

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – CATKIN SUBDIVISION 2021 REPLAT

KPB File No.	2021-144
Plat Committee Meeting:	November 29, 2021
Applicant / Owner:	Edwin Otto Kilcher of Homer, AK
Surveyor:	Stephen C. Smith / Geovera, LLC
General Location:	Bobby Rufus Road and Guffers Road / Fritz Creek

Parent Parcel No.:	172-380-35
Legal Description:	Tract B, Catkin Subdivision HM 2009-50
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 25 acre parcel into three tracts that will be 1.215, 3.873, and 19.671 acres. The plat will also dedicate a 30 foot wide right of way along the western boundary.

Location and Legal Access (existing and proposed): Access to this subdivision is near mile 10 of East End Road, a state maintained right of way. Kilcher Road is a varying width, borough maintained, right of way that connects Guffers Road to East End Road. Guffers Road is a varying width right of way that is not currently maintained by the borough or other government entity. Approximately 130 feet of Guffers Road is not dedicated as it crosses through the deed parcel located northwest of the subdivision. Guffers Road is constructed and provides physical access to the large tract to the east of the subdivision and some additional non-platted roads used for access appear to connect off Guffers Road. Guffers Road is a unique dedication to allow a roadway to be constructed across steep terrain. To allow the roadway to be constructed to cross the ravine, the parent plat was issued an exception for minimum curve radii. Additionally a larger width right of way and back slope maintenance easements were granted so that the road can be maintained.

The existing right of way is outside the proposed plat boundary and due to the prior granted exception, staff is not requesting any exceptions for the road dedication or dedications to improve the design.

Within the subdivision, a private travel way is depicted. This private travel way has been named for 9-1-1 Addressing purposes. The travel way continues south of the subdivision and provides physical access to multiple structures located in the unsubdivided parcel located to the south.

This plat is proposing to dedicate a 30 foot wide right of way along the western boundary. The lot to the west, Tract D-2, is 23 acres and could be further subdivided and provide a matching dedication. The southern portion of the proposed dedication appears to encompass a portion of the private travel way. As the private road goes north, it veers to the east and outside the proposed dedication. The private travel way is not required to be shown on the final plat but if it is chosen to be shown, **Staff recommends** that a plat note be added clarifying the type and intended use.

The block is not compliant. The lots in this area are large and steep slopes are found throughout the area. The dedication on the west boundary will improve the block length and provide legal access to the large parcel to the south. To the east is a 613 acre parcel. Parts of that parcel are located to the south of the unsubdivided parcel located south of this preliminary plat. This 613 acre parcel is along the coast and affected by a conservation easement. If any future subdivisions are created from that 613 acre parcel, additional right of ways will be acquired to help improve the blocks in the area.

There are currently section line easement that provide legal access but may not be practical access. Using those section line easements, the block is improved but still not compliant. Proposed Tract B-1 will be a large acreage lot that is divided by steep terrain. Future subdivision of Tract B-1 will be required to provide right of way that fits the design and terrain. **Staff recommends** the plat committee concur that an exception to block length is not required, as any additional dedications will not improve the block at this time.

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

Site Investigation: The subdivision is affected by sloping terrain with the steepest slopes located near the riverine area at the center of the subdivision. The slopes greater than 20 percent are depicted and labeled on the preliminary plat. **Staff recommends** the contour lines be removed from the final plat but the steep slopes remain depicted and labeled.

The parent plat, Catkin Subdivision Plat HM 2009-50, depicted a drainage corridor with a label that the area is subject to inundation and storm runoff. **Staff recommends** the drainage way be updated and carry over the label from the parent plat. This may be done on the face of the plat or within a plat note.

Due to the steep terrain in the area and near the dedication of Guffers Road, a slope easement was granted on the parent plat. **Staff recommends** that this easement be carried forward and depicted on the plat. Additionally a plat note should be added explaining the uses of the slope easement.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis The parent parcel is a 25 acre tract that was created on Catkin Subdivision plat KN 2009-50. The proposed plat will divide the large acreage parcel into three tracts. Tracts B-2 and B-3 will be smaller in size, 3.873 and 1.215 acres respectively. Tract B-3 will have access via Guffers Road, the new right of way dedication, and by the private travel way. Guffers Road will provide frontage to two sides of Tract B-2. A portion of the private travel way goes through the tract and provides access. Tract B-1 is the parcel with the remaining acreage of 19.671. Steep terrain and low wet areas divide Tract B-1. The western portion will have access from the new dedication and the private travel way, the eastern portion will have access from Guffers Road.

A soils report will be required for Tracts B-2 and B-3 and an engineer will sign the final plat. Tract B-1 is larger than 200,000 sq. ft. and a soils analysis report is not required. **Staff recommends** the wastewater disposal note for Tract B-1 be revised by removing "or nominal 5 acres."

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 the property is affected by beneficial interest holders.

Kachemak Bay Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Utility Easements The parent plat granted 10 foot utility easements, increasing to 20 feet within 5 feet of side lot lines, adjoining Guffers Road. This plat has carried over the same note and will thus be creating utility easements along the newly dedicated right of way. **Staff recommends** the utility easements be depicted and labeled along with the 20 foot building setback. If necessary for clarity, the typical utility easement can be depicted and labeled along with the building setback in the detail drawing.

The parent plat granted 20 foot wide utility easements centered on existing power lines. The overhead power lines shown on the eastern portion of this plat were not depicted on the parent plat and easements were not created over them. **Staff recommends** plat note 7 be updated to state the easements are being granted by this plat.

This plat is also depicting the approximate location of an underground electric utility on the west side and states it is centered on a 10 foot utility easement. **Staff recommends** the manner in which that easement came into existence be noted, if being granted by this plat then state such.

A 10' by 20' easement was granted by recorded document and is depicted and the recording information noted on the plat.

One of the overhead lines shown is within the proposed right of way dedication. The reference to plat note 7 stating the overhead power line is also a utility easement is not required as utilities are a permitted use within dedicated right of ways. It would be the utility companies' responsibility to work with Kenai Peninsula Borough Land Management staff to determine if a permit will be required. **Staff recommends** the reference to plat note 7 be removed from the powerline depiction within the proposed right of way dedication.

Staff recommends plat note 3 be reworded to closer match current code. "The front 10 feet adjoining dedicated rights-of-way, and increasing to 20 feet within 5 feet of the side lot lines, shall be designated as a utility easement."

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	Approved as shown

KPB department / agency review:

Addressing	Reviewer: Haws, Derek Affected Addresses: 38126 BOBBY RUFUS RD will remain with TRACT B-2 53413 GUFFERS RD will remain with TRACT B-1 Existing Street Names are Correct: No List of Correct Street Names: GUFFERS RD
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	<p>Existing Street Name Corrections Needed: Private traveled way should be BOBBY RUFUS RD as named via SN 2012-06.</p> <p>All New Street Names are Approved: Yes</p> <p>List of Approved Street Names: HORIZON ST</p> <p>List of Street Names Denied:</p> <p>Comments: As the Addressing Officer, I am concerned with the parallel and overlapping sections of BOBBY RUFUS RD and HORIZON ST. BOBBY RUFUS RD (private) continues south and provides access to four addresses.</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: No comments</p>
Planner	<p>Reviewer: Taylor, Bryan</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: Bruns, Matthew</p> <p>Comments: No concerns from Assessing Dept.</p>
Advisory Planning Commission	<p>Comments not received when staff report was prepared.</p>

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.*

- 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:** *Update the owner's name to match the certificate to plat, Edwin Otto Kilcher.*
- 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: Due to the unique design of Guffers Road, an additional label on the western portion would be a good addition but not required.

- 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: Some additional lines appear to represent streams and right of ways with no labels present. Not all lines need a label but please provide a label for what appears to be a road through sections 16, 15, 22, and 23.

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: A soils analysis report will be required for Tract B-2 and Tract B-3. An engineer will need to sign the plat. A soils analysis report is not required for Tract B-1. The wastewater note for Tract B-1 needs to be revised by removing “or nominal 5 acres”.

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.

- 20.60.040. Dedication of public use lands. Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

Staff recommendation: An acceptance for the proposed right of way will be required to be signed by an authorized official of the Kenai Peninsula Borough.

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.

- Slope easement means an easement for construction, maintenance and lateral support of road slopes. Slope easement was granted by Plat HM 2009-50.
- Add a plat note for any exceptions granted.

If the travel way shown on the preliminary plat remains on the final, **staff suggests** the following note be placed on the final plat to avoid confusion about public use in the future: Private road shown is for use of owners only and is not dedicated to public use.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Update the owner’s name to Edwin Otto Kilcher on the signature line and within the notary’s acknowledgment. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

A. KPB 20.60.200 Survey and Monumentation

Surveyor's Discussion: I would like to request an exception to KPB 20.60.200 Survey and Monumentation for nine corners that fall in the extremely steep slope along the south edge of Guffers Road. The nine corners that were set for the original Catkin Subdivision (HM 2009-50) on the steep slope were found to have sluffed down the slope, and were found to be out of record position by nearly a foot. The slope adjacent to the existing road is part of a fill that is steeper than 1:1. It is not a place where monuments can be expected to remain in their original place. I have used the record position of the south edge of the right-of-way through that area for this plat.

Staff Discussion: Per KPB Code, all monuments of record essential to the subdivision should be remonumented if found missing, disturbed or destroyed. Per the surveyor's request, the monuments previously set have shifted due to steep slopes. The surveyor is requesting to not monument a portion of Tract B-2's boundary along Guffers Road due to the terrain. It is not uncommon to set witness monuments in areas when the actual location cannot be set due to terrain. The use of witness monuments will not benefit this subdivision as the areas to place a witness survey marker are within the steep slope areas or within the roadway.

If the exception is denied all monuments along Guffers Road will be required to be set and correctly depicted on the plat.

Findings:

1. Nine monuments previously set as part of Catkin Subdivision, Plat HM 2009-50, were found disturbed due to sloughing of the steep slopes.
2. The terrain around that portion of Guffers Road is slopes greater than 20 percent.
3. A drainage way is located within the steep sloped area and along a portion of the right of way.
4. Previous monuments shifted from their true location as much as a foot.
5. Shifting monuments may cause issues related to the correct location of the right of way, the slope easement, utility easements, and property boundaries.
6. Placing monuments in a location that is shifting or sloughing may cause confusion for land owners and will not be a benefit.

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 1-6 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 1-6 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 1-6 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 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