

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

5. Grouse Creek Subdivision 2024 Addition

KPB File 2022-022R2

Johnson Surveying / Marshall & Esther Ronne Living Trust

Location: Punkin Avenue & Seward Highway

Bear Creek Area

AGENDA ITEM E. NEW BUSINESS

**ITEM 5 - PRELIMINARY PLAT
GROUSE CREEK SUBDIVISION 2024 ADDITION
AMENDED STAFF REPORT**

KPB File No.	2022-022R2
Plat Committee Meeting:	October 14, 2024
Applicant / Owner:	Marshall and Ester Ronne Living Trust of Seward, AK
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Mile 7 Seward Highway, Bear Creek Area

Parent Parcel No.:	125-033-28; 125-033-14
Legal Description:	T 01N R 1W SEC 12 SEWARD MERIDIAN SW 2016007 GROUSE CREEK SUB 2016 ADDN TRACT B T 1N R 1W SEC 12 SEWARD MERIDIAN SW THAT PORTION OF THE N1/2 SW1/4 LYING BETWEEN THE SEWARD HIGHWAY & THE ALASKA RAILROAD ROWS EXCLUDING GROUSE CREEK SUB & THOSE PORTIONS PER WD 15 @ 251 & WD 23D @ 24 & WD 11 @ 949
Assessing Use:	Commercial and Vacant
Zoning:	Unrestricted
Water / Wastewater	Onsite/ Onsite
Exception Request	None Requested

AMENDED STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 46.77-acre parcel into six lots, one tract, and a small dedication. The lots will range in size from 1.39 acres to 2.893 acres, while the tract will be 33.337 acres.

Location and Legal Access (existing and proposed):

The preliminary plat is located near mile 7 of the Seward Highway in the Bear Creek Area, providing access to four of the lots and the tract. Access to the other two lots on the south is available via Punkin Avenue. The Seward Highway is a 100-foot-wide, state-maintained road, while Punkin Avenue is a 60-foot-wide right-of-way that is not maintained by the Borough.

The plat proposes a dedication of a half bulb at the end of Punkin Avenue to serve as an emergency turn-around point.

The certificate to plat notes a section line easement, possibly located on the west line. ***Staff recommends that the surveyor verify the section line easement and, if necessary, add it to the drawing.***

There is an access easement granted for the one-acre lot excluded from the plat within Tract B1. This access easement is noted in plat note #10. ***Staff recommends correcting plat note #10 to match the parent plat note by changing "road" to "driveway."***

The block does not close or contain compliant lengths. This is a large acreage tract with a 70-acre parcel owned by Alaska DNR to the west. Due to constructed improvements, terrain, floodways, flood hazard areas, and streams, achieving a closed block will be difficult. ***Staff recommends the plat committee concur and exception is not required, as any required dedications will not improve the block.***

PER DOT: The platting action voids any previous issued permits. Land owners will need to reapply for driveway access permits to state road and right-of-way access.

KPB Roads department is concerned with ROW access for Lot B4 and Tract B1 which both have access, Tract B1 by Seward Highway beside Lot 1 SW 88-11 and Lot B4 by the end of Punkin Ave.

KPB Roads Dept. comments	<p>Out of Jurisdiction: No</p> <p>Roads Director: Griebel, Scott</p> <p>Comments: Lot B4 & Tract B1 appear to have no dedicated ROW access. The remainder of the subdivided lots will rely on SOA DOT permitting for access.</p>
SOA DOT comments	No comments

Site Investigation:

There are structures located on the plat that will be split between the lots B2 and B3 and Tract B1.

The low wet areas are depicted on the plat. The correct plat note is present that a wetlands determination may be required.

The proposed subdivision is within a flood hazard area. The flood hazards are depicted and labeled on the plat and should remain on the final plat.

Plat notes are present on the plat. Flood Hazard and Floodway notices are present as notes 5 and 6. The Seward Bear Creek Flood Service Area had requested additional wording to the flood hazard note or a new note be added when they reviewed the first design. **Staff recommends adding to the flood hazard notice or adding an additional note, "Portions of the parcel are also designated as Seward Mapped Flood Data Area as included in the Flood Risk Assessment and Hydrologic and Hydraulic Report."**

Amended portion

Since the original staff report was completed, more discussion has been done between Julie Hindman and staff concerning the proposed cul-de-sac bulb at the end of Punkin Avenue. This dedication will be too near a water source that is in constant movement, so it is feared that any road installed would not be of adequate quality and subject to erosion. This plat will also be too close to the watercourse of the creek as it meanders, violating KPB 20.30.040 Streets within 100 feet of waterbodies. **Staff recommends the Plat Committee grant an exception to KPB 20.30.100 – Cul-de-sacs** A. the closed end of the cul-de-sac shall have a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be constructed to a 4 percent grade or less. Upon approval the dedication shall be removed.

Grouse Creek is depicted on the plat. This is an anadromous stream but does not fall under KPB Title 21 but does have protections in place from the state as noted in the comments below and any modification to the stream bank or bed will require a permit.

KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie</p> <p>Floodplain Status: IS in flood hazard area</p> <p>Comments: Portions are also on Map Panel 02112C-4553D. Floodplain zone boundaries must be clearly labeled and marked to tell X Zone from the AE Zone. The floodway must also be clearly marked and labeled. Code required plat notes must be present. The purposed location of the partial bulb at the end of Punkin Avenue could have negative impacts on the floodplain if constructed. The dedication of a</p>
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	<p>utility easement in that location may also be a negative impact in the floodplain as well as provide issues/concerns during a flood event.</p> <p>Flood Zone: AE,X Zone, SMFDA, Floodway Map Panel: 02122C-4534D In Floodway: True Floodway Panel: *same as FIRM Panel B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p>
State of Alaska Fish and Game	<p>*No current review was received; however, the previous submittal reviews have been included*</p> <p>This plat depicts Grouse Creek which has been identified as an anadromous stream (AWC 231-30-10080-2010-3065). Any modifications to the streambank or bed will require a Fish Habitat Permit from ADF&G's Division of Habitat.</p>

Staff Analysis

The land was originally part of the N1/2 SW1/4 Section 12, Township 1 North, Range 1 West, SM Alaska and has had several parcels deeded from it by deed. The last subdivision of the parcel was Grouse Creek Subdivision 2016 Addition SW 2016-7 creating the current configuration. This platting action is subdividing Tract B of SW 2016-7 and a portion lying between Seward Highway and the Alaska Railroad Right-of-way.

A soils report will be required and an engineer will sign the final plat.

Staff would like to mention that the Certificate to Plat included a statutory warranty deed recorded in 2021. The deed attempted to deed a portion of proposed Tract B2. The deed used GPC coordinates to describe the property. Due to the description, the title company included the note "The legal description in said Warranty Deed is insufficient to determine the location, further, Grantor Ester K. Ronne, is identified as an "Agent" rather than a "Trustee" of the Trust." They also included the note "The following condition may affect in regards to subject recorded Warranty Deed: Any question which may be raised by a government entity, as the land is a portion of a larger parcel for which no plat has been filed, as required by Alaska Statutes or local law."

The change in property lines by a deed is regarded by the borough as an "illegal subdivision". The borough has not recognized the deed and no ownership or property lines have changes. Platting staff requested the KPB GIS department review the deed and the description given. Staff did find some discrepancies between the distances and points mentioned in the deed but it appears to be for the eastern improvement located north of the creek within Tract B2. It does not appear that this platting action will be creating that lot. Unless the ownership of the Tract is later conveyed, including the portion described and to the owner listed in the deed, a cloud on the title may remain. The owners may need to work with a title company or seek legal counsel to clear the title and determine how to deal with the recorded deed.

Notice of the proposed plat was mailed to the beneficial interest holder on September 23, 2024. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The property is not within an advisory planning commission.

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

According to the parent plat Grouse Creek Subdivision 2016 Addition SW 2016-7, there is a drive encroachment near proposed Lot B4 crossing into Lot 3. Staff recommends the surveyor identify if this driveway is still encroaching and if so, show on the final and present staff with a solution. And note any other issues.

Utility Easements

Grouse Creek Subdivision 2016 Addition, Plat SW 2016-7, granted 15 foot utility easements along the right of ways of Punkin Avenue and the Seward Highway. Staff recommends plat note #1 be changed to show a 15' utility easement for the new proposed utility easement so to be uniform with the previous utility easement.

An easement was granted by recorded document that is 60 feet wide and centered on the overhead transmission line along the Seward Highway. This is depicted on the plat with reference to the recorded document.

An additional easement was granted by document for existing lines. Per the attachment recorded with the easement, this easement runs through portions of Tract B1 to the Deed lot. The plat is depicting some overhead lines within the proposed dedication and within portions of Tract B1. **Staff recommends the depiction of the easement as granted be shown on the plat with a reference to the recording document or provide a plat note.**

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	No comments
ENSTAR	No comments
ACS	No response
GCI	Approved as shown
SEWARD ELECTRIC	No response
CHUGACH ELECTRIC	No comments

KPB department / agency review:

Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 33236 PUNKIN AVE, 33276 PUNKIN AVE, 14835 SEWARD HWY Existing Street Names are Correct: Yes List of Correct Street Names: PUNKIN AVE, SEWARD HWY Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: ADDRESSES WILL REMAIN WITH ASSOICATED STRUCTURES.
Code Compliance	Reviewer: Ogren, Eric

	Comments: No comments
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment
State of Alaska, Department of Natural Resources	See comments in packet

STAFF RECOMMENDATIONS
CORRECTIONS / EDITS

Carry forward plat note #11 from the parent plat SW 2016-7.
Give dimensions for line between lots B3 and B4, north of road.

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.*

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation:

Modify the KPB File to 2022-022R2

Add to the legal WD Bk 23D Pg 133

Add to the legal behind Grouse Creek Subd. No. 2 SW98-16

Correct the legal to the N1/2 SW1/4 Section 12 on line 3.

Under Prepared for; correct to Marshall & Esther Ronne Living Trust, dated May 15, 2002

C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

Staff recommendation:

Verify if there is and size of a section line easement on the west line of the plat and if so, show it on the plat.

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:

Add portion of subdivision east of highway to the vicinity map

Correct spelling of Kwechak Creek.

Show location of Chugach National Forest more definitively on the map.

- F. The location, width and name of existing and platted streets and public ways, railroad rights-of-way, easements, and travel ways existing and proposed, within the subdivision;
Staff recommendation:
10' proposed utility easement should match the existing 15' utility easement from parent plat.
- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;
Staff recommendation:
Lots should be relabeled to numbers without the B and be consistent with the lots to the east.

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.

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:

Staff recommendation: comply with 20.40.

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.

Amended

EXCEPTIONS REQUESTED:

A. KPB 20.30.100 – Cul-de-sacs (A)

Staff Discussion:

20.30.100. - Cul-de-sacs.

A. Streets designed to have one end permanently closed shall be no more than 1,000 feet long. The closed end of the cul-de-sac shall have a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be constructible to a 4 percent grade or less.

Findings:

1. The cul-de-sac is within 100' of a water source
2. This will only service one new dwelling, Lot 4B.
3. The road may never be developed.
4. The development of the cul-de-sac will be detrimental to the creek bank.
5. Utilities installed around the cul-de-sac dedication would be further out towards the creek.
6. Granting this exception will not be detrimental to adjacent land owners.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements

set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1, 2, 4 & 5 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1, 2 & 4 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1, 4 & 6 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, 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 DECISION OF THE PLAT COMMITTEE 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
