



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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JOHN J. WILLIAMS
BOROUGH MAYOR

MEMORANDUM

TO: Grace Merkes, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: John J. Williams, Borough Mayor 

FROM:  Max J. Best, Planning Director

DATE: April 17, 2008

SUBJECT: Ordinance 2008-12; An Ordinance adopting an amendment to Ordinance 2007-25 adopting the Kenai Peninsula Borough Coastal Management Program

The Planning Commission reviewed the subject ordinance during their regularly scheduled April 14, 2008 meeting.

A motion to recommend enactment of Ordinance 2008-12; an Ordinance adopting an amendment to Ordinance 2007-25 adopting the Kenai Peninsula Borough Coastal Management Program passed by unanimous consent.

Draft, unapproved minutes of the subject portion of the meeting are attached.

AGENDA ITEM F. PUBLIC HEARING

6. Ordinance 2008-___; An Ordinance adopting an amendment to Ordinance 2007-25 adopting the Kenai Peninsula Borough Coastal Management Program

Memorandum given by Max Best

PC Meeting: 4/14/08

On August 21, 2007 the Kenai Peninsula Borough Assembly approved the final plan amendment proposed to and accepted by the Office of Project Management and Permitting (OPMP) who then forwarded the amendment to the office of the Commissioner of Alaska Department of Natural Resources (ADNR). Commissioner's staff in the Division of Mining land and Water objected to the language in KPB Enforceable Policy 3.3. Public Access despite the fact that the Kenai Peninsula Borough, under a grant from the ADNR, has worked for years to affect a policy to provide the kind of comprehensive access planning to important water bodies the, Kenai River in particular.

Further negotiations between my office and the ADNR, through the OPMP, resulted in a compromise which weakened the language of Policy 3.3, Public Access, but nevertheless, provides the borough with the right to review proposals from applicants that plan access to coastal water bodies and comment on potential adverse impacts, if any. The simple explanation the ADNR offered in rejecting the original proposal was, "the State of Alaska will not allow the borough to tell us what we must do".

The language change that is the subject of this amendment to Ordinance 2007-25 is:

From: "An access management plan detailing how the access route will be protected from adverse physical impacts as a result of public use, shall be required for all public access routes to coastal water bodies, lakeshore and riverfronts within designated recreational use areas when municipal and state lands are leased, dispose of, or subdivided."

To: "An applicant shall detail in the project application how legal public access routes to coastal water bodies lakeshores and riverfronts will be protected from adverse physical impacts as a result of public use, where practicable."

We ask for a shortened hearing inasmuch as the borough must adopt the final plan amendment by May 15, 2008.

The current ordinance language has been updated to sections. Staff asked for the Commission's support in changing the recommended language in this ordinance.

END OF MEMORANDUM

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

MOTION: Commissioner Petersen moved, seconded by Commissioner Lockwood to recommend adoption of Ordinance 2008-___; an Ordinance adopting an amendment to Ordinance 2007-25 adopting the Kenai Peninsula Borough Coastal Management Program.

MOTION: Commissioner Murphy moved to postpone action until the most updated ordinance could be submitted for Planning Commission review.

Mr. Best stated this ordinance would be introduced to the Assembly for a shortened hearing on April 15, 2008 because of the timeline the State has put them under to get this plan approved.

Commissioner Murphy asked for postponement because she would like to see the most updated ordinance. Mr. Best assured the Commission that the ordinance that would be going before the Assembly was not substantially different than what was before the Commission. He reiterated that the ordinance was arranged properly from whereas' to sections.

Commissioner Murphy withdrew the postponement motion with the assurance that the ordinance was not substantially different than what they reviewed.

VOTE: The motion passed by unanimous consent.

BRYSON ABSENT	CARLUCCIO YES	COLLINS YES	FOSTER YES	GROSS YES	ISHAM YES	JOHNSON YES
LOCKWOOD YES	MARTIN YES	MURPHY YES	PETERSEN YES	TAURIAINEN ABSENT		10 YES 2 ABSENT

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

1. Resolution 2008-14; A Conditional Use Permit Pursuant to KPB 21.18 to construct an equipment pad and access way within the 50-foot Habitat Protection Area of the North Fork of the Anchor River. This project is located along the left bank of the North Fork of the Anchor River at River Mile 0.2, within the AK Department of Transportation Sterling Highway right-of-way located adjacent to Tract F, River Ridge Subdivision Eason' 77, Section 4, T. 5 S., R. 15 W., H.M., AK, (KPB Parcel I.D.: 169-050-14).

KPBPC Resolution 2008-14

Staff Report given by John Czarnezki

PC MEETING: April 14, 2008

Applicant: Alaska Department of Transportation and Public Facilities, PO Box 196900, Anchorage, AK 99519

Property Owner: Same

Project Location: Sterling Highway right-of-way, mile post 157.4
Upstream side of road fill/culvert embankment at North Fork, Anchor River
Section 4, T. 5 S., R. 15 W., H.M., AK
North Fork Anchor River at River Mile 0.2, left bank

Proposed Action: The proposed project requests the construction of an equipment pad and improved access road to clear stream debris that lodges against the upstream side of the four culverts that go under the Sterling Highway at mile post 157.4:

1. Place a one-foot layer of gravel fill on top of the existing gravel access road and the proposed access road extension to the proposed equipment pad. The fill will stabilize the embankment and provide a stable road surface for moving equipment.
2. Extend the access road approximately 40-feet to the proposed equipment pad to provide a stable surface for equipment operations.
3. The equipment pad will be built on top of Class III rip rap scour protection excavated to 5-feet below the level of the streambed, will have a 1.5:1 slope up from the toe of the rip rap to the bole of the root wads, and will have an overall cross section width of 19 feet. Four to five root wads will be placed on top of the scour protection and will intersect with ordinary high water at the center of the root wads. Root wads will be stabilized with header logs and riprap. Geotextile will be placed over the fill and borrow material will be added to create a stable surface. Overall dimensions will be 20-foot by 20-foot.

Site Visit: John Czarnezki, KPB/KRC visited the site with agency representatives on October 23, 2007, December 13, 2007, and several other times during the past several years. This is a disturbed site with some riparian vegetation along the stream edge. It has been used in the past as an access point for routine maintenance of the four culverts.

Application Completeness and Compliance: This proposed project will occur above the ordinary high water line of the North Fork of the Anchor River, and within the 50 foot Habitat Protection Area which requires a KPB Conditional Use Permit. The project site is in the mapped floodplain and requires a KPB Floodplain Development Permit. The Kenai River Center found the application complete and scheduled a public hearing