

## AGENDA ITEM F. PUBLIC HEARINGS

2. Proposed Resource Development Classification of approximately 40 acres of Borough land located on the Kustatan Ridge located on the west side of Cook Inlet between the McArthur and Kustatan River drainages. Within Section 25, T9N, R15W, S.M., Alaska, Pursuant to KPB Code of Ordinances, Chapter 17.10.080(F)

Staff Report given by Marcus Mueller

PC Meeting: March 12, 2012

**Petitioner:** Kenai Peninsula Borough, Alaska

**Basis for Classification:** The Borough Land Management Division has identified a 40-acre parcel for the development of a new gravel site on the Kustatan Ridge. As per KPB Code of Ordinances 17.10.080, parcels appropriate for Resource Development may be then considered for development purposes. A gravel source will be beneficial to oilfield industry development in the region. Test holes were drilled on the subject land indicating an available gravel source was present.

**Current Classification:** Subject land is not classified (undesignated)

**Proposed Classification: "Resource Development"** means land containing resources of sufficient volume and quality and located so that on-going development or production of those resources would yield an overall net economic return. Lands so classified may be sold or leased subject to appropriate restrictions concerning operations or future reclamation. Lands so classified may be retained by the borough and resources on those lands may be sold or permitted for use.

**Description of Borough Land Proposed for Classification:** T. 9 N., R. 15 W., S.M.,

Section 25: W1/2W1/2NE1/4SE1/4, E1/2NE1/4NW1/4SE1/4,  
SE1/4NW1/4SE1/4, E1/2NE1/4SW1/4SE1/4,  
NE1/4SE1/4SW1/4SE1/4, N1/2NW1/4SE1/4SE1/4,  
SW1/4NW1/4SE1/4SE1/4;

Containing approximately 40.00 acres, more or less.

**Public Notice:** Public notice was published in the Peninsula Clarion Newspaper, February 10 and February 12, 2012; notices were sent by regular mail to all owners and/or leaseholders of record within a one-half mile radius of the land proposed for classification; and, notice was sent to applicable agencies, and interested parties. The notices consisted of a cover letter, map, and list of land classification definitions. Written public comments were requested to be returned by 5:00 p.m., March 12, 2012.

**Public Comment:** As of the writing of this report, no written comments were received.

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

- No comments received.

### **Findings of Fact:**

1. **Land Status:** The Borough has Management Authority for subject land. The subject lands have been surveyed and Land Management is awaiting Patent from the State of Alaska.
2. **Topography:** The elevation varies between 200' – 250'. The topography appears to be glacial moraines with steep to moderately steep slopes. The low lying areas between the moraines tend to be wet muskeg or ponds. Vegetation consists of dense alders with sparse birch and white spruce. Wooded areas are mostly covered with dead standing beetle kill spruce. An unnamed creek runs parallel to the northern boundary of subject land.

3. Land Use: Surrounding land use within one-half of a mile of the subject land is undeveloped Borough lands; the southern boundary of the subject land has a 50' private pipeline ROW, ADL 33333; Trading Bay Facility is approximately 2 miles south and east of the subject land. Based on the West Side Development Plan from 2006 this area would have a future rural/recreational land use.
4. Surrounding Land Ownership: Surrounding land ownership includes Borough, State of Alaska, and Unocal.
5. Access: Remote seasonal winter access with heavy equipment.
6. Utilities: No utilities are currently installed on the subject land.
7. Soil: In April of 2005 a soil investigation was conducted along the Kustatan Ridge. A test hole log was generated to locate potential materials sources for road, runway, and site development. The subject land has a total of six test hole logs from that investigation. Test holes for this area revealed approximately four feet (4') of silt/organic overburden then into silty, sandy gravels with an overall average depth of seven feet (7').

**Analysis:** Calculations reveal that the subject land would yield over 400,000 CY of gravel.

**Conclusions:** The Borough has approximately 9,400 acres at Trading Bay/Kustatan Ridge. This site lends itself to the development of gravel resources. The development of subject land for the extraction of gravel resources will be beneficial for economic development, oilfield industry development, and future development of Kustatan Ridge.

**Staff Recommendation:** Based on the findings of fact and conclusions, KPB staff recommends that the KPB Planning Commission recommend adoption of the resolution classifying subject land as Resource Development as follows:

Parcel No	Description	Acres	Classification
A portion of 211-250-31 As shown on Attachment A	W1/2 W1/2 NE1/4 SE1/4, E1/2 NE1/4 NW1/4 SE1/4, SE1/4 NW1/4 SE1/4, E1/2 NE1/4 SW1/4 SE1/4, NE1/4 SE1/4 SW1/4 SE1/4, N1/2 NW1/4 SE1/4 SE1/4, SW1/4 NW1/4 SE1/4 SE1/4  Section 25, T9N, R15W, Seward Meridian, Anchorage Recording District	40±	Resource Development

See also Attachment 'A' of the Resolution.

#### END OF STAFF REPORT

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

**MOTION:** Commissioner Carluccio moved, seconded by Commissioner Holsten to recommend approval of KPB Resolution 2012-\_\_\_; Resolution classifying certain Borough land located in the Trading Bay area as Resource Development pursuant to KPB Code of Ordinances, Chapter 17.10.080.

Commissioner Isham thought this was a perfect place for a gravel pit. Commissioner Holsten didn't know there was a perfect place for a gravel pit.

Commissioner Holsten asked if the unnamed creek was a year round creek and asked if it was anadromous. She also asked if any of the 40 acres in the marshy area could be considered a wetland. Mr. Mueller replied that the property was recently surveyed and the State, in its survey instructions requires that the surveyor look at the streams and anything that can be considered public water. Then DNR requires easements and deals with it separately. He stated it did not meet that criterion so it is most likely very small in nature. The material site is designed to avoid wetlands and streams.

Commissioner Tauriainen believed that it is written in the unwritten code that anytime nobody complains about a gravel pit, it is deemed a perfect gravel pit. He supported the motion.

Commissioner Lockwood commented it's not in his backyard.

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

BRYSON YES	CARLUCCIO YES	COLLINS ABSENT	ECKLUND YES	FOSTER YES	GROSS YES	HOLSTEN YES
ISHAM YES	LOCKWOOD YES	MARTIN YES	RUFFNER ABSENT	TAURIAINEN YES		10 YES 2 ABSENT

#### AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2012-\_\_\_, Amending KPB 21.18 - Anadromous Streams Habitat Protection to permit certain structures in tidally inundated areas, conditionally permit certain structures within the Habitat Protection District, and add definitions

Staff Report given by John Mohorcich

PC Meeting: 3/12/12

The borough is in the process of a phased implementation of the addition of numerous streams which were added to the Anadromous Streams Habitat Protection district. Implementation Phase 2 encompassing most of the Kenai Peninsula is scheduled to take effect on May 1, 2012.

These added areas have brought to light issues with small pre-existing parcels that have seen their development rights unduly restricted due to the greater part of the parcel being in the Habitat Protection District and consequently have a limited area that could be developed. This condition has existed along the Kenai River and a few other areas for some time.

This ordinance allows, through the conditional use process, some development to occur within the Habitat Protection District when certain standards are met. By defining a conditional use for use by property owners, staff and the Planning Commission, I believe we will add a fair process allowing additional development which will relieve some of the burden for small lot property owners.

A standard of development is proposed that the parcels be served by a public sewer system to insure that waste water is properly disposed and streamside water quality is protected. A further condition brings into play city permitting processes in order to provide a more local influence on the development.

I believe it is important that borough regulations do not unreasonably restrict development rights and more particularly, do not eliminate development rights.

Your consideration of this ordinance will be appreciated.

END OF STAFF REPORT

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