



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

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**DAVID R. CAREY**  
**BOROUGH MAYOR**

## **MEMORANDUM**

**TO:** Gary Knopp, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** David R. Carey, Borough Mayor *DR Carey*

**FROM:** *mb* Max J. Best, Planning Director

**DATE:** August 3, 2011

**SUBJECT:** Resolution 2011-~~084~~<sup>084</sup>, Proposed Classification of Borough Lands Located in the Kasilof Area Pursuant to KPB Code of Ordinances, Chapter 17.10.080.

The Planning Commission reviewed the subject resolution during their regularly scheduled August 1, 2011 meeting. A motion passed by unanimous consent to recommend approval of the resolution.

In the resolution, please make the following amendment to the last WHEREAS:

*WHEREAS, the Kenai Peninsula Borough Planning Commission at its regular scheduled meeting of August 1, 2011 recommended approval by unanimous consent.*

Attached are the unapproved minutes of the subject portion of the meeting.

**AGENDA ITEM F. PUBLIC HEARINGS**

1. Resolution 2011-~~084~~; Proposed Classification of Borough Lands Located in the Kasilof Area Pursuant to KPB Code of Ordinances, Chapter 17.10.080.

Staff Report given by Max Best

PC Meeting August 1, 2011

**Petitioners:** Michael and Elizabeth Chase of Kasilof, Alaska (petition attached). KPB Land Management additionally proposes to classify adjoining Borough land.

**Basis for Classification:** Borough lands are being considered for disposal. Borough land must be classified prior to disposal pursuant to KPB 17.10.080 and KPB 17.10.090. Classification provides direction for the management intent of borough lands. Parcels appropriate for disposal can be considered for a negotiated purchase, exchange, or for the borough's annual land sale.

**Public Notice:** Public notice was published in the Peninsula Clarion on July 1 and July 3, 2011. Notice was sent by regular mail to all owners and/or leaseholders of record within one-half mile of the land proposed for classification. The notice consists of a cover letter, map, and a list of land classification definitions. Public comments were requested to be returned by 5:00 p.m. July 19, 2011 to be included in the Planning Commission mail-out packets and by 5:00 p.m. August 1, 2011 to be considered at the Planning Commission public hearing.

**Description of Borough Parcels and Proposed Classifications:** (see map)

PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	PROPOSED CLASSIFICATION
133-010-31	Cohoe Loop Rd	Govt Lots 5, 6, & 7, Sec. 9, T3N, R12W, S.M.	12.34	Rural
133-010-36	Cohoe Loop Rd	Tract A, ASLS No. 2005-6, except a 130 foot wide strip of land located along the existing beach access route, Sec. 9, T3N, R12W, Plat No. 2010-005, S.M.	17.4 +/-	Rural
133-010-36	Cohoe Loop Rd	A 130 foot wide strip of land located within Tract A located along existing beach access route, Sec. 9, T3N, R12W, Plat No. 2010-005, S.M.	1.4 +/-	Utility/Transportation
133-010-32	Cohoe Loop Rd	Govt Lots 10 & 11, except a 130 foot wide strip of land located along the existing beach access route, Sec. 9, T3N, R12W, S.M.	6.2 +/-	Rural
133-010-32	Cohoe Loop Rd	A 130 foot wide strip of land located within Govt Lot 10 located along existing beach access route, Sec. 9, T3N, R12W, S.M.	.5 +/-	Utility/Transportation
133-010-38	Cohoe Loop Rd	Tract C, ASLS No. 2005-6, Sec. 9, T3N, R12W, Plat No. 2010-005, S.M.	11.24	Rural
133-010-34	Cohoe Loop Rd	Govt Lots 13 thru 19, Sec. 9, T3N, R12W, S.M.	23.53	Rural

**Public Comment:** As of the writing of this report, one written comment has been received (attached) and did not raise objection to the proposed classification. Additional comments received by the Planning Department were presented at the Planning Commission Hearing on August 1.

**Agency Review:** Written comments were received from the following agencies:

- The Kenai Peninsula Borough Solid Waste Department has comment regarding the proposed classification.
- The Kenai Peninsula Borough coastal management staff stated no objection to the proposed classification and provided information regarding parcel-by-parcel bluff erosion rates for the subject lands from a study completed in 2007. This rate of erosion information appears to be consistent with information obtained from the draft All Hazard Mitigation Plan.

**Findings of Fact:**

1. Land Status: The Kenai Peninsula Borough has received State of Alaska Patent Numbers 18756 and 22061 for subject lands.
2. General Characteristics: Subject lands are primarily undeveloped coastal parcels with eroding bluffs. According to the draft All Hazard Mitigation Plan, bluff erosion in this area averages 0.6 feet per year. (Note: bluff erosion information provided in the draft All Hazard mitigation Plan is not site specific.) The upland areas are relatively flat with good soil. The shores of the Cook Inlet are used intensively for commercial, recreational, and personal uses. Camping, beach combing, boat launching, fishing, and other recreational uses occur along the beach. The upland bluff lands support the commercial and public use of the beaches by providing additional facilities for access, parking, and viewing. The Kenai Area Plan management intent for the parcels along the coast is to retain them for public recreation for their high scenic value and to provide camping and day use for the public.
3. Surrounding Land Use: Surrounding land use includes residential accessory building, residential home, mobile home, single family dwellings, and undeveloped land. No comprehensive land use plan has been developed for this area. Although some residential use is nearby, the surrounding area is largely undeveloped with no predominate land use pattern. The tidelands are lined with Shore Fishery Leases.
4. Surrounding Land Ownership: Surrounding land ownership includes private and Borough land.
5. Access: Subject Lands front Coho Loop Road and the beach of the Cook Inlet near Humpy Point. The Kenai Area Plan recognizes that maintaining public access to the coastline and areas where the public can view Cook Inlet from the bluff is a high priority. ADL 227969 created "a public access easement, 25 feet wide, 12.5 feet each side of the centerline that coincides with an existing trail in accordance with AS 38.05.127 and 11 AAC 51.045" for the purpose of providing public access to the beach. State patent created "a continuous public access easement, 50 feet wide upland of and along the mean high water line of Cook Inlet in accordance with AS 38.05.127 and 11 AAC 51.045". Patent 18756 states, "Any encroachment of the trail within Government Lot 9 will be relocated within the boundaries of Government Lot 10 along the common lot line of Government Lots 9 and 10. Said easement may not be vacated, abandoned or otherwise extinguished or rendered incapable of reasonable use by the public for the purposes it is reserved, unless an alternative means of reasonable public access is provided by the Grantee and approved by the Grantor". This beach access is used by the petitioners, and is traditionally used by local commercial fishermen, and the general public to access shore fisheries lease sites, public waters and public beaches. The beach access road is visible on the borough's earliest aerial photos dated 1973. The beach access is thought to have been constructed in approximately 1958 by Morris Coursen, the original owner of Lot 9. Approximately 440 feet of the route is on the borough land and approximately 120 feet of the route is across Lot 9 to the MHWL of Cook Inlet, a navigable public water of the State. Physical access to the upland portion of the Government Lot 9 is by a driveway from the beach access route across the borough land.

The nearest alternative public beach accesses are Fisherman's Road at MP 9 located entirely on public land and a (unnamed) developed beach access at MP 4 along a section line easement. There are 43 Shore Fishery Leases on the 5 miles of beach between these two beach access points.

Cohoe Beach Road is the only dedicated Beach Access Right of Way and is located between MP 9 and 10.

Additionally, Osmar Street is a 50' undeveloped access ROW which runs northerly from Cohoe Loop Road and is east of Tract A and Govt Lots 5, 6, & 7, and intersects a 66' section line easement common to Section 9 and 4.

6. Soil: Non hydric, Redoubt silt loam, 0 to 4 percent slopes. Soil conditions have potential for development.
7. Utilities: Electric and telephone utilities are in close proximity as they exist within an adjacent subdivision to the east and also within an adjacent subdivision to the south.

**Analysis:**

The land generally usable and accessible bluff property along Cohoe Loop Road, a state maintained highway. Beach access in the area is limited and preservation of the existing public beach access is required by the State of Alaska. If unable to establish uninterrupted beach access for the public benefit through existing pathway traversing through Lot 9, the physical access would need to the beach as required by State Patent. In order to accomplish this, 130 feet is needed for the side slopes based on measurements of the existing route. Topography has potential for residential development and could support a variety of limited commercial and recreational activities.

**Conclusion:**

Based on the findings of fact and analysis, a rural classification would be appropriate for these parcels and would be compatible with the surrounding area. As beach access exists and is statutorily required, a utility/transportation classification is appropriate for the strip of land along the existing beach access route. The proposed classifications would allow for the property to be subdivided and sold through public land sales and negotiated sales or exchanges with the few landlocked landowners while providing for the continuation of public access to the beach and public waters of the Cook Inlet.

**STAFF RECOMMENDATION:** Based on the findings of fact, analysis, and conclusion the KPB Planning Commission finds that it is in the borough's best interest to recommend adoption of the resolution classifying Subject Lands as Rural and classification of the existing beach access as Utility/Transportation.

END OF STAFF REPORT

Chairman Bryson read the rules by which public testimony was taken.

Chairman Bryson opened the meeting for public comment.

1. Liz Chase, PO Box 39, Kasilof  
Ms Chase supports this land classification of Rural.

Chairman Bryson asked if there were questions for Ms. Chase. Hearing none the public hearing continued.

2. Michael Chase, PO Box 39, Kasilof  
Mr. Chase supports this land classification of Rural.

Chairman Bryson asked if there were questions for Mr. Chase. Hearing none the public hearing continued.

3. Geri Ransom, Box 74, Kasilof  
Ms. Ransom supports the land classification. She testified to ask that the Borough retain public access rights to the Peninsula beaches. The whole loop route in Kasilof is about 16 miles long; South Cohoe Loop is about 9 miles of that loop with most of it running along the coast. There are only four public access roads to the beach, three of which can actually be used at this time. The fourth road goes through the lands in question.

Ms. Ransom regularly uses the three access roads that are openly available to the public; walks, snowshoes, and skis on the beaches year round. She believes protecting public access is an important duty of the Borough. The Kenai Peninsula Borough is one of the fastest growing areas in the State. According to the US Census, population on the Peninsula increased 11% between 2000 and 2010. The growing population and popularity of the Peninsula increases burden on public access roads. Ms. Ransom felt that the demand for beach access is unlikely to decrease in the future. She stated that sandy bluff soils can require a large slope area and for this reason it is imperative that sufficient right of way be retained for future needs. The Borough holds these lands in trust for public. If a public access is given away, it is gone forever.

Ms. Ransom asked that signage be placed along the public access roads. Right now a person can't tell what a public access road is. If someone was going to be respectful and mindful of public roads a lot of times a road wouldn't be used because someone couldn't tell if the road was public or not.

Chairman Bryson asked if there were questions for Ms. Ransom. Hearing none the public hearing continued.

4. Dave Hopkins, PO Box 385, Kasilof  
Mr. Hopkins supports this land classification.

Chairman Bryson asked if there were questions for Mr. Hopkins. Hearing none the public hearing continued.

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

**MOTION:** Commissioner Tauriainen moved, seconded by Commissioner Holsten to recommend adoption of Resolution 2011-\_\_\_; classifying subject lands as Rural and classifying the existing beach access as Utility / Transportation based on the findings of fact and analysis.

#### *Findings*

1. Land Status: The Kenai Peninsula Borough has received State of Alaska Patent Numbers 18756 and 22061 for subject lands.
2. General Characteristics: Subject lands are primarily undeveloped coastal parcels with eroding bluffs. According to the draft All Hazard Mitigation Plan, bluff erosion in this area averages 0.6 feet per year. (Note: bluff erosion information provided in the draft All Hazard mitigation Plan is not site specific.) The upland areas are relatively flat with good soil. The shores of the Cook Inlet are used intensively for commercial, recreational, and personal uses. Camping, beach combing, boat launching, fishing, and other recreational uses occur along the beach. The upland bluff lands support the commercial and public use of the beaches by providing additional facilities for access, parking, and viewing. The Kenai Area Plan management intent for the parcels along the coast is to retain them for public recreation for their high scenic value and to provide camping and day use for the public.
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beach. State patent created "a continuous public access easement, 50 feet wide upland of and along the mean high water line of Cook Inlet in accordance with AS 38.05.127 and 11 AAC 51.045". Patent 18756 states, "Any encroachment of the trail within Government Lot 9 will be relocated within the boundaries of Government Lot 10 along the common lot line of Government Lots 9 and 10. Said easement may not be vacated, abandoned or otherwise extinguished or rendered incapable of reasonable use by the public for the purposes it is reserved, unless an alternative means of reasonable public access is provided by the Grantee and approved by the Grantor". This beach access is used by the petitioners, and is traditionally used by local commercial fishermen, and the general public to access shore fisheries lease sites, public waters and public beaches. The beach access road is visible on the borough's earliest aerial photos dated 1973. The beach access is thought to have been constructed in approximately 1958 by Morris Coursen, the original owner of Lot 9. Approximately 440 feet of the route is on the borough land and approximately 120 feet of the route is across Lot 9 to the MHWL of Cook Inlet, a navigable public water of the State. Physical access to the upland portion of the Government Lot 9 is by a driveway from the beach access route across the borough land.

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Additionally, Osmar Street is a 50' undeveloped access ROW which runs northerly from Cohoe Loop Road and is east of Tract A and Govt Lots 5, 6, & 7, and intersects a 66' section line easement common to Section 9 and 4.

6. Soil: Non hydric, Redoubt silt loam, 0 to 4 percent slopes. Soil conditions have potential for development.
7. Utilities: Electric and telephone utilities are in close proximity as they exist within an adjacent subdivision to the east and also within an adjacent subdivision to the south.

*Analysis:*

The land generally usable and accessible bluff property along Cohoe Loop Road, a state maintained highway. Beach access in the area is limited and preservation of the existing public beach access is required by the State of Alaska. If unable to establish uninterrupted beach access for the public benefit through existing pathway traversing through Lot 9, the physical access would need to the beach as required by State Patent. In order to accomplish this, 130 feet is needed for the side slopes based on measurements of the existing route. Topography has potential for residential development and could support a variety of limited commercial and recreational activities.

Chairman Bryson called for discussion.

Commissioner Parker asked if the designation of utility / transportation was the Borough's intent to keep that a dedicated public right of way. Mr. Best replied that their intent was to have a lot there that would be adequate for public access. The purpose of the classification of public utility / transportation was to retain the whole lot for public access to the beach.

Commissioner Parker asked if the Borough would proceed with a new replat of these properties as well as the dedication of this beach access if the Assembly goes forward with the classifications. Mr. Best replied that was correct. There would be a planned subdivision with the intent to negotiate with the Cooper's and Chase's to allow them to purchase some property between their property and Cohoe Loop Rd. The initiation of this was so that those folks could fully utilize and have access to their properties.

Commissioner Martin disclosed that he visited the site and spoke with Mrs. Chase. He kept the discussion to just landmarks.

Commissioner Tauriainen asked if the current public access would be affected by these reclassifications to rural. Mr. Best replied no, there are no other routes to the beach except for this one.

Commissioner Martin asked for clarification regarding the dogleg shape of the access classification and asked if that would be part of the replat. Mr. Best stated that the reason that that particular parcel doglegs is that they were obligated by the State of Alaska to provide an access. That access currently goes across the Chase's property and if they didn't want to allow that access to go across their property then they were obligated to make that access go between Lots 9 & 10 and then goes down to the beach.

**VOTE:** The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO YES	COLLINS YES	ECKLUND YES	FOSTER YES	GROSS YES	HOLSTEN YES
ISHAM YES	LOCKWOOD YES	MARTIN YES	PARKER YES	RUFFNER YES	TAURIAINEN YES	13 YES

**AGENDA ITEM F. PUBLIC HEARINGS**

2. Rename existing streets in conjunction with the Enhanced 911 Street Naming and Addressing Methods within the Kenai Peninsula Borough. Streets under consideration at this meeting are described as follows:
  - a. MP 123 Ct named by plat HM2007047 Smart Subdivision; T 1N R 13W SECTION 24; Seward Meridian, AK; Off of the Sterling Hwy in the Ninilchik Community; ESN 451

Staff Report given by Carrie Henson

PC MEETING 08/01/2011

Applicant: Kenai Peninsula Borough

Existing right-of-way names: MP 123 Ct

Name proposed by staff: Sleepy Marten Ct

Reason for Change: To bring the name into compliance with KPB Code 14.10

Background:

Name	<b>MP 123 Ct</b>
ESN	451
Community	Ninilchik
YR Dedicated	2007
Constructed	Yes
Total Lots	7
Residential	1
E911 Address	1
Mailing	0
Decision	<b>Change</b>

Review and Comments:

One comment was received from the United States Postal Service who is in favor of changing the street name because the current street name has the potential to be misread by their computerized machinery.

One comment was received from a property owner that is strongly opposed to the name change but did not give any alternative suggestions. He feels that MP 123 accurately describes the location.