

KENAI PENINSULA BOROUGH PLANNING COMMISSION
ASSEMBLY CHAMBERS
GEORGE A. NAVARRE ADMINISTRATION BUILDING
144 NORTH BINKLEY STREET
SOLDOTNA, ALASKA 99669

February 12, 2018 - 7:30 P.M.

APPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

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

AGENDA ITEM B. ROLL CALL

Commissioners Present

Paulette Bokenko-Carluccio, City of Seldovia
Cindy Ecklund, City of Seward
Robert Ernst, Northwest Borough
Diane Fikes, City of Kenai
Rick Foster, Southwest Borough
James Isham, Sterling
Virginia Morgan, East Peninsula
Robert Ruffner, Clam Gulch / Kasilof
Franco Venuti, City of Homer
Paul Whitney, City of Soldotna

With 10 members of a 13 member Commission in attendance, a quorum was present.

Staff Present

Nancy Carver, River Center Planner
Tom Dearlove, River Center Manager
Julie Denison, Land Management
Jordan Reif, Platting Technician
Ann Shirnberg, Land Management Administrative Assistant
Paul Voeller, Platting Officer
Bruce Wall, Planner

Others Present

Richard Derkevorkian
Chris Garcia
Laura Sievert
Curt Wilcox

AGENDA ITEM C. APPROVAL OF REGULAR AGENDA AND ADOPTION OF THE CONSENT
AGENDA

AGENDA ITEM C. CONSENT AGENDA

1. Time Extension Request
 - a. Nedosik Tracts Tulin Skyline Highland Time Extension
 KPB File 2000-130 [Johnson / Tulin]
 Location: Skyline Drive, Diamond Ridge; Kachemak Bay APC

2000

This subdivision was conditionally approved by the KPB Plat Committee on August 14, 2000, which was valid through August 14, 2001.

The final review letter was distributed on September 18. After the final review letter was issued, the owners advised staff that they did not want to record the plat in 2000.

2001

Administrative approval was granted on August 3, 2001, which extended preliminary approval to August 3, 2002.

2002 through 2018

The owner diligently requested time extension requests from 2002 through 2018 prior to each expiration of preliminary plat approval. The time extension requests were generally based on current market conditions.

The Planning Commission granted the time extension requests, which extended preliminary plat approval to January 25, 2018.

2018

On January 11, the surveyor submitted a request to extend preliminary approval because the owner would now like to finalize the plat.

There have been no changes in the area that would affect this plat.

Approval of the requested time extension will extend preliminary approval to 2020, which is 19 years after the initial preliminary plat approval. **Staff recommends** effective January 8, 2018, this plat be subject to review under the new subdivision code (KPB 20.25, 20.30, 20.40, and 20.60).

The owner is put on notice that only two more time extensions (two years each after this request) may be requested per KPB 20.25.110.

STAFF RECOMMENDATIONS: Extend preliminary plat approval for two years, through February 12, 2020, subject to the following:

1. Current utility reviews being submitted with the final plat.
2. The final plat must comply with current KPB Title 20.

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

END OF STAFF REPORT

*** Approved by Adoption of the Consent Agenda**

AGENDA ITEM C. CONSENT AGENDA

*2. Planning Commission Resolutions - None

AGENDA ITEM C. CONSENT AGENDA

*3. Plats Granted Administrative Approval

- a. Lorallyn Subdivision 2017 Addition; KPB File 2017-143

*** Approved by Adoption of the Consent Agenda**

AGENDA ITEM C. CONSENT AGENDA

- *4. Plats Granted Final Approval – None

AGENDA ITEM C. CONSENT AGENDA

- *5. Plat Amendment Request - None

AGENDA ITEM C. CONSENT AGENDA

- *6. Utility Easement Vacation

- a. Vacate the remainder of the 20' utility easement, 10' on each side of the shared lot line between Lots 2 and 3 Block Four Parsons Lake Shores Subdivision, granted by Parsons Lake Shores Subdivision (Plat KN 84-205); within Section 18, Township 7 North, Range 11 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2017-177V

STAFF REPORT

PC Meeting: 2/12/18

Purpose as stated in petition: Two lots are being combined into one parcel. The vacation of the utility easement (which will be in the middle of the new parcel) will allow for the entire parcel to be used by the land owner.

Petitioners: Douglas and Rose Armstrong of Kenai, AK.

Location: off Vandevere Drive, in Nikiski

Notification: Notice of vacation mailings were sent by regular mail to 11 owners of property within 300 feet. Notice of the proposed vacation was emailed to 7 agencies and interested parties.

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

Comments Received:

Alaska Communications Systems: No objections

ENSTAR Natural Gas: Approved as shown on Parsons lake Shores Subdivision Armstrong Replat.

GCI: No objection

Homer Electric Association: Request a 10-foot wide electrical distribution line easement centered on the existing UG electric line.

State Department of Transportation: No objection/concern regarding the easement vacation request.

Staff Discussion: If the vacation is approved, it will be finalized by recording Parsons Lake Shores Subdivision Armstrong Replat. The Plat Committee granted conditional approval to the preliminary plat on January 8, 2018.

Parsons Lake is part of the Anadromous Habitat Protection District, which is protected by KPB 21.18.

Findings:

1. The Planning Commission approved a partial vacation of the 20-foot utility easement centered on the line common to Lots 2 and 3, Block 4, KN 84-205, by adoption of Planning Commission Resolution 90-13.
2. ACS, ENSTAR, and GCI have provided written statements of non-objection to the vacation.
3. HEA provided a comment requesting a 10' wide electrical distribution line easement centered on the existing underground HEA electric line.
4. Parsons Lake Shores Subdivision, Plat KN 84-205, granted 20' utility easement, 10' on each side of the shared lot line between Lots 2 and 3 Block Four.
5. Lots 2 and 3, Block Four, front Vandevere Drive to the south, the portion of which is not borough maintained.
6. Per the petition, the owners plan to combine Lots 2 and 3 Block Four Parsons Lake Shores Subdivision, Plat KN 84-205, and the vacation of the utility easements, which will be in the middle of the new parcel, will allow for the entire parcel to be used by the land owner.
7. Per Plat Note 5 on KN 84-205, the front ten feet of the building [setback SIC] will serve as a utility easement.
8. The section line to the east has a 66-foot section line easement, which can be used for utility purposes.
9. Lots 4 and 5, Block 4, KN 84-205, have a 20-foot utility easement on the common lot line.
10. Lot 1, Block 4, KN 84-205, has a 10-foot utility easement along approximately half of its western boundary.
11. No surrounding properties will be denied utilities.

Based upon the above findings, **staff recommends** granting the vacation, subject to granting the utility easement per HEA's December 27, 2017 review of the requested utility easement vacation.

NOTE: Action after denial of vacation (KPB 20.70.120)

- A. **Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. **Upon denial by the planning commission, 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.**

END OF STAFF REPORT

*** Approved by Adoption of the Consent Agenda**

AGENDA ITEM C. CONSENT AGENDA

- *7. Commissioner Excused Absences
 - a. Syverine Abrahamson-Bentz, Ninilchik / Anchor Point
 - b. Blair Martin, Kalifornsky Beach
 - c. Harry Lockwood, Ridgeway

AGENDA ITEM C. CONSENT AGENDA

- *8. Minutes
 - a. January 22, 2018 Plat Committee Minutes
 - b. January 22, 2018 Planning Commission Minutes

MOTION: Commissioner Carluccio moved, seconded by Commissioner Ecklund to approve the consent,

regular agenda and the January 22, 2018 Plat Committee & Planning Commission minutes. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

AGENDA ITEM D. PUBLIC COMMENT / PRESENTATIONS / COMMISSIONERS

Vice Chairman Ruffner asked if there were members of the public who would like to address the commission for items not listed on the agenda. Hearing none, the meeting continued.

AGENDA ITEM E. UNFINISHED BUSINESS - None

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate Horwarth Street, a 30-foot wide right-of-way adjoining the eastern lot line of Tract D-1 of Ten-Mar Ranch Bowser Addition as dedicated on Ten-Mar Ranch Bowser Addition, Plat KN 2004-115. The right-of-way being vacated is unconstructed and located within the SW1/4 SW1/4 of Section 18, T5N, R9W, S.M., AK, within the KPB. File 2017-112V.

Staff Report given by Paul Voeller

PC Meeting: 2/12/18

Purpose as stated in petition: The right-of-way that is being dedicated is not used for access to any parcels. There is no connection from any other right-of-ways to the right-of-way that is being vacated. It is essentially a "landlocked" right-of-way. The parcels in the parent plat are being combined into one lot. If the property is subdivided in the future then right-of-way dedication will occur at that time to provide access to all parcels.

Petitioners: Timothy L. and Marian S. Bowser Trust and Maurice I. Hughes of Soldotna, AK.

Notification: Public notice was published in the February 1 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the February 8 issue of the Peninsula Clarion as part of the Planning Commission's tentative agenda.

Eleven certified mailings were sent to owners of property within 300 feet of the proposed vacation. Eight receipts have been returned to date.

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

Notice of the proposed vacation was emailed to twelve agencies and interested parties.

The public hearing notice was made available to ten KPB Departments via a shared database.

Notices were mailed to the Sterling Post Office and Soldotna Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

Homer Electric Association: Carry forward the 15-foot utility easement per KN 2004-006396.

KPB Planner: This proposed plat is located within the Ten Mar Ranch Local Option Zoning District. The zoning designation for this property is Single-Family Residential (R-1). The proposed vacation is not in conflict with the requirements of the R-1 District. The property will continue to be subject to the land use regulations contained in KPB 21.44 generally, and specifically KPB 21.44.160.

There are not any material site issues with this proposed plat.

KPB Code Compliance: No comments.

KPB Roads Department: No comments.

Staff Discussion: Recordation of Stone Hollow Estates Phase 1 (KN 2008-87) to the north dedicated Howarth Circle, which is directly aligned with Horwarth Street. Howarth Circle, a cul-de-sac, is a permanently closed street which cannot connect with Horwarth Street in the future. KN 2008-87 provided a 60-foot through dedication (Stone Hollow Drive), which is now KPB maintained. Stone Hollow Drive in KN 2008-87 connected with the existing Stone Hollow Drive to the south, which was constructed and connected with Ten Mar Avenue.

The preliminary plat that will finalize the vacation, if it is approved, is scheduled for Plat Committee review on February 26. An exception to block length will be required for the plat. The plat will eliminate a flag lot with a panhandle that is less than 60 feet wide and more than 700 feet long.

The parent plat did not grant a utility easement within the building setback of Horwarth Street.

Findings:

1. The proposed vacation is not a conflict with the requirements of the zoning district, R1 Single-Family Residential.
2. KPB Roads Department had no comments regarding the proposed vacation.
3. Howarth Circle, a cul-de-sac that is directly aligned with Horwarth Street, is a permanently closed street which cannot connect with Horwarth Street in the future.
4. Stone Hollow Drive, Ten Mar Avenue, Deville Road, Flatstone Avenue, a portion of Howarth Street, and Moose Range Drive are maintained by the KPB Roads Department.
5. Robinson Loop Road is maintained by the State of Alaska.
6. Per 2016 imagery, Howarth Street between Julie Bowman Avenue and Moose Range Drive is not yet constructed.
7. The block is served by 60-foot wide KPB maintained Stone Hollow Drive, which is approximately 250 to 400 feet east of Horwarth Street.
8. Stone Hollow Drive connects with Ten Mar Avenue, Deville Road, and the Sterling Highway to the south
9. Stone Hollow Drive connects with Flatstone Avenue, Howarth Street, Moose Range Drive, Robinson Loop Road, and the Sterling Highway to the north and northwest.
10. Howarth Street is not on a section line.
11. Lots in the subdivision to the east and north are served by KPB maintained rights-of-way Stone Hollow Drive, Flatstone Avenue, and the constructed portion of Howarth Street.
12. Tracts G, H, and I, KN 2000-51, to the south are served by KPB maintained rights-of-way Ten Mar Avenue and Deville Road.
13. Per the submittal, the right-of-way proposed for vacation is not in use for access.
14. Sufficient rights-of-way exist to serve surrounding properties.
15. No surrounding properties will be denied access.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacation as petitioned, subject to:

1. Consent of the KPB Assembly.
2. Submittal of the final plat in accordance with Chapter 20 of the KPB Code within a timeframe such that recordation of the plat can occur within one year of vacation consent.
3. Carry forward the 15-foot utility easement per KN 2004-006396.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Vice Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Foster moved, seconded by Commissioner Carluccio to approve of the vacation of Horwarth Street, a 30-foot wide right-of-way based on the following findings of fact.

Findings:

1. The proposed vacation is not a conflict with the requirements of the zoning district, R1 Single-Family Residential.
2. KPB Roads Department had no comments regarding the proposed vacation.
3. Howarth Circle, a cul-de-sac that is directly aligned with Horwarth Street, is a permanently closed street which cannot connect with Horwarth Street in the future.
4. Stone Hollow Drive, Ten Mar Avenue, Deville Road, Flatstone Avenue, a portion of Howarth Street, and Moose Range Drive are maintained by the KPB Roads Department.
5. Robinson Loop Road is maintained by the State of Alaska.
6. Per 2016 imagery, Howarth Street between Julie Bowman Avenue and Moose Range Drive is not yet constructed.
7. The block is served by 60-foot wide KPB maintained Stone Hollow Drive, which is approximately 250 to 400 feet east of Horwarth Street.
8. Stone Hollow Drive connects with Ten Mar Avenue, Deville Road, and the Sterling Highway to the south
9. Stone Hollow Drive connects with Flatstone Avenue, Howarth Street, Moose Range Drive, Robinson Loop Road, and the Sterling Highway to the north and northwest.
10. Howarth Street is not on a section line.
11. Lots in the subdivision to the east and north are served by KPB maintained rights-of-way Stone Hollow Drive, Flatstone Avenue, and the constructed portion of Howarth Street.
12. Tracts G, H, and I, KN 2000-51, to the south are served by KPB maintained rights-of-way Ten Mar Avenue and Deville Road.
13. Per the submittal, the right-of-way proposed for vacation is not in use for access.
14. Sufficient rights-of-way exist to serve surrounding properties.
15. No surrounding properties will be denied access.

VOTE: The motion passed by unanimous consent.

BENTZ ABSENT	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER YES	ISHAM YES
LOCKWOOD ABSENT	MARTIN ABSENT	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

AGENDA ITEM F.

PUBLIC HEARING

2. State application for a marijuana establishment license; Kasilof/Cohoe Area

Staff Report given by Bruce Wall

PC MEETING: February 12, 2018

Applicant: Althea's Morning Bear Cultivation

Landowner: John E Norden and Margaret Norden Wood

Parcel ID#: 137-230-59

Legal Description: Lot 33, Benchmark Subdivision Renault 1986 Subdivision of Tract D, according to Plat 86-122, Kenai Recording District.

Location: 21565 Evelyn May St

BACKGROUND INFORMATION: On January 3, 2018 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On January 8, 2018 the applicant supplied the borough with a signed acknowledgement form and a site plan on January 3, 2018 of the proposed Limited Marijuana Cultivation Facility on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on January 8, 2018. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.
5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.
 - The site plan indicates that the approach is or will be constructed to a minimum width of 28 feet where it accesses the right-of-way.
 - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
 - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
 - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.
6. Because this application is for cultivation the hours of operation for a retail store is not applicable.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,

- protection against road damage,
- protection against criminal activity, and
- protection of public safety.

The Alaska Marijuana Control Board will impose a condition a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

PUBLIC NOTICE: Public notice of the application was mailed on January 23, 2018 to the 7 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the February 1, 2018 & February 8, 2018 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on January 24, 2018.

ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Site Plan
- Acknowledgement form
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

END OF STAFF REPORT

Vice Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Morgan to recommend approval of Althea's Morning Bear Cultivation a Limited Cultivation Facility License according to staff recommendations, findings and to recommend that the following three conditions be placed on the state license.

Conditions

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

VOTE: The motion passed by unanimous consent.

BENTZ ABSENT	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER YES	ISHAM YES
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LOCKWOOD ABSENT	MARTIN ABSENT	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT
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AGENDA ITEM F. PUBLIC HEARINGS

- Ordinance 2018-___; Authorizing the Negotiated Lease of Office and Meeting Space at the Nikiski Community Recreation Center.

Memorandum and Staff Report given by Julie Denison

PC MEETING 2/12/18

The Nikiski Community Recreation Center (“NCRC”) is a former elementary school building that was repurposed and is operated by the North Peninsula Recreation Service Area (“NPRSA”). The Alaska Gasline Development Corporation (“AGDC”) has inquired about renting space within the NCRC for temporary office and meeting space with respect to its current work on the Alaska LNG project. The NCRC affords a central location in relation to the parts of the project that are outlined on the Kenai Peninsula.

The property was jointly inspected and found to be suitable for their intended use of operating a local office with available meeting space and a lease agreement has been drafted for an initial six month period with month-to-month extensions thereafter by mutual agreement.

The lease rental for a 462 square foot room would be \$1,252.02 per month to be received by North Peninsula Recreation Service Area. The lease revenue would help to offset NPRSA’s operational and building costs.

Borough code does not specifically address the leasing of building space. The requirements of KPB 17.10 for the leasing of land are not applicable to the leasing of building space. While KPB 17.10.100(l) authorizes this negotiated lease, the ordinance provides that other provisions of KPB 17.10 including land classification, notice of disposition, lease types, lease terms and conditions, and general conditions are inapplicable here

The attached ordinance would authorize the mayor to lease one classroom space at the NCRC to AGDC for office and meeting space.

The next scheduled meeting of the planning commission is February 12, 2018, at which time it will consider this ordinance and submit its recommendations to the assembly before the February 20, 2017, hearing on this ordinance. Consideration of this ordinance is appreciated.

END OF MEMORANDUM AND STAFF REPORT

Vice Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Ernst to recommend approval of KPB Ordinance 2018-___; Authorizing the Negotiated Lease of Office and Meeting Space at the Nikiski Community Recreation Center per staff recommendations.

VOTE: The motion passed by unanimous consent.

BENTZ ABSENT	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER YES	ISHAM YES
LOCKWOOD ABSENT	MARTIN ABSENT	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION (KPB 21.18)

- A Conditional Use Permit (CUP) is requested pursuant to KPB 21.18 to conduct work along two anadromous fish streams within the 50-foot Habitat Protection District (HPD) as established in KPB 21.18.040. The proposal is to improve Beaver Loop Road and add a pedestrian pathway from

milepost (MP) 0.0 to MP 3.75. To accommodate the construction season, the applicant is requesting that the expiration date for this conditional use permit be extended to the summer of 2019.

KPB Planning Commission Resolution 2018-02

Staff Report given by Nancy Carver

PC MEETING: February 12, 2018

Applicant: Alaska Department of Transportation & Public Facilities (ADOT)
P.O. Box 196900
Anchorage, Alaska 99519

Project Location: The proposed project is located within Sections 1-2, 4, 9-11, and 36, Townships 5N and 6N, Range 11W, on USGS Quad Maps Kenai C-3 and C-4, Seward Meridian.

Kenai Peninsula Borough (KPB) Parcel Number: None – ADOT Rights-of-Way along Beaver Loop Road

BACKGROUND INFORMATION

The purpose of the project is to extend the service life of Beaver Loop Road by enhancing safety and drivability, improving drainage within the corridor, and providing connectivity to the City of Kenai's pedestrian pathway system. The road currently exhibits potholes, cracking and wheel path rutting. Several drainage and in-stream culverts are reaching the end of their useful life and demonstrate rusting, and damaged inlets and outlets. Roadside ditches, where present, are overgrown with vegetation or filled with debris. There are a total of four streams that will have work conducted within this project, but only two of the streams are under the authority of the 50-foot Habitat Protection District.

Project Details within the 50-foot Habitat Protection District

In addition to resurfacing Beaver Loop Road, proposed work within the HPD would include the following:

- Raise the vertical road profile
- Construct an 8-foot wide pedestrian pathway along the south side of the roadway
- Widen the roadway to provide shoulders
- Replace existing drainage and in-stream culverts, including fish passage as necessary
- Reconstruct driveways and approach roads as needed
- Improve drainage, clear vegetation, replace/install guardrail, signs, and striping as needed
- Add right-turn pockets at the intersections of Bridge Access Road and Kenai Spur Highway
- Relocate utilities as needed

The proposed project will require the excavation and permanent placement of fill (riprap, borrow) below ordinary high water (OHW) of two anadromous fish streams, one resident fish stream and replace structurally deficient culverts. All fill and dredging activities at the proposed culvert replacement locations will be performed for the purpose of placing the new culverts, riprap, and headwalls for stream restoration and enhancement. Any dredged material will be reused to the greatest extent practicable in the area immediately adjacent to the dredge site; material not re-used will be disposed of at an Alaska Department of Environmental Conservation (ADEC) approved facility.

Approximately 1,400 cubic yards (cy) of fill (rip rap, borrow) will be permanently placed on 0.16 acres of wetlands and other waters to widen the road, install a pedestrian pathway, replace and repair culverts and improve drainage. Approximately 1,300 cy of native material and existing fill will be excavated from wetlands and other waters and replaced with new fill material.

Table 1: Fish Passage and Culvert Details

Project Component	Location	Fish Passage Design Criteria	Culvert Length	Culvert Diameter	Fill Vol. (cy)	Fill Area (sq. ft.)	Dredge Vol. (cy)
		Design Details			Below OHW		
Culvert Replacement	"Boat Launch Creek" MP 0.16 AWC#244-30-10010-2007	Tier 1	110'	8'7" x 5'11" arch pipe	66	445	66
	Unnamed resident fish stream MP 0.42	Tier 1	70'	5'	36	327	36
	Unnamed stream MP 1.1	N/A	61'	48"	39	353	55
	"Cone Creek" MP 1.5 AWC#244-30-10010-2015	Tier 1	72'	5'	25	227	25

STAFF SITE VISITS

River Center staff conducted site visits on January 9th and 16th, 2018. Photos from the site visits are attached to this staff report (see figures 5 - 8).

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 21.18.081(B)(5), Transportation and utility infrastructure may be approved as conditional structures within the Habitat Protection District.
3. Culvert replacements will require temporary modifications to drainage areas, including stream diversion to maintain flow.
4. All proposed work will occur within the right-of-way and should not have an adverse effect on neighboring properties.
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. At this time, the applicant is in compliance with other Borough permits and ordinance requirements.
7. The River Center found the application complete and scheduled a public hearing for February 12, 2018.
8. Public notice was mailed to property owners within a radius of 300 feet (KPB 21.11.030) of the project on January 18, 2018. A total of 101 mailings were sent.
9. Public notice was published (KPB 21.11.020) in the Peninsula Clarion on February 1 and 8, 2018.
10. Agency review was distributed on February 2, 2018. No comments or objections were received from resource agencies to date.
11. Staff finds the proposed project is consistent with applicable planning documents and borough code including the Kenai Peninsula Borough Comprehensive Plan, Kenai Peninsula Borough Coastal Management Plan, and KPB 21.06 Floodplain Management.

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 to the Habitat Protection District, an increase in ground or water surface pollution, and damage to riparian wetlands and riparian ecosystems.**

- **Finding 3** – Culvert replacements will require temporary modifications to drainage areas, including stream diversion to maintain flow.
 - **Condition 1** – A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
 - **Condition 2** – Any temporary fill placed to facilitate installation of the culverts, including stream diversion techniques, would be removed upon project completion (or as required by permitting agency stipulations) and revegetated as described in Ground Disturbance and Stabilization.
 - **Condition 5** – Temporary erosion and sediment control measures such as fiber rolls and temporary seeding will be used as necessary to stabilize disturbed soils until final stabilization is achieved.
 - **Condition 6** – Salvaged vegetative material and woody vegetation will be placed along the reconstructed stream channels to stabilize the stream bank and restore riparian function at AWC#244-30-10010-2007. Other disturbed streambanks along the project corridor will receive topsoil and seed.
 - **Condition 7** – 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. A plan will need to be submitted showing proposed planting locations, and include a variety of native species appropriate for the site.
 - **Condition 8** – All disturbed areas, including those receiving riprap, will be covered in topsoil and seeded with native species recommended for the region.
2. **Granting the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, or other applicable chapters of the borough code, and other applicable planning documents adopted by the borough.**
- **Finding 8** – Public notice was mailed to property owners within a radius of 300 feet (KPB 21.11.030) of the project on January 18, 2018. A total of 101 mailings were sent.
 - **Finding 9** – Public notice was published (KPB 21.11.020) in the Peninsula Clarion on February 1 and 8, 2018.
 - **Finding 10** – Agency review was distributed on February 2, 2018. No comments or objections were received from resource agencies to date.
 - **Finding 11** – Staff finds the proposed project is consistent with applicable planning documents and borough code including the Kenai Peninsula Borough Comprehensive Plan, Kenai Peninsula Borough Coastal Management Plan, and KPB 21.06 Floodplain Management.
3. **The development of the use or structure shall not physically damage the adjoining property.**
- **Finding 4** – All proposed work will occur within the right-of-way and should not have an adverse effect on neighboring properties.
4. **The proposed use or structure is water-dependent.**
- **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 or owner's compliance with other borough permits and ordinance requirements.**
- **Finding 6** – At this time, the applicant is in compliance with other Borough permits and ordinance requirements.

Permit Conditions

1. A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
2. Any temporary fill placed to facilitate installation of the culverts, including stream diversion techniques, would be removed upon project completion (or as required by permitting agency stipulations) and revegetated as described in Ground Disturbance and Stabilization.
3. Vegetation clearing will be required for equipment access and culvert replacements.
4. Vegetation clearing will be timed to protect migratory birds.
5. Temporary erosion and sediment control measures such as fiber rolls and temporary seeding will be used as necessary to stabilize disturbed soils until final stabilization is achieved.
6. Salvaged vegetative material and woody vegetation will be placed along the reconstructed stream channels to stabilize the stream bank and restore riparian function at AWC#244-30-10010-2007. Other disturbed streambanks along the project corridor will receive topsoil and seed.
7. 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. A plan will need to be submitted showing proposed planting locations, and include a variety of native species appropriate for the site.
8. All disturbed areas, including those receiving riprap, will be covered in topsoil and seeded with native species recommended for the region.
9. Fuel storage within the Habitat Protection District is not allowed.
10. The River Center shall be notified at least 3 days prior to the start of the project.
11. The Planning Commission may consider additional conditions to mitigate habitat loss.
12. 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.
13. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
14. 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)).
 - To accommodate the construction season, the applicant is requesting that the expiration date for this Conditional Use Permit be extended to the summer of 2019.
15. 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).
16. 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.
17. 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)).

Staff recommends the Kenai Peninsula Borough Planning Commission authorize the issuance of a Conditional Use Permit for the replacement of culverts, safety improvements, pedestrian pathway, and widening of Beaver Loop Road with the permit conditions as set forth in the Staff Report.

It is recommended that the Planning Commission adopt Findings 1-11 and Permit Conditions 1 – 17.

The Planning Commission could consider additional options to mitigate for habitat loss and to manage the use and activities on the proposed road improvement if it chooses. If the Planning Commission does impose additional conditions, those conditions should be inserted in the permit and findings supporting the conditions should be adopted.

Attachments

Multi-Agency Application
Site Visit Photos
Public Notice/Location Maps
Agency Comments:

- City of Kenai, Sean Wedemeyer, Public Works Director
- Alaska Department of Fish & Game Permits
- Kenai Peninsula Borough Floodplain Development Letter

Note: An appeal of a decision of the Planning Commission may be filed 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 \$300 filing and records preparation fee.

END OF STAFF REPORT

Vice Chairman Ruffner understood that they were only looking at the two culverts that affect the Anadromous Streams Ordinance. Ms. Carver replied yes.

Vice Chairman Ruffner read the rules.

Vice Chairman Ruffner opened the meeting for public comment.

1. Curt Wilcox, 3329 Beaver Loop

Mr. Wilcox was a 25 year resident at this location. He was familiar with the one culvert at Cone Creek especially because the Cone property borders his property.

Mr. Wilcox stated that one of the project details within the 50 foot habitat was replacing existing drainage to improve drainage. His understood that this would go all the way 50 feet from the centerline of each side with declaring and grubbing. They are talking about a lot more than 50 feet within the culverts. A drainage system would be created that encompasses almost several hundred feet. He doesn't know how many acres but according to Sheet 2 the entire project when clearing grub would be 33.6 acres of clearing and 25.6 acres of grubbing. Mr. Wilcox thought this would significantly affect the drainage along Beaver Loop. There is already a healthy ecosystem with no current drainage problems. He thought they would be creating a problem by clearing and grubbing which would be a detriment to these drainage culverts. Mr. Wilcox has a problem with clearing and grubbing all the way out to the 50 foot centerline. His neighbors have nice birch trees 47 feet from the centerline and asked if those would have to be cut down. He thought this clearing and grubbing needs to be addressed as a whole by this mission especially regarding these culverts which will create detrimental drainage that will end up in the Kenai River.

Vice Chairman Ruffner asked if there were questions for Mr. Wilcox.

Commissioner Isham asked if staff had any answers for Mr. Wilcox. Ms. Carver replied that for every tree that was cut within the 50 feet would have to be replanted for 2:1. Also the vegetation will need to be replaced. She stated they will also bring in soil and spray with native grass seed. It is required that they have to come back to make sure vegetation was taking place.

Vice Chairman Ruffner understood that Mr. Wilcox's concerns were greater than stuff right around the culvert because they would be clearing much more distance than that. He asked if he understood that correctly. Mr. Wilcox replied yes, but it will ultimately end up in the culvert. Right now there was a system in place that would be hard to replicate. He felt this was issues that "if it's not broke then don't fix it".

There being no further comments or questions, the public hearing continued.

2. Chris Garcia, 2528 Beaver Loop Rd.

Mr. Garcia has been at this location since the middle 1970's. He didn't realize exactly what the meeting was about because he just received notification of this meeting.

Mr. Garcia understood that all they were talking about was the culverts, trees and the drainage and was not talking about the whole road project.

Vice Chairman Ruffner replied that was correct. The codes that were relevant for this body to address are the things that happen within 50 feet of the creek.

Mr. Garcia stated that he couldn't do anything but totally agreed with Mr. Wilcox's testimony that they are going to make a mess out of things that aren't broken. There are several properties along there that are treed very nicely that all those trees would be coming out of there. It is a shame to be losing all of that. In his own opinion, he felt they weren't accomplishing anything by this project other than making Beaver Loop a speedway which they don't need.

Mr. Wilcox asked that the planning commission talk to the State about this and ask why they are doing this especially at this time when the State was financially broke. He questioned why they were wasting millions of dollars doing something that doesn't need to be done. Mr. Wilcox felt that this makes zero sense to him. He asked what the cost of this project would be and stated that he could not find anyone who could answer this question.

Commissioner Foster asked if this was within the City of Kenai. Mr. Garcia replied yes it was. Commissioner Foster wondered if the City of Kenai could help them out with this. Mr. Garcia replied that the mayor of the City of Kenai stated that this was a top priority without asking what the thoughts were of the citizens. He has been to every meeting that he knows about that has anything to do with this and basically all they get is lip service. They tell the people that their opinions mean something but they ignore them. They tell them one thing at one meeting and something else at the next meeting.

Mr. Garcia has asked everyone he can about how much this was going to cost and nobody knows. It seems stupid to him that they are planning a project that nobody knows what it was going to cost. He was available to answer questions.

Vice Chairman Ruffner asked if there were questions for Mr. Garcia.

Vice Chairman Ruffner reiterated that their authority does not cover the majority of things that Mr. Garcia expressed concern about. Their decision was based on what happens right around the creek.

3. Richard Derkevorkian, 1306 Barabara Drive

Mr. Derkevorkian stated that he had a different opinion about Beaver Loop since he would like to see it get redone. He felt that it would get someone killed if it doesn't get done since it was a terrible road that had no shoulders and bike path.

Mr. Derkevorkian felt that the Anadromous Stream act was a joke. Before that act they pretty much dredged or did whatever they wanted to on any body of water on the Kenai Peninsula with very little effect on the fish. He felt they waste a lot of money trying to protect the 50 feet on either side of a stream. It's a tree and he felt they would grow back.

Mr. Derkevorkian felt that if they hold up a project like this over not permitting because of a couple of little creeks and culverts then eventually it could cost them someone's life. He urged the commission to vote for the issuance of the permit to get the work done.

Vice Chairman Ruffner asked if there were questions for Mr. Derkevorkian. Hearing none, the public hearing continued.

4. Laura Sievert, 3329 Beaver Loop

Ms. Sievert felt that part of the problem was that the notice did not specify that it was limited to just the two culverts involving the Anadromous Stream Act. People are here because they really have no one to talk about this road project.

Ms. Sievert agreed with the last testifier in that she would like to see this project move forward but also agreed with Mr. Garcia and Mr. Wilcox in that she didn't see the need for clearing, grubbing, hydro seeding and ditching along the whole length of the road. She stated that she was not a hydrologist but couldn't imagine taking up all the native vegetation and clearing the trees can actually be good for this part of the Kenai watershed.

Ms. Sievert stated that were public meetings in 2014 and 2015 and has been into the City to talk about excessive streets lights they are adding on the road. She felt that they won't talk to them. The State takes comments but there was no more public discussion. Some of the things like clearing and grubbing were not made clear at these meetings. Ms. Sievert believed that most of the people felt that things have just been sprung on them. That is why most of the people have showed up at this meeting but obviously this was not the right place or the right people to talk to. She appreciated what the Borough has done with the buffer and urged the Commission to approve the permit to fix the two culverts.

Vice Chairman Ruffner asked if she owned property on one of those streams that have the 50 foot regulation. Ms. Sievert replied that they live in the old Haulier homestead house and owns 10 acres that used to be part of the Cone Haulier gravel pit. She stated there was a small anadromous pond there with Cohoe and Dolly Varden fish which drains out into that Cone culvert.

Vice Chairman Ruffner asked if the 50 foot Anadromous stream regulation has been a detriment to her. Ms. Sievert replied no and felt that it should be bigger than 50 feet.

Vice Chairman Ruffner asked if there were questions for Ms. Sievert. Hearing none the public hearing continued.

Seeing and hearing no one else wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Isham to approve PC Resolution 2018-02, a resolution granting approval of a conditional use permit to conduct work along two anadromous fish streams within the 50-foot Habitat Protection District.

Commissioner Ecklund asked for clarification regarding the title of the resolution. The title on the resolution states that it improves the roadway, pedestrian pathway and the 50 foot, not just those two culverts. She wondered if it was wrong since they look at things within the 50 foot setback. Ms. Carver replied that the resolution was granting approval to conduct work along two anadromous fish streams which was just the two culverts that they have jurisdiction over.

Commissioner Ecklund asked if the title on page 87 was different than what was on the agenda. Ms. Carver believed the agenda states that it will conduct work. Commissioner Ecklund stated that the title on the resolution was different than what was on the agenda. Vice Chairman Ruffner felt that the confusion may be that the resolution title was different on the agenda which talks more generic about the project as a whole. The motion was to approve Resolution 2018-02 which has the title associated with it.

Commissioner Ecklund stated that she wants to approve those things that they can approve. She wasn't sure she wanted to approve cutting full grown birch trees and expressed concern for erosion. If the culverts are bad then she approved replacing the culverts. The culverts were the only thing being approved on their agenda.

Vice Chairman Ruffner replied that there was no reason they couldn't make comments to DOT. The Commission does not have the authority to make recommendations outside their authority.

Commissioner Isham asked if staff had a procedure for replacing culverts. Vice Chairman Ruffner replied that he has done a number of these projects and had to go through the permitting process. The way that it works is that an application is brought to the River Center showing what was being proposed with engineer drawings. The River Center would then pass it around to the local permitting agencies. The applicant would get a Fish & Game Permit which looks at the details of the size of the culverts and what was being put inside it. The Borough's role in that was that it was consistent with the Fish & Game permit and to make sure that they are doing all the things that are required in KPB 21.18 which is the 50 foot Anadromous Waters Habitat Protection District. He stated that the Borough does not have any staff or expertise to look at the details of the culvert but just to make sure that they do the right things adjacent to the water body.

Commissioner Isham asked if there were quite a few people looking at these applications. Vice Chairman Ruffner replied yes with the culvert but the clearing was all DOT's issues. They are the ones that decide whether they think they need to clear within their right-of-way.

Commissioner Isham asked if they would be clearing within public lands. Vice Chairman Ruffner replied they would be within their right-of-way.

There being no further comments or questions, Vice Chairman Ruffner called for a roll call vote.

Ms. Shirnberg cited the actual resolution title into the record which states, "A resolution granting approval of a Conditional Use to conduct work along two anadromous fish streams within the 50-foot Habitat Protection District (HPD) as established in KPB 21.18.040. The proposed project is located within Alaska Department of Transportation & Public Facilities (ADOT) Rights-of-Way along Beaver Loop Road, within Sections 1-2, 4, 9-11, and 36, Township 5N and 6N, Range 11W, on USGS Quad Maps Kenai C-3 and C-4, Seward Meridian."

VOTE: The motion passed by unanimous consent.

BENTZ ABSENT	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER YES	ISHAM YES
LOCKWOOD ABSENT	MARTIN ABSENT	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

AGENDA ITEM H. VACATIONS NOT REQUIRING A PUBLIC HEARING – None

AGENDA ITEM I. SPECIAL CONSIDERATIONS - None

AGENDA ITEM J. SUBDIVISION PLAT PUBLIC HEARINGS

Chairman Ecklund reported that the Plat Committee reviewed and conditionally approved five preliminary plats and postponed one preliminary plat.

AGENDA ITEM K. OTHER/NEW BUSINESS

AGENDA ITEM L. ASSEMBLY COMMENTS – None

AGENDA ITEM M. LEGAL REPRESENTATIVE COMMENTS - None

AGENDA ITEM N. DIRECTOR'S COMMENTS - None

AGENDA ITEM O. COMMISSIONER COMMENTS

Commissioner Morgan stated that Cooper Landing dealt DOT with the construction of a bike path. She stated that persistence in dealing with DOT sometimes will save the trees. They have been successful with that in the past.

Commissioner Fikes stated that the City of Kenai had town hall meetings, have had comp plans and large amounts of discussion on it so there was opportunity. There is an upcoming opportunity this Wednesday to come and speak if someone wants to be heard and ask questions regarding the Beaver Loop project. She would like to see the improvements and agreed with Commissioner Morgan that someone can have an opinion on it and have input that can save some of the trees. There is power in the voice.

Commissioner Ernst encouraged everyone to drive very carefully home after this meeting.

Commissioner Foster thanked the Borough for giving him a place to sleep tonight. It was good to be back. He was in the Amazon Rainforest where it didn't rain.

Vice Chairman Ruffner stated that the Gravel Pit Taskforce has actually formed. He stated that he and Commissioner Isham are on the taskforce. They met one time to organize the taskforce. On the taskforce there are also a couple of Assembly members, a couple of Gravel Pit Operators, a former Assembly member, Brent Johnson and a landowner that had a gravel pit in her neighborhood. Vice Chairman Ruffner was elected as the chair of the taskforce. They are going to meet twice a month through the first week of June; the second and fourth Wednesdays from 2:00 p.m. to 4:00 p.m. He proposed at the next meeting that they not take public comment for the first four or five meetings to just get all the taskforce members up to speed. Also, he proposed have public meetings in the evenings to listen to the public. After that he proposed that they bring forth some written suggested changes so they can all deliberate and talk about them. Those changes would be voted on by the taskforce as a recommendation and then it would come back to the Planning Commission so they can talk about them prior to them being forwarded to the Assembly. The Clerk's Office is establishing a webpage where the members of the public can at any time send in their comments.

Commissioner Ecklund asked how the information was being advertised like the webpage, etc. She asked if the past comments from past hearings be presented to the taskforce. Vice Chairman Ruffner replied that they could do that but that wasn't something that he thought of doing in compiling all the past comments. He stated that they have been keeping a list of contacts of those people who have expressed comments regarding the gravel pits. Mr. Wall replied that the Clerk's Office has set up a webpage for the material site where the agendas and packets will be posted. They are posting these meetings on Facebook. The Borough has recently been paying for these Facebook posts so that they reach more people on Facebook than those that are just following the borough. He stated that a mailing will be sent out to those people that have testified over the last few years. A mailing will also be sent out to those who currently have permits for gravel pits.

Commissioner Ecklund stated that she was a Facebook user and has not received any type of broadcast. She was sure there were people who testified at the meetings who weren't Facebook users so she suggested a notice in the newspapers to reach some of those people.

Commissioner Ecklund stated that the Commission members also made previous comments regarding gravel pits so would like the commissions comments included also. Vice Chairman Ruffner replied that there were questions at their first meeting of why they were doing this. He expressed the frustration from this body about the ability to have any flexibility with the code. They have been constrained with the buffer discussion. Also he tried to express comments from the public regarding water quality, dust, public safety, noise, reclamation and unsightliness. He also expressed the concerns of the landowner regarding their property rights and value of property. They will also invite experts regarding water quality, noise, etc., to come talk to them about options.

Commissioner Foster asked how much they could do regarding a newspaper ad or announcement so that it stays out of the public notice at the back of the paper. Mr. Wall replied that the administration was very open to presenting a positive image of the borough and does those types of things like a press releases, Facebook live events, etc. He thought they could do some type of press release that could get some interest.

Commissioner Foster asked where they were at with the Comp Plan approval and how the gravel pit situation was addressed in there. Mr. Wall replied that the gravel pit rewrite working group was following the current Comp Plan in its Goals and Policies. The Comp Plan draft is out for public comment which is open until the end of March. It looks like it will come back before the Planning Commission in May with adoption by the Assembly in June or July. The gravel pits are addressed more in general terms about land use conflicts in that

whole conflict of private property rights versus impacting neighbors. He stated the Commission could have a stronger statement in there.

Vice Chairman Ruffner recommended that the commission give their concerns to either him or Commissioner Isham. He will try to bring a report back to the commission of the progress the taskforce was making.

AGENDA ITEM P. PENDING ITEMS FOR FUTURE ACTION

AGENDA ITEM Q. ADJOURNMENT

MOTION: Commissioner Carluccio moved to adjourn the meeting at 8:22 p.m. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Ann Shirnberg & Patti Hartley
Administrative Assistants