

AGENDA ITEM E. NEW BUSINESS

ITEM 2 - MADSON SUBDIVISION TRACT A AND TRACT B

KPB File No.	2021-164
Plat Committee Meeting:	January 10, 2022
Applicant / Owner:	Alaska Mental Health Trust Authority of Anchorage, Alaska
Surveyor:	Taylor Moore / Kuna Engineering
General Location:	Mile 27.5 of the Seward Highway, Moose Pass

Parent Parcel No.:	125-323-02
Legal Description:	Government Lot 2 in Section 1, Township 4 North, Range 1 West, S.M.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will dedicate a portion of the Seward Highway that bisects Government Lot 2, a 30 acre, L shaped parcel. The dedication of right of way will result in a tract on the east and west side of the highway that will be 3.2 and 22.4 acres respectively.

Location and Legal Access (existing and proposed): This plat will dedicate a 300 wide portion of the Seward Highway. After the dedication, each of the tracts will front on the Seward Highway. Alaska DOT must permit any direct access to the highway.

The Alaska Rail Road Corporation borders the east side of proposed Tract B. No direct access is allowed to the Alaska Rail Road right of way. Tract A has additional access from State of Alaska right of way tracts designated as Lots 36 and 35. These lots were designated on the supplemental plat for US Survey 2528 as right of way. Alaska DNR owns both lots. A 50 foot section line affects the north boundary.

Alaska Mental Health Trust Authority owns the 80 acre parcel located to the west of the subdivision. Chugach National Forest is located further to the west. The only legal access to the 80 acre parcel is via the section line easement on the north boundary. Per KPB 20.30.030, continuation or appropriate projections of right of ways, and KPB 20.30.170 Block Length, right of way dedications are required to be extended west from the State of Alaska right of way tracts, Lot 35 and Lot 36. This would provide adequate access to the 80 acre parcel to the west. **Staff recommends this plat provide the following right of way dedications.**

- A minimum 30 foot wide right of way dedication of right of way extending westerly from Lot 35.
- A 60 foot wide right of way dedication of right of way extending westerly from Lot 36.
- A minimum 30 foot wide dedication along the southern boundary.

Alaska DNR owns the 80 acre parcel located to the southwest and the 31 acre parcel located to the south. Both parcels have been selected by, and have management authority granted to, Kenai Peninsula Borough. A section line easement to the south and the Seward Highway provide legal access to these parcels.

The block is not compliant. This subdivision is located in an area with minimal right of way dedications off the highway. Due to slopes, waterbodies, the railroad, and national parks, dedications are lacking. The right of way tracts provide additional access along with section line easements. Due to the shape of proposed Tract A, the large acreage tract to the west, and the close proximity to the Alaska Railroad to the south, the ability to obtain a compliant and closed block is not available. Continuations of the right of way lots, a dedication along the section line easement, and a southern right of way dedication will improve block lengths but will not provide a closed block due to the large acreage tract to the west.

Staff recommends add a plat note or drawing label within the right of way that includes the right of way information for the Seward Highway project as shown in the DOT comment.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	The ROW dedication for Seward Highway is as shown on Seward Highway MP 25.5-36 Trail River to Sterling Why, Rehabilitation Project No. 0311(031) / Z546590000 (Plat 2019-2 SWD) and appears to be shown correctly.

Site Investigation: The area within this subdivision contains steep areas. An additional map was provided by the surveyor to show the contours for the area. **Staff recommends** any steep bluffs be depicted on the final by showing the top or toe of bluffs.

Per KPB GIS data, the subdivision falls into the Floodplain Zone C. That is a minimal risk zone that is not regulated.

Per KPB GIS data, wetlands are present along the eastern portion of proposed Tract B and near the center of proposed Tract. An additional map was provided by the surveyor to show the wetland areas. **Staff recommends** any wetlands be depicted on the final plat and a plat note be added, "Any person developing the property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable."

The parent parcel is not developed or improved at this time.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: Russell, Pam Comments: No Comments
Alaska Department of Fish and Game	No objections to the proposed platting actions.

Staff Analysis The parent parcel is a Government Lot. There are no building setbacks affecting the property.

A soils report and the signature from a licensed engineer are required for Tract B. Tract B is proposed to be 3.2 acres in size. An exception for soils analysis has been requested.

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.

Moose Pass 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.

Moose Pass residents have submitted comments. Tsali Janek, a member of the Moose Pass APC, has requested to postpone any action on the plat. In the request, it states they are unclear how this relates to the Grant Lake Hydro Project. The request was to allow the Moose Pass APC time to hear the item at their January 6, 2022 meeting. Their request for postponement is being forwarded to you to determine if a motion for postponement should be made. Any comments delivered to Staff from the January 6, 2022 APC meeting will be provided to the KPB Planning Commission.

Bruce Jaffa submitted a comment and objects to the Platting Commission scheduling a hearing before the local APC can have reasonable time to respond and comment. He rejects the current change suggested in platting to Moose Pass area property.

Utility Easements ADL 219510, a 100 foot wide utility easement, crosses through proposed Tract A. This easement is correctly depicted and labeled on the plat.

As this property has not been through the platting process with the borough, platted utility easements do not affect the parcel. This plat will be required to grant 10 foot utility easements adjoining all dedicated rights of way. In addition to the easements required by code, Chugach Electric has requested additional easements within the subdivision. **Staff recommends** *all utility easements be depicted and labeled with appropriate plat notes added. If the scale prevents adequate depiction, a detail drawing may be provided to show the typical easements being granted and reference to the plat note.*

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:

ENSTAR	No comment or recommendations
ACS	
GCI	Approved as shown
SEWARD ELECTRIC	
CHUGACH ELECTRIC	Chugach has no objection to the subject subdivision, with the following comments: 1. Add 10' Telecommunications & Electric Easement along the north boundary of Tract B. 2. Add 10' Telecommunications & Electric Easement along the south boundary of the 50' Section Line Easement on Tract A. 3. Add 20' Telecommunications & Electric Easements on Tract A along its common boundaries with BLM Lot 9 and USS 2528, Lots 36, 10, and 11, as shown on the plat redline. (sketch provided)
TELALASKA	

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: None</p> <p>Existing Street Names are Correct: No List of Correct Street Names:</p> <p>Existing Street Name Corrections Needed: SEWARD HWY</p> <p>All New Street Names are Approved: No List of Approved Street Names:</p>
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	List of Street Names Denied: Comments: No addresses affected, Seward Hwy should be labeled.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Planner	Reviewer: Aldridge, Morgan 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	Minutes or memo not received prior to staff report being prepared.

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

STAFF RECOMMENDATIONS **CORRECTIONS / EDITS**

The legend does not need to contain a depiction for the new lot lines or the proposed parcel boundary. The line labeled river edge is very similar to the lot lines. A different line style should be used to depict the water boundary or the same line style for the adjacent parcels can be used. If a different line style were shown, it would be recommended to change the description to ordinary high water as some may be confused by the fact it is Upper Trail Lake and not a river edge.

Remove the +/- symbols from the acreage values.

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:

- Add the KPB number in or near the title block
- Revise the name of the subdivision by removing Tract A & Tract B so that the subdivision name is only Madson Subdivision. If you wish for Tract A and Tract B to be shown in the title block it would be suggested to have the name of the subdivision larger include "Creating Tract A and Tract B" with smaller font size.
- Revise the description of the subdivision to match the certificate to plat "A subdivision of Government Lot 2 in Section 1, Township 4 North, Range 1 West, Seward Meridian."
- Remove "more or less" from the acreage on the final plat as the acreage will be known after the field survey is completed.
- Provide the owners name and address within the title block.

- 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 the Seward Highway and a width label for the northern portion or a "width varies" label.*
- 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:
- Remove the "Unsurveyed" labels.
 - Provide leaders for the lake labels.
 - Provide a label and boundary for the Chugach National Forest.
 - Remove the overstrike on the Seward Highway label.
- The following are suggestions and not required.
- Provide the protracted section lines in the areas labeled as 'unsubdivided'.
 - Provide a label for Grant Lake.
- F. The location, width and name of existing and platted streets and public ways, railroad rights-of-way, easements, and travel ways existing and proposed, within the subdivision;
Staff recommendation: *Include a width label and street name label for all right of way dedications including the Seward Highway. The cross hatching can be removed as cross hatching is typically used to depict right of way vacations.*
- 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:
- *Provide a label for Government Lot 8 to the north of the subdivision.*
 - *BLM may be removed from adjacent lot labels and changed to Government.*
 - *One label for Government Lot 3 along Upper Trail Lake is all that is required.*
 - *The Kenai Peninsula Borough does not designate the Alaska Railroad as a Tract in this area. Revise the label for the rail road right of way to read 'Alaska Rail Road'*
 - *Remove the patent numbers from the lots.*
- H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding or storm water overflow, and the line of ordinary high water. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;
Staff recommendation: *The low wet areas are not depicted on the plat. An additional map was provided that showed the low wet areas. Depiction and label the low wet areas on the final plat.*
- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;
Staff recommendation: *The slope information was not presented on the plat. Additional maps were submitted to show the contours for the area. The right of way being dedicated for the Seward Highway is 300 feet wide and is sufficient for any drainage or additional area needed for roadway slopes.*
- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;
Staff recommendation: *The slope information was not presented on the plat. Additional maps were submitted to show the contours for the area. Depict and label the top and toe of steep slopes on the final plat.*

- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;
Staff recommendation: *The Seward Highway currently crosses this parcel of land. The plat will dedicate the right of way and create two parcels so that the property is not encumbered by roadway.*

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.*

20.30.030. Proposed street layout-Requirements.

A. The streets provided on the plat must provide fee simple right-of-way dedications to the appropriate governmental entity. These dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Adequate and safe access for emergency and service vehicle traffic shall be considered in street layout.

B. Subdivision of land classified as agricultural conveyed subject to AS 38.05.321(a)(2)(B) may provide public access easements in lieu of fee simple dedications if necessary to comply with the minimum lot size restriction of the statute. The public access easements must meet all applicable right-of-way design criteria of Title 20 and are subject to the building setback requirements set forth in KPB 20.30.240.

C. Preliminary plats fronting state maintained roads will be submitted by the planning department to the State of Alaska Department of Transportation and Public Facilities (DOT) for its review and comments.
Staff recommendation: *Lots within US Survey 2528 are designated as right of way lots. A continuation of those lots shall dedicated as well as atop the section line easement located along the northern boundary of the subdivision. Alaska Mental Health Trust owns the land to the 80 acre parcel to the west. Currently the only access to the 80 acre parcel is the 50 foot section line easement on the north boundary. An 80 acre parcel is located to the southwest with the only access being section line easements to the south.*

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: *Provide a depiction and label for the 20 foot building setback adjoining all right of way dedications.*

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 B is less than 200,000 sq. ft. and will require a soils analysis report. An exception for wastewater review has been requested for Tract B. A soils exception is not required for Tract A as it is larger than 200,000 sq. ft.

Staff recommendation: Add the appropriate plat notes and 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 is in place and will require the signature of the State of Alaska DOT. Include the name of the right of way, Seward Highway, within the plat note. Provide an additional certificate of acceptance for additional right of way dedications that will be under KPB jurisdiction.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

Staff recommendation: Locate the necessary survey markers to establish the subdivision boundary following the procedures as outlined in the BLM Manual of Survey Instructions. Revise the depiction of the boundary. The boundary must include all lands within the subdivision including the right of way and must be more wider then the other lot boundary line depictions.

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.

- No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.
- 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)..
- The front 10 feet adjoining dedicated right of ways is being granted by this plat as utility easements.
- 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.
- A building 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.
- WASTEWATER DISPOSAL: (Tract A) - Lots which are at least 200,000 square feet in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
- Include a plat note for any exceptions granted and the meeting date they were approved

- If the exception is granted for wastewater review add, "WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
- If the exception for wastewater review is denied add, "WASTEWATER DISPOSAL: Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences. An Engineer's Subdivision and Soils Report is available from the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a qualified engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

(Signature of) Engineer

License #

Date

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *Revise the certificate of ownership to remove unneeded pronouns and reflect that the owner is an entity. "I, hereby certify that Alaska Mental Health Trust Authority is the owner of the real property shown and described hereon and that on behalf of the Alaska Mental Health Trust Authority, I hereby adopt this plan of subdivision and by my free consent dedicate all rights-of-way and public areas to public use and grant all easements to the use shown." Comply with 20.60.190.*

EXCEPTIONS REQUESTED:

KPB 20.40.040 - required an soils analysis report

Surveyor's Discussion: We are requesting an exception to code 20.40.040 requiring a soils analysis on proposed Tract B, containing less than 200,000 square feet. We request a waiver to this requirement due to the unique circumstance of the subject parcel being divided by the existing Seward Highway ROW. As previously stated, the intention of this platting action is to dedicate existing ROW resulting in the creation of two new parcels with boundaries identical to their current/existing configuration except for the area to be dedicated as ROW. The new parcels will have new legal descriptions and will be separate, but the usable area and configuration will be virtually unaffected. Separately, Tract B contains over four times the area (outside wetlands) required for development. The proposed subdivision will not alter the existing area suitable for development and there is an abundance of area suitable for development.

Staff Discussion: Proposed Tract A will be 22 acres and will not require a soils analysis report. An exception for proposed Tract B has been requested, as it will be 3 acres. Per KPB 20.40.040, lots that will utilize conventional onsite soil absorption systems and are less than 200,000 square feet must submit a soils analysis and report for review. The square footage of Tract B is approximately 139,329 square feet. There is a portion of wetlands in the eastern portion of the lot that appear to be about 51,360 square feet. The tract will be between the Seward Highway right of way and the Alaska Railroad right of way.

Unless exceptions are requested and granted, staff has recommended additional right of way dedications to comply with code. These dedications will create 3 parcels from proposed Tract A. If right of ways are provided on the south and north boundary of Tract A as well as the extension from ROW Lot 36, the lots will exceed the 200,000 square feet requirement and not require a soils analysis.

If denied, a soils analysis report will be required for Tract B and any other lots less than 200,000 sq. ft.

Findings:

1. Tract B will be approximately 139,329 square feet.
2. Tract B has approximately 87,969 sq. ft. available for wastewater installation, as approximately 51,360 sq. ft. appears to be wetlands.
3. The minimum lot size for onsite well and wastewater is 40,000 sq. ft.
4. If Tract B is further subdivided a soils analysis will be required.
5. All wastewater systems must be approved by the State of Alaska DEC.
6. Tract B will be between the Seward Highway and the Alaska Railroad.
7. The plat intent is to dedicate the right of way and not to change existing boundaries in any other manner.
8. The parcel will be a triangle shape piece that will limit development along the narrow southern border.
9. A 20 foot building setback will be put in place along the Seward Highway.
10. A 10 foot utility easement will be put in place along the Seward Highway.
11. Sewer vent pipes are allowable within the setback.
12. Steep slopes appear to be present within the southern point of the property.

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 1-5 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 1-5 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 1-5 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