

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - DUNCAN SUBDIVISION #5

KPB File No.	2021-142
Plat Committee Meeting:	November 29, 2021
Applicant / Owner:	Kelly R. Duncan of Kasilof, AK
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Ariels Lane and Constellation Road N, Kalifornsky/Kalifornsky APC

Parent Parcel No.:	133-031-37
Legal Description:	The SE1/4 SW1/4 Section 7 and the NE1/4 NW1/4 of Section 18 Township 3 North Range 11 West Seward Meridian, Kenai Recording District lying North of Grannie Road aka Ariels Lane and East of Kalifornsky Beach Road; Excepting Therefrom; Duncan Subdivision, Plat KN 75-65 Duncan Subdivision Addition No 1, Plat KN 90-35 Duncan Subdivision Addition No 2, Plat KN 91-30 Duncan Subdivision K and L Addition, Plat KN 2002-28
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will subdivide a 46-acre parcel into two tracts that will be 3 acres and 37.3 acres.

**Location and Legal Access (existing and proposed):** The subdivision is located in the Kalifornsky area near mile 3 of Kalifornsky Beach Road. Access along the south is provided by 60 foot wide dedicated Ariels Lane, formerly known as Grannies Road. An approximate 200 foot segment of Ariels Lane within Tract A of the original Duncan Subdivision has not been dedicated. Ariels Lane is constructed and continues east to provide physical access to several large acreage tracts. If Tract A is ever subdivided, a full 60 foot wide right of way dedication will be required to be dedicated on the existing roadway to provide a continuous right of way.

A section line, with a corresponding 66 foot section line easement, crosses through proposed Tract E. The section line easement provides legal access but is affected by low wet areas and is unlikely to be constructed. **Staff recommends** an exception not be required to dedicate right of way within the section line easements the section line easement is affected by wetlands, and the lot is large enough to be further subdivided and provide dedications in the future where a roadway can be constructed.

Constellation Road N is a 30 foot wide dedication located off Ariels Lane. The current dedication is only 600 feet in length from the intersection with Ariels Lane extending north to the section line easement. An exception to not dedicate the matching 30 feet, and the extension of Constellation Road N. on the east boundary, has been requested.

Adjoining the north boundary is ADL 223097, a 60 foot wide public access easement. This ADL has been named Ogre Avenue for 9-1-1 addressing purposes. This 60 foot wide ADL is entirely within the state owned land to the north but provides legal access to the lands on the south. The length of the ADL ends about 100 feet east of the subdivision. As the ADL is 60 feet wide and entirely within state lands, this subdivision plat will not be required to dedicate any portion of Ogre Avenue. Future dedications will be granted from the State land. As this is not a dedicated right of way, the building setback depiction should be removed. **Staff recommends** the depiction of the

ADL should be revised to show that it is an easement for a public right of way within the State parcel. A dashed or broken line will show that it is not a boundary line.

Ogre Avenue (ADL 223097), Kalifornsky Beach Road, Ariels Lane, and Constellation Road N. define the block. The block is not closed due to the portions of right of way not dedicated and Ogre Avenue not continuing to the east to connect to other existing right of ways. The 66 foot section line easement does provide a closed southern block. Portions of the blocks exceed allowable lengths and an exception has been requested.

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

**Site Investigation:** The land within this subdivision is relatively flat and it is noted in plat note 4 that there are no grades greater than 3 percent. Wetlands are located on a large portion of the property. The plat does show low wet areas. KPB GIS data indicates there are more wetlands present than what is being shown on the plat. **Staff recommends** the wetland depiction be confirmed during the field survey or provide staff source data for the wetlands shown.

KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: D Map Panel: 02122C-0860E In Floodway: False Floodway Panel:</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks</p> <p>Reviewer: Russell, Pam Comments: No Comments</p>
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**Staff Analysis** This is a subdivision of a 40 acre parcel that is a remainder from previous subdivisions. Two tracts will be created one being 37.3 acres and the other 3 acres. The larger tract will have access via ADL 223097, section line easements, Ariels Lane, and Constellation Road N. The smaller tract will have access from Ariels Lane and Constellation Road N.

A soils analysis report will be required for Tract D and an engineer will need to sign the final plat.

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.

Kalifornsky 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** Plat note 1 states 10 foot utility easements will be granted along dedicated right of ways. The note also states the front 15 feet along Ariels Lane was granted as utility easements on plat KN 2019-75. The property within this subdivision was not within the boundary of KN 2019-75 and thus the utility easements were not granted with that past platting actin. **Staff recommends** *removal of the reference to the 15 foot utility easement granted by 2019-75 and note that the 10 foot utility easements adjoining all right of ways (dedications and easements) are being granted with this platting action., and include a depiction and label for the utility easements within the drawing.*

The certificate to plat indicates a utility easement has been granted to Homer Electric Association by recorded document. **Staff recommends** *a plat note be added that provides the document information for the easement of record.*

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: 51638 ARIELS LN</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: OGRE AVE ARIELS LN KALIFORNSKY BEACH RD CONSTELLATION RD N</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 51638 ARIELS LN will be deleted and new addresses assigned upon request.</p>
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Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Planner	Reviewer: Taylor, Bryan 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: Bruns, Matthew Comments: No concerns from Assessing Dept.
Advisory Planning Commission	Comments not available when staff report was prepared.

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 to Kelly R. Duncan as shown on the certificate to plat.

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:**

- ADL 223097 is a 60 foot wide public right of way that lays atop the unsubdivided DNR lands located to the north. The ADL is granted for a length of 1719.18 that extends slightly past the northeast corner of the subject subdivision. Correct the depiction of the ADL with a dashed line as it is not a dedicated right of way. It should be shown atop the unsubdivided parcel to the north, which needs to be labeled.
- Provide a broken line or centerline style for the depiction of the centerline for Constellation Road N where located south of the subdivision.
- Provide a "Varying Width" label for the Kalifornsky Beach Road right of way. .
- Update the Section 11 labels on face of plat to 18.

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:** There are a few overstrikes on labels. Make sure all labels are easy to read and legible.

- 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:** Add the 'unsubdivided' status label for the DNR lands to the north and update the depiction of the ADL. Adjust the label for Duncan Sub Addn No. 2 Block 2 so it is clear it applies to both Lot 1 and Lot 2.

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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.

##### 20.30.240. Building setbacks.

- A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:  
Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

C. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:  
Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

**Staff recommendation:** As Ogre Avenue is not currently a dedicated right of way but an ADL easement; the building setback may be removed along Ogre Avenue. Depict and label the 20 foot building setbacks adjoining Constellation Road N.

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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: Tract D is less than 200,000 sq. ft. and will require a soils analysis report. Tract E is larger than 200,000 sq. ft. and a soils analysis report is not required. Add the appropriate wastewater disposal notes and provide for an engineer's signature.*

**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.

##### 20.60.180. 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.*

- *If a right of way dedication is required add a plat note that states, "Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program (KPB 14.06)."*
- *An easement for electric lines or system and/or telephone lines together with right to enter, maintain, repair and clear shrubbery as recorded in the Kenai Recording District in Book 33 Page 162 granted to Homer Electric Association, Inc. No definite location disclosed.*
- *This subdivision is subject to covenants, conditions, and restrictions as recorded on August 6, 1990 in the Kenai Recording District Book 369 Page 296.*
- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*
- *Add a plat note for any exceptions granted.*

### **EXCEPTIONS REQUESTED:**

#### **KPB 20.30.030 – Proposed street layout-requirements**

#### **KPB 20.30.120 – Street-Width requirements**

#### **KPB 20.30.170 – Blocks-Length Requirements**

Surveyor's Discussion: Exception requested for matching dedication of Constellation Road N along east boundary. Road enters swamp to the north and descends a steep hill into Coal Creek to the south, not providing access to any property.

Staff Discussion: Loon Lake Subdivision, Plat KN 1686, is a paper plat that dedicated a 30 foot width of Constellation Road N. (originally named Otter Lane in 1970). Constellation Road N. runs north and south of Ariels Lane. Duncan Subdivision, Plat KN 75-65, dedicated an additional width of 30 feet for the portion of Constellation Road south of Ariels Lane.

Street Name Resolution 2006-09 changed Otter Lane to Kenaitze Avenue, which was later changed to Constellation Road N by Street Name Resolution 2015-13.

Per KPB Code, a matching 30 foot dedication is required for Constellation Road to provide a 60 foot wide right of way, as well as providing a 30 foot wide dedication to extend the right of way to the north.

Using the section line easements, the southern block would be defined by the section line easements, Kalifornsky Beach Road, Ariels Lane, and Constellation Rd N. The block lengths along Constellation Road N and Kalifornsky Beach Road are compliant. The length along the section line easements and along Ariels Lane exceed allowable lengths. Ogre Avenue (ADL 223097), Kalifornsky Beach Road, and the section line easements define the northern block. The block is not closed. To connect to another right of way or section line easement is not possible at this time due to some vacated section line easements located to the east. A continuation of Constellation Road N would provide a closed block. The block along Ogre Avenue and the section line easements would still exceed allowable lengths even with the dedication.

Staff has grouped these exceptions but the plat committee may determine the exceptions should be acted on separately. The plat committee may also determine to grant the exceptions but require partial dedications.

The property included in this subdivision contains large areas of wetlands. Tract E is proposed to be 37 acres in size and could be subdivided in the future and provide right of way dedications that will work with the terrain and comply with subdivision design.

Denial of the requested exceptions will require a 30 foot dedication of Constellation Road N all along the entire length of the eastern boundary. An additional north-south dedication would be required to be compliant with block length requirements.

**Findings:**

1. A 60 foot wide ADL borders the northern boundary of the subdivision.
2. A 66 foot wide section line easement crosses proposed Tract E.
3. It appears the northern portion of proposed Tract E been developed.
4. Tract E is proposed to be 37.3 acres and is large enough to be subdivided in the future.
5. Constellation Road N is currently providing a 30 foot wide access connection to the east-west section line easements.
6. The section line easements may be accessed from Kalifornsky Beach Road.
7. Per KPB GIS data, all but the southern 100 feet of the Constellation Road N dedication north of Ariels Lane is within wetland areas.
8. Tract D is proposed to be 3 acres, the majority of which contains low wet areas.
9. A dedication will further reduce the useable area for Tract D unless a redesign is proposed.
10. The block length along Ariels Lane is approximately 1,480 feet.
11. The block length along the section line easements is approximately 1,530 feet.
12. The block length along Ogre Avenue is approximately 1,720 feet to the northeast corner of the subdivision.
13. A full 60 foot dedication of Constellation Road N is located south of Ariels Lane.
14. Constellation Road N crosses an anadromous stream approximately 330 feet south of the intersection with Ariels Lane.
15. Constellation Road has not ben improved and is not currently being used for access.
16. All lots in the surrounding area have legal access.
17. Tract 5, located to the east, is 36 acres is size and has legal and physical access from Ariels Lane.
18. The unsubdivided 40 acre parcel to the east is owned by KPB and has legal access from Ogre Ave, a 60 foot wide ADL easement.

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, 7, 14-18 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, 5, 7, 14-18 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, 4, 5, 7, 14-18 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**