

Meeting Agenda

Planning Commission

|--|

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

KPB-4237 a. Horse Creek Sub. 2021 Addition; KPB File 2021-099	
	b. Mackey Lakes Subdivision Douglas Replat; KPB File 2021-109
<u>Attachments:</u>	<u>C3 - Admin Approvals_Packet</u>

- 4. Plats Granted Final Approval (KPB 20.10.040)
- 5. Plat Amendment Request
- 6. Commissioner Excused Absences
- 7. Minutes
 - KPB-4238 May 9, 2022 Planning Commission Meeting Minutes

Attachments: C7 - Minutes

D. OLD BUSINESS

E. NEW BUSINESS

 <u>KPB-4239</u> Section Line Easement Vacation; KPB File 2022-060 Vacate Section Lien Easement Associated With Tracts A, B &C of Quartz Creek Subdivision Plat Sw 94-11
 <u>Attachments:</u> <u>E1-SLEV Quartz Creek_Packet</u>
 <u>KPB-4240</u> Conditional Use Permit; PC Resolution 2022-22 To perform bank stabilization on a parcel within the 50-foot Habitat Protection District of the Kenai River

Attachments: E2 - CUP PC RES 2022-22 Packet

3.	<u>KPB-4241</u>	Conditional Land Use Permit; PC Resolution 2022-21	
		Materials processing on a parcel in the Moose Pass area	
	Attachments:	E3 - CLUP PC RES 2022-21_Packet	

4. <u>KPB-4242</u> Ordinance 2022-14: Authorizing the sale of certain parcels of borough-owned land by live outcry auction followed by a subsequent online-only auction land sale.

Attachments: E4 - ORD 2022-14 Land Sale Packet

5. <u>KPB-4243</u> Resolution 2022-__: Classifying and reclassifying certain borough-managed land in the Moose Pass area
 <u>Attachments:</u> <u>E5 - RES 2022-XX_Land Class_Packet</u>

F. PLAT COMMITTEE REPORT

G. OTHER

H. PUBLIC COMMENT/PRESENTATION

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

I. DIRECTOR'S COMMENTS

KPB-4244 May 23, 2022 Director's Report

Attachments: Directors Report to the Planning Commission

J. COMMISSIONER COMMENTS

K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS NO ACTION REQUIRED

KPB-4276 Hope/Sunrise APC May 11, 2022 Meeting Minutes

Attachments: MISC 051122 Hope APC Minutes

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, June 13, 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.

4

C. CONSENT AGENDA

- *3. Plats Granted Administrative Approval
 - a. Horse Creek Subd. 2021 Addition; KPB File 2021-099
 - b. Mackey Lakes Subdivision Douglas Replat; KPB File 2021-109



Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Horse Creek Subd 2021 Addition KPB File 2021-099 Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 9, 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, April 18, 2022.

Mie Hindman Acting Platting Manager

State of Alaska Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18 day of APCIL 2022 by Julie Hindman.

Notary Public for the State of Alaska

My commission expires: 5/12/23

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

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.



Charlie Pierce Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Mackey Lakes Subdivision Douglas Replat KPB File 2021-109 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 Wednesday, April 13, 2022.

Mile Hindman

State of Alaska Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this <u></u>day of <u>April</u> 2022 by Julie Hindman.

Notary Public for the State of Alaska

My commission expires: _

5/12/23

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

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.

C. CONSENT AGENDA

*C7. Minutes

a. May 9, 2022 Planning Commission Meeting Minutes

Kenai Peninsula Borough Planning Commission

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

May 9, 2022 8:00 P.M. UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

Commissioner Bentz called the meeting to order at 8:00 p.m.

AGENDA ITEM B. ROLL CALL

Commissioners Present Syverine Abrahamson-Bentz, District 9 – South Peninsula Jeremy Brantley, District 5 – Sterling/Funny River Diane Fikes, City of Kenai Pamela Gillham, District 1 – Kalifornsky John Hooper, District 3 – Nikiski Michael Horton, District 4 – Soldotna Virginia Morgan, District 6 – East Peninsula David Stutzer, District 8 – Homer Charlene Tautfest, City of Soldotna Franco Venuti, City of Homer

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

Commissioner Bentz opened the floor for nominations for Vice Chair.

MOTION: Commissioner Gillham moved, seconded by Commissioner Tautfest nominated Jeremy Brantley for Vice Chair. Commissioner Brantley accepted the nomination.

Hearing no objection or further nomination, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

Commissioner Bentz passed the gavel to Vice Chair Brantley to continue the meeting.

Staff Present

Robert Ruffner, Planning Director Walker Steinhage, Deputy Borough Attorney Marcus Mueller, Land Management Officer Aaron Hughes, Land Management Land Agent Dakota Truitt, Land Management Land Agent Julie Hindman, Platting Specialist Samantha Lopez, KRC Manager Ryan Raidmae, Borough Planner Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

*3. Plats Granted Administrative Approval

a. Cabin Hoppers Subdivision; KPB 2021-160

- b. Canyon Trails Amended Forquer 2021 Replat; KPB File 2021-016
- c. Homewood Subdivision; KPB File 2021-162
- d. Horse Creek Subd. 2021 Addition; KPB File 2021-099
- e. Mackey Lakes Subdivision Douglas Replat; KPB File 2021-109
- f. Voznesenka 2020; KPB File 2020-016R1

*6. Commissioner Excused Absences

- a. Blair Martin, District 2 Kenai
 - b. District 7 Central, Vacant
 - c. City of Seward, Vacant
 - d. City of Seldovia, Vacant

*7. Minutes

a. April 25, 2022 Planning Commission meeting minutes.

Vice Chair Brantley asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items.

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

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

AGENDA ITEM E. NEW BUSINESS

ITEM E1. – BUILDING SETBACK ENCROACHMENT PERMIT LOT 17 SUNNY SLOPE SUBDIVISION UNIT 1 PLAT HM 75-33

KPB File No.	2022-055
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	Senungetuk Community Property Trust
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Diamond Ridge / Kachemak Bay APC
Parent Parcel No.:	173-520-17
Legal Description:	Lot 17 Sunny Slope Subdivision Plat No HM 75-33
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Vice Chair Brantley 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 Gillham moved, seconded by Commissioner Bentz to adopt PC Resolution 2022-19, granting a building setback encroachment permit to Lot 17, Sunny Slope Subdivision Unit 1 (Plat HM 75.33)

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

ITEM E2 – SEWER EASEMENT ALTERATION FORT RAYMOND SUBDIVISION REPLAT NO. 1 LOT 7A

KPB File No.	2022-041V
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	City of Seward
Surveyor:	A. William Stoll / DOWL
General Location:	Aspen Lane and Seward Highway, City of Seward

Staff report given by Platting Specialist Julie Hindman.

Vice Chair Brantley 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 Bentz 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 - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

ITEM E3 - RIGHT-OF-WAY VACATION VACATE A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS

KPB File No.	2022-023VR1
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	LittleKnife Inc and Gale Smith of Soldotna
Surveyor:	James Hall / McLane Consulting Group
General Location:	Sterling area, Paper Birch Lane, Mountain Ash Street
Legal Description:	Lots 8, 9, & 15 of Tulchina Pointe Estates Phase 2, Plat KN 2009-48.

Staff report was given by Platting Specialist Julie Hindman. She noted that there were several comments from the public in the laydown packet. She noted that one of the public comments stated that Mr. Johnson would not approve a road going through his lot. Per the minutes from the March 21, 2022 PC meeting, Mr. Johnson stated he has no intention of subdividing his property, but if he did, he understood he would need to dedicate a right of way.

Ms. Hindman also noted there were multiple requests to provide a full right-of-way dedication from the end of Developer Circle that would connect to Paper Birch. Developer Circle is a cul-de-sac and per KPB Code 20.90(D), cul-de-sac streets serve no through traffic and are closed permanently at one end with a vehicular turnaround area. In the past the Planning Commission has allowed for cul-de-sacs to be opened if all landowners on the cul-de-sac agreed. A few other points to consider, one is the width that lots 8 and 9 will provide for a dedication, will be approximately 57 feet at the end of the bulb. The other is neighboring lot, Lot 7, has structures built close to the shared property line. An as-built would be required to determine, if a setback is in place, if the structures will be encroaching. Per KPB 20.30.170 blocks shall be no less than 330 feet. The blocks are measured from centerline intersections. A continuation of Developer Circle as a 60-foot-wide right-of-way will result in a block length of approximately 270 feet. If Quillback receives the other 30-foot dedication the block will then be approximately 285 feet.

END OF STAFF REPORT

<u>Steve Bowen, Petitioner; 36495 Haley's Way, Soldotna, AK 99669:</u> Mr. Bowen is the contractor who build the house that is encroaching into the Paper Birch right-of-way. He spoke in support of the proposed vacation.

11

<u>Russ Morrison; P.O. Box 4623, Soldotna, AK 99669:</u> Mr. Morrison spoke in opposition to the proposed vacation. Mr. Morrison believes that a better design would be to open Developer Circle, taking land from Lot 8 for the right-of-way, and connect the road to Paper Birch. The other would be to give only a footprint vacation along Paper Birch, not a 30-foot width which the petitioner is requesting.

<u>Janet Morrison: P.O. Box 4623, Soldotna, AK 99669:</u> Ms. Morrison spoke in opposition to the proposed vacation and supports the proposed solutions put forth by Russ Morrison.

Kevin Morrison; 36540 Water Ct., Sterling, AK 99672: Mr. Morrison spoke in opposition to the proposed vacation and shared many of the same concerns as the other testifiers.

<u>Steve Bowen, Petitioner, 36495 Haley's Way, Soldotna, AK 99669:</u> Mr. Bowen noted that there is a very good reason for contractors not to make a mistake like this, which is the cost. This has been a very costly mistake for him. To date he has incurred more that \$30,000 in costs due to this mistake. The goal is not to get "free" land but to resolve the encroachment in the most cost-effective manner. Also, folks seem to think that this section of Paper Birch Lane can be constructed. This section of Paper Birch goes off a bluff, it would be almost impossible to build the road to borough standards, not to mention extremely costly. The plat proposes to leave a 30' wide section of the road which will continue to allow for access. No landowner will lose access with this proposed vacation.

Commissioner Stutzer asked the petitioner why the costs of this mistake has been so high. Mr. Bowen replied that he carries a high interest construction loan on this house and the bank requires that the encroachment be resolved before they will close on the house. Commissioner Stutzer asked Mr. Bowen why he did not have the lot surveyed before he started construction. Mr. Bowen replied that his client showed him some inaccurate flagging on the lot, and that flagging was used to determine the placement of the house.

Attorney Steinhage highlighted for the commission a few points the Assembly had with this vacation. One concern was they wanted to make sure that there was adequate legal access to the properties to the north. The Assembly also expressed concerns about this type of situation creating windfalls for landowners. They had questions regarding how the borough should respond to encroachments into rights-of-ways.

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 Bentz, 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.

Commissioner Gillham asked staff why they were recommending a 30' vacation and not just a footprint vacation. Ms. Hindman replied that earlier comments from the public noted that this section of the right-ofway was used by snowmachines, ATVs, horses and hikers. There was also discussion about not wanting a full vacation in this area. This proposal leaves 30' dedication for pedestrian and other uses. Also, while the house only encroaches into the right-of-way by 9', the well encroaches 13'. Generally, code requires a 20' setback and this proposal included footage to help address the setback issue. The 30' vacation would leave the house clear of the setback.

Commissioner Stutzer noted that he has been in the construction business for 40 years and believes that it is in very poor form for the contractor to not verify the property corners and setbacks. He does not believe that the borough should have to be in the position of having to grant exceptions like this on a routine basis. He believes that the borough should give only the very minimal amount of land in this situation and not the whole 30'.

Commissioner Morgan asked staff if they had taken into consideration some of the suggestions from the public. For instance, only giving a footprint vacation or moving the right-of-way to connect to Developer Circle. Ms. Hindman replied staff is presenting the request as it was petitioned. The planning commission has the authority to proposed something different if they so choose. The concern with extending Developer Circle is that it is a cul-de-sac. While this proposal would have the landowner giving up the land for the right-of-way, there are other landowners on this circle that purchase and developed their lots on a cul-de-sac, not on a through street. Per code, cul-de-sacs are supposed to be permanently closed. While some

have been opened in the past, it does require all landowners on the road to agree to open the cul-de-sac up to through traffic. Another concern, because of the location of Quillback, is that opening Developer Circle will create a none compliant block length.

Commissioner Venuti asked what would be the repercussions if this vacation is not approved. Mr. Bowen replied that if the vacation is not approved the house remains in the right-of-way and his clients will not be able to close on the house. Commissioner Venuti asked Mr. Bowen if the bank has stated that they will not close on the house until the encroachment is resolved. Mr. Bowen replied that the bank will not close on this property until the encroachment is resolved. Commissioner Venuti noted that while it is not a common practice, he is aware that banks have made exceptions in cases like this and have approved the loans. Mr. Bowen replied that he has not received from the bank any indication that they would make any exceptions in this case.

Commissioner Fikes asked Mr. Bowen what would be the cost to make the house comply with code. Mr. Bowen replied that it would be hard to estimate, but to move or truncate the house so that it is no longer in the right-of-way it could cost somewhere around \$100,000.

Ms. Hindman reminded the commission that code does not take into consideration the costs associated with removing encroachments when considering approval of vacations. The main consideration is whether or not the right-of-way is needed for public use.

Commissioner Brantley stated that when he looks at vacations, he does not take into consideration whether or not there are encroachments. What he looks at is the standards set out in code. The road is not buildable in this section. Developer Circle cannot be extended unless everyone living on the road agrees. Questions as to whether or not Quillback will be developed, have nothing to do with this request. In his opinion this section of Paper Birch is not buildable and vacating it will not impact development in the area. The one landowner who could be affected by this vacation is Mr. Johnson. Mr. Johnson will be given better access to his property in the subdivision Mr. McLane is proposing. He then noted that he will be voting in favor of the petition.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY MAJORITY VOTE**:

Yes - 8	Bentz, Brantley, Fikes, Gillham, Hooper, Morgan, Tautfest, Venuti	
No - 2	Horton, Stutzer	
Absent - 1	Martin	

ITEM E4 – CONDITIONAL USE PERMIT ANADROMOUS WATERS HABITAT PROTECTION DISTRICT

PC Resolution No.	2022-006
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	Kent Cushman
Physical Address:	34775 Sockeye Lane
KPB Tax Parcel No.	065-270-05
Request:	For the construction of a 10' chain-link fence within the 50' Habitat Protection District of the Kenai River.

Staff report given by Resource Planner Morgan Aldridge.

Vice Chair Brantley opened the meeting for public comment.

Kent Cushman, Applicant; P.O. Box 449, Sterling, AK 99672: Mr. Cushman made himself available for questions.

<u>Robert Jefferies; P.O. Box 214, Soldotna, AK 99669:</u> Mr. Jefferies is a neighboring landowner and spoke in opposition to the proposed fence project. He noted that he has used a driveway that crosses Mr. Cushman's property since 1972. He believes that adverse possession laws in the State of Alaska allow him continued use of his driveway that crosses over the Cushman property.

Kent Cushman, Applicant; P.O. Box 449, Sterling, AK 99672: Mr. Cushman stated that as the landowner he has the right to improve his property and the fence is an improvement. He noted that Mr. Jefferies does have legal access to his property which does not encroach on his land.

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

MOTION: Commissioner Fikes moved, seconded by Commissioner Morgan to adopt PC Resolution 2022-006 granting a conditional use permit pursuant to KPB 21.18 for the construction of a fence within the 50foot Habitat Protection District of the Kenai River.

Borough Attorney Steinhage suggested additional language for the motion stating the commission's decision is based solely on the conditions and standards in KPB 21.18.081. The commission is expressly not taking a position regarding who has possessory or use rights.

As the maker of the motion Commissioner Fikes moved, and was seconded by Commissioner Morgan, to amend the motion to include the recommended language suggested by Borough Attorney Walker Steinhage.

AMENDED MOTION: Commissioner Fikes moved, seconded by Commissioner Gillham to adopt PC Resolution 2022-006 granting a conditional use permit pursuant to KPB 21.18 for the construction of a fence within the 50-foot Habitat Protection District of the Kenai River. The commission's decision is based solely on conditions and standards in KPB 21.18.081. The commission is expressly not taking a position on who has possessory or use rights.

Commissioner Morgan asked staff if the meeting materials contained a map showing the other access that Mr. Cushman stated that Mr. Jefferies has to his property.

Vice Chair Brantley stated what was before the commission was the conditional use permit and the section of code that deals with that, which is 21.18. The commission is not being asked to determine the legal access to properties. Commissioner Morgan then withdrew her question.

Borough Attorney Steinhage stated Commissioner Morgan's question was whether there was alternate access and can she see that on a map. He believes that staff could answer that question.

Senior Manager Samantha Lopez replied that all the rights-of-way in this area are private and are not depicted on the borough parcel viewer. There is access on the riverside for both of these lots and the name of the private road is Dolly Way.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY MAJORITY VOTE**:

Yes - 9	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest	
No - 1	Venuti	
Absent - 1	Martin	

ITEM E5 – CONDITIONAL LAND USE PERMIT MODIFICATION PENINSULA RESOURCES, LLC

PC Resolution No.	2022-18
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	Peninsula Resources, LLC
Location:	Ravenwood Street & Bonita Avenue
KPB Tax Parcel No.	055-072-93
Logal Decorintion	T05N, R11W, SEC 25, S.M., Kalifornsky Center Subdivision
Legal Description:	Tract A-1A

Staff report given by Resource Planner Ryan Raidmae

14

Vice Chair Brantley 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 Gillham moved, seconded by Commissioner Tautfest to approve adopt PC Resolution 2022-18, granting approval of a conditional land use permit to operate a sand, gravel or material site for a parcel described as Tract 1-1A, Kalifornsky Center Subdivision (Plat KN 2020-18).

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10 Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti Absent - 1 Martin

ITEM E6 – ORDINANCE 2021-19-51

APPROPRIATING FUNDS FROM THE LAND TRUST FUND, FUND BALANCE, FOR A PROJECT TO CONDUCT SOILS INVESTIGATIONS AND LAND PLANNING ON THE 1,000-ACRE UNIT 395, JUNEAU BENCH, NEAR COOPER LAND

Staff report was given by Land Management Officer Marcus Mueller.

Vice Chair Brantley 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 Gillham moved, seconded by Commissioner Tautfest to forward to the assembly a recommendation to adopt Ordinance 2021-19-51 appropriation funds from the Land Trust Fund, fund balance, for a project to conduct soils investigations and land planning on the 100-acre Unit 395, Juneau Bench, near Cooper Landing

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

ITEM E7 – ORDINANCE 2022-10

AUTHORIZING A THREE-PARTY LEASE AGREEMENT & REAL PROPERTY LEASE WITH VERIZON WIRELESS & ALASKA PIPELINE COMPANY

Staff report was given by Land Management Officer Marcus Mueller.

Vice Chair Brantley 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 Gillham moved, seconded by Commissioner Venuti to forward to the assembly a recommendation to adopt Ordinance 2022-10, authorizing a three-party lease agreement and real property lease with Verizon Wireless and Alaska Pipeline Company.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

15

ITEM E8 – ORDINANCE 2022

AUTHORIZING EMERGENCY HARVEST OF SPRUCE BARK BEETLE IMPACTED FORESTLANDS INCLUDING SPRUCE WHICH ARE DYING, OR SUSCEPTIBLE TO DYING, AND ESTABLISHING A FRAMEWORK TO GUIDE FOREST TREATMENTS.

Staff report was given by Land Management Agent Dakota Truitt.

Vice Chair Brantley 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 Gillham moved, seconded by Commissioner Bentz to forward to the assembly a recommendation to adopt Ordinance 2022-11, authorizing emergency harvest of spruce bark beetle impacted forestlands including spruce which are dying, or susceptible to dying, and establishing a framework to guide forest treatments.

Hearing no objection or further discussion, the motion was carried by the following vote: **MOTION PASSED BY UNANIMOUS VOTE**:

Yes - 10 Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti Absent - 1 Martin

ITEM E9 – RESOLUTION 2022-032

CLASSIFYING CERTAIN PARCELS OF BOROUGH OWNED AND BOROUGH MANAGED LAND IN THE POINT POSSESSION, NIKISKI, NORTH KENAI, SOLDOTNA, STERLING, FUNNY RIVER, COOPER LANDING, HOPE, MOOSE PASS, SEWARD, KALIFORNSKY, ANCHOR POINT, HAPPY VALLEY, BEAR COVE & BELUGA AREAS.

Staff report was given by Land Management Officer Marcus Mueller and Land Management Agent Aaron Hughes.

Land Management Officer Marcus Mueller gave a brief presentation on the function of land classification. He then informed the commission that Land Management Agent Aaron Hughes would be giving a brief staff report for the various parcels by area, and that he would suggest taking public comment after each staff report.

Vice Chair Brantley opened the meeting for public comment.

NIKISKI – PINS 013-042-42 & 013-092-76

Commissioner Hooper informed Vice Chair Brantley that he owns property on Daniel's Lake. Vice Chair Brantley asked Commissioner Hooper if he believed this would cause him a conflict of interest or could he be fair and impartial and participate in the deliberations and votes. Commissioner Hooper stated that he did not believe that this caused a conflict of interest for him and that he could be fair. Vice Chair Brantley ruled that Commissioner Hooper did not have a conflict of interest; no members of the commission objected.

<u>Stacy Oliva; P.O. Box 8567, Nikiski, AK 99635:</u> Ms. Oliva spoke in opposition to this classification and requested that these parcels be removed from consideration. She was unhappy that the proposed development plan was not included in the public notice sent out. She also expressed concerns regarding local option zoning prohibiting activities that have always been allowed on this parcel, such as horse riding and hunting. She also stated that Neighbors Rd. while borough maintained is not a public road.

<u>Ryan Broussard; 52557 Geraldine St., Kenai, AK 99611:</u> Mr. Broussard spoke in opposition to this classification and requested that these parcels be removed from consideration. He was unhappy that the proposed development plan was not included in the public notice sent out.

<u>Camille Broussard; 52557 Geraldine St., Kenai, AK 99611:</u> Ms. Broussard spoke in opposition to this classification and requested that these parcels be removed from consideration. She was unhappy that the proposed development plan was not included in the public notice she received.

<u>Amber Douglas; 51345 Earl Drive, Nikiski:</u> Ms. Douglas spoke in opposition to this classification and requested that these parcels be removed from consideration. She was unhappy that the proposed development plan was not included in the public notice she received. She expressed concerns regarding the proposed local option zoning. Zoning is not something that the Nikiski area residents wish to have, lack of zoning is one of the reasons many folks move to the Nikiski area.

<u>Beau Broussard; 52191 Lucille Dr., Nikiski:</u> Mr. Broussard spoke in opposition to this classification and requested that these parcels be removed from consideration. He was unhappy that the proposed development plan was not included in the public notice sent out. He noted that according to the meeting information there were 19 public comments from area residents and none were in support of this classification.

<u>Bianca Chase; 52189 Lucille Drive, Kenai, AK 99611:</u> Ms. Chase spoke in opposition to this classification and requested that these parcels be removed from consideration.

<u>Kristine Schmidt; Kenai, AK:</u> Ms. Schmidt spoke in opposition to this classification and requested that these parcels be removed from consideration. She noted that there are parts of Neighbors Rd. which are not public. She also expressed concerns about placing a local option zone on these lots. She believed that the local option zoning ordinance is poorly written and are too restrictive for the Nikiski area. She was unhappy that the proposed development plan was not included in the public notice she received and believes that the process was not open and transparent.

Vice Chair Brantley asked staff to clarify that what was before the commission tonight is just the land classification only, they are not being asked to review any design concepts or zoning for these lots. Land Management Agent Aaron Hughes stated that is correct. He did note that the design concept included in the packet was a concept design based on the design requirements of the Alaska Mental Health Trust which would allow for access to these lots.

K. Brewer; 51765 Stickleback Rd. Nikiski: Ms. Brewer spoke in opposition to this classification and requested that these parcels be removed from consideration.

<u>Daniel Baeten; 51715 Rendezvous Rd., Nikiski:</u> Mr. Baeten spoke in opposition to this classification and requested that these parcels be removed from consideration. He expressed concern that more development on Daniel's Lake would have a negative impact on area wildlife.

NORTH KENAI – PIN 017-120-06

<u>Stacy Oliva; P.O. Box 8567, Nikiski, AK 99635:</u> Ms. Olivia spoke in support of the classification and disposal of this parcel.

POINT POSSESSION – PIN 025-444-16

Stacy Oliva; P.O. Box 8567, Nikiski, AK 99635: Ms. Olivia spoke in support of the classification and disposal of this parcel.

HOPE - PIN 035-080-11

No Public Comment

SOLDOTNA – PINS 055-101-16 & 057-530-15 No Public Comment

STERLING - PINS 065-190-62 THRU 065-190-72

No Public Comment

Vice Chair Brantley noted that the Office of Emergency Management was requesting that parcels 165-190-69 & 065-190-70 be set aside for the construction of a bridge. What would be the appropriate classification for these lots? Currently the proposal is to classify them as residential. Land Management Officer Marcus Mueller replied that while OEM is requesting a classification of utility/transportation no research on this request has been done and so Land Management has not changed their recommendation to classify the parcels residential.

FUNNY RIVER – PIN 066-310-26

No Public Comment

COOPER LANDING – PINS 119-070-01 & 119-071-06

Land Management Agent Aaron Hughes noted that the Cooper Landing APC requested the land classification on these parcels be changed to Residential

COOPER LANDING – PIN 119-110-19

Land Management Agent Aaron Hughes noted that staff had received numerous comments from area locals that this parcel at one time had a gravel pit and then a waste site on the property. Staff will request that this parcel be pulled from consideration so that additional investigation can be conducted.

<u>Jerry Nice; P.O. Box 595 Cooper Landing, AK 99572:</u> Mr. Nice spoke in opposition to this classification and requested that this parcel be removed from consideration. He and other area residents remember the parcel at one time having a gravel pit and later being used as a dump site. He does not believe this parcel should ever be sold and should remain undeveloped.

<u>Kim Nice; P.O. Box 595 Cooper Landing, AK 99572:</u> Ms. Nice spoke in opposition to this classification and requested that this parcel be removed from consideration. She and other area residents remember the parcel at one time having a gravel pit and later being used as a dump site. She does not believe this parcel should ever be sold and should remain undeveloped.

Vice Chair Brantley noted the time was 11:00 PM. If the commission wish to continue with public testimony and deliberations, he would need a motion to extend the meeting for an hour.

MOTION: Commissioner Gillham moved, seconded by Commissioner Tautfest to extend the meeting to 12:00 AM/midnight.

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

MOTION PASSED BT MAJORITT VOTE.		
Yes - 9	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest	
No - 1	Venuti	
Absent - 1	Martin	

MOOSE PASS - PINS 125-160-05, 165-160-07 & 165-160-14

Land Management Agent Aaron Hughes noted that the Moose Pass APC requested that the classification on these parcels be changed to residential.

No Public Comment

KALIFORNSKY - PIN 131-070-32

Ben Jackinsky; P.O. Box 20, Kasilof, AK 99610: Mr. Jackinsky spoke in opposition to this classification and requested that this parcel be removed from consideration.

SEWARD – PIN 144-010-38

No Public Comment

HAPPY VALLEY – PIN 165-130-05 No Public Comment

ANCHOR POINT – PIN 165-250-258 No Public Comment

BEAR COVER – PIN 193-261-14

No Public comment

BELUGA – PINS 211-280-11 & 211-280-13 No Public Comment

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

18

the commission.

MOTION: Commissioner Bentz moved, seconded by Commissioner Fikes to forward to the assembly a recommendation to adopt Resolution 2022-23, classify certain parcels of Borough owned and Borough managed land in the Point Possession, Nikiski, North Kenai, Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward, Kalifornsky, Anchor Point, Happy Valley, Bear Cove & Beluga Areas.

AMENDMENT A MOTION: Commissioner Tautfest moved, seconded by Commissioner Morgan to amend the resolution to remove parcels 013-042-42 & 013-092-76 in the Nikiski area and parcel 119-110-19 in the Cooper Landing area.

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

AMENDMENT A MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

AMENDMENT MOTION B: Commissioner Morgan moved, seconded by Commissioner Horton to amend the resolution to change the classification of parcels 119-070-01, 119-070-02 & 119-071-06 in the Cooper Landing area and parcels 125-160-05, 125-160-07, 125-160-10 & 125-160-14 in the Moose Pass area to Residential.

Commissioner Stutzer asked if the APCs understand land classification. Land classification is not zoning and will no longer exist once the parcel is sold. Is it really necessary to consider changing the land classification of these parcels if they are designated for a land sale?

Commissioner Morgan replied the APCs understand the function of land classification and that the classifications go away once the parcel is sold. These APCs would still like to see the classification change on these parcels to residential as it reflects the community's desired land use for the parcels.

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

AMENDMENT B MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

AMENDMENT MOTION C: Commissioner Horton moved, seconded by Commissioner Stutzer to amend the resolution to change the classification of parcel 165-250-58 in the Anchor Point area to Residential.

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

AMENDMENT C MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

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

MAIN MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 10	Bentz, Brantley, Fikes, Gillham, Hooper, Horton, Morgan, Stutzer, Tautfest, Venuti
Absent - 1	Martin

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Brantley reported the plat committee reviewed eight plats, granted preliminary approval to seven, and one plat was not granted preliminary approval due to failure to get a second on the motion.

AGENDA ITEM G.

- 1. Plat Committee May 23, 2022
 - Commissioner Venuti
 - Commissioner Tautfest
 - Commissioner Brantley

• Commissioner Hooper

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

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

AGENDA ITEM I. DIRECTOR'S COMMENTS

Planning Director Ruffner stated he is excited to be working with the commission in his new role as planning director. He noted that one of his first goals as a planning director was to meet with each member of the planning department staff. The planning department consists of 20 people and he has met with about half of the staff so far.

AGENDA ITEM J. COMMISSIONER COMMENTS

Commissioner Gillham asked to be excused from the May 23, 2022 Planning Commission meeting.

AGENDA ITEM K. ADJOURNMENT

Commissioner Venuti moved to adjourn the meeting 11:55 PM.

Ann E. Shirnberg Administrative Assistant

E. NEW BUSINESS

1. Section Line Easement Vacation; KPB File 2022-060V

Vacate the 50' section line easement in SEC 30, T05N, R02W & the 50' section line easement in SEC 25, T05N, R03W that run N to S through Tract A of Quartz Creek Subdivision (Plat SW 0940011), & vacate the 50' section line easement in SEC 25, T05N, R03W and the 50' section line easement in SEC 36, T05N, R03W that run E to W through Tracts B & C of Quartz Creek Subdivision (Plat SW 0940011)

PINs: 119-124-17, 119-124-18 & 119124-19

Petitioner(s)/Landowner(s): Three Bears of Alaska & Kenai Peninsula Borough

Cooper Landing Area



Kenai Peninsula Borough Planning Department







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. E1-1



Kenai Peninsula Borough Planning Department



KPB File Number 2022-060V 4/29/2022

N



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. **E1-2**



AGENDA ITEM E. NEW BUSINESS

ITEM 1 - SECTION LINE EASEMENT VACATION VACATE SECTION LINE EASEMENTS ASSOCIATED WITH TRACTS A, B, AND C OF QUARTZ CREEK SUBDIVSION PLAT NO SW 94-11

KPB File No.	2022-060V
Planning Commission Meeting:	May 23, 2022
Applicant / Owner:	Three Bears Alaska Inc of Wasilla, AK and Kenai Peninsula Borough of
	Soldotna, AK
Surveyor:	John Segesser / Segesser Surveys
General Location:	Cooper Landing / Cooper Landing APC
Legal Description:	50 foot section line easements associated with the SW1/4 Section 30, Township 5 North, Range 2 West, SE1/4 Section 25 and the N1/2 Section 36, Township 5 North, Range 3 West

STAFF REPORT

Specific Request / Purpose as stated in the petition: Vacate the section line easement.

Notification: Public notice appeared in the May 11, 2022 issue of the Seward Journal as a separate ad. The public hearing notice was published in the May 18, 2022 issue of the Seward Journal 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 Cooper Landing

Post Office of Cooper Landing

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

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

Twenty notifications 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 Cooper Landing Advisory Planning Commission Emergency Services of Cooper Landing Kenai Peninsula Borough Land Management Alaska Communication Systems (ACS) ENSTAR Natural Gas General Communications Inc, (GCI) Homer Electric Association (HEA) Chugach Electric TelAlaska

Legal Access (existing and proposed): This is a petition to vacate section line easements that cross through existing lots. The lots are located along the Sterling Highway between miles 44 and 45. A 60 foot wide right-of-way dedication is between Tracts B and C, this is considered a portion of Persistent Way. The other portion of Persistent Way is varying in width and is not constructed and provides additional access off Quartz Creek Road, a state maintained right-of-way.

The vacation of the section line easement will not change the existing access for the Tracts. All three tracts currently have Sterling Highway frontage with Tracts B and C having access from Persistant Way. A 100 foot public

pedestrian access easement exists between Tract A and Tract B. It is centered on a creek that is the shared lot line between the tracts. The creek is a managed anadromous unnamed stream.

The section line easements are not developed for access. Lots surrounding this area have access from the Sterling Highway, Persistent Way, Quartz Creek Road or other available section line easements.

The block in the area is not complete due to an airstrip to the south, limiting interesections with the Sterling Highway, and the location of Quartz Creek and various creeks and streams off Quartz Creek. The section line easements help provide closed northern blocks but they exceed allowable limits.

Comments from State of Alaska DOT were to reference previous emails. They are within the packet for review. Staff did not find any objection comments to the vacation of the section line easements. The comments will also be presented to the Plat Committee for review of the plat design.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil
	Comments: No comments
SOA DOT comments	Please see attached email comments that were submitted separately from the Sterling Highway 45-60 project team to Marcus Mueller.

<u>Site Investigation</u>: There are areas within the Tracts and within the proposed vacation area that contain low wet areas that are categorized as Kettle. The land is relatively flat with no steep contours present.

An anadromous creek is between Tracts A and B. The plat that finalizes the vacations will be required to have the proper plat notes and depictions in place.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments
	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: KPB\maldridge
	C. State Parks
	Reviewer: Russell, Pam
	Comments:
	No Comments
State of Alaska Fish and Game	No objections

Staff Analysis: This land was federal land as shown on the US BLM section plat recorded September 28, 1992. The section line between Section 25 and Section 36 is depicted as a protracted section line, meaning the survey markers were not set for the section line. The property was transferred to the State of Alaska and then subdivided by Alaska State Land Survey 92-22, Plat SW 93-8. The plat contained the plat note "All parcels of land owned by the State of Alaska, located within 50.00 feet of, or bisected by a surveyed section line, are subject to a 50 foot (50') easement, each side of the section line, which is reserved to the State of Alaska for public highways under A.S. 19.10.010."

The borough acquired Tract A, ASLS 92-22 and further subdivided the land as shown on Quartz Creek Subdivision, Plat SW 94-11. Tract A of Quartz Creek Subdivision, Plat SW 94-11, is subject to a 100 foot wide section line

easement within the eastern portion of the lot. Tracts B and C of Quartz Creek Subdivision, Plat SW 94-11, are also subject to 100 foot wide section line easements that run east-west through the lots.

The ownership of Tract B has changed several times and is currently owned by Three Bears Alaska, Inc. They are wishing to construct a store on the lot but are limited due to the location of the section line easements. The ownership of Tracts A and B is still the Kenai Peninsula Borough.

A petition to vacate the section line easements within Tract B was heard and approved by the Kenai Peninsula Borough Planning Commission on September 14, 2020. The Kenai Peninsula Borough Assembly consented to the vacation at their October 13, 2020 meeting. Some issues arose at the state level about the plan in place. Three Bears Alaska has been working with the State and the Borough and are now seeking approval that includes additional section line easements to be vacated. If approved this will be forwarded to the Assembly to consent or veto the vacation. The final approval of the vacations will rest with the State of Alaska DNR.

A plat has been submitted and is scheduled for review by the Plat Committee on May 23, 2022. This hearing is to only discuss the section line easement vacation. The overall proposal is to dedicate a right-of-way to provide a frontage road and to reduce and remove some existing conservation easements. More information regarding the dedications and conservations easements will be discussed at the Plat Committee meeting. The creation of the conservation easements was done by Ordinance. Any alterations or removal of those conservation easements may be discussed at the Plat Committee meeting but any formal action will require an Ordinance that will be presented to the Planning Commission for recommendations to the Assembly.

If approval is granted for the vacation, *staff recommends* the approval for the vacation be four years to allow ample time to work with the State of Alaska DNR on the section line easement vacations.

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 easements do not appear to be in use
 - 2. A road is impossible or impractical to construct, and alternative access has been provided; **Staff comments:** All lots in the area have other access
 - 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;

Staff comments: An airstrip is located to the south and large acreage lots are in the area with smaller lots having access from State maintained Quartz Creek Road.

- 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: A creek is in the area that will continue to have an easement along it. Quartz Creek is in the area but other access routes are available.
- 5 The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
 Staff comments: All lots will continue to have access.
- 6. Other public access, other than general road use, exist or are feasible for the right-of-way; **Staff comments:** The location of the easements on the tracts limit development.

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: Requested easements from providers will be required.

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

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 June 7, 2022 meeting.

If approved, the plat Quartz Creek Subdivision Outfitters Way Replat will finalize the proposed section line easement vacations. The Plat Committee is scheduled to review the plat on May 23, 2022.

KPB department / agency review:		
Planner	Reviewer: Raidmae, Ryan	
	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:	
	21919 STERLING HWY	
	21971 STERLING HWY	
	21949 STERLING HWY	
	Existing Street Names are Correct: Yes	
	List of Correct Street Names:	
	STERLING HWY	
	PERSISTANT WAY	
	Existing Street Name Corrections Needed:	
	Existing Street Name Corrections Needed.	
	All New Otreat Nemes are Approved. Vee	
	All New Street Names are Approved: Yes	
	List of Assessed Oter at New an	
	List of Approved Street Names:	
	OUTFITTERS WAY	
	List of Street Names Denied:	
	Comments:	
	21919 STERLING HWY and 21949 STERLING HWY will be deleted and	
	replaced with OUTFITTERS WAY addresses.	

KPB department / agency review:

Assessing	Reviewer: Wilcox, Adeena
	Comments: No comment
Advisory Planning Commission	No comments noted regarding the vacation of the section line easement
	vacations. Minutes are attached for review.

Utility provider review:

HEA	Not within HEA service area.
ENSTAR	No comments or recommendations.
ACS	This is not an ACS service area. No objections
GCI	Approved as shown
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends <u>APPROVAL</u> 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 four years of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

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

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

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

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

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

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

END OF STAFF REPORT



Aerial

Kenai Peninsula Borough Planning Department

5/11/2022



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. E1-10



Kenai Peninsula Borough Planning Department

KPB File Number 2022-060V 5/11/2022

N

Ellon and a second

5-foot Contours



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. E1-11

Kenai Peninsula Borough Planning Department Wetlands



KPB File Number 2022-060V

5/11/2022

N

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. E1-12



Quainton, Madeleine

From:	Keiner, Robert (DOT) <bob.keiner@alaska.gov></bob.keiner@alaska.gov>
Sent:	Tuesday, May 10, 2022 3:40 PM
То:	Quainton, Madeleine
Cc:	Eaton, Belinda L (DOT)
Subject:	<external-sender>RE: PLAT REVIEW FOR May 23, 2022 MEETING: Plat Review State</external-sender>
	Group; GCI; Enstar; HEA; ACS
Attachments:	RE: Quartz Creek Subdivision Preliminary Design

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.

Madeleine,

The SOA Central Region Right of Way (ROW) Engineering section has reviewed the following plats for interpretation of any existing State ROW. We are not including comments on any possible concerns from a planning, design, safety, or traffic position. Plats not mentioned below are not on the State road system, therefore no comment was made.

Wales Subdivision, KPB File 2022-061 – The ROW for Sterling Highway is generally as shown on sheet 15 of 38 of State of Alaska Right of Way Plat F-021-1(2) and appears to be shown correctly.

Mott's Subdivision 2022 Addition, KPB File 2022-059 – The ROW for Gaswell Road is as shown on previous plats 2000-67 & 2018-62, and appears to be shown correctly.

Quartz Creek Subdivision Outfitters Way Replat & Section Line Easement Vacation, KPB File 2022-060 – Please see attached email comments that were submitted separately from the Sterling Highway 45-60 project team to Marcus Mueller as well.

Thank you for the opportunity to review these plats.

Bob Keiner, P.L.S.

ROW Engineering Supervisor Central Region DOT/PF Work: (907) 269-0713

From: Quainton, Madeleine <mquainton@kpb.us> Sent: Tuesday, May 3, 2022 9:30 AM

To: Byron Jackson <byron.jackson@acsalaska.com>; Marsengill, Dale <DMarsengill@HomerElectric.com>; ENSTAR ROW <row@enstarnaturalgas.com>; Biloon, Joselyn (DOT) <joselyn.biloon@alaska.gov>; Keiner, Robert (DOT) <bob.keiner@alaska.gov>; 'ospdesign@gci.com' <ospdesign@gci.com>; Percy, Colton T (DFG) <colton.percy@alaska.gov>; 'Huff, Scott' <shuff@HomerElectric.com>
 Cc: 'Zubeck, Brad' <BZubeck@HomerElectric.com>
 Subject: PLAT REVIEW FOR May 23, 2022 MEETING: Plat Review State Group; GCI; Enstar; HEA; ACS

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.

Hello,

Attached are the plats to be reviewed for the May 23, 2022 meeting.

- Tulchina Pointe Estates 2022 Replat KPB 2022-023 (New design)
- Kenai Meadows Addition No 1 KPB 2022-035
- Bailey Estates Karpik Rice Replat KPB 2022-038
- King's Creek 2022 Replat KPB 2022-056
- Lower Cohoe Subdivision Tracts 1 Thru 7 KPB 2022-057
- Morning Panorama Subdivision #2 KPB 2022-058
- Mott's Subdivision 2022 Addition KPB 2022-059
- Quartz Creek Subdivision Outfitters Way Replat KPB 2022-060
- Wales Subdivision KPB 2022-061

Please provide comments by May 11, 2022 to ensure the comments will be included in a preliminary plat staff report.

Preliminary plat comments will be accepted until the 1:00 p.m. Friday before the meeting date.

Madeleine Quainton Platting Technician Planning Department Ph: (907) 714-2207 Fx: (907) 714-2378


Quainton, Madeleine

From:	Ferguson, Cynthia L (DOT) <cynthia.ferguson@alaska.gov></cynthia.ferguson@alaska.gov>	
Sent:	Tuesday, May 10, 2022 1:11 PM	
То:	Mueller, Marcus	
Cc:	'seggy@ptialaska.net'; Baski, Sean M (DOT); Keiner, Robert (DOT); Sowerwine, James E (DOT); Simpson, Danika L (DOT); Thomas, Scott E (DOT); Kastner, Lorraine S (DOT); Talbert, Alvin H (DOT); Drake, Alan L (DOT); Tymick, Jonathan J (DOT); Lance Debernardi	
Subject:	RE: Quartz Creek Subdivision Preliminary Design	
Attachments:	EOP Frontage Rd Alternative with KPB Prelim Plat (2022-05-04).pdf; RE: Quartz Creek	
	Subdivision Preliminary Design	

Hi Marcus-

Please see the attached comments from the Sterling Hwy MP 45 to 60 team and Scott Thomas, CR Traffic Safety Engineer. I would also like to add a request for the addition of utility easements.

DOT&PF supports the preliminary plat to dedicate a frontage road along Quartz Creek Sub Tracts A, B & C for highway safety and for local KPB community Planning and circulation. This preliminary plat provides more public access and circulation options including resolving Russian Gap Road in the long term. Without it, the community will have fewer options and be more limited for internal circulation.

Thank you for the opportunity to comment.

Cynthia Ferguson, P.E., TS&U Chief Alaska DOT&PF, Central Region Traffic, Safety, and Utilities Section 4111 Aviation Ave, Anchorage, AK 99519 Phone: 907.269.0693 | email: <u>cynthia.ferguson@alaska.gov</u>

"Keep Alaska Moving through service and infrastructure."

From: Mueller, Marcus <MMueller@kpb.us>
Sent: Friday, April 29, 2022 12:59 PM
To: Ferguson, Cynthia L (DOT) <cynthia.ferguson@alaska.gov>
Cc: 'seggy@ptialaska.net' <seggy@ptialaska.net>
Subject: Quartz Creek Subdivision Preliminary Design

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.

Cynthia,

Attached is a copy of the Preliminary Plat to dedicate frontage road along Quartz Creek Sub Tracts A, B & C.

Review is requested particularly to determine if any dimensional adjustments are needed to fit with roadway, intersection, and safety designs.

Regards,

Marcus A Mueller Land Management Officer Geographic Information Systems Manager Kenai Peninsula Borough 907.714.2204 mmueller@kpb.us

From: Quainton, Madeleine
Sent: Friday, April 29, 2022 12:50 PM
To: Mueller, Marcus <<u>MMueller@kpb.us</u>>
Subject: Quartz Creek Subdivision Preliminary Design

Marcus,

Please let me know if you need any other documents from the file.

Thank you,

Madeleine Quainton Platting Technician Planning Department Ph: (907) 714-2207 Fx: (907) 714-2378

KENAI PENINSULA BOROUGH 144 North Binkley Street Soldothe, Alaska 99659

Quainton, Madeleine

From:	Thomas, Scott E (DOT) <scott.thomas@alaska.gov></scott.thomas@alaska.gov>
Sent:	Friday, April 29, 2022 2:31 PM
To:	Ferguson, Cynthia L (DOT)
Subject:	RE: Quartz Creek Subdivision Preliminary Design
Follow Up Flag:	Follow up
Flag Status:	Flagged

- Is it clear Outfitters Way extends across Lot C1?
 I see it is drawn out. But not dimensioned like the other lots as it is broken by Persistent Way.
- 2. Minor edit. I see no conservation easements. I'm ok with that. The 100' Public Access Easement is that still pedestrian only? Not a big concern as it has a creek in it. As drawn it appears to wrap around the South lot boundary, when it really doesn't.
- 3. Check? Some easements are recorded on Books are they are they all drawn too? Do we need to check for conflicts with Book easements?
- 4. Issue for later? I see more KPB lands and then the rest is DNR to the east. I think we are doing enough with these parcels and Russian Gap Road.

To the north KPB has one large parcel not well suited to Russian Gap Road – can we raise the issue in later meetings, separately, that KPB needs to think about how to get to the Russian Gap Rd LT bay, as I show in red? That is for some other day – I thought it was all USFS to the east. But its not to the NE.

Then it's all DNR after that.

Scott



From: Ferguson, Cynthia L (DOT) <cynthia.ferguson@alaska.gov> Sent: Friday, April 29, 2022 2:12 PM

To: Vanderwood, Randy D (DOT) <randy.vanderwood@alaska.gov>; Simpson, Danika L (DOT) <danika.simpson@alaska.gov>; Thomas, Scott E (DOT) <scott.thomas@alaska.gov>; Biloon, Joselyn (DOT) <joselyn.biloon@alaska.gov>; Tymick, Jonathan J (DOT) <jonathan.tymick@alaska.gov>; Baski, Sean M (DOT) <sean.baski@alaska.gov>; Reese, Jill (DOT) <jill.reese@alaska.gov>; McCarthy, Shannon K (DOT) <shannon.mccarthy@alaska.gov>; Lance Debernardi <ldebernardi@rmconsult.com>; Talbert, Alvin H (DOT)

<alvin.talbert@alaska.gov> Subject: Quartz Creek Subdivision Preliminary Design

Hi All-

Please see attached drawing and highlighted request from Marcus below. Please send me any comments so I can consolidate them and send them to Marcus.

Cynthia Ferguson, P.E., TS&U Chief Alaska DOT&PF, Central Region Traffic, Safety, and Utilities Section 4111 Aviation Ave, Anchorage, AK 99519 Phone: 907.269.0693 | email: <u>cynthia.ferguson@alaska.gov</u>

"Keep Alaska Moving through service and infrastructure."

From: Mueller, Marcus <<u>MMueller@kpb.us</u>>
Sent: Friday, April 29, 2022 12:59 PM
To: Ferguson, Cynthia L (DOT) <<u>cynthia.ferguson@alaska.gov</u>>
Cc: 'seggy@ptialaska.net' <<u>seggy@ptialaska.net</u>>
Subject: Quartz Creek Subdivision Preliminary Design

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.

Cynthia,

Attached is a copy of the Preliminary Plat to dedicate frontage road along Quartz Creek Sub Tracts A, B & C.

Review is requested particularly to determine if any dimensional adjustments are needed to fit with roadway, intersection, and safety designs.

Regards,

Marcus A Mueller Land Management Officer Geographic Information Systems Manager Kenai Peninsula Borough 907.714.2204 mmueller@kpb.us

From: Quainton, Madeleine
Sent: Friday, April 29, 2022 12:50 PM
To: Mueller, Marcus <<u>MMueller@kpb.us</u>>
Subject: Quartz Creek Subdivision Preliminary Design

Marcus,

Please let me know if you need any other documents from the file.

Thank you,

Madeleine Quainton

Platting Technician Planning Department Ph: (907) 714-2207 Fx: (907) 714-2378









COOPER LANDING ADVISORY PLANNING COMMISSION REGULAR MEETING LOCATION: ZOOM TELECONFERENCE WEDNESDAY, MAY 04, 2022 6:00 PM UNAPPROVED MINUTES

1. CALL TO ORDER - 6:00 pm

- 2. ROLL CALL J. Cadieux, K. Recken, Y. Galbraith, C. Degernes, L. Johnson, D. Story present. H. Harrison excused absent.
 - a. Nancy Carver; Kenai River Center, Jonathan Tymick ADOT&PF, Marcus Mueller; KPB Land Management, Aaron Hughes; KPB Land Management, Dakota Truitt; KPB Land Management, Alice Rademacher, Carol Fox, Rhonda Lynn, Phil Weber, Jerry Fox, Kim Neis, Jerry Neis, Virginia Morgan attending.
- 3. APPROVAL OF AGENDA C. Degernes moves to approve the agenda as amended. L. Johnson seconds. All approve.
- 4. APPROVAL OF MINUTES for April 06, 2022 This items was mistakenly skipped and will be addressed at the June 8 meeting.
- 5. CORRESPONDENCE none
- 6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE none
- 7. REPORT FROM BOROUGH
 - a. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Jonathan Tymick, PE, Project Manager, AKDOT&PF.
 - i. Lane closures at MP 58 for blasting were successful. There will be other closures to be determined at a future date.
 - ii. Open house was successful.
 - iii. Construction is finally happening on the pioneer roads. There will be a temporary cul-de-sac on Langille Road for emergency vehicles.
 - iv. There will be more publicly available firewood this year so stay tuned.
 - b. No KPB report other than those items in the agenda
- 8. OLD BUSINESS none

applied for and others are still being sought but all is in process and none yet confirmed.

- b. M. Mueller explained the framework this ordinance provides is the same whether it is a timber sale or a service contract.
- 8. Y. Galbraith moved to recommend approval of the ordinance with the amended language for Whereas #12. L. Johnson seconds.
 - a. The modification of the language is as follows: "Whereas, treatments will establish, preserve, and regulate logging infrastructure such as roads, resource management access, and recreational trails, along with methods to close out temporary forest access; and"
- iv. D. Story suggested the modification of the language of Whereas 15 to read, "...forest management sale reports designed for a given unit may exceed the standards of the Alaska Forest Resource and Practices Act, and should in areas determined to be sensitive, susceptible to damage, and in need of additional protection; and"
 - 1. Y. Galbraith agreed to the amended motion to include the modified language for Whereas #15 as well as #12 as proposed.
 - 2. All approved, motion passed.
 - 3. C. Degernes said she appreciates the work of KPB staff members on this important project.
- d. Permit for floodplain action Drift Worldwide, Inc.
 - i. After group discussion of the structure type, location, and adequacy of the onsite septic, C. Degernes moves to recommend approval of the permit for construction of the structures. Y. Galbraith seconds. D. Story recuses. All approve. Motion passes.
- e. Ordinance 2021-19-51 Land Trust Fund monies for investigation and land planning in Unit 395
 - i. Respect is the firm that has been selected and the ordinance is asking the land trust for monies to fund the investigation and land planning in Unit 395.
 - 1. C. Degernes moves to support the ordinance as written. L. Johnson seconds. All approve. Motion passes.

10. PLAT REVIEW

- a. Plat Preliminary 2022-060 Outfitters Way replat
 - i. M. Mueller explained that this plat is to lay out the right-of-way for a frontage road extending to the waste transfer site. It was brought by DOT to limit the accesses to the highway. The traffic safety team at DOT has been involved with this frontage road to bring the traffic from Quartz Creek Rd. and improve the turning safety to Russian Gap Rd. It would remove access to the highway

from Persistance Way and reduce the driveways at the KPB waste transfer site to just the one across from Russian Gap Rd.

- ii. Conservation easement on the plat goes across Tracts A and B. Tract B also has a conservation easement that surrounds the tract. In the ordinance that authorized the sale to Sherman Smith it created that 50' easement. The KPB is trying to figure out the mechanics of unwinding the conservation easements to 25' on two of the sides and subsequently an action to modify the deed.
- iii. On the plat the Outfitters Way frontage road would lay over the existing conservation easement on the north side of the tracts and the remaining conservation easements would be reduced from 50' to 25'.
- iv. K. Recken asked for confirmation that the frontage road would extend from the parking lot of the Sunrise Inn to the transfer site with no conservation easements.
 - 1. M. Mueller explained that that is correct.
- v. J. Cadieux asked if it is because there is not enough room for both the conservation easement and the frontage road.
 - 1. M. Mueller said that they occupy the same location.
- vi. V. Morgan asked where she could access the plat.
 - 1. J. Cadieux said the CLAPC had only gotten this information yesterday.
 - 2. N. Carver confirmed that the plat is up for review at the May 23, 2022 Planning Commission Meeting. Comments are due May 11th.
- vii. J. Tymick shared a graphic to help explain.
 - 1. He said that the Three Bears access congests the MP 45-60 project and this proposed project may help with access and the Russian Gap turning lane.
- viii. J. Neiss said that one of the issues with the transfer station is that we get a lot of non-residents dumping and this layout would help reduce that.
 - 1. K. Recken clarified that the plans show that the highway access to the transfer station will still be preserved so it would not prevent the non-resident dumping.
 - ix. J. Tymick said that the conservation easement being reclassified started with the DOT's belief that a frontage road is in the best interest of the project.
 - x. J. Cadeiux said that the community had a series of meetings that fielded many comments saying that a frontage road was not desirable but that a compromise had been achieved to allow a frontage road as far as the Cozy Bear property then the road would pass through Tract C and on to Tract B.
- xi. L. Johnson asked whether the reduction of the greenbelt would continue down to Tract D.

- 1. M. Mueller said this would not alter Tract D's conservation easement.
- xii. J. Cadieux asked if the conservation easement would be vacated on the other boundaries of Tract B to allow the new owner to use more of the land. M. Mueller indicated that was so though the 50' conservation easement would remain next to the parcel's boundary with Dena'ina Creek, an anadromous stream.
- xiii. K. Recken asked why the frontage road couldn't go on the same alignment as on Tract D and if it was just because Three Bears doesn't want the conservation agreement that we approved during their initial plat request. J. Tymick referred back to the drawing showing the space available along Tracts C and B would require elimination of the conservation easement to make way for the frontage road.
- xiv. J. Cadieux said that it seems like if we are not having access to the highway why can't we return to the plans we spent so much time at previous CLAPC meetings with KPB and a hired design professional.
 - 1. J. Tymick said that the proposed frontage road is intended to stay within the DOT right of way and not mean DOT would need to take possession of the maintenance of the frontage road.
 - 2. J. Cadieux asked that since the planning process of Tract C involved notable community effort over multiple meetings, can the original planning for Tract C be on the table or has it been abandoned and we have to give up our green space.
 - a. M. Mueller indicated it might be possible.
- xv. D. Story said that the timing of this information is hard to support since it is just being presented and the community was not informed via draft agenda that this change was proposed.
- xvi. J. Cadieux asked if this is something that needs to happen right now.
 - 1. M. Mueller said that from his standpoint in land management there is not a time crunch but the platting process does have a statutory timeframe.
- xvii. C. Degernes said that one of the biggest benefits to the community is DOT's willingness to provide safe ingress and egress to Russian Gap Rd. but that the loss of the 50' treed buffer is a big deal. C. Degernes said that a hybrid might be that there is a spur road from the transfer site side to Tract B but the 50' buffer remains and the frontage road across Tracts C and B from Quartz Creek runs south of the 50' buffer.
- xviii. J. Cadieux said that she also supports the improvement to the ingress/egress.
 - xix. D. Story said that the resistance to a frontage road at the entry to our community seemed to come from the desire to keep it from

feeling like a strip mall. He said that the Brewery's treatment of the 50' conservation easement seemed like a good compromise with the need for a business to be seen and maintaining greenspace that ties the community to the land management intent.

- xx. L. Johnson said she agreed with D. Story
- xxi. K. Recken said that the importance of the conservation easement is considerable for the community.
- xxii. C. Degernes said that another possible compromise is to move the frontage road further in. The businesses get more access and the community retains the buffer. They lose some of the usable area of their property but maintain the easements that are a part of their property. Right now it seems like Three Bears doesn't lose much while the community does.
- xxiii. D. Story said that in this short discussion we have already had several ideas for compromise or change and we are the only ones in the community that know that this is a discussion. He said that it seems like our obligation is to make sure the community has more opportunity for input.
- xxiv. V. Morgan speaking, not as a Planning Commission member but as a community member, said this should be brought before the community.
- xxv. R. Lynn asked whether it can be withdrawn from the May 23rd Planning Commission Meeting.
 - 1. M. Mueller said that he would consult the platting specialist for KPB and find out more about bringing this up for the June CLAPC meeting.
- xxvi. D. Story moves to recommend disapproval of the plat as presented and recommend for extended time for public review and comment regarding the design options. L. Johnson seconds. All approve. Motion passes.

11. INFORMATION and ANNOUNCEMENTS

- a. Ordinance 2022-07 Re-Apportionment of Board of Education
 - i. V. Morgan said that this is a part of a regular review of the districts and their populations. She explained that there are generally two options for changes which are presented with the review. In this case it is a 9 district option and an 11 district options. She said that the conceptual maps presented in the voting pamphlets are just that and after the vote the KPB will make the actual map based on the census blocks. She said this is also for the assembly districts and that there is a cost increase with an 11 district model and that the 11 district model is what was recommended by the committee.
- b. The new Planning Department Director is Robert Ruffner.

12. COMMISSIONER'S COMMENTS

E. NEW BUSINESS

 Conditional Use Permit; PC Resolution 2022-22

 To perform bank stabilization on a parcel within the 50' Habitat Protection District of the Kenai River
 Location: 992 Bridge Access Road, Kenai; PIN 049-011-35
 Petitioners: Will & Becky Jahrig
 City of Kenai



Conditional Use Permit Anadromous Waters Habitat Protection District Staff Report

KPB File No.	2022-22
Planning Commission Meeting:	May 23, 2022
Applicant	Will & Becky Jahrig
Mailing Address	PO Box 51
	Kenai, AK 99611
Legal Description	T 05N R 11W SEC 4 SEWARD MERIDIAN KN 2020044 KRISTINE SUB NO 1 LOT 3
Physical Address	992 Bridge Access Rd
KPB Parcel Number	04901135

Project Description

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

The applicant is looking to develop this property for residential use. While the residence will be outside the 50-foot Habitat Protection District, the 20-foot bluff on the property has become unstable due to various erosion processes. This property is the only undeveloped land in this section of the river, and is bordered by impervious surfaces upstream and downstream. Accompanied with reflective wave energy, the riverine and coastal processes have contributed to the erosion of the property. The applicant is looking to stabilize their bank to preserve their property. To mitigate the erosion, the applicant is proposing the following activities within the HPD:

- 1. Taper the bluff back, decreasing the angle from 45 degrees to 22 degrees.
- 2. Place approximately 4" of topsoil and plant natural vegetation along the new slope.
- 3. Toe-in three and four-foot-diameter boulders at the High-High Tide mark.
- 4. Backfill with 6-12-inch diameter rock and gravel, layered in geotextile fabrics.

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(A), the proposed components may be approved as a conditional structure or use within the habitat protection district.
- 3. The KPB Planning Commission granted similar bank stabilization techniques on a nearby property through Resolution 2020-08.
- 4. This property is the only undeveloped land in this area of the river, and is bordered by impervious surfaces upstream and downstream, which have contributed to the erosion of this parcel.
- 5. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.

- 7. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- Pursuant to KPB 21.18.071(A)(4) Bank protection measures, this project's intent is to preserve the bank and stabilize it against future erosion. Placing boulders at the toe of the bank will mitigate further erosion to the bluff, and allow the newly tapered bluff to be revegetated.
- Pursuant to KPB 21.06.081(D)(3), the proposed structure shall not physically damage adjoining properties. The applicant was granted permission from both adjacent property owners, and will extend the revetment onto those properties in order to mitigate any damage from reflective wave energy and reduce any chance of back eddying.
- 10. Pursuant to KPB 21.18.020(D), one of the purposes of Chapter 21.18 is to provide a guide for growth and development along anadromous waters in accordance with Kenai Peninsula Comprehensive Plan and through protecting and enhancing real property values.
- 11. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
 - "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 12. On April 13, 2022, the River Center, the Alaska Department of Fish and Game, US Army Corps of Engineers, and US Fish and Wildlife staff met with the applicant to perform a site visit.
- 13. The River Center found the application complete and scheduled a public hearing for May 23, 2022.
- 14. Agency review was distributed on May 6, 2022. No comments or objections have been received from resource agencies.
- 15. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on May 9, 2022. A total of 9 mailings were sent. No comments or objections have been received.
- 16. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on May 11, 2022 and May 19, 2022.
- 17. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

- 1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
- 2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
- 3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
- 4. Storage or use of fuel is prohibited within 50-feet of any open water.
- 5. The River Center shall be notified at least 3 days prior to the start of the project.
- 6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
- 7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 8. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of

issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081(H)).

- 9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
- 10. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
- 11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)). The Alaska Department of Fish and Game issued a Fish Habitat Permit on May 10, 2022. Applicant is also working to obtain a permit from the US Army Corps of Engineers.

General Standards

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

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; Findings 3, 4, 8, 9 and Conditions 1-3 appear to support this standard.
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1, 2, 5-11, and Condition 10 appear to support this standard.**
- The development of the use or structure shall not physically damage the adjoining property; Finding 9 appears to support this standard.
- 4. The proposed use or structure is water-dependent; Findings 4, 8, 11 appear to support this standard.
- Applicant's or owner's compliance with other borough permits and ordinance requirements. Finding 17 appears to support this standard.

Attachments

- 1. Vicinity Map
- 2. Multi-Agency Application
- 3. Public Hearing Notice
- 4. ADFG Fish Habitat Permit
- 5. Draft Resolution 2022-22
- 6. Resolution 2020-08

Recommendation

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses. Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2022-22.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter

21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT

Multi Agency Permit Application



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

Applicant Information:		Agent Information: (if applicable)
Name: Will and Becky Jahrig		Name:
Owner? 🔳 Yes		
Mailing: PO Box 51		Mailing:
	AK 99611	
Phone: 907-252-5916 (Will)		Phone:
Email: jahrig@acsalaska.net		Email:
Burto al control		
Project Location: KPB Parcel ID: 04901135		Subdivision: Kristine Sub
Physical Address: 992 Bridge Access Rd		
Waterbody Name: Kenai River		_ Directions to site:
Waterbody Name: River Mile:	1 Riverbank: Right	
Triver wine.	looking downstream	
Permit Fees: (pleas	se select the applicable permit fees)	
S100 - ADNR St) - KPB Conditional Use Permit
S50 - KPB Habit	at/Floodplain Permit 🗌 \$300) - KPB Floodway Development Permit
Project Description	New Project OR	ension endment to RC#
Provide a detailed of the following inform		ed activities, use additional pages if needed. Include
 Project location & Waterbody descr Proximity to OHW 	iption & proximity = Filling/dredgin	g/excavation: • Vegetation Removal: location,
Installation of Armou	ur Rock / Rip Rap to provide high tide,	storm erosion/damage protection to existing river bank.
See attached dia	agrams, drawings, and photo's	of purposed.
KDB Tax Credity /	kin this spatian if your project is a	
Disease and dieute. (S	skip this section if your project is p	rior existing, only applicable to NEW projects)

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

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

\$_____\$ \$_____ \$_100,000.00

Project Questions:

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

- 1. Start date: _____ End date: _____ Estimated Days of Construction: 14 days
- 2. Is the project located within 50 feet of OHW or HTL a waterbody?
 Yes INO
- 3. Does any portion of the project extend below the OHW or HTL of the stream or waterbody?
 Yes INO
- 4. Does any portion of the project cantilever or extend over the OHW of the waterbody? Tyes IN No
- 5. Will anything be placed below OHW or HTL of the waterbody?
 Yes INo
- 6. Will material be extracted or dredged from the site? I Yes I No
- Including areas below OHW or HTL, what is the total area (in acres) that will be excavated or dredged? Total Area: <u>N/A</u> Type of Material: ______ Location you will depositing fill:
- 8. Will any material (including soils, debris, and/or overburden) be used as fill? Yes No
 Type of material: sand/gravel Amount: 150 cu yds
 Permanent or Temporary Will fill be placed below OHW or HTL: Yes No
- 9. List all motorized equipment to be used in this project, including access route to site, any stream or waterbody crossings, and (if applicable) how long equipment will be used below OHW or HTL: Excavator it will be above mean high water mark
- Is any portion of the work already complete? Yes No If yes, describe: ______

Signature & Certification:

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

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

Applicant Signature (required)

5-2-22

Date

Agent Signature (if applicable)

Date

William and Becky Jahrig Lot 3 Kristine Subdivision. Proposed Armour Rock/Rip Rap Installation

Please see attached photos for location, description of scope of work (blue arrow is Ref North). Also, see attached PDF for AutoCAD representation of project.

Photo 1 - Project Location - 992 Bridge Access Rd., Kenai, AK

Photo 2 - Kristine Subdivision (Fredrickson Homestead) Land Survey A-Lots 1-2-3 B-Lot 3

Photo 3 - Lot 3 Overhead View location with property lines (green) and armour rock location (yellow). This property and surrounding was used as the gravel borough site for the Bridge Access Road and Warren Ames Bridge install. The area we intend to build on and perform the erosion control is sand/gravel. All the original topsoil was removed 45 years previously.

Photo 4 – Photos of proposed Armour Rock install
A-Photo of proposed armour rock. Reference only looking Northeast
B-Photo of 24'6" High Tide Fall of 2021. Looking South
C-Photo of 24'6" High Tide Looking at Dragnet Property. Looking Southeast
D-Photo of Building and armour rock placement. Reference Only. Looking Northeast

Photo 5 - Armour rock reference look of install.

A-Rock placed and then top graded for vegetation.

B-Top grade to incorporate willow and local beach grasses etc.

Photo 6 - Dragnet Fisheries (Port of Kenai LLC Private Property) existing bulkhead - Tie-In photos

A- Existing Steel I-Beam and 30" Pipe Tie-In point. Looking Southeast

B – Photo of existing Dragnet 24" Heavy Flange I-Beam running from 30" Pipe Bulkhead – armour rock tie-in point.

C- Photo of existing 24" I-Beam and Tie-in point

Photo 7 - Lot 2 Kristine Subdivision, Tie-in and corner protection.

A- Lot 2 wood gabion bulkhead

B- Lot 2-3 Property line and Corner Wood Gabion

The purpose of the project is to stabilize the bluff front and prevent ongoing storm driven/tidal erosion to Lot 3 (Jahrig Lot) and adjacent properties in accordance with KPB 21.18.020:

- 1. Develop better vegetation growth area and stabilize Bluff from erosion sediment into river water column. Hold back future erosion that will destroy existing up stream small, vegetated area.
- 2. Due to prior topsoil removal some 45 years prior area now lacks vegetation growth. As design shows we intend to provide needed soils and contours for future long-term vegetation. We intend to use natural localized vegetation.

- 3. Design will use a natural low area approx. 200' from beach property line for property drainage reception. It is 4' lower than surrounding area with natural vegetation and smaller spruce trees. Septic system will be well over 200' from Toe of Bluff existing.
- 4. We do not plan to have any means of pollution or destructive/detrimental structures located in or around the anadromous habitat.
- 5. As stated above;
 - Design will decrease significant erosion and in turn allow for a healthier long term stable ecosystem to grow and take hold. Vegetation assists with the final design to stop future land erosion loses.
 - We intend for all yard drainage to flow to naturally to a low area so runoff cannot carry sediment or damaging materials into river water.
 - New bluff slope will be stable and not have the soils erosion as is now occurring due to Hi Tide driven land lose.
 - Design will hold existing footprint of riparian ecosystems and for future additive growth.

Project explanation and installation justification:

- Toe of bluff bank is unprotected at the 21' tide to extreme hi tide mark (25'2" HHW) and storms erode the sand/gravel of the existing bank.
- Propose installing armour rock starting at the 20'6" tide mark up to the bluff toe to prevent future erosion of Lot 3.
- To protect upstream and downstream adjacent properties, see Photo #3. Due to the erosion of Lot 3, erosion of adjacent properties is occurring behind the existing erosion control. If not protected, the erosion of adjacent properties will continue at the higher tide elevations. We propose continuation of armour rock to protect Lot 2 Kristine Subdivision and Port of Kenai, as shown in drawing C-11.
- Re-grade bluff slope and plant using native vegetation. This property was used as the gravel borough site for the Bridge Access Road and Warren Ames Bridge installation. All original topsoil was removed 45 years previously. In addition to erosion control, the goal of this project is to re-slope and re-vegetate existing bluff to toe. See drawing C-10.

Proposed design:

- Install armour rock retaining wall to prevent further storms/tidal erosion.
- The toe rock of 4' diameter is key to the design. These being dug down into the sand 2' to 3' will act as pinning the rocks in place so not to move easily.
 - The front row being dug down into the sand 2' to 3' will assist this process being pinned into the beach. See drawing # C-09 & 10
 - Upper layers of rock 3' to 4' will then be held in placed from the front row. See drawing # C-09 & 10
- Tapering existing bluff in a gradual manner will allow for proper drainage of rainwater/snow melt thru the natural existing sand/gravel. Using a thin topsoil layer and grassed and vegetated properly will hold soils in place until root mass forms.
- The top-level area at the 27'6" mark will be vegetated and maintained as a green strip and then the
 existing bluff tapered gradually at 22-degree slope and vegetated to prevent erosion due to
 wind/melt/rain etc. Like photos #5A / 5B
- The reason for the 27'6" flat vegetated area is so to be above saltwater intrusion and will allow vegetation to grow. Once vegetation takes hold it will find a lower growth level naturally.

- In order to protect river from unwanted water runoff from Lot 3, property drainage will be controlled and allowed to drain back inward to a natural low spot approximately 200' from the bluff edge. See photo #4A
- Geotextile will not be placed under the larger 3' to 4' rocks so that material will not be washed into river water if a failure was to occur. This will allow for needed repair/replacement rock to be set in place without digging and or need to work on failed geotextile material.

Armour Rock / Rip Rap Benefits:

From attached photos we see that all areas that has existing bank bulkhead protection (one form or another) the erosion has been controlled. Poorly designed and failing installs show lesser ability to withstand erosion effects. Install of the Armour rock will allow for long term development in a beach friendly environment.

- Rip rap provides a safe, environmentally friendly solution to the problem of erosion.
- Rip rap acts as an energy dissipator and the energy of the waves and tidal fluctuations are absorbed by the rock providing a gentler, softer wave breaking method. The armour rock will allow for a more natural water wave action break and a solid barrier for future storm occurrences.
- Rip rap is durable and easily maintained and repaired. Where steel can rust, and wood can rot, warp and deform, rip rap only needs maintenance in certain areas. Armour rocks usage will provide substantial long-term erosion protection.
- Because rip rap is a natural element, it introduces and creates new habitats for animals and vegetation.
- Design will hold existing footprint of riparian ecosystems and for future additive growth.
- Develop better vegetation growth area and stabilize bluff from erosion sediment into river water column.
- Prevents future erosion that will destroy existing upstream vegetated area (Port of Kenai adjacent property).
- Placed as a whole unit design i.e., in a tight row parallel to bluff toe ice will not be able freeze to them and lift as easily as single rocks will do.
- Provide habitat when tidal waters reach the armour rock above the 20'6" HW.
- As design shows we intend to re-slope and add soils and contours for future long-term vegetation. We intend to use natural localized vegetation.
- In order to protect river from unwanted water runoff from Lot 3, property drainage will be controlled and allowed to drain back inward to a natural low spot approximately 200' from the bluff edge. See photo #4A
- No pollution or destructive/detrimental structures located in or around the anadromous habitat.
- The proposed armour rock install will only be in the water column approximately 10% of the time. This is due to tidal water being only present from the 20'6" height and above.
- Proposed design matches future installs in local areas. (City of Kenai Bluff Stabilization Project)
- Similar to the Homer Spit erosion protection.

Scope of Work:

Phase 1 – Installation of Rip Rap

- Scope of work for Phase 1 will require 2 to 3 weeks for completion. Vegetation will be followed in Phase 2 with grass being placed first.
- All work will be above the 20' tide mark.
- Work will only be performed during tides below 19' and dropping to low tide.

- Install equipment will not need to access beach at any time below the 19.1' MHW mark. All work will be above the 19.1' elevation.
- The rock placement will start 8' from the Lot 3 beach property line. This is 12' from the Toe of Bluff.
 Using 4' rocks at the face and then 3' to 4' rocks placed up slope behind the rock face. Drawing C-08 & C-09
- Only the immediate adjacent existing sand/gravel bluff material will be used as needed to supplement backfill. Any material removed from the beach to place the 3' to 4' rocks will be stock piled and used as upper level backfill. This is the same materials being washed away from erosion on to the sloping beach. See drawing # C-09 & 10
- The top of rocks will be at the 27'6" Height mark which is 2'4" above the HHW mark of 25'2" HHW (extreme hi tide mark).
- Finish top grade above the large 3' to 4' armour rock will first contain 6" to 12" rock held in place using Geotextile materials. See reference drawing # C-09
- As per drawings we then will use existing sand/gravel for bottom fill of Top fill area and Geotextile material for structural integrity. The Geotextiles will hold the smaller rock and sand/gravel from being eroded from possible wave action and rain/water erosion. See drawing # C-09 & 10

Phase 2 - Re-vegetate existing bluff to rip rap

- With the bluff being tapered properly in a gradual manner water will be able to drain properly thru the natural existing sand/gravel. Using a thin topsoil and grassed and vegetated properly to allow soils to be held from washing away using root build up.
- The top-level area at the 27'6" mark will be vegetated and maintained as a green strip and then the existing bluff tapered gradually and vegetated so to hold soils from erosions due to wind/melt/rain etc. Like photos #5A / 5B
- Design will decrease significant erosion and allow for a healthier long term stable ecosystem to grow and take hold. Vegetation assists with the final design to stop future land erosion loses.
- We intend for all yard drainage to flow to naturally to a low area so runoff cannot carry sediment or damaging materials into river water.
- Our proposed building will be set back 100' from existing TOE of BLUFF. This approx. 120' from the property line and approx. 135' from the Mean Hi Water (MHW) 19'1" mark.

Tie-in to Adjacent Property

- Install to include tie-in to adjacent properties, upriver and down river. See drawing # C-05 & C-11
- Tie to adjacent properties will stop possible future erosion or wash out from wind driven wave action.
- The up-stream tie-in to the Port of Kenai LLC will also provide existing vegetation protection of the only area locally with several beach grasses and beach plants and shrubs. The existing pipe/I-beam bulkhead was installed 53 years ago. See photo # 4A/4B/4C
- The down-stream property (Lot2) will have rock placed around the nose of the existing Wood Gabion style bulkhead. As seen in the attached photos this is failing. See photo # 7A / 7B

Alternative Design – Root Ball

Root Ball design will not work for erosion control in this area reasons as follows-

Due to salt water any placement below (25'2" HHW) the needed wave protection will not revegetate.
 Without the growth of vegetation, you will not have a future root mass tie-in.

- The need to anchor root balls using steel cables are only short-term life expectancy due to the steel rusty/rotting away from salt water.
- Very un-sightly install due to future movement from wave action (wanting to float) and not being able to vegetate except about the 25'2" HHW mark.
- Roots will be frozen in during winter, once thaw starts then the beach bank ice will lift the roots and either carry away or destroy any structural integrity placed to hold the roots (steel cables etc.). (We have photos showing the loss of several large singular rocks 3' to 4' in diameter from ice lifting and hauling off)
- Repairs are not easily accomplished due to using steel cables and sub-surface steel anchoring devices.
 See photo 7A / 7B
- Wood Rot due to salt water. See photo # 7A / 7B



#1-Project Location. Kenai Alaska,



#2A - Kristine Subd. Lots 1-2-3



#2B - Kristine Subd. Lot 3 – Jahrig Lot



Relative North



#3 - Lot 3 Overhead View of Armour Rock



#4A-Photos of Proposed Rock Armour Rip Rap install with Mark-ups. This is for a reference only

Relative North



#4B – Photo showing 24'6" High Tide during Fall of 2021

Relative North



#4C - Photo of 24'6" High Tide Looking at Dragnet Property. Direction is Southeast

Relative North



#4D-Photo of Building and Armour Rock. Reference Only. Looking Northeast



Relative North



#5A - Proposed Finish Look like the above photo. Finish elevation to be 2.5' above the 25' HHW Mark. Notice the smaller rock at edge of grass. A layer of Geotextile will be under this fill area so to hold back erosion of fine soils.


#5B – Finish to incorporate small Willow shrubs and local natural beach grasses and other natural vegetation.



#6A - Existing Steel I-Beam and 30" Pipe Tie-In point. Looking Southwest



74

E2-23



#6B – Photo of existing Dragnet 24" Heavy Flange I-Beam running from 30" Pipe Bulkhead

Relative North



#6C - Photo of 24" I-Beam



#7A - Lot 2 wood gabion bulkhead with Geo Textile Bags

1

Wood gabion with black plastic Geo-Textile material used as large bags filled with sand/gravel. Wood gabion walls are failing allowing the black plastic to work its way into the river proper. It failed due to materials being washed out from under the wood crib along with substandard structural materials.

Yellow Line is Lot 2-3 shared Property Line

Red Dot is approx corner of property Lots 2-3 and is located at the Mean High Water (MHW) Mark of 19.1'

#7B- Lot 2-3 Property line and Corner Wood Gabion with Geo Tech Bags













KENAI,	AK
E2-33	









SECTION VIEW

PLAT 2020-44 KENAI REC. DIST. 992 BRIDGE ACCESS ROAD **KENAI, AK** E2-37

REVISIONS			
MM/DD/YY	REMARKS		Š,
//			\cup
//			
//			
//			
//			00





PROJECT SITE OVERVIEW FINISHED GRADE W/ROCK & PLANTS NW PERSPECTIVE

JAHRIG PROPOSED ROCK FACING PROJECT KRISTINE SUBD. LOT 3 PLAT 2020-44 KENAI REC. DIST. 992 BRIDGE ACCESS ROAD KENAI, AK E2-39

		REVISIONS	
	MM/DD/YY	REMARKS	
1	/_/		
2	//		
3	//		
4	//		۲.
5	/_/		9

N

Donald E. Gilman River Center

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

A Division of the Planning Department

Charlie Pierce Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

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

Pursuant to KPB 21.18.081(A) to allow special uses and KPB 21.18.071(A)(4) Bank protection measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at T 05N R 11W SEC 4 SEWARD MERIDIAN KN 2020044 KRISTINE SUB NO 1 LOT 3 Kenai, Alaska.

Petitioner: WILL AND BECKY JAHRIG PO BOX 51 KENAI AK 99611

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on May 23, 2022 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <u>https://us06web.zoom.us/i/9077142200</u>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099 or 1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

<u>Public Comment</u>: Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. Written comments must be submitted by 1:00 pm Friday, May 21, 2022.

Mail comments to: Donald E. Gilman River Center 514 Funny River Road Soldotna, Alaska 99669 Fax comments to: (907) 260-5992 Email comments to: planning@kpb.us KenaiRivCenter@kpb.us

For additional information, contact Samantha Lopez, slopez@kpb.us, Donald E. Gilman River Center, (907) 714-2468.

Department of Fish and Game





HABITAT SECTION Southcentral Region Office

514 Funny River Road Soldotna, Alaska 99669-8255 Main: 907.714.2475 Fax: 907.260.5992

FISH HABITAT PERMIT FH22-V-0127

ISSUED: May 10, 2022 **EXPIRES**: Lifetime of Structure

Will & Becky Jahrig PO Box 51 Kenai, AK 99611

RE: Bank Stabilization

Kenai River – Stream No. 244-30-10010 Section 4, T 5N, R 11W, S.M. Location: 60.5478° N, 151.2238° W Kenai Peninsula Borough Parcel No. 049-011-35 River Center Tracking No. 12964

Dear Mr. and Mrs. Jahrig:

Pursuant to the anadromous fish act at AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Habitat Section, has reviewed your proposal to install approximately 300-feet of riprap revetment at the referenced location. The project will occur along the right bank of the Kenai River at river mile 1.5, Kristine Subdivision, Number 1, Lot 3.

Project Description

The rip rap revetment will be installed approximately 22-feet landward from the mean high water (MHW) mark. Large 4-foot diameter toe rocks will be placed 2 to 3-feet below the sand to anchor the rip rap installation. Behind these larger face rocks, a row of 3 to 4-foot diameter rocks will be placed, with smaller 3-foot diameter rocks placed behind these. Six to 12-inch diameter rock will be placed above the rip rap installation

over a geotextile filter to hold the smaller rock in place. A vegetated walkway and gradual bank slope will be established landward of the bank armoring. The rip rap will be tied to existing bank stabilization structures both upstream and downstream.

Willows and local beach grasses will be planted on top of the rip rap installation and the bluff to minimize erosion. All construction activities will occur above the MHW mark.

The River Center Multi-Agency Permit Application and associated attachments submitted on May 2, 2022, are hereby incorporated by reference into this project description.

Anadromous Fish Act

The Kenai River has been specified as being important for the migration, spawning and rearing of anadromous fish pursuant to AS 16.05.871(a). The Kenai River provides migration, spawning and rearing habitat for Chinook, sockeye, pink, chum, and coho salmon and other species of resident fish.

In accordance with AS 16.05.871(d), project approval is hereby given subject to the project description, the following stipulations, and the permit terms:

- 1. ADF&G, Habitat Section shall be contacted at (907) 714-2475 three days prior to project initiation.
- 2. There shall be no tracked or wheeled equipment operated within the flowing waters of the Kenai River.
- 3. All construction activities shall be conducted to minimize disturbance to the riverbed and minimize the introduction of sediment, pollutants, and other material into the Kenai River.

Permit Terms

This letter constitutes a permit issued under the authority of AS 16.05.871 and must be retained on site during project activities. Please be advised that this determination applies only to Habitat Section regulated activities; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other state, federal, or local permits. You are still required to comply with all other applicable laws.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify the Habitat Section and obtain written approval in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is a Habitat Section responsibility. Therefore, it is recommended you consult the Habitat Section immediately when a deviation from the approved plan is being considered.

-3-

For the purpose of inspecting or monitoring compliance with any condition of this permit, you shall give an authorized representative of the state free and unobstructed access, at safe and reasonable times, to the project site. You shall furnish whatever assistance and information as the authorized representative reasonably requires for monitoring and inspection purposes.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. You shall mitigate any adverse effect upon fish or wildlife, their habitats, or any restriction or interference with public use that the commissioner determines was a direct result of your failure to comply with this permit or any applicable law.

You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

You may appeal this permit decision relating to AS 16.05.871 in accordance with the provisions of AS 44.62.330-630.

Please direct questions about this permit to Habitat Biologist Kaitlynn Cafferty at (907) 714-2481 or e-mail at <u>kaitlynn.cafferty@alaska.gov</u>.

Sincerely,

Doug Vincent-Lang Commissioner

Tony Munter

- By: Tony Munter Kenai Peninsula Area Manager Habitat Section
- cc: KRC File

By email only:

AWT Soldotna ADF&G Soldotna COE - KFO Al Ott, ADF&G Fairbanks

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2022-22

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

- **WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS, KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS, KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- **WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- **WHEREAS,** public notice was published in the Peninsula Clarion on May 11, 2022 and May 19, 2022 as provided in Section 21.11.020; and
- **WHEREAS,** public testimony was received at the May 23, 2022 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

- 1. Taper the bluff back, decreasing the angle from 45 degrees to 22 degrees.
- 2. Place approximately 4" of topsoil and plant natural vegetation along the new slope.
- 3. Toe-in three and four-foot-diameter boulders at the High-High Tide mark.
- 4. Backfill with 6-12-inch diameter rock and gravel, layered in geotextile fabrics.

Section 2. Findings of fact pursuant to KPB 21.18.081

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.081(A), the proposed components may be approved as a conditional structure or use within the habitat protection district.
- 3. The KPB Planning Commission granted similar bank stabilization techniques on a nearby property through Resolution 2020-08.
- 4. This property is the only undeveloped land in this area of the river, and is bordered by impervious surfaces upstream and downstream, which have contributed to the erosion of this parcel.



- 5. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
- 6. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
- 7. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
- 8. Pursuant to KPB 21.18.071(A)(4) Bank protection measures, this project's intent is to preserve the bank and stabilize it against future erosion. Placing boulders at the toe of the bank will mitigate further erosion to the bluff, and allow the newly tapered bluff to be revegetated.
- 9. Pursuant to KPB 21.06.081(D)(3), the proposed structure shall not physically damage adjoining properties. The applicant was granted permission from both adjacent property owners, and will extend the revetment onto those properties in order to mitigate any damage from reflective wave energy and reduce any chance of back eddying.
- 10. Pursuant to KPB 21.18.020(D), one of the purposes of Chapter 21.18 is to provide a guide for growth and development along anadromous waters in accordance with Kenai Peninsula Comprehensive Plan and through protecting and enhancing real property values.
- 11. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as: "...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
- 12. On April 13, 2022, the River Center, the Alaska Department of Fish and Game, US Army Corps of Engineers, and US Fish and Wildlife staff met with the applicant to perform a site visit.
- The River Center found the application complete and scheduled a public hearing for May 23, 2022.
- 14. Agency review was distributed on May 6, 2022. No comments or objections have been received from resource agencies.
- 15. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on May 9, 2022. A total of 9 mailings were sent. No comments or objections have been received.
- 16. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on May 11, 2022 and May 19, 2022.
- 17. The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

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



- 6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
- 7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 8. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081(H)).
- 9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
- 10. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
- 11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)). The Alaska Department of Fish and Game issued a Fish Habitat Permit on May 10, 2022. Applicant is also working to obtain a permit from the US Army Corps of Engineers.

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

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; Findings 3, 4, 8, 9 and Conditions 1-3 appear to support this standard.
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1, 2, 5-11, and Condition 10 appear to support this standard.**
- 3. The development of the use or structure shall not physically damage the adjoining property; **Finding 9 appears to support this standard.**
- 4. The proposed use or structure is water-dependent; Findings 4, 8, 11 appear to support this standard.
- 5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 17 appears to support this standard.**



THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2022.

Blair Martin, Chairperson Planning Commission

ATTEST:

Ann Shirnberg Administrative Assistant

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



KENAI PENINSULA BOROUGH PLANNING COMMISSION

2020-08

A resolution granting approval of a Conditional Use Permit to install and maintain a bank stabilization project utilizing boulders within the 50-foot Habitat Protection District of Kenai River. This project is located in Section 10, Township 5N, Range 11W, SM, KN 2006096, Coyles Landing Subdivision Miller Replat, Lot 1-A, Kenai, AK.

WHEREAS Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the Habitat Protection District; and

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

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

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

WHEREAS public notice was published in the Peninsula Clarion on April 2, 2020 and April 9, 2020 as provided in Section 21.11.020; and

WHEREAS public testimony was received at the April 13, 2020 meeting of the Kenai Peninsula Borough Planning Commission;

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

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

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

- 1. Install 60 linear-feet of 3 to 4-foot diameter boulders above the MHT line of the Kenai River.
- 2. Backfill behind the boulders with rock, gravel, and topsoil.
- 3. Revegetate the filled area behind the boulders with native willow, alder and grass.

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

- 1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- 2. Pursuant to KPB 21.18.080(A), the proposed components may be approved as conditional structures within the habitat protection district.
- 3. One of the purposes of Chapter 21.18 is to provide a guide for growth and development along anadromous waters in accordance with the Kenai Peninsula Comprehensive Plan and through protecting and enhancing real property values (KPB 21.18.020(D)).
- 4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.

Kenai Peninsula Borough Planning Commission Resolution 2020-08

- 5. Access to the site and all construction activities will occur on the applicant's parcels and should not have an adverse effect on neighboring properties.
- 6. The boulders, fill and revegetation will be used to help protect the toe of the eroding bluff from storm surges which undercut the bluff during high tides.
- 7. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines waterdependent as:

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

- 8. The River Center found the application complete and scheduled a public hearing for April 13, 2020.
- 9. Pursuant to KPB 21.11.030, public notice was mailed to property owners within a radius of 300 feet of the project on March 26, 2020. A total of 11 mailings were sent.
- 10. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 2, 2020 and April 9, 2020.
- 11. Agency review was distributed on March 11, 2020. No comments or objections have been received from resource agencies to date.
- 12. The applicant is currently in compliance with Borough permits and ordinances.

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

- 1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;
 - The placement of boulders within the Habitat Protection District represents the construction of an impervious surface. Boulders do not have any value for filtering ground or surface water pollution.
 - Within the footprint of the boulders, riparian vegetation will be unable to reestablish itself.
- 2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough;:
 - Finding 2 Pursuant to KPB 21.18.080(A), the proposed components may be approved as conditional structures within the habitat protection district.
 - Finding 3 One of the purposes of Chapter 21.18 is to provide a guide for growth and development along anadromous waters in accordance with the Kenai Peninsula Borough Comprehensive Plan and through protecting and enhancing real property values (KPB 21.18.020(D)).
 - **Finding 4** Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents

and borough code including the Kenai Peninsula Borough Coastal Management Plan.

- **Finding 8** The River Center found the application complete and scheduled a public hearing for March 23, 2020.
- Finding 9 Public notice was mailed to property owners within a radius of 300 feet (KPB 21.11.030) of the project on March 3, 2020. A total of 11 mailings were sent.
- **Finding 10** Public notice was published in the *Peninsula Clarion* (KPB 21.11.020) on March 12, 2020 and March 19, 2020.
- Finding 11 Agency review was distributed on March 11, 2020. No comments or objections have been received from resource agencies to date.

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

• **Finding 5** - Access to the site and all construction activities will occur on the applicant's parcels and should not have an adverse effect on neighboring properties.

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

- **Finding 6** The boulders, fill and revegetation will be used to help protect the toe of the eroding bluff from storm surges which undercut the bluff during high tides.
- **Finding 7** Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:

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

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

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

Section 3. Permit Conditions

- The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
- 2. The permittee shall revegetate all bare soils within the project area with willows or alders and native grasses upon completion of the construction.

- 3. The cleared access trail will be allowed to naturally revegetate and will be reseeded with native grasses if natural revegetation is unsuccessful.
- 4. Heavy equipment used in this project within the habitat protection district shall operate from construction mats.
- 5. Fuel storage within the habitat protection district is not allowed.
- 6. For each tree removed, two shall be planted within the 50-foot Habitat Protection District.
- 7. The River Center shall be notified at least 3 days prior to the start of the project.
- 8. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
- 9. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
- 10. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
- 11. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 days written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
- 12. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
- 13. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Section 4. Decision:

The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit to install and maintain a bank stabilization project utilizing boulders within the 50-foot Habitat Protection District of Kenai River as described in Section 1 subject to the adopted conditions in Section 3.

THIS CONDITIONAL USE PERMIT IS EFFECTIVE ON THIS 13 DAY OF 2020.

Blair Martin, Chairperson Planning Commission

ATTEST:

Row Mas

Julie Hindman

Administrative Assistant

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

E. NEW BUSINESS

3. Conditional Land Use Permit Materials Processing; PC Resolution 2022-21 Location: 27083 Seward Hwy., Seward; PIN 125-090-28 Applicant/Landowner: Colaska Inc. - QAP Moose Pass Area

Conditional Land Use Permit for a Material Site

STAFF REPORT

PC MEETING: May 23, 2022

Applicant:	Colaska Inc QAP
Landowner:	Colaska Inc.
Parcel Number:	125-090-28
Legal Description:	T3N R01E Sec 18 Seward Meridian SW 2011016 Renfro's Lakeside Retreat NO 6 LOT 2F EXC THAT PTN Conveyed to State of AK DOT IN WD 2017-633
Location:	27083 Seward Hwy, Seward, AK 99664

<u>BACKGROUND INFORMATION</u>: The applicant wishes to obtain a permit for materials processing on a portion of the parcel listed above.

The submitted site plan indicates that the material haul route will directly access the Seward Highway a State of Alaska maintained facility. The new ingress/egress will be constructed on the Eastside of the parcel which will allow access to the highway.

The site plan and application proposes the following buffers:

North:50-foot native vegetationSouth:50-foot native vegetationEast:50-foot native vegetationWest:50-foot native vegetation

The subject property is bordered on the North and Southeast sides by occupied private property. On the Northeast and West sides of the property are the Right of Ways of the Seward Highway and Alaska Railroad Cooperation.

The site plan completed by McLane Consulting Inc., claims ground water is deeper than 10' below the existing surface based on 5 test holes. Existing wells adjacent to the property collect groundwater from a depth of 42' to 52' based on data from ADNR WELTS. Monitor wells have not been installed at the site. The application states that no excavation of material is planned for this site, but suitable material is found to a depth of 10'. Plan notes state that there are no wet lands or surface waters within the property boundaries. A central area will be maintained for processing, screening, crushing and making asphalt pavement. This processing area is greater than 300' from all property lines except the Western line. The site plan shows that the Western property line is 157' from the processing area. The applicant requests a waiver from the 300' processing distance on the West side of the property due to the approximately 180'of adjacent Rail Road Right of Way. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates 2 wells located 100' and 300' from the posed use area.

Plan notes state that reclamation will include stabilization of the gravel pad and re-contouring using strippings, overburden, waste import and topsoil to a condition that allows for the re-establishment of natural vegetation outside the gravel pad area. Slopes steeper than 2:1 will be seeded. The application also states that 2-5 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends.

The applicant estimates using the site as a processing, storage and laydown facility for 4 years.

PUBLIC NOTICE: Public notice of the application was mailed on May 2, 2022 to the 47 landowners or leaseholders of the parcels within 1/2 mile of the subject parcel. Public notice was sent to the postmaster covering the Primrose area of Moose Pass requesting that it be posted at the Moose Pass Post Office.

<u>KPB AGENCY REVIEW</u>: Application information was provided to pertinent KPB staff and other agencies on March 31, 2022.

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 March 31, 2022 the applicant, Colaska Inc QAP, submitted a conditional land use permit application to the Borough Planning Department for KPB Parcel 125-090-28, which is located within the rural district.
- 4. KPB 21.29 provides that a conditional land use permit is required for material processing.
- 5. The proposed cumulative disturbed area within the parcel is approximately 15.6 acres.
- 6. The proposed extraction meets material site standard 21.29.040(A)(1); "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 indicates that there is one well located within 100' from the disturbed area, but no material extraction is proposed within the property boundaries.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high-water table.
 - D. The site plan indicates that the depth of ground water is greater than 10' below existing ground and no material extraction is proposed within the property boundaries.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
- 7. To meet material site standard 21.29.040(A)(2), 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.
- 8. To meet material site standard 21.29.040(A)(3), 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.
- 9. An ingress and egress will be constructed for access to the property that will lead directly to the Seward Highway an Alaska Department of Transportation maintained facility.

- 10. To meet material site standard 21.29.040(A)(4), 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.
- 11. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

These buffers shall not overlap an easement.

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

Per section 21.29.050(A)(3) the planning commission at its discretion, may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.

(Requested processing distance waiver granted through Resolution 2022-21)

- 13. To meet material site standard 21.29.040(A)(5), 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. (See Number 11, above.)
- 14. To meet material site standard 21.29.040(A)(6), 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).
- 15. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- 16. The bonding requirement of KPB 21.29.050(12)(b) will not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
- 17. A public hearing of the Planning Commission was held on May 23, 2022 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.

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 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 and roadway 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' 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:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation
 - These buffers shall not overlap an easement.
- 3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
- 5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property. (Requested processing distance waiver granted through Resolution 2022-21)
- 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' vertical separation from the seasonal high water table.
- 8. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
- 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 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.
- 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 pm and 06:00 am.
- 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and 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 annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
- 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



KPB PLANNING DEPARTMENT Return to: 144 NORTH BINKLEY STREET SOLDOTNA, ALASKA 99669

KPB 21.29 Conditional Land Use Permit Application For a Sand, Gravel or Material Site

I. APPLICANT INFORMATION

1

.

Applicant	Landowner Colaska Inc. DBA QAP				
Address 240 W 68th Avenue	Address 240 W 68th Avenue				
City, State, Zip Anchorage, Alaska 99518	City, State, Zip				
Telephone Cell	TelephoneCell				
Email	Email				
Agent: McLane Consulting, Inc. Gina DeBardelaben 90 . PARCEL INFORMATION	17-283-4218 ginadebar@mclanecg.com				
KPB Tax Parcel ID#_12509028Legal	I DescriptionT3N R1E Section 18 S.M.				
Renfro's Lakeside Retreat No. 6 Lot 2F Excluding that	t portion conveyed to State of Alaska DOT in WD 2017-633				
If permit is not for entire parcel, describe specific locatic	on within parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10				
acres", or "5 acres in center of parcel".					

III. APPLICATION INFORMATION 🗹 "Check" boxes below to indicate items included.

1 1 2 2 2 2 2 2

\$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:

- parcel boundaries
- Iocation of boundary stakes within 300 ft. of excavation area (to be in place at time of application)
- proposed buffers, or requested buffer waiver(s)
- proposed extraction area(s), and acreage to be mined
- proposed location of processing area(s)
- all encumbrances, including easements
- points of ingress and egress
- anticipated haul routes
- Site Plan Worksheet (attached)
- Reclamation Plan (attached) and bond, if required.

location of water bodies on parcel, including riparian wetlands

Iocation of all wells within 300 ft. of parcel boundary

Iocation/depth of testholes, and depth to groundwater,

- surface water protection measures
- north arrow and diagram scale

if encountered

preparer's name, date and seal

bonding requirements pursuant to AS 27.19.050

Bond requirement does not apply to material sites exempt from

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.

DarylBelanger Und States De Concentration Co	3/29/2022		
Applicant	Date	Landowner (required if not applicant)	Date

Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

ŝ	Applicant Colaska, Inc. DBA QAP Owner Colaska, Inc. DBA QAP
	KPB Tax Parcel ID # <u>12509028</u> Parcel Acreage <u>19.13</u>
1. 2.	Cumulative acres to be disturbed (excavation <u>plus</u> stockpiles, berms, etc.) <u>15.6</u> acres 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):
	\checkmark 50 ft. of natural or improved vegetation \checkmark N \checkmark S \checkmark E \checkmark W \square minimum 6 ft. earthen berm \square N \square S \square E \square W \square minimum 6 ft. fence \square N \square S \square E \square W \square other \square N \square S \square E \square W
5.	Proposed depth of excavation:ft. Depth to groundwater: <u>>12'ft.</u>
6.	How was groundwater depth determined? Test holes excavated by applicant to 12' depth
7.	A permit modification to enter the water table will be requested in the future: <u>Yes</u> \times No
8.	Approx. annual quantity of material, including overburden, to be mined: cubic yards
9.	Is parcel intended for subdivision?Yes _XNo
10.	Expected life span of site?years
11.	If site is to be developed in phases, describe: the excavation acreage, anticipated life span,
	and reclamation date <u>for each phase</u> : (use additional space on page 4 if necessary) See attached narrative
	Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)
с.	

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: <u>****2-5</u> acres ****at end of ADOT project.
- 4. List equipment (type and quantity) to be used in reclamation:

Loader, dozer, hydroseeder

5. Describe time schedule of reclamation measures:

Reclamation will be conducted at the completion of the ADOT project and before the growing season ends that year

(September). A central gravel pad may be retained. Seeding will be applied to all organic dressed slopes in order to

minimize erosion and dust.

6. The following measures must be considered in preparing and implementing t he reclamation plan, although not all will be applicable to every plan – ☑ "*check"* <u>all</u> *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 b e protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

The area will be backfil led, 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 b e spread over the reclaimed area to a depth of four inches to promote nat ural plant growth that can reasonably be e xpected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if th e 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 bran ches greater than 3 in ches 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.)

ADDITIONAL APPLICATION COMMENTS

(Please indicate the page and item # for which you are making additional comments.)

See attached narrative. x

KPB 21.29 Conditional Land Use Permit Application

Site Development Plan Narrative

Supplement to Application Page 4 Additional Application Comments

Purpose and Need

QAP is proposing to utilize the 19-acre property (KPB PID 12509028) adjacent to the Seward Highway near MP 20 as a support site for the Alaska DOT&PF's Seward Highway MP 17-22.5 project.

The purpose of this application is to utilize the property to screen and process shot rock produced during the rock excavation operations for the project. This processed material would be used for ditch lining, riprap, aggregate base course, and asphalt aggregates. The processing of materials will be spread out over the 2022, 2023, and 2024 construction seasons, and would not be a continuous operation. QAP intends on setting up a temporary asphalt plant as well to support the 36,000 tons of paving. The asphalt plant would operate as needed over the 3 years of construction to complete the work.

QAP has identified a location in the center of the site greater than 300 feet from the north, east, and south property lines to set up all processing activities. A Stormwater Pollution Prevention Plan (SWPPP) will be developed and implemented for the site along with a Hazardous Material Control Plan (HCMP) and a Spill Prevention Control and Countermeasure plan (SPCC) if necessary. Stormwater, sediment, and dust will be controlled using best management practices in conjunction with the work. The site will be shutdown seasonally, stabilized, and gated for security and safety during non-work hours.

The project adjacent to the property does not restrict night work but QAP does not anticipate night shift at this time. Hours of operation are expected to be day shifts from April to November. Processing operations are not intended to run continuously, with operations spread out over three years on a part time basis.

Project Phasing

Beginning in spring of 2022, QAP anticipates clearing the property, leaving vegetative buffers around all sides and build an access road and an adequately sized pad to process and stockpile materials in the center of the property. QAP proposes to stockpile shot rock materials and use a motorized screening plant to process ditch lining, riprap, and shot rock fill materials to be incorporated into the project. Fall of 2022 QAP proposes to set up a crusher and begin processing base course and asphalt aggregates.

In 2023, QAP will complete processing the shot rock material, base course, and asphalt aggregates and stockpile for use on the property. An asphalt plant would be set up to facilitate a small portion of paving operations in 2023 with a majority of paving to be completed in 2024. The processing equipment would be removed once all rock processing is complete.

In 2024, once all embankment and surface courses are placed, QAP will pave the remainder of the project which would take roughly 15 shifts. The asphalt plant would be disassembled and removed from the site to be utilized at another location once the project is complete. At the completion of the project, the site would be reclaimed, and all disturbed areas stabilized.

E3-10











KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2022-21 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 T 3N R 01E SEC 18 SEWARD MERIDIAN SW 2011016 RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, Kenai Recording District., Third Judicial District, State of Alaska.

- **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 21.29 provides that a conditional land use permit is required for material processing; and
- WHEREAS, on March 31, 2022 the applicant, Colaska Inc QAP, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 125-090-28, which is located within the rural district; and
- **WHEREAS**, public notice of the application was mailed on or before May 2, 2022 to the 47 landowners or leaseholders within ½ mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS, public notice was sent to the postmaster in the Primrose area of Moose Pass requesting that it be posted at the Moose Pass Post Office; and
- WHEREAS, a public hearing of the Advisory Planning Commission in Moose Pass was held on May 5, 2022 wherein the Advisory Planning Commission voted to approve the CLUP with stipulations including dust abatement, air quality monitoring, and reduced hours of operation; and
- WHEREAS, public notice of the application was published in the May 11, 2022 and May 18, 2022 issues of the Seward Journal; and
- **WHEREAS**, a public hearing was held at the May 23, 2022 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 March 31, 2022 the applicant, Colaska Inc QAP, submitted a conditional land use permit.
- 4. Application to the Borough Planning Department for KPB Parcel 125-090-28, which is located within the rural district.
- 5. KPB 21.29 provides that a conditional land use permit is required for material processing. The proposed cumulative disturbed area within the parcel is approximately 15.6 acres.
- 6. The proposed extraction meets material site standard 21.29.040(A)(1); "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 indicates that there is one well located within 100' from the disturbed area, but no material extraction is proposed within the property boundaries.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high-water table.
 - D. The site plan indicates that the depth of ground water is greater than 10' below existing ground and no material extraction is proposed within the property boundaries.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
- 7. To meet material site standard 21.29.040(A)(2), 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.
- 8. To meet material site standard 21.29.040(A)(3), 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.
- 9. An ingress and egress will be constructed for access to the property that will lead directly to the Seward Highway an Alaska Department of Transportation maintained facility.
- 10. To meet material site standard 21.29.040(A)(4), 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.
- 11. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

These buffers shall not overlap an easement.

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

Per section 21.29.050(A)(3) the planning commission at its discretion, may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.

(Requested processing distance waiver granted through Resolution 2022-21)

- 13. To meet material site standard 21.29.040(A)(5), 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. (See Number 11, above.)
- 14. To meet material site standard 21.29.040(A)(6), 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).
- 15. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- 16. The bonding requirement of KPB 21.29.050(12)(b) will not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
- 17. A public hearing of the Planning Commission was held on May 23, 2022 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
- Section 2. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:

Regulations and Standards for 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.
 - 1. Material site standard 21.29.040(A)(1) is met because the seasonal high-water table is greater than 10 feet below the surface, and the applicant's intended depth of excavation is 0 feet below the existing grade, as set forth in number 6(C) and (D), above.
 - 2. Material site standard 21.29.040(A)(2) is met because 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.
 - 3. Material site standard 21.29.040(A)(3) is met because the permittee will use water and calcium chloride on the driveways throughout the excavation area to minimize the movement of off-site dust.
 - 4. Material site standard 21.29.040(A)(4) is met because site plan indicates the following noise buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

The Planning Commission deems the 50 feet buffer of natural vegetation alone to be sufficient to provide noise screening. Material site standard 21.29.040(A)(4) is also met, because any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

- 5. Material site standard 21.29.040(A)(5) is met because the site plan indicates the following visual screening buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation

West: 50-foot native vegetation

- 6. Material site standard 21.29.040(A)(6) is met because the applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- **SECTION 3.** That the land use and operations are described and shall be conducted as follows:
- A. A portion of KPB Tax Parcel Number 125-090-28. The disturbed area within the parcel is approximately 15.6 acres;
- B. Legal Description: **T5N R11W SECTION 25 S.M. KALIFORNSKY CENTER SUBDIVISION TRACT A-1A**, Kenai Recording District, Third Judicial District, State of Alaska.
- C. The applicant, Colaska Inc QAP, proposes to:
 - 1. Process materials on the subject parcel;
 - 2. Reclaim the site to a stable condition upon completion of the project.

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' 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:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

These buffers shall not overlap an easement.

- 3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
- 5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property. (Requested processing distance waiver granted through Resolution 2022-21)
- 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' vertical separation from the seasonal high water table.
- 8. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
- 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 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.
- 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 pm and 06:00 am.

- 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and 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 annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
- 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	ΒY	THE	PLANNING	COMMISSION	OF	THE	KENAI	PENINSULA	BOROUGH	ON
THIS		DAY OF		, 2022.						

Blair Martin, Chairperson Planning Commission

ATTEST:

Ann Shirnberg Administrative Assistant

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

Aerial Map: 125-090-28



Geographic Information Systems 144 North Binkley Street, Soldotna, Alaska 99669

Ownership Map: 125-090-28



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. It is not to be used for navigation.

Notes Type any notes here.

DATE PRINTED: 4/29/2022

Geographic Information Systems 44 North Binkley Street, Soldotna, Alaska 99669

Lidar Map: 125-090-28



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. It is not to be used for navigation.

Notes Enter map notes here.

DATE PRINTED: 4/29/2022



Planning Department

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

Charlie Pierce Borough Mayor

Please turn over for map.

«OWNER» «ATTENTION» «ADDRESS» «CITY», «STATE» «ZIP»

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 materials processing on a parcel in the Primrose area of Moose Pass. This notice is being sent to landowners located within 2640 feet of the subject property. All members of the public are invited to comment. The projects under consideration are described as follows:

Applicant: Colaska Inc. - QAP

Landowner: Colaska Inc.

Parcel Number: 125-090-28

Legal Description:T3N R01E Sec 18 Seward Meridian SW 2011016 Renfro's Lakeside Retreat NO
6 LOT 2F EXC THAT PTN Conveyed to State of AK DOT IN WD 2017-633

Location: 27083 Seward Hwy, Seward, AK 99664

Proposed Land Use: The applicant wishes to obtain a permit for materials processing on a portion of the parcel listed above.

KPB Code: Conditional land use permit applications for materials processing are reviewed in accordance with KPB Code 21.25 and 21.29. Copies of these ordinances are available from the Planning Department or on the KPB website at: borough.kenai.ak.us

Public Hearing: A hearing will be held by the Kenai Peninsula Borough Planning Commission to consider the application on **Monday May 23**, **2022** 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 Street, Soldotna, Alaska and through Zoom, **Meeting ID 907 714 2200.** To attend the Zoom meeting via computer, visit : <u>https://us06web.zoom.us/j/9077142200</u>. To attend by telephone call toll free **1-888-788-0099 or 1-877-853-5247**.

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: <u>rraidmae@kpb.us</u>, or faxed to (907) 262-5992. Written statements must be provided by 1:00 pm Friday, May 20, 2022. 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.

For additional information about this application, please call the planning department at (907) 714-2200, or 1-800-478-4441 (toll free within the Kenai Peninsula Borough).

Ryan Raidmae KPB Planner **Ph:** (907) 714-2462



Kenai Peninsula Borough

Parcels Within 1/2 mile of Proposed Clup 04/28/2022 11:27



MPAPC Unapproved Minutes May 5th, 2022

New Business:

A) Application LAS34020- Moose Pass Adventures Commercial Recreation Camp at Grant Lake

Unanimous approval to support.

B) Land Reclassification (013-042 &013-092-76) Regarding the reclassification of the 4 lots on Mine Road.

Recommendation to change the classification to Residential rather than Rural. Unanimous approval to recommend Residential classification.

C) Ordinance 2022-____Authorizing the Sale of Certian Parcels of Borough-Owned Land by Live Outcry Auction ...

Recommended to delay the sale of the 2 lots on Mine Road for at least one year. (Residents are interested in pursuing a Local Option Zone before sale). Unanimous approval to recommend delaying the sale.

D) Ordinance 2022-____ Authorizing Emergency Harvest of Spruce Bark Beetle Impacted Forestlands...

Vote: 6 in favor of supporting the ordinance (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). 1 against (Bruce Jaffa)

E) Resolution 2022-____ Classifying or Reclassifying Certain Borough-Managed Land in the Moose Pass Area for Transportation and Utility Purposes Associated with a Hydro Project

Vote: 1 in favor of reclassification (Kevin Dunham). 6 Against reclassification (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson.

This is contrary to our newly amended Moose Pass Comprehensive Plan.

F) ADL Easement 233782 and ADL Easement 233857 to Kenai Hydro LLC

Vote: 1 in favor of recommending issuance of easements (Bruce Jaffa). 6 against recommending issuance of the easements (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson). Motion failed.

G) Water Rights Application ADL27264 To Kenai Hydro LLC

Vote: 4 in favor of granting water rights (Bruce Jaffa, Kevin Dunham, Jeff EstesTsali Janek). 3 opposed (Monika Adam, David Pears, Jeff Hetrick) Motion passed

H) Amendment to Kenai River Comprehensive Plan to remove lands along Upper and Lower Trail Lake from the Management Area

Vote: 1 in favor of the amendment (Bruce Jaffa). 6 Opposed (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). Motion failed

J) Conditional Use Permit DODT Project MP17-22.5 parcel ID 12509028.

Recommend adding stipulations to the permit limiting hours of operation from 8am to 8pm. To provide for dust abatement and air quality monitoring. Unanimous approval to recommend issuance of permit provided the stipulations are included.

May 9, 2022

Blair Martin Kenai Peninsula Borough Planning Commission 144 N Binkley St. Soldotna, AK 99669 ROW & PUBLIC PROJECTS TEL 907.265.3026 FAX 907.265.2638

RE: Colaska Inc Application for Materials Processing - Primrose

Dear Mr. Martin:

Thank you for the opportunity to comment on the conditional land use permit application received by the Kenai Peninsula Borough for materials processing on a parcel in the Primrose area of Moose Pass. The parcel identified is between the Seward Highway and the Alaska Railroad Corporation (ARRC) Right-of-Way (ROW).

RAILROAD

ARRC's only comment on the proposed use is that the amount of water received on ARRC ROW shall not be changed in quality, quantity, nature, or location without appropriate mitigation for changes in water patterns to the railroad. ARRC requests that Colaska provide the final design elevations and reclamation plan for review.

Should you have any questions, please do not hesitate to contact me at 907.265.3026.

Sincerely,

Katpe L. Dek

Kate Dueber Manager, ROW and Public Projects

Cc: Brian Lindamood, ARRC VP Engineering, Chief Engineer Mitchell Mohr, ARRC Project Manager, Public Projects Ryan Raidmae, KPB Planner

DESK PACKET ITEMS

(Items received after the publishing of the meeting packet on 5/13/22)

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2022-21 SEWARD 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 T 3N R 01E SEC 18 SEWARD MERIDIAN SW 2011016 RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, Seward Recording District, Third Judicial District, State of Alaska.

- 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 21.29 provides that a conditional land use permit is required for material processing; and
- WHEREAS, on March 31, 2022 the applicant, Colaska Inc QAP, submitted to the Borough Planning Department a conditional land use permit application for a portion of KPB Parcel 125-090-28, which is located within the rural district; and
- WHEREAS, public notice of the application was mailed on or before May 2, 2022 to the 47 landowners or leaseholders within ½ mile of the subject parcel pursuant to KPB 21.25.060; and
- WHEREAS, public notice was sent to the postmaster in the Primrose area of Moose Pass requesting that it be posted at the Moose Pass Post Office; and
- WHEREAS, a public hearing of the Advisory Planning Commission in Moose Pass was held on May 5, 2022 wherein the Advisory Planning Commission voted to approve the CLUP with stipulations including dust abatement, air quality monitoring, and reduced hours of operation; and
- WHEREAS, public notice of the application was published in the May 11, 2022 and May 18, 2022 issues of the Seward Journal; and
- **WHEREAS**, a public hearing was held at the May 23, 2022 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 March 31, 2022 the applicant, Colaska Inc QAP, submitted a conditional land use permit.
- 4. Application to the Borough Planning Department for KPB Parcel 125-090-28, which is located within the rural district.
- 5. KPB 21.29 provides that a conditional land use permit is required for material processing. The proposed cumulative disturbed area within the parcel is approximately 15.6 acres.
- 6. The proposed extraction meets material site standard 21.29.040(A)(1); "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 indicates that there is one well located within 100' from the disturbed area, but no material extraction is proposed within the property boundaries.
 - C. Permit condition number 7 requires that the permittee maintain a 2-foot vertical separation from the seasonal high-water table.
 - D. The site plan indicates that the depth of ground water is greater than 10' below existing ground and no material extraction is proposed within the property boundaries.
 - E. Permit condition number 8 requires that the permittee not dewater either by pumping, ditching or any other form of draining.
- 7. To meet material site standard 21.29.040(A)(2), 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.
- 8. To meet material site standard 21.29.040(A)(3), 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.
- 9. An ingress and egress will be constructed for access to the property that will lead directly to the Seward Highway an Alaska Department of Transportation maintained facility.
- 10. To meet material site standard 21.29.040(A)(4), 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.
- 11. The site plan and application propose the following buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

These buffers shall not overlap an easement.

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

Per section 21.29.050(A)(3) the planning commission at its discretion, may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of adjacent property at the time.

(Requested processing distance waiver granted through Resolution 2022-21)

- 13. To meet material site standard 21.29.040(A)(5), 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. (See Number 11, above.)
- 14. To meet material site standard 21.29.040(A)(6), 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).
- 15. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- 16. The bonding requirement of KPB 21.29.050(12)(b) will not apply to this material site if extraction in any one year does not exceed 50,000 cubic yards of material.
- 17. A public hearing of the Planning Commission was held on May 23, 2022 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
- Section 2. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:

Regulations and Standards for 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.
 - 1. Material site standard 21.29.040(A)(1) is met because the seasonal high-water table is greater than 10 feet below the surface, and the applicant's intended depth of excavation is 0 feet below the existing grade, as set forth in number 6(C) and (D), above.
 - 2. Material site standard 21.29.040(A)(2) is met because 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.
 - 3. Material site standard 21.29.040(A)(3) is met because the permittee will use water and calcium chloride on the driveways throughout the excavation area to minimize the movement of off-site dust.
 - 4. Material site standard 21.29.040(A)(4) is met because site plan indicates the following noise buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

The Planning Commission deems the 50 feet buffer of natural vegetation alone to be sufficient to provide noise screening. Material site standard 21.29.040(A)(4) is also met, because any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver to the 300-foot processing distance on the West side of the property. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

- 5. Material site standard 21.29.040(A)(5) is met because the site plan indicates the following visual screening buffers:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation

West: 50-foot native vegetation

- 6. Material site standard 21.29.040(A)(6) is met because the applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
- **SECTION 3.** That the land use and operations are described and shall be conducted as follows:
- A. A portion of KPB Tax Parcel Number 125-090-28. The disturbed area within the parcel is approximately 15.6 acres;
- B. Legal Description: **T5N R11W SECTION 25 S.M. KALIFORNSKY CENTER SUBDIVISION TRACT A-1A**, Kenai Recording District, Third Judicial District, State of Alaska.
- C. The applicant, Colaska Inc QAP, proposes to:
 - 1. Process materials on the subject parcel;
 - 2. Reclaim the site to a stable condition upon completion of the project.

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' 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:
 - North: 50-foot native vegetation
 - South: 50-foot native vegetation
 - East: 50-foot native vegetation
 - West: 50-foot native vegetation

These buffers shall not overlap an easement.

- 3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
- 5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property. (Requested processing distance waiver granted through Resolution 2022-21)
- 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' vertical separation from the seasonal high water table.
- 8. The permittee shall not dewater either by pumping, ditching or any other form of draining unless an exemption is granted by the planning commission.
- 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 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.
- 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 pm and 06:00 am.

- 15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and 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 annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
- 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 23RD DAY OF MAY, 2022.

Blair Martin, Chairperson Planning Commission

ATTEST:

Ann Shirnberg Administrative Assistant

PLEASE RETURN Kenai Peninsula Borough Planning Department 144 North Binkley St. Soldotna, AK 99669 From: Michael & Katharine Glaser 34270 Lakestar Lane Seward, AK 99664

May 17, 2022

To: Kenai Peninsula Borough Planning Commission 144 N. Binkley St. Soldotna, AK 99669

Dear Commissioners,

We are writing to request that the KPB Planning Commission deny and or limit the Conditional Use Permit that has been applied for by Q. A. P. for use of the Mile 19.5 property as a staging area for the Seward Highway Project for Mile 17 – 22.

As residents of the Lakeview Group of Homesites, we are greatly impacted by this project. While we understand the necessity of widening the Seward Hwy, we protest the needless destruction of the large staging area in the middle of our beautiful neighborhood. We would like to mitigate the effects of the project during this operation and in the years to come.

- 1. Please require Q. A. P. to limit their hours of equipment operation in the staging area.
- 2. Please require Q. A. P. to maximize the buffer zones around the staging area.
- 3. Please require Q. A. P. to maximize the berms around the staging area.
- 4. Please require Q. A. P. to institute a timely notification system for residents as to burning, blasting, and all significant road closures.
- 5. Please ask Q. A. P. to detail future plans for the staging areas at the end of this 3-year project.
- 6. Please require Q. A. P. to produce their Environmental Impact Study and their SWPP documents for this lot.
- 7. Please do not allow screening, washing, or crushing gravel, or asphalt plants at this staging site.
- 8. Please pursue actions to prevent this from happening in the future in our and other residential areas. This can be accomplished by requiring a <u>prior</u> KPB residential impact review and residential involvement as part of the bid process.

Sincerely,

Michael & Katharine Glaser

Bruce Jaffa

PO Box 107 Moose Pass, Alaska 99631 907-288-3175 Bruce@JaffaConstruction.com

Planning Commission Chairman, 144 N Binkley St, Soldotna, AK 99669. rraidmae@kpb.us Resolution 2022-21 May 23rd

Commissioners,

As the Chair of the Moose Pass APC I am aware that the motion by Our APC on May 5th was to approve the Conditional Use Permit (CUP) to Colaska /QAP by a vote of 6-1. Mine was the dissenting vote. I present my reasons here for your consideration. I will not challenge the wisdom of my fellow Commissioners, but this vote came very late during a 4 ¹/₂ hour meeting and the CUP appeared to meet the requirements for approval.

Every Alaskan knows the difficulties of road work where there are few detour options. We all agree the importance of improvements. Often cooperative arrangements have been made to minimize impacts to those surrounded or effected by these projects.

I cannot agree that what was clearly a last-minute application, that followed a semi secretive plan by the contractor to acquire, clear and develop a plot of virgin land, meets the best practice for planning or respect for the intent of the rules. We have ordinances and regulations to permit the review and approval of activities that may impact others. Often mistakes are made by applicants, but we do not expect them from large profession Multinational contractors. This CUP has major impact on adjoining property owners and deserved the fairest hearing and review possible. Although the permitted use is for future gravel processing and asphalt batching the preparation of the lot, clearing of the forest and access was completed as IF THE PERMIT was in hand. Any extended buffers, liners, grading plans that may have been required prior to the issuance CUP are gone, the damage done.

The total lack of concern by DOT or the Contractor to residents and business's is appalling and therefore deserves a no vote by the Planning Commision. A revision to the permit application should clearly limit noxious and onerous activities to daytime hours, these include noise, dust and smell. Expanding the earthen buffers to shield the surrounding Area including homeowners and the AKRR are a minimum of abatement that should be required.

Sincerely,

Bruce Jaffa Moose Pass Alaska 05-20-2022

Re: Seward Highway Rehabilitation Project 17-22.5 QAP Staging Area at mile 19.5 Comments for KPC Planning and Zoning Meeting, QAP Conditional Use Permit Request

Chairman and Commission Members, thank you for this opportunity to voice my personal comments concerning the Seward Highway Rehabilitation Project, mile 17 - 22.5, and more specifically the CoAlaska or as I will refer to as the QAP 'Staging Area' parcel # 12509028, 19.13 acres. QAP has submitted a Conditional Use Permit requesting this 'Staging Area' to be used for staging equipment and office, but also for depositing of some 700,000 cubic yards of earth/rock material removed from along the Seward Highway and for the purpose of processing rock, i.e. rock crushing, and for pavement production, some 36,000 tons of asphalt.

I would like to provide a bit of area context. This 'staging area' is situated right in the middle of a rare area of land that is held by private parties. This rare area is one of two privately-owned land areas, with some 20 owners in this particular area, on the southern portion of Kenai Lake, surrounded by either State or Federal Forest Service land, in the Church National Forest. If you would like to view how rare private land is here, surrounding Kenai Lake, please pull up the KPB parcel viewer map. Part of it was homesteaded in the early 1900s prior to the railroad or road completion. Andy Simons, Alaska's first registered hunting guide, used a boat in the summer and a wagon in the winter to provide through traffic from the north to Primrose for travelers to Seward. In addition, a number of the private owners in the area are 2nd and 3rd generation inhabitants. People do not live here because of its proximity to work or "just because" but because of its beautiful, quiet and pristine atmosphere.

For well over 20 years we have been told that this road project would start, and for 20-plus years it has not — until this year. With no pre-warning, the project has started. No one had shared that QAP was going to use parcel #12509028 as a 'staging area'. The sale of the land to QAP was kept under wraps until it was completed <u>days</u> before equipment arrived. Clearcutting of this staging site started immediately, again with no notification of the surrounding neighbors.

Since this land had been classified as rural land, there is a loop-hole that, in this case, allows the purchaser, QAP, to use it however they desire and in this case as a heavy industrial site during the project with vague requirements for usage after the project is completed. Who would have known that this beautiful piece of rare private land could be turned into a stripped, clearcut gravel pad with 3-4 years of dust, noise and possible disruption of wells and ground and air contamination? I cannot help but wonder where DOT, the environmental organizations, the US Forest Service or the Kenai Watershed folks have been. Either they were not asked to be a part of the bid process for this project or chose to not be a part.

So here we are, most of the 19+ acres is stripped, the road project is started and the local, surrounding residents are carrying the brunt of disruption through possible loss of value of their properties, noise and dust disruption for the next 3-4 years, and probable loss of revenue for the small business owners who share their solitude with visitors to Alaska with their lodging and bed/breakfasts.

Someone of local representative leadership recently suggested at the recent Moose Pass Planning Advisory meeting that this industrial use area was the best location because others would have to be inconvenienced if it were to be elsewhere. First of all, there <u>are</u> other areas that could have been investigated, that are not surrounded by private residences; but this was most likely the most economical location for bidding purposes. This is where the old saying becomes true: "you get what you pay for." It would be interesting to know where the other bidding construction companies were planning to 'stage' their processing. I have trouble believing any full-time resident and owner would desire having an industrial plant suddenly appear next to their back yard, unless, maybe, if they were financially compensated. If there are less intrusive areas, that is where this type of 'staging area' should be positioned, even if there are increased costs to the project.

The real issue for me is the lack of transparency by whomever was involved in what appears to be a 'slip under the radar' method of doing business. Whether this was allowed or endorsed by the bid process through D.O.T. or whether this was clever business practices by QAP, it has no place in the public process. After a career of being self-employed, the free-market system would not allow small business to pull this kind of stunt. If you are not honest and up-front with your customers, they will take their business elsewhere.

Had the idea of putting a'staging area' in the middle of our neighborhood been openly brought to the residents up-front, yes we may have turned it down, but at least we would have been given the courtesy to have open dialogue which I would like to believe may have concluded with some compromise where everyone would have won. Again, being in private business for my entire work-life, I would have desired seeing this project come to fruition in a smooth and economical way, meaning I may have been a dissenting vote in favor of the contractor if they could show a willingness to understand the local residents' situations. Instead, most of us feel like it was an underhanded process, and we wonder what other unpleasant surprises are in store in the future.

Given this current situation, I am not in favor of the Borough giving permission for the Conditional Use Permit. At the very least, I request that the Kenai Peninsula Zoning and Planning Commission hold QAP to the highest level of compliance of their requested Conditional Use Permit, without any variances, and if they cannot, that the permit request be turned down until compliance can be met. That full compliance should also include any already-approved variances that were not run through the proper public process, if they exist.

In addition, whatever powers the Commission has should be exercised in the restoration of this land once it is no longer used for this project. 15-plus acres of pristine old-growth forest with 200+ year old trees was clear-cut and none of us alive today will ever see it as it was again.

Lastly, from some research, within Alaska, and this may be happening elsewhere, QAP has a reputation of purchasing and using available land within or very near residential areas. If there are any State or Local representatives listening, I beseech you to investigate this process and find ways to make the public project and bid process more informed, and specifically more transparent so that the taxpayers, the local residents, and even the bidders involved would all be playing in the same field.

Thank you for your time.

Mark P. Ernst 27243 Seward Highway (Mile 20) Seward, Alaska 99664 907-243-0338 home mp.ernst@me.com KPB Planning Commission 144 N. Binkley Street, Soldotna AK 99669

May 20, 2022

Re: mile 17-22.5 Q.A.P. staging area Parcel #12509028

Dear Chairman and Commissioners,

From about mile 19 to about mile 7 on the Seward Hwy., there are no homes – yet Q.A.P. choose mile 19.5 in the middle of a residential area to clearcut a 15-acre staging area. The "surprise appearance" of this industrial staging area in the middle of our "rural" residential neighborhood was done with no notice to surrounding home owners and business owners. Please read the attached 5 pages which detail the staging area's affects on private homes and vacation rental businesses.

Q.A.P., the construction company who was awarded the bid by D.O.T., immediately clearcut the lot to the Borough's minimum required 50-foot vegetative buffers, so very unfortunately we can no longer ask the Planning Commission for deeper buffers to help reduce noise.

But, as I understand the Borough's very limited "rural codes" we can ask the Borough Planning Commision to:

- deny Q.A.P.'s Conditional Use Permit
- increase the yard perimeter berm height from the 6-foot height shown on their Permit diagram to at least 12 feet.
- deny Q.A.P.'s requested 157' variance along the railroad easement (borough requires 300').
- reduce Q.A.P.'s hours of equipment operation (noise) until mid-September when the bulk of "vacation rental season" is over.

And, we ask that the Planning Commission formally work with Alaska D.O.T. toward permanent changes in the bid-award process to protect full-time residential private homes and neighborhoods in categorically rural areas from being next to disruptive industrial zones like this one.

Respectfully,

aun Eonst

Dawn Ernst 27243 Seward Hwy., Seward AK 99664 copperplate@me.com mile 20
things I've heard...

"it's not our concern..."

D.O.T.'s response when asked during the exhaustive public comment phase about where the staging / lay down yard / asphalt plant / rock crushing would happen for 4 years of our lives.

"sneaky..."

An upper level D.O.T. response to seeing the location of the staging area; he had no idea where the staging area was going to be prior to seeing it in person.

"residents were contacted, right?"

No. None of us in the neighborhood has been contacted about the mile 19 parcel and its uses and impacts. We took it upon ourselves to contact D.O.T. and Q.A.P. and KPB Planning & Zoning people.

"what about all the vacation rentals here?"

There are close to a dozen vacation rental cabins around the project, ranging from elegant dry cabins to \$500 per night homes. This source of income has already been impacted for this summer, and assuredly will be reduced further or eliminated as this project goes on for the following 3-4 summers. Most are crucial income to part-time businesses and to retirees.

"it's just heavy equipment storage and an office, right?"

No. In addition all the excavation equipment (trucks and tractors) there will be processing of 700,000 cubic yards of unclassified excavation with rock crushing equipment and an asphalt plant making 36,000 tons of asphalt.

"it's just a small lot in your neighborhood."

19 acres equates to 25 football fields.

"you'll get used to the noise."

We already have the train going through (many times daily in the summer), sounding their 130- to 150-decibel horns multiple times at 2 crossings and Victor Creek bridge as they go through our neighborhood. We already hear the cars on the highway when they hit the rumble strips at all hours. We were all ready for the construction noise and blasting noise; but NOT the noise from the rock crushing and asphalt plant.

"they are only going to operate during normal business hours."

Wrong. From communication with Q.A.P.: "May 15 thru mid to late June we will be hauling Monday thru Thursday from 8 am to approximately 10 pm with some work accruing in the yard on Friday and Saturday from 8 am thru 6 pm or so. Once we start blasting in mid to late June thru winter shut down (late October or early November depending on the weather) we will be working from 8 am thru midnight Monday thru Thursday due to DOT restrictions on when we are allowed road closures for blasting activities. There will also be work accruing in the yard during the day on Friday and Saturday as well from 8 am to 6 pm."

"there's no health hazard."

Wrong. Volatile organic compounds (VOCs) are particles of dangerous substances emitted into the air after certain chemical reactions. They vaporize at room temperature, so they stay airborne indefinitely. Asphalt plants emit significant amounts of these gases, and living next to such plants can be hazardous to your health. Gravel crushing/hauling obviously emit great amounts of dust. "Personally, as a truck driver, I would never want to live near one, or even on the same street as one."

"this is probably the best place for this staging area."

No. Looking at KPB's Parcel Viewer to the south along the Seward Highway from mile 19 to mile 7 -- there are NO private full-time residences along the highway. 12 miles of no homes. There are vacant, previously used staging areas, areas marked as industrial, and areas that could have been modified to create staging areas that would not have impacted residences to the degree of this chosen site.

"the project has started; what can you do about it now?"

Q.A.P. immediately clearcut the lot to the Borough's minimum required 50-foot vegetative buffers, so we can no longer ask for deeper buffers to help reduce noise.

But, as I understand the Borough's very limited "rural codes" we can ask of the Borough Planning Commision to:

- increase the yard perimeter berm height from the 6-foot height shown on their Permit diagram to at least 12 feet.
- deny Q.A.P.'s requested 157' variance along the railroad easement (borough requires 300').
- reduce hours of equipment noise until mid-September when the bulk of "vacation rental season" is over.
- and, we ask that the Planning Commission formally work with Alaska D.O.T. to "<u>make it</u> their concern" to protect full-time residential private homes and neighborhoods in categorically rural areas from being next to ugly, noisy, disruptive industrial zones like this one, with a permanent change in the Alaska D.O.T. bid-award process.
- and I respectfully ask Q.A.P., D.O.T., and the Planning Commission members a question:

"would YOU want this next to your house?"

april 2022

Mile 19.5 staging area plans: • rock crushing equipment • asphalt plant • heavy equipment storage ...surrounded on all sides by private, full-time residences.

dear neighbors..

The State D.O.T. did a commendable job preparing for this **mile 17-22 project**, with ample public comment and communication. However, one subject that was not covered was the location of the **Staging area** for the heavy equipment, rock crushing and asphalt plant. Construction company Q.A.P. (parent company Colaska) won the bid to do the mile 17-22 road project, and purchased a 19+ acre privately-held parcel at mile 19.5 for this staging area – located in the middle of our residential area. The purchase and plan for the land was kept quiet, the sale closing just days before equipment began arriving last month... No one in our area had or has been officially informed of this staging area or of the future plans for it.



Borough code, section 21.29.050(A)(11) states that Rock Crushing Equipment shall not be operated between 10pm and 6am. <u>Per code they can</u> <u>operate anything else they</u> want, whenever they want[146



bad surprise...

The construction company purchased the privately-owned 19+ acre parcel shown on the map, right in the middle of a rare pocket of grandfathered residential property in the middle of the Chugach National Forest. The fact that they waited to close on this unique property until right before work began might suggest that they were aware that the surrounding residents who live here full time would have been very much against using this particular raw-land location that is surrounded on all sides by permanent residences... Apparently staging area locations and scope of use are not required to be discussed during the Public Involvement stage, if ever. They are not monitored by the Kenai Borough Planning & Zoning or the D.O.T. What can residents do to mediate this situation now and in future situations like this?

bad decision...

Of course in business and especially in bid situations, it's "mostly" about the bottom line – but there are times when choosing the "cheapest" option or the option that makes the most money are NOT the way to go. **There ARE other areas within 5 miles of this project that could have been chosen for this industrial road project staging** – **areas that are farther from homes**. Apparently the bidding process only requires a staging area be chosen and secured; it does not ask where or require review or approval or environmental impact studies (E.I.S.) – and neither, apparently, does the Kenai Peninsula Borough Planning and Zoning or D.O.T. review the proposed staging area... Yes, choosing this staging area's location and use makes us wonder... **what other surprises are in store?**

For reference: on February 17, many local residents met in person and via Zoom with the local Moose Pass Planning Advisory Committee to voice concerns, just days after this staging area became known. No one on the Committee was aware of the bid award to Q.A.P., Q.A.P.'s purchase of the 19+ acre parcel, and the extensive long-term plans for their staging area in the midst of our residential area.

3 years & beyond.

This mile 17-22 project is slated to take 3 years to complete, so we can look forward to 3 years of noise and disruption before things go back to normal, right? NO. Because the construction company owns the land now, they have every right to continue using it (or leasing it) for staging for the next sections of the highway that get scheduled for repair. Unless the Borough steps in. HOW LONG then will we have a heavy equipment construction lot here in the midst of our quiet residential area 148

The project created a 289-page Categorical Exclusion document; page 15 states that the "adjacent residential areas" were not going to be directly affected by the road project – <u>however, they are most</u> <u>certainly affected by this staging area.</u>

http://www.sewardhighway17to22.com/Documents/53610%20Seward%20Hwy%2017-22.5%20CE%202019%20with%20Appendices.pdf

We were not made aware that we would give up the quality of our homes to this extent, our seclusion gone, having this industrial staging area dropped in our midst:

- sound carries on the lake: Primrose and Trail Lake area residents will hear this industrial site, too.
- disruption of wildlife is already obvious with the clear-cutting and burning.
- vacation rentals are in jeopardy of lost income with cancellations, complaints, or closures for upcoming season(s) for reservations already accepted.
- at least 15+ acres stripped to an ugly gravel pad will result in more highway noise to homeowners.
- as private citizens we have little clout in holding Q.A.P. or D.O.T. to any reasonable disruption requirements for this major industrial plot in the middle of our unique neighborhood, our rare piece of land on the shores of Kenai Lake in the Chugach National Forest.

So who can help us protect our properties now? the kenai peninsula borough's planning & zoning office.

Q.A.P. has just applied for a *Conditional Use Permit* with the Borough for the mile 19.5 staging area to have both an asphalt plant and rock crushing. There will be a public hearing during which that request will be heard.

KPB P&Z is our only mitigating entity in this situation. At this point we <u>cannot</u> ask that the project go away or that equipment be removed. We must make reasonable requests that stay within KPB ordinances*, but we <u>can</u> ask that they modify the Conditional Use Permit:

- 1. require Q.A.P. to significantly limit hours of any equipment operating in this staging area
- 2. require Q.A.P. to increase to maximum the buffer zones around the staging area
- 3. require Q.A.P. to install maximum perimeter berms around the staging area
- 4. require Q.A.P. to institute a real-time notification system for residents as to burning, blasting, and all road delays/closures, etc. (knowing that cell phones often don't work in this area)
- 5. ask Q.A.P. to detail the future use of this land at the end of this 3-year project
- 6. ask to see Q.A.P.'s Environmental Impact Study, their site plan, and their SWPPP documents for this lot
- 7. pursue real actions to prevent this from happening in the future in our residential area, and residential areas in our Borough; with any future industrial/construction staging area locations to require prior KPB residential impact review and residential involvement as part of the bid process.

how to get involved.

This conditional use permit application often can be a "rubber-stamped" approval process with no conversation. But our concerns, questions and recommendations can be heard before and at that meeting. The meeting will be held on Zoom.

The Borough will send out notification <u>by mail</u> for the meeting, 2 weeks prior to the meeting, to all residents within a half mile of the project. The meeting is anticipated to occur in mid-May. <u>WATCH FOR THE DATE!</u>

In the meantime, please contact our local Borough representatives and respectfully inform them of this issue and your concerns:

1. KPB Assembly: Cindy Ecklund, District 6 - East Peninsula (907) 362-2276, cecklund@kpb.us

- 2. KPB Borough Mayor: Charlie Pierce (907) 714-2150, cpierce@kpb.us
- 3. KPB Land Management Division: (907) 714-2205, lmweb@kpb.us

*21.25.050. - Permit considerations—Public hearing required.

A. Within 21 days of receiving an application, the planning director or designee shall review the submitted application for completeness and compliance with this chapter. If it is incomplete or does not meet the requirements of this chapter, the planning director shall notify the applicant in writing. The planning director shall thereafter either return the application to the application to schedule the application to be considered by the planning commission shall conduct a public hearing to consider the permit application, and shall either approve, modify or disapprove the permit application. Those wishing to contest issuance of the permit may submit evidence and be heard at the hearing. Before granting the requirements of this chapter. Planning commission shall conduct a public hearing. Before granting the permit, the commission must find at a minimum that the proposed activity complies with the requirements of this chapter. Planning commission approval of these conditional land use permits shall be by resolution. The be conditioned upon continued compliance with this chapter applicable code growing. C. There shall be written findings supporting the planning commission's decision on the permit applicable. The second before the planning commission's decision on the permit applicable. The second before the planning commission's decision on the permit applicable with a neutre of right to appeal to the hearing officer. (Ord. No. 99-29, § 1, 6-15-1999; Ord. No. 98-33, § 2, 2-16-1999)

E. NEW BUSINESS

4. Ordinance 2022-14: Authorizing the sale of certain parcels of borough-owned land by live outcry auction followed by a subsequent online-only auction land sale.

Kenai Peninsula Borough Planning Department – Land Management Division

MEMORANDUM

TO:	Brent Johnson, Assembly President Members, Kenai Peninsula Borough Assembly
THRU:	Charlie Pierce, Mayor (JM Marcus A. Mueller, Land Management Officer &
FROM:	Aaron Hughes, Land Management Agent
DATE:	May 5, 2022
RE:	Ordinance 2022, Authorizing the Sale of Certain Parcels of Borough-Owned Land by Live Outcry Auction Followed by a

Subsequent Online-Only Auction Land Sale (Mayor)

The Kenai Peninsula Borough ("KPB") Land Management Division has identified certain parcels of land that are surplus to the KPB's needs. These parcels could be placed in a competitive market value land sale by outcry auction, followed by a secondary online-only auction. Attached are vicinity site maps showing the location of each parcel. Minimum sale prices, termed "Auction reserves", are proposed to be set at the estimated fair market value as determined through consultation with the KPB Assessing Department.

The live outcry auction is proposed for August 13, 2022, to be held at Soldotna High School. A sale brochure will identify the parcels and provide a brief explanation of the auction and subsequent closing process. Notice of the land sale will be published in accordance with KPB 17.10.110 and the brochure will be **made available on the KPB Land Management Division's website.** This ordinance provides a framework to reschedule the auction in the event the August 13th date is cancelled.

This ordinance will authorize an outcry auction land sale of certain parcels of borough land followed by a secondary online only auction land sale of the parcels not sold at auction.

The Planning Commission will hold a public hearing on May 23rd and will forward its recommendations to the assembly.

Your consideration of this ordinance is appreciated.

Introduced by: Date: Hearing: Action: Vote: Mayor 05/17/2022 06/07/2022

KENAI PENINSULA BOROUGH ORDINANCE 2022-

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PARCELS OF BOROUGH-OWNED LAND BY LIVE OUTCRY AUCTION FOLLOWED BY A SUBSEQUENT ONLINE-ONLY AUCTION LAND SALE

- **WHEREAS,** the Kenai Peninsula Borough ("Borough") has fee simple title to or management authority of the real property listed in Section 1 of this ordinance; and
- WHEREAS, the listed Borough-owned or Borough-managed real property has been appropriately classified pursuant to KPB 17.10.080; and
- **WHEREAS,** authorization of an outcry auction sale provides a competitive market process, followed by a subsequent online-only auction sale intended to keep the properties on the market over a longer term; and
- WHEREAS, since the parcels referenced as KPB Parcel Identification Number (PIN) 017-120-06, 119-070-02, 119-070-01, and 131-070-32 require a completed record of survey prior to closing, this ordinance will authorize an extended due diligence period for review, approval and recording of the record of survey prior to finalizing any potential sale transactions resulting from the sale of these parcels; and
- **WHEREAS,** due to remaining uncertainty in planning live events, allowing for an alternate live auction date is appropriate; and
- WHEREAS, the Planning Commission at its regularly scheduled meeting of May 23, 2022, recommended _____;

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

SECTION 1. That the parcels listed below are authorized for sale at a minimum of the fair market value as determined through consultation with the Borough Assessing Department.

KPB PIN	General Location	Legal Description	Acres	Reserve
017-120-06	North Kenai	GOVERNMENT LOT 10, ACCORDING TO THE DIVISION OF LANDS SURVEY PLAT REFLECTING A REPLAT OF BLM SECTION LOTS 5, 6, 7, 9, 10, 12, 15, 16, 17, 18 AND THAT PORTION OF THE EI/2WI/2SWI/4SW1/4SEI/4 LYING ABOVE THE LINE OF MEAN HIGH WATER WITHIN SECTION 23, TOWNSHIP 6 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA, FILED IN THE KENAI RECORDING DISTRICT ON JUNE 16, 1969 AS K-1622 AND REFILED ON AUGUST 8, 1969 AS K-1637.	5.48	\$180,000.00
025-444-16	Point Possession	TRACT T, MOOSE POINT SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NO. 84-65, RECORDS OF THE KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	11.08	\$25,000.00
035-030-74	Норе	LOT 11 OF DISCOVERY PARK SUBDIVISION, AS SHOWN ON PLAT NO. 2010-11, RECORDS OF THE SEWARD RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	2.26	\$110,000.00
057-530-15	Soldotna	LOT ONE (1), BLOCK 2-A, BLOCK 2- A AND A PORTION OF BLOCK 3-A OF THE IRONS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER AMENDED PLAT NUMBER 75-4, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	0.34	\$23,000.00
055-035-29	Soldotna	LOT 7, BLOCK 4 WIDGEON WOODS PHASE 2, ACCORDING TO PLAT NO. 2012-32, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	1.24	\$85,000.00

	1			
055-010-16	Soldotna	THE S½SW¼SE¼ OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, KENAI RECORDING DISTRICT, STATE OF ALASKA.	20	\$350,000.00
065-190-63	Sterling	LOT 4, BLOCK 8 STEPHENKIE ALASKA SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 73-146, KENAI RECORDING DISTRICT, STATE OF ALASKA.	3.31	\$220,000.00
066-310-26	Funny River	LOT THREE (3), BLOCK FIVE (5), RIVER BEND RIDGE SUBDIVISION PART FIVE (5), FILED UNDER PLAT NO. 78-126, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	1.23	\$23,000.00
119-070-02	Cooper Landing	LOT 15 OF US SURVEY 3306 IN SECTION 28, TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	1.6	\$125,000.00
119-070-01	Cooper Landing	LOT 14A OF US SURVEY 3306 IN SECTION 28, TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	1.46	\$125,000.00
125-160-05	Moose Pass	LOT 4, ALASKA STATE LAND SURVEY 86-176, SECTION 13, TOWNSHIP 4 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	0.87	\$40,000.00

125-160-07	Moose Pass	LOT 6, ALASKA STATE LAND SURVEY 86-176, SECTION 13, TOWNSHIP 4 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	.88	\$40,000.00
131-070-32	Kalifornsky	GOVERNMENT LOTS 6 AND 7, SECTION 24, TOWNSHIP 4 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI RECORDING DISTRICT, STATE OF ALASKA.	10.03	\$222,000.00
135-053-35	Caribou Island	LOT 6A, BLOCK 4, CARIBOU ISLAND SUBDIVISION KPB2020 REPLAT, AS SHOWN ON PLAT NO. 2020-9, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	1.18	\$8,000.00
165-250-58	Anchor point	LOT ONE (1), ACCORDING TO THE PLAT OF DEED OF RECORD BOUNDARY SURVEY OF HEADACRES, FILED UNDER PLAT NO. 81-64, HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	1.05	\$15,000.00
193-261-14	Bear Cove	LOT 2, BLOCK 6, OF MARINERS WALK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 85-225, SEWARD MERIDIAN, HOMER RECORDING DISTRICT, STATE OF ALASKA.	8.77	\$125,000.00
211-280-11	Beluga	TRACT D, BLOCK 4 OF THREE MILE CREEK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 72-7, ANCHORAGE RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	6.76	\$25,000.00
211-280-13	Beluga	TRACT B, BLOCK 4 OF THREE MILE CREEK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 72-7, ANCHORAGE RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	8.33	\$30,000.00

- **SECTION 2.** That the method of disposal shall be by outcry public auction pursuant to KPB 17.10.100(B) followed by an online-only auction sale. The date of the outcry public auction sale shall be August 13, 2022. The auction shall be held at Soldotna High School or other such advertised location. A subsequent online-only auction will be conducted for those not sold as part of the live auction. The online-only auction will remain open for a minimum of two weeks beginning not later than December 31, 2022.
- **SECTION 3.** That the administration is authorized to remove any or all of the proposed land sale offerings for any reason, including real estate market conditions, at any time prior to the date of the initial auction and secondary online-only auction
- **SECTION 4.** That in the event the administration is unable to proceed with the live outcry auction on the designated date due to unforeseen events, the administration shall be authorized to reschedule the outcry auction and subsequent secondary online-only auction land sale 45 to 90 days later than the date designated in this ordinance. In the event the dates designated in Section 2 are cancelled and an alternative date is rescheduled, then such sale date and location shall be re-advertised for at least 30 days prior to the sale, consistent with the original advertisement.
- **SECTION 5.** That all parcels will be conveyed by quitclaim deed. Title insurance in the form of a lenders policy of title insurance must be obtained for all Borough-financed sales. All title insurance and closing fees are the buyer's expense. Title insurance must show the condition of title and no unsatisfied judgments or liens against the buyer at the time of closing, the latter of which shall also be verified by the buyer prior to closing. In the event a title report showing an acceptable condition of title cannot be obtained by seller, then either the buyer or the Borough may elect to terminate the purchase agreement, in which case all monies on deposit will be refunded to the buyer. For Borough-financed sales, buyers must execute a release authorizing the Borough to obtain a credit report on the said buyers.
- **SECTION 6.** That the parcel listed below is a tax-foreclosed property retained for public purpose under KPB Ordinance 2004-15 as a substandard lot (less than 40,000sf.). That in accordance with provisions of A.S. 29.45.460, the assembly finds that a public need no longer exists. The subject parcel has been enlarged by combining multiple small lots through survey plat No 2020-9 Kenai Recording District, curing the substandard size issue. As this parcel has been retained by the Borough in excess of 10 years, marketable or clear title to the subject parcel should now be available and properties can be marketed for sale.

KPB PIN	General Location	Legal Description	Last Owner of Record
135-053-35	Caribou Island	LOT 6A, BLOCK 4, CARIBOU ISLAND SUBDIVISION KPB2020 REPLAT, AS SHOWN ON PLAT NO. 2020-9, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	Pylant, Fritzi

SECTION 7. That the parcel listed below is a tax foreclosed property retained for public purpose. In accordance with provisions of A.S. 29.45.460, the assembly finds that a public need no longer exists. Due to parcel 057-530-15 being substandard in size, though similar and consistent to adjacent properties, the subject parcel should be presented for sale with special attention to the lot size and potential for an engineered septic treatment system. As the parcel has been retained by the Borough in excess of 10 years, marketable or clear title to the subject parcel is now available and the parcel can be marketed for sale.

KPB PIN	General Location	Legal Description	Last Owner of Record
057-530-15	Soldotna	LOT ONE (1), BLOCK 2-A, AND A PORTION OF BLOCK 3-A OF THE IRONS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER AMENDED PLAT NUMBER 75-4, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.	Paul D. Waln Sheryl E. Waln

SECTION 8. That the sale of the parcels listed below are subject to and contingent upon the completion of a record of survey. As a result, the legal descriptions and acreage information for the subject parcels may be updated prior to sale. All marketing materials used for the subject parcels will contain the most current information available at the time of printing. Prior to finalizing any contemplated sale, the buyer shall have the opportunity to inspect the record of survey information.

KPB PIN	General Location	Legal Description	Acres
017-120-06	North Kenai	GOVERNMENT LOT 10, ACCORDING TO THE DIVISION OF LANDS SURVEY PLAT REFLECTING A REPLAT OF BLM SECTION LOTS 5, 6, 7, 9, 10, 12, 15, 16, 17, 18 AND THAT PORTION OF THE EI/2WI/2SWI/4SW1/4SEI/4 LYING ABOVE THE LINE OF MEAN HIGH WATER WITHIN SECTION 23,	5.48

		TOWNSHIP 6 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA, FILED IN THE KENAI RECORDING DISTRICT ON JUNE 16, 1969 AS K-1622 AND REFILED ON AUGUST 8, 1969 AS K-1637. LOT 15 OF US SURVEY 3306 IN SECTION 28,	
119-070-02	Cooper Landing	TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	1.6
119-070-01	Cooper Landing	LOT 14A OF US SURVEY 3306 IN SECTION 28, TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA.	1.46
131-070-32	Kalifornsky	GOVERNMENT LOTS 6 AND 7, SECTION 24, TOWNSHIP 4 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI RECORDING DISTRICT, STATE OF ALASKA.	10.03

- **SECTION 9.** That fee simple Patents shall be received from the State of Alaska for those properties currently under management authority prior to the date of the land sale auction. In the event the fee patents are not received, those parcels will be withdrawn from the 2022 land sale and be returned to the land bank.
- **SECTION 10.** That upon successful sale at auction, buyer/bidder will enter into an agreement to acquire the subject parcel, a down payment of 10 percent of the sale price, or \$1,500.00, whichever is greater, shall be deposited with the Borough or its designee and the applicable terms and provisions of KPB 17.10.120 and KPB 17.10.130 shall apply, except that the Borough shall retain the down payment, up to \$1,000, if the prospective buyer breaches a term of the sale.
- **SECTION 12.** That auction records will contain first and second position bid amounts for each property. In the event the first position buyer is unable to perform, the property will be offered for sale to the second position bidder for the amount of the second position bid, provided that the second position bid amount is in excess of the established reserve. If the second position bidder is not interested or unable to perform, and the second position bid is in excess of the established reserve, the second position bid amount will become the stated reserve price in the subsequent secondary online only auction. Auction records for the second property. In the event the first position buyer is unable to perform, the property will be offered for sale to the second position bid amount of the second position bid position bid amount for each property. In the event the first position buyer is unable to perform, the property will be offered for sale to the second position bid amount is in excess of the established reserve. If the second position bid amount is provided that the second position bid amount is property will be offered for sale to the second position bid amount is in excess of the established reserve. If the second position bid amount is necess of the established reserve. If the second position bid amount is necess of the established reserve. If the second position bid amount is necess of the established reserve.

- **SECTION 13.** That the assembly authorizes the use of seller financing as a payment option for purchasers for those lands authorized for sale under this Ordinance. Terms of the seller financing shall be as defined in KPB 17.10.120.
- **SECTION 15.** That the mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 16. That this ordinance shall be effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS _____ DAY OF _____, 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk



Parcel No. 01712006







MINIMUM BID: \$180,000.00

Acres: 5.48

Legal Description: GOVT LOT 10, ACCORDING TO THE DIVISION OF LANDS SURVEY PLAT REFLECTING A REPLAT OF BLM SECTION LOTS 5, 6, 7, 9, 10, 12, 15, 16, 17, 18 AND THAT PORTION OF THE EI/2WI/2SWI/ 4SW1/4SEI/4 LYING ABOVE THE LINE OF MEAN HIGH WATERWITHIN SECTION 23, TOWNSHIP 6 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, ALASKA, FILED IN THE KENAI RECORDING DISTRICT ON JUNE 16, 1969 AS K-1622 AND REFILED ON AUGUST 8, 1969 AS K-1637

Topography: Level to varied topography with an abrupt steep bluff edge on the West side off the subject parcel. Vegetation consists of a stand of medium to larger diameter spruce and birch.

Special Features: Large bluff lot North of Kenai. With proper lot preparation, subject parcel will have views to the West of Cook Inlet. **Disclosures:** Steep bluff feature located on the East boundary of the subject parcel. KPB records indicate an existing encroachment exists along the easterly boundary of the parcel. An encroachment survey has been conducted and is available for review. A 50 foot wide to and along easement exists along the West boundary of the parcel. Easement will be reflected on a record of survey to be recorded prior to the sale.

Access: Potential access may be by way of the Kenai Spur Highway to a platted road located immediately West of Essence Avenue. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.

Utilities: Gas and Electric utility are available in the area.







MINIMUM BID: \$25,000.00

Acres: 11.08

Legal Description: TRACT T, MOOSE POINT SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NO. 84-65, RECORDS OF THE KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

Topography: Level to slightly varied topography with an abrupt bluff edge on the West side off the subject parcel. Vegetation consists of moderately spaced stand of medium to smaller diameter birch and spruce with areas of thick undergrowth.

Special Features: With proper lot preparation, subject property may have potential views to the West of Cook Inlet. Parcel is located in a remote area of the peninsula.

Disclosures: Steep bluff feature located on the West boundary of the subject parcel. Parcel is remote with potentially difficult access.

Access: Potential access may be by way of the Kenai Spur Highway Extension. A platted undeveloped right of way. Access may be difficult and require use of snowmachine or atv. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale. Utilities: No utilities are available.







MINIMUM BID: \$110,000.00

Acres: 2.26

Legal Description: LOT 11 OF DISCOVERY PARK SUBDIVISION, AS SHOWN ON PLAT NO. 2010-11, RECORDS OF THE SEWARD RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA

Topography: Level topography with a relatively thick stand of smaller diameter birch and spruce with areas of thick undergrowth.

Special Features: With proper lot preparation, a potential for mountain views exist. Parcel is in close proximity to Hope and nearby recreation opportunities.

Disclosures: Parcel is adjacent to an existing and active materials site located to the to the Southwest. An active air strip is also located Southwest of the parcel.

Access: Potential access may be by way of the Hope Highway to Palmer Creek Road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale. **Utilities:** Electric utility is available in the area.



Parcel No. 05501016

Soldotna







MINIMUM BID: \$350,000.00

Acres: 20

Legal Description: THE S¹/₂SW¹/₄SE¹/₄ OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, KENAI RECORDING DISTRICT, STATE OF ALASKA

Topography: Topography is relatively flat and mostly forested with spruce and birch. This parcel is situated 40 feet above and adjacent to the Kenai River lowlands and the State's Kenai River Special Management Area. The lowland area is identified as "Drainageway".

Special Features: Large undeveloped lot within close proximity to the cities of Soldotna and Kenai. Potential views may exist along the Northwest corner of the property. Parcel is bound to the North and West by State land.

Disclosures: A ravine is located in the Northwest corner of the parcel. 30 foot right of way will be reserved along the entire South property boundary for future road dedication and to aid in access to KPB owned land to the West.

Access: Potential access may be by way of Woods Drive to Maudi Drive. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.



<u> Parcel No. 05503529</u>

Soldotna







MINIMUM BID: \$85,000.00

Acres: 1.24

Legal Description: LOT 7, BLOCK 4 WIDGEON WOODS PHASE 2, ACCORDING TO PLAT NO. 2012-32, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA

Topography: Southeasterly sloping residential lot becoming varied with a bench on the East side of the subject parcel. Vegetation consists of an open stand of birch and spruce.

Special Features: Undeveloped residential lot in close proximity to the Cities of Soldotna and Kenai. Parcel is part of a Residential Local Option Zoning District.

Disclosures: Remnants of an old road bed is located on the easterly half of the lot.

Access: Potential access may be by way of the Woods Drive to Baldpate Loop. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.









MINIMUM BID: \$23,000.00

Acres: 0.34

Legal Description: LOT ONE (1), BLOCK 2-A, BLOCK 2-A AND A PORTION OF BLOCK 3-A OF THE IRONS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER AMENDED PLAT NUMBER 75-4, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA **Topography:** Level platted residential lot with a smaller stand of birch and spruce.

Special Features: Undeveloped lot in close proximity to the City of Soldotna, schools and hospital. Parcel is similar in size to those in the nearby area. **Disclosures:** Parcel is located North of the Soldotna City limits. A potential encroachment of personal property may exist along the South boundary. Parcel was acquired by tax foreclosure action in 2010. The property is subject to a 20' wide building setback along the West and North property lines and a 10' wide utility easement along the East property line.

Access: Potential access may be by way of the Kenai Spur Highway to Spruce Avenue East, to Forerunner Street. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale. **Utilities:** Electric and gas utility is available in the area.





PHOTO COMING SOON

MINIMUM BID: \$220,000.00

Acres: 3.31

Legal Description: LOT 4, BLOCK 8 STEPHENKIE ALASKA SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 73-146, KENAI RECORDING DISTRICT, STATE OF ALASKA

Topography: Parcel topography is rolling with a steep bluff towards the West side of the lots fronting the Kenai River. The vegetation present on the parcels is relatively young due to having been burned in recent wildland fire activity. **Special Features:** Large 3.31 acre Kenai River frontage parcel with potential views.

Disclosures: Steep bluff located along the South boundary of the subject property. Parcel has been impacted by wildfire. Subject parcel will be incorporated to a R-W Local Option Zoning District prior to sale. KPB has received management authority to the property. The fee recording of the fee patent will be required prior to the sale. Parcel may be subject to additional matters as disclosed on the recorded patent.

Access: Potential access may be by way of the Sterling Highway, Feuding Lane, Kenai Keys Road to Slough Avenue. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale. **Utilities:** Electric and gas utility are available in the area.









MINIMUM BID: \$23,000.00

Acres: 1.23

Legal Description: LOT THREE (3), BLOCK FIVE (5), RIVER BEND RIDGE SUBDIVISION PART FIVE (5), FILED UNDER PLAT NO. 78-126, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA **Topography:** Parcel topography is rolling with a slight elevation gain to the North property corner. Vegetation consists of a mixed stand of medium to small diameter spruce.

Special Features: 1.23 acre parcel located East of Soldotna in the Funny River area.

Disclosures: KPB received title to this parcel by Clerks Deed in 1992 as a result of a tax foreclosure action. A 10 foot wide utility easement exists along the entire East boundary. See plat for additional information.

Access: Access may be by way of Funny river road to Rousing Road, a platted and developed road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.

Utilities: Electric and gas utilities are available in the area.



Parcel No. 11907001

Cooper Landing







MINIMUM BID: \$125,000.00

Acres: 1.46

Legal Description: LOT 14A OF US SURVEY 3306 IN SECTION 28, TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA

Topography: Parcels are comprised of varied terrain with slopes and benches. A dense stand of small to medium diameter spruce and birch exist on the parcel. With proper site preparation mountain and river views may be possible from to the South.

Special Features: South facing 1.46 acre parcel located North of the Kenai River in Cooper Landing. Parcel is in close proximity to recreational activities. **Disclosures:** 10 Foot wide telecom easement exists along the South property line.

Access: Access may be by way of the Sterling Highway to Bean Creek Road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.

Parcel No. 11907002







MINIMUM BID: \$125,000.00

Acres: 1.6

Legal Description: LOT 15 OF US SURVEY 3306 IN SECTION 28, TOWNSHIP 5 NORTH, RANGE 3 WEST, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT ON JANUARY 24, 1955, SEWARD RECORDING DISTRICT, STATE OF ALASKA

Topography: Parcels are comprised of varied terrain with slopes and benches. A dense stand of small to medium diameter spruce and birch exist on the parcel. With proper site preparation mountain and river views may be possible from to the South.

Special Features: South facing 1.6 acre parcel located North of the Kenai River in Cooper Landing. With proper site preparation, mountain and potential Kenai River views may be possible.

Disclosures: 10 Foot wide telecom easement exists along the South property line.

Access: Access may be by way of the Sterling Highway to Bean Creek Road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.



Parcel No. 12516005





MINIMUM BID: \$40,000.00

Acres: 0.87

Legal Description: LOT 4, ALASKA STATE LAND SURVEY 86-176, SECTION 13, TOWNSHIP 4 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, SEWARD RECORDING DISTRICT, STATE OF ALASKA

Topography: Topography of subject parcels is relatively level with areas of varied terrain.

Special Features: Residential / Recreational lot in the Moose Pass Area. Parcel is within close proximity to recreation activities and public land. Disclosures: KPB has been conveyed Management Authority to subject

parcels through ADL Number 201306. Although KPB does not currently have fee title to the property, fee title will be received prior to sale. Parcel may be subject to additional matters as disclosed on the State of Alaska Patent. Access: Access may be by way of the Seward Highway to Lower Trail Lake (aka Mine Road). It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.







MINIMUM BID: \$40,000.00

Acres: 0.88

Legal Description: LOT 6, ALASKA STATE LAND SURVEY 86-176, SECTION 13, TOWNSHIP 4 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, SEWARD RECORDING DISTRICT, STATE OF ALASKA

Topography: Topography of subject parcels is relatively level with areas of varied terrain.

Special Features: Residential / Recreational lot in the Moose Pass Area. Parcel is within close proximity to recreation activities and public land.

Disclosures: KPB has been conveyed Management Authority to subject parcels through ADL Number 201306. Although KPB does not currently have fee title to the property, fee title will be received prior to sale. Parcel may be subject to additional matters as disclosed on the State of Alaska Patent. Access: Access may be by way of the Seward Highway to Lower Trail Lake (aka Mine Road). It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.







MINIMUM BID: \$222,000.00

Acres: 10.03

Legal Description: GOVERNMENT LOTS 6 AND 7, SECTION 24, TOWNSHIP 4 NORTH, RANGE 12 WEST, SEARD MERIDIAN, KENAI RECORDING DIRSTICT, STATE OF ALASKA

Topography: Topography of subject parcels is relatively level. **Special Features:** Large acreage bluff lot located North of Kasilof. With proper site preparation, Cook inlet views are possible.

Disclosures: Parcel is subject to a steep coastal bluff along the westerly property line. Bluff is subject to erosion. Soils sample work has been conducted on the property and is available for review upon request. **Access:** Access may be by way of Kalifornsky Beach Road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.





MINIMUM BID: \$8,000.00

Acres: 1.18

Legal Description: LOT 6A, BLOCK 4, CARIBOU ISLAND SUBDIVISION KPB2020 REPLAT, AS SHOWN ON PLAT NO. 2020-9, SEWARD RECORDING DISTRICT, STATE OF ALASKA

Topography: Parcel is mostly level with a decline towards the lake shore. A mixed timber stand of spruce and birch exist on the parcel.

Special Features: Remote, interior Caribou Island lot located on Skilak Lake.

Disclosures: Remote property. It is buyers responsibility to conduct adequate due diligence prior to the sale.

Access: Remote. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to sale.

Utilities: No utilities are available.







MINIMUM BID: \$15,000.00

Acres: 1.05

Legal Description: LOT ONE (1), ACCORDING TO THE PLAT OF DEED OF RECORD BOUNDARY SURVEY OF HEADACRES, FILED UNDER PLAT NO. 81-64, HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA

Topography: Parcel is relatively flat and appears to have been partially cleared in preparation for development. Vegetation consists of a small stand of spruce located in the southern corner of the parcel.

Special Features: Level building lot adjacent to a developed road. **Disclosures:** Physical inspection indicates the lot appears to have undergone some prior clearing and site preparation. KPB has no knowledge of prior use. **Access:** Access is by way of the Sterling Highway to the North Fork Road which abuts the North boundary of the parcel.



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



MINIMUM BID: \$125,000.00

Acres: 8.77

Legal Description: LOT 2, BLOCK 6, OF MARINERS WALK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 85-225, SEWARD MERIDIAN, HOMER RECORDING DISTRICT, STATE OF ALASKA

Topography: Parcel is varied and undulating with a stand of spruce and birch.

Special Features: Remote 8.77 acre parcel located in Bear cove, located southeast of Homer.

Disclosures: Parcel is currently under Management Authority by KPB awarded through ADL Number 227981. Fee patent to KPB is to be recorded prior to the sale. Property may be subject to additional matters as disclosed on the recorded patent.

Access: Remote parcel. Access is by way of boat or float plane to Bear Cove, and undeveloped platted trail to the subject parcel. **Utilities:** No utilities are available in the area.







MINIMUM BID: \$25,000.00

Acres: 6.76

Legal Description: TRACT D, BLOCK 4 OF THREE MILE CREEK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 72-7, ANCHORAGE RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA

Topography: Parcel is relatively flat with some areas of rolling terrain, densely covered with a stand of birch and spruce.

Special Features: Remote 6.76 +/- acre Beluga lot. Parcel is located just South of the Beluga Highway.

Disclosures: Parcel is subject to a 20 foot building setback from all exterior boundaries. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.

Access: The Beluga area is primarily accessed from the Beluga airstrip, which is privately maintained. Parcel 211-280-11 fronts the Beluga Highway a developed gravel road.





is for grap

cal repre

entation only

of the b

information d

picted he



MINIMUM BID: \$30,000.00

Acres: 8.33

Legal Description: TRACT B, BLOCK 4 OF THREE MILE CREEK SUBDIVISION AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 72-7, ANCHORAGE RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA

Peninsula Borough assumes no responsibility for any errors on this map.

Topography: Parcel is relatively flat with some areas of rolling terrain, densely covered with a stand of birch and spruce.

Special Features: Remote 8.33 +/- acre Beluga. Located just South of the Beluga Highway.

Disclosures: Parcel is subject to a 20 foot building setback from all exterior boundaries.

Access: The Beluga area is primarily accessed from the Beluga airstrip, which is privately maintained. Parcel. Parcel 211-280-13 is accessed off the Beluga Highway and Chickaleution Loop, a platted and partially developed road. It is the responsibility of the buyer to identify and confirm desired access to subject parcel prior to the sale.

MPAPC Unapproved Minutes May 5th, 2022

New Business:

A) Application LAS34020- Moose Pass Adventures Commercial Recreation Camp at Grant Lake

Unanimous approval to support.

B) Land Reclassification (013-042 &013-092-76) Regarding the reclassification of the 4 lots on Mine Road.

Recommendation to change the classification to Residential rather than Rural. Unanimous approval to recommend Residential classification.

C) Ordinance 2022-____Authorizing the Sale of Certian Parcels of Borough-Owned Land by Live Outcry Auction ...

Recommended to delay the sale of the 2 lots on Mine Road for at least one year. (Residents are interested in pursuing a Local Option Zone before sale). Unanimous approval to recommend delaying the sale.

D) Ordinance 2022-____ Authorizing Emergency Harvest of Spruce Bark Beetle Impacted Forestlands...

Vote: 6 in favor of supporting the ordinance (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). 1 against (Bruce Jaffa)

E) Resolution 2022-____ Classifying or Reclassifying Certain Borough-Managed Land in the Moose Pass Area for Transportation and Utility Purposes Associated with a Hydro Project

Vote: 1 in favor of reclassification (Kevin Dunham). 6 Against reclassification (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson.

This is contrary to our newly amended Moose Pass Comprehensive Plan.

F) ADL Easement 233782 and ADL Easement 233857 to Kenai Hydro LLC

Vote: 1 in favor of recommending issuance of easements (Bruce Jaffa). 6 against recommending issuance of the easements (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson). Motion failed.

G) Water Rights Application ADL27264 To Kenai Hydro LLC

Vote: 4 in favor of granting water rights (Bruce Jaffa, Kevin Dunham, Jeff EstesTsali Janek). 3 opposed (Monika Adam, David Pears, Jeff Hetrick) Motion passed

H) Amendment to Kenai River Comprehensive Plan to remove lands along Upper and Lower Trail Lake from the Management Area

Vote: 1 in favor of the amendment (Bruce Jaffa). 6 Opposed (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). Motion failed

J) Conditional Use Permit DODT Project MP17-22.5 parcel ID 12509028.

E4-28

Recommend adding stipulations to the permit limiting hours of operation from 8am to 8pm. To provide for dust abatement and air quality monitoring. Unanimous approval to recommend issuance of permit provided the stipulations are included.

COOPER LANDING ADVISORY PLANNING COMMISSION REGULAR MEETING LOCATION: ZOOM TELECONFERENCE WEDNESDAY, MAY 04, 2022 6:00 PM UNAPPROVED MINUTES

1. CALL TO ORDER - 6:00 pm

- 2. ROLL CALL J. Cadieux, K. Recken, Y. Galbraith, C. Degernes, L. Johnson, D. Story present. H. Harrison excused absent.
 - a. Nancy Carver; Kenai River Center, Jonathan Tymick ADOT&PF, Marcus Mueller; KPB Land Management, Aaron Hughes; KPB Land Management, Dakota Truitt; KPB Land Management, Alice Rademacher, Carol Fox, Rhonda Lynn, Phil Weber, Jerry Fox, Kim Neis, Jerry Neis, Virginia Morgan attending.
- 3. APPROVAL OF AGENDA C. Degernes moves to approve the agenda as amended. L. Johnson seconds. All approve.
- 4. APPROVAL OF MINUTES for April 06, 2022 This items was mistakenly skipped and will be addressed at the June 8 meeting.
- 5. CORRESPONDENCE none
- 6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE none
- 7. REPORT FROM BOROUGH
 - a. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Jonathan Tymick, PE, Project Manager, AKDOT&PF.
 - i. Lane closures at MP 58 for blasting were successful. There will be other closures to be determined at a future date.
 - ii. Open house was successful.
 - iii. Construction is finally happening on the pioneer roads. There will be a temporary cul-de-sac on Langille Road for emergency vehicles.
 - iv. There will be more publicly available firewood this year so stay tuned.
 - b. No KPB report other than those items in the agenda
- 8. OLD BUSINESS none
9. NEW BUSINESS

- a. Resolution 2022-XX Land Classification, 4 parcels in Cooper Landing
 - i. Aaron Hughes, KPB Land Management Agent, explained this will reclassify 35 units of land in the borough. Public notice was sent out (over 1,800 individual notices along with public comment notices in newspapers and through agency notification). Deadline for comment is May 6th.
 - 1. 4 parcels in Cooper Landing. 3 on Bean Creek and one on Snug Harbor.
 - 2. All of the Cooper Landing parcels are presented with classification of Rural to match the surrounding areas. Once the parcels are sold the classification falls off.
 - 3. All the parcels are currently undesignated.
 - ii. K. Recken said that the Snug Harbor parcel was the previous Cooper Landing dump and asked about remediation.
 - 1. Aaron Hughes said adjacent landowners gave similar reports and the KPB has researched public documents and cannot find this info but that is why they appreciate local information and is interested in any documentation.
 - 2. K. Recken said that Mona Painter has found a map with dump noted on the parcel and also had personal attribution.
 - iii. Carol Fox said that her family has owned a nearby lot since the 40's and she can personally attest to the property being a dump site.
 - iv. Kim Neis said that speaking with David Rhodes and he also recalled the parcel being used as a dump and that there may be aerial views from this period of use.
 - v. Phil Weber asked the specific location of this lot.
 - 1. J. Cadieux clarified.
 - vi. A. Hughes asked about the specific date range which may be attributed to the dump use of the site.
 - 1. K. Recken estimated it would include at least the early 50's through the early 60's.
 - vii. K. Recken said that K. Freeman attests to the timbers from the old Shackleford Creek bridge were dumped there.
 - viii. A. Hughes explained that this resolution is prior to the land sale of the parcels which would have an extended due diligence period for potential land owners to inspect the parcels before purchase.
 - ix. J. Cadieux asked about accessing the parcels off of Bean Creek and driveways.
 - 1. A. Hughes explained that the owner of the units that sold last year partnered together for a shared entry and the subsequent units have what appears to be an easier approach.

- 2. J. Cadiuex mentioned that previously the CLAPC recommended the classification of the previous parcels as Residential to indicate the community's intended or suggested use for the parcels.
- x. C. Degernes said that she knows there will be a due diligence timeframe for the Snug Harbor site but she thinks it would be unfair to any prospective buyer without further inspection conducted by the KPB.
- xi. K. Neis said that when they bought their property in 2004 they inquired about purchasing the next lot over and the KPB said at that time that that lot would never be sold because it was a dump site.
- xii. C. Degernes moves to recommend that the KPB the Snug Harbor parcel 119.110.19 be removed from the resolution for classification at this time until further investigation can be made regarding its status. K. Recken seconds. All approve.
- xiii. K. Recken moves to recommend the Bean Creek lots are classified as Residential to reflect the community's intended use. L. Johnson seconds. All approve.
- xiv. A. Hughes thanked everyone bringing this information to light and explained how important public input and local knowledge is in this process.
- b. Ordinance 2022-XX Land Sale including 3 parcels in Cooper Landing
 - i. C. Degernes moves to recommend the sale of the parcels on Bean Creek but withhold support of the sale of the parcel on Snug Harbor until further investigation of its status is completed. Y. Galbraith seconds. All approve. Motion passes.
- c. Ordinance 2022-11 Spruce Bark Beetle Forest Management Project.
 - i. Dakota Truitt, KPB Land Agent, thanked the APC for the forum for input of public comment which has helped shape and form this ordinance.
 - ii. J. Cadieux asked about the intent of the reforestation practices and how they would be affected by bluejoint grass and/or the site preparation.
 - 1. D. Truitt said that grasses are already present in the stands but are outcompeted by the living trees. If dead trees stand, the grasses can spread to the stand of ladder fuels making a severe fire. If the trees are cut, the grassland fires can still exist but they are less likely to create circumstances of the standing dead trees making more intense fires.
 - iii. J. Cadieux asked about the Whereas, "treatments will establish and preserve logging infrastructure such as roads, resource management access, and recreational trails, along with methods to close out temporary forest access; and" saying she is very concerned about the unintended consequences of these access points.

- 1. D. Truitt said this whereas was meant to acknowledge the challenges of these areas.
- 2. K. Recken asked whether the community would be involved in determining which infrastructure was used for what.
- 3. D. Truitt replied that the community would be afforded opportunity for input.
- 4. J. Cadieux suggested modifying the language of two of the ordinance's Whereas' in the following way and M. Mueller thought the wording adaptation was acceptable for #12:
 - a. Whereas 12, "treatments will be planned to establish, preserve, and regulate logging infrastructure such as roads, resource management access, and recreational trails, along with methods to close out temporary forest access; and"
 - b. Whereas 15, "forest management sale reports designed for a given unit may exceed the standards of the Alaska Forest Resource and Practices Act, and should in areas determined to be sensitive, susceptible to damage, and in need of additional protection ; and"
 - i. D. Truitt explained that determining which areas should receive special protection would come through opportunities for community input during the time that the prescriptions are written.
 - ii. J. Cadieux withdrew suggestion for language on Whereas #15.
- 5. K. Recken asked whether the opportunity for input would be limited to the management sale report.
 - a. M. Mueller suggested that the forms the process would use are still being developed but that they would include a menu of items for treatment and reporting to allow for public involvement.
- 6. J. Fox asked about whether this process might be used to help steer funds to KPB stump dumps.
 - a. D. Truitt acknowledged the need for more site management at sites like the Cooper Landing organic dump.
- 7. Y. Galbraith asked about the status of funding of this project.
 - a. D. Truitt explained that timber sales are being used as the first option for SBB risk mitigation and that taking this action as the first step of mitigation will help set up a management framework while other funding sources are pursued. Grants have been

applied for and others are still being sought but all is in process and none yet confirmed.

- b. M. Mueller explained the framework this ordinance provides is the same whether it is a timber sale or a service contract.
- 8. Y. Galbraith moved to recommend approval of the ordinance with the amended language for Whereas #12. L. Johnson seconds.
 - a. The modification of the language is as follows:
 "Whereas, treatments will establish, preserve, and regulate logging infrastructure such as roads, resource management access, and recreational trails, along with methods to close out temporary forest access; and"
- iv. D. Story suggested the modification of the language of Whereas 15 to read, "...forest management sale reports designed for a given unit may exceed the standards of the Alaska Forest Resource and Practices Act, and should in areas determined to be sensitive, susceptible to damage, and in need of additional protection; and"
 - 1. Y. Galbraith agreed to the amended motion to include the modified language for Whereas #15 as well as #12 as proposed.
 - 2. All approved, motion passed.
 - 3. C. Degernes said she appreciates the work of KPB staff members on this important project.
- d. Permit for floodplain action Drift Worldwide, Inc.
 - i. After group discussion of the structure type, location, and adequacy of the onsite septic, C. Degernes moves to recommend approval of the permit for construction of the structures. Y. Galbraith seconds. D. Story recuses. All approve. Motion passes.
- e. Ordinance 2021-19-51 Land Trust Fund monies for investigation and land planning in Unit 395
 - i. Respect is the firm that has been selected and the ordinance is asking the land trust for monies to fund the investigation and land planning in Unit 395.
 - 1. C. Degernes moves to support the ordinance as written. L. Johnson seconds. All approve. Motion passes.

10. PLAT REVIEW

- a. Plat Preliminary 2022-060 Outfitters Way replat
 - i. M. Mueller explained that this plat is to lay out the right-of-way for a frontage road extending to the waste transfer site. It was brought by DOT to limit the accesses to the highway. The traffic safety team at DOT has been involved with this frontage road to bring the traffic from Quartz Creek Rd. and improve the turning safety to Russian Gap Rd. It would remove access to the highway

from Persistance Way and reduce the driveways at the KPB waste transfer site to just the one across from Russian Gap Rd.

- ii. Conservation easement on the plat goes across Tracts A and B. Tract B also has a conservation easement that surrounds the tract. In the ordinance that authorized the sale to Sherman Smith it created that 50' easement. The KPB is trying to figure out the mechanics of unwinding the conservation easements to 25' on two of the sides and subsequently an action to modify the deed.
- iii. On the plat the Outfitters Way frontage road would lay over the existing conservation easement on the north side of the tracts and the remaining conservation easements would be reduced from 50' to 25'.
- iv. K. Recken asked for confirmation that the frontage road would extend from the parking lot of the Sunrise Inn to the transfer site with no conservation easements.
 - 1. M. Mueller explained that that is correct.
- v. J. Cadieux asked if it is because there is not enough room for both the conservation easement and the frontage road.
 - 1. M. Mueller said that they occupy the same location.
- vi. V. Morgan asked where she could access the plat.
 - 1. J. Cadieux said the CLAPC had only gotten this information yesterday.
 - 2. N. Carver confirmed that the plat is up for review at the May 23, 2022 Planning Commission Meeting. Comments are due May 11th.
- vii. J. Tymick shared a graphic to help explain.
 - 1. He said that the Three Bears access congests the MP 45-60 project and this proposed project may help with access and the Russian Gap turning lane.
- viii. J. Neiss said that one of the issues with the transfer station is that we get a lot of non-residents dumping and this layout would help reduce that.
 - 1. K. Recken clarified that the plans show that the highway access to the transfer station will still be preserved so it would not prevent the non-resident dumping.
- ix. J. Tymick said that the conservation easement being reclassified started with the DOT's belief that a frontage road is in the best interest of the project.
- x. J. Cadeiux said that the community had a series of meetings that fielded many comments saying that a frontage road was not desirable but that a compromise had been achieved to allow a frontage road as far as the Cozy Bear property then the road would pass through Tract C and on to Tract B.
- xi. L. Johnson asked whether the reduction of the greenbelt would continue down to Tract D.

- 1. M. Mueller said this would not alter Tract D's conservation easement.
- xii. J. Cadieux asked if the conservation easement would be vacated on the other boundaries of Tract B to allow the new owner to use more of the land. M. Mueller indicated that was so though the 50' conservation easement would remain next to the parcel's boundary with Dena'ina Creek, an anadromous stream.
- xiii. K. Recken asked why the frontage road couldn't go on the same alignment as on Tract D and if it was just because Three Bears doesn't want the conservation agreement that we approved during their initial plat request. J. Tymick referred back to the drawing showing the space available along Tracts C and B would require elimination of the conservation easement to make way for the frontage road.
- xiv. J. Cadieux said that it seems like if we are not having access to the highway why can't we return to the plans we spent so much time at previous CLAPC meetings with KPB and a hired design professional.
 - 1. J. Tymick said that the proposed frontage road is intended to stay within the DOT right of way and not mean DOT would need to take possession of the maintenance of the frontage road.
 - 2. J. Cadieux asked that since the planning process of Tract C involved notable community effort over multiple meetings, can the original planning for Tract C be on the table or has it been abandoned and we have to give up our green space.
 - a. M. Mueller indicated it might be possible.
- xv. D. Story said that the timing of this information is hard to support since it is just being presented and the community was not informed via draft agenda that this change was proposed.
- xvi. J. Cadieux asked if this is something that needs to happen right now.
 - 1. M. Mueller said that from his standpoint in land management there is not a time crunch but the platting process does have a statutory timeframe.
- xvii. C. Degernes said that one of the biggest benefits to the community is DOT's willingness to provide safe ingress and egress to Russian Gap Rd. but that the loss of the 50' treed buffer is a big deal. C. Degernes said that a hybrid might be that there is a spur road from the transfer site side to Tract B but the 50' buffer remains and the frontage road across Tracts C and B from Quartz Creek runs south of the 50' buffer.
- xviii. J. Cadieux said that she also supports the improvement to the ingress/egress.
 - xix. D. Story said that the resistance to a frontage road at the entry to our community seemed to come from the desire to keep it from

feeling like a strip mall. He said that the Brewery's treatment of the 50' conservation easement seemed like a good compromise with the need for a business to be seen and maintaining greenspace that ties the community to the land management intent.

- xx. L. Johnson said she agreed with D. Story
- xxi. K. Recken said that the importance of the conservation easement is considerable for the community.
- xxii. C. Degernes said that another possible compromise is to move the frontage road further in. The businesses get more access and the community retains the buffer. They lose some of the usable area of their property but maintain the easements that are a part of their property. Right now it seems like Three Bears doesn't lose much while the community does.
- xxiii. D. Story said that in this short discussion we have already had several ideas for compromise or change and we are the only ones in the community that know that this is a discussion. He said that it seems like our obligation is to make sure the community has more opportunity for input.
- xxiv. V. Morgan speaking, not as a Planning Commission member but as a community member, said this should be brought before the community.
- xxv. R. Lynn asked whether it can be withdrawn from the May 23rd Planning Commission Meeting.
 - 1. M. Mueller said that he would consult the platting specialist for KPB and find out more about bringing this up for the June CLAPC meeting.
- xxvi. D. Story moves to recommend disapproval of the plat as presented and recommend for extended time for public review and comment regarding the design options. L. Johnson seconds. All approve. Motion passes.

11. INFORMATION and ANNOUNCEMENTS

- a. Ordinance 2022-07 Re-Apportionment of Board of Education
 - i. V. Morgan said that this is a part of a regular review of the districts and their populations. She explained that there are generally two options for changes which are presented with the review. In this case it is a 9 district option and an 11 district options. She said that the conceptual maps presented in the voting pamphlets are just that and after the vote the KPB will make the actual map based on the census blocks. She said this is also for the assembly districts and that there is a cost increase with an 11 district model and that the 11 district model is what was recommended by the committee.
- b. The new Planning Department Director is Robert Ruffner.

12. COMMISSIONER'S COMMENTS

- a. Y. Galbraith said she sent an email out regarding review of the Planning Commission Handbook and the duty of commissioners to represent the community and make note of when we are representing our own opinions when we speak.
- b. C. Degernes said she really appreciates the agency attendance of M. Mueller, D. Truitt, N. Carver, and J. Tymick and said that is a really big benefit of the Zoom meetings which would be much harder to provide in person.
- c. J. Cadieux reported work is ongoing to make hybrid Zoom and in-person meetings possible. S. Lopez acknowledged that the Planning Commision and Assembly had similar experiences to CLAPC in increased community participation via Zoom and they are working to provide hybrid meetings as well but did not have technical support to provide us in our endeavor to develop that for our community. D. Story indicated he thought the technology exists and he will try to test it before the next meeting. J. Cadieux offered help.
- ADJOURNMENT L. Johnson moves to adjourn. K. Recken seconds. All approve. 8:57pm

For more information or to submit comments please contact:

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

E. NEW BUSINESS

5. Resolution 2022-XX: Classifying & reclassifying certain boroughmanaged land in the Moose Pass area.

MEMORANDUM

TO:	Brent Johnson, Assembly President Members, Kenai Peninsula Borough Assembly Members
THRU:	Charlie Pierce, Mayor Robert Ruffner, Planning Director Marcus Mueller, Land Management Officer
FROM:	Julie Denison, Land Management Technician
DATE:	May 13, 2022

RE: Resolution 2022-____, Classifying or Reclassifying Certain Borough-Managed Land in the Moose Pass Area for Transportation and Utility Purposes Associated with a Hydro Project (Mayor)

Pursuant to KPB 17.10.080, Alaska Electric and Energy Cooperative, Inc., dba Kenai Hydro, LLC has submitted a petition for classification / reclassification of borough land in the Moose Pass area, in support of the Grant Lake Hydroelectric Project, FERC No. 13212. The project received a Final Environmental Impact Statement in May of 2019 and is working with the Kenai Peninsula Borough ("Borough") and the State of Alaska to acquire surface use authorizations.

This resolution classifies or reclassifies approximately 13.32 acres of Boroughmanaged land as utility / transportation. Pursuant to KPB Resolution 2016-045, all but one of the land units were classified as Recreational. If enacted, this resolution will classify / reclassify portions along the anticipated project corridor as utility / transportation. The remaining areas of the land outside of the project corridor will remain classified as recreational or undesignated, respectively.

Land Management has prepared a staff report to inventory and characterize the land, resources, and uses. The findings, analysis and conclusions of the staff report support a recreational and utility / transportation classification of these lands.

The Moose Pass Advisory Planning Commission (MPAPC) has scheduled a meeting on May 5, 2022. The MPAPC recommendation will be considered by the Kenai Peninsula Borough Planning Commission on May 23, 2022. The recommendations from these public hearings will be reported to the Assembly.

Your consideration of this resolution is appreciated.

Mayor 6/7/22

KENAI PENINSULA BOROUGH RESOLUTION 2022-XXX

Introduced by:

Date: Action: Vote:

A RESOLUTION CLASSIFYING AND RECLASSIFYING CERTAIN BOROUGH MANAGED LAND IN THE MOOSE PASS AREA

- WHEREAS, a recreational classification and updated land use plan was a condition to receive patent to the certain municipal entitlement land under Final Decision ADL 201306 lands from the State of Alaska; and
- WHEREAS, on August 9, 2016, KPB Resolution 2016-045 classified certain municipal entitlement lands in the Moose Pass / Crown Point area as recreational; and
- WHEREAS, on March 24, 2022 the Kenai Peninsula Borough received Land Classification Order No. SC-99-02A15 from the state and has satisfied the conditions for title conveyance; and
- WHEREAS, the Alaska Electric and Energy Cooperative, Inc. (dba Kenai Hydro, LLC) has submitted a petition for classification/reclassification of portions of certain parcels as utility / transportation to support the Grant Lake Hydroelectric Project, FERC Project No. 13212; and
- WHEREAS, the proposed project is to be located at the south end of Grant Lake and south of Grant Creek and would generate about 18,600 megawatt-hours of energy annually; and
- **WHEREAS,** areas outside of the utility / transportation corridors within each parcel will remain classified as recreational; and
- **WHEREAS**, pursuant to KPB 17.10.080, Borough land classification provides direction for the management of Borough-owned land; and
- **WHEREAS,** KPB Land Management is working with Kenai Hydro, LLC to prepare easements and other surface use authorizations related to the project construction within the areas proposed for classification; and
- WHEREAS, public notice was published and notification sent to land owners and/or leaseholders of record within a one-half mile radius of the land proposed for classification, and to applicable departments, agencies, the Moose Pass Advisory Planning Commission and interested parties; and

- WHEREAS, the Moose Pass Advisory Planning Commission at its regularly scheduled meeting of May 5, 2022 recommended _____; and
- WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of May 23, 2022 recommended ______.

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

SECTION 1. That based on the findings of fact, analysis, and conclusions contained in the staff report of May 23, 2022, the following described borough land shall be classified as follows:

Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning
12532101	Moose Pass	A portion of Govt Lot 11, Section 6, Township 4 North, Range 1 East, Seward Meridian	Э±	Recreational	Utility / Transportation	Rural District
12532102	Moose Pass	A portion Govt Lot 3, Section 07, Township 04 North, Range 01 East, Seward Meridian		Recreational	Utility / Transportation	Rural District
12532315	Moose Pass	A portion of Govt Lot 2, Section 12, Township 04 North, Range 01 West, Seward Meridian	Э±	Recreational	Utility / Transportation	Rural District
12532318	Moose Pass	A portion of Govt Lot 5, Section 12, Township 04 North, Range 01 West, Seward Meridian	4±	N/A	Utility / Transportation	Rural District
12532330	Moose Pass	A portion of Govt Lot 3, Section 1, Township 04 North, Range 01 West, Seward Meridian	0.32±	Recreational	Utility / Transportation	Rural District

SECTION 2. That this resolution shall be effective immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY * 2022.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes:

No:

Absent:

AGENDA ITEM . PUBLIC HEARINGS

____. Proposed Classification of Certain Borough Land, Pursuant to KPB Code of Ordinances, Chapter 17.10.080.

STAFF REPORT

PC Meeting May 23, 2022

Basis for Classification: The Alaska Electric and Energy Cooperative, Inc., dba Kenai Hydro, LLC (AEEC) has submitted a petition to reclassify portions of borough land from Recreational to Utility / Transportation in support of the Grant Lake Hydroelectric Project, FERC 13212. In May of 2019, AEEC has received the Final Environmental Impact Statement for the project. Classification provides guidance for the management of borough land.

	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532101	Moose Pass	A portion of Govt Lot 11, Section 6, Township 4 North, Range 1 East, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District	
12532102	Moose Pass	A portion of Govt Lot 3, Section 7, Township 4 North, Range 1 East, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District	
12532315	Moose Pass	A portion of Govt Lot 2, Section 12, Township 4 North, Range 1 West, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District	
12532318	Moose Pass	A portion of Govt Lot 5, Section 12, Township 4 North, Range 1 West, Seward Meridian	4±	N/A	Utility / Transportation	Rural District	
12532330	Moose Pass	A portion of Govt Lot 3, Section 1, Township 4 North, Range 1 West, Seward Meridian	0.32±	Recreational	Utility / Transportation	Rural District	

Public Notice: Public notice was published in the Peninsula Clarion and Seward Phoenix Log on April 27 and May 4, 2022. Public notice is sent to all land owners and/or leaseholders within a one-half mile radius of the land proposed to be classified, applicable agencies, and interested parties. The notice consists of a cover letter, map, and list of land classification definitions. Written public comments were requested to be returned by 4:00 p.m., on May 11, 2022.

	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532101	Pass	A portion of Govt Lot 11, Section 6, Township 4 North, Range 1 East, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District	
Classification Definition(s):							
Zoning:		istrict. Land use in the Rura in KPB Title 21.	l District	shall be unrestri	cted except as	otherwise	

Overview: This classification area is two strips of land and a segment of lakeshore lands representing an access roadway an underground tunnel and access to waterfront weir features and project work areas. This site is located approximately two miles south of Moose Pass and is situated at the south end of Grant Lake. The land is bordered on its north boundary by 1,400 feet of Grant Lake shoreline and its east boundary sits at the base of Crown Point Mountain. Grant Creek lies on the north and west sides. Subject land is the location of a planned water intake, bypass weir, and access road for the Grant Lake Hydroelectric Project, FERC No. 13212.

Findings of Fact:

- <u>Property Status</u>: The Borough has management authority per Municipal Entitlement Final Decision ADL 201306. On June 22, 2010, KPB Resolution 2010-057 and 2010-057 Substitute, opposing the Grant Lake/Falls Creek Hydroelectric Project, failed. The parcel is currently classified Recreational, pursuant to KPB Resolution 2016-045.
- 2. Zoning: Rural District pursuant to KPB 21.04.010(B).
- 3. <u>Topography</u>: Varied from steep to moderate slopes.
- 4. <u>Vegetation</u>: Mature mountain hemlock forest with areas of white lutz spruce-cottonwood and alders.
- 5. <u>Soil</u>: No third order soil survey currently exists. Soil appears to be shallow to bed rock in the west half with an alluvial fan or lakebed deposit along the east half. There is a mapped kettle wetland on the east side of the lot south of Grant Lake.
- 6. <u>Surrounding Land Use</u>: Surrounding area is undeveloped. Grant Lake to the north and Grant Creek to the north and west provide scenic front-country opportunities for the general public.
- 7. <u>Surrounding Land Ownership</u>: The surrounding land is in State of Alaska and USDA Forest Service ownership.
- 8. <u>Access</u>: There is no dedicated public access to this parcel. A 50-foot wide section-line easement exists along the south and east boundaries. Conveyance of this land from the state is subject to a 50-foot wide public access easement upland of and along the mean high-water line of Grant Lake and Grant Creek per AS 38.05.127 and 11 AAC 51.045. The planned access road could make this land more accessible.

- 9. Utilities: None.
- 10. <u>Public Comment</u>: As of the writing of this report no written comments have been received. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
- 11. <u>Moose Pass Advisory Planning Commission (MPAPC) Review</u>: The Moose Pass APC is scheduled to meet May 5, 2022, and their recommendations will be reported to the Planning Commission.
- 12. <u>Department / Agency Comments</u>: As of the writing of this report three agencies responded with no comment or objection.

Analysis:

The final EIS for the Grant Lake Hydroelectric Project, FERC 13212, was issued on May 1, 2019. To support the hydroelectric project, and guide KPB's management of the land, portions of this undeveloped parcel are being proposed for construction of an electric transmission line and access road. The remaining areas of the parcel will continue to be managed towards recreational public uses.

Reclassifying subject parcel areas as Utility / Transportation is supported by:

KPB Comprehensive Plan (2019)

- Goal 2 (Focus Area: Land Use and Changing Environment), Objective C, Strategy 1: Develop a generalized land use map, illustrating broad intentions for future development, growth and conservation priorities"
- Goal 3 (Focus Area: Energy and Utilities), Objective A, Strategy 1: "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".

Moose Pass Comprehensive Plan (1993)

• Goal, Objective and Policy 2: "Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens' rural lifestyles.

Conclusions:

The characteristics this land are suited to serve utility/transportation purposes and were identified by the petitioner for the planned hydroelectric project. The project scope was developed through the Federal Energy Regulatory Commission procedures. A Utility/Transportation classification is compatible with the existing recreational uses and the proposed new use. Transportation segments may provide access infrastructure that serves recreation and other future borough purposes.

Recommendation:

Based on the findings of fact, analysis, and conclusions, a Utility/Transportation classification is recommended for a portion of KPB Parcel No. 12532101, as shown on the attached map.



	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532102	Moose Pass	A portion of Govt Lot 3, Section 7, Township 4 North, Range 1 East, Seward Meridian,	3±	Recreational	Utility / Transportation	Rural District	
Classification Definition(s):							
Zoning:	Land use 21.	in the Rural District shall be ur	restricted	except as otherw	vise provided in	KPB Title	

Overview: This classification area is two strips of land representing an access roadway to Grant Lake and an access driveway to the proposed hydro plant, located approximately two miles south of Moose Pass and is situated at the north end of Vagt Lake. The general area contains trail and lake-oriented recreation in a "front-country" network of prominent non-motorized and motorized trails. Subject land is the planned location of an electric transmission line and access road for the Grant Lake Hydroelectric Project, FERC 13212. The proposed alignment of the Iditarod National Historic Trail and associated corridor traverses north-south through this area.

Findings of Fact:

- Property Status: The Borough has management authority per Municipal Entitlement Final Decision ADL 201306. On June 22, 2010, KPB Resolution 2010-057 and 2010-057 Substitute, opposing the Grant Lake/Falls Creek Hydroelectric Project, failed. The parcel is currently classified Recreational, pursuant to KPB Resolution 2016-045.
- 2. <u>Zoning</u>: The property is within the Rural District pursuant to KPB 21.04.010(B).
- 3. <u>Topography</u>: Varied with mountain benchlands, lower mountain slopes, a depressional lake (Vagt Lake).
- 4. <u>Vegetation</u>: Predominant forest stand of mature spruce and cottonwood with a few areas of black and mountain hemlock.
- 5. <u>Soil</u>: No third order soil survey currently exists. Soil appears to be a rolling mixture of shallow bed rock and glacial till. There are three mapped kettle wetland complexes on the north and west sides of the land, outside of the project boundary
- 6. <u>Surrounding Land Use</u>: Surrounding area is undeveloped. The general area serves a variety of recreational day-uses at Vagt Lake and Solars Mountain for the general public.
- 7. <u>Surrounding Land Ownership</u>: The surrounding land is primarily in state ownership.
- 8. <u>Access</u>: There is no dedicated public access to this land. Access is primarily from a network of trails which include the Vagt Lake Trail and the Iditarod National Historic Trails. Conveyance of the land from the state is subject to a 50 foot-wide public access easement upland of and along the mean high water line of Vagt Lake per AS 38.05.127 and 11 AAC 51.045.

- 9. <u>Utilities</u>: None.
- 10. <u>Public Comment</u>: As of the writing of this report no comments have been received. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
- 11. <u>Moose Pass Advisory Planning Commission (MPAPC) Review</u>: The Moose Pass APC is scheduled to meet May 5, 2022, and their recommendations will be reported to the Planning Commission.
- 12. <u>Department / Agency Comments</u>: As of the writing of this report three agencies responded with no comment or objection.

Analysis:

The final EIS for the Grant Lake Hydroelectric Project, FERC 13212, was issued on May 1, 2019. To support the hydroelectric project, and guide KPB's management of the land, portions of this undeveloped parcel are being proposed for use as utility and transportation corridors. The remaining areas of the parcel will continue to be managed towards recreational public uses.

Reclassifying subject portion of the parcel areas as Utility / Transportation is supported by:

KPB Comprehensive Plan (2019)

- Goal 2 (Focus Area: Land Use and Changing Environment), Objective C, Strategy 1: Develop a generalized land use map, illustrating broad intentions for future development, growth and conservation priorities"
- Goal 3 (Focus Area: Energy and Utilities), Objective A, Strategy 1: "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".

Moose Pass Comprehensive Plan (1993)

• Goal, Objective and Policy 2: "Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens' rural lifestyles.

Conclusions:

The characteristics this land are suited to serve utility/transportation purposes and were identified by the petitioner for the planned hydroelectric project. The project scope was developed through the Federal Energy Regulatory Commission procedures. A Utility/Transportation classification is compatible with the existing recreational uses and the proposed new use. Transportation segments may provide access infrastructure that serves recreation and other future borough purposes. Easement is held by the USFS for the Iditarod National Historic Trail passing north-south through this section. The project will need to have measures in place to maintain compatibility and consistency with the Iditarod Trail features which will be managed by the USFS as the easement holder.

Recommendation:

Based on the findings of fact, analysis, and conclusions, a Utility / Transportation classification is recommended for that portion of parcel number 12532102, as shown on the attached map.



	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532315	Pass	A portion of Govt Lot 2, Section 12, Township 4 North, Range 1 West, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District	
Classification Definition(s):							
Zoning:		istrict. Land use in the Rura in KPB Title 21.	l District	shall be unrestri	cted except as	otherwise	

Overview: This classification area is strips of land representing an access roadway and an electric utility corridor. This land is located approximately two miles south of Moose Pass near Mile Post 27 of the Seward Highway. The land is bordered on the east by 800 feet of Upper and Lower Trail Lake shoreline and bordered on the west by the Alaska Railroad. Subject land is the location of a planned electric transmission line and access road for the Grant Lake Hydroelectric Project, FERC No. 13212. The circular area inbetween the two corridors has been identified for a temporary project staging, which could then serve a to provide parking for recreation and pedestrian uses. The staging activity could be considered under a land use permit or short-term lease.

Findings of Fact:

- <u>Property Status</u>: The Borough has management authority per Municipal Entitlement Final Decision ADL 201306. On June 22, 2010, KPB Resolution 2010-057 and 2010-057 Substitute, opposing the Grant Lake/Falls Creek Hydroelectric Project, failed. The parcel is currently classified Recreational, pursuant to KPB Resolution 2016-045.
- 2. <u>Zoning</u>: The property is within the Rural District pursuant to KPB 21.04.010(B).
- 3. <u>Topography</u>: Rolling terrain.
- 4. <u>Vegetation</u>: Mature white/lutz spruce and birch forest.
- 5. <u>Soil</u>: No third order soil survey currently exists. Soil appears to be a rolling mixture of shallow bedrock and glacial till.
- 6. <u>Surrounding Land Use</u>: Surrounding area is primarily undeveloped.
- 7. <u>Surrounding Land Ownership</u>: The surrounding land is primarily in State of Alaska ownership. Three parcels within proximity are in private ownership.
- <u>Access</u>: There is no dedicated public access to this land. The Alaska Railroad and the Iditarod Trail borders the land on the west, and lie east of the Seward Highway. A 50-foot wide section-line easement exists along the north parcel boundary. Conveyance of this land from the state is subject to a 50-foot wide public access easement upland of and along the mean high-water line of Upper and Lower Trail Lakes per AS 38.05.127 and 11 AAC 51.045.

- 9. Utilities: None.
- 10. <u>Public Comment</u>: As of the writing of this report no written comments have been received. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
- 11. <u>Moose Pass Advisory Planning Commission (MPAPC) Review</u>: The Moose Pass APC is scheduled to meet May 5, 2022, and their recommendations will be reported to the Planning Commission.
- 12. <u>Department / Agency Comments</u>: As of the writing of this report three agencies responded with no comment or objection.

Analysis:

The final EIS for the Grant Lake Hydroelectric Project, FERC 13212, was issued on May 1, 2019. To support the hydroelectric project, and guide KPB's management of the land, portions of this undeveloped parcel are being proposed for use as utility and transportation corridors. The remaining areas of the parcel will continue to be managed towards recreational public uses.

Reclassifying subject parcel areas as Utility / Transportation is supported by:

KPB Comprehensive Plan (2019)

- Goal 2 (Focus Area: Land Use and Changing Environment), Objective C, Strategy 1: Develop a generalized land use map, illustrating broad intentions for future development, growth and conservation priorities"
- Goal 3 (Focus Area: Energy and Utilities), Objective A, Strategy 1: "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".

Moose Pass Comprehensive Plan (1993)

• Goal, Objective and Policy 2: "Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens' rural lifestyles.

Conclusions:

The characteristics this land are suited to serve utility/transportation purposes and were identified by the petitioner for the planned hydroelectric project. The project scope was developed through the Federal Energy Regulatory Commission procedures. A Utility/Transportation classification is compatible with the existing recreational uses and the proposed new use. Transportation segments may provide access infrastructure that serves recreation and other future borough purposes. The area in-between the two corridors has been identified for a temporary project staging, which could then serve a to provide parking for recreation and pedestrian uses. Although there may be temporary project uses of this center area, it is proposed to be retained in the recreational classification.

Recommendation:

Based on the findings of fact, analysis, and conclusions, a Utility/Transportation classification is recommended for a portion of KPB Parcel No. 12532315, as shown on the attached map.





Govt Lot 2, Section 12, T4N, R1W, S.M. Parcel No. 12532315 Utility-Transportation Classification
Classification
Classification
Classification
Classification

	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532318	Pass	A portion of Govt Lot 5, Section 12, Township 4 North, Range 1 West, Seward Meridian	4±	N/A	Utility / Transportation	Rural District	
Classification Definition(s):							
Zoning:		istrict. Land use in the Rura in KPB Title 21.	l District	shall be unrestr	icted except as	otherwise	

Overview: This classification area is a strip of land, approximately 100 feet in width representing an Electric Utility Corridor. This land is located approximately two miles south of Moose Pass and is situated at the south end of Grant Lake. The land is bordered on its north boundary by 1,400 feet of Grant Lake shoreline and its east boundary sits at the base of Crown Point Mountain. Grant Creek lies on the north and west sides. Subject land is the location of a planned water intake and bypass weir for the Grant Lake Hydroelectric Project, FERC No. 13212.

Findings of Fact:

- 1. <u>Property Status</u>: The Borough has management authority per Municipal Entitlement Final Decision ADL 201306. The parcel is currently not classified.
- 2. Zoning: Rural District pursuant to KPB 21.04.010(B).
- 3. <u>Topography</u>: Varied from steep to moderate slopes.
- 4. <u>Vegetation</u>: Mature mixed forest stand containing Mountain Hemlock, White/Lutz Spruce, Birch; and Alders.
- 5. <u>Soil</u>: No third order soil survey currently exists. There is a mapped kettle wetland within the western portion of the parcel and soil appears to be shallow to bed rock in the west half with an alluvial fan or lakebed deposit along the east half.
- 6. <u>Surrounding Land Use</u>: Surrounding area is primarily undeveloped. Three parcels within proximity have been developed for residential use. The Upper and Lower Trail Lakes and Vagt Lake Trail are east of the highway and railroad right-of-way. To the west lies Madsen Mountain, Crescent Lake, and Crescent Lake trail.
- 7. <u>Surrounding Land Ownership</u>: The surrounding land is primarily in State of Alaska ownership. Three parcels within proximity are in private ownership.
- 8. <u>Access</u>: The parcel is accessed from the Seward Highway just south of MP 27. A 50-foot wide sectionline easement exists along the north boundary. The Alaska Railroad runs parallel to the Seward Highway, along the east parcel boundary.
- 9. Utilities: The State of Alaska has issued ADL 219510 to the City of Seward for construction and

maintenance of a 115 kV electrical transmission line. ADL 219510 extends north/south through this land and electrical power to sites within the Grant Lake Hydroelectric Project, FERC 13212 are anticipated to commence from the existing transmission line.

- 10. <u>Public Comment</u>: As of the writing of this report no written comments have been received. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
- 11. <u>Moose Pass Advisory Planning Commission (MPAPC) Review</u>: The Moose Pass APC is scheduled to meet May 5, 2022, and their recommendations will be reported to the Planning Commission.
- 12. <u>Department / Agency Comments</u>: As of the writing of this report three agencies responded with no comment or objection.

Analysis:

The final EIS for the Grant Lake Hydroelectric Project, FERC 13212, was issued on May 1, 2019. The City of Seward maintains a transmission line right-of-way within the parcel where the project anticipates constructing power to project sites. The parcel is not currently classified so this proposal will classify the parcel as Recreational and Utility / Transportation, similar to the other parcels included in this staff report.

Classifying subject parcel areas as Utility / Transportation is supported by:

KPB Comprehensive Plan (2019)

- Goal 2 (Focus Area: Land Use and Changing Environment), Objective C, Strategy 1: Develop a generalized land use map, illustrating broad intentions for future development, growth and conservation priorities"
- Goal 3 (Focus Area: Energy and Utilities), Objective A, Strategy 1: "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".

Moose Pass Comprehensive Plan (1993)

• Goal, Objective and Policy 2: "Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens' rural lifestyles.

Conclusions:

The characteristics this land are suited to serve utility/transportation purposes and were identified by the petitioner for the planned hydroelectric project. The project scope was developed through the Federal Energy Regulatory Commission procedures. This segment provides connection with an existing transmission corridor. The existing transmission corridor would be appropriate to also place in the Utility/Transportation classification.

Recommendation:

Based on the findings of fact, analysis, and conclusions, a Utility/Transportation classification is recommended for a portion of KPB Parcel No. 12532318, as shown on the attached map.



N

Govt Lot 5, Section 12, T4N, R1W, S.M. Parcel No. 12532318

0 75 150 300 Feet

Utility-Transportation Classification
Utility-Transportation Classification
Section Line Easement
Iditarod Trail
Transmission Line

	Description of Borough Land Proposed for Classification						
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning	
12532330	Moose Pass	A portion of Govt Lot 3, Section 1, Township 4 North, Range 1 West, Seward Meridian	0.32±	Recreational	Utility / Transportation	Rural District	
Classification Definition(s):							
Zoning:		istrict. Land use in the Rura in KPB Title 21.	l District	shall be unrestri	cted except as	otherwise	

Overview: This classification area is a strip of land representing an access roadway segment. This land is located approximately two miles south of Moose Pass and is situated near MP 27 of the Seward Highway. The land is bordered on its east boundary by 1,300 feet of Upper Trail Lake shoreline and is bound on the west by the Alaska Railroad and Seward Highway rights-of-way. Subject land is the location of a planned access route for the Grant Lake Hydroelectric Project, FERC No. 13212.

Findings of Fact:

- <u>Property Status</u>: The Borough has management authority per Municipal Entitlement Final Decision ADL 201306. On June 22, 2010, KPB Resolution 2010-057 and 2010-057 Substitute, opposing the Grant Lake/Falls Creek Hydroelectric Project, failed. The parcel is currently classified Recreational, per KPB Resolution 2016-045.
- 2. Zoning: Rural District pursuant to KPB 21.04.010(B).
- 3. <u>Topography</u>: Moderate slopes and some rolling terrain near the shoreline of Upper Trail Lake.
- 4. <u>Vegetation</u>: Mature mixed forest stand containing Mountain Hemlock, White/Lutz Spruce, Birch, and Alders.
- 5. <u>Soil</u>: No third order soil survey currently exists. There is a mapped kettle wetland extending through the western portion of the parcel from Upper Trail Lake. Soil appears to be an alluvial fan or lakebed deposit.
- 6. <u>Surrounding Land Use</u>: Surrounding area is primarily undeveloped. Three parcels within proximity have been developed for residential use.
- 7. <u>Surrounding Land Ownership</u>: The surrounding land is primarily in State of Alaska ownership. Three parcels within proximity are in private ownership.
- 8. <u>Access</u>: The parcel is accessed from the Seward Highway near MP 27. A 50-foot wide section-line easement exists along the south boundary. Conveyance of this land from the state is subject to a 50-foot wide public access easement upland of and along the mean high-water line of Upper and Lower Trail Lakes per AS 38.05.127 and 11 AAC 51.045. The Alaska Railroad runs parallel to the Seward Highway and the west parcel boundary.

- 9. <u>Utilities:</u> None. An overhead electrical transmission line, ADL 219510, exists across the highway.
- 10. <u>Public Comment</u>: As of the writing of this report no written comments have been received. Written comments received by the Planning Department after the writing of this report will be presented at the Planning Commission Hearing.
- 11. <u>Moose Pass Advisory Planning Commission (MPAPC) Review</u>: The Moose Pass APC is scheduled to meet May 5, 2022, and their recommendations will be reported to the Planning Commission.
- 12. <u>Department / Agency Comments</u>: As of the writing of this report three agencies responded with no comment or objection.

Analysis:

The final EIS for the Grant Lake Hydroelectric Project, FERC 13212, was issued on May 1, 2019. To support the hydroelectric project, and guide KPB's management of the land, portions of this undeveloped parcel are being proposed for use as utility and transportation corridors. The remaining areas of the parcel will continue to be managed towards recreational public uses.

Reclassifying subject parcel areas as Utility / Transportation is supported by:

KPB Comprehensive Plan (2019)

- Goal 2 (Focus Area: Land Use and Changing Environment), Objective C, Strategy 1: Develop a generalized land use map, illustrating broad intentions for future development, growth and conservation priorities"
- Goal 3 (Focus Area: Energy and Utilities), Objective A, Strategy 1: "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".

Moose Pass Comprehensive Plan (1993)

• Goal, Objective and Policy 2: "Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens' rural lifestyles.

Conclusions:

The characteristics this land are suited to serve utility/transportation purposes and were identified by the petitioner for the planned hydroelectric project. The project scope was developed through the Federal Energy Regulatory Commission procedures. This segment provides connection with an existing transmission corridor. The existing transmission corridor would be appropriate to also place in the Utility/Transportation classification.

Recommendation:

Based on the findings of fact, analysis, and conclusions, a Utility/Transportation classification is recommended for a portion of KPB Parcel No. 12532330, as shown on the attached map.



STAFF RECOMMENDATION: Based on the findings of fact, analysis, and conclusions that the KPB Planning Commission finds that it is in the borough's best interest to recommend adoption of a Resolution re-classifying subject land as follows, and as shown herein:

	Description of Borough Land Proposed for Classification							
Assessor's Parcel No.	General Location	Legal Description	Acres+/-	Current Classification	Proposed Classification	Zoning		
12532101	Moose Pass	A portion of Govt Lot 11, Section 6, Township 4 North, Range 1 East, Seward Meridian	Э±	Recreational	Utility / Transportation	Rural District		
12532102	Moose Pass	A portion of Govt Lot 3, Section 7, Township 4 North, Range 1 East, Seward Meridian	э±	Recreational	Utility / Transportation	Rural District		
12532315	Moose Pass	A portion of Govt Lot 2, Section 12, Township 4 North, Range 1 West, Seward Meridian	3±	Recreational	Utility / Transportation	Rural District		
12532318	Moose Pass	A portion of Govt Lot 5, Section 12, Township 4 North, Range 1 West, Seward Meridian	4±	N/A	Utility / Transportation	Rural District		
12532330	Moose Pass	A portion of Govt Lot 3, Section 1, Township 4 North, Range 1 West, Seward Meridian	0.32±	Recreational	Utility / Transportation	Rural District		

END OF STAFF REPORT

RECEIVED

PETITION FOR CLASSIFICATION OR RECLASSIFICATION KENAI PENINSULA BOROUGH LAND MANAGEMENT DIVISION

MAR 102022

KPB PLANNING DEPT.

144 N. Binkley Street Soldotna, AK 99669-7599 Imweb@kpb.us

Phone: 907-714-2205 Fax: 907-714-2378

Classification does not imply that a parcel will be approved for sale or that the petitioner will receive right or preference to the land. A non-refundable application fee of \$500.00 must be submitted with this form. Petitions for reclassification of borough land in communities with an adopted land use plan will be considered biannually by the Planning Commission pursuant to Kenai Peninsula Borough (KPB) Resolution 97-084. Please contact the KPB Planning Department for dates petitions must be submitted by to be considered.

Parcel Identification Number(s) (PIN- 8 digits):

12532318,12532315,12532330,12532102,

12532101

T04N-R01E Section 7 (Seward Meridian)

Existing Classification: Recreational

Proposed Re-Classification: Utility/Transportation

Please explain justification for proposed (re)classification below:

Kenai Hydro, LLC (KHL) proposes to reclassify 9.8 acres of Municipal Entitlement land within

the parcels listed above. The purpose of the reclassification is for use as utility and

transportation corridors for the Grant Lake Hydroelectric Project (FERC No. 13212) (Figure 1).

Alaska Electric and Energy Cooperative, Inc. (d.b.a. Kenai Hydro, LLC) Name of Petitioner:

Mailing Address: _____ 280 Airport Way, Kenai, AK 99611

Phone:

907-283-2375

_ Email: _____ msalzetti@homerelectric.com

3/10/2022 Date

IF YOU HAVE ANY QUESTIONS REGARDING THIS APPLICATION PLEASE CONTACT THE LAND MANAGEMENT DIVISION

Rev 03.31.18

E5-22

Procedure for Processing a Petition for (Re)Classification of Borough Lands

The petition process for (re)classification of borough lands can take anywhere from 60-90 days.

- 1. Within 30 days of the receipt of the petition application Land Management staff will review the application and will send the applicant a letter of decision regarding the status of the application.
- 2. If the application is approved to move forward Land Management will draft a resolution to introduce to the Borough Assembly proposing the classification of the borough land(s).
- 3. If the land(s) identified for classification are in an area with a local Advisory Planning Commission (APC) the draft resolution will be scheduled to be reviewed at an APC meeting. Public comment can be heard at this meeting. The APC will make a recommendation regarding the draft resolution to the Borough Planning Commission.
- 4. The draft resolution for the proposed classification will be scheduled to be reviewed at a Borough Planning Commission meeting. Public comment can be heard at this meeting. The Planning Commission will make a recommendation regarding the proposed classification to the Assembly.
- 5. The draft resolution for the proposed classification will be scheduled to be reviewed at a Borough Assembly meeting. The Borough Assembly conducts a public hearing on the proposed resolution and makes a final determination regarding the proposed resolution. Public comment can be heard at this meeting.
- 6. Upon an approval from the Borough Assembly the classification is adopted.

Kenai Peninsula Borough Land Classification Definitions

KPB Code of Ordinances, Title 17

<u>Agriculture</u> - means activities that result in products for human or animal use. Agriculture activities may include raising crops, animals, or grazing animals. Agriculture does not include human habitation.

<u>Commercial</u> - means lands suitable for development or location of service oriented facilities such as stores, offices, medical clinics, restaurants, lodges, vehicular service stations, hotels, and camper parks. Lands must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, near public utilities and be in proximity to residential areas.

<u>Government</u> - means lands that may be or are required for use by a federal, state or local governmental entity. Such uses include existing and future school sites; sites for service area facilities; or any governmental use determined to be beneficial to the public.

<u>Grazing Lands</u> - means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing of domestic livestock. This classification is not exclusive and may overlap any other classification thereby allowing other non-conflicting uses.

<u>Heavy Industrial</u> - means lands suitable for processing chemicals or manufacturing from or extraction of raw materials, stockyards, fish processing plants, distilleries, or uses that may discharge water, create hydrocarbons, excessive noise, odors, danger of explosions, or waste material, making them incompatible with most other land uses. Lands should not be located in or immediately adjacent to residential development; parcels should be of sizes reasonably appropriate to accommodate the activities together with sufficient buffers zones for the activity associated with this class of use. Appropriate access shall be available or feasible without going through residential areas. The lands shall be in a location that is reasonably convenient to conduct the activity.

<u>Institutional</u> - means lands which may be of value for the location of churches, private schools, clubs, associations, nonprofit organizations, or cemeteries.

<u>Light Industrial</u> - means lands suitable for industrial uses that generally do not have offensive characteristics and can be conducted primarily inside closed buildings. Such uses may include warehousing, storage inside enclosed areas, and light manufacturing not inside buildings.

<u>Preservation</u> - means lands needed for stabilization or maintenance of natural features, historic value, known nesting areas of migratory birds or required to maintain the integrity of certain types of easements or as buffers, green belts, water sheds or other reservations to preserve natural resources and aesthetic qualities. Soils may be of such a nature as to not be usable for construction of buildings.

<u>Recreational</u> - means land located in an area where the potential for recreational use exists. This may include both indoor and outdoor uses such as gun ranges, archery ranges, camping, golf courses, snow machine trails, cross country trails, skiing, boating, fishing or which may provide access to those activities. Recreational does not include use of lands for amusement parks. Site conditions for any authorized use must be appropriate and suited for such uses. Recreational lands disposed of to private parties must allow public use unless specifically waived by ordinance. If recreational lands are for sale or lease then restrictions may be imposed for appropriate uses given conditions and surrounding use. Not all activities are suitable for all sites.

<u>Residential</u> - means lands suitable for development for single family or multifamily settlement of a permanent nature. Residential parcels may be located adjacent to existing communities or are determined to be necessary for future community development. Residential parcels must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, have legal access and feasible physical access, suitable terrain and appropriate with the given surrounding uses. <u>Resource Development</u> - means land containing resources of sufficient volume and quality and located so that on-going development or production of those resources would yield an overall net economic return. Lands so classified may be sold or leased subject to appropriate restrictions concerning operations or future reclamation. Lands so classified may be retained by the borough and resources on those lands may be sold or permitted for use.

<u>Resource Management</u> - means land having resources which may be extracted as an interim use in a manner which will not create a negative impact on the most appropriate use of the land. This classification is not exclusive and may overlap any other classification thereby allowing other non-conflicting uses. Resources on these lands may be sold or permitted for use.

<u>Rural</u> - means lands which are located in a remote area. This classification will have no restrictions.

<u>Utility/Transportation</u> - (not including oil and gas and electricity generation or production facilities) means lands which may be of value for airports, port and harbor facilities, power lines, pipelines, utility services, rights-of-way, easements and related activities but does not include general and production facilities for oil and gas and electricity.

<u>Waste Handling</u> - means land with suitable characteristics and location for the express purpose of providing facilities to handle solid waste, recyclable materials, transfer stations, junked or wrecked vehicles, demolition refuse, septic and sewage waste and industrial waste. Disposal or use of any tract so classified will be subject to determination of the tract being suitable for a particular proposed activity.

Tax Compliance Certification Kenai Peninsula Borough Finance Department

144 N. Binkley Street Soldotna, Alaska 99669-7599 www.kpb.us Phone: (907) 714-2197 or: (907) 714-2175 Fax: (907) 714-2376



Fill in all information requested. Sign and date, and submit with bid or proposal.

Reason for Certificate: Land Reclassification For Department: Land Management Division Kenai Hydro, LLC **Business Name:** Individual X Corporation □ Partnership Other: **Business Type:** Alaska Electric and Energy Cooperative, Inc. Owner Name(s): 280 Airport Way, Kenai, AK 99611 **Business Mailing Address:** 907-283-2375 **Business Fax:** 907-283-2353 **Business Telephone:** Email: msalzetti@homerelectric.com

As a business or individual, have you ever conducted business or owned real or personal property within the Kenai Peninsula Borough? (If yes, please supply the following account numbers and sign below.) If no, please sign below.) Yes No Kenai Peninsula Borough Code of Ordinances, Chapter 5.28.140, requires that businesses/individuals contracting to do business with the Kenai Peninsula Borough be in compliance with Borough tax provisions. No contract will be awarded to any individual or business who is found to be in violation of the Borough Code of Ordinances in the several areas of taxation.

Date

Date

YEAR LAST PAID

ACCT. NO.	ACCT. NAME
N/A	

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB) YEAR LAST PAID BALANCE DUE BALANCE DUE BALANCE DUE In Compliance Not in Compliance

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB)

BALANCE DUE

In Compliance Not in Compliance

KPB Finance Department (signature required)

SALES TAX ACCOUNTS				
ACCT. NO.	ACCT. NAME			
N/A				
3.4				
	•			

KPB Sales Tax Division (signature required)

CERTIFICATION: I, Mikel Salzetti	the *	Manager of Fu	iel Supply & R	enewable Development, hereby certify that, to the
(Name of Applicant)			(Title)	
best of my knowledge, the above information is correct as a		(Date)	 	Milel Safethi Signature of Applicant (Required)

IF ANY BUSINESS IS CONDUCTED OR IS AWARDED A BID WITHIN THE KENAI PENINSULA BOROUGH YOU MUST BE REGISTERED TO COLLECT SALES TAX. THE SALES TAX DEPARTMENT CAN BE REACHED AT (907) 714-2175.



KENAI PENINSULA BOROUGH 144 N. BINKLEY STREET SOLDOTNA, AK 99669 907-262-4441		Received By: Location: Session:		AudraW Kenai Front Counter AudraW-729		Receipt Number: Receipt Year: Date Received:		Page 1 of 1 U22.12519 2022 03/11/2022
PAYMENT RE					Fees	Current	Current	Balance
Type Other - Miscellaneous	Description Type: Misc Rev/Land Reclass -250.37310	Balance 500.00	Net Tax 0.00	Interest 0.00	Penalties 0.00	Due 500.00	Paid 500.00	Remaining 0.00
	Totals:	500.00	0.00	0.00	0.00	500.00	500.00	0.00
Tender Information:			Charg	Charge Summary:				
Checks #10400		500.00) Other	Other - Miscellaneous				500.00
Total Tendered		500.00) Total	Total Charges				500.00

Kenai Peninsula Borough 144 N. BINKLEY STREET SOLDOTNA, AK 99669

By Whom Paid:

ALASKA ELECTRIC & ENERGY COOP

BALANCE REMAINING	0.00
CHARGES	500.00
PAID	500.00
CHANGE	0.00


May 11, 2022

Land Management Division Kenai Peninsula Borough 141 N. Binkley Street Soldotna, AS 99669

RE: Proposal to reclassify Parcels 12532101, 12532102, 12532315, 12532330, 12532318

Dear KPB,

I respectfully request that you deny any and all requests made to your office to reclassify any of the referenced parcels to a Utility/Transportation classification.

Our family has owned property near Grant Creek for over 60 years, and is situated directly adjacent to this proposed bridge and road. I personally have been fishing Grant Creek since the late fifties and have an intimate knowledge of the river, the area, and wildlife.

King salmon, and other salmon, have battled their way up the mighty Kenai River, past countless anglers and predators just to get to Grant Creek to spawn and die. Grant Creek is a long way from Cook Inlet, and, needless to say, fish have to be pretty tough just to get here. Big, very big King Salmon are known to ply these waters. These are the big ones that anglers, from all over the world, failed to catch. How do I know this? The dead kings float down the creek and often seem to collect along our front yard riverbank. I've stepped over countless huge kings over the years when I pull my skiff up on the bank.

Bald eagles seem to like making their nests on our property and we've enjoyed having them for the past 60 or more years. We also frequently see brown and black bears, bull and cow moose, countless other critters like porkies, weasels, muskrat, wolverine, otters, coyotes. And many bird species, and all this habitat would be directly adjacent to the proposed bridge and road construction.

As our property is located on the upper reaches of the Kenai River Watershed, the Borough sent us their publication ON THE RIVER, and another similar one is available, THE KENAI RIVER LANDOWNERS GUIDE. Both publications serve to educated owners and offer tips and suggestions to ensure property use would be in harmony with the health and welfare of the Kenai.

It was from these publications that I learned that the KENAI RIVER CENTER was established. What a great idea to help promote and protect the health and wellbeing of the Kenai River, the water, its fisheries, and river environment. In support of this endeavor, extremely robust rules and regulations were enacted to ensure that the mighty Kenai River and its fisheries stay healthy. These robust rules and regulations make clear to anyone the Kenai River Center's commitment to protect the river.

As I mentioned previously, I'm quite familiar with Grant Creek from the late fifties, and I can say that the great earthquake in 1964 devastated this stream. The earth shook for nearly 5 minutes, and the surrounding land for miles around dropped in elevation. I fished the creek up and down that summer after the quake and there were no fish to be caught. Even several years later. It clearly demonstrated to me that the creek is extremely fragile. It wasn't the water temperature, but the turbidity caused by the 5 minute shake that damaged the fish habitat environment. Heavy equipment building a road and powerhouse along the riverbank will have the same result.

So, Grant Creek has hydro potential, but it's also a known salmon spawning creek, and home to some of the bigger kings. You can't have both, no matter what developers say. An article in The Redoubt Reporter dated Feb10, 2009 sheds some light on what can happen to the fish habitat downstream of a hydro project. In this case, the Cooper Lake Project.

http://redoubtreporter.blogspot.com/2009/02/dammed-to-repeat-pastcooper-landing.html Hydro projects on the Kenai Peninsula seem to share something in common. Several years after the hydro project is completed and running, additional funding is obtained to divert other nearby streams to the project. Two diversion projects at Bradley Lake, and the Stetson Creek diversion at Cooper Lake. I fail to see any diversion possibilities for this project.

Regarding this hydro project, I hear a lot of positive hype such as cheap, renewable, power, etc. It's presented as a win, win proposition for all concerned. I never seem to hear of any negatives or downsides to the project. Everyone seems caught up in the lure of renewable energy, green projects.

But it is not uncommon for capital improvement projects, of any size, to have basic, fundamental issues that show up long after the project has been completed. Google's multi-billion mirror project in California that vaporized any bird that flew near it. Japan's reactors built on the coast in an earthquake zone. And I read today that Lake Meade water level has fallen so low that missing people who disappeared years ago are now showing up.

So, what are the possible downsides to this Grant hydro project we might consider? What are some possible risks?

1. contamination of the river during the construction phase and throughout the life of the project.

2. Inflation. It's running rampant, especially construction costs. Not unusual to see costs get out of line. Project gets completed but final cost does not justify the power generated.

- 3. Insufficient funds to complete the project, project sits idle, eyesore on the landscape.
- 4. Insufficient water to power the facility.

In the event of the risks outlined above, whose shoulders do they fall on? Who would be directly affected if the river was contaminated. I'd say the people of Moose Pass, Lawing, Seward, Cooper Landing. And possibly many others downstream. Bad stuff always runs down stream. This is a land of nature, and getting close to nature. That's why the residents live in this particular area. This project does not belong here. The benefits of this proposed hydro project do not out weigh the risks. And all of this risk to increase HEA's total power capacity by 4% or so.

Monies could be better spent on upgrading the Bradley Lake transmission line or increasing the capacity of Bradley Lake output instead of this risky project. Doing so would benefit everyone, not just HEA.

HEA should be looking closer to home to meet their additional power needs.

Thank you.

Larry Werner P.O. Box 242782 Anchorage, Ak 99524

Lorenzo_52@yahoo.com

May 11, 2022 KPB Land Management Division <u>lmweb@kpb.us</u>

Re: Public Notice of Proposed Land Classification

https://www.kpb.us/images/KPB/LND/LAND_MANAGEMENT_/1-2_Mile_Public_Notice.pdf Reference Grant Lake Hydro Project Map: <u>https://dnr.alaska.gov/mlw/grant-lake-hydro/#map</u> Reference FERC Statement: <u>https://www.ferc.gov/sites/default/files/2020-06/05-01-19-FEIS.pdf</u>

Dear KPB Planning Commissioners,

I am opposed to the proposed land reclassification of 13.32 acres of KPB-managed land in the Eastern Peninsula from Recreational/Unclassified to Utility/Transportation for the Grant Lake Hydro project, dba Kenai Hydro, LLC.

According to the KPB Land Classification Definitions, " 'Utility/Transportation' (**not including** oil and gas and **electricity generation or production facilities**) means lands which may be of value for airports, port and harbor facilities, **power lines**, pipelines, utility services, rights-of-way, easements and related activities **but does not include general and production facilities for** oil and gas and **electricity**."

This reclassification would allow the power lines, but not electricity generation or production facilities.

The Grant Lake Hydro project is an electricity generation and production facility. The HEA website states, "The five-megawatt project will be located on Grant Lake and Grant Creek, near the community of Moose Pass. The project will generate about 18,600 MWH of energy annually. The Grant Lake Project will divert water from Grant Lake and deliver the flow to a powerhouse located near the outlet of the existing Grant Creek natural, incised rock canyon."

In addition to the powerhouse, the production facility includes an intake, bypass weir, penstock, tailrace, surge chamber, and detention pond. The powerhouse turbines will generate excessive noise, disruptive and incompatible for the surrounding recreational activities and wildlife.

This use is best classified as Industrial.

" 'Recreational' means land located in an area where the potential for recreational use exists..." The "potential" has already been realized, far beyond the paltry uses listed in the definition and should be retained. The multitude of world-class recreational opportunities available in the Eastern Kenai Peninsula's "little Switzerland" are accessible by road, rail, and air for all ages and abilities.

The Kenai Area Plan, associated Land Classification Order, the Kenai River Comprehensive Management Plan, and the associated Special Use Designation support retaining recreational use for this area. The range and number of publicly vetted plans that must be amended is in itself reason to pause and consider the value of this public land to the people of Alaska, to the wildlife and their habitat, and to the local economy.

The surrounding spectacular snow-capped mountains, cirque glaciers, alpine and meadows, ponds, lakes, rivers and streams, wetlands, and the wildlife that call this home merit the protection of all those plans. The current land designation as Recreation is more than justified by the area's fame and popularity for a variety of recreational uses including: hiking, fishing, berrypicking, bird watching, wildlife photography, scenic flight-seeing, camping, boating, biking, skiing, ice-skating, snow-shoeing, snow machining, hunting, and trapping.

The Seward Highway from Seward to Anchorage was designated not once but three times: as an All American Road, USFS Scenic Byway, and Alaska Scenic Byway. These designations recognize the scenic, natural, historical, and recreational values of the land on either side of the highway, not the highway. The Alaska Railroad Coastal Classic awes passengers from all over the world as they roll along the valley corridor, gaping at the scenery and spotting wildlife.

The multi-use Chugach National Forest, the second largest national forest, protects most of the Eastern Kenai Peninsula and provides world-class recreational opportunities including public-use cabins, campgrounds, boat access, and numerous public trails winding through the forest, along lakes and ponds, and up into the alpine.

Since the early 1960s, the Alaska Department of Fish and Game has stocked a variety of fish species including arctic char, rainbow trout, and lake trout into Eastern Peninsula lakes to increase recreational sports fishing opportunities: Upper Summit Lake at MP 45.5, Carter Lake at MP 33.1, **Vagt Lake at MP 25.1**, Meridian Lake at MP 13.2, and Troop Lake at MP 12.1 Seward Highway.

The Iditarod National Historic Trail, the only Congressionally-designated National Historic Trail in Alaska, and the only winter trail in the National Trails System, connects Mile Zero in Seward to Girdwood and on to Nome. The 1978 Senate report noted the trail system, "offers a rich diversity of climate, terrain, scenery, wildlife, recreation and resources in an environment largely unchanged since the days of the stampeders." The trail is an essential component of the proposed Long Trail system, which will attract even more tourism and support for the local economy of Moose Pass and Seward.

The proposed Grant Lake Hydro project, on KPB and DNR land, slashes across the middle of this prime and special recreational area in an otherwise sparsely populated and undeveloped area. The negative visual impacts from the air, highway, and railroad of the access road, staging area, 1.1 mile-long aerial transmission lines slicing a 100' cleared corridor up the mountains on both sides, and related development across this scenic landscape are impossible to conceal or mitigate. Scenic flights of glaciers, craggy peaks, mountain goats, and a concrete intake, spillway, powerhouse, cables, transmission lines, detention pond, and roads?

The KPB has selected portions of DNR parcels for its municipal entitlement. I assume the Borough plans to receive taxes from the hydro project, at the expense of the local economy and environment.

Following the development from Grant Lake to the west of the highway, east to west, in the KPB packet order, the project passes through five KPB-managed parcels: Parcel ID 12532101,12532102, 12532315, 12532318, 12532330.

Parcel ID 12532101 3 +/- acres

A section of the proposed 1.1-mile-long, 16' wide gravel intake road crosses this KPB-managed parcel and ends at parking lot, intake, and bypass weir at the south end of Grant Lake. A 16'-wide, 60'-long bridge would extend from the lake to the intake structure. High on the mountainside, all will be visible from the Seward Highway, Alaska Railroad, and flight-seeing trips. Gates and signs will not stop trespassers from riding 4-wheelers, dirt bikes, and snow machines along this convenient access to the lake and high country where they can branch out and destroy and disturb fragile habitat. Recreational opportunities, habitat, and wildlife at and near the lake will be severely impacted, disturbed, and restricted. Litter, human waste, ground compaction, wildlife disruption, and other negative recreational impacts to the area facilitated by this access corridor cannot be regulated, monitored, or managed once the access road and bridges are built.

My family and friends enjoyed a memorable hike to the lake years ago along Grant Lake Trail where we saw no one and heard only birdsong in pristine surroundings, something my grandchildren and others will not have the opportunity to experience if this misguided hydro project is approved.

Parcel ID 12532102 3 +/- acres

A parking area, 3.6-acre Detention Pond, 100' long by 50' wide Powerhouse, 150' long, 72" diameter steel Penstock, Tailrace, and Surge Chamber are located on this KPB-managed parcel.

The proposed 1-mile-long, 24' wide Access Road and 1.1-mile long Transmission Line in a 100' cleared corridor from the Seward Highway at Milepost 26.9 crosses into this KPB-managed parcel and ends at a parking lot by the powerhouse. The proposed 1.1-mile-long, 16' wide gravel Intake Road from the powerhouse ascends to the top of the Grant Creek Canyon with a series of switchbacks and pullouts.

Gates and signs will not stop trespassers from riding motorized vehicles including 4-wheelers, dirt bikes, and snow machines along this convenient access through KPB and DNR land to high country where they can branch out and destroy and disturb fragile habitat. Gates and signs will not stop fatbikes and hikers from accessing the high country, greatly accelerating the impact on fragile alpine habitat. Litter, human waste, ground compaction, wildlife disruption, and other negative recreational impacts to the area facilitated by this access corridor cannot be regulated, monitored, or managed once the access road and bridges are built. How will recreational users cross this development to access recreational opportunities to the north and south?

The 3.6-acre Detention Pond is not included in the 3 acres allotted. The ROW needed for the access road switchbacks is also not accurately portrayed.

Note: that generation may be required to discharge into Grant Creek at times, which would adversely affect water levels in the creek. This will negatively impact the King and Silver salmon, their habitat, and the recreational fishery.

Vagt Lake, part of this KPB-managed parcel, is a popular family destination, suitable for even young hikers as the 1.5-mile trail is relatively flat. My family and friends have enjoyed many a fine day exploring the lakeshore, looking for and finding wood frogs, butterflies, dragonflies, and birds. Others enjoy fishing in the ADFG stocked lake. It is peaceful there now. The noise from the powerhouse about 500' to the north will be impossible to silence, further negatively impacting the surrounding recreational land and users.

The Iditarod National Historic Trail runs NS through this KPB-managed parcel, crosses the Intake Road, and runs immediately adjacent to the Detention Pond and Powerhouse. The 1000' ROW will be shrunk to 100' without any protection or screening from development and noise. How will the trail be rerouted away from the industrial plant? How will recreational trail users be managed to reduce the impact of increased and concentrated access to Grant Lake and the high country? How will recreational users cross this development to access recreational opportunities to the north and south?

Locals and visitors today can imagine the life of the gold seekers, pioneers, and trailblazers of the past century; it's still possible to escape from civilization along this trail. Sourdoughs and cheechakos alike would never have dreamed of an intrusion of this magnitude into the wilderness.

Parcel ID 12532315 3 +/- acres

This parcel spans from the Alaska Railroad ROW next to the Seward Highway to the west to the Trail River Narrows to the east. It includes the gravel staging area and parking lot, Access Road, and overhead transmission line. Instead of the existing forested hill next to a wild river, there will be a fenced and gated, graveled industrial-looking yard.

The transmission lines will be visible overhead and up the mountainside to the east to train passengers and highway users. Transmission line corridors will be cleared down to the ground, creating a huge visual scar on the mountainside, destruction of habitat, and potential for increased avalanche hazard. Water/ice recreational users on Trail Lake Narrows between the lakes will pass under the powerlines and 110'-long bridge. It may be "only" 3 acres, but the impact will be seen and felt by many hundreds of thousands due to the proximity of the highway and railroad.

Parcel ID 12532318 4 +/- acres

This parcel is bordered to the north by the section line. It is bisected by the Seward Highway with most of the parcel on the western mountainside, with a sliver on the east next to the Alaska Railroad near the shore of Lower Trail Lake. The 100' wide transmission line easement crosses over the highway and railroad to join the existing NS transmission line and extends south along that corridor to the south boundary of the parcel. All of the hydropower generated at the Grant

Lake Hydro project will be carried to Homer for use by HEA customers. The Eastern Peninsula gets the scar; Homer gets the juice.

Parcel ID 12532330 0.32 +/- acres

This parcel is east of and adjacent to the Alaska Railroad ROW on the north side of the section line. It includes the north portion of the staging area and part of the Access Road. This will also be very visible from the highway and railroad. It is unclear to me why the Access Road has to loop up into this KPB-managed parcel instead of being contained in Parcel ID 12532315 to the south.

There is no need for the Homer Electric Association to deface a world-class recreational destination, intact ecosystem and scenic wonder on the Eastern Kenai Peninsula far from Homer. No need for HEA to harm the local tourism economy from Cooper Landing to Moose Pass to Seward that depends on high quality recreational experiences for the sole benefit of HEA customers. There is no need for the KPB to proceed with the approval of this reclassification or any further approval of the hydro project at the expense of our local economy and the environment.

Since this hydro project was first visualized in the 1980s, Dixon Glacier at the head of Kachemak Bay has retreated, revealing a stream that could be diverted to increase the capacity of the existing Bradley Lake Hydro Project. The Grant Lake Hydro money and effort could be invested into the Dixon Diversion project. The increase in the Bradley Lake capacity would supply the desired 4% of HEA's annual energy needs and be distributed to other utilities, including customers on the Eastern Peninsula, benefitting everyone on the Railbelt.

It seems to me that improving the transmission infrastructure so that the state's largest hydro project could better serve the state's power needs would be a more cost-effective solution than building a tiny, controversial 5 MW hydro plant in a sensitive habitat south of Moose Pass. All "green" projects are not necessarily good ideas.

This misguided 5 MW Grant Lake Hydro project has dragged on since 2008. Many locals thought it was dead, but like the Greek Hydra, when one head is cut off, two more grow back.

The project has been partitioned into separate and more numerous public comment "opportunities": DNR Easement, Lease, Water Right, Plan Amendment, and KPB Land Classification are only the most recent. After this KPB Planning Commission Public Hearing on May 23, there will be a KPB Assembly meeting on June 7. The public, if we can remain vigilant and have the time and energy, can look forward to a KPB Land Use Authorization comment opportunity next. It never ends and it never should have started.

Please retain the ever-so-appropriate Recreational status of these precious wild lands. Deny the reclassification from Recreational/Unclassified to Utility/Transportation for Grant Lake Hydro project on borough-managed lands.

If you have read this far, I appreciate your due diligence!

Sincerely, Carol Griswold Seward, Alaska C_griz@yahoo.com

MPAPC Unapproved Minutes May 5th, 2022

New Business:

A) Application LAS34020- Moose Pass Adventures Commercial Recreation Camp at Grant Lake

Unanimous approval to support.

B) Land Reclassification (013-042 &013-092-76) Regarding the reclassification of the 4 lots on Mine Road.

Recommendation to change the classification to Residential rather than Rural. Unanimous approval to recommend Residential classification.

C) Ordinance 2022-____Authorizing the Sale of Certian Parcels of Borough-Owned Land by Live Outcry Auction ...

Recommended to delay the sale of the 2 lots on Mine Road for at least one year. (Residents are interested in pursuing a Local Option Zone before sale). Unanimous approval to recommend delaying the sale.

D) Ordinance 2022-____ Authorizing Emergency Harvest of Spruce Bark Beetle Impacted Forestlands...

Vote: 6 in favor of supporting the ordinance (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). 1 against (Bruce Jaffa)

E) Resolution 2022-____ Classifying or Reclassifying Certain Borough-Managed Land in the Moose Pass Area for Transportation and Utility Purposes Associated with a Hydro Project

Vote: 1 in favor of reclassification (Kevin Dunham). 6 Against reclassification (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson.

This is contrary to our newly amended Moose Pass Comprehensive Plan.

F) ADL Easement 233782 and ADL Easement 233857 to Kenai Hydro LLC

Vote: 1 in favor of recommending issuance of easements (Bruce Jaffa). 6 against recommending issuance of the easements (Monika Adam, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson). Motion failed.

G) Water Rights Application ADL27264 To Kenai Hydro LLC

Vote: 4 in favor of granting water rights (Bruce Jaffa, Kevin Dunham, Jeff EstesTsali Janek). 3 opposed (Monika Adam, David Pears, Jeff Hetrick) Motion passed

H) Amendment to Kenai River Comprehensive Plan to remove lands along Upper and Lower Trail Lake from the Management Area

Vote: 1 in favor of the amendment (Bruce Jaffa). 6 Opposed (Monika Adam, Kevin Dunham, Jeff Estes, Jeff Hetrick, Tsali Janek, David Pearson). Motion failed

J) Conditional Use Permit DODT Project MP17-22.5 parcel ID 12509028.

Recommend adding stipulations to the permit limiting hours of operation from 8am to 8pm. To provide for dust abatement and air quality monitoring. Unanimous approval to recommend issuance of permit provided the stipulations are included.

DESK PACKET ITEMS

(Items received after the publishing of the meeting packet on 5/13/22)





May 11, 2022

Land Management Division Kenai Peninsula Borough 141 N. Binkley Street Soldotna, AS 99669

RE: Proposal to reclassify Parcels 12532101, 12532102, 12532315, 12532330, 12532318

Dear KPB,

I respectfully request that you deny any and all requests made to your office to reclassify any of the referenced parcels to a Utility/Transportation classification.

Our family has owned property near Grant Creek for over 60 years, and is situated directly adjacent to this proposed bridge and road. I personally have been fishing Grant Creek since the late fifties and have an intimate knowledge of the river, the area, and wildlife.

King salmon, and other salmon, have battled their way up the mighty Kenai River, past countless anglers and predators just to get to Grant Creek to spawn and die. Grant Creek is a long way from Cook Inlet, and, needless to say, fish have to be pretty tough just to get here. Big, very big King Salmon are known to ply these waters. These are the big ones that anglers, from all over the world, failed to catch. How do I know this? The dead kings float down the creek and often seem to collect along our front yard riverbank. I've stepped over countless huge kings over the years when I pull my skiff up on the bank.

Bald eagles seem to like making their nests on our property and we've enjoyed having them for the past 60 or more years. We also frequently see brown and black bears, bull and cow moose, countless other critters like porkies, weasels, muskrat, wolverine, otters, coyotes. And many bird species, and all this habitat would be directly adjacent to the proposed bridge and road construction.

As our property is located on the upper reaches of the Kenai River Watershed, the Borough sent us their publication ON THE RIVER, and another similar one is available, THE KENAI RIVER LANDOWNERS GUIDE. Both publications serve to educated owners and offer tips and suggestions to ensure property use would be in harmony with the health and welfare of the Kenai.

It was from these publications that I learned that the KENAI RIVER CENTER was established. What a great idea to help promote and protect the health and wellbeing of the Kenai River, the water, its fisheries, and river environment. In support of this endeavor, extremely robust rules and regulations were enacted to ensure that the mighty Kenai River and its fisheries stay healthy. These robust rules and regulations make clear to anyone the Kenai River Center's commitment to protect the river.

As I mentioned previously, I'm quite familiar with Grant Creek from the late fifties, and I can say that the great earthquake in 1964 devastated this stream. The earth shook for nearly 5 minutes, and the surrounding land for miles around dropped in elevation. I fished the creek up and down that summer after the quake and there were no fish to be caught. Even several years later. It clearly demonstrated to me that the creek is extremely fragile. It wasn't the water temperature, but the turbidity caused by the 5 minute shake that damaged the fish habitat environment. Heavy equipment building a road and powerhouse along the riverbank will have the same result.

So, Grant Creek has hydro potential, but it's also a known salmon spawning creek, and home to some of the bigger kings. You can't have both, no matter what developers say. An article in The Redoubt Reporter dated Feb10, 2009 sheds some light on what can happen to the fish habitat downstream of a hydro project. In this case, the Cooper Lake Project.

cooper-landing.html

Hydro projects on the Kenai Peninsula seem to share something in common. Several years after the hydro project is completed and running, additional funding is obtained to divert other nearby streams to the project. Two diversion projects at Bradley Lake, and the Stetson Creek diversion at Cooper Lake. I fail to see any diversion possibilities for this project.

Regarding this hydro project, I hear a lot of positive hype such as cheap, renewable, power, etc. It's presented as a win, win proposition for all concerned. I never seem to hear of any negatives or downsides to the project. Everyone seems caught up in the lure of renewable energy, green projects.

But it is not uncommon for capital improvement projects, of any size, to have basic, fundamental issues that show up long after the project has been completed. Google's multi-billion mirror project in California that vaporized any bird that flew near it. Japan's reactors built on the coast in an earthquake zone. And I read today that Lake Meade water level has fallen so low that missing people who disappeared years ago are now showing up.

So, what are the possible downsides to this Grant hydro project we might consider? What are some possible risks?

- 1. contamination of the river during the construction phase and throughout the life of the project.
- 2. Inflation. It's running rampant, especially construction costs. Not unusual to see costs get out of line. Project gets completed but final cost does not justify the power generated.
- 3. Insufficient funds to complete the project, project sits idle, eyesore on the landscape.
- 4. Insufficient water to power the facility.

In the event of the risks outlined above, whose shoulders do they fall on? Who would be directly affected if the river was contaminated. I'd say the people of Moose Pass, Lawing, Seward, Cooper Landing. And possibly many others downstream. Bad stuff always runs down stream. This is a land of nature, and getting close to nature. That's why the residents live in this particular area. This project does not belong here. The benefits of this proposed hydro project do not out weigh the risks. And all of this risk to increase HEA's total power capacity by 4% or so.

Monies could be better spent on upgrading the Bradley Lake transmission line or increasing the capacity of Bradley Lake output instead of this risky project. Doing so would benefit everyone, not just HEA.

HEA should be looking closer to home to meet their additional power needs.

Thank you.

Long Celen

Larry Werner P.O. Box 242782 Anchorage, Ak 99524

Lorenzo_52@yahoo.com

Director's Report to the Planning Commission

Assembly Action 5/17

- Concurred with recommendation from Commission on land classifications and passed the ordinance with our suggested amendments.
- Concurred with Commission on lease of communication tower on KPB property, conducting a soils survey for the 1000-acre unit 395 (Cooper Landing), vacation of Paper Birch Lane and approval of the Spruce Bark Beetle Emergency Harvest Framework ordinance.
- Confirmed as the Planning Director (its official now!)
- Department presented our FY 23 Budget in committee on 5/16 and held a public hearing at the 5/17 meeting; nothing of consequence to report with respect to our budget (we are requesting an additional hire, a surveyor to assist in State Entitlement selection and a number of other tasks)
- Assembly Member Johnson introduced an ordinance for public hearing on 6/7 that will increase pay for commissioners. This may warrant a look - <u>Kenai Peninsula Borough - File</u> <u>#: 2022-17 (legistar.com)</u>
- Will introduce an ordinance listing surplus properties for sale this summer, hearing on 6/7

Appeals – The office of Administrative Hearings for the State of AK issued a 32 page decision upholding the Planning Commission Decision to issue a MCLUP to River Resources, LLC. from an 18-point appeal of River Resource Material Site (near Kenai River, by Soldotna Airport) by appellant Dale McBride. Recall that the commission first heard this in February of '21, after postponement, denied the application in May '21; decision was appealed and remanded to the commission to better substantiate findings; heard in October '21 the commission reversed its' original decision and issued the MCLUP and findings were developed in adjudicative session in Dec '21. This was subsequently appealed and this is the result of that appeal.

Code Compliance – More than a dozen cases have been initiated this year, most involving rightof-way encroachments, buildings in the setback or trespass cases whereby property is placed on KPB land. There are also a number of other cases awaiting survey and/ or further investigation before any action may take place.

Land Management reached a significant milestone this past week with the negotiated sale of KPB land to the State of Alaska to facilitate the Cooper Landing Bypass. The vision of having a fund that will sustain itself and support future land management staff has been achieved. There is more fund growth planned to support additional land management functions, but this first step is significant and kudos are due to Marcus and his team.

Alaska Legislature – a bill passed both bodies of the legislature that allows for different planning commission seats. If signed by the Governor and after an enactment period it will allow first and second class boroughs with population between 20,000 and 75,000 (KPB) considerably more flexibility in the number of commissioners we have.

Open door – I want all commissioners to know they can reach out to me at any time for questions or concerns and that I do want to meet with those that are relatively new to commission and make sure you have what you need in terms of background and education on commission functions. I recognize there is a learning curve to the important work we do.

Hope/Sunrise Advisory Planning Commission Regular Meeting Unapproved Minutes 7 P.M. May 11, 2022 Hope Library and via Zoom

- A) The meeting was called to order at 7:00 P.M. by Jim Skogstad
- B) Members present were Jim Skogstad, Flip Foldager, Derrick Jabaay, Levi Hogan, Johnny Sorenson, Jessie Maguire via Zoom, Nancy Carver, Borough Planner, Aaron Hughes and Dakota Truitt, Borough Land Management Agents
- C) The agenda was approved with the additions to New Business
 - 1) Borough managed gravel pit located at MP 9.5 on the Hope Hwy.
 - 2) Move New Business before Unfinished Business to accommodate Land Management Agents
- D) The minutes of April 13, 2022 were approved
- E) There was no public comment and there were no public participants on zoom
- F) There was no correspondence.
- G) There was no report from the Borough
- H) New Business:
 - KPB 2022 General Land Sale The Commission unanimously recommended approval of the sale of Hope Parcel 035-030-74, next to Czeck's property on Resurrection Creek Rd.
 - The Commission unanimously recommends approval that Parcel 035-080-11 not be put up for sale once the land is transferred to the borough from the State of Alaska.
 - (1) Property owner J. Miller (035-080-01) has requested the borough work on an alternative access to his property located directly behind this parcel.
 - KPB Land Classification Ordinance The Commission unanimously recommends approval of the reclassification of Parcel 035-080-11 to Rural.
 - 3) Discuss KPB Ordinance 2022-11, Spruce Bark Beetle Spruce Bark Beetle Timber Harvest (SBB) - The Commission unanimously recommends

4) Discussion with Aaron Hughes, the gravel pit located at MP 9.5 on the Hope Highway has become a partying location for high school graduation. There would be little objection if it was cleaned up afterwards. The parcel is managed by the Borough and is used for camping, a shooting range and as a water resource for fire. Aaron Hughes will investigate.

I) Unfinished Business:

- 1) Work continues by J. Skogstad to organize edits of the Hope Land Use Plan.
 - i) The community survey was not finalized as there were few ideas on the table.
 - ii) Should community responses be from a menu or allow other options?
 - iii) How could we neatly categorize a paragraph of thought?
 - iv) Choices of A, B, or C could be tabulated.
 - v) We are torn between expediency and inclusion.
 - vi) J. Sorenson will seek and summarize individual Commission members' proposals for the questionnaire before the next meeting.
- 2) Discussion continued regarding classification of a 250 ft. strip of borough land North of private property along Hope Road between Bear Creek and Bear Creek Road.
 - i) The land would be sold or leased to adjacent owners.
 - ii) The purpose is to provide parking for the Dirty Skillet.
 - iii) Aaron Hughes will research required setbacks from Bear Creek.
- J) There were no items from the commission or announcements.
- K) The next meeting will be June 8, 2022 at 7 P.M.
- L) The meeting was adjourned at approximately 8:30 P.M.

Any questions contact: Chair Jim Skogstad at (907) 229-1430 or email <u>akskogstad@aol.com</u>