for the 21 record.</p> <p>22 PETE KINNEEN: Name is Pete Kinneen, and 23 I live at 34969 Danver just behind Echo overlooking 24 this proposed mine. 25 And I'm here with a slightly different</p>

<p style="text-align: right;">Page 34</p> <p>1 take. I'm an Irishman and I'm as passionate as anyone 2 else is, however I'm going to put that aside, save you 3 from my passion, and strike strictly to the reasons 4 that you cannot approve this tonight. 5 It does not meet the conditions. And 6 the -- you know, the valid concerns about the safety of 7 the road, et cetera, et cetera are not within your 8 toolbox to use to make the decision. So just going on 9 the ordinances and the exact interpretation of them, I 10 don't think any of the conditions can be met. 11 In fact, if this were to be -- first of 12 all, this is not a permit of right. You do not have a 13 right to do it, you must come and ask permission, and 14 there's conditions. 15 And I'm going to suggest, because of the 16 uniqueness of this, if this were to be passed, there is 17 no other operation in the Kenai Peninsula Borough -- 18 you might as well just rip up the ordinance and say, 19 "Pshh, you can do anything you want." 20 But the way it stands right now in Title 21 21.29.050(A)(2)(a)(iie) says specifically, "Buffer 22 requirements shall be made in consideration of and in 23 accordance with existing use of neighboring property at 24 the time of approval of the permit." 25 "Shall" is a mandatory word, it is not</p>	<p style="text-align: right;">Page 36</p> <p>1 foot home, and everything behind it is part of this 2 proposed mine. 3 And there is -- I don't know, you can put 4 up six-foot or 12-foot fence, you can make the buffer 5 50 feet wide, 100 feet wide, 150 feet wide, it doesn't 6 matter. And so this is a unique situation all the way 7 around. 8 The stated intent, which is your guide, 9 is found in Title 21.29.040 and (A) clearly says 10 "intent". What is the intent? Is the intent just to 11 shovel out to anybody who comes in here and asks for a 12 gravel mine anywhere at any time? That's not what the 13 intent says. The intent says protect against six 14 different conditions, including dust, noise, and visual 15 impact. 16 So with all due respect, because of the 17 uniqueness of this area, if there's ever been a gravel 18 mine application that should be denied, this is it. 19 And I don't understand, I really do not understand how 20 a permit could be issued for this under these 21 ordinances and any interpretation of it. 22 So at my invitation, Bruce Wall came to 23 the house -- and again, all these photos were taken 24 from my living room or the deck -- and he and I stood 25 there and I said, "Here you go." And basically the</p>
<p style="text-align: right;">Page 35</p> <p>1 permissive. You must do this, you must keep this in 2 mind. The road and kids getting running over and all 3 that is real, but it's not what you are to use in your 4 decision, but "shall," that you will consider all of 5 us. 6 And the uniqueness of this is that if you 7 were in a helicopter flying up the coastline, you would 8 see tall bluffs for a mile after mile almost all the 9 way in from Homer and far north. 10 The exception is there's a little 11 amphitheater or bathtub that inundates right in here, 12 and that was caused by the outflow of the Anchor River. 13 And it's a small flat area surrounded by a bathtub, and 14 the noise comes in primarily from the water. 15 The atmospheric conditions of the body of 16 water right there play havoc with the sound. I mean, 17 sometimes you can hear any little thing and other times 18 you don't hear. But the noise cannot be minimized, 19 there's virtually nothing you can do. You can have all 20 the buffers you want. 21 And in the photos that I've included here 22 for your perusal, they were taken from my living room 23 inside the house and they look out over the tops of the 24 fully matured trees and they look out over -- you will 25 see just a corner of a blue roof, it's a 20-something</p>	<p style="text-align: right;">Page 37</p> <p>1 entire floor of this bathtub or amphitheater, except 2 for the estuary of Anchor River itself, virtually 3 everything else is in this proposed mine. And I said, 4 "Bruce, look, show me what you could do. I mean, we 5 are open for ideas, all of us." 6 And incidentally, there's a lot more than 7 five houses. I mean, that's just probably an 8 indication of the people who are proposing this. You 9 know, Hans found over 20 houses that are impacted by 10 this, I found more. So there's a lot of people 11 impacted. 12 And so anyway, I'm standing there with 13 Bruce and I said, "Here it is. I can see the entire 14 mine from left to right. And how can you protect us 15 per your ordinance -- 'you shall' -- and this is the 16 intent?" 17 And I think he was kidding around. He 18 just kind of jumped over here and said, "Well, you 19 know, I can't see it now." That was a tree that was 20 there in front of the house. 21 And incidentally because of the 22 atmospheric conditions right up to Echo Road does have 23 original, vibrant, verdant, green, mature spruce trees. 24 Past that and coming up the hill it doesn't, because 25 the ecosystem that comes in behind us is the uplands</p>

<p style="text-align: right;">Page 38</p> <p>1 boreal forest, and that's just been decimated by the 2 beetle kill. 3 CHAIRMAN MARTIN: It's been five minutes. 4 Could you -- 5 PETE KINNEEN: All right, I'll wind it up 6 here in just a second. I appreciate it, sir. 7 I'm open to questions. But again, all 8 you need is one condition not being met. And as I 9 challenged Bruce Wall -- very nice guy, gentleman, I 10 like him -- I said, "How can you follow the intent? 11 Please show us how you can do it." 12 And you just saw a picture from Hans, of 13 the guy right down on Danver, and I'm like way up 14 there, and Hans looks over my house. 15 So I guess we are open to ideas, but a 16 50-foot buffer along the road, parallel height isn't 17 going to do anything at all. What it is is we're 18 looking down on a box. 19 And the bad thing is normally on a flat 20 plane when you are going down the road, you put up the 21 fence, you know, about the height of eye level and that 22 works. This doesn't work. 23 CHAIRMAN MARTIN: Thank you. Are there 24 any questions? None at this time. Thanks for your 25 testimony.</p>	<p style="text-align: right;">Page 40</p> <p>1 more significant and additional information regarding 2 that water standards to be presented. 3 No. 3 addresses the minimization of dust 4 offsite areas. Due to the proposed placement of the 5 proposed -- of the processing equipment, any onshore 6 breeze will bring dust to my home directly across the 7 street. 8 No. 4 addresses the noise disturbance to 9 other properties. According -- excuse me. According 10 to the radii shown on the application, the processing 11 equipment is roughly set 300 feet from my front door. 12 I'm close to six feet -- well, kind of 13 close, used to be closer. I'm holding in this picture, 14 of which you guys now have a copy, is a ten-foot board 15 just to show you how a six-foot board would -- so you 16 could see how a six-foot berm will minimize the visual 17 impact, which is not at all. 18 Mrs. Trimble approached a neighbor of 19 mine after the informal meeting last Wednesday and 20 stated that she and her husband had walked the property 21 and said they could see only six houses. This does not 22 include other properties as addressed by the code that 23 could at some point be developed. This begs the 24 question as to just how many homes does the project 25 have to decimate in order to convince this body that it</p>
<p style="text-align: right;">Page 39</p> <p>1 PETE KINNEEN: Okay. Great. 2 CHAIRMAN MARTIN: Next testifier, please. 3 RICK OLIVER: Good evening. My name is 4 Rick Oliver. My address is 34880 Danver Street. Our 5 home is somewhat above and directly opposite the 6 proposed Danver Street -- I'm sorry, site on Danver 7 Street. The activity allowed by this application will 8 totally decimate the property value of our home as well 9 as the quality of life that we now enjoy. 10 We are most definitely not alone in this 11 regard. Obviously the standards set for the sand, 12 gravel, or material sites are said to protect -- again, 13 I'm saying the same thing everybody else has said -- 14 against aquifer disturbance, road damage, visible 15 damage to adjacent properties, dust, noise and visual 16 impact. 17 I can state unequivocally that the 18 proposed setbacks, berms, vegetation buffers, et 19 cetera, will not and cannot protect our homes from 20 this -- from these disturbances. 21 No. 1 of said standards addresses a 22 lowering of water sources serving other properties. 23 The existence of substantial lake just below my 24 property indicates that a major mining operation cannot 25 help but affect my water source. I'm told there's some</p>	<p style="text-align: right;">Page 41</p> <p>1 should not happen? 2 For the record, let it be known that my 3 family and I, along with the dozens of other families 4 residing in this area, vehemently oppose the granting 5 of this permit. 6 Enough said. Thank you. 7 CHAIRMAN MARTIN: Thank you. Any 8 questions? Next testifier, please. 9 JEANNE BILBEN: My name is Jeanne Bilben. 10 I'm the wife of Hans Bilben that just spoke. And I 11 won't take very long, I just have a few things to say. 12 With the papers that I've handed out is 13 just regarding some of the information that we 14 discovered. 15 We love this beautiful recreation area. 16 Some of us have bought and built homes here. We own 17 land here just as the permit owner owns lands, but we 18 are not digging a gravel pit in his front or back yard. 19 We are not against a gravel pit, but we 20 do not want them in our neighborhoods. You would think 21 we have just as many rights as a gravel pit. We pay 22 our taxes too. 23 This is called gravel pit -- this 24 so-called gravel pit will be disturbing the peace of 25 our beautiful area. We know once this permit is issued</p>

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<p>1 it goes with the land, no matter who owns it, making it 2 even more valuable to the owner and making our property 3 values go down. 4 Not only is this a recreational area, 5 it's also a historic area. We have been in contact 6 with the State Historic Preservation Office and there 7 are documents like the ones that you have that there is 8 a highly potential historic archeological site and 9 that's the documents I have of historic graves, 10 possible cache pits, et cetera. 11 So I'm asking to stop this permit and 12 keep this area away from mining and gravel. The state 13 recreational area in Anchor Point is where people come 14 to see the beauty and the history of this part of the 15 world. Do you really want a gravel pit in this place 16 for them to see? 17 Please keep gravel pits away from our 18 neighborhoods, historical lands, and recreational 19 areas. That's all. Thank you. That's all we ask. 20 Thank you. 21 CHAIRMAN MARTIN: Thank you. Any 22 questions? 23 JEANNE BILBEN: Any questions? 24 CHAIRMAN MARTIN: None at this time. 25 Thank you.</p>	<p>1 you right now, whatever happens, I will write a letter 2 on this, because this is -- you know, this is what I 3 did, and I don't like picking up kids. 4 But even the gentleman who is trying do 5 this, I believe it was his daughter and grandson, they 6 were walking down there, and we were coming out with a 7 boat trying to go down to Homer and there was another 8 car coming the other way, and we had to stop, and she 9 had to push the kid off the side of the road. All 10 right. So I was there. 11 And I can tell you, usually when I face 12 12 people it's called a jury and I don't like that, so 13 I don't normally get up and do anything like this, but 14 this is really a serious problem. Okay. 15 Aside from the bridge is condemned, so we 16 really kind of left a bunch of people off. Well, they 17 have to turn right and go out seven or eight miles to 18 get back out to Seward Highway (sic). 19 UNKNOWN SPEAKER: Sterling. 20 JIM REID: The Old Seward (sic) -- 21 UNKNOWN SPEAKER: Sterling, Sterling. 22 JIM REID: Sterling, I mean. 23 That's like a snake. So we should have 24 included all of those people who live down that road 25 that want to get to look at them 5,000 trucks. That</p>
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<p>1 JEANNE BILBEN: I dropped it again. I'm 2 old, I can't do this. 3 JIM REID: Hi. My name is Jim Reid. I'm 4 a retired paramedic, fire lieutenant, metro Dade, Miami 5 Dade, and my address is 73820 Seaward Avenue. 6 And my issue is the safety factor. Okay. 7 This is what I did for 30 years, and I can tell you 8 that that road that they are talking about, both roads, 9 when they come down off of that hill down Danver, if 10 you are coming down there in the winter time and a dump 11 truck -- and that gravel truck pulls out, you are not 12 stopping. Everybody in the neighborhood has complained 13 about it. I mean, there's just nothing you can do. It 14 gets iced over and you are going. That part. 15 The other part is there's kids, and 16 that's what I deal with, okay. And you've got four 17 parks there or five parks, but you got three of them 18 that them trucks have to pass with every load. And you 19 are talking five -- you're not talking a couple hundred 20 trucks a year, you're talking 5,000 trucks is what they 21 are talking about. 22 With the amount of aggregate they want to 23 take out of there, you are talking five -- ten yards a 24 truck, just figure it real quick, it's 5,000 trucks. 25 We're not -- this is not a little thing. And I'll tell</p>	<p>1 road is dangerous anyway. They run off that road for 2 whatever reason. 3 Okay, folks, thank you. 4 MS. REID: I want to say -- my name is 5 Susan Reid and I'm at 73820 -- where am I -- Seaward 6 Avenue. 7 We stand here with all of our friends and 8 our neighbors and our community to let you know that we 9 are really opposed to this and we object to the 10 applicant for all the reasons everybody has stated, 11 from bridge repair that's not going to hold their 12 weight, from the property value of us going down. I 13 assume if our property value does go down you would be 14 very happy to lower our taxes, I'm assuming that you do 15 that. 16 JIM REID: Yeah, I'm sure. 17 SUSAN REID: I'm assuming if you let him 18 have this -- if you let him have this permit you are 19 going to widen that road. Because right now it's not 20 wide enough, like Mr. Cullip said, for all of this 21 traffic. That's probably going to cost you a million 22 and a half to fix the road. 23 JIM REID: Well, right now all the dumps 24 trucks that are empty go right out across that bridge. 25 Well they just lowered from -- to 11 tons, which is</p>

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1 22,000 pounds. And an empty dump truck weighs how
2 much -- he should know that right off hand -- about
3 26-, 28,000 empty. So right off the bat they are not
4 abiding by the law right now.
5 **SUSAN REID:** It's a highly, highly
6 congested --
7 **JIM REID:** That bridge is very dangerous.
8 **SUSAN REID:** -- residential area.
9 **CHAIRMAN MARTIN:** Yeah, one at a time.
10 We are almost done.
11 **SUSAN REID:** Okay. It's a highly
12 residential -- it's a highly residential area, and all
13 of us as the residents just want you to understand
14 we're not taking this -- we're taking it very harshly
15 here. We don't want you to do it, we don't want you to
16 pass the permit.
17 I know he has a right to try to make
18 money off of his land, that's why he bought it, but
19 years ago we all bought in this beautiful neck of the
20 woods because it was quiet, not a lot of noise. I'm
21 hearing beeping backup noises right now. I don't care
22 how much white noise stuff you put on these trucks, you
23 are still going to have this.
24 Thank you for listening to us and I hope
25 we aren't too emotional about it.

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1 **CHAIRMAN MARTIN:** Thank you. Next
2 testified, please.
3 **DON HORTON:** Hi. My name is Don Horton,
4 and I live on 34910 Echo Street, directly across the
5 street from this proposed gravel pit.
6 We bought this property 15 years ago for
7 recreational purposes and maybe some day to build a
8 house on it when I retire. A month ago I retired and I
9 get -- a month later I get a letter stating that I'm
10 going to have -- look at a gravel pit directly across.
11 My only view is this field. I look across this field
12 and I see Mt. Redoubt.
13 So if you build a 12-foot berm, six-foot
14 berm, eight-foot berm, I'm going to look at berm, a
15 gravel pit, and then Mt. Redoubt, so that -- it's going
16 to virtually ruin my property. I would never build on
17 it now, it's -- not even with a consideration of this
18 going in, never could I build on it. I could never
19 even give the property away.
20 I have three sons and a daughter that
21 hopefully someday this -- and a grandson now --
22 hopefully that someday this will be his property.
23 Well, I'd hate to see you guys ruin my
24 little slice of heaven. Thank you.
25 **CHAIRMAN MARTIN:** Thank you.

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1 **EILEEN SHERIDAN:** There's no place to
2 sign. Next page?
3 **UNKNOWN SPEAKER:** Just carve your name in
4 the wood there.
5 **UNKNOWN SPEAKER:** Better save room for
6 the rest of us.
7 **EILEEN SHERIDAN:** Right here, if you will
8 take that page, yeah.
9 While she's changing that, I'm Eileen
10 Sheridan, I am around a 50-year resident of Alaska.
11 We've lived in -- we've lived in Juneau, Sitka,
12 beautiful places.
13 **CHAIRMAN MARTIN:** And your current
14 address?
15 **EILEEN SHERIDAN:** We've lived in Palmer.
16 We now live in 34860 Seabury Court, Anchor Point.
17 We're above this area. We're secondary families, we
18 live right near these people right here.
19 We understand the noise, because if
20 you've ever been out there when the wind is going 125
21 miles-an-hour, you can feel it whooshing up that river.
22 You talked about the cliffs and it coming up, and
23 definitely there's no way berms or vegetation like that
24 is going to take away those noises.
25 When they had that oil/gas people out

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1 there in the Bay making their sonogram things all
2 summer long, that was distracting. This gravel pit
3 will be distracting too.
4 We put our retirement into this home.
5 It's going to go down in value. There's no way -- even
6 Emmitt has said at the meeting the other night that,
7 yeah, a gravel pit would make the value of your
8 property go down. We had hoped that our kids could
9 enjoy this later in life also. We've worked hard to do
10 what we are doing, and so we understand him wanting to
11 do something too, but not a gravel pit that we have to
12 live with.
13 And the dust, I had terrible allergies up
14 in the Valley. We moved down here, because every time
15 we brought our boat down or our trailer down, my
16 allergies were halfway better living right there by
17 ocean instead of up in the hay fields. And even though
18 it was beautiful up there, we retired down here.
19 So for -- if you are looking at how it's
20 going to be a noise area, minimizing the dust, we
21 already get dust from our dirt roads that are up there.
22 Right now our Seabury Court road is just
23 mainly a trail, a road trail. We have to go up to
24 Seaward or down Deesa -- they said it's Deesa Avenue
25 now onto a dirt road.

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1 The trucks speed down that road and
2 there's no other way, you know, except to go and pick
3 up dust, so you get the extra dust from a gravel pit.
4 We lived next to one when we were -- while we were
5 building this home and I was very glad to get up on my
6 peaceful house to look at Mt. Iliamna and out at Mt.
7 Redoubt.
8 And I realize that if he gets these
9 permits that he has the right to sell and have maybe
10 even a bigger gravel pit put in there.
11 Lowering of water sources, we noticed
12 that there was only one test hole shown and was
13 wondering if there's any consideration of loss of
14 vegetation and resulting water rises from this.
15 There seems to be, looking at the maps,
16 some wetlands in there. We watch as we go down Denver
17 to the right just across from that property the ducks
18 that come in, they have their babies, the moose have
19 their babies down there. If you get that noise in from
20 the gravel pit, those moose mothers, they get so
21 disturbed. They could be leaving their babies too.
22 **CHAIRMAN MARTIN:** That's five minutes.
23 **EILEEN SHERIDAN:** Thank you.
24 **CHAIRMAN MARTIN:** Any questions? None at
25 this time. Thank you for your testimony.

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1 **EILEEN SHERIDAN:** Pardon?
2 **CHAIRMAN MARTIN:** Thank you. There's no
3 questions.
4 **EILEEN SHERIDAN:** Yes. I hope that you
5 will reconsider and maybe think about looking at the
6 new resolutions you're thinking about.
7 **UNKNOWN SPEAKER:** There's two more spots
8 there.
9 **GERALD BLAIR:** Good evening. My name is
10 Gerald Blair, I live at 73600 Twin Peaks Loop.
11 Most of what I might have said this
12 evening has already been said, probably far more
13 eloquently than I would have, by prior speakers.
14 But there is one issue that has not been
15 covered, and that is not just the safety of that road,
16 but the cost of that road. What I've been able to
17 determine is that that road started life as a Cat trail
18 that went from the Sterling Highway out to the beach,
19 and that it was never engineered or properly built so
20 it has no base.
21 It doesn't have even enough right-of-way
22 to be any wider than it is in spots, and that is barely
23 wide enough. Two trucks could lose their mirrors if
24 they are not careful because there's no way to get off
25 the road, particularly with a loaded truck.

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1 Estimates. If you are going to fix that
2 road to where it will handle these dump trucks -- and
3 some of the trucks I see going up the North Fork weigh
4 well in excess of 100,000 pounds. They are a tractor
5 pulling two side dump trailers that haul 20 yards of
6 rock a piece, and that's about 60,000 worth of rock per
7 trailer plus the truck and the trailers.
8 Guesstimates to fix that road to bring it
9 up to par is in excess of \$2 million, because you get
10 to rip it all up and rebuild it all, plus you've got to
11 go in a do right-of-way work and achieve right-of-way
12 to make the road wide enough.
13 Over the lifespan of this pit, if the
14 road isn't totally fixed in the beginning, you could
15 spend \$6 million in maintenance maintaining that road
16 for 15 years, and that's if the pit stops at 15. I
17 don't know if the Kenai Borough has that kind of money
18 laying around that they would want to put into that
19 when all they are going to get is some mineral
20 separation fees, which is not going to amount to very
21 much money.
22 So to me, I'm lucky enough to be far
23 enough away from that that the dust and the noise, it
24 will be minimal. The truck noise will be there. But
25 by and large, the cost to the borough to maintain that

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1 road or to rebuild that road, it's -- it would not be a
2 business I would go into, because you would spend 2- or
3 \$3 million and you'd get back almost nothing.
4 That's all I have to say. Thank you.
5 **CHAIRMAN MARTIN:** Thank you.
6 **UNKNOWN SPEAKER:** Don't forget the
7 bridge.
8 **GERALD BLAIR:** Well, I think the bridge
9 is going to be built anyway. I don't know that the
10 gravel pit will have much to do with that.
11 **CHAIRMAN MARTIN:** All right. Thank you.
12 Next testifier, please.
13 **BOB SHAVELSON:** Thank you. Again, my
14 name is Bob Shavelson, I'm the Director of Advocacy for
15 Cook Inletkeeper. And I'm hearing a lot of concerns
16 from property owners around here, and it brings to mind
17 the whole notion of private property, which is
18 obviously vital to our economic system.
19 But one of the central tenets of property
20 rights is that you can do what you want on your own
21 property, but you can't harm folks around you, okay,
22 and that includes private property and that includes
23 public property, and that's the issue that I'm here to
24 talk about tonight is the public property and, again,
25 the ground and the surface water resources.

<p style="text-align: right;">Page 54</p> <p>1 And when I look at the staff report and 2 the findings of fact, Finding of Fact 8C says, "You 3 shall keep two feet above the seasonal high water 4 mark." And again, I'm going to come back to the issue 5 that I raised the last time, but nothing in the 6 application says that the test hole was drilled and 7 monitored to ascertain the seasonal high water mark. 8 So how can you, as the Planning Commission, how can the 9 staff know what that level is? You cannot. 10 And so I would say that you can't approve 11 the permit if you want to abide by the ordinance. And 12 I'd say if you do, then it's just guess work, and we 13 shouldn't be gambling with the resources that we have 14 in the estuary of the Anchor River. 15 And I'll also go back and refer to the 16 scientist from the National Estuarine Research Reserve, 17 and they provided you with a groundwater flow that 18 shows that this parcel -- excuse me -- at least 19 partially flows to the Anchor River, and that water 20 plays a vital role in the life stage of various salmon. 21 And when I first thought about an 22 estuary, you know, I think I'm like a lot of people, I 23 think, well, salmon goes down and it goes through the 24 estuary, and then comes back and it goes through the 25 estuary again.</p>	<p style="text-align: right;">Page 56</p> <p>1 state law, that's our habitat protection law. We have 2 one law in the state that protects habitat protection. 3 It's one sentence long and it was adopted at statehood. 4 There's an effort now to revise that in a ballot 5 measure that's causing a lot of controversy. 6 But a lot of people feel that there's 7 this whole alphabet soup of laws and rules out there; 8 they don't protect our habitat. This is one of the 9 ways that you can. 10 And it reminds me of a book that some of 11 you might have read, it's called the King of Fish by a 12 professor named David Montgomery at the University of 13 Seattle, and he talks about the demise of salmon from 14 Europe to New England to the Pacific Northwest. 15 And the thing that you take from it is 16 that it wasn't just neglect that led to the loss of 17 these salmon runs across the world, it was knowing 18 neglect, okay. We knew what we were doing was wrong 19 and we did it anyway, and that's how I feel about these 20 permits that just continue to get rubber stamped 21 through this process. 22 And I'm coming to the end of my time, but 23 I'll just say I think a lot of you feel like your hands 24 are tied. There's this ordinance and it puts you in a 25 straight jacket and you can't do anything, but you have</p>
<p style="text-align: right;">Page 55</p> <p>1 It's a lot more complicated than that, 2 and we're just beginning to scratch the surface on this 3 complexity. 4 As I mentioned before, you know, our 5 ecology of these salmon systems is kind of like a 6 fabric, and when you start to pull at the threads of 7 that fabric it will unravel. So we've got to be really 8 careful here. 9 One of the things that really concerns 10 me, and when I looked at the ordinance it says you have 11 to comply with all these other environmental laws and 12 rules. And there's something that I call the myth of 13 rigorous permitting. 14 And the myth of rigorous permitting is 15 that there's this whole alphabet soup of local, state, 16 and federal laws and rules, and if you dot all the i's 17 and cross all the t's, then, viola, you are going to 18 have salmon habitat protection. 19 But I've been doing this for 25 years, 20 and I can tell you that that's not the case. You know, 21 we've got a 50-foot buffer on our salmon streams in the 22 Kenai Peninsula Borough. We know that Mayor Pierce is 23 now looking actively to revoke some or all of those 24 protections. 25 We have what's called Title 16 in our</p>	<p style="text-align: right;">Page 57</p> <p>1 enormous discretion. You have discretion that's given 2 to you by the borough. And if you look, and I provided 3 this in my written comments, but under Kenai Peninsula 4 Borough's 2.40.050 you have broad discretion to 5 investigate and make recommendations, including to the 6 assembly. 7 And so I sense that this is going to be 8 deferred to your August 13th meeting. I would 9 encourage you to ask the questions that need to 10 answered to do this right, because the mouth of the 11 Anchor River is a special place, it's why you have this 12 room packed tonight, and I think this body needs to 13 represent the public interest. 14 The private interest is always adequately 15 represented, the public interest needs to be 16 represented, and I feel like that's the job of the 17 Planning Commission. 18 Thank you very much. 19 CHAIRMAN MARTIN: Thank you. Any 20 questions? Next. 21 ELDON OVERSON: I'd like to apologize, I 22 didn't make enough copies of my picture, but that is 23 the view from my property from which I built a cabin 24 this winter. 25 I have a statement that I would like to</p>

<p style="text-align: right;">Page 58</p> <p>1 read, and then I have a few questions if that's all 2 right with the Committee. Is that acceptable? 3 CHAIRMAN MARTIN: Yes. 4 ELDON OVERSON: Okay. I would like to 5 thank you guys for hearing my thoughts on the proposed 6 Beachcomber gravel pit that is being submitted by 7 Emmitt and Mary Trimble in our community. 8 I will thank you even more after this 9 meeting if you reject the proposed land use permit that 10 will decimate my neighbors' and my view for the next 15 11 to 20 years. 12 I was at work on the Slope when I got the 13 e-mail for this planning meeting, and I flew today and 14 drove down from Anchorage just for today, and I have to 15 drive up and fly back up to work tomorrow. I say this 16 to show the importance that this proposed gravel pit 17 means to me and how much I do not wish it to go 18 forward. I feel that this is a very bad proposal and 19 deserved more of my time and effort. 20 I bought my lot on the corner of Denver 21 and Seaward about eight years ago, and it's the spot 22 that I would eventually build my dream home. I 23 started, like I stated, to build a cabin on the lot to 24 use for summertime camping this winter, and that 25 picture is of me standing on my loft from that cabin.</p>	<p style="text-align: right;">Page 60</p> <p>1 the enjoyment, the view, and the property values of the 2 same people that they sold the property to. 3 I find it very disrespectful that they 4 did not consider anybody but themselves and do not wish 5 to accurately describe what they want to use the 6 property for. I have heard from many of the neighbors 7 from the meeting that they attended that they said that 8 they only wanted to go down ten feet. The permit 9 states that they want to go down 18, and then apply 10 further in the future for going down even farther. So 11 I would like to hear him address those. 12 And also on the permit that it says that 13 this land was not intended for future subdivision, 14 which he also claims that that's why he's only going 15 down ten feet was to later subdivide the property, 16 which will also make all the septs in that area lower 17 to the water table. 18 The questions I have, I'll skip to those. 19 I would like to ask how could the borough 20 simultaneously tax me for my view while also approving 21 a big eyesore right in the middle of it? I know that 22 in Homer they've started to assess views on top of 23 property. So I was just wondering, will there be a 24 waiver granted for all of us that are being impacted by 25 this gravel pit, and if so, what's the loss revenue to</p>
<p style="text-align: right;">Page 59</p> <p>1 The red area that is marked is where the proposed 2 gravel pit will be. I'm approximately 65 feet above 3 the gravel pit, so I will be looking directly into it. 4 The view of Iliamna, the ocean, and the 5 river was the main reason for me purchasing my 6 property. And as the permit states, that -- the 7 six-foot high berm in the plan will offer little to no 8 relief from the visual impact of the gravel pit. This 9 is true for my lot, my neighbors', and many others. 10 I don't feel that they have offered any 11 mitigating factors to lowering our value of the 12 surrounding properties to increase his. 13 Noise is also another factor that will 14 keep me from using my property in the future as I 15 intended. The machinery that will be working in the 16 daytime hours will make me basically not want to be 17 there. There is no buffer between me and the gravel 18 pit, so I will have to hear the constant droning of the 19 processing of the sand and gravel for the next 15-plus 20 years. This was a very tranquil neighborhood and I 21 enjoyed hanging out there during the summer months. 22 In closing, I find it very disingenuous 23 and unethical that Emmitt and Mary Trimble have 24 profited from selling many of the lots in our 25 neighborhood, and now single handedly want to undermine</p>	<p style="text-align: right;">Page 61</p> <p>1 the borough? Does anybody want to speak to that? 2 CHAIRMAN MARTIN: This is your night to 3 speak. 4 ELDON OVERSON: All right. 5 CHAIRMAN MARTIN: If you could wrap it 6 up, you've had five minutes. 7 ELDON OVERSON: I thought if I requested 8 longer, I could have longer. 9 CHAIRMAN MARTIN: How much more are 10 you -- 11 ELDON OVERSON: I just have a few other 12 things. 13 CHAIRMAN MARTIN: Okay. 14 ELDON OVERSON: I won't -- I won't 15 mention the campgrounds, but it's already been 16 addressed, I think, better than I would have. 17 And then also there is some incorrect and 18 wrong statements on the permit concerning that there 19 were no wells within 100 feet of the property boundary. 20 There is -- I do believe the We Tie Fly has a well 21 within 100 feet, so that is inaccurate on the permit. 22 So I don't know how they can claim that there's no 23 wells within 100 feet of the property when there is. 24 And also -- I think that's all I had. 25 Thank you for your time.</p>

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1 **CHAIRMAN MARTIN:** Thank you. Any
2 questions?
3 **UNKNOWN SPEAKER:** Mr. Chairman.
4 **CHAIRMAN MARTIN:** Yes.
5 **UNKNOWN SPEAKER:** I apologize, I didn't
6 get your name.
7 **ELDON OVERSON:** Eldon Overson, and my
8 address is 73976 Seaward Avenue.
9 **CHAIRMAN MARTIN:** I'd like a show of
10 hands of how many more we have left to testify. I'm
11 going to declare a five-minute recess.
12 (Recess - 10:07 p.m. - 10:15 p.m.)
13 **CHAIRMAN MARTIN:** All right, we are ready
14 to go.
15 **PHIL BRNA:** My name is Phil Brna. I live
16 at 5601 E. 98th Avenue in Anchorage, but I've spent a
17 good part of spring, summers, and falls in Anchor Point
18 for the last 41 years. I own a cabin on the Anchor
19 River inside the state park, and I also have a piece of
20 property that's surrounded by the proposed gravel pit.
21 In the last 41 years I spent 21 years
22 with the Alaska Department of Fish & Game as a habitat
23 biologist, and 14 years with U.S. Fish & Wildlife
24 Service. I'm retired from both. I have lots of
25 experience with large development projects like Pebble

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1 Mine, Donlin Mine, Chulitna Mine to name a few. I was
2 the Fish & Wildlife Service biologist on all of those.
3 I just want to make an aside here that
4 the science related to groundwater here and the other
5 gravel permit is a total joke. I have worked with some
6 of the best groundwater hydrologists in the country and
7 in Canada, and it is pretty stunning how you are making
8 decisions based on groundwater with no groundwater data
9 other than one test hole that's dug who knows where.
10 Anyway, as former governor Jay Hammond
11 once said -- former governor Jay Hammond once said
12 this is about Pebble Mine. "The only worse place for a
13 mine would be in my back yard."
14 Well, this proposed gravel pit is in my
15 back yard. In fact, it surrounds my one-acre property
16 on three sides. I'm the last lot on Beachcomber. I
17 bought the property to build a small house when I fully
18 retired, which I did two years ago, and this proposal
19 will pretty much destroy my plans to do that, my wife
20 and I, and it will destroy my property value. I'm not
21 going to go on and on because most things have been
22 said.
23 In 2018, I think it is ludicrous to think
24 that someone could develop a gravel pit in the middle
25 of a residential area and one of the most heavily used

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1 recreational areas in Alaska. It's really unthinkable.
2 As far as the noise, when the property
3 was being cleared and when the other little gravel pit
4 across the street was being built, from my cabin I
5 could hear every truck backing up, I could hear every
6 truck going down the -- down the road, I could hear
7 Todd's tractors backing up. You can hear everything in
8 that valley, and it's not going to be any better with a
9 gravel pit.
10 There's also archeological sites on my
11 property, there's old cache pits, and probably at least
12 one house pit. I walked the gravel pit property a long
13 time ago, and there's a bunch of house pits and cache
14 pits on that property as well.
15 There's also an old wagon road that goes
16 off the end of Beachcomber that was built in the 1920s,
17 I believe, to get to an old homestead, and it goes
18 across my property and it goes through the -- through
19 the gravel pit.
20 I've submitted written comments, I guess
21 I have enough time to read them, but I won't. If you
22 promise to read them, I won't read them.
23 So I hope the Kenai Borough Planning
24 Commission, or whatever you are, I'm not even sure,
25 denies the proposal for this project because it's not

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1 good for Anchor Point, it's not good for the people
2 that live there, it's not good for the people that come
3 there to recreate.
4 There are people from all over the world.
5 I was fishing the Anchor River today, and I probably
6 talked to 20 people from all over the world, and this
7 is kind of not a good thing. Thank you.
8 **CHAIRMAN MARTIN:** Thank you.
9 **PHIL BRNA:** Questions?
10 **CHAIRMAN MARTIN:** Do you have any
11 questions? Not at this time.
12 **LYNN WHITMORE:** My name is Lynn Whitmore.
13 I live at 34680 Beachcomber Street. And the proposed
14 project is literally in my back yard and is adjacent to
15 my property.
16 When I first -- when the applicant first
17 bought the property he told me he was going to
18 subdivide it and put homes back there. And I
19 considered moving since I had that nice piece of the
20 world to myself for a long time with just one neighbor.
21 And when he told us it was going to be a
22 gravel pit, then I went to the staff, and the staff
23 said this pretty much flies through if he can meet
24 those six conditions.
25 And so everybody I talked to said, "Well,

<p style="text-align: right;">Page 66</p> <p>1 Lynn, it's just going to fly through." And it's a 2 frustrating thing to watch all these people speak 3 knowing that it's just going to fly through. So why 4 are you having this hearing? What is the purpose? 5 What do you gain out of that if he meets 6 those conditions and it flies through? So maybe that 7 wouldn't be the best way to approach this thing is tell 8 everybody it's just going to fly through. And I've 9 heard from the neighbors that they were told the same 10 thing. 11 So if there is a chance to consider their 12 feelings and what they are going to listen to and what 13 I'm going to hear and listen to and we can reduce or 14 stop that, that would be a great benefit to me. And I 15 feel like you guys have had enough time with everybody 16 talking here, so I'll keep it short. Thank you. 17 CHAIRMAN MARTIN: Thank you. 18 JAMES GORMAN: Good evening. My name is 19 James Gorman, I live at 73608 Twin Peaks Loop, Anchor 20 Point. I look right down on the beach road. The 21 things these people say, I see them every day. 22 I was a history major in college, maybe 23 you will appreciate this letter. This comes from the 24 Alaska State Historical Preservation Office: 25 In receipt of your request for</p>	<p style="text-align: right;">Page 68</p> <p>1 requiring licensing and permitting from the state to 2 comply with the Alaska Historic Preservation Act, AS 3 41.35.070. This also includes required reporting of 4 historic and archeological sites on lands covered under 5 contract with or licensed by the state or government 6 agency of the state. This would include any material 7 resources used under contract with the state. 8 And secondly, the National Historic 9 Preservation Act: If there is federal involvement, 10 financial assistance, permit, license, or approval with 11 the project, it is the statutory obligation of the lead 12 federal agency to comply with Section 106, 36 CFR-800 13 of the National Historic Preservation Act which 14 requires the federal agency to take into account the 15 effects that their undertaking may have on historic 16 properties. 17 Were either of those laws to apply, our 18 office would be likely to request that an 19 archaeological survey is conducted to verify the site 20 locations and assess the potential effects of the 21 project pursuant to the applicable historic 22 preservation law. 23 In addition, there are state laws 24 requiring the discovery and/or intentional disturbance 25 of human remains. This pertains to all lands in</p>
<p style="text-align: right;">Page 67</p> <p>1 information regarding known historical sites in the 2 area of a proposed gravel mine, upon review of the 3 Alaska Heritage Resource Survey database there are two 4 reported cultural resource sites in the area of the 5 proposed mine. 6 One I've referenced as SEL-00280, 7 prehistoric site reported to consist of two house pits. 8 Location is represented as a large polygon on the 9 site -- you can see that -- exact location of features 10 is unknown, but current projected boundaries are within 11 the proposed mining area. 12 Second one is SEL-00281, historic graves 13 and possible cache pits reported to consist of five 14 graves that at one time had grave markers. 15 Depressions, tentatively described as cache pits, were 16 reported north of the graves. Location is represented 17 as a large polygon. Exact location of features is 18 unknown, but current projected boundaries are within 19 the proposed mining area. 20 In Alaska, there are two historical 21 perseveration laws that may apply unless the project is 22 entirely private in nature. 23 The first one is the Alaska Historic 24 Preservation Act: State law requires all public 25 construction or improvement activities conducted by or</p>	<p style="text-align: right;">Page 69</p> <p>1 Alaska, including private. I have attached our handout 2 regarding human remains. 3 Due to the lack of clear information 4 regarding the site locations, our office strongly 5 encourages the use of a qualified cultural resource 6 professional to verify the site. 7 Questions? I'll leave you a copy of this 8 if you'd like. 9 CHAIRMAN MARTIN: Any questions? 10 UNKNOWN SPEAKER: We got it. 11 JAMES GORMAN: You've got a copy. 12 CHAIRMAN MARTIN: Thank you. 13 JAMES GORMAN: Oh, and one more thing. 14 According to the recently retired chief ranger of the 15 park system, the park owns both sides of the beach road 16 and they will not permit a widening of that road. 17 Thank you. 18 CHAIRMAN MARTIN: Next testifier. 19 XOCHITL LOPEZ-AYALA: Hello, my name is 20 Xochitl Lopez Ayala. I currently reside in Homer, but 21 my family owns the property directly across from this 22 proposed gravel mine at 34910 Echo. 23 It is on the corner of Danver and Echo, 24 so right literally standing at the edge of our property 25 we will look up to a berm. We will actually submit a</p>

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1 picture for you so you can see what our proposed view
2 will look like here if this goes through.
3 I did want to bring up to you all that --
4 I want you to see that everyone here drove from Anchor
5 Point or Homer or Anchorage, and we want you to make
6 that same commitment that we are here to commit to you.
7 And, you know, since this is proposed to
8 be shelved, is drive down to Anchor Point, drive down
9 to that road, look at this site, because you will see
10 what we are all so passionate about.
11 And I want you all to know that although
12 all this negative talk about this, it's actually been
13 really great in terms of the community. I've gotten to
14 know people that I didn't get to know before, and we've
15 all really kind of grouped together and found one
16 common thing that we all love and that's Anchor Point.
17 That's why we go there.
18 And this mine, which is should be
19 described as a mine, not a pit, a mine, is not good for
20 us, it's not good for Anchor Point. And you just have
21 a lot of passion in this room and we want you to
22 recognize that.
23 And I know you guys are glossing over,
24 it's getting late. So, you know, thank you for staying
25 here. But there's tons of people who want to talk and

1 know, thank you all, everybody, for coming here, even
2 Emmitt and his family. You know, it's hard -- it's
3 hard on all of us, a lot of tears, a lot of anger, and
4 it really means a lot to us. So thank you.
5 **CHAIRMAN MARTIN:** Thank you.
6 **BRUCE WALL:** Mr. Chairman. Ma'am, could
7 I get you to do me a favor and put your name and your
8 address on the sign-up sheet?
9 **XOCHITL LOPEZ-AYALA:** Oh, sure.
10 **BRUCE WALL:** Thank you.
11 **CHAIRMAN MARTIN:** Who is next?
12 **JOSH ELMALEH:** Hi. My name is Josh
13 Elmaleh, I own the property 34885 Seabury Court. My
14 wife and I looked over many properties over the last
15 couple of years, and we purchased our place a year ago,
16 overlooking several -- probably half a dozen to a dozen
17 houses that were beautiful houses, beautiful land, but
18 they were really close, within earshot of a gravel pit.
19 And we strongly oppose it.
20 My first king salmon I caught in the
21 Anchor River probably half a dozen years ago, and I
22 want that same thing for my four-month-old son, I want
23 that same thing for my six-year-old daughter. I want
24 them to be able to enjoy the things that I got to
25 enjoy. It is a piece of heaven. And I'm terrified to

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1 want you to hear their testimony, so please read over
2 our information that we are trying to send you and
3 understand that, you know, it's -- do what's right for
4 the public, not necessarily a private owner, because
5 it's affecting all of us.
6 And I also wanted you to realize that --
7 don't you think it's kind of odd that there's a lot of
8 gravel pits and mine proposals going up now that
9 this -- now that this ordinance has been pushed back a
10 year? I mean, you approved two earlier today, and now
11 a third. Like, how many more are you going to see?
12 Obviously, that's a lot of red flags that
13 you should see that if people are doing this, obviously
14 they are trying to skirt something or get past
15 something, and really look into why they are trying to
16 do this. Are they trying to sell to a corporation up
17 in Anchorage? Are they trying to sell to an
18 out-of-state investor?
19 You know, why -- why don't we just keep
20 what we love, and why we moved down here, why we moved
21 to the Peninsula.
22 My husband and I just relocated here from
23 Juneau, and now I get to look at a fricken mine and a
24 berm. So, yeah, I'm kind of disappointed in that.
25 So, you know, thank you all. And, you

1 talk up here, so I'm done.
2 **CHAIRMAN MARTIN:** Any questions? Thank
3 you. Who is next? I think we've heard from you --
4 **UNKNOWN SPEAKER:** Am I permitted to talk
5 for another minute?
6 **CHAIRMAN MARTIN:** No, we are going to run
7 out of time. Everybody -- we need everybody to be as
8 quick -- as punctual as possible.
9 **UNKNOWN SPEAKER:** All right. I just
10 wanted you to know that sound travels up and the wind
11 blows it the other way.
12 **LAUREN ISENHOUR:** Hello. My name is
13 Lauren Isenhour, I own -- I live at 34737 Beachcomber
14 Street, which is three acres that borders this
15 property. Mary and Emmitt are my parents.
16 I understand everyone's concerns and I
17 respect everyone's opinion in here. This is my back
18 yard too, so I definitely understand the concern.
19 And I understand the scope of what the
20 permit allows is a lot, and I certainly understand and
21 respect everyone's concerns.
22 My husband and I live there for all the
23 same reasons that everyone else in this room has chosen
24 to live in Anchor Point. We recreate, we walk on that
25 road, we go to the beach, we do all those things too

<p style="text-align: right;">Page 74</p> <p>1 and love it there.</p> <p>2 I was born there and grew up in Anchor</p> <p>3 Point. My parents have been in Anchor Point for 40</p> <p>4 years and have made a living in real estate by</p> <p>5 developing and improving land. And they have -- I'm</p> <p>6 sure everyone in the room will scoff at it, but they</p> <p>7 have a great reputation of improving land.</p> <p>8 UNKNOWN SPEAKER: (Indiscernible).</p> <p>9 LARUEN ISENHOUR: I feel I'm respectful</p> <p>10 to others' opinions, so I'd appreciate the same.</p> <p>11 They have made a living for 40 years</p> <p>12 improving land and selling it and caring for the land,</p> <p>13 and they are very meticulous in how they care for</p> <p>14 things. And everyone here can see that because they</p> <p>15 look out at this beautiful property that my parents --</p> <p>16 they bought it and then they invested \$60,000 into</p> <p>17 improving it by clearing all the stumps, burning the</p> <p>18 burn piles, and they mow it and care for this property,</p> <p>19 because that's how they care for land. And they've</p> <p>20 done it for a long time.</p> <p>21 They have other subdivisions that they've</p> <p>22 developed in Anchor Point that are on solid gravel, and</p> <p>23 they chose not to develop that to a gravel pit. They</p> <p>24 are land developers, not pit developers. And as</p> <p>25 someone mentioned, they don't have equipment, they</p>	<p style="text-align: right;">Page 76</p> <p>1 parents' ability to develop land in such a strategic</p> <p>2 and thoughtful way that there is a way with the</p> <p>3 regulations that the borough sets to excavate some</p> <p>4 gravel and reclaim it.</p> <p>5 And unlike some other pit developers, and</p> <p>6 like Mr. Walt who came and presented earlier, who</p> <p>7 that's what they do and they have equipment and they</p> <p>8 are -- immediately when they get the permit they are</p> <p>9 going to go and use the permit and use the gravel.</p> <p>10 My parents' primary interest in that</p> <p>11 property is the property, and other land developers it</p> <p>12 wouldn't. Their primary interest in a pit -- or a</p> <p>13 property with that much financial gain in it would be</p> <p>14 the resource below the property, but my parents'</p> <p>15 primary interest there is the property itself.</p> <p>16 I understand they are requesting for a</p> <p>17 permit with a large scope and that it could be a gravel</p> <p>18 pit. I live right there too. My parents would like to</p> <p>19 build a house down on the property.</p> <p>20 And again, everyone in this room will</p> <p>21 scoff at it, but as real estate professionals, it's in</p> <p>22 their best interest, and they fought for a long time to</p> <p>23 help maintain property and home values in Anchor Point,</p> <p>24 and they have roots in the community.</p> <p>25 And not just because I live there,</p>
<p style="text-align: right;">Page 75</p> <p>1 don't have a plan for operating procedures as people</p> <p>2 have been asking detailed information about that, and</p> <p>3 they don't have that. And I understand the scope of</p> <p>4 the permit and the concerns.</p> <p>5 There is obviously a benefit to gravel,</p> <p>6 and everyone in that community has benefitted by the</p> <p>7 road development in that subdivision. All the</p> <p>8 subdivisions back in there, all their driveways and</p> <p>9 their foundations have all been built with gravel, and</p> <p>10 the majority of it from a previous pit right there off</p> <p>11 Denver that's been reclaimed and subdivided and sold</p> <p>12 and now homes are on that.</p> <p>13 And there is a way, a balance. There is</p> <p>14 a need for gravel, and in Anchor Point, above others,</p> <p>15 gravel is a main cornerstone to the infrastructure of</p> <p>16 Anchor Point and the families that are employed by road</p> <p>17 construction, by building residential construction, by</p> <p>18 equipment operating. There's a lot of families that</p> <p>19 are not represented here who are -- I respect and</p> <p>20 understand everyone's concerns here, and they do</p> <p>21 represent a portion of Anchor Point for sure, but there</p> <p>22 is another portion of Anchor Point that is fine with</p> <p>23 pit development and understands the balance of it, and</p> <p>24 that's why there are the regulations, too.</p> <p>25 We do need some gravel. I respect my</p>	<p style="text-align: right;">Page 77</p> <p>1 they've lived there and invested interest maintaining a</p> <p>2 quality of life in Anchor Point. Their first home in</p> <p>3 the area in the '70s was on Beach Access Road when it</p> <p>4 was a dirt trail, and they operated a tackle shop right</p> <p>5 there.</p> <p>6 They've had an invested interest in this</p> <p>7 area for many decades, and they've managed to develop</p> <p>8 land and provide a living for them and their family in</p> <p>9 this small area and done so with great care for</p> <p>10 property and for land. And something they've instilled</p> <p>11 in myself and my sister is care for the land.</p> <p>12 And I can -- I can understand the</p> <p>13 concerns in this room about the scope of the permit and</p> <p>14 what could potentially happen there.</p> <p>15 CHAIRMAN MARTIN: Can you -- can you</p> <p>16 summarize?</p> <p>17 LAUREN ISENHOUR: Oh, sure.</p> <p>18 CHAIRMAN MARTIN: Kind of wrap up.</p> <p>19 LAUREN ISENHOUR: I was just, I guess,</p> <p>20 looking at the time, not the amount left.</p> <p>21 Yes. I just wanted to, I guess, say I</p> <p>22 understand the concerns. It's my area too. And I have</p> <p>23 a lot of respect for my parents and how they care for</p> <p>24 the land.</p> <p>25 Some previous speakers, Lynn Whitmore has</p>

<p style="text-align: right;">Page 78</p> <p>1 been a good friend of my parents for a long time, and 2 also Phil, who has the property next door, neither 3 chose to mention that my parents voluntarily built a 4 14-foot berm along their property at their own cost, 5 they believe at \$10,000 worth of cost, voluntarily 6 built a large berm there to try to protect them when 7 they weren't required to do so. They are the type of 8 people to do those things. Thank you. 9 CHAIRMAN MARTIN: Thank you. Any 10 questions? Next. Oh, we had one -- we had a question. 11 I'm sorry, we did -- there was a question after all. 12 COMMISSIONER CARLUCCIO: So my question 13 is are you saying that your parents don't have any 14 plans to develop this right now, that they just want to 15 get this gravel pit on the books? 16 LAUREN ISENHOUR: I can't really say. I 17 can speculate at what I think their plans are. And I 18 can say their primary plan for the property is to own 19 it, and what they want above all else is to own the 20 property in its entirety. 21 They have plans to subdivide it, a plat, 22 a plan, but that doesn't mean they will enact that 23 plan. And they would like the permit to potentially do 24 a gravel pit. This is my opinion of theirs, so 25 please --</p>	<p style="text-align: right;">Page 80</p> <p>1 A few things that have kind of come up I 2 just kind of want to point to is that Anchor River Road 3 is state owned and maintained, not borough owned. So 4 requirement -- you know, DOT enforces, requires the 5 gross vehicle weight measure on the bridge, which is 6 actually on Old Sterling, speed, proper use of lane, 7 shoulders, the health and use of the road, and it 8 really doesn't apply to the borough CLUP permitting 9 process. 10 Some other things that have come up 11 tonight were questions about wells being within -- 12 within -- one well being within 100 feet of -- yes, 13 within the property, but not within the extraction 14 area, the proposed extraction area. So there's fine 15 points about the permit that always need to be read 16 that sometimes isn't interpreted well during public 17 meetings. And so I hope that you -- that as you always 18 do your due diligence, read the fine points, and read 19 the -- read the notes in the permit. 20 Gravel extraction for a material site is 21 always based on -- is usually based on a prospective 22 sales as is -- it is with this site. This site isn't 23 being permitted for a DOT project like we see sometimes 24 or a commercial development. So the amount of material 25 to be utilized is just a prospective. That's why it</p>
<p style="text-align: right;">Page 79</p> <p>1 COMMISSIONER CARLUCCIO: Okay. Okay. 2 That's all right. Thank you. 3 LAUREN ISENHOUR: Okay. 4 COMMISSIONER FIKES: I have a question. 5 CHAIRMAN MARTIN: Yes. 6 COMMISSIONER FIKES: You say you are near 7 the location of the actual mining itself. What kind of 8 impact on your personal water well? How close is your 9 well to the site? 10 LAUREN ISENHOUR: I don't know. You 11 could look on the map. I guess it probably shows in 12 the development where my well is in relation. I 13 couldn't tell you, I'm sorry. 14 CHAIRMAN MARTIN: Any other questions? 15 All right. Thanks. Next, please. Is anyone else in 16 the audience wishing to testify? 17 GINA DEBARDELABEN: This is my third 18 time. My name is Gina DeBardelaben, I'm with McLane 19 Consulting. I'm a principal engineer with McLane, and 20 I was hired by the property owner -- my firm was hired 21 by the property owner to survey the property and 22 prepare the permit and exhibits and application. 23 Just a few points really quick. We've 24 been through a lot. You've had a plethora of public 25 comments and a packet to read.</p>	<p style="text-align: right;">Page 81</p> <p>1 says, you know, less than 50,000 cubic yards. 2 That number is one that we kind of always 3 choose based on the area. And DNR permitting changes 4 with greater than and less than 50,000 yards. The 5 reality of 50,000 cubic yards coming out of this 6 material site in a year is -- is not very realistic. 7 You know, a large gravel sale in a rural 8 area like this would be 10,000 yards or maybe 25,000 9 yards. And, you know, that would equate to -- it's a 10 lot still. It would equate to less than 1,500 yards -- 11 1,500 trucks, not 5,000 trucks. 12 You know, if you are going to sell -- if 13 you are going to sell a large amount of material you 14 are not going to run it in a 10-yard end dump. You are 15 going to be running a side dump or a belly dump, which 16 is 17 yards, it separates out your weight on your axle 17 load and such. 18 So other test hole information, there was 19 one test hole at the time of application. There has 20 been additional since then. And as with -- as I 21 continue to point out at material site hearings is that 22 as a developer or an operator enters a pit, they 23 continually test hole for groundwater and for different 24 materials that meet specification for whatever they are 25 trying to sell, whatever they are trying to make.</p>

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1 All roads have a specification that the
2 material has to meet, and maybe, you know, 200 feet
3 over here it meets it, but over here it doesn't, so
4 they are going to test hole, they are going to move
5 around and will constantly be checking, you know,
6 groundwater if it varies.
7 The whole requirement is that you stay
8 two feet above it, so that's -- you know, it's not that
9 it's at 20 feet, it's two feet above.
10 I think I just have just a couple of
11 other little notes here. Yes, the owner has in their
12 permit that they plan on installing monitor wells for
13 potentially -- potentially a different permit, but, you
14 know, that's again, that's prospective. They do want
15 to put -- putting in monitor wells on a material site
16 is a great benefit to the owner and also to the
17 borough.
18 It gives you some comprehensive data on a
19 quarterly basis or a monthly basis of where the
20 groundwater is at. So they do -- they are proposing
21 that they might do that in the future even though this
22 permit isn't to enter the groundwater table.
23 There's other concerns regarding site
24 buffers and such, we've heard lots of those.
25 Do you guys have any questions for me at

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1 this time?
2 **CHAIRMAN MARTIN:** Any questions? None at
3 this time.
4 **GINA DEBARDELABEN:** Okay. Thanks.
5 **UNKNOWN SPEAKER:** I have a question.
6 **CHAIRMAN MARTIN:** Who is the next
7 testifier?
8 **UNKNOWN SPEAKER:** I have a question.
9 **CHAIRMAN MARTIN:** You've had your chance.
10 You've had your five minutes. We are trying to get --
11 make sure everybody gets at least five minutes.
12 **UNKNOWN SPEAKER:** I heard something I
13 don't like. Don't I get a right to ask a question?
14 No? Yeah, that (indiscernible).
15 **EMMITT TRIMBLE:** I'm Emmitt Trimble,
16 managing member of the Beachcomber, LLC and the
17 principal applicant.
18 Just as I did in Anchor Point voluntarily
19 last Wednesday opening myself for some questions and
20 anything that you would like clarified.
21 There were a number of things here that
22 could be clarified tonight, but most of them were not
23 pertinent any way to what you will be deliberating on,
24 so I'm not going to try to counter those things. But
25 if you have questions for me, I'm here.

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1 **CHAIRMAN MARTIN:** Mr. Ruffner.
2 **COMMISSIONER RUFFNER:** Thank you, Mr.
3 Chairman.
4 Mr. Trimble, so we heard at the beginning
5 the staff report that their recommendation was, given
6 the volume of information that's come in recently, some
7 of it is kind of technical and science in nature, their
8 recommendation was to postpone this or put it off at
9 least until the August meeting.
10 So, you know, I hoping that you are in
11 concurrence with that so that -- I mean, it's a
12 complicated thing that we want to chew on a little bit.
13 So I just kind of wanted to ask what your thought on
14 that were.
15 **EMMITT TRIMBLE:** I have no problem with
16 that at all.
17 **UNKNOWN SPEAKER:** Mr. Trimble, I have a
18 question.
19 **CHAIRMAN MARTIN:** This is -- we have
20 certain steps that we do. No, sir, we're not in that
21 part of the meeting.
22 **COMMISSIONER RUFFNER:** So I'll follow up,
23 because there's a couple of people that still have
24 stuff they want to want to say.
25 **EMMITT TRIMBLE:** Sure.

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1 **COMMISSIONER RUFFNER:** I get that. And I
2 guess what I would say is that, given that the staff's
3 recommendation is for us to postpone this, and even the
4 applicant himself said he's willing to put this off for
5 a month, so that's going to give you a chance to ask
6 those questions that you have of staff or of us, you
7 know. I just wanted to put that out there for you.
8 **CHAIRMAN MARTIN:** Thank you, that was
9 really helpful.
10 **EMMITT TRIMBLE:** I will offer that, you
11 know, I sent some pictures to Mr. Wall over the
12 weekend, and I did say in about three hours we put up a
13 pretty extensive berm, just mostly as a demonstration
14 as to what could be done blocking those homes.
15 There's about five homes that have any
16 way to see into any of the property, and, you know, I
17 could not see any of -- from the pit itself, not the
18 floor of the pit, but the top level of excavation, I
19 couldn't see any of those homes. That can be
20 replicated moving back.
21 I don't -- I'm not in the gravel
22 business, but it is part of the asset value of this
23 property, and it's incumbent upon me to protect my
24 family and our investment to maximize that possible
25 value.

<p style="text-align: right;">Page 86</p> <p>1 Now, what I would like to do really is my 2 own business, my family's business as to what we would 3 like to do. I have a subdivision plan, but I have no 4 intention of submitting it for preliminary approval, 5 it's just I want to know that I've done my homework 6 ahead of time. 7 And it's the same way, we've taken a -- 8 we took a few loads of gravel out of that pit of less 9 than an acre to take to -- down to the boat launch to 10 put the ramp in. We took some more down to expand a 11 parking lot, and that's the kind of thing that's 12 happening. But I do intend to pursue this for the 13 entire property that we permitted -- or we're applying 14 for. 15 CHAIRMAN MARTIN: Any questions for the 16 applicant? Ms. Carluccio. 17 COMMISSIONER CARLUCCIO: Yes, thank you 18 for testifying. I think it was your daughter who spoke 19 before -- 20 EMMITT TRIMBLE: Yes, ma'am. Quite proud 21 of her. 22 COMMISSIONER CARLUCCIO: -- that I asked 23 what -- so you right now have no intentions to develop 24 this as a gravel pit? You just want to get it on the 25 books?</p>	<p style="text-align: right;">Page 88</p> <p>1 and I've owned property there since then, there was a 2 small half-acre pit that Ralph Miller had. And Buzz 3 Kyllonen bought from him, developed all the 4 surrounding -- paid for the Silver King Village, all of 5 the subdivisions from that gravel pit, and it's now a 6 lake and it's very nice. We have it listed for sale. 7 COMMISSIONER CARLUCCIO: Okay. Thank 8 you. 9 EMMITT TRIMBLE: Thank you. 10 CHAIRMAN MARTIN: Any other questions for 11 the applicant? Mr. Venuti. 12 COMMISSIONER VENUTI: Thanks for coming, 13 Mr. Trimble. 14 EMMITT TRIMBLE: Yes, sir. 15 COMMISSIONER VENUTI: So you heard 16 concern from the people who testified -- 17 EMMITT TRIMBLE: Sure. 18 COMMISSIONER VENUTI: -- about the hazards 19 of trucks on the road, on the haul road, and also there 20 was a mention of the condition of the bridge that goes 21 over the Anchor River. 22 I would presume that any haul road out of 23 your pit, if this comes to be a pit, would go over that 24 bridge. Is that going to -- 25 EMMITT TRIMBLE: Well, that's not</p>
<p style="text-align: right;">Page 87</p> <p>1 EMMITT TRIMBLE: I've already started 2 developing a small pit that was within the one-acre 3 confines. So I want to go through this procedure, 4 submit myself to the process, live up to the permit if 5 and when I get it, and I would be able to do whatever 6 the permit allowed at that time. 7 My plan is pretty small scale. It's for 8 local projects. All of those homes, all of these 9 people have those properties because Buzz Kyllonen took 10 a small, like less than two-acre pit that built all of 11 those roads and built all of those driveways and 12 provided the gravel for almost all of those people up 13 there or those properties wouldn't be there now to be 14 concerned. And it's now one of the nicest looking 15 properties in the area. It's directly across the road 16 from mine. 17 COMMISSIONER CARLUCCIO: So I'm sorry, it 18 doesn't really pertain. I was going to ask you if that 19 property was originally yours and you subdivided it, 20 but that doesn't -- 21 EMMITT TRIMBLE: Which one? 22 COMMISSIONER CARLUCCIO: That really 23 doesn't pertain to what we're talking about, so... 24 EMMITT TRIMBLE: No, the other property, 25 that was -- that was in 1975 when I first came there,</p>	<p style="text-align: right;">Page 89</p> <p>1 possible now. It's been condemned, so that's why 2 people are having to drive from the North Fork Road all 3 the way to Eight Mile and back down the Old Sterling to 4 go down and bring gravel down to the beach. You can't 5 go across the bridge now. But they are going to 6 rebuild that within a year or two here. 7 COMMISSIONER VENUTI: Okay. That was a 8 concern. 9 EMMITT TRIMBLE: Yeah, and there are 10 trucks -- there are gravel trucks going up and down 11 Danver all the time right now. And, you know, I have 12 no complaint about those big boats going up and down 13 that road. 14 Buzz Kyllonen and I got that road paved 15 through a maintenance budget with DOT for \$150,000 16 because we gave them permission to go through our 17 properties where there's not a right-of-way to this 18 day. 19 So those people that are worried about 20 that road, we would have loved to have had them there 21 by our side helping us back then. 22 COMMISSIONER VENUTI: Thank you very 23 much. 24 EMMITT TRIMBLE: You bet. 25 CHAIRMAN MARTIN: Anyone else?</p>

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1 **EMMITT TRIMBLE:** Thank you.
2 **CHAIRMAN MARTIN:** Not at this time.
3 Thank you.
4 Is there anyone else in the audience
5 wishing to testify? Please.
6 **DON HORTON:** Hi. My name is Don Horton,
7 my family owns property at 34910 Echo. Like my father
8 said, it is directly across the street from that
9 proposed gravel pit.
10 I just had a couple of quick questions
11 for, I guess, you guys. If a permit is issued for this
12 property, is it attached to the property or is it
13 attached to the owners of the property? Like, if it is
14 sold, does the permit stay with it?
15 **CHAIRMAN MARTIN:** With the property.
16 **DON HORTON:** With the property, okay,
17 that's what I thought.
18 The Trimbles, they spoke on -- the last
19 guy that spoke, he just spoke that he wants to maximize
20 the property value of his property that he owns by
21 applying for this permit while it is at the expense of
22 everyone's property around it, I want everyone to
23 realize that. I don't think that's right.
24 That's mainly what I wanted to ask.
25 Thank you for your time.

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1 **CHAIRMAN MARTIN:** Next. Did we get your
2 name and address?
3 **DON HORTON:** No pen.
4 **CHAIRMAN MARTIN:** Is there anyone else?
5 Please.
6 **RICHARD CARLTON:** I am a retired lineman.
7 I fell in love with the Anchor Point River area in 1996
8 and started coming up here pretty regularly. The wife
9 and I purchased a piece of ground in 2007, it's 73500
10 Seabury Road. We go up Danver to Seaward and then take
11 a right and go to our house.
12 It's kind of an emotional thing for me,
13 because I fell in love with the place and the lack of
14 noise. You know, these people talk about machinery and
15 things like that.
16 I had 40 years with backup alarms and
17 backhoes, you know, and noise. And I go up there and I
18 can sit on my patio and look out at Iliamna and drink
19 my coffee and I'm in heaven. It's a wonderful thing.
20 I've got wonderful neighbors that all
21 give a shit about one another. And if they need
22 something, they help each other. And if they are
23 making too much noise, they say something and you quiet
24 down. It's a great, great life.
25 I don't know why it matters who owns the

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1 road that goes to the beach. The bridge is condemned,
2 the Old Sterling Highway is a hazard, and if you take
3 just a 10-yard, 12-yard dump truck by itself and drive
4 it up and down that road with its Jake brakes, that
5 quiet goes away.
6 There is all these RV parks. Buzz
7 Kyllonen's RV Park was where we fell in love with the
8 area. We'd come here year after year, and it's right
9 across where one of the entrances to this Beachcomber
10 Road is. We'd take a rubber boat out and catch a
11 halibut, and then we'd drive all the way down to
12 Southeast Washington and plan for next year to go back
13 up here. That will all change if they dig a big hole.
14 And I'm kind of like some of these other
15 people. You know, I don't begrudge anybody wanting to
16 make a living, but this has no place where it is at. I
17 mean, you know, people raise hell about Pebble Mine.
18 Well, it's a long ways away. It's, you know, it's --
19 maybe -- maybe it does -- it could trash a lot streams
20 and salmon runs and things like that, but I don't see
21 it so it isn't personal to me.
22 But if I have to drive when I go to the
23 post office, and I got to come up Danver and I got to
24 hear backup alarms or white noise, I'm not going to
25 enjoy the place like I used to.

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1 And so I really think the road safety and
2 these things, even though maybe the borough doesn't
3 have any jurisdiction over the road because it's a
4 state road or the Old Sterling Highway, I really think
5 you guys should be able to have some input on this
6 project and do the right thing. Thank you.
7 **CHAIRMAN MARTIN:** Thank you. Any
8 questions?
9 **THE CLERK:** Mr. Chairman.
10 **CHAIRMAN MARTIN:** Yes.
11 **THE CLERK:** Could he state his name?
12 **CHAIRMAN MARTIN:** Did you state your name
13 and address?
14 **RICHARD CARLTON:** Yes, I did.
15 **CHAIRMAN MARTIN:** In the record, in the
16 microphone? It helps if she gets it recorded as well.
17 **THE CLERK:** Could you please state your
18 name. I didn't catch it.
19 **RICHARD CARLTON:** Yes. It is Richard
20 Carlton, 73500 Seabury Road. I did -- we did send a
21 letter in, too.
22 **CHAIRMAN MARTIN:** Okay. Thank you. Mr.
23 Ruffner.
24 **COMMISSIONER RUFFNER:** Mr. Chairman, at
25 this time I would like to vote to suspend the rules so

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1 that we can extend any public comment beyond our normal
2 closing time at 11.
3 **COMMISSIONER CARLUCCIO:** Second.
4 **CHAIRMAN MARTIN:** Is there any opposition
5 to the motion? Seeing none, the motion to extend the
6 rules passes.
7 And I will ask another time for the next
8 testifier.
9 **STEVE HABER:** My name is Steve Haber.
10 Sorry, it's late. I just want to tell you all I was
11 at -- on the beach road this morning, and everyone who
12 knows it mentioned it before, someone is going to die
13 if this project goes through.
14 I unfortunately had a high school
15 incident with my son's school many years ago, and we
16 couldn't get a traffic light put in at a very famous
17 school in the desert, and three kids got killed, you
18 know, several weeks later. And then, of course, the
19 whole town went crazy and put the light in. That's
20 what's going to happen here.
21 And you may be under such tremendous
22 pressure from the way you do it that you are going to
23 approve this. This won't work with this road, beach
24 road. Everything that everybody else has said about
25 the views and stuff doesn't compare to the bike

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1 companies going up and down. The boat trailers are
2 going 60 miles an hour themselves -- I mean, the boats
3 that are going to get put in the water. They are not
4 obeying the laws either.
5 I was trying to hitch from one campground
6 to the other this morning, and it was crazy. There was
7 two kids being pulled in a deal and being wheeled up
8 there. Someone is going to die. You remember I said
9 this tonight, every one of you. You are sitting here,
10 you can prevent it.
11 And I don't mean to think you are bad
12 people. Someone is going to die on that road and then
13 you are all going to change your mind. Thank you.
14 **CHAIRMAN MARTIN:** Anyone else?
15 **DAVID GREGORY:** Okay. My name is David
16 Gregory. I live on 73850 Seaward, which is just up
17 Danver around the corner from this proposed pit.
18 We are calling it a pit, a gravel
19 extraction area, which is actually a mine as it was
20 mentioned earlier.
21 I work at a mine, and there's a place for
22 mines, but the mine I work at is way out in a remote
23 area.
24 And I've sent an e-mail several days ago,
25 and noise and dust is one of my big concerns. And then

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1 as it was mentioned, the noise goes uphill, and there's
2 numerous homes. Maybe there's only five that could be
3 seen from one particular point, but there are dozens up
4 this hill that the noise will carry right up there, as
5 well as the dust. And the dust can be carried by the
6 wind or if it is -- if the wind is still, it just hangs
7 in the air.
8 Now at the mine where I work, the whole
9 ground for a large area, in the wintertime especially
10 so you can see it, fresh snow will only stay fresh for
11 a day or two and it's got a dark color, crusty, dirty
12 look for a big area around the mine. So this is one of
13 my biggest concerns at this point is the noise and the
14 dust. Thank you.
15 **CHAIRMAN MARTIN:** Thank you. Anyone
16 else? This will be the last call for public comment
17 this evening. Hearing and seeing no further requests,
18 we close public comment and bring it back to the
19 Commission for a motion. Mr. Ruffner.
20 **COMMISSIONER RUFFNER:** Thank you, Mr.
21 Chairman. Move to postpone action on this item until
22 next meeting and hold public comment open.
23 **COMMISSIONER BENTZ:** Second.
24 **CHAIRMAN MARTIN:** Discussion. Ms.
25 Ecklund.

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1 **COMMISSIONER ECKLUND:** I really would
2 like to take action on this tonight. We've heard the
3 public. I would -- you know, if we did bring it back
4 on August 13th, I would hope that they would all be
5 back again and we'd hear it again.
6 I did have opportunity to look through a
7 bit of the material prior to the meeting, but I believe
8 what I've heard tonight and I think it would be just
9 verified in these documents. And I think I would like
10 to take action on this conditional use permit tonight
11 rather than postpone it until August 13th.
12 **CHAIRMAN MARTIN:** Mr. Whitney.
13 **COMMISSIONER WHITNEY:** I concur with
14 that. I had an opportunity to read through everything,
15 and I just as soon do it tonight and get it over with.
16 **CHAIRMAN MARTIN:** Roll call, please.
17 **THE CLERK:** Thank you, Mr. Chairman.
18 This was a motion to postpone action until the next
19 meeting or to continue the public hearing. Carluccio?
20 **COMMISSIONER CARLUCCIO:** No.
21 **THE CLERK:** Ecklund?
22 **COMMISSIONER ECKLUND:** No.
23 **THE CLERK:** Fikes?
24 **COMMISSIONER FIKES:** No.
25 **THE CLERK:** Martin?

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1 **CHAIRMAN MARTIN:** Yes.
2 **THE CLERK:** Morgan?
3 **COMMISSIONER MORGAN:** No.
4 **THE CLERK:** Ruffner?
5 **COMMISSIONER RUFFNER:** Yes.
6 **THE CLERK:** Venuti?
7 **COMMISSIONER VENUTI:** Yes.
8 **THE CLERK:** Whitney?
9 **COMMISSIONER WHITNEY:** No.
10 **THE CLERK:** Bentz?
11 **COMMISSIONER BENTZ:** Yes.
12 **THE CLERK:** Four yes, five no.
13 **CHAIRMAN MARTIN:** So the motion to
14 postpone fails.
15 Ms. Ecklund.
16 **COMMISSIONER ECKLUND:** To put this on the
17 floor, I would like to make a motion to approve the
18 conditional use permit for a material extraction site
19 in the Anchor Point area.
20 **COMMISSIONER CARLUCCIO:** Second.
21 **CHAIRMAN MARTIN:** Discussion. Ms.
22 Ecklund.
23 **COMMISSIONER ECKLUND:** I believe that we
24 have sufficient findings to deny this permit based on
25 the public opinion or the public testimony and the

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1 borough code as it is written now and the facts that
2 were written in the staff report.
3 I do have a question for staff, for Mr.
4 Wall at this time, to know if we can even address this
5 because they requested a waiver for the processing
6 portion of the pit, and you recommend denying that
7 waiver, which would then not allow them enough area for
8 a processing as submitted tonight. Would that require
9 a new submission of their application?
10 **MR. WALL:** The permit would be for the
11 extraction, they could certainly extract. To process
12 the material, it would still leave them a narrow area
13 within the proposed area, within the material site to
14 do some processing.
15 But the material extraction would be
16 approved, but they wouldn't be able to process outside
17 of that narrow area that would be -- and I'd have to
18 put my scale to it, but it would pretty narrow if we
19 narrow it down to the 300 foot from the property lines.
20 **COMMISSIONER ECKLUND:** Yeah, I think it
21 would be 50-feet wide or so, so it would be a pretty
22 narrow area.
23 So then the motion -- the motion was to
24 approve this. Do we have to address that waiver or do
25 we just take your recommendation?

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1 **MR. WALL:** Right. If you -- the motion,
2 it sounded like it was to approve as recommended in the
3 staff report, which includes the approval -- I mean,
4 the denial of the waiver.
5 **COMMISSIONER ECKLUND:** Okay. Okay.
6 Thank you.
7 **CHAIRMAN MARTIN:** Further discussion? Go
8 ahead, Mr. Ruffner.
9 **COMMISSIONER RUFFNER:** Thank you, Mr.
10 Chairman.
11 So I was kind of hoping to put this off
12 because I had a couple of legal questions that I would
13 have wanted to ask. I don't think we have time to go
14 through kind of a memo that I was thinking about asking
15 for.
16 So I will try to summarize what I know
17 about where we stand legally with looking at this and
18 why I had to give this little talk a number of times in
19 an uncomfortable way, is that, you know, the borough
20 bssembly has given us the rules by which we are allowed
21 as Planning Commission members to work under.
22 And so they've kind of put the side
23 boards up there that says what we can and can't
24 approve. And the six criteria that staff has laid out
25 shows that, in their opinion, that it meets those

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1 conditions.
2 So what I would want to hear from my
3 fellow commissioners, is of those six criteria, which
4 ones you -- if you are going to vote against this, you
5 know, which ones you don't think we're meeting in the
6 discussion so that I can at least understand where you
7 would be deviating from what's been presented to us in
8 the staff report.
9 **CHAIRMAN MARTIN:** Ms. Ecklund.
10 **COMMISSIONER ECKLUND:** Yes. With the
11 findings that I've drafted, the first one addresses
12 current Ordinance 21.29.040(A)(4). That states that
13 the noise -- let me find it on page 101 -- that states
14 "...minimizes the noise disturbance to other
15 properties."
16 And from the testimony I've heard tonight
17 and the documents that have been submitted, I don't
18 think that the berms or the vegetation buffers will do
19 justice to minimize the noise disturbance to other
20 properties. We've been handed out maps with properties
21 identified, so I think that's one finding.
22 Another finding right along with that is
23 21.29.050(A)(5), and I don't think that the visual
24 effects will be reduced sufficiently with buffers,
25 berms. I don't think they could build them high enough

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1 for that.

2 The application was submitted without the

3 seasonal high water determination. I don't think that

4 was sufficiently delineated in the application.

5 And I don't know if this is a finding or

6 not, but I think we need to determine if that well that

7 was mentioned several times tonight is within 100 feet

8 of the pit as designated in the application.

9 **CHAIRMAN MARTIN:** It comes down to did

10 you state your case?

11 **COMMISSIONER ECKLUND:** So I guess that

12 would be -- that's my case.

13 **CHAIRMAN MARTIN:** That's your findings.

14 **COMMISSIONER ECKLUND:** And then the vote

15 would determine if we stated it. And if we fail this

16 motion to approve it, then there's followup procedures

17 that could be taken by the applicant, as I understand,

18 is that correct, through the chair to staff?

19 **MR. WALL:** So your question was is if it

20 is denied, what the applicant's recourse is?

21 **COMMISSIONER ECKLUND:** Yes, if you could

22 explain that for us.

23 **MR. WALL:** Yes. There is a 15-day appeal

24 period once the decision is made, once the notice of

25 decision is issued, and that appeal would go to the

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1 hearing officer. And that would be -- anybody that

2 testifies tonight or has written -- submitted written

3 comment would have the ability to appeal.

4 **COMMISSIONER ECKLUND:** Just to follow up.

5 So anyone that testified and any comments, the hearing

6 officer would get a transcript of the comments tonight

7 as well for their review?

8 **MR. WALL:** That is correct. The

9 transcript is provided to the hearing officer.

10 **COMMISSIONER ECKLUND:** Okay. Thank you.

11 **CHAIRMAN MARTIN:** Mr. Ruffner.

12 **COMMISSIONER RUFFNER:** So I thank my

13 fellow commissioner for kind of laying out what will be

14 the findings, I think, attached if it goes that way.

15 So I'll just summarize. And I think this

16 would be good if it were to be appealed just to have

17 this on the record as my understanding of kind of how

18 we get to where we feel like, as commissioners, our

19 hands are tied. And, I mean, I think we heard it from

20 the public that you've heard that our hands are tied in

21 a number of cases.

22 So as best I can, I can lay out what my

23 understanding of the legal -- legal standing that we

24 have is here, and we have an attorney here that can

25 correct me if I run astray here.

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1 So one testifier talked about the broad

2 authorities that have been given to the Planning

3 Commission very early on in borough code at 240.050,

4 which authorizes the Planning Commission to kind of

5 consider all the factors in everything that we do and

6 make a good determination, so that's very high in our

7 code.

8 Then later on in 21.25 it lays out the

9 procedures for when we would authorize a conditional

10 land use permit, and there are several steps in there.

11 And then later in the code is 21.29,

12 which is the code specifically for gravel pits. Now my

13 understanding of -- or interpretations of how we've

14 gotten to this point in the past has been that 21.29

15 really lays out what you can do with buffers and what

16 you can't do with -- what limitations you could put on

17 a pit operator, and those are handed down to us from

18 the bssembly.

19 Previously I think I've heard that the

20 21.29 says it's the most recent set of code is that

21 that's the ones that are supposed to govern our

22 decisions. And then looking further up the code where

23 we have broader latitude has not been afforded to us in

24 the past.

25 So that's been my understanding, and if

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1 there's any clarification or corrections to that, I

2 mean, I would like to hear that from counsel.

3 **MS. MONTAGUE:** That was a good summary,

4 Mr. Ruffner. The one thing I would add is it's not

5 just a matter of the ordinance that is adopted later in

6 time, but also the ordinance that is most specific to

7 what you are reviewing.

8 And in this case, the KPB 21.29 is the

9 ordinance that very specifically addresses material

10 sites. So that has more weight than a very general

11 purpose clause, for example, that just says that the

12 Planning Commission can review the public health,

13 safety, and welfare. The very specific criteria in

14 21.29 is how the assembly has chosen to protect the

15 public health, safety, and welfare.

16 **CHAIRMAN MARTIN:** Ms. Carluccio.

17 **COMMISSIONER CARLUCCIO:** If 21.29 says

18 that a 50-foot berm or 50 feet of vegetation is one of

19 the criteria and a ten-foot berm, but yet the pit is

20 lower than all of the surrounding area, and the 50 foot

21 doesn't do anything, don't we have some authority to

22 say that this is the letter of the law, but it is not

23 the intent of the law, because the intent of the law is

24 to protect the surrounding land owners?

25 **MS. MONTAGUE:** The intent of the law is

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1 to protect the surrounding land owners in the way the
2 assembly has laid out in the borough code.
3 **CHAIRMAN MARTIN:** It's the unique
4 topography that -- what gets us into this corner right
5 now. It's hard to foresee all the different
6 ramifications of a crater.
7 **COMMISSIONER CARLUCCIO:** That's true, but
8 I would not be able to support this at the time -- at
9 this time anyhow.
10 **CHAIRMAN MARTIN:** Ms. Bentz.
11 **COMMISSIONER BENTZ:** Yeah, I would just
12 like to follow up on that with just an observation that
13 in our staff report it says that the proposed
14 extraction meets the material site standards from 21.29
15 minimizing noise disturbance from other properties, but
16 I don't agree with that. I don't think these
17 conditions will minimize noise disturbance to other
18 properties and the conditions won't minimize visual
19 impacts either.
20 **COMMISSIONER MORGAN:** I have to agree as
21 well. I don't see how the 50-foot buffer or berms are
22 going to minimize visual impact or sound impact because
23 of the unique topography.
24 **CHAIRMAN MARTIN:** Are we ready to -- Mr.
25 Ruffner.

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1 **COMMISSIONER RUFFNER:** I just want to say
2 one more thing. I think we've done a good job of
3 laying out the record of why -- why we're going to vote
4 the way we are or not. And likely, you know, if it
5 doesn't be approved it would likely be appealed, and so
6 the Board of Adjustment will have a good record from us
7 about why -- why we thought that it might not meet
8 those criteria of being able to screen or vegetation.
9 So at least it's all there for the process.
10 **CHAIRMAN MARTIN:** Yes, thank you. Roll
11 call, please.
12 **THE CLERK:** Thank you, Mr. Chairman. The
13 motion was to approve the conditional land use permit
14 application for a material extraction on a parcel in
15 Anchor Point.
16 Carluccio?
17 **COMMISSIONER CARLUCCIO:** No.
18 **THE CLERK:** Ecklund?
19 **COMMISSIONER ECKLUND:** No.
20 **THE CLERK:** Fikes?
21 **COMMISSIONER FIKES:** No.
22 **THE CLERK:** Martin?
23 **COMMISSIONER MARTIN:** Yes.
24 **THE CLERK:** Morgan?
25 **COMMISSIONER MORGAN:** No.

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1 **THE CLERK:** Ruffner?
2 **COMMISSIONER RUFFNER:** Yes.
3 **THE CLERK:** Venuti?
4 **COMMISSIONER VENUTI:** Yes.
5 **THE CLERK:** Whitney?
6 **COMMISSIONER WHITNEY:** No.
7 **THE CLERK:** Bentz?
8 **COMMISSIONER BENTZ:** No.
9 **UNKNOWN SPEAKER:** Three yes, six no.
10 **CHAIRMAN MARTIN:** The motion fails.
11 I'd like to -- I would like to thank
12 everyone for the effort and sacrifice it took to come
13 to this hearing. And I want to encourage you to
14 continue to stay connected as a community and make the
15 most of your community, and thanks for coming.
16 Yeah, we are still going. Down while the
17 gang is working on the findings. Okay.
18 **COMMISSIONER ECKLUND:** Do you want me to
19 read them into the record?
20 **CHAIRMAN MARTIN:** Yes, ma'am.
21 **COMMISSIONER ECKLUND:** Okay. I move that
22 we attach the following findings to the denial of
23 the --
24 **CHAIRMAN MARTIN:** We can hear. We can
25 hear.

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1 **COMMISSIONER ECKLUND:** -- conditional use
2 permit for the Anchor Point material extraction site,
3 that the Borough Code 21.29.040(A)(4), we find that the
4 noise will not be sufficiently reduced with any buffer
5 or berm that could be added.
6 Borough Code 21.29.040(A)(5), that the
7 visual impact to the neighboring properties will not be
8 reduced sufficiently.
9 **MR. WALL:** Mr. Chairman, can I go close
10 the door real quick?
11 **CHAIRMAN MARTIN:** Yes. Mr. Wall
12 interrupted to close the door, because --
13 **COMMISSIONER ECKLUND:** Okay.
14 **CHAIRMAN MARTIN:** -- they weren't -- they
15 weren't clueing in.
16 **COMMISSIONER ECKLUND:** Do you think
17 you've got those?
18 **CHAIRMAN MARTIN:** The recording?
19 **COMMISSIONER ECKLUND:** Thank you. All
20 right.
21 **COMMISSIONER CARLUCCIO:** Second.
22 **CHAIRMAN MARTIN:** Discussion on the
23 motion. Any opposition of adding these findings?
24 Seeing no opposition, the motion passes unanimously.
25 11:23:14

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1 (End of requested portion)
2 11:24:07
3 (Meeting ajourned at 11:24:07 p.m.)
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1 CERTIFICATE
2 I, Sheila Garrant, transcriber, do hereby certify
3 that the foregoing pages numbered 1 through 112 are a
4 true, accurate, and complete transcript of proceedings
5 transcribed by me from a copy of the electronic sound
6 recording to the best of my knowledge and ability.
7
8
9 8/28/18
10 Date Sheila Garrant, Transcriber
11
12
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			wide (9) 26:7,8;36:5,5,5; 45:20;51:23;52:12; 99:21	work (11) 16:11;38:22;52:11; 54:12;58:12,15;94:23; 95:21,22;96:8;100:21
				worked (3) 13:2;49:9;63:5
				working (7) 7:16;9:24;13:1,2;

14:3;59:15;108:17 works (1) 38:22 world (6) 17:13;42:15;56:17; 65:4,6,20 worried (1) 89:19 worse (2) 23:14;63:12 worth (2) 52:6;78:5 wrap (4) 21:25;33:10;61:5; 77:18 wrapping (1) 4:20 write (1) 44:1 written (10) 7:2,6;8:3,6;57:3; 64:20;99:1,2;103:2,2 wrong (3) 33:17;56:18;61:18	11:11;39:21 1,500 (3) 9:15;81:10,11 10,000 (1) 81:8 10:07 (1) 62:12 10:15 (1) 62:12 100 (8) 21:8;26:9;36:5; 61:19,21,23;80:12; 102:7 100,000 (1) 52:4 100-foot (1) 31:17 101 (1) 101:13 106 (1) 68:12 10-yard (2) 81:14;92:3 11 (2) 45:25;94:2 11:23:14 (1) 109:25 11:24:07 (2) 110:2,3 110 (1) 20:20 113 (1) 6:8 119 (2) 3:24;5:21 11-foot (1) 26:7 12 (2) 14:2;44:12 125 (2) 26:9;48:20 12-foot (3) 4:25;36:4;47:13 12-yard (1) 92:3 13 (1) 9:12 13th (5) 7:5;17:6;57:8;97:4, 11 14 (1) 62:23 14-foot (1) 78:4 15 (5) 29:5;47:6;52:16,16; 58:10 150 (5) 20:21;21:14,15; 27:8;36:5 15-day (1) 102:23 15-plus (1)	59:19 16 (1) 55:25 169-010-67 (1) 3:11 17 (1) 81:16 18 (1) 60:9 1920s (1) 64:16 1975 (1) 87:25 1990 (1) 18:13 1996 (1) 91:7	25:17,22;55:19 25,000 (1) 81:8 26 (1) 14:9 26- (1) 46:3 28,000 (1) 46:3	48 (2) 10:11;18:13
X		2	3	5
XOCHITL (3) 69:19,20;72:9			3 (2) 30:21;40:3 30 (2) 3:20;43:7 300 (5) 6:16;12:22,23; 40:11;99:19 300-foot (1) 6:19 31 (1) 13:1 33 (1) 10:12 34680 (1) 65:13 34737 (1) 73:13 34860 (1) 48:16 34880 (1) 39:4 34885 (1) 72:13 34897 (2) 18:11;24:14 34910 (3) 47:4;69:22;90:7 34969 (1) 33:23 35039 (1) 29:4 36 (1) 68:12 38 (1) 14:14	5,000 (4) 43:20,24;44:25; 81:11 50 (7) 3:17;10:23;32:6,21; 36:5;105:18,20 50,000 (3) 81:1,4,5 500 (1) 30:17 50-feet (2) 4:18;99:21 50-foot (8) 3:15;4:3,13;5:11; 38:16;55:21;105:18; 106:21 50-year (1) 48:10 5601 (1) 62:16
Y				6
yard (6) 18:23;41:18;63:13, 15;65:14;73:18 yards (13) 20:21;21:8,15,15; 43:23;52:5;81:1,4,5,8, 9,10,16 year (8) 43:20;71:10;72:15; 81:6;89:6;92:8,8,12 years (28) 3:20;12:25;13:1,18; 18:20;21:22;25:17,22; 29:5;43:7;46:19;47:6; 52:16;55:19;58:11,21; 59:20;62:18,21,21,23; 63:18;72:15,21;74:4, 11;91:16;94:15 Yep (2) 33:13,20 young (1) 19:15				60 (1) 95:2 60,000 (1) 52:6 65 (1) 59:2 66 (1) 21:16
Z				7
Zone (2) 9:1;10:7				7:00 (2) 24:23,24 7:30 (1) 24:23 7:52:35 (1) 3:2 70 (2) 21:23,23 70s (1) 77:3 73500 (2) 91:9;93:20 73600 (1) 51:10 73608 (1) 66:19 73820 (2) 43:5;45:5 73850 (1) 95:16 73976 (1) 62:8 74057 (1) 12:22
1			4	
1 (2)			4 (1) 40:8 40 (6) 9:14;17:18;26:8; 74:3,11;91:16 400 (1) 3:15 41 (3) 12:25;62:18,21 41.35.070 (1) 68:3 44 (1) 20:22	

74185 (1)
3:10
75 (1)
30:18

8

8:44:01 (1)
3:4
8C (1)
54:2

9

95 (1)
28:2
98th (1)
62:16

From: Hans
To: [Planning Dept.](#); [Ogren, Eric](#); [Kelley, Sean](#)
Subject: <EXTERNAL-SENDER>Request to re-open public comment
Date: Thursday, January 6, 2022 9:58:33 AM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

To KPB Planning and Legal,

An agenda item for the upcoming Planning Commission meeting (1/10/2022) is to schedule the remand for the Beachcomber CLUP application. I am requesting that a Staff recommendation be submitted to the Commission that public comment be re-opened in that case for the following reasons:

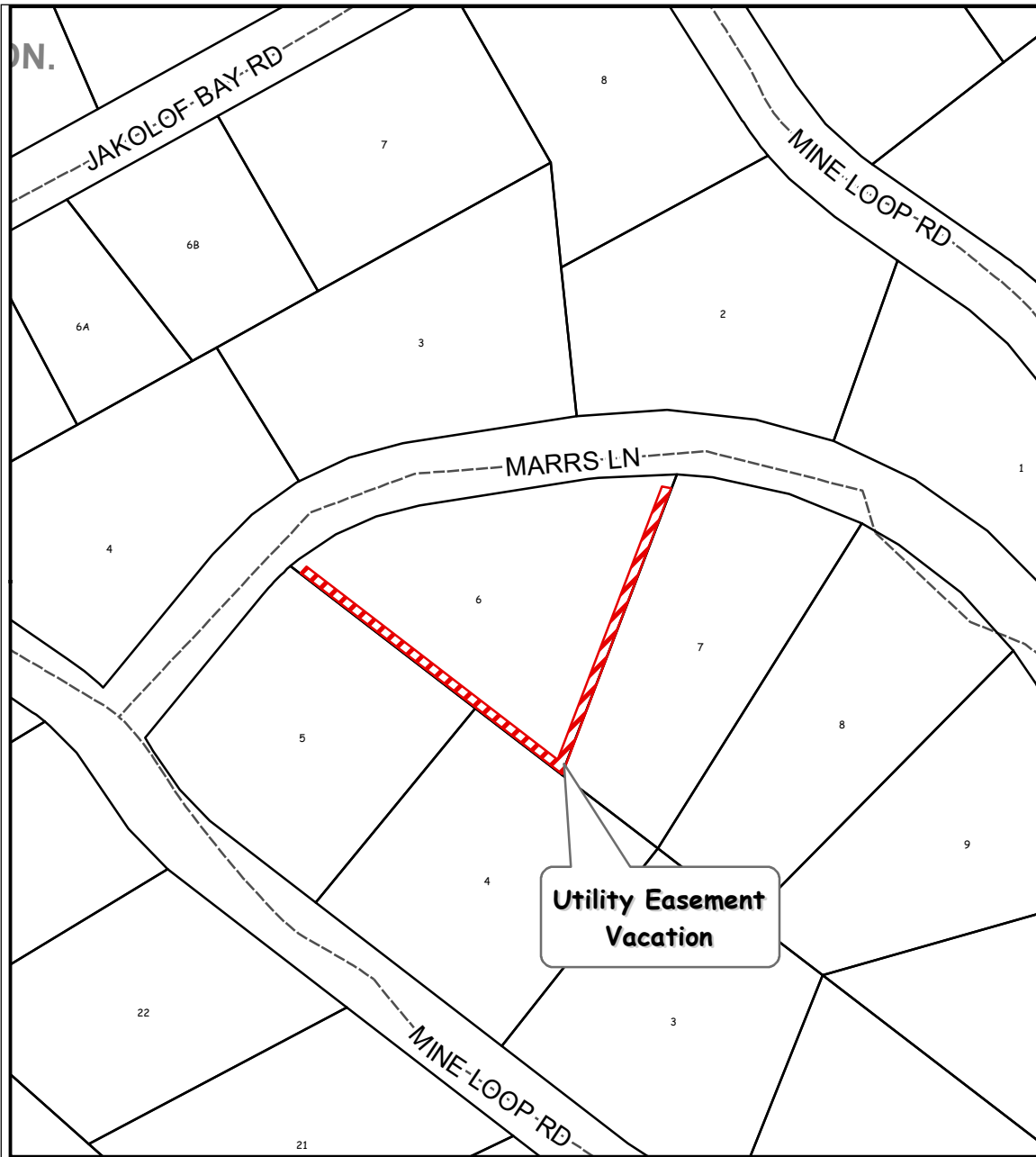
1. It has been over 3 1/2 years since the initial hearing at which the Commission denied the permit, and over 2 1/2 years since the last hearing. Since that time there have been three appeals that have taken this case all the way to the Alaska Supreme Court.
2. The Record in this case is several hundred pages and to expect Commissioners to digest that in short order is not realistic.
3. There is one Commissioner, and potentially six more who will have no prior knowledge of past proceedings, and will not be able to make informed decisions without public input.
4. In light of the recent Superior Court decision Commissioners will have to view the evidence through a different lens than in the past.

I realize that the decision to re-open public comment is one for Commissioners, but I also know that they receive, and generally act upon Staff recommendations. I sincerely ask that for the sake of all parties concerned Commissioners are allowed to receive public comment in order to make an informed and fair decision.

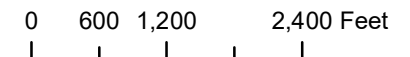
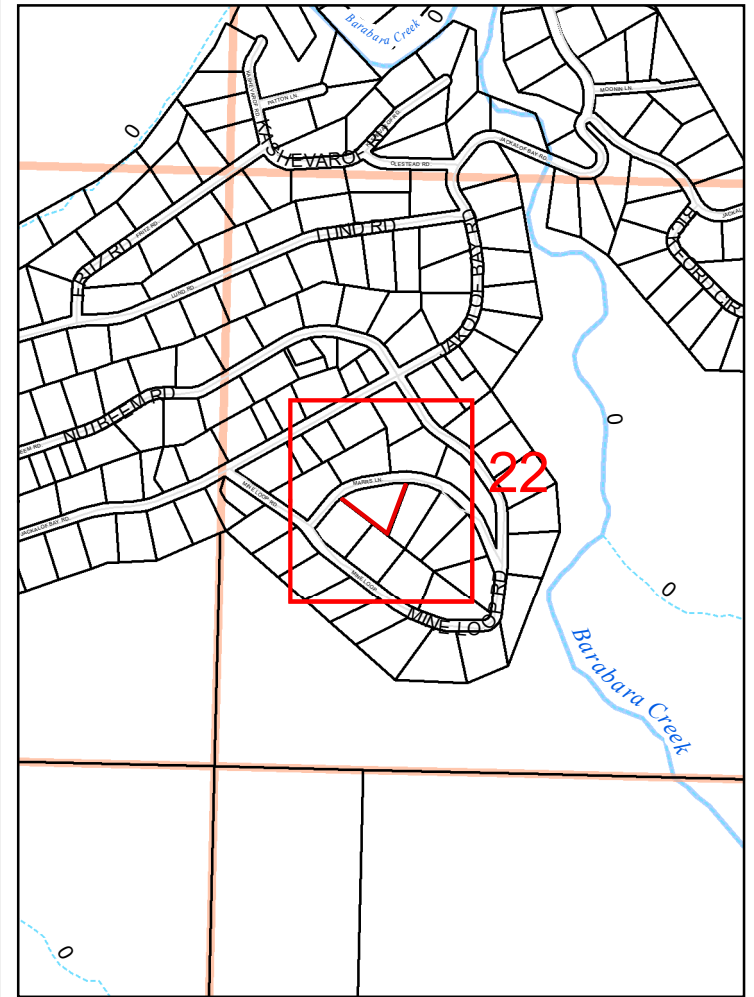
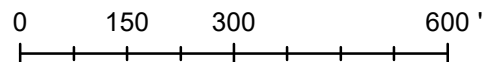
Thank you for your attention to this matter

Hans Bilben
Anchor Point

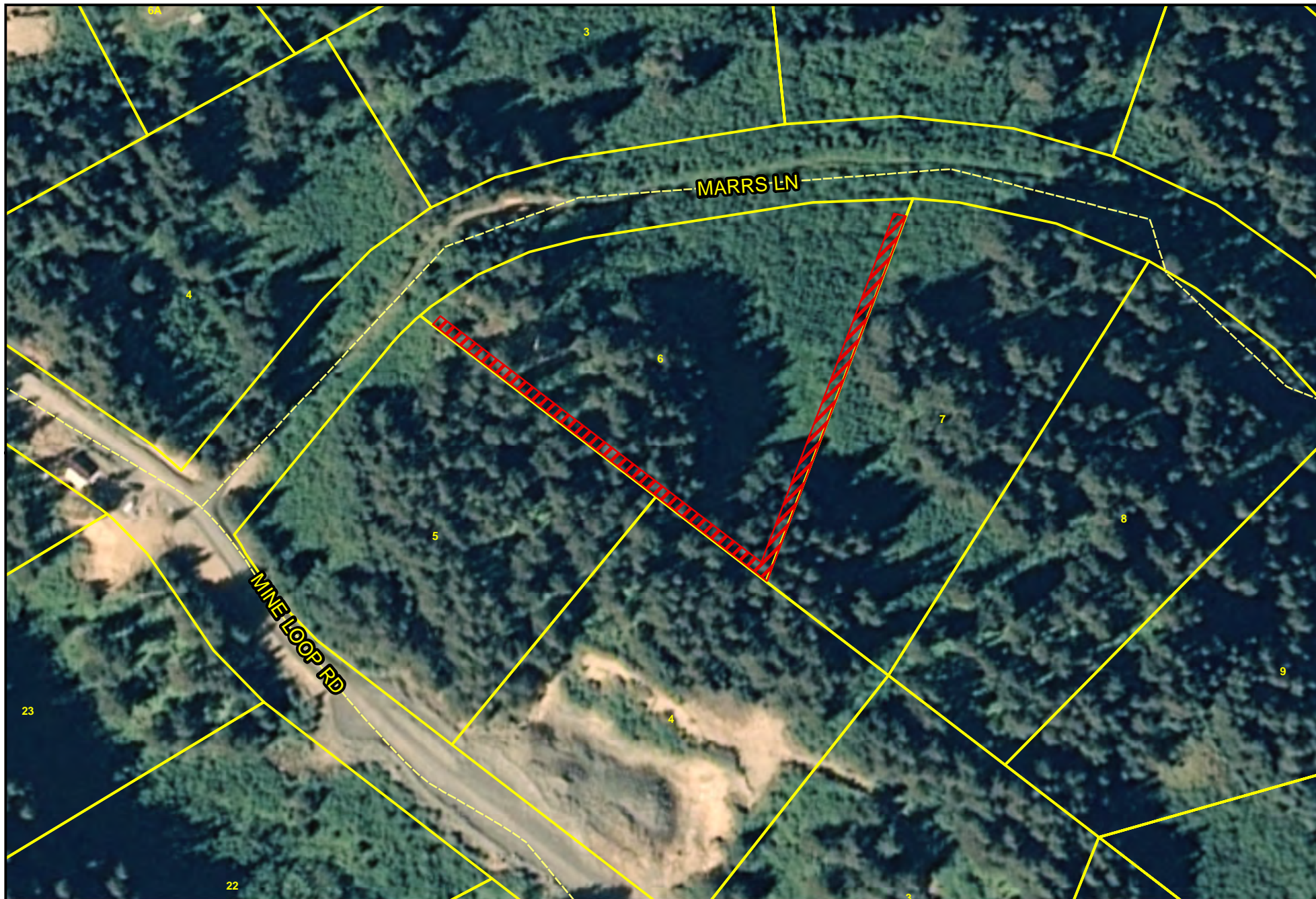
Sent from my iPad



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



KPB 2021-156V
S22 T08S R14W
Seldovia Village




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

0 50 100 200'

Aerial View



 Utility Easement Vacation

PClements, KPB 2021-156V
Imagery FixedWing 2012-13

SECTION
CORNER

16 15
21 22

LOT 3
BLOCK 13
PLAT 79-6

LOT 2
BLOCK 13
PLAT 79-6

MARRS LANE

100' ROW

(N79°19'34"E 268.02')(R1)
N80°06'06"E 267.93'

UTILITY EASEMENT PER (R1)

20' BUILDING SETBACK AND

SLOPES OVER 20%

LOT 6A
BLOCK 14
1.619 ACRES

LOT 6B
BLOCK 14
1.620 ACRES

LOT 7
BLOCK 14
PLAT 79-6

LOT 5
BLOCK 14
PLAT 79-6

LOT 4
BLOCK 14
PLAT 79-6

21 22
28 27
SECTION CORNER

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	397.44'	210.01'	30°16'31"	N64°57'21"E	207.57'
C1(R1)	397.44'	210.02'			
C2	702.22'	137.46'	11°12'55"	S85°42'34"W	137.24'
C2(R1)	702.22'	140.23'			

CERTIFICATE OF SURVEYOR

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

KPB 2021-156V

NOTES

- BUILDING SETBACK - A SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
- THE FRONT 20 FEET ADJACENT TO THE RIGHTS-OF-WAY IS A UTILITY EASEMENT PER (R1). NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
- THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF UTILITY EASEMENT GRANTED BY (R1) AT THE PLAT COMMITTEE MEETING OF JANUARY 10, 2022.
- THIS SUBDIVISION SUBJECT TO RESERVATIONS, RESTRICTIONS, CONDITIONS AND EASEMENTS AS CONTAINED IN INTERIM CONVEYANCES, RECORDED JUNE 27, 1979, BOOK: 23, PAGE: 455, SELDOVIA RECORDING DISTRICT.
- WASTE WATER DISPOSAL: SOIL CONDITIONS, WATER TABLE LEVELS, AND SOIL SLOPES IN THIS SUBDIVISION HAVE BEEN FOUND SUITABLE FOR CONVENTIONAL ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS SERVING SINGLE-FAMILY OR DUPLEX RESIDENCES AND MEETING THE REGULATORY REQUIREMENTS OF THE KENAI PENINSULA BOROUGH. ANY OTHER TYPE OF ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST BE DESIGNED BY A PROFESSIONAL ENGINEER, REGISTERED TO PRACTICE IN ALASKA, AND THE DESIGN MUST BE APPROVED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

ENGINEER

LICENSE NUMBER

DATE

LEGEND

⊕	MONUMENT POSITION PER (R2)
○	FOUND SECONDARY MONUMENT 1-1/2" ALUMINUM CAP STAMPED WITH PARCEL IDENTIFICATION
●	SET SECONDARY MONUMENT 5/8" X 30" REBAR WITH 2" ALUMINUM CAP STAMPED EDGE SURVEY LS-13022 2021
(R#)	RECORD DATA, SEE REFERENCE
C	COMPUTED
_____	SUBDIVISION BOUNDARY
_____	INTERIOR LOT LINE
_____	ADJACENT PROPERTY LINE
_____	CENTERLINE RIGHT OF WAY
_____	20 FOOT BUILDING SETBACK AND PUBLIC UTILITY EASEMENT
_____	EASEMENT
_____	MONUMENT TIE LINES
_____	UTILITY EASEMENT BEING VACATE

REFERENCES

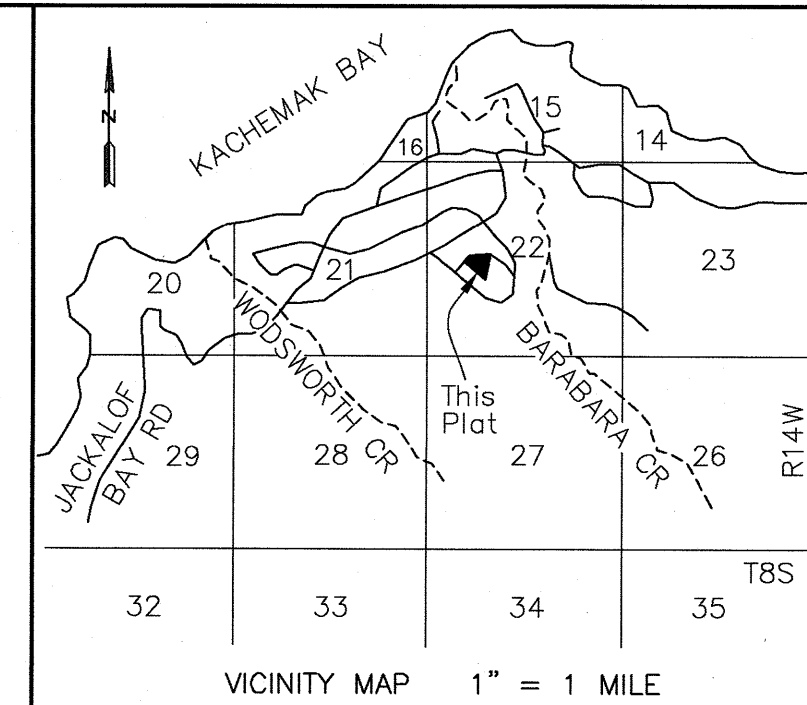
- (R1) BARABARA HEIGHTS SUBDIVISION, PLAT 79-6, SELDOVIA RECORDING DISTRICT
(R2) KENAI PENINSULA BOROUGH GIS DATA

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF DECEMBER 13, 2021.

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL



CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

CHRISTINA GRIFFITH
47580 SUNFLOWER STREET
KENAI, AK 99611

RUSSELL GRIFFITH
47580 SUNFLOWER STREET
KENAI, AK 99611

NOTARY ACKNOWLEDGEMENT

FOR: CHRISTINA GRIFFITH
ACKNOWLEDGED BEFORE ME

THIS _____ DAY OF _____, 2022

NOTARY PUBLIC SIGNATURE

NOTARY
STAMP
AREA

NOTARY ACKNOWLEDGEMENT

FOR: RUSSELL GRIFFITH
ACKNOWLEDGED BEFORE ME

THIS _____ DAY OF _____, 2022

NOTARY PUBLIC SIGNATURE

NOTARY
STAMP
AREA

KPB FILE No. 2021-xxx

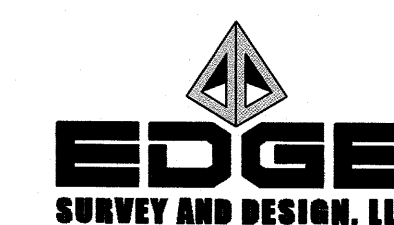
BARABARA HEIGHTS SUBDIVISION
GRIFFITH ADDITION

A REPLAT OF
LOT 6 BLOCK 14
BARABARA HEIGHTS SUBDIVISION,
PLAT NO. 79-6
SELDOVIA RECORDING DISTRICT

OWNERS: CHRISTINA & RUSSELL GRIFFITH
47589 SUNFLOWER STREET
KENAI, AK 99611

LOCATED WITHIN SW1/4 SECTION 22,
T.8S., R.14W. S.M., ALASKA
SELDOVIA RECORDING DISTRICT

CONTAINING 3.329 ACRES



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

DRAWN BY: VLB	DATE: 08/19/2021	AECL# 1392	FIELD BOOK: N/A
CHECKED BY: JY	SCALE: 1" = 50'		SHEET: 1 OF 1

AGENDA ITEM E. NEW BUSINESS

**ITEM 1 - UTILITY EASEMENT ALTERATION
BARABARA HEIGHTS SUBDIVISION (KN 79-6) LOT 6 BLOCK 14**

KPB File No.	2021-156V
Planning Commission Meeting:	January 10, 2021
Applicant / Owner:	Christina and Russell Griffith of Kenai, Alaska
Surveyor:	Jason Young, Mark Aimonetti / Edge Survey & Design, LLC
General Location:	Marrs Lane, Seldovia Village

STAFF REPORT

Specific Request / Purpose as stated in the petition: The petitioner would like to vacate the utility easements as depicted on the preliminary plat to allow for more useable space for the landowner of the parcel. Easements being vacated are along steep terrain and will not be needed for utilities. Easements granted per parent plat in a general manner covering all interior lot lines. The easements are not practical on these parcels.

Notification: Notice of vacation mailings were sent by regular mail to 22 owners of property within 600 feet. Notice of the proposed vacation was emailed to eight agencies and interested parties.

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

Staff Analysis: Barabara Heights Subdivision (Plat SL 79-6) is located within the Seldovia Village and not within the City of Seldovia. Barabara Heights Subdivision was completed in 1979 and subdivided over 1,000 acres of Seldovia Native Association lands.

Barabara Heights Subdivision granted utility easements with the following plat note. "Easements for public utilities are herein provided 15 feet on each side of every lot line, for a total width of 30 feet along common interior lot lines, excepting along dedicated streets where easement width shall be 20 feet, adjacent to the street right-of-way."

The proposed utility easement alteration is for Lot 6 Block 14 of Barabara Heights Subdivision. This is a triangle shaped lot. The proposal will be to remove the 15 foot utility easement along the side lot lines only. The 20 foot utility easement will remain in place adjoining Marrs Lane.

The lot is within Block 14. Nine lots are within Block 14 and it is defined by Marrs Lane, Mine Loop Road. Per KPB records all original utility easements within that block are still in existence. 15 foot utility easements will remain in place on adjoining lots 5 and 7.

A prior existing use permit for a material site affects Lot 4 Block 14, located south of the proposed utility easement vacations.

A preliminary plat has been submitted, Barabara Heights Subdivision Griffith Addition KPB File 2021-156. The plat will subdivide the existing lot and will finalize the utility easement alteration. The preliminary plat is scheduled for the January 10, 2022 Plat Committee meeting.

Utility provider review:

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

Findings:

1. The utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. No surrounding properties will be denied utilities.
4. The Road Service Area had no comment.
5. Barabara Heights Subdivision, Plat SL 79-6, granted 15 foot utility easements along each interior lot line.
6. Barabara Heights Subdivision, Plat SL 79-6, granted 20 foot utility easements along all dedicated right of ways.
7. The 20 foot wide utility easement adjoining the dedicated right of way will remain.
8. The 15 foot utility easements within Lot 5 and Lot 7, and adjoining the side lot lines will remain.
9. Portions of the utility easements are affected by slopes over 20 percent grade.

RECOMMENDATION:

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

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

20.65.070 Alteration of platted utility easements

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

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

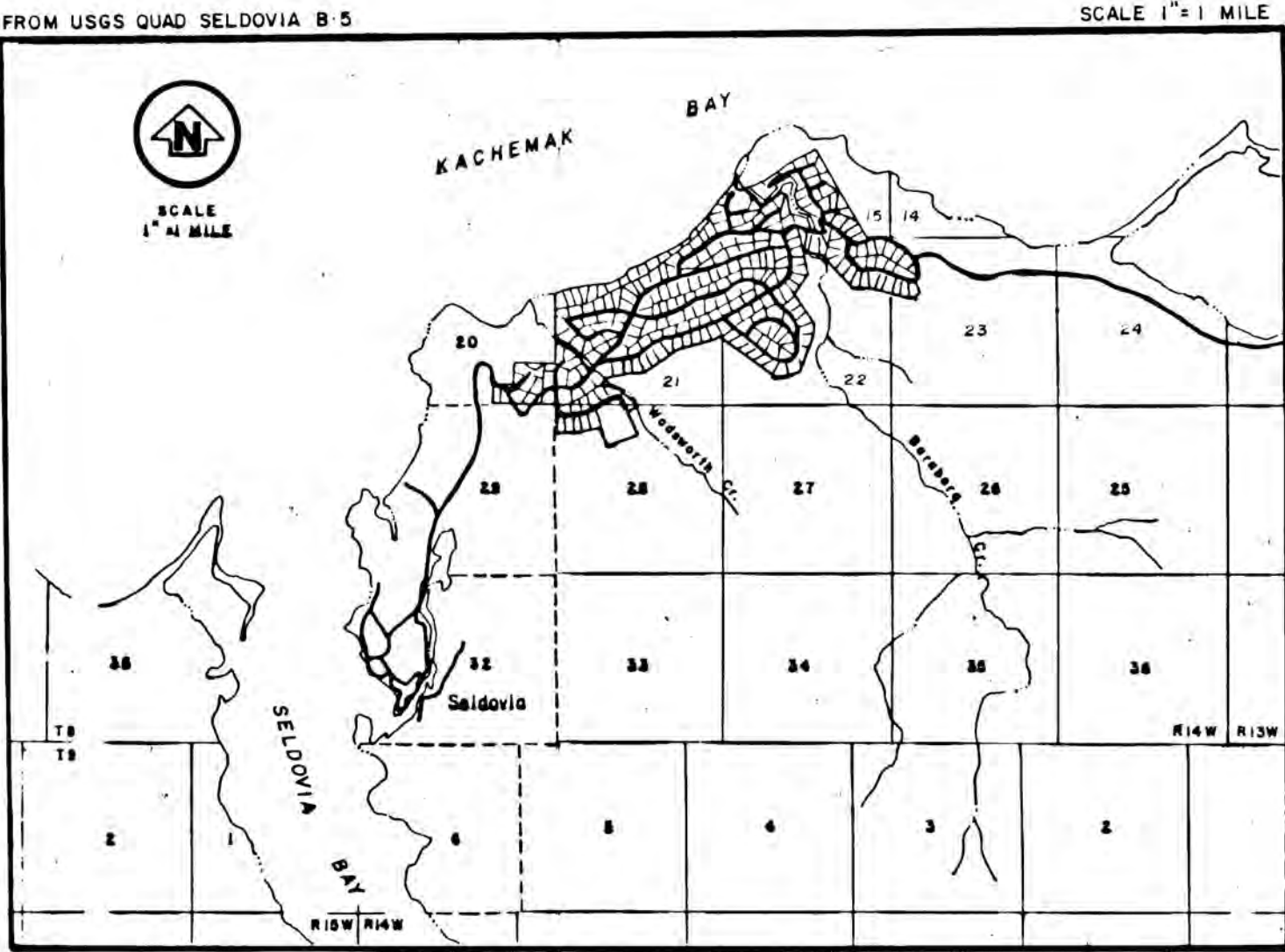
Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

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

- *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

END OF STAFF REPORT

ROEN

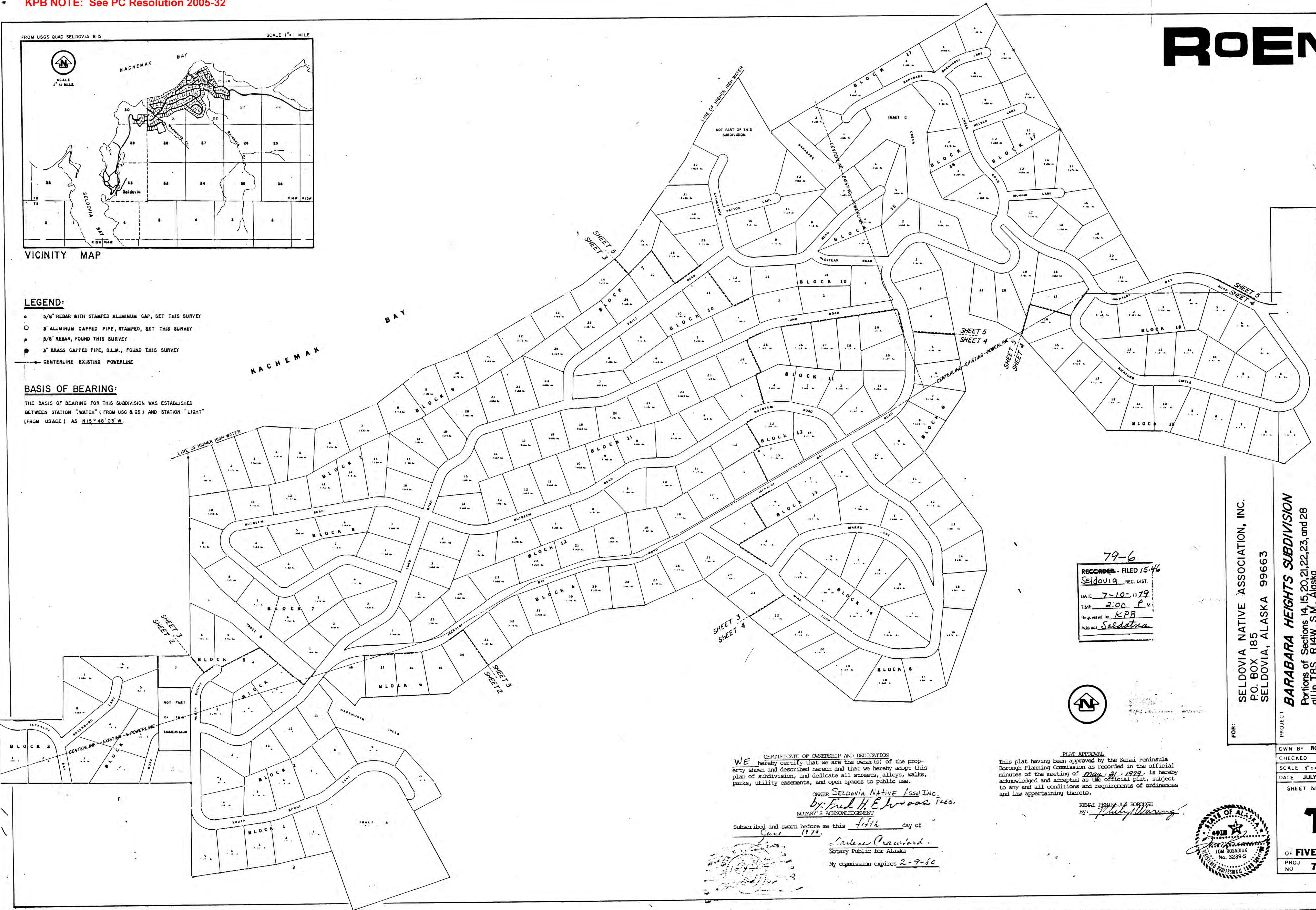


LEGEND:

- 5/8" REBAR WITH STAMPED ALUMINUM CAP, SET THIS SURVEY
- 3" ALUMINUM CAPPED PIPE, STAMPED, SET THIS SURVEY
- 5/8" REBAR, FOUND THIS SURVEY
- 3" BRASS CAPPED PIPE, B.L.M., FOUND THIS SURVEY
- CENTERLINE EXISTING POWERLINE

BASIS OF BEARING:

THE BASIS OF BEARING FOR THIS SUBDIVISION WAS ESTABLISHED BETWEEN STATION "WATCH" (FROM USC & GS) AND STATION "LIGHT" (FROM USACE) AS N15°48'03"W.



79-6

RECORDED - FILED 15.46

Seldovia REC. DIST.

DATE 7-10-1979

TIME 2:00 P.M.

Requested by KPB

Address Seldovia

WE CERTIFICATE OF OWNERSHIP AND DEDICATION hereby certify that we are the owner(s) of the property shown and described hereon and that we hereby adopt this plan of subdivision, and dedicate all streets, alleys, walks, parks, utility easements, and open spaces to public use.

OWNER SELDOVIA NATIVE ASSN INC.
By: Fred H. Edwards Pres.
NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn before me this fifth day of June 1979.

Notary Public for Alaska
My commission expires 2-9-80

PLAT APPROVAL
This plat having been approved by the Kenai Peninsula Borough Planning Commission as recorded in the official minutes of the meeting of May 21, 1979, is hereby acknowledged and accepted as the official plat, subject to any and all conditions and requirements of ordinances and law appertaining thereto.

KENAI PENINSULA BOROUGH
By: [Signature]



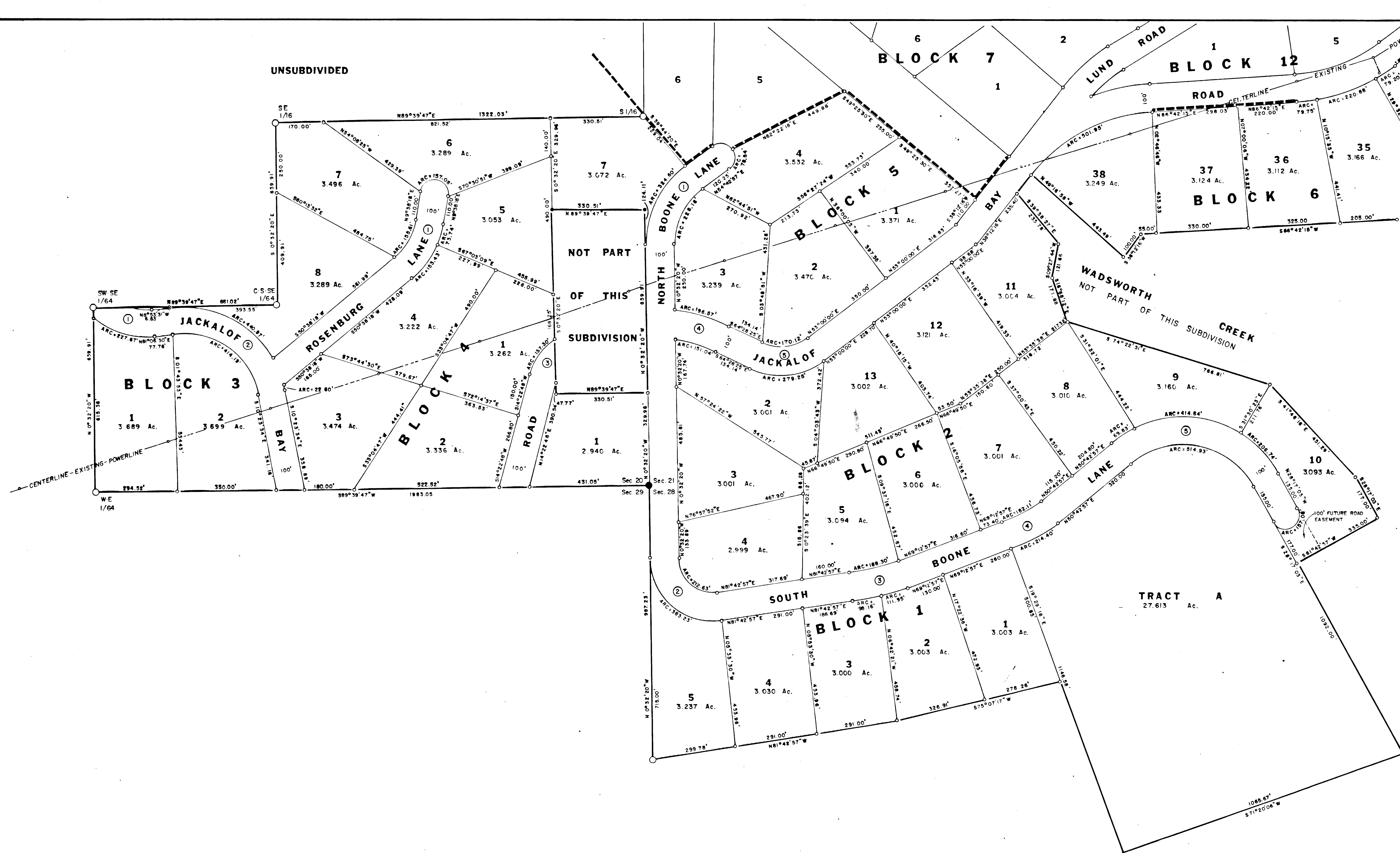
FOR: SELDOVIA NATIVE ASSOCIATION, INC.
P.O. BOX 185
SELDOVIA, ALASKA 99663

PROJECT: BARBARA HEIGHTS SUBDIVISION
Portions of Sections 14, 15, 20, 21, 22, 23, and 28
all in T8S., R14W., S.M., Alaska

ROEN DESIGN ASSOCIATES
ENGINEERS - SURVEYORS
FAIRBANKS, ALASKA 99701
2nd AIRPORT WAY

OWN BY: RCH
CHECKED
SCALE 1"=400'
DATE JULY 29, 1977
SHEET NUMBER
1
OF FIVE SHEETS
PROJ NO 7012

ROEN



CENTERLINE CURVE DATA				
Road	Curve No.	Delta	Radius	Tangent
Jackalof Bay Rd.	1	60°18'26"	183.25'	106.45
	2	88°29'56"	318.15'	309.93
	3	37°37'26"	134.91'	45.96
	4	20°07'05"	495.00'	87.81
	5	62°31'34"	205.89'	125.00
Rosenburg Lane	1	41°00'00"	267.46'	100.00
Boone Lane	1	55°15'17"	286.59'	150.00
	2	97°44'42"	174.64'	200.00
	3	12°30'00"	913.09'	100.00
	4	18°30'00"	614.02'	100.00
	5	101°00'00"	342.11'	415.02

- EASEMENT FOR BARBARA HEIGHTS SUBDIVISION**
- Easements for public utilities are herein provided 15 feet on each side of every lot line, for a total width of 30 feet along common interior lot lines, excepting along dedicated streets where easement width shall be 20 feet, adjacent to the street right-of-way.
 - ADL # 25085 provides an easement for the existing power line to Homer Electric Association, Inc. of 100 feet total width, centered on the existing pole line which is located as shown on the plat.
 - 10 feet by 20 feet parking spaces are dedicated with 10 foot walkways extending to the cliffs edge as shown on sheet 3 of 5.
 - A 10 foot wide walkway is granted along the cliff's edge as shown on sheet 3 of 5.
 - A 25 foot wide pedestrian walkway easement is granted on the beach along the line of higher high water.

- BUILDING SET BACK REQUIREMENT**
- No permanent improvements shall be permitted within 20 feet of any lot boundary which bounds a dedicated street.
 - Note also existing State regulations regarding required separation between existing and/or future utilities and located within utility easements adjacent to lot lines.

WASTEWATER DISPOSAL SYSTEMS

Individual on-site wastewater disposal systems shall comply with State regulations which are in force at the time of construction.

FOR:

SELDOVIA NATIVE ASSOCIATION, INC.
P.O. BOX 185
SELDOVIA, ALASKA 99663

PROJECT:

BARBARA HEIGHTS SUBDIVISION
 Portions of Sections 14, 15, 20, 21, 22, 23, and 28
 all in T.8S., R.14W., S.4M., Alaska

99701

ROEN DESIGN ASSOCIATES
 FAIRBANKS, ALASKA

3505 AIRPORT WAY

ENGINEERS - SURVEYORS

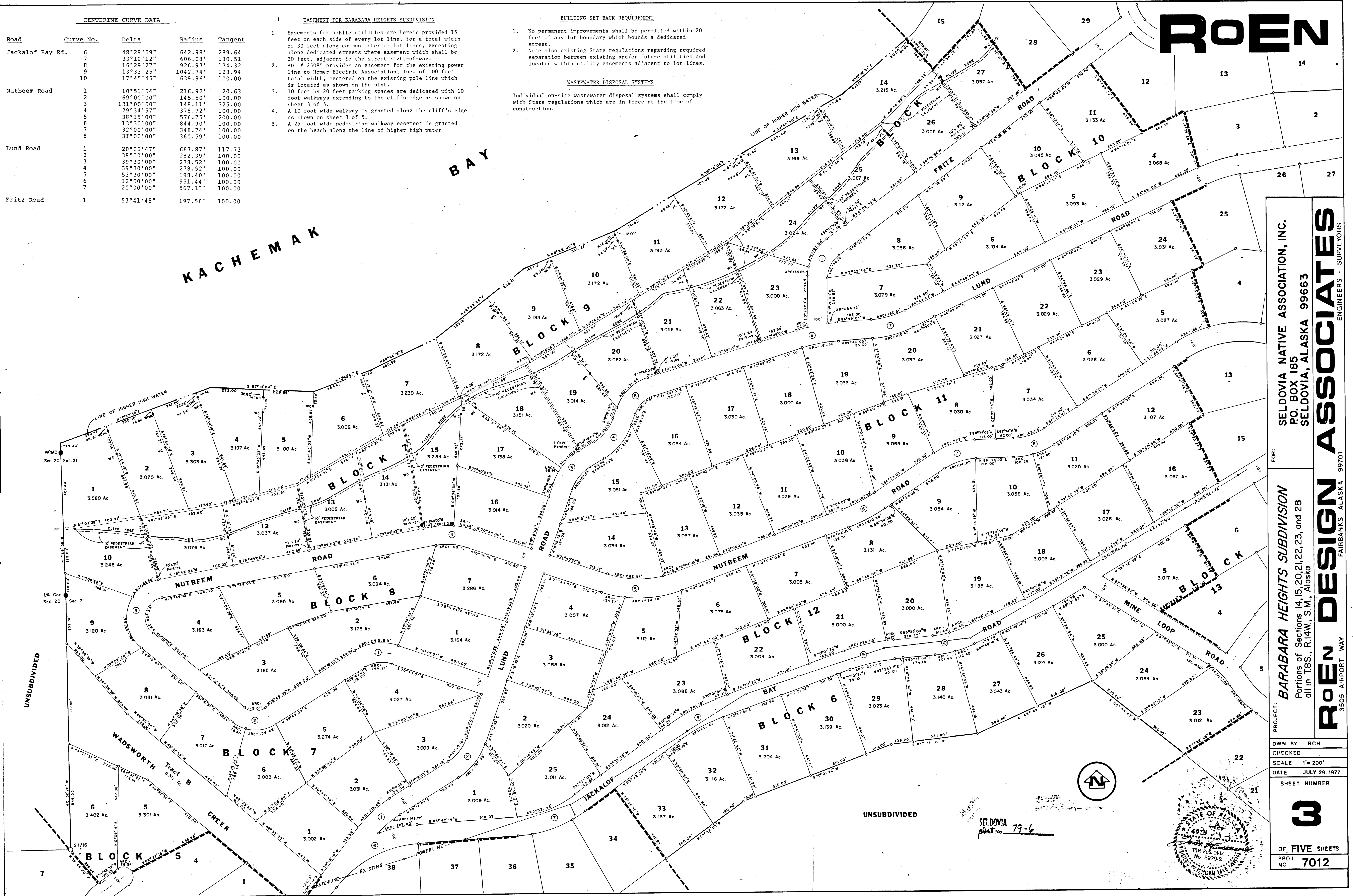
DWN BY RCH
CHECKED
SCALE 1" = 200'
DATE JULY 29, 1977
SHEET NUMBER
2
OF FIVE SHEETS
PROJ. NO. 7012



CENTERLINE CURVE DATA				
Road	Curve No.	Delta	Radius	Tangent
Jackalof Bay Rd.	6	48°29'59"	642.98'	289.64
	7	33°10'12"	606.08'	180.51
	8	16°29'27"	926.93'	134.32
	9	13°33'25"	1042.74'	123.94
Nutbeem Road	10	17°45'45"	639.96'	100.00
	1	10°51'54"	216.92'	20.63
	2	69°00'00"	145.50'	100.00
	3	131°00'00"	148.11'	325.00
Lund Road	4	29°34'57"	378.72'	100.00
	5	38°15'00"	576.75'	200.00
	6	13°30'00"	844.90'	100.00
	7	32°00'00"	348.74'	100.00
Fritz Road	8	31°00'00"	360.59'	100.00
	1	20°06'47"	663.87'	117.73
	2	39°00'00"	282.39'	100.00
	3	39°30'00"	278.52'	100.00
Lund Road	4	39°30'00"	278.52'	100.00
	5	53°30'00"	198.40'	100.00
	6	12°00'00"	951.44'	100.00
	7	20°00'00"	567.13'	100.00
Fritz Road	1	53°41'45"	197.56'	100.00

- EASEMENT FOR BARBARA HEIGHTS SUBDIVISION**
- Easements for public utilities are herein provided 15 feet on each side of every lot line, for a total width of 30 feet along common interior lot lines, excepting along dedicated streets where easement width shall be 20 feet, adjacent to the street right-of-way.
 - ADL # 25085 provides an easement for the existing power line to Homer Electric Association, Inc. of 100 feet total width, centered on the existing pole line which is located as shown on the plat.
 - 10 feet by 20 feet parking spaces are dedicated with 10 foot walkways extending to the cliffs edge as shown on sheet 3 of 5.
 - A 10 foot wide walkway is granted along the cliff's edge as shown on sheet 3 of 5.
 - A 25 foot wide pedestrian walkway easement is granted on the beach along the line of higher high water.

- BUILDING SET BACK REQUIREMENT**
- No permanent improvements shall be permitted within 20 feet of any lot boundary which bounds a dedicated street.
 - Note also existing State regulations regarding required separation between existing and/or future utilities and located within utility easements adjacent to lot lines.
- WASTEWATER DISPOSAL SYSTEMS**
- Individual on-site wastewater disposal systems shall comply with State regulations which are in force at the time of construction.



FOR:

SELDOVIA NATIVE ASSOCIATION, INC.
P.O. BOX 185
SELDOVIA, ALASKA 99663

PROJECT:

BARBARA HEIGHTS SUBDIVISION
Portions of Sections 14, 15, 20, 21, 22, 23, and 28
all in T8S, R14W, S.M., Alaska

DOWN BY: RCH

CHECKED:

SCALE: 1"=200'

DATE: JULY 29, 1977

SHEET NUMBER:

3

OF FIVE SHEETS
PROJ NO. 7012

RoEN DESIGN ASSOCIATES

ENGINEERS - SURVEYORS

FAIRBANKS, ALASKA 99701

3505 AIRPORT WAY

FOR: SELDOVIA NATIVE ASSOCIATION, INC.
P.O. BOX 185
SELDOVIA, ALASKA 99663

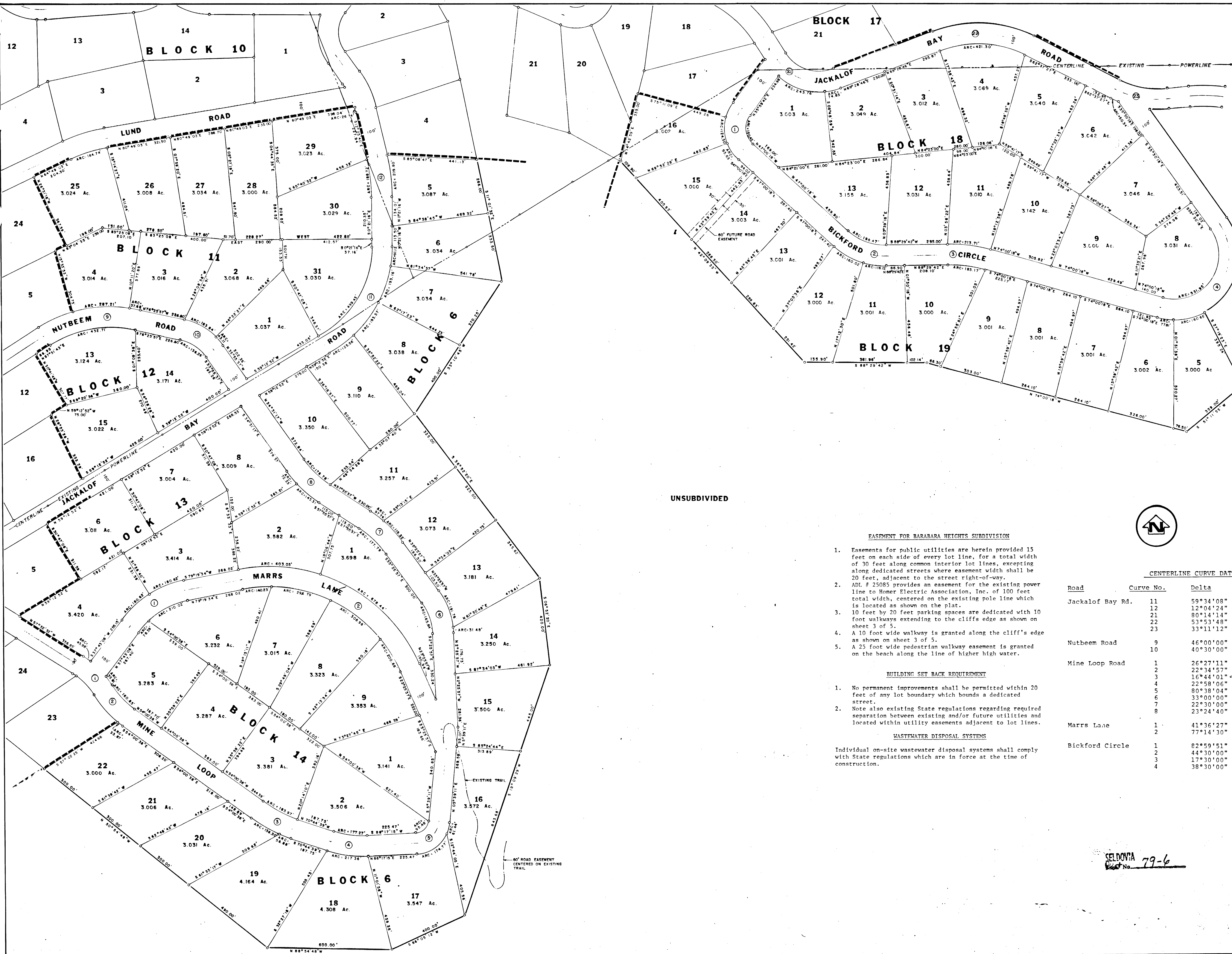
PROJECT: BARBARA HEIGHTS SUBDIVISION
Portions of Sections 14, 15, 20, 21, 22, 23, and 28
all in T8S., R14W., S1M., Alaska

ROEN DESIGN ASSOCIATES
ENGINEERS - SURVEYORS
FAIRBANKS, ALASKA 99701
3505 AIRPORT WAY

DWN BY: RCH
CHECKED:
SCALE: 1" = 200'
DATE: JULY 29, 1977
SHEET NUMBER

OF FIVE SHEETS
PROJ. NO. 7012

4



UNSUBDIVIDED

EASEMENT FOR BARBARA HEIGHTS SUBDIVISION

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BUILDING SET BACK REQUIREMENT

- No permanent improvements shall be permitted within 20 feet of any lot boundary which bounds a dedicated street.
- Note also existing State regulations regarding required separation between existing and/or future utilities and located within utility easements adjacent to lot lines.

WASTEWATER DISPOSAL SYSTEMS

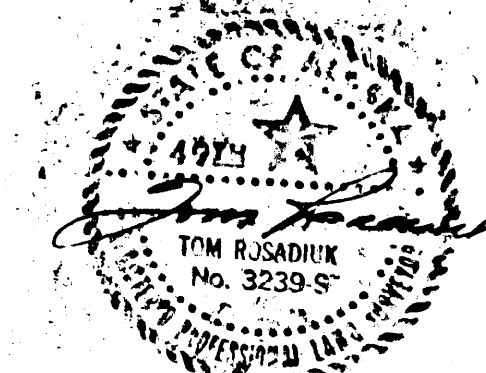
Individual on-site wastewater disposal systems shall comply with State regulations which are in force at the time of construction.



CENTERLINE CURVE DATA

Road	Curve No.	Delta	Radius	Tangent
Jackalof Bay Rd.	11	59°34'08"	530.37'	303.56
	12	12°04'24"	945.61'	100.00
	21	80°14'14"	237.35'	200.00
	22	53°53'48"	553.98'	281.64
Nutbeem Road	23	33°11'12"	475.09'	141.57
	9	46°00'00"	588.96'	250.00
Mine Loop Road	10	40°30'00"	271.06'	100.00
	1	26°27'11"	389.15'	91.46
	2	22°34'57"	458.10'	91.46
	3	16°44'01"	679.92'	100.00
	4	22°58'06"	492.21'	100.00
	5	80°38'04"	117.84'	100.00
	6	33°00'00"	337.59'	100.00
	7	22°30'00"	502.73'	100.00
Marrs Lane	8	23°24'40"	482.65'	100.00
	1	41°36'27"	447.44'	170.00
Bickford Circle	2	77°14'30"	752.22'	600.94
	1	82°59'51"	153.84'	136.10
	2	44°30'00"	305.54'	125.00
	3	17°30'00"	649.71'	100.00
	4	38°30'00"	265.40'	92.68

SELDOVIA
Sheet No. 79-6





CENTERLINE CURVE DATA				
Road	Curve No.	Delta	Radius	Tangent
Jackalof Bay Rd.	13	23°37'24"	429.46'	89.81
	14	75°20'00"	211.58'	163.33
	15	73°45'32"	204.13'	153.15
	16	157°35'43"	141.28'	713.38
	17	90°00'00"	75.53'	75.53
	18	90°00'00"	75.53'	75.53
	19	29°31'37"	1049.95'	276.69
	20	43°47'51"	546.41'	219.64
Lund Road	8	16°00'00"	711.54'	100.00
Olstead Road	1	40°13'44"	263.95'	96.67
Kashevarof Road	1	13°00'00"	877.69'	100.00
	2	44°00'00"	247.51'	100.00
	3	18°00'00"	263.44'	41.72
	4	41°00'00"	267.46'	100.00
Barabara Creek Rd.	1	23°26'05"	392.01'	81.30
	2	41°13'18"	393.11'	147.84
	3	27°49'20"	571.67'	141.59
	4	97°30'00"	342.02'	390.00
	5	25°37'06"	494.83'	112.51
Barnhardt Lane	1	24°30'00"	460.57'	100.00

- BUILDING SET BACK REQUIREMENT**
- No permanent improvements shall be permitted within 20 feet of any lot boundary which bounds a dedicated street.
 - Note also existing State regulations regarding required separation between existing and/or future utilities and located within utility easements adjacent to lot lines.
- WASTEWATER DISPOSAL SYSTEMS**
- Individual on-site wastewater disposal systems shall comply with State regulations which are in force at the time of construction.

Native Allotment 5945

- EASEMENT FOR BARABARA HEIGHTS SUBDIVISION**
- Easements for public utilities are herein provided 15 feet on each side of every lot line, for a total width of 30 feet along common interior lot lines, excepting along dedicated streets where easement width shall be 20 feet, adjacent to the street right-of-way.
 - ADL # 25085 provides an easement for the existing power line to Homer Electric Association, Inc. of 100 feet total width, centered on the existing pole line which is located as shown on the plat.
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SEDOVIA 79-6



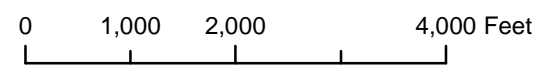
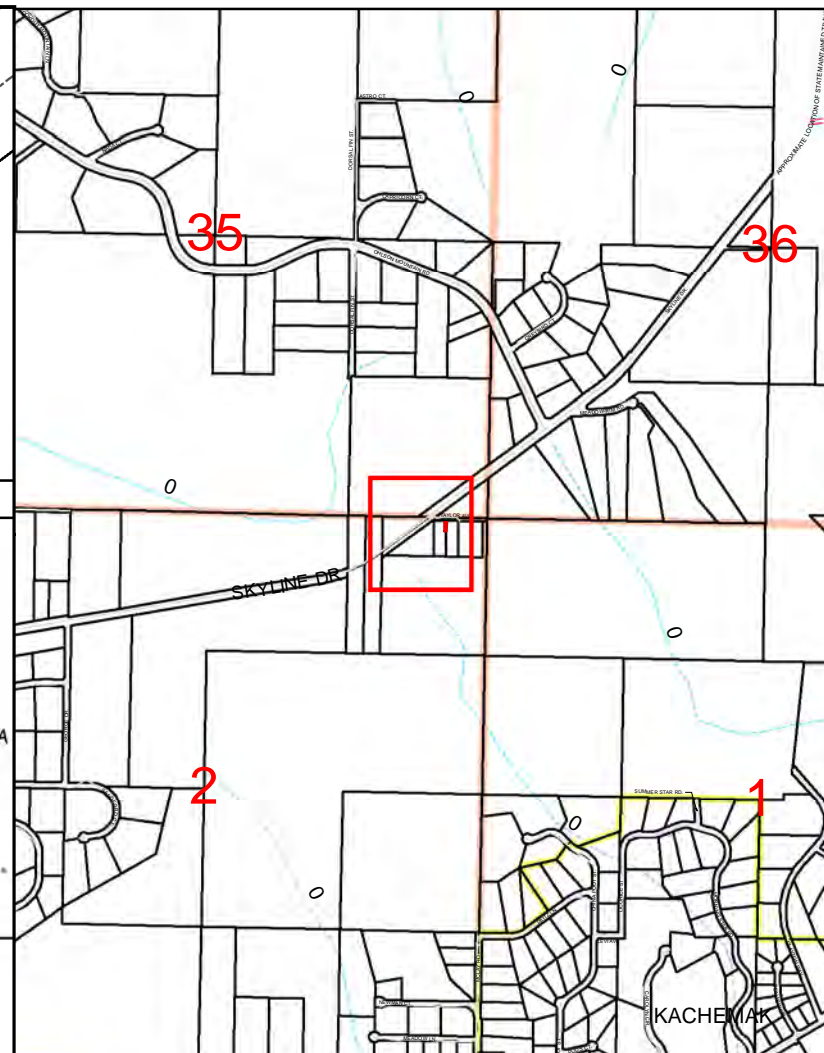
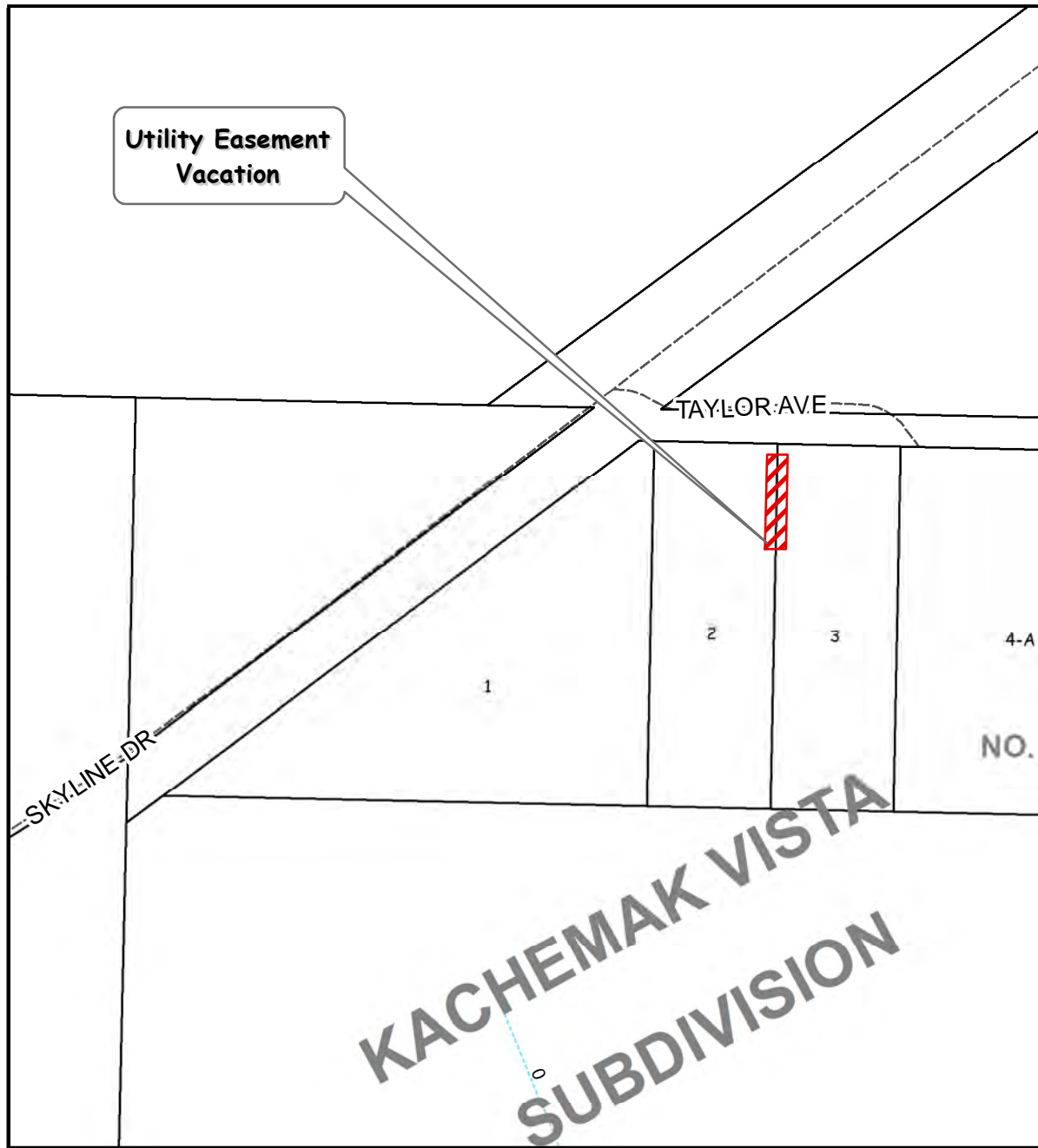
FOR: SELDOVIA NATIVE ASSOCIATION, INC.
PO. BOX 185
SELDOVIA, ALASKA 99663

PROJECT: BARABARA HEIGHTS SUBDIVISION
Portions of Sections 14, 15, 20, 21, 22, 23, and 28
all in T8S., R14W., S.M., Alaska

RoEN DESIGN ASSOCIATES
FAIRBANKS ALASKA 99701
ENGINEERS - SURVEYORS

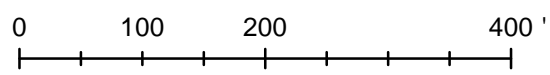
OWN BY RCH
CHECKED
SCALE 1" = 200'
DATE JULY 29, 1977
SHEET NUMBER
5
OF FIVE SHEETS
PROJ. NO. 7012

Utility Easement
Vacation



KPB 2021-023V
S02 T06S R13W
Fritz Creek

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



PClements, KPB 2021-023V Date: 12/9/2021




Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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

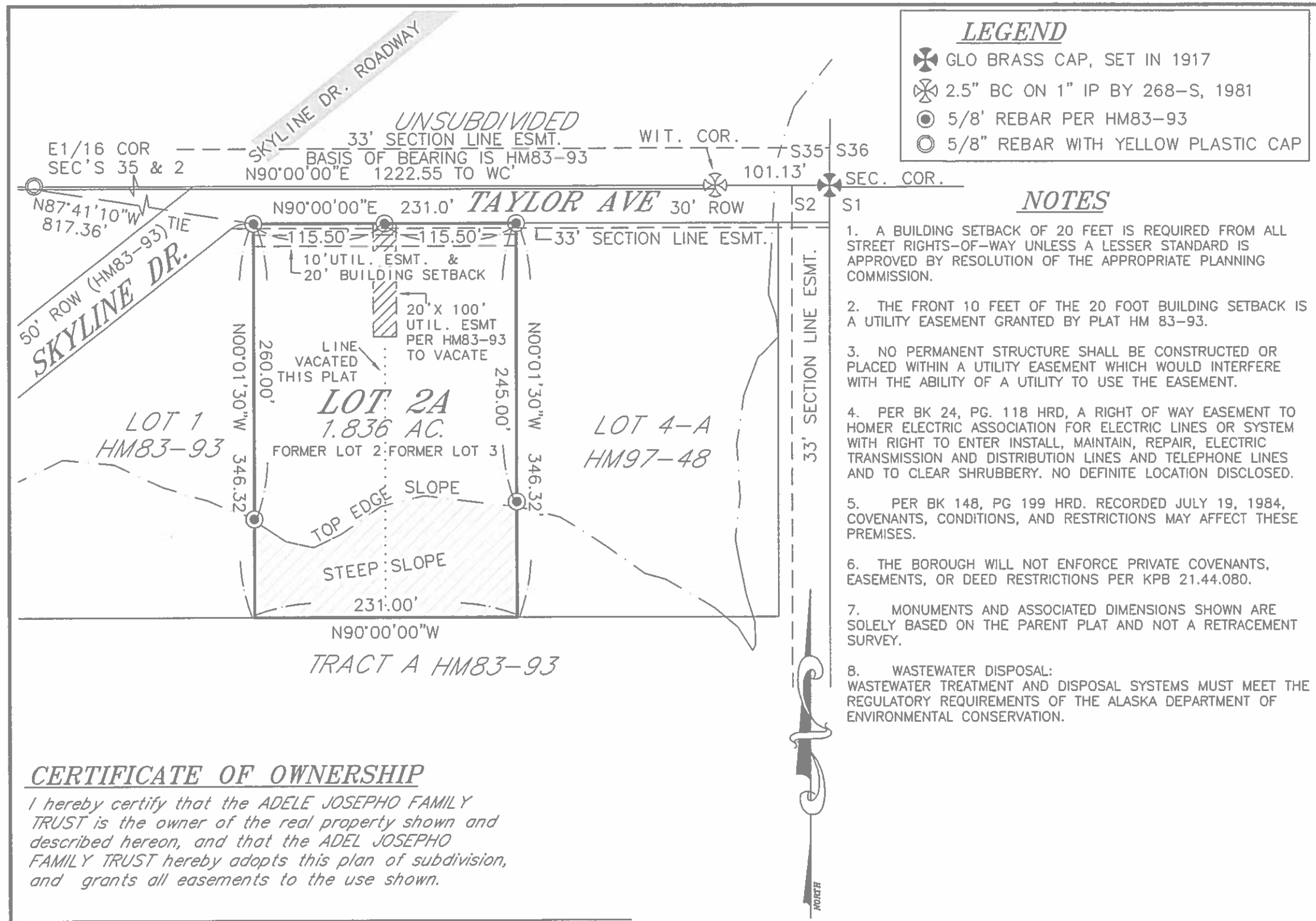
0 25 50 100'

Aerial View



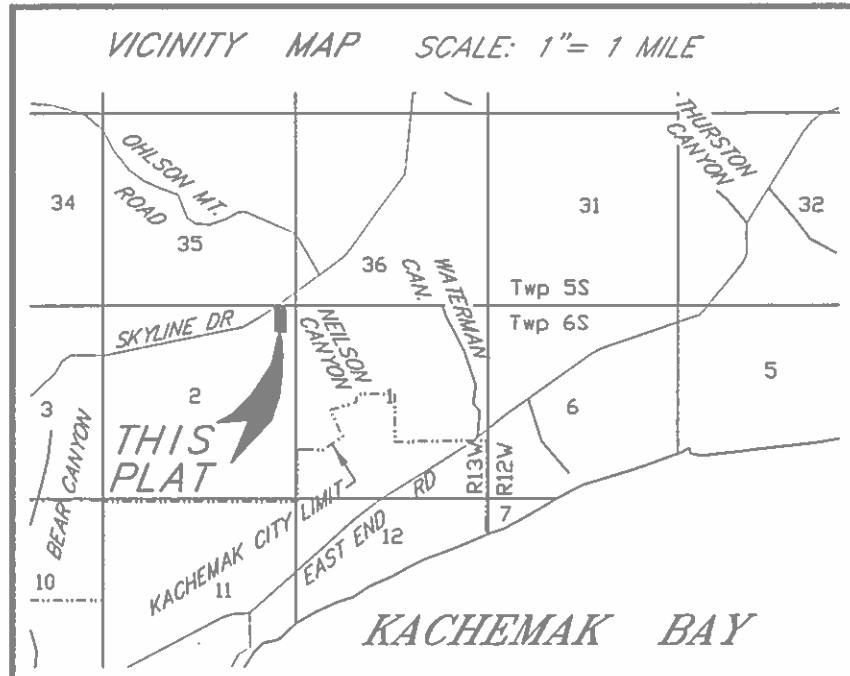
 Utility Easement Vacation

PClements, KPB 2021-023V
Imagery World



- LEGEND**
- ✕ GLO BRASS CAP, SET IN 1917
 - ✕ 2.5" BC ON 1" IP BY 268-S, 1981
 - ⊙ 5/8" REBAR PER HM83-93
 - ⊙ 5/8" REBAR WITH YELLOW PLASTIC CAP

- NOTES**
1. A BUILDING SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
 2. THE FRONT 10 FEET OF THE 20 FOOT BUILDING SETBACK IS A UTILITY EASEMENT GRANTED BY PLAT HM 83-93.
 3. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
 4. PER BK 24, PG. 118 HRD, A RIGHT OF WAY EASEMENT TO HOMER ELECTRIC ASSOCIATION FOR ELECTRIC LINES OR SYSTEM WITH RIGHT TO ENTER INSTALL, MAINTAIN, REPAIR, ELECTRIC TRANSMISSION AND DISTRIBUTION LINES AND TELEPHONE LINES AND TO CLEAR SHRUBBERY. NO DEFINITE LOCATION DISCLOSED.
 5. PER BK 148, PG 199 HRD. RECORDED JULY 19, 1984, COVENANTS, CONDITIONS, AND RESTRICTIONS MAY AFFECT THESE PREMISES.
 6. THE BOROUGH WILL NOT ENFORCE PRIVATE COVENANTS, EASEMENTS, OR DEED RESTRICTIONS PER KPB 21.44.080.
 7. MONUMENTS AND ASSOCIATED DIMENSIONS SHOWN ARE SOLELY BASED ON THE PARENT PLAT AND NOT A RETRACEMENT SURVEY.
 8. WASTEWATER DISPOSAL: WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.



DATE 11/17/2021	
SCALE 1" = 100'	
GRID No. AR-73	
JOB No. 5231	
DRAWING: 5231_5228	

CERTIFICATE OF OWNERSHIP

I hereby certify that the ADELE JOSEPHO FAMILY TRUST is the owner of the real property shown and described hereon, and that the ADEL JOSEPHO FAMILY TRUST hereby adopts this plan of subdivision, and grants all easements to the use shown.

C. ADELE JOSEPHO; TRUSTEE FOR THE ADELE JOSEPHO FAMILY TRUST
639 MARVISTA DR.
SOLANO BEACH, CA 92075

KPB 2021-023V

NOTARY'S ACKNOWLEDGEMENT

For C. ADELE JOSEPHO
Acknowledged before me this ____ day of ____ 2021.
Notary public for California My Commission Expires

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of APRIL 12, 2021.

KENAI PENINSULA BOROUGH

BY _____

Authorized Official

KPB FILE No. 2021-023

PLAT #
Rec Dist
Date ____ 20__
Time ____ M

KACHEMAK VISTA SUBDIVISION 2021

A REPLAT OF LOTS 2 & 3, KACHEMAK VISTA SUBDIVISION (HM83-93) IN THE NE1/4 SEC. 2, T6S, R13W, S.M., KENAI PENINSULA BOROUGH, HOMER RECORDING DISTRICT, STATE OF ALASKA CONTAINING 1.836 ACRES

OWNER:
ADELE JOSEPHO FAMILY TRUST
639 MARVISTA DR.
SOLANO BEACH, CA 92075

ABILITY SURVEYS

GARY NELSON, PLS
(907) 235-8440
152 DEHEL AVE., HOMER ALASKA 99603

AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - UTILITY EASEMENT ALTERATION
KACHEMAK VISTA SUBDIVISION (HM 83-93) LOTS 2 AND 3**

KPB File No.	2021-023V
Planning Commission Meeting:	January 10, 2021
Applicant / Owner:	Josepho Adele Family Trust of Solana Beach, California
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Skyline Drive and Taylor Avenue / Kachemak APC

STAFF REPORT

Specific Request / Purpose as stated in the petition: I am asking for this alteration because I am uniting my two adjacent lots into one residential parcel and do not need the utility easement. Thank you for your attention to this matter.

Notification: Notice of vacation mailings were sent by regular mail to 11 owners of property within 600 feet. Notice of the proposed vacation was emailed to eight agencies and interested parties.

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

This is within the Kachemak Bay Advisory Planning Commission boundary. Minutes were not available when the staff report was prepared. The minutes will be provided in the desk packet if available.

Staff Analysis: Kachemak Vista Subdivision, Plat HM 83-93, subdivided an aliquot parcel into five lots and one tract. The plat created Lots 2 and 3 and granted a 20 foot by 100 feet utility easement centered on the common lot line. 10 foot utility easements were also granted adjoining the dedicated right of way named Taylor Avenue.

The Kenai Peninsula Borough Plat Committee heard and approved the preliminary plat Kachemak Vista Subdivision 2021 on April 12, 2021. The plat will combine Lots 2 and 3 from Kachemak Vista Subdivision into one lot. If approved the utility easement will be finalized by the plat Kachemak Vista Subdivision 2021. The 10 foot utility easement adjoining Taylor Avenue will remain in place.

Utility provider review:

HEA	No objection
ENSTAR	No objection
ACS	No objection
GCI	No objection

Findings:

1. The petition does state that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation of the utility easement.
3. Kachemak Vista Subdivision, Plat HM 83-93, granted a 10' wide utility easement adjoining the north boundaries of lots 1, 2, 3, 4 and 5.
4. Kachemak Vista Subdivision, Plat HM 83-93, granted a 20' by 100' wide utility easement centered on the common boundary of Lot 2 and Lot 3.
5. Kachemak Vista Subdivision No. 2, Plat HM 97-48, combined Lots 4 and 5 of Kachemak Vista Subdivision and vacated a similar utility easement.
6. The easement provides the utility company to place a utility line that will serve Lots 2 and 3, which are being combined into one lot.

7. No surrounding properties will be denied utilities.

RECOMMENDATION:

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

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

20.65.070 Alteration of platted utility easements

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

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

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

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

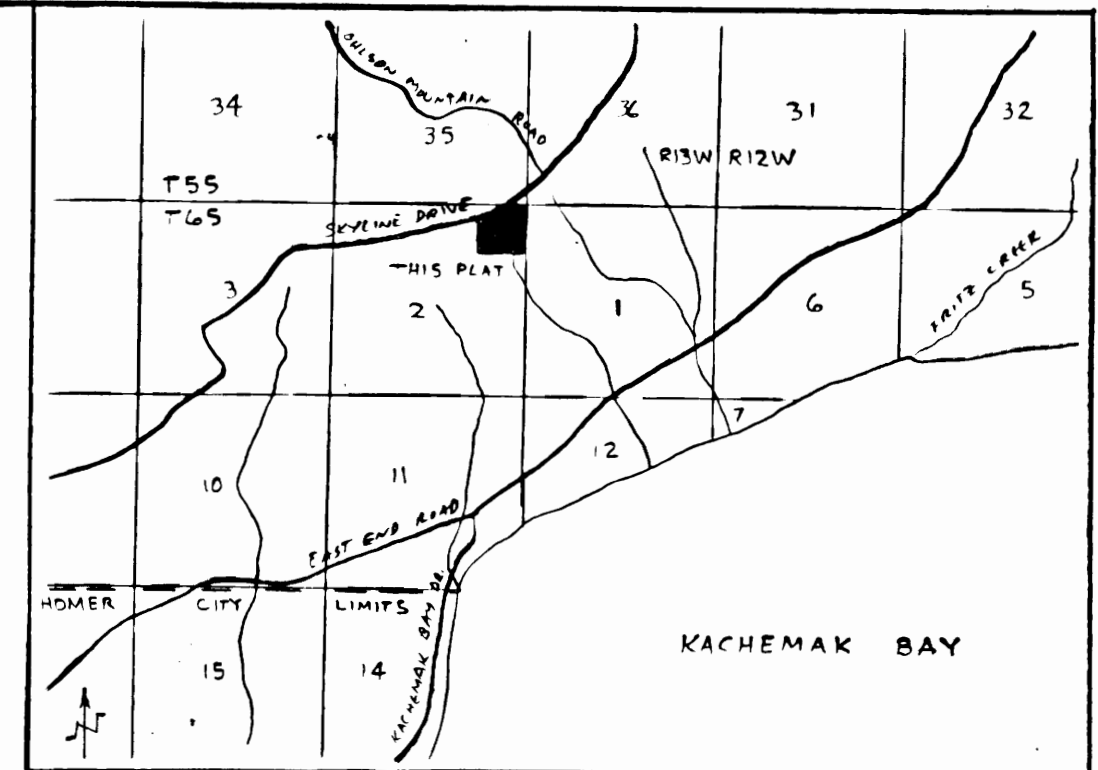
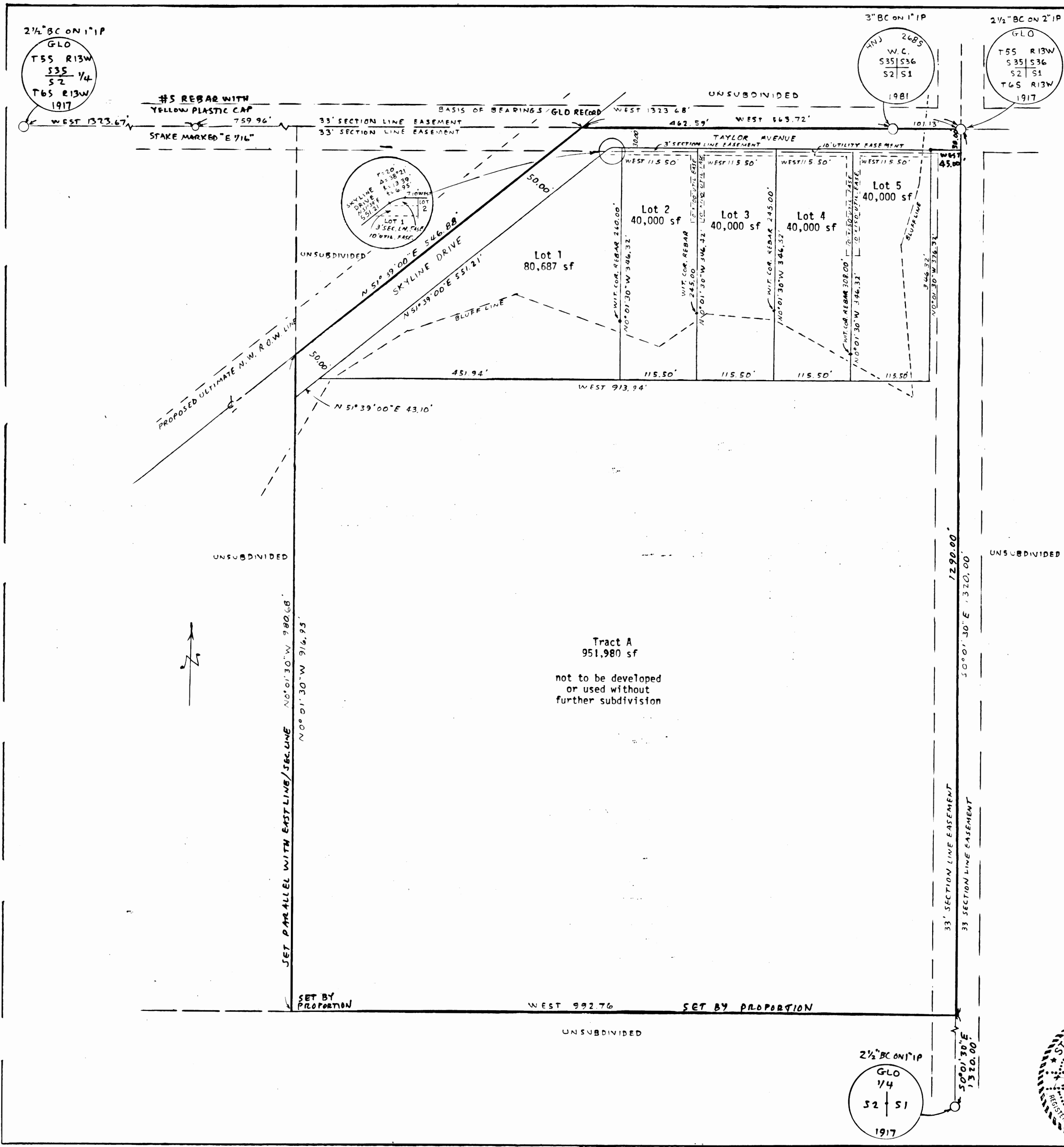
END OF STAFF REPORT

UTILITY EASEMENT ALTERATION CHECKLIST
complete items are marked with a check box - ☑

20.65.070. Alteration of platted utility easements

- ☐ A. Where platted utility easements are reserved for the purpose of providing utility services by an agency or utility provider and are not dedicated to the public use in the same manner as public rights-of-way, public access, or public easement granted for public use, the planning commission shall review and act upon all requests to alter, including removal, platted utility easements. For purposes of types of easements covered by this section, the KPB 20.90.010 definition for Utility Easement controls.
- ☐ B. The petitioner shall include the following items when submitting a request to alter a platted utility easement.
1. A petition, provided by KPB Planning Department, signed by the owner of the land subject to the platted utility easement as shown on the borough tax rolls.
 2. Comments from the city advisory commission if applicable, and the jurisdictional authority of a dedicated right-of-way when the utility easement adjoins a dedicated right of way. A petition to alter a platted utility easement will not be approved if a city with jurisdictional authority objects to the alteration.
 3. Comments or non-objection from all appropriate utility providers. Affected utility providers must initial or comment on the same sketch or submittal that is provided to the borough.
 4. A sketch showing the alteration of the platted utility easement. If the alteration of the utility easement is due to an encroachment, then an as-built survey or site survey must be submitted with the petition.
 5. Appropriate application fee.
 6. Applicant statement containing the reasons for the alteration of the platted utility easement.
- Staff recommends:**
- ☐ C. Notice shall be sent per KPB 20.10.100.
- ☐ D. When the application is complete, the planning commission will take action on the requested alteration of the platted utility easement, either approving or denying the request.
- ☐ 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.
- ☐ G. Approval of an application under this section expires in 12 months.
- ☐ H. Upon approval, the alteration of a utility easement can be finalized by either.
1. Recording of a subdivision plat which complies with Chapter 20.
 2. Recording of a utility easement alteration resolution. Upon approval of an alteration to a platted utility easement, not associated with the vacation of a right-of-way, not requiring transfer of title, or changing of boundary lines, a resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the approval. The petitioner is responsible for the recording fees.

END OF UTILITY EASEMENT ALTERATION CHECKLIST



USGS Quad Seldovia C4 Vicinity Map scale 1"=1 mile

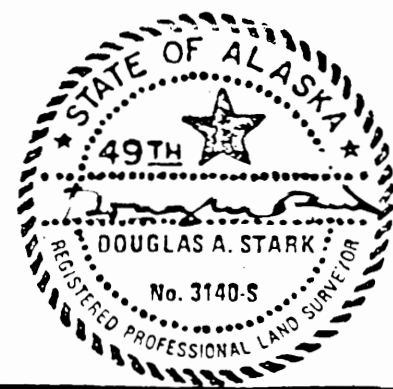
Certificate of Ownership and Dedication
 We hereby certify that we are the owner of the property shown and described hereon and that we hereby adopt this plan of subdivision and dedicate all rights of way to public use and grant the easements for utility use.
 August 29, 1983
 Douglas A. & Sandra L. Stark, 957 Westbury, Anchorage, Ak. 99503
 Notary's Acknowledgement: Subscribed and sworn to before me this 29th day of August, 1983
 by Douglas A. and Sandra L. Stark
 Notary Public for Alaska
 my commission expires 1-17-84

Plat Approval
 This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of May 23, 1983.
 Kenai Peninsula Borough
 by *Stan Thompson*
 Authorized Official

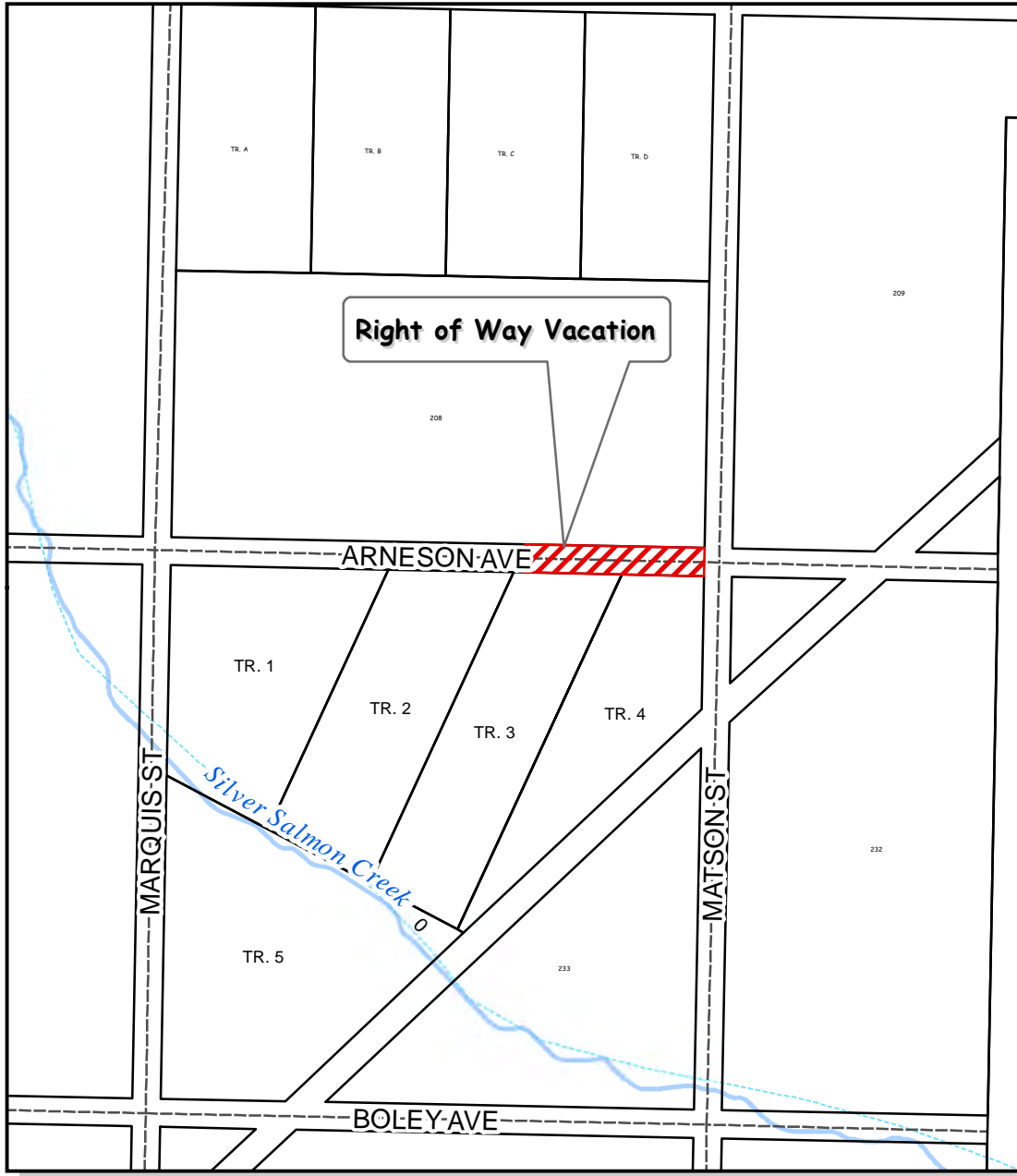
- Notes**
1. Building Setback: a setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate planning commission. Houses shall be set back at least 80 feet from the south bluff line and 50 feet from the east bluff line.
 2. Wells shall be located in the northerly 20 feet of the lots. Septic disposal systems shall be located between 120 feet and 170 feet from the north lot line.
 3. 30" #5 rebars were set at all corners except on unstable slopes
 4. Road access shall be only from Taylor Avenue.

83-93

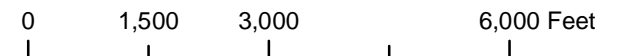
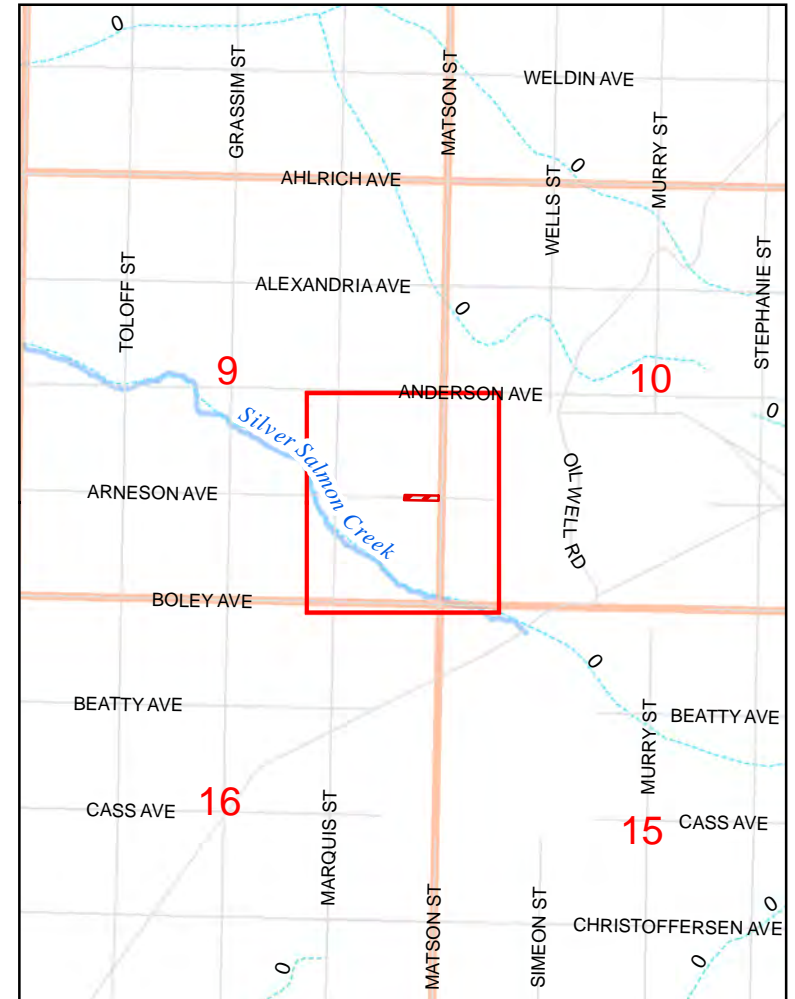
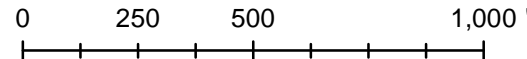
RECORDED - FILED 10-94
 HOMER REC. DATE
 DATE 9-28-1983
 TIME 11:00 AM
 Examined by *K.P. Brough*
 Address *Helena*



Kachemak Vista Subdivision 28.4126 acres Subdivision of NE 1/4 Sec. 2, T6S, R13W, S.M. south of Skyline Drive except W 1/4 NE 1/4 said Section 2	
Kenai Peninsula Borough, Alaska	
Douglas & Sandra Stark, owners 957 Westbury, Anchorage, 99503	Douglas A Stark, land surveyor 957 Westbury, Anchorage, 99503
scale 1"=100'	sheet 1 of 1 September 1, 1983



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



KPB 2021-160V
S09 T02S R12W
Ninilchik

208

ARNESON AVE


MATSON ST

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

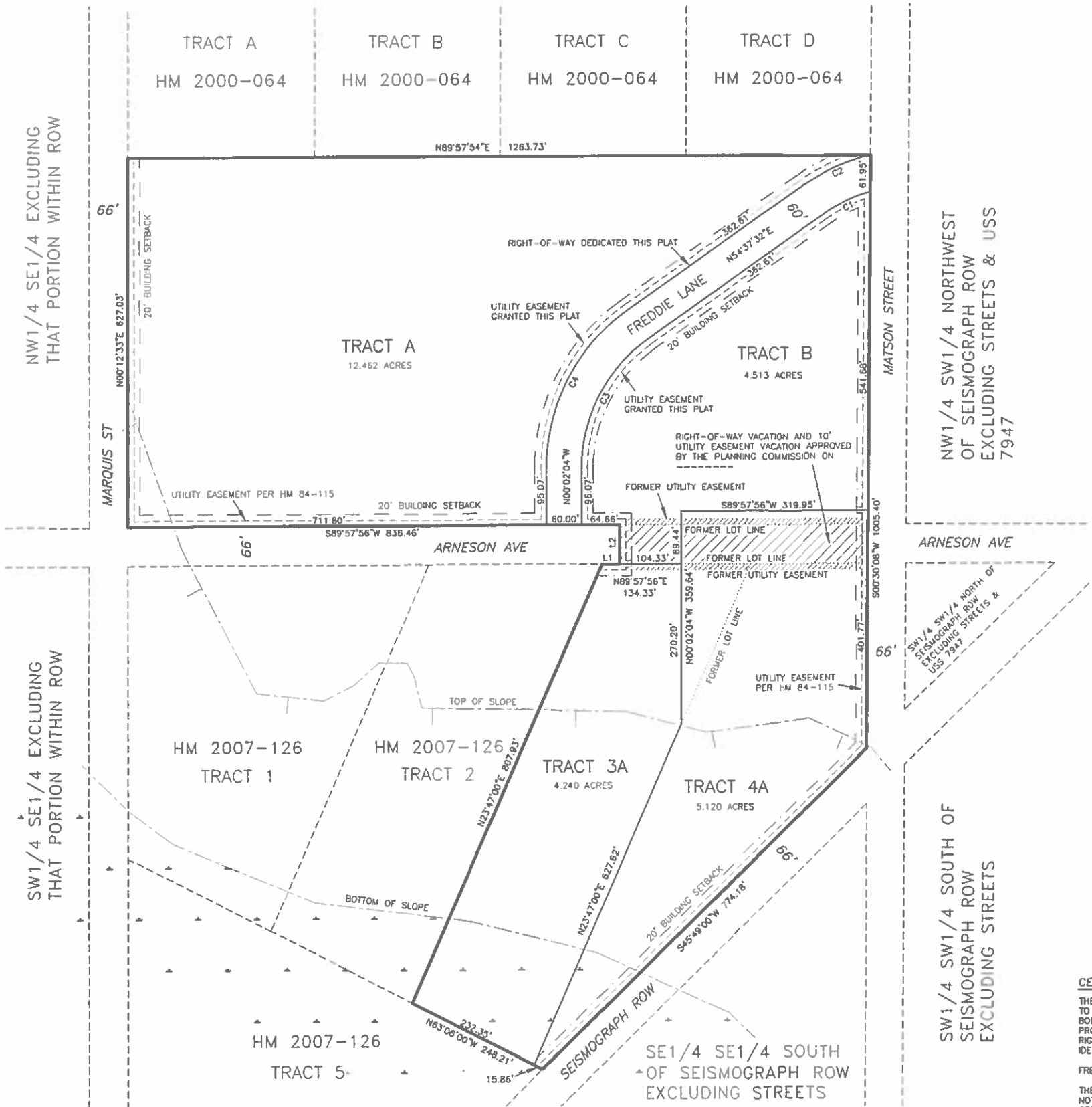
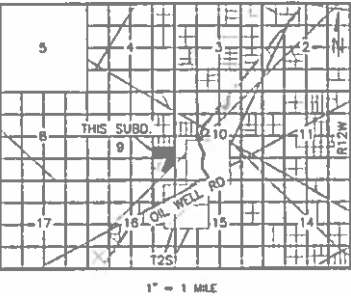
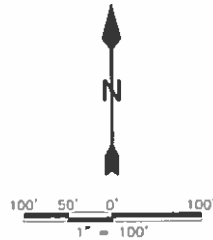
0 25 50 100 '
+ + + + +

Aerial View



 Right of Way Vacation

PClements, KPB 2021-160V
Imagery 2016



LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°57'56"E	30.00'
L2	N00°02'04"W	66.00'

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA ANGLE	TANGENT	CHORD	CHORD BEARING
C1	93.89	270.00	19°55'24"	47.42	93.41	S64°35'15"W
C2	131.78	330.00	22°52'51"	66.78	130.91	S66°03'58"W
C3	257.58	270.00	54°39'36"	139.54	247.92	S27°17'44"W
C4	314.82	330.00	54°39'36"	170.54	303.02	S27°17'44"W

NOTES

- A BUILDING SETBACK OF 20' IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION. THE FRONT 10' OF THE BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5' OF THE SIDE LOT LINES IS ALSO A UTILITY EASEMENT.
- NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
- THE KPB PLAT COMMITTEE GRANTED EXCEPTIONS TO 20.30.100 CUL-DE-SACS, 20.30.190 LOT DIMENSIONS, AND 20.40 WASTEWATER SYSTEM REVIEW AT THE MEETING ON _____.
- ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION IF APPLICABLE.
- ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOROUGH IN ORDER TO BE CONSIDERED FOR CERTIFICATION AND INCLUSION IN THE ROAD MAINTENANCE PROGRAM (KPB 14.06).

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND GRANT ALL EASEMENTS TO THE USE SHOWN.

FREDDIE POLLARD JR
PO BOX 1360, KENAI, AK 99611

SHEILA K BEST
PO BOX 1360, KENAI, AK 99611

NOTARY ACKNOWLEDGMENT

FOR: FREDDIE POLLARD JR AND SHEILA K BEST
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2022

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES: _____

LEGEND

WETLANDS PER THE KENAI WATERSHED FORUM COOK INLET
WETLANDS MAPPING

WASTEWATER DISPOSAL

WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____

KENAI PENINSULA BOROUGH

BY: _____
AUTHORIZED OFFICIAL

CERTIFICATE OF ACCEPTANCE

THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPT ON BEHALF OF THE KENAI PENINSULA BOROUGH FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THIS PLAT IDENTIFIED AS FOLLOWS:

FREDDIE LANE RIGHT-OF-WAY

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

BY: _____ DATE: _____

KPB FILE NUMBER:

PENINSULA SURVEYING, LLC
10535 KATRIHA BOULEVARD, NINILCHIK, AK 99639
(907)306-7065

PLAT OF
CABIN HOPPERS SUBDIVISION

A SUBDIVISION OF
S1/2 NE1/4 SE1/4 EXCLUDING PORTION WITHIN ROW, PW 93-7 AND
TRACTS 3 AND 4 ANNA'S ACRES, HM 2007-126

LOCATED WITHIN
SE 1/4 SEC. 9, T.2S., R.12W., S.M.
HOMER RECORDING DISTRICT, KENAI PENINSULA BOROUGH
CONTAINING 27.514 ACRES

OWNERS: FREDDIE POLLARD JR AND SHEILA K BEST
PO BOX 1360, KENAI, AK 99611

SCALE: 1" = 100'
DRAWN: JLS

DATE: DECEMBER 14, 2021
SHEET: 1 OF 1



KPB 2021-160V

AGENDA ITEM E. NEW BUSINESS

**ITEM 3 - RIGHT OF WAY VACATION
426 FOOT PORTION OF ARNESON AVENUE
INCLUDING ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2021-160V
Planning Commission Meeting:	January 10, 2022
Applicant / Owner:	Freddie's Roadhouse Inc., Freddie Pollard Jr, and Sheila K. Best all of Kenai, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Marquis Street, Arneson Avenue, and Matson Street, Ninilchik
Legal Description:	S1/2 NE1/4 SE1/4 Excluding portion within ROWs, (Parcel 1 of Plat Waiver) per Resolution 93-7 (HM 93-15) and Tracts 3 and 4, Anna's Acres, Plat HM 2007-126, Homer Recording District, Section 9, Township 2 South, Range 12 West

STAFF REPORT

Specific Request / Purpose as stated in the petition: We would like to vacate a portion of Arneson Avenue, beginning at Matson Street and extending 424' to the west. There is also a 10' utility easement along each side of the ROW that we would like vacated.

Arneson Avenue is located in a fairly remote area, near the end of Oil Well Road. It currently has not been constructed and it is not being used. There is an existing shop that is built in the section of ROW that we would like to vacate. This vacation would solve the problem of this encroachment. We are offering better access through a new dedication, labeled as Freddie Lane on the preliminary plat. Freddie Lane would follow an existing driveway back to Arneson Avenue.

Notification: Public notice appeared in the December 30, 2021 issue of the Homer News as a separate ad. The public hearing notice was published in the January 6, 2022 issue of the Homer News 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 Ninilchik

Post Office of Ninilchik

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

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

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Emergency Services of Ninilchik
Kenai Peninsula Borough Office

Kenai Peninsula Borough Land Management
Ninilchik Traditional Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc., (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The right of way proposed to be vacated is located in the Ninilchik area within the Caribou Hills recreational area. The property is located near Mile 16 of Oil Well Road, a 100 foot wide right of way maintained by the borough. Access to Arneson Avenue is from Anderson Avenue to Matson Street, both of which are 66 foot wide dedicated right of ways. Anderson Avenue and Matson Street are improved roads but are not maintained by KPB.

A driveway from Matson Street that extends through the 18 acre parcel provides physical access to Tracts 1-4 of Anna's Acres, Plat HM 2007-126. Tracts 1-4 contain multiple cabin improvements.

A structure is located within Arneson Avenue. A new 60 foot wide right of way dedication is proposed over the existing driveway that is being used for physical access.

The proposed vacation will affect two blocks. Both blocks will be closed. The northern block, defined by Arneson Avenue, Marquis Street, Anderson Avenue, Matson Street, and proposed Freddie Lane, will be compliant with block lengths. The southern block, defined by Arneson Avenue, Marquis Street, Boley Avenue, seismic line right of way, Matson Street, and proposed Freddie Lane, will have one section of the block longer than allowable lengths by 100 feet. The right of way for both blocks are affected by steep terrain. The right of way vacation and new right of way dedication will not hinder, or improve, the block length issue.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

Site Investigation: The right of way to be vacated does not contain any steep slopes or low wet areas. The new proposed dedication is over an existing drive and does not contain any steep slopes or low wet areas.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments:</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
-------------------------	--

Staff Analysis: The proposed vacation is within the Caribou Hills area. Right of Way Map, Plat HM 84-115, referred to as the Ninilchik ROW Map, subdivided thirteen sections. The plat dedicated 66 foot wide right of ways centered on seismograph lines as well as 66 foot right of ways on all 1/16 and 1/4 aliquot lines and section lines. Arneson Avenue was created by plat HM 84-115.

Right of Way Map HM 84-115 is a paper plat with no field survey. Terrain was not considered with the right of way dedications and many right of ways are affected by steep terrain or low wet areas. Local trails, although often crossing private lands, are used for physical access. Subsequent subdivisions have divided lands and provided right of ways dedications in practical areas or where trails were already being used for access.

The existing 18 acre parcel on the north of Arneson Avenue was created by a plat waiver per PC Resolution 93-7. Tracts A, B, C, and D were created by Winer Wonderland, Plat HM 2000-64. Tracts 1, 2, 3, and 4, located to the south of Arneson Avenue were created with the recording of Anna's Acres, HM 2007-126.

A dedicated right of way centered on the unnamed seismograph line exists to the south.

Freddie's Roadhouse Inc. is the owner of the parcels north of Arneson Avenue. Freddie Pollard Jr. and Sheila K. Best, owners of Freddie's Roadhouse, own the four lots south of Arneson Avenue.

When right of way is vacated it attaches to the lot or land bordering the area in equal proportions. The proposed sketch shows the vacated area not being attached in equal proportions. The final plat will require owner acknowledgement that states they understand and agree to allow the vacated right of way to be attached to the neighboring parcels as depicted. This will allow the improvements to be within the parcel boundary and not create an encroachment.

The proposed vacation is not within an advisory planning commission boundary.

20.65.050 – Action on vacation application

D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
Staff comments: The area to be vacated is not currently being used due to structures within the right of way.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The terrain allows for a road to be constructed but the existing structures do not allow a roadway to be constructed. An alternative access is being provided over an existing travel way.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: This is located in a recreational area. Multiple right of way dedications were granted in 1984 which provide legal access.
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 right of way does not provide access to a public interest area or provide a connection between existing trails.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposed vacation would limit interconnectivity but a new right of way dedication will provide an equal or superior access with interconnectivity to adjacent parcels to the south. Proposed Tract 3A will 30 feet of frontage on Arneson Avenue. This will be addressed during the platting process.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: The use of the existing right of way is limited due to the structures that have been constructed, but pedestrian access is feasible. The proposed dedicated right of way will provide superior access for pedestrian or all-terrain vehicle use.

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: New utility easements will be granted along the new dedicated right of way. Staff requests that any issues or concerns by the utility companies be addressed and possible utility easements may need to be granted.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

Staff comments: existing structures limit the use of the existing right of way. The proposed right of way dedication will provide superior public access.

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

The Assembly will hear the vacation at their scheduled February 1, 2022 meeting.

If approved, a plat will finalize the proposed right of way vacations. The Plat Committee is scheduled to the review plat on January 24, 2022.

KPB department / agency review:

Planner	Reviewer: Aldridge, Morgan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 17637 MATSON ST Existing Street Names are Correct: Yes List of Correct Street Names: MATSON ST ARNESON AVE MARQUI ST Existing Street Name Corrections Needed: All New Street Names are Approved: Yes List of Approved Street Names: FREDDIE LN List of Street Names Denied:

	Comments: 17637 MATSON ST on TRACT B will be changed to a FREDDIE LN address.
Assessing	Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.

Utility provider review:

HEA	
ENSTAR	No objections.
ACS	
GCI	

RECOMMENDATION:

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

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

KPB 20.65.050 – Action on vacation application

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

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

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

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

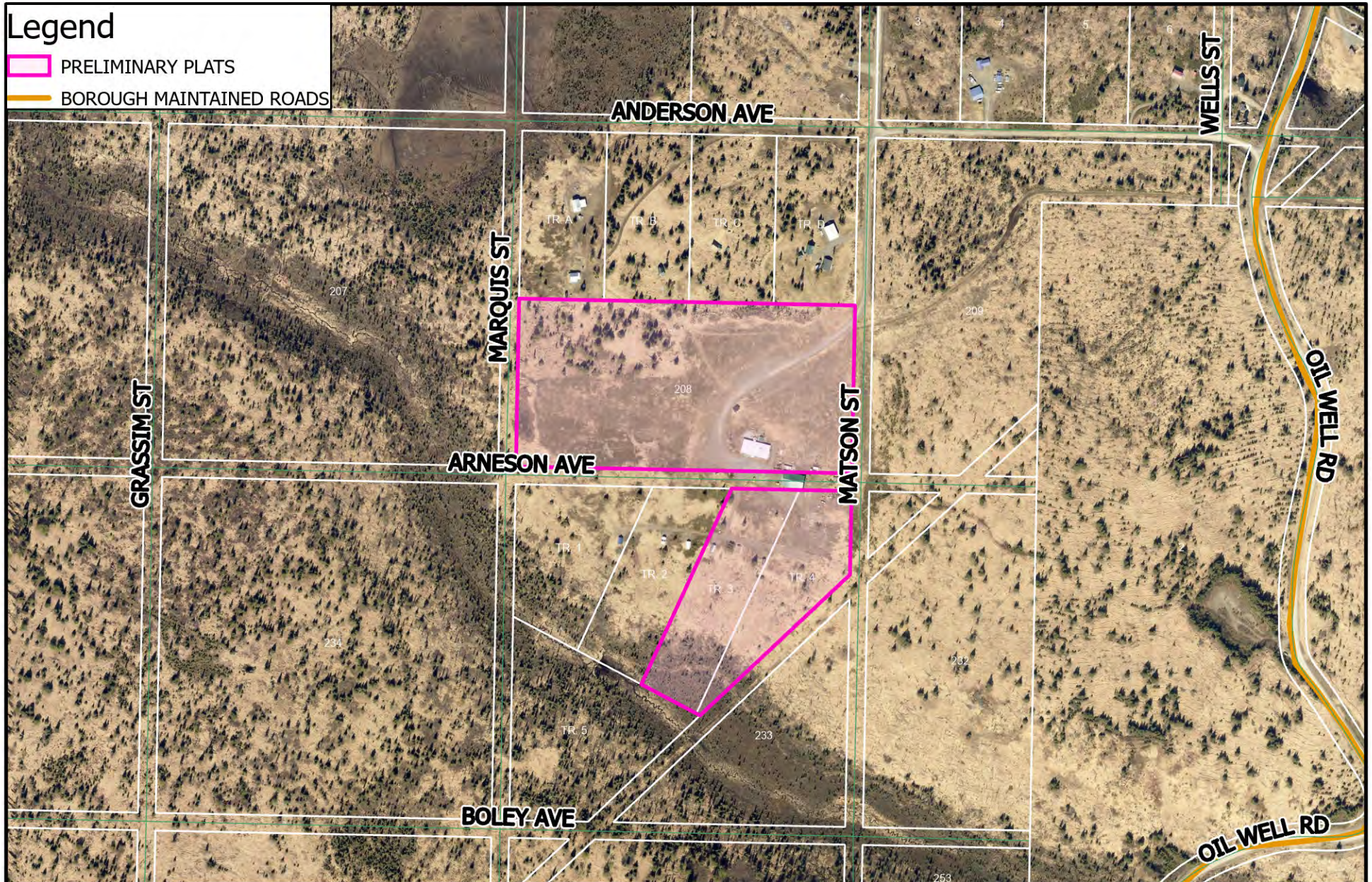
Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

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

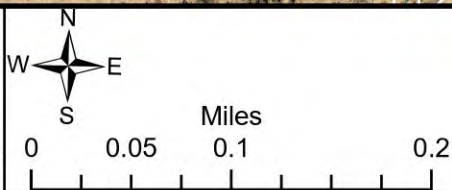
END OF STAFF REPORT

Legend

- PRELIMINARY PLATS
- BOROUGH MAINTAINED ROADS

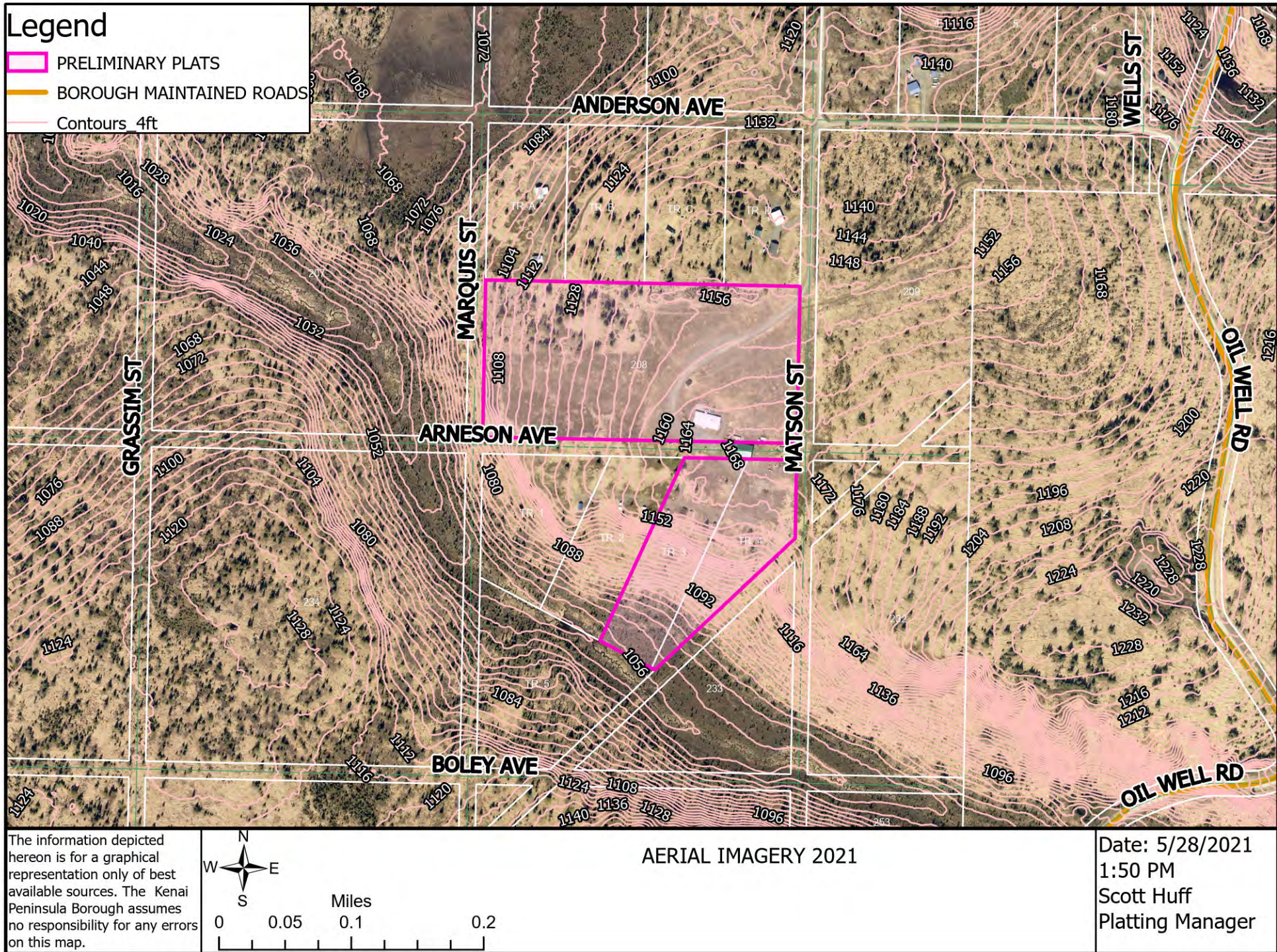


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

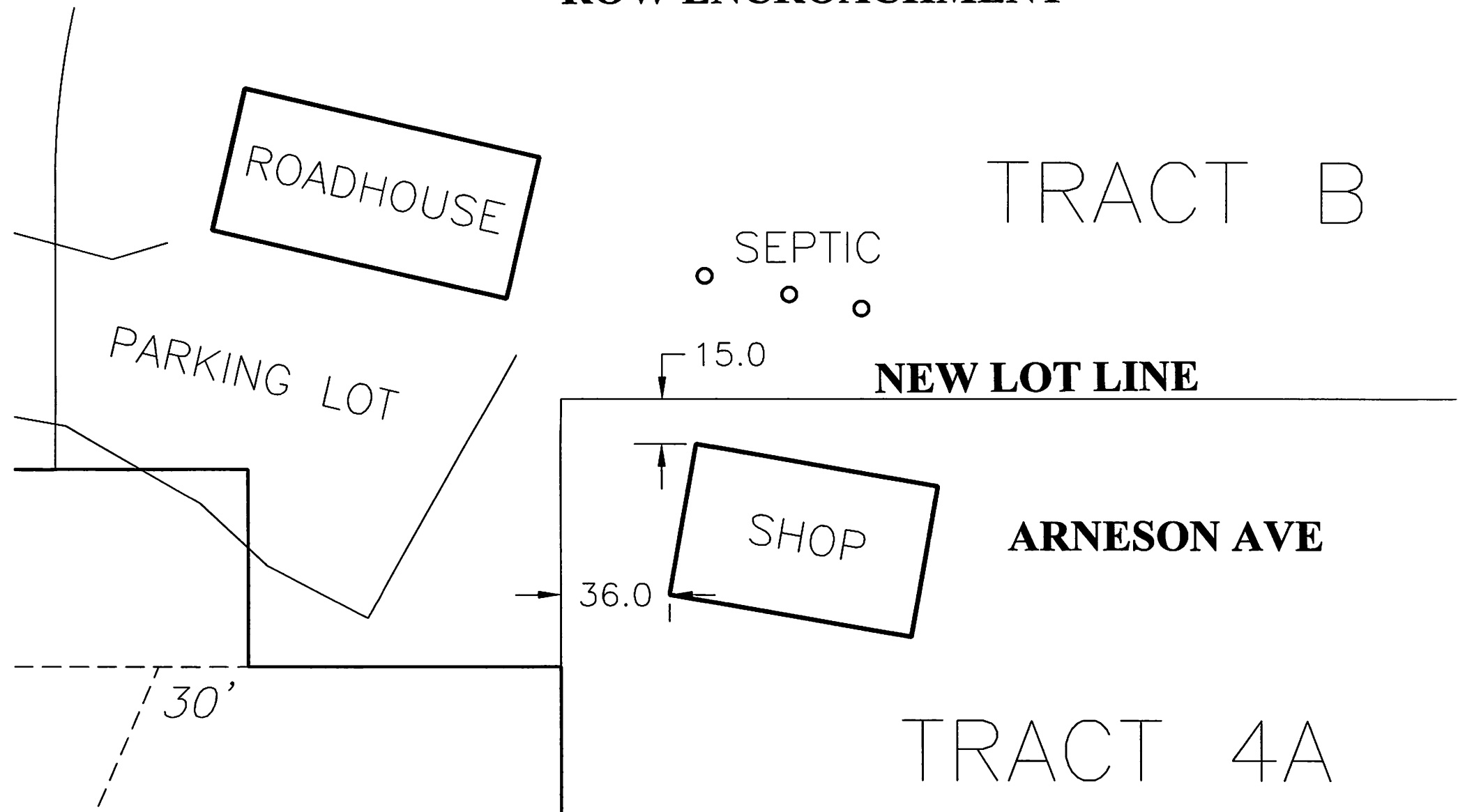


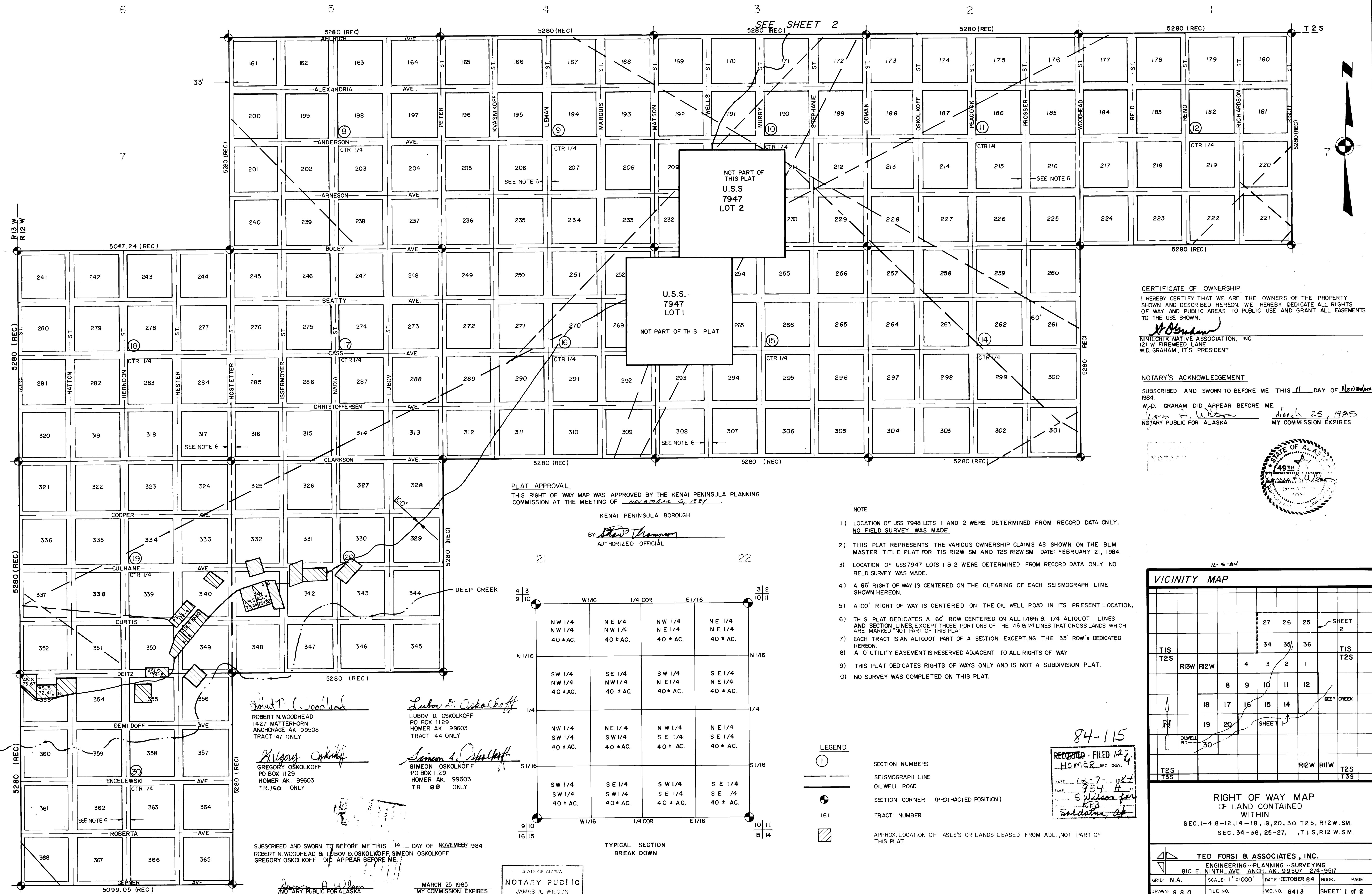
AERIAL IMAGERY 2021

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



ROW ENCROACHMENT





22

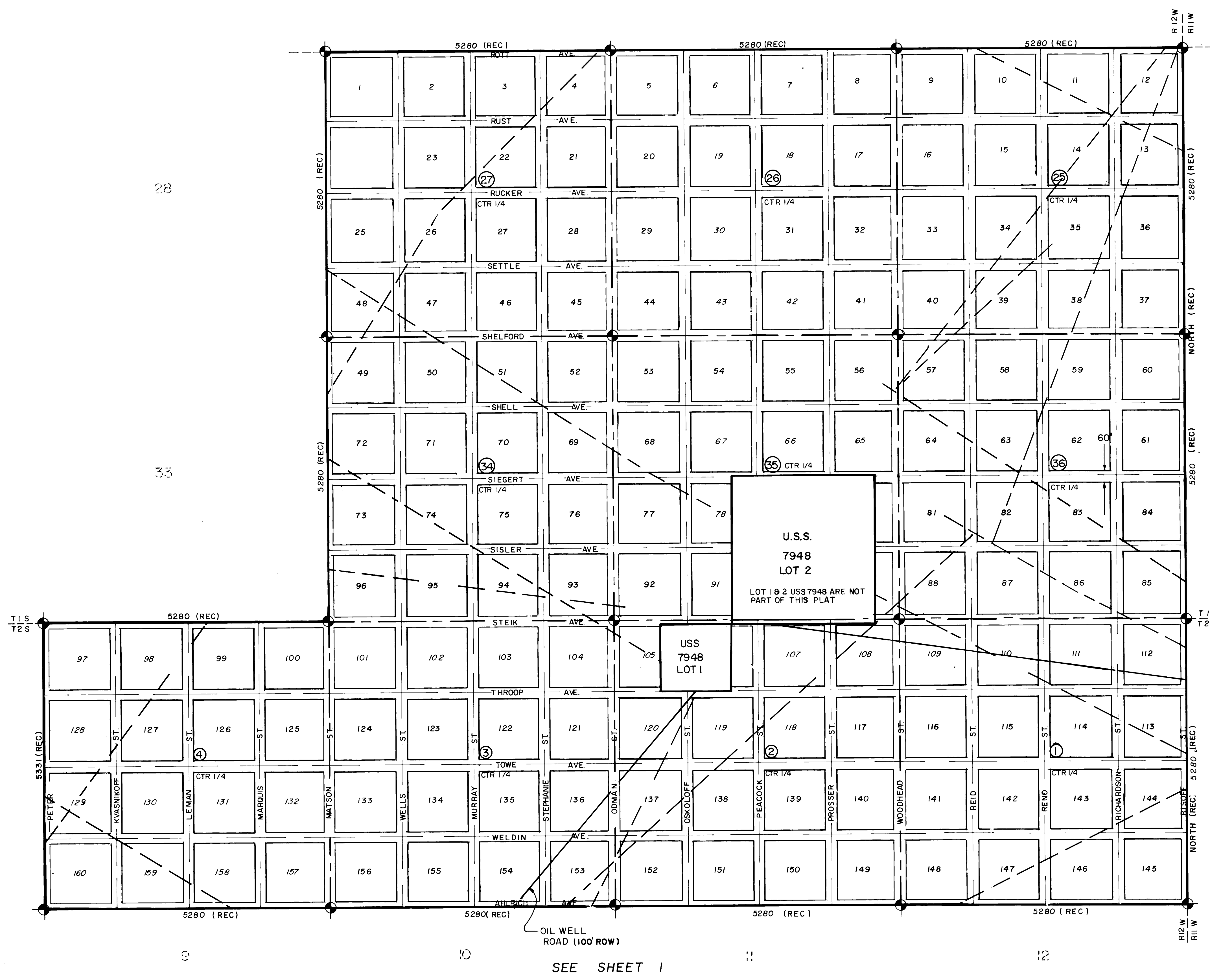
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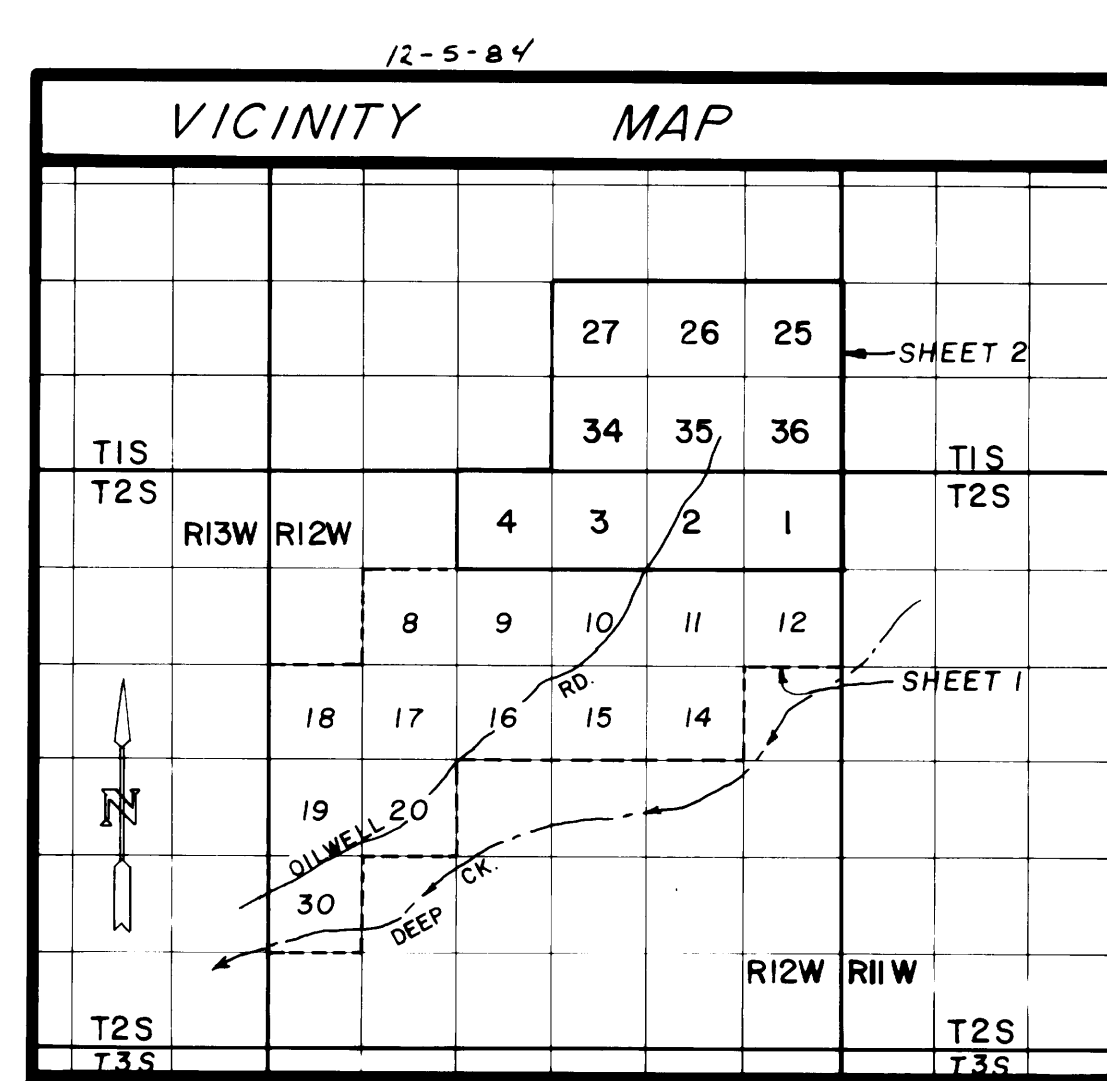
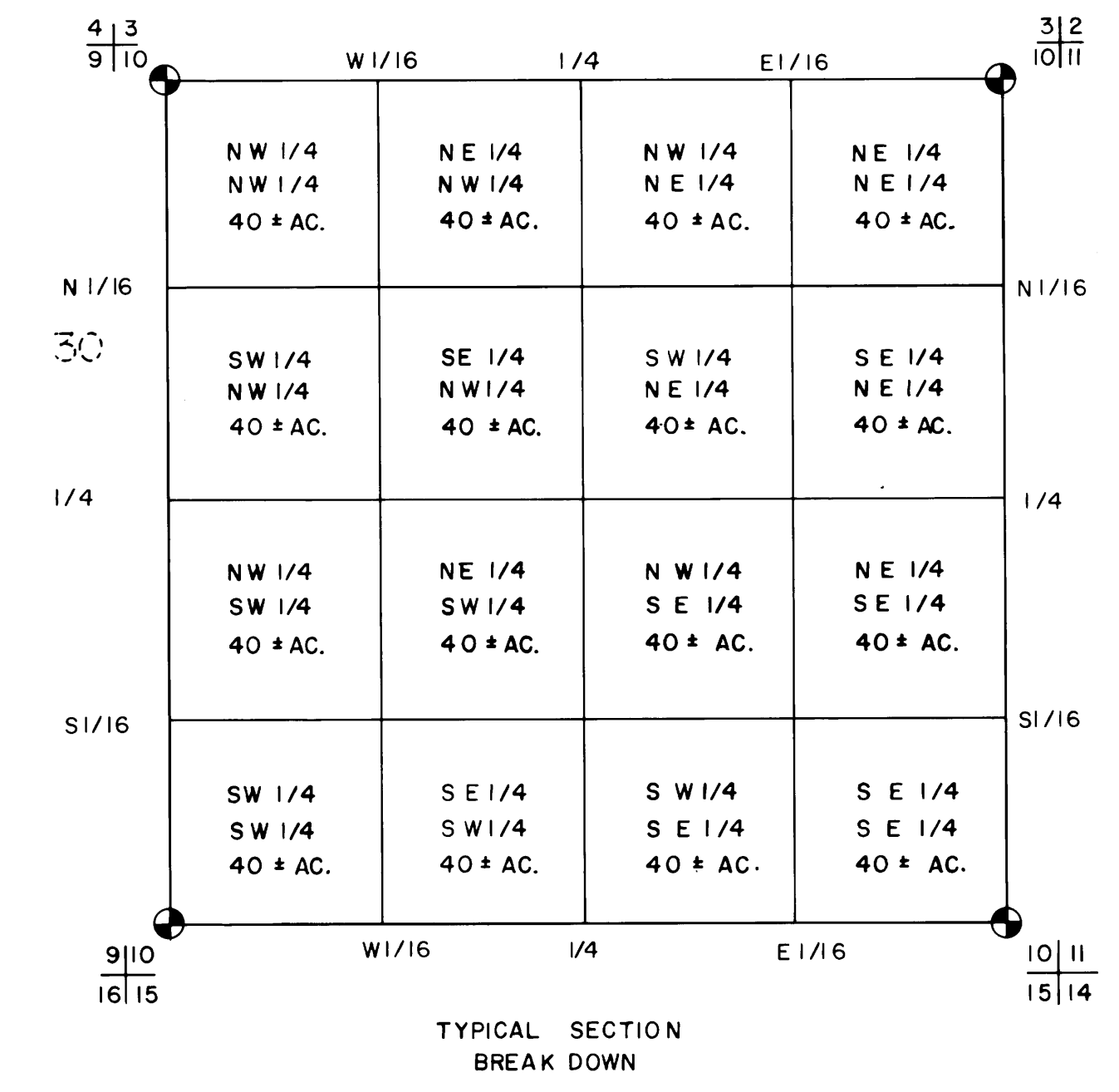
19

28

33



SEE SHEET 1

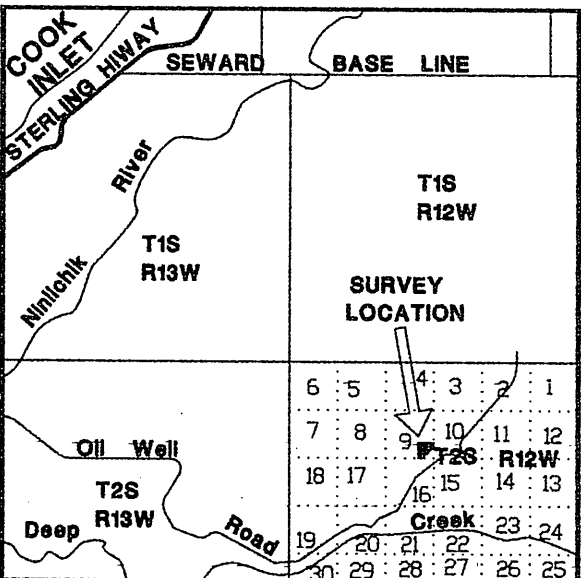


RIGHT OF WAY MAP OF LAND CONTAINED WITHIN SEC. 34-36, 25-27, T1S, R12W, S.M. SEC. 1-4, 8-12, 14-18, 19, 20, 30 T2S, R12W, S.M.			
TED FORSI & ASSOCIATES, INC. ENGINEERING-PLANNING-SURVEYING 810 E. NINTH AVE. ANCH. AK 99501 274-9517			
GRID: N.A.	SCALE: 1"=1000'	DATE: OCT 84	BOOK: PAGE:
DRAWN: G.S.O.	FILE NO.	W.O. NO. 8413	SHEET 2 of 2

84-115
HOMER
12-7-84
9:54 A
S. Wilson for
KPB
Solid area, Ak

HM 84-115

NINILCHIK R.O.W. MAP



VICINITY 1" = 4 miles MAP

ANNA'S ACRES

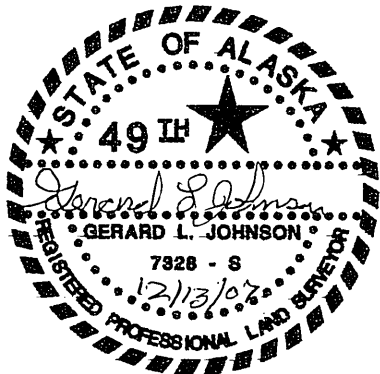
A subdivision of Tract 233 NNAI ROW Map (HRD 84-115), portion northwest of Seismograph Trail ROW.
Located in the SE1/4 SE1/4 Section 9, T2S R12W, SM.
Homer Recording District Kenai Peninsula Borough File: 2007-113

Prepared for

Anna E. Daniels
8043 Andreason Pl.
Custer, WA 98240

Prepared by

Johnson Surveying
Box 27
Clam Gulch, AK 99568



SCALE 1" = 100' AREA = 25.805 acres 10 February, 2007

LEGEND

- ⊕ - 3/4" alcap monument, 4928-S, 1998, Found.
- ⊙ - 2 1/2" alcap on 5/8"x 8" rebar, set.
- └ - 1/2"x 4" rebar with 1" plastic cap, set.

NOTES

- A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement as is the entire setback within 5' of side lot lines.
- No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
- An exception to KPB 20.20.180, 3 to 1 length/width ratio. For Tract 3 was granted by the KPB Planning Commission at the meeting of 14 May, 2007.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 14 May, 2007.

KENAI PENINSULA BOROUGH

BY: Maureen Bred 12-18-07
Authorized Official Date

WASTEWATER DISPOSAL

These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

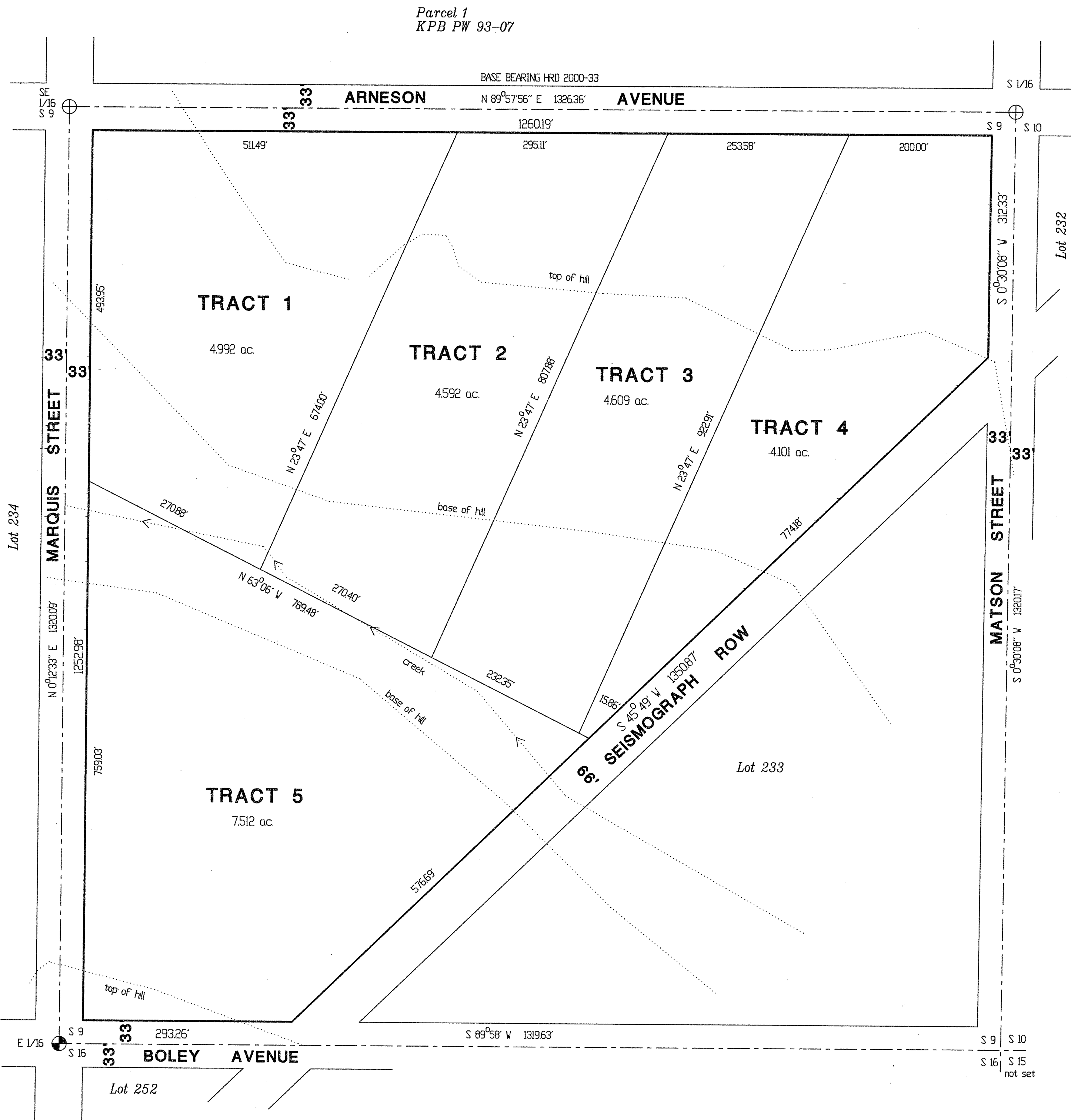
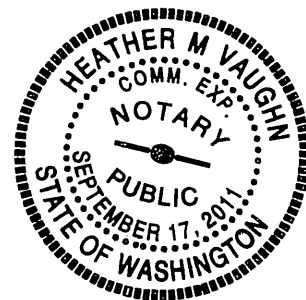
OWNERSHIP CERTIFICATE

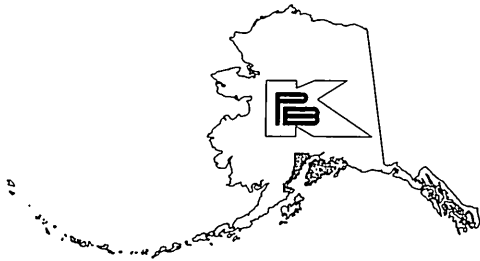
I hereby certify that I am the owner of the real property shown and described hereon; and that I hereby adopt this plan of subdivision, and by my free consent grant all easements to the use shown.

Anna Daniels
Anna E. Daniels
8043 Andreason Pl. Custer, WA 98240

NOTARY'S ACKNOWLEDGEMENT

For: Anna E. Daniels
Subscribed and sworn to before me this 4
day of December 2007.
Heather M. Vukobratovic
Notary Public for Washington
My commission expires 09/12/2011





KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7520
BUSINESS (907) 262-4441 FAX (907) 262-1892

JOHN J. WILLIAMS
MAYOR

CERTIFICATE OF TAX DEPARTMENT

I, Rhonda K. Krohn, Property Tax and Collections Supervisor for the Kenai Peninsula Borough, do hereby certify that all real property taxes levied by the Kenai Peninsula Borough through December 31, 2007 have been paid for the area(s) described as:

ANNA'S ACRES

PARCEL #: 18549805

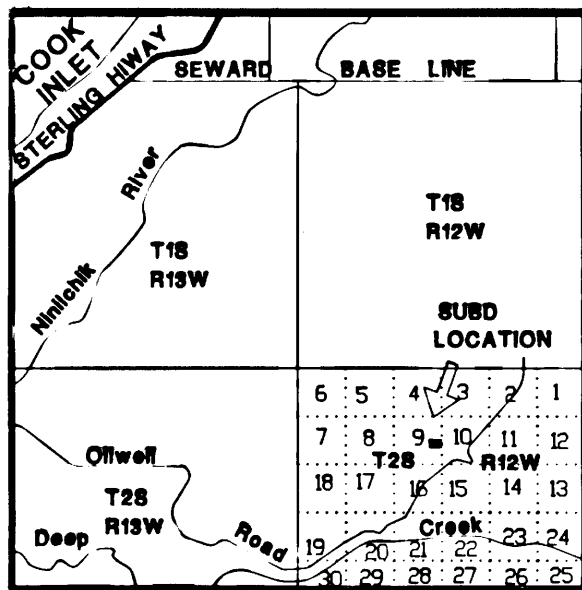
T 2S R 12W SEC 9 Seward Meridian HM SE1/4 SE1/4 N OF SEISMOGRAPH R/W EXC
STREETS

The following assessments (except assessments for the cities of Homer, Kenai, Seward, Seldovia, and Soldotna) levied against this property are outstanding: none.

Witness my hand and seal this 13 December 2007.

Rhonda K. Krohn
Property Tax and Collections Supervisor

Homer 2007-1226



VICINITY 1" = 4 miles MAP

WINTER WONDERLAND

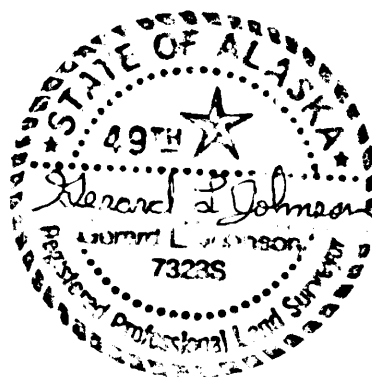
A subdivision of Parcel 2 KPB Plat Waiver 93-07.
Located in the SE1/4 Section 9, T2S R12W, SM, Alaska.
Homer Recording District KPB File 2000-182

Prepared for

Will Jahrig
Brent & Tammi Blumentritt
Jody & Tracy Earll
Darrel & Char Mason

Prepared by

Johnson Surveying
Box 27
Clam Gulch, Ak 99568



SCALE 1" = 200' AREA = 18.215 acres 18 Sept, 2000

NOTES

1. A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement, as is the entire setback within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 9 October, 2000.

KENAI PENINSULA BOROUGH

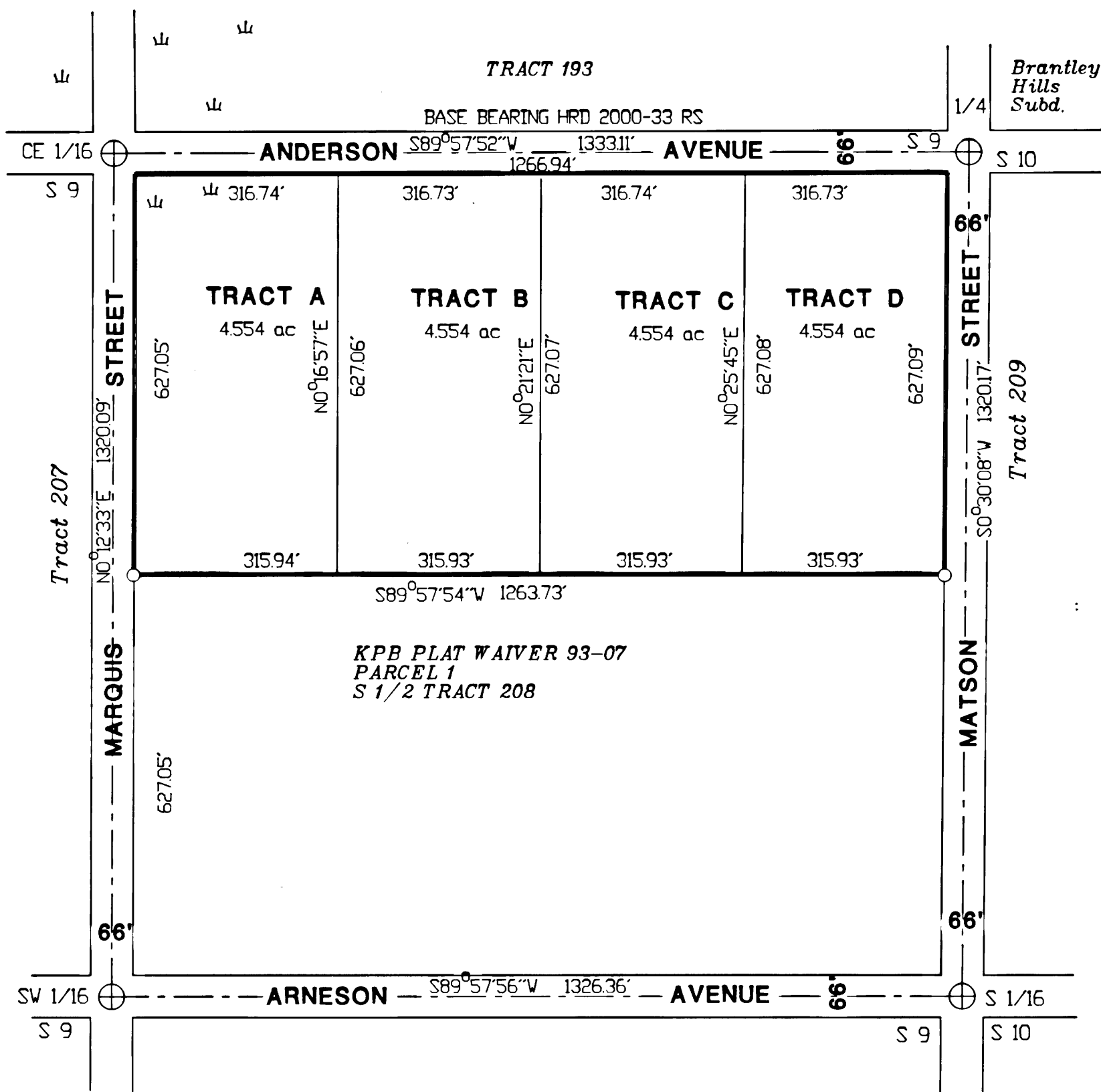
BY: Mary J. Best 12/14/00
Authorized Official Date

WASTEWATER DISPOSAL

These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

LEGEND

- ⊕ - 2 1/2" alcap monument, 7328-S, 2000, found.
- - 1" plastic cap lot corner, 7328-S, 2000, found.
- └ - 1/2"x 4" rebar with 1" plastic cap, set.
- ⚡ - indicates low, wet ground.



OWNERSHIP CERTIFICATE

We hereby certify that we are the owners of the real property shown and described hereon; and that we hereby adopt this plan of subdivision and by our free consent grant all easements to the use shown.

Brent Blumentritt
Brent Blumentritt P.O. Box 2773 Soldotna, Ak 99669
Tammi Blumentritt
Tammi Blumentritt P.O. Box 2773 Soldotna, Ak 99669
Scott M. Cunningham
Scott M. Cunningham P.O. Box 566 Kenai, AK 99611
Darrel Mason
Darrel Mason P.O. Box 442 Kaslof, Ak 99610
Charlene Mason
Charlene Mason P.O. Box 442 Kaslof, Ak 99610
Eugene D. Earll
Eugene D. Earll 311 Beluga Street Soldotna, Ak 99669-7815
Leatha Earll
Leatha Earll 311 Beluga Street Soldotna, Ak 99669-7815
Dena R. Cunningham
Dena R. Cunningham P.O. Box 566 Kenai, AK 99611

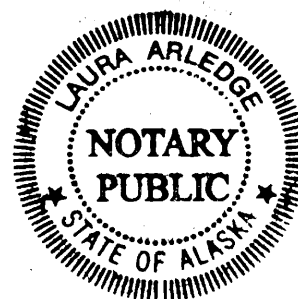
NOTARY'S ACKNOWLEDGEMENT

For: Brent & Tammi Blumentritt
Subscribed and sworn to before me this 28th

day of November 2000

Laura Arledge
Notary Public For Alaska

My commission expires June 25, 2002



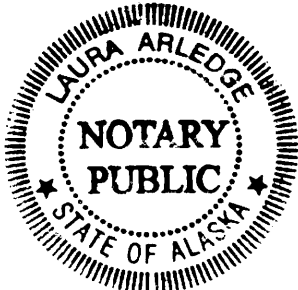
NOTARY'S ACKNOWLEDGEMENT

For: Scott M. & Dena R. Cunningham
Subscribed and sworn to before me this 12th

day of December 2000.

Laura Arledge
Notary Public For Alaska

My commission expires June 25, 2002



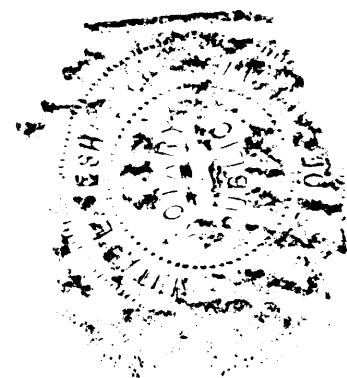
NOTARY'S ACKNOWLEDGEMENT

For: Darrel & Charlene Mason
Subscribed and sworn to before me this 24th

day of Nov 2000

Antia L. Eshleman
Notary Public For Alaska

My commission expires 12-6-2002



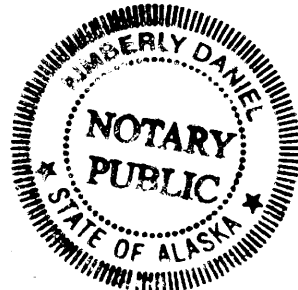
NOTARY'S ACKNOWLEDGEMENT

For: Eugene D. & Leatha Earll
Subscribed and sworn to before me this 21st

day of November 2000

Antia L. Eshleman
Notary Public For Alaska

My commission expires 6/25/2002



93-15W

KENAI PENINSULA BOROUGH
PLANNING COMMISSION

PLAT WAIVER RESOLUTION 93-07

HOMER RECORDING DISTRICT

GRANTING A PLATTING WAIVER FOR CERTAIN LANDS WITHIN SECTION 9, TOWNSHIP 2 SOUTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA.

WHEREAS, DOUGLAS M. AND GIGI JEANETTE ZOUBEK HAVE PETITIONED FOR A WAIVER OF PLATTING REQUIREMENTS FOR THE FOLLOWING DESCRIBED PARCEL:

THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, SECTION 9, TOWNSHIP 2 SOUTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA; CNTG 36.1 ± ACRES.

WHEREAS, 29.04.090 OF ALASKA STATUTES PROVIDES THAT THE PLATTING AUTHORITY SHALL WAIVE THE PREPARATION, SUBMISSION FOR APPROVAL, AND RECORDING OF A PLAT UPON SATISFACTORY EVIDENCE THAT CERTAIN CONDITIONS EXIST.

WHEREAS, IT HAS BEEN DETERMINED THAT ALL REQUIREMENTS HAVE BEEN MET.

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

SECTION 1. THAT A WAIVER OF PLATTING REQUIREMENTS IS HEREBY GRANTED FOR THE ABOVE DESCRIBED PARCEL.

SECTION 2. THAT THE PLAT WAIVER IS BEING GRANTED FOR THE PURPOSE OF CREATING TWO PARCELS DESCRIBED AS FOLLOWS:

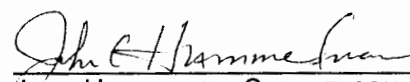
PARCEL 1: THE SOUTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 9, TOWNSHIP 2 SOUTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA; EXCEPTING THEREFROM 33 FOOT RIGHT-OF-WAY ALONG THE SOUTH, EAST AND WEST BOUNDARIES; CNTG 18.05 AC ±.

PARCEL 2: THE NORTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 9, TOWNSHIP 2 SOUTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA; EXCEPTING THEREFROM 33 FOOT RIGHT-OF-WAY ALONG THE NORTH, EAST AND WEST BOUNDARIES; CNTG 18.05 AC ±.

SECTION 3. THAT THIS RESOLUTION IS VOID IF NOT RECORDED IN THE APPROPRIATE RECORDING DISTRICT WITHIN TEN DAYS OF ADOPTION.


SECTION 4. THAT THIS RESOLUTION BECOMES EFFECTIVE UPON BEING PROPERLY RECORDED.

8th ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS DAY OF March, 1993.


JOHN HAMMELMAN, CHAIRPERSON
KPB PLANNING COMMISSION

NOTARY ACKNOWLEDGEMENT:

SUBSCRIBED AND SWORN BEFORE ME THIS 8th DAY OF March, 1993.


NOTARY PUBLIC FOR STATE OF ALASKA
MY COMMISSION EXPIRES: 10-13-93

Notary Public
ST. OF ALASKA
NANCY D. JUNGMAHN

93-0708
HOMER REC 20th
DISTRICT
REQUESTED BY D.M. Zoubek

'93 MAR 18 PM 2 13

From: [Horton, George C \(DNR\)](#)
To: [Clements, Peggy](#)
Subject: <EXTERNAL-SENDER>RE: ROW VACATION REVIEW FOR JANUARY 10, 2022 MEETING: ROW State Review Group, HEA, ACS, ENSTAR, GCI, KPB HOMER, NINILCHIK COUNCIL, KPB LAND MANAGEMENT, EMS NINILCHIK
Date: Wednesday, December 29, 2021 10:04:39 AM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hi Peggy,

If a section-line easement exists within and along the east boundary of this subdivision, the DNR, DML&W, Survey Section requests it be depicted and labeled on the final plat.

Thank you for the opportunity to comment.

Regards,

George Horton, PLS, CFeds

Land Surveyor I

DNR, DML&W, Survey Section

550 W. 7th AVE; Suite 650

Anchorage, Alaska 99501

(907) 269-8610

<http://dnr.alaska.gov/mlw/survey/>

"It's a dangerous business going out of your door. You step into the Road, and if you don't keep your feet, there is no knowing where you might be swept off to." Bilbo Baggins

From: Clements, Peggy <PClements@kpb.us>

Sent: Wednesday, December 22, 2021 10:50 AM

To: Eaton, Belinda L (DOT) <belinda.eaton@alaska.gov>; Biloon, Joselyn (DOT) <joselyn.biloon@alaska.gov>; Simpson, Danika L (DOT) <danika.simpson@alaska.gov>; Horton, George C (DNR) <george.horton@alaska.gov>; Rinke, Hans J (DNR) <hans.rinke@alaska.gov>; Kastner, Lorraine S (DOT) <lorraine.kastner@alaska.gov>; Keiner, Robert (DOT) <bob.keiner@alaska.gov>; Wilson, Mistee R (DOT) <mistee.wilson@alaska.gov>; 'Zubeck, Brad' <BZubeck@HomerElectric.com>; Byron Jackson <byron.jackson@acsalaska.com>; ENSTAR ROW <row@enstarnaturalgas.com>; Dubour, Adam J (DFG) <adam.dubour@alaska.gov>; 'OSP Design Group' <ospdesign@gci.com>; Percy, Colton T (DFG) <colton.percy@alaska.gov>; Baxter, Tammaron <tbaxter@kpb.us>; 'ivan@niniichiktribe-nsn.gov' <ivan@niniichiktribe-nsn.gov>; Mueller, Marcus <MMueller@kpb.us>; 'davidbear68@live.com' <davidbear68@live.com>

Subject: ROW VACATION REVIEW FOR JANUARY 10, 2022 MEETING: ROW State Review Group, HEA, ACS, ENSTAR, GCI, KPB HOMER, NINILCHIK COUNCIL, KPB LAND MANAGEMENT, EMS NINILCHIK

CAUTION: This email originated from outside the State of Alaska mail system.

Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attached sketch to be reviewed for the **January 10, 2022** meeting.

- Cabin Hoppers Subdivision Arneson Avenue Right of Way Vacation KPB 2021-160V

Please provide comments by **DECEMBER 29, 2021** to ensure the comments will be included in a right-of-way vacation staff report.

Right-of-way vacation comments will be accepted until 1:00p.m. Friday before the meeting date.

Peggy Clements

Platting Technician
Planning Department
907-714-2207

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669





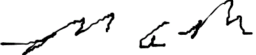
PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to the public upon request.


Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Mayor 
Melanie Aeschliman, Planning Director 
Marcus Mueller, Land Management Officer 

FROM: Julie Denison, Land Management Technician 

DATE: December 22, 2021

RE: Ordinance 2022-____, Authorizing A Communication Tower Agreement with Vertical Bridge S3 Assets, LLC at Nikiski Fire Station 1 (Mayor)

Vertical Bridge S3 Assets, LLC owns and operates a 120' wireless communications tower at Nikiski Fire Station 1. The tower was constructed in 2000 and authorized under a land use permit for the purpose of providing wireless communication services. The land use permit is in good standing and Vertical Bridge S3 Assets, LLC has requested to enter into a lease.

A Communications Site Lease Agreement has been negotiated using standard practices for the parcel acquired by the Nikiski Fire Service Area. The benefits of the lease would go to the service area. The service area board will provide its recommendations to the assembly prior to public hearing on this ordinance.

The planning commission will hold a public hearing on this item at its regularly scheduling meeting on January 10, 2022 and provide its recommendations prior to the January 18th assembly meeting.

Your consideration of this ordinance is appreciated.

Introduced by:	Mayor
Date:	1/4/22
Hearing:	1/18/22
Action:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-XX**

**AN ORDINANCE AUTHORIZING A COMMUNICATIONS SITE LEASE
AGREEMENT WITH VERTICAL BRIDGE S3 ASSETS, LLC AT NIKISKI FIRE
STATION 1**

WHEREAS, in 2000, permission was granted to Vertical Bridge S3 Assets, LLC's predecessor to construct and maintain a 120' self-supporting communications tower and a 10' x 20' support building at Nikiski Fire Station 1; and

WHEREAS, the tower site permit has been maintained in good standing and a long-term agreement is desired to continue operating this site and supporting communication needs in Nikiski; and

WHEREAS, a communication site lease agreement has been negotiated in standard form and in consideration of the interests of the Nikiski Fire Service Area; and

WHEREAS, the site was purchased with North Kenai Fire Service Area funds in 1971 in accordance with KPB Ordinance 71-22; and

WHEREAS, the Nikiski Fire Service Area Board at its regularly scheduled meeting of _____ recommended _____; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of January 10, 2022 recommended _____.

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

SECTION 1. That the assembly finds that entering into a Communications Site Lease Agreement with Vertical Bridge S3 Assets, LLC, pursuant to KPB 17.10.100(I), authorizing the negotiated lease of borough lands, is in the best interest of the borough at the following location:

Lot 2, Redoubt Highway Subdivision of Tract 2, according to Plat No. 1549, Kenai Recording District, Third Judicial District, State of Alaska (Parcel No. 017-260-50)

This finding is based on the following facts:

1. The borough will receive a fair market rent for the term of the lease.
2. That the communication improvements are compatible with the site.

3. That the borough reserves a benefit of tower space for emergency communication equipment in the lease.

SECTION 2. That the provisions of KPB 17.10.080-.090 and KPB 17.10.110-.240 governing classification, disposition, and leasing of borough lands and related natural resources shall not apply to this communications site lease.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to negotiate and enter into a Communication Site Lease Agreement upon a portion of the property identified in Section 1. The authorization is for lease solely to Vertical Bridge S3 Assets, LLC, and it may not assign any rights to negotiate or enter into an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute an agreement under terms and conditions similar to the Communications Site Lease Agreement provided to the assembly for reference and review.

SECTION 5. Vertical Bridge S3 Assets, LLC shall have 120 days from the date of enactment of this ordinance to execute the agreement.

SECTION 6. That rent revenue from the subject lease shall be submitted to the Borough Finance Department and deposited in the Nikiski Fire Service Area account 206.00000.00000.36316.

SECTION 7. That this ordinance is effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 20 ____.

Brent Johnson, Assembly President

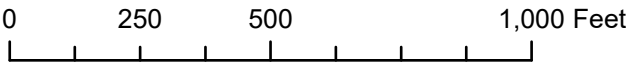
ATTEST:

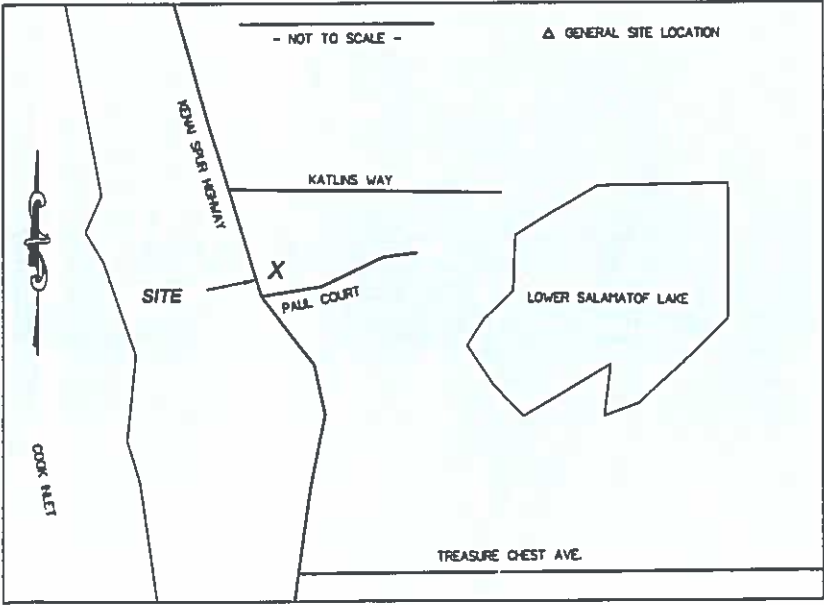
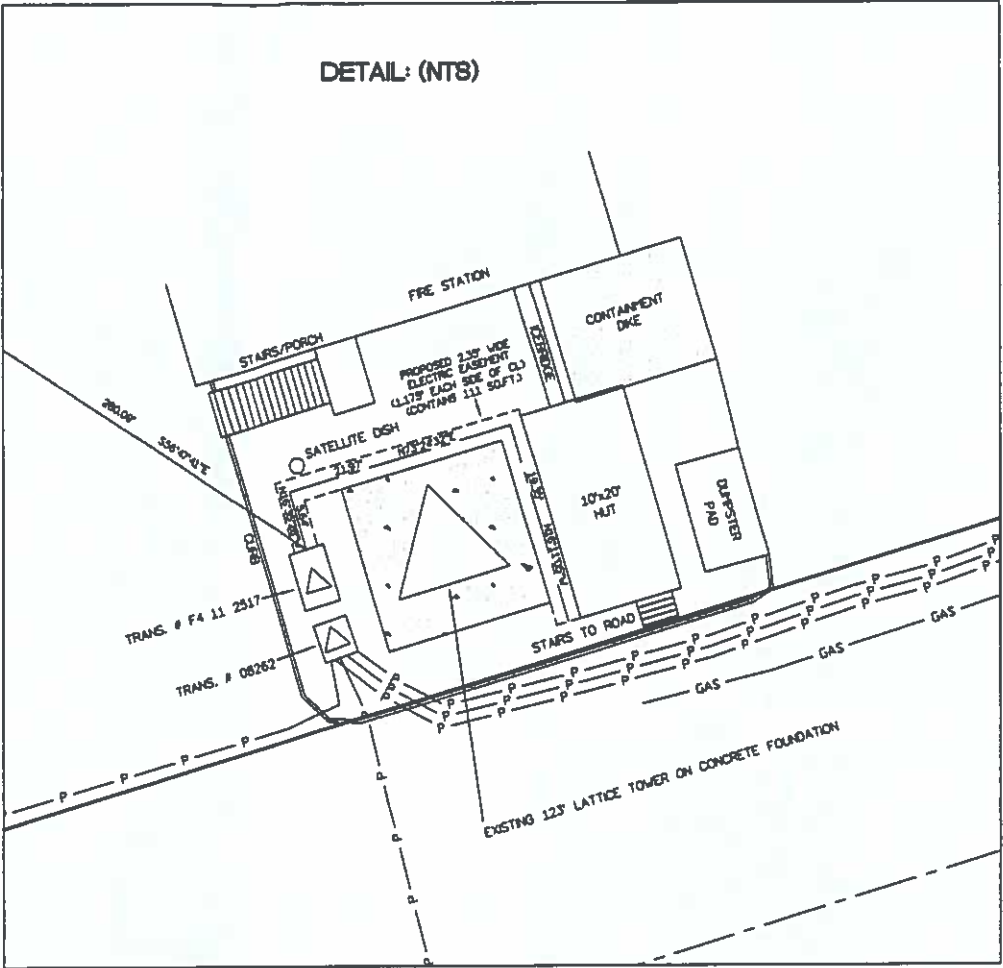
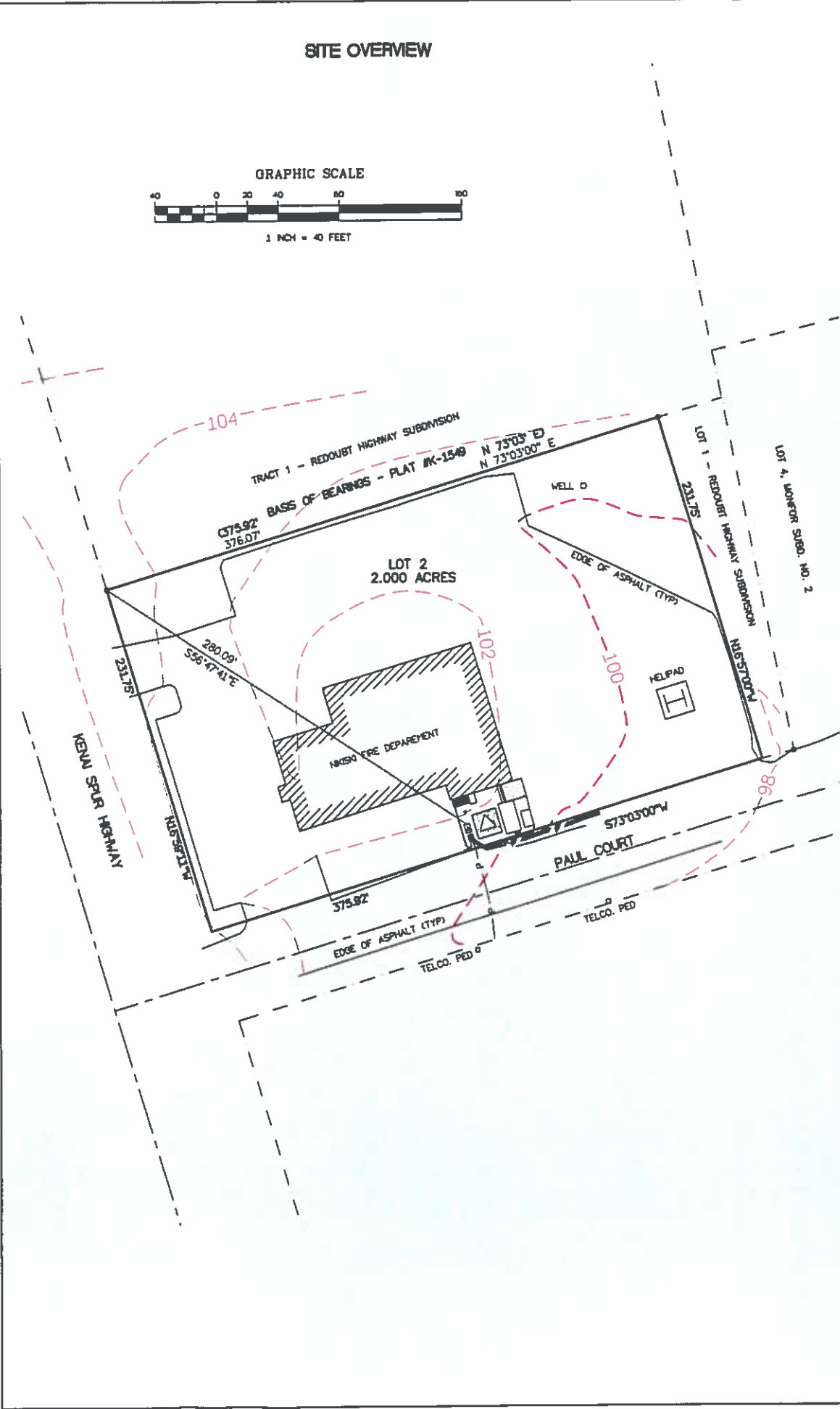
Johni Blankenship, MMC, Borough Clerk

Nikiski Fire Station #1 W/ Communication Tower Site



44800 KENAI SPUR HWY





LEGEND

SUBJECT BOUNDARY LINE
RIGHT-OF-WAY CENTERLINE
ADJACENT BOUNDARY LINE
P P P BURED POWER LINE
GAS GAS BURED GAS LINE
EASEMENT LINES

A TRANSFORMER
X LIGHT STANDARD
P POWER VAULT
U UTILITY BOX
/ UTILITY POLE
P POLE GUY WIRE
G GAS VALVE
G GAS METER
T TELEPHONE VAULT
R TELEPHONE RISER
FIRE HYDRANT
O GATE VALVE
W WATER METER
F FIRE STAND PIPE
C CATCH BASIN, TYPE I
C CATCH BASIN, TYPE II
S SIGN
B BOLLARD
M MAIL BOX
2321 SPOT ELEVATION

SITE INFORMATION

TAX LOT NUMBER 01726050
SITE ADDRESS 53700 PAUL COURT
KENAI, ALASKA 99811
SITE CONTACT RACHELLE ALGER- OO
PHONE NUMBER 907-868-3771
ZONING INDUSTRIAL
TOTAL LOT AREA 57,120± SF. (2.00 AC.)

LEGAL DESCRIPTION

LOT 2, SUBDIVISION OF TRACT 2 REDOUBT HIGHWAY SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT SHERID, FILED UNDER PLAT NUMBER K-1549, RECORDS OF THE KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

NOTES

1) FIELD WORK CONDUCTED IN LATE SUMMER, 2015.
2) BASIS OF BEARING: RECORD PLAT OF REDOUBT HIGHWAY SUBDIVISION, PLAT NO. K-1549, 1980.
3) UNDERGROUND UTILITIES SHOWN HEREON, IF ANY, WERE DELINEATED FROM SURFACE EVIDENCE AND/OR UTILITY COMPANY LOCATES PERFORMED, VIA THE ALASKA DIG LINE CRITICAL LOCATIONS SHOULD BE VERIFIED PRIOR TO DESIGN AND CONSTRUCTION.

SURVEY REFERENCE

PLAT OF REDOUBT HIGHWAY SUBDIVISION, PLAT NO K-1549, KENAI RECORDING DISTRICT.

BOUNDARY DISCLAIMER

THIS PLAN DOES NOT REPRESENT A BOUNDARY SURVEY. SUBJECT AND ADJACENT PROPERTY LINES ARE DEPICTED USING FIELD-FOUND EVIDENCE AND RECORD INFORMATION.

CAUTION!

UNDERGROUND UTILITIES EXIST IN THE AREA AND UTILITY INFORMATION SHOWN MAY BE INCOMPLETE. STATE LAW REQUIRES THAT CONTRACTOR CONTACT THE ONE-CALL UTILITY LOCATE SERVICE AT LEAST 48 HOURS BEFORE STARTING ANY CONSTRUCTION.

811



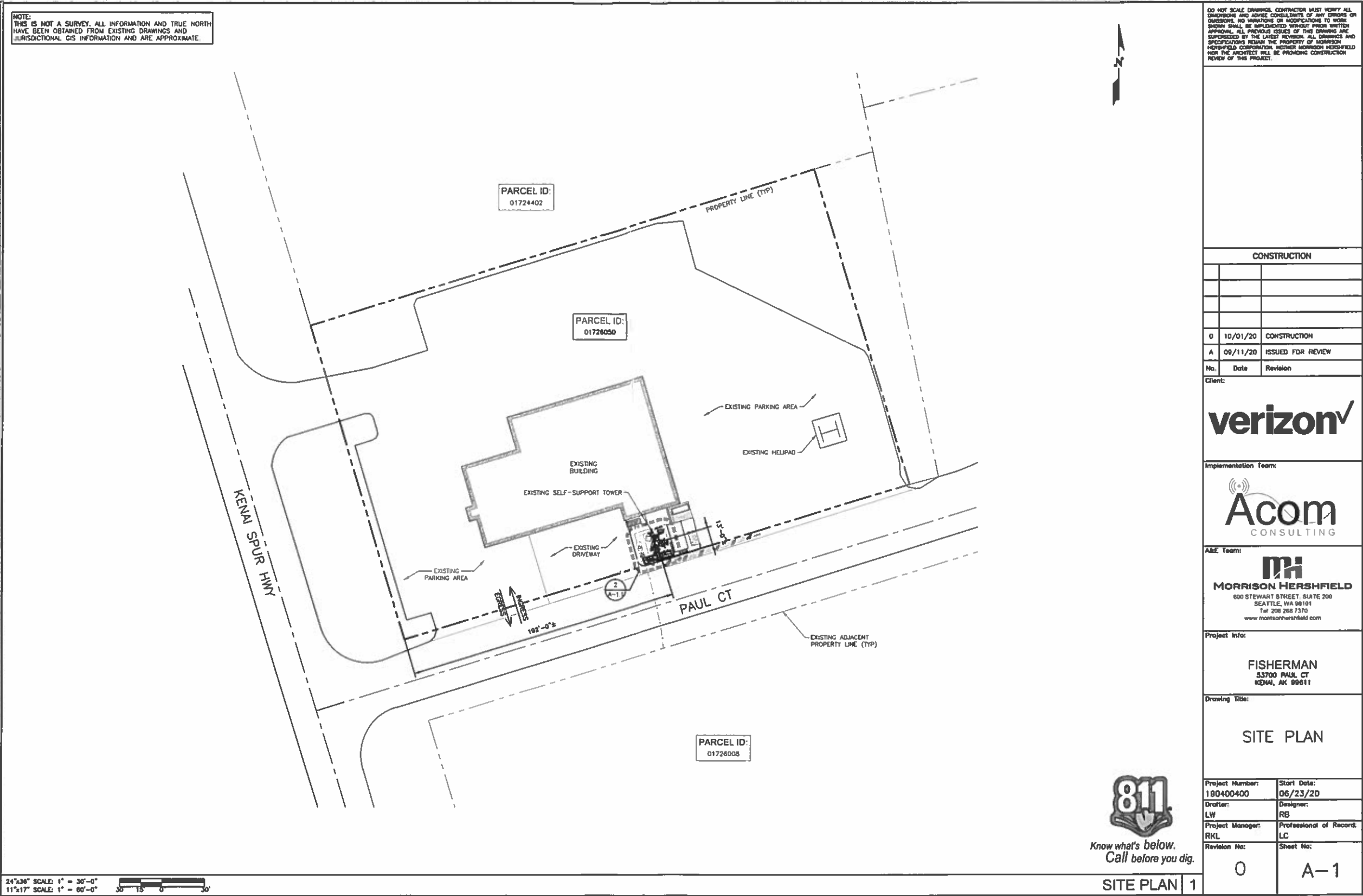
LAND SURVEYORS:
ADRIK
GEOMATICS LLC
5099 E. BLUE LUPINE DR. STE. 104
WASILLA, ALASKA 99654
(907) 376-8800 | admin@adriksurvey.com

REVISIONS		
NO.	DATE	DESCRIPTION

NIKISKI FIRE STATION
LOT 2, REDOUBT HIGHWAY SUBD.
PLAT K-1549
SEC 11, TWP 6 N, RNG 12 W, SM

PREPARED FOR: **GCI**
5831 ARCTIC BOULEVARD
ANCHORAGE, ALASKA 99518

C1
1 OF 1





COMMUNICATIONS SITE LEASE AGREEMENT

This COMMUNICATIONS SITE LEASE AGREEMENT (this “Agreement”) will become effective when all parties have signed the Agreement (the “Effective Date”). This Agreement is entered into by the **Kenai Peninsula Borough**, an Alaska municipal corporation, whose mailing address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter the “KPB” or “Lessor”), and **Vertical Bridge S3 Assets, LLC**, a Delaware limited liability company, whose mailing address is 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (hereinafter “Lessee”).

PART I. BACKGROUND, AUTHORIZED CONTACT AND CONTRACT DOCUMENTS

1. Background. The KPB owns certain real property located in the Kenai Peninsula Borough, in the state of Alaska, that is more particularly described and/or depicted in Exhibit 1 attached hereto (the “Property”). For good and valuable consideration, the parties agree that the KPB will grant the Lessee the right to use a portion of the Property in accordance with the terms of this Agreement.

2. Authorized Contact. All communications about this Agreement shall be directed as follows, and any reliance on a communication with a person other than listed below is at the party’s own risk.

KPB

Name: Kenai Peninsula Borough
Attn: Land Management Division
Re: Lease No.
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

LESSEE

Name: Vertical Bridge S3 Assets, LLC
Attn: Asset Manager
Re: Cell Site #: USAK-5140
Fixed Asset #:
Mailing Address: 750 Park of Commerce Dr, Ste 200
Boca Raton, FL 33487

3. Contract Documents. As authorized by KPB Ordinance 2022-xx, this lease agreement (“Agreement”) is the final and complete understanding of the parties. The following exhibits and appendices are attached and are considered part of this Agreement as well as anything incorporated by reference or attached to those exhibits or appendices:

Appendix A: Lease Provisions Required by KPB 17.10

Appendix B: Site Specific Lease Provisions

Exhibit 1: Description of the “Property” and the “Leased Premises”

Exhibit 2: Leased Premises site sketch

Exhibit 3: Memorandum of Lease

If in conflict, the Agreement shall control. If in conflict, the order of precedence shall be: Appendix B, the Agreement, Appendix A, Exhibit 1, Exhibit 2, and then Exhibit 3.

PART II. LEASE DESCRIPTION AND TERMS

4. DESCRIPTION OF PROPERTY.

(a) Subject to the terms and conditions of this Agreement, KPB hereby grants to Lessee an exclusive option to lease a certain portion of the Property containing approximately 1,575 square feet (45' x 35') including the air space above such ground space as described and depicted on Exhibit 1 and Exhibit 2 attached hereto (the "Leased Premises") for the placement of a Communication Facilities.

5. TERM.

(a) The initial term will be five (5) years (the "Initial Term"), commencing on the Effective Date.

(b) Lessee will have the option to extend the term of this Agreement for four (4) successive terms of five (5) years each (each, a "Renewal Term"). Each Renewal Term will commence automatically, unless Lessee delivers notice to KPB, not less than thirty (30) days prior to the end of the then-current Term, of Lessee's intent not to renew. For purposes of this Agreement, "Term" includes the Initial Term and any applicable Renewal Term(s).

(c) Should Lessee or any assignee, sublessee or licensee of Lessee hold over the Leased Premises or any part thereof after the expiration of this Agreement, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by Lessee upon written notice to KPB, if Lessee is unable to obtain, or maintain any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Lessee; or if Lessee in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(b) by Lessee upon written notice to KPB, if Lessee determines, in its sole discretion, due to the title reports or survey results, that the condition of the Leased Premises is unsatisfactory for its intended uses;

(c) by Lessee upon written notice to KPB for any reason or no reason, at any time prior to commencement of construction by Lessee; or

(d) by Lessee upon sixty (60) days' prior written notice to KPB for any reason or no reason, so long as Lessee pays KPB a termination fee equal to six (6) months' Rent, at the then-current rate, and subject to removal requirements contained within Section 12. No such termination fee will be payable on account of the termination of this Agreement by Lessee under any termination provision contained in any other Section of this Agreement.

7. RENT. Beginning on the Effective Date, Lessee shall pay to KPB a monthly rent payment of One Thousand and No/100ths Dollars (\$1,000.00) ("Rent"), at the address set forth above on or before the fifth (5th) day of each calendar month in which Rent is due, in advance. Rent will be prorated for any

partial month. On each anniversary of the Term Commencement Date, Rent shall adjust annually by Three percent (3%) over the prior year's Rent amount.

8. TAXES. Lessee shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Communication Facilities located on the Leased Premises, including private leasehold interests.

9. USE. The Leased Premises are being leased for the purpose of erecting, installing, operating and maintaining radio or communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, equipment shelters and other supporting structures, and related equipment (collectively, the "**Communication Facilities**"). Lessee may, subject to the foregoing, make any improvement, alteration or modification to the Leased Premises as are deemed appropriate by Lessee for the permitted use herein. Lessee will have the right to clear the Leased Premises of any trees, vegetation, or undergrowth which interferes with Lessee's use of the Leased Premises for the intended purposes. Notwithstanding Section 14 below, Lessee will have the exclusive right to install and operate upon the Leased Premises communications tower, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary.

10. SECURITY.

(a) **Site Security.** Lessee may also elect, at its expense, to construct such other enclosures as Lessee reasonably determines to be necessary to secure its improvements, including the tower(s), building(s), guy anchors, and related improvements situated upon the Leased Premises. Lessee may also undertake any other appropriate means to restrict access to its communications towers, buildings, applicable guy anchors, applicable guy wires, and related improvements, including, without limitation, posting signs for security purposes.

11. ACCESS, MAINTENANCE, AND UTILITIES.

(a) **Access.** During the Term, Lessee, and its guests, agents, customers, lessees, sublessees and assigns will have the unrestricted, exclusive right to use, and will have free and unfettered access to, the Leased Premises seven (7) days a week, twenty-four (24) hours a day. KPBB for itself, its successors and assigns, hereby grants and conveys unto Lessee, its customers, employees, agents, invitees, sublessees, sublicensees, successors and assigns a nonexclusive easement to the extent depicted on Exhibit 2 (a) for ingress and egress, and (b) for the construction, installation, operation and maintenance of overhead and underground electric and other utility facilities (including fiber, backhaul, wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change and remove such facilities, over, across and through any easement for the benefit of and access to the Leased Premises, subject to the terms and conditions herein set forth. KPBB agrees to cooperate with Lessee's efforts to obtain such utilities and services. If there are utilities already existing on the Leased Premises which serve the Leased Premises, Lessee may utilize such utilities and services. Upon Lessee's request, KPBB will execute and deliver to Lessee requisite recordable documents evidencing the easements contemplated hereunder within fifteen (15) days of Lessee's request.

(b) **Maintenance.** Lessee will keep and maintain the Leased Premises in good condition.

(c) **Utilities.** The Lessee is solely responsible for installing separate meters for utility use and payment, as applicable, and shall not connect to any KPBB-owned electrical, communication, or other utility without KPBB's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed.

12. EQUIPMENT, FIXTURES AND REMOVAL. The Communication Facilities will at all times be the personal property of Lessee and/or its sublessees and licensees, as applicable. Lessee or its customers shall have the right to erect, install, maintain, and operate on the Leased Premises such equipment, structures, fixtures, signs, and personal property as Lessee may deem necessary or appropriate, and such property, including the equipment, structures, fixtures, signs, and personal property currently on the Leased Premises, will not be deemed to be part of the Leased Premises, but will remain the property of Lessee or its customers. At the conclusion of the lease and any renewals or extensions thereof, KPB shall have the option to retain the tower structure free of charge, as-is, where-is. Tower structure as used for the purpose of the option to retain means the tower frame, foundation, security fencing, utility lines, and other primary components essential to support KPB's communication equipment and any residual third party equipment intended by the parties at the time to remain in service. Unless otherwise agreed to in writing by the parties, or exercise of KPB's option to retain the tower structure, within ninety (90) days after the expiration or earlier termination of this Agreement, or upon cessation, abandonment, or non-use of the tower for communication purposes for a period of 6 consecutive months following construction of the tower (the "Removal Period"), Lessee must remove its improvements and restore the Leased Premises to grade in a natural condition free of contamination, reasonable wear and tear excepted, which shall include removal of all concrete and other foundation materials to a depth of ten feet (10') below grade, and perform all obligations under this Agreement during the Removal Period, including without limitation, the payment of Rent on a prorated per diem basis, at the rate in effect upon the expiration or termination of this Agreement. Any property not so removed shall be deemed abandoned and may be removed and disposed of by KPB in such manner as KPB will determine, without any obligation on the part of KPB to account to Lessee for any proceeds therefrom. Time is of the essence.

13. ASSIGNMENT. Lessee may assign this Agreement to any person or entity, at any time with prior written consent of KPB's mayor which will not be unreasonably withheld or delayed so long as the Assignee agrees to the assignment and novation and complies with all terms of this Agreement. Notwithstanding the foregoing, upon thirty (30) days' written notice to KPB, Lessee may assign this Agreement or its rights or obligations to (a) any person or entity controlling, controlled by, or under common control with Lessee, or (b) in connection with the sale or other transfer of substantially all of Lessee's assets in the FCC market area where the Leased Premises is located.

14. SUBLEASING AND REVENUE SHARE.

(a) **Subleasing.** Lessee will have the exclusive right to sublease or grant licenses to use the improvements or any other towers, structures, equipment, or ground space on the Leased Premises, provided that Lessee sends Lessor written notice within (15) days of such sublease or grant licenses.

(b) **Revenue Share.** In addition to and separate from the Rent, Lessee shall pay to the Lessor thirty-three percent (33%) of rents actually collected by Lessee from any applicable sublessees, sublicenses, collocation or similar vertical space rental agreements, exclusive of non-recurring fees (e.g. structural analysis fees, mount analysis fees, and capital expenditures) and reimbursements (such as for taxes and utilities) ("Revenue Share"). The Revenue Share shall be paid to Lessor with the Rent in the month immediately following receipt by Lessee from the applicable sublessee. Upon reasonable written request, Lessee will provide Lessor redacted copies of any applicable Sublease for the purpose of confirming relevant financial terms and information. For the purposes of this Agreement: (i) "Sublease" is defined as any arrangement in which the Lessee or any sublessee leases to another party or entity, any portion of the Lease Premises described in this Agreement or improvements thereon, including but not limited to a sublease for an antenna, microwave dish, or wireless communications equipment; and (ii) "Sublessee" means any sublessee or licensee of Lessee, that: (A) has entered into a sublease or license with Lessee for

the use of the improvements after the Effective Date; and (B) is not paying any rent or fees directly to Lessor for the use of ground space related to the use of Lessee's improvements.

(c) **Authorized Contact of Sublessee.** Lessee shall provide the KPB the name, telephone number, and email address of the authorized contact for the sublessee who is responsible for sublessee's day-to-day operations or activities on the Leased Premises.

15. CO-LOCATE RIGHTS RESERVED BY KPB. KPB reserves the right to install emergency response communication equipment on Lessee's tower. Ninety (90) days prior to the exercise of this reservation, KPB shall provide Lessee with a complete inventory of equipment and proposed vertical location. Lessee shall confirm KPB's equipment will not interfere with Lessee's or then-existing sublessee's equipment or propose an alternate location. Upon installation of KPB's equipment on the Leased Premises, any future sublessee's equipment shall not interfere with KPB's emergency response communication equipment, provided such equipment is properly installed and lawfully operated. Notwithstanding the foregoing, KPB's right to install equipment on Lessee's tower will be subject to Lessee's reasonable determination that, at the time in which KPB proposes to install its equipment, Lessee's tower shall have sufficient space and structural capacity to accommodate the additional loading associated with KPB's proposed equipment installation. In connection with the foregoing, each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Section 15 and the consummation of the transactions contemplated hereby.

16. COVENANTS, WARRANTIES AND REPRESENTATIONS.

(a) KPB represents and warrants that KPB is the owner in fee simple of the Property, free and clear of all liens and encumbrances except as to those which may have been disclosed to Lessee in writing prior to the execution hereof, and that KPB alone has full right to lease the Leased Premises for the Term.

(b) KPB shall not do or knowingly permit anything during the Term that will unreasonably interfere with or negate any Lessee's quiet enjoyment and use of the Leased Premises or cause Lessee's use of the Leased Premises to be in nonconformance with applicable local, state, or federal laws. KPB will cooperate with Lessee in any effort by Lessee to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. KPB agrees to promptly execute any necessary applications, consents or other documents as may be reasonably necessary for Lessee to apply for and obtain the proper zoning approvals required to use and maintain the Leased Premises and the Communication Facilities.

(c) To the best of KPB's knowledge, KPB has complied and will comply with all laws with respect to the Property. No asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordan, or heptachlor or other hazardous materials have been placed on or in the Property by KPB or, to the knowledge of KPB, by any prior owner or user of the Property. To the knowledge of KPB, there has been no release of or contamination by hazardous materials on the Property.

(d) Subject to Section 11 above, Lessee will have access to all utilities required for the operation of Lessee's improvements on the Leased Premises that are existing on the Property.

(e) Except for the sublessees and licensees of Lessee, there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Leased Premises; there are no outstanding options or rights of first refusal to purchase the

Property or any portion thereof or interest therein, or any equity or interest in KPB if KPB is an entity; and there are no parties (other than KPB) in possession of the Leased Premises except as to those that may have been disclosed to Lessee in writing prior to the execution hereof.

(f) Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Agreement.

17. WAIVERS.

(a) KPB hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communication Facilities or any portion thereof, regardless of whether or not such is deemed real or personal property under applicable laws. KPB will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by KPB as a result of the construction, maintenance, operation or use of the Leased Premises by Lessee.

(b) EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH ARE SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS UNDER THIS AGREEMENT.

18. INSURANCE. Insurance coverage required under this Agreement shall be primary and exclusive of any other insurance carried by the Borough. Minimum levels of insurance coverage required under this Agreement shall remain in effect for the life of this Agreement and shall be a part of the contract price. If Contractor's policies contain higher limits, the KPB shall be entitled to coverage to the extent of such higher limits. There shall be no cancellation or material change of the insurance coverages, or intent not to renew the insurance coverages as specified in this Agreement, without thirty (30) calendar days' prior written notice to the Borough. Certificates of Insurance, acceptable in form and content, will be delivered to the Borough at the time of submission of the signed Agreement and updated certificates shall be provided upon insurance coverage renewal, where applicable. Lessee and subcontractor(s), sublessees, sublicenses, of any tier shall provide and maintain:

(a) Commercial General Liability (CGL):, The CGL Policy shall be written on an occurrence basis and with a limit of not less than One Million and No/100ths Dollars (\$1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.

(b) Umbrella / Excess policy: With limits of Two Million and No/100ths Dollars (\$2,000,000.00) per occurrence and in the aggregate. Lessee may use any combination of primary and excess insurance to meet the total limits required.

(c) **Worker's Compensation Insurance:** For all employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than Five Hundred Thousand and No/100ths Dollars (\$500,000.00) Each Accident, Five Hundred Thousand and No/100ths Dollars (\$500,000.00) Each Person and Five Hundred Thousand and No/100ths Dollars (\$500,000.00) policy limit. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.

(d) **Property Insurance:** Insuring against all risks of loss to any Lessee improvements at full replacement cost with no insurance penalty provision. Lessee shall have the right to self-insure such Property Insurance.

(e) **Automobile Liability:** The Auto Liability Policy shall include a Combined Single Limit of not less than One Million and No/100ths Dollars (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than One Million and No/100ths Dollars (\$1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.

(f) **Full policies.** At its option, the Borough may request copies of required policies and endorsements. Such copies shall be provided within (10) TEN CALENDAR DAYS of the Borough's request. All insurance required hereunder shall be maintained in full force and effect with insurers with Best's rating of AV or better and be licensed and admitted in Alaska.

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

(i) **Self-insurance.** Notwithstanding the foregoing, Lessee may self-insure any required coverage under the same terms as required by this Agreement.

19. WAIVER OF SUBROGATION. To the extent allowed by law, Lessee hereby grants to KPB a waiver of any right of subrogation which any insurer of said Lessee may acquire against the KPB by virtue of the payment of any loss under such insurance. It is the Lessors sole and strict responsibility to notify its insurer of this obligation and obtain a waiver of subrogation endorsement from the insurer, if required.

20. NON-EXCLUSIVITY. KPB acknowledges and agrees that, except as may be disclosed to Lessee in writing prior to the execution hereof, there are no prior existing rights, uses, or authorization granted to third parties or retained by KPB to locate improvements below grade or in proximity to the Leased Premises. Upon at least sixty (60) days prior written notice to Lessee, KPB reserves the right to grant further or additional rights or authorization to locate improvements below grade or in proximity to

the Leased Premises to the extent such rights or authorizations do not unreasonably interfere with Lessee's equipment or operations.

21. LESSEE LIABILITIES. In addition to other liabilities under this Agreement, the Lessee has the following liabilities and agrees:

(a) The Lessee assumes all risk of loss, damage or destruction to Lessee's improvements on the Leased Premises.

(b) The Lessee will comply with all applicable federal, state, and local laws or regulations, including relevant environmental laws, as well as public health and safety laws and other laws relating to the sitting, permitting, construction, operation and maintenance of any facility, improvement or equipment on the Leased Premises.

(c) The KPB has no duty, either before or during the lease term, to inspect the Leased Premises or warn of hazards and if the KPB inspects the Leased premises, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This Section shall survive the termination or revocation of this Agreement, regardless of cause.

(d) The Lessee has an affirmative duty to protect from damage the Property and interests of the KPB related to this Agreement.

22. INDEMNIFICATION.

(a) Lessee agrees to defend, indemnify, and hold harmless KPB, its employees, public officials, and volunteers, with respect to any action claim or lawsuit arising out of (1) a breach of this Agreement or (2) the use and occupancy of the Leased Premises or the Property by the Lessee. This agreement to defend, indemnify, and hold harmless includes all losses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of Lessee arise immediately upon notice to the KPB of any action, claim, or lawsuit. KPB will notify Lessee in a timely manner of the need for indemnification but such notice is not a condition precedent to Lessee's obligation and may be waived where the Lessee has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against KPB relating to the Lessee's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, Lessee's duty to indemnify, defend, and hold harmless KPB as set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of KPB, its employees, public officials, and volunteers.

(b) To the extent allowed by law and subject to a specific appropriation by the KPB Assembly for this purpose, KPB agrees to defend, indemnify, and hold harmless Lessee, its employees, affiliates, officers, directors, successors and assigns, with respect to any action claim or lawsuit arising out of the use and occupancy of the Leased Premises or the Property by the KPB. This agreement to defend, indemnify, and hold harmless includes all losses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. The obligations of KPB arise immediately upon notice to the Lessee of any action, claim, or lawsuit. Lessee will notify KPB in a timely manner of the need for indemnification but such notice is not a condition precedent to KPB's obligation and may be waived where the KPB has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against Lessee relating to the KPB's use and occupancy of the Leased Premises or the Property. Notwithstanding the foregoing, KPB's duty to indemnify, defend, and hold harmless Lessee as

set forth above shall not apply to the extent a claim arises from the negligence or willful misconduct of Lessee, its employees, its employees, affiliates, officers, directors, successors and assigns. Lessee further acknowledges the following: (1) KPB currently has no appropriation currently available to it to defend and indemnify Lessee under this provision; (2) the enactment of any such appropriation remains in the sole discretion of the KPB Assembly; and (3) the KPB Assembly's failure to make such an appropriation creates no further obligation or duty on behalf of KPB.

23. INSPECTION. The KPB reserves the right to enter upon and inspect the Leased Premises at any time to assure compliance with the conditions of this Lease. Except in case of emergency, KPB shall provide Lessee with at least forty-eight (48) hours' prior written notice of KPB's intention to enter upon and inspect the Leased Premises. Lessee reserves the right to have a representative present at all times during KPB's inspection.

24. FORCE MAJEURE. The time for performance by KPB or Lessee of any term, provision, or covenant of this Agreement will be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of KPB or Lessee, as the case may be.

25. DEFAULT. The failure of Lessee or KPB to perform any of the covenants of this Agreement will constitute a default. The non-defaulting party must give the other written notice of such default, and the defaulting party must cure such default within thirty (30) days after receipt of such notice. In the event any such default cannot reasonably be cured within such thirty (30) day period, the defaulting party must provide prompt notice of inability to cure and provide a plan to cure the default within a time frame provided. The time for curing a default will be extended for such period of time as may be necessary and reasonable; however, in no event will this extension of time to cure be in excess of ninety (90) days, unless agreed upon in writing by the non-defaulting party.

26. REMEDIES. Should the defaulting party fail to cure a default under this Agreement, the other party will have all remedies available either at law or in equity, including the right to terminate this Agreement.

27. LESSEE MORTGAGES.

(a) KPB consents to the granting by Lessee of a lien and security interest (each, a "**Lessee Mortgage**") in Lessee's interest in this Agreement and all of Lessee's personal property and fixtures attached to the real property described herein to one or more lenders (any such lender, and any successor, assign, designee or nominee of such lender, hereinafter a "**Lender**") only to the extent and amount necessary to maintain improvements on the Leased Premises. The Lessee may not encumber the leasehold interest or the Leased Premises to finance projects or improvements outside of the Leased Premises. KPB agrees to recognize Lender as Lessee hereunder upon any such exercise by Lender of its rights of foreclosure. Any such encumbrance shall be subordinate to KPB's rights and interest in the Leased Premises and the Property. Any such encumbrance shall be limited to the Lessee's interest in the Leased Premises. It is a material breach of this Agreement for Lessee to attempt to encumber any interest in KPB's title to or interest in the Leased Premises or the Property.

(b) KPB acknowledges that nothing contained herein shall be deemed or construed to obligate Lender to take any action hereunder, or to perform or discharge any obligation, duty or liability of Lessee under this Agreement. No Lender shall become liable under the provisions of this Agreement unless and until such time as the Lender assumes ownership of the leasehold estate created hereby and agrees to comply with the terms and conditions of this Agreement or any extensions and modifications thereof.

28. MISCELLANEOUS.

(a) **Survival.** If any term of this Agreement is found to be void or invalid, such invalidity will not affect the remaining terms of this Agreement, which will continue in full force and effect.

(b) **Non-waiver.** Failure of party to insist on strict performance of any of the conditions or provisions of this Agreement, or failure to exercise any of a party's rights hereunder, will not waive such rights.

(c) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Alaska.

(d) **Bind and Benefit.** This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(e) **Memorandum.** A short-form Memorandum of Lease may be recorded at KPB or Lessee's option in the form as depicted in Exhibit 3, attached hereto. KPB will promptly execute any Memorandum of Lease or Memorandum of Amendment to Lease, or corrective amendments thereto, upon written request of Lessee.

(f) **W-9.** As a condition precedent to payment, the KPB agrees to provide the Lessee with a complete IRS Form W-9, or its equivalent, upon execution of this Agreement.

(g) **Counterparts.** This Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

(h) **Entire Agreement.** This Agreement and exhibits, appendices or incorporated attachments hereto, constitute the entire agreement and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

[SIGNATURES BEGIN ON NEXT PAGE]

PART III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date (date last signed by a party hereto).

LESSOR: The Kenai Peninsula Borough

LESSEE: Vertical Bridge S3 Assets, LLC.

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Johni Blankenship, Borough Clerk

A. Walker Steinhage, Deputy Borough Attorney

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public for State of Alaska
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF _____)
) ss:
THIRD JUDICIAL DISTRICT)

On the ____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge S3 Assets, LLC a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

Notary Public: _____
My Commission Expires: _____

EXHIBIT 1

DESCRIPTION OF PROPERTY AND PREMISES

Page 1 of 1

The Property is legally described as follows:

Lot 2, Redoubt Highway Subdivision of Tract 2, according to Plat No. 1549, on file in the Kenai Recording District, Third Judicial District, State of Alaska.

The Leased Premises are described as follows:

On the above described Property, a 45-foot by 35-foot area (1,575 square feet) area with direct access from Paul Court, as depicted on Exhibit 2.

EXHIBIT 2
Leased Premises

The Premises are depicted as follows:

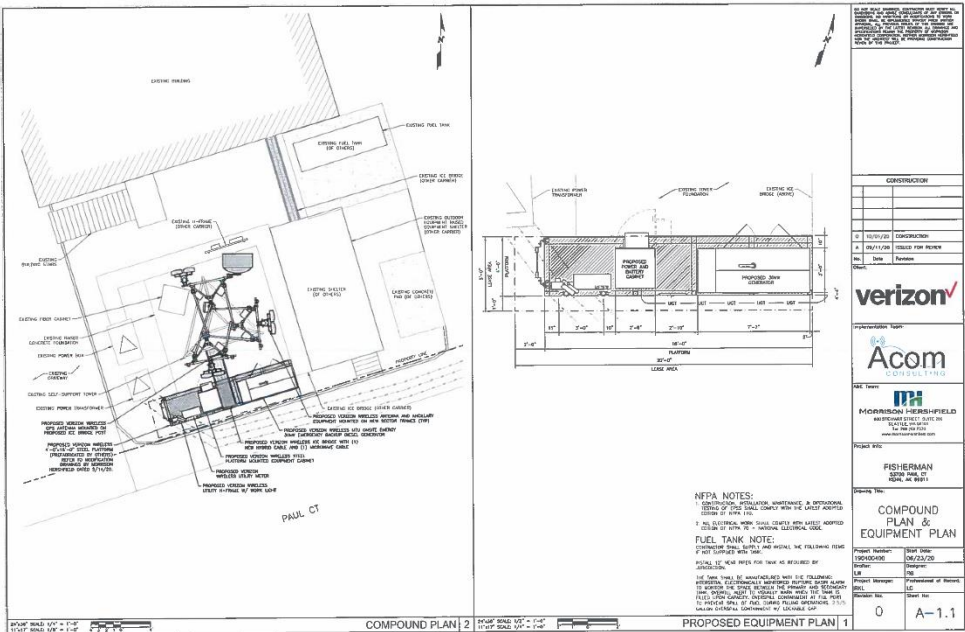


EXHIBIT 3

Memorandum of Lease

(Attached)

(Above 2” Space for Recorder’s Use Only)

Prepared by and Return to:

Kenai Peninsula Borough
Attn: Land Management Division
144 N. Binkley St.
Soldotna, AK 99669

Grantor: Kenai Peninsula Borough
Grantee: Vertical Bridge S3 Assets, LLC
Legal Description: Attached as Exhibit 1
Tax Parcel ID #: 01726050
Site Name: USAK-5140
State: Alaska
Borough: Kenai Peninsula Borough
Recording District: Kenai, Third Judicial

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (“Memorandum”) is entered into by and between **KENAI PENINSULA BOROUGH**, an Alaska municipal corporation, having a mailing address of 144 N. Binkley St., Soldotna, AK 99669 (hereinafter called “**Lessor**”) and **Vertical Bridge S3 Assets, LLC**, a Delaware limited liability company, having a mailing address of 750 Park of Commerce Drive, Suite 200, Boca Raton, FL 33487 (“**Lessee**”).

- 1. Lessor and Lessee entered into a certain Communications Site Lease Agreement (“Agreement”) on the ____day of _____, 20____, for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.
- 2. The initial lease term will be five (5) years commencing on the Effective Date with four (4) successive automatic five (5) year options to renew.
- 3. The portion of the land being leased to Tenant (“Premises”) and associated easements are described in Exhibit 1 annexed hereto.
- 4. Lessor and Lessee now desire to execute this Memorandum to provide constructive knowledge of Tenant’s lease of the Premises.
- 5. This Memorandum and Agreement are governed by the laws of the state of Alaska.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LESSOR: The Kenai Peninsula Borough

LESSEE: Vertical Bridge S3 Assets, LLC

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

LESSOR ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public for State of Alaska
My Commission Expires: _____

LESSEE ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

On the ____ day of _____, 20____, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of Vertical Bridge S3 Assets, LLC, a Delaware limited liability company, the Lessee named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Lessee.

Notary Public: _____
My Commission Expires: _____

MASS TIMBER SALE PROJECT:

Wood Utilization and
Forest Management of
the Kenai Peninsula Borough's
Beetle-impacted Forests



Land Management Agent
Dakota Truitt
January 10, 2022

PURPOSE

- **Introduce KPB's Forest Management intent**
- **Express the value of our forests**
- **Upcoming Actions**
 - Public Engagement
 - Authorization of Timber Sales
 - Hire KPB Forester
 - Release Timber Sales
 - Identify and Pursue Funding
 - Infrastructure Investment and Jobs Act



Spruce Bark Beetle (SBB)



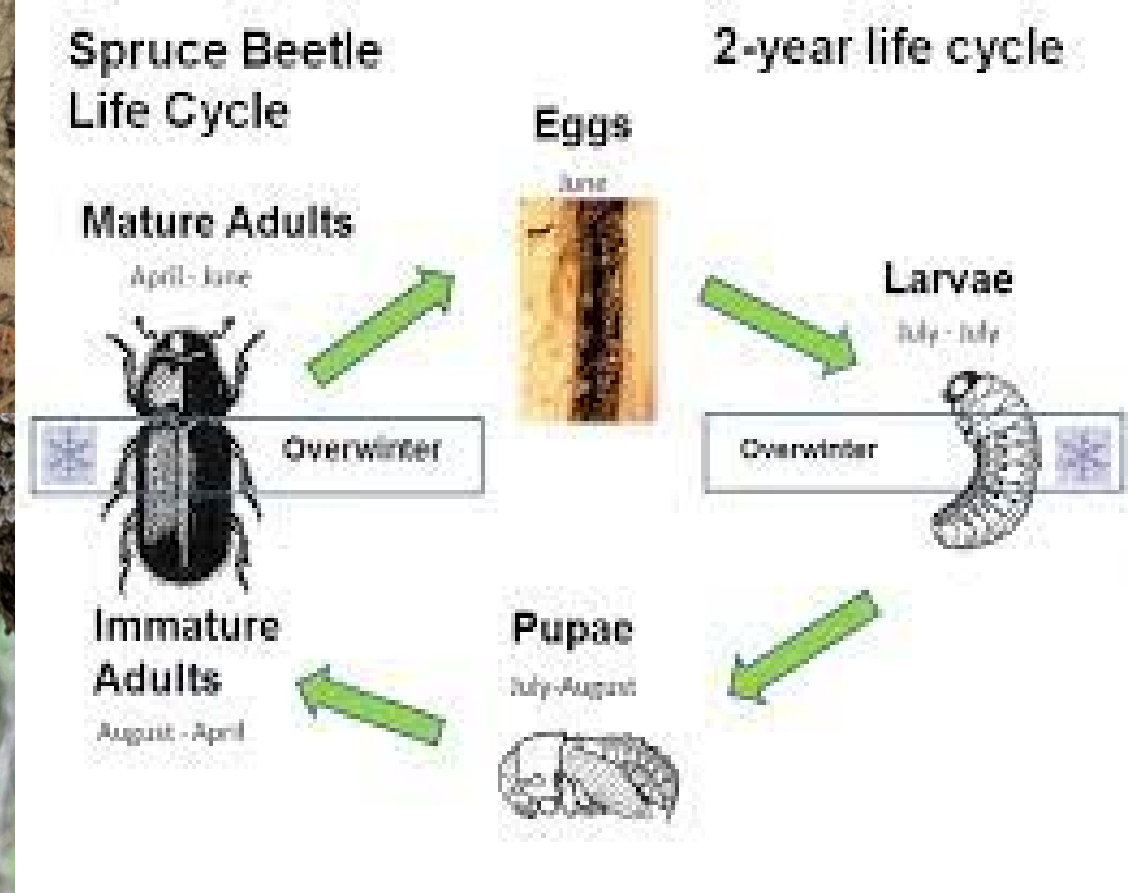
Infested Spruce beetle tree



Red boring dust



Pitch tubes



Adult Spruce Bark Beetle



Dead Spruce trees

SITUATION

Major Forest Disturbance and Spruce Stand Collapse

- Today it is evident that the SBB impacts are severe and far ranging
- Action must be taken to protect our communities and to preserve the health of our forests into the future
- Selective timber harvest techniques can provide multiple benefits to our forested land

MASS TIMBER SALE PROJECT

- **Short Term Goals**

- Authorization for Timber Sales
- Initiate Active Forest Management
- Utilize local labor

- **Long-Term Goals**

- Forest Management plan
- Cross-boundary Forest Health & Fire Adaptation
- Mandatory Reforestation
- Legacy Forestry infrastructure
- Sustainable market

PRIMARY OBJECTIVES

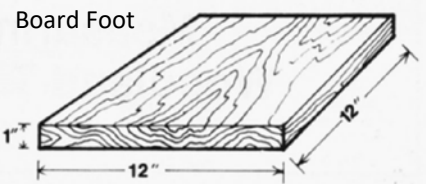
- 1. Utilize KPB's forest resources that are rapidly deteriorating due to this SBB forest health epidemic**
- 2. Reduce economic and ecological costs to Borough residents**
- 3. Improve quality of land for determining best and highest use for the Borough- sale/ classification**

SECONDARY OBJECTIVES

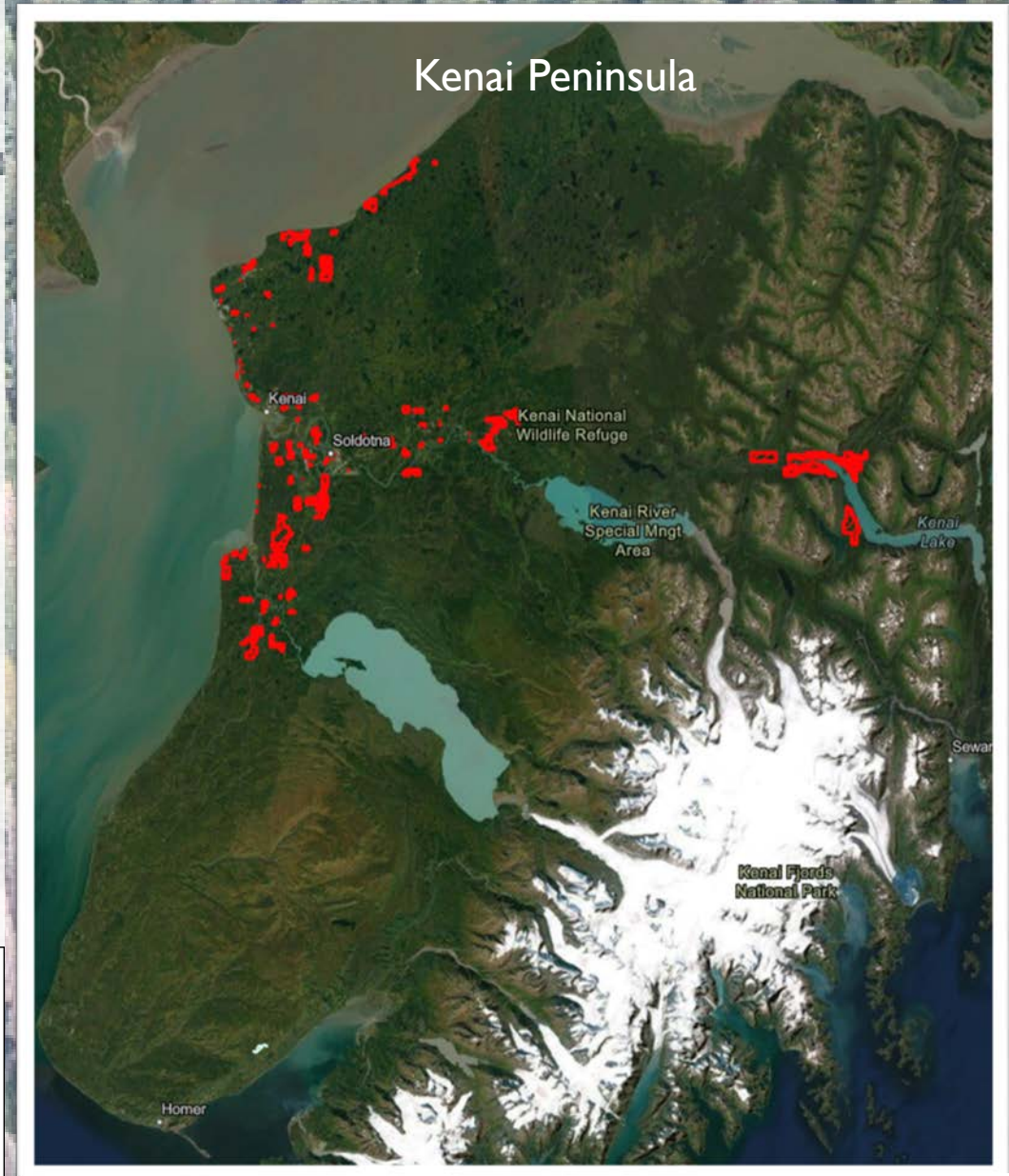
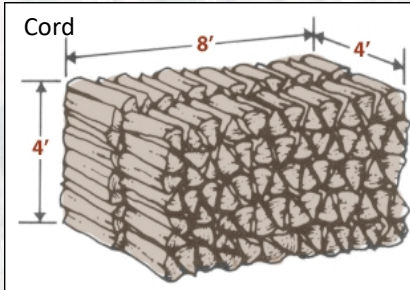
- 4. Improve fire resiliency and protect infrastructure**
- 5. Improve forest health**
- 6. Match our neighboring public land managers efforts in addressing this forest health issue, cooperative cross-boundary management**
- 7. Maintain access for Borough residents**
- 8. Improve wildlife habitat quality**

KPB Owned/Managed Land

- More than 150,000 acres affected by SBB on the Kenai Peninsula
- **~21,000 acres** of Forested Land between Cooper Landing, Kenai, Soldotna
- Mixed forest stands of birch, aspen, spruce
- The spruce volumes currently average:
 - 500- 1000 merchantable BF per acre
 - 0.5- 1 merchantable cords per acre
 - 6- 20 cords of fuelwood per acre



Limited Forest Inventory data available



TIMBER VOLUME & VALUE

21,000 acres (ID'd on KPB lands) x Avg 500 to 1000 BF per acre=
~10.5 MMBF (10,752 cords) to 21 MMBF (21,504 cords)
TOTAL merchantable volume

Avg value of white spruce sawlogs= \$36.90/cord x Avg cord/Acre=
~\$400,000 to \$800,000 merchantable timber

**~\$400,000 to \$800,000 of Spruce Timber value for the Landowner being
lost to SBB**

All Economic evaluations are estimates only

TIMBER VALUE

- December 2020
 - Spruce sawlogs = **\$36.90/cord**
 - Spruce Fuelwood= **\$25.60/cord**
- December 2021
 - Mat-Su Borough is currently conducting Timber Sales for **\$5/cord**
 - AK Division of Forestry Kenai/ Kodiak Area Sells **\$10/cord** of fuelwood
 - Chugach National Forest Sells Spruce logs for **\$5/cord**
- Significant reduction of up to **86.5%** in value of timber by not harvesting susceptible trees prior to infestation
- Profit Incentives for the Industry:
\$5/cord on the landscape, \$250/ cord in the marketplace

*All Economic evaluations are estimates only *

ASSETS NOW vs. LIABILITY LATER

- Service Contracts vs. Timber Sales
 - Paying a contractor for stands to be thinned, as any apparent timber value has diminished
- Treatment rates vary case to case
 - Private Contractor: **\$450/acre**
 - USFS: **\$1800 /acre**
 - AK DOF: **\$2000/ acre**



RISK

FIRE

- Loss of life
- Infrastructure loss
 - Roads, Utilities, Buildings
- Loss of forest resources/products
- Loss of forest industry jobs



2019 Swan Lake Fire on Sterling Highway

COST OF WILDLAND FIRE

- 2019 Swan Lake Fire Cost ~\$46 million
 - ~167,000 acres burned in high severity fire
 - ~1.7 million tons of wood total
- 2014 Funny River Fire Cost ~\$6.1 million
 - ~200,000 acres burned in high severity fire
 - ~2 million tons of wood total



**Cost of timber sales < Cost of service contracts < Cost of fire response and potential infrastructure loss
OR Collapsed Forest for next Generation**

ECONOMIC OPPORTUNITIES

Resource
Utilization
&
Industry
Development

Sustainable
Timber
Management

Forest
Management
Plan

KPB SBB
Mitigation/Forestry
Program
Logging Operations
Milling Operations
Fuelwood Operations
Reforestation Businesses
Slash Disposal & Biomass
Use
Carbon Credits

- Jobs
- Resource Utilization
- Market Expansion
- Industry Development

- **KPB SBB Mitigation/ Forestry Program**
 - Forester
 - Community Engagement/ Grants Specialist
 - Program Manager
- **Logging Operations**
 - Cutters/ Fellers
 - Equipment operators
 - Truck drivers
- **Small mill operations**
 - Dimensional lumber
- **Fuelwood operations**
 - Firewood
- **Reforestation - Native Tree Nursery Business Opportunity**
- **Slash Disposal/ Biomass Use**
 - Composting Facilities
 - Bio-char Facilities
- **Carbon Credits**
 - \$ per acre for preservation

Forest Management Plan

FEDERAL FUNDING OPPORTUNITIES

- KPB submitted a \$35 million funding request in April 2021 called the **SBB Response Request** that was not directly funded.
- **Infrastructure Investment and Jobs Act:** Federal Funding that KPB will be actively pursuing to support our SBB Mitigation and reforestation.

CROSS-BOUNDARY COLLABORATIVE FOREST MANAGEMENT

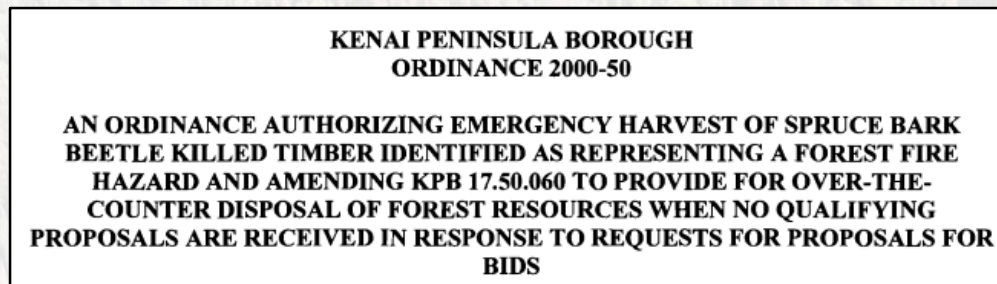
- Planning & Action towards Forest Management
 - Community Wildfire Protection Plans
 - ALAH 5-Year Plan
 - Sterling Strategic Fuelbreak
 - Kenai Strategic Fuelbreak
 - Nikiski Strategic Fuelbreak
 - Soldotna Strategic Fuelbreak
 - Homer Strategic Fuelbreak

- Partners & Potential Partners
 - Kenai National Wildlife refuge
 - AK Division of Forestry
 - AK Department of Fish & Game
 - US Forest Service
 - Chugach National Forest
 - Chugachmuit
 - NRCS
 - Soil & Water Conservation Districts
 - Native Corporations
 - Private landowners
 - Industry Contractors



LEGISLATIVE PROCESS

- Ordinance 2000-050



- New Ordinance Authorizing Forest Management is needed
 - Any land classification
 - Broad prescription types for multiple management objectives
 - Affected areas identified - parcels/ units
 - Authorize Timber Sales
- Public Process
 - APC Meetings → Planning Commission Public Hearings → Assembly Public Hearings
- Public Engagement informs Policy

PUBLIC ENGAGEMENT

- Planning Commission Presentation on January 10th kicks off our public engagement
- Press Release this week:
 - Open House Public Meetings: General Presentations about SBB Mitigation & Forest Management on February 8th, and 23rd 2022
 - Timber Industry Meeting on March 2nd, 2022
 - All Lands All Hands Meeting on March 16th, 2022
 - Cooper Landing, Kalifornsky, Moose Pass, Funny River APC Presentations in February- March 2022

SCHEDULE of ACTIONS

- Public Engagement Campaign → Spring 2022
- Develop Legislation based on public input → Spring 2022
- Authorization of Timber Sales → Summer 2022
- Hire KPB Forester → Summer 2022
- Implementation of Authorization of Timber Sales → Winter 2022
- Identify and Pursue Funding → Ongoing

TIMELINE



Thank you!

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Land Management Officer
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Dakota Truitt
Land Management Agent
907-714-2211
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**COOPER LANDING ADVISORY PLANNING COMMISSION
REGULAR MEETING
LOCATION: ZOOM TELECONFERENCE
WEDNESDAY, JANUARY 05, 2022
6:00 PM
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:01 pm
2. ROLL CALL – J. Cadieux, K. Recken, H. Harrison, L. Johnson, C. Degernes, D. Story attending. Y. Galbraith excused.
 - a. Others attending:
 - i. Ann and Brad Hanson, Rhonda Lynn, Cindy Ecklund, David and Chris Nees, Bryan Atkins, Virginia Morgan, Tommy Gossard, Brad Melocik, Bruce Skolnick, Michael Deegan, Cheryle James, Heather Pearson, Gyda Sears, Melissa Brennan, Katie Feichtinger, Alice Rademacher, Nancy Carver, Sean Baski, Michael Link, Marcus Mueller, Rhonda Lynn, Jerry Fox, Candy FitzPatrick, KDLL News, Tom Lessard, Theodore Cocos, Kristine Route, Bruce Jaffa, Bob XXXX, Courtney XXXX, Mark XXXX, The Sorensens
3. APPROVAL OF AGENDA – L. Johnson moves to approve with addition of laydown budget item, C. Degernes seconds. All approve.
4. APPROVAL OF MINUTES for December 08, 2021 – L. Johnson moves to approve as written. C. Degernes seconds. H. Harrison did not attend. All approve.
5. CORRESPONDENCE
 - a. Notice of Decision 2021-153 Towle Subdivision Replat- approved
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE
 - a. None
7. REPORT FROM BOROUGH
 - a. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Sean Baski or Jonathan Tymick, PE, Project Manager, AKDOTP&F.
 - i. Phase 1B will be on the February CLAPC agenda.
8. OLD BUSINESS
 - a. Unit 395: Marcus Mueller, Kenai Peninsula Borough (KPB) Land Manager: Planning a Scope of Work

- i. Seeking community feedback/ideas on what can be incorporated into a professional contract scope to lead the investigation of how best to utilize Unit 395:
 1. Unit 395 Overview
 - a. 1000 acre parcel colloquially referred to as “Juneau Bench”
 - b. This parcel was part of municipal entitlement lands [granted to the Kenai Peninsula Borough from the State of Alaska out of National Forest Community Grant Lands under Section 6(a) of the Alaska Statehood Act.]
 - c. Title obtained 2019?
 2. Scope of Work and Request for Proposals to include hiring a planning consultant to develop a land use plan. This scope of work would also include:
 - a. Review existing plans including the Cooper Landing Land Use Plan, USFS Land Use Plan etc. and gather pertinent land information regarding resources, recreational features, waterways, sound buffers, green space and wildlife passage, etc.
 - i. Includes work from MP 45-60 project.
 - b. Facilitate a public engagement process to gather public input and report on the types of products the planning process would develop.
 - i. Presentations and work sessions
 - c. Develop a set of maps, narratives, figures to identify important features, proposed features, document recommendations and alternatives etc.
 - d. Provide cost estimates for major elements of plan.
 - e. Submit reviews for public governance approval process.
 - f. [See supporting document “Updated Unit 395 Planning Scope of Work Summary Draft” for additional components.]
 - ii. Number of APC Work sessions (3 or 4 total), Presentations (2 kick off and 2 draft plan), & other meetings (2 APC general attendance)
 - iii. Discipline/emphasis to include such as community planning, transportation planning, geology, recreation planning, utilities planning, etc.
 - iv. Resources and features important to inventory & map
 - v. Products to deliver such as plans, reports, studies, maps, recommendations
 - vi. Other ideas, emphasis, and expectations
- b. C. Degernes asked whether the USFS would be involved in the process. She said she is interested in the USFS’s plan for the forest roads and access since their plan would help shape the community’s view.

- i. M. Mueller said, yes, they will be a part of it.
 - ii. C. Degernes said she would like the CLAPC to be included in those conversations rather than the agencies working this out between each other without local, public input. J Cadieux seconded that opinion.
- c. J. Cadieux said she wants access and connectivity to the forest roads mapped and designed.
- d. D. Story asked what the elapsed timeline for this scope of work would look like.
 - i. M. Mueller said it is slated for around 6 months to start in spring 2022 and go into the fall.
 - ii. H. Harrison asked about the elapsed timeline whether it includes the consultant process, interagency cooperation, and community input. K. Recken also asked for further clarification on whether this 6 months would include the time the planners would need to complete the planning after the public process.
 - 1. M. Mueller said it was initially thought of as 6 months for the project from the initial public process through completion.
- e. J. Cadieux asked whether the input that is gathered will be ranked in order of importance and how that will be assessed.
 - i. M. Mueller said that the consultant/planner would largely be responsible for determining this through their assessment and management alternatives.
- f. C. Degernes said that six months does not sound like enough time to complete such a project especially given the timing of spring/summer months when many in Cooper Landing are busy.
 - i. M. Mueller said that he gets that sense as well.
- g. Public Questions and Statements
 - i. Cindy Ecklund asked whether the request for proposals (RFP) that is going out will be similar to the document shared by M. Mueller during this meeting. [Updated Unit 395 Planning Scope of Work Summary Draft]
 - 1. M. Mueller said, yes and that the document is an excerpt summary.
 - 2. C. Ecklund asked whether now is the time for the CLAPC to submit comments for inclusion in the RFP.
 - 3. M Mueller responded yes. He later indicated folks could submit comment after this meeting but he would like all comment within the coming two weeks.
 - ii. H. Pearson asked if M. Mueller could share where he is at in the process for Unit 395 and reminded all attendees of the community's desire to disallow access to this unit from the new highway alignment.

- iii. Michael Link asked for clarification regarding the NEPA process to examine the impacts from a road bypass/improvements included in the Record of Decision.
 - 1. M. Mueller said that the highway project ROD is better answered by DOT (S. Baski) but in February 2021 the USFS and DOT discussed ramps designed as an alternative to an underpass or bridge for the Chunkwood Road access. They are designed as one way on / one way off ramps and this highlights the need for a professional planning consultant.
 - 2. S. Baski shared his screen to show the area in question. The USFS “Chunkwood Road” has two different crossings of the existing alignment. The first crossing is along the section of Chunkwood Road locally known as ‘W. Juneau Bench Rd.’ and crosses via a two-way underpass. The second crossing is along the eastern section of Chunkwood Rd. and new alignment access to this crossing was requested by USFS (after suggestion from KPB) to maintain access for project work, fire, etc. S. Baski said that it is not “easy” access, because you would need to get around guardrails and elevation changes. The ramps to be built are intended to allow for USFS, emergency, and service vehicles but are not intended for regular traffic. He said there were also a number of elevation/drainage/etc. related issues with access provided by more traditional underpass.
 - 3. J. Cadieux asked for the background on the request and decision regarding this request since it was not more publicly known.
 - a. S. Baski said that the DOT was asked to provide access by the USFS and that the option to do so was included in the ROD to provide the opportunity for this access if both the USFS and FHA approved of it. He said that it is not public access but that what happens after the highway project is complete would be ultimately determined by the landholder, the KPB.
 - 4. K. Recken asked how it turned into discussion with the KPB for access to Unit 395 or if the KPB has not had that discussion.
 - a. S. Baski said that ultimately Unit 395 is concurrent with USFS use. Federal agencies agreed to indirect access but behind guardrails etc.
 - b. M. Mueller said that the KPB did request a ramp alternative. He explained that the KPB did not have controlling interest in those lands at the time of the

ROD but gained title to the land through the municipal entitlement land selection and transfer of title was completed.

5. D. Story asked for S. Baski to screen share the plans of the ramp configuration again to explain the configuration and whether there were two ramps in each direction of travel.
 - a. S. Baski showed the plans and explained that there would, indeed, be two ramps on each side/four ramps total, one off and one on for each direction of travel.
6. Bryan Atkins asked how we got to the point of KPB access and planning for development of this area.
 - a. M. Mueller said that there are two issues that go into answering this.
 - i. The status of the access ramps from the KPB's perspective centers at the February 2021 letter requesting access. [This letter was shared with the CLAPC at the December 8, 2021 Regular Meeting and can be found in that meeting's supporting documents]
 - ii. In terms of a planning process the Cooper Landing Land Use plan does not give enough guidance on what the plans are for Unit 395.
7. M. Link asked if the KPB is asking for access.
 - a. S. Baski said that it is not a formal request for an approach road which for controlled access roadways would typically require more information from the requester such as use numbers, engineering designs etc.
 - b. M. Link also asked if the location of the USFS road request access is the exact same location that the KPB requested?
 - i. S. Baski said that is correct.
 - c. S. Baski stated that it seems like the anticipated use of Unit 395 could have been better anticipated since it could create a radically different environmental impact than the stated use approved in the Environmental Impact Statement.
8. C. James asked what the plan is for Unit 395.
 - a. M. Mueller said he anticipates that some areas may be deemed appropriate for residential while others may not, similar for recreation, resource etc. Commercial use has not been emphasized.

9. C. Ecklund asked about the dates of EIS, ROD and KPB possession of the Unit 395.
 - a. M. Mueller explained that the ROD came before the KPB ownership.
 - b. C. Ecklund asked who made the ask first for the ramps – the KPB or the USFS?
 - i. M. Mueller said the letter of request from the KPB predated and solicited the USFS to make the request for access.
 - ii. J. Cadieux said that the 1996 Cooper Landing Land Use Plan mentions Unit 395 and it acknowledges that the KPB desired the unit. She continued that the plan demonstrates community selection of the land but wanted access via the “bypass” to be disallowed. This section of the Land Use Plan was not made with specific land use designations because the land was not yet obtained in title by the KPB. This information can be found in the 1996 Cooper Landing Land Use Plan [Cooper Landing Land Use Classification Plan for Borough-owned and Borough Selected Lands (1996) https://www.kpb.us/images/KPB/PLN/Plans/Reports/1996CL_Plan.pdf Pages 20, 29, 32, 33, 35 and the appendix].
 - c. J. Cadieux thanked all who attended this evening and said the scope of what to look at for how to plan the use of this unit will be determined by this process and we really need to help the KPB plan its utilization.
 - i. She requested that attendees of tonight’s meeting please continue to attend these meetings and engage others to bring out the concerns and ideas for this process.
10. B. Atkins wants to make sure public opinion is heard.
11. J. Cadieux said that the area is nearly the size of the existing town of Cooper Landing and will have a considerable impact on the community.
12. B. Skolnick said that he commercial fishes in the summer and is often not in town and requested the planning process be pushed back to include public comment into the fall to allow for voices from people like him. He also said that he does not approve of commercial use development of Unit 395.

13. J. Cadieux said this will not be the last opportunity to comment. She also said that it is important to be a part of this process by attending the APC meetings, emailing M. Mueller and public representatives and suggested that members of the community CC the CLAPC when they email so our APC can help better represent the community.
14. M Mueller indicated he would like scoping suggestions to come to him within the next two weeks.
15. K. Recken asked folks for direction regarding the things to be included and not just opposed in the examination of Unit 395 for tonight's meeting.
16. M. Brennan said she would like to see support in the community for affordable housing.
 - a. J. Cadieux said that is a recurring topic in CLAPC meetings. KPB does not have an ordinance for affordable housing at this time.
17. B. Jaffa asked how the KPB could restrict the value of land to prevent only expensive parcels being put on the market and said if all land is bid on in a free and fair market it would seem the lots will sell high.
 - a. M. Mueller said that the borough cannot restrict the value of land but can ask the planning consultant to identify impediments to affordable housing and to investigate ways to promote it.
 - b. J. Cadieux mentioned that this often is an issue in communities like ours, Hope, Moose Pass, Seward, etc. where available land is limited. She suggested KPB needs an affordable housing ordinance to address this.
18. The Sorenson's asked if the on and off ramps are one way, will someone coming from Anchorage, stopping on the northside of the road for a view, then go back to Anchorage – wouldn't they go out and have to do a u-turn.
 - a. S. Baski said that as of now we are only talking about emergency access and there are other opportunities provided for the described uses.
 - b. He said one of the opportunities for a "U-Turn" use would be the new western intersection of the existing alignment.
19. H. Pearson asked if any alternatives were considered for the Chunkwood ramps.
 - a. M. Mueller said that an underpass and overpass were both considered as well.
 - b. S. Baski explained that those alternatives were not selected because the underpass had engineering

- issues and the overpass is an extremely expensive option for the intended limited access.
- c. S. Baski said this is a controlled access facility meaning no additional driveways or access within the right-of-way. To break that controlled access requires approval from the DOT and also the Federal Highway Administration.
20. The Sorenson's asked about the cost comparison for a bridge access to Chunkwood Road.
- a. S. Baski explained some of the cost comparison considerations that led to the choice of ramp access.
21. B. Atkins asked if the USFS access has been approved and if the USFS use is a stepping stone for KPB use.
- a. S. Baski said that it has been approved by the USFS and FHA.
 - b. M. Mueller said that the KPB does not have any plans for that use right now other than the proposed planning process to determine the appropriate use.
22. T. Gossard asked why the KPB wrote a letter requesting the ramps if there is not a plan for its use and why was it not shared with the CLAPC at the time of request.
- a. M. Mueller said the letter was requested because the ramps allowed for the most opportunity for later use and provided the greatest value to the KPB.
 - b. He said there was no reason why it could not have been shared.
23. B. Atkins said that it seems shady to not keep the community in the know when it was known that the community did not want this access.

9. NEW BUSINESS

- a. ADL 233788 Easement request by AK DOT&PF to AK DNR for Sterling Hwy MP 45-60 re-alignment.
 - i. C. Degernes makes a motion supporting the easement request. L. Johnson seconds. All approve.
- b. CLAPC FY2023 budget
 - i. H. Harrison moves to propose the budget as written. L. Johnson seconds, all approve.

10. PLAT REVIEW - none

11. INFORMATION and ANNOUNCEMENTS - none

12. COMMISSIONER'S COMMENTS

- a. K. Recken asked that the CLAPC meeting links be added to the Cooper Landing Announcements on Facebook and thanked all the community members for attending.
- b. C. Degernes thanked M. Mueller, N Carver, and S. Baski for extending their workdays to be a part of this important process and welcomed C. Ecklund.

13. ADJOURNMENT

- a. L. Johnson moves to adjourn, H. Harrison seconds, all approve. 8:11pm

For more information or to submit comments please contact:

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

Anchor Point Advisory Planning Commission
Unapproved Meeting Minutes: January 6, 2022

Call to Order: Meeting called to order by Dawson Slaughter at 7:00 pm

Oath of Office: Will be handled at the Borough level.

Roll Call: Dawson Slaughter, Jay Wright, John Cox, Maria Bernier and Donna White were present. Mary Trimble was present via telephone. Raymond Drake was absent.

Approval of previous minutes: A motion was made by Jay Wright to approve the minutes of November 4, 2021. John Cox seconded. The motion passed.

Approval of Agenda: Donna White suggested to amend the agenda to add the budget proposal as New Business (b). Donna White made a motion to approve the amended budget. John Cox seconded. The motion passed.

Correspondence: None

Public Comment/Presentation without previous notice: None

Report from Borough: None

Old Business:

Election of Secretary: The duties of the Secretary will be divided. Mary Trimble will be responsible for the agenda. Donna White will be responsible for the meeting minutes and correspondence.

New Business: 2022 meeting schedule. There were no objections to the proposed meeting schedule established by the Borough.

Budget: The Borough requested a proposed budget be submitted. Dawson brought the schedule he submitted last year and got no response.

\$1,080.00 internet connection to provide zoom meetings
259.90 zoom
250.00 office supplies
500.00 mileage reimbursement
600.00 rental expense
600.00 laptop and monitor for zoom capability

Announcements: None

Next regular meeting: February 10

Commissioner's comments: Mary Trimble discussed the necessity of reading the Cooper Landing on comprehensive plan sent by the Borough. We expect a Borough representative at the next meeting and our commission should be ready to discuss an Anchor Point plan going forward.

Mary Trimble was disconnected.

Meeting adjourned at 7:20 pm

John Cox suggested that our meetings move from the Chamber Of Commerce building to the VFW. The discussion was continued to the next meeting so that all members could be present for the discussion. Dawson will check the availability.

**KACHEMAK BAY ADVISORY PLANNING COMMISSION
SPECIAL (VIDEO CONFERENCE) MEETING
LOCATION: ZOOM
Thursday, January 6, 2021
7:00 P.M.**

UNAPPROVED MINUTES

A. CALL TO ORDER: 7:01 pm

B. ROLL CALL

Present: Eric Knudtson, Tim Whip, Owen Meyer, Courtney Cox Brod, and Bruce Robinson.

Quorum has been met to move forward with the meeting.

Also present were Marcus Mueller, Aaron Hughes, and Dakota Truitt from KPB Land Management.

C. APPROVAL OF MINUTES

1. Approved December 9, 2021 minutes.

D. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE

1. None

E. CORRESPONDENCE

F. REPORT FROM BOROUGH

1. Marcus Mueller spoke and answered questions about KPB land classifications, the classifying process, trails development in KPB, and our role in reviewing KB APC plats.

G. OLD BUSINESS.

1. Sandra will invite Scott Huff from the KPB planning department to our next monthly meet, so we can better understand our role in reviewing plats. We will ask him to address what KPB expects from our plat reviewing and about Bruce's idea of requiring more information for the plat approval process.

H. NEW BUSINESS

1. We decided to schedule a meeting for 1/20/22 at 7 pm to discuss our KB APC plan.
2. We passed the following motion.
We oppose the Kachemak Wilderness and Rolling Meadows Replat KPB 2021-165 because inadequate information was provided about access to the parcel, water sources, and wastewater.
3. Louise will submit a budget request including \$1400 for bulk mailing, \$259 for our Zoom account, \$200 for room rental when we return to in-person meetings, and \$5000 for a consultant to support our KB APC plan development.

I. ANNOUNCEMENTS

1. None

J. COMMISSIONERS' COMMENTS

K. ADJOURNMENT – 8:43 pm.