

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - SELDOVIA TOWNSITE EAST ADDN WATSON 2021 REPLAT

<b>KPB File No.</b>	2021-148
<b>Plat Committee Meeting:</b>	November 29, 2021
<b>Applicant / Owner:</b>	Jennifer E. Watson of Anchorage, AK
<b>Surveyor:</b>	Kenton Bloom / Seabright Surveying
<b>General Location:</b>	Augustine North Avenue and D Street / City of Seldovia

<b>Parent Parcel No.:</b>	192-091-10, 192-091-11
<b>Legal Description:</b>	Lots 2A-1 and 2B-1, Block 39, Seldovia Townsite East Addition 2006 Replat Plat SL 2007-3
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Waterfront Commercial Residential
<b>Water / Wastewater</b>	City Water and Sewer

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat reconfigures the shared lot line between two lots.

**Location and Legal Access (existing and proposed):** The subdivision is within the City of Seldovia. Access is available by water as the Seldovia Slough borders the subdivision along the north. The lots are landlocked. Ingress and egress easements have been granted for access. A 14 foot wide driveway exists through Lot 2C Block 39 located to the east of the subdivision. That driveway provides a connection to D Street and Augustine North Avenue. D Street along Lot 2C Block 39 is 40 feet wide but widens as it approaches the intersection with Augustine North Avenue. D Street is not constructed except for the small portion of the driveway that crosses through to connect to Augustine North Avenue. Augustine North Avenue is a 40 foot wide right of way. The right of ways fall under the City of Seldovia jurisdiction.

The block is not complete due to Seldovia Slough. D Street, Augustine North Avenue, and C Street define the block. The distances are all compliant except for along D Street. It is slightly short of minimum lengths. Due to Seldovia Slough, D Street cannot be lengthened to become compliant. ***Staff recommends the plat committee concur that an exception is not required due to the location along Seldovia Slough; any dedications will not improve the block and would create non-compliant lengths.***

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

**Site Investigation:** KPB GIS does not have contour information available for Seldovia. The plat does have the top of a bluff and the top of a cliff depicted and labeled. The house located on proposed Lot 2B-2 is below the bluff and appears to have a staircase that provides access from the top of the bluff.

Portions of the subdivision are within Flood Zone A. ***Staff recommends the flood line be depicted and the appropriate notes be added to the plat.***

Seldovia Slough is exempt from the Anadromous Waters per KPB GIS data. The mean high water line from 2007 is depicted. ***Staff recommends a plat note be required or label on the plat that states the source of the mean high water line.***

KPB River Center review	<p>A. Floodplain  Reviewer: Carver, Nancy  Floodplain Status: IS in flood hazard area  Comments: Flood Zone: A  Map Panel: 020012-5065A  In Floodway: False  Floodway Panel:</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 lots within this subdivision were originally included in the original U.S. Survey 1771 that was surveyed in 1927. In 1964 a plat, Seldovia Townsite East Addition SL 66-28, was done that further subdivided lots and tracts created by the U.S. Survey. Neither of those plats granted any easements. The U.S. Survey left an area unsubdivided that abutted the property within this subdivision. That landlocked some of the properties. Plat 66-28 subdivided that unsubdivided portion in addition to subdividing existing lots. It left the lots landlocked but did depict an existing road that is now where the ingress/egress easements are in place. The current lot configuration was created by Seldovia Townsite East Addition 2006 Replat, SL 2007-3. An exception to KPB 20.20.200 (old code), for frontage on a dedicated street was granted by the Planning Commission on November 27, 2006.

This plat will reconfigure the lot line between two lots. Per the memo from the City of Seldovia, the surveyor stated the intent is for the owner to sell the lower house located on the waterfront of proposed Lot 2B-2. That lot will be going from 18,320.4 square feet (.42 acres) to 8,328.4 square feet (.19 acres). The other lot, Lot 2A-2, will increase in size from 23,973.4 square feet (.55 acres) to 33,980.8 square feet (.78 acres). If both lots are, or will be, connected to municipal water and sewer, the lots will meet minimum lot size. The new lot line will be within the ingress and egress easement allowing to both lots to utilize the easement.

The plat depicts sewerline easements as well as a waterline easement. An installation agreement or documentation from the City of Seldovia that one is not required will need to be submitted. **Staff recommendations** the page number needs to be updated per the certificate to plat to Book 25 Page 621 for the easement within Lot 2B-2.

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.

The subdivision plat is within the boundary of the City of Seldovia. The City of Seldovia Planning Commission heard the proposed plat at their October 6, 2021 regular meeting. The Planning Commission unanimously approved it and they approved that their staff memo be presented to the Kenai Peninsula Borough. The memo address the zoning district and the requirements for that zoning. It was found that the proposed subdivision plat met their requirements and code. No additional recommendations or requests were forwarded to the Kenai Peninsula Borough.

Staff recommends the structures, and parking areas be removed from the final plat to allow required information to be more legible.

**Utility Easements** The original plats that created the lots within this subdivision did not grant any utility easements. Seldovia Townsite East Addition 2006 Replat, SL 2007-3, stated 10 foot utility easements were granted within the

front of the building setback. As this does not front on any dedicated right of ways, no easements were granted by that note.

A powerline was depicted within Lot 2A-1. Plat note 6 states it was center of a 20 foot utility easement. There is no record of how that easement was granted or if the intent was to grant by that plat. The new plat depicts an overhead powerline and contains the same note. This powerline depicted is not in the same location as the parent plat. If it is determined the overhead powerline was removed the easement would still be in place and should be noted "as per SL 2007-3". If a new easement is being created over the overhead powerline depiction, the plat note should state it is being granted by this plat. **Staff recommends** the location of the powerlines be verified and work with the power company to determine the correct locations, provide correct depiction and provide a plat note that states how the easement was granted or if it is being granted by this plat.

The certificate to plat indicates and additional easement was granted to HEA by document. **Staff recommends** the easement location be determined and depict the easement with reference to the recording document. If the easement location cannot be depicted, provide a plat note with the information.

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	<p>Reviewer: Haws, Derek  Affected Addresses:  356 SELDOVIA SLOUGH REM SW  366 SELDOVIA SLOUGH REM SW</p> <p>Existing Street Names are Correct: Yes  List of Correct Street Names:  D ST</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:</p> <p>Comments:  356 SELDOVIA SLOUGH REM SW will be deleted and new D ST address assigned.  366 SELDOVIA SLOUGH REM SW will be deleted and new D ST address assigned.</p>
Code Compliance	<p>Reviewer: Ogren, Eric  Comments: No comments</p>
Planner	<p>Reviewer: Taylor, Bryan  There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments:</p>

	There are not any material site issues with this proposed plat. Review Not Required
Assessing	Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.

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

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

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**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:** *Per KPB records the lots within this subdivision are .97 acres. The square footage can be listed but include the acreage. Verify the square footage as the acreage shown in KPB records would result in the square footage being 42,253.2 square feet.*
- 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:** *Provide a label for Seldovia Slough that borders the subdivision along the northern boundary.*
- G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;  
**Staff recommendation:** *D Street should contain a label that states the width varies and a dimension can should be shown that the width in that area is 40 feet.*

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**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.*

- 20.30.250. Building setbacks-Within cities. The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts. Building setbacks as depicted, or noted, on recorded plats shall not be carried forward on a new subdivision plat located within a municipal zoning district. Provide a plat note stating, "Per KPB 20.30.250 the building setback of record has been removed. All development must comply with the municipal zoning requirements."  
**Staff recommendation:** *Remove specific setback requirements from plat note 1. The lots will fall under the zoning of the City of Seldovia. If changes occur to their code, it could result in changes to the setbacks. Leaving the first sentence of note 1 is sufficient but if elected can add, "Contact the City of Seldovia for current building setback requirements prior to development."*

20.30.270. Different standards in cities. Where cities have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. Any appeal of a city design standard is subject to KPB 21.01.020(E).

**Staff recommendation:** *The City of Seldovia does not meet the specified requirements for the application and consideration of different standards.*

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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: Municipal water and sewer available. Correct plat note is present.*

**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.*

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

**Staff recommendation:** *Provide an installation agreement or documentation from the City of Seldovia that one is not required.*

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.*

- *Add a plat note for any exceptions granted.*
- *The natural meanders of mean high water line is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.*
- *Subject to easements for right to flight granted to State of Alaska, Department of Transportation and Public Facilities recorded in Book 27 Page 431 Seldovia Recording District on March 11, 1985 and Book 28 Page 132 Seldovia Recording District on October 29, 1985.*
- *Right of Way Easement granted to Homer Electric Association, Inc. to construct, operate and maintain an electric transmission and/or telephone distribution line or system by Book 13 Page 83 Seldovia Recording District recorded on February 25, 1965.*
- *FLOOD HAZARD NOTICE:  
Some or all of the property shown on this plat has been designated by FEMA as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code. Map Panel 020012-5065A*

- No permanent structure shall be constructed or placed within a utility easement, which would interfere with the ability of a utility to use the easement.

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** Update the owner's name for the signature line to match the Certificate to Plat. "Jennifer E. Watson, a.k.a. J.E. Watson". Comply with 20.60.190.

### **EXCEPTIONS REQUESTED:**

#### **A. KPB 20.30.210 – Lots-Access to Street**

Surveyor's Discussion: An exception to former KPB 20.20.200 (Frontage of a dedicated street) was granted by the KPB Planning Commission for the parent plat, SL 2006-329. There are existing easements for ingress and egress (as shown on the plat) that provide legal access to these lots. This replat adjust the interior property line between Lots 2A-1 & 2B-1, in order to make the usable area of Lot 2A-1 more cohesive. Existing physical and legal access will remain unchanged.

Staff Discussion: Per KPB 20.30.10, each lot shall abut on a fee simple dedicated street unless it is classified as agricultural. The property involved with this subdivision was part of the original U.S. Survey that created the Seldovia Townsite. Right of ways were not dedicated to provide access to this property nor did the replat performed in 1964.

#### **Findings:**

1. U.S. Survey 1771, surveyed in 1927, subdivided the lands within this subdivision but did not provide dedicated access.
2. Seldovia Townsite East Addition, Plat SL 66-28, was surveyed in 1964 and further subdivided the property within this subdivision and lands surrounding it but did not grant dedicated access.
3. Seldovia Townsite East Addition depicted an existing road that is still being used for ingress and egress.
4. Easements were recorded in 1982 and 1996 to provide ingress and egress.
5. Seldovia Townsite East Addition 2006 Replat, Plat SL 2007-3, depicted the ingress and egress easements.
6. Seldovia Townsite East Addition 2006 Replat was granted an exception by the KPB Planning Commission to KPB Code 20.20.200 for frontage on a dedicated street.
7. The City of Seldovia Planning Commission reviewed the plat at their October 6, 2021 meeting and approved the proposed plan.
8. The City of Seldovia Planning Commission did not provide recommendations or requests for additional items.
9. The Kenai Peninsula Borough owns Lot 2C Block 39 located to the east of the subdivision.
10. The easement recorded in Book 35 Page 313 crosses KPB land to provide access.
11. Water access is available from Seldovia Slough.

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 1-11 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 1-11 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 1-11 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.

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**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**