



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Blair Martin, Chair – District 2 Kenai
Jeremy Brantley, Vice Chair – District 5 Sterling/Funny River
Pamela Gillham – District 1 Kalifornsky
John Hooper – District 3 Nikiski
Michael Horton – District 4 Soldotna
Virginia Morgan – District 6 East Peninsula
VACANT – District 7 Central
David Stutzer – District 8 Homer
Dawson Slaughter – District 9 South Peninsula
Diane Fikes – City of Kenai
Franco Venuti – City of Homer
Charlene Tautfest – City of Soldotna
Troy Staggs – City of Seward
VACANT – City of Seldovia

Monday, August 22, 2022

7:30 PM

Betty J. Glick Assembly Chambers

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-4536](#) a. Hiridge Subdivision Amended Thompson Addition; KPB File 2021-163
 b. West Hill Subdivision Harness Addition; KPB File 2021-021R1

Attachments: [C3. Admin Approvals](#)

4. Plats Granted Final Approval (KPB 20.10.040)

- [KPB-4537](#) a. Little Story Subdivision; KPB File 2022-004

Attachments: [C4. Final Approvals](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

- [KPB-4538](#) August 8, 2022 PC Meeting Minutes

Attachments: [C7. 080822 Meeting Minutes](#)

D. OLD BUSINESS**E. NEW BUSINESS**

1. [KPB-4539](#) Right-Of-Way Vacation; KPB File 2022-117V
Request : Vacate Joe Luy Court & Bismarck Court
Attachments: [E1. ROWV KPB File 2022-117V](#)
2. [KPB-4540](#) Conditional Use Permit; PC Resolution 2022-34
Applicant: Castaway Cove Homeowners Association
Attachments: [E2. CUP Castaway Cove HOA](#)
[E2. Desk Packet](#)
3. [KPB-4541](#) Ordinance 2022-XX: Authorizing the release of a portion of a conservation easement deed restriction on a parcel of land located in Cooper Landing and to acquire a 30-foot-wide tract of land and classify three 30-foot-wide tracts of land as government
Attachments: [E3. ORD Frontage Rd Cooper Landing](#)
4. [KPB-4542](#) Ordinance 2022-XX: Amending KPB 21.02 regarding Advisory Planning Commissions, establishing an advisory planning commission in the Nikiski area.
Attachments: [E4. ORD Nikiski APC](#)

F. PLAT COMMITTEE REPORT**G. OTHER**

1. [KPB-4543](#) Community Development Block Grant
Disaster Relief & Mitigation Program
Attachments: [G1. Communit Development Block Grant](#)
2. [KPB-4544](#) Ordinance 2022-XX: Amending KPB Chapter 21.25 & KPB Chapter 21.29 regarding conditional land use permits and material site permits, updating notice, applicability, permit types, application requirements, standards and permit conditions
Attachments: [G2. ORD CLUP Material Sites](#)

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-4551 Directors Report 082222

Attachments: 082222 Directors Reort

J. COMMISSIONER COMMENTS**K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED**

KPB-4550 Advisory Planning Commission Meeting Minutes

Attachments: PC Misc Info

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held Monday, September 12, 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.

C. CONSENT AGENDA

- *3. Plats Granted Administrative Approval**
 - a. Hiridge Subdivision Amended Thompson Addition; KPB File 2021-163**
 - b. West Hill Subdivision Harness Addition; KPB File 2021-021R1**



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Hiridge Subdivision Amended Thompson Addition
KPB File 2021-163
Kenai Recording District


The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 10, 2022. 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 Tuesday, August 9, 2022.

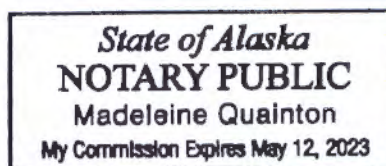

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 9 day of August 2022 by
Vince Piagentini.


Notary Public for the State of Alaska

My commission expires: 5/12/23



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



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: West Hill Subdivision Harness Addition
KPB File 2021-021R1
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 29, 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 Tuesday, August 9, 2022.

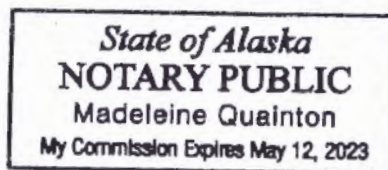
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 9 day of August 2022 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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

C. CONSENT AGENDA

- *4. Plats Granted Final Approval**
 - a. Little Story Subdivision: KPB File 2022-004**



Planning Department

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

Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Little Story Subdivision
KPB File 2022-004
Homer Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Tuesday, August 2, 2022.

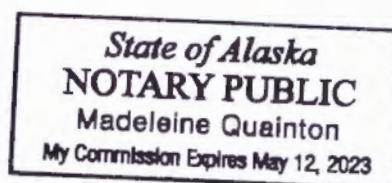
Robert Ruffner
Planning Director

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 2 day of August 2022 by
Robert Ruffner.

Notary Public for the State of Alaska

My commission expires: 5/12/23



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

C. CONSENT AGENDA

***7. Minutes**

a. August 8, 2022 Planning Commission Meeting

Kenai Peninsula Borough Planning Commission

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

August 8, 2022

7:30 P.M.

UNAPPROVED MINUTES

AGENDA ITEM A. **CALL TO ORDER**

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

Oath of Office

Commissioners, Fikes, Horton, Morgan and Venuti were reappointed by Mayor Pierce to serve another 3-year term on the commission. Mayor Pierce also appointed Dawson Slaughter to the District 9 – South Peninsula seat to serve a 3-year term on the Commission. Ms. Shirnberg administered the oath of office to the appointed and reappointed commissioners.

AGENDA ITEM B. **ROLL CALL**

Commissioners Present

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
Blair Martin, District 2 – Kenai
Virginia Morgan, District 6 – East Peninsula
Troy Staggs, City of Seward
David Stutzer, District 8 – Homer
Dawson Slaughter, District 9 – South Peninsula
Charlene Tautfest, City of Soldotna
Franco Venuti, City of Homer

With 12 members of a 12-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Marcus Mueller, Land Management Officer
Derek Haws, Addressing Officer
Vince Piagentini, Platting Manager
Julie Hindman, Platting Specialist
Sam Lopez, Planning Manager
Morgan Aldridge, Resource Planner
Ann Shirnberg, Planning Administrative Assistant
Rhonda Foster-Deskins, LMD Administrative Assistant.

Election of Officers

Commissioner Gillham nominated, seconded by Commissioner Staggs, Commissioner Brantley for the position of Chairman. Seeing and hearing no objections, discussion or other nominations, Commissioner Brantley was appointed Chairman.

Commissioner Brantley nominated, seconded by Commissioner Fikes, Commissioner Martin for the position of Vice Chair. Seeing and hearing no objections, discussion or other nominations, Commissioner

Martin was appointed Vice-Chairman.

Commissioner Gillham nominated, seconded by Commissioner Fikes, Commissioner Morgan for the position of parliamentarian. Seeing and hearing no objections, discussion or other nominations, Commissioner Morgan was appointed Parliamentarian.

Former Chair Martin passed the gavel to the newly appointed Chair, Commissioner Brantley, to chair the meeting.

AGENDA ITEM C. CONSENT & REGULAR AGENDAS

***3. Plats Granted Administrative Approval**

- a. J Booth Recreational Subd 2019 Blauvelt Addition; KPB File 2021-069
- b. Sterling Heights Subdivision 2022 Addition; KPB File 2022-037
- c. Toyon Subdivision 2021 Replat; KPB File 2022-011

***4. Plats Granted Final Approval**

- a. Kees Tern Subdivision Phase 2; KPB File 2022-051
- b. Tower Hills Park Subdivision 2022 Replat; KPB File 2022-067

***6. Commissioner Excused Absences**

- a. District 7 – Central, Vacant
- b. City of Seldovia, Vacant

***7. Minutes**

- a. July 18, 2022 Planning Commission meeting minutes.

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 - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM E. NEW BUSINESS

Chair Brantley requested that Ms. Shirnberg read into the record the procedures for Planning Commission public hearing.

ITEM E1 – ORDINANCE 2022-31

Authorizing the release of a commercial deed restriction on a parcel of land located in Cooper Landing originally conveyed by the Kenai Peninsula Borough.

Staff report given by Marcus Mueller.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Gillham to forward to the Assembly a recommendation to adopt Ordinance 2022-31, authorizing the release of a commercial deed restriction on a parcel of land located in Cooper Landing originally conveyed by the Kenai Peninsula Borough.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E2 – ORDINANCE 2022-19-08

Authorizing the acquisition of real property located in Anchor Point, Alaska on behalf of Western Emergency Services for future expansion of emergency service facilities with funding through an interfund loan from the Land Trust Investment Fund. Appropriating loan proceeds for the property acquisition, and appropriating Western Emergency Service Area operating funds for the annual loan payment to the Land Trust Investment Fund.

Staff report given by Marcus Mueller.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission

Commissioner Slaughter requested to abstain from voting on this item. He sits on the WESA board and had voted on the boards recommendation that the Assembly adopt this ordinance. Chair Brantley approved Commissioner Slaughter's request.

MOTION: Commissioner Staggs moved, seconded by Commissioner Fikes to forward to the Assembly a recommendation to adopt Ordinance 2022-19-08, Authorizing the acquisition of real property located in Anchor Point, Alaska on behalf of Western Emergency Services, for future expansion of emergency service facilities with funding through an interfund loan from the Land Trust Investment Fund. Appropriating loan proceeds for the property acquisition, and appropriating Western Emergency Service Area operating funds for the annual loan payment to the Land Trust Investment Fund.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 11	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Staggs, Stutzer, Tautfest, Venuti
Abstain -1	Slaughter

ITEM E3 – SN RESOLUTION 2022-02

Unnamed public rights-of-way within SEC 36, T05N, R01W; S.M. withing Emergency Service Number (ESN) 601 to the following:

- A. Expedition Avenue
- B. Destination Avenue
- C. Navigation Avenue
- D. Trek Avenue
- E. Backpacker Avenue

AND

Unnamed public rights-of-way within SEC 1, T04N, R01W; S.M. within Emergency Service Number (ESN) 601 to the following:

- F. Meridian Avenue.
- G. Hikers Avenue
- H. Basecamp Avenue

Staff report was given by Addressing Officer Derek Haws.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Slaughter to adopt Street Naming Resolution 2022-02: Naming unnamed public rights-of-way in the Moose Pass area.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E4 – CONDITIONAL USE PERMIT

KPB File No.	2022-36
Planning Commission Meeting:	August 8, 2022
Applicant	Chugach Electric
Mailing Address	PO Box 196300, Anchorage, AK 99519
Legal Description	T 05N R 02W SEC 16 SEWARD MERIDIAN SW 2019007 ALASKA STATE LAND SURVEY NO 2014-26 TRACT A
Physical Address	24238 STERLING HWY
KPB Parcel Number	119-300-23

Staff report given by Planner Morgan Aldridge.

Chair Brantley opened the item for public comment.

Paul McLaron; 19143 Jamie Drive, Eagle River, AK 99577: Mr. McLaron is an engineer with HDR and is the lead engineer on this project. He made himself available for any questions the commission may have on the conditional use permit application.

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

MOTION: Commissioner Morgan moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-36 granting a conditional use permit to install rip rap on a parcel within the 50-foot Habitat Protection District of Quartz Creek.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E5 – CONDITIONAL USE PERMIT

KPB File No.	2022-35
Planning Commission Meeting:	August 8, 2022
Applicant	Paul LaFond
Mailing Address	871 Forget Me Not Lane, Homer, AK 99603
Legal Description	T 5N R 10W SEC 35 SM KN 0760050 KEYSTONE ESTATES SUB PART 2 LOT 24 BLK 2
Physical Address	34635 KEYSTONE DR
KPB Parcel Number	05820027

Staff report given by Planner Morgan Aldridge.

Chair Brantley opened the item for public comment.

Paul LaFond; 874 Forget Me Not Lane, Homer, AK 99603: Mr. LaFond is the applicant and he made himself available for any questions the commission might have regarding his conditional use permit application.

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

MOTION: Commissioner Martin moved, seconded by Commissioner Staggs to adopt PC Resolution 2022-35 granting a conditional use permit to install a fence within the 50-foot Habitat Protection District of the Kenai River.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E6 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1A BLOCK 1 CLEARWATER SUBDIVISION HARPRING REPLAT, KN 2005-126**

KPB File No.	2022-098
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Blaine D. Gilman / James Harpring
Surveyor:	Jon Guffey / Global Positioning Services, Inc.
General Location:	Wharf Ave, Water Front Way Funny River Area / Funny River APC
Parent Parcel No.:	066-350-37
Legal Description:	Clearwater Subdivision Harpring Replat Lot 1A Block 1, KN 2005-126
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

Blain Gilman; 10672 Kenai Spur Hwy., Suite #112, Kenai, AK 99611: Mr. Gilman is the applicant's legal counsel. Mr. Gilman spoke in support of Mr. Harpring's application. He noted that Mr. Harpring was not aware that building setbacks applied to section line easements and apologized for his error. Mr. Gillman then noted that to move the encroaching structures would be cost prohibitive, he estimated it could cost upwards of \$600,000. He then made himself available for any questions the commission may have regarding the building setback encroachment permit application.

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

MOTION: Commissioner Slaughter moved, seconded by Commissioner Stutzer, to adopt PC Resolution 2022-37 granting a building setback encroachment permit to Lot 1A, Block 1, Clearwater Subdivision Harpring Replat, Plat KN 2005-126.

Commissioner Stutzer noted that one of the photos included in the packet appears to show a corner of a roof on one of the structures encroaching into Wharf Ave. Ms. Hindman replied that line work and imagery do not always line up, they can be a bit off. She then noted that it was that particular imagery which brought the encroachment to the borough's attention. Initially the borough had concerns that there were structures encroaching into the right-of-way. The borough had a survey completed and none of the structures encroached on to a right-of-way, only into the setback.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E7 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 11B BLOCK 3, FERNWOOD 1977 SUBDIVISION HM 77-63**

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	James Ferguson and Karen Jackman of Fritz Creek, Alaska
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Highview Court, Glacier View Road, Fritz Creek area / Kachemak Bay APC
Parent Parcel No.:	172-190-35
Legal Description:	Fernwood 1977 Subdivision Lot 11B Block 3, HM 77-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Gillham moved, seconded by Commissioner Staggs to adopt PC Resolution 2022-33 granting a building setback encroachment permit to Lot 11-B, Block 3, Fernwood Subdivision Unit 3, Plat HM 77-17.

Commissioner Stutzer stated that he would be voting against approving this permit. He did not believe it was appropriate to build in the setback and then come and ask for a permit after the fact. When building, landowners need to have the properties surveyed to ensure that the structures they are building do not encroach into the setbacks or rights-of-way. Seeing that the encroachment is a carport he believes that it is possible to shorten the structure so it no longer encroaches into the setback.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 10	Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Tautfest, Venuti
No - 2	Brantley, Stutzer

**ITEM E8 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 0850157)**

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette of Soldotna, Alaska
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area
Parent Parcel No.:	013-281-24
Legal Description:	Centennial Shores Subdivision Number 1, Lot 1 Block 2, KN 85-157
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Martin moved, seconded by Commissioner Fikes to adopt PC Resolution 2022-39 granting a building setback encroachment permit to Lot 1, Block 2, Centennial Shores Subdivision Number One, Plat KN 85-157.

Commissioner Stutzer noted that he preferred staff option two, he would like to see a new subdivision opening the cul-de-sac and creating a new right-of-way dedication, so he will be voting not to approved the encroachment permit.

Commissioner Gillham asked staff if they knew what the cost of option two would be to the petitioner. Ms. Hindman replied that she could not say what the survey costs would be as they vary from surveyor to surveyor. The borough fees associated with a vacation and a replat, which would be required to fix the situation, would be \$1300.00, which would be on top of the survey fees.

Commissioner Martin noted that cul-de-sacs were typically not to be opened, that they are much more difficult to vacate. He asked staff to elaborate on what it would take to vacate this cul-de-sac. Ms. Hindman replied that it would take the signatures of all landowners fronting on the cul-de-sac to open it up. In this situation this cul-de-sac is already being used as a throughfare to the west. It is also on top of a section line easement which people are using to access properties to the west. What staff would like to see is the vacation of portions of the cul-de-sac bulb, which would resolve the current issues of encroachments into the setbacks and utility easements, and to provide a continuation of the dedication. Commissioner Martin then stated based on that information he would be voting no on the motion.

Commissioner Horton stated the he believed it was more advantageous to make this cul-de-sac a connecting road, which is how it is currently being used. He then stated that he would be voting no on this motion.

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

MOTION FAILED BY MAJORITY VOTE:

Yes - 1	Hooper
No - 11	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tauffest, Venuti

Ms. Hindman noted that KPB 20.10.110(h) notes that a decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 21.20.210 within 15 days of the notice of decision in accordance with KPB 21.20.250.

**ITEM E9 - UTILITY EASEMENT ALTERATION
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISION NUMBER ONE (KN 85-157)**

KPB File No.	2022-101V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Eric Ranguette
Surveyor:	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
General Location:	Lupine Avenue, Keeven Lane, Nikiski area

Staff report given by Platting Specialist Julie Hindman. She noted KPB 20.65.070(E) states that a planning commission decision under this section is final. No reapplication of a petition concerning the same alteration to a platted utility easement may be filed within one calendar year of the date of the final denial action, except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration or platted utility easement with documentation that the issues have been resolved, accompanied by a new fee. KPB 20.32.070(F) notes that an appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of appellate Procedure.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public

comment was closed and discussion was opened among the committee.

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

Commissioner Brantley asked staff if the applicant came back with a plat vacating the cul-de-sac and extending the 30-foot right-of-way, would that be consider a change of condition which would allow the petitioner to come back with these utility easement vacations. Ms. Hindman replied that yes, that would be a change in conditions. She also noted that depending on what changes are approved by the planning commission and then by the assembly the encroachment issue may no longer be valid.

Commissioner Staggs asked if the petitioner came back with the changes recommended by staff, could there still be a utility encroachment issue that would need to be resolved. Ms. Hindman replied that if after making the recommended changes and there was still an encroachment into the utility easement, they would need to file another petition to vacate and there would be an additional fee. However, it could be finalized by the other process and those fees could be absorbed by that process.

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

MOTION FAILED BY MAJORITY VOTE:

Yes – 2	Hooper, Venuti
No – 10	Brantley, Fikes, Gillham, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest

ITEM E10 - RIGHT OF WAY VACATION
Fritz Creek Acres Right of Way Vacation of Mushroom Street

KPB File No.	2022-095V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Edward Gamble and Barbara Gamble and Sealevel Inc all of Homer, AK
Surveyor:	Kenton Bloom/ Seabright Surveys
General Location:	Mushroom Street and East End Road / Fritz Creek / Kachemak Bay APC
Legal Description:	Mushroom Street associated with Fritz Creek Acres Subdivision, Plat HM 77-37, Homer Recording District, Section 28 Township 5S Range 12W S.M.

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

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

Chair Brantley noted that he will be supporting this vacation request. He then stated that this is the type of right-of-way vacation that he likes to see.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E11 – UTILITY EASEMENT VACATION
Moose Range Meadows Frawner Addition**

KPB File No.	2022-104V
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	Earl and Ann Frawner of Anchorage, AK
Surveyor:	James Hall / McLane Consulting
General Location:	Sterling / Keystone Drive

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

James Hall, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall was the survey on this project and made himself available for questions.

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

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

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM 12 – SCENIC RIDGE LEE ADDITION
(Review of the Plat Committee's 06/27/22 Decision)**

KPB File No.	2022-075
Plat Committee Meeting:	August 8, 2022
Applicant / Owner:	Bureau of Indian Affairs, Alaska and Traci Lee of Kenai, Alaska
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Margaret Drive / Nikiski

Parent Parcel No.:	013-145-02
Legal Description:	E1/2 NW1/4 of Section 32 Township 8 North Range 11 West
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

Karen McGahan; 54025 Kenai Spur Hwy., Kenai, AK 99611: Mrs. McGahan requested that additional dedication of Ken Street not be depicted on the plat. The McGahan family put in Ken Street and it was not intended to be public access. She does not oppose the plat itself, but does not want Ken Street to be used as an access on this plat.

Richard McGahan; 54025 Kenai Spur Hwy., Kenai, AK 99611: Mr. McGahan requested that additional dedication of Ken Street not be depicted on the plat. The McGahan family put in Ken Street and it was not intended to be public access. She does not oppose the plat itself, but does not want Ken Street to be used as an access on this plat.

James Hall, McLane Consulting; P.O. Box 468, Soldotna, AK 99669: Mr. Hall was the survey on this

project and made himself available for questions.

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

MOTION: Commissioner Martin moved, seconded by Commission Venuti, to uphold the June 27, 2022 Plat Committee decision regarding Scenic Ridge Lee Addition.

Commissioner Horton noted he would like to support the public's request. It appears that in the past borough employees left the McGahan's with the impression that Ken Street in that area would not be developed. If doing this doesn't create any access issues, he would have no problem supporting this request.

Chair Brantley asked staff if the applicants have stated that they want to use Ken Street as an access. Ms. Hindman replied there has been no discussion with the applicants on this issue. She noted the exception request approved was not to have to continue the Ken Street dedication beyond what was being proposed on the preliminary plat. As far as removing what the applicants have proposed on the plat, it would be removing an access point. She then noted the existing dedications will still be required to be depicted on the plat and that anytime you have property fronting a dedication there is no guarantee that there is access to that road. You would still have to determine what the legal access is to get to the road. Staff notes that Ken Street does not connect to the Kenai Spur Highway, however that doesn't mean that it wouldn't sometime in the future. Staff did find some wording in a deed that someone may want to get legal advice on should they want to use Ken St. If the commission wants to change the dedication, they would just need to make a motion. The commission may want to check with the surveyor to make sure that they would be okay with losing the proposed Ken St. access.

Chair Brantley asked the surveyor, James Hall, if the applicants requested the 30-foot Ken St. dedication or was it something that he did to meet code requirements. Mr. Hall replied that it was just to comply with borough code. He noted that the Ken St. dedication did give access to Tract A1, but there is a section line easement on the northwest corner of the property that also provides legal access.

Commissioner Venuti had a question regarding protocol. He noted that it is not appropriate for commissioners to vote twice on an item. Since the commissioners sitting on the plat committee on June 27, 2022 already voted on this item, would it be appropriate for them to vote on it now? Borough Attorney Walker Steinhage replied that borough code provides for plat committee decisions to be reviewed "de novo", which means a new hearing, by the planning commission, so it would be appropriate for the plat committee members to vote on this item.

Chair Brantley stated that he would support getting rid of the 30-foot Ken St. dedication. He asked staff what would be the best way to do this. Ms. Hindman replied that the commission could amend the original exception request to include no new dedication for that portion of Ken St.

AMENDMENT TO EXCEPTION A REQUEST: Commissioner Staggs moved, seconded by Commissioner Gillham, to amend the exception request to KPB 20.30.030(A) – Proposed Street Layout Requirements, continuation or projection of right-of-way, to not include any dedications of Ken Street.

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

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

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

MOTION PASSED AS AMENDED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

ITEM E13 - EAST OYSTER COVE SUBDIVISION
(Review of the Plat Committee's 06/13/22 Decision)

KPB File No.	2022-047R1
Plat Committee Meeting:	June 13, 2022
Applicant / Owner:	Alaska Mental Health Trust of Anchorage, AK
Surveyor:	Andre Kaeppele, Buku Saliz / Fixed Height LLC
General Location:	Remote, Oyster Cove, Kasitsna Bay

Parent Parcel No.:	191-170-70 and 191-170-87
Legal Description:	A Portion of the North ½ of Section 21 and Lot 4 of US Survey No 4700
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment.

The following individuals spoke in opposition to approving this plat. None of their concerns have been addressed by the applicants. No one has been able to speak with anyone at the Alaska Mental Health Trust, they will not return any of their calls. The concerns they have are: noting existing water rights on the plat, proposed access for the lots is not viable and the potential negative effect this development could have on the area environment.

- Phillip Brudie; P.O. Box 111, Homer AK, 99633
- Doug Kossler; 2131 Baranoff Dr., Anchorage, AK 99517
- Tamara Hopkins; 601112 Norby Ave., Homer, AK 99663

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

MOTION: Commissioner Martin moved, seconded by Commissioner Venuti, to uphold the June 13, 2022 Plat Committee decision regarding East Oyster Cove Subdivision.

Commissioner Stutzer asked for clarification on what the commission was being asked to do. He noted that back in May the plat committee took no action on this item, is that the decision they are being asked to review? Chair Brantley replied that back in May there was no second to the motion, so no decision was made. However, it came back to the plat committee on June 13, 2022, where it was passed by a unanimous vote. The commission is being asked to review the June 13, 2022 plat committee decision.

Commissioner Stutzer noted that the Alaska Mental Health Trust raises funds for all their programs through the sale of their lands, which he supports. He is also very familiar with this area and he agrees with some of the concerns expressed by the public. The area is very rocky, with very poor drainage. The lot sizes being proposed are too small and will not support a traditional wastewater system, which means waste water systems are going to be very expensive. He knows that water is an issue in the area. He feels that lots of this size are too small and that access is a problem. He does not feel that this is a good design. He then stated that he is inclined not to support the motion to uphold the plat committee's decision.

Commissioner Horton asked if the commission could make recommendations on the design of the plat. For instance, Commissioner Venuti noted that the stream that provides drinking water to the area is not depicted on the plat. He noted that the testifiers have stated that the 50-foot public access is not an adequate access for these lots. Could the commission recommend that the public access be adjusted to an area with better access.

Chair Brantley noted that the public access Commissioner Horton is referring to is not contained in this plat, that it is on another property not owned by the Trust.

Ms. Hindman replied that Chair Brantley was correct regarding the public access easement, and that the

only adjustments that can be recommended are those that are within the boundaries of the preliminary plat. Ms. Hindman then stated that the commission has the discretion to recommend changes to the access that is being proposed but the recommendations would need to follow the guidelines of KPB code. As for the water rights issue, while staff is aware of existing water rights in the area, KPB code does not address water rights, so it is outside of our purview. Water rights are issued by the state, so even if water rights were not depicted on the plat, it does not mean that they don't exist.

Chair Brantley addressed some of the concerns brought up by Commissioners Stutzer and Horton. He noted that there are existing lots, with houses on them, in the area that are smaller than the lots being proposed on this plat. There are ways of designing waste water systems and access for these lots. Just because it is difficult does not mean it is impossible. He then stated that there is nothing in borough code that he can see, which the commission could use as a finding, to deny this plat. He understands that the folks over there do not want this development. When you live in paradise no one wants to see the guy next door put in a development. He doesn't see anything in code that he could use to deny this plat so he will be voting to uphold the plat committee's decision.

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

MOTION PASSED BY MAJORITY VOTE:

Yes - 6	Brantley, Horton, Martin, Morgan, Slaughter, Venuti
No - 5	Fikes, Hooper, Stutzer, Tautfest, Staggs
Abstained-1	Gillham

Ms. Hindman noted that KPB 20.10.110(h) notes that a decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 21.20.210 within 15 days of the notice of decision in accordance with KPB 21.20.250.

AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Brantley reported the plat committee reviewed 9 plats, granted preliminary approval to all of them.

AGENDA ITEM G.

1. Plat Committee – August - December, 2022:

- Commissioner Gillham
- Commissioner Slaughter
- Commissioner Staggs
- Commissioner Venuti
- Commissioner Brantley (Alternate)
- Commissioner Horton (Alternate)
- Commissioner Stutzer (Alternate)

AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS

Chair XX 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

- August 22, 2022 Planning Commission training session topic
 - Open Meeting Act
 - Legislative vs. Quasi-Judicial Matters
 - Adjudicative Sessions

AGENDA ITEM J. COMMISSIONER COMMENTS

- Commissioner Morgan informed the commission that she would not be able to attend the August 22, 2022 Planning Commission meeting.

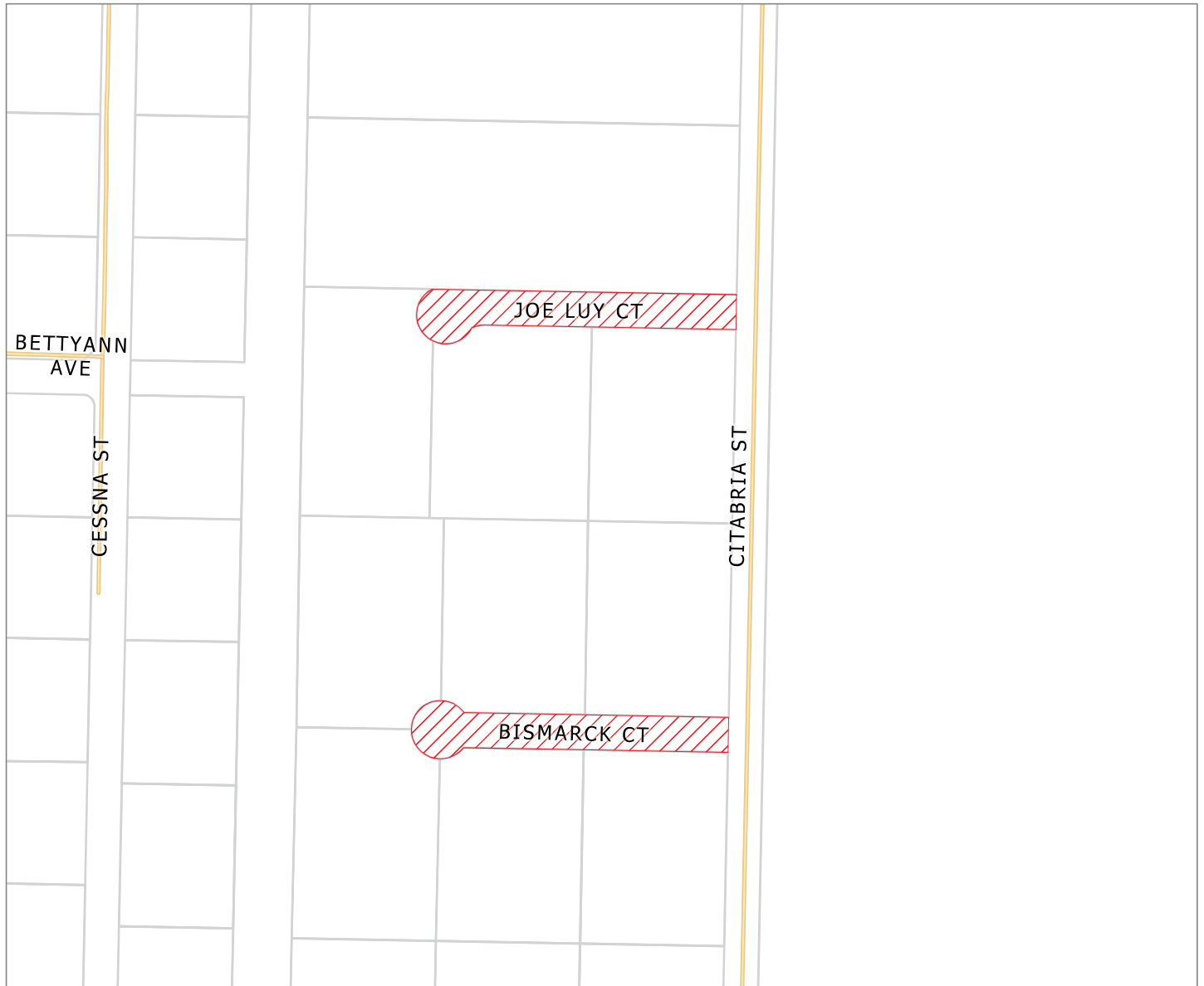
AGENDA ITEM K. ADJOURNMENT

Commissioner Fikes moved to adjourn the meeting at 9:48 PM.

Ann E. Shirnberg
Administrative Assistant

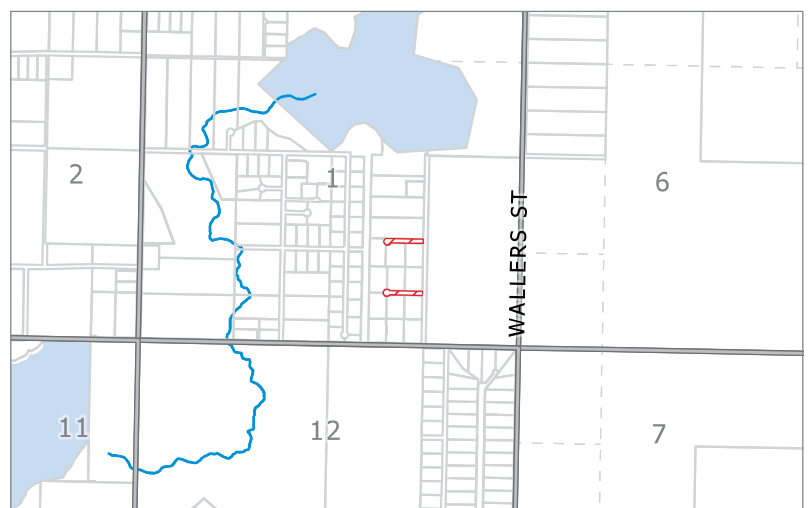
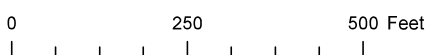
E. NEW BUSINESS

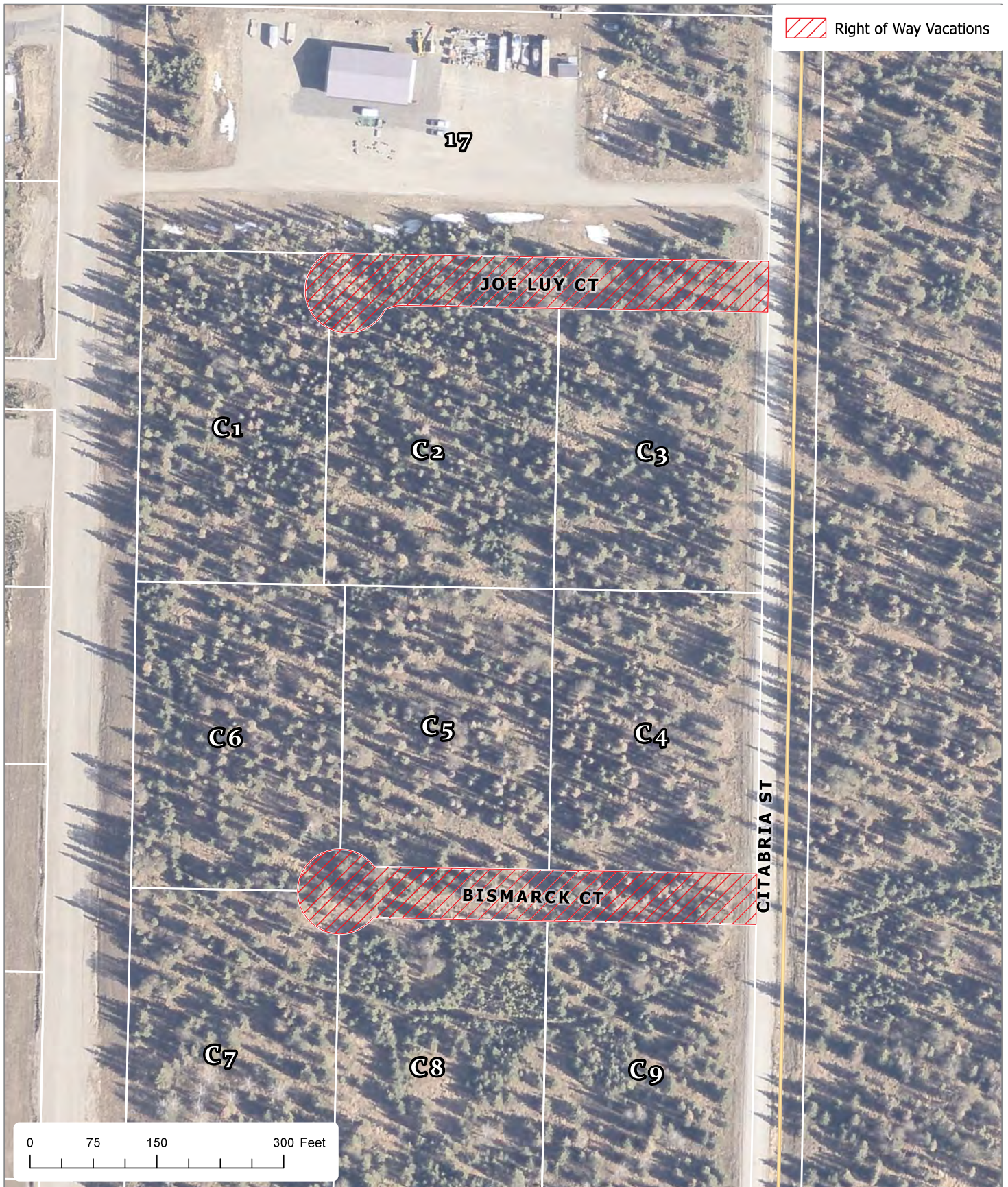
- 1. Right-of-Way Vacation; KPB File 2022-117V
Segesser Surveys /Alcan Ventures Limited of Vernon, BC
Request: Vacate Joe Luy Court & Bismarck Court
Salamatof Area**

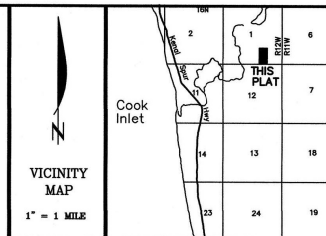


KPB File 2022-117V
T 06N R 12W SEC 01
Salamatof

7/31/2022







CERTIFICATE of OWNERSHIP
and DEDICATION

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

MATTHIAS GOHL, PRESIDENT
ALCAN VENTURES LIMITED
8090 JACKPINE ROAD
VERNON, BC V1B 3M9

NOTARY'S ACKNOWLEDGEMENT

FOR _____
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20____

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES _____

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH
PLANNING COMMISSION AT THE MEETING OF

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL

KPB FILE No.

Salamatof Air Park
Alcan 2022 Replat

A resubdivision of Lots C1-C12 Salamatos Air Park Alcan
Addition No. 2, Plat 2009-14, Kenai Recording District.
Located within the W1/2 SE1/4 Section 1, T6N, R12W, S.M.,
Kenai Peninsula Borough, Alaska.

Containing 24,545 Ac

Surveyor
Segesser Surveys
30485 Rosland St.
Soldotna, AK 99669
(907) 262-3909

Owner	Alcan Ventures Limited 8090 Jackpine Road Vernon BC V1B 3M8
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JOB NO.	22179
SURVEYED:	N/A
FIELD BOOK:	N/A

DRAWN:	7-26-22
SCALE:	1"=100'
SHEET:	1 of 1

LEGEND:

- 3 1/4" ALUM. CAP MONUMENT 4928-S 1985 FOUND
 5/8" REBAR FOUND
 5/8" REBAR w/PLASTIC CAP LS8859 SET
 RECORD DATUM PLAT 2009-14 KRD

NOTES:

- 1) Basis of bearing taken from Salamokat Air Park Acan Alcan Road No. 2, Plot 2049-14, Kencana Recording District.
- 2) Building Setback—A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate local government.
- 3) Covenants, conditions, and restrictions which affect this subdivision are recorded in Book 566 Page 467 and amendments thereto as serial numbers 2008-010667-0, 2008-03572-0, 2008-03573-0, 2008-03574-0, 2008-03575-0, 2008-03576-0, 2008-03577-0, 2008-03578-0, Kencana Recording District. The Borough will not enforce private covenants, easements, or deed restrictions per 2008-03572-0.
- 4) Front 10 feet adjacent to right-of-ways and 20 feet within 5 feet of the side lot lines is a utility easement granted by KN 2008-14. No permanent structure shall be constructed or placed within a utility easement and no utility shall be placed within a structure.
- 5) **WASTEWATER DISPOSAL.** These lots are at least 200,000 square feet and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Department of Environmental Conservation.

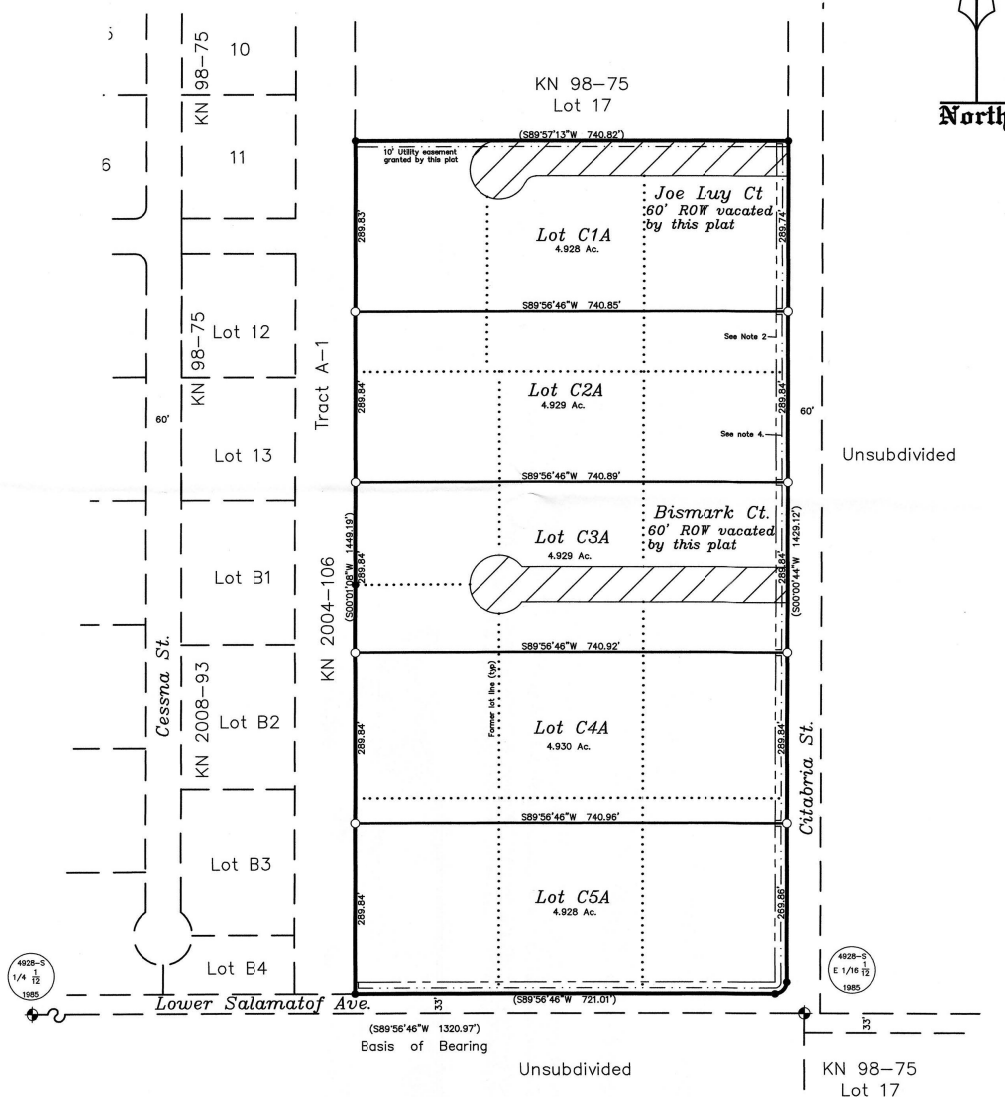


SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct.

Date _____

KPB 2022-117V



AGENDA ITEM E. NEW BUSINESS

**ITEM 1 – RIGHT-OF-WAY VACATION
JOE LUY COURT AND BISMARCK COURT RIGHT-OF-WAY AND
ASSOCIATED UTILITY EASEMENT VACATIONS**

KPB File No.	2022-117V
Planning Commission Meeting:	August 22, 2022
Applicant / Owner:	Alcan Ventures Limited of Vernon, BC
Surveyor:	John Segesser / Segesser Surveys
General Location:	Citabria Street, Lower Salamatof Avenue, Salamatof
Legal Description:	Joe Luy Court and Bismarck Court, Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, Township 6 North, Range 12 West, Section 1

STAFF REPORT

Specific Request / Purpose as stated in the petition: Owner is resubdividing the property to eliminate the number of lots and the cul-de-sacs.

Notification: Public notice appeared in the August 11, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the August 18, 2022 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

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

Library of Nikiski

Post Office of Nikiski

Fifteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Eight receipts had been returned when the staff report was prepared. There were no required public hearing notices to be sent by regular mail as certifies were sent to those within 600 feet instead of the required 300 feet.

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

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Emergency Services of Nikiski

Nikiski Community Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The subject parcels are located within the Salamatof Air Park and have a tract abutting them to the west that contains an airstrip. There are multiple dedications and easements in the area that provide access but only certain portions are constructed. The access route is located from the corner of state maintained Miller Loop Road where the right-of-way changes to a northern direction and the access from KPB maintained roads are south of the state right-of-way. Various rights-of-way are used to connect to Lower Salamatof Avenue that connects to Citabria Street. Citabria Street is a 60 foot wide, borough maintained right-of-way that was dedicated by Salamatof Air Park, Plat KN 98-75. This right-of-way runs along the eastern boundary of the affected lots and will continue to provide access to the new lot configurations.

Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, dedicated the two subject vacations, Joe Luy Court and Bismarck Court. These are both 60 foot wide dedicated rights-of-way that end in cul-de-sacs. They are currently

not constructed. The owners are proposing to combine lots in a manner that they will have frontage along Citabria Street or Lower Salamatof Avenue. The lots will also abut Tract A for access to the airstrip.

The proposed design will no longer require the cul-de-sacs for access to lots. Due to the location of the airstrip the block lengths do not comply but as the rights-of-way proposed for vacation are cul-de-sacs the vacation of them will not improve or worsen block lengths as they are not through rights-of-way.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Painter, Jed Comments: No comments
SOA DOT comments	

Site Investigation: The proposed vacations do not contain any low wet areas or steep terrain. The remaining access appears to be free from steep terrain and low wet areas and is currently constructed and borough maintained.

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 NOT within HPD Comments: No comments C. State Parks Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	No objections

Staff Analysis: Salamatof Air Park, Plat KN 98-75, created Tract C as well as Tract A that contains the airstrip. Citabria Street was also dedicated as a 60 foot wide right-of-way and the North 33 feet of Lower Salamatof Avenue. Tract C was replatted by Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14. That plat created twelve lots and dedicated Joe Luy Court and Bismarck Court to provide required access to some of the lots. The owners are proposing to replat the twelve lots into five lots that will have access from Citabria Street and Lower Salamatof Avenue.

The rights-of-way are not constructed. The only lot that is not part of the replat that fronts along one of the proposed vacations is Lot 17 of Salamatof Air Park, Plat KN 98-75. Lot 17 abuts the airstrip and Citabria Street. Access appears to be constructed within the lot from the dedicated right-of-way and to the airstrip.

Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, granted utility easements along the front 10 feet adjacent to dedicated rights-of-way and 20 feet within 5 feet of side lot lines. Per the application, the owners wish to vacate the associated utility easements. **Staff recommends if the vacations are approved the utility easements being vacated be depicted and noted.** This plat is proposing to dedicate a new 10 foot utility easement along the northern boundary and carry over the easements as granted by the parent plat. **Staff recommends easement depictions be updated along Citabria Street to reflect the 20 foot easements centered 5 feet on the former side lots lines as the petition did not include those to be vacated.**

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 rights-of-way are not constructed
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The replat will result in the rights-of-way not being needed for access, existing alternate access is available.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: This is abutting an airstrip and no additional rights-of-way are needed with the proposed design.
4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: The rights-of-way are cul-de-sacs that do not provide access to public areas
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: As the rights-of-way are cul-de-sacs that are to be permanently closed, the vacations do not limit opportunities for interconnectivity.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Provide access to private parcels that will be combined.
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: A new easement is proposed and easements will remain along Citabria Street. Requests from providers will be reviewed.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The rights-of-way were created to grant access to lots that will no longer exist due to replat.

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 September 6, 2022 meeting.

If approved, Salamatof Air Park Alcan 2022 Replat will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on August 22, 2022.

KPB department / agency review:

Planner	Reviewer: Raidmae, Ryan
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	<p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Addressing	<p>Reviewer: Haws, Derek Affected Addresses: None</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: CESSNA ST JOE LUY CT LOWER SALAMATOF AVE CITABRIA ST</p> <p>Existing Street Name Corrections Needed: BISMARCK CT should be BISMARCK CT</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: BISMARCK CT should be BISMARCK CT. JOE LUY CT and BISMARCK CT will be deleted.</p>
Assessing	<p>Reviewer: Windsor, Heather Comments: No comment</p>

Utility provider review:

HEA	No comment
ENSTAR	No comment or recommendations
ACS	
GCI	Approved as shown

RECOMMENDATION:

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

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

KPB 20.65.050 – Action on vacation application

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

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

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

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

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

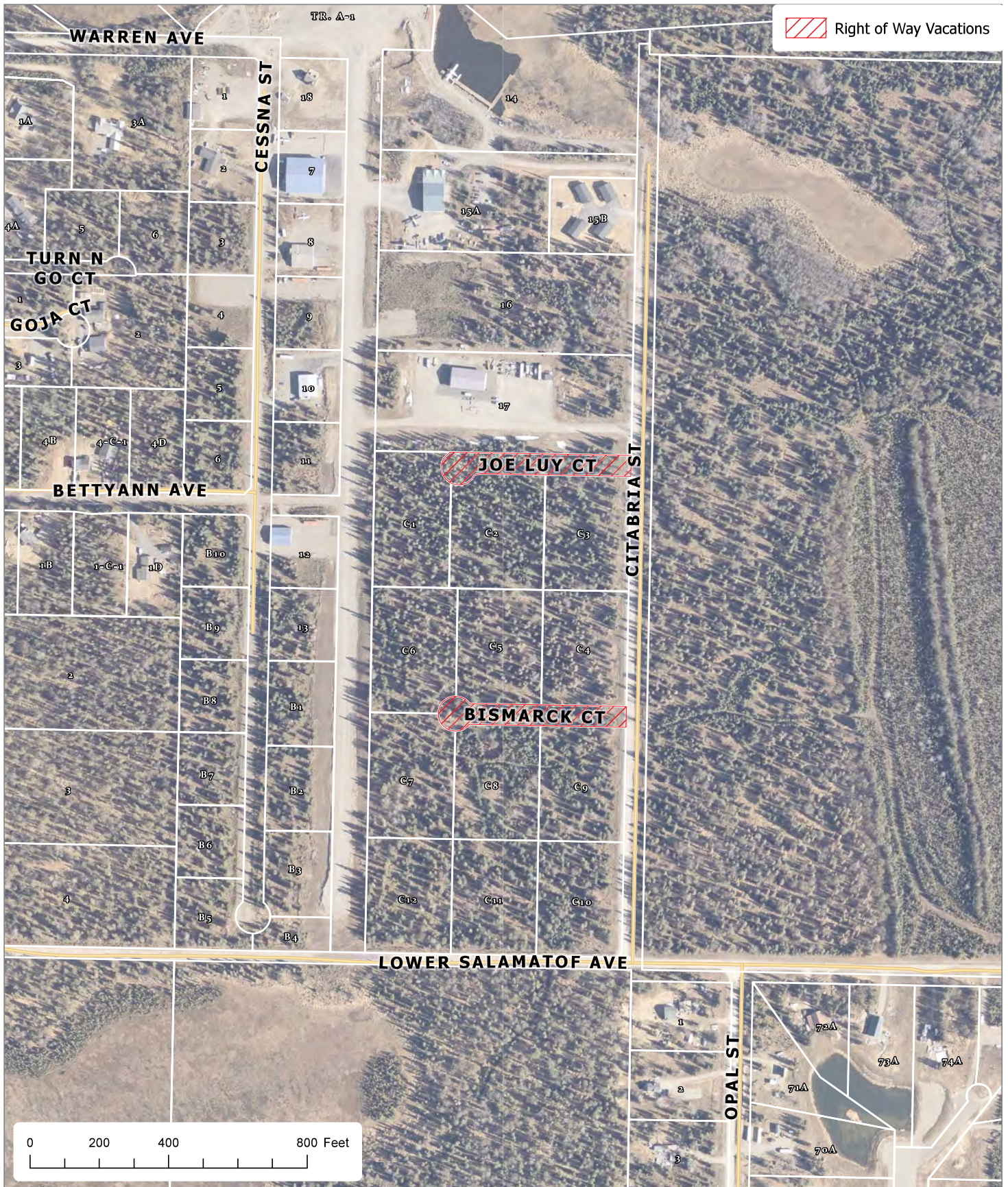
- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*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

END OF STAFF REPORT

Page 5 of 5



Aerial View





Wetlands

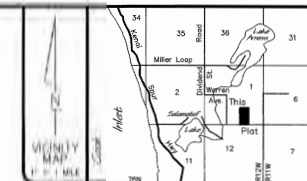
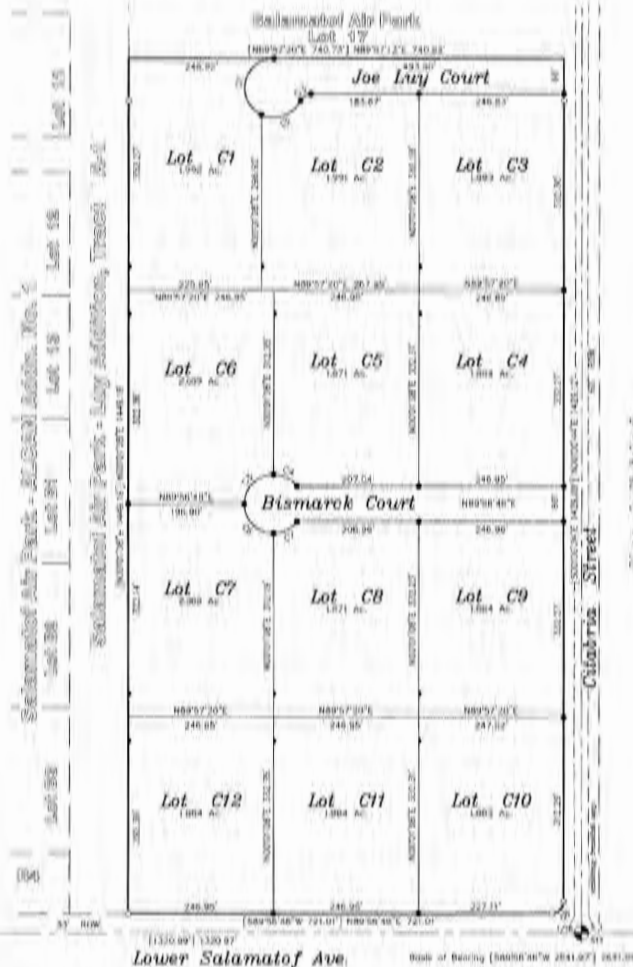




NOTES

- 1) Easements, conditions & restrictions that may affect the development of these lots are required by #s 2004-010003, 2006-001057, 2006-001836, 2006-002639, 2006-003672, 2006-003573 and 2006-004407.
- 2) Building setbacks - A setback of 50 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
- 3) Front lot is adjacent to rights-of-way with an additional 10 ft. within 5 ft. of the side property lines is also a utility easement. The permanent structure shall be constructed or placed within a utility easement which must interface with the utility to use the easement.
- 4) Plans must meet the design and construction standards established by the Borough in order to be considered for certification and inclusion in the road maintenance program.
- 5) An exception was granted for the front length (R/R 20.20.160) by Plat Committee September 8, 2008.
- 6) The address points set along the back property lines represent the lot assignment that will be received for a tax assessor (by separate document).
- 7) WASTEWATER (SEWER) Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving aboriginal family or duplex residences and meeting the regulatory requirements of the State of Alaska. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer registered in practice in Alaska, and the design must be approved by the Alaska Dept. of Environmental Conservation.

Carl Baker
12.61
12.61
1-20-09



CERTIFICATE of OWNERSHIP and DEDICATION

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

Matthew Stevens
Alcan Addition No. 2
8090 Johnson Road
Kenai, AK 99540

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 29th DAY OF December, 2008 FOR: MATTHEW STEVENS

ZOE STEVENS
A Notary Public in and for
The Province of British Columbia
P.O. Box 510, 200 Street
Vernon, BC V1T 8G4
Canada

ZOE STEVENS
A Notary Public in and for the Province of British Columbia, Canada
8101 1st Ave. S.W. Suite 100, Vernon BC V1T 8G4
PERMANENT COMMISSION

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF September 8, 2008

KENAI PENINSULA BOROUGH

Matthew Stevens
AUTHENTICATED OFFICIAL

CERTIFICATE OF SURVEYOR

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the measurements shown herein actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.



2009-14
RECORDED 20-
Kenai REC. DIST.
DATE: 12-19-09
TIME: 10:00
REQUESTED BY:
INTEGRITY SURVEYS
8195 KENAI SPUR HWY
KENAI, ALASKA 99541

Salamato Air Park Alcan Addition No. 2

A subdivision of Tract "C", Salamato Air Park, Plat # 98-75.

Located within the C/2 of Section 1, T6N, R12W, S.M., Kenai Recording District, Kenai Peninsula Borough, Alaska.

Containing 24.645 Acres

Integrity Surveys, Inc.

8195 Kenai Spur Hwy Kenai, Alaska 99541-8902
PHONE - (907) 283-9047 FAX - (907) 283-9071

SUBMITTALS: 2011 DRAWN: 12 December, 2008 CB
REVISION: September, 2008 SCALE: 1" = 100'
FILED IN: 2009-14, Pg. 35 DATE: 12/20/09

Corner	Offset	Radius	Chord	Chord Bearing
1	106.94	30.00	126.33	97.84
2	82.12	30.00	76.18	79.43
3	84.97	30.00	13.46	21.36
4	63.06	30.00	86.19	85.62
5	103.07	30.00	184.61	75.79
6	89.58	30.00	76.33	73.70
7	84.98	30.00	86.38	84.44
8	89.38	30.00	11.89	28.27

KN 98-75

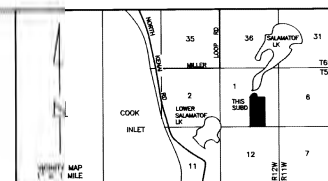
NOTES

BUILDING SET BACK - A setback of 20' feet is required from all street rights of way unless a lesser standard is approved by resolution of the appropriate planning commission.

The front 10 feet of the building setback and the entire setback within 5 feet of the side lot line is a utility easement.

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

- A. SHOWN RECORD
 B. 1/4" PLUM MAP WITH SET THE LAYOUT
 C. 1/4" REAR RECORD
 D. 1/4" REAR RECORD
 E. RECORD DATA (SEE)

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I hereby certify that I am the owner of the real property shown and described herein and that I hereby adopt this plat of subdivision and by my free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

Dennis J. Luy
Dennis J. Luy PO Box 2925 Soldotna, AK 99669

HISTORICAL ACKNOWLEDGEMENT

Witnessed and sworn before me this 14th day of October, 1998.

For *Dennis J. Luy*

Shawn A. Wharford
Notary Public for Alaska

My Commission Expires 7-14-02

**LOTS 14-17, TRACTS A-C**

WASTEWATER DISPOSAL: These lots are at least 200,000 square feet in minimum size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

LOTS 1-13

WASTEWATER DISPOSAL: Soil conditions, water table levels, and site slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

[Signature] License No. 10-15-98
Engineer Date

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at its meeting of _____.

KENAI PENINSULA BOROUGH

By _____ Authorized Official

**SALAMATOF AIR PARK**

A subdivision of Gov't Lot 7 & a portion of the SE 1/4 Sec. 1 T 6 N, R 12 W, SM, AK
87,995 Acres

WITBOLD SURVEYING
PO BOX 4002 - SOLDOTNA, AK 99669
(907) 260-9092

DATE: 7/98 SCALE: 1" = 150'
DWG. FILE NO.: LUPARDWG

E. NEW BUSINESS

- 2. Conditional Use Permit; PC Resolution 2022-
Petitioner: Castaway Cover Homeowners Association
Request: Install a foot bridge on a parcel within the 50'
Habitat Protection District of the Kenai River**

Multi-Agency Permit Application



RIVER CENTER

Please answer all questions completely.

Applicant Information:

Name: CASTAWAY COVE ASSOC.
Owner? ☒ Yes ☐ No

Mailing Address:

(permits will be mailed to this address)

Bay Buley Assoc. MGMT
1577 C STREET SUITE 1010
ANCHORAGE AK 99501
Phone (Home/Work): 907-343-8911
Cell Phone: _____
Fax: 907-297-2910

E-Mail: rbpropertymanagement@
google.gmailps.com

Agent Information:

Name: HEON JAMES

Mailing Address:

940 SE 12TH AVE.
ON TARI, OREGON 97911
Phone (Home/Work): 541-889-6483
Cell Phone: 541-881-6014
Fax: 541-889 4621

E-Mail: HEON.J@FMTG.COM

Project Location:

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

Waterbody Name: KENAI RIVER

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

Subdivision: CASTAWAY COVE Lot: _____ Block: _____

Township: 5 NORTH Range: 10 WEST Section: 19

KPB Parcel Number: 055.15342 Physical Address: TRAIL 3 & A

Directions to the site: CIECHANSKI RD TO PORTER ROAD TO BRANWICK
TRAIL.

Please Complete the Following:

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

2) What is the purpose of this project? ACCESS TO ISLAND PROPERTIES

Multi-Agency Permit Application – Page 3

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

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

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

9) Will material be extracted or dredged from

☐ Floodplain of a river, lake, or ocean

☐ Tidal or non-tidal waters

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

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

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

☐ Tidal or non-tidal waters

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

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

What type of material is it? _____ Amount? _____

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

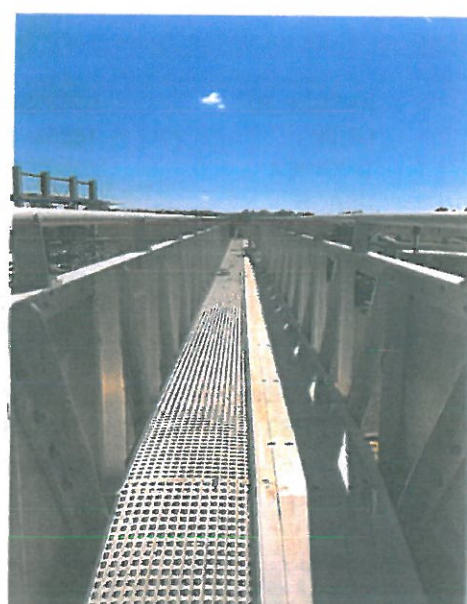
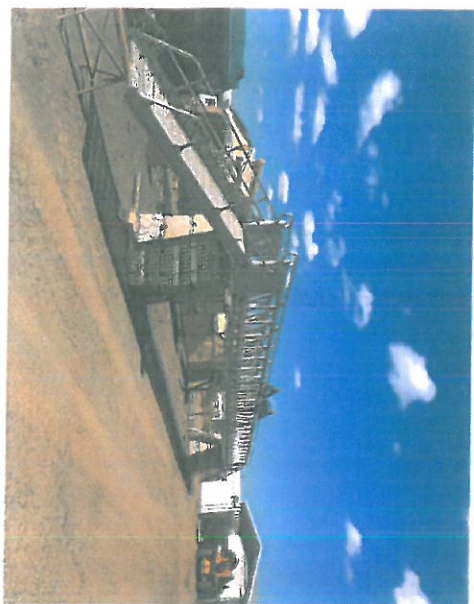
11) What is the surface area (in acres) that would be filled, excavated, or dredged of any waters, including areas below the HTL or MHW of tidal waters, below the OHW of non-tidal waters and/or wetlands adjacent to tidal or non-tidal waters? _____

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

BOOM TRUCK to SET WAYWAY

12b) How long will motorized equipment be used below OHW, MHW, or the HTL? 0

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



LEON JAMES CONSTRUCTION CO., INC.

&

MILL SERVICE COMPANY

940 S. E. 12TH AVE. ONTARIO OR. 97914
PHONE 541-889-6483 FAX: 541-889-4621
CCB#73005

Castaway Cove Owners Association

Date: 2-21-2020

Board of Directors: Subject- Foot Bridge

Ward Hepper, President

Dear Ward,

Please find enclosed letter to coast Guard on subject footbridge along with drawing, photos of structure assembled in our yard. The subject is Dismantled and ready to ship. I have not contacted any trucking firms Thinking someone may be able to suggest a fairly inexpensive way To get the package to job site. No Permits are necessary. The unit , dismantled into three sections measures 24' long x 8'wide x 8'-6" high with shipping weight of 6500 pounds U.S

Ward, at this time I have \$10.000 in this unit. Hopefully I can get some relief from the Association. I am sure the owners on the island will Donate. I will be on site end of June and with donated man power Can assist in assembly. With 4 able bodys, assembly will take only one day. I have an Idea on Inexpensive supports structure for each end. I will draft it and email to you. Local supplies.

Respectfully

Thank You

**Leon James Construction Company Inc,
940 S.E 12th Avenue
Ontario, Oregon
Cell: 541-881-6014
Email: leonj@fmmc.com**

LEON JAMES CONSTRUCTION CO., INC.

&

MILL SERVICE COMPANY

940 S. E. 12TH AVE. ONTARIO OR. 97914
PHONE 541-889-6483 FAX: 541-889-4621
CCB#73005

David Seris
17th Coast Guard District DPW
P.O. Box 25517
Juneau AK. 99802-5517

Date: 2-21-2020

Dear David

As per our phone conversation on 2/14/2020 concerning the proposed foot bridge at Castaway Cove on the Kenai river, Please find the drawing we spoke about. The unit is structural Aluminum. Dimension Being 36" wide inside x 70'-7" overall length. As stated, I measured the water way width on July 28 2019 at the River Quest Bridge, which is just across the fence from the proposed location of our foot bridge. At that time the actual waterway measured 54' across and 48" deep. Please find enclosed my drawing based on those measurements. Also See the letter from Castaway Cove Association to property owners. The river is in the process of cutting through the island. Although a gallant Attempt to avoid this disaster by the installation of hundreds of spruce Trees laced into the area. We know that the river will prevail in the end.

At our annual meeting on June 29, 2019, the subject of a footbridge was Discussed. I accepted the duty to search out the permits that might be needed to make this foot bridge a reality. As I understand it, no permits are necessary. The only criteria being a safe distance from the bottom of the structure to the water and no fill or disturbance of the canal bank.

To: Castaway Cove Owners Association Inc.
C/O Roy Briley Association Management
1577 C Street Suite 101C
Anchorage, AK 99501
Phone: 907-343-8911
Fax: 907-297-2910
Email: vbpropertymanagers@googlegroups.com



From: Leon James Construction Co., Inc.
940 SE 12th Ave
Ontario, OR 97914
Phone: 541-881-6014
Fax: 541-889-4621
Email: leonj@fmtc.com

April 1, 2019

Gentleman,

My name is Leon James, I own property within association boundaries, namely, Lot 10 Block 8, and Lots 12 and 13 in Block 9, which I purchased in 2007. Working summers, I complete my two cabins in 2014. I have \$200,000 tied up in this property with no access besides boat. I have great concern the value will drop with no access.

The Association has a 30' easement at the River Quest Boundary. I would suggest a foot bridge at this location. When I purchased my property in 2007 the walkway was wood planks nailed to logs, or whatever, it was poor at its best, and required a great deal of maintenance. During the flood of around 2011, the boardwalk was washed away. Under the leadership of Bob Larkey SR. the walkway was replaced with metal. Bob Larkey SR. did an incredible job as President and the Association moved forward. I was instrumental in the installation of the new metal walkway and the supports were designed by myself and built by others. During the early stages, electricity was promised to all by Homer Electric, but they reneged that promise and again, those on the island fell short. The roads, walkways, and electricity went to the mainland where the majority of the association dues were spent.

Year after year I have watched the river take huge sections of the bank as it caved in and the trees went with it. Year by year closer and closer the river moved toward the walkway. Yet nothing was been done to prevent the destruction of our precious bank. That was now the responsibility of the Association because all the owners' lots were already lost to the river. In 2017, the walkway had to be relocated and the Association hired to have spruce trees woven into the bank to try to ward off the inevitable, which I considered too little too late. Winter ice took it out, the river continued to lay waste to the land, and then the decision was made by the Board of Directors to remove about a hundred feet of the walkway, thereby, cutting off access to some 60 property owners beyond this point.

Castaway Cove HOA Footbridge



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

KPB File No.	2022-34
Planning Commission Meeting:	August 22, 2022
Applicant	Castaway Cove Association
Mailing Address	1577 C Street Anchorage, AK 99501
Legal Description	T 5N R 10W SEC 19 SEWARD MERIDIAN KN 0840140 CASTAWAY COVE SUB AMENDED TRACTS A & B
KPB Parcel Number	055-255-47 & 055-253-42

Project Description

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

Background Information

Castaway Cove Home Owners Association (HOA) is a gated private subdivision located in Kenai, AK. Currently, there are approximately 56 parcels located on the island that are accessed by an existing 5-foot wide by 80 feet long clear span footbridge. Over the past few years the island has experienced significant erosion that has required the HOA to install and maintain over 800-feet of spruce tree revetment to protect the island properties. The majority of the parcels on the island are located on the western portion of the erosion area. When the island erosion section succumbs to the Kenai River, the western parcels will have no access off the island.

The Association has access to an aluminum 70'-7" long by 36" wide by 8'-6" high footbridge to be installed on the western portion of the island for access within the HOA right of way easement. In 2005, the HOA replaced the upstream prior existing wooden footbridge. The new footbridge will be lighter and higher than the upstream bridge. The pilings will be driven 15 feet leaving 5 feet above to maintain a maximum height of 7 foot, when assembled to not impede boat traffic. The only portion of the footbridge located within the Habitat Protection District (HPD) will be 4 vertical supports and the access ramps.

In 2020, the Castaway Cove HOA requested a Conditional Use Permit to install a footbridge across the man made canal for access. On August 24, 2020, the Borough Planning Commission unanimously approved Resolution 2020-22, for the installation of the footbridge.

Prior to installation of the bridge, COVID stalled the transportation of the bridge to Alaska and the applicant requested a one year time extension, granted by the Planning Director. On July 5, 2022, the applicant again submitted an application for the installation of a foot bridge as the one year CUP permit granted by resolution 2020-22 and one year time extension will both expire on August 24, 2022. At the time of application, work on this project has not been finished.

Project Details within the 50-foot Habitat Protection District

1. Installation of 4 supports of 6" well casing.
2. Access ramps on either side of the canal

General Standards

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

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1-3 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 1-4, 6 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 7-8 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 4 and 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements; **Conditions 11-12 and Finding 14 appear to support this standard.**

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of critical infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. 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.
7. Access to the site and all construction activities will occur from the Castaway Cove Homeowners Association right of way and will not affect neighboring parcels.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
10. The River Center found the application complete and scheduled a public hearing for August 22, 2022.
11. Agency review was distributed on August 5, 2022. No comments or objections have been received from resource agencies to date.
12. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 3, 2022. A total of 236 mailings were sent.

13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 11 2022 and August 18, 2022.
14. 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 foot bridge must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

Attachments

Multi-Agency Application
Resolution 2020-22
Draft Resolution 2022-34

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 2022-34.

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



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 install a foot bridge 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(B)(5) Transportation and Utility Infrastructure and KPB 21.18.091 Mitigation measures, projects within the 50-foot Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located on both banks of a man made canal of the Kenai River in Kenai, Alaska.

Petitioner: Castaway Cove Homeowners Association
Roy Briley Property Management Co
1577 C Street
Anchorage, AK 99501

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on August 22, 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 <https://us06web.zoom.us/j/9077142200>. 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**.

Public Comment: 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, August 19, 2022 via**

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 Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2022-34

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE
CONSTRUCTION OF A FOOTBRIDGE 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,** this project was unanimously approved by the Planning Commission as Resolution 2020-22 on August 24, 2020; and
- WHEREAS,** due to the Covid pandemic, delays occurred in moving the bridge to Alaska and the project is not complete; and
- WHEREAS,** applicant requested a time extension of Resolution 2020-22 for one year from the August 24, 2020 date and it was approved by the Planning Director; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on August 11, 2022 and August 18, 2022 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the August 22, 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. Installation of 4 supports of 6" well casing.
2. Access ramps on either side of the canal

Section 2. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of critical infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. 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.
7. Access to the site and all construction activities will occur from the Castaway Cove Homeowners Association right of way and will not affect neighboring parcels.
8. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
9. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
10. The River Center found the application complete and scheduled a public hearing for August 22, 2022.
11. Agency review was distributed on August 5, 2022. No comments or objections have been received from resource agencies to date.
12. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 5, 2022. A total of 236 mailings were sent.
13. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 11, 2022 and August 18, 2022.
14. 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 foot bridge must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.

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

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; **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 1-4, 6 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 7-8 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Finding 4, 9 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Conditions 11-12 and Finding 14 appear 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

RESOLUTION 2020-22

A Conditional Use Permit is sought pursuant to KPB 21.18 for placement of a 70'-7" long by 36" wide by 8'-6" high footbridge to access island properties in Castaway Cove Homeowners Association, within the 50-foot Habitat Protection District of the Kenai River as established in KPB 21.18.040.

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

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

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

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

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

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

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

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

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

1. Installation of 4 supports of 6" well casing.
2. Access ramps on either side of the canal.

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

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
3. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
5. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines 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.

6. Access to the site and all construction activities will occur from the Castaway Cove Homeowners Association right of way and will not affect neighboring parcels.
7. The River Center found the application complete and scheduled a public hearing for August 24, 2020.
8. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on August 14, 2020. A total of 175 mailings were sent.
9. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on August 13 and 20, 2020.
10. Agency review was distributed on August 14, 2020. No comments or objections have been received from resource agencies to date.
11. The applicant is currently in compliance with Borough permits and ordinances.

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

1. ***The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems;***
 - **Condition 1** – A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
 - **Condition 2** – The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
 - **Condition 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.
2. ***Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough;***
 - **Finding 1** – Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
 - **Finding 2** – Pursuant to KPB 21.18.081(B)(5), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
 - **Finding 3** – One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
 - **Finding 4** – Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
 - **Finding 7** – The River Center found the application complete and scheduled a public hearing for August 24, 2020.

- **Finding 8** – Public notice was mailed to property owners within a radius of 300 feet (KPB 21.11.030) of the project on August 14, 2020. A total of 175 mailings were sent.
 - **Finding 9** – Public notice was published in the *Peninsula Clarion* (KPB 21.11.020) on August 13 and 20, 2020.
 - **Finding 10** – Agency review was distributed on August 14, 2020. No comments or objections have been received from resource agencies to date.
 - **Finding 11** – At this time, the applicant is currently in compliance with Borough permits and ordinances.
3. ***The development of the use or structure shall not physically damage the adjoining property;***
- **Finding 6** – Access to the site and all construction activities will occur from the Castaway Cove Homeowners Association right of way and will not affect neighboring parcels.
4. ***The proposed use or structure is water-dependent;***
- **Finding 3** – One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
 - **Finding 5** – Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways
5. ***Applicant's or owner's compliance with other borough permits and ordinance requirements.***
- **Finding 11** – At this time, the applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

1. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
4. Storage or use of fuel is prohibited within 50-feet of any open water.
5. The River Center shall be notified at least 3 days prior to the start of the project.
6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.

8. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
10. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

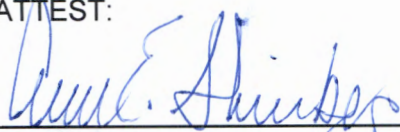
Section 4. Decision:

The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit for installation of a 70'-7" long by 36" wide by 8'-6" high footbridge to access island properties in Castaway Cove Homeowners Association, near Kenai, AK.

THIS CONDITIONAL USE PERMIT IS EFFECTIVE ON THIS 24th DAY OF August, 2020.


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.

From: Jeff Jensen
To: [Planning Dept.; Kenai River Center.](#)
Cc: [George Lowery; "Riverquest Admin \(riverquestak@gmail.com\)"](#)
Subject: <EXTERNAL-SENDER>Castaway Cove Foot Bridge
Date: Thursday, August 11, 2022 12:20:44 PM

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

To whom it may concern,

My name is Jeff Jensen and I own 3 lots in Riverquest adjacent to the 30ft easement in which the proposed bridge is to be installed. The green fence to the south of the easement is mine. My lot extends down to the Kenai River slough just below the Riverquest car bridge. It is also a boat moorage that belongs to me, and has an initial value of \$7500.00 when purchased years ago. It is part of the value of my lot that will be affected by the bridge. The bridge will basically block or make access to my moorage dangerous and or impossible. That one moorage will be located between the 2 bridges. It is my understanding the bridge has been moved to the southernmost position of the easement which is right up against my fence, and leaves even less room for a boat to navigate to and dock. Another major concern is the timber and debris floating the river as water levels rise. If this debris gets hung up on this foot bridge piles or any other part of the structure it will affect my moorage and possibly damage my dock. The dock was not put in this year due to my health problems, but anticipate it being in place next year. Another item that has been overlooked is access to the river slough. Yes, Riverquest owns the car bridge to the south of the proposed location of this project. Our bridge is damaged and can only sustain 12.000lbs safely at this point according to our engineer. I have also talked to the Riverquest residents and most are not in favor of this project or utilizing any property in Riverquest. The approach to the bridge is wetlands for quite a distance and there is no parking provisions which will result in more traffic.

In short, this project will affect the value of my property and should be relocated to another location within Castaway Cove. At the very least the bridge should be located on the very northern edge of the right a way to allow room to maybe, safely access to my property.

Jeff Jensen Sr.

President/ Owner

Alas-Co General Construction Company, Inc.

P.O. Box 110629, Anchorage AK 99511

P 907.522.2297 F 907.522.3170 C 907.903.8998

From: libal@gci.net
To: [Planning Dept.](#); [Kenai River Center](#).
Subject: <EXTERNAL-SENDER>Castaway Cove- Foot bridge installation
Date: Saturday, August 13, 2022 10:12:21 AM

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

To whom it may concern:

I am writing in support of this project. Access to cabins from a lower bridge on the island may soon be cut off due to river erosion. Hundreds of trees have been secured to prevent the erosion, yet the river continues to cut into the pathway and will soon connect to the canal, cutting off access to upriver cabins as more of the lower island is lost to the river. Allowing Castaway Cove to install a walking bridge upriver will provide access to the island from an area not affected by river erosion. Thank you for your consideration.

Joe Libal
(907) 301-7679
Owner in Castaway Cove

From: Robert Rolen
To: [Planning Dept.](#); [Kenai River Center](#).
Subject: <EXTERNAL-SENDER>CUP for Castaway Cove Footbridge
Date: Friday, August 12, 2022 10:05:52 AM

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

Dear Sirs,

Please re-approve the CUP for installing a footbridge across the upper end of the slough in Castaway Cove development.

As an owner on the "island" in the Cove(Lot 5 Block 9), the walking access to my property is about to be lost due to erosion of the bank along the river. It is inevitable. Without reasonable access I will no longer be able to perform river bank spruce tree revetment work on my property, and it too will be lost, sooner than would otherwise need be. I will not be able to get to my property without boating into it, and my elderly wheelchair bound father will lose all access.

Installation of an upper footbridge would assure access to the property for my families' continued enjoyment on the Kenai and, secondly, our considerable and ongoing investment in the local economy.

Again, please vote to approve the CUP.

Thank you,

Robert D Rolen
541-371-6283

From: Roger Rolen
To: [Kenai River Center](#); [Planning Dept.](#)
Subject: <EXTERNAL-SENDER>CC Subdivision CUP -Footbridge
Date: Saturday, August 13, 2022 7:14:28 AM

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

Dear Sirs,

Please re-approve the CUP for installing a footbridge across the upper end of the slough in Castaway Cove development.

As an co-owners on the "island" in the Cove(Lot 6 Block 9), the walking and wheelchair access to our property is about to be lost due to erosion of the bank along the river. Within 2-4 years, there will be NO walking/wheelchair access along the current boardwalk to our lot. Without reasonable access we will no longer be able to perform river bank spruce tree revetment work on our property, and it too could be lost. We have had to complete riverbank revetment work on our property at least every other year to maintain our bank. Without the upper bridge the only way we will be able to get to our property is by boating into it.

Installation of an upper footbridge would assure access to the property for ALL property owner's and their continued enjoyment on the Kenai. And secondly, in will continue our considerable and ongoing investment in your local economy.

Again, please vote to approve the CUP.

Thank you,

Roger C Rolen
503-970-0348

Richard E Rolen
541-298-4330

Joan Andersen
593-656-0063

DESK PACKET

(ITEMS THAT CAME IN AFTER MEETING PACKET WAS POSTED)

**E2. CONDITIONAL USE PERMIT
 PC RESOLUTION 2022-34
 APPLICANT: CASTAWAY COVE HOA**

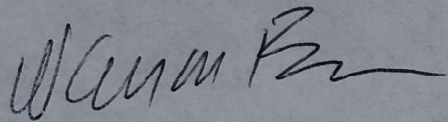
08-15-2022

Dear Planning Commission,

We are the owners of Lot 16 Block 9 at Castaway Cove. We are in complete support of the proposed foot bridge.

Thank you,

Wayne and Annette Broste


M. Broste

Aldridge, Morgan

From: Kenai River Center,
Sent: Wednesday, August 17, 2022 7:42 AM
To: Aldridge, Morgan
Subject: FW: <EXTERNAL-SENDER>Support of CUP - Castaway Cove HOA

Saundra Fletcher, B.A.

Assistant Planner
Donald E. Gilman River Center
907-714-2464

KENAI PENINSULA BOROUGH
5141 Unny River Road
Soldotna, Alaska 99663



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

From: SCOTT EUCKER <seucker1@comcast.net>
Sent: Wednesday, August 17, 2022 7:19 AM
To: Planning Dept, <planning@kpb.us>; Kenai River Center, <Kenai-River-Center@kpb.us>
Cc: Mike's email <scheerer@cox.net>
Subject: <EXTERNAL-SENDER>Support of CUP - Castaway Cove HOA

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

We are writing this email in support of the CUP application for KPP 21.18.08 (B)(5) Transportation and Utility Infrastructure and KBP 21.18.091 Mitigation measures.

As 21 year owners and seasonal residents of Castaway Cove (lots 18 & 19, Block 9) we are in full support of the bridge project for access to the island. We feel so strongly for this project that we donated \$4,000 to the cause.

Mother nature has taken its toll on the bank leaving the current boardwalk access on the verge of collapse. This bridge will provide for safe access to all owners and guests to properties on the island.

Thank you. We look forward to a favorable vote.

Scott Eucker
Michael Scheerer

Aldridge, Morgan

From: Deneise Garcia <dsg82902@gmail.com>
Sent: Wednesday, August 17, 2022 3:05 PM
To: Kenai River Center,
Subject: <EXTERNAL-SENDER>Conditional Use Permit for Castaway Cove

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.

As property owners we feel the bridge SHOULD be allowed. The permits were in place before but with covid and other issues the work did not happen. Now the bridge is at Castaway Cove and ready to be installed. "We can not deny access to the island." The only way people had access this past summer was by the generosity of a property owner. Castaway is a small community of people who don't mind helping each other.

Please permit this project. We appreciate your time
Gilbert and Deneise Garcia

From: Kenai River Center,
Sent: Tuesday, August 16, 2022 9:48 AM
To: Aldridge, Morgan
Subject: FW: <EXTERNAL-SENDER>Public Comment re: Castaway Cove Bridge

Saundra Fletcher, B.A.
Assistant Planner
Donald E. Gilman River Center
907-714-2464

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

From: weiserm@me.com <weiserm@me.com>
Sent: Tuesday, August 16, 2022 9:30 AM
To: Planning Dept, <planning@kpb.us>; Kenai River Center, <Kenai-River-Center@kpb.us>
Subject: <EXTERNAL-SENDER>Public Comment re: Castaway Cove Bridge

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

To Whom it may Concern:

In regard to the proposed foot bridge in Castaway Cove Subdivision I am very much in favor of the project. It is extremely necessary that this bridge be installed to allow access to the lots owned by many of our current residence. The river is consuming our only access to these lots at an alarming pace and this new foot bridge will allow safe access to these lots for the foreseeable future.

As you know, this permit was issued in the recent past but due to COVID we were unable to meet the permit deadline. We were finally able to get the necessary materials and equipment up through Canada

this summer so we are now able to complete the project. The board has unanimously approved the project and we are ready to move forward. Please allow the renewal of this permit so that the owners of the effected lots can continue to enjoy their investments for many years to come.

Regards,

Martin Weiser
Cataway Cove Resident
907-440-6117

From: Will Krusty
To: kenairivercenter@kpb.us; [Planning Dept.](#)
Subject: <EXTERNAL-SENDER>Fwd: Castaway Cove Bridge meeting
Date: Friday, August 19, 2022 12:56:34 PM

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.

My name is Bill Kruskie and I would like to see the bridge be installed in Castaway cove in the 30 ' right-a-way next to River Quest . I own Lots one and thirteen in block 8 of the the island. I have been in castaway cove from 1997 and have seen many river changes come along.

I am afraid due to bank erosion from the ice and high water and the local beavers, many of us on the island are going to be cut off from our property's once the island becomes cut in half. Castaway cove as a group has purchased a bridge and have it ready to install after the outcome of this meeting today .

So why should a few spoil it for many just because they don't want the bridge. They knew where and what they were buy at the time of purchase of their property. The group next door has a bridge and why are they so interested in us not installing bridge, that is a question to ask.

I just ask the state to do a far and just outcome after listening to us all within castaway .

Thank you ..

Bill Kruskie
907 529-4602

E. NEW BUSINESS



- 3. Ordinance 2022-XX: Authorizing the release of a portion of a conservation easement deed restriction on a parcel of land located in Cooper Landing and to acquire a 30-foot-wide tract of land and classify three 30-foot-wide tracts of land as government.**


Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor 
Robert Ruffner, Planning Director 

FROM: Marcus A Mueller, Land Management Officer 

DATE: August 11, 2022

RE: Ordinance 2022-____, Authorizing the Release of a Portion of a Conservation Easement Deed Restriction on a Parcel of Land Located in Cooper Landing and to Acquire and Classify a 30-Foot-Wide Tract of Land (Mayor)

The KPB Planning Department and Three Bears Alaska, Inc. (Three Bears), as owners of Tracts A, B, & C Quartz Creek Subdivision, are cooperating with Alaska DOT&PF in the design of a frontage road that in the future would extend from Quartz Creek Road to the KPB Solid Waste Transfer Facility with an intersection opposite Russian Gap Road to address highway safety and traffic efficiency. This location is also positioned as a gateway to the Cooper Landing community, wherein there is an importance to aesthetic greenspace.

A re-platting of these three tracts is being proposed as Quartz Creek Subdivision Outfitters Way Replat, KPB File 2022-060, which has received tentative platting approval, subject to actions contained in this proposed ordinance. The plat would dedicate right-of-way for a frontage with a 30-foot offset from the Sterling Highway ROW. The strips of land between the frontage road and the Sterling Highway is proposed to be managed by KPB as greenspace, which would substitute for a conservation easement that was previously instituted on Tract B and Tract C. The 30-foot-wide tract coming out of Tract B would be conveyed by Three Bears to KPB. The KPB's Land Management Division is proposing a "Government" land classification of the 30-foot-wide tract plus those 30-foot-wide tracts coming out of KPB-owned Tracts A and C, to direct the management of the land between the frontage road and the Sterling Highway right-of-way to community gateway greenspace.

The ordinance releases the conservation easement deed restriction on the North, West and South sides of the Tract B parcel. The partial release will keep the

August 9, 2022

Page -2-

Re: O2022-XX

conservation easement in effect on the East side, which runs along Dena'ina Creek, of Tract B. The ordinance additionally authorizes the KPB Mayor to acquire the 30-foot-wide tract from Three Bears, described on the proposed replat as Tract B2, as an equal exchange for the removal of the conservation easement just described. Additionally, the ordinance classifies the entirety of the 30-foot strip created in the replat as Tracts A2, B2, & C2 as "Government". The ordinance, if enacted, would be effective upon recording of the Quartz Creek Subdivision Outfitters Way Replat.

The proposed set of actions would allow DOT&PF to incorporate the frontage road system into its traffic safety designs and to extend the frontage road development to its project limits at Persistent Way on the East side of Tract C. These actions would also clear title important for Three Bears' project. In doing so, Three Bears would be giving up use of the front 100-feet of Tract B to the 30-foot greenspace tract, the 60-foot frontage road dedication and a 10-foot utility easement, in exchange for the release of the 50-foot conservation easement on the back lot and 50-foot conservation easement on the Persistent Way side.

Your consideration of the ordinance is appreciated.

Introduced by:	Mayor
Date:	08/23/22
Hearing:	09/06/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-**

**AN ORDINANCE AUTHORIZING THE RELEASE OF A PORTION OF A
CONSERVATION EASEMENT DEED RESTRICTION ON A PARCEL OF
LAND LOCATED IN COOPER LANDING AND TO ACQUIRE AND CLASSIFY
A 30-FOOT-WIDE TRACT OF LAND**

WHEREAS, Tract B Quartz Creek Subdivision, according to Plat No. 94-1, Seward Recording District, was purchased by Three Bears Alaska, Inc. (“Three Bears”), who is planning development of the parcel; and

WHEREAS, the State of Alaska, Department of Transportation & Public Facilities (DOT&PF) is working to develop and implement plans for the Sterling Highway MP 45-60 Project, which includes reconfiguring the Quartz Creek Road intersection and rearranging direct access from the new highway and its transitions; and

WHEREAS, the Kenai Peninsula Borough (KPB) owns Tracts A & C of Quartz Creek Subdivision and is working with DOT&PF and Three Bears to plan a frontage road serving Quartz Creek Subdivision; and

WHEREAS, Tract B Quartz Creek Subdivision, owned by Three Bears, was originally deeded from KPB in accordance with Ordinance 1991-20; and

WHEREAS, at the time of the original conveyance, the deed was subject to the following Conservation Easement Deed Restriction: “... pursuant to Ordinance 1991-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3” in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit”; and

WHEREAS, the conservation easement was an element of the original plat, which has been approved to be vacated in part, subject to actions contained in this ordinance; and

WHEREAS, the proposed plat, Quartz Creek Subdivision Outfitters Way Replat, would dedicate a frontage road with a 30-foot setback from the DOT right-of-way with said features occupying the same space as the conservation easement on the northern perimeter of Tract B, and into Three Bears unencumbered property; and

WHEREAS, the frontage road setback creates a 30-foot tract of land designed as a greenspace to maintain vegetation and community gateway aesthetics, which is consistent with the purpose of the conservation easements; and

WHEREAS, the approved plat would vacate the conservation easements on Tract B along the west and south perimeter, but maintain the conservation easement along the east perimeter which runs along Dena'ina Creek, an anadromous stream; and

WHEREAS, the 30-foot tract of land created out of Tract B is proposed to be conveyed from Three Bears back to KPB which, along with the benefits of the frontage road design, accounts for the value of the conservation easements being released; and

WHEREAS, classifying the 30-foot tracts of land created by the Quartz Creek Subdivision Outfitters Way Replat as "government" would hold the land for community gateway greenspace uses that are beneficial to the public, providing for consistent management decisions under public processes; and

WHEREAS, public notice has been published as to the modification of a deed restriction per KPB 17.10.130(F)(2), and as to classification pursuant to KPB 17.10.080; and

WHEREAS, the Cooper Landing Advisory Planning Commission at its regularly scheduled meeting of August 3, 2022, recommended _____;

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of August 22, 2022, recommended _____;

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

SECTION 1. That pursuant to KPB 17.10.130(F)(4), the mayor is hereby authorized to release the conservation easement deed restriction on the north, west and south perimeter sides of Tract B Quartz Creek Subdivision, according to the official plat thereof, filed under Plat Number 94-1, Records of the Seward Recording District, Third Judicial District, State of Alaska, as created in that Quitclaim Deed recorded May 13, 1998, as Book 90, Page 831, Seward Recording District, with such release of interests conforming to Quartz Creek Subdivision Outfitters Way Replat, based on the following Findings of Fact:

- a. The purpose of the conservation easement deed restriction on the north, west and south perimeter sides is replaced by the 30-foot-wide tract of land being conveyed back to KPB.
- b. The frontage road proposed by DOT&PF competes for space with the conservation easement, and setting the frontage back 30', with KPB holding the land interests of that tract, preserves the aesthetic intent of the easement and

provides for the continuation of planning and management of that corridor under public processes.

- c. The frontage road proposed by DOT&PF addresses traffic safety concerns and provides for public traffic to efficiently navigate on and off the local roads and to serve the property, residential, and business interests in the area.
- d. The value of the 30-foot-wide tract of land and the benefits of the cooperative frontage road design accounts for the value of the conservation easement being released, going back to the terms of the original conveyance of Tract B.
- e. Public notice of the proposed actions was delivered and published in accordance with KPB 17.10.130(F)(2).

SECTION 2. That pursuant to KPB 17.10.040, the mayor is hereby authorized to acquire from Three Bears a 30-foot-wide tract along the north boundary of Tract B, Quartz Creek Subdivision, also known as Tract B2 Quartz Creek Subdivision Outfitters Way Replat.

SECTION 3. That the terms of the acquisition shall be an equal exchange for the conservation easement deed restriction release as described in Section 1 and that Three Bears shall convey the Tract to KPB.

SECTION 4. That the purpose of the acquisition is for community gateway greenspace, to facilitate implementation of a frontage road serving KPB-owned tracts of land, and to cooperate with the DOT&PF in making traffic improvement and safety upgrades along the Sterling Highway corridor.

SECTION 5. That the 30-foot-wide tracts of land located between the Outfitters Way frontage road and the Sterling Highway right-of-way described as Tracts A2, B2, and C2 Quartz Creek Subdivision Outfitters Way Replat are hereby classified as “government”.

SECTION 6. The mayor is authorized to sign a release of deed restriction, respective to Tract B Quartz Creek Subdivision, and any other documents necessary to effectuate the intents and purposes of this ordinance.

SECTION 7. That this ordinance shall become effective upon recordation of the Quartz Creek Subdivision Outfitters Way Replat in the Seward Recording District.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Quartz Creek to Solid Waste Transfer Frontage Road Platting Overview



TRACTS A, B, C Quartz Creek Subdivision
Sketch of Preliminary Plat Proposed as
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:
M. MUELLER 7/21/22

Return To: Grantee

STATUTORY WARRANTY DEED
(AS 34.15.030)

90-831
TRICT

0903 The GRANTOR, KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for ten dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 91-20 enacted July 9, 1991, conveys and warrants unto the GRANTEE(S), Pixie A. Smith, a single person, whose address of record is 309 Katmai Avenue, Soldotna, Alaska 99669, her heirs, successors and assigns, the following described real property:

Tract B, Quartz Creek Subdivision, according to Plat No. 94-11, on file in the Seward Recording District, Third Judicial District, State of Alaska,

TOGETHER WITH all the improvements thereon, if any, and all rights of the Grantor to any and all hereditaments and appurtenances hereto, and

SUBJECT TO any taxes and assessments, exceptions, reservations, restrictions, conditions, covenants, easements, rights-of-way, encroachments either of record or ascertainable by physical inspection, including without limitation, pursuant to Ordinance 91-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3" in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit, and

FURTHER SUBJECT TO a restrictive covenant pursuant to KPB 17.10.130(D), that the real property described in this conveyance instrument shall be used for commercial and light industrial purposes as defined hereinbelow, and that the use of the land for any other purpose is prohibited, provided that this restriction may be modified by the Borough Assembly pursuant to KPB 17.10.130(F) as presently enacted. Pursuant to KPB 17.10.250(D), "commercial" 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, and able to support on-sight water and sewer systems or capable of receiving water and/or sewer service, near public utilities and in proximity to residential areas. Pursuant to KPB 17.10.250(R) and legislative intent supporting adoption of KPB Ordinance 91-20, "light industrial" 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 area, light manufacturing not inside buildings, and the development of sawmills or other wood processing.

KENAI PENINSULA BOROUGH:

Mike Navarre
Mike Navarre, Mayor
Dated: 4-30-98

GRANTEE(S):

Pixie A. Smith
Pixie A. Smith
Dated: 5-1-98

Kenai Peninsula Borough, Alaska
wd

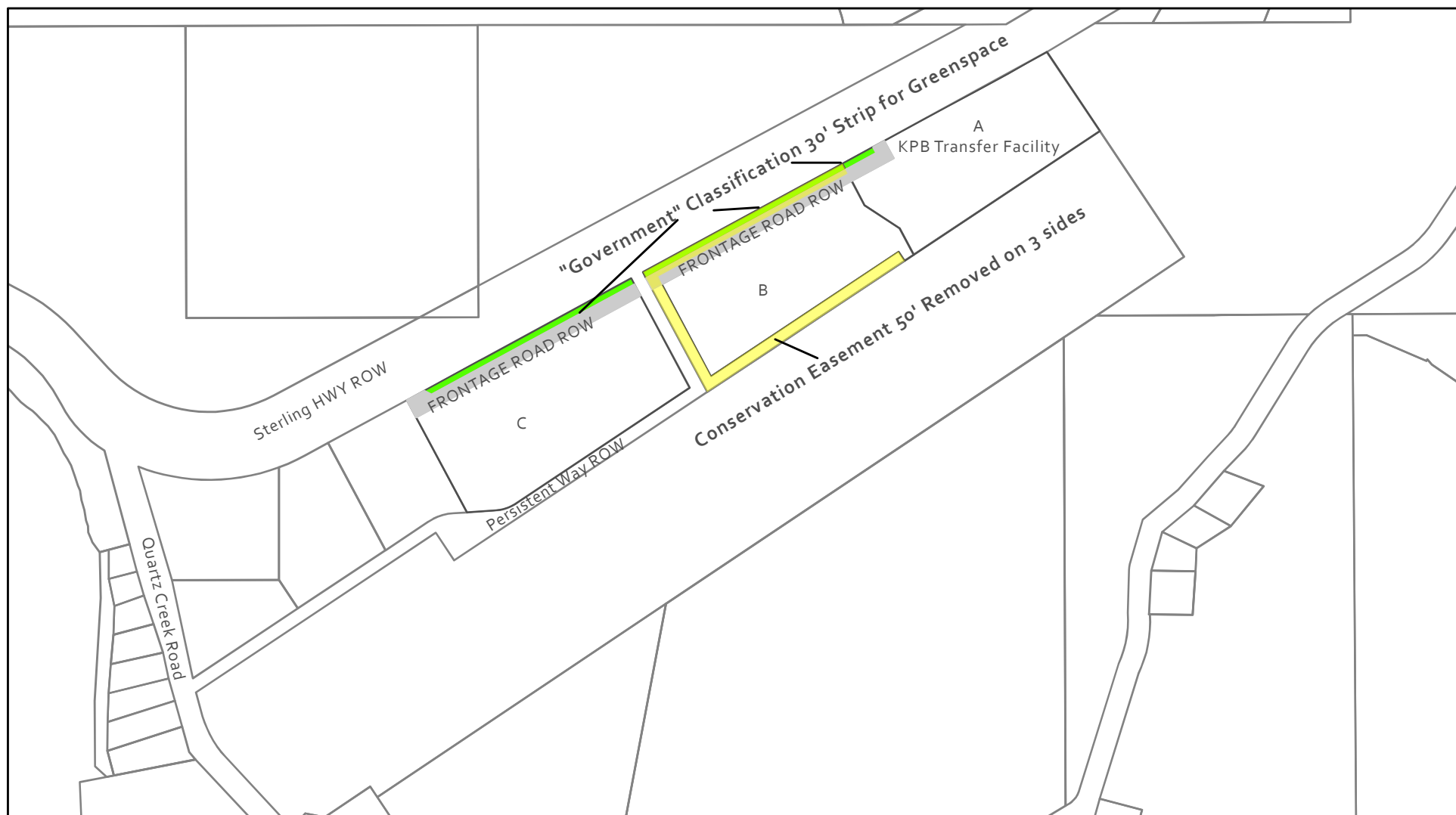
Page 1 of 2

E3-9

KPB 2022-060R1



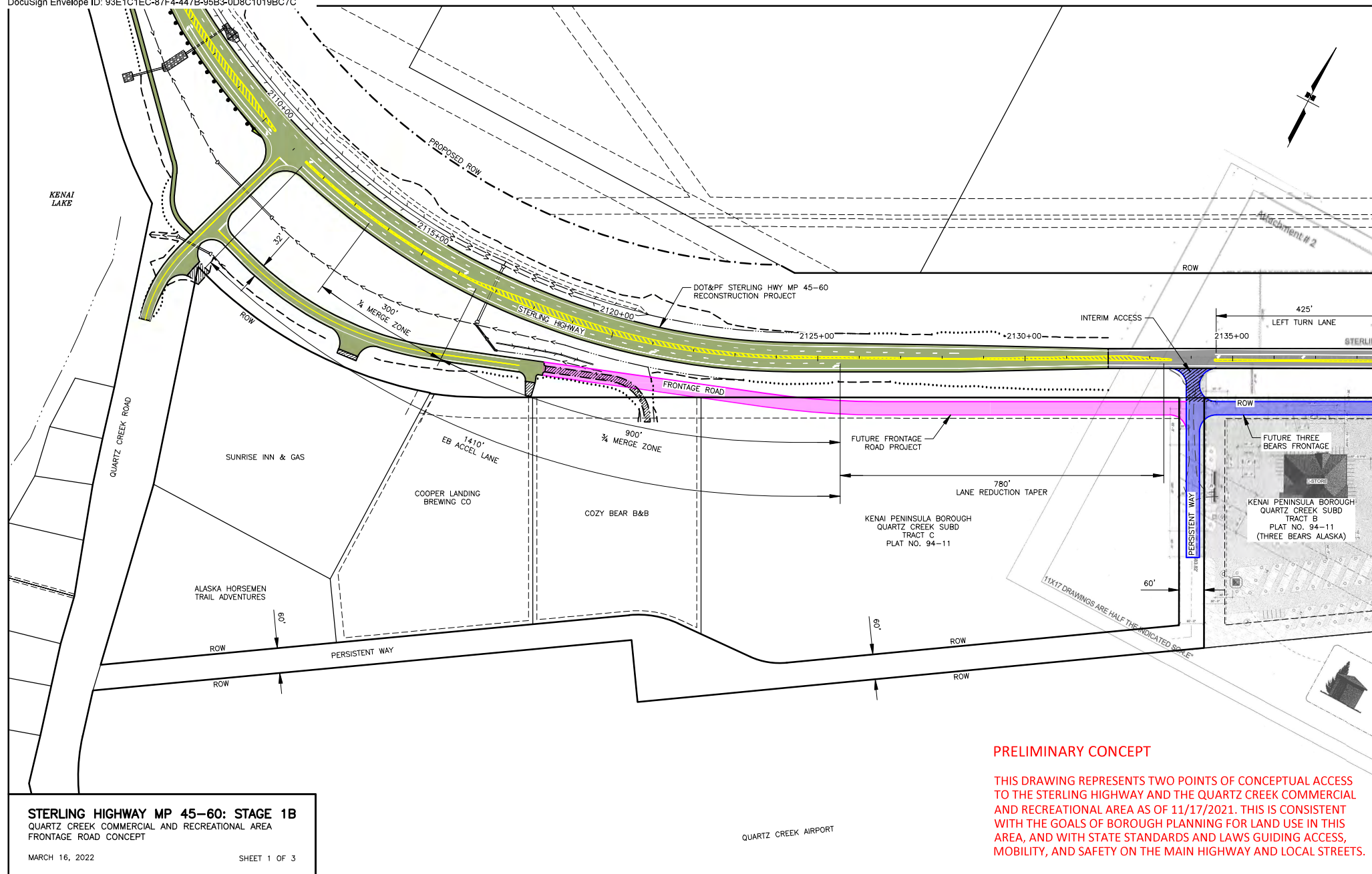
Conservation Easement to Be Removed & 30-Foot Strip to be Classified "Government"

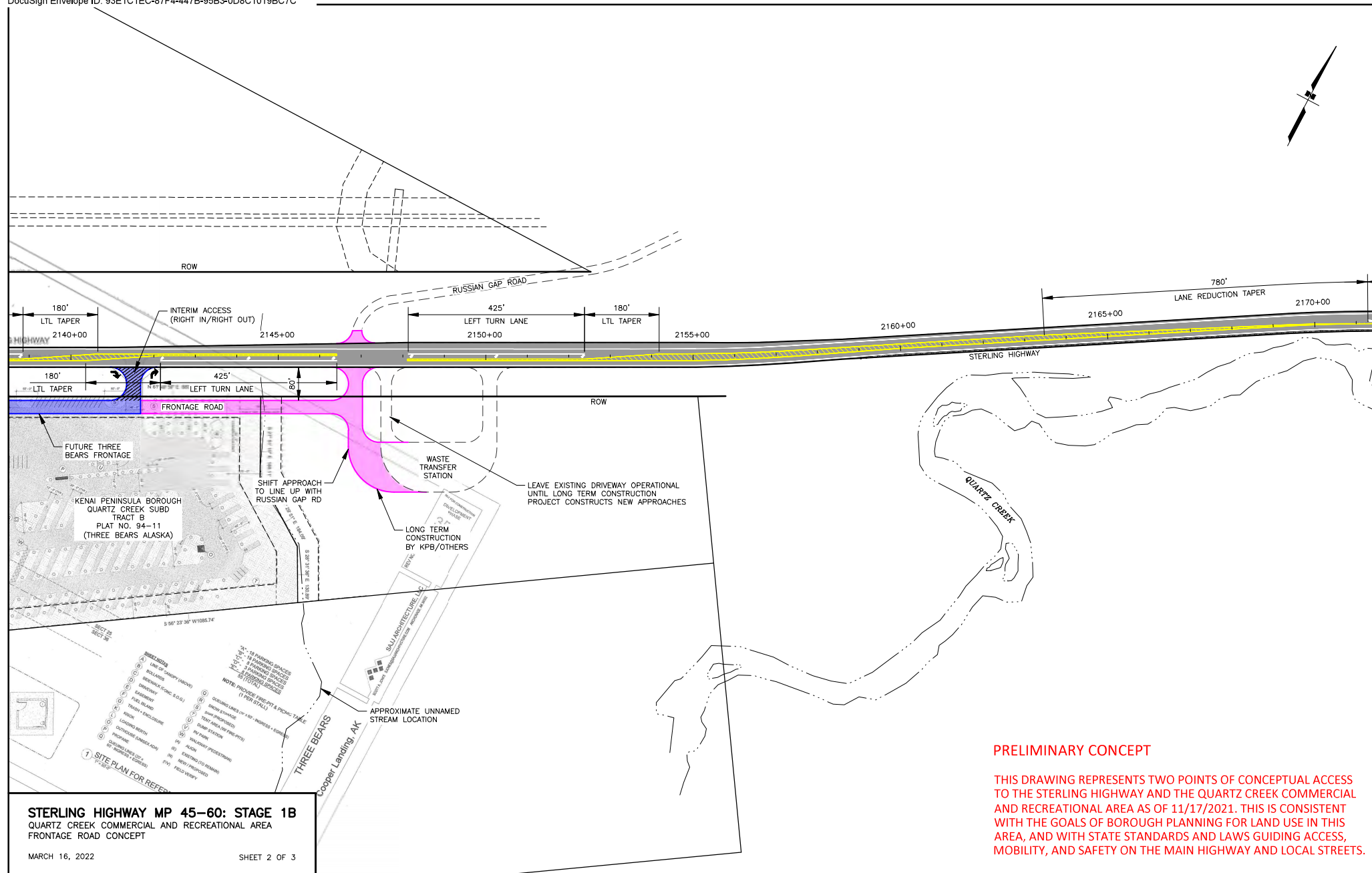


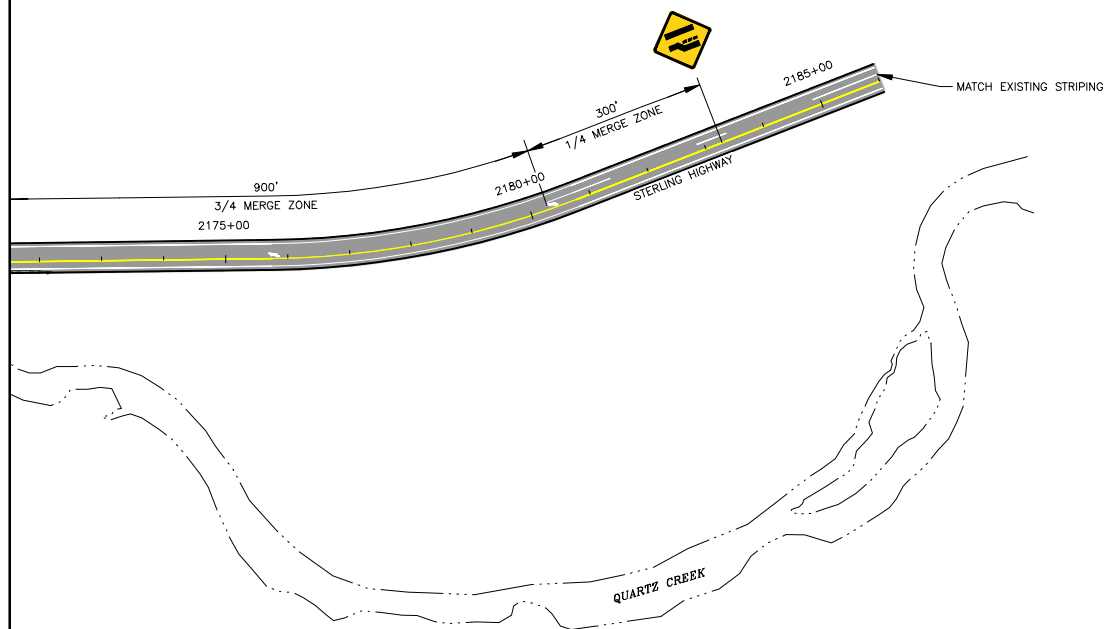
TRACTS A, B, C Quartz Creek Subdivision
Sketch of Preliminary Plat Proposed as
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:
M. MUELLER 7/19/22

DocuSign Envelope ID: 93E1C1EC-87F4-447B-95B3-0D8C1019BC7C







STERLING HIGHWAY MP 45-60: STAGE 1B
 QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA
 FRONTAGE ROAD CONCEPT

MARCH 16, 2022

SHEET 3 OF 3

PRELIMINARY CONCEPT

THIS DRAWING REPRESENTS TWO POINTS OF CONCEPTUAL ACCESS TO THE STERLING HIGHWAY AND THE QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA AS OF 11/17/2021. THIS IS CONSISTENT WITH THE GOALS OF BOROUGH PLANNING FOR LAND USE IN THIS AREA, AND WITH STATE STANDARDS AND LAWS GUIDING ACCESS, MOBILITY, AND SAFETY ON THE MAIN HIGHWAY AND LOCAL STREETS.

PARTIAL RELEASE OF CONSERVATION EASEMENT DEED RESTRICTION

WHEREAS, the Kenai Peninsula Borough conveyed real property to Pixie Smith by quitclaim deed recorded on May 13, 1998, as **Book 90, Page 831 in the Seward Recording District**, pursuant to KPB Ordinance 91-20 which contained a conservation easement deed restriction.

WHEREAS, the real property is described on said deed as Tract B, Quartz Creek Subdivision, according to Plat No. 94-11, on file in the Seward Recording District, Third Judicial District, State of Alaska.

WHEREAS, Three Bears Alaska, Inc., is the successor in interest of the real property.

WHEREAS, on _____, 2022, the Kenai Peninsula Borough Assembly enacted Ordinance 2022-XX authorizing the partial release of said deed restriction on three of the four perimeter sides of that original parcel.

NOW, THEREFORE, the **GRANTOR, THE KENAI PENINSULA BOROUGH**, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for the sum of one dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 2022-XX, enacted _____, 2022, partially releases forever unto the successor in interest and **GRANTEE, Three Bears Alaska, Inc.**, an Alaska corporation, whose address is 445 N. Pittman Road, Suite B, Wasilla, AK 99623, its successors and assigns, the following restriction created in that Statutory Warranty deed recorded at Book 90, Page 831 in the Seward Recording District:

“pursuant to Ordinance 91-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3” in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit”

As to the parts of along the North, West and South perimeter sides, such that the Conservation Easement deed restriction along the East side perimeter remains in effect, in conformance with Quartz Creek Subdivision Outfitters Way Replat.

Dated this ____ day of _____, 2022.

KENAI PENINSULA BOROUGH:

Charlie Pierce, Mayor

ATTEST:

APPROVED AS TO FORM AND
SUFFICIENCY

Johni Blankenship
Borough Clerk

A. Walker Steinhage
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

Record in the Seward Recording District

Please return to: Kenai Peninsula Borough
 Planning Department
 144 North Binkley Street
 Soldotna, Alaska 99669

Introduced by: Mayor
Date: April 30, 1991
Hearing: June 18, 1991
Action: FAILED AS AMENDED
Vote: 6 YES, 9 NO
MOTION TO RECONSIDER: BROWN
Reconsidered: 7/9/91
Action: ENACTED AS AMENDED
Vote: 9 YES, 5 NO

KENAI PENINSULA BOROUGH
ORDINANCE 91-20

AUTHORIZING A LEASE WITH OPTION TO PURCHASE FOR SHERMAN C. SMITH ON LANDS LOCATED IN THE COOPER LANDING VICINITY AND LOCATED WITHIN A PORTION OF THE NW $\frac{1}{4}$ NE $\frac{1}{4}$ OF SECTION 36 AND A PORTION OF THE S $\frac{1}{2}$ SE $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 3 WEST, SEWARD MERIDIAN AND CLASSIFYING THESE LANDS AS "SALE LANDS"

WHEREAS, an application has been received from Sherman C. "Red" Smith for purchase of ten acres, more or less, located in the Cooper Landing area, for industrial development; and,

WHEREAS, the borough selected the subject land pursuant to the Municipal Entitlement Act and has received a final decision from the State of Alaska approving the selection; and

WHEREAS, a final decision does transfer certain management rights of the land allowing the borough to enter into leases, grant permits, easements, rights-of-way and dispose of lands; and,

WHEREAS, it is not borough policy to sell or otherwise convey title in lands until patent has been issued by the State of Alaska and received by the borough; and,

WHEREAS, on March 11, 1991, a memorandum, maps and supporting backup was sent out for review and comments to the School District, Cooper Landing Community Club, Cooper Landing Advisory Planning Commission, East Peninsula Road Service Area and departments of the borough; and,

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

Section 1. That a long-term lease with option to purchase is hereby authorized for ten acres, more or less, located within a portion of NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36 and S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 25, Township 5 North, Range 3 West, Seward Meridian, Alaska.

Section 2. That the subject lands are hereby classified as "Sale Lands" pursuant to Chapter 17.04 of the KPB Code of Ordinances.

Kenai Peninsula Borough
Ordinance 91-20
Page 1 of 2 Pages

Section 3. That the plat which creates the subject ten acre parcel shall designate a fifty foot conservation easement around the perimeter of the site, exclusive of a fifty foot wide entry and exit wherein no live, naturally existing vegetation over 3" in diameter shall be removed.

Section 4. That the annual lease shall be at the rate of six percent (6%) of the borough assessed valuation and shall be reappraised every five (5) years and the fee adjusted accordingly.

Section 5. That upon the borough receiving patent, the lessee may exercise his option to purchase the subject land at the current fair market value. Said purchase may be made by payment in full or a minimum down payment of ten percent (10%) of the fair market value with the remaining principal balance payable in installments at the rate of ten (10%) percent interest.

Section 6. That the Mayor is authorized to sign any documents necessary to effectuate this ordinance and deemed to be in the best interest of the borough.

ENACTED THIS 9th DAY OF July BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH.


James W. Skogstad, Assembly President

ATTEST:


Borough Clerk

Kenai Peninsula Borough
Ordinance 91-20
Page 2 of 2 Pages

**Public Notice of Proposed Partial Release of a Deed Restriction
And
Public Notice of Land Classification in Cooper Landing, AK**

Pursuant to Kenai Peninsula Borough Code of Ordinances, Chapter 17.10.130(f), the Kenai Peninsula Borough is considering partial release of a Conservation Easement deed restriction on a parcel of land owned by Three Bears Alaska, Inc described as Tract B, Quartz Creek Subdivision.

Pursuant to Kenai Peninsula Borough Code of Ordinances, Chapter 17.10.080, the Kenai Peninsula Borough is proposing to classify a 30-foot wide strip of land along the Sterling Highway described in the preliminary Quartz Creek Subdivision Outfitters Way Replat as Tracts A2, B2, & C2.

The Borough encourages you to review the proposed ordinance and submit written comments. Written comments must be received no later than close of business August 10, 2022, to be included in the Planning Commission packet for its public hearing or 1pm August 19, 2022 for laydown. Written comments may be sent to the following address: Kenai Peninsula Borough, Land Management Division 144 N. Binkley Street, Soldotna, AK 99669-7599 or by email to lmweb@kpb.us

Description of Property for Deed Modification: Tract B, Quartz Creek Subdivision, Plat 94-11 SRD, Tax Parcel ID 119-124-18

Tract B was deeded from the Kenai Peninsula Borough in 1992, subject to the following Conservation Easement Deed Restriction:

"pursuant to Ordinance 91-20, a 50-foot conservation around the perimeter of the parcel wherein no live, naturally existing vegetation over 3" in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit."

Description of Property for "Government" Classification: Tracts A2, B2, & C2, Quartz Creek Subdivision Outfitters Way Replat shown by preliminary plat KPB File 2022-060

Proposed Tracts A2, B2, and C2 consist of a 30-foot-wide strip of land between the Sterling Highway and a proposed frontage road paralleling the highway to the KPB Solid Waste Transfer Facility. The frontage road would provide for safety design improvements along the highway. The strip of land is proposed to be held by the Kenai Peninsula Borough for community gateway greenspace under a "government" classification.

The proposed deed modification action by would remove the Conservation Easement Deed Restriction affecting 3 -sides of Tract B, the North, West and South sides in substitution for the creation of the 30' wide greenspace strip and frontage road dedication. The conservation easement along the east side of Tract B (along Dena'ina Creek) would remain in effect.

The public is invited to give testimony at the following meetings. Public meetings will be held as shown unless otherwise advertised.

Cooper Landing Advisory Planning Commission Public Hearing: August 3, 2022, 6:00 p.m. at the Cooper Landing Community Hall or Via Zoom <https://us06web.zoom.us/j/2045581076>

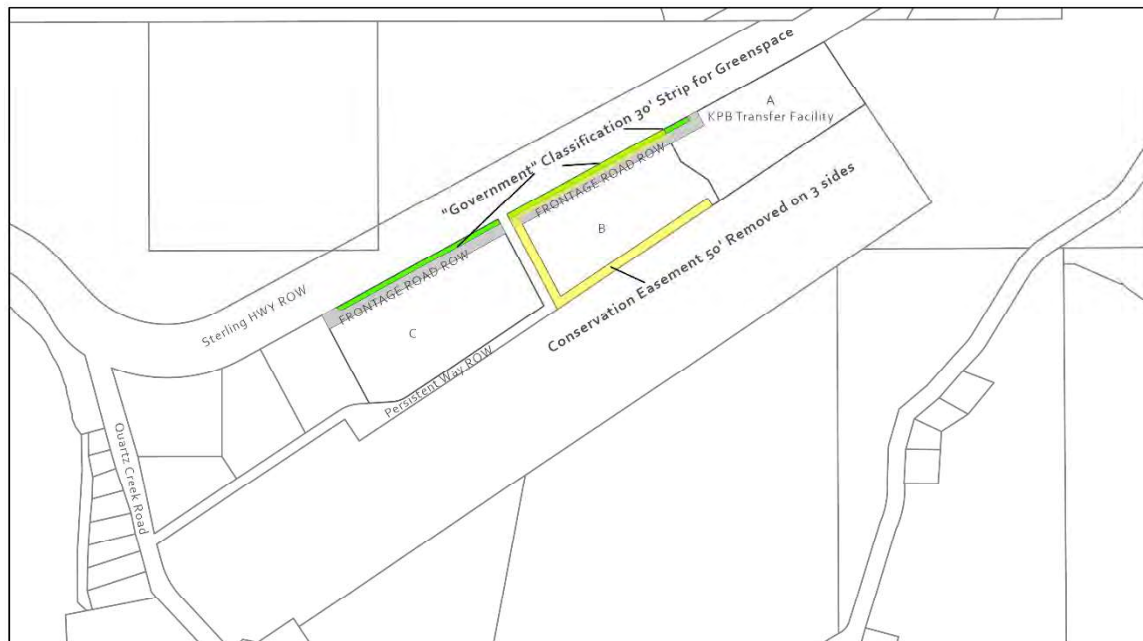
Kenai Peninsula Borough Planning Commission Public Hearing: August 22, 2022, 7:30 p.m. at the KPB Administration Building, 144 N. Binkley Street, Soldotna, AK 99669 or via Zoom <https://kpb.legistar.com/Calendar.aspx>

Kenai Peninsula Borough Assembly Meeting: August 23, 2022, 6:00 p.m. at the KPB Administration Building, 144 N. Binkley Street, Soldotna, AK 99669. <https://kpb.legistar.com/Calendar.aspx>

Additional Information: For further information contact Marcus Mueller, Land Management Division at 907-714-2205, or toll free within the Kenai Peninsula Borough 1-800-478-4441, ext. 2205.

The Kenai Peninsula Borough reserves the right to waive technical defects in this publication.

Conservation Easement to Be Removed
&
30-Foot Strip to be Classified "Government"



TRACTS A, B, C Quartz Creek Subdivision
Sketch of Preliminary Plat Proposed as
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:
M. MUELLER 7/19/22

E. NEW BUSINESS

- 4. Ordinance 2022-XX: An ordinance amending KPB 21.02 regarding Advisory Planning Commissions, establishing an advisory planning commission in the Nikiski area.**

Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Mayor *CP*

FROM: Robert Ruffner, Director of Planning *RR*

DATE: August 11, 2022

RE: Ordinance 2022-____, Amending KPB Chapter 21.02 to Establish an Advisory Planning Commission in the Nikiski Area (Mayor)

The Kenai Peninsula Borough ("Borough") has established advisory planning commissions ("APCs") in several communities throughout the Borough, including in Hope, Moose Pass, Cooper Landing, Anchor Point, and Funny River. These APCs provide residents with an opportunity to participate in land use planning activities proposed for their communities and to provide recommendations to the KPB Planning Commission on land use planning and public land management issues, which may affect the existing and/or future character of their communities.

The Borough Planning Department ("Planning Department") received a letter of interest and a petition requesting that an APC be created in the Nikiski area pursuant to KPB 21.02.030. The Planning Director held a community meeting to discuss the proposed boundaries of the APC as KPB 21.02.040(B) requires. At the community meeting, the Planning Department suggested smaller boundaries because it has some concerns about the petitioned size and the ability to meaningfully represent such a large area, Particularly the west side of Cook Inlet. However, there was unanimous support at the meeting to include the entire area as it mirrors existing service areas. Thus, in the packet are two maps with different proposed boundaries from which the Assembly may choose. The petitioned map and legal description are presented in the ordinance. If the Assembly chooses to set boundaries, which do not include the west side, the Planning Department can further develop the legal description following the alternative map and prepare a substitute ordinance.

The petitioned boundaries encompass approximately 3,500,000 acres; the alternative the Planning Department presented during the community meeting is similar in size to other APCs, approximately 307,400 acres. Both options have pros and cons.

Once the APC is codified, the mayor will appoint seven residents to the APC within 90 days of the adoption of this ordinance. These appointments will be presented to the Assembly for confirmation.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	08/23/22
Hearing:	09/20/22
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-XX**

**AN ORDINANCE AMENDING KPB CHAPTER 21.02 TO ESTABLISH AN ADVISORY
PLANNING COMMISSION IN THE NIKISKI AREA**

- WHEREAS,** the assembly has previously created local advisory planning commissions (“APCs”) within the Kenai Peninsula Borough (“KPB”) for the purpose of providing recommendations to the KPB Planning Commission on land use planning and public land management issues which may affect the existing and/or future character of their communities; and
- WHEREAS,** Goal 2 of the 2019 KPB Comprehensive Plan is to “Proactively manage growth to provide economic development opportunities on the Kenai Peninsula Borough while preserving what residents and visitors value about the area’s natural features”; and
- WHEREAS,** Goal 2, Objective E states, “Actively work with interested communities outside of the incorporated cities to help develop locally-driven community plans and Strategy 4: Near-Term: Encourage unincorporated communities to engage with their established local Advisory Planning Commission (“APC”) and encourage establishment of new APCs for communities not currently represented”; and
- WHEREAS,** a petition, signed by over 20 qualified voters who are residents within the proposed boundaries of the Nikiski APC, has been received by the KPB Clerk requesting the formation of an APC in the Nikiski community; and
- WHEREAS,** on July 19, 2022, the KPB Planning Director held a community meeting to discuss the proposed boundaries of the Nikiski APC; and
- WHEREAS,** the petitioned area of interest is 3,500,000 acres as the proposed boundaries of the Nikiski APC and the KPB Planning Department has indicated that additional community input is needed for the effective management of these lands; and
- WHEREAS,** at its meeting held on _____, the KPB Planning Commission recommended_____;

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

SECTION 1. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new section to be numbered 21.02.230, which shall read as follows:

21.02.230. Nikiski Advisory Planning Commission.

An advisory planning commission is established for the community of the borough known as Nikiski with boundaries as follows:

Commencing at the township line between T5N and T6N R17W S.M., and the mean high water line on the westerly shore of Cook Inlet;

Thence westerly along the township line between T5N and T6N to the westerly boundary of the Kenai Peninsula Borough;

Thence northerly and easterly along the boundary of the Kenai Peninsula Borough through Cook Inlet to the protracted northeast corner of T11N R5W in Turnagain Arm;

Thence southeasterly to the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean low water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence westerly along the section line extended three miles into Cook Inlet;

Thence southwesterly to the protracted southeast corner of T6N R14W in Cook Inlet;

Thence westerly along the protracted township line between T5N and T6N to the mean high water line on the westerly shore of Cook Inlet the true point of beginning.

SECTION 2. That this ordinance shall be effective immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
_____.

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

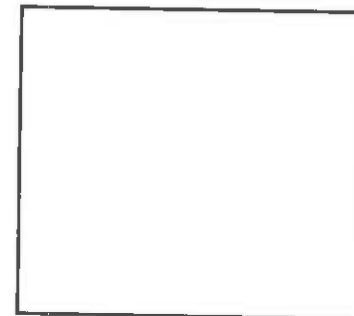
**Summary statistics for all Advisory Planning Commissions compared to Nikiski
as petitioned and an Alternative**

Advisory Planning Commission	Acreage
MOOSE PASS	208,029
ANCHOR POINT	81,946
SUNRISE	2,477
HOPE	1,505
COOPER LANDING	177,177
FUNNY RIVER	14,000
KACHEMAK BAY	262,776
KALIFORNSKY (inactive)	45,790
Nikiski (Petitioned/ Proposed)	3,500,894
Nikiski alt.	307,410

Petition of Interest
Kenai Peninsula Borough
Planning Department

144 North Binkley Street
Soldotna, Alaska 99669-7599

Phone: (907) 714-2200
Fax: (907) 714-2395



FOR OFFICIAL USE ONLY

Submission Deadline: August 10, 2022 (to be completed by KPB staff)

This form is intended to establish interest in the creation of an advisory planning commission in the area of the Kenai Peninsula Borough commonly known as:

Nikiski

The "letter of interest" submitted to the Mayor on May 5, 2022 designated Camille Broussard, 52557 Geraldine St, Kenai, Alaska, 99611 as the coordinator.

The petition deadline is 90 days from the date this form is sent to the coordinator. Sent on: 5/10/2022
(to be completed by KPB staff)

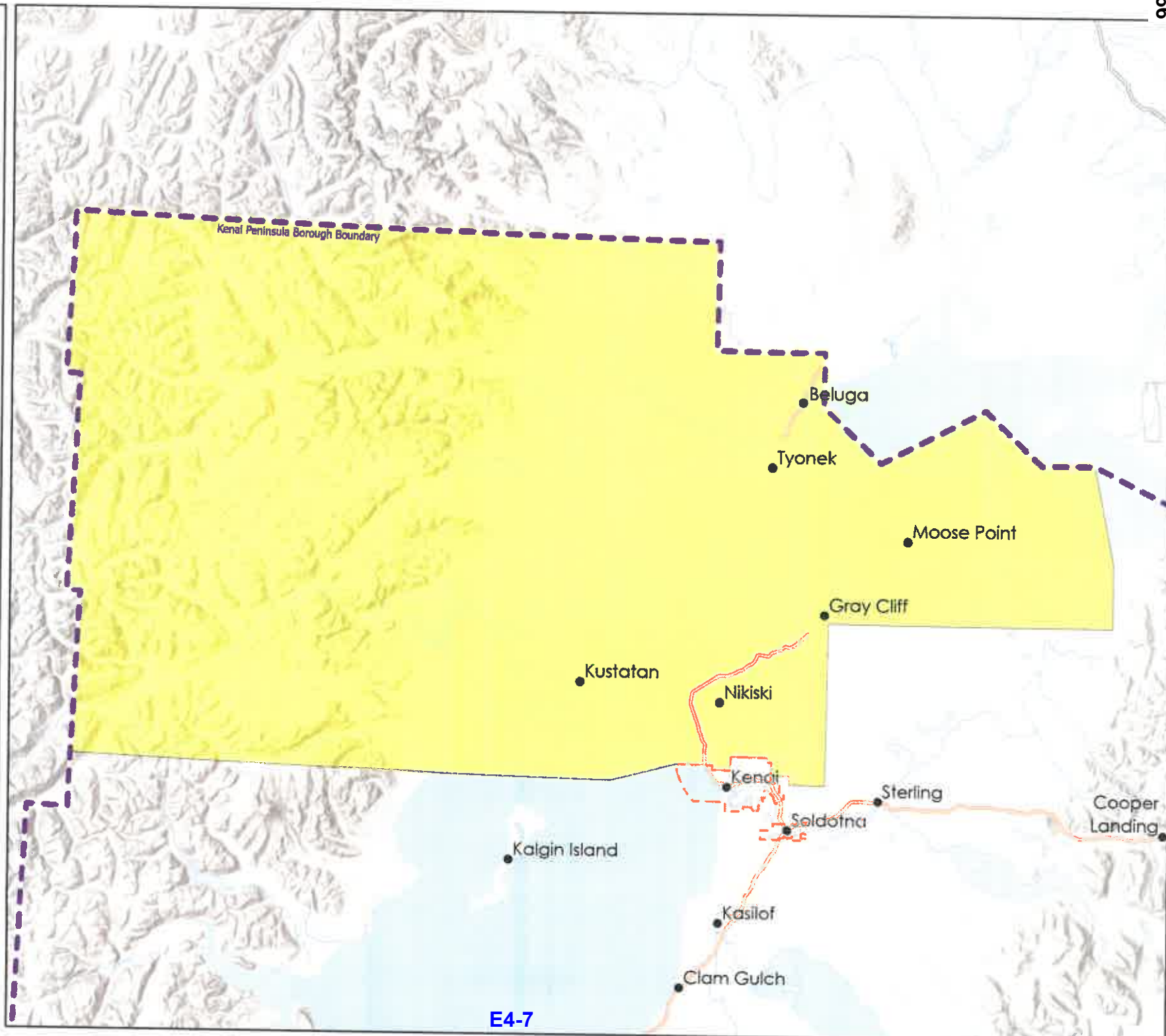
The proposed boundary is provided on the **attached map** and is described as: _____

NIKISKI FIRE SERVICE AREA - PLEASE SEE ATTACHED DESCRIPTION

KPB 21.02.030



Proposed
Boundary of
Nikiski
Advisory
Planning
Commission



16.12.010. - Established—Boundaries.

There is established a service area within the borough designated the "Nikiski Fire Service Area," including that portion of the borough described as follows:

Commencing at the township line between T5N and T6N R17W S.M., and the mean high water line on the westerly shore of Cook Inlet;

Thence westerly along the township line between T5N and T6N to the westerly boundary of the Kenai Peninsula Borough;

Thence northerly and easterly along the boundary of the Kenai Peninsula Borough through Cook Inlet to the protracted northeast corner of T11N R5W in Turnagain Arm;

Thence southeasterly to the intersection of the southerly mean high water line of Turnagain Arm and the 150th meridian west of Greenwich within T10N R4W S.M.;

Thence southerly along the 150th meridian to the township line between T8N and T9N R4W;

Thence westerly along the township line between T8N and T9N to the northwest corner of T8N R9W S.M.;

Thence southerly along the range line between R9W and R10W to the southeast corner of T6N R10W S.M.;

Thence westerly along the township line between T5N and T6N to the southeast corner of Section 32 T6N R10W;

Thence northerly along the section line between Sections 32 and 33 to the northeast corner of Section 32;

Thence westerly along the section line to the northwest corner of Section 31 T6N R10W on the corporate boundary of the city of Kenai;

Thence northerly and westerly along the corporate boundary of the city of Kenai to the intersection with the mean low water line of Cook Inlet and the section line between Sections 23 and 26 T6N R12W S.M.;

Thence westerly along the section line extended three miles into Cook Inlet;

Thence southwesterly to the protracted southeast corner of T6N R14W in Cook Inlet;

Thence westerly along the protracted township line between T5N and T6N to the mean high water line on the westerly shore of Cook Inlet the true point of beginning.

(Ord. No. 93-29, § 1(part), 1993; Ord. No. 82-13, § 1, 1982; Ord. No. 77-59 (part), 1977; Ord. No. 74-55, § 1(part), 1974; Ord. No. 69-13, § 1(part), 1969; Ord. No. 69-12, § 1(part), 1969; KPC § 27.25.020(a))



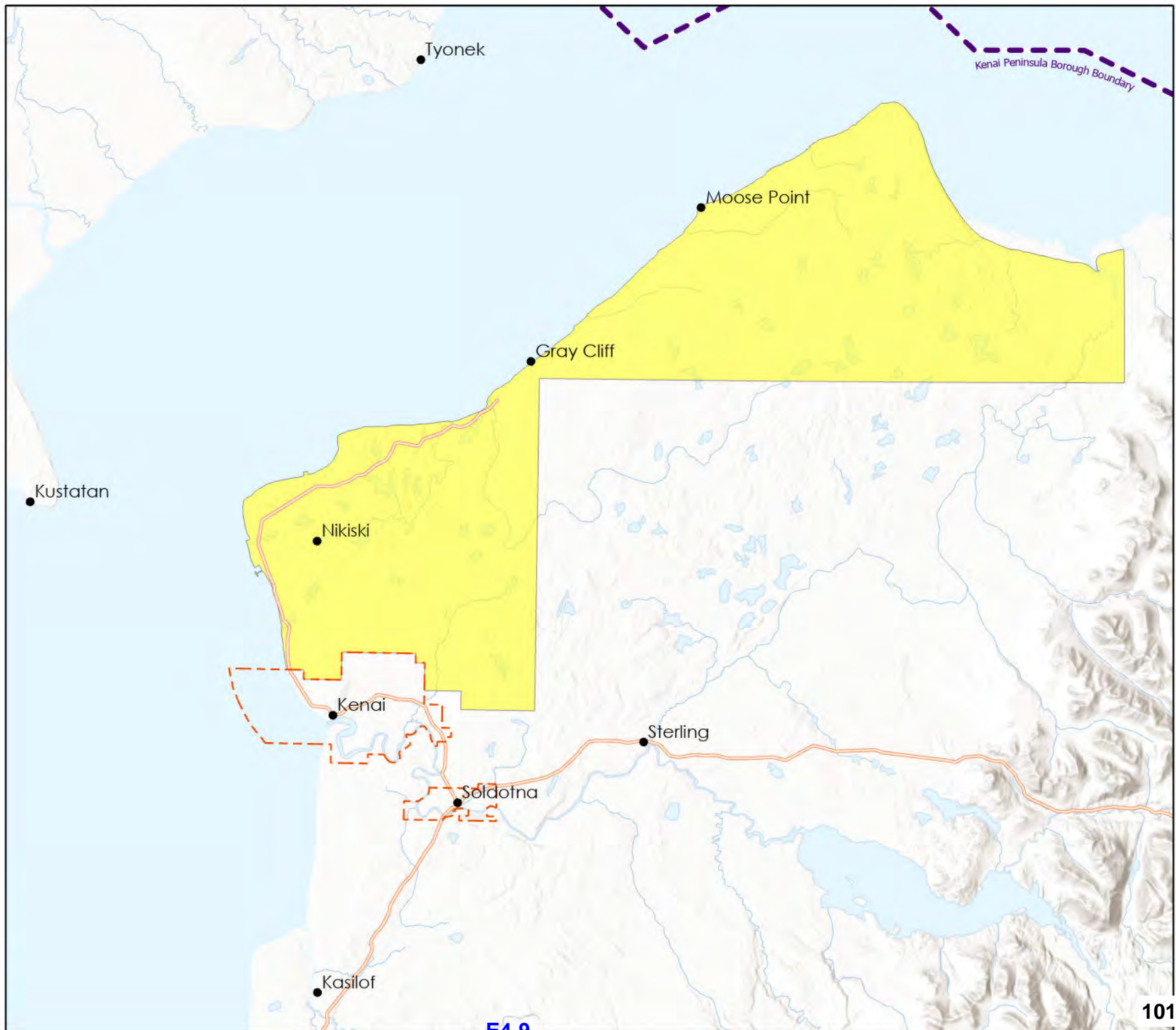
Proposed
Boundary of
Nikiski
Advisory
Planning
Commission:

Alternative
Option




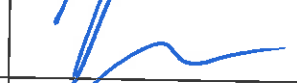











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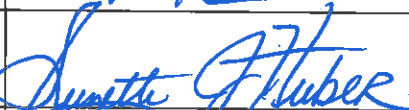









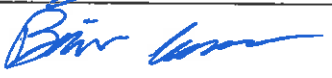
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





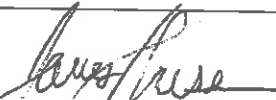



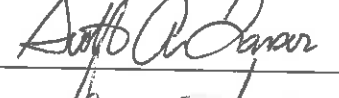
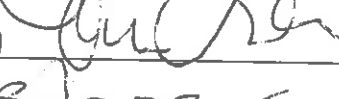
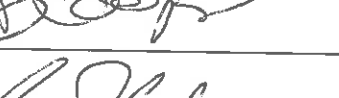





Petition of Interest to Form an Advisory Planning Commission

	Printed Name	Signature	Residence Address	Verifier Voter Number, Date of Birth or Last 4 SSN
1.	Heidi Covey		49690 Two Junes Ave	
2.	JASPER COVEY		49690 two Junes Ave	
3.	John Quirk		46865 Lake St	
4.	Amber Douglas		51345 Earl Dr	
5.	Jonathan Douglas		51345 Earl Dr.	
6.	Jakelynn Oliva		51155 Island Lake Rd	
7.	Ryann Broussard		52557 Gerendine St	
8.	Daniel L. Gregory		47581 Douglas LANE	
9.	Joanne Hardesty		48271 Wild Rose Lane	
10.	WAYNE OBLIZ		51535 BLOCKADE GLACIER R.	
11.	Michael A. Peck		53687 Ray Ct	
12.	STACYA OLIVER Stacya Oliver		52360 SARAIT JUNE ST NIKISKI 29685	


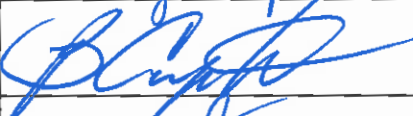



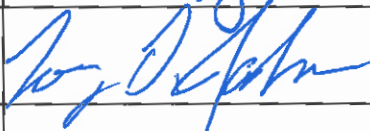
Petition of Interest to Form an Advisory Planning Commission

	Printed Name	Signature	Residence Address	Verifier Voter Number, Date of Birth or Last 4 SSN
13.	Kyle Rogers		52835 Craig ST	
14.	Marissa Rogers		52835 Craig ST	
15.	Suzette Huber		59368 Kenai Spur Hwy	
16.	Paul Huber		59368 KENAI SPUR	
17.	Gordon Huber		59368 Kenai Spur Hwy	
18.	Bo Wheeler		c. 43640 Kenai Spur Hwy	
19.	Scott Rucker		52092 Merrill Ave.	
20.	Camille Broussard		52557 Geraldine St.	
21.	Amanda Abel		52890 Kingery Rd	
22.	Warren Huber		59368 Kenai Spur Hwy	
23.	Taylor McLaugh		53080 Tenakee Loop Nikiski AK	
24.	Briana Wuzgla		50138 McClatchy Hwy Kenai/Nikiski 99611	

Petition of Interest to Form an Advisory Planning Commission

	Printed Name	Signature	Residence Address	Verifier Voter Number, Date of Birth or Last 4 SSN
25.	Margaret Cress		51650 Josie St Kenai, AK 99611	
26.	James Cress		51650 Josie St Kenai, AK 99611	
27.	Jeffrey Lattatt		51237 Holt Lamplight Rd N. Kiski, AK 99635	
28.	Rose Lattatt		51237 Holt Lamplight Rd, N. KISKI, AK 99635	
29.	Steve Henry		50941 Kenai Spur Hwy Kenai 99611 AK	
30.	Scott Larson		52090 MARIE AVENUE KENAI, AK 99611	
31.	Tamara Larson		52090 Marie ave	
32.	Breanna Cooper		49735 Kotsina ave	
33.	Corin Cooper		49735 Kotsina St.	
34.	Constance Nicks		46180 Birch Lane	
35.	Tiffany Wilkes		50192 Silverspring Ln	
36.	Matthew Tirado		50941 Kenai Spur Hwy #1	

Petition of Interest to Form an Advisory Planning Commission

	Printed Name	Signature	Residence Address	Verifier Voter Number, Date of Birth or Last 4 SSN
37.	Ameze Carpenter	Ameze Carpenter	51540 Eagle Ave Kenai / Alaska	
38.	Ben Carpenter		51540 Eagle Ave Kenai / Alaska	
39.	Cassey McClure	Cassey McClure	52101 Lucille Dr Kenai / Alaska	
40.	Beau Broussard		52211 Lucille Dr Kenai / Alaska	
41.	Alexa McClure		52211 Lucille Dr Kenai / Alaska	
42.	Michael Broussard	Michael Broussard	52211 Lucille Dr Kenai	
43.	Bonnie L. Wuerger	Bonnie L. Wuerger	50138 McGahan Ridge Trl Kenai / Alaska 99611	
44.	STEVEN R. WUERGLER		50138 MCGAHAN RIDGE TRAIL KENAI / ALASKA 99611	
45.	Leah M. Jackson	Leah M. Jackson	52500 Leah St. Kenai, AK 99611	
46.	Tony D. Jackson		52500 Leah St Kenai AK 99611	
47.				
48.				

From: Camille Broussard <chuber907@gmail.com>

Sent: Thursday, May 05, 2022 12:41 PM

To: Wastell, Pam <pwastell@kpb.us>; Pierce, Charlie <CPierce@kpb.us>

Cc: john@empireconsulting.co

Subject: <EXTERNAL-SENDER>Letter of Interest for Nikiski Advisory Planning Commission

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.

Good Afternoon Mayor Pierce,

I am interested in creating an advisory planning commission in Nikiski with the proposed boundary area being the established Nikiski Fire Service Area. As per code 21.02.030 this represents the letter of interest. I also volunteer to be the coordinator for this effort. I look forward to working with you and receiving the documents for the petition.

Thank you,

Camille Broussard

907-420-4973

G. OTHER

- 1. Community Development Block Grant – Disaster Relief & Mitigation Program.**

Kenai Peninsula Borough

Office of Emergency Management – Staff Report

Community Development Block Grant – Disaster and Mitigation (CDBG-DR / MIT)

Alaska Department of Commerce, Community, and Economic Development

Federal Pass-Through – Housing Urban Development (HUD)

On January 6, 2021, HUD made \$2,288,000 in CDBG-MIT funds available to the State of Alaska to address damage caused by the 2018 Cook Inlet Earthquake for the impacted boroughs of Anchorage, Kenai Peninsula and Mat-Su. The CDBG-MIT funding is in addition to the \$35,856,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funds HUD allocated to the State of Alaska on January 27, 2020. The state developed an action plan outlining the use of CDBG-DR funds for housing, infrastructure, and economic development programs.

The purpose of this memo is to provide an update on the current actions regarding both funding sources:

1. The CDBG-DR program prioritizes funding to first be used to assist damaged homes within low to moderate income households. Thereafter, funds may be used for repairs, enhancement and restoration of infrastructure for local communities impacted by the 2018 Cook Inlet Earthquake as part of a comprehensive long-term recovery program. The Office of Emergency Management is working with the state to submit eligible mitigation projects that may fall within the HUD guidance.
2. The CDBG-MIT funds represent an opportunity for the State of Alaska to use this assistance in areas impacted by the Cook Inlet Earthquake to carry out strategic and high-impact projects that will mitigate disaster risks and reduce future losses. A virtual, public meeting was held August 22, 2022 to gather input on the use of the mitigation funding. It is expected that these funds will be used for the largely impacted areas of Anchorage; however, the Kenai Peninsula may also be eligible to apply for the funds to supplement local mitigation projects identified in the 2019 Hazard Mitigation Plan.

Current plan information for both programs may be found at

<https://www.commerce.alaska.gov/web/dcra/GrantsSection/CDBG-DR.aspx>

Respectfully Submitted,



Brenda Ahlberg Emergency Manager


G. OTHER

- 2. Ordinance 2022-XX: Amending KPB Chapter 21.25 and KPB Chapter 21.29 regarding conditional land use permits and material site permits, updating notice, applicability, permit types, application requirements, standards and permit conditions.**

Kenai Peninsula Borough Assembly

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

FROM: Brent Johnson, Assembly President 
Lane Chesley, Assembly Member

DATE: July 28, 2022

RE: Ordinance 2022-____, Amending KPB Chapter 21.25 and KPB Chapter 21.29 Regarding Conditional Land Use Permits and Material Site Permits, Updating Notice, Applicability, Permit Types, Application Requirements, Standards and Permits Conditions (Johnson, Chesley)

In 2021, the Borough administration brought the issue of land use conflicts related to earth material extraction and processing sites back before the Assembly and requested Assembly consideration and action to address the regulatory process related to conditional land use permits issued under KPB Chapter 21.29, Material sites.

After receiving public comment on Ordinance 2021-41, the Assembly ultimately tabled the ordinance and a related substitute ordinance. The Assembly formed a committee of the whole to review the permitting process with a fresh perspective.

This ordinance will repeal and re-enact KPB Chapter 21.29. This ordinance shifts the conditional land use permit (CLUP) process for earth materials extraction and processing away from a “one size fits all” approach and instead establish a multi-permit structure wherein activities related to materials processing and extraction within the water table require heightened protections for the public good but activities of lesser impact to surrounding properties do not require the same level of protections. This ordinance maintains important mandatory conditions found in current code that are necessary to protect the public health, safety, and general welfare of Borough residents. This ordinance also presents a permitting system that will provide for more flexibility to meet the needs of the particular application through discretionary conditions that may only apply when appropriate under the circumstances.

Your consideration of the ordinance is appreciated.

Introduced by: Johnson, Chesley
Date: 08/09/22
Hearing: 09/06/22
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2022-**

**AN ORDINANCE AMENDING KPB CHAPTER 21.25 AND KPB CHAPTER 21.29
REGARDING CONDITIONAL LAND USE PERMITS AND MATERIAL SITE
PERMITS, UPDATING NOTICE, APPLICABILITY, PERMIT TYPES, APPLICATION
REQUIREMENTS, STANDARDS AND PERMITS CONDITIONS**

- WHEREAS,** there are goals and objectives within the 2019 Kenai Peninsula Borough Comprehensive Plan to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms, as well as strategy objectives to update the Borough's existing conditional use regulations for gravel extraction and other uses to better address reoccurring land use conflicts; and
- WHEREAS,** land use conflicts related to earth materials extraction and processing sites remain a point of contention within the Borough; and
- WHEREAS,** under current state law a first or second class borough shall provide for planning, platting, and land use regulation on an areawide basis, except where such powers have been delegated to a city within the Borough; and
- WHEREAS,** land use regulation includes zoning powers; and
- WHEREAS,** the Borough has enacted KPB Chapter 21.04, Zoning Districts, and has established two zoning districts: the municipal district and the rural district; and
- WHEREAS,** within the rural district, KPB 21.25.040 requires a permit for the commencement of certain land uses within the rural district of the Kenai Peninsula Borough; and
- WHEREAS,** approximately 253 registered prior existing use material sites and approximately 104 conditional land use permits for material sites have been granted since 1996; and
- WHEREAS,** the assembly established a material site work group by adoption of Resolution 2018-004 (Substitute) to engage in a collaborative discussion involving the public and industry to make recommendations regarding the material site code; and

- WHEREAS,** the ordinance, Ordinance 2019-30, incorporating the final report and work group recommendations, failed enactment following public hearing and a vote during the assembly's October 24, 2019 meeting; and
- WHEREAS,** in late 2021, due to continued conflict including costly administrative and court appeals, the administration brought this land use issue back to the assembly and requested assembly action regarding the permitting process related to earth materials extraction and processing; and
- WHEREAS,** throughout this process the planning department, the material site work group, the planning commission, and the assembly have received many verbal and written public comments from Borough residents, professionals, and site operators; and
- WHEREAS,** the assembly first considered this issue by looking at the same ordinance that failed in 2019, relabeled Ordinance 2021-41; and
- WHEREAS,** Ordinance 2021-41 and a related substitute ordinance were tabled by the assembly at its February 1, 2022 to allow for consideration by the assembly as a committee of the whole, and
- WHEREAS,** the availability of three different types of conditional land use permits for material sites are designed to separate impacts of such uses and tailor applicable conditions and requirements to the associated impacts; and
- WHEREAS,** the Kenai Peninsula Borough recognizes the importance of implementing bonding, as applicable, to ensure neighboring properties and water sources are insured; and
- WHEREAS,** implementing a systematic process to determine a prior-existing use will allow the planning department to better identify the number of and types of pre-existing use sites in existence on the Kenai Peninsula and address complaints regarding nonconforming prior existing material sites; and
- WHEREAS,** requiring all prior-existing use operations to comply with reclamation plan and hours of operation requirements protects public health, safety, and general welfare; and
- WHEREAS,** requiring all prior-existing use operations which extract material below or within four feet of the seasonal highwater table to conduct operations in accordance with the requirements outlined in the relevant sections of code protects public health, safety, and general welfare; and
- WHEREAS,** buffer zones, dust control, hours of operation, and setbacks as mandatory conditions applicable to all permits, along with the discretionary conditions and conditions specific to processing or extraction with the water table, will reduce dust, noise, and attractive nuisances, thereby promoting public health, safety, and general welfare; and

WHEREAS, providing the planning director or planning commission the ability to add certain discretionary conditions recognizes the unique challenges material sites on the Kenai Peninsula present and that all conditions appropriate for one material site on one part of the Kenai Peninsula may not be appropriate for another site located on another part of the Kenai Peninsula; and

WHEREAS, after many years of work, public input, and public deliberative process, this ordinance enacts a new notice section to align with notice requirements of Title 20 of Borough code and enacts a new chapter of code related to material sites wherein it establishes a multi-permit system with standards and conditions applicable to each permit type that are intended to encourage responsible development while also protecting and promoting the public health, safety, and general welfare of all residents and visitors of the Kenai Peninsula Borough; and

WHEREAS, the planning commission at its regularly scheduled meeting held on _____ 2022, recommended _____;

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

SECTION 1. That KPB 21.25.050 is hereby amended as follows.

21.25.050. Permit considerations—Public hearing required.

- A. Within [21]30 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 applicant or schedule the application to be considered by the planning commission at the next appropriate scheduled meeting.

...

SECTION 2. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by repealing and reenacting KPB Chapter 21.25.060, Notice, which shall read as follows:

21.25.060. Notice.

- A. Except for counter permits for material sites issued under KPB 21.29.020(A) or expressly excepted elsewhere in this title, notice of any pending application required under this title shall be given in accordance with this section.
- B. Required forms of notice are as follows:

1. Notice of the pending application will be published on the borough website.
 2. When available, the notice will also be posted on a public bulletin of the impacted community.
 3. At the beginning of the notice period a copy of the notice will be sent by First Class U.S. Mail to all owners and/or leaseholders of record of property located with a radius of one-half mile of the subject property.
- C. The notice must contain a description of the proposed location, the type of proposed land use or a description of the action requested, as applicable, the applicant's name, where written comments may be submitted, the last deadline for submitting written comments to the planning commission, and the date, time and location of the public hearing.
- D. The failure of any person to receive any notice required under this section, where the records of the borough indicate the notice was provided in a timely and proper manner, shall not affect the validity of any proceeding under this title or be basis for appeal.

SECTION 3. That the Kenai Peninsula Borough Code of Ordinances is hereby amended by repealing and reenacting KPB Chapter 21.29, Material Site Permits, which shall read as follows:

21.29.005. Intent and Purpose.

The purpose of this chapter is to provide a land use permitting process to regulate the operation, scope, and duration of earth materials extraction and processing within the borough while promoting the public health, safety, and general welfare of the Kenai Peninsula Borough. It is the further purpose of this chapter to promote compatible, orderly development.

21.29.010. Applicability.

- A. This chapter applies to all private and public lands in the borough except where the use is prohibited by ordinance within a local option zoning district or exempt under KPB 21.29.015.
- B. This chapter does not apply within the incorporated cities of the Kenai Peninsula Borough.
- C. Earth material extraction within 300 linear feet from riparian wetlands and the seasonal high-water level of naturally-occurring open water bodies, such as a lake, pond, river, stream, or ocean, is prohibited. This prohibition does not apply to man-made water bodies or isolated ponds of less than one acre on private property.

- D. All operations must be conducted in accordance with the current publication of the State of Alaska, Alaska DEC User's Manual Best Management Practices for Gravel/Rock Aggregate Extraction Projects. In the event a provision of this chapter conflicts with the State of Alaska's manual, this chapter controls.

21.29.015. Material extraction exempt from obtaining a permit.

- A. Material extraction which disturbs an area of less than one acre that is not in a mapped flood plain or subject to 21.29.010(B), does not enter the water table, and does not cross property boundaries, does not require a permit. There will be no excavation within 32 feet of a lot line.
- B. Material extraction taking place on dewatered bars within the confines of the Snow River and the streams within the Seward-Bear Creek Flood Service Area do not require a permit, however, operators subject to this exemption must provide the planning department with the information required by KPB 21.29.030(A)(1), (2), (6), (7) and a current flood plain development permit prior to beginning operations.
- C. A prior existing use under KPB 21.29.120 does not require a material extraction permit. Notwithstanding the foregoing, on or before January 1, 2026, a prior existing use under KPB 21.29.120 must: (1) provide a reclamation plan under KPB 21.29.060 that is approved by the planning director or designee; and (2) come into compliance with the buffer zone requirements under KPB 21.29.050(A)(1).

21.29.020. Types of permits available.

- A. Counter permit. A counter permit is required for earth material extraction which disturbs more than one acre and less than 10 cumulative un-reclaimed acres. Material processing, screening, or crushing, and material extraction within four feet of the seasonal high-water table is prohibited under a counter permit. A counter permit is valid for a period of two years. Upon request from the applicant, the planning director, or designee, may grant one 12-month extension on a counter permit. Counter permits are approved by the planning director, or designees, and are not subject to notice requirements under KPB 21.25.060. The planning director's decision to approve or deny a counter permit may be appealed to the planning commission, which must act as the hearing officer, in accordance with KPB 21.20.
- B. Conditional land use permit. A conditional land use permit (CLUP) is required for the following types of earth material extraction or uses:
1. Earth Materials Extraction CLUP. An Earth Materials Extraction CLUP is required for any material extraction which disturbs 10 or more cumulative

acres. Material processing, screening or crushing, or extraction within four feet of the seasonal high-water table is prohibited under this permit. The standard conditions set out in KPB 21.29.050 are applicable to this type of CLUP.

2. Earth Materials Processing CLUP. An Earth Materials Processing CLUP is required for any operation that includes earth materials processing, screening, or crushing activities. The conditions set forth in KPB 21.29.050 plus the conditions set out in KPB 21.29.055 for material extraction processing area applicable to this type of CLUP.
3. Earth Materials Extraction Within Water Table CLUP. An Earth Materials Extraction within Water Table CLUP is required for material extraction and operations of any size within four feet of the seasonal high-water table. The conditions set forth in KPB 21.29.050 plus the requirements and conditions set forth in KPB 21.29.057 for material extraction within four feet of the seasonal high-water table are applicable to this type of CLUP.

An applicant may request a CLUP that includes one, two or all three of the above permit types. A CLUP is valid for a period of five years. A CLUP may be renewed in accordance with KPB 21.29.070. The provisions of KPB Chapter 21.25 are applicable to material site CLUPs and the provisions of KPB 21.25 and 21.29 are read in harmony. If there is a conflict between the provisions of KPB 21.25 and 21.29, the provisions of KPB 21.29 are controlling.

21.29.030. Application procedure.

- A. In order to obtain a counter permit or CLUP under this chapter, an applicant must first complete and submit to the borough planning department a permit application, along with the fee listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees. The planning director may determine that certain contiguous parcels are eligible for a single permit. The application must include the following items, without which the application will be deemed incomplete:
 1. Legal description of the parcel, KPB tax parcel ID number, and identification of whether the permit is for the entire parcel, or a specific location within a parcel;
 2. Expected life span of the material site;
 3. A buffer plan consistent with KPB 21.29.050(A)(1);
 4. Reclamation plan consistent with KPB 21.29.060;

5. The depth of excavation;
6. Type of material to be extracted;
7. A site map professional surveyor licensed in the State of Alaska to include the following:
 - a. Location of excavation, and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
 - b. Proposed buffers consistent with KPB 21.29.050(A)(1), or alternate buffer plan;
 - c. Identification of all encumbrances, including but not limited to, easements;
 - d. Points of ingress and egress. Driveway permits must be acquired from either the state or borough as appropriate prior to submitting the application;
 - e. Anticipated haul routes, contingent on approval from the governmental agency with regulatory jurisdiction over the road;
 - f. Location of any processing areas on the parcel, if applicable;
 - g. North arrow;
 - h. The scale to which the site plan is drawn;
 - i. Preparer's name and date; and
 - j. Field verification must include staking the boundary of the parcel at sequentially visible intervals. The planning director may grant an exemption in writing to the staking requirements if the parcel boundaries are obvious or staking is unnecessary.
8. A site plan, prepared by a qualified independent civil engineer licensed and active in the State of Alaska to include the following:
 - a. Surface water protection measures, if any, for adjacent properties, including the use of diversion channels, interception ditches, on-site collection ditches, sediment ponds and traps, and silt fence;
 - b. Location and elevation of test holes, and depth of groundwater, based on the seasonal high-water table. At least one test hole per ten acres of excavated area is required to be dug. The test holes must be at least four feet below the proposed lowest elevation of excavation depth;
 - c. Location of all private wells of adjacent property owners within 300 feet of the proposed parcel boundary; and
 - d. Location of any water body on the parcel, including the location of any riparian wetland as determined by best available data.
9. A statement by the operator of the site that the requirements of KPB 21.29.045 have been satisfied.

- B. In order to aid the planning commission or planning director's decision-making process, the planning director may provide vicinity, aerial, land use, and ownership maps for each application and may include additional information.

21.29.040. Standards for sand, gravel or material sites.

- A. These material site regulations are intended to protect against aquifer disturbance, road damage, physical damage to adjacent properties, dust, noise and other impacts of earth materials extraction sites through setbacks, buffer zones, and street-level visual screening. Prior to granting a counter permit or conditional land use permit under this chapter, the planning director or planning commission, as applicable, must make the following findings:

1. That the use is not inconsistent with the applicable comprehensive plan;
2. That the use will not be harmful to the public's health, safety, and general welfare;
3. That sufficient setbacks, buffer zones, and other safeguards are being provided consistent with this chapter; and
4. That the use provides for a reclamation plan consistent with this chapter.

21.29.045. Required compliance with State and Federal laws

- A. All applicants for permits for earth materials extraction are required to demonstrate compliance with state and federal law. Prior to final approval of the permit, the applicant or agent must provide written documentation from the permitting agency of compliance with the following:

1. Mining license as required by the Alaska State Department of Revenue, pursuant to A.S. 43.65;
2. Mining permit as required by the Alaska State Department of Natural Resources (ADNR) if extraction activities are to take place on state land;
3. Reclamation plan as required by ADNR, pursuant to A.S. 27.19;
4. Notice of intent for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Department of Environmental Conservation (DEC) pursuant to the Alaska Pollutant Discharge Elimination System (APDES) requirements;

5. United States Army Corps of Engineers (USACE) permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity requires USACE approval; and
 6. Any other applicable state or federal agency with regulatory authority of mining activities or earth materials extraction.
- B. In addition to the requirements in subsection (A) of this section, all activity must be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement, this includes but is not limited to:
1. Air quality.
 - a. EPA air quality control permit is required for asphalt plants and crushers;
 - b. ADNR burn permit is required for brush or stump burning. Combustibles must be stockpiled separate from noncombustibles, and burn permit requirements must be followed; and
 - c. ADEC dust control and air quality regulations pertaining to burning activities must be followed.
 2. Water quality. EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.
 3. Hazardous Materials. Use and storage of hazardous materials, waste and explosives.
 - a. EPA regulations controlling use of hazardous materials must be followed; and
 - b. U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives regulations must be followed when storing or using explosives.
- C. Failure to comply with any of the requirements in subsections (A) and (B) of this section is a violation of the permit, and is subject to enforcement pursuant to KPB Chapter 21.50.

21.29.050. Permit conditions applicable to all permits.

- A. The planning commission or planning director, as applicable, must impose the following mandatory conditions prior to approval of a permit under this chapter:

1. *Buffer Zone.*

- a. A buffer area of 32 feet must be established between the area of excavation and the parcel boundaries. The buffer area may include one or more of the following: undisturbed natural vegetation that provides sufficient noise and street-level visual screening; an eight-foot earthen berm with a 2:1 slope; or a minimum eight-foot fence;
- b. A 2:1 slope must be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if the site plan provides the timeframe for removal and verification that suitable, stabilizing material will replace the removed material within 30 days of removal;
- c. Where an easement exists, a buffer must not overlap the easement, unless otherwise conditioned by the planning commission or planning director, as applicable; and
- d. This requirement may only be waived upon a finding by the planning director or planning commission, as applicable, that a lot line where the waiver is requested is directly adjacent to another material site.

2. *Water source separation.*

- a. Material extraction below or within four feet of the seasonal high-water table is prohibited unless the applicant is issued a CLUP Material Extraction Within Water Table Permit and the requirements and conditions set forth in KPB 21.29.057 are satisfied;
- b. Dewatering either by pumping, ditching or some other form of draining that removes water from the site or causes water to leave the site is prohibited;
- c. All permits shall be issued with a condition which prohibits any material extraction within 100 linear feet of any private well or water source existing prior to original permit issuance; and
- d. On site movement of water may be permitted pursuant to KPB 21.29.057 and if: (i) the operator provides a statement under seal and supporting data from a qualified independent civil engineer licensed and active in the State of Alaska that the dewatering will not lower any known water systems; and (ii) the applicant posts a bond for liability for potential accrued damages in an amount equivalent to the cost to replace each water wells within a 300-foot radius of the site. The rebuttable presumption is that the cost per well is a minimum of \$10,000.

3. *Roads.* Operations that impact borough roads must be conducted in accordance with the requirements and remedies of KPB Chapter 14.40.

4. Dust control. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.
 5. Hours of operation. Material extraction activities, including equipment operation, may only occur between the hours of 6:00 a.m. and 9:00 p.m. Alaska Standard Time (AKST), or as determined by the planning commission or planning director, as applicable, to be appropriate based on information presented.
 - a. Seasonal, project-based waiver. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this subsection. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.
 6. Groundwater elevation. All material sites must maintain one monitoring well four feet below the proposed excavation per ten acres of excavated area.
 7. Setback. Material site excavation areas must be 250 feet from the property boundaries of any local option zoning district, existing public school ground, private school ground, college campus, childcare facility, multi-purpose senior center, assisted living home, and licensed health care facility. If overlapping, the buffer areas of the excavation must be in addition to the 250-foot setback.
 8. Permit boundaries. The buffers and any easements or right-of-way abutting the proposed permit area must be staked at sequentially visible intervals. Field verification and staking will require the services of a professional land surveyor. Stakes must be in place prior to issuance of the permit.
 9. Processing. Material extraction of any size that includes processing, screening, or crushing activities is prohibited unless the applicant is issued an Earth Materials Processing CLUP and the conditions set forth in KPB 21.29.055 are imposed on the permit.
- B. Discretionary Conditions. The planning commission or planning director, as applicable, may set conditions of approval for issuance of a counter permit or CLUP, as appropriate for the area in which the development is sited, for the following:
1. Setbacks/Buffer Area.

- a. The mandatory buffer area condition in subsection (A) above may be increased, up to a maximum of 100 feet between the area of excavation and the parcel boundaries, if the planning commission finds based on substantial evidence presented that increasing the buffer area is necessary for the public health, welfare and safety of the surrounding community;
 - i. Upon request of the applicant, in lieu of any additional buffer area under this subsection designed to separate the use of material site activities from neighboring parcel boundaries, an eight-foot-high berm above the preexisting elevation may be constructed, prior to excavation, around the excavation area. If the excavation site area expands, the berm may move toward the permitted boundary until such limits of the permitted area are exhausted. The berm must be maintained at eight-foot height while permitted activity is occurring.
 - b. All other requirements of KPB 21.29.050(A)(1) apply; and
 - c. When a buffer area has been denuded prior to review of the application by the planning commission or planning director revegetation may be required.
- 2. Road maintenance and repair. In consultation with the Road Service Area Director, road maintenance or repair of public right-of-way haul routes may be required of the permittee.
- 3. Ingress and egress. The planning commission or planning director may determine the points of ingress and egress for the material site. The permittee is not required to construct haul routes outside the parcel boundaries of the material site. Driveway authorization must be acquired, from either the state through an “Approval to Construct” or the borough road service area, as appropriate, prior to issuance of a material site permit when accessing a public right-of-way.
- 4. Dust suppression. Dust suppression may be required when natural precipitation is not adequate to suppress the dust generated by the material site traffic on public right-of-way haul routes.
- 5. Surface water protection. Use of surface water protection measures as specified in KPB 21.29.030(A)(8)(a).
- 6. Street-level screening. Street-level visual screening, noise mitigation, and lighting restrictions as appropriate for the surrounding area and in accordance with the standards set forth in KPB 21.29.040.

21.29.055. Earth materials processing.

In accordance with KPB 21.29.020(B)(2), a n Earth Materials Processing CLUP is required for earth materials processing activities, such as material screening or crushing. Prior to issuing a permit under this subsection, the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as the planning commission deems appropriate. In addition, the following requirements and permit conditions specific to an Earth Materials Processing CLUP apply:

- A. *Setback.* In the case of a CLUP, any equipment which conditions or processes material must be operated at least 300 feet from the parcel boundaries. At its discretion, the planning commission may waive the 300-foot processing distance requirement, or allow a lesser distance in consideration of and in accordance with existing uses of the properties in the vicinity at the time of approval of the permit.
- B. *Hours of operation.*
 - 1. Processing equipment may only be operated between 8:00 a.m. and 7:00 p.m. AKST, or as determined by the planning commission.
 - 2. The planning commission may grant exceptions to increase the hours of operation and processing in the event of an emergency or a good-cause finding that the increased hours of operation serve a public purpose and are not harmful to the public health, safety, and general welfare of borough residents. Such an exception shall not exceed 120 days.
 - 3. Seasonal, project-based waiver. An applicant may request a seasonal, project-based waiver of the hours of operation requirements under this section. A waiver granted under this subsection is valid for six consecutive calendar months. To grant a waiver under this subsection, the commission must find that the waiver is necessary for a specific project, and that the waiver is not harmful to the public health, safety, and general welfare of borough residents.

21.29.057. Material extraction below or within four feet of the seasonal high-water table.

In accordance with KPB 21.29.020(B)(3), a CLUP is required for material extraction of material below or within four feet of the seasonal high water table. Prior to a permit being issued the planning commission must impose the mandatory conditions set forth in KPB 21.29.050(A) and discretionary conditions as deemed appropriate. In accordance with KPB 21.29.050(A)(2)(b) dewatering is prohibited. The following additional application requirements and permit conditions specific to a Material Extraction within the Water Table CLUP apply:

- A. Prior to application for a water table extraction permit, the following requirements must be met:
1. Installation of a sufficient number of monitoring wells and test pits, as recommended by a qualified professional, to adequately determine groundwater flow direction, hydraulic gradient, water table and seasonal high-water table elevation. Monitoring well and test pit locations must provide the qualified professional with adequate information to characterize the entire property that will be permitted for material extraction. Well casing elevations must be surveyed to a vertical accuracy of 0.01 feet by a registered land surveyor and tied to NAVD 1988.
 2. Determination of seasonal high-water table elevation, groundwater flow direction, hydraulic gradient, and water table elevation for the site must be measured under the supervision of a qualified professional.
 3. A written report must be completed by a qualified professional that makes a determination about the potential adverse effects to groundwater and surface water body elevation, groundwater and surface water quality, surrounding water users and adjacent properties. The determination must be based on available data, interpretations of the data and knowledge of groundwater processes.
 4. The report must be submitted with the CLUP application and must:
 - a. Identify existing public water system sources (i.e., wells, springs, surface water intakes), as identified by the state, that are located within one-half mile of the boundary of the property on which the activity will take place;
 - b. Identify actual or presumed private drinking water wells located within one-half mile of the boundary of the property on which the activity will take place and include a copy of the available well logs;
 - c. Identify existing regulated potential sources of contamination within at least one-half mile of the boundary of the property on which the activity will take place;
 - d. Contain maps at appropriate scales presenting the results of the well search, the setbacks required by subsection (C)(7) of this section, and illustrating wetlands and water bodies; at least one map must show identified potential sources of contamination;
 - e. Include the water table elevation monitoring data, monitoring well logs and records of any test pits, and a discussion of the seasonal high-water table determination; and
 - f. Evaluate subsurface hydrologic conditions and identify potential adverse effects that may occur as a result of material extraction. The

evaluation of the hydrologic conditions must include identifying confining layers.

B. In addition to the application requirements for a CLUP for earth materials extraction, the application for a water table extraction permit must include:

1. A description of the proposed extent and depth of material extraction beneath the seasonal high-water table.
2. A written report that meets the requirements of subsection (A)(4) of this section, a monitoring plan, and a spill prevention, control, and countermeasures plan as required by this section.

C. *Conditions.* In addition to the requirements of KPB 21.29.050, operating conditions for extraction within or below four feet of the seasonal high-water table are as follows:

1. Implement a monitoring plan that meets the requirements of this chapter. If existing wells will provide sufficient data, no additional wells are required.
2. Implement the spill prevention, control and countermeasures plan in accordance with Environmental Protection Agency's requirements for above ground storage tank operations regardless of the quantity of petroleum products on site.
3. Groundwater flow direction, hydraulic gradient, and groundwater table elevation for the subject parcel must be measured at least monthly during active extraction. Monitoring wells must be maintained or replaced with equivalent monitoring wells.
4. Water elevation monitoring data must be retained for two years following completion of reclamation activities and must be provided to the planning director upon request.
5. A qualified professional must annually submit a report to the department that includes water table elevation monitoring data.
6. Operations must not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer.
 - a. If evidence suggests a confined aquifer or confining layer has been breached, or if groundwater or surface water elevation changes rapidly or beyond natural variation, the director must be notified within 24 hours.

- i. A hydrologic assessment, conducted by a qualified professional, to determine the affected area and the nature and degree of effects and a description of potential repair or mitigation options must be submitted to the director within 14 calendar days of notification; and
 - ii. Repair or mitigation sufficient to address identified effects must be initiated as soon as practical, not to exceed 45 calendar days from the date the assessment is received by the director.
- 7. Operations must maintain the following setbacks:
 - a. 500 feet from the nearest down-gradient drinking water source;
 - b. 350 feet from the nearest cross-gradient drinking water source;
 - c. 200 feet from the nearest up-gradient drinking water source; and
 - d. Minimum separation distances do not apply to drinking water sources constructed after a permit to extract material below the water table has been issued.

21.29.060. – Reclamation plan.

- A. All material site permit applications require an overall reclamation plan. A site plan for reclamation must be required including a scaled drawing with finished contours. A five-year reclamation plan must be submitted with a permit renewal request.
- B. The applicant may revegetate and must reclaim all disturbed land within the time period approved with the reclamation plan so as to leave the land in a stable condition wherein a 2:1 slope is maintained. Any revegetation must be done with a non-invasive plant species. Bonding must be required at \$750.00 per acre for all acreage included in the current five-year reclamation plan. In the alternative, the planning director may accept a qualified professional's estimate for determining the amount of bonding. If the applicant is bonded with the state, the borough's bonding requirement is waived. Compliance with reclamation plans will be enforced under KPB 21.50.
- C. The following measures must be considered in the preparation, approval and implementation of the reclamation plan, although not all will be applicable to every reclamation plan:

1. The area will be backfilled, graded and re-contoured using strippings, overburden, and topsoil so that it will be stabilized to a condition that will allow for revegetation under KPB 21.29.060(B).
 2. The topsoil used for reclamation must be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by an independent, professional civil engineer licensed and active in the State of Alaska.
 3. Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation must 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.
 4. Topsoil mine operations must ensure a minimum of four inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
 5. Ponding may be used as a reclamation method as approved by the planning commission.
 6. The area will be reclaimed in a manner that screens the site from becoming a public attractive nuisance and in a manner that is not harmful to public health, safety, and general welfare.
- D. The five-year reclamation plan must describe the total acreage to be reclaimed relative to the total excavation plan.
- E. Close-out. Reclamation plans and requirements survive expiration, termination, or revocation of a permit granted under this chapter. In order to close-out a permit, the planning director must be provided adequate proof that reclamation has been conducted in accordance with the reclamation plan. If a permit expires, terminates, or is revoked prior to permit close-out, the remedies under KPB 21.50 apply and the planning director may hold applicable fines and remedies in abeyance upon a finding that reclamation is actively ongoing.

21.29.065. Effect of permit denial.

- A. No reapplication concerning the same counter permit application may be filed within one calendar year of the date of the planning director's final denial action except in the case where new evidence or circumstances exist that were not available or present when the original application was filed.

- B. No reapplication concerning the same CLUP 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 application was filed.
- C. For the purposes of this section, the applicant bears the burden of proof of demonstrating that new evidence or circumstances exist and that they were not available or present with the original application was filed.

21.29.070. Permit renewal, modification and revocation.

- A. Conditional land use permittees must submit a renewal application every five years after the permit is issued. A renewal application must be submitted at least 90 days prior to expiration of the CLUP.
- B. The planning director may administratively approve a renewal application that meets the following requirements: (i) the permittee is in compliance with all permit conditions and no modification to operations or conditions are proposed; and (ii) the borough did not issue a notice of violation under the permit during the two calendar years preceding the renewal application. If the renewal application does not satisfy the foregoing requirements or if the planning director determines a review by the planning commission is warranted, then the planning commission will hear the renewal application.
- C. In the event the renewal application is heard by the planning commission, the planning commission must hold a public hearing on the renewal application. If the applicant is complying with all permit conditions and requirements and is not in violation of borough code, then the renewal must be granted by the planning commission. Notwithstanding the foregoing, if the commission determines, after public hearing, that discretionary conditions are appropriate on renewal then the commission may modify the CLUP by imposing conditions as deemed appropriate under the circumstances. Permit renewal applications will be denied if the permittee is in violation of the original permit requirements and conditions or borough code. A renewal application heard by the planning commission must be processed in accordance with the notice requirements of KPB 21.25.060.
- D. A permittee may request a modification of a CLUP or counter permit, as needed. A modification application will be processed pursuant to KPB 21.29.030 through KPB 21.29.050 with public notice given as provided by KPB 21.25.060. A permit modification is required if the permittee's operations are no longer consistent with the original permit application.

- E. The fee for a permit renewal or modification is the same as an original permit application in the amount listed in the most current Kenai Peninsula Borough Schedule of Rates, Charges and Fees.
- F. Failure to submit a permit renewal will result in the expiration of the permit. The borough may issue a permit termination document upon expiration pursuant to KPB 21.29.080. Once a permit has expired, a new permit application approval process is required in order to operate the material site.
- G. Permits may be revoked pursuant to KPB 21.50.

21.29.080. Permit Close-out.

When a permit expires, is revoked, or a permittee requests close-out of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation prior to close-out. When the planning director determines that a site qualifies for close-out, a permit close-out document will be issued to the permittee to terminate the permit and associated requirements. Reclamation plans and requirements survive permit expiration and revocation. The planning director is only authorized to close-out a permit following reclamation. A permit close-out determination shall release any bonding associated with the permit.

21.29.100. Recordation.

All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded. Failure to record a material site document does not affect the validity of the documents. The operator or owner of the material site is responsible for all associated permit recording fees.

21.29.110. Violations.

Violations of this chapter shall be governed by KPB 21.50 and this chapter.

21.29.115. Permit transfers.

Permits issued under this chapter do not automatically transfer upon a conveyance or transfer of the applicable real property. The planning director will issue a letter of approval or disapproval upon receipt of the following: (1) a written permit transfer request is provided to the planning department that includes: legal description of the parcel, former owner name, new owner name, and a copy of the approved permit or the legal PEU status; and (2) a recorded conveyance instrument listing the new owner. The requesting party may appeal a disapproval letter to the planning commission. Permit transfer approvals are not subject to administrative appeal.

21.29.120. Prior-existing uses.

- A. *Determination.* Prior-existing uses (PEU) in effect on October 1, 2022 are allowed to continue operation subject to the requirements of this section. The burden of proof that the prior-existing use existed before October 1, 2022 is on the applicant. If the planning director denies prior-existing use status, the applicant must comply with the permit requirements of this chapter. Failure to apply for a prior-existing use determination by January 1, 2024 will result in termination of all rights to continued operation as a nonconforming use and require full compliance with all provisions of this chapter.
- B. *Decision.* The planning director will give notice of the application for a prior-existing use determination to property owners within 100 feet of the subject parcel boundaries. The notice shall include a summary of the application, a vicinity map, and a deadline for submitting written comments or evidence regarding the existence of the use prior to the planning director issuing a decision. The planning director will issue a decision regarding the prior-existing use status based on the written application, written comments, or evidence regarding the existence of the use. The planning director's decision may be appealed by the applicant or affected property owners to the planning commission within 15 days of distribution of the decision.
- C. *Discontinuance.* Any prior-existing use which has ceased by discontinuance for an uninterrupted period of 365 days must thereafter conform to the permit requirements of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a prior-existing use is discontinued or abandoned, it may not be recommenced.
- D. *Expansion Prohibited.* A prior-existing use may not be increased, intensified, or expanded or moved to any other part of the lot, tract, or parcel it occupies after October 1, 2022, nor may the prior-existing use be moved to a parcel which is subject to this chapter. If a parcel is subdivided, the pre-existing use may not be expanded to any lot, tract, or parcel where material extraction or processing had not previously occurred or was not lawfully established in accordance with this section.
- E. *Standards.* In order to qualify as a legal prior-existing use, the use must meet the following standards, on or before October 1, 2022:
 - 1. A use must have been legally established under prior law.
 - 2. A use must be operational in accordance with the type of use.
- F. In accordance with 21.29.015, on or before January 1, 2026, all legal prior-existing-use extraction operations shall comply with KPB 21.29.060 (reclamation plan) and applicable hours of operation requirements under this chapter.
- G. Materials extraction operations with legal prior-existing use status which extract material below or within four feet of the seasonal highwater table shall conduct operations in accordance with the requirements outlined in KPB 21.29.057, except that KPB 21.29.057(C)(7) will not apply.
- H. For the purposes of this section, “increased, intensified, or expanded” means: (1) enlarging the area of excavation; (2) increasing the depth of excavation to go within

four feet of the seasonal high-water table; or (3) adding a use that was not in existence as of the date of the PEU status determination, to include adding earth materials processing to a use that did not previously include processing.

21.29.130. Definitions.

A. Unless the context requires otherwise, the following definitions apply to material site permits and activities:

1. *Abandon* means to cease or discontinue a use without intent to resume, but excluding short-term interruptions to use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of utilities, or outside proof of continuance, e.g., bills of lading or delivery records. Abandonment also means the cessation of use, regardless of voluntariness, for a specified period of time.
2. *Aggrieved Party* means a party of record adversely impacted by the decision of the hearing officer who participated before the hearing officer either by written or oral presentation.
3. *Aquifer* means a subsurface formation that contains sufficient water-saturated permeable material to yield economical quantities of water to wells and springs.
4. *Aquifer-confining layer* means that layer of relatively impermeable soil below an aquifer, typically clay, which confines water.
5. *Assisted-living home* means a residential facility to which AS 47.33 applies, as described in AS 47.33.010.
6. *Commercial* means any provision of services, sale of goods, or use operated for production of income whether or not income is derived, including sales, barter, rental, or trade of goods and services.
7. *Conditioning or processing material* means a value-added process including batch plants, asphalt plants, screening, washing, and crushing by use of machinery.
8. *Exhausted* means that all material of a commercial quality in a sand, gravel, or material site has been removed.
9. *Groundwater* means, in the broadest sense, all subsurface water, more commonly that part of the subsurface water in the saturated zone.
10. *Inactive site walls* means a wall with a slope steeper than 1.5:1 where there has been no exaction activity for 180 consecutive days.
11. *Isolated pond* means no surface water inlet or outlet is present at any time of the year.

12. Person shall include any individual, firm, partnership, association, corporation, cooperative, or state or local government.
13. Qualified professional means a licensed professional engineer, hydrologist, hydrogeologist, or other similarly-licensed professional.
14. Quarter or Quarterly means January through March, April through June, July through September, or October through December;
15. Sand, gravel or material site means an area used for extracting, quarrying, or conditioning gravel or substances from the ground that are not subject to permits through the state location (mining claim) system (e.g., gold, silver, and other metals), nor energy minerals including but not limited to coal, oil, and gas.
16. Seasonal high groundwater table means the highest level to which the groundwater rises on an annual basis.
17. Stable condition means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes.
18. Surface water means water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.
19. Topsoil means material suitable for vegetative growth.
20. Waterbody means any lake, pond, stream, riparian wetland, or groundwater into which stormwater runoff is directed.
21. Water source means a well, spring or other similar source that provides water for human consumptive use.

SECTION 4. That this ordinance is effective immediately upon enactment.

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

Brent Johnson, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Directors Report to the Commission 8/22/2022

Land Sale

We offered 18 parcels, sold 13 that brought in \$1.278M (all but one to an Alaskan address). In addition to that direct revenue, about \$1M of the sales was financed through the KPB land fund at the rate of 7.5%.

Legislative Items

The assembly approved the following items:

1. No longer send cannabis applications to the planning commission for review;
2. A new enforcement tool in the ability to issue Stop Work orders when someone is violating a section of our subdivision or zoning code;
3. Minor, but important items were clarified in our material site code at the last assembly meeting.

Next we are on to the big rewrite of the material site ordinance. This will have public hearings at the assembly on 9/6 and 9/20 and is scheduled for our PC meeting on 9/12. I would encourage everyone to review the code and follow along at the assembly meetings, your input there would be welcomed too. On 8/23, at 1pm there will be a committee workgroup addressing the water/ groundwater elements in the newly proposed re-write. This will consist of a panel of three outside experts participating in a Q and A session with the assembly.

The creation of the Nikiski APC will be on the agenda at both the planning commission (9/12) and the Assembly, with an anticipated approval date of Sept 20.

A couple items to report about in the granting world.

- 1) We are pursuing a KPB wide transportation safety planning grant that seems promising. It's a large effort ~\$1.2M with a high likelihood of freeing up federal dollars to improve our roads. We are leading the effort in a joint collaboration with all the municipalities.
- 2) Upcoming will be the grant opportunity we've been waiting for to address spruce bark beetle kill and reducing fire danger. This is an even larger grant possibility in the \$10M range. We didn't have any significant wildfire this year, but the concern will still be with us beginning next April, I hope we are better prepared.

Firewise activities, we had a successful bidding for the clean-up and resetting of the Cooper Landing Slash disposal site. It includes sorting material and burning the slash at an appropriate time.

Personnel – we will be interviewing next week for the Land Management Agent in the next week (this was last filled by Dakota Truitt).

As always, I'm here for questions and concerns.

DESK PACKET

(ITEMS THAT CAME IN AFTER MEETING PACKET WAS POSTED)

MISC. INFORMATION

**COOPER LANDING ADVISORY PLANNING COMMISSION
REGULAR MEETING
LOCATION: ZOOM TELECONFERENCE OR
COOPER LANDING COMMUNITY HALL
WEDNESDAY, AUGUST 3, 2022
6:00 PM
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00 p.m.
2. ROLL CALL – J. Cadieux, C. Degernes, H. Harrison, K. Recken, D. Story present. Laura Johnson and Yvette Galbraith excused.
 - a. Members of Public present: Ray Wilkes, Todd Donahue, Candy Fitzpatrick
 - b. Agency Representatives: Sean Baski ADOT&PF, Cynthia Lowe HDR, Nancy Carver, KPB, Alice Rademacher, HDR, Marcus Mueller, KPB, Alvin Talbert, ADOT&PF
3. APPROVAL OF AGENDA – K. Recken moves to approve as written. C. Degernes seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for June 08, 2022 – H. Harrison moves to approve as written. K. Recken seconds. All approve by roll call vote.
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. Sean Baski, PE, Project Manager and Design Manager, AKDOT&PF.
 - i. Finalizing negotiations for Stage 3 and 4 Early Work Package – the embankment for the east and west side of the bridge.
 - ii. Pioneer roads were largely done on the east side and are working on finishing them on the west side in the next couple weeks.
 - iii. Bridge girder selection is complete. The design of the bridge itself will continue. 6.5 million tons of steel or about \$30-40 million dollars in raw steel cost so far.
 - iv. Archeological work is ongoing. Expected completion next year. Monitoring will be a part of project construction throughout.
 - v. Q: K. Recken asked about the archeological information and whether it will eventually be shared with the public.

1. A: S. Baski said that as part of the agreement the project has contracted with a group that will transcribe that information for public use but that will not necessarily include the locations of findings etc.
- vi. Stage 5 – western intersection – is aiming to be at 75% design late this year or early next year.
- vii. Stage 1A was anticipated to be completed this year but some of the archeological findings may stretch that into next year.
- viii. Q: Ray Wilkes asked whether the west end will be at a point where it is paved before winter.
 1. A: S. Baski said that is expected to be the case but he would follow up with the group if it is not anticipated to be so.

b. Nancy Carver, KPB Report:

- i. Noted that there are three seats on the CLAPC that will be up at the end of the month. One member of the group has already submitted a letter to continue on the commission.
- ii. The KPB is looking at adjusting the APC structure and whether they might be community councils instead. She suggested Cooper Landing residents and APC members research the benefits, detriments to this model in anticipation of that inquiry from the KPB.

8. OLD BUSINESS - none

9. NEW BUSINESS

1. Ordinance 2022-XX An Ordinance Authorizing the Release of a Commercial Deed Restriction on a Parcel of Land Located in Cooper Landing Originally Conveyed by the Kenai Peninsula Borough. “Cozy Bear” property.
 1. M. Mueller said, in general, that the KPB will have restrictions and how to modify them on the parcels that are given out. This particular deed during the land sale had the general practice at the time that included land restrictions. These kinds of restrictions are no longer placed on land sales that are made today. This is a proposal to remove the commercial deed restriction that was placed at the time of the original land sale. The reason for the request is from R. Wilkes and S. Kuzinski because of their pending sale which is running into issue from the mortgage provider due to the classification.
 1. K. Recken said that it is her understanding that commercial land has restrictions on it while residential does not.

1. M. Mueller said this is not zoning. It would go from a commercial deed restriction to the deed not having a deed restriction at all.
2. K. Recken asked what restrictions that commercial restrictions have.
 1. M. Mueller said that it can only be used for commercial purposes.
2. J. Cadieux stated that the community still has an interest in how the land might be utilized, for example, the community may not want an industrial site set up in that location but, of course, once the deed restriction is removed it is entirely up to the land owner.
3. R. Wilkes said that when the land was sold by the borough there was no land use zoning restrictions and it is still the case so the deed restriction is irrelevant anyway. He said that he ran into issue during the financing for the land and that the title company said that they had run into this issue a fair bit.
4. J. Cadieux asked if R. Wilkes was familiar with the Cooper Landing Land Use Plan.
 1. He said yes. He said that the place was built as a single-family residence though it has been used off and on as a B&B and that a number of documents state the highest and best use of the land is as a single-family residence.
5. H. Harrison moves to recommend the removal of the deed restriction on the land. D. Story seconds. All approve by roll call vote.
2. Ordinance 2022-XX An Ordinance Authorizing the Release of a Portion of a Conservation Easement Deed Restriction on a Parcel of Land Located in Cooper Landing and to Acquire a 30-Foot-Wide tract of Land and Classify Three, 30-Foot-Wide Tracts of Land as Government. "Three Bears" property.
 1. M. Mueller reported for KPB
 2. Replating the frontage of A,B, and C tracts. Two borough properties and one private: Tract A is the Transfer Station, Tract C is where QAP is staging for the MP 45-60 Project and is slated to be used as commercial property according to the local land management plan, and Tract B is Three Bears' property.
 3. This facilitates a frontage road from Quartz Creek Rd. to the Solid Waste Transfer Site.
 4. The frontage road concept was brought up by DOT to address safety concerns and reduce the number of highway turnouts on the new alignment and the surrounding areas.
 5. Three Bears has interest because the frontage road occupies the some of the same space as a conservation easement along this area.

6. This ordinance deals with parts of that starting with Tract B it would authorize the release of the conservation easement as it is written and is framed as a modification of a deed restriction. The three sides other than the one facing Dena'ina Creek would be released from the conservation easements that exist on that deed.
7. The 30' strip of land on the new alignment side would be conveyed from Three Bears to KPB and the cost of it would be, at least in part, considered the cost of the release of the deed restriction for the conservation easements.
8. To apply government designation to the newly created tracts A2, B2, C2 and would be managed in the public interest.
9. This ordinance would take effect when the new plat is recorded.
10. M. Mueller said that when the KPB conveyed Tract B originally the value of the conservation easement was not included. In this ordinance the value of the conservation easement and frontage road language is meant to help explain the process of making all parties whole
11. Q: K. Recken asked what "management for public benefit" means.
 1. A: M. Mueller said that the way he sees that rolling out is the Cooper Landing planning processes – functions of APC etc. – would mean the management of that would be deliberative. The immediate management of it would be no different than the current – managing the vegetation as is there would be some spruce bark beetle mitigations etc. but that this might be where a community sign might be placed.
 2. Q: K. Recken asked about whether we were losing the conservation easement on the road side.
 1. A: M. Mueller said that the management of that strip is to maintain community interests for green space
 2. The ordinance states: "Whereas classifying the 30-foot tracts of land created by the Quartz Creek Subdivision Outfitters Way Replat as "government" would hold the land for community gateway greenspace uses that are beneficial to the public, providing for consistent management decisions under public processes."
 3. J. Cadieux stated there is no doubt that there is fear in the community of losing this greenspace even when it comes time to put a walking biking path etc.
12. R. Wilkes said that just from the sounds of it there is a 50' conservation easement that exists right now. If they do away with that easement and put a frontage road there it would end up with no trees in between the two roads.
 1. M. Mueller said that the clearing of Tract C has currently maintained tree cover 75' from the edge of the right-of-way

so there would still be 30' of greenspace with the proposed changes.

13. S. Baski shared his screen to show some of the designs of the proposed layout of the frontage road and the edges of its ditches and fill slopes.
14. Q: J. Cadieux asked how much of the new alignment ROW would be treed.
 1. A: S. Baski said that there is no guarantee that there will be any trees within that right-of-way other than what is explicitly noted in the project requirements.
15. Q: D. Story asked about the active transportation component of the frontage road design. People will be attempting to walk and bike in this travel corridor whether we plan for them or not.
 1. A: S Baski indicated no specific accommodation has been included in preliminary design.
16. Q: J. Cadieux seconded with a question about the KPB's intention to provide for safe active transportation. Just because the mistake has been made to not account for active transportation on frontage roads elsewhere doesn't mean we need to repeat that mistake. 60' has provided for these shared functions in other places and should probably do so in this one.
 1. Our community has already made it clear that we need to accommodate for safe active transportation in this corridor. If we recommend for this ordinance tonight we are not precluding that this wouldn't be included in the design but it cannot be at the expense of the greenspace because it is very clear that there is no guarantee of any treed buffer on the DOT ROW.
 2. Q: Can we make our recommendation include guaranteed integrity of the greenspace be maintained and accommodation for a separated pathway that would accommodate non-vehicular traffic?
 3. A: S. Baski said that when dealing with 60' of space it appears there is a lot of room there but actually there isn't. Ultimately compromises would have to be made if an active transportation facility were included. In urban areas it includes curbs and gutters to gain additional space but in the rural context it becomes less desirable and often just a paved shoulder is considered adequate.
 4. As of right now there has not been an official ask from the community to include those facilities.
17. Q: J. Cadieux asked whether the design speed would play into the width required for the shoulders.
 1. A: S Baski said not really.
18. Q: M. Mueller asked whether expanding the KPB Tract C ROW to 70' would make the concept more viable?

1. A: S Baski acknowledged it may.
2. K Recken and H Harrison reiterated that the proposed extra 10' could not be taken from the 30' greenspace.
19. D. Story moved to recommend supporting the ordinance if
 1. The 30' greenspace is maintained in its entirety
 2. Design of final plat includes a separated pathway within the right of way corridor along its length that connects to the Phase 1B separated pathway and is not within the maintained greenspace.
 3. H. Harrison seconds. All approve by roll call vote.
3. Conditional Use Permit to Chugach Electric Association to use rip rap and create a new alignment of Quartz Creek near the Dave's Creek Substation to keep water away from the substation.
 1. Cynthia Lowe is the project manager with HDR.
 1. She said they are trying to protect the upstream edges of the substation with rip rap. It will extend out about 100' to encourage Quartz Creek to flow back into its main channel.
 2. The intent is a one-time fix that would address future climatic or flood occurrences.
 3. If sinkholes keep developing as they have done in the last couple weeks they may need to add more rock to the front edge or go deeper with the rock and fabric. They have already re-designed to accommodate the sink holes and may need to again. The extension of rip rap in the current drawing before the APC has already been modified to sweep back closer to the CEA line and not as near the main Quartz Creek branch.
 2. C. Degernes moves to recommend approval of the permit application as proposed. K. Recken seconds.
 1. Q: K. Recken asked about the design plans should the sinkholes grow.
 2. A: C. Lowe explained the holes have already grown and the plans now include geotextile below almost 6-foot depth of class three rip rap to protect the station.
 3. All approve by roll call vote.

10. PLAT REVIEW - none

11. INFORMATION and ANNOUNCEMENTS - none

12. COMMISSIONER'S COMMENTS - none

13. ADJOURNMENT – C. Degernes moves to adjourn, K. Recken seconds. All approve. 7:56 p.m.

For more information or to submit comments please contact:

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

Hope/Sunrise Advisory Planning Commission
Regular Meeting Unapproved Minutes
7 PM: August 3, 2022
Hope Library and via Zoom

- A) The meeting was called to order at 7:04 by Jim Skogstad
- B) Members present were Jim Skogstad, Peter Smith, Jesse Maguire, Flip Foldager and Johnny Sorenson. Derrick Jabaay came in about 6 minutes late
- C) There was no oath of office but Planning members Johnny Sorenson and Peter Smith both have their appointment expiring. Applications to fill these positions are on the borough website. Johnny and Peter can also apply to have their positions renewed.
- D) The agenda was approved with the addition of Borough correspondence concerning Reclassification of the Borough land North of the Dirty Skillet.
- E) Minutes of June 8, 2022 were approved
- F) There were no participants at the meeting or via zoom.
- G) There was no correspondence.
- H) There was no report from the Borough other than mention of Robert Ruffner as Planning Director and a possible future administrative modification of APC's.
- I) Unfinished business of preparing a Hope community questionnaire continued. A sample questionnaire was discussed and suggested changes were proposed. The initial questionnaire was meant for property owners only. It was agreed that others who live in the community should also have a voice and be included. The questions asked will be rated 1 - 10 with 1 being not important and 10 being important. A proposed question of "Your concern about the downtown parking situation that occurs most summer weekends" was discussed at length. There is no off-street parking for any businesses in Hope, with the exception of Creekbend which has off-street parking for approximately 40 cars. It was discussed that the R/W for most streets in Hope is 40 ft. and 2nd Street from the Hope Highway to the museum the State R/W is over 130 ft. which would allow additional parking. A concern for "Noise levels that occur most weekends during the summer" was also discussed. Another question added was: "Is there a need to form a service area for fire/ems funding?" There was a concern about the dust on Resurrection Road and a new question will be added about "mitigation of dust on Hope area gravel roads." Commission members agreed that Hope residents and property owners enjoy living or owning a part of our friendly and vibrant community.
- J) There was no new business
- K) Items from Commission was a document from the borough as a step to change classification of a 250 ft. strip of property North of the Dirty Skillet between Bear

Creek and Bear Creek Road from "Preservation" to "Rural." This would allow the Dirty Skillet to apply for a borough lease to develop parking. A 250 buffer would be required from Bear Creek.

L) There were no other announcements.

M) The next meeting will be September 14 @ 7 P.M.

N) The meeting was adjourned at 8:15 P.M.

Any questions, please contact: Chair Jim Skogstad t 907-229-1430 or email:
akskogstad@aol.com.

**MOOSE PASS ADVISORY PLANNING COMMISSION
REGULAR MEETING**

Monica Adams, Kevin Dunham, Jeff Estes, Jeff Hetrick, Bruce Jaffa, Tsali Janek, David Pearson
Thursday, August 4th 2022, – 6:00 PM

AGENDA

1. CALL TO ORDER 6:01pm
2. ROLL CALL: Nancy Carver (KPB), Monika Adam, Kevin Dunham, Bruce Jaffa, David Pearson, Tsali Janek (zoom), Jeff Estes (@ 6:15pm), Jeff Hetrick (@ 6:30pm)
3. APPROVAL OF MINUTES OF PREVIOUS MEETING: Bruce Jaffa motion to approve, Kevin Dunham 2nd. Unanimous approval
4. APPROVAL OF AGENDA: Kevin Dunham motion to approve, David Pearson 2nd. Unanimous approval.
5. CORRESPONDENCE
 - a. Post Card PPMP re SOA DOR ROW. (It sounds like not everyone received this, though it was supposed to go into every PO Box in Moose Pass).
 - b. Letter from Bruce Jaffa re DMP 25.5 to 36. “What is a community” talks about the impacts of the DOT project.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE:
-Presentation from John Smart from Protect and Preserve Moose Pass. Every time slot for meeting with DOT to discuss the ROW acquisitions was filled. The community is very active. The August 2nd meeting was “chaotic” and lacked structure. DOT refused to hold it as a “town hall” style citing that it goes against their rules, but they may be able to set up something more like that in the future. Asked the community to provide them with a list of prepared questions before they come back down. Another article will be coming out on KDL.
7. PRESENTATION : None
8. REPORT FROM THE BOROUGH
 - a. Status of ROW Renaming Resolution 2022-02 – was approved by KPB Planning commission
 - b. Status of KPB Land Sales – set to proceed on August 13 by in-person “out-cry” auction
 - c. Status of KPB Lumber Sales – proceeding. There are concerns that local industry will not have sufficient means to deal with the volume of wood.
 - d. Expiring APC seats. Seats F and G expire at the end of September. These are Tsali Janek and Jeff Hetrick’s seats. Tsali Janek expressed that she will be unable to continue, but Jeff Hetrick will renew his seat.
 - e. Discussion amongst the KBP planning commission about offering the option for the APCs to convert to Community Councils. There are pros and cons to this. Community Councils not subject to Robert’s Rules. Robert Ruffner is planning on coming to talk to the APCs to discuss all of the pros and cons and bring more information. This idea has just come up in the last couple of weeks. APC has reserved comment until more information comes.
9. OLD BUSINESS
 - a. Review MP Demographics from 2020 MPSC:
Request from Bruce Jaffa for the APC to do some “homework and review the 2020 demographics. He will also provide this information to Nancy Carver to put on the Borough website.
 - b. MP Comprehensive plan Transportation and Historic landmarks

- This is something that was not adequately addressed in previous Comprehensive Plan. Recent events with the DOT project have highlighted the need to address historic landmarks and transportation in the upcoming revision.
- c. Discussion of DOT ROW process and letters from PPMP group in Moose Pass
 - If DOT were to come back down for an open house, the best venue would likely be to do it at one of the APC meetings.
 - Jeff Hetrick and Bruce Jaffa both brought up concerns related to the DOT Aug 2nd presentation. Primarily regarding DOT proposed work on Borough Roads. The following roads in particular:
 - Depot Road
 - Ewe Loop
 - Primrose Road
 - These concerns should be brought to Jed Painter, the acting Borough Roads Director. If we bring this information to Nancy Carver, she will pass it along.
- 10. NEW BUSINESS
 - a. Discuss and Approve the AKRR Falls Creek and Trail River Reconstruction of Bridges Permit Applications
 - Due to procedural errors between AKRR and their contractor, this proposal has been postponed but will likely come up again at next month's KPB Planning Commission meeting. It is recommended that the APC review the package and be prepared to offer comment at the next meeting. Jeff Estes expressed concern that the height of the new bridge will continue to impede boat traffic on a navigable waterway.
 - b. Discuss DNR ownership of MP Community Garden
 - The Moose Pass Sportsmen's Club brought this up with DOT. The land in front of the Sportsmen's Club actually belongs to DNR; though they have always treated it like it is ours. If the DOT wanted to take that land for the highway project, it would be very simple as they are "Sister Agencies".
 - Concerns as to what this would mean for the park and the solstice pavilion.
- 11. ANNOUNCEMENTS: Tsali Janek thanked the commission but announced that she will not be able to continue in her position past the end of September when her seat is set to expire.
- 12. NEXT MEETING September 8th at 6pm
- 13. COMMISSIONERS' COMMENTS: Bruce Jaffa thanked Tsali for her service on the APC. Sorry to see her go. No other commissioners had comment.
- 14. ADJOURNMENT 7:16pm

pt/planning-commissions/moose-pass-apc

Participants may join By ZOOM or phone:

<https://us06web.zoom.us/j/5787372110>

To Attend the Zoom meeting by telephone,
Call toll-free **888 788 0099 or 877 853 5247**

Meeting ID: 578 737 2110