

## MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION AGENDA

Vern Halter, Mayor

PLANNING COMMISSION  
Mary Anderson, Vice-Chair, District 1  
Vacant, District 2  
Patricia Chesbro, District 3  
Colleen Vague, Chair, District 4  
Chris Elder, District 5  
Stafford Glashan, District 6  
Sassan Mossanen, District 7



Michael Brown, Borough Manager

PLANNING & LAND USE  
DEPARTMENT  
Alex Strawn, Planning & Land Use Director  
Kim Sollien, Planning Services Manager  
Jason Ortiz, Development Services  
Manager  
Fred Wagner, Platting Officer  
Karol Riese, Planning Clerk

*Assembly Chambers of the  
Dorothy Swanda Jones Building  
350 E. Dahlia Avenue, Palmer*

August 16, 2021  
REGULAR MEETING  
6:00 p.m.

Ways to participate in Planning Commission meetings:

**IN PERSON:** Should you wish to testify in person, please adhere to a 6-foot distance between yourself and others.

**IN WRITING:** You can submit written comments to the Planning Commission Clerk at [planning@matsugov.us](mailto:planning@matsugov.us).

### TELEPHONIC TESTIMONY:

- Dial 1-855-290-3803; you will hear “joining conference” when you are admitted to the meeting.
- You will be automatically muted and able to listen to the meeting.
- When the Chair announces audience participation or a public hearing you would like to speak to, press \*3; you will hear, “Your hand has been raised.”
- When it is your turn to testify, you will hear, “Your line has been unmuted.”
- State your name for the record, spell your last name, and provide your testimony.

### FACEBOOK LIVE:

The Planning Commission meetings are now being streamed on Facebook Live.

- Questions will not be answered on Facebook Live. If you have a comment or concern, please call the number above.

I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PLEDGE OF ALLEGIANCE

IV. CONSENT AGENDA

*Items on the consent agenda are considered routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.*

A. MINUTES

1. August 2, 2021, Regular Meeting Minutes.

B. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS

1. **Resolution PC 21-22**, A Conditional Use Permit In Accordance With MSB 17.30 – Conditional Use Permit (CUP) For Earth Materials Extraction Activities, For The Extraction Of Approximately 1,800,000 Cubic Yards Of Earth Material From a 61.9-Acre Site Within A 120-Acre Parcel, Tax ID # 17N02W10C001, Within Township 17 North, Range 2 West, Section 10, Seward Meridian. Public Hearing: September 20, 2021 (Applicant: MSB Land & Resource Management Division; Staff: Mark Whisenhunt).
2. **Resolution PC 21-23**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Approving A Variance To MSB 17.55 For The Construction Of A Single-Family Residence To Be Placed Approximately 38.1 Feet From The Shorelands Of Finger Lake On Government Lot 5, Tax ID # 18N01E34B002; Within Township 18 North, Range 1 East, Section 34, Seward Meridian. Public Hearing: September 20, 2021 (Applicant: Shaun Krautkremer; Staff: Mark Whisenhunt).

C. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS

V. COMMITTEE REPORTS

- A. School Site Selection Committee Minutes/Report (Mary Anderson)

VI. AGENCY/STAFF REPORTS

VII. LAND USE CLASSIFICATIONS

VIII. AUDIENCE PARTICIPATION (*three minutes per person, for items not scheduled for public hearing*)

IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS (*public hearings shall not begin before 6:15 p.m.*)

***Commission members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or issues presented in the application.***



*The Planning Commission members may submit questions or request more information to the Planning Commission Clerk concerning the following matters at the time of introduction. All questions and requests submitted by the Commission shall be in writing, and copies will be provided to the applicant and made available to all interested parties and the public upon request. Answers to questions and additional material requests will be addressed in the staff report for the public hearing.*

- A. **Resolution PC 21-17**, A Conditional Use Permit In Accordance With MSB 17.60 - Conditional Uses, Was Submitted By Greg Smith Of 2nd Amendment, LLC; Allowing For The Operation Of A Marijuana Cultivation Facility, Located At 20357 West Susitna Parkway, Tax ID#17N04W35C001; Within Township 17 North, Range 4 West, Section 35, Seward Meridian (Applicant: Greg Smith, dba 2nd Amendment; Staff: Peggy Horton).

*In order to be eligible to file an appeal from a decision of the Planning Commission, a person must be designated an interested party. See MSB 15.39.010 for the definition of "Interested Party." The procedures governing appeals to the Board of Adjustment & Appeals are contained in MSB 15.39.010-250, available on the Borough website, [www.matsugov.us](http://www.matsugov.us), Borough Clerk's office, or at various libraries within the Borough.*

X. PUBLIC HEARING: LEGISLATIVE MATTERS

- A. **Resolution PC 21-18**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Assembly Adoption Of An Ordinance Amending Timber Salvage Sales Terms In MSB 23.20.130 And Repealing The Timber Transport Permit In MSB 28.60 (Staff: Emerson Krueger, Natural Resource Manager – Community Development).
- B. **Resolution PC 21-20**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.23 To Exempt Pipeline And Conveyor Structures From Setback Requirements Pursuant To MSB 17.55 (Staff: Tracy McDaniel, Asset Manager – Community Development).
- C. **Resolution PC 21-21**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.67.030, Exemptions, Under Chapter 17.67, Tall Structures Including Telecommunication Facilities, Wind Energy Conversion Systems, And Other Tall Structures (Staff: Alex Strawn, Planning And Land Use Director).

XI. CORRESPONDENCE & INFORMATION

- A. Changes To Public Hearings – Quasi-Judicial Time Removal

XII. UNFINISHED BUSINESS

XIII. NEW BUSINESS

- XIV. COMMISSION BUSINESS
  - A. Upcoming Planning Commission Agenda Items
- XV. DIRECTOR AND COMMISSIONER COMMENTS
- XVI. ADJOURNMENT (*Mandatory Midnight*)

**Disabled persons needing reasonable accommodation in order to participate at a Planning Commission Meeting should contact the Borough ADA Coordinator at 861-8432 at least one week in advance of the meeting.**

# **MINUTES**

## **August 2, 2021**

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# **MINUTES**



The regular meeting of the Matanuska-Susitna Borough Planning Commission was held on August 2, 2021, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:00 p.m. by Chair Colleen Vague.

## **I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM**

Planning Commission members present and establishing a quorum:

Ms. Mary Anderson, Assembly District #1, Vice-Chair  
VACANT, Assembly District #2  
Ms. Patricia Chesbro, Assembly District #3  
Ms. Colleen Vague, Assembly District #4, Chair  
Mr. Chris Elder, Assembly District #5  
Mr. Stafford Glashan, Assembly District #6  
Mr. Sassan Mossanen, Assembly District #7\*

Planning Commission members absent and excused were:

Staff in attendance:

Ms. Denise Michalske, Assistant Borough Attorney  
Mr. Jason Ortiz, Development Services Manager  
Ms. Peggy Horton, Planner II  
Ms. Karol Riese, Planning Commission Clerk

\*Indicates that the individual attended remotely.

## **II. APPROVAL OF AGENDA**

Chair Vague inquired if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved without objection.

## **III. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was led by Ms. Peggy Horton.

## **IV. CONSENT AGENDA**

A. Minutes

1. July 19, 2021, regular meeting minutes

Commissioner Anderson advised of a clerical correction to the Minutes:

## **IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS**

A. **Resolution PC 21-14**, A Conditional Use Permit In Accordance With MSB 17.30—Conditional Use Permit (CUP) For Earth Materials Extraction Activities, For The Extraction Of Approximately 2,000,000 Cubic Yards Of Earth Material From A 105-Acre

Site Within A 160-Acre Parcel, Located Within Township 17 North, Range 2 West, Section 10, Tax Parcel C001; 17N02W10C001, Seward Meridian (Applicant: UMIAQ Environmental, On Behalf Of Colaska Inc. (Dba QAP); Staff: Mark Whisenhunt).

The vote should read as follows:

VOTE: The main motion failed unanimously.

**B. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS**

1. **Resolution PC 21-17**, A Conditional Use Permit in Accordance with MSB 17.60 - Conditional Uses was submitted by Greg Smith of 2nd Amendment, LLC; allowing for the operation of a marijuana cultivation facility, located at 20357 West Susitna Parkway, Tax ID#17N04W35C001; within Township 17 North, Range 4 West, Section 35, Seward Meridian. Public Hearing: August 16, 2021 (Applicant: Greg Smith, dba 2<sup>nd</sup> Amendment; Staff: Peggy Horton).

**C. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS**

1. **Resolution PC 21-18**, A Resolution of the Matanuska-Susitna Borough Planning Commission Recommending Assembly Adoption Of An Ordinance Amending Timber Salvage Sales Terms In MSB 23.20.130 And Repealing The Timber Transport Permit in MSB 28.60. Public Hearing: August 16, 2021 (Staff: Emerson Krueger, Natural Resource Manager – Community Development).
2. **Resolution PC 21-20**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.23 To Exempt Pipeline And Conveyor Structures From Setback Requirements Pursuant to MSB 17.55. Public Hearing: August 16, 2021 (Staff: Tracy McDaniel, Asset Manager – Community Development).
3. **Resolution PC 21-21**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.67.030 Exemptions Under Chapter 17.67 Tall Structures Including Telecommunication Facilities, Wind Energy Conversion Systems, And Other Tall Structures. Public Hearing: August 16, 2021 (Staff: Alex Strawn, Planning and Land Use Director).

GENERAL CONSENT: The consent agenda was approved without objection.

**V. COMMITTEE REPORTS**

*(There were no committee reports.)*

**VI. AGENCY/STAFF REPORTS**

*(There were no Agency/Staff Reports.)*

**VII. LAND USE CLASSIFICATIONS**

*(There were no land use classifications.)*

**Recess at 6:08 p.m. until 6:15 p.m.**

**VIII. AUDIENCE PARTICIPATION (Three minutes per person.)**

*There were no persons to be heard.*

**IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS**

- A. **Resolution PC 21-15**, An application under MSB 17.65 – Variances, has been submitted by Richard Toussaint for a variance to the minimum 25-foot setback to a public right-of-way and to the minimum 75-foot shoreline setback requirements under MSB 17.55. Located at 3874 South Wolverine Drive, Tax ID #6258000L004, within Township 17 North, Range 3 West, Section 28, Seward Meridian (Applicant: Richard Toussaint; Staff: Peggy Horton).

Chair Vague read the resolution title into the record.

Ms. Horton provided a staff report:

- staff recommended approval of the resolution.

Commissioners questioned staff regarding:

- Subdivision Construction Standards, detailed map, non-conforming status, construction date of garage, construction from high water mark of lake.

Chair Vague invited the applicant or their representative to provide an overview of their application.

Mr. Richard Toussaint, applicant, thanked Ms. Horton and the staff. He provided an overview of their application. Commissioner Mossanen's question is the reason we are here; the 64' from the structure to the waterbody. Structures need to be 25' from the ROW not the road. Referenced Page 113 picture. Willing to accept any questions

Commissioners questioned the applicant regarding:

- ROW, Gate, awareness of variances prior to purchase of property.

Chair Vague opened the public hearing.

There being no one to be heard, Chair Vague closed the public hearing.

**MOTION:** Commissioner Chesbro moved to approve Resolution PC 21-15. The motion was seconded.

Discussion ensued



VOTE: The main motion passed with Commissioner Elder in objection.

**X. PUBLIC HEARING LEGISLATIVE MATTERS**

*(There were no legislative public hearings.)*

**XI. CORRESPONDENCE AND INFORMATION**

*(There was no correspondence and information.)*

**XII. UNFINISHED BUSINESS**

*(There was no unfinished business.)*

**XIII. NEW BUSINESS**

- A. **Resolution PC 21-16**, Recommending approval of the initiation of an update to the Glacier View Comprehensive Plan, and Special Land Use District (SpUD) (Staff: Kim Sollien, Planning Services Manager).

**Ms. Sollien provided a staff report.**

**Discussion ensued**

**Chair Vague opened public hearing. There being no one to be heard, Chair Vague closed public hearing.**

MOTION: Commissioner Anderson moved to approve Resolution PC 21-16. The motion was seconded.

**XIV. COMMISSION BUSINESS**

- A. Upcoming Planning Commission Agenda Items *(Staff: Jason Ortiz)*  
Planning Commission/Assembly meeting

*Commission Business was presented, and no comments were noted.*

**XV. DIRECTOR AND COMMISSIONER COMMENTS**

Jason Ortiz: Quasi-Judicial statement

Commissioner Mossanen: Apologies for the delay joining the meeting. I am hoping to make the next meeting in person, looks like we will have a lot on the agenda.

Commissioner Elder: Thought it was a great meeting. Remind to getting rid of the break to remove the Public Hearing start at 6:15.

Chair Vague: I think we should look into the process of removing that so we do not waste people's time.

Commissioner Anderson: Go out and enjoy the sunshine.

**XVI. ADJOURNMENT**

The regular meeting adjourned at 7:03 p.m.

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COLLEEN VAGUE, Planning Commission  
Chair

ATTEST:

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KAROL RIESE, Planning Commission Clerk

*Minutes approved:* \_\_\_\_\_

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# **INTRODUCTION FOR PUBLIC HEARING QUASI-JUDICIAL**

**Resolution No. PC 21-22**

**CUP Earth Materials Extraction  
MSB Land & Resource Management Division**

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**INTRODUCTION FOR PUBLIC HEARING**





# MATANUSKA-SUSITNA BOROUGH

## Planning and Land Use Department

### Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-8158

Email: [permitcenter@matsugov.us](mailto:permitcenter@matsugov.us)

Received

## APPLICATION FOR A CONDITIONAL USE PERMIT FOR EARTH MATERIALS EXTRACTION – MSB 17.30

Carefully read instructions and applicable borough code. Fill out forms completely. Attach information as needed. Incomplete applications will not be processed.

THIS APPLICATION IS FOR MATERIALS EXTRACTION THAT **DOES NOT** OCCUR WITHIN FOUR FEET OF THE SEASONAL HIGH WATER TABLE. IF YOUR PLAN INCLUDES EXTRACTION WITHIN FOUR FEET OF THE SEASONAL HIGH WATER TABLE YOU MUST COMPLETE THE APPLICATION SPECIFIC TO THAT PURPOSE.

### Application fee must be attached, check one:

☐ \$500 for Administrative Permit (Less than two years or less than 7,000cy annually)

NP ☒ \$1,000 for Conditional Use Permit (More than two years and more than 7,000cy annually)

Prior to the public hearing, the applicant must also pay the mailing and advertising fees associated with the application. Applicants will be provided with a statement of advertising and mailing charges. Payment must be made prior to the application presentation before the Borough Planning Commission.

Subject Property: Township: 17N, Range: 02W, Section: 02, Meridian: S.M.

MSB Tax ID# 17N02W02C003

SUBDIVISION: \_\_\_\_\_ BLOCK(S): \_\_\_\_\_, LOT(S): \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

FACILITY / BUSINESS NAME: MSB Land and Resource Management Division

**Ownership:** A written authorization by the owner must be attached for an agent or contact person, if the owner is using one for the application. Is authorization attached? ☐ Yes ☐ No ☒ N/A

### Name of Property Owner

Matanuska-Susitna Borough

Mailing: 350 E. Dahlia Avenue

Palmer, AK 99645

Phone: Hm \_\_\_\_\_ Fax \_\_\_\_\_

Wk 861-7867 Cell \_\_\_\_\_

E-mail lmb@matsugov.us

### Name of Agent / Contact for application

Emerson Krueger, Natural Resource Manager

Mailing: 350 E. Dahlia Avenue

Palmer, AK 99645

Phone: Hm \_\_\_\_\_ Fax \_\_\_\_\_

Wk 861-7867 Cell \_\_\_\_\_

E-mail ekrueger@matsugov.us

**Description** What type(s) of material is being extracted? Pit Run

Total acreage area of all parcels on which the activity will occur: 120-acre parcel

Total acreage area of earth material extraction activity: 61.9 acres

Total cubic yards extraction per year: 124,000 (Estimate)

Total projected cubic yards to be extracted: 1,800,000

What is the estimated final year extraction will occur? 2038 unless there are project delays

### Required information

1. Attach a plan of sufficient detail to demonstrate compliance with the requirements of MSB 17.28.050 and MSB 17.28.060.

Plan of Operation	Attached
Provide seasonal start and end dates	x
Provide days of the week operations will take place.	x
Provide hours of operation.	x
Estimated end date of extraction	x
Estimated end date of reclamation	x
Describe all other uses occurring on the site	x
Describe methods used to prevent problems on adjacent properties, such as lateral support (steep slopes), water quality, drainage, flooding, dust control and maintenance of roads; how will the operation monitor the seasonal high water table to stay at least four feet above it	x
Provide quantity estimates and topographical information such as cross section drawings depicting depth of excavation, slopes and estimated final grade	x

2. Submit a site plan. Drawings must be detailed and **drawn to scale**. Drawings under seal of an engineer or surveyor are recommended but not required.

SITE PLAN REQUIREMENTS	Attached
Identify location of permanent and semi-permanent structures on the site for verification of setback requirements. Include wells and septic systems.	x
Depict buffer areas, driveways, dedicated public access easements, and noise buffers (such as fences, berms or retained vegetated areas), and drainage control such as ditches, settling ponds etc.	x
Identify wetlands and waterbodies on site and within one mile	x
Identify existing surrounding land uses within one mile	x
Identify surrounding property ownership (i.e. public vs. private) within one mile of exterior boundaries	x
Show entire area intended for gravel/material extraction activity and the boundary of the lot(s) containing the operation. Identify areas used for past and future phases of the activity. Identify phases of proposed mining activities including a map showing the area to be mined, a description of the topography and vegetation, approximate time sequence for mining at particular locations, and general anticipated location of semi-permanent equipment such as conveyor belts, crushers, dredges, batch plants, etc.	x



Road and access plan that includes anticipated routes and traffic volumes. If the level of activity exceeds the minimum levels specified in MSB 17.61.090, traffic standards, a traffic control plan consistent with state regulations may be required	x
Visual screening measures that include a detailed description of the type of visual screening to be utilized. Visual screening may include, but is not limited to, berms, natural vegetation, solid fences, walls, evergreen hedges or other means as approved by the commission	x
Noise mitigation measures that include a description of measures to be taken by the applicant to mitigate or lessen noise impacts to surrounding properties. Measures shall include, but not be limited to, hours of operation of noise-producing equipment, erecting noise barriers (i.e., berms a minimum of 10 feet in height) between noise-producing equipment and adjacent uses, location of noise-producing equipment (i.e., below grade in excavated pit areas), and measures to utilize equipment with noise reduction features	x
Proposed lighting plan	x
Other (as required by MSB Planning Department)	x

3. Submit a reclamation plan including the following:

Reclamation Plan	Attached
Provided timeline for reclamation at particular locations and that is in compliance with MSB 17.28.067	x
Provide copy of reclamation financial assurance filed with the State of Alaska (If exempt, provide qualifying documents for exemption)	x

4. Submit documentation of compliance with borough, state and federal laws:

COMPLIANCE WITH BOROUGH, STATE AND FEDERAL LAWS	Applied for (list file #)	Attached (list file #) or N/A
Mining license as required by the Alaska State Department of Revenue, pursuant to A.S.42.65		N/A
Mining permit as required by the Alaska State Department of Natural Resources (ADNR) if extraction activities are to take place on state land		N/A
Reclamation plan as required by ADNR, pursuant to A.S. 27.19		x
Notice of intent (NOI) for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Environmental Protection Agency (EPA) pursuant to the National Pollutant Discharge Elimination System (NPDES) requirements	To be completed by Contractor	
United States Army Corps of Engineers permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity is to take place within wetlands, lakes and streams.		N/A
Other (Such as, driveway / access permits. List as appropriate.)	To be completed by Contractor	

**OWNER'S STATEMENT:** I am owner or authorized agent of the following property:

MSB Tax account #(s) 17N02W02C003 and, I hereby apply for approval of conditional use permit for earth material extraction activities on the property as described in this application.

I understand all activity must be conducted in compliance with all applicable standards of MSB 17.28, MSB 17.30 and with all other applicable borough, state and federal laws, including but not limited to, air quality, water quality, and use and storage of hazardous materials, waste and explosives, per MSB 17.30.055.


I understand that other rules such as local, state and federal regulations, covenants, plat notes, and deed restrictions may be applicable and other permits or authorizations may be required. I understand that the borough may also impose conditions and safeguards designed to protect the public's health, safety and welfare and ensure the compatibility of the use with other adjacent uses.

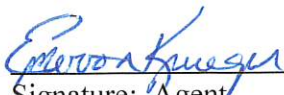
I understand that it is my responsibility to identify and comply with all applicable rules and conditions, covenants, plat notes, and deed restrictions, including changes that may occur in such requirements.

I understand that this permit may transfer to subsequent owners of this land and that it is my responsibility to disclose the requirements of this status to operators on this property, and to the buyer when I sell the land. Additionally, I agree to comply with 17.30.120 Transfer of Conditional Use Permit, in the event this permit is transferred to a subsequent property owner.

I grant permission for borough staff members to enter onto the property as needed to process this application and monitor compliance. Such access will at a minimum, be allowed when the activity is occurring and, with prior notice, and at other times necessary to monitor compliance.

The information submitted in this application is accurate and complete to the best of my knowledge.

	Eric Phillips	5/13/2021
Signature: Property Owner	Printed Name	Date

	Emerson Krueger	5/13/21
Signature: Agent	Printed Name	Date

**EARTH MATERIAL EXTRACTION APPLICATION**  
**MATANUSKA-SUSITNA BOROUGH**  
**17N02W02C003**

July 23, 2021



Mat-Su Borough  
Development Services

**MATANUSKA-SUSITNA BOROUGH  
LAND AND RESOURCE MANAGEMENT DIVISION**

**17N02W02C003  
PROPOSED GRAVEL MINING PLAN OF OPERATIONS  
AND SITE PLAN REQUIREMENTS**

The following information is an attachment to the Matanuska-Susitna Borough (MSB) application for Earth Materials Extractions activities that do not occur within four feet of the water table under MSB 17.30, Conditional Use Permit (CUP).

**1. Plan of Operation**

The Matanuska-Susitna Borough Parcel Tax ID 17N02W02C003 is located approximately 0.25 mile north of the Parks Highway about one mile east of the Parks Highway intersection with Pittman Road. This Proposed Gravel Mining Plan (Plan) details the activities and dates of operation for material extraction proposed to prepare the parcel for future development.

Site Plans for the parcel are provided in Exhibits 3 and 4, depicting the proposed operation area, buffers, visual screening, and truck haul routes. A vicinity map, site map, the landowners within one-mile, wetlands and waterbodies within one mile, and other features are shown in Exhibits 1-6.

The current plan includes a future borrow source located within the property boundary. The maximum area proposed for gravel extraction within the 120-acre parcel is approximately 61.9 acres. The southeast 40-acres of the parcel are proposed to be sold, at less than fair market value, to the Meadow Lakes Community Council for use as open space and public recreation. The remaining acreage is set aside as buffers and visual screening. Property surrounding the parcel is a mix of industrial to the south and west, residential to the north and east, as well as recreational to the east.

The ultimate goal of the gravel extraction activities is to develop the parcel for future public facilities. The property is owned by the Matanuska-Susitna Borough (MSB). Modifications to the Plan will be submitted to the Land and Resources Management Division (MSB-LRMD), as needed, by the Contractor authorized to develop the site prior to the commencement of any mining activities.

The project is expected to last 15 years, but may need to be extended if delays occur. Full development of the borrow source is anticipated to be complete by 2037. Reclamation of the mined area is required prior to development of public facilities. Future public facility construction has not been defined at this time. The site will be developed to support such public facilities as a school, library, community center, fire station, or open space. Incremental reclamation will leave areas where mining has been completed in a vegetated condition suitable for use as public open space. However, given the layout of the mining plan, public recreation on the site will be prohibited until mining is complete for safety reasons.

Extraction operations will be at the Contractor's discretion and are not seasonally dependent. Hours of operation are expected to be Monday through Saturday from 6:00 a.m. to 10:00 p.m.



There will be no loading of trucks or crushing from 10pm to 6am. These hours of operation were agreed to by the Borough and the Meadow Lakes Community Council (MLCC).

A section line easement connects the southwest corner of the site to Pittman Road. This access route may be used as a local haul route, however, existing haul routes through the neighboring gravel pit may also be used. A 50-foot wide section line easement along the southern property boundary also extends to the east connecting to North Suzanna Street. This access route may also be developed for a local haul route. The east haul route is along an unconstructed right-of-way named West Stacy Street. Existing access roads on the adjoining private material site may be used for extraction. Haul routes will be restricted to the south end of the site to minimize negative effects on the residential land to the north. Haul routes will be maintained.

The Borough and MLCC have agreed to prohibit development of a local haul route extending north of the site, given the residential character of the surrounding property in that direction. The Site Plan illustrates each of the potential access routes. Furthermore, the Site Plan indicates 11 mining phases. This application is for all mining phases indicated on these drawings.

A development plan will be prepared by the Contractor, based on project needs and request for access and/or use made to the MSB-LRMD. If a modification of the site plan or development plan is required, a modified plan will be submitted to MSB-LRMD to determine if an amendment to the permit will be required. Structures, either permanent or semi-permanent, and processing equipment will be permitted within southern 20-acres of the site. All contract specifications or use agreements for authorized use of this site shall be required to adhere to the Permit conditions and operational details. Plan deviations must be submitted to the MSB-LRMD by the Contractor for review and approval prior to site development and/or material extraction.

The schedule for excavation and reclamation will be more thoroughly defined by the Contractor developing the site, and will be required in all contractor bid packages. Reclamation will be required. Mined areas will be reclaimed as public open space until such time as public facility construction is needed.

Excavating the western and southern boundaries in anticipation of future road construction will serve to reduce the elevation difference between the existing material site and the subject property. The areas within the section line easement will be left above the grade of the existing material site and the remainder of the subject property to promote road drainage. These areas will be graded to retain storm water runoff on the property.

Retaining an undisturbed 200-foot natural vegetative buffer along the northern boundary will prevent any problems, such as erosion, water quality, draining, flooding on property adjoining the northern boundary of the site. In addition, this 200-foot buffer extends along the eastern boundary of the site where it abuts the Meadow Lakes Senior Housing and Sports Complex and will serve as additional undisturbed buffers between the site and the residential and recreational property to the east.

Retaining an undisturbed 25-foot natural vegetative buffer along the eastern boundary of the site, along the southeast 40-acres of the subject parcel will prevent problems on the adjacent MLCC property. This 40-acre portion of the parcel is proposed open space.

Reserving the southeast 40 acres of the 120-acre parcel for a less than fair market value sale to MLCC, and retaining an undisturbed 25-foot natural vegetative buffer within the proposed material site will minimize the potential for negative off-site effects on the proposed public open

space to the east. In addition, this 40-acre portion of the parcel will provide a buffer between the material site and the residential lots to the east.

A professional hydrologist, with experience evaluating the hydrology of the area was hired to review available data to ensure this mining plan will not result in negative off-site effects on groundwater quality and quantity. Deviations from this mining plan will only be authorized by the borough when supported with more detailed on-site data. The Hydrogeology Report is included as Exhibit 7. The proposed site conforms to the setbacks for public water systems as well as lakes, rivers, and streams recommended by the Alaska Department of Environmental Conservation User's Manual *Best Management Practices for Gravel Extraction Projects: Protecting Surface Water and Groundwater Quality in Alaska*. The nearest drinking water well is located approximately 700 feet up gradient from the site. The nearest waterbody is a stream located approximately 740 east of the site. The volume estimates are based on the estimated seasonal high water table. The average depth of excavation across the site is estimated to be 20 feet. This goal is to provide adequate separation between the ground surface and the seasonal high water table to allow for future public facilities. Test pits and monitoring wells will be installed prior to the solicitation for site development. The Contractor will be required to monitor the water table elevation prior to and during site development.

## **2. Site Plan Requirements**

To isolate and minimize off-site effects of material processing, these activities will be located close to the existing material site, on the southern 20-acres of the Borough parcel. This includes laydown areas and vehicle parking. Laydown areas are locations where material is stored. Mining will commence at the south end of the property and is anticipated to proceed north as phases of mining are completed. Crushers, screening plants, or batch plants may be used at this location. A screening plant is planned for use in this operation. A screening plant is equipment used to separate materials based on grain size. Earthen berms may be installed around the material processing equipment to mitigate noise to the north and east. As the mining extends north and the working face of the excavation gets further from the material processing equipment, noise monitoring will be used to determine when these earthen berms are required. It is not expected to, however, if processing equipment sound levels, measured at the nearest residential properties exceed the sound levels by receiving land use in MSB 17.28.060(A)(5), earthen berms around the equipment will be installed. The hours of operation are intended as noise mitigation measures to protect neighboring properties.

### ***Sand and Gravel Extraction Operations***

Total excavation of the site is estimated to include approximately 1,800,000 cubic yards of pit-run material and is expected to be excavated between 2022 and 2037. The total acreage from which material will be extracted is approximately 61.9. This excludes the vegetative buffer as well as the footprint of the 10-foot earthen berms. The Borough intends to solicit bids from Contractors to complete material extraction. Conceptual cross-sections are included as Exhibit 8. The intent of the cross-sections is to provide an approximate visual interpretation of the intended excavation. The volume estimate as well as the cross-sections are based on the best available information. Actual excavation volumes and controls will be determined by the data collected from the boreholes and monitoring wells and included in the contract for site development.

Conventional bulldozers, track-mounted backhoes, rubber-tired loaders, 10-12 cubic yard (CY) capacity dump trucks, and 18-30 CY capacity side or belly dump trucks will be used in the

operation. Typically the hauling will be done using a 25 CY dump. A majority of the material may be loaded onto trains from the adjacent existing material site. Local material hauling on the road system is anticipated to be 10% of the total annual extraction. An estimated average of 124,000 CY per year will be extracted from the site. Approximately 12,000 CY may be hauled annually via the local road system. Assuming a four-month operational period for local construction projects, six days a week, using 10 CY trucks, this could result in 106 CY per day being hauled off-site. This could be 10 ten-yard trucks resulting in 20-trips per day. This is based on the assumption that a majority of the material extracted from the site each year will be transported on the railroad. The anticipated traffic levels indicate no traffic impact analysis is required.

Blasting will not occur on site.

The working depth will typically be approximately 20 feet below original grade, as long as the depth of excavation remains a minimum of four feet above the seasonal high ground water table. Ground water monitoring will be required by the Contractor to ensure mining activities will not encroach within four feet of the seasonal high ground water level.

Development of the site is anticipated to begin from the south, and will depend on the contractor selected and their plans for utilization of the material. The mining plan is based on the premise of developing approximately six acres in each phase, providing an average of approximately 164,000 CY. Mining phase one could start as early as 2022, once the timber has been salvaged from the site. The roughly six acres in phase one would be excavated and developed into a preliminary operations area, where material processing and stockpiling would occur. Mining phases two through four would add additional operational area allowing for greater efficiency in the extraction and processing operations. Mining phases five through eleven would be reclaimed once completed by spreading soil, fertilizer, and seed. Internal transportation routes through these phases must be maintained to support the successive phases of extraction.

Most of the material extracted may be leaving the site via conveyor to a stockpile adjacent to a railcar loader. Truck haul routes are shown in Exhibit 3 – Site Plan. A water truck and/or sweeper may be used for dust control as needed. Haul routes will be maintained.

The operations area is situated within Phases 1-4 of the excavation and will be confined to the southern 20 acres, to minimize negative off-site effects of processing and handling activities. The operations area is shown on the Site Plans, located on the flat area in the southern portion of the project area. Reject material will be stockpiled for future road development in areas adjacent to the section line easement along the western boundary and the proposed public use easement along the southern boundary. Detailed layout of temporary and permanent facilities will be determined by the Contractor hired to develop the site.

The site is currently wooded and undeveloped. The landform for the area indicate the surficial deposits are comprised of Abandoned Meltwater Channel Alluvium. This geologic unit is described as channel fillings of former glacial meltwater streams and alluvium composed of pebble-cobble gravel and gravelly medium to coarse sand.

Organic overburden from the site will be stockpiled for use as earthen berms along the eastern and northern boundaries. Stockpiles of this material will be located in the operations area illustrated on the attached Site Plans.



## **I. Structures**

A 25-foot setback is required from all property lines for structures, permanent or portable facilities, and equipment or material storage per MSB 17.28.070(A). Structures commonly associated with material extraction sites are planned for use within the site boundaries. All structures and processing equipment will be sited within the operations area in accordance with the required setbacks.

## **II. Buffer areas and Driveways**

Buffers, haul routes and public access easements are shown in Exhibit 3. A driveway permit may be required depending on the haul route selected by the Contractor. The Contractor will be required to obtain all necessary permits to construct access and development within the section line easements. Development within the section line easements will require State authorization. Operations may continue year-round depending on winter weather conditions and demand. Driveways will be maintained during active operational periods. Buffers for this parcel include a 25-foot buffer along the eastern boundary with the 40-acres proposed for sale to MLCC. The southeast 40-acres of the parcel will provide a buffer between the material site and the residential lots to the east. This 40-acres will be reserved for open space and public recreation.

A minimum 200 foot buffer along the northern boundary includes the wetland buffer.

A 200-foot buffer along the senior housing and sports complex, is excluded from the proposed material site. This buffer was agreed to by the Borough and the MLCC for the senior center and sports fields.

A waiver to the visual screening requirements along the western and southern boundaries is requested as the neighboring land use is also a material site. The areas along the western and southern boundaries will be developed for road access to the future public facilities. Material extraction along the western and southern boundaries will help prepare these areas for future road construction. Land to the west and south is owned and operated by a material extraction contractor. An email supporting the visual screening waiver from this landowner is included as Exhibit 9. There is a 20+foot elevation difference between the subject parcel and the parcels to the west and south. The Borough proposes to extract material along the western and southern lot lines to prepare these areas for future roads. Once mining is complete, the Borough will plant trees along the western and southern property lines to visually screen the subject parcel to the west and south. This visual screen is included in anticipation of future public use of the site once material extraction is complete. The Contractor will be required to obtain the necessary permit for work within the section lines easements.

All traffic associated with the material extraction will ingress and egress the site from the southern 20 acres, via a new connection to North Suzanna Street, Pittman Road, or the Railroad. Vehicle parking will occur within the southern 20-acres of the site, not within the section line easements.

## **III. Wetlands and Waterbodies**

No wetland areas are located in the area proposed for mining. Exhibit 5 shows all wetlands within a one-mile radius of the proposed mining site.

#### IV. Existing and Surrounding Land Uses

Property surrounding the site is residential to the north and east. The land south and west of the landfill is an existing material site. The Meadow Lakes Sports Complex also adjoins the eastern site boundary. Surrounding properties within a one-mile radius are identified in Exhibit 6. A list of all neighboring property owners within this same radius is also provided with this Exhibit.

The Meadow Lakes Community Comprehensive Plan was reviewed during development of this application. Meetings were held with the Meadow Lakes Community Council to discuss residents' concerns with the proposed material extraction. The development plan for the site was drafted with input from the Community Council.

Meadow Lakes has an extensive comprehensive plan (adopted 2005) that includes land use districts for all of the land contained within the community boundary. Each land use district has land use goals and encouraged/discouraged uses. It appears the property in question is classified in the Comprehensive Plan as "open space". Within the section, the Plan specifically speaks about the subject parcel, in the following excerpt:

*MSB land is currently at a premium. Borough lands include two 160 acre parcels, plus the school and fire station properties. These parcels should be managed for current and future public uses. Two sites are already dedicated to community uses – one for a fire station and the school, the other at the intersection of Church and Pittman, for the community's second fire station.*

*The Meadow Lakes Community Council recently acquired 40 acres of Borough land in a parcel just north of the Parks highway. The intent of the Community Council is to develop the site for a community center, a developed recreational facility, or other facility – such as a library or senior housing. In light of the lack of public land in the Meadow Lakes area, additional Borough parcels should be retained for similar public purposes.*

MLCC has achieved the intent of the above referenced 40 acres by building a senior housing facility, park, ballfields, trails, etc. The proposed land sale would allow MLCC to continue providing the community with various public use options and more availability of open space with the expansion of the ballfields, trails, and parks. Existing authorized trails are contained on the Meadow Lakes Sports Complex.

The language in the comprehensive plan states Borough lands should be managed for current and future public uses and goes on to say Borough parcels should be retained for similar public purposes. The proposed material extraction is in conformance with the Comprehensive Plan and MSB 17.30 and is supported by the community. The proposed material extraction is intended to prepare the site for future public facilities. The Reclamation Plan for the site is intended to leave the site in a condition suitable for use as public open space. The operational details of the proposed material extraction were developed with input from MLCC to ensure the setbacks, buffers, haul routes, and operation area minimized the potential for negative offsite effects.

The reclamation plan is robust in its requirements for utilization of all organic overburden on site to be retained to support future use of the property for open space. The material extraction activities will not leave a scar or one big hole in the ground. When the mining is finished, the reclamation plan includes plans for community uses. The site will be available for use as public open space

until such time as it is developed for public facilities such as a school or library. The proposed extraction activities are consistent with the Meadow Lake Comprehensive Plan.

The proposed material extraction operation conforms to the approved Borough land classification of Material Lands and Reserve Use

#### **v. Road and Access Plan**

All traffic may ingress and egress the site via a new road connection to N. Suzanna Street or Pittman Road, which are paved residential roads. Site access is shown in the attached Site Plans and in Exhibit 3 – Site Map. Existing haul routes on the adjacent material site may also be used for site access.

Construction-related traffic may be expected to generate up to three trips per hour, during the peak construction season. A majority of the material extracted from the site may be conveyed to a stockpile area adjacent to the railroad and loaded on railcars. Extraction and removal traffic will not run out of the north of the site into the surrounding residential area.

#### **vi. Visual Screening Measures**

Residential areas and recreational trails are located in the vicinity of the proposed area of development. However, the western and southern boundaries of the site associated with this proposed mining site are bordered by an existing material site. The western and southern boundaries have section line easements that will be developed for future public facility road access once State authorization has been received by the Contractor. Visual screening will be included in the reclamation plan for the property, once these areas have been mined to prepare them for road construction. A vegetative buffer is part of the reclamation plan and will be planted along these boundaries to screen the property from the adjacent material site.

A 25-foot vegetative buffer will be reserved within the site boundary to screen the site from the 40-acres proposed to be sold to MLCC.

A 200+ foot buffer is reserved along the boundary, between the site and the senior housing and sports complex to the east.

A 200+ foot buffer is reserved along the northern boundary of the site.

Earthen berms, ten feet tall and forty feet wide will be constructed along the northern and eastern boundaries when material extraction activities are within 300 feet of site boundaries. Neighboring residential parcels to the north and east and recreational parcels to the east will additionally be buffered with naturally occurring vegetation.

Restricting the operation area to the south 20-acres of the site is intended to provide additional visual screening.

#### **vii. Noise Mitigation**

Residential areas and recreational trails are located in the vicinity of the proposed area of development. The earthen berms and existing vegetation will provide a noise buffer to these receptors. The below-grade excavation will also help to attenuate work area noise to acceptable levels consistent with the stipulations of MSB 17.28.060(A)(5). Additionally, haul trucks

removing the material from the site will be required to have the appropriate mufflers installed to minimize noise pollution in the adjacent neighborhoods. Restricting the operations to Monday through Saturday, from 6am to 10pm will provide additional noise mitigation. Restricting the operation area to the southern 20-acres of the site is also intended to provide noise mitigation. Additional earthen berms around processing equipment will be constructed when off-site noise levels exceeds the levels listed in MSB 17.28.060(A)(5).

#### **VIII. Lighting Plan**

Most of the work will be conducted primarily during daylight hours without the need for artificial lighting. The contractor will be required to obtain approval from MSB for any artificial lighting. Lighting may be used to illuminate activities in the work area, if needed. All lighting will be focused away from nearby residential areas and will be directed only onto the work at hand. Exterior lighting must be located and shielded to direct light towards the ground, in order to minimize light spillage onto adjacent properties and upward in to the night sky. Illumination or other fixtures mounted higher than 20 feet or 150 watts or more must have downward directional shielding, in accordance with MSB 17.28.060(A)(6).

#### **IX. Dust Plan**

Road dust control is a concern of high priority. The contract for development of this site shall contain a specific bid item to provide watering for dust control.

Borough staff or their agent will monitor conditions throughout construction and direct the construction contractor to water the roadway and haul routes as needed to prevent dust from becoming a problem. It is also anticipated that measures to reduce any by-product dirt transport from the borrow site by vehicle tires will be implemented within the borrow pit. The vegetative buffers are intended to mitigate off-site migration of dust. Mud tracked off-site onto public roads will be swept or washed as necessary.

#### **X. Stormwater Pollution Prevention Plan (SWPPP)**

The site will be developed to contain all stormwater runoff. The Contractor will be required to develop and implement a SWPPP and associated permitting for the life of the project. The SWPPP will be provided to the Borough for review and approval prior to commencement of extraction activities.

#### **XI. Reclamation Plan**

The site will be excavated to create a generally flat area with small rolling hills, in order to prepare the site for development of future public facilities. The site will be available for use as open space. Reclamation of the property will leave the site in a condition suitable for use as public open space until the site is developed for public facilities. To this end, the organic overburden will be stockpiled onsite and used to construct earthen berms for visual screening. The overburden will be distributed over the site upon completion of mining activities and the site will be seeded and fertilized to promote rapid revegetation. Trees will be planted along the western and southern property boundaries to screen the site from the adjacent material site.

Reclamation of each phase of mining will be completed within four growing seasons after completion. Slopes will be graded to a maximum 50% slope, and graded to blend with surrounding undisturbed topography. All surfaces will be stabilized and protected from erosion. Vegetative cover will be established and maintained over all disturbed areas on the site in conformance with the current Alaska Department of Natural Resources Revegetation Manual for Alaska. Reseeding of reclaimed areas will utilize certified seed suitable for Alaska, free of noxious weeds and undesirable plants identified in 11 AAC 34.020. Sixty percent live cover of the entire reclaimed area will be achieved by the end of the fourth growing season after completion of a mining phase. However, equipment access through each mining phase will be maintained and remain unreclaimed until mining and reclamation of the last phase is complete. This is in support of the agreement between the Borough and MLCC to restrict material hauling to the south of the site. Material from the last phases of mining must be transported south, across the site to the operations area.

At least 12" of organic overburden are estimated to be on site based on available data. All organic overburden will be stockpiled onsite and used for reclamation.

The Reclamation Plan and bond will be filed with the State when a contractor is selected to begin extraction activities.

## **xii. Long-Term Plan**

This plan is specifically for the extraction of materials to prepare the site for the future public facilities and open space. The site is classified for material extraction and reserve use. Excavation to level the site for the future public facilities is anticipated to include 1,800,000 cubic yards of pit-run materials. Excavation is expected to take place from 2022 through 2037. The Borough Land and Resource Management Division is requesting this Conditional Use Permit to cover the activities associated with the development of this site for future public facilities.



Exhibit 7 - Hydrogeology Report

**J. A. MUNTER CONSULTING, INC.**

June 15, 2021

Mr. Emerson Krueger  
Natural Resource Manager  
Matanuska-Susitna Borough  
350 E. Dahlia  
Palmer, AK 99645-6488

Re: Hydrogeologic review and evaluation of a potential gravel extraction at parcel Tax ID 17N02W02C003, Wasilla, Alaska. Purchase Order No. 2021-00003462.

Dear Mr. Krueger:

This letter report is to provide the findings of a review of a potential new gravel resource extraction development at parcel Tax ID 17N02W02C003, near Vine Road and the Parks Highway, Wasilla, Alaska. The parcel is owned by the Matanuska-Susitna Borough. The objectives of this work are to:

- determine if gravel extraction, at least four feet above the seasonal high water table elevation, could have any significant negative effects on surrounding water wells;
- provide suggestions for acquiring further information for gravel extraction planning and monitoring; and
- provide information to develop a preliminary evaluation of the depth of potential gravel extraction, considering the geology and likely sloping water-table across the parcel.

**Site Location and Hydrogeologic Setting**

The proposed gravel extraction area (termed the MSB site in this report) is located north of the intersection of Vine Street and the Parks Highway and adjacent to a large existing gravel extraction operation (termed the QAP site in this report). The proposed extraction area at the MSB site is shown in Exhibit 1 (attached). The proposed extraction (as well as historic extraction from the QAP site) would be from a geologic unit described as "abandoned meltwater channel alluvium" consisting of "well-sorted pebble-cobble gravel and gravelly medium-coarse sand with rare to occasional boulders laid down by streams from melting glacial ice" (Daniels, 1981).

This deposit is underlain by silty glacial deposits and bedrock. There is a water table aquifer in the lower portion of the deposit. Extraction at the QAP site has occurred in close proximity to the property boundary of the MSB site and there is a cut bank approximately 20-25 feet high along the west and south boundaries of the MSB site.

Extraction at the QAP site appears to have been limited in depth to the approximate position of just above the water table. The floor of the QAP site slopes upward towards the northwest, in general conformance with the regional water table slope (Jokela and others, 1991). The QAP

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Table 1. Summary of well data.

WELTS#	Land surface elevation (ft NAVD 88)	bedrock elevation (ft NAVD 88)	reported depth to water below land surface	aquifer top elevation	Aquifer tapped	Reported water-level elevation (ft NAVD 88)
4264	331	<259	41	268	sand, gravel	290
4268	335	<225	35	230	sand, gravel	300
7527	331	<268	36	276	sand, gravel	295
25299	328	<243	39	254	sand, gravel	289
29399	288	<208	29	220	gravel	261
43594	336	303	37	299	bedrock	299
48437	343	301	21	311	gravel	322
54756	336	<267	22	275	gravel	314
54763	324	<276	17	307	gravel	307
61818	357	<260	15	282	gravel	342
61820	349	<272	27	292	gravel	322
61822	347	<290	26	316	gravel	321
61824	345	<283	23	292	gravel	322
63254	320	<277	NR	308	gravel	NR
64175	365	313	33	333	gravel	332
67041	353	<255	40	273	gravel	313
75063	334	<296	19	315	gravel	315
MLCC#1	352	<277	40	280	gravel sand,	312
MLCC#2	354	<266	54	271	gravel	300
MLCC#3	347	259	NR	none	bedrock	none
MLCC#4	317	232	NR	234	gravel	none

notes

NR = not reported



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general planning for the extraction of gravel from the MSB site and to guide further data collection. Several assumptions were made in order to construct this map:

- the water table is slightly below the elevation of the pit bottom west of the MSB site. The lowest elevation there is 284 ft amsl. Therefore an elevation of 283 ft is assumed.
- The elevation of the blue-colored pond south of the MSB site on Exhibit 1 represents the water table at an elevation of 282 ft amsl.
- There is an area of stained soils or a small amount of water inside a "280" contour located west of the MSB parcel. The elevation of the water table at that location is assumed to be 279 ft amsl.
- There is depression in the land surface extending below the "270" contour in the southwest region of the QAP site. The elevation of the water table there is assumed to be 269 ft amsl.
- The slope of the water table surface is assumed to be 0.006 ft/ft with an upward slope towards the northeast under the MSB site;
- The approximate water table is mapped only within the abandoned meltwater channel alluvial deposit mapped by Daniels (1981) that are at the MSB site and nearby areas.
- It appears that Little Meadow Creek to the east of the MSB site is perched above the regional water table and is not contoured as a part of the water table aquifer.

#### **Effects of natural water level fluctuations**

Absent human disturbance, water levels in a water table aquifer such as that found at the MSB site naturally fluctuates in response to seasonal variations in recharge and annual or multi-year periods of above or below average precipitation and snowmelt. These fluctuations can be up to several feet seasonally - perhaps even 4-8 feet in natural systems in the region during multi-year wet periods of above average precipitation.

At the QAP site, the upper limits of a water table rise are limited by the floor of the pit. Should the water levels rise above the floor of the pit, they will fill small depressions in the pit floor and water will flow as surface water in a southwesterly direction following the slope of the pit bottom. Thus, unless the pit geometry changes (or has changed since the lidar map was made), the expected maximum elevation of the water table along the west boundary of the MSB site is not expected to rise above approximately 284 ft amsl.

The approximate water table contour map shown in Exhibit 1 shows a sloping water table under the MSB site. The estimated water table elevation on the east side of the parcel is estimated to be approximately 290 to 292 ft amsl. With approximate land surface elevations of approximately 316-318 ft amsl along the east boundary of the MSB site, and a plan to stay four feet above the water table, this means that the depth of extraction along the eastern boundary would likely be no more than about 24 to 28 feet. This estimate could be refined with additional data collection about the actual water table position beneath the MSB site.

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**Potential effects of material extraction of local wells**

By maintaining a separation of approximately four feet between the bottom of the MSB site extraction activities and the water table, the water table should remain relatively undisturbed and there should be no observable effect on the water levels in neighboring wells or their ability to produce water.

In practice, extraction operations may involve the need for a water supply and such a water supply could come either from an onsite pond or a well. In either case, the diversion of water should be authorized by the Alaska Division of Mining, Land and Water through a Temporary Water Use Authorization. Since the use of water would likely be non-consumptive (i.e. returned to the aquifer after use), the net impact on the surrounding water table should be negligible. Issuance of a Temporary Water Use Authorization typically comes with protective measures to avoid impacts and authority to revoke the authorization should problems occur.

As an industrial site involving the use of fueled vehicles and perhaps a power supply, the storage, transfer, and use of fuels creates some risk of leaks and spills. Normal industry precautions should be taken to prevent leaks and spills. The closest wells (at the Senior Center) are located upgradient of the MSB site and would not be expected to be impacted should a leak or spill occur. Other wells in a downgradient direction are located more than 0.5 miles distant. This is considered a sufficient separation to be protective unless a major spill or leak were to occur, or a leak in an underground facility would occur undetected for a long period of time. Again, normal industry precautions should be used to prevent leaks and spills.

**Development considerations**

To maintain a four-foot separation from the water table, several considerations are important. For initial planning:

- on the west side, the bottom of the excavation site should be planned to be no lower than 288 ft amsl;
- the bottom of the future extraction area should gradually rise towards the northeast in parallel with the water table slope of about 0.006 ft/ft. This indicates that the water table at the northeast portion of the excavation would be around 290 to 292 ft amsl and the bottom of the excavation in that area should be no lower than about 294-296 ft amsl.

For detailed development planning:

- before excavation begins, test pits (with a backhoe) or test borings should be advanced to determine the actual water-table position. Monitoring wells should be installed in at least three places roughly equidistant around the site perimeter that will not be mined for aggregate. Their location and the vertical elevations of the top of casings should be determined by survey to the nearest 0.1 ft vertical elevation or better. The wells should be constructed in a manner so as to prevent settling or frost heaving of the casing. The wells should be re-surveyed in the spring after frost leaves the ground to confirm their top of casing elevations.



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- Water levels should be monitored at approximately monthly intervals for a year to determine seasonal fluctuations. Water-table contours should be drawn based on the highest water table elevation during the year and these water table contours should be used to determine the floor of the excavation, which would be four or more feet above the highest measured seasonal water table everywhere in the excavated area.

### **Resource Evaluation**

The majority of the area targeted for potential gravel extraction is located in the area mapped as abandoned melt-water channel alluvium and should be suitable for producing marketable sand and gravel. There is a small area in the far north of the outlined area, which appears to consist of kame-esker deposits (Daniels, 1981). Kame-esker deposits consist chiefly of sand and gravel and are also potentially able to produce marketable materials, although there may be more silty or bouldery materials than would be found in the abandoned channel deposits. For this analysis, the kame-esker deposits will be assumed to provide marketable materials of similar quality as the channel deposits.

Using the approximate water table map (Exhibit 1) and an assumed overburden/topsoil thickness of one foot, and an assumption of staying four feet above the water table, the Mat-Su Borough calculated a preliminary volume of material available for extraction. This preliminary volume is 1,800,000 cubic yards of cubic yards (in place).

The on-site measurements from test pits or borings and monitoring wells can be used to refine the estimate of the thickness of overburden, marketable materials, and the quality of the kame-esker deposits.

Should you have any questions about this report, please call me at 345-0165 or 727-6310.

Sincerely,

**J. A. Munter Consulting, Inc.**



James A. Munter, CPG  
Principal Hydrogeologist  
Certified Ground Water Professional No. 119481  
Alaska Licensed Professional Geologist No. 568

### **References Cited**

Daniels, C.L., 1981, Geologic and materials maps of the Anchorage C-7 SW Quadrangle, Alaska: Alaska Division of Geological & Geophysical Surveys Geologic Report 71, 2 sheets, scale 1:25,000. <https://doi.org/10.14509/431>

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**J. A. MUNTER CONSULTING, INC.**

Jokela, J. Brett, James A. Munter, and James G. Evans, 1991, Ground-water resources of the Palmer-Big Lake area, Alaska. Alaska Division of Geological and Geophysical Surveys Report of Investigations 90-4, 38 pages, 3 sheets (1:25,000 scale).

**Exhibits**

Exhibit 1. Regional Groundwater Elevation Contour Map MSB007701.

**Attachments**

Attachment 1. Driller's logs of wells not found in WELTS.

MLC#1

# Daily Drilling Log

## Penn Jersey Drilling Inc.

HC 34 Box 2201 Wasilla, Alaska  
99654-9604

"Specialty work since 1952"

Telephone (907) 892-7206

Owner Of Land: HOWDIE INC.

Address: 4237 E. MERIDIAN  
LOOP

WASILLA, AK. 99654

Well - Site: SENIOR CENTER  
PITTMAN ROAD

Date - Started: 7/16/2008

Date - Ended: 7/16/2008

Depth of Well: 75 FEET

Static Level of Water (ft): 40'

Draw Down (ft):

Gallons / minute: 60 GPM

Kind of Casing: 6" STEEL WELDED

Misc. Info: WELL #2. TRACE OF WATER & 25' & 38'

IRON TEST (a) 60' WAS .2 PPM (DRY GROUTED W/1  
BAG)

### Kinds of Formation:

From (ft)	To (ft)	Formation Type
0	1	TOP SOIL
1	3	SILTY GRAVEL
3	25	SAND & GRAVEL
25	27	DAMP CLAY & GRAVEL
27	32	SAND & GRAVEL
32	38	CLAY & GRAVEL
38	40	CLAY & GRAVEL, TRACE OF WATER
40	72	SILTY GRAVEL
72	75	GRAVEL & WATER - 60 GPM.

AIR ROTARY

Entry ID: 205 Drilling Rig: BIG RIG

HC 34 Box 2201 Wasilla, Alaska 99654-9604  
"Specialty work since 1952"  
Telephone (907) 892-7206

**Owner of Land:** MEADOWLAKES COMMUNITY COUNCIL

**Address:** 1210 N. KIM DRIVE, STE #B  
WASILA, ALASKA 99654

**Well - Site:** END OF KAREN ST. -  
SENIOR CENTER BALL FIELDS, OFF PITTMAN

Date - Started: 7/28/2011

Date - Ended: 7/29/2011

**Depth of Well:** 88 FEET

Static Level of Water (ft): 54 FEET**Draw Down (ft):**

Gallons / minute: 15+ GPM

**Kind of Casing:** 84' of 6" STEEL WELDED CASING

**Misc. Info:** IRRIGATION WELL, NOT GROUTED. INSTALLED 5'  
#30 SLOT STAINLESS WELL SCREEN.

### Kinds of Formation:

[illegible][illegible]

Entry ID: 550

**Drilling Rig:** BIG RIG

BIG RIG  
AIR ROTARY

**Drillers:** TED & TOM SCHACHLE



MLCC-#3

# Daily Drilling Log

## Penn Jersey Drilling Inc

HC 34 Box 2201 Wasilla, Alaska  
99654-9604

"Specialty work since 1952"

Telephone (907) 892-7206

Owner Of Land: HOWDIE INC.  
Address: 4237 E. MERIDIAN LOOP  
WASILLA, ALASKA  
99654

Well - Site: SENIOR CENTER  
PITTMAN ROAD

Date - Started: 7/15/2008

Date - Ended:  
7/16/2008

Depth of Well: 220 FEET  
Static Level of Water (ft):  
Draw Down (ft):  
Gallons / minute: 1/8 GPM  
Kind of Casing: 6" STEEL WELDED (100' OF CASING IN WELL)  
Misc. Info: Well #1- (WELL WAS DRY GROUTED)  
At 152' was a trace of water.

### Kinds of Formation:

From (ft)	To (ft)	Formation Type
0	3	FILL DIRT
3	18	SILTY GRAVEL
18	31	BROWN SANDY GRAVEL
31	88	GREY CLAY & GRAVEL
88	91	SOFT BEDROCK
91	97	COAL
97	220	SANDSTONE BEDROCK

From (ft) To (ft) Formation Type

MLCC#4

Telephone (907) 892-7206

**Misc. Info:** ABANDONED WELL W/ 5 BAGS OF BENTONITE,  
PULLED CASING OUT.

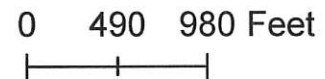
### Kinds of Formation:

[illegible]

**Drillers:** TIM SCHACHLE & CRAIG SEIME



# Provisional



Topographic map showing a wetland area with contour lines and various features. Key locations and features include:

- Water Bodies:** 318' AMSL, 312' AMSL, 332', 338', 336' AMSL, 342' AMSL.
- Infrastructure:** Meadow Lakes Senior Center, MSB Site, Railroad, Parks Highway, Little Meadow Creek.
- Elevation Points (Yellow 'X' symbols):** 67041, 61822, 321, 322, 61824, 61820, 61818, 43594, 299, 340, 350, 370, 64175, 332, 340, 322, 48437, 75063, 315, 314, 54756, 54763, 307, 330, 340, 320, 310, 290, 310, 280, 270, 260, 261, 29399, 290, 4264, 290, 7527, 295, 4268, 300, 340, 330, 25299, 289, 330.
- Other Labels:** MLCC#1, MLCC#2, MLCC#3, MLCC#4.

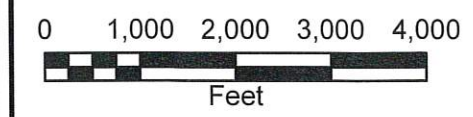
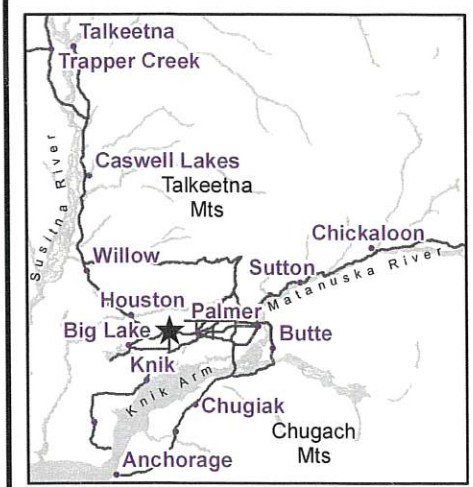




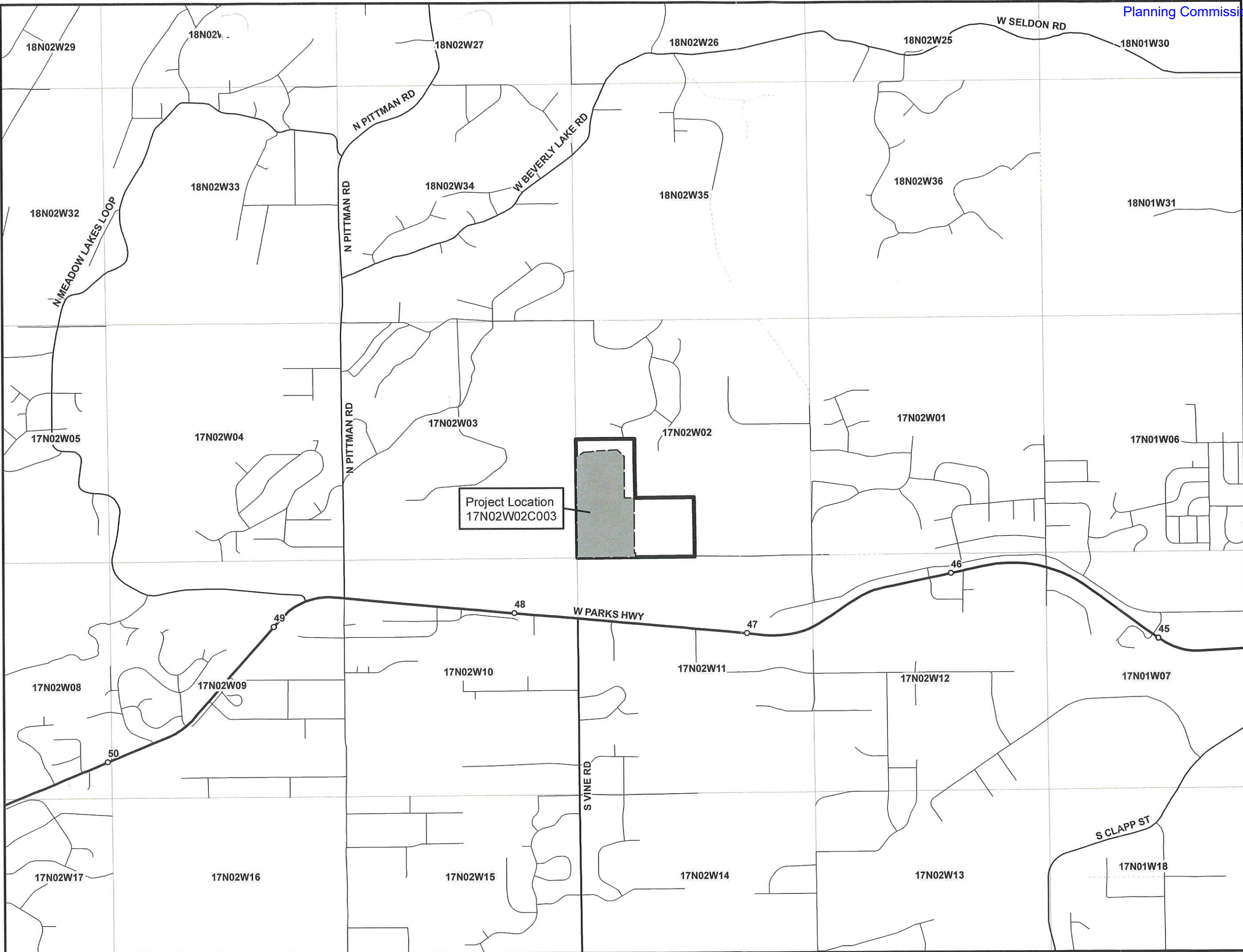
**Exhibit 1**  
**Vicinity Map**

**Meadow Lakes**  
**Material Extraction**  
**CUP Application**

**Legend**  
SUBJECT PARCEL C003



Date: April 2021  
Sources: MSB GIS, MSB LRMD, AK DOT  
Projection: NAD 83 AK ST PLN Z4  
Location: MSB  
Author: MSB LRMD







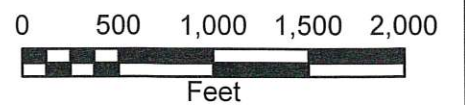
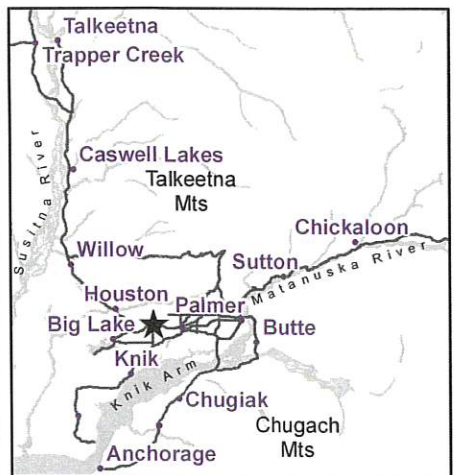


## Exhibit 2 Location Map

# Meadow Lakes Material Extraction CUP Application

### Legend

-  MSB Parcel 17N02WC003  
 Mining Plan Area



Date: April 2021  
Sources: MSB GIS, MSB LRMD, AK DOT  
Projection: NAD 83 AK ST PLN Z4  
Location: MSB  
Author: MSB LRMD



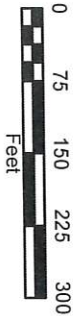




EXHIBIT 3 - SITE PLAN LAYOUT 1  
OPERATIONAL FEATURES AND  
EXISTING TOPOGRAPHY (10' CONTOURS)

LEGEND

- PROPOSED ACCESS
- 40' WIDE x 10' TALL EARTHEN BERM
- MATERIAL EXTRACTION AREA
- MINING PLAN AREA OF DISTURBANCE



DATE: APRIL, 2021  
SOURCES: MSB GIS, MSB LRMD  
PROJECTION: NAD 83 AK ST PLN Z4  
AUTHOR: MSB LRMD

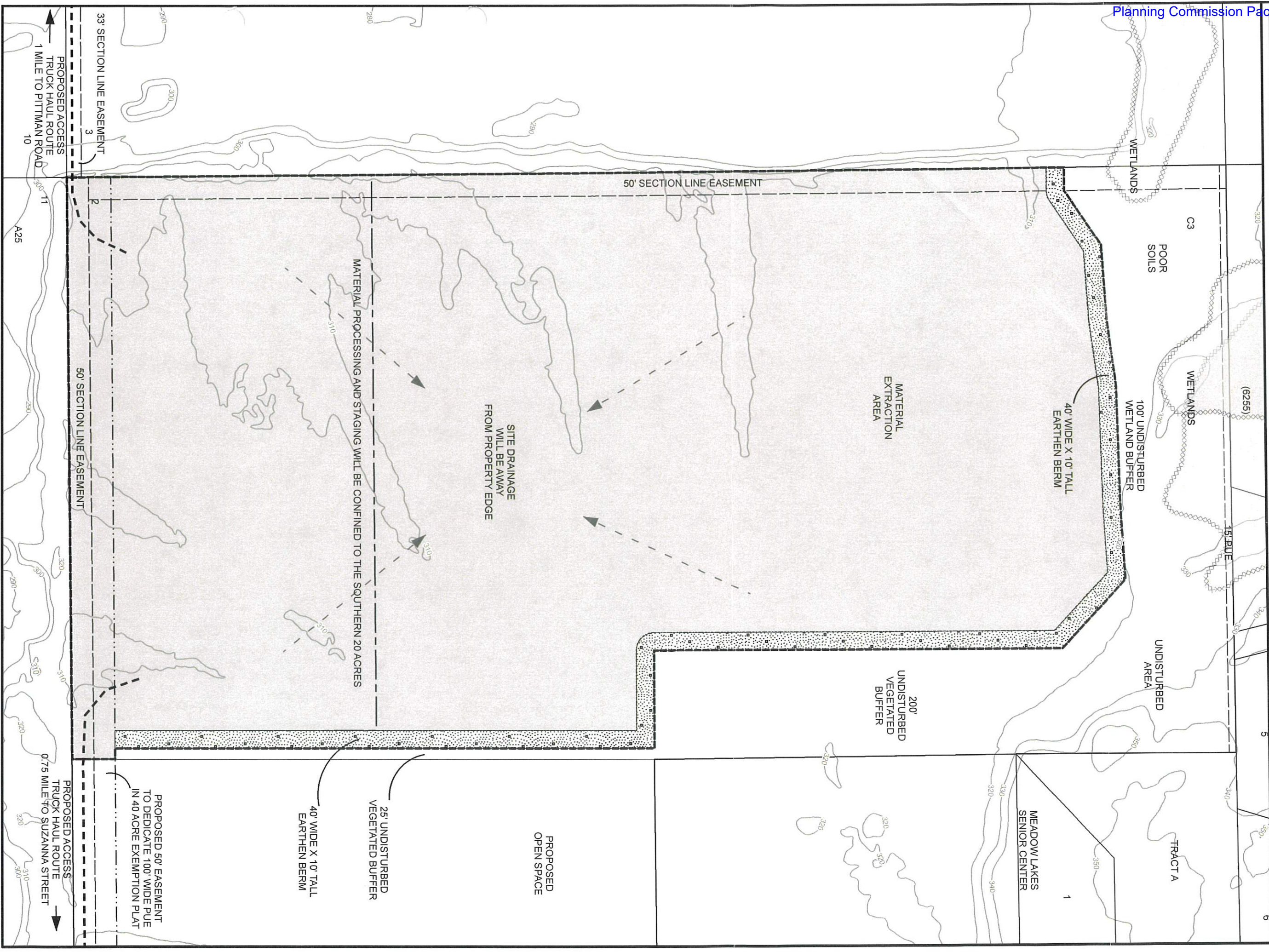


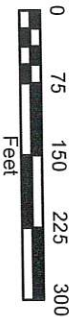




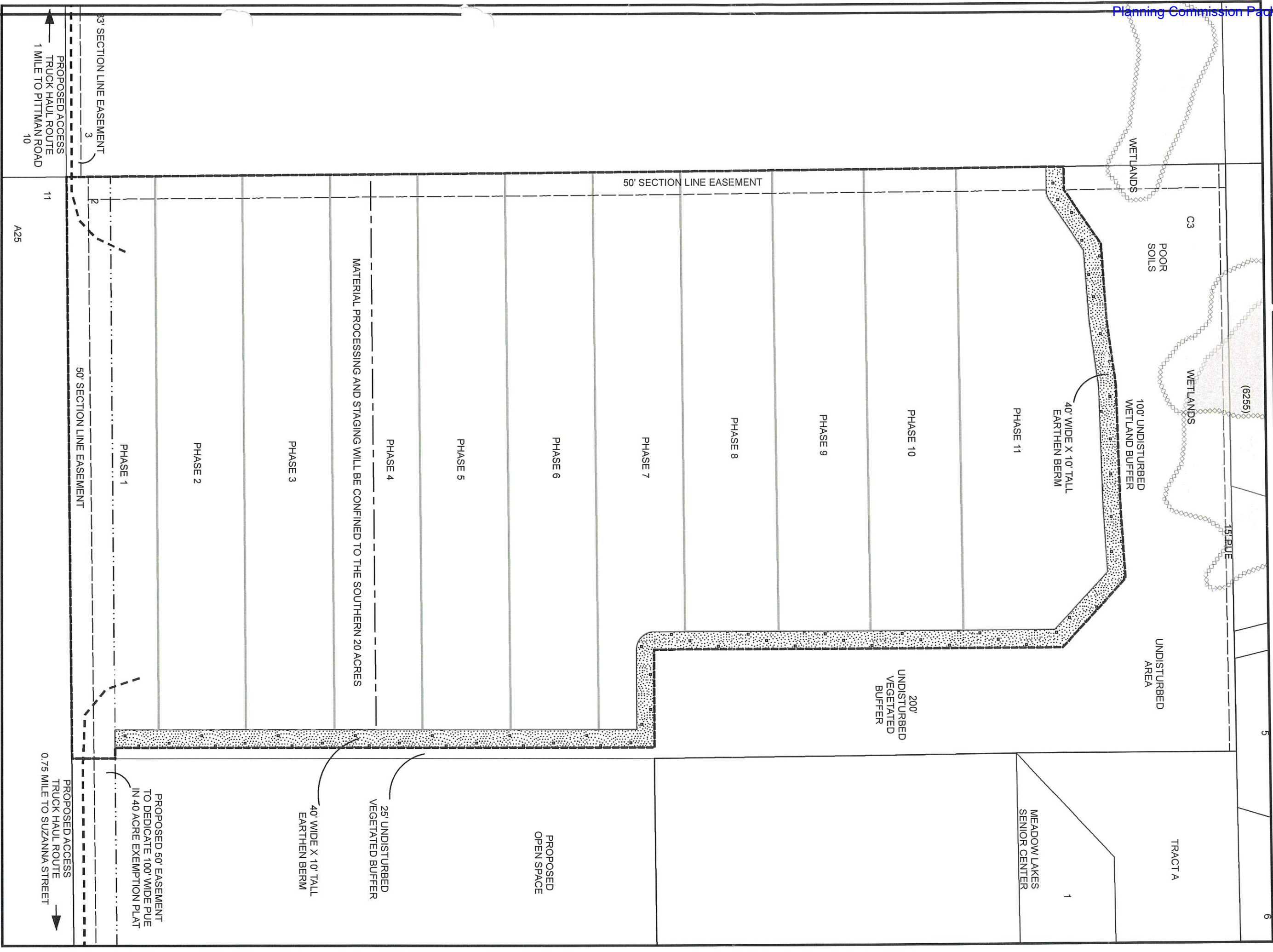
EXHIBIT 4 - SITE PLAN LAYOUT 2  
MATERIAL EXTRACTION  
PHASED DEVELOPMENT

LEGEND

- PROPOSED ACCESS
- 40' WIDE x 10' TALL EARTHEN BERM
- MATERIAL EXTRACTION PHASES
- MINING PLAN AREA OF DISTURBANCE



DATE: APRIL, 2021  
SOURCES: MSB GIS, MSB LRMD  
PROJECTION: NAD 83 AK ST PLN Z4  
LOCATION: MEADOW LAKES  
AUTHOR: MSB LRMD





Land and Resource  
Management Division

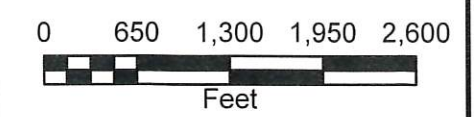


**Exhibit 5**  
**Wetlands and**  
**Waterbodies Map**

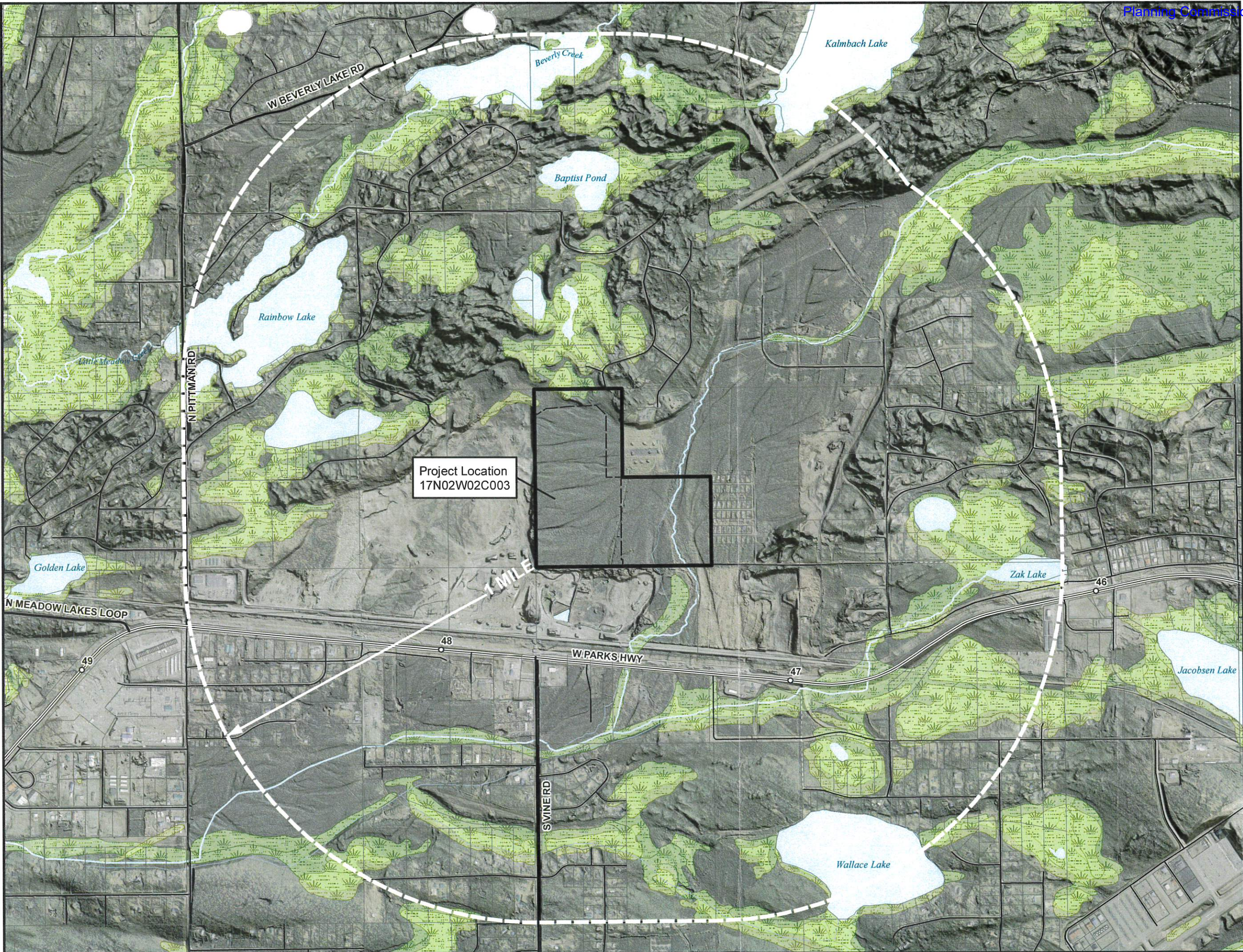
**Meadow Lakes**  
**Material Extraction**  
**CUP Application**

**Legend**

- MSB Wetland Mapping
- National Wetland Inventory
- MSB Waterbody Lines
- NHD Waterbody Lines
- NHD Waterbody Polygons



Date: April 2021  
Sources: MSB GIS, MSB LRMD, AK DOT  
Projection: NAD 83 AK ST PLN Z4  
Location: MSB  
Author: MSB LRMD





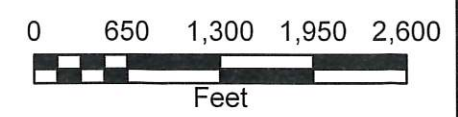
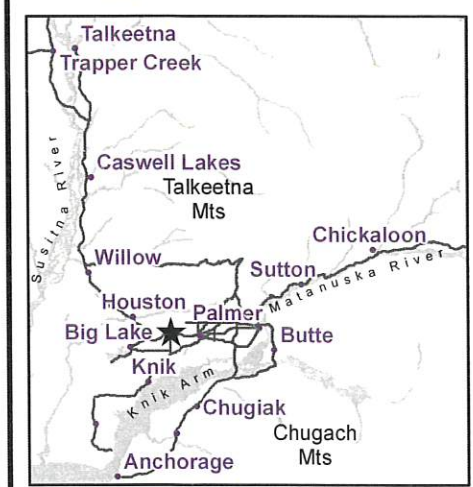
**Matanuska-Susitna Borough  
Land and Resource  
Management Division**



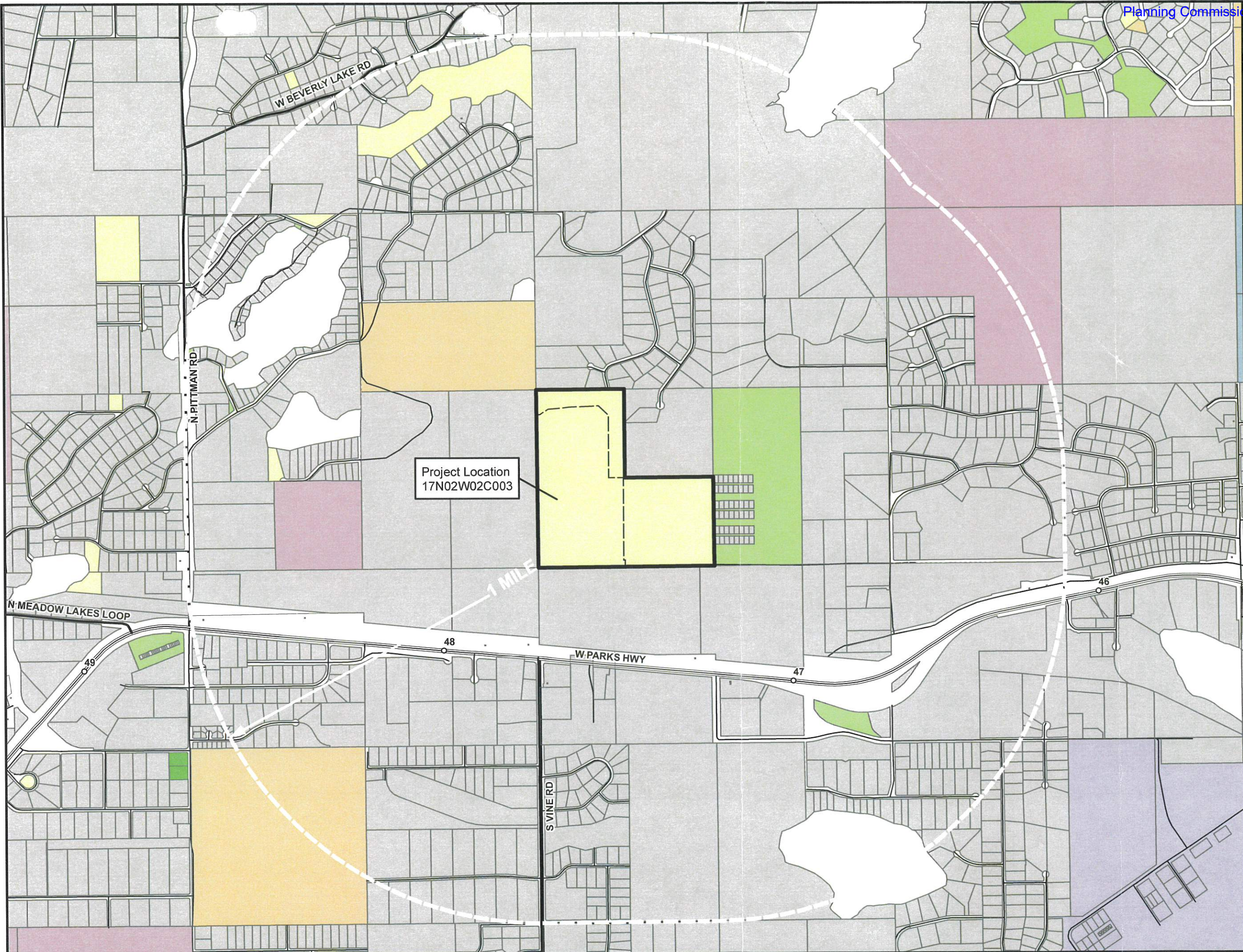
**Exhibit 6  
Surrounding  
Land Ownership**

**Meadow Lakes  
Material Extraction  
CUP Application**

- LAND STATUS
- BOROUGH
  - CITY
  - COOPERATIVE
  - MENTAL HEALTH
  - NATIVE CORP
  - STATE
  - PRIVATE
  - PUBLIC UNIVERSITY



Date: April 2021  
Sources: MSB GIS, MSB LRMD, AK DOT  
Projection: NAD 83 AK ST PLN Z4  
Location: MSB  
Author: MSB LRMD





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# **INTRODUCTION FOR PUBLIC HEARING QUASI-JUDICIAL**

## **Resolution No. PC 21-23**

### **Variance to MSB 17.55 - Construction Of A Single Family Residence**

(Page 47 - 64)

# **INTRODUCTION FOR PUBLIC HEARING**





## MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-7876

Email: [PermitCenter@matsugov.us](mailto:PermitCenter@matsugov.us)

Matanuska-Susitna Borough  
Development Services

MAY 28 2021

Received

### APPLICATION FOR A VARIANCE – MSB 17.65

Carefully read instructions and applicable borough code. Fill out forms completely. Attach information as needed. Incomplete applications will not be processed.

Application fee must be attached:

☒ \$1,000 for Variance

Prior to the public hearing, the applicant must also pay the mailing and advertising fees associated with the application. Applicants will be provided with a statement of advertising and mailing charges. Payment must be made **prior** to the application presentation before the Borough Planning Commission.

**Subject Property** Township: 18N, Range: 1E, Section: 34, Meridian SEWARD

MSB Tax Acct # 18N01E34B002

SUBDIVISION: \_\_\_\_\_ BLOCK(S): \_\_\_\_\_, LOT(S): B2

STREET ADDRESS: Property is an island on Finger Lake and has no street address

(US Survey, Aliquot Part, Lat. /Long. etc) GOVT LOT 5 SEC 34

**Ownership** A written authorization by the owner must be attached for an agent or contact person, if the owner is using one for the application. Is authorization attached? ☐ Yes ☐ No ☒ N/A

**Name of Property Owner**

Shaun Krautkremer

Address: 20429 New England Dr

Eagle River, AK 99577

Phne: Hm N/A Fax \_\_\_\_\_

Wk 907-552-3168 Cell 707-624-6177

E-mail NEICSHAUN@yahoo.com

**Name of Agent/ Contact for application**

Address: \_\_\_\_\_

Phne: Hm \_\_\_\_\_ Fax \_\_\_\_\_

Wk \_\_\_\_\_ Cell \_\_\_\_\_

E-mail \_\_\_\_\_

Description	Attached
A variance from MSB 17.55.020 is being applied for and is specifically described.	Request Letter
Provide a detailed written description as to why the variance is required.	Request Letter

Drawings	Attached
A boundary survey and site plan of the proposed and/or existing development, of the particular parcel or parcels affected. (See attached survey standards checklist). The survey must be submitted under the seal of an Alaska registered professional land surveyor.	R and K As Built
Structural elevation drawing(s) for the purpose of indicating the proposed height and bulk, view and other dimensions of the subject structure.	Elevation Doc.

<b>In order to grant a variance from MSB Title 17, the Planning Commission must find that each of the following requirements has been met (17.65.020). Explain how the request meets each requirement. Include information such as physical surroundings, shape or topographical conditions of the property which would support the granting of a variance.</b>	<b>Attached</b>
1. What unusual conditions or circumstances apply to the property for which the variance is sought?	Para. 3.
2. How the strict application of the provisions of this title will deprive you of the rights commonly enjoyed by other properties under the terms of this title.	Para. 4.
3. Why the granting of the variance will not be injurious to nearby property, nor harmful to the public welfare.	Para. 5/6.
4. How will the granting of the variance be in harmony with the objectives of this title and any applicable comprehensive plans?	Para. 7
5. How the deviation from the requirements of this title as permitted by the variance will be no more than is necessary to permit a reasonable use of the property.	Para. 8.

<b>A variance may <u>not</u> be granted if any of the conditions listed below are true. Explain why each condition is <u>not</u> applicable to this application.</b>	<b>Attached</b>
1. The special conditions that require the variance are caused by the person seeking the variance.	Para. 9.
2. The variance will permit a land use in a district in which that use is prohibited.	Para. 10.
3. The variance is sought solely to relieve pecuniary hardship or inconvenience.	Para. 11.

**OWNER'S STATEMENT:** I am owner of the following property:

MSB Tax parcel ID #(s) 18N01E34B002 and,  
I hereby apply for approval a setback variance on that property as described in this application.

I understand all activity must be conducted in compliance with all applicable standards of MSB 17.55 and MSB 17.65 and with all other applicable borough, state or federal laws.

I understand that other rules such as local, state and federal regulations, covenants, plat notes, and deed restrictions may be applicable and other permits or authorization may be required. I understand that the borough may also impose conditions and safeguards designed to protect the public's health, safety and welfare and ensure the compatibility of the use with other adjacent uses.

I understand that it is my responsibility to identify and comply with all applicable rules and conditions, covenants, plat notes, and deed restrictions, including changes that may occur in such requirements.


I understand that this permit and zoning status may transfer to subsequent owners of this land and that it is my responsibility to disclose the requirements of this status to the buyer when I sell the land.

I understand that changes from the approved variance may require further authorization by the Borough Planning Commission. I understand that failure to provide applicable documentation of compliance with approved requirements, or violation of such requirements will nullify legal status, and may result in penalties.



I grant permission for borough staff members to enter onto the property as needed to process this application and monitor compliance. Such access will at a minimum, be allowed when the activity is occurring and, with prior notice, at other times necessary to monitor compliance.

The information submitted in this application is accurate and complete to the best of my knowledge.

 Shaun Krautkremer 27 MAY 21  
Signature: Property Owner Printed Name Date

\_\_\_\_\_  
Signature: Agent Printed Name Date

JUN 21 2021

Reply to Request for Additional Information

Received

1. Please provide drawings of the structure that are readable and able to be copied. The drawings, done on white paper, do not have adequate contrast to be copied and readable. The dimensions and lines so light, it is hard to read.

Darkened drawings have been attached to this email.

2. In Paragraph 1 you state you have received a mandatory Land Use Permit. I understand The Permit Center has received your application. The permit to construct the house cannot be issued until the variance is approved and recorded. The process requires permission first, then the permit to construct after that.

Correct, I was misinformed on the Mandatory Land Use Permit. I spoke to Mark Whisenhunt on June 14<sup>th</sup> and received clarification as to needing this variance approved as the dwelling falls under the Mandatory Land Use Permit within the provisions of the latest code change.

3. In Paragraph 5, you state the closest nearby property is halfway across the lake water. I find that statement confusing. I have found the closest property is to the northeast, Finger Lake State Recreation Site, owned by the State of Alaska, and it is within approximately 340 feet from the northern tip of your island. The closest residential home is approximately 450 feet southeast of your property on Tract 6, Finger Lake Heights RSB, owned by Ehmann, LLC.

I can remove the statement about halfway across the lake if it causes confusion. I was indicating that there are no nearby properties as I would define them with the property being in the middle of a lake, thus any harm of encroachment would be non-existent. I concur with your findings that the closest properties are the Finger Lake State Recreation Site that is within approximately 340 feet from the northern tip of my island and that the closest residential home is approximately 450 feet southeast of my property line. I maintain that these two properties, nor any other properties that may be deemed nearby will be injured or harmed nor cause danger to public welfare as further discussed in Paragraph 5 of my initial submittal.

4. In Paragraph 7, you discuss a drainage plan, but no drainage plan was submitted, showing the direction of the flow of storm water. Management of drainage and storm water is mentioned in the Borough's Core Area Comprehensive Plan, page 33.

The drainage plan was overlaid onto the site plan and marked Diagram A in the Top corner. The arrows laid out in green indicate the slope of the land and propensity for water flow. I have attached a copy in this email.

In regards to construction the primary concern for storm water and meltwater drainage is the removal of permeable surfaces by through roofs, roads, parking areas, sidewalks and trails. The construction of this dwelling removes approximately 900 square feet of permeable surface due to the roof, however; the same 900 square feet is restored as the facility is built on stilts.

5. Same paragraph, you discuss artificial berms, but none are shown on the site plan.

The berms were created by cutting into the hillside for the house. Their location is indicated on Diagram A attached.

6. In Paragraph 8, you indicate the reader should see diagram A. None of the diagrams provided are labeled with a letter or number.

I have attached a copy of Diagram A

7. You may wish to incorporate how this development supports or incorporates the goals of the Core Area Comprehensive Plan. Here's a link: <https://matsugov.us/plans/core-area-comprehensive-plan>. Goals of the Comprehensive Plan start on page 40.

The building of this structure and developing the property under consideration supports the goals of the Core Area Comprehensive Plan (CACP) for the Matanuska Borough in the following ways:

Goal 1 of the CACP is supported in keeping with building a single family dwelling common to the area, which promotes an orderly use of land. Additionally, due to the large standoff from the closest residential facility (approximately 450 feet away), the change in population density of the community will be negligible. The size and design of the structure I am requesting a variance for will not be commercial nor industrial. Furthermore to support Policy 1-H, this property is far from any area that would become a transportation corridor.

Goal 2 of the CACP is supported in already having established connection routes without a requirement for easements to gain access to the property. Currently there are 2 ways to gain access to the island without requiring access through private land. There is a public access area on the west end of the lake and an Alaska State Recreational Site on the east end of the lake.

Goal 3 of the CACP is supported by the end state of the development of my Island. Once the project is complete, over 70% of the entire property will remain undeveloped and left in its natural state. It is now and will remain a sanctuary for the wildlife that currently utilize it.

Goal 4 of the CACP is supported through the design of the structure on pylons which does not remove permeable soil square footage, thus protecting the natural function of the land as it exists.

Goal 7 of the CACP is supported by utilizing a compost toilet to dispose of black water byproduct. This protects the groundwater and that of the nearby lake. Note: I have spoken to the Department of Environmental Services and understand that I will need a waiver from them once the setback variance for the gray water holding area is approved. This gray water area will be designed by an engineer to meet all required specifications.

8. The footprint identified on the surveyor's as-built is 768 square feet. In paragraph 8, you stated the footprint of the home will be 1,064 square feet. "Footprint" means the outermost exterior perimeter building at the foundation where it touches the ground plane. The footprint does not include upper floors.

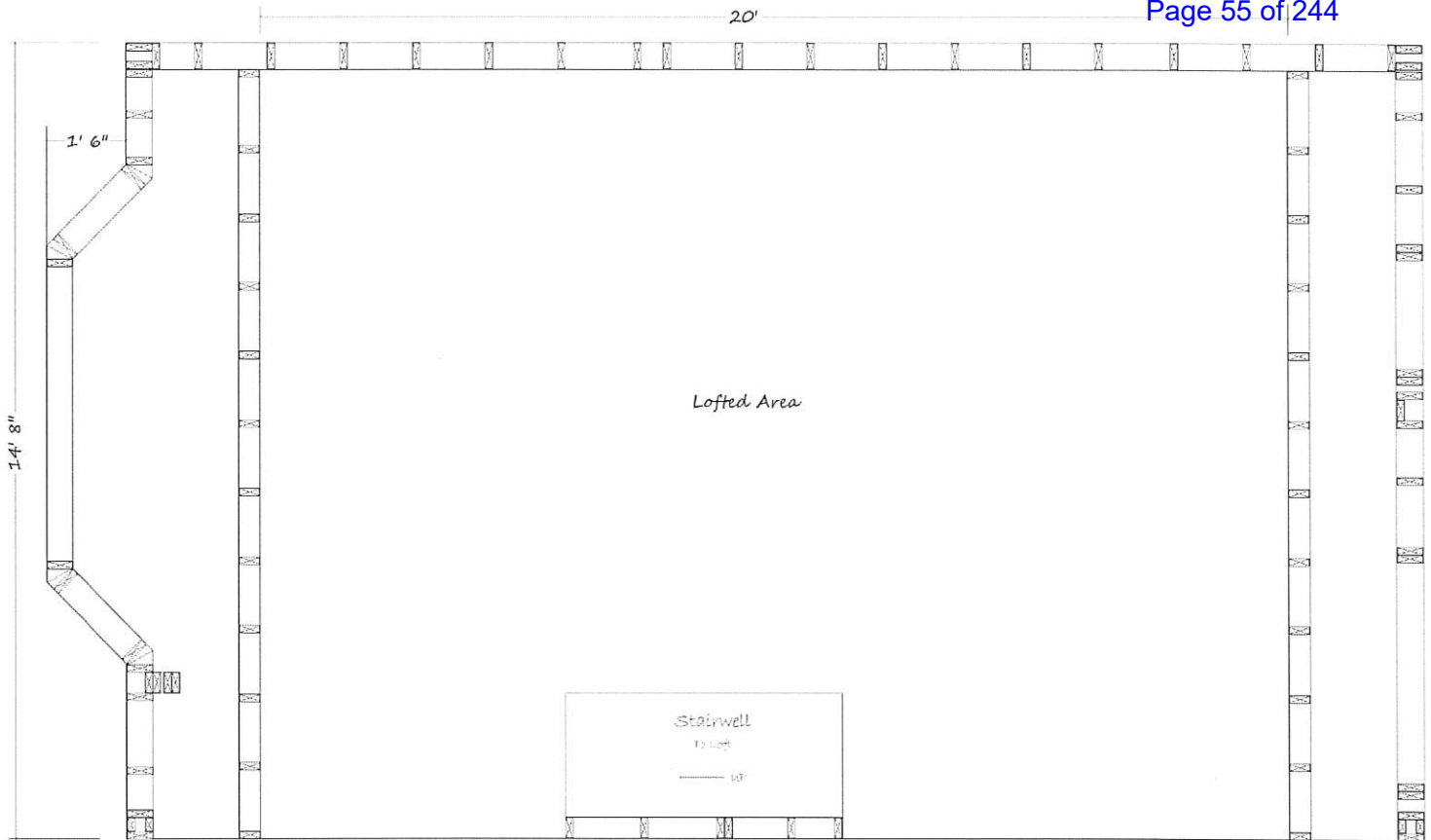
The back area of the building has a lofted area that adds 296 square feet of livable floor space, bringing the total square footage to 1,064 square feet. I have added a drawing to depict the lofted area in this email.

9. In paragraph 8 you allude to a “minimum 500 square feet of livable floor space”. Where does this Minimum amount come from? The borough does not have a minimum building size

In Burrow Code 17.75.150 BUILDING SIZE, under section (A); it states that a Principal buildings must have at least 500 square feet of living area on one single floor. My apologies if code 17.75.150 does not apply in my situation.

Thank you,

Shaun Krautkremer

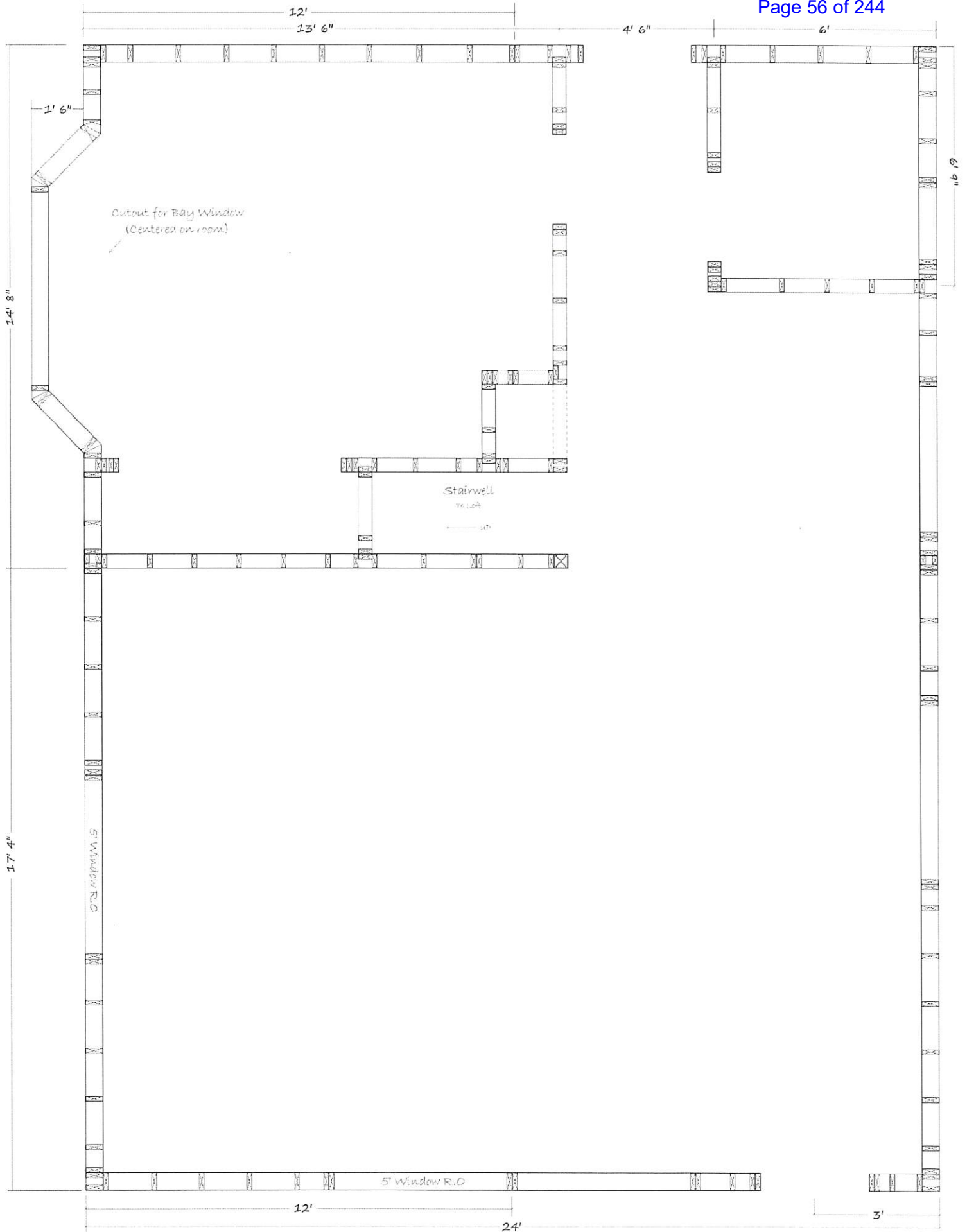


Matanuska-Susitna Borough  
Development Services

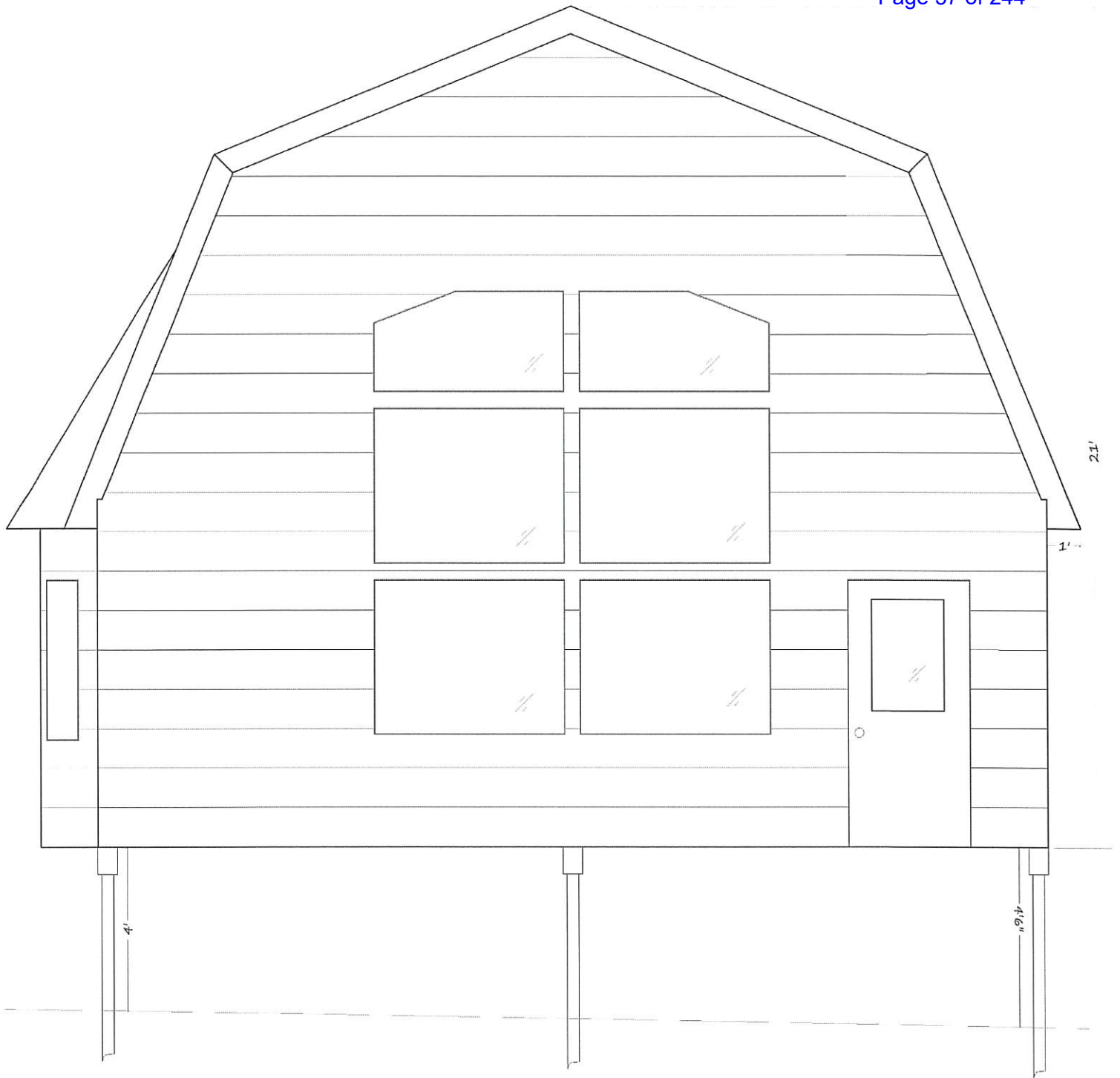
JUN 21 2021

Received

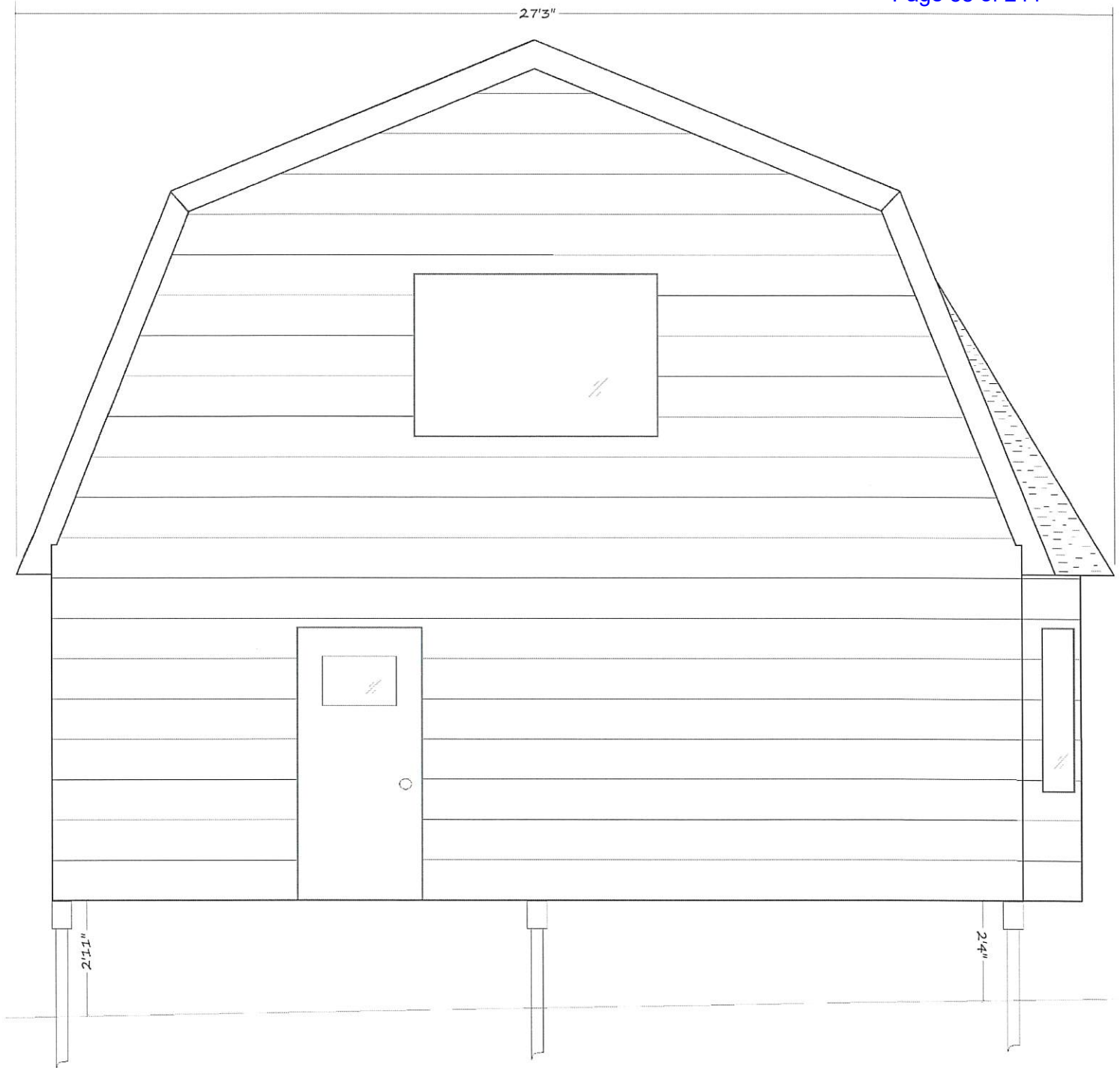




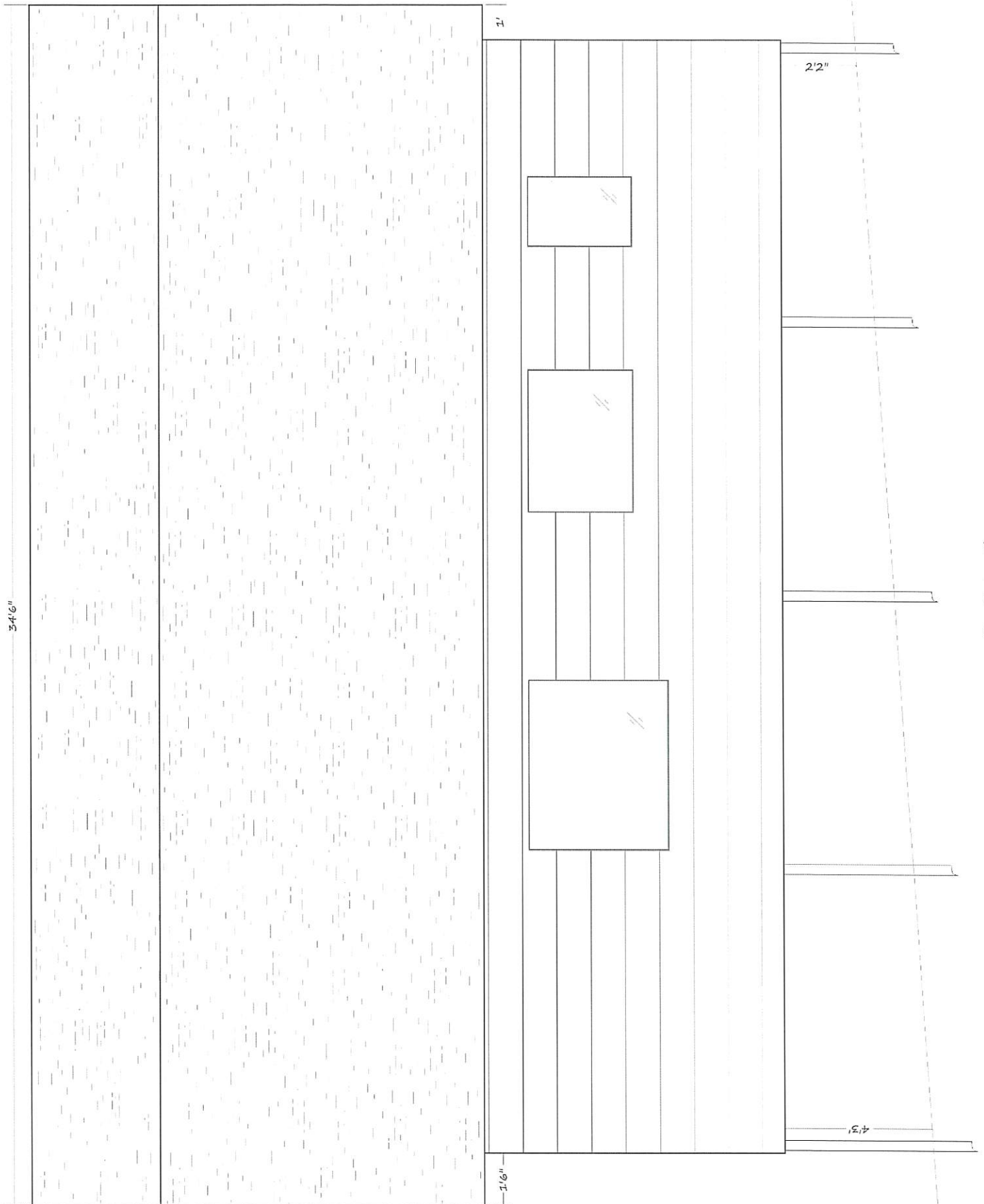




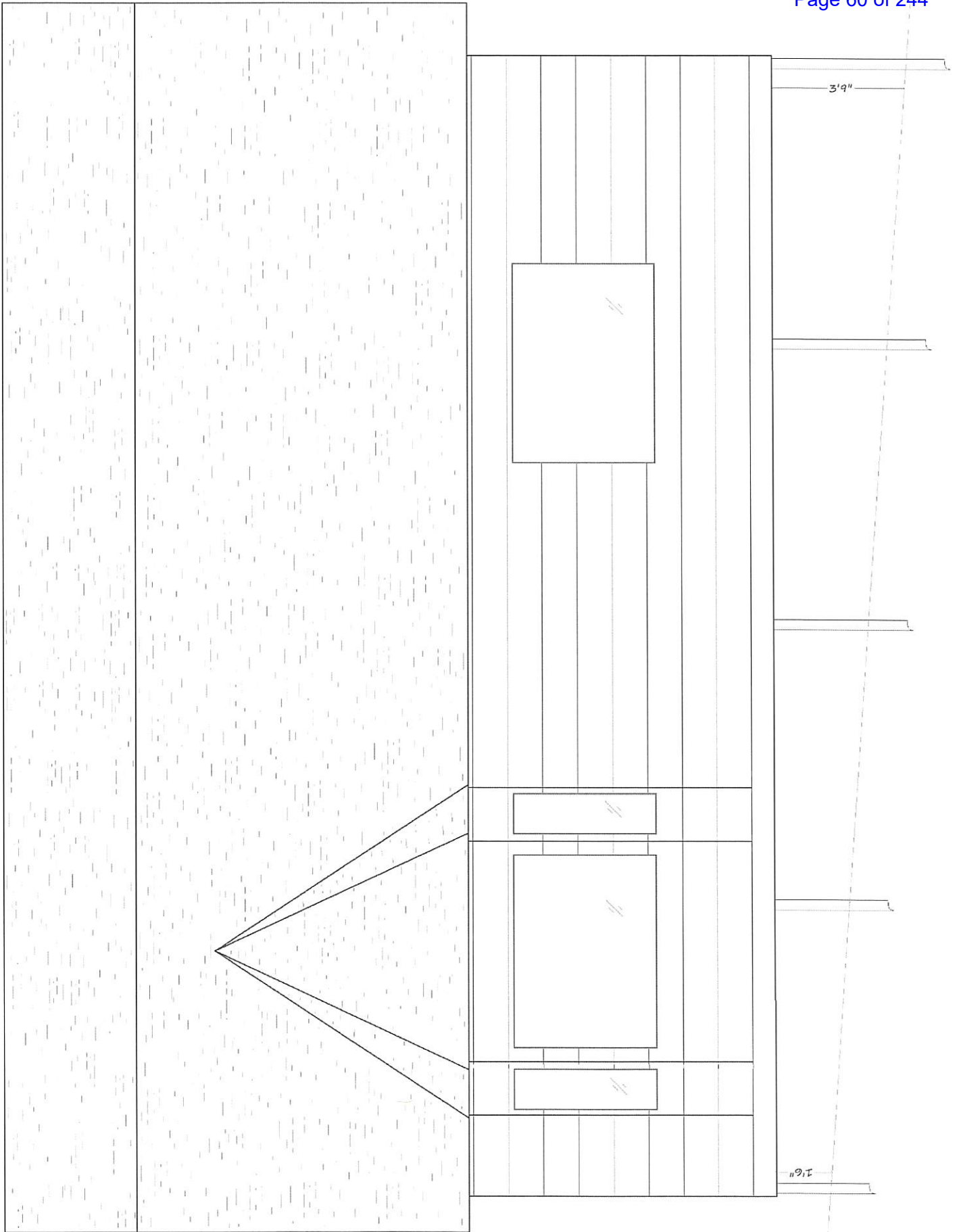
West Elevation



East Elevation



South Elevation



North Elevation

# DIAGRAM A: WATER SHED

## FINGER LAKE

### GOVERNMENT LOT 5

0.93 ACRES (M)  
0.61 ACRES (R)

LINE	DIRECTION	DISTANCE
L1	N36°49'26"E	23.22'
L2	N46°05'16"E	77.77'
L3	N48°46'16"E	44.38'
L4	N62°50'11"E	51.49'
L5	N71°55'17"E	53.90'
L6	S84°27'08"E	53.46'
L7	S75°47'51"E	47.61'
L8	S42°00'49"E	31.85'
L9	S03°57'43"E	16.80'
L10	S35°48'25"W	35.24'
L11	S60°10'09"W	86.90'
L12	S60°55'58"W	57.66'
L13	S43°33'58"W	40.52'
L14	S62°33'03"W	51.82'
L15	S76°09'46"W	32.17'
L16	N81°03'34"W	23.27'
L17	N69°49'22"W	46.45'
L18	N37°54'02"W	28.63'
L19	N21°47'20"E	36.41'

LINE TABLE

500°05'00"E  
292.29'(M)  
500°03'36"W  
292.41'(R1)

N1116 CORNER

## LEGEND

- FOUND 3-1/4" BRASS CAP (GLO 1914)
- FOUND 3-1/4" ALUMINUM CAP (L5 7330)
- X COMPUTED POSITION
- (R) RECORD GLO PLAT DATED 11/8/1965
- (R1) RECORD PLAT #2016-93
- (M) MEASURED
- (C) CALCULATED
- A.M.C. AUXILIARY MEANDER CORNER POSITION
- WOOD DECK
- GLO MEANDER CORNER SECTION 33 AND 34

## NOTES:

- THIS MORTGAGE LOCATION (AS-BUILT) SURVEY WAS PREPARED IN ACCORDANCE WITH ASPLS MORTGAGE LOCATION SURVEY STANDARDS. REPRESENTS FOUND CONDITIONS AT THE TIME OF SURVEY, DOES NOT CONSTITUTE A BOUNDARY SURVEY, AND IS SUBJECT TO ANY INACCURACIES THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE.
- IT IS THE RESPONSIBILITY OF THE LAND OWNER OR BUILDING CONTRACTOR TO DETERMINE THE EXISTENCE OF ANY EASEMENTS OF RECORD, COVENANTS, OR LOT RESTRICTIONS WHICH ARE NOT IDENTIFIED ON THE RECORD PLAT.
- UNLESS GROSS NEGLIGENCE IS DISCOVERED, THE LIABILITY EXTENT FOR THIS SURVEY SHALL BE LIMITED TO THE FEE AMOUNT COLLECTED TO PREPARE THIS DRAWING. THIS DRAWING WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

I HEREBY CERTIFY THAT AN ACCURATE SURVEY OF THE FOLLOWING DESCRIBED PROPERTY;  
**T18N R1E SECTION 34 GOVERNMENT LOT 5**  
OF THE PALMER RECORDING DISTRICT,  
ALASKA WAS MADE ON **04-28-2021** AND THAT THE IMPROVEMENTS SITUATED THEREON DO NOT ENROACH ON THE PROPERTY LYING ADJACENT TO THE PREMISES IN QUESTION EXCEPT AS INDICATED HEREON. EASEMENTS OF RECORD OTHER THAN THOSE SHOWN ON THE RECORD PLAT MAY EXIST.

Water Shed  
Direction

# AS-BUILT

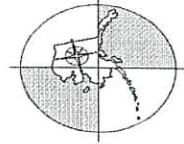
PREPARED FOR: SHAUN KRAUTKREMMER

DRAWN BY: RLW  
CHECKED BY: RLW  
JOB NO.: 2021-043  
SCALE: 1"=40'

R&K LAND SURVEYING, LLC  
PO BOX 606  
WILLOW, ALASKA 99688  
(907) 495-0047  
#156327

R&K LAND SURVEYING, LLC

DATE: 05-13-2021





## Mark Whisenhunt

---

**From:** Shaun Krautkremer <ne1cshaun@yahoo.com>  
**Sent:** Tuesday, July 27, 2021 12:13 PM  
**To:** Mark Whisenhunt  
**Subject:** Re: Gray water

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Mark,

In conversation with Oran Woolley from the Department of Conversation the property in discussion would be approved for a reduced setback(waiver) once an engineer designed the requirement. Please understand I am requesting the variance to be approved as the first step in the process and once approved I will seek an engineer design and request a waiver through the ADEC to allow for the reduced setback. I will not be installing any grey water system until such a waiver is in place.

Thank you,  
Shaun Krautkremer

On Jul 21, 2021, at 3:24 PM, Mark Whisenhunt <Mark.Whisenhunt@matsugov.us> wrote:

Hi Shaun,

What is the ADEC status for the gray water system?

Respectfully,

Mark Whisenhunt  
Planner II  
Matanuska-Susitna Borough  
Office: (907) 861-8527  
[mark.whisenhunt@matsugov.us](mailto:mark.whisenhunt@matsugov.us)

LEGEND

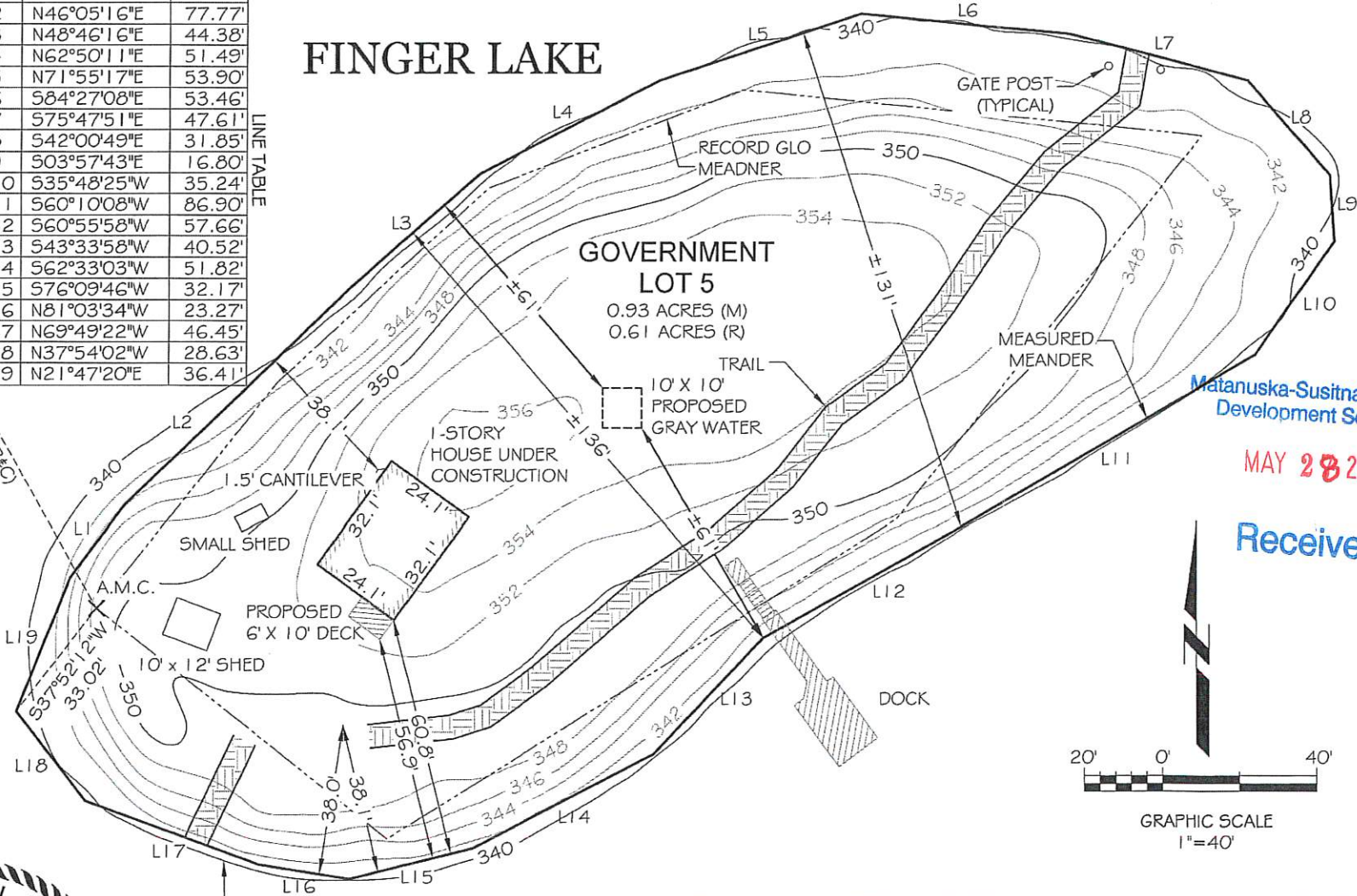
- FOUND 3-1/4" BRASS CAP (GLO 1914)
- FOUND 3-1/4" ALUMINUM CAP (LS 7330)
- COMPUTED POSITION
- RECORD GLO PLAT DATED 11/8/1965
- RECORD PLAT #2016-93
- MEASURED
- CALCULATED
- AUXILLARY MEANDER CORNER POSITION
- WOOD DECK

NOTES:

- THIS MORTGAGE LOCATION (AS-BUILT) SURVEY WAS PREPARED IN ACCORDANCE WITH ASPLS MORTGAGE LOCATION SURVEY STANDARDS, REPRESENTS FOUND CONDITIONS AT THE TIME OF SURVEY, DOES NOT CONSTITUTE A BOUNDARY SURVEY, AND IS SUBJECT TO ANY INACCURACIES THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE.
- IT IS THE RESPONSIBILITY OF THE LAND OWNER OR BUILDING CONTRACTOR TO DETERMINE THE EXISTANCE OF ANY EASEMENTS OF RECORD, COVENANTS, OR LOT RESTRICTIONS WHICH ARE NOT IDENTIFIED ON THE RECORD PLAT.
- UNLESS GROSS NEGLIGENCE IS DISCOVERED, THE LIABILITY EXTENT FOR THIS SURVEY SHALL BE LIMITED TO THE FEE AMOUNT COLLECTED TO PREPARE THIS DRAWING. THIS DRAWING WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

LINE	DIRECTION	DISTANCE
L1	N36°49'26"E	23.22'
L2	N46°05'16"E	77.77'
L3	N48°46'16"E	44.38'
L4	N62°50'11"E	51.49'
L5	N71°55'17"E	53.90'
L6	S84°27'08"E	53.46'
L7	S75°47'51"E	47.61'
L8	S42°00'49"E	31.85'
L9	S03°57'43"E	16.80'
L10	S35°48'25"W	35.24'
L11	S60°10'08"W	86.90'
L12	S60°55'58"W	57.66'
L13	S43°33'58"W	40.52'
L14	S62°33'03"W	51.82'
L15	S76°09'46"W	32.17'
L16	N81°03'34"W	23.27'
L17	N69°49'22"W	46.45'
L18	N37°54'02"W	28.63'
L19	N21°47'20"E	36.41'

LINE TABLE



Matanuska-Susitna Borough  
Development Services

MAY 28 2021

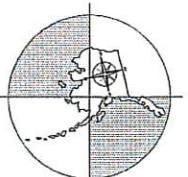
Received

I HEREBY CERTIFY THAT AN ACCURATE SURVEY OF THE FOLLOWING DESCRIBED PROPERTY; **T18N R1E SECTION 34 GOVERNMENT LOT 5** OF THE PALMER RECORDING DISTRICT, ALASKA WAS MADE ON **04-28-2021** AND THAT THE IMPROVEMENTS SITUATED THEREON DO NOT ENCROACH ON THE PROPERTY LYING ADJACENT TO THE PREMISES IN QUESTION EXCEPT AS INDICATED HEREON. EASEMENTS OF RECORD OTHER THAN THOSE SHOWN ON THE RECORD PLAT MAY EXIST.



CONTOURS SHOWN ARE 2011 MATANUSKA SUSITNA BOROUGH CONTOURS AND ARE ACCEPTED TO GENERALLY REPRESENT THE TOPOGRAPHIC CONDITIONS AT TIME OF SURVEY FOR THE PURPOSE OF THIS DRAWING. CONTOUR ELEVATIONS SHOWN IN FEET ARE REFERENCED TO THE NAVD88 VERTICAL DATUM.

R & K LAND SURVEYING, LLC



R & K LAND SURVEYING, LLC  
PO BOX 606  
WILLOW, ALASKA 99688  
(907) 495-0047  
#156327

AS-BUILT

PREPARED FOR: SHAUN KRAUTKREMMER	
DRAWN BY: RLW CHECKED BY: RLW	FIELD BK: RKL5 2021-02
JOB NO.: 2021-043	MSB MAP#: WA 08
SCALE: 1"=40'	DATE: 05-27-2021

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# **PUBLIC HEARING QUASI-JUDICIAL**

## **Resolution No. PC 21-17**

CUP - Operation Of A Marijuana Cultivation Facility  
Greg Smith dba 2nd Amendment

(Page 65 - 148)

# **PUBLIC HEARING**







## MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822

www.matsugov.us

### DEVELOPMENT SERVICES DIVISION STAFF REPORT



**File Number:** 176020210004


**Applicant:** Casey Wilkins for 2<sup>nd</sup> Amendment, LLC

**Property Owner:** Casey Wilkins

**Request:** Planning Commission Resolution 21-17  
Conditional Use Permit for the operation of a Marijuana Cultivation Facility in accordance with MSB 17.60 – Conditional Uses

**Location:** 20357 West Susitna Parkway, Tax ID# 17N04W35C001, within Township 17 North, Range 4 West, Section 35, Seward Meridian

**Reviewed By:** Alex Strawn, Planning & Land Use Director   
Jason Ortiz, Development Services Manager 

**Staff:** Peggy Horton, Planner II 

**Staff Recommendation:** Approval with conditions

---

### EXECUTIVE SUMMARY

A conditional use permit application has been submitted for the operation of a marijuana cultivation facility. The proposed use consists of a portion of the existing structure and an attached fenced-in area containing four greenhouses. The cultivation facility will be a total of 22,630 square feet, with 13,140 square feet under cultivation. MSB 17.60.030 requires a conditional use permit for the operation of marijuana cultivation facilities. Unless this type of use is maintained under and in accordance with a lawfully issued permit, a marijuana cultivation facility is declared to be a public nuisance. Operation of such a land use without a permit is prohibited.

### HISTORY

The subject property is a five-acre parcel. According to borough assessment data, the land had been vacant when a previous owner submitted an Acknowledgment of Existing Land Use

Regulations application in August 2007, for construction of the 4,800 square foot building. The metal building was used as a service repair garage in 2016 according to Assessment records. A portion of this structure will be used for the cultivation facility. Prior to 2011, a berm was constructed on all sides of the property, which is populated with vegetation and obscures the proposed use from being seen from West Susitna Parkway and South Jay Sedor Street.

## **LAND USE**

### **Existing Land Use:**

The existing building is situated in the eastern half of the property and has maintained the appearance and size since its original construction in 2007. Access to the proposed use is from South Jay Sedor Street on the west side of the property. The applicant received an approved driveway permit on August 3, 2021. Other than the metal building and a single greenhouse under construction, the majority of the property is vacant. The metal building's interior is currently under construction in accordance with the floor plans submitted as part of this application. Within this property, 33' section line easements provide a portion of the right-of-way for West Susitna Parkway on the south and South Jay Sedor Street on the west. A 33' patent reservation easement provides a portion of the right-of-way for South Irving Place on the east side.

### **Proposed Land Use:**

The applicant proposes the existing 4,800 square foot building be separated into two units. The north unit will be accessible via the eastern main entry vestibule and an exterior door on the west side. The unit south of the 100' setback will be used for the cultivation facility, and will be accessible from the eastern main entry vestibule and a separate exterior door on the west side of the building, within the fenced area. According to the application material, the northern unit will not be used for marijuana cultivation or associated activities. The tenants in that unit will have clauses in their lease contract stating no cultivation activities are allowed. Outside of the building, an 18,850 square foot fenced-in area is planned, containing four 30' x 96' greenhouses.

### **Surrounding Land Uses:**

Big Lake is situated approximately 1,200 feet to the northeast of this parcel. Directly north are two properties, one residential and one vacant. To the west is a 1984 subdivision, with a mix of vacant lots and residential homes. Parcels to the east are vacant, while parcels to the south of West Susitna Parkway are a mix of vacant and residential. There are two commercial use properties to the east, a tower approximately 2600 feet away and a gravel extraction pit approximately 2900 feet from the subject property.

## **REVIEW OF APPLICABLE CRITERIA AND FINDINGS**

### **MSB 17.03 – Public Notification**

On June 10, 2021 staff mailed a total of 45 notices to all property owners within a 600-foot radius of the property as well as to the Big Lake Community Council. The Frontiersman published the public notice in the June 18, 2021 issue. On June 11, 2021, staff posted the application material on the Borough website for public review and emailed a request for comments along with the application material to Borough Departments, outside agencies, and the Big Lake Community Council. No comments were received from the Community Council. Staff received 2 comments from the public, both of which voiced opposition to the use.

**Section 17.60.100 General Standards**

*(A) A conditional use may be approved only if it meets with the requirements of this section in addition to any other standards required by this chapter:*

*(B) In granting a conditional use permit, the planning commission must make the following findings:*

*(1) the conditional use will preserve or not detract from the value, character, and integrity of the surrounding area;*

**Findings of Fact:**

1. The proposed use is comprised of a 3,780 square foot unit within the metal building and a fenced-in area containing four 30' x 90' greenhouses.
2. According to Borough records, a previous owner constructed the existing metal building in 2007 and it was used as a service repair garage in 2016.
3. According to the application material, sight-obscuring cloth will cover the six-foot tall chain link fence, which surround the four greenhouses.
4. Access is via a gated driveway onto South Jay Sedor Street, a residential street.
5. The closest residential structure is approximately 320 feet south the proposed use.
6. There are two commercial use properties to the east, a tower approximately 2600 feet away and a gravel extraction pit approximately 2900 feet from the subject property.
7. The surrounding parcels range in size from 1 to 20 acres, a mix of vacant and residential.
8. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
9. According to the application material, the facility will not be open to the public.
10. According to the application material, the proposed use has policies and procedures in place to prevent loitering.
11. According to the application material, the proposed use has a security plan in place, which includes education of employees on all security measures.
12. According to the application material, all exterior lighting will be directed downwards and will include proper lenses to prevent light spillage off the property.
13. According to the security plan, a combination of video surveillance, motion sensors, lighting, and commercial grade locks will be used to secure the site and monitor all activities at the facility.
14. A vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street.
15. There is no outdoor industrial equipment or any processes that generate noise associated with the proposed use.
16. According to the application material, the continuously running carbon filters will eliminate odors in the exhausted air.



**Conclusion of Law:** Based on the above findings, and with conditions, the proposed use will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).

---

*(2) that granting the conditional use permit will not be harmful to the public health, safety, convenience, and welfare;*

**Findings of Fact:**

1. The closest school (Big Lake Elementary) is approximately 26,000 feet away from the proposed use.
2. According to the application material, the facility will not be open to the public.
3. Consumption of marijuana is prohibited at the site.
4. Access is via a gated driveway onto South Jay Sedor Street, a residential street.
5. The applicant received an approved driveway permit August 3, 2021.
6. Persons under the age of 21 are prohibited from entering the facility.
7. According to the application material, the proposed use has a security plan in place, which includes education of employees on all security measures.
8. According to the security plan, a combination of video surveillance, motion sensors, lighting, and commercial grade locks will be used to secure the site and monitor all activities at the facility.
9. There is no outdoor industrial equipment or any processes that generate noise associated with the proposed use.
10. According to the application material, after proper notification of the State of Alaska Alcohol & Marijuana Control Office; all marijuana products deemed unusable will be mixed with other compostable materials and then composted on-site.
11. According to the application material, the applicant has submitted a request for an updated Plan Review to the Alaska Fire Marshal office.

**Discussion:** The applicant, 2<sup>nd</sup> Amendment, LLC, obtained an approved State Fire Marshal Plan Review in March, 2021. The distance between the existing structure and the north property line required a separation to be created within the structure so the proposed cultivation facility would meet the 100' setback per MSB 17.60.160(E). After revision of the facility's interior and exterior plans to meet that setback, staff received notice on May 5, 2021 that the applicant would request an updated Fire Marshal Plan Review. Staff suggests placing a condition of approval that the marijuana cultivation facility obtain a Fire Marshal Plan Review prior to operating.

**Conclusion of Law:** Based on the above findings, and with conditions, the proposed use will not be harmful to the public health, safety, convenience and welfare (MSB 17.60.100(B)(2)).

---

*(3) that sufficient setback, lot area, buffers, or other safeguards are being provided to meet the conditions listed in subsections (B)(1) through (3) of this section; and*

**Findings of Fact:**

1. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
2. The closest school (Big Lake Elementary) is approximately 26,000 feet away from the proposed use.
3. The subject property is five acres in size.
4. Access is via a gated driveway onto South Jay Sedor Street, a residential street.
5. The closest residential structure is approximately 320 feet south the proposed use.
6. According to the application material, the facility will not be open to the public.
7. According to the application materials, all exterior lighting will be directed downwards and will include proper lenses to prevent light spillage off the property.
8. A vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street.
9. According to the application material, the proposed use has a security plan in place, which includes education of employees on all security measures.
10. According to the security plan, a combination of video surveillance, motion sensors, lighting, and commercial grade locks will be used to secure the site and monitor all activities at the facility.

**Conclusion of Law:** Based on the above findings, sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.60.100(B)(3)).

---

*(4) the conditional use fulfills all other requirements of this chapter pertaining to the conditional use in this section.*

**Finding of Fact:**

1. The applicant provided all of the required site plans and operational information.

**Conclusion of Law:** The applicant has met all of the requirements of this chapter (MSB 17.60.100(B)(4)).

---

**Section 17.60.150 General Standards for Marijuana Related Facilities**

*(A) In addition to the standards set forth by MSB 17.60.100, the planning commission shall weigh factors which contribute or detract from the development of a safe, convenient, and attractive community, including, but not limited to:*

*(1) any potential negative effect upon other properties in the area due to such factors as noise and odor.*

**Findings of Fact:**

1. The proposed use is comprised of a 3,780 square foot unit within the metal building and a fenced-in area containing four 30' x 90' greenhouses.

2. According to the application material, the proposed use is a total of 22,630 square feet, with 13,140 square feet under cultivation.
3. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
4. A vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street.
5. There is no outdoor industrial equipment or any processes that generate noise associated with the proposed use.
6. According to the application material, the continuously running carbon filters will eliminate odors in the exhausted air.
7. According to the application material, filters will be replaced and maintained per manufacturer's specification.
8. Consumption of marijuana is prohibited at the site.

**Conclusion of Law:** Based on the above findings, and with conditions, the proposed use will not negatively affect other properties due to factors such as noise and odor (MSB 17.60.150(A)(1)).

---

- (2) the effectiveness of measures to reduce negative effects upon adjacent properties by:*
- (a) increased property line and right-of-way buffers;*
  - (b) planted berms and landscaping;*
  - (c) site and building design features which contribute to the character of the surrounding area.*

**Findings of Fact:**

1. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
2. The subject parcel is five acres in size.
3. According to the application material, there is no advertising signage for the facility.
4. The surrounding parcels range in size from 1 to 20 acres, a mix of vacant and residential.
5. The closest residential structure is approximately 320 feet south the proposed use.
6. According to Borough records, a previous owner constructed the existing metal building in 2007 and it was used as a service repair garage in 2016.
7. There are two commercial use properties to the east, a tower approximately 2600 feet away and a gravel extraction pit approximately 2900 feet from the subject property.
8. A vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street.



9. According to the application material, all exterior lighting will be directed downwards and will include proper lenses to prevent light spillage off the property.
10. There is no outdoor industrial equipment or any processes that generate noise associated with the proposed use.
11. According to the application material, sight-obscuring cloth will cover the six-foot tall chain link fence, which surround the four greenhouses.

**Conclusion of Law:** Based on the above findings, and with conditions, measures are in place to reduce negative affects upon adjacent properties (MSB 17.60.150(A)(2)(a-c)).

---

*(3) Whether the use is compatible with the character of the surrounding area.*

**Findings of Fact:**

1. According to Borough records, a previous owner constructed the existing metal building in 2007 and it was used as a service repair garage in 2016.
2. The proposed use is comprised of a 3,780 square foot unit within the metal building and a fenced-in area containing four 30' x 90' greenhouses.
3. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
4. The surrounding parcels range in size from 1 to 20 acres, a mix of vacant and residential.
5. There are two commercial use properties to the east, a tower approximately 2600 feet away and a gravel extraction pit approximately 2900 feet from the subject property.
6. According to the application material, the facility will not be open to the public.
7. According to the application material, there is no advertising signage for the facility.
8. Access is via a gated driveway onto South Jay Sedor Street, a residential street.
9. According to the application material, sight-obscuring cloth will cover the six-foot tall chain link fence, which surround the four greenhouses.
10. Consumption of marijuana is prohibited at the site.
11. There is no outdoor industrial equipment or any processes that generate noise associated with the proposed use.
12. According to the application material, all exterior lighting will be directed downwards and will include proper lenses to prevent light spillage off the property.
13. A vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street.
14. According to the application material, the proposed use has policies and procedures in place to prevent loitering.



**Conclusion of Law:** Based on the above findings, and with conditions, the proposed use is compatible with the character of the surrounding area (MSB 17.60.150(A)(3)).

---

*(B) At the time of their establishment, marijuana related conditional uses shall meet the following requirements and not be located within:*

*(1) One thousand feet of school grounds;*

*(C) Separation distances referenced in subsection (B) of this section are measured in a direct line between the closest point of the facility within which the marijuana facility is located, and the closest point on the lot or parcel of land upon which any of the above itemized uses are located.*

**Finding of Fact:**

1. The closest school (Big Lake Elementary) is approximately 26,000 feet away from the proposed use.

**Conclusion of Law:** Based on the above finding, the proposed use is more than 1,000 feet away from any school grounds (MSB 17.60.150(B)(1)).

---

*(D) Prior to final approval of the permit the applicant shall provide written documentation demonstrating that:*

*(1) all applicable licenses have been obtained as required by 3 AAC 306.005.*

**Findings of Fact:**

1. 2<sup>nd</sup> Amendment, LLC has received delegated approval from the State Marijuana Control Board for marijuana cultivation license #27736, in accordance with 3 AAC 306.005.
2. Written documentation showing delegated approval from the State Marijuana Control Board for marijuana cultivation facility license #27736 has been provided.

**Conclusion of Law:** Based on the above findings, the applicant has provided documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).

---

*(2) from the fire marshal having jurisdiction, that the proposed conditional use is in full compliance with applicable fire code, including but not limited to AS 18.70.010 through 18.70.160, Fire Protection, and 13 AAC 50.025 through 50.080, Fire Code.*

**Finding of Fact:**

1. According to the application material, the applicant has submitted a request for an updated Plan Review to the Alaska Fire Marshal's office.

**Discussion:** The applicant, 2<sup>nd</sup> Amendment, LLC, obtained an approved State Fire Marshal Plan Review in March, 2021. The distance between the existing structure and the north property line required separate units be created within the structure so the proposed cultivation facility would meet the 100' setback per MSB 17.60.160(E). After revision of the facility's interior and exterior plans to meet that setback, staff received notice on May 5, 2021 that the applicant would request

an updated Fire Marshal Plan Review. Staff suggests placing a condition of approval that the marijuana cultivation facility obtain a Fire Marshal Plan Review prior to operating.

**Conclusion of Law:** Based on the above findings, the applicant must still provide documentation showing the proposed use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).

---

**Section 17.60.160 Standards for Marijuana Cultivation Facilities**

*(A) Wastewater and waste material disposal plan. A wastewater and waste material disposal plan shall be submitted which demonstrates that wastewater and waste material associated with the cultivation facility is disposed of in compliance with the Alaska State Department of Environmental Conservation.*

**Findings of Fact:**

1. According to the application material, wastewater will be non-hazardous and will be absorbed into the ground or indoor growing medium.
2. According to the application material, after proper notification of the State of Alaska Alcohol & Marijuana Control Office; all marijuana products deemed unusable will be mixed with other compostable materials and then composted on-site.

**Conclusion of Law:** Based on the above findings, the wastewater and waste material disposal plan demonstrates compliance with the Alaska State Department of Environmental Conservation (MSB 17.60.160(A)).

---

*(B) Odor mitigation and ventilation plan. The applicant shall provide an odor mitigation plan detailing the effective mitigation of any odors of the proposed uses. Such plan shall demonstrate that the design for the purification of air prevents odors from materially impacting adjoining properties.*

**Findings of Fact:**

1. The proposed use is comprised of a 3,780 square foot unit within the metal building and a fenced-in area containing four 30' x 90' greenhouses.
2. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.
3. Consumption of marijuana is prohibited at the site.
4. According to the application material, the indoor growing facility and greenhouses will be well sealed to prevent leakage of ambient air.
5. According to the application material, continuously running carbon filters will eliminate odors in ambient interior air and in the exhausted air.
6. According to the application material, filters will be replaced and maintained per manufacturer's specifications.

**Conclusion of Law:** Based on the above findings, the odor mitigation plan demonstrates mitigation measures will prevent odors from materially impacting adjoining properties (MSB 17.60.160(B)).

---

*(C) Hazardous chemicals. Storage and disposal of fertilizers, pesticides, herbicides, and any other hazardous chemicals associated with the cultivation of marijuana shall comply with all local, state, and federal laws.*

**Findings of Fact:**

1. According to the applicant, no hazardous chemicals will be used at the cultivation facility.
2. According to the application material, fungicides, insecticides, herbicides, cleaning products and other chemicals will be used, stored, and disposed of in accordance with their respective manufacturer's recommendations and comply with all local state, and federal laws.

**Conclusion of Law:** Based on the above findings, storage of nutrients, natural pesticides, and cleaners will comply with all local, state, and federal laws (MSB 17.60.160(C)).

---

*(D) Security. The applicant shall provide a security plan. The plan shall include, but not be limited to, education for employees on security measures.*

**Findings of Fact:**

1. According to the application material, the proposed use has a security plan in place, which includes education of employees on all security measures.
2. According to the security plan, a combination of video surveillance, motion sensors, lighting, and commercial grade locks will be used to secure the site and monitor all activities at the facility.

**Conclusion of Law:** Based on the above findings, a security plan which includes education for employees on security measures has been provided (MSB 17.60.160(D)).

---

*(E) Marijuana cultivation facilities shall be set back 50 feet from public rights-of-way, and 100 feet from side or rear lot lines.*

**Finding of Fact:**

1. According to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line.

**Conclusion of Law:** Based on the above finding, the proposed use meets the setback requirements for marijuana cultivation facilities (MSB 17.60.160(E)).

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## STAFF RECOMMENDATIONS

Staff recommends approval of the conditional use permit to operate a Marijuana Cultivation Facility, at 20357 West Susitna Parkway, Tax ID # 17N04W35C001. When the applicant complies with the conditions of approval, the proposed use will meet all of the standards in MSB 17.60.100, 17.60.150, and 17.60.160. Staff recommends approval of this permit with the following conditions:

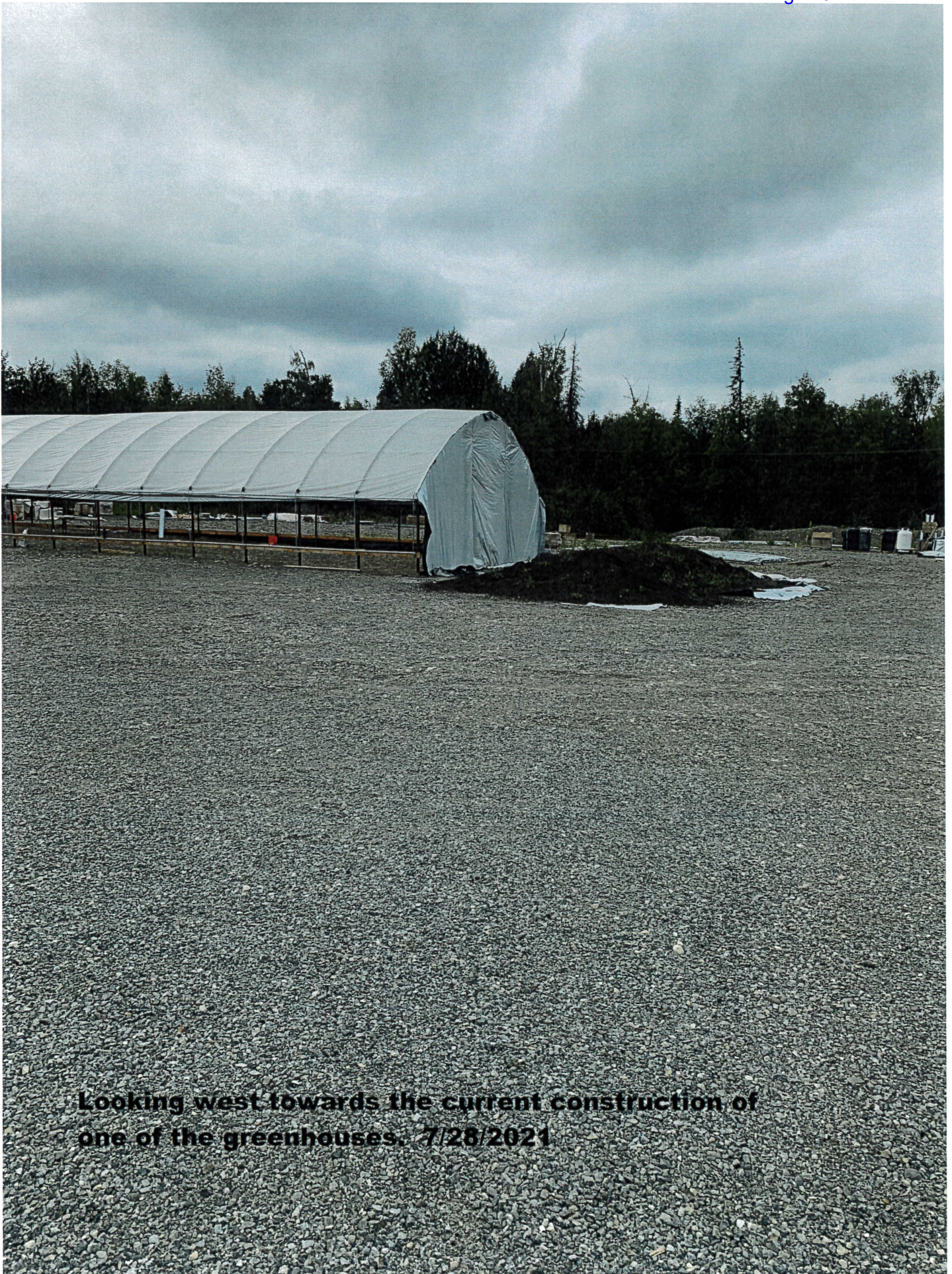
1. Provide the Planning Department with an approved Fire Marshal Plan Review for the proposed facility as referenced on the Lantech, Inc. floor plan dated April 27, 2021 and plot plan dated May 6, 2021, prior to commencement of the proposed use.
2. The operation shall comply with all applicable state and local regulations.
3. All aspects of the operation shall comply with the description detailed in the application material and with the conditions of this permit. An amendment to the Conditional Use Permit shall be required prior to any expansion of the conditional use.
4. Borough staff shall be permitted to enter premises subject to this permit to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring, and/or with prior verbal or written notice, and/or at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit.

If the Planning Commission chooses to deny this permit, findings for denial must be prepared by the Commission.



**Site Visit Photos taken by Peggy Horton 7/28/2021.**





**Looking west towards the current construction of  
one of the greenhouses. 7/28/2021**





**Looking south down the western side of the  
metal structure 7/28/2021**





**Looking east along the north side of the  
metal structure. 7/28/2021**





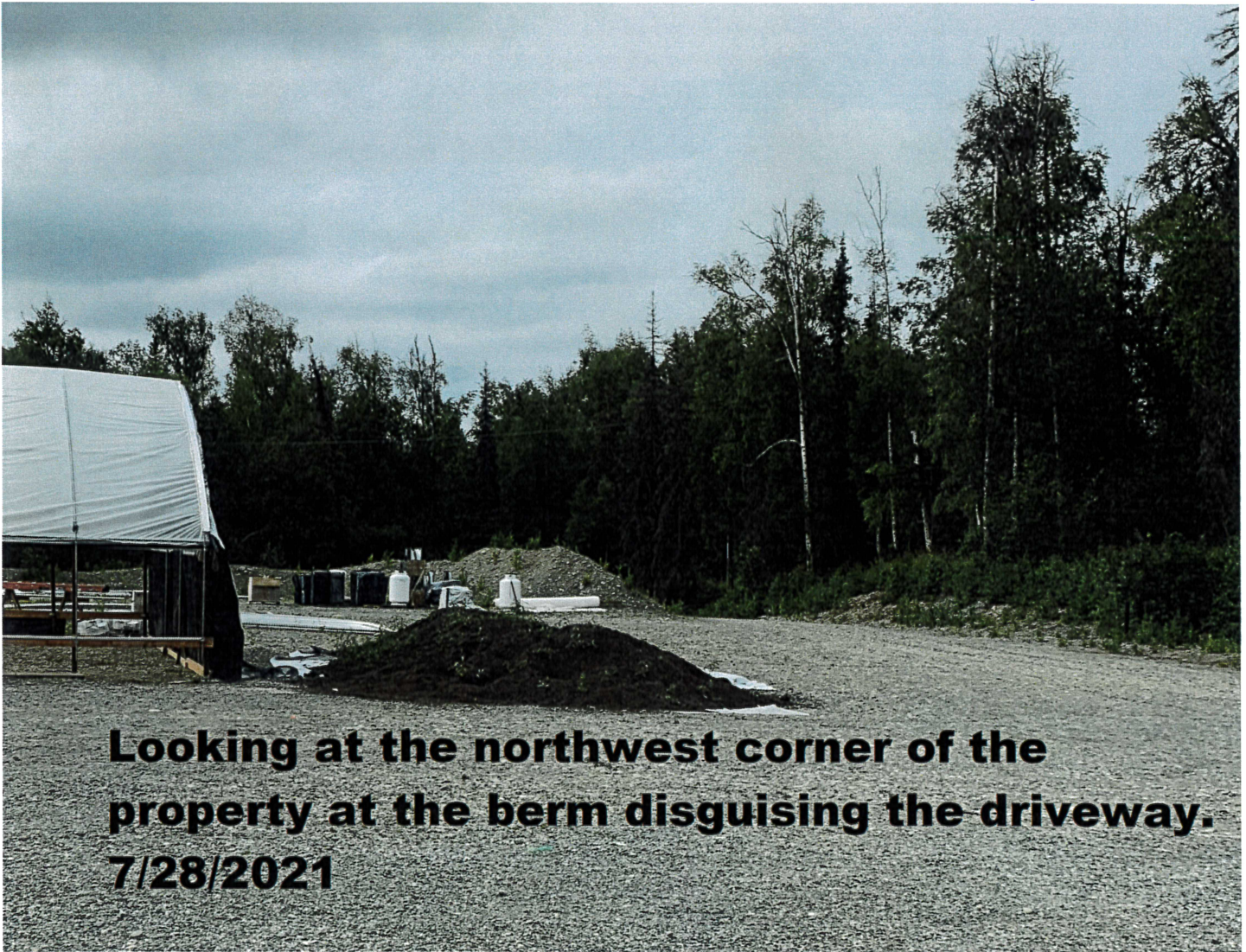
**Ongoing construction within the metal structure. 7/28/2021**





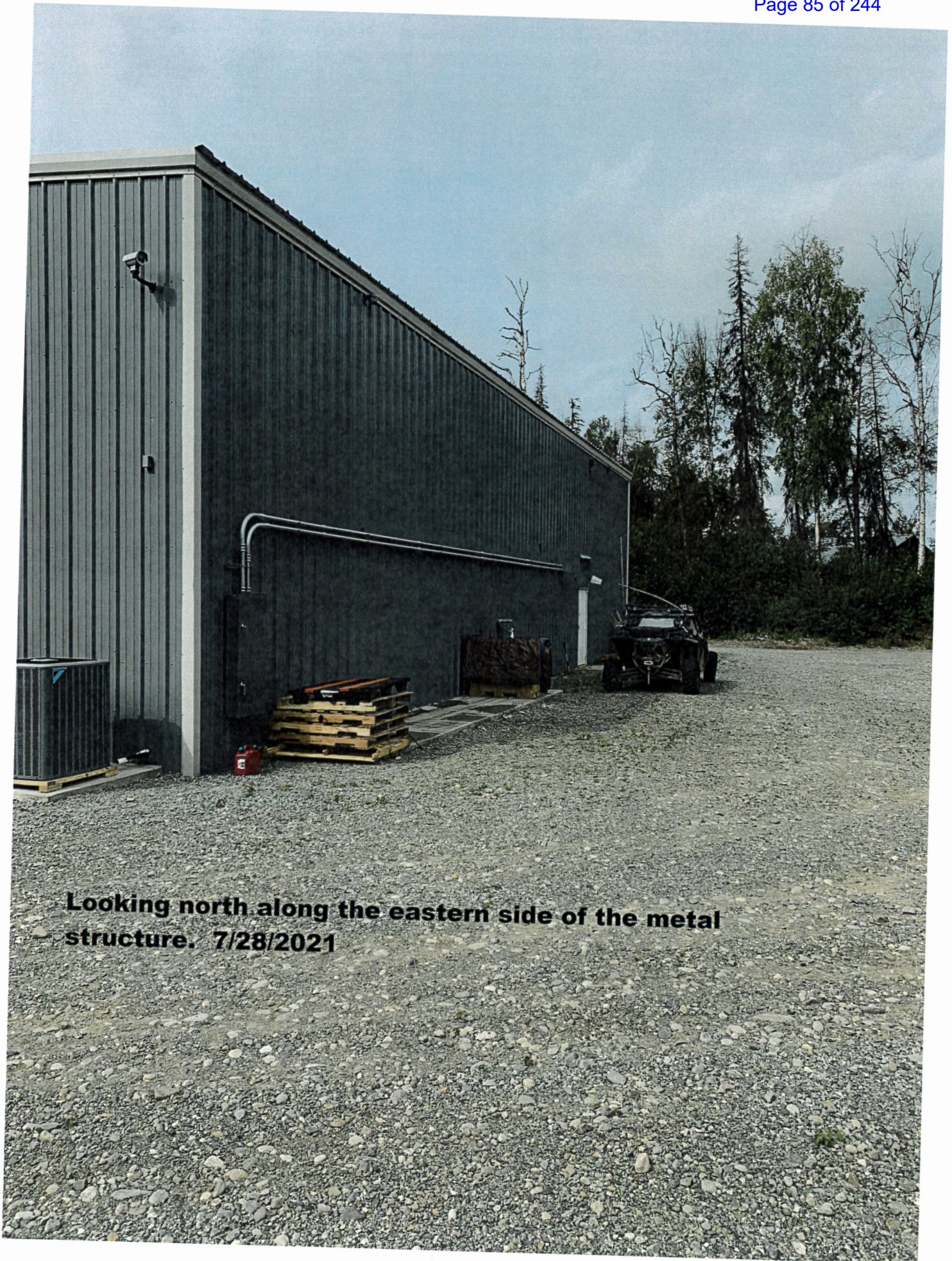
**Interior construction. 7/28/2021**





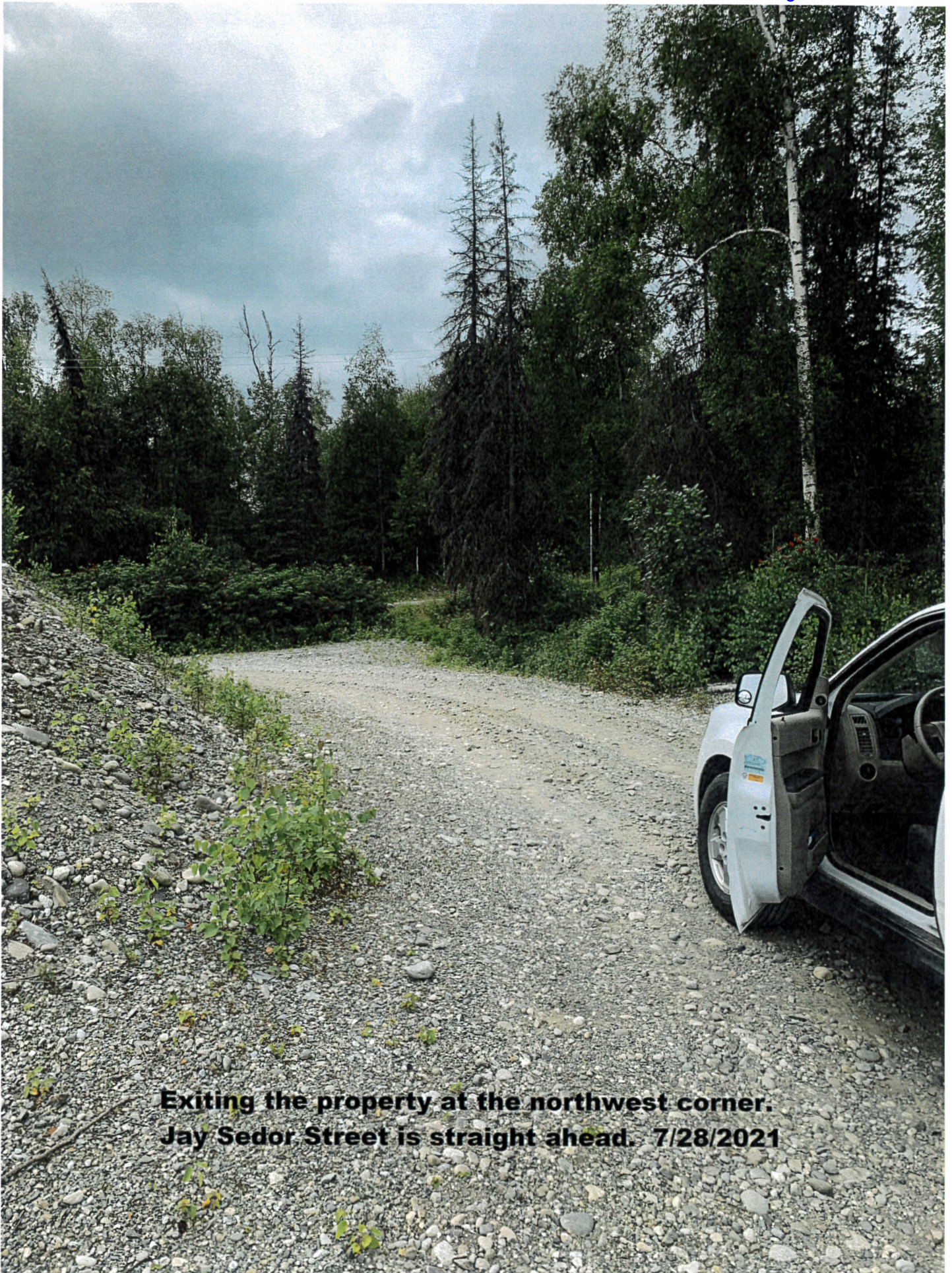
**Looking at the northwest corner of the  
property at the berm disguising the driveway.  
7/28/2021**





**Looking north along the eastern side of the metal structure. 7/28/2021**





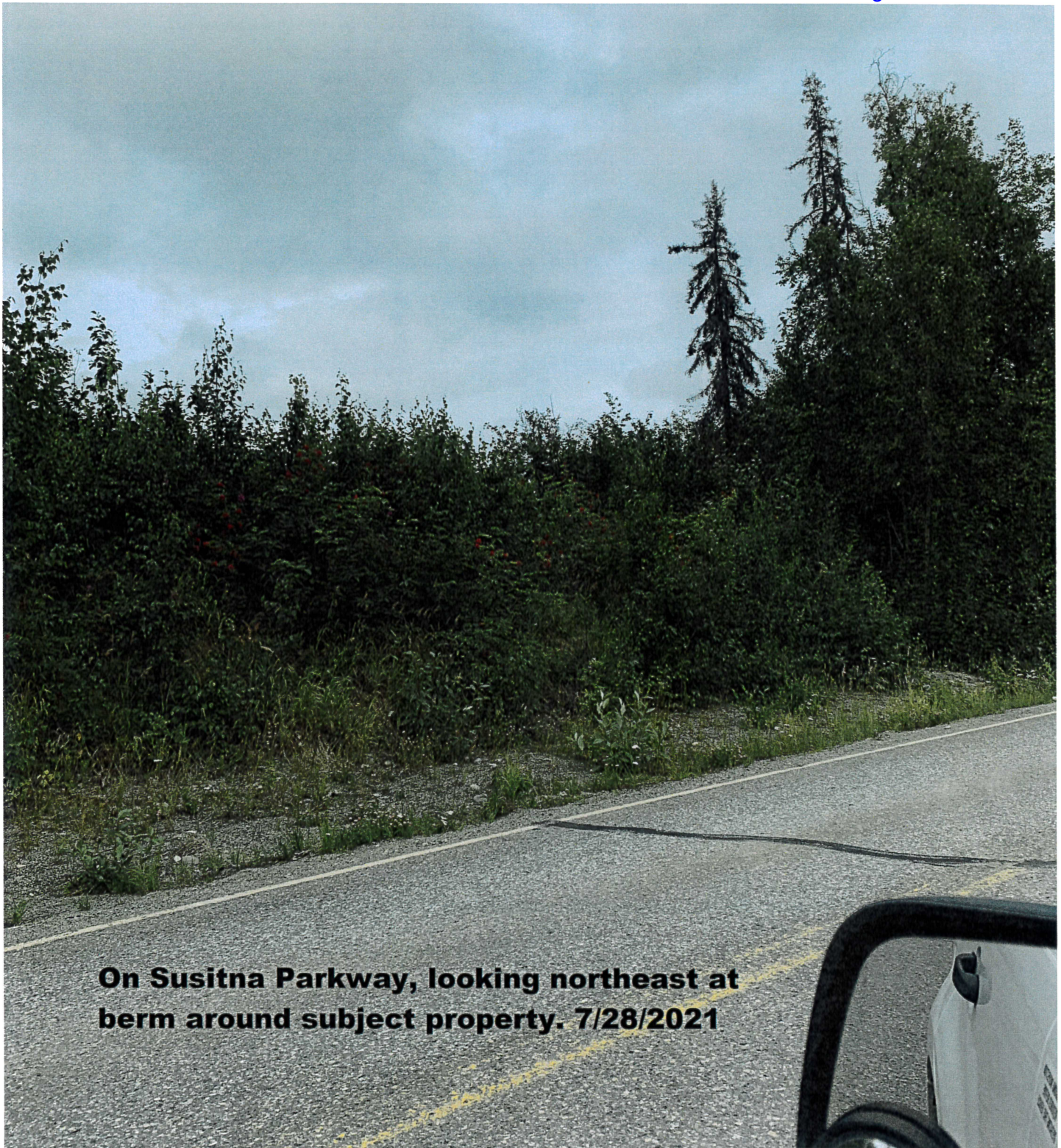
**Exiting the property at the northwest corner.  
Jay Sedor Street is straight ahead. 7/28/2021**





**Looking west towards Jay Sedor Street, showing the gated driveway. 7/28/2021**





**On Susitna Parkway, looking northeast at  
berm around subject property. 7/28/2021**



Form 4-1212  
(April 1960)

Anchorage 049915

*47-103*  
**PATENT**  
**The United States of America**

To all to whom these presents shall come, Greeting:

WHEREAS, a certificate of the Land Office at Anchorage, Alaska, is now deposited in the Bureau of Land Management, whereby it appears that pursuant to the act of Congress of June 1, 1938 (52 Stat. 609), as amended by the Act of July 14, 1945 (59 Stat. 467), and the acts supplemental thereto, the claim of Dawn Irving Smith

has been established and that the requirements of law pertaining to the claim have been met, for the following described land:

Seward Meridian, Alaska.

T. 17 N., R. 4 W.,

Sec. 35, S $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ .

The area described contains 5.00 acres, according to the official plat of the survey of the said land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, DOES HEREBY GRANT unto the said claimant and to the heirs of the said claimant the tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to (1) any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and (2) the reservation of a right-of-way for ditches or canals constructed by the authority of the United States, in accordance with the act of August 30, 1890 (26 Stat., 391, 43 U. S. C. sec. 945). There is also reserved to the United States a right-of-way for the construction of railroads, telegraph and telephone lines, in accordance with section 1 of the act of March 12, 1914 (38 Stat., 305, 48 U. S. C. sec. 305).

Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938.

This patent is subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the east boundary of said land.

*→ S. IRVING PLACE*

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the EIGHTH day of MAY in the year of our Lord one thousand nine hundred and SIXTY-THREE and of the Independence of the United States the one hundred and EIGHTY-SEVENTH.

For the Director, Bureau of Land Management.

By *Elizabeth B. Hucker*  
Chief, Patents Section.

Patent Number *1201021*

*Galmer  
8-16  
16 m mail  
b3  
9922 East 1st  
Anchorage, Alaska*

**Michelle Olsen**

---

**From:** Michelle Olsen  
**Sent:** Monday, August 2, 2021 3:08 PM  
**To:** 'alwaysredeyellc@gmail.com'  
**Subject:** Driveway Approval

**FINAL DRIVEWAY ACCEPTANCE**

PERMIT # D16084

TAX PARCEL ID # 17N04W35C001

The Matanuska-Susitna Borough has performed the Final Inspection of the existing driveway. The driveway has been adequately constructed to Borough standards and to the conditions outlined by the initial driveway inspector. **Your Approved Driveway Permit Number is listed above.**

**Please keep this letter.**

Any changes in land use or modifications of the driveway may require additional permitting. If you have any questions or concerns about your driveway or this permit, you may contact the Permit Center at 907-861-7822.

Sincerely,  
Michelle Olsen, CFM  
Permit Technician



# MATANUSKA-SUSITNA BOROUGH PUBLIC WORKS DEPARTMENT

Application & Permit to Construct and Maintain Driveway on Public Right-of-Way  
Questions regarding the application? Call (907) 745-9806 for more information

D16084

PERMITTEE'S NAME:

Casey Wilkins

PERMIT NO.

D09174

(To be issued after final inspection approval)

MAILING ADDRESS:

alwayssteteyllc@gmail.com

OFFICE USE ONLY

TELEPHONE NO.:

20357 W.

STREET NAME:

SAY SEAR 4159

SUBDIVISION NAME:

N/A Susitna Pky

BLOCK/EOT NO.:

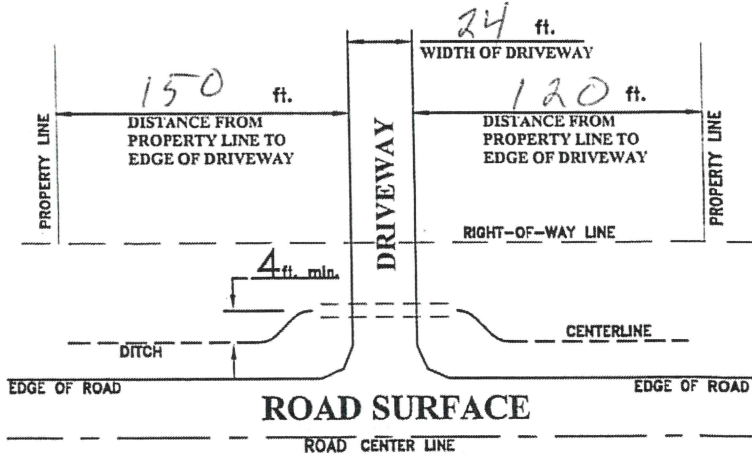
TAX ID:

17N04W35C001

\*\*EXPECTED COMPLETION DATE: 7-30-09\*\*

PLEASE COMPLETE SKETCH BELOW

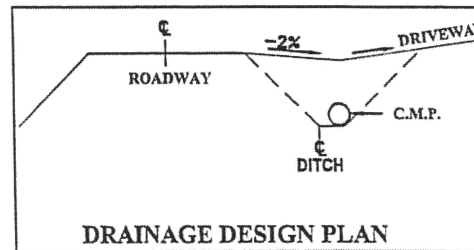
Driveway must be installed in accordance with the below sketch and special conditions



SHOW NORTH ARROW, as it pertains to the right of way you are entering onto.

APPROVED FOR CONSTRUCTION	YES	NO	DATE
Road Maintenance Superintendent	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/16/09
Right of Way Agent	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/16/09
TRACKING NO.:			
IS CULVERT NEEDED?:	YES	NO	<input checked="" type="checkbox"/>
(IF YES, SEE CULVERT INFORMATION BELOW)			
CULVERT LENGTH	FT.	SIZE (LD.)	IN.
CULVERT TYPE	DITCH DEPTH		

This permit will be void if no work is accomplished by the expected completion date. Installation without a permit will be treated as an unauthorized encroachment.



ROAD SURFACE TYPE? GRAVEL ☒ PAVED ☐  
(Road the driveway is accessing onto)

IF PAVED ROAD, APRON LENGTH TO BE 2' MINIMUM

The Permittee certifies that he/she is the owner, lessee, or authorized agent of the property, that the conditions, restrictions and regulations of the borough will be complied with and that he/she will maintain the driveway in accordance with the provisions on the reverse side of this permit. The Permittee agrees not to plow or cause to be place, snow from driveway onto the above named public way. Once the driveway is completed to the required specifications, notify the Public Works Department at 745-9806 to request an inspection for final approval.

SPECIAL CONDITIONS UPON APPROVAL: Driveway must have a -2% grade for the first 10 feet from the road. See Borough standards attached 6/16/09

Office / cultivation

I certify that I have read the conditions on the back and that my proposed driveway complies with all conditions.

PERMITTEE:

Signature of Permittee

DATE OF APPLICATION:

5-22-09

PERMIT GRANTED BY:

Borough Representative

DATE OF FINAL APPROVAL:

8/2/2009

DRIVEWAY APPLICATION FEE

Submit Fee to Matanuska-Susitna Borough, 350 E. Dahlia, Palmer, AK 99645

PRIOR TO CONSTRUCTION \*\*\*\*\*\$25.00

Tax Map #: 4516

Section #: 35

RSA #: 21

E PAID

5/22/09

CHECK

CK #

CASH

IN FINANCE

DATE SENT

(TO PERMITTEE)

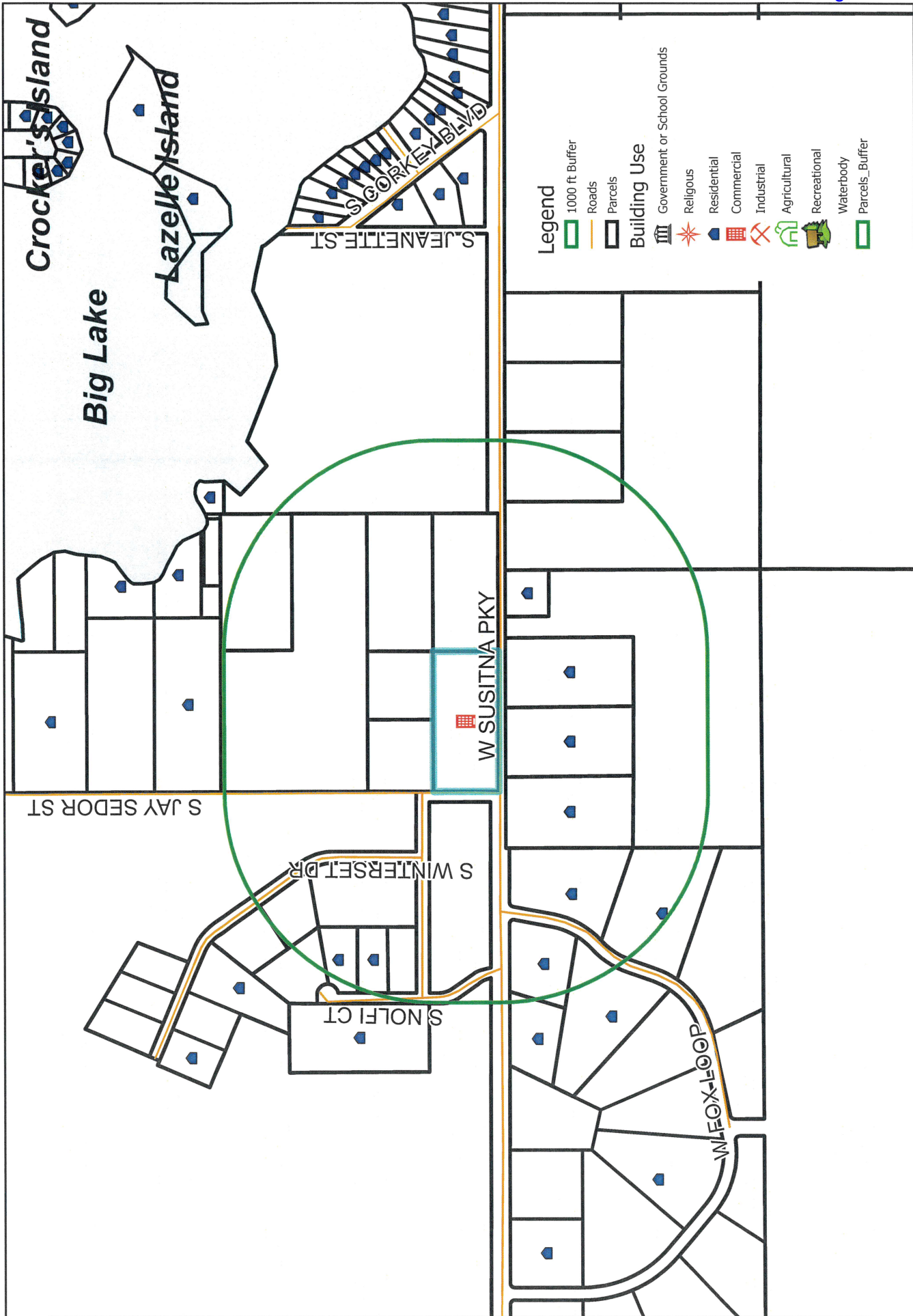
SCANNED

CMP-7-6-3-5220

PLN - DVS - Permits - DVS - 17N04W35C001 -

D09174

05-22-09A10:28 RCVD

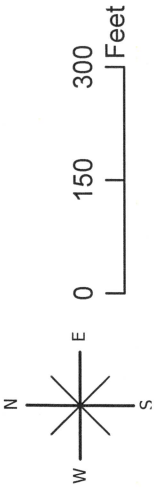


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MSB Development Services Division: 8/2/2021

# Land Use Map for 17N04W35C001



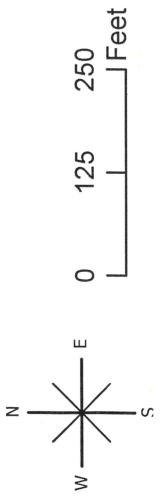
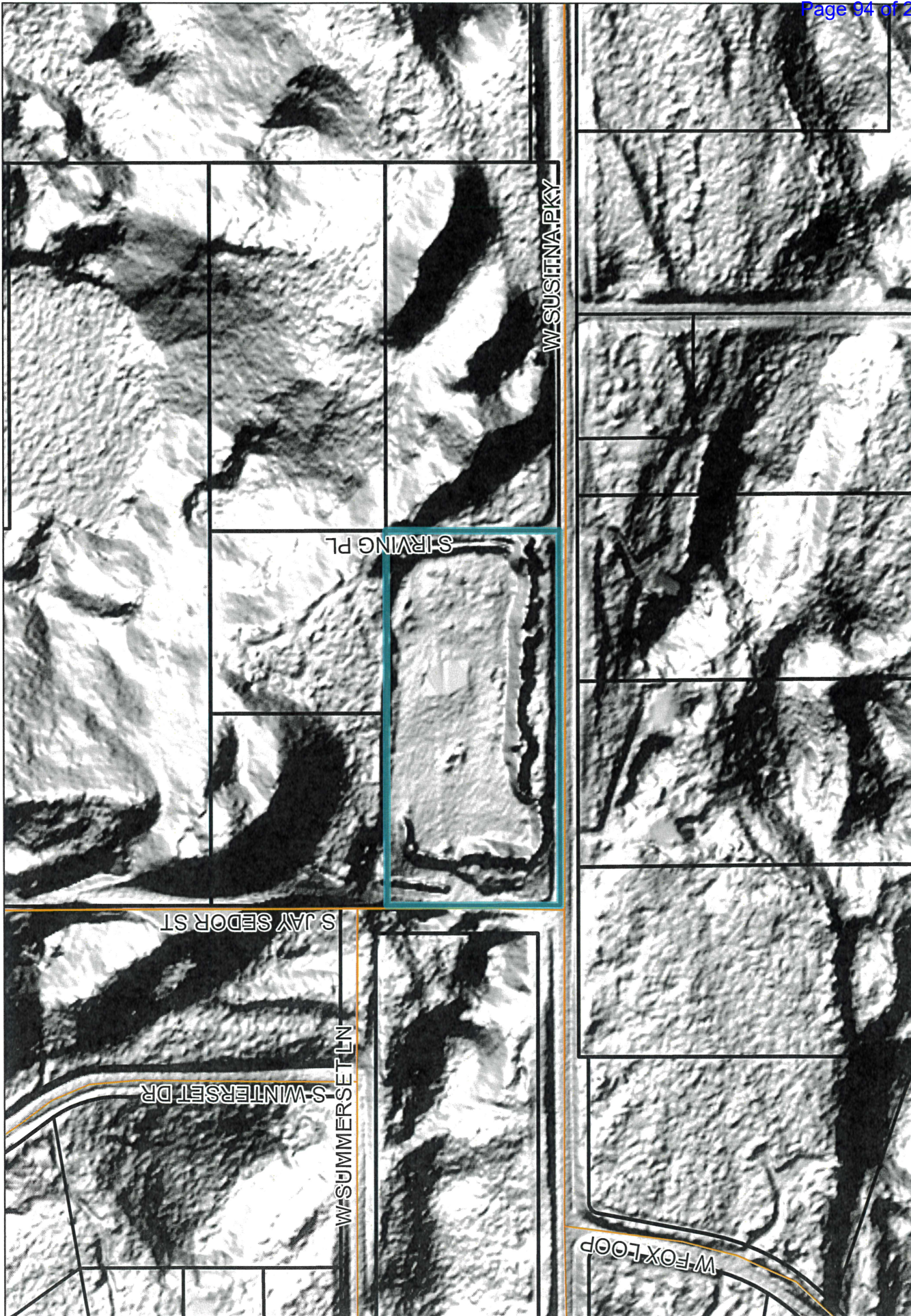


# **Aerial Map for 17N04W35C001**



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# 2011 Hillshade



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# Frontiersman

*Growing with the Valley since 1947.*

5751 E. MAYFLOWER CT.  
Wasilla, AK 99654

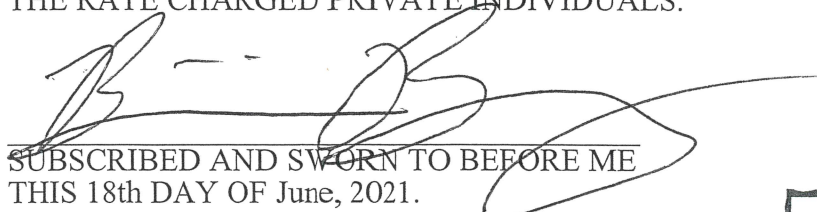
(907) 352-2250 ph  
(907) 352-2277 fax

## AFFIDAVIT OF PUBLICATION

UNITED STATES OF AMERICA, STATE OF ALASKA, THIRD DIVISION  
BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, THIS DAY  
PERSONALLY APPEARED BEFORE **BENJAMIN BORG** WHO, BEING  
FIRST DULY SWORN, ACCORDING TO LAW, SAYS THAT HE IS THE  
LEGAL AD CLERK OF THE **FRONTIERSMAN**  
PUBLISHED AT WASILLA AND CIRCULATED THROUGH OUT MATANUSKA  
SUSITNA BOROUGH, IN SAID DIVISION THREE AND STATE OF ALASKA  
AND THAT THE ADVERTISEMENT, OF WHICH THE ANNEXED IS A TRUE  
COPY, WAS PUBLISHED ON THE FOLLOWING DAYS:

**06/18/2021**

AND THAT THE RATE CHARGED THEREIN IS NOT IN EXCESS OF  
THE RATE CHARGED PRIVATE INDIVIDUALS.

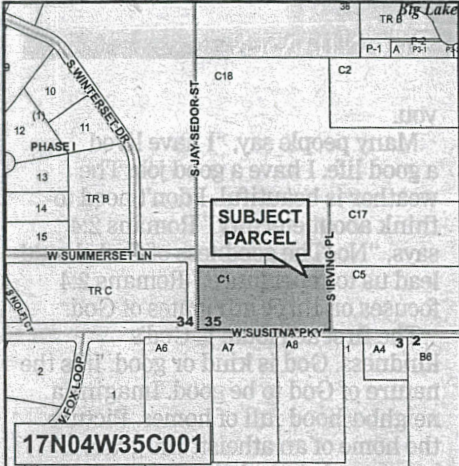
  
SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 18th DAY OF June, 2021.

  
NOTARY PUBLIC FOR STATE OF ALASKA

NANCY E. DOWNS  
Notary Public  
State of Alaska  
My Commission Expires  
August 25, 2023

MAT-SU BOROUGH/PAGE  
6.18  
ACCOUNT NUMBER 405249

### PUBLIC HEARING



**17N04W35C001**

The Matanuska-Susitna Borough Planning Commission will consider the following:

**An application under MSB 17.60 - Conditional Uses**, has been submitted by Greg Smith, of 2nd Amendment, LLC, for a Conditional Use Permit for operation of a marijuana cultivation facility. Located at 20357 W. Susitna Parkway, Tax ID #17N04W35C001; within Township 17 North, Range 4 West, Section 35, Seward Meridian.

The Planning Commission will conduct a public hearing concerning this application on **Monday August 16, 2021** in the Borough Assembly Chambers located at 350 E. Dahlia Avenue in Palmer. This may be the only presentation of this item before the Planning Commission and you are invited to attend. Planning Commission members may not receive or engage in ex-parte contact with the applicant, other interested parties in the application, or members of the public concerning the application or issues presented in the application.

**Please Note: Due to the ongoing Coronavirus/ COVID-19 Pandemic, the method in which this meeting is being conducted may change. If a change to the meeting is necessary, it will be posted on the Borough Website. The public is encouraged to check the Borough Website prior to attending the public hearing for any changes to the meeting schedule or method.**

In Person Participation: Should you wish to attend in person, please adhere to a 6-foot distance between yourself and others; masks are not required but are encouraged. **Telephonic Testimony:** Dial 1-855-225-1887; you will hear "Joining Conference" when you are admitted to the meeting. You will be muted and able to listen to the meeting. When the Chairperson announces audience participation or a public hearing you would like to speak to, press \*3; you will hear "Your hand has been raised." When it is your turn to testify you will hear "Your line has been unmuted." State your name for the record, spell your last name, and provide your testimony.

In order to be eligible to file an appeal from a decision of the Planning Commission, a person must be designated an "interested party." See MSB 15.39.010 for the definition of "interested party." The procedures governing appeals to the Board of Adjustment and Appeals are contained in MSB 15.39.010-250, which is available on the Borough home page: [www.matsugov.us](http://www.matsugov.us), in the Borough Clerk's office, and at various libraries within the Borough.

Application materials may be viewed online at [www.matsugov.us](http://www.matsugov.us) by clicking on "All Public Notices & Announcements." For additional information, if you have questions, or want to submit written comments, please contact Peggy Horton, Planner II, by phone: 907- 861-7862; email: [peggy.horton@matsugov.us](mailto:peggy.horton@matsugov.us); or mail: MSB Development Services Division, 350 E. Dahlia Avenue, Palmer, AK 99645.

Comments are due on or before **July 12, 2021** and will be included in the Planning Commission packet for the Commissioner's review and information. Please be advised that comments received from the public after that date will not be included in the staff report, but will be provided to the Commission at the meeting.

Publish Date: June 18, 2021





## Certificate of Bulk Mailing – Domestic

### Fee for Certificate

Up to 1,000 pieces (1 certificate for total number)

For each additional 1,000 pieces, or fraction thereof

Use  
Current  
Price List  
(Notice 123)

Duplicate Copy ☐

Number of Identical Weight Pieces	Class of Mail	Postage for Each Mailpiece Paid	Number of Pieces to the Pound
9	1st	<input type="checkbox"/> Verified	45

Total Number of Pounds	Total Postage Paid for Mailpieces	Fee Paid
302	41.59	8.80

Mailed For

Dev Services

Mailed By

NXX

### Postmaster's Certification

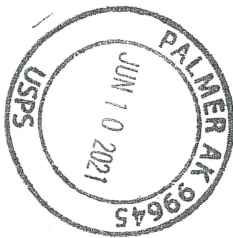
It is hereby certified that the number of mailpieces presented and the associated postage and fee were verified. This certificate does not provide evidence that a piece was mailed to a particular address.

*[Signature]*  
(Postmaster or Designee)

**Postage:** Mailers must affix meter, PC Postage®, or (uncanceled) postage stamps here in payment of total fee due.

Acceptance employee must cancel affixed (by round-date) at the time

If payment of total fee due is being paid by Permit Imprint, include the PostalOne!® Transaction Number here: \_\_\_\_\_



217N04W35C014 1  
ALEXANDER DONALD C  
ALEXANDER LYNZETTE D  
PO BOX 520673  
BIG LAKE AK 99652

216N04W03A006 4  
FICKLIN BRAD & AMY  
PO BOX 520808  
BIG LAKE, AK 99652-0808

56265B02L001 7  
MCDANIEL SHIRLEY F  
PO BOX 521355  
BIG LAKE AK 99652-1355

tara0609  
9  
6/8/2021 2:25:13 PM

216N04W02B006 2  
DUKE RHONALD JOHN  
DUKE KATHERINE ASBURY  
PO BOX 520985  
BIG LAKE AK 99652-0985

217N04W35C018 5  
HAMILTON TONI M  
2355 E LYNNWOOD DR  
LONGVIEW, WA 98632

52778000T00C 8  
NOLFI-DODGE NANCY ANN  
NOLFI ADRIAN PETER  
PO BOX 520667  
BIG LAKE AK 99652

216N04W03A004 3  
EVARTS RAY EST  
WAGNER JOHN W  
%PATRICIA L EVARTS  
22620 HIGHWAY 30  
KIMBERLY ID 83341-5204  
217N04W35C005 6  
HECK MICHAEL  
40400 LINCOLN ST  
CHERRY VALLEY CA 92223

217N04W35C001 9  
WILKINS CASEY  
PO BOX 240122  
DOUGLAS AK 99824



Matanuska-Susitna Borough  
Development Services Division  
350 E. Dahlia Avenue  
Palmer, Alaska 99645

tara0609

9

6/8/2021 2:25:13 PM

The Planning Commission of the Matanuska-Susitna Borough will consider the following:

**Applicant:** Greg Smith of 2<sup>nd</sup> Amendment, LLC  
**Location:** 20357 W. Susitna Parkway, Tax ID #17N04W35C001  
within Township 17 North, Range 4 West, Section 35, Seward Meridian  
**Request:** An application for a conditional use permit under MSB 17.60 – Conditional Uses, has been submitted for the operation of a marijuana cultivation facility at the above location.

The Planning Commission will conduct a public hearing concerning the application on Monday, August 16, 2021 at 6 p.m. in the Borough Assembly Chambers, 350 E. Dahlia Avenue, in Palmer. This may be the only presentation of this item before the Planning Commission and you are invited to attend. Planning Commission members may not receive or engage in ex-parte contact with the applicant, other interested parties in the application, or members of the public concerning the application or issues presented in the application.

**Please Note: Due to the ongoing Coronavirus/COVID-19 Pandemic, the method in which this meeting is being conducted may change. If a change to the meeting is necessary, it will be posted on the Borough website. The public is encouraged to check the Borough website prior to attending the public hearing for any changes to the meeting schedule or method.**

**In Person Participation:** Should you wish to attend in person, please adhere to a 6-foot distance between yourself and others as much as possible. **Written Testimony:** Written comments can be mailed to: MSB Development Services Division, 350 E. Dahlia Avenue, Palmer, AK 99645, or you may e-mail comments to [peggy.horton@matsugov.us](mailto:peggy.horton@matsugov.us). **Telephonic Testimony:** Dial 1-855-290-3803. You will hear “Joining conference” when you are admitted to the meeting. You will be automatically muted and able to listen to the meeting. When the Chair announces audience participation or a public hearing you would like to speak to, press \*3; you will hear, “Your hand has been raised.” When it is your turn to testify, you will hear, “Your line has been unmuted.” State your name for the record, spell your last name, and provide your testimony. You have 3 minutes to state your concerns & comments. This is not a question and answer session. This is only for stating your concerns and comments.

Application material may be viewed online at [www.matsugov.us](http://www.matsugov.us) by clicking on “All Public Notices & Announcements.” For additional information, you may contact Peggy Horton, Planner II, at 861-7862. Comments are due on or before July 9, 2021 and will be included in the Planning Commission packet for the Commissioner’s review and information. Please be advised that comments received from the public after that date will not be included in the staff report to the Planning commission, but will be provided to the Commission at the meeting.

In order to be eligible to file an appeal for a decision of the Planning Commission, a person must be designated an “interested party.” See MSB 15.39.010 for the definition of “interested party.” The procedures governing appeals to the Board of Adjustment and Appeals are contained in MSB 15.39.010-250, which is available on the borough home page: [www.matsugov.us](http://www.matsugov.us), in the Borough Clerk’s office, and at various libraries within the borough.

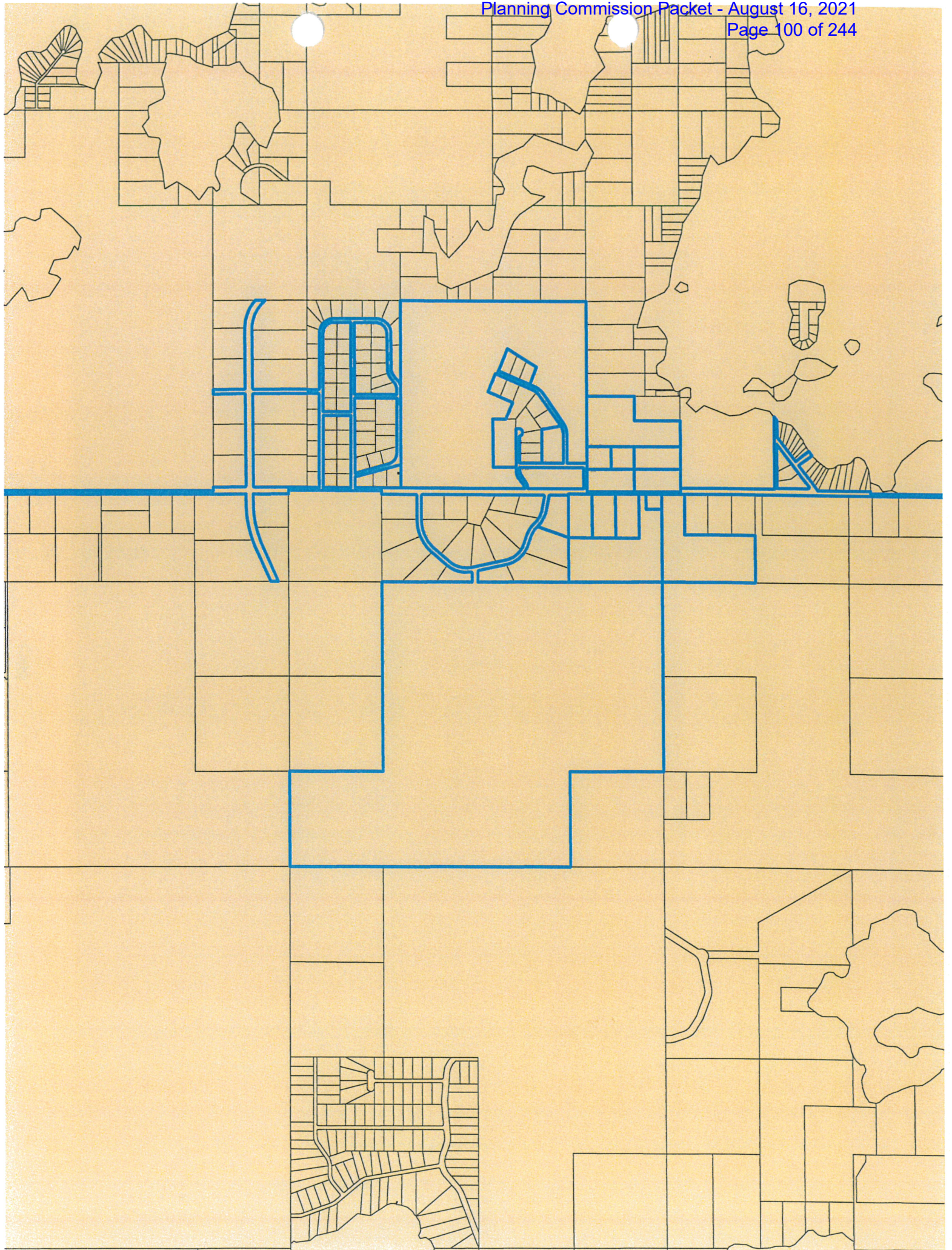
**Name:** \_\_\_\_\_ **Mailing Address:** \_\_\_\_\_

**Location/Legal Description of your property:** \_\_\_\_\_

**Comments:** \_\_\_\_\_

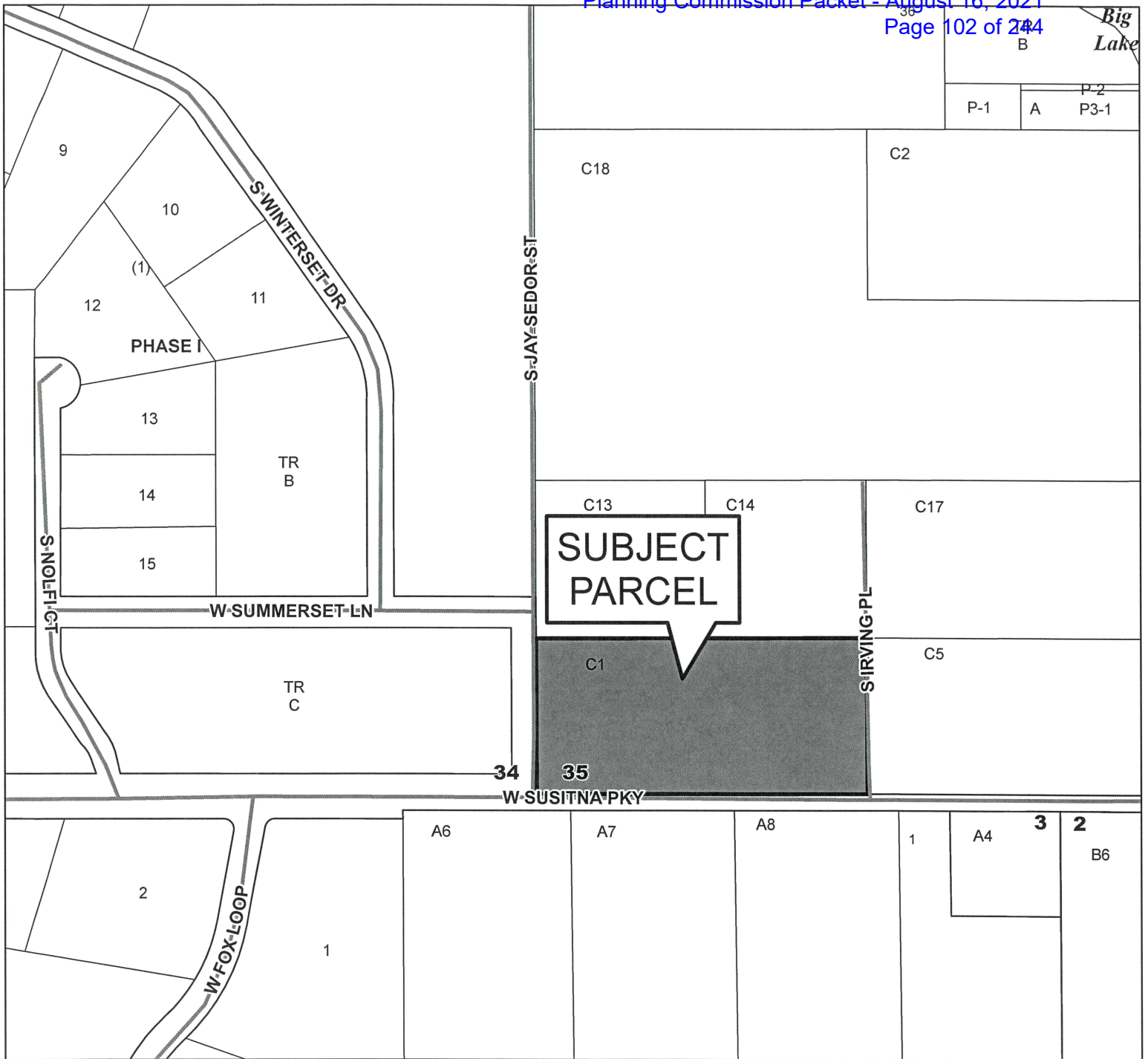
*Note: Vicinity Map Located on Reverse Side*







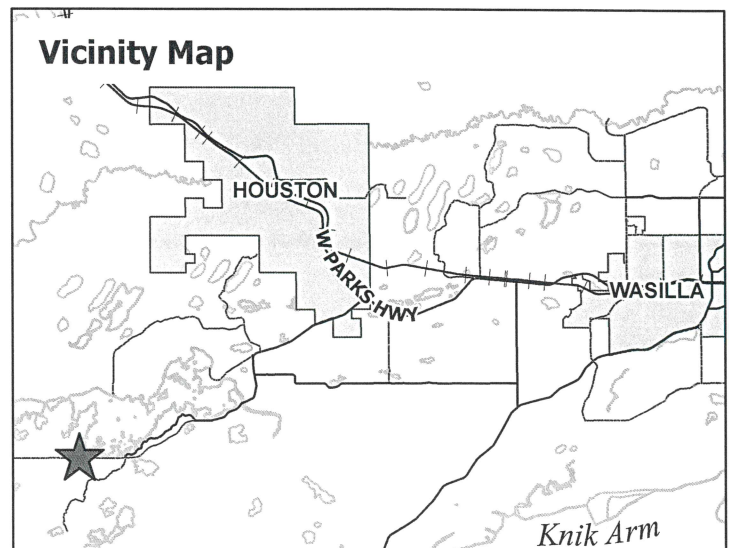
# VICINITY MAP



17N04W35C001

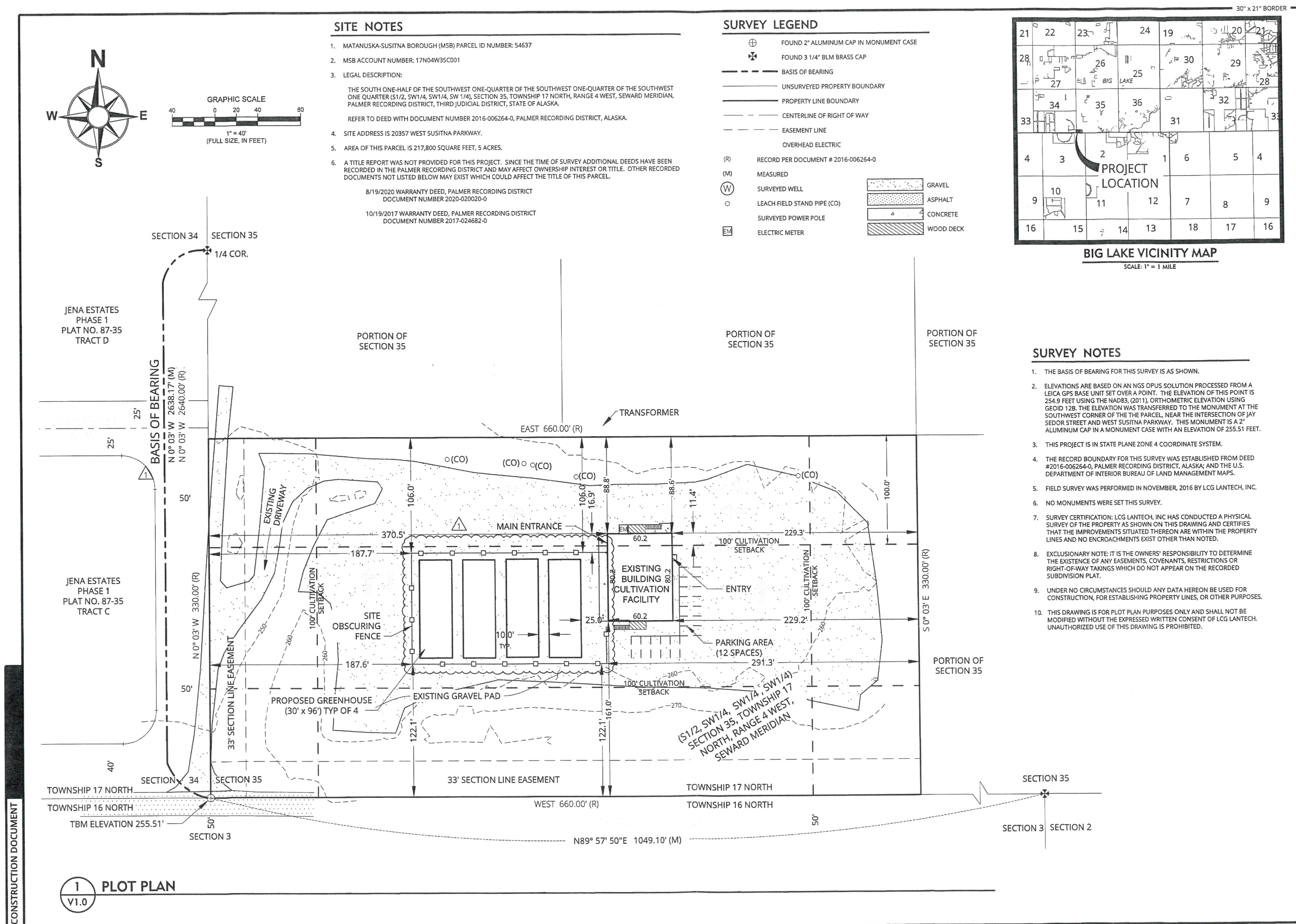


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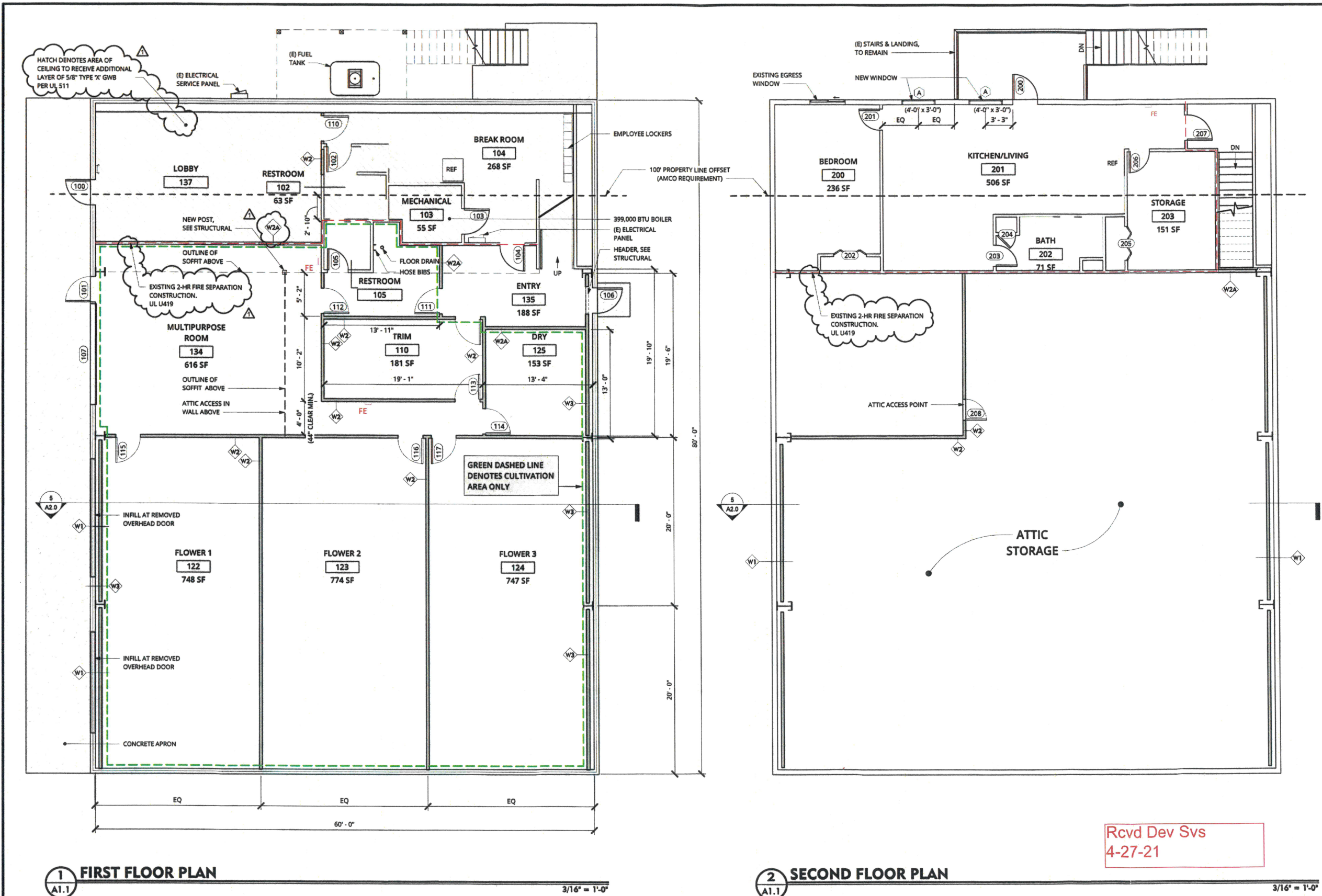


# **SITE PLAN**



ONE INCH		ONE INCH	
20357 W SUSITNA PARKWAY BIG LAKE, ALASKA PLOT PLAN		250 H Street Anchorage, AK 99501 P: (907) 243-8985 P: (907) 243-5629 W: LCGAK.com	
Matanuska-Susitna Borough Development Services MAY 10 2021 Received		<b>LCG</b> <b>Partech</b> Inc <i>architecture • engineering • surveying</i>	
SHEET SIZE: 34x22 DESIGNED BY: SC DRAWN BY: ADS/MH/CS CHECKED BY: SC DATE: 10/23/2020 FILE NO. 1318.01 SHEET NUMBER		1 5/5/2021 MDC ADD GREENHOUSES NO DATE BY REVISION	
V1.0 OF 1		WILKINS TENANT IMPROVEMENT	





ONE INCH (1")

4/27/2021 9:16:17 AM

250 H Street  
Anchorage, AK 99501  
P: (907) 243-9885  
F: (907) 243-5629  
W: LCCAK.com

**LCC**  
Lanetech Inc  
architecture • engineering • surveying

20357 W SUSITNA PARKWAY  
BIG LAKE, ALASKA

PER SOA COMMENTS  
DATE  
NO  
BY  
REVISION

1 12/15/2020  
NO  
BY  
REVISION

WILKINS TENANT IMPROVEMENT

FLOOR PLANS

SHEET SIZE: 34x22  
DESIGNED BY: WHS  
DRAWN BY: HK  
CHECKED BY: WHS  
DATE: 10.27.2020  
FILE NO. 1318.01  
SHEET NUMBER  
**A1.1** OF **3**

PERMIT SET

Rcvd Dev Svs  
4-27-21

# **APPLICATION MATERIAL**



Received



## MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-8158

Email: [permitcenter@matsugov.us](mailto:permitcenter@matsugov.us)

### CONDITIONAL USE PERMIT FOR MARIJUANA RELATED FACILITIES – MSB 17.60

Carefully read instructions and applicable borough code. Fill out forms completely. Attach information as needed. Incomplete applications will not be processed.

#### Application fee must be attached:

- ☐ \$1,000 for Marijuana Retail Facility  
☒ \$1,000 for Marijuana Cultivation Facility

*Prior to the public hearing, the applicant must also pay the mailing and advertising fees associated with the application. Applicants will be provided with a statement of advertising and mailing charges. Payment must be made prior to the application presentation before the Borough Planning Commission.*

#### Required Attachments for a Marijuana Cultivation Facility:

- ☒ Wastewater and Waste Material Disposal Plan – 17.60.160 (A)  
☒ Odor Mitigation and Ventilation Plan – 17.60.160 (B)  
☒ Hazardous Chemicals Information – 17.60.160 (C)  
☒ Security plan – 17.60.160 (D)

#### Required Attachments for Both Retail and Cultivation Facilities:

- ☒ Documentation demonstrating full compliance with applicable fire code – 17.60.150 (D) (2)

Subject Property: Township: 17N, Range: 4W, Section: 35, Meridian: \_\_\_\_\_

MSB Tax ID# 17N04W35C001

SUBDIVISION: \_\_\_\_\_ BLOCK(S): \_\_\_\_\_, LOT(S): \_\_\_\_\_

STREET ADDRESS: 20357 W SUSITNA PKY

FACILITY / BUSINESS NAME: 2nd Amendment LLC

**Ownership:** A written authorization by the owner must be attached for an agent or contact person, if the owner is using one for the application. Is authorization attached? ☐ Yes ☐ No ☐ N/A

Name of Property Owner

Casey Wilkins

Name of Agent / Contact for application

Greg Smith

Mailing: PO BOX 240122

Douglas, AK 99824

Mailing: PO BOX 240122

Douglas, AK 99824

Phone: Hm \_\_\_\_\_ Fax \_\_\_\_\_

Wk \_\_\_\_\_ Cell 907-957-3877

E-mail alwaysredeyellc@gmail.com

Phone: Hm \_\_\_\_\_ Fax \_\_\_\_\_

Wk \_\_\_\_\_ Cell 503-936-0901

E-mail alwaysredeyellc@gmail.com

<b>Site Plan – Attach a detailed, to scale, site plan clearly showing the following information:</b>	<b>Attached</b>
Proposed and existing structure(s) on the site. Indicate which structure(s) will be used for the proposed use. Dimensions and locations of all existing and proposed structures on the site in relationship to all property lines.	Attachment B
Signage – Existing and Proposed.	narrative
Location and dimensions for all access points to and from the site to public rights-of-way or public access easements.	B, narrative
Buffering – Fences, vegetation, topography, berms, and any landscaping	A, B, D
Drainage	D, narrative
Vehicular and pedestrian circulation patterns.	B
Exterior site lighting.	B
Location and dimensions of parking areas to be provided	B, narrative
Scale and north arrow using standard engineering intervals such as 1" = 30', 1" = 50' or similar as required by project size.	X

<b>Map – Attach a detailed, to scale, vicinity map clearly showing the following information:</b>	<b>Attached</b>
Identify all existing land uses within 1,000 feet.	attachment C
Scale and north arrow using standard engineering intervals such as 1" = 30', 1" = 50' or similar as required by project size.	X

<b>In order to grant a conditional use permit under MSB 17.60, the Planning Commission must find that each of the following requirements have been met. Explain the following in detail:</b>	<b>Attached</b>
Is the conditional use compatible with and will it preserve or not materially detract from the value, character and integrity of the surrounding area?	Yes, narrative
Will the granting of the conditional use permit be harmful to the public health, safety, convenience and welfare?	No, narrative
Are sufficient setbacks, lot area, buffers and other safeguards being provided?	Yes, narrative
Does the conditional use fulfill all other requirements of MSB Chapter 17.60 pertaining to the conditional use in this section?	Yes, narrative
Describe measures taken to prevent any potential negative effect upon other properties in the area due to such factors as noise and odor.	narrative
Describe measures taken to reduce negative effects upon adjacent properties by: <ul style="list-style-type: none"> <li>Increased property line and right-of-way buffers</li> <li>Planted berms and landscaping</li> <li>Site and building design features which contribute to the character of the surrounding area</li> </ul>	narrative
Describe how this use is compatible with the character of the surrounding area.	narrative
Current status of State License application process – 17.60.150 (D) (1)	narrative



<b>17.60.170 Standards for Marijuana Retail Facilities:</b>	<b>Attached</b>
Describe how the subject parcel is appropriate for the proposed conditional use. Include information detailing: <ul style="list-style-type: none"> <li>• The proximity of the proposed use to existing businesses;</li> <li>• The proximity of parcels developed with residential uses;</li> <li>• Whether the roads associated with the proposed use have been, or will be, appropriate for commercial use; and</li> <li>• Proposed hours of operations.</li> </ul>	
Provide information showing minimum parking standards have been met as required by MSB 17.60.170 (B) and (C).	

<b>Floor Plan for Marijuana Retail Facilities – Attach a detailed, to scale, floor plan clearly showing the following information:</b>	<b>Attached</b>
Dimensions of all structures.	
Interior floor plans (specific location of the use or uses to be made of the development).	
Net floor area square footage calculations.	

**OWNER'S STATEMENT:** I am owner of the following property:

MSB Tax account #(s) 17N04W35C001 and, I hereby apply for approval of a conditional use permit to operate a marijuana related facility on the property as described in this application.

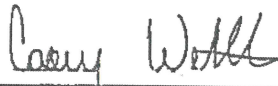
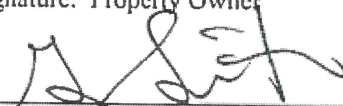
I understand all activity must be conducted in compliance with all applicable standards of MSB 17.60 and with all other applicable borough and state.

I understand that other rules such as local, state and federal regulations, covenants, plat notes, and deed restrictions may be applicable and other permits or authorization may be required. I understand that the borough may also impose conditions and safeguards designed to protect the public's health, safety and welfare and ensure the compatibility of the use with other adjacent uses.

I understand that it is my responsibility to identify and comply with all applicable rules and conditions, covenants, plat notes, and deed restrictions, including changes that may occur in such requirements.

I grant permission for borough staff members to enter onto the property as needed to process this application and monitor compliance. Such access will at a minimum, be allowed when the activity is occurring and, with prior notice, and at other times necessary to monitor compliance.

The information submitted in this application is accurate and complete to the best of my knowledge.

	Casey Wilkins	02/25/21
Signature: Property Owner	Printed Name	Date
	Greg Smith	2/26/21
Signature: Agent	Printed Name	Date

MAY 05 2021

**Matanuska Susitna Borough Conditional Use Permit (CUP) Narrative  
(revised May 5, 2021)**

Received

For a Standard Marijuana Cultivation Facility

Located at 20357 W Susitna Parkway, Big Lake, Alaska 99654

Operated by 2nd Amendment LLC

**Wastewater and Waste Material Disposal Plan – 17.60.160 (A)**

A nutrient enriched solution will be applied to the outdoor and indoor growing beds. The watering solution will be delivered at the levels required by the plants, so there will be little waste water by design. Any resulting waste water will be non-hazardous and will be absorbed into the ground or indoor growing medium. Per a conversation with the Alaska Department of Environmental Conservation (DEC), since no wastewater is being discharged into or onto waters of the state, and this is standard agricultural watering, no DEC permit is required.

2nd Amendment LLC will be disposing of: (1) marijuana that is identified as contaminated, infected or is otherwise rejected for quality or fails to meet quality testing, (2) waste from marijuana flower, plant material and trimmings, (3) any other materials or containers in contact with marijuana that risks contamination, and (4) any other marijuana deemed as waste by the Marijuana Control Board (MCB) or director. Marijuana waste will be stored away from all other marijuana, be secured in the licensed premises, and be under continual video surveillance. Disposal will follow state law and regulations, but will include notifying Alcohol and Marijuana Control Office (AMCO), rendering marijuana unusable by grinding and then mixing with other compostable material such as, food waste, yard waste, cardboard, paper, soil or growing medium until the resulting mixture is no more than fifty percent (50%) marijuana waste, and logging all marijuana waste, tracking the type, date of disposal, reason for disposal, date it was rendered unusable, and final destination. The marijuana waste mixture will be composted on-site. 2nd Amendment LLC does not anticipate much liquid waste as they will be monitoring watering of plants; any runoff will be non-hazardous and will simply be absorbed into the ground.

**Odor Mitigation and Ventilation Plan – 17.60.160 (B)**

The indoor growing facility and greenhouses will be well sealed to prevent leakage of ambient air. Continuously running carbon filter will eliminate odors in ambient interior air and in the exhausted air. Filters will be replaced and maintained per manufacturer's specifications.



### **Hazardous Chemicals Information – 17.60.160 (C)**

2nd Amendment LLC will not use hazardous chemicals at the cultivation facility. Any fungicide or insecticide will be EPA-approved. No CO2 will be used during cultivation. Cleaning products will be similarly non-toxic. Fungicides, insecticides, herbicides, cleaning products, and other chemicals will be used, stored, and disposed of in accordance with their respective manufacturer's recommendations, and comply with all local, state, and federal laws.

### **Security plan – 17.60.160 (D)**

There are significant features regarding security and safety required by state law. Marijuana, video records, and other sensitive and valuable items will be kept in a secured room in the licensed building.

A security system will be continuously active to ensure no unauthorized access is left unnoticed. Required signage stating "Restricted access area. Visitors must be escorted." will be posted on the exterior doors of the building, on all secured greenhouse doors, and along the sight-obscuring fencing. Additional signs stating "No persons under the age of 21 are allowed" will also be posted. All visitors must be escorted by either a licensee or designated employee at all times during their visit to the restricted access areas.

All doors leading to restricted access areas, including entrances to greenhouses, will have commercial grade locks. Exterior doors of the building will be locked at all times. Doors to greenhouses will be locked whenever someone is not actively working in the greenhouse. Video surveillance will monitor all doors accessing restricted access areas.

Outdoor growing will take place in secured greenhouses. All greenhouses and a pathway between greenhouses and the secured west entry will be surrounded by a sight-obscuring fence at least 6' high which will be chain link covered in sight cloth.

Exterior lighting will be present near the two exterior doors of the indoor growing facility and at each greenhouse secured entrance. The outdoor lighting will be positioned in such a way to keep the premises, signs, and doors well lit and to ensure surveillance cameras can record a clear image of any individual within 20 feet of any entrance to the licensed premises or anyone working within the outdoor growing structures. The outdoor lighting system will be LED, mounted approximately 10 feet high, and will be directed downwards and will include proper lenses to prevent light spillage off the property. The geography and topography of the property, along with the forested edges of the property, will further prevent light spillage off the property.

Motion sensors for lighting and the video surveillance system will ensure that suitable video footage is captured whenever motion is detected. The long daylight hours during the outdoor growing season will help provide lighting to facilitate surveillance in greenhouses. There will be adequate lighting to facilitate surveillance in the building.

The building and greenhouses will be equipped with video surveillance cameras to provide recordings of any area where marijuana is grown, cured, processed, and packaged, or where marijuana waste is destroyed. Exterior cameras will be positioned to provide a clear view adequate to identify any individual within 20 feet any exterior entrance.

Tenants in the non-cultivation units will likely provide some additional security during working and non-working hours.

Suspicious activity will be investigated and law enforcement contacted as necessary. All employees will be given training and education on all security measures and processes, including testing of security system and video surveillance system, arming and disarming the security system, when to contact authorities, and protocols in the event of a security breach.

#### **Additional Narrative Regarding Site Plan & Map Documents**

- There will be no advertising signage for the facility. "No Trespassing" signs will be placed at the entry gate and along the south property line as needed;
- Parking spaces will be approximately 17' deep by 8.5' wide;
- The main access point is the driveway located on the west side of the property;
- Drainage patterns are shown on the topographical map (attachment D) and will likely drain towards the northwest corner of the property;
- At full operation, there could be up to 12 employees;
- Commercially-manufactured greenhouses are 30' x 96'.

#### **Additionally Requested Information from MSB staff:**

- **Loitering policies and procedures (taken verbatim from AMCO application):**

Site location will naturally deter loitering. The video surveillance and security system will provide an additional level of deterrence. Appropriate signage such as; "No Loitering" will be posted around the facility informing persons that loitering is prohibited. Persons found loitering will be asked to leave. If they do not, local law enforcement will be notified. Additionally, bright exterior lighting should discourage loitering.



- **Will the property be open to the public?**

No, the property will be not open to the public. The driveway is gated. "No Trespassing" signs will be placed around the property.

**Is the conditional use compatible with and will it preserve or not materially detract from the value, character and integrity of the surrounding area?**

The cultivation facility will be located in the central part of the 5 acre parcel. Geography (there is a 15' high berm on much of the southern side of the property) and surrounding vegetation (there are numerous trees around much of the property) will prevent most visual notice of the cultivation facility by the public. Well-sealed growing environments and carbon filters will prevent odors from leaving the property. The nearest residences are over 300' away from the growing area. Noise produced is expected to be minimal (similar to vegetable and flower production), so will not materially detract from the surrounding area. Traffic to the facility is expected to be moderate.

Photos attached as Attachment A show the vegetation and geography of the property from public rights of way, reinforcing that these natural features reduce many visual impacts on neighboring properties and public roadways.

The greenhouses are typical agricultural structures and fit the rural feel of the area.

**Will the granting of the conditional use permit be harmful to the public health, safety, convenience and welfare?**

No. Significant security measures are required by the state and will be operating at the site. These include security cameras, exterior lighting, alarm systems, visitor access restrictions, fencing or barriers, policies and procedures regarding loitering, unauthorized access, marijuana tracking and transportation, marijuana diversion, and much more.

There will be no health impacts to the public, as only non-hazardous fertilizers and pesticides will be used. Soil amendments and other products will be organic where possible and used in the lowest possible amounts, to reduce any impacts on soil, water and air. The cultivation of marijuana outdoors requires very little electricity and some water, but neither in quantities expected to negatively affect the area or the ability of neighboring properties to meet their current needs.

**Are sufficient setbacks, lot area, buffers and other safeguards being provided?**

Yes. The cultivation site will be located on the 5 acre property and any cultivation facilities will be set back 50 feet from public rights-of-way and 100 feet from lot lines per MSB 17.60.160(E). While the some of the existing building falls within the 100' lot line setback, the area of the building within the 100' setback will be a separate units and will not be used for marijuana cultivation or associated activities.

To comply with the Mat-Su Borough's 100' cultivation setback requirement, the following actions will be taken:

- Units within the 100' setback will be completely separate from the space used for cultivation (see attached interior plan drawing);
- Doors accessed from common entry area will be secured and locked, and no keys to secured doors will be shared with tenants from non-cultivation units and the cultivation facility;
- Tenants in units within the 100' setback will have clauses in their lease contract stating no cultivation activities are allowed in those units; and
- Security camera systems will provide verification that cultivation activity is not occurring in non-cultivation areas.

The nearest neighboring residence is around 300' away from the cultivation area.

**Does the conditional use fulfill all other requirements of MSB Chapter 17.60 pertaining to the conditional use in this section?**

Yes. The conditional use fulfills other requirements of MSB 17.60 (Conditional Uses). Documentation and explanation of this is found throughout the CUP application.

**Describe measures taken to prevent any potential negative effect upon other properties in the area due to such factors as noise and odor.**

Siting of the cultivation facilities, odor filtration in all cultivation facilities, and the low level of noise impact associated with outdoor marijuana cultivation (e.g. no heavy machinery) will reduce and prevent negative effects on surround properties. Most activity will occur during daytime working hours. Activities causing significant noise, while not expected, will be confined to daytime hours whenever possible. Long daylight hours and controlled outdoor lighting will reduce any possible light pollution or disturbance. Site geography and vegetation, proper siting, and carbon filters and other technology, will lead to minimal impacts on other properties.

**Describe measures taken to reduce negative effects upon adjacent properties by:**



- Increased property line and right-of-way buffers

All property line and ROW buffers will be observed. Forested/vegetated areas will provide additional odor and sight obstruction.

- Planted berms and landscaping

The natural geography of the site prevents outside observation.

- Site and building design features which contribute to the character of the surrounding area

The commercially manufactured greenhouses or hoop houses are commonly viewed in rural areas and contribute to a farm-like feel. Again, these will not be easily viewable by the public, but should they be seen, they will not be considered offensive by a reasonable individual.

**Describe how this use is compatible with the character of the surrounding area.**

The surrounding area is comprised entirely of residential and vacant uses on large (multi acre) lots.

Due to the large lot size and ruralness of the area, it is expected that similar low-impact activities such as outdoor gardening, farming, or animal husbandry occur on nearby properties. The proposed use is low-impact, non-industrial, with moderate associated traffic, and mostly unobservable from adjacent or public areas; for these reasons it should be compatible with the character of the surrounding area. Outdoor cultivation facilities in much more highly-trafficked areas have been approved by the State of Alaska and MSB.

**Current status of State License application process – 17.60.150 (D) (1)**

2nd Amendment LLC submitted state application documents to the Marijuana Control Board (MBC) on December 11, 2021. The application was approved, with delegation, by the Marijuana Control Board during the March 31/April 1, 2021 meeting and will be issued upon approval by the local government authority and inspections by AMCO.

**From:** [Always Redeye LLC](#)  
**To:** [Peggy Horton](#)  
**Subject:** Re: Update on CUP applications  
**Date:** Wednesday, May 5, 2021 7:46:26 AM  
**Attachments:** [2nd Amendment CUP narrative revised May 5 2021.pdf](#)

---

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]  
Hi Peggy,

Thank you for this. Here are our replies:

1. Square footage of outdoor licensed premises: 18,850 sq ft. This includes all areas within the outdoor fenced area.
2. Square footage of indoor licensed premises: 3,780 sq ft.
  1. Total square footage of total licensed premises (outdoor and indoor): 22,630 sq ft.
3. The total area under cultivation currently proposed is 13,140 sq ft.
4. The final destination for marijuana waste is composting on-site. AMCO requires a final destination for waste be recorded, so that term was included in both state and MSB submissions for standardization.
5. See updated narrative (attached)
6. See updated narrative (attached)
7. See last page of narrative (no change)
8. Now that we have staff approval of the revised plans, the engineers can submit the revisions to the Fire Marshall for approval.
9. The two most south garage doors will be infilled. The 3rd (north most) garage door will remain.
10. Updated in narrative. After feedback from AMCO stating that sight-obscuring fencing will be needed, greenhouse design was changed to semi-opaque plastic walls and ends (no sight-obscuring walls).
11. We will look for this.

Thank you. Please let me know if you need anything else.

Greg

On Apr 30, 2021, at 4:29 PM, Peggy Horton <[Peggy.Horton@matsugov.us](mailto:Peggy.Horton@matsugov.us)> wrote:

Greg,

I've gone through the new narrative and site plans, basically the entire application. I've attached a request for additional information. Call or email if you have any questions. We may want to discuss so we're both on the same page.

Have a good weekend,



Peggy Horton  
Matanuska-Susitna Borough  
Development Services Division  
Planner II  
907-861-7862

---



## **MATANUSKA-SUSITNA BOROUGH**

### **Planning and Land Use Department**

#### **Development Services Division**

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-8158

[www.permitcenter@matsugov.us](http://www.permitcenter@matsugov.us)

April 30, 2021

Greg Smith  
PO Box 240122  
Douglas AK 99824

Subject: Conditional Use Permit Application for Marijuana Cultivation Facility  
Location: 20357 W. Susitna Parkway; Tax ID #17N04W35C001

Dear Mr. Smith,

Borough staff has reviewed the application material submitted on April 27, 2021 for a Conditional Use Permit to operate a marijuana cultivation facility under MSB 17.60 on the above referenced property. It has been determined that the following information needs to be provided and/or clarified in order to process this request.

1. What is the square footage of the entire proposed cultivation facility? Is all of the fenced-in area within the proposed use? If so, then all the fenced-in area and all of the unit within the structure should be the total proposed cultivation facility.
2. What is the square footage of the proposed cultivation facility within the building?
3. What is the square footage of the growing area; total of the marijuana growing area within the greenhouses and the building?
4. Narrative states the marijuana waste will be composted on site, but also states that it will have a final destination. What is the final destination of the marijuana that has been composted?
5. What are your loitering policy and procedures?
6. Will the property be open to the public?
7. What is the status of your AMCO license? If you have a copy of the License, please provide a copy.
8. What is the status of the updated Fire Marshal Plan Review?



9. Will all three of the garage doors on the southern side of the structure be removed and infilled?
10. With the Security Plan, you state the chain link 6' fence will be covered in sight cloth and this will obscure the greenhouses. In a different area of the narrative, you discuss the greenhouses having site-obscuring walls and this prevents viewing by the public. Will both the fence and the greenhouses be obscured as stated?
11. Do you have a title report from when the property was purchased? If so, would you please share that with me? It would show whether there is a recorded right-of-way easement on the east side of the property. This is entirely optional.














Once the items above have been addressed and we have determined the application to be complete, staff will begin the public notice process. Should you have any questions or require additional information, please feel free to contact me at the above mailing address, phone: 861-7862, or email: [peggy.horton@matsugov.us](mailto:peggy.horton@matsugov.us). Thank you for your time and consideration on this matter.

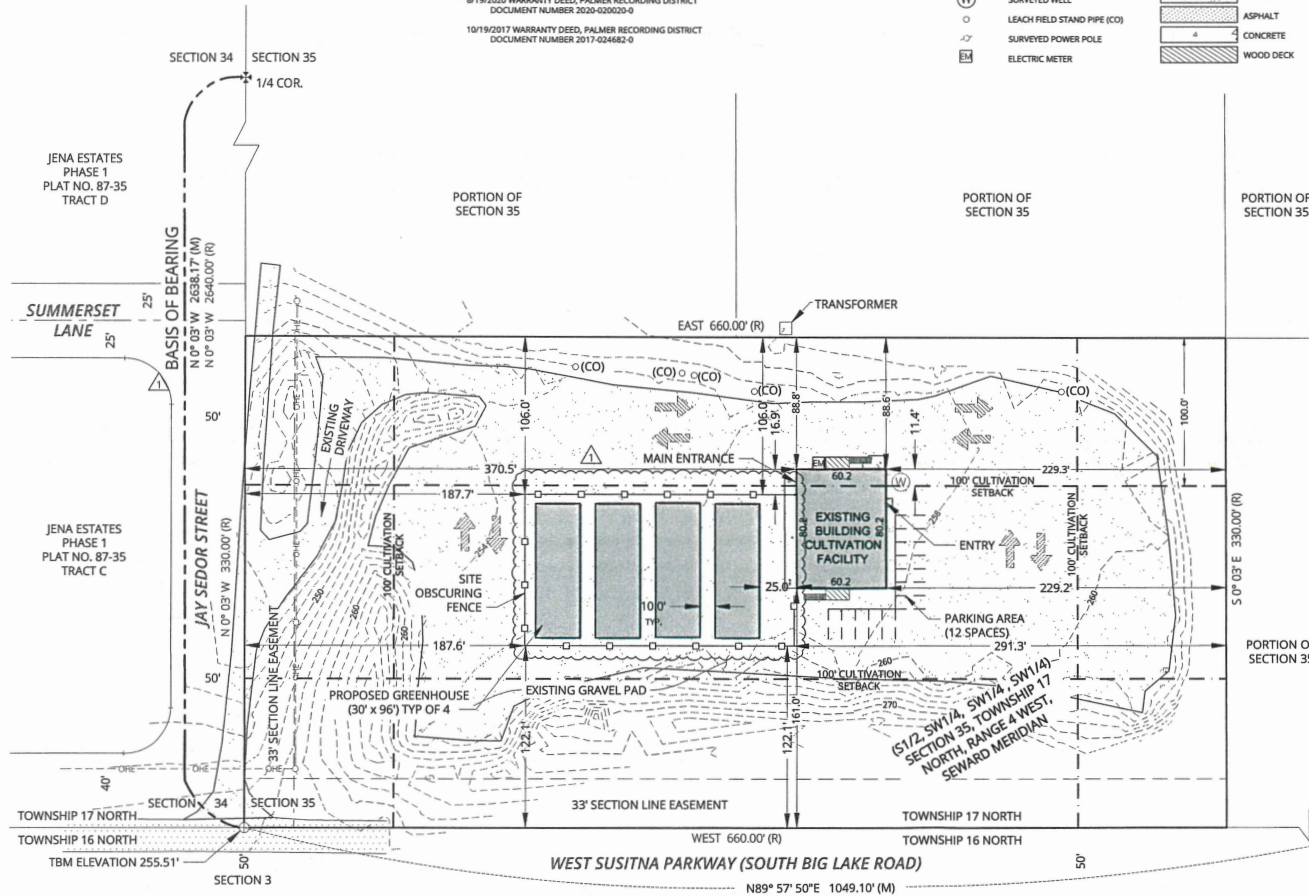
Respectfully,

*Peggy Horton*

Peggy Horton  
Planner II


**SURVEY LEGEND**

-  FOUND 2" ALUMINUM CAP IN MONUMENT CASE  
 FOUND 3 1/4" 14# BRASS CAP  
 BASIS OF BEARING  
 UNSURVEYED PROPERTY BOUNDARY  
 PROPERTY LINE BOUNDARY  
 CENTERLINE OF RIGHT OF WAY  
 EASEMENT LINE  
 OVERHEAD ELECTRIC  
(R) RECORD PER DOCUMENT # 2016-006364-0  
(M) MEASURED  
(W) SURVEYED WELL  
O LEACH FIELD STAND PIPE (CC)  
+/- SURVEYED POWER POLE  
 ELECTRIC METER
- |   |           |
|---|-----------|
|  | GRAVEL    |
|  | ASPHALT   |
|  | CONCRETE  |
|  | WOOD DECK |

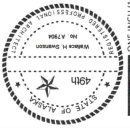


1. THE BASIS OF BEARING FOR THIS SURVEY IS AS SHOWN.
2. ELEVATIONS ARE BASED ON AN INGPS DOPPEL SOLUTION PROCESSED FROM A LEICA GPS BENCH SET SURVEY SET POINT. THE ELEVATION OF THIS POINT IS 254.9 FEET USING THE NAD83 (2011) OCEANIMETRIC ELEVATION USING THE MEAN SEA LEVEL ELEVATION OF THE BENCH SET POINT. THE BENCH SET POINT IS AT THE SOUTHWEST CORNER OF THE PARCEL, NEAR THE INTERSECTION OF JAY ROAD AND WEST 12TH AVENUE. THIS MONUMENT IS A 2" ALUMINUM CAP IN A MONUMENT CASE WITH AN ELEVATION OF 255.1 FEET.
3. THIS PROJECT IS IN STATE PLANE ZONE 4 COORDINATE SYSTEM.
4. THE RECORD BOUNDARY FOR THIS SURVEY WAS ESTABLISHED FROM DEED #2016-006264-6, PALMER RECORDING DISTRICT, ALASKA, AND THE U.S. DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT MAPS.
5. FIELD SURVEY WAS PERFORMED IN NOVEMBER 2016, BY LCG LANTECH, INC.
6. NO MONUMENTS WERE SET THIS SURVEY.
7. SURVEY CERTIFICATION: LCG LANTECH, INC. HAS CONDUCTED A PHYSICAL SURVEY OF THE PROPERTY AS SHOWN ON THIS DRAWING AND CARRIES THE RESPONSIBILITY FOR IMPROVEMENT OF THE SURVEY. THERE ARE NO PROPERTY LINES AND NO ENCROACHMENTS EITHER OTHER THAN NOTED.
8. EXCLUSORY NOTE: IT IS THE OWNER'S RESPONSIBILITY TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, RESTRICTIONS OR RIGHTS OF WAY TAKINGS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.
9. UNDER NO CIRCUMSTANCES SHOULD ANY DATA HEREON BE USED FOR CONSTRUCTION, FOR ESTABLISHING PROPERTY LINES, OR OTHER PURPOSES.
10. THIS DRAWING IS FOR PLOT PLAN PURPOSES ONLY AND SHALL NOT BE USED FOR ANY PURPOSES OUTSIDE OF THE INTENT OF LCG LANTECH. UNAUTHORIZED USE OF THIS DRAWING IS PROHIBITED.

1  
V1.0

ONE INCH = 100 FEET 1" = 100'		SHEET SIZE: 34x22 DESIGNED BY: CS DRAWN BY: ADS/MH/CS CHECKED BY: CS DATE: 10/23/2020 FILE NO.: 1318.01		20357 W SUSITNA PARKWAY BIG LAKE, ALASKA PLOT PLAN		250 H Street Anchorage, AK 99501 Phone: 907.243.5629 Fax: 907.243.5628 Web: LCGA.com  LCGA Inc. <i>architecture • engineering • planning</i>		5/6/2021 1:54 AM 1 5/6/2021 MDC ADD GREENHOUSES 2ND DATE 1 6P REVISION		ONE INCH = 100 FEET 1" = 100'	
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DATE	BY	REVISION
12/15/2020		PER SOA COMMENTS

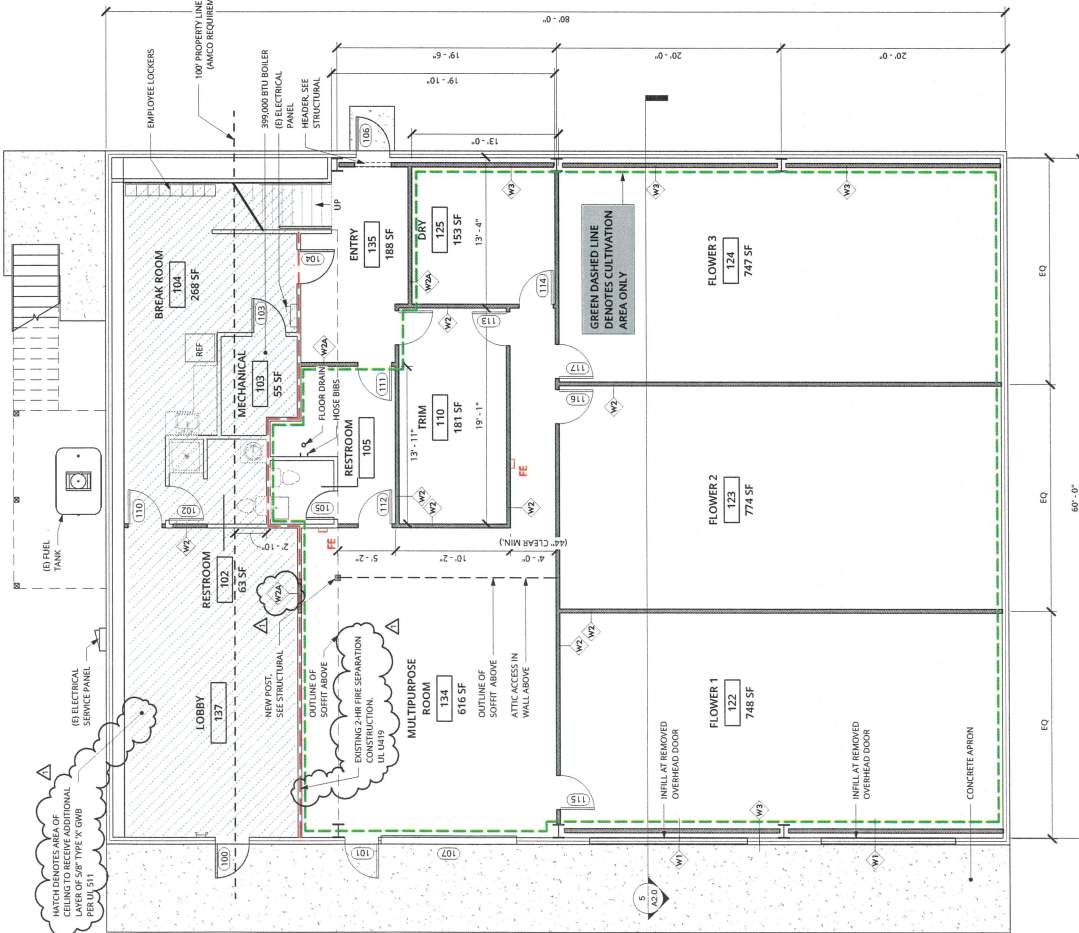
**ICG**  
architecture • engineering • surveying  
**Partsch Inc**  
WILKINS TENANT IMPROVEMENT

250 H Street  
Anchorage, AK 99501  
P: (907) 243-8855  
W: LCGA.com  
F: (907) 243-5629

20357 W SUSITNA PARKWAY  
BIG LAKE, ALASKA  
FLOOR PLANS

SHEET SIZE:	34x42
DESIGNED BY:	JWS
DRAWN BY:	
CHECKED BY:	WWS
DATE:	10.27.2001
FILE NO.	1318.01
SHEET NUMBER	A1.1 OF 1

## FIRST FLOOR PLAN


$$\underline{\underline{3/16'' = 1'-0''}}$$


## 2 SECOND FLOOR PLAN

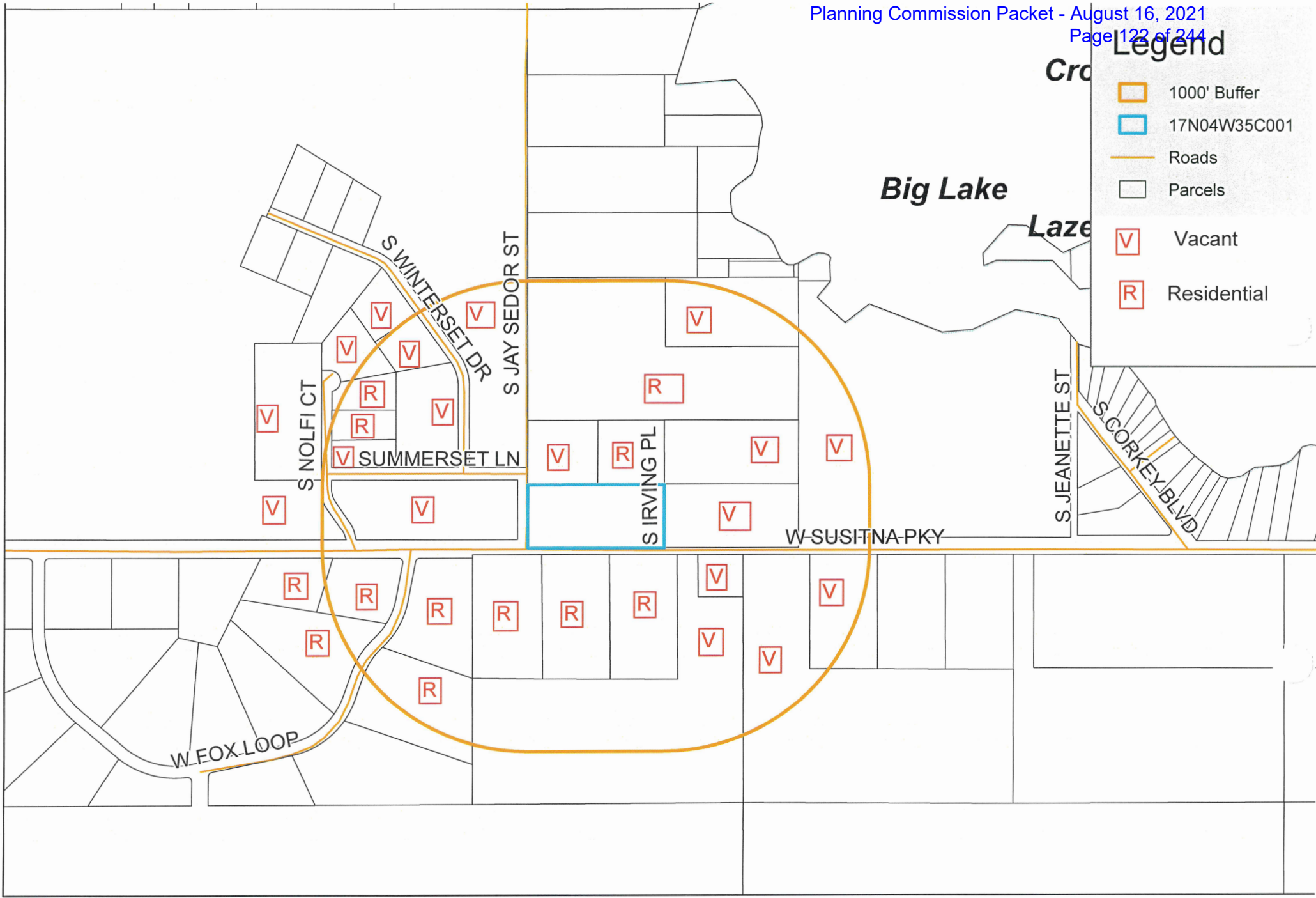
$$\underline{\underline{3/16^{\circ} = 1'-0''}}$$


PERMIT SET

Rcvd Dev Svs  
4-27-21

Legend

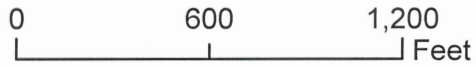
- 1000' Buffer
- 17N04W35C001
- Roads
- Parcels
- V Vacant
- R Residential



This map is solely for informational purposes only. The Borough makes no express or implied warranties with respect to the character, function, or capabilities of the map or the suitability of the map for any particular purpose beyond those originally intended by the Borough. For information regarding the full disclaimer and policies related to acceptable uses of this map, please contact the Matanuska-Susitna Borough GIS Division at 907-861-7801.

Date: 4/30/2021

1 inch = 600 feet







Matanuska-Susitna Borough  
Development Services

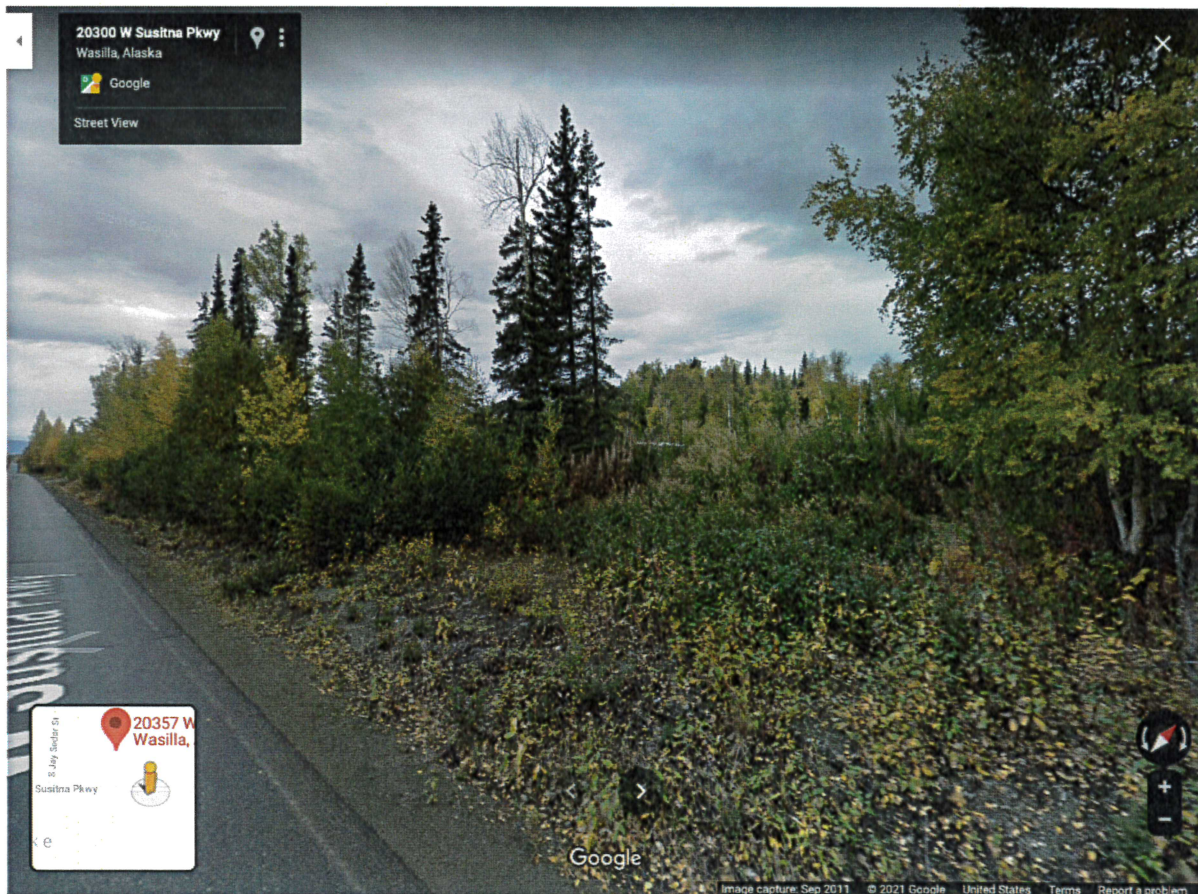
FEB 20 2021



Received

Attachment A - Site pictures





Attachment A - Site pictures

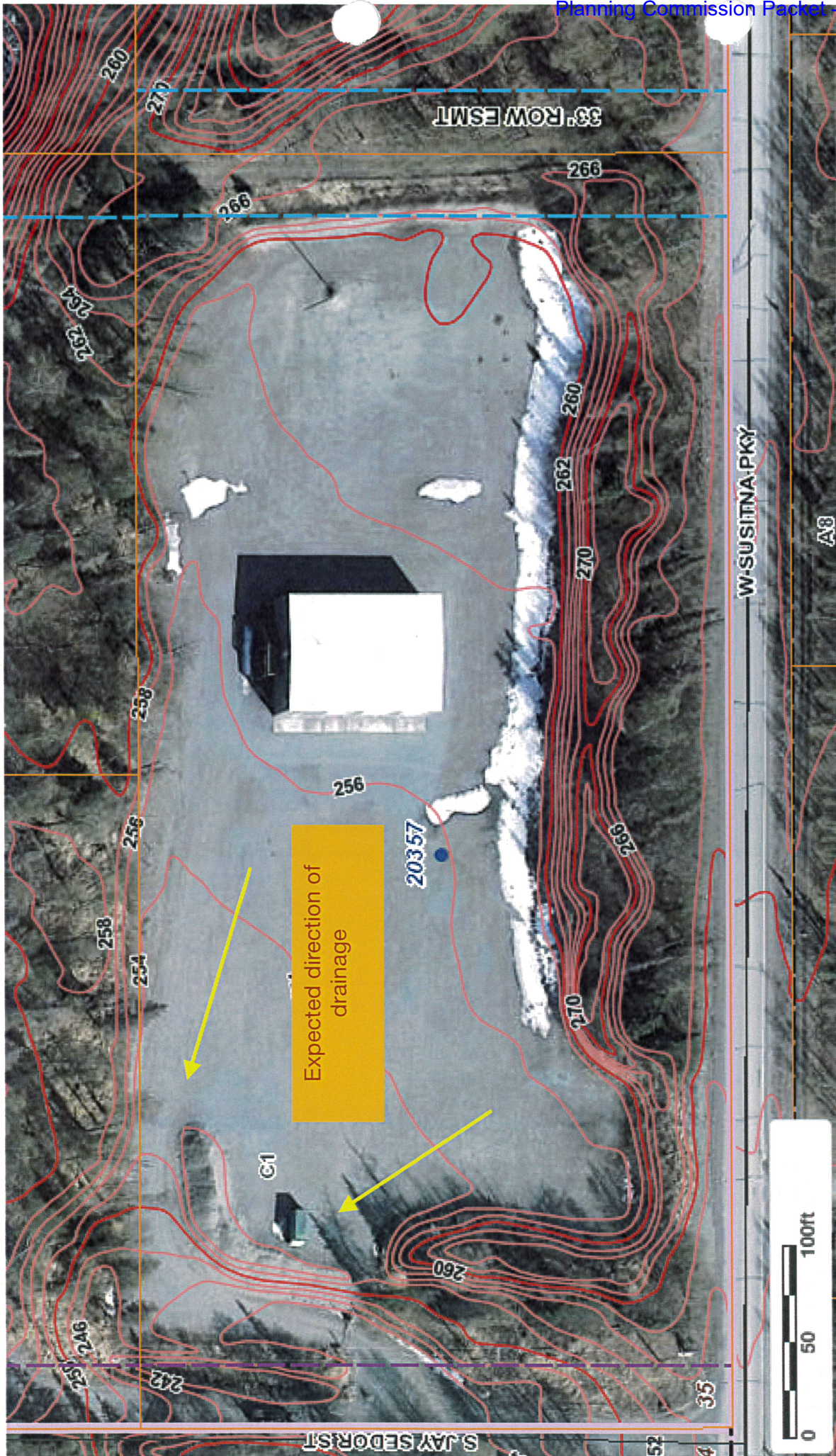


Matanuska-Susitna Borough  
Development Services

MAR 25 2021

Received

Attachment D - Topography







# MATANUSKA-SUSITNA BOROUGH

## Real Property Detail for Account: 17N04W35C001

### Site Information

Account Number	17N04W35C001	Subdivision	
Parcel ID	54637	City	None
TRS	S17N04W35	Map LS16	Tax Map
Abbreviated Description (Not for Conveyance)	TOWNSHIP 17N RANGE 4W SECTION 35 LOT C1		

Site Address 20357 W SUSITNA PKY

### Ownership

Owners	WILKINS CASEY	Buyers	
Primary Owner's Address	PO BOX 240122 DOUGLAS AK 99824	Primary Buyer's Address	

### Appraisal Information

Year	Land Appraised	Bldg. Appraised	Total Appraised	Assessment Year	Land Assessed	Bldg. Assessed	Total Assessed <sup>1</sup>
2021	\$40,000.00	\$319,200.00	\$359,200.00	2021	\$40,000.00	\$319,200.00	\$359,200.00
2020	\$40,000.00	\$327,900.00	\$367,900.00	2020	\$40,000.00	\$327,900.00	\$367,900.00
2019	\$40,000.00	\$336,400.00	\$376,400.00	2019	\$40,000.00	\$336,400.00	\$376,400.00

### Building Information

Structure 0 of 1			
Residential Units	0	Use	Construction Services
Condition	Standard	Design	Commercial
Basement	None	Construction Type	Frame
Year Built		2007 Grade	None
Foundation	Slab on Grade	Building Appraisal	\$319200
Well	Well 1 - Drilled Well	Septic	Septic - 1 - Septic Tank

### Building Item Details

Building Number	Description	Area	Percent Complete
<b>Tax/Billing Information</b>			
Year	Certified	Zone	Mill
2021	No	0032	::
2020	Yes	0032	15.603
2019	Yes	0032	15.729
<b>Recorded Documents</b>			
Date	Type	Recording Info (offsite link to DNR)	
8/19/2020	WARRANTY DEED (ALL TYPES)	<a href="#">Palmer 2020-020020-0</a>	
10/19/2017	WARRANTY DEED (ALL TYPES)	<a href="#">Palmer 2017-024682-0</a>	
4/1/2016	WARRANTY DEED (ALL TYPES)	<a href="#">Palmer 2016-006264-0</a>	

### Tax Account Status <sup>2</sup>

Status	Tax Balance	Farm	Disabled Veteran	Senior	Total	LID Exists
Current	\$0.00		\$0.00	\$0.00	\$0.00	No

### Land and Miscellaneous

Gross Acreage	Taxable Acreage	Assembly District	Precinct	Fire Service Area	Road Service Area
5.00	5.00	Assembly District 005	08-155	136 WEST LAKES FSA	021 Big Lake RSA

<sup>1</sup> Total Assessed is net of exemptions and deferrals, rest, penalties, and other charges posted after Last Update Date are not reflected in balances.

<sup>2</sup> If account is in foreclosure, payment must be in certified funds.





THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Commerce, Community,  
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West Seventh Avenue, Suite 1600

Anchorage, AK 99501

Main: 907.269.0350

Matanuska-Susitna Borough  
Development Services

**MAY 26 2021**

**Received**

April 12, 2021

2<sup>nd</sup> Amendment LLC

DBA: 2<sup>nd</sup> Amendment LLC

Via: [alwaysredeyellc@gmail.com](mailto:alwaysredeyellc@gmail.com)

Re: 2<sup>nd</sup> Amendment LLC #27736

Dear 2<sup>nd</sup> Amendment LLC:

At the March 30 – April 1, 2021, meeting of the Marijuana Control Board in Anchorage, Alaska, the board voted to approve your new standard marijuana cultivation facility application with delegation to the director. Delegation means that the board has authorized me to issue the license once all outstanding approvals are received.

Attached are post-approval instructions and the pre-inspection checklist, which provide information on your next steps. Please note that the pre-inspection checklist is informational. You will be provided with an individualized checklist at the appropriate time.

Please contact [marijuana.licensing@alaska.gov](mailto:marijuana.licensing@alaska.gov) with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carrie Craig".

Carrie Craig  
Records and Licensing Supervisor

For: Glen Klinkhart, Director

cc: License File  
Matanuska-Susitna Borough

State of Alaska  
Office of the State Fire Marshal  
Plan Review

This is to certify that the plans for this building were reviewed by the *State Fire Marshal*  
on March 02, 2021 for conformance with AS 18.70.010 -- 100; 13 AAC 50.027.

This certificate shall be posted in a conspicuous place on the premises named  
2nd Amendment (20357 W Susitna Pkwy.) and shall remain  
posted until construction is completed.

**NOTICE:** Any changes or modifications to the approved plans must be resubmitted for  
review by the *State Fire Marshal*.

Plan Review #: 2021Anch1089

By: 

Authority: AS 18.70.080

Form: 12-741

(6/01)

**Full Plan Review**

Greg Medina  
Plans Examiner





THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Public Safety

DIVISION OF FIRE AND LIFE SAFETY  
Plan Review Bureau - Anchorage

5700 East Tudor Road  
Anchorage, Alaska 99507-1225  
Main: 907.269.2004  
Fax: 907.269.0098

March 02, 2021

Casey Wilkins  
PO Box 240122  
Douglas, AK 99824

SUBJECT: 2nd Amendment (20357 W Susitna Pkwy.) - Full  
Plan Review  
CITY: Big Lake  
PLAN REVIEW: 2021Anch1089  
TYPE OF CONSTRUCTION: VB  
OCCUPANCY: F-1  
2012 INTERNATIONAL BUILDING AND FIRE CODE

Dear Casey Wilkins:

Plans for the subject facility have been reviewed by this office for conformity with the State Fire Safety Regulations and are hereby approved as submitted. Enclosed is a certificate of approval that must be posted on the premises until completion of the above facility. You are prohibited to occupy this building until construction is completed as approved. Any changes to the approved plans must be submitted to this office for review and approval.

Approval of submitted plans is not approval of omissions or oversights by this office or noncompliance with any applicable regulations of the Municipal Government. The plans have not been reviewed for compliance with the federal Americans with Disabilities Act or structural requirements.

It must be understood that the inclusion of and compliance with State Fire Safety Regulations does not preclude the necessity of compliance with the requirements of local codes and ordinances.

If we can be of further assistance in this matter, please feel free to contact us at the address above.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Medina".

Greg Medina  
Plans Examiner

Enclosure: Approval Certificate

# COMMENTS



Agency Comments

## Peggy Horton

---

**From:** Theresa Taranto  
**Sent:** Thursday, June 17, 2021 2:56 PM  
**To:** Peggy Horton  
**Subject:** RE: Request for Review and Comments: 2nd Amendment LLC Marijuana Cultivation Facility CUP

FIRM 7990, X Zone  
No other comments.

*Theresa Taranto*  
Mat-Su Borough  
Development Services  
Administrative Specialist

350 E Dahlia Ave.  
Palmer, Alaska 99645  
907-861-8574  
[www.matsugov.us](http://www.matsugov.us)

---

**From:** Peggy Horton <[Peggy.Horton@matsugov.us](mailto:Peggy.Horton@matsugov.us)>  
**Sent:** Friday, June 11, 2021 2:20 PM  
**To:** mearow@matanuska.com; row@mtasolutions.com; row@enstarnaturalgas.com; GCI ROW (ospdesign@gci.com) <[ospdesign@gci.com](mailto:ospdesign@gci.com)>; Fire Code <[Fire.Code@matsugov.us](mailto:Fire.Code@matsugov.us)>; John Fairchild <[John.Fairchild@matsugov.us](mailto:John.Fairchild@matsugov.us)>; Tawnya Hightower <[Tawnya.Hightower@matsugov.us](mailto:Tawnya.Hightower@matsugov.us)>; Jill Irsik <[Jill.Irsik@matsugov.us](mailto:Jill.Irsik@matsugov.us)>; Eric Phillips <[Eric.Phillips@matsugov.us](mailto:Eric.Phillips@matsugov.us)>; regpagemaster@usace.army.mil; Adam Bradway <[Adam.Bradway@matsugov.us](mailto:Adam.Bradway@matsugov.us)>; Cindy Corey <[Cindy.Corey@matsugov.us](mailto:Cindy.Corey@matsugov.us)>; Debbie Bakic <[Debbie.Bakic@matsugov.us](mailto:Debbie.Bakic@matsugov.us)>; Terry Dolan <[Terry.Dolan@matsugov.us](mailto:Terry.Dolan@matsugov.us)>; Jim Jenson <[James.Jenson@matsugov.us](mailto:James.Jenson@matsugov.us)>; Jamie Taylor <[Jamie.Taylor@matsugov.us](mailto:Jamie.Taylor@matsugov.us)>; Charlyn Spannagel <[Charlyn.Spannagel@matsugov.us](mailto:Charlyn.Spannagel@matsugov.us)>; Planning <[MSB.Planning@matsugov.us](mailto:MSB.Planning@matsugov.us)>; Theresa Taranto <[Theresa.Taranto@matsugov.us](mailto:Theresa.Taranto@matsugov.us)>; Andy Dean <[Andy.Dean@matsugov.us](mailto:Andy.Dean@matsugov.us)>; John Aschenbrenner <[John.Aschenbrenner@matsugov.us](mailto:John.Aschenbrenner@matsugov.us)>; mokietew@gmail.com; akchief@mtaonline.net; clinchnot@yahoo.com; hsfirewise@gmail.com  
**Subject:** Request for Review and Comments: 2nd Amendment LLC Marijuana Cultivation Facility CUP

Good Afternoon,

**An application under MSB 17.60 – Conditional Uses**, has been submitted by Greg Smith, of 2nd Amendment, LLC, for a Conditional Use Permit for operation of a marijuana cultivation facility. Located at 20357 W. Susitna Parkway, Tax ID #17N04W35C001; within Township 17 North, Range 4 West, Section 35, Seward Meridian.

The Planning Commission will conduct a public hearing concerning this application on **Monday August 16, 2021** in the Borough Assembly Chambers located at 350 E. Dahlia Avenue in Palmer.

Application materials may be viewed online at: [Matanuska-Susitna Borough - 2nd Amendment, LLC Marijuana Cultivation Facility – Conditional Use Permit \(matsugov.us\)](http://Matanuska-Susitna Borough - 2nd Amendment, LLC Marijuana Cultivation Facility – Conditional Use Permit (matsugov.us))

For additional information, if you have questions, or want to submit written comments, please contact Peggy Horton, Planner II, by phone: 907- 861-7862; email: [peggy.horton@matsugov.us](mailto:peggy.horton@matsugov.us); or mail: MSB Development Services Division, 350 E. Dahlia Avenue, Palmer, AK 99645.



Comments are due on or before July 12, 2021 and will be included in the Planning Commission packet for the Commissioner's review and information. Please be advised that comments received from the public after that date will not be included in the staff report, but will be provided to the Commission at the meeting.

Thank you,  
Peggy Horton  
Matanuska-Susitna Borough  
Development Services Division  
Planner II  
907-861-7862



**ENSTAR Natural Gas Company**  
A DIVISION OF SEMCO ENERGY  
Engineering Department, Right of Way Section  
401 E. International Airport Road  
P. O. Box 190288  
Anchorage, Alaska 99519-0288  
(907) 277-5551  
FAX (907) 334-7798

June 17, 2021

Matanuska-Susitna Borough, Platting Division  
350 East Dahlia Avenue  
Palmer, AK 99645-6488

To whom it may concern:

ENSTAR Natural Gas Company has reviewed the following plat and has no comments or recommendations.

- **Langdon Subdivision Lot 11A & 11B Block 2**  
(MSB Case # 2021-091)
- **2<sup>nd</sup> Amendment, LLC Marijuana Cultivation Facility- Conditional Use Permit**  
(MSB Case # 17.60)
- **Spring Hill**  
(MSB Case # 2021-092)

If you have any questions, please feel free to contact me at 334-7944 or by email at [james.christopher@enstarnaturalgas.com](mailto:james.christopher@enstarnaturalgas.com).

Sincerely,

*James Christopher*

James Christopher  
Right of Way & Compliance Technician  
ENSTAR Natural Gas Company



Public Comments

Matanuska-Susitna Borough  
Development Services Division  
350 E. Dahlia Avenue  
Palmer, Alaska 99645

Matanuska-Susitna Borough  
Development Services

JUL 19 2021

Received

217N04W35C018 5  
HAMILTON TONI M  
2355 E LYNNWOOD DR  
LONGVIEW, WA 98632

The Planning Commission of the Matanuska-Susitna Borough will consider the following:

**Applicant:** Greg Smith of 2<sup>nd</sup> Amendment, LLC  
**Location:** 20357 W. Susitna Parkway, Tax ID #17N04W35C001  
within Township 17 North, Range 4 West, Section 35, Seward Meridian  
**Request:** An application for a conditional use permit under MSB 17.60 – Conditional Uses, has been submitted for the operation of a marijuana cultivation facility at the above location.

The Planning Commission will conduct a public hearing concerning the application on Monday, August 16, 2021 at 6 p.m. in the Borough Assembly Chambers, 350 E. Dahlia Avenue, in Palmer. This may be the only presentation of this item before the Planning Commission and you are invited to attend. Planning Commission members may not receive or engage in ex-parte contact with the applicant, other interested parties in the application, or members of the public concerning the application or issues presented in the application.

**Please Note: Due to the ongoing Coronavirus/COVID-19 Pandemic, the method in which this meeting is being conducted may change. If a change to the meeting is necessary, it will be posted on the Borough website. The public is encouraged to check the Borough website prior to attending the public hearing for any changes to the meeting schedule or method.**

**In Person Participation:** Should you wish to attend in person, please adhere to a 6-foot distance between yourself and others as much as possible. **Written Testimony:** Written comments can be mailed to: MSB Development Services Division, 350 E. Dahlia Avenue, Palmer, AK 99645, or you may e-mail comments to [peggy.horton@matsugov.us](mailto:peggy.horton@matsugov.us). **Telephonic Testimony:** Dial 1-855-290-3803. You will hear "Joining conference" when you are admitted to the meeting. You will be automatically muted and able to listen to the meeting. When the Chair announces audience participation or a public hearing you would like to speak to, press \*3; you will hear, "Your hand has been raised." When it is your turn to testify, you will hear, "Your line has been unmuted." State your name for the record, spell your last name, and provide your testimony. You have 3 minutes to state your concerns & comments. This is not a question and answer session. This is only for stating your concerns and comments.

Application material may be viewed online at [www.matsugov.us](http://www.matsugov.us) by clicking on "All Public Notices & Announcements." For additional information, you may contact Peggy Horton, Planner II, at 861-7862. Comments are due on or before July 9, 2021 and will be included in the Planning Commission packet for the Commissioner's review and information. Please be advised that comments received from the public after that date will not be included in the staff report to the Planning commission, but will be provided to the Commission at the meeting.

In order to be eligible to file an appeal for a decision of the Planning Commission, a person must be designated an "interested party." See MSB 15.39.010 for the definition of "interested party." The procedures governing appeals to the Board of Adjustment and Appeals are contained in MSB 15.39.010-250, which is available on the borough home page: [www.matsugov.us](http://www.matsugov.us), in the Borough Clerk's office, and at various libraries within the borough.

Name: Toni M. Hamilton Mailing Address: 2355 E. Lynnwood Dr.

Location/Legal Description of your property: C13 & C18 Longview, WA 98632

Comments: A marijuana cultivation facility is unacceptable

only family homes not a pot facility, no one for POT  
my lots are C13  
C18 this lake is for only residential use only

Note: Vicinity Map Located on Reverse Side



JUN 24 2021

Received

Matanuska-Susitna Borough  
 Development Services Division  
 350 E. Dahlia Avenue  
 Palmer, Alaska 99645

52778000T00C 8  
 NOLFI-DODGE NANCY ANN  
 NOLFI ADRIAN PETER  
 PO BOX 520667  
 BIG LAKE AK 99652

The Planning Commission of the Matanuska-Susitna Borough will consider the following:

**Applicant:** Greg Smith of 2<sup>nd</sup> Amendment, LLC  
**Location:** 20357 W. Susitna Parkway, Tax ID #17N04W35C001  
 within Township 17 North, Range 4 West, Section 35, Seward Meridian  
**Request:** An application for a conditional use permit under MSB 17.60 – Conditional Uses, has been submitted for the operation of a marijuana cultivation facility at the above location.

The Planning Commission will conduct a public hearing concerning the application on Monday, August 16, 2021 at 6 p.m. in the Borough Assembly Chambers, 350 E. Dahlia Avenue, in Palmer. This may be the only presentation of this item before the Planning Commission and you are invited to attend. Planning Commission members may not receive or engage in ex-parte contact with the applicant, other interested parties in the application, or members of the public concerning the application or issues presented in the application.

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Name: Nancy Nolfi-Dodge Mailing Address: P.O. Box 520667, Big Lake, AK 99652  
 Location/Legal Description of your property: Jana Estates, phase I + phase II  
 Comments: please see attached cell, 907-355-1243

Note: Vicinity Map Located on Reverse Side

To: Mat-Su Borough Planning Commission

From: Nancy Nolfi-Dodge

Date: June 23, 2021

RE: Application for a conditional use permit for a marijuana cultivation facility at  
20357 W. Susitna Parkway, Tax ID #17N04W35C001  
within Township 17 North, Range 4 West, Section 35, Seward Meridian

My family owns the 160 acre homestead adjacent to the above referenced legal description. We homesteaded this parcel of land in 1960. My family and I have lived full time on Tract B, and lots 13, 14, & 15 on South Nolfi Court since 1986.

At this time I have only one issue with the legal operation of a marijuana cultivation facility in our neighborhood. My issue is with the smell that is omitted during the venting process. There is potential for this to greatly impact our quality of life. I understand that the applicant has stated they have installed filters. My request of you is that you please require the filters adequately control the smell so surrounding neighbors are not subjected to the smell. I don't know where the smell is coming from, but we are already experiencing this problem and it's hard to imagine how awful it could be with a poorly filtered commercial operation.

If it is not possible for you to require adequate filtering of this facility, then I respectfully request you deny this application.

Thank you for your time and consideration.



# **PLANNING COMMISSION RESOLUTION**

By: Peggy Horton  
Introduced: August 2, 2021  
Public Hearing: August 16, 2021  
Action:

**MATANUSKA-SUSITNA BOROUGH**  
**PLANNING COMMISSION RESOLUTION NO. 21-17**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 20357 WEST SUSITNA PARKWAY, TAX ID #17N04W35C001, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 4 WEST, SECTION 35, SEWARD MERIDIAN.

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WHEREAS, an application has been received from Casey Wilkins for 2nd Amendment, LLC for a conditional use permit for the operation of a marijuana cultivation facility at 20357 West Susitna Parkway, Tax ID #17N04W35C001, located within Township 17 North, Range 4 West, Section 35, Seward Meridian; and

WHEREAS, MSB 17.60.030(A)(4) requires a conditional use permit for the operation of a marijuana cultivation facility; and

WHEREAS, unless this type of use is maintained under and in accordance with a lawfully issued permit, marijuana cultivation facilities are declared to be a public nuisance; and

WHEREAS, the proposed use is comprised of a 3,780 square foot unit within the metal building and a fenced-in area containing four 30' x 90' greenhouses; and

WHEREAS, according to Borough records, a previous owner constructed the existing metal building in 2007 and it was used as a service repair garage in 2016; and



WHEREAS, according to the application material, sight-obscuring cloth will cover the six-foot tall chain link fence, which surround the four greenhouses; and

WHEREAS, access is via a gated driveway onto South Jay Sedor Street, a residential street; and

WHEREAS, the applicant received an approved driveway permit August 3, 2021; and

WHEREAS, the closest residential structure is approximately 320 feet south of the proposed use; and

WHEREAS, there are two commercial use properties to the east, a tower approximately 2600 feet away and a gravel extraction pit approximately 2900 feet from the subject property; and

WHEREAS, the surrounding parcels range in size from 1 to 20 acres, a mix of vacant and residential; and

WHEREAS, according to the application material, the proposed use is set back approximately 89 feet from the West Susitna Parkway right-of-way to the south, 155 feet from the South Jay Sedor Street right-of-way to the west, 196 feet from the South Irving Place right-of-way along the east property boundary, and 102 feet from the north lot line; and

WHEREAS, according to the application material, the facility will not be open to the public; and

WHEREAS, according to the application material, the proposed use has policies and procedures in place to prevent loitering; and

WHEREAS, according to the application material, the proposed use has a security plan in place, which includes education of employees on all security measures; and

WHEREAS, according to the application material, all exterior lighting will be directed downwards and will include proper lenses to prevent light spillage off the property; and

WHEREAS, according to the security plan, a combination of video surveillance, motion sensors, lighting, and commercial grade locks will be used to secure the site and monitor all activities at the facility; and

WHEREAS, a vegetated berm surrounds the property, obscuring the proposed use from West Susitna Parkway and South Jay Sedor Street; and

WHEREAS, there is no outdoor industrial equipment or any processes that generate noise associated with the proposed use; and

WHEREAS, according to the application material, the continuously running carbon filters will eliminate odors in the exhausted air; and

WHEREAS, according to the application material, filters will be replaced and maintained per manufacturer's specification; and

WHEREAS, the closest school (Big Lake Elementary) is approximately 26,000 feet away from the proposed use; and



WHEREAS, consumption of marijuana is prohibited at the site;  
and

WHEREAS, persons under the age of 21 are prohibited from  
entering the facility; and

WHEREAS, according to the application material, after proper  
notification of the State of Alaska Alcohol & Marijuana Control  
Office; all marijuana products deemed unusable will be mixed with  
other compostable materials and then composted on-site; and

WHEREAS, according to the application material, the applicant  
has submitted a request for an updated Plan Review to the Alaska  
Fire Marshal office; and

WHEREAS, the subject property is five acres in size; and

WHEREAS, the applicant provided all of the required site plans  
and operational information; and

WHEREAS, according to the application material, the proposed  
use is a total of 22,630 square feet, with 13,140 square feet under  
cultivation; and

WHEREAS, according to the application material, there is no  
advertising signage for the facility; and

WHEREAS, 2nd Amendment, LLC has received delegated approval  
from the State Marijuana Control Board for marijuana cultivation  
license #27736, in accordance with 3 AAC 306.005; and

WHEREAS, written documentation showing delegated approval from the State Marijuana Control Board for marijuana cultivation facility license #27736 has been provided; and

WHEREAS, according to the application material, wastewater will be non-hazardous and will be absorbed into the ground or indoor growing medium; and

WHEREAS, according to the application material, the indoor growing facility and greenhouses will be well sealed to prevent leakage of ambient air; and

WHEREAS, according to the applicant, no hazardous chemicals will be used at the cultivation facility; and

WHEREAS, according to the application material, fungicides, insecticides, herbicides, cleaning products and other chemicals will be used, stored, and disposed of in accordance with their respective manufacturer's recommendations and comply with all local state, and federal laws; and

WHEREAS, the Planning Commission has reviewed this application with respect to standards set forth in MSB 17.60.100, 17.60.150, and 17.60.160; and

WHEREAS, the Planning Commission conducted a public hearing on August 16, 2021 on this matter.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby adopts the aforementioned



findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 21-17:

1. The proposed use will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).
2. The proposed use will not be harmful to the public health, safety, convenience and welfare (MSB 17.60.100(B)(2)).
3. Sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.60.100(B)(3)).
4. The applicant has met all of the requirements of this chapter (MSB 17.60.100(B)(4)).
5. The proposed use will not negatively affect other properties due to factors such as noise and odor (MSB 17.60.150(A)(1)).
6. Measures are in place to reduce negative affects upon adjacent properties (MSB 17.60.150(A)(2)(a-c)).
7. The proposed use is compatible with the character of the surrounding area (MSB 17.60.150(A)(3)).
8. The proposed use is more than 1,000 feet away from any school grounds (MSB 17.60.150(B)(1)).
9. The applicant provided documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).

10. The applicant must still provide documentation demonstrating the proposed use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).
11. The wastewater and waste material disposal plan demonstrates compliance with the Alaska State Department of Environmental Conservation (MSB 17.60.160(A)).
12. The odor mitigation plan demonstrates mitigation measures will prevent odors from materially impacting adjoining properties (MSB 17.60.160(B)).
13. Storage of nutrients, natural pesticides, and cleaners will comply with all local, state, and federal laws (MSB 17.60.160(C)).
14. A security plan which includes education for employees on security measures has been provided (MSB 17.60.160(D)).
15. The proposed use meets the minimum setback requirements for marijuana cultivation facilities (MSB 17.60.160(E)).

BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the standards of MSB 17.60 and does hereby approve the conditional use permit for the operation of a marijuana cultivation facility, with the following conditions:

1. Provide the Planning Department with an approved Fire Marshal Plan Review for the proposed facility as referenced on the Lantech, Inc. floor plan dated April



27, 2021 and plot plan dated May 6, 2021, prior to commencement of the proposed use.

2. The operation shall comply with all applicable state and local regulations.
3. All aspects of the operation shall comply with the description detailed in the application material and with the conditions of this permit. An amendment to the Conditional Use Permit shall be required prior to any expansion of the conditional use.
4. Borough staff shall be permitted to enter premises subject to this permit to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring, and/or with prior verbal or written notice, and/or at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit.

ADOPTED by the Matanuska-Susitna Borough Planning Commission  
this \_\_\_\_ day of \_\_\_\_\_, 2021.

---

COLLEEN VAGUE, Chair

ATTEST

---

KAROL RIESE, Planning Clerk

(SEAL)

DRAFT

YES:

NO:



# **PUBLIC HEARING LEGISLATIVE**

## **Resolution No. PC 21-18**

Amending MSB 23.20.130 And Repealing  
The Timber Transport Permit in MSB 28.60

(Pages 149 - 172)

# **PUBLIC HEARING**







## **MATANUSKA-SUSITNA BOROUGH**

### **Community Development Department**

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7869 • Fax (907) 861-8635

E-mail: [lmb@matsugov.us](mailto:lmb@matsugov.us)

#### **MEMORANDUM**

**DATE:** July 6, 2021  
**TO:** Matanuska-Susitna Borough Planning Commission  
**THRU:** Eric Phillips, Community Development Manager *EP*  
**FROM:** Emerson Krueger, Natural Resource Manager *EK*  
**FOR:** Timber Salvage and Timber Transport Permit Repeal, Agenda of August 16, 2021

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#### REQUEST:

The Community Development Department seeks review and support from the MSB Planning Commission on amendments to Timber Salvage sales on Borough-owned land in MSB 23.20.130 and repeal of the Traffic Safety Plan and Timber Transport Permit from MSB 28.60.

#### SUMMARY:

The amount of beetle kill spruce and other dead and damaged trees across forestland in the Borough is at an all-time high. Borough-offered timber sales have received zero interest from the public in the last several years; therefore, in an effort to help improve forest health and reduce fire hazard, a code amendment to MSB 23.20.130 is proposed to make it easier and more productive to salvage dead and dying timber. The amendment would exempt harvest of dead and dying trees from the five-year timber harvest schedules, provide for over-the counter sales, remove the fair market value determination, and remove the traffic safety plan and timber transport permit requirement in their entirety. Amending Borough code is intended to attract commercial interest and contracts before the trees die, blow over, or simply rot on the ground.

The goal under the amended harvest requirements is to target Borough-owned forestland comprised primarily of beetle-killed spruce and over-mature and insect damaged birch. The amendment would reduce the time required to issue timber contracts thereby encouraging the local timber industry to remove dead and dying trees from Borough-owned land. Public notice would still be required for individual applications under the amended code and harvests in excess of 64,000 cubic feet or 500 cords would still be presented to the Assembly for approval.

#### DISCUSSION:

The recent spruce die-off associated with the bark beetle has reached levels never seen before in the Borough. Over 1.2 million acres of forest in South Central Alaska have been affected, with over 60,000 acres of land in the Borough impacted in 2020 alone. Additionally, the invasive birch

leafminer has impacted over 170,000 acres. The birch defoliation coupled with birch trunk and canker rot are increasing the mortality of over-mature birch trees.

According to Alaska Forest Health Condition Reports, insect infestations continue to expand across South Central Alaska. Roughly half of the Borough-owned forestland is covered with over-mature, diseased, or defective trees which present a higher fire danger. Forestland owned by the State, Native Corporations, Alaska Mental Health Trust, and the University, comprise over 80% of the forestland in the Borough, and are in a similar condition. Removal of damaged/dying trees is proven to enhance growth of younger, healthier, fire-resistant trees.

Demand has been rapidly outpaced by supply for low value timber products such as wood chips and firewood. The local timber industry has been inundated with requests to cull the dead trees from public and private land; however, there is little to no interest from loggers to pay the Borough to cut timber on Borough forestland when they are actually receiving compensation to cut private timber. Removal of beetle-kill spruce on Borough-owned land is estimated to cost tax payers millions based simply on the volume of dead trees and access challenges.

The U.S. Forest Service defines timber salvage as: the removal of dead, damaged, or susceptible trees, essentially to prevent the spread of pests or pathogens and promote forest health. Proposed Borough timber salvage locations will be designated in areas with high concentrations of standing dead or dying trees, areas with high fuel loads, areas for fuel breaks, and areas determined to be in the path of insect infestations. Michigan State University Extension Service provided a very good recap pamphlet about timber salvage which is included herein for informational purposes.

Timber salvage sales targeting dead and dying trees is part of the Borough's wildfire preparedness effort. In addition, the Borough implemented a new policy in 2021 allowing homeowners to thin trees on Borough-owned land in accordance with the FireWise prescription to reduce wildfire risk to their property. A Borough policy was also approved in 2021 allowing homeowners to fell hazard trees on Borough-owned land that could fall and damage their private property.

The Borough hired a contractor in 2021 to fell hazard trees – many of which were beetle killed spruce - along public trails in Alcantra Sports Complex, Crevasse Moraine Trail System, Government Peak Recreation Area and the Jim Creek Recreation Area. Borough staff and the public have partnered to remove these trees for personal use firewood as well as sale of firewood at Borough campgrounds. In order to avoid conflicts between timber salvage areas and public recreation, proposed salvage areas will not overlap existing designated recreation areas.

Beetle-kill firewood harvest areas opened to the public by the Borough in 2020 were very successful. New personal use firewood harvest areas were opened in June 2021 offering free permits to the public to harvest beetle-killed spruce from Borough forestland. The Borough is also working with the State Division of Forestry to reduce fuel loading at the urban-wildland interface and is planning additional fuel reductions for the coming winter.

The requirements for a traffic safety plan and timber transport permit were adopted into Borough Code in 2006. One timber transport permit has been issued since 2006 for a timber harvest that was not cut. General traffic safety and commercial traffic standards enforced by the Alaska Department of Transportation and Department of Safety apply to timber harvest operations utilizing public roads. Repealing MSB 28.60.070 and MSB 28.60.080 will alleviate an additional layer already covered by state requirements and supplemented by other Borough code



requirements for artificial lighting, noise, and buffers. Additionally, road maintenance concerns can be adequately addressed during contract review by the Borough Attorney's office. Repealing these Borough requirements are anticipated to help spur future timber harvests. Title 28 is adjudicated under the Planning Department who has reviewed the Title 23 amendments, concurs it will provide a public benefit, and supports repealing MSB 23.60.070 and MSB 23.60.080 in their entirety.

**RECOMMENDATION:**

Community Development respectfully recommends that the Planning Commission adopt a resolution of support recommending Assembly adoption of an ordinance amending MSB 23.20 and repealing MSB 28.60.070 Traffic Safety Plan and MSB 28.60.080 Timber Transport Permit in their entirety.

**Attachments:**

Michigan State University Extension Pamphlet (4 pp)

MSB 28.60.070 Traffic Safety Plan (2 pp)

MSB 28.60.080 Timber Transport Permit (2pp)

Draft Assembly Ordinance (6 pp)

Planning Commission Resolution Serial No. 2021-18 (3 pp)

# Timber salvage

Bill Cook - October 4, 2018

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Windstorms, insect outbreaks, disease epidemics, wildfire, and other disturbance events can create havoc (or opportunity!) in our woodlands. Many forestowners need to know what to do with the damaged trees before it is too late.





*Wind damage has knocked over trees. All photos by Bill Cook, MSU Extension*

Salvaging damaged timber is a fairly easy concept to understand but can be quite difficult to implement. Every situation is going to be different. Salvage operations can sometimes be combined with other cutting practices, such as thinning or pre-commercial work. Given the need for timber salvage, having a management plan on-hand can be a helpful resource.

Usually, salvage involves lower quality timber because it is cracked, bent, burned, full of holes, or otherwise degraded by a particular event. There are often safety issues, especially with wind damage, due to the stressed trunks from bent or leaning trees.

There is also a time-sensitive element. The wood needs to be harvested before stain and wood-rot fungi result in further degradation, or simply render the standing trees non-commercial. The season in which the disaster occurs is important. During the growing season, high quality trees in a salvage situation can be stained within weeks. In conifers, the wood boring insects will attack the newly available food source within a similar time frame, and then will turn towards standing live trees. Another element to consider is the availability of logging contractors and the operability of the forest stand. Loggers usually have aggressive schedules. A tough job with an insufficient dollar value and a higher risk factor can be serious barriers to attracting a logger. Fitting-in a salvage job is generally not on their high priority list. What to do? The best action will be to hire a consulting forester.

Consulting foresters can provide a reasonable description of the unique opportunities and challenges with a particular salvage situation. They are familiar with the regional logging contractors, their equipment configurations, and (perhaps) their general availability. They also understand the need for urgent action, if at all possible.



*Fire damage to a forest.*

Area markets are another important consideration. Where a robust community of wood-based mills exist, the odds of a successful timber sale increase. In areas where markets are limited, so are the timber sale odds.

A salvage operation that involves higher-quality material will be substantially more attractive to loggers than lower quality stands. Or, having a logging crew on-hand can be a good opportunity to thin or harvest a nearby undamaged stand that, by itself, would not be commercially attractive. Bundling non-salvage work with a salvage operation can, sometimes, sweeten the pot. Given a salvage situation, thinning or cleaning operations might add to the pot of marketable timber. Sometimes, a forest owner can negotiate with a logger with no-stumpage salvage in exchange for road improvement or other objectives. "Stumpage" is the monetary value of standing trees.

Along these same lines, there may be neighbors in a similar salvage situation. Combining multiple jobs at the same time will be more attractive to a logger. When considering a salvage, from damage done by a discreet event over a short time period, there may timber sale income tax provisions that work in a forestowner's favor. This is a situation to bring to a federal income tax expert familiar with the IRS rules regarding woodland ownership.

The bottom-line when presented with a timber salvage situation is that there are often several ways to skin that cat. Working with a professional forester can be quite helpful in identifying various alternatives. And, a salvage operation is not something to put onto the back burner. If salvage is desired, don't delay!



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**28.60.070 TRAFFIC SAFETY PLAN.**

- (A) The state of Alaska has primary responsibility for regulating and enforcing commercial vehicle enforcement, traffic control, and equipment standards on all highways.
- (B) A traffic safety plan under this section is only required as part of a timber transport permit in accordance with MSB 28.60.080.
- (C) If applicable the person shall prepare a traffic safety plan prior to beginning timber harvest transportation operations.
- (D) The purpose of a traffic safety plan is to identify road or traffic conditions potentially adverse to safe cargo-carrying vehicle operations and public health, safety, and welfare, and to identify specific actions to be taken by the operator to mitigate such conditions.
- (E) The traffic safety plan shall apply to the most likely used road routes from the point of leaving the operations area to its initial intersection with any state or borough road classified as a major collector, arterial, or highway under the functional classification system.
- (F) The person shall provide the borough public works department a map showing the route(s) to be used described in subsection (E) of this section.
- (G) The borough public works department shall provide the person with a description and a map at a sufficient scale that clearly shows, but not limited to, the following general road conditions:
- (1) width of drivable surface;
  - (2) existence and width of shoulders;
  - (3) curves subject to off-tracking at posted speed;
  - (4) steep grades requiring sustained braking;
  - (5) presence of school bus routes, times that buses are picking up or dropping off students along the route, specific stops where line of sight to a bus is limited (e.g., the State Department of Transportation and Public Facilities considers less than 700 feet at 35 miles per hour and less than 1,000 feet at 55 miles per hour to be a reason for closer analysis); and
  - (6) presence of known "walk to school" or "pedestrian" crossing areas, trails, or other uses on or adjacent to the road surface.
- (H) Using the information from subsection (G) of this section, the person shall prepare a traffic safety plan



prior to beginning timber harvest transportation operations. At a minimum the traffic safety plan will address:

- (1) time(s) of day cargo-carrying vehicle use will occur;
- (2) type, gross vehicle weight and overall length of cargo-carrying vehicles that will be utilized; and
- (3) number of trips by cargo-carrying vehicles that will occur per day or week.

(I) The plan shall serve as the basis for determining the requirements to be included in the timber transportation permit, and by the person to:

- (1) identify topics and issues to be discussed at regular truck driver safety meetings;
- (2) identify hauling time-period limitations that may be necessary for traffic safety or noise abatement;
- (3) identify vehicle operator actions such as reduced speed where road conditions or other uses warrant; and
- (4) identify the means of public information to be taken by the person to notify the public about timber harvest plan of operations and mitigating actions that will be taken in the traffic safety plan.

(Ord. 18-093, § 2, 2019; Ord. 06-223(SUB)(AM), § 2 (part), 2007)

**28.60.080 TIMBER TRANSPORT PERMIT.**

(A) A timber transport permit (TTP) is required when the person will be utilizing roads outside of the timber harvest area for the transportation of harvested timber or timber harvest products in excess of two cargo-carrying vehicles per day, or 10 cargo-carrying vehicles in a one-calendar-week period, whichever is more.

(B) A complete application shall include a proposed traffic safety plan that meets the criteria set forth in MSB 28.60.070, and a copy of the summary page of the FRPA Detailed Plan of Operations as submitted to the State Division of Forestry, or the Forest Land Use Plan (FLUP).

(C) *Public notice.*

- (1) Public notice shall be provided within five working days of receipt of the information required in subsection (B) of this section.
- (2) Public notice required under this chapter shall be given in accordance with MSB 23.05.025, Public notice.
- (3) The public notice shall contain the provisions of the traffic safety plan; and the Detailed Plan of Operations as filed with the State Division of Forestry or the Forest Land Use Plan (FLUP). The FLUP or

the Detailed Plan of Operations shall not be subject to comment under this notice, but shall be provided for the reviewers' information.

(4) The borough shall prepare and be responsible for the distribution and publication of the legal notice.

(5) The person shall be responsible for costs of distribution and publication of the legal notice.

(D) The director shall consider the information supplied by the person and the comments received from the public notice in making their decision.

(E) The timber transport permit shall be issued by the director if the traffic safety plan effectively addresses the following objectives and standards:

(1) the adequacy of access to and from the operations area and the effect on pedestrian and vehicular circulation and safety;

(2) adequacy of the proposed transportation plan to deal with intersections, road conditions, site distances, traffic volumes, types of equipment, existing road use, and may include, under certain circumstances, dust control and snow removal;

(3) the effect of the proposed transportation on recreational uses and tourism-related activities; and

(4) the effect the proposed transportation will have on general public health, safety, and welfare.

(F) The permit will contain:

(1) time(s) of day cargo-carrying vehicle use is permitted to occur;

(2) type, gross vehicle weight and overall length of cargo-carrying vehicles that may be utilized;

(3) maximum number of trips by cargo-carrying vehicles that shall occur per day or per week;

(4) presence of school bus routes, times that buses are picking up or dropping off students along the route, specific stops where line of sight to a bus is limited;

(5) presence of known "walk to school" or "pedestrian" crossing areas, trails, or other uses on or adjacent to the road surface;

(6) identify vehicle operator actions such as reduced speed where road conditions or other uses warrant;

(7) identify the means of public information to be taken by the person to notify the public about timber harvest operations and actions that will be taken to implement a traffic safety plan;



- (8) traffic signs or warning signs that shall be posted during timber hauling operations; and
  - (9) any road maintenance that shall be required during and after timber hauling operations.
  - (G) An application for a TTP shall be issued or rejected by the director within five working days following completion of the public notice as required under this section.
  - (H) The time period for issuance or denial of the permit may be extended by either the director or the person for a period of time mutually decided by the director and the person, but not to exceed 30 days.
  - (I) A TTP may be amended, suspended or revoked by the director based on significant changes to the:
    - (1) volume of timber, timing of harvest, or size of area being harvested; or
    - (2) changes in volume of traffic or other conditions that require changes to the traffic safety plan; or
    - (3) changes, damages, or wear to borough roads.
  - (J) If a change is determined to be significant by the director, or a permit is to be suspended or revoked, a new public notice shall be required.
  - (K) If a proposed change is determined to be significant by the director, the original terms and conditions of the TTP shall be followed until the proposed terms and conditions of the TTP are accepted, amended or denied.
  - (L) *Administrative appeal.*
    - (1) A decision by the director including amendment, suspension or revocation of a timber transport permit may be appealed in writing to the manager within 10 working days of being approved or denied in writing by the director. A copy of the written decision shall be mailed to the applicant and to any person who meaningfully participated during the public notice and comment period.
    - (2) The 10 working days begins on the date the decision is postmarked or personally delivered.
    - (3) An appeal must be postmarked or received by the manager within the 10-day period. The appeal must specifically state the reasons for the appeal and a proposed resolution.
  - (M) The manager may uphold, amend, or overturn the decision by the director. The decision of the manager is the final decision of the borough.
- (Ord. 06-223(SUB)(AM), § 2 (part), 2007)

CODE ORDINANCE

Sponsored By:  
Introduced:  
Public Hearing:  
Adopted:

**MATANUSKA-SUSITNA BOROUGH**  
**ORDINANCE SERIAL NO. 21-\_\_\_\_\_**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 23.20 AFFECTING TIMBER SALVAGE SALES ON BOROUGH LAND BY ADOPTING BROADER TERMS TO ADDRESS FOREST HEALTH AND FACILITATE THE REMOVAL OF DAMAGED TIMBER AND REPEALING MSB 28.60.070 TRAFFIC SAFETY PLAN AND MSB 28.60.080 TIMBER TRANSPORT PERMIT.

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WHEREAS, The Matanuska-Susitna Borough is heavily infested with spruce bark beetles and birch leafminers with hundreds of thousands of acres affected during the past several years; and

WHEREAS, in accordance with the adopted Borough Forest Management Plan, the intent of this Ordinance is to provide a sustainable supply of timber and other forest products, manage Borough forest stands to promote tree survival and growth, and reduce the risk of loss from fires, animals, insects, and diseases, and to achieve a balance between wood volume production, quality of wood, and timber value at harvest; and

WHEREAS, amending MSB 23.20 will incentivize removal of commercial timber either killed or damaged by events such as wildfire, windstorms, insects, or disease, and is consistent with management objectives for Borough resources; and

WHEREAS, offering a simplified avenue to salvage Borough timber in a timely, more efficient way before the market value of



the timber is lost to insect damage, fire, windthrow and rot provides much needed incentives to commercial loggers; and

WHEREAS, offering salvage sales by over-the-counter means is consistent with other Borough land and resource disposal programs under Title 23; and

WHEREAS, requirement for a timber transport permit and a traffic safety plan was adopted in 2006, with only one such timber transport permit having ever been issued for a harvest that was never cut; and

WHEREAS, timber industry representatives have indicated the Code requirement is onerous and detrimental to the Borough's efforts to sell timber and has resulted in zero responses to Borough timber sales over the years; and

WHEREAS, the Alaska Forest Resources and Practices Act contains sufficient safeguards for the public health, safety, and environment, which are further supplemented by the Borough Code requirements for artificial lighting, noise, and buffers; and

WHEREAS, traffic safety standards promulgated by the Alaska Department of Transportation apply to all industries and all public roads and the Borough does not need to develop industry specific traffic safety standards; and

WHEREAS, Borough road maintenance concerns related to Borough timber sales can be adequately addressed in timber sale contracts that have been reviewed by the Borough Attorney's office; and

WHEREAS, Title 28 is adjudicated by the Borough Planning Department who has reviewed and concurs with the amendments for Title 23 and supports repealing MSB 28.60.070 and 23.60.080 in their entirety as such requirements are addressed in state laws and state requirements already in place and can be supported with specific Borough timber sale contract clauses.

BE IT ENACTED:

Section 1. Classification. Sections 2, 3, 4, 5, 6, and 7 of this Ordinance are of a general nature and shall become part of Borough Code.

Section 2. Amendment of Subsection. MSB 23.20.130(D) is hereby amended to read as follows:

(D) Firewood sales, timber sales, and salvage sales other than those in MSB 23.20.167, and non-timber product sales, leases, or permits for less than five years in duration and for less than 12,800 cubic feet of timber or 100 cords of firewood for timber, firewood and salvage sales, or \$25,000 for non-timber-product sales, may, after public notice pursuant to MSB 23.05.025, be offered over the counter by the manager without competitive bid.

Section 3. Amendment of Subsection. MSB 23.20.040(E) is hereby amended to read as follows:



(E) Timber harvest volumes sold, leased, or permitted and harvested under personal use of timber resources (MSB 23.20.170), or as a timber salvage sale under MSB 23.20.167 shall not count against annual allocable cut limitations established in this section. [TIMBER HARVEST VOLUMES SOLD, LEASED, OR PERMITTED AND HARVESTED WITHIN THE CHIJUK CREEK NATURAL RESOURCE MANAGEMENT UNIT, WHICH WILL TERMINATE BY JULY 1, 2019, SHALL NOT COUNT AGAINST ALLOWABLE CUT LIMITATIONS ESTABLISHED IN THIS SECTION.]

Section 4. Amendment of Section. The Title of MSB 23.20.165 is hereby amended as follows:

23.20.165 TIMBER SALVAGE ON BOROUGH LAND Due To Conversion

Section 5. Adoption of Section. MSB 23.20.167 is hereby adopted to read as follows:

23.20.167 TIMBER SALVAGE ON BOROUGH LAND DUE TO FOREST HEALTH

(A) The Borough may conduct salvage sales of timber from Borough-owned forestland in effort to avoid loss of the market value of timber damaged by fire, insect infestation, or acts of nature, or the loss of the market value of timber threatened by insect infestation, or to create fuel breaks, or to reduce

the fuel loading of the forest, or to reduce the spread of insect infestation.

(B) A salvage sale conducted for forest health purposes may be offered over the counter and is exempt from MSB 23.20.090, MSB 23.20.130, MSB 23.20.150, and does not count towards the annual allowable cut calculation.

(C) In order to be considered a forest health salvage operation and subject to a salvage sale or permit under this section, the project must be approved prior to the timber salvage operations commencing.

(D) The decision on whether a timber salvage operation will promote the forest health shall be made by the Community Development Director or Manager.

(E) The decision on whether the timber salvage operations should be considered as a sale or permit shall be made by the Community Development Director based on such factors such as timber volume and condition, harvest duration, and value.

(F) Forest health timber salvage sales up to 64,000 cubic feet or 500 cords may be approved by the Manager, after public notice pursuant to MSB 23.05.025, without competitive bid. Forest health salvage sales in excess



of 64,000 cubic feet or 500 cords shall be approved by  
the Assembly prior to contract execution.

Section 6. Repeal of Section. MSB 28.60.070, Traffic Safety  
Plan is hereby repealed in its entirety.

Section 7. Repeal of Section. MSB 28.60.080, Timber Transport  
Permit is hereby repealed in its entirety.

Section 8. Effective Date. This ordinance shall take effect  
upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this  
\_\_ day of \_\_\_\_, 2021.

\_\_\_\_\_  
VERN HALTER, Borough Mayor

ATTEST:

\_\_\_\_\_  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

By: Emerson Krueger  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 21-18**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION  
RECOMMENDING ASSEMBLY ADOPTION AN ORDINANCE AMENDING TIMBER  
SALVAGE SALES TERMS IN MSB 23.20.130 AND REPEALING THE TIMBER  
TRANSPORT PERMIT IN MSB 28.60.

---

WHEREAS, The Matanuska-Susitna Borough is heavily infested  
with spruce bark beetles and birch leafminers with hundreds of  
thousands of acres affected during the past several years; and

WHEREAS, in accordance with the adopted Borough Forest  
Management Plan, the intent of the proposed Code amendments is to  
provide a sustainable supply of timber and other forest products,  
manage Borough forest stands to promote tree survival and growth,  
and reduce the risk of loss from fires, animals, insects, and  
diseases, and to achieve a balance between wood volume production,  
quality of wood, and timber value at harvest; and

WHEREAS, amending MSB 23.20 will incentivize removal of  
commercial timber either killed or damaged by events such as  
wildfire, windstorms, insects, or disease, and is consistent with  
management objectives for Borough resources; and

WHEREAS, offering a simplified avenue to salvage Borough  
timber in a timely, more efficient way before the market value of



the timber is lost to insect damage, fire, windthrow and rot provides much needed incentive to commercial loggers; and

WHEREAS, offering salvage sales by over-the-counter means is consistent with other Borough land and resource disposal programs under Title 23; and

WHEREAS, requirement for a timber transport permit and a traffic safety plan was adopted in 2006, with only one such timber transport permit having ever been issued for a harvest that was never cut; and

WHEREAS, timber industry representatives have indicated the code requirement is onerous and detrimental to the Borough's efforts to sell timber and has resulted in zero responses to Borough timber sales over the years; and

WHEREAS, the Alaska Forest Resources and Practices Act contains sufficient safeguards for the public health, safety, and environment, which are further supplemented by the Borough Code requirements for artificial lighting, noise, and buffers; and

WHEREAS, traffic safety standards promulgated by the Alaska Department of Transportation apply to all industries and all public roads and the Borough does not need to develop industry specific traffic safety standards; and

WHEREAS, Borough road maintenance concerns related to Borough timber sale contracts can be adequately addressed in timber sale

contracts that have been reviewed by the Borough Attorney's office;  
and

WHEREAS, Title 28 is adjudicated by the Borough Planning Department who has reviewed and concurs with the amendments for Title 23 and supports repealing MSB 28.60.070 and 23.60.080 in their entirety as such requirements are addressed in state laws and requirements already in place and can be supported with specific Borough timber sale contract clauses.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission supports the adoption of an ordinance amending MSB 23.20 in support of timber salvage sales and repealing the traffic safety plan and timber transport permit requirements from MSB 28.60.

ADOPTED by the Matanuska-Susitna Borough Planning Commission  
this \_\_\_\_ day of \_\_\_\_, 2021.

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COLLEEN VAGUE, Chair

ATTEST

---

Karol Riese, Planning Clerk

(SEAL)



YES:

NO:

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# **PUBLIC HEARING LEGISLATIVE**

## **Resolution No. PC 21-20**

Amending MSB 17.23 To Exempt Pipeline  
And Conveyor Structures From Setback  
Requirements Pursuant to MSB 17.55

(Pages 173 - 212)

# **PUBLIC HEARING**






# Matanuska-Susitna Borough


LAND & RESOURCE MANAGEMENT DIVISION




## MEMORANDUM

TO: Matanuska-Susitna Borough Planning Commission

THROUGH: Alex Strawn, Planning Director 

THROUGH: Eric Phillips, Community Development Director 

FROM: Tracy K. McDaniel, Asset Manager 

DATE: July 21, 2021

RE: Resolution Serial No. 21-20 Recommending the Borough Assembly Adoption of an Ordinance Amending the MSB Title 17.23 Setbacks to Exclude Pipeline and Conveyor Structures From the Setback Requirements Pursuant to Title 17.55 Setback and Screening Easements within the Port MacKenzie Special Use District.

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It has been recognized that corridors for pipeline and conveyor structures that cross lot boundaries and rights of way is silent in MSB Title 17.55.004 Setback and Screening Easements, Definitions, and does not provide a setback exclusion to a corridor for pipeline and conveyor structures as it does for utility rights of way. The current definition states, ““Structure” means anything that is constructed or created and located on or above the ground, or attached to something fixed to the ground. For purposes of minimum setbacks and building separation requirements, the following are not considered structures unless specifically addressed by code: fences; retaining walls; parking areas; roads, driveways, or walkways; window awnings; a temporary building when used for 30 days or less; utility boxes and other incidental structures related to utility services; utility poles and lines; guy wires; clotheslines; flagpoles; planters; incidental yard furnishings; water wells; monitoring wells; and/or tubes, patios, decks, or steps less than 18 inches above average grade.” Nor, are “structures” addressed in code for the Port MacKenzie Special Use District, MSB Title 17.23.170 Setbacks.

The Port MacKenzie Master Plan, 2016 Update, Section 3.3, Port Industrial District – I (PID-I), Section 3.3.1 Rail Subunit, identifies this district as, “reserved for industrial uses that require close proximity to the marine terminal and railroad.” The District currently has a 3,000-foot long conveyor system that extends from the former NPI lease site to the docks and anticipates a corridor for a pipeline system to transport refined fuel from the docks to Central Alaska Energy’s lease site located north of the rail loop. Furthermore, Section 5 Facilities/Utilities of the 2016 update addresses the existing and future facility and utility needs for the development of the port, which identifies conveyors (Section 5.6) and pipelines (Section 5.7) as necessary services.

Corridors for pipeline and conveyor structures are constructed above and below ground, cross under road rights of way, and over lot boundaries. The above ground structure that supports a pipeline or conveyor is attached to the ground and in a fixed location longer than 30-days. The intent is to amend Title 17.23.170 Setbacks, and exclude transportation corridors for pipeline and conveyor structures from the setback requirements within the Port MacKenzie Special Use District. The amendment is consistent with the permitted uses in the PID-I district, Title 17.23.110 Port Industrial District – One (PID-I)(C)(1) for the commercial and industrial uses “for transportation corridors for rail, roads, conveyor, and pipeline transport systems.”

MSB 17.23, Port MacKenzie Special Use District is the only recognized industrial district within the Borough, aside from industrial/commercial land within the city limits of Wasilla, Palmer, and Houston. Port MacKenzie is not constrained by urban growth or geography as other ports are within the state, making it ideal for large developments and uses for pipeline and conveyor structures from the water to the uplands within this special use district. Therefore, identifying and excluding pipeline and conveyor structures from MSB 17.55 provides clarity for staff.

On July 19, 2021, the Matanuska-Susitna Borough Port Commission unanimously passed Resolution 21-03 supporting the amendment to Title 17.23.170 with the proposed language provided below (**bold and underline** is the proposed language added to code):

17.23.170 SETBACKS.

(A) Minimum structural setback requirements are prescribed in MSB 17.55.

**(1) pipeline and conveyor structures are excluded from all setback requirements.**

(B) Structures which are subject to minimum setbacks from lot lines shall also be separated from each other by a minimum of ten feet or as required by the national fire code, most recent edition adopted by Alaska.

(C) All non-water dependent driveways, vehicle parking areas, loading facilities, and vehicle or equipment storage areas shall be set back a minimum of 75 feet from any water body except:

- (1) within the PID-I and WDD districts; and
- (2) that such facilities shall be set back a minimum of 200 feet from the ordinary high water mark of Lake Lorraine.

The Land and Resource Management Division respectfully request the Matanuska-Susitna Borough Planning Commission adoption of Resolution Serial No. 21-20 recommending Borough Assembly adopt by ordinance an amendment to MSB Title 17.23.170 to identify and exclude corridors for pipeline and conveyor structures from MSB 17.55 Setback and Screening Easements.



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**MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM****IM No. 21-\_\_**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.23 TO EXCLUDE PIPELINE AND CONVEYOR STRUCTURES FROM SETBACK REQUIREMENTS UNDER MSB 17.55.

**AGENDA OF:** September 7, 2021

**ASSEMBLY ACTION:**

**MANAGER RECOMMENDATION:** Introduce and set for public hearing.

**APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:** \_\_\_\_\_

Route To:	Department/Individual	Initials	Remarks
	Originator		
	Community Development Director		
	Planning Director		
	Finance Director		
	Borough Attorney		
	Borough Clerk		

**ATTACHMENT (S) :** Fiscal Note: YES \_\_\_\_ NO X

Port Commission Resolution Serial No. 21-03 (2 pp)

Planning Commission Resolution Serial No. 21-20  
(3 pp)

MSB 17.23.170 Port MacKenzie Special Use District  
Setback, and MSB 17.55.004 Setback and Screening  
Easements, Definitions (condensed), and (2 pp)  
Ordinance Serial No. 21-\_\_ (X pp)

**SUMMARY STATEMENT:**

It has been recognized that corridors for pipeline and conveyor structures that cross lot boundaries and rights of way is silent in MSB 17.55.004 Setback and Screening Easements, definition for "structure" and does not provide a setback exclusion to a corridor for pipeline and conveyor structures as it does for utility rights of way. Furthermore, pipeline and conveyor structures are not excluded from MSB 17.23.170 Setbacks, Port MacKenzie Special Use District.

Corridors for pipeline and conveyor structures are constructed above and below ground, cross under road rights of way, and over lot boundaries. The above ground structure that supports a pipeline or conveyor is attached to the ground and in a fixed location longer than 30-days. The intent is to amend MSB 17.23.170 Setbacks, to exclude corridors for pipeline and conveyor structures from the setback requirements within the Port MacKenzie Special Use District. The amendment is consistent with the permitted uses in the PID-I district, MSB 17.23.110 Port Industrial District - One (PID-I)(C)(1) for the commercial and industrial uses "for transportation corridors for rail, roads, conveyor, and pipeline transport systems."

This ordinance implements the following goals of the Port MacKenzie Master Plan, 2016 Update, Section 3.3, Port Industrial District - I (PID-I), Section 3.3.1 Rail Subunit, which identifies this district as, "reserved for industrial uses that require close proximity to the marine terminal and railroad." The District currently has a 3,000-foot long conveyor system that extends from the former NPI lease site to the docks and anticipates a corridor for a pipeline system to transport refined fuel from the docks to Central Alaska Energy's lease site located north of the rail loop. Furthermore, Section 5 Facilities/Utilities of the 2016 update addresses the existing and future facility and utility needs for the development of the port, which identifies the existing conveyor and expansion thereof (Section 5.6) and pipelines (Section 5.7) as a necessary component to facilitate the loading and unloading of bulk fuel shipments.

MSB 17.23, Port MacKenzie Special Use District is the only recognized industrial district within the Borough, aside from industrial/commercial land within the city limits of Wasilla, Palmer, and Houston. Port MacKenzie is not constrained by urban growth or geography as other ports are within the state, making it ideal for large developments and uses for pipeline and conveyor structures from the water to the uplands within this special use district. Therefore, identifying and excluding pipeline and conveyor structures under MSB 17.23 provides clarity for staff when referencing MSB 17.55 for the port special use district.

On July 19, 2021, the Matanuska-Susitna Borough Port Commission unanimously passed Resolution 21-03 supporting the amendment to MSB 17.23.170.

On August 16, 2021, The Matanuska-Susitna Borough Planning Commission **unanimously** passed Resolution 21-20 supporting the amendment to MSB 17.23.170.



**RECOMMENDATION OF ADMINISTRATION:**

Staff respectfully requests adoption of an ordinance amending MSB 17.23 to exclude pipeline and conveyor structures from the setback and screening easement requirements under MSB 17.55.

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[17.23.180 Street intersection visibility](#)

[17.23.190 Road standards](#)

[17.23.195 Parking and loading facilities](#)

[17.23.200 Landscaping and buffer screening](#)

[17.23.210 Signs](#)

[17.23.220 Variances](#)

[17.23.230 Violations, enforcement, and penalties](#)

[17.23.240 Schedule of fines](#)

[17.23.250 Appeals](#)

**17.23.010 INTENT AND PURPOSE.**

(A) The intent of this chapter is to:

- (1) protect the public health, safety, and general welfare;
- (2) provide for orderly development;
- (3) stimulate systematic development of transportation, public facilities, and other infrastructure;
- (4) implement the recommendations of the Point MacKenzie port master plan; and
- (5) regulate nuisances.

(B) The purpose of this chapter is to:

- (1) provide for orderly development of a port and related industrial district;
- (2) provide for a sufficient water area to allow vessel movement, maneuvering, docking, servicing, and product handling;
- (3) provide for sufficient land area to accommodate factories, industrial uses, processing plants, service facilities, and circulation routes needed for port development;
- (4) maximize employment opportunities;



(5) obtain maximum convenience, safety, economy, and identity in relation to adjacent sites; and

(6) to provide reasonable flexibility for expansion and change in use.

(C) Use of land within this special land use district shall be in accordance with this chapter.

(D) The requirements of this chapter may not address all approvals, permits, and authorizations required for a use or development. It shall be the responsibility of the applicant to identify and comply with all necessary laws, regulations, policies, and procedures of the borough, state, and federal government, any applicable plat notes, and other private covenants or restrictions.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.020 ESTABLISHMENT OF DISTRICT BOUNDARIES.**

This chapter is to establish consistency between the approved boundaries and definitions for the Port MacKenzie special use district, the Point MacKenzie port master plan, and the area meriting special attention (AMSA), for the application of the Port MacKenzie special use district authorities.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.030 AMENDMENTS.**

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed pursuant to the requirements of MSB 15.24. Any amendments shall be consistent with the Point MacKenzie port master plan, the Matanuska-Susitna coastal management plan, including the area meriting special attention (AMSA), and other applicable borough, state, and federal land use plans and subsequent amendments.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.040 CONFORMANCE REQUIRED.**

(A) No building, structure, land, or water area located within the Port MacKenzie special use district, hereinafter referred to as “the district,” shall be used or occupied, and no building, structure, or part thereof shall hereafter be erected except in conformity with the regulations specified in this chapter.

(B) Except where otherwise specified, the requirements of this chapter are cumulative to the other requirements of borough code.

(C) Where conflicting codes occur, the provisions of this chapter shall apply.

(Ord. 11-133, § 3, 2011; Ord. 00-154, § 2 (part), 2000)

#### **17.23.050 FEES.**

Fees required under this chapter will be established in accordance with MSB [17.99](#).

(Ord. 00-154, § 2 (part), 2000)

**17.23.060 ALLOWED PRINCIPAL AND ACCESSORY USES, PROHIBITED USES.**

(A) All uses authorized under borough code are allowed within the district unless specifically prohibited by this chapter. Accessory uses that are normal and customary to authorized uses are allowed on the same lot as the principal use.

(1) Worker construction camps are allowed for the term of a project.

(B) The following uses are prohibited within the district:

(1) adult businesses;

(2) alcoholic beverage sales;

(3) correctional community residential centers;

(4) race tracks; and

(5) residential dwelling units.

(Ord. 11-133, § 4, 2011; Ord. 00-154, § 2 (part), 2000)

**17.23.100 PORT DISTRICTS ESTABLISHED.**

(A) The total boundaries of the area covered in this chapter will be identical to the port boundaries established by MSB 18.02.020, Boundaries. For purposes of this chapter, the special use district will be defined as port industrial district - one (PID-I), port industrial district - two (PID-II), waterfront dependent district (WDD), the port commercial district (PCD), and the port conversion district (CD).

(B) *[Repealed by Ord. 09-120, § 2, 2009].*

(C) The boundaries of these districts will remain unchanged, regardless of ownership, subdivision action, or changes to other service district, city, or community council boundaries, unless so changed by official ordinance within this section.

(Ord. 11-133, § 5, 2011; Ord. 09-120, § 2, 2009; Ord. 05-143, § 3, 2005; Ord. 00-154, § 2 (part), 2000)

**17.23.105 PORT COMMERCIAL DISTRICT (PCD).**

(A) The following areas located within the port district are designated port commercial district subject to the provisions of this chapter:

All of Section 14, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA excepting the N 1/2 of N 1/2 of Section 14, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; the S 1/2 of Section 15, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; that portion of the E 1/2 E 1/2 of Section 22, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA that lies north of and to the centerline of W Point Mackenzie Road; that portion of the W 1/2 of Section 23, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA that lies north of and to the centerline of W Point Mackenzie Road.

(B) The PCD is designated for port-related commercial and light industrial land uses intended primarily to support water-dependent and water-related uses as allowed principal uses. Uses not related to marine/rail-related land uses in the district are discouraged. This district is intended to accommodate low to moderate intensity office and industrial parks, which are generally developed as commercial subdivisions. The location, type, scale and density/intensity of supporting and secondary uses shall be compatible with the Port Master Plan, and the overall character of the existing, as well as the proposed future development of the area.

(C) Allowed principal uses and structures are as follows:

- (1) professional and business offices;
- (2) light, medium, and heavy assembly and manufacturing;
- (3) warehousing, wholesaling, distribution, and similar uses, and light manufacturing, fabrication, and assembling of components;
- (4) packaging and processing;
- (5) non-retail manufacturing agent and display rooms, offices of building trades contractor (not including outside storage or use of a vehicle in excess of one-ton capacity or any equipment, machinery, ditching machines, tractors, bulldozers, or other heavy construction equipment);
- (6) storage/warehousing excluding bulk storage of liquids;
- (7) transportation terminals including freight terminals;
- (8) vocational, technical, business, trade or industrial schools, and similar uses;
- (9) transmission and relay towers;
- (10) natural resource extraction, processing, and refining; and
- (11) essential services, including water, sewer, gas, telephone, radio, and electric.



(D) Accessory uses and structures are allowed, if those uses and structures are of a nature customarily incidental and clearly subordinate to an allowed or permitted principal use or structure and, unless otherwise provided, these uses and structures are located on the same lot (or a contiguous lot in the same ownership) as the principal use. Where a building or portion thereof is attached to a building or structure containing the principal use, the building or portion shall be considered as a part of the principal building, and not as an accessory building. Accessory uses shall not involve operations or structures not in keeping with character of the district where located.

(E) *Minimum lot area and width requirements.*

(1) Lots intended to be serviced by septic tanks shall have at least 10,000 square feet of building area and 10,000 square feet of contiguous useable septic area surrounded by a well exclusion area extending 150 feet from the perimeter of the septic area for wells intended to serve no more than 24 people, otherwise the well exclusion area extends 200 feet.

(F) There is no maximum lot coverage requirement.

(Ord. 13-043, § 4, 2013; Ord. 11-133, § 8, 2011)

#### **17.23.110 PORT INDUSTRIAL DISTRICT - ONE (PID-I)**

(A) The following areas located within the port district are designated port industrial district - one (PID-I) land use district subject to the provisions of this chapter:

That portion of Section 20 and Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA that lies northeasterly of a line from the NW corner of Section 20 to the SE corner of Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA excepting that portion of Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA lying northeasterly above and to the centerline of W Point Mackenzie Road; all of Section 22, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA excepting the E 1/2 E 1/2 lying northerly above and to the centerline of W Point Mackenzie Road; all of Section 23, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA except the W 1/2 lying northerly above and to the centerline of W Point Mackenzie Road; All of Section 24, excepting Lot 1 and NE 1/4 NW 1/4 NW 1/4 Section 24, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; all of Section 25, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; all of Section 26, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; all of Section 27, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA.

(B) The PID-I district is designated for port uses necessary to operate a commercial/industrial port. This district is reserved and shall not be committed to non-port-related uses.

(C) Permitted uses in the PID-I district are those commercial and industrial uses which comprise or directly support port activity and which require close proximity and direct access to the docks, including but not limited to:

- (1) transportation corridors for rail, roads, conveyor, and pipeline transport systems;
- (2) light industrial uses;
- (3) heavy industrial uses;
- (4) commercial uses directly supporting the port work force such as restaurants and provision of goods and services that require location very near the docks to meet the daily needs of the port operations and work force;
- (5) industrial docks;
- (6) transportation facilities, roads, railways, mobile cranes, conveyors, and pipelines which are needed to load, unload, and service ships and barges;
- (7) short-term cargo storage, and marshaling areas required to efficiently conduct transshipment;
- (8) ship yards for service, repair, and construction of ships;
- (9) moorage, marinas, fueling, and other ship services;
- (10) offices supporting permitted uses which are directly necessary to conduct those permitted uses at the site;
- (11) natural resource extraction only as part of an approved plan to prepare sites for portrelated development;
- (12) public safety and government services, public lands, and institutions.

(D) Permits within the PID-I will be reviewed by the borough manager for approval or disapproval.

(Ord. 13-043, § 2, 2013; Ord. 11-133, § 7, 2011; Ord. 09-120, § 3, 2009; Ord. 00-154, § 2 (part), 2000)

**17.23.120 PORT INDUSTRIAL DISTRICT - TWO (PID-II).**

(A) The following areas located within the port district are designated port industrial district - two (PID-II) land use district subject to the provisions of this chapter:

All of Section 12, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA

excepting Lot 1 and Lot 2, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; all of Section 13, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA excepting Lot 4, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA and excepting a leased parcel recorded in Book 161 at Page 435 in the Palmer Recording District; that portion of Section 20 and Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA that lies southwesterly of a line from the NW corner of Section 20 to the SE corner of Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; that portion of Section 21, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA that lies northerly and easterly above and to the centerline of W Point Mackenzie Road; all of Section 28, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; all of Section 29, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA excepting the S 1/2 SW 1/4 Section 29, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; N 1/2 NE 1/4 Section 33, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; N 1/2 NW 1/4 and NE 1/4 and N 1/2 SE 1/4 Section 34, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; W 1/2 NW 1/4 and W 1/2 NW 1/4 SW 1/4 Section 35, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA.

(B) The PID-II district is designated for uses that have port-related activities, support port-related activities, are necessary to operate a commercial or industrial facility, or serve a public need.

(C) Permitted uses in the PID-II district are those commercial and industrial uses which comprise or support port activities, or other government or public facilities including but not limited to:

- (1) transportation corridors for rail, roads, conveyor, and pipeline transport systems;
- (2) light industrial uses;
- (3) heavy industrial uses;
- (4) bulk material storage and bulk fuel storage;
- (5) commercial uses directly supporting the port work force such as restaurants and the provision of goods and services that require a location near the docks to meet the daily needs of port operations and work force;
- (6) transportation facilities, roads, railways, mobile cranes, conveyors, and pipelines which are needed to load, unload, and service ships and barges, cargo storage, fueling, and other services;
- (7) offices supporting permitted uses at the site;
- (8) natural resource extraction only as part of an approved plan to prepare sites for development;



(9) correctional facilities such as jails, prisons, and community correctional facilities; and

(10) public safety and government services, public lands, and institutions.

(D) Permits within the PID-II will be reviewed by the borough manager for approval or disapproval.

(Ord. 13-043, § 3, 2013; Ord. 11-133, § 8, 2011; Ord. 09-120, § 4, 2009; Ord. 00-154, § 2 (part), 2000)

**17.23.130 WATERFRONT DEPENDENT DISTRICT (WDD).**

(A) The following area within the district is designated waterfront dependent (WDD) land use district subject to the provisions of this chapter: land and water comprising the tidelands and submerged lands described in MSB 18.02.020(D).

(B) The WDD is designated for waterfront uses necessary to operate a commercial/industrial port. This district is reserved and shall not be committed to nonport uses.

(C) Permitted uses in the WDD are those commercial and industrial uses which comprise or directly support port activity and which require close proximity and direct access to the docks, including, but not limited to:

(1) transportation corridors for rail, roads, docks, mobile cranes, conveyors, and pipelines which are needed to load, unload, and service ships and barges;

(2) short-term cargo storage and staging areas required to efficiently conduct transshipment;

(3) ship yards for service, repair, and construction of ships;

(4) moorage and marinas;

(5) fueling and other ship services;

(6) offices supporting permitted uses which are directly necessary to conduct those permitted uses at the site;

(7) natural resource extraction as part of an approved plan to prepare sites for port-related development;

(8) public safety and government services; and

(9) commercial uses directly supporting the port work force such as the provision of goods and services that require location very near the docks to meet the daily needs of the port operations and work force.

(D) Activities within the WDD will be reviewed by the borough manager for approval or disapproval.

(Ord. 13-043, § 5, 2013; Ord. 00-154, § 2 (part), 2000)

**17.23.135 CONSERVATION DISTRICT (CD).**

(A) The following areas located within the port district are designated port conservation district (CD) land use district subject to the provisions of this chapter:

All of Section 10 and Section 11, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; N1/2 N1/2, Section 14, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA; N1/2, Section 15, TOWNSHIP 14 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA.

(B) The CD is designated to protect resources and functional values that have been identified by the borough as providing benefits to the public. This district is reserved and shall not be committed to non-port-related uses.

(C) Permitted uses in the CD are those that do not result in significant erosion or damage to habitat, or result in or increase ground or water pollution including:

- (1) maintenance, repair, and replacement of existing structures and infrastructure exterior improvements, roads, and public recreation trails;
- (2) corridors for roads and utility transmission systems;
- (3) year-round recreational nonmotorized trails and winter-only motorized trails;
- (4) minor vegetation management (trimming, pruning, or removal) for reasons of public safety or for the replacement of invasive species with indigenous species;
- (5) removing those noxious weeds or undesirable plant species identified in the current North American Weed Free Forage Certification Standards List and those weeds declared noxious in 11 AAC 34.020, Prohibited and Restricted Noxious Weeds.

(D) Prohibited uses in the CD include those that result in alteration of watercourses, dumping of trash, soil, dirt, fill, vegetative, or other debris, regrading, or construction.

(Ord. 13-043, § 6, 2013; Ord. 11-133, § 9, 2011)

**17.23.140 Terminal moraine district (TMD). [Repealed by Ord. 05-143, § 4, 2005]**

**17.23.141 Port industrial district IMD (PID-IMD). [Repealed by Ord. 11-133, § 10, 2011]**

**17.23.145 Unzoned remainder. [Repealed by Ord. 11-133, § 11, 2011]**

**17.23.150 DEVELOPMENT PERMIT REQUIRED.**

(A) All development and use of land authorized within the special use district shall require prior authorization by issuance of a port district use permit from the borough manager or designee. Other permits or authorization

may be required for specific uses or development.

(1) Maintenance activities are exempt from the requirement to obtain a port development permit.

(B) Port development permits shall be issued to the lessee or the lessee's authorized agent as prescribed by this chapter. At a minimum, permits will be required for the following:

(1) structures greater than 400 square feet in gross area on the ground level or more than 30 feet in height above average grade; or

(2) structures using permanent foundations such as pilings or footings; or

(3) expansion of a structure by more than 400 square feet or 25 percent of the structure's original footprint, whichever is less; or

(4) temporary units, including location of a mobile home; or

(5) excavation or fill of more than 50 cubic yards of material; or

(6) communication towers or antennas over 30 feet in height; or

(7) on-site utilities, including but not limited to, water, sewer, storm drain, electric, communications, natural gas, and other wire and pipelines; or

(8) construction of any type within rights-of-way, easements, buffer strips, utility corridors, etc., shall be consistent with MSB 11.30.040(B), (C), and (E) as shown on either a recorded plat or on an approved borough master plan.

(C) Applicants may contact the borough manager to schedule a pre-application conference. It shall be the responsibility of the applicant to become familiar and comply with the regulations, policies, and procedures of the borough.

(D) Applications for a port development permit shall be submitted on forms provided by the borough with attached supplemental material as appropriate.

(1) The applicant shall include all information with the application sufficient to describe the proposal and demonstrate compliance of the proposal with applicable borough codes. Applications shall include appropriate site plans and necessary textual descriptions to depict and describe the location, setbacks, dimensions, height, bulk, area, floor plans, layout, appearance, materials, use, standards of construction, operations, mitigation methods for negative impacts, schedules, and all other aspects of the proposal necessary to show the proposed construction needed to determine compliance with borough code.



(2) The application shall be accompanied by an application fee as required under MSB [17.99](#).

(E) Site plan and technical drawing requirements shall be signed and sealed by a professional land surveyor, civil engineer, or architect or landscape architect registered in Alaska as appropriate to the drawing.

(F) Proposals for development shall demonstrate that adequate street capacity will be provided and describe any traffic control measures proposed to mitigate negative traffic effects on public rights-of-way. Proposals must include:

(1) a statement describing anticipated vehicular traffic to and from the site including probable types/size of vehicles to be used by the business, and vehicle generation rate based on standard trip generation tables; and may require

(2) a traffic impact analysis (TIA) where applicant establishes that proposed development will generate more than 200 average daily traffic trips, or more than 100 truck trips per day.

(G) The manager or designee will notify surrounding property owners in accordance with MSB [17.03](#), Public Notification. Notice will also be given to the port commission. Any concerns raised will be considered in processing the application, as deemed appropriate by the manager or his designee, to protect the public health, safety, and general welfare. A complete port development permit application shall be acted upon within 45 calendar days of receipt by the department.

(Ord. 18-030, § 4, 2018; Ord. 11-146, §§ 2—6, 2011; Ord. 11-133, § 12, 2011; Ord. 00-154, § 2 (part), 2000)

#### **17.23.160 PERMIT APPLICATION REVIEW.**

Upon determination that a complete application has been received, the borough manager shall commence review of the project for conformance with all applicable codes and the port master plan. An application is deemed complete when all of the material listed in MSB [17.23.150](#)(D), (E), and (F) has been received by the borough manager.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.165 PERMIT STANDARDS.**

(A) Unless otherwise specified for cause, a permit shall terminate two years from the date of issuance if the subject development or use has not commenced. Unless otherwise specified for cause, a port development permit shall terminate 30 calendar days after written notice from the borough to the applicant of determination by the borough that substantial construction has not occurred on the permitted development for 24 consecutive months.

(B) Upon completion of construction authorized by a permit issued under this chapter, the permittee shall notify the borough manager in writing of completion. The borough may inspect the site to determine compliance

with the requirements of the permit.

(C) Prior to construction of any structure subject to state fire codes, the permittee shall obtain a state of Alaska fire marshal approval and submit a copy of the approval to the borough manager.

(D) The borough manager may approve an application subject to any conditions that are necessary to implement the purposes of this title, or conform the application to this title or other applicable statutes or ordinances.

(Ord. 11-146, § 7, 2011; Ord. 00-154, § 2 (part), 2000)

**17.23.170 SETBACKS.**

(A) Minimum structural setback requirements are prescribed in MSB [17.55](#).

(B) Structures which are subject to minimum setbacks from lot lines shall also be separated from each other by a minimum of ten feet or as required by the national fire code, most recent edition adopted by Alaska.

(C) All non-water dependent driveways, vehicle parking areas, loading facilities, and vehicle or equipment storage areas shall be set back a minimum of 75 feet from any water body except:

(1) within the PID-I and WDD districts; and

(2) that such facilities shall be set back a minimum of 200 feet from the ordinary high water mark of Lake Lorraine.

(Ord. 11-133, § 13, 2011; Ord. 00-154, § 2 (part), 2000)

**17.23.175 STANDARDS FOR JUNKYARDS/REFUSE AREAS.**

(A) In considering port development permit applications for junkyards, the manager shall take the following into account:

(1) the nature and development of surrounding properties;

(2) the need to protect the local economy, adjacent land owners, and the motoring public from economically depressing and unsightly roadside locations;

(3) the proximity of churches, schools, hospitals, public buildings, recreation areas, or other places of public gathering;

(4) the sufficiency in number of other similar business establishments in the vicinity;

(5) the adequacy of fences and other types of enclosures to prevent the unsightly display of a junkyard;

- (6) the health, safety, and general welfare of the public;
- (7) whether adequate protections are in place to prevent contamination of soil, surface water and groundwater; and
- (8) the suitability of the applicant to establish, maintain, or operate the proposed use under the requirements of this chapter.
  - (a) Suitability of the applicant shall be based upon the applicant's history of compliance with relevant local, state, and federal laws.
  - (b) Review for suitability shall be limited to no more than five years preceding the application.

(Ord. 18-030, § 3, 2018)

**17.23.180 STREET INTERSECTION VISIBILITY.**

- (A) Fences, walls, hedges, or other plantings or structures erected, planted, or placed within a triangular area formed by intersecting right-of-way lines at a corner shall be designed to provide the minimum corner sight distance as specified in the borough subdivision construction manual as adopted, or revised.
- (B) Precautions shall be taken so as not to obscure visibility of oncoming cars or passing pedestrians and vehicles backing out of driveways or parking lots onto public rights-of-way.

(Ord. 00-154, § 2 (part), 2000)

**17.23.190 ROAD STANDARDS.**

- (A) The purpose of the following provisions is to establish standards for the design of streets in the district that will promote the safety and convenience of vehicular traffic, minimize the cost of street construction, and minimize the long-term cost for maintenance and repair of streets thereby encouraging appropriate development of the lands within the district.
- (B) Each proposed street within the district shall be designed for its entire length to meet or exceed the minimum standard. These standards shall be applicable to the design and construction of all new commercial/industrial streets within this special land use district.
- (C) Engineering criteria are:
  - (1) The road surface of all streets shall be no less than 24 feet in width and designed to provide two continuous moving lanes within which no parking is permitted;
  - (2) The road cross section shall provide two feet of structural gravel with additional design necessary



based on the sub-grade materials;

(3) The top six inches of the road prism shall be gravel no larger than two inches and contain 5 percent to 15 percent fines;

(4) Roads 1,400 feet or more in length shall meet or exceed the design criteria for a roadway speed of 35 miles per hour; and

(5) Roads less than 1,400 feet in length shall meet or exceed the design criteria for a roadway speed of 25 miles per hour.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.195 PARKING AND LOADING FACILITIES.**

(A) *General provisions.* It is the responsibility of the applicant to provide sufficient off-street vehicle and equipment parking, loading, and storage facilities for the subject use. It is the responsibility of the permittee to determine the appropriate number of required spaces for proposed uses and ensure they are provided and maintained. In the event the provided number of parking spaces proves to be insufficient to serve the use, it is the responsibility of the permittee to immediately provide additional parking as required by this chapter sufficient to eliminate the need for parking or loading to occur on the street.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.200 LANDSCAPING AND BUFFER SCREENING.**

(A) Landscaping and buffers shall be consistent with the Point MacKenzie port master plan. Use of native species is encouraged. Existing vegetation may provide the required buffer screening. This section is intended to:

(1) reduce incompatibility of uses by requiring a screen or buffer to minimize the harmful impact of wind, erosion, flooding, noise, dust, odor, glare or artificial light intrusion, and other impacts created by nearby uses;

(2) Allow the surrounding lands to act as a natural drainage system and ameliorate storm water drainage problems, reduce the harmful effects to underground water reservoirs, permit the return of precipitation to the ground water strata; and

(3) enhance the appearance of industrial uses, parking lots, storage yards, and enhance property value in the area.

(B) Standards for landscaping and screening may be waived, modified, or increased by the borough manager upon finding the change is necessary or appropriate to implement the purpose and intent of this section.

Generally, use of topographic features, fences, walls, architectural features, or different locations for screening will be required in lieu of the listed standards.

(C) The permittee, his agents and assigns, shall be responsible for the maintenance, repair, and replacement of all landscaping and screening required by the provisions of this section. All vegetation shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences, walls, and other structures shall be maintained in good repair. (Ord. 00-154, § 2 (part), 2000)

#### **17.23.210 SIGNS.**

Off-premises signs of lessees are permitted within the port district in accordance with the permit issued by the borough manager. In no event shall an off-site sign exceed 32 square feet in area nor be more than 15 feet in height. A port district directory and map may be provided by the borough at the entrance to the district.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.220 VARIANCES.**

Applications and procedures for obtaining variances from standards of this chapter shall be as prescribed in MSB [17.65](#).

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.230 VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

(A) Unless specified otherwise, any violation of this chapter is an infraction.

(B) *[Repealed by Ord. 17-103, § 9, 2017]*

(C) Enforcement of the provisions of this chapter and associated penalties shall be consistent with the terms and conditions of MSB 1.45.

(D) *[Repealed by Ord. 17-103, § 9, 2017]*

(Ord. 17-103, § 9, 2017: Ord. 00-154, § 2 (part), 2000)

#### **17.23.240 SCHEDULE OF FINES.**

Minimum fines for infractions of this chapter will be \$100 per violation, unless otherwise specified by code.

(Ord. 00-154, § 2 (part), 2000)

#### **17.23.250 APPEALS.**

Appeals from decisions of the manager or designee may be made under the provisions of MSB 15.39.030(A)(1). Only an adjacent property owner or competing applicant who is directly affected by the decision may appeal.

(Ord. 18-030, § 5, 2018: Ord. 00-154, § 2 (part), 2000)



## CHAPTER 17.55: SETBACKS AND SCREENING EASEMENTS

### Section

#### [17.55.004 Definitions](#)

#### [17.55.005 General](#)

#### [17.55.010 Setbacks](#)

#### [17.55.015 Shorelands; definition \[Repealed\]](#)

#### [17.55.020 Setbacks for shorelands](#)

#### [17.55.040 Violations, enforcement, and penalties](#)

#### **17.55.004 DEFINITIONS.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- “Aircraft hangar” means a roofed structure which is used to completely or partially enclose and store aircraft and aircraft accessories.
- “Boathouse” means a roofed structure which is used to completely or partially enclose and store boats and boating accessories.
- “Building” means any structure intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.
- “Building line” means the line of that part of the building nearest the property line.
- “Dedication” means the reservation of land to a public use by the owner manifesting the intention that it shall be accepted and used presently or in the future for such public purpose. A dedication by the owner under the terms of this section is a conveyance of an interest in property which shall be deemed to include the warranties of title listed in A.S. 34.15.030. The dedication of streets, alleys, sidewalks, or public open space shall convey a fee interest in the area dedicated. The dedication of all other public rights-of-way shall be deemed to create an easement in gross to perform the indicated function in the area depicted.
- “Engineer” means a registered professional civil engineer authorized to practice engineering in the state of Alaska.
- “Incidental” means subordinate and minor in significance and bearing a reasonable relationship to the primary

use.

- “Lot” means the least fractional part of subdivided lands having limited fixed boundaries and having an assigned number, or other name through which it may be identified.
- “Lot depth” means the average distance between front and rear lot lines.
- “Lot frontage” means all property abutting the right-of-way of a dedicated street or road easement, measured along the right-of-way between side lot lines of a lot.
- “Lot width” means the average distance between side lot lines.
- “Official streets and highway plan” means a map and attendant document depicting the proposed system of freeway, arterial, and collector streets in the borough, as adopted by the planning commission and by the assembly, and which is on file in the planning department office, together with all amendments thereto subsequently adopted.
- “Ordinary high water mark” means the mark made by the action of water under natural conditions on the shore or bank of a body of water which action has been so common and usual that it has created a difference between the character of the vegetation or soil on one side of the mark and character of the vegetation and soil on the other side of the mark.
- “Parcel” means an unsubdivided plot of land.
- “Right-of-way” means a strip of land reserved, used, or to be used for a street, alley, walkway, airport, or other public or private purpose.
- “Structure” means anything that is constructed or created and located on or above the ground, or attached to something fixed to the ground. For purposes of minimum setbacks and building separation requirements, the following are not considered structures unless specifically addressed by code: signs; fences; retaining walls; parking areas; roads, driveways, or walkways; window awnings; a temporary building when used for 30 days or less; utility boxes and other incidental structures related to utility services; utility poles and lines; guy wires; clotheslines; flagpoles; planters; incidental yard furnishings; water wells; monitoring wells; and/or tubes, patios, decks, or steps less than 18 inches above average grade.
- “Subdivision” means the division of a tract or parcel of land into two or more lots, sites, or other divisions, or the combining of two or more lots, tracts, or parcels into one lot, tract, or parcel for the purpose, whether immediate or future, of sale or lease for more than ten years, including any resubdivision and when appropriate to the context, the process of subdividing or the land actually subdivided.
- “Surveyor” means a professional land surveyor who is registered in the state of Alaska.

- “Utility box” means electric transformers, switch boxes, telephone pedestals and telephone boxes, cable television boxes, traffic control boxes, and similar devices.
- “Utility services” means the generation, transmission, or distribution of electricity, gas, communications, and municipal water and sewer systems.

(Ord. 21-019, § 2, 2021; Ord. 17-088(SUB), § 2, 2017; Ord. 13-164, §§ 2, 3, 2013; Ord. 93-042, § 2 (part), 1993; Ord. 89-072, § 2 (part), 1989; Ord. 88-221, § 2 (part), 1988)

#### **17.55.005 GENERAL.**

This chapter establishes minimum structural setbacks from lot lines, water courses and water bodies, rights-of-way, and specific screening easements for certain lands within subdivisions in the Matanuska-Susitna Borough except where otherwise specified in special land use district regulations within this title.

(Ord. 03-053, § 2, 2003; Ord. 88-190, § 3 (part), 1988)

#### **17.55.010 SETBACKS.**

(A) No structure or building line shall be placed within 25 feet from the right-of-way line of any public right-of-way, except no furthestmost protruding portion of any structure shall be placed within ten feet from the right-of-way line of any public right-of-way when the pre-existing lot:

(1) measures 60 feet or less in frontage on a public right-of-way, and is not located on a cul-de-sac bulb;  
or

(2) comprises a nonconforming structure erected prior to July 3, 1973. This setback shall be known as the structure or building line setback.

(B) Except where specifically provided other-wise by ordinance, no furthestmost protruding portion of any structure or building line shall be located nearer than ten feet from any side or rear lot line.

(C) Except as otherwise specified by code, eaves may project a maximum of three feet into required setback areas.

(D) The setback requirements of this section do not apply to property within the cities of Palmer and Wasilla.

(E) If a condemnation by a governmental agency reduces the building line setback of a structure below 25 feet, but there remains at least ten feet setback, and the setback reduced by the condemnation met the requirements of this section prior to the condemnation, the resulting setback shall be the setback requirements for the lot.

(F) For purposes of this chapter, commercial or industrial buildings on separate but adjacent parcels, which otherwise meet the setback requirements, may have connecting pedestrian walkways, enclosed or not.



Pedestrian walkways:

- (1) shall not contribute to the building area or the number of stories or height of connected buildings; and
- (2) must comply with the current adopted edition of the International Building Code, except that the outside width of the walkway shall not exceed 30 feet in width, exclusive of eaves.

(G) No furthestmost protruding portion of any structure or building line shall be located nearer than ten feet from railroad rights-of-way, except that utilities and rail dependent structures may extend up to railroad rights-of-way.

(Ord. 11-159, § 2, 2011; Ord. 11-019, § 2, 2011; Ord. 93-042, § 2 (part), 1993; Ord. 88-190, § 3 (part), 1988)

**17.55.015 Shorelands; definition. [Repealed by Ord. 17-088(SUB), § 3, 2017]**

**17.55.020 SETBACKS FOR SHORELANDS.**

(A) Except as provided in subsection (B) of this section, no structure or footing shall be located closer than 75 feet from the ordinary high water mark of a body of water. Except as provided otherwise, eaves may project three feet into the required setback area.

(B) Docks, piers, marinas, aircraft hangars, and boathouses may be located closer than 75 feet and over the water, provided they are not used for habitation and do not contain sanitary or petroleum fuel storage facilities. Structures permitted over water under this subsection shall conform to all applicable state and federal statutes and regulations.

(1) Boathouses or aircraft hangars which are exempt from a minimum shoreline setback for structures shall:

- (a) be built over, in, or immediately adjacent to a waterbody and used solely for storing boats and boating accessories;
- (b) be designed, constructed and oriented for primary access by boats or aircraft directly to a waterbody;
- (c) not have more than incidental accessory access to a street or driveway; and
- (d) not be usable as a garage or habitable structure without significant alteration.

(C) In the city of Wasilla, this section does not apply to structures where construction was completed prior to November 16, 1982. Elsewhere in the borough, this section does not apply to structures where construction was completed prior to January 1, 1987, if the present owner or owners of the property had no personal knowledge of any violation of the requirements of this section prior to substantial completion of the structures. The director of the planning department shall, upon application by a property owner, determine whether a property qualifies for

an exception under this subsection.

(1) An application for a shoreline setback exception shall include a filing fee as established by resolution of the assembly.

(D) In this section, a “structure” is any dwelling or habitable building or garage.

(E) No part of a subsurface sewage disposal system shall be closer than 100 feet from the ordinary high water mark of any body of water. The planning commission shall require this distance be increased where necessary to protect waters within the borough.

(Ord. 17-088(SUB), § 4, 2017: IM 96-019, page 1, presented 3-19-96; Ord. 93-095, § 2, 1993; Ord. 93-042, § 2 (part), 1993; Ord. 90-052, § 3, 1990; Ord. 88-190, § 3 (part), 1988; initiative election of 5-5-87)

**17.55.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

(A) Except as otherwise specified in this chapter violations of this chapter are infractions.

(B) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

(Ord. 95-088(SUB)(am), § 26 (part), 1995)

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CODE ORDINANCE

Sponsored by:  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 21-\_\_\_\_**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.23 TO EXCLUDE PIPELINE AND CONVEYOR STRUCTURES FROM SETBACK REQUIREMENTS UNDER MSB 17.55.

---

WHEREAS, the Assembly adopted an ordinance creating Chapter 17.55, Setbacks and Screening Easements; and

WHEREAS, the Assembly adopted an ordinance creating Chapter 17.23, Port MacKenzie Special Use District to provide orderly development of a port and related industrial districts; and

WHEREAS, MSB 17.55 does not recognize and exclude pipeline and conveyor structures from the setback for rights of way and lot line requirements as it does for other "utility services;" and

WHEREAS, on April 5, 2016, the Assembly adopted the Port MacKenzie Master Plan 2016 Update, Ordinance Serial No. 16-012 as part of the overall Borough comprehensive plan; and

WHEREAS, the Port MacKenzie Master Plan, Chapter 5, addresses the existing and future utility needs for the development of the port, which includes, "emergency/fire suppression, potable water, wastewater, storm water systems, electrical service, pipelines, conveyors, and natural gas;" and

WHEREAS, the goals of the Port MacKenzie Master Plan identifies the pipeline and conveyor structures as a necessary component to facilitate industrial uses for the loading and unloading of commodities at the docks; and

WHEREAS, the amendment to exclude pipeline and conveyor structures is consistent with the permitted uses within the Port MacKenzie Special Land Use District, MSB 17.23.110 Port Industrial District - One (PID-I) (C) (1) for the commercial and industrial uses, "for transportation corridors for rail, roads, conveyor, and pipeline transport systems."

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 17.23.170 (A) is hereby amended to read as follows:

(A) Minimum structural setback requirements are prescribed in MSB 17.55.

**(1) pipeline and conveyor structures are excluded from all setback requirements.**

Section 3. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day  
of -, 2021.

\_\_\_\_\_  
VERN HALTER, Borough Mayor

ATTEST:

\_\_\_\_\_  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)



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**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION SERIAL NO. 21-20**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING ASSEMBLY ADOPTION OF AN ORDINANCE AMENDING MSB 17.23 TO EXEMPT PIPELINE AND CONVEYOR STRUCTURES FROM SETBACK REQUIREMENTS PURSUANT TO MSB 17.55.

---

WHEREAS, MSB 17.55 requires structures to be set back at least 25 feet from public rights of way and ten feet from lot lines; and

WHEREAS, the Port MacKenzie Special Use District, MSB 17.23.170 Setback, defers to MSB 17.55 Setback and Screening Easement for minimum structural setbacks; and

WHEREAS, MSB 17.55 definitions of "structures" is silent on corridors for pipeline and conveyor structures and does not directly exclude the pipeline and conveyor structures as it does for utility services rights of way for the transmission or distribution of public utilities; and

WHEREAS, the Port MacKenzie Master Plan, 2016 update, and MSB 17.23 identify special use districts within Port MacKenzie related to industrial and commercial uses; and

WHEREAS, MSB 17.23, Port MacKenzie Special Use District is the only recognized industrial and commercial district within the Borough, aside from industrial/commercial land with the three incorporated cities in the Borough; and

WHEREAS, amending MSB 17.23.170 Setbacks to exclude transportation corridors for pipeline and conveyor structures from the setback requirements in the Port MacKenzie Special Use District is consistent with the permitted uses pursuant to MSB 17.23.110 Port Industrial District - I(C)(1), "for transportation corridors for rail, roads, conveyor, and pipeline transport systems;" and

WHEREAS, it is very likely that MSB 17.55 was never intended to regulate such corridors for pipelines and conveyor structures in MSB 17.23; and

WHEREAS, On July 19, 2021, the Matanuska-Susitna Borough Port Commission unanimously passed Resolution 21-03 supporting the amendment to Title 17.23.170 with the following language:

17.23.170 SETBACKS.

(A) Minimum structural setback requirements are prescribed in MSB 17.55.

**(1) pipeline and conveyor structures are excluded from all setback requirements.**

(B) Structures which are subject to minimum setbacks from lot lines shall also be separated from each other by a minimum of ten feet or as required by the national fire code, most recent edition adopted by Alaska.

(C) All non-water dependent driveways, vehicle parking areas, loading facilities, and vehicle or equipment storage areas shall be set back a minimum of 75 feet from any water



body except:

- (1) within the PID-I and WDD districts; and
- (2) that such facilities shall be set back a minimum of 200 feet from the ordinary high water mark of Lake Lorraine.

NOW, THEREFORE, BE IT RESOLVED, the Matanuska-Susitna Borough Planning Commission hereby recommends approval of an Assembly ordinance amending MSB 17.23 to exclude pipeline and conveyor structures from MSB 17.55 Setback and Screening Easements.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2021.

\_\_\_\_\_  
Colleen Vague, Chair

ATTEST:

\_\_\_\_\_  
Karol Riese, Planning Clerk

(SEAL)

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**PUBLIC HEARING**  
**LEGISLATIVE**

**Resolution No. PC 21-21**

Amending MSB 17.67.030, Exemptions, Under Chapter 17.67,  
Tall Structures Including Telecommunication Facilities, Wind  
Energy Conversion Systems, And Other Tall Structures

(Pages 213- 238)

**PUBLIC HEARING**





**MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM**      **IM No. 21-165**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.67.030 EXEMPTIONS UNDER CHAPTER 17.67 TALL STRUCTURES INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES.

**AGENDA OF:**

**ASSEMBLY ACTION:**

**MANAGER RECOMMENDATION:** Introduce and set for public hearing.

**APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:** \_\_\_\_\_

Route To:	Department/Individual	Initials	Remarks
	Originator		
	Planning Director		
	Borough Attorney		
	Borough Clerk		

**ATTACHMENT (S):** Fiscal Note: YES ☒ NO ☐  
Ordinance Serial No. 21-085 ( pp)

**SUMMARY STATEMENT:** This ordinance is presented at the request of Assemblymember Boeve.

When the Tall Structure Chapter was originally adopted, amusement rides such as a tethered balloon taking people up into the air was not contemplated. Placement of tall amusement rides have the potential of negatively affecting surrounding land uses, visual view sheds, and property values. Consequently, such uses should be subject to the conditional use process to minimize impacts on surrounding land uses. Further, limiting the exemption as proposed to uses for less than 30 days is intended to bring such uses into the purview of the MSB Planning Commission as conditional uses.

**RECOMMENDATION OF ADMINISTRATION:** Adoption of the legislation.

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CODE ORDINANCE

Sponsored by: Assemblymember Boeve

Introduced:

Public Hearing:

Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 21-085**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.67.030 EXEMPTIONS UNDER CHAPTER 17.67 TALL STRUCTURES INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES.

---

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 17.67.030 (A) (2) is hereby amended to read as follows:

17.67.030 EXEMPTIONS.

(A) The following items are exempt from the provisions of this chapter:

. . . . .

(2) temporary tall structures, including but not limited to drilling derricks and construction cranes which are utilized on active construction projects or are on site less than 30 [180] calendar days total within a consecutive 12-month period and are not intended to routinely reoccur on the same site;

. . . . .

Section 3. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this \_\_\_\_  
day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
VERN HALTER, Borough Mayor

ATTEST:

\_\_\_\_\_  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

## **CHAPTER 17.67: TALL STRUCTURES INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES**

### Section

**17.67.010 Purpose and intent**

**17.67.020 Applicability**

**17.67.030 Exemptions**

**17.67.040 Types of permits available**

**17.67.050 Pre-application requirements for new tall structures that require a conditional use permit**

**17.67.060 General permit process for administrative and conditional use permits**

**17.67.070 General application requirements for administrative and conditional use permits**

**17.67.080 Standards for approval of new tall structures**

**17.67.090 Operation standards for new tall structures**

**17.67.100 Additional operation standards for wind energy conversion systems**

**17.67.110 Network improvement permit**

**17.67.120 Reconstruction and replacement**

**17.67.130 Abandonment**

**17.67.140 Transfer of a conditional use permit**

**17.67.200 Nonconforming uses**

**17.67.300 Violations, enforcement, and penalties**

**17.67.400 Appeal procedure**

**17.67.010 PURPOSE AND INTENT.**



- (A) The purpose of this chapter is to establish regulations for the siting of telecommunication facilities, wind energy conversion systems (WECS), and other tall structures.
- (B) It is the intent of the borough to enable the orderly build-out of wireless telecommunication infrastructure, WECS, and other tall structures while promoting the health, safety, and general welfare of the public by:
- (1) facilitating the organized deployment of wireless telecommunication networks;
  - (2) minimizing the overall number of future towers within the borough by encouraging the collocation of telecommunication equipment on existing and future structures;
  - (3) encouraging potential applicants for new tall structures to involve citizens early in the process so that concerns can be mitigated prior to application for permits;
  - (4) requiring consideration of and compatibility with the goals and objectives of the borough-wide comprehensive plan and other applicable regulations;
  - (5) minimizing potential hazards associated with tall structures; and
  - (6) encouraging the placement of tall structures in a manner that minimizes the negative effects on the visual and scenic resources of all surrounding properties.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.020 APPLICABILITY.**

- (A) This chapter applies to all private and public lands in the borough except within the incorporated city limits of Houston, Palmer, and Wasilla.
- (B) The requirements of this chapter shall supersede requirements of special land use districts within the borough as they pertain to telecommunications towers, except that special land use districts may provide additional regulations for:
- (1) a reduced height at which a permit is required under this chapter;
  - (2) vegetative screening and other camouflage techniques;
  - (3) the color of tall structures;
  - (4) tower type (monopole, lattice, guyed);

(5) lighting requirements that are not in conflict with requirements of the Federal Aviation Administration; and

(6) increased setbacks.

(C) This chapter shall apply to all tall structures taller than 85 feet including but not limited to:

(1) broadcast facilities;

(2) telecommunication towers;

(3) wind energy conversion systems; and

(4) tall structures as defined by MSB 17.125.

(D) Permits are required prior to construction of all new tall structures except as allowed by MSB 17.67.120, Reconstruction and replacement.

(E) Permits under this chapter shall not be approved unless the applicant has provided evidence demonstrating that the proposal conforms to the applicable provisions of this chapter.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.030 EXEMPTIONS.**

(A) The following items are exempt from the provisions of this chapter:

(1) church spires, religious icons, and flagpoles displaying official government or religious flags;

(2) temporary tall structures, including but not limited to drilling derricks and construction cranes which are utilized on active construction projects or are on site less than 180 calendar days total within a consecutive 12-month period and are not intended to routinely reoccur on the same site;

(3) temporary telecommunication facilities, upon the declaration of a state of emergency by federal, state, or local government. Such facilities must comply with all federal and state requirements. Temporary telecommunication facilities may be exempt from the provisions of this chapter up to 12 months after the duration of the state of emergency. An additional extension, no longer than 12 months, may be granted by the director upon written request and determination that the telecommunication facilities continue to be necessary for post-emergency operations;

- (4) temporary telecommunication facilities constructed for the purposes of providing coverage of a special event such as news coverage or sporting event, except that such facilities must comply with all federal and state requirements. Said telecommunication facilities are exempt from the provisions of this chapter up to 15 calendar days prior to the event and an additional 15 calendar days after the duration of the special event;
- (5) essential service utilities as defined by MSB 17.05;
- (6) tall structures within the boundaries of industrial districts designated by borough code;
- (7) lighting support structures less than 185 feet in height that are constructed for the Alaska Department of Transportation, are located within a right-of-way, and are used exclusively for illuminating major arterials and highways;
- (8) licensed amateur (ham) radio towers, except that modification or use of such towers for commercial use shall require a conditional use permit in accordance with this chapter;
- (9) addition, removal or reorientation of transmission equipment; and
- (10) routine maintenance and repair of tall structures and their components.

(Ord. 15-016, § 2 (part), 2015)

#### **17.67.040 TYPES OF PERMITS AVAILABLE.**

(A) There are three types of permits available for tall structures:

- (1) Administrative permit: new tall structures that are greater than 85 feet but less than or equal to 125 feet. The applicant may request that the decision on an administrative permit be made by the planning commission. The request shall be in writing at the time of application and all requirements for a conditional use permit shall be followed.
- (2) Conditional use permit: new tall structures greater than 125 feet; or tall structures that exceed the height threshold at which a conditional use permit within a special land use district is required.
- (3) Network improvement permit: allows legally constructed telecommunication towers to be increased in height in accordance with MSB 17.67.110.

(Ord. 15-016, § 2 (part), 2015)

#### **17.67.050 PRE-APPLICATION REQUIREMENTS FOR NEW TALL STRUCTURES THAT REQUIRE A CONDITIONAL USE PERMIT.**



(A) Prior to applying for a conditional use permit for a new tall structure, the potential applicant shall hold at least one community meeting:

- (1) The meeting shall be held at the nearest facility where community council meetings are regularly scheduled. If the facility is not available, the nearest available public facility that is capable of seating a minimum of 20 people shall be utilized;
- (2) The meeting shall be held at least 15 calendar days after mailing of the notification;
- (3) The meeting shall not start prior to 5 p.m. and no later than 7 p.m.;
- (4) Notification of the meeting shall, at a minimum, include the following:
  - (a) legal description and map of the general parcel, or parcels, within the coverage area under consideration for the telecommunication facility;
  - (b) description of the proposed development including height, design, lighting, potential access to the site, and proposed service;
  - (c) date, time, and location of informational meeting;
  - (d) contact name, telephone number, and address of applicant; and
  - (e) comment form created by the borough that has a comment submittal deadline and provides options for submitting comments.
- (5) At a minimum, the notification area for the meeting shall include the following:
  - (a) property owners within one-half mile of the parcels under consideration for the proposed tall structure; and
  - (b) the nearest community council and any community council whose boundary is within 1,200 feet of the parcels under consideration for the tall structure.

(B) A written report summarizing the results of the community meeting shall be prepared that includes the following information:

- (1) dates and locations of all meetings where citizens were invited to discuss the potential applicant's proposal;
- (2) content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, and other publications;

- (3) sign-in sheet(s) used at the meeting, that includes places for names, addresses, phone numbers, and other contact information such as email addresses;
- (4) a list of residents, property owners, and interested parties who have requested in writing that they be kept informed of the proposed development through notices, newsletters, or other written materials;
- (5) the number of people who attended meetings;
- (6) copies of written comments received at the meeting;
- (7) a certificate of mailing identifying all who were notified of the meeting; and
- (8) a written summary that addresses the following:
  - (a) the substance of the public's written concerns, issues, and problems;
  - (b) how the applicant has addressed, or intends to address, concerns, issues, and problems expressed during the process; and
  - (c) concerns, issues, and problems the applicant has not addressed or does not intend to address and why.

(Ord. 15-016, § 2 (part), 2015)

## **17.67.060 GENERAL PERMIT PROCESS FOR ADMINISTRATIVE AND CONDITIONAL USE PERMITS.**

(A) Incomplete Applications. For all permits under this chapter, the director may reject any application that fails to meet the requirements of this chapter. The rejection shall be issued, in writing, within 15 calendar days of receipt of an application under this chapter and shall state the deficient items.

(1) Notification. Upon determination of a complete application, the director shall notify surrounding property owners in accordance with MSB 17.03, except that:

- (a) The notification area will be one-half mile;
- (b) If applicable, the notification shall include all individuals who were notified of or submitted comments at the community meeting required by MSB 17.67.050.

(B) Determination. In granting or denying a permit for a new tall structure, written findings of fact and determinations of law shall be issued and shall include conditions as deemed appropriate to

protect the public health, safety or general welfare.

(C) Conditions of Approval. Conditions set by the commission for a conditional use permit or by the director for administrative permits may include but are not limited to the following:

- (1) height limitations;
- (2) increased height or structural capacity of a proposed tower to accommodate future collocation;
- (3) mitigation of drainage concerns;
- (4) tower type (monopole, lattice, guyed);
- (5) color;
- (6) landscaping;
- (7) parking;
- (8) screening;
- (9) signage;
- (10) lighting to be installed and maintained in accordance with Federal Aviation Administration AC 70/7460-1; or
- (11) setbacks greater than that required by MSB 17.55.

(D) Process Time Frame. For conditional use permits reviewed by the commission:

- (1) A public hearing shall be held by the commission within 60 calendar days of receipt of a complete application;
- (2) The commission shall render a decision within 30 calendar days from the close of public hearing.

(E) For an administrative permit reviewed by the director, a decision granting or denying the permit shall be made within 60 calendar days of receipt of a complete application.

(Ord. 15-016, § 2 (part), 2015)

## **17.67.070 GENERAL APPLICATION REQUIREMENTS FOR ADMINISTRATIVE AND CONDITIONAL USE PERMITS.**



(A) An application for a conditional use or administrative permit to construct a new tall structure may be initiated by a property owner or the owner's authorized agent and shall include:

- (1) completed application form provided by the department and signed by the property owner or authorized agent;
- (2) design drawings for the proposed tall structure, drawn to scale, and certified by a registered engineer or architect;
- (3) fee in the amount designated in MSB 17.99;
- (4) citizen participation report in accordance with MSB 17.67.050(B);
- (5) a certified site plan;
- (6) copy of a determination of no hazard to air navigation from the Federal Aviation Administration; and
- (7) if breakpoint technology is intended to be utilized, a written statement specifying the height at which the engineered structural weakness will be located.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.080 STANDARDS FOR APPROVAL OF NEW TALL STRUCTURES.**

(A) A permit for a new tall structure may only be approved if it meets the requirements of this section in addition to any other applicable standards required by this chapter.

(B) In granting or denying a permit, the commission or director shall make findings on whether the applicant has demonstrated that:

- (1) To the extent that is technically feasible and potentially available, the location of the tall structure is such that its negative effects on the visual and scenic resources of all surrounding properties have been minimized;
- (2) Visibility of the tall structure from public parks, trails recognized within adopted borough plans, and water bodies has been minimized to the extent that is technically feasible and potentially available;
- (3) The tall structure will not interfere with the approaches to any existing airport or airfield that are identified in the borough's regional aviation system plan or by the Alaska State Aviation System Plan; and

- (4) Granting the permit will not be harmful to the public health, safety, convenience, and welfare.

(Ord. 15-016, § 2 (part), 2015)

## **17.67.090 OPERATION STANDARDS FOR NEW TALL STRUCTURES.**

(A) The following setback requirements shall apply to all new telecommunications towers regulated under this chapter:

- (1) The equipment compound shall meet minimum setback distances from all property lines in accordance with MSB 17.55.
- (2) Minimum setback for the tower base shall be a distance equal to the height of the tower.
  - (a) The commission, or director if it is an administrative permit, may reduce the setback to a distance less than the height of the tower, if the applicant demonstrates there is no risk to public health, safety, or welfare of adjacent property owners.
- (3) Setbacks shall be determined from the dimensions of the entire lot, even though the tower may be located on lease areas within the lot.

(B) For all tall structures regulated under this chapter, adequate vehicle parking shall be provided on the subject property, outside of public use easements and rights-of-way, to enable emergency vehicle access.

- (1) No more than two spaces per provider shall be required.

(C) The following requirements apply to all new and existing telecommunication towers and wind energy conversion systems regulated under this chapter:

- (1) The following signage shall be visibly posted at the equipment compound:
  - (a) informational signs for the purpose of identifying the tower such as the antenna structure registration number required by the Federal Communications Commission, as well as the party responsible for the operation and maintenance of the facility;
  - (b) If more than 220 volts are necessary for the operation of the facility, warning signs shall be located at the base of the facility and shall display in large, bold, high contrast letters the following: "HIGH VOLTAGE – DANGER"; and
  - (c) a 24-hour emergency contact number.

- (2) A fence or wall not less than six feet in height with a secured gate shall be maintained around the base of the tower.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.100 ADDITIONAL OPERATION STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS.**

(A) In addition to the operation standards for new tall structures required by MSB 17.67.090, the following standards shall apply to wind energy conversion systems (WECS):

- (1) WECS shall be equipped with an automatic overspeed control device designed to protect the system from sustaining structural failure such as splintered or thrown blades and the overturning or breaking of towers due to an uncontrolled condition brought on by high winds; and
- (2) WECS shall have a manually operable method that assures the WECS can be brought to a safe condition in high winds. Acceptable methods include mechanical or hydraulic brakes or tailvane deflection systems which turn the rotor out of the wind.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.110 NETWORK IMPROVEMENT PERMIT.**

- (A) A network improvement permit allows legally constructed telecommunication towers to be replaced or modified in a manner that increases the overall height of the existing tower in accordance with this section.
- (B) A network improvement permit does not require notification to surrounding property owners.
- (C) The base of a replacement tower may be located no farther than 50 feet from the base of the original tower. The original tower shall be removed within 90 calendar days upon completion of construction of the replacement tower.
- (D) More than one network improvement permit may be obtained. However, the cumulative increase in overall height may not exceed the following:
- (1) up to 20 feet for telecommunications towers that are located outside of special land use districts. If the existing tower exceeds 200 feet, it can be increased by up to 10 percent of the height of the existing tower;



(2) Within a special land use district, height increase under this section is limited to a cumulative increase of 10 percent of the existing facility unless the applicant demonstrates that the additional height, not to exceed 20 feet, is necessary for installation of one additional antenna array.

(E) Application for a network improvement permit shall include the following:

- (1) application form signed by the property owner or authorized agent;
- (2) a description of the proposed modifications to the telecommunication tower, including a description of the height, type, and lighting of the new or modified structure and the existing structure;
- (3) a certified site plan for purposes of setback verification; and
- (4) design drawings for the proposed modified or new structure, drawn to scale, and certified by a registered engineer or architect.

(F) In granting a network improvement permit, the director shall make the following findings:

- (1) that the proposed development conforms to setback requirements of MSB 17.55;
- (2) that the telecommunication tower being extended was lawfully constructed at the time of application for a network improvement permit; and
- (3) that the proposed modification does not violate permit conditions of any valid permits that have been issued to the existing facility; provided, that the condition being violated does not limit height of the structure.

(G) A network improvement permit shall be approved within 60 calendar days from the time of application if it meets the requirements of this section.

(H) Telecommunication towers granted a permit under this section shall conform with the operation standards described by MSB 17.67.090(C).

(I) Replacement or modification of a telecommunication tower that is in accordance with this section is not subject to application or pre-application requirements required for a new tower under this chapter.

(Ord. 15-016, § 2 (part), 2015)

## **17.67.120 RECONSTRUCTION AND REPLACEMENT.**

(A) This section only applies to structures that are legally permitted or have obtained pre-existing legal nonconforming status.

(B) The property owner shall be responsible for all aspects of the operation, improvements, development, and maintenance of the site in compliance with the terms and conditions of the permit and all applicable local, state, and federal requirements.

(C) Tall structures may be replaced or reconstructed in order to improve the structural integrity of the tall structure or in the case of accidental damage or collapse.

(1) Reconstruction or replacement shall not:

- (a) increase lighting;
- (b) change the type of lighting;
- (c) change the tower type;
- (d) change the location of the tall structure; or
- (e) increase the height of a tall structure.

(2) In the case of accidental damage or collapse, if reconstruction or replacement has not commenced within one year of the date of the damage, the structure is considered to be abandoned and is subject to MSB 17.67.130, Abandonment.

(3) Reconstruction or replacement shall conform with requirements or conditions of a previously granted permit or pre-existing legal nonconforming determination.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.130 ABANDONMENT.**

(A) Any tower that is not operated for a continuous 12-month period shall be considered abandoned. In such circumstances, the following shall apply:

- (1) Tall structures shall be removed within 90 calendar days of abandonment at the owner's expense.
- (2) An applicant wishing to extend the time for removal or to initiate reactivation shall submit a letter to the department stating the reason for such extension. The director may extend the time for removal or reactivation up to 90 additional calendar days upon a showing of good cause.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.140 TRANSFER OF A CONDITIONAL USE PERMIT.**

Except as otherwise specified by code, or conditions placed by the commission or director, the privileges and requirements of a permit issued under this chapter shall run with the land.

(Ord. 15-016, § 2 (part), 2015)

### **17.67.200 NONCONFORMING USES.**

(A) Within the borough there may be tall structures which have commenced construction or are in existence as of the effective date of this chapter. Such structures which were lawful before the effective date of this chapter, but which would otherwise be prohibited, regulated or restricted under this chapter, are allowed to continue but shall not be increased in height except as provided in this chapter.

(1) Structures which have commenced construction as of the date of adoption of this chapter are allowed to be constructed. The height of the structures one year after the date of adoption of this chapter shall be considered the final height of the structure. Such structures may only be expanded in accordance with a permit under this chapter.

(2) Existing or proposed structures which have been granted a conditional use permit under MSB 17.60 are considered to have pre-existing legal nonconforming status and are allowed to continue in accordance with the requirements of the permit but shall not be increased in height except as provided in this chapter.

(3) Structures which are existing as of the date of adoption of this chapter are eligible for pre-existing legal nonconforming status under this chapter.

(4) All telecommunications towers greater than 85 feet shall comply with operations standards required by MSB 17.67.090(C).

(B) Nonconforming tall structures which have commenced construction or are in existence as of the date of this chapter are eligible for pre-existing legal nonconforming status upon submittal of the following:

(1) name, title, and contact numbers of the landowner, applicant, and persons in charge of the operation;

(2) height of structure;



- (3) legal description and borough tax account number of the subject parcel;
- (4) a certified site plan;
- (5) documentation of all signage within the equipment compound;
- (6) documentation demonstrating that the structure was in existence or had commenced construction prior to the date of adoption of this chapter; and
- (7) a nonrefundable fee as prescribed under MSB 17.99.

(C) Within 15 calendar days of submittal, the director shall issue a determination of incompleteness if the application fails to meet the requirements of this chapter. Rejection of the application for pre-existing legal nonconforming status shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be accepted as complete.

(D) Pre-existing legal nonconforming status will be determined based on the following:

- (1) whether the applicant has demonstrated that the development was constructed legally under the applicable code provisions at the time, if any;
- (2) whether the development meets standards in MSB 17.67.090(C).

(Ord. 15-016, § 2 (part), 2015)

### **17.67.300 VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

(A) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

(B) In addition to other applicable penalties, failure to correct the violation of code, after reasonable notice, may result in revocation of the permit.

(C) Complaints received by the borough of violations of state or federal law will be forwarded to the appropriate agency for enforcement.

(D) Authorized representatives of the borough shall be allowed to inspect the site and related records at reasonable times for the purpose of monitoring compliance with all permit conditions.

(E) The permittee shall assist and cooperate with authorized inspections upon reasonable notice from the borough.

(Ord. 15-016, § 2 (part), 2015)

## **17.67.400 APPEAL PROCEDURE.**

The provisions of MSB 15.39 govern appeals from a decision of the commission or the director, except for appeals from decisions on a network improvement permit. Decisions on a network improvement permit shall be appealed to a court of competent jurisdiction.

(Ord. 15-016, § 2 (part), 2015)

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By: Alex Strawn  
Introduced: August 2, 2021  
Public Hearing: August 16, 2021  
Action:

**MATANUSKA-SUSITNA BOROUGH**  
**PLANNING COMMISSION RESOLUTION NO. 21-21**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING MSB 17.67.030 EXEMPTIONS UNDER CHAPTER 17.67 TALL STRUCTURES INCLUDING TELECOMMUNICATION FACILITIES, WIND ENERGY CONVERSION SYSTEMS, AND OTHER TALL STRUCTURES.

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WHEREAS, the Assembly adopted an ordinance creating Chapter 17.67, Tall structures, including telecommunications facilities, wind energy conversion systems, and other tall structures; and

WHEREAS, the intent of MSB 17.67 is to establish regulations for the siting of telecommunication facilities, wind energy conversion systems (WECS), and other tall structures relating to land use and infrastructure; and

WHEREAS, when the Tall Structure Chapter was originally adopted, amusement rides, such as tethered balloon taking people up in the air, was not contemplated; and

WHEREAS, placement of tall amusement rides have the potential to negatively affecting surrounding land uses, visual view sheds, and property values; and

WHEREAS, such uses should be subject to the conditional use process to minimize impacts on surrounding land uses; and

WHEREAS, limiting the exemption to uses for less than 30 days is intended to bring such uses to the purview of the MSB Planning Commission as conditional uses.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission recommends the Matanuska-Susitna Borough Assembly adopt the changes to Ordinance 17.67 as follows:

1. (A) The following items are exempt from the provisions of this chapter:
2. . . . .
3. (2)temporary tall structures, including but not limited to drilling derricks and construction cranes which are utilized on active construction projects or are on site less than 30 [180] calendar days total within a consecutive 12-month period and are not intended to routinely reoccur on the same site;

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ADOPTED by the Matanuska-Susitna Borough Planning Commission  
this \_\_\_\_ day of \_\_\_\_, 2021.

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COLLEEN VAGUE, Chair

ATTEST

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KAROL RIESE, Planning Clerk

(SEAL)

YES:

NO:



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# **COMMISSION BUSINESS**

## **Upcoming PC Agenda Items**

(Pages 239-244)

# **COMMISSION BUSINESS**








**MATANUSKA-SUSITNA BOROUGH**  
**Planning and Land Use Department**  
350 East Dahlia Avenue • Palmer, AK 99645  
Phone (907) 861-7822  
[www.matsugov.us](http://www.matsugov.us)

## MEMORANDUM

DATE: August 5, 2021

TO: Planning Commissioners

FROM: Alex Strawn, Planning and Land Use Director 

SUBJECT: Items tentatively scheduled for future PC Meetings and Updates on PC items sent to the Assembly

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**September 20, 2021** (*MSB Assembly Chambers*)

### **Introduction For Public Hearing: Quasi-Judicial**

1. **Resolution PC 21-22**, A Conditional Use Permit In Accordance With MSB 17.30 – Conditional Use Permit (CUP) For Earth Materials Extraction Activities, For The Extraction Of Approximately 1,800,000 Cubic Yards Of Earth Material From a 61.9-Acre Site Within A 120-Acre Parcel, Tax ID # 17N02W10C001, Within Township 17 North, Range 2 West, Section 10, Seward Meridian. Public Hearing: September 20, 2021 (Applicant: MSB Land & Resource Management Division; Staff: Mark Whisenhunt).
2. **Resolution PC 21-23**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Approving A Variance To MSB 17.55 For The Construction Of A Single-Family Residence To Be Placed Approximately 38.1 Feet From The Shorelands Of Finger Lake On Government Lot 5, Tax ID # 18N01E34B002; Within Township 18 North, Range 1 East, Section 34, Seward Meridian. Public Hearing: September 20, 2021 (Applicant: Shaun Krautkremer; Staff: Mark Whisenhunt).

### **Introduction For Public Hearing: Legislative** (None)

### **Agency/Staff Reports** (None)

### **Land Use Classifications** (None)

### **Public Hearing: Quasi-Judicial**

(None)

**Public Hearing: Legislative**

(None)

**Unfinished Business**

(None)

**New Business**

(None)

**Commission Business**

- Upcoming Planning Commission Agenda Items

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**Upcoming PC Actions**

Quasi-Judicial

- D&S Alaskan Trail Rides, Inc. – Denali SpUD, 29N05W33D012 and 29N05W33D028 (Staff: Mark Whisenhunt)
- Alaskan Originals – Marijuana Retail Facility, 5060B01L001A (Staff: Mark Whisenhunt)
- BAM Alaska, Inc. – Marijuana Cultivation Facility – 2080B02L007 (Staff: Peggy Horton)
- Green Degree (Clapp) – Marijuana Retail Facility – 1011B01T001-2 (Staff: Peggy Horton)
- Aldeman – Multi-family Development Application – 17N01W18B011 (Staff: Peggy Horton)
- Frontier Plaza Subdivision – Earth Material Extraction – 18N10#31A004 (Staff: Mark Whisenhunt)
- Talkeetna Connection – Marijuana Retail Facility – 24N04W29D002 (Staff: Peggy Horton)

Legislative

- Lake Management Plan Update (Staff: Kelsey Anderson)
- Historical Preservation Plan (Staff: Adam Bradway)
- Municipal Separate Storm Sewer System (Staff: Ted Eischeid)
- Metropolitan Planning Organization (Staff: Kim Sollien)
- Capital Improvement Program (CIP) (Staff: Kelsey Anderson)
- Official Streets And Highway Plan (Staff: Kim Sollien)
- MSB Borough-Wide Comprehensive Plan (Staff: Kim Sollien)
- Marijuana Code Update (Staff: Alex Strawn)
- School Site Selection (Adam Bradway)

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**PC Decisions Currently Under Appeal**

- **Resolution PC 20-29**, A Resolution Of The Matanuska-Susitna Borough Planning Commission Adopting Findings Of Fact And Conclusions Of Law Supporting The Denial Of PC Resolution 20-18 Concerning A Request For A Variance From MSB 17.55 To Allow An Existing Single-Family Residence To Encroach Into The

Required 75-Foot Waterbody Setback At 5782 S. Big Lake Road Tax ID# 6142000L006; Within Township 17 North, Range 3 West, Section 29, Seward Meridian (Applicant: Dennelle Seetomona on behalf of Janice Ellsworth; Staff: Mark Whisenhunt).

**BOAA Case # 20-03**

**The decision of the Planning Commission was upheld.**

**Filed in Superior Court.**



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