

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – BARNETT’S SOUTH SLOPE SUBDIVISION EVANS ADDITION

<b>KPB File No.</b>	2022-015
<b>Plat Committee Meeting:</b>	February 28, 2022
<b>Applicant / Owner:</b>	Bryan and Ginny Evans of Homer, Alaska
<b>Surveyor:</b>	Tom Latimer / Orion Surveys
<b>General Location:</b>	South Slope Drive, East Tasmania Court, City of Homer

<b>Parent Parcel No.:</b>	177-020-44 and 177-020-45
<b>Legal Description:</b>	Lots 2 and 4, Block 2, Barnett’s South Slope Subdivision, HM 77-61
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Residential District
<b>Water / Wastewater</b>	On site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will combine two lots to create one 1.76 acre lot.

**Location and Legal Access (existing and proposed):** The new lot will be on the corner of South Slope Drive and E Tasmania Court. South Slope Drive is a 60 foot wide right of way. E Tasmania Court is a 50 foot wide right of way that is approximately 300 feet long and ends in a bulb. Both right of ways are maintained by the City of Homer. Improvements are present on parent Lot 2. The access appears to be off South Slope Drive.

South Slope Drive provides a connection from East Hills Road and Nelson Avenue. Per KPB GIS imagery, the northern and southern portion of South Slope Drive appears to be constructed. An approximate 220 foot section of South Slope Drive, located south of the intersection with E Tasmania Court, does not appear to be constructed at this time.

E Tasmania Court was dedicated as a 50 foot wide right of way. An exception for right of way width has been requested.

The block is closed but the lengths are not compliant. East Hill Road, Shellfish Avenue, South Slope Drive, Nelson Avenue, Ronda Street, and East End Road define the block. The design of Nelson Avenue and East Hill Road have created an irregular block. E Tasmania Court is a cul-de-sac and does not provide for a connection to another right of way to improve the block. Cul-de-sacs, as defined by KPB Code 220.30.100(A), are to remain permanently closed. ***Staff recommends the plat committee concur that an exception or dedication are not required as the proposed subdivision is not able to provide a dedication to improve the block lengths.***

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

**Site Investigation:** The plat depicts the areas with slopes greater than 20 percent. Per KPB GIS Wetlands Assessment, there are discharge slopes present within the northwest portion of the subdivision. Low wet areas should be shown on the plat. The plat note to contact the U.S. Army Corps of Engineers is present on the plat as requested by the City of Homer Planning Commission.

Barnett’s South Slope Subdivision, Plat HM 77-61, granted a 15 foot creek maintenance easement along the eastern boundary of Lot 4. ***Staff recommends the easement be depicted and labeled, noting the easement was granted by HM 77-61.***

Improvements appear to be present within parent Lot 2. The improvements appear to be within the area shown as discharge slopes. Parent Lot 4 is shown as vacant per KPB Assessing information. Lot 1, located to the north, has an accessory building. Lot 3, located to the north, is currently vacant. Lot 5-A-1 contains multiple dwellings and Lot 6-A-1 has multiple accessory buildings. There does not appear to be any encroachment issues.

East of the subdivision is Lot B-1, Subdivision of the H Latham Property Robert Hoedel 1983 Tract "B", HM 83-53. Lot B-1 is a narrow and long lot that is design was determined by the dedication of East Hill Road from the parent parcel. The lot fronts along East Hill Road and is currently designated as vacant residential property.

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>
State of Alaska Fish and Game	No objections to the proposed platting actions. The proposed actions will not affect public access to public lands and waters.

**Staff Analysis** The current lots were created by the subdivision of aliquot lands on plat Barnett's South Slope Subdivision, HM 77-61. The preliminary plat is proposing to combine two of those lots, Lots 2 and 4 of Block 2, into one lot.

The City of Homer Planning Commission reviewed the preliminary plat at their August 4, 2021 meeting. Their zoning designation is Rural Residential District. City water and sewer services do not currently serve the lots. The Planning Commission recommended approval with the following comments.

1. Include a plat note stating "Property owner should contact Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation (if any) property owners are responsible for obtaining all required local state and federal permits."
2. Commission to concur with maintaining East Tasmania Court as a 50 foot right of way with the inclusion of plat note and depiction designating the adjacent 15 foot utility easement as a utility and slope easement.
3. Correct the street name to East Tasmania Court.

Item 1 is addressed in plat note 9. Item 2 will be further discussed with the exception request. The correct listing of the street name will need to be verified. The city requested the street name be updated to include "East". KPB GIS data reflects that "E" is used for the prefix as opposed to the name being spelled out. **Staff recommends the street name be updated to "E Tasmania Court".**

An exception has been requested for KPB 20.30.240 so that the building setback note would not be carried over to this plat. The subdivision falls within the City of Homer and is subject to their setbacks and zoning requirements. KPB Code 20.30.250 addresses when parent plats contained a setback requirement on plats located within the city. **Staff recommends the plat committee concur that the exception is not required and the plat should comply with KPB Code 20.30.250.**

Per the City of Homer Staff Report, city water and sewer do not serve the lots at this time. Reviewing the City of Homer's online maps, services are available in the area but have not been extended to reach the lot. The parent subdivision did not have soils analysis performed. The preliminary plat will be increasing the size of the lot by more than 1,000 square feet. A soils report will not be required. The wastewater note will need to be revised to comply with KPB 20.40 unless plans for an existing system can be presented to staff. **Staff recommends an installation agreement or documentation that one is not required should be submitted and the plat note for wastewater disposal be updated in compliance with KPB 20.40.**

Notice of the proposed plat was mailed to the beneficial interest holder on February 7, 2022. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

**Utility Easements** Barnett's South Slope Subdivision, HM 77-61, granted a 10 foot utility easement along E Tasmania Court. 10 foot utility easements were also granted along each side of the common lot line between Lots 2 and 4 and Lots 2 and 1. There were no easements granted along South Slope Drive.

An additional easement has been granted by recorded document and is noted in plat note 8.

Kenai Peninsula Borough Planning Commission Resolution 92-06 vacated the northern utility easement within Lot 2 except for the eastern 10 feet. The surveyor noted the owners were discussing vacating the utility easement along the shared former lot line but found that the easement was in use.

The plat will be granting a 15 foot utility easement along South Slope Drive. An additional 5 feet of easement will be granted by this plat along E Tasmania Court to increase the easement to 15 feet. The easement along the shared lot line from the parent plat is correctly drawn. **Staff recommends rewording of the plat notes to explain the dedications, include that the 20 foot utility easement was granted by the parent plat, and removal of utility easement depictions within neighboring lots.**

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	No comments
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek  Affected Addresses:  4526 SOUTH SLOPE DR</p> <p>Existing Street Names are Correct: Yes  List of Correct Street Names:  SOUTH SLOPE DR  E TASMANIA CT</p> <p>Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:</p>
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	Comments: The city of Homer will advise on affected address.
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: Wilcox, Adeena Comments: No Comment

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 location of the subdivision to the "SE1/4"
- 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:**
- The lot marked as Lot 2 north of the subdivision should be revised to Lot 3.
  - Make the block label more prominent or remove and add a block label on each lot.
  - The lots located south of East Tasmania Court have a different plat number than the lots involved in the replat and others shown. Provide a recording number for any lots that are different from the plat number located in the title block.
  - Lot B-1 is only about 60 feet wide. It would be beneficial to show the parcel as well as the East Hill Road right of way. Provide a right of way label and width label for East Hill Road.
- 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:** Per KPB GIS data, there are wetlands located in the northwest portion of the subdivision.

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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.*

#### 20.30.120. Streets-Width requirements.

- A. The minimum right-of-way width of streets shall be 60 feet.
1. Half streets shall generally not be allowed except to provide the logical extension of a right-of-way where the remaining half street can reasonably be expected to be dedicated in the future.
  2. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoiners to the new half right-of-way will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the plat committee decision by the full Planning Commission.

- B. Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.

**Staff recommendation:** *E Tasmania Court is only 50 feet wide. An exception has been requested.*

#### 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:** *An exception was requested not to carry over the building setback. This portion of code would apply to the preliminary plat making the exception not necessary. Comply with 20.30.250.*

#### 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 Homer 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: A soils report is not required as the plat will be increasing usable area by more than 1,000 square feet as outlined in 20.40.020(A)(2). The city staff report states city water and sewer are not currently available. The wastewater certificate should be revised unless it is demonstrated to staff that the plans are on file. The note should read "WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."*

**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.*

#### 20.60.030. Certificate of borough finance department required.

*Platting Staff Comments: All taxes levied on the property within the subdivision shall be paid prior to recordation of the final plat. If approval is sought between January 1 and the tax due date, there shall be on deposit with the borough finance department an amount sufficient to pay the entire estimated real*

property tax for the current year. Prior to filing of the final plat, a certificate to this effect shall be provided by the borough finance director or his designee upon request by the planning director. Estimated tax payments shall be applied to the actual bill as of July 1 or such earlier date as the taxes due have been determined.

Taxes owed may include special assessments for utility or road assessment districts established by KPB ordinance.

**Staff recommendation:** comply with 20.60.030.

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 that one is not required.

20.60.160. Easements.

A. The plat shall clearly show the location, width, and use of all easements. The easements must be clearly labeled and identified and, if already of record, the recorded reference given. If public easements are being granted by the plat, they shall be properly set out in the owner's certification of dedication.

1. Special purpose easements being granted by the plat shall be clearly defined for allowed use. Special purpose easements may require a signed acceptance statement on the plat.

B. Private easements may not be granted on the plat.

**Staff recommendation:** A slope easement is being requested by the City of Homer if no additional dedication is required. An acceptance should be included on the plat. Comply with 20.60.160.

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.

- Per KPB 20.30.250, the building setback of record has been removed. All development must comply with the municipal zoning requirements.
- The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.

Make the following corrections or additions to plat notes on the plat.

- Plat note 1, provide a reference to KPB Code 20.60.200(A).
- Plat note 3, revise to read, "Barnett's South Slope Subdivision, Plat HM 77-61, granted 10 foot utility easements along East Tasmania Court. This plat will be granting an additional 5 foot utility easement to provide a 15 foot utility easement. The 15 foot utility easement is also a slope easement granted by this plat. This plat will be granting a 15 foot utility easement along South Slope Drive."
- Plat note 5 will be removed and replaced with the plat note referring to KPB 20.30.250.

- Amendments have been filed for the covenants, conditions and restrictions found in Plat note 7. Add to the note, "and amendments recorded in Book 100 Page 61, HRD and Book 104 Page 746, HRD."
- Staff would suggest removing "general easement" from plat note 8 and instead note, "no definite location disclosed."

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** Provide an acceptance for the slope easement to be signed by the City of Homer. Comply with 20.60.190.

### **EXCEPTIONS REQUESTED:**

#### **A. KPB 20.30.120 – Streets-width requirements** (E Tasmania Court)

Surveyor's Discussion: Current code calls for a 60' ROW width. This short section of road currently serves only Lot 5-A-1. Considering existing construction on Lot 5-A-1 it is unlikely that this lot will be further subdivided. Current use of Tasmania Court is essentially as a driveway to Lot 5-A-1 and there is no need for additional dedication. The City of Homer Planning Commission agreed with the exception request at their meeting of August 4, 2021.

Staff Discussion: Barnett's South Slope Subdivision, Plat HM 77-61, dedicated the right of ways ending in cul-de-sacs as 50 foot wide. When dedicated, five lots would have access from E Tasmania Court. Replats have reduced the number to four lots. This platting action will reduce it further to three. Barnett's South Slope Subdivision Crandall Addition No. 2, Plat HM 2000-08, was heard at the December 13, 1999 Plat Committee meeting. The road width was not addressed or discussed within the staff report or by the plat committee.

The City of Homer staff report contained comments from the Public Works Department. "The Tasmania Court right-of-way is currently 50'. I foresee that road improvements will be initiated in the future with the water and sewer infrastructure planned for this coming summer or next. Please change the 15' utility easement fronting the right-of-way to note a 15' utility and slope maintenance easement. This should adequately address road improvements without requiring additional right-of-way for this specific plat."

If denied, this plat will be required to dedicate a portion of right of way.

#### **Findings:**

1. KPB Code 20.30.120 requires right of way widths to be 60 feet.
2. Plat HM 77-61, Barnett's South Slope Subdivision, dedicated E Tasmania Court as 50 foot wide.
3. E Tasmania Court is approximately 300 feet long.
4. E Tasmania Court ends with a bulb that has a 50 foot radius.
5. Per KPB Code 20.90, definitions, a cul-de-sac serve no through traffic and are closed permanently.
6. There are currently four lots with available access from E Tasmania Court.
7. Currently one lot has constructed access from E Tasmania Court.
8. The City of Homer Public Works requested a slope easement in place of additional dedications.
9. The City of Homer Planning Commission agreed to maintain E Tasmania Court as a 50 foot wide right of way if a 15 foot slope easement was granted.
10. Additional right of way width was not requested for Barnett's South Slope Subdivision Crandall Addition No. 2, Plat HM 2000-08.

Staff reviewed the exception request and recommends granting approval subject to the 15 foot slope easement being granted.

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 2-10 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 2-10 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 2-10 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**