

AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - POACHERS COVE PDM 2022 REPLAT**

<b>KPB File No.</b>	2022-002
<b>Plat Committee Meeting:</b>	February 14, 2022
<b>Applicant / Owner:</b>	Pamela Diane McCarl, Anchorage, AK
<b>Surveyor:</b>	Jason Young / Edge Survey and Design, LLC
<b>General Location:</b>	Spruce Avenue W, Ridgeway

<b>Parent Parcel No.:</b>	057-493-66, 057-493-67
<b>Legal Description:</b>	Lots 117 and 118 Poachers Cove PUD Amended Plat No KN 87-69
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	Community

**STAFF REPORT**

**Specific Request / Scope of Subdivision:** The proposed plat combines two lots ranging in size from 2,300 to 2,600 sq. ft. into one lot that will be 4,900 sq. ft. by removing the shared lot line.

**Location and Legal Access (existing and proposed):** This subdivision does not front on a public right of way. Legal access to this subdivision is from an unnamed road located within Tract C, a private access tract. Poachers Cove Homeowners Association is the owner of Tract C. The roadway does not appear to have a street name.

Tract C connects to Spruce Avenue West, a dedicated right of way that is improved and maintained by KPB.

Any access issues will need to be worked out with the landowner, Poachers Cove HOA.

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

**Site Investigation:** The subdivision is generally flat and not affected by steep terrain. The Kenai River is located 530 feet to the west and a dredged boat basin is located 85 feet to the north. This subdivision is not located within a flood zone area and not affected by the anadromous waters habitat protection district. No wetlands are shown to affect this subdivision.

**Staff recommends** removing plat note 6 that references the anadromous waters habitat protection district.

KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p>
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	C. State Parks  Reviewer: Russell, Pam Comments: No Comments
Alaska Dept. of Fish and Game	Alaska Dept of Fish and Game has no objections to the proposed platting actions. The proposed actions will not affect public access to public lands and waters.

**Staff Analysis** Wilson Subdivision, KN 1374 created 2 acre lots and dedicated public right of ways. Poachers Cove – Amended, KN 87-69, is a planned unit development that vacated the right of ways, subdivided many small lots, and created a private access tract.

The two lots being replatted have no improvements.

The lot to the west and southwest are two combined lots, similar to this platting action, and both have buildings constructed on the lot. The two lots to the south of this subdivision appear to have non-permanent travel trailers located within the parcel.

The submittal application states that a community water and community wastewater system serve this parcel.

Per KPB 20.40.020(A)(2), this platting action will be increasing the size of the lot by more than 1,000 sq. ft. and a soils analysis report will not be required.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states beneficial interest holders affect the property.

The property is not within an advisory planning commission.

**Utility Easements** Platted utility easements do not affect this subdivision. A utility easement granted by separate document, with no defined location, has been identified in plat note 3.

As this lot does not front on a dedicated right of way, KPB 20.30.0360(D) will not apply to this platting action and no utility easements will be required to comply with KPB code.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

**Utility provider review:**

HEA	
ENSTAR	No comments or recommendations.
ACS	
GCI	

**KPB department / agency review:**

Addressing	Reviewer: Haws, Derek Affected Addresses: 45552 SPRUCE AVE W Lot 117 45552 SPRUCE AVE W Lot 118
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	<p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: SPRUCE AVE W</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 45552 SPRUCE AVE W Lot 117 will be changed to 45552 SPRUCE AVE W Lot 117A 45552 SPRUCE AVE W Lot 118 will be deleted.</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: No comments</p>
Planner	<p>Reviewer: Aldridge, Morgan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Wilcox, Adeena</p> <p>Comments: No comment</p>
Advisory Planning Commission	N/A

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

**STAFF RECOMMENDATIONS**  
**CORRECTIONS / EDITS**

**KPB 20.25.070 – Form and contents required**

**Staff recommendation:** final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;  
**Staff recommendation:** Remove the black text mask boxed on the labels. Depict and label the City limits.

**KPB 20.30 – Subdivision Design Requirements**

**Staff recommendation:** final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.

20.30.050. Legal access.

A. The applicant shall provide an access plan to the planning department verifying the existence of legal access to the subdivision boundary. The plan shall consist of the documents depicting the access, a map depicting the location of the access, and topographic information indicating that construction which meets the design requirements set forth in KPB Chapter 20.30 is practical and economical. In this title, legal access exists where an unrestricted, public right-of-way connects the subdivision to the state highway system, the state marine highway system or a regularly served public airport, and one of the following is met:

1. Ingress and egress will be provided over section line easements located within a surveyed section;
2. The applicant provides copies of borough-accepted recorded conveyances creating the public easement or right-of-way where the access is located;
3. That access is a State of Alaska maintained road or municipal maintained road;
4. The applicant provides documentation satisfactory to the borough demonstrating that public legal access is guaranteed through judicial decree; or
5. The right-of-way is an easement or fee interest at least 60 feet in width dedicated or irrevocably conveyed to the public and acceptable to the planning commission.

B. The following situations may qualify for a waiver of the legal access requirement:

1. Upon finding that no practical means of providing road access to a proposed subdivision exists and upon presentation of credible and convincing evidence by the applicant that permanent public access by air, water, or railroad is both practical and feasible, the planning commission may waive the legal access requirements of KPB 20.30.050(A). If access other than by road is approved, the mode of access shall be noted on the plat. .
2. Where only a 30-foot dedication exists over all or a portion of the legal access to a subdivision, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the other 30 feet will be dedicated in the future.
3. Where a road is in use for physical access but there is no right-of-way document for all or part of the access road, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the right-of-way will be dedicated in the future.

**Staff recommendation:** *Concur that an exception to KPB 20.30.050 is not required as Tract C, although a private tract, does provide physical access to all lots within Poacher's Cove development.*

20.30.060. Easements-Requirements.

A. The planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.

B. Upon submittal of a preliminary plat, the planning department shall provide a copy to public utility companies for their comments-and recommended design of utility easements. If the property is subject to existing natural gas or petroleum pipeline easements, a copy shall also be furnished to the appropriate company for comment.

C. The subdivider bears the responsibility for coordination with the utility companies during the design and development phases. When a subdivider and the utility company cannot agree on easements, the final plat will be taken to the planning commission for determination of easements.

D. Unless a utility company requests additional easements, the front ten feet adjoining rights-of-way shall be designated as a utility easement, graphically or by note. Within the boundaries of an incorporated city, the width and location of utility easements will be determined by the city and affected utility providers.

**Staff recommendation:** *Concur that because this subdivision does not front on a dedicated right of way, no additional utility easements are required to be granted with this platting action. Any required utility easements will be a negotiation between the land owner and the utility provider.*

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10  
**Staff recommendation:** *Concur that Tract C is a private access tract and a street name is not required at this time per the Addressing Officer's review.*

20.30.170. Blocks-Length requirements. Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.  
**Staff recommendation:** *Concur that an exception is not required as this subdivision is located within a planned unit development and access is from a private tract. The block length is longer than allowed under KPB code, but this platting action cannot provide any additional right of way to help comply with block length.*

20.30.200. Lots-Minimum size.  
Except in cities where zoning and subdivision regulations establish different minimums, lots must be designed to meet the following area requirements:

A. Lots shall contain at least 6,000 square feet if served by public wastewater disposal and water systems.

B. Lots shall contain at least 40,000 square feet if both the well and wastewater disposal are to be located on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an on-site well and wastewater disposal system.

C. Subdivisions designed to be served by public wastewater disposal and water systems but not yet served by such systems may be permitted to contain lots of less than 40,000 square feet if the following conditions are met:

1. The available area may be reduced to 20,000 square feet when public water or wastewater disposal system is available, complying with KPB 20.40;

2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure adequate area is available to each building site for safe on-site well and wastewater disposal, including area for a replacement wastewater disposal system.

**Staff recommendation:** *Concur that an exception is not required as the lots that currently exist do not comply with this section of code and the combining of the two lots into one will provide a larger parcel, and no additional lots, under common ownership, can be included in the replat.*

20.30.210. Lots-Access to street. Each lot shall abut on a fee simple dedicated street except as provided by KPB 20.30.030(B).

**Staff recommendation:** *Concur that an exception is not required as the current access is a private access within Tract C and this platting action cannot provide a dedication to front on a fee simple right of way.*

20.30.240. Building setbacks.

A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:  
Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

- C. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:

Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

**Staff recommendation:** *Concur that this parcel is not affected by a building setback as it does not front on a dedicated right of way.*

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#### **KPB 20.40 – Wastewater Disposal**

**Staff recommendation:** *final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.*

20.40.010 Wastewater disposal.

*Platting Staff Comments: The wastewater disposal note on the plat complies with KPB standards.*

**Staff recommendation:** *comply with 20.40.*

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#### **KPB 20.60 – Final Plat**

**Staff recommendation:** *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.030. Certificate of borough finance department required.

*Platting Staff Comments: All taxes levied on the property within the subdivision shall be paid prior to recordation of the final plat. If approval is sought between January 1 and the tax due date, there shall be on deposit with the borough finance department an amount sufficient to pay the entire estimated real property tax for the current year. Prior to filing of the final plat, a certificate to this effect shall be provided by the borough finance director or his designee upon request by the planning director. Estimated tax payments shall be applied to the actual bill as of July 1 or such earlier date as the taxes due have been determined.*

*Taxes owed may include special assessments for utility or road assessment districts established by KPB ordinance.*

**Staff recommendation:** *comply with 20.60.030.*

20.60.180. Plat notes.

A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required, Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

**Staff recommendation:** *Place the following notes on the plat.*

- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*

20.60.200. Survey and monumentation.

**Staff recommendation:** *Correct the survey marker symbols to unique symbols for the different types of survey markers. Correct the section information for the 1/4 corner Section 19 / Section 30. Comply with 20.60.200*

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**RECOMMENDATION:**

**STAFF RECOMMENDS:**

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

**NOTE: 20.25.120. - REVIEW AND APPEAL.**

**A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.**

**A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.**

**END OF STAFF REPORT**