

DESK PACKET

(ITEMS THAT CAME IN AFTER MEETING PACKET WAS POSTED)

6. Whiskey Gulch Lot 4 Replat; KPB File 2022-106
Ability Surveys / Stapel
Location: Stikens Street, Thunder Road & Chopp Street
Anchor Point Area / Anchor Point APC

From: [Ruffner, Robert](#)
To: [Shirnberg, Ann](#)
Subject: FW: <EXTERNAL-SENDER>KPB 20.40 and Staff Report for KPB file 2022-106; WHISKEY GULCH LOT 4 REPLAT
Date: Thursday, August 4, 2022 2:23:17 PM
Attachments: [5374 - KPB Julie Hindman - PRELIMINAR PLAT 7 12 22.pdf](#)
[STAFF REPORT Whiskey Gulch Lot 4 Replat KPB 2022-106.pdf](#)
[5374_DEC FILE 23759.pdf](#)

From: Gary Nelson <gary@abilitysurveys.com>
Sent: Thursday, August 4, 2022 11:34 AM
To: Ruffner, Robert <RRuffner@kpb.us>
Cc: staple6@live.com; abilitysurveys21@gmail.com
Subject: <EXTERNAL-SENDER>KPB 20.40 and Staff Report for KPB file 2022-106; WHISKEY GULCH LOT 4 REPLAT

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Mr. Ruffner, KPB Planning Director;

If KPB Planning Staff has not discussed this issue with you, I would like you to read the attached pdf of Preliminary Plat submittal letter for the subject subdivision, scheduled to be considered at the August 8th PC Meeting. The key issue is the Wastewater section of KPB Code 20.40. Also I take issue with the **Staff Report; EXCEPTIONS REQUESTED: Findings** that do not list or give any merit to the letter I have attached (as a pdf) in their **Findings**. Also attached is the KPB Staff Report.

In the past, the KPB Planning Staff would incorporate Surveyor's findings into their declared findings. I am of the mind that all of the "findings" should be listed in the reported "**Findings**".

I will clarify and itemize the findings from my letter (and edited and added to) as;

A1. Until Ordinance 2020-45 deleted language in KPB 20.40.20 that allowed nominal five acres to be exempt from Soils Testing and Reporting for Wastewater purposes, nominal five acres was excluded because 5 acres = 217800 square feet. An aliquot 5 acre parcel is typically more than enough, but when right-of-way dedications are granted the area is reduced. Because of the aliquot location of this nominal 5 acres and because of dedications on 3 sides, the area is reduced to less than the required 200,000 square feet. The dedications either exist from previous plat action and was needed on the west side to match and complete an existing dedication. Without that match the lot sizes would be 1500 feet shy of the required 200,000 square feet. The 200,000 square feet criteria was somewhat of a random but deemed practical size for KPB to make a provision of responsibility to insure parcels created could support wastewater disposal on-site.

A2. Because of the wetlands to the east, the Chop Street Right-of-Way will probably never be built or used as a roadway. If Chop Street Right-of-Way were not dedicated out of useable area, the lots would each be only about 1500 square feet less than the 200,000 square feet, a negligible amount, that previous to enactment of Ordinance 2020-45 in 2021 would have been allowed.

A3. Low density development surrounds the parcels with three 40 acres parcels in one direction and three 10 acres parcels in the other direction completing the surrounding area. There is ample room for wastewater leaching without posing a threat to health.

A4. Tract 4A currently has a good functioning septic system installed by Certified Installer Jason Johnson with as-built filed with Alaska Department of Environmental Conservation. Again, no threat to health & welfare of neighbors or owners. I called him and he verified his report on file with DEC, there is sand and silty sand in the area where he installed the septic system. See attached report on file with DEC. He also stated that he did complete the installation.

A5. The owners (Husband and Wife) reside on Lot 4A. They are retired and would like to sell their residence to build and move in to a smaller residence on the proposed Lot 4B. They own an aliquot 10 acres that they wish to subdivide in half to facilitate their plans.

A6. Additionally not mentioned previously; The Borough and State Wastewater Regulations were written based on 1970's wastewater systems technology that has been become antiquated by septic system designs that are far superior and provide much cleaner effluent in a much smaller area. Again, the installer says the soils are sandy and silty sand, so conventional systems work here.

A7. I discussed this with Scott Huff, past Platting Manager for KPB. He felt you and the Planning Commissioners would understand the history of the "Nominal Five Acres" and reasonably grant a needed exception.

Here is the KPB Code *with my comments inserted as bold italics*:

CHAPTER 20.50. - EXCEPTIONS

• **20.50.010.** - Exceptions to regulations—Procedure—Commission authority.

A. Unless prohibited under this title, the commission may authorize exceptions to any of the requirements set forth in this title. A request for an exception shall be in writing and present the commission with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. The commission 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; ***(supported by items A1 through A5 above)***

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; ***(supported by items A1 through A5 above, "most practical manner" being key words here, soils testing and reporting would cost an additional \$2000, money better spent on the actual septic system if a larger or more technical system is needed)***

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. ***(supported by items A1 through A5 above)***

B. Where a design requirement of this title is addressed by a zoning regulation adopted by the borough assembly or city council, the variance procedures of the applicable zoning code shall be utilized in lieu of the exception procedures.

C. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

D. Upon reconsideration of a plat committee decision following the procedure in KPB [20.25.120](#), an appeal of a decision of the planning commission made under this section shall be taken to the hearing officer, in accordance with the requirements of KPB [Chapter 21.20](#).

=====

Gary Nelson, PLS
907-299-1184

ABILITY SURVEYS

MEASURING MAPPING & REPORTING ON ALASKA'S INFRASTRUCTURE SINCE 1976

152 DEHEL AVE., HOMER, AK. 99603 PH. 907-235-8440 FAX. 235-8440

7/12/2022

Julie Hindman, Platting Specialist
KPB Planning Dept.
144 N. Binkley
Soldotna, AK 99669

Re: Preliminary Plat submittal of WHISKEY GULCH LOT 4 REPLAT.

Enclosed herewith are 7 reduced 11"X17" copies and 1 full sized 18X24" copy of the preliminary plat and check #3805 in the amount of \$400.00 for the KPB filing fee.

The Certificate to Plat is coming from the title company. They said they would send it by next week.

The KPB Preliminary Plat Submittal Form, signed by the owners, is attached. This letter is attached as part of the submittal to provide room for an exception request.

We ask for an exception to KPB 20.40 WASTEWATER DISPOSAL

and specifically call to attention that 20.40.030 originally and for many years allowed NOMINAL FIVE ACRES to circumvent the minimum 200,000 square foot soils testing requirement. This was allowed so that persons who wanted to half their aliquot 10 acres could do so without a soils test (engineering required), even if right-of-way dedications made the aliquot five acres less than 200,000 square feet. That is the case we have here. The owners wish to half their aliquot 10 acres. Two sides already have Right-of-way dedications and a third side is required to be dedicated because the adjacent property has a half dedication, so this parcel must match it with a 30 feet wide right-of-way dedication.

Many aliquot or nominal five acre parcels were approved without soils testing until the code change. Now many of them will still qualify because they are over 200,000 square feet, but this one won't meet that criteria due to Right-of-Way dedications on 3 sides.

On 3/02/2021 Ordinance 2020-45 was passed. Section 25 of the Ordinance changed KPB 20.40.030 removing the "NOMINAL FIVE ACRES" excepting language from the code.

Section 28 changed KPB 20.40.100(F) added "200,000 square feet" and removed "NOMINAL FIVE ACRES" language.

A few days ago when this was brought to my attention I called Scott Huff the former Platting Manager for KPB, and asked him why the NOMINAL FIVE ACRES language was removed from the code. He said the former Planning Director (Max Best, who originally composed the language) had faced negative dispute issues with one or more local surveyors who wanted to apply the language to other shaped parcels. Max's solution was to remove the NOMINAL FIVE ACRES language from the code. Personally I believe it should have remained, and I would have voiced that concern if I recognized the code change was going to remove it.

The owners have lived on this land for many years. They desire to sell their house with the septic system that was installed by Certified Septic Installer Jason Johnson, and build a new house to live on the new lot they desire to create. Please note the low density development of the area. They are surrounded by three 40 acres parcels and three 10 acre parcels. We believe our request meets the spirit and intent of the Code to protect the Health Safety and Welfare of the Public.

Thank You for your consideration.

Sincerely,

Gary Nelson, PLS

RECEIVED

Date Received

SEP 24 2003

ADEC
Kenai Area OfficeSTATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DOCUMENTATION OF CONSTRUCTION

I. GENERAL INFORMATION

Legal Description of the Location

Lot 4 Whiskey Gulch S/D
Anchor Point, ALASKA

Submitted by: (Check one)

- ☒ Certified Installer
☐ Approved Homeowner
☐ Registered Engineer

Installer Name:

JASON C JOHNSON

Mailing Address

P.O. Box 194
Anchor Point, Alaska
99556

Onsite Wastewater System Serves:

- ☐ Single Family. Number of Bedrooms _____
☐ Duplex. Number of Bedrooms _____
☐ Small Commercial Facility With Estimated
 Design Flow of less than 500 GPD.

II. WATER SUPPLY SYSTEM

(SECTION II IS OPTIONAL)

Source of Water and Containment (Check all that Apply)

- ☐ Well (Drilled or Driven) ☐ Surface (Identify) _____
☐ Roof Catchment ☒ Other (Identify) None
☐ Holding Tank

Type of Water Supply System

- ☐ SF/Duplex
☐ Public

Treatment of Water (Check all that Apply)

- ☐ None ☐ Chlorination
☐ Filtration ☐ Mineral Removal
☐ Other: _____

Well Data

Is the height of the well casing more the 12" above the ground?

☐ Yes ☐ No

Is a sanitary seal or well cap installed on the well casing?

☐ Yes ☐ No

Is drainage directed away from or around the casing within a radius of 10 feet of the well casing?

☐ Yes ☐ No

Is well wire enclosed in conduit?

☐ Yes ☐ No

Date Drilled

Depth of Well (Feet)

Static Water Level (Feet)

Yield (If available)

Pump Rate (If available)

Separation Distance from the Well Casing to each of the Following Sources of Contamination:

Septic/Holding Tank on Lot

Feet

Sewer Lines on Lot

Feet

Absorption Area on Lot

Feet

Closest Septic/Holding Tank on Adjacent Lot

Feet

Closest Sewer Lines on Adjacent Lot

Feet

Closest Edge of an Absorption Area on
Adjacent Lot:

Feet

Indicate separation distance from toxic materials including fuel tanks, paints, lubricants and other
petroleum based materials, pesticides, fungicides or herbicides to well casing:

Water Sample Taken by: (Name)

On Lot Feet

On Adjacent Lot Feet

Sampler is:

- ☐ Buyer ☐ Engineer
☐ Banker ☐ Government Official

Address

Water Sample Results:

☐ Satisfactory - Date☐ Unsatisfactory - Date

Attach Copy

Comments/Recommendations:

I certify that the above information and that provided in Section IV is correct:

Signature

Typed/Printed Name

JASON C JOHNSON

Title

01-23-012

Date

12-13-02

Note: 1. This section should be signed by a Certified Installer, Professional Engineer, DEC staff, or Owner/Builder
 2. All public water systems must receive ADEC plan approval prior to construction. See 18 AAC 80 State of Alaska Drinking Water
 Regulations for specific requirements.

1. WASTEWATER DISPOSAL	Legal Description: <u>Lot 4 Whiskey Gulch S/D</u>
Type of Wastewater System:	
<input checked="" type="checkbox"/> Septic Tank with Conventional Soil Absorption System <input type="checkbox"/> Package Treatment Plant (requires engineered design)	
<input type="checkbox"/> Holding Tank: Material Type: _____ Size in Gallons: _____ Manufacturer: _____	
<input type="checkbox"/> Other - Specify Type _____ <input type="checkbox"/> Alternate Onsite (requires engineered design)	
<input type="checkbox"/> Small Commercial System (< 500 GPD) With Estimated Daily Wastewater Flow of: _____ Gallons Per Day (GPD)	
Criteria Used to Estimate Daily Wastewater Quantity: _____	

<input checked="" type="checkbox"/> NEW SYSTEM <input type="checkbox"/> MODIFICATION TO SYSTEM		Certified Installer Installation Notification Date: _____
Name of Installer: <u>JASON C JOHANSON</u>		Date Installed: <u>9-23-02</u>
System Installed:		<input type="checkbox"/> By a Registered Engineer <input type="checkbox"/> With Inspection by a Registered Engineer <input type="checkbox"/> By Approved Homeowner (attach copy of approval letter) <input checked="" type="checkbox"/> By a Certified Installer/Installer Number <u>01-23-012</u>
Septic Tank: Material: <u>Steel</u>	Manufacturer: <u>D&W</u>	Size (Gallons): <u>1250</u> Number of Compartments: <u>2</u>

Type of Soil Absorption System:	<input type="checkbox"/> Deep Trench <input type="checkbox"/> Shallow Trench <input type="checkbox"/> Seepage Pit <input type="checkbox"/> Bed <input type="checkbox"/> Mound <input checked="" type="checkbox"/> Other, Specify <u>None</u>
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Soil Classification:	Soil Rating:	Dimensions/Size of Absorption Area: <u>NA</u>
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Grading/Size of Distribution Rock:	Thickness/Depth of Distribution Rock: <u>NA</u>
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Percolation Test Results, Attach Copy of Report:	Percolation Test Performed by:
Minutes per Inch Sq. ft. per bedroom	percolation test results must be sealed/signed by a registered engineer

List ground cover in feet over:	Septic Tank <u>4</u>	Absorption Area <u>NA</u>	Sewer Pipes <u>4'</u>
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Cleanout Pipes/Caps Installed:	Foundation Cleanout: <u>yes</u>	Septic Tank: <u>yes</u>	Monitor Tubes: <u>NA</u>
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Indicate separation distances from septic tank or absorption area, whichever is closest, to all nearby:

Public drinking water sources within 200 feet: <u>None</u>	Private drinking water sources within 100 feet: <u>None</u>
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Nearest water bodies (see 18 AAC 72.020(b)): <u>None</u>	Lot line: <u>175'</u>
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Separation Distance from Onlot Sewer Lines to: <u>NA</u>	Public Drinking Water Sources: <u>NA</u>	Private Sources: <u>NA</u>
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Separation Distance From Bottom of Distribution Rock to:	Groundwater Table: <u>4' +</u>	Bedrock: <u>6' +</u>
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Separation Distance from Absorption Area to Slope exceeding 25%: <u>None - NA</u>

Comments/Recommendations: Due to Extreme weather Conditions - we were unable to proceed beyond setting the septic tank. This is a new construction and will not be used until system can be completed.

I certify that the above information, and that provided in Section IV, is correct:			
Signature: <u>[Signature]</u>	Typed/Printed Name: <u>JASON C JOHANSON</u>	Title, Reg./Cert No., Inst. No.: <u>01-23-012</u>	Date: <u>12-13-02</u>

NOTE: Must be signed by a Certified Installer, Professional Engineer, DEC staff, or Approved Homeowner. If engineering seal bears printed name, registration number, and is signed, those blocks need not be completed for engineered submittals.

SEAL
Registered Professional
Engineer

IV. DIAGRAM OF SYSTEM(S) INSTRUCTIONS FOR DIAGRAM

1. In a plan view, locate and identify each of the following:

- | | | | |
|---|-----------------------------|--|---------------------------|
| a) Well | b) All Structures | c) Septic Tank | d) Soil Absorption System |
| e) Surface Water | f) Sources of contamination | g) Property Line | (Include dimensions) |
| h) Closest well on adjacent property | | i) Closest septic tank on an adjacent property | |
| j) Closest edge of an absorption field on adjacent property | | k) All cleanouts and monitor tubes | |

2. Show distances between the well and each of the sources of contamination listed in 1.

3. Show distances between water bodies and each part of the onsite system listed in 1.

4. In a cross section view of the soil absorption area, identify each component and show the depth (thickness) of the following:

- | | | | | | |
|---------------|------------------------|----------------|------------|--------------------|---------------|
| a) Soil Cover | b) Absorption Material | c) Water Table | d) Bedrock | e) Discharge pipes | f) Insulation |
|---------------|------------------------|----------------|------------|--------------------|---------------|

