

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

- 9. Tulin Birch Lake Subdivision; KPB File 2023-011
Segesser Surveys / Alaska Growth Properties, LLC
Location: Rector Street
Nikiski Area / Nikiski APC**

Brad Ackman
51020 Eagle Avenue
Nikiski, AK 99611
(702) 882-2404
bradackman123@gmail.com

December 6, 2023

Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, AK 99669
(907) 714-2200

Re: Proposed Tulin Birch Lake Subdivision, KPB File No. 2023-011

Dear KPB Planning Commission,

My name is Brad Ackman and I am the owner of the adjacent 200 acres immediately east and south of the proposed Tulin Birch Lake Subdivision. While I do not oppose the proposed subdivision, I want to make a few comments.

I am a professional firearms trainer and have been using my Eagle Avenue property to conduct defensive firearms courses for the past 20 years, since January of 2004. Attached is my current business license, just for reference. My courses are open to any law-abiding citizen but have become most popular with commercial airline pilots in support of the Federal Flight Deck Officer (FFDO) program. Additionally, I routinely train professional people such as doctors, dentists, engineers, judges, and federal law enforcement from U.S. Fish and Wildlife Service. I mention the professional nature of my clients only to clarify that I am not just another “North Roader” in Nikiski banging-off rounds in the back yard.

I hereby request that all prospective purchasers of lots in the Tulin Birch Lake Subdivision be made aware of the noise (possibly described as “nuisance, noxious, obnoxious, and/or offensive noise”) stemming from my long-standing, professional firearms training business.

I will be attending the public hearing in person in Soldotna on December 11th.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Ackman', written in a cursive style.

Brad Ackman

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

Brad Ackman

1811 S Sheridan Ave, Sheridan, WY 82801

owned by

Brad Ackman

is licensed by the department to conduct business for the period

November 2, 2023 to December 31, 2025
for the following line(s) of business:

61 - Educational Services



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Sande
Commissioner

Brad Ackman
1811 S Sheridan Ave
Sheridan, WY 82801

Brad Ackman
51020 Eagle Avenue
Nikiski, AK 99611
(702) 882-2404
bradackman123@gmail.com

December 8, 2023

Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, AK 99669
(907) 714-2200

Re: Proposed Tulin Birch Lake Subdivision, KPB File No. 2023-011

Dear KPB Planning Commission,

I submitted a first round of comments regarding proposal 2023-011 to the Planning Department via emailed letter on December 6th. After a more thorough examination of the proposal packet, I am submitting additional comments below.

Alaska Growth Properties, LLC, has requested an exception to the Kenai Peninsula Borough standards prohibiting the construction of a road within 100 feet of a waterway (see page 6 of 7, E9-9 below).

*Staff recommendation: comply with 20.60.200
Comply with 20.60.200 for the final.*

EXCEPTIONS REQUESTED:

A. KPB 20.30.040 Streets within 100 feet of waterbodies

Surveyor's Discussion: The ROW is centered on the existing road which is the only access to the eastern portion of the property.

Findings:

1. The ROW is centered on the existing road which is the only access to the eastern portion of the property.

Staff Discussion:

20.30.040. - Streets within 100 feet of waterbodies.

No dedications are allowed within 100 feet of the ordinary high water line of a waterbody unless necessary for access to a lot where no reasonable alternative access exists or the dedication provides access to a bridge or public facility, waterbody or watercourse. Final plats must comply with KPB 20.60.050 and 20.60.080.

Findings:

2. There is limited space between the lakes, as measured it is approximately 210'.
3. From KPB contour data the road appears to be over 5 feet above the waterline of the lakes.
4. By granting the exception, no lots will be denied access.
5. The property to the east of this land can extend access to this property in the future.

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 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, & 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, 2 & 5 appear to support this standard.

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On page 7 of 7, E9-10 seen below, the staff recommendation is to “grant approval of the preliminary plat subject to staff recommendations.”

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 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.

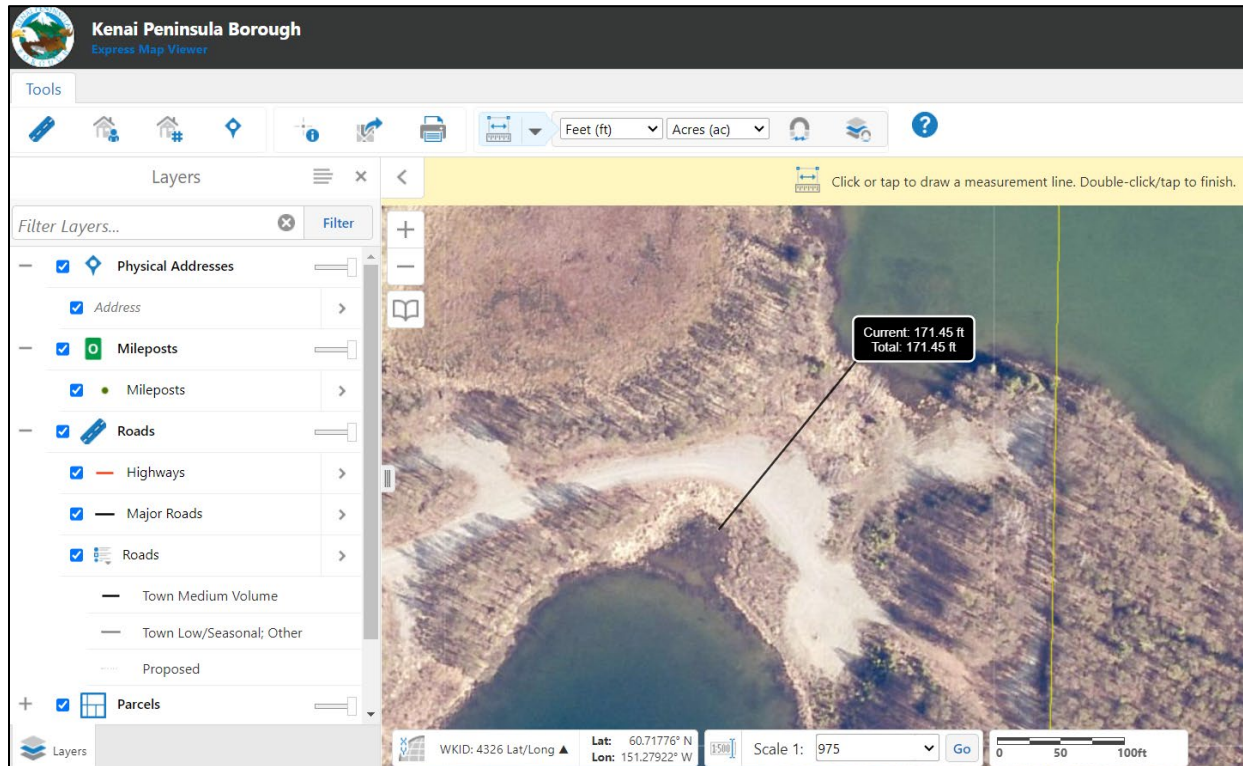
END OF STAFF REPORT

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E9-10

I disagree with the approval of any exceptions which allow a road to be constructed closer than 100 feet to a waterway for the following reasons.

1. The distance between the two lakes is roughly 175-190 feet, not the 210 feet described in the KPB 2023-011 documents. During high water levels, such as the last several years, the distance between the two lakes is even less than 175 feet. If a 40-foot road were allowed in this location, the road would be roughly 65 feet from each lake which is obviously FAR LESS than the standard of 100 feet. The 100-foot standard was established for a reason...to protect pristine lakes like those in question.



2. The small isthmus of land between the two lakes has already suffered significant degradation several decades ago during a failed attempt to connect the two lakes in order to create a single, larger lake suitable for float planes. Allowing the construction of a road which requires an exception from the Borough would further degrade this land. Instead of further degradation, this land should be allowed to recover and revegetate to regain the natural qualities it once had.
3. With construction and residential development, the chances of soil erosion, spills, and other environmental problems are greatly increased.

As an adjacent landowner and interested party, I would like to exercise my right to a further review of this exception as described in KPB 2.40.080:

2.40.080. - Plat committee—Powers and duties—Hearing and review procedures.

The planning commission in its capacity as the platting board is authorized to delegate powers to hear and decide cases involving platting to a plat committee composed of those members of the planning commission present for such hearing so long as there are at least 4 members of the planning commission present. The following procedures are prescribed for hearings and reviews:

- A. Cases may be decided by a majority vote of the plat committee members present.
- B. Review of a decision of the plat committee may be heard by the planning commission acting as platting board by filing written notice thereof with the borough planning director on a form provided by the borough planning department. The request for review shall be filed within fifteen days of date of distribution of the decision of the plat committee by personal service or service by mail. A request for review may be filed by any person or agency that was sent a notice of decision. The request for review must briefly state the reason for the review request and applicable provisions of borough code or other law upon which the request for review is based. Notice of the review hearing will be issued by staff to the original recipients of the plat committee public hearing notice.
- C. Cases reviewed shall be heard de novo by the planning commission acting as the platting board.

As I stated in my earlier letter, I will be attending the public hearing in person in Soldotna on December 11th.

Sincerely,

A handwritten signature in black ink, appearing to read "B.D. Ackman". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brad Ackman