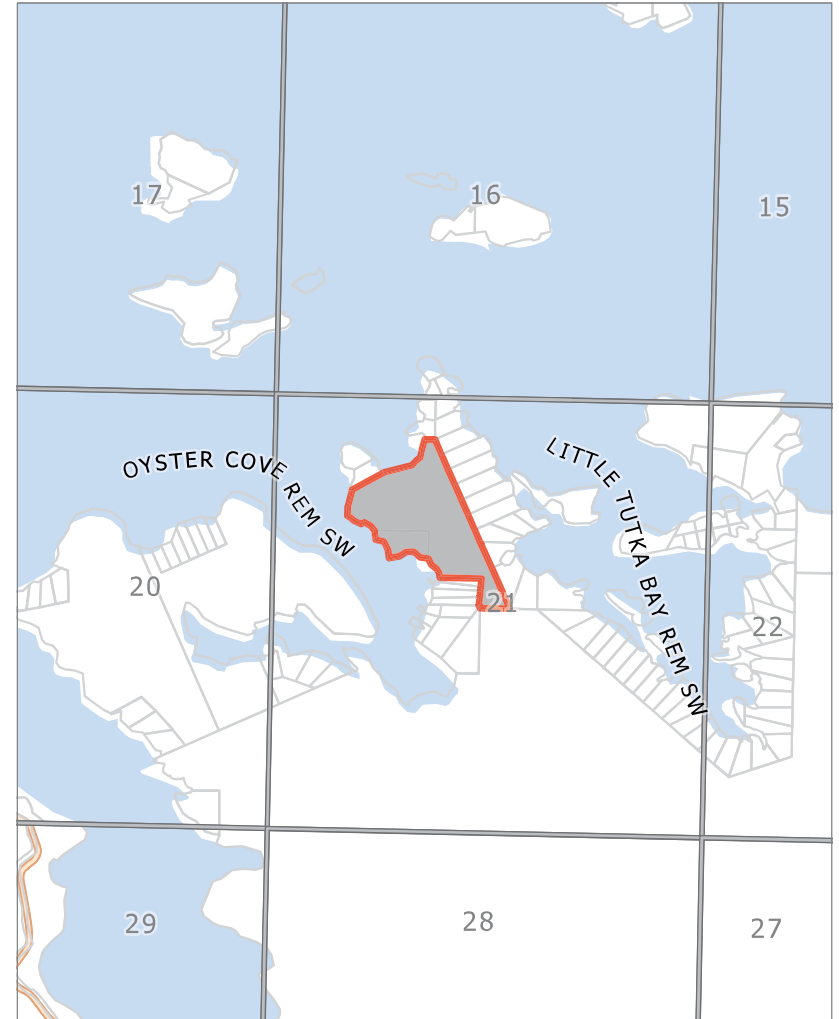


## **E. NEW BUSINESS**

- 11. East Oyster Cove Subdivision; KPB File 2022-047R1  
Fixed Height LLC / Alaska Mental Health Trust Authority  
Location: Oyster Cove REM SW  
Remote Area**

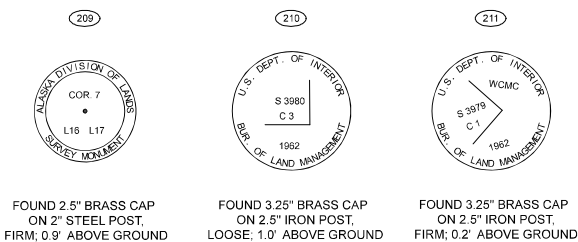
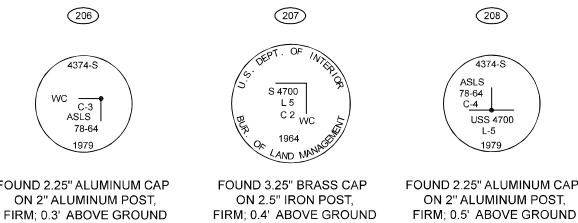
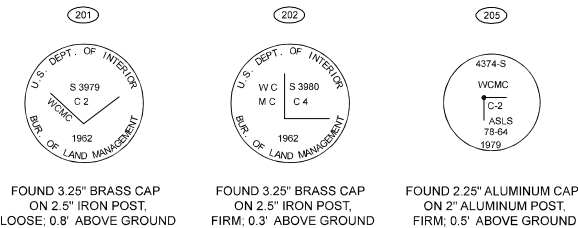


KPB File # 2022-047R1  
S21 T08S R13W  
Remote

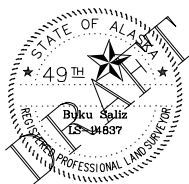
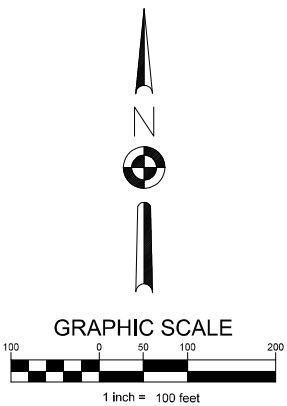




MEANDER LINE TABLE		
LINE	BEARING	DIST. (ft.)
ML1	N 55°26'05"E	50.12'
ML2	S 16°41'56"W	162.21'
ML3	N 50°15'46"W	117.54'
ML4	S 72°02'52"E	134.52'
ML5	N 77°32'58"E	113.05'
ML6	N 43°39'33"W	91.55'
ML7	N 14°39'54"W	73.39'
ML8	N 38°06'40"E	59.73'
ML9	S 50°45'58"E	115.23'
ML10	N 65°15'55"E	206.62'
ML11	N 68°15'55"E	202.62'
ML12	N 09°45'41"W	117.85'
ML13	S 64°54'56"E	131.68'
ML14	N 14°46'21"W	96.33'
ML15	S 50°13'38"E	126.39'
ML16	S 50°13'38"E	110.07'
ML17	N 38°58'51"E	163.08'
ML18	S 19°17'20"W	77.21'
ML19	S 39°54'31"E	149.63'
ML20	S 10°47'30"W	135.49'
ML21	S 59°07'55"E	15.54'
ML22	N 64°46'03"W	16.45'
ML23	S 73°10'50"W	143.07'
ML24	S 73°10'50"W	143.07'
ML25	S 64°31'04"W	121.28'
ML26	S 64°31'04"W	76.21'
ML27	N 44°22'10"E	18.72'
ML28	S 13°30'22"E	130.52'



✱	FOUND 3.25" DIAMETER BRASS MONUMENT
⊗	FOUND 2.5" DIAMETER BRASS MONUMENT
⊕	FOUND 2.25" DIAMETER ALUMINUM MONUMENT
— · — ·	LOT LINE TO BE VACATED BY THIS PLAT
— — — —	UTILITY EASEMENT GRANTED BY THIS PLAT
— — — —	PUBLIC ACCESS EASEMENT GRANTED BY THIS PLAT
-----	EXISTING UTILITY EASEMENT
(R)	RECORD MEASUREMENT - PLAT 67-85
(R1)	RECORD MEASUREMENT - PLAT 75-263
(R2)	RECORD MEASUREMENT - PLAT 83-06
(R3)	RECORD MEASUREMENT - USS 3979
(R4)	RECORD MEASUREMENT - PLAT 87-9



I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME AND THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE TRUE AND CORRECT.

BUKU SALIZ LS-14837  
REGISTERED LAND SURVEYOR

DATE \_\_\_\_\_

A PLAT OF

## EAST OYSTER COVE SUBDIVISION

A SUBDIVISION OF

A PORTION OF THE NORTH 1/2 OF SECTION 21  
AND LOT 4 OF U.S. SURVEY No. 4700

EXCLUDING U.S. SURVEY No's. 3903, 3979, 3981, 4700 (LOTS 2 & 3), AND 4747 (LOT 3)  
SOUTH KACHEMAK ALASKA SUBDIVISION (67-85);  
JESSE COVE SUBDIVISION (83-6); QUIET COVE SUBDIVISION (87-9);  
AND THOSE UPLANDS LYING NORTH OF U.S. SURVEY No's. 3903 AND 3979  
CONTAINING 36.616 ACRES

LOCATED WITHIN  
PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA  
SELDOVIA RECORDING DISTRICT



FIXED HEIGHT

907.290.8945  
WWW.FIXEDHEIGHT.COM

MENTAL HEALTH TRUST ; 2600 CORDOVA STREET ; ANCHORAGE, AK 99503

FILE NO.: XXXX-XX

DRAWN BY/DATE: AK / 1-1-2022

SUBJECT NO.: 21083

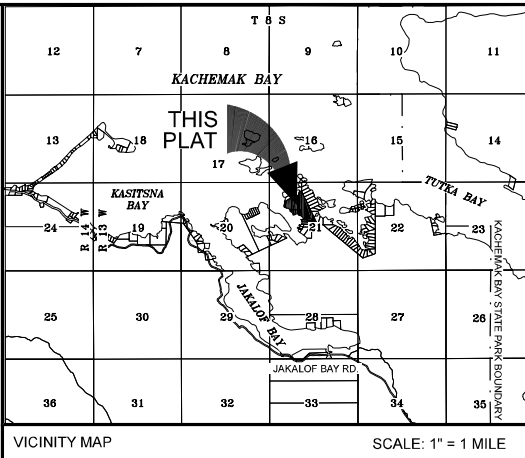
CHECKED BY: \_\_\_\_\_

VEY DATE: SEPTEMBER 7-9, 2021

SCALE: 1" = 100'

D BOOK: 21-01

SHEET: 1 OF 1



## NOTES

1. SET 5/8" X 3" REBAR WITH 1.25" DIAMETER ORANGE PLASTIC CAP AT ALL LOT CORNERS AND 5/0" UPLAND ON PROPERTY LINE AS WITNESS CORNERS TO THE MEANDER CORNERS.
2. ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION, IF APPLICABLE.
3. THE MEANDER CORNERS SETTING THE PUBLISHED MEAN HIGH WATER ELEVATION OF 12.27 FEET (NAVDS8) AT NOAA TIDAL BENCHMARK "TIDAL B" (OPUS BID B8F8H2) LOCATED AT NOAA-UPUY KASITSNA BAY LABORATORY ELEVATIONS WERE TRANSFERRED USING RTK GPS.
4. THE LOCATION OF THE SECTION CORNERS FOR PROTRACTED SECTION 21 WERE DETERMINED USING COORDINATES EXTRACTED FROM THE ALASKA DIVISION OF LANDS PROTRACTION DIAGRAM NO. S-16-5.
5. THESE PROPERTIES MAY BE SUBJECT TO RIGHTS OF THE PUBLIC AND OR GOVERNMENTAL AGENCIES IN AND TO THAT PORTION OF SAID PREMISES LYING NORTH OF THE MEAN HIGH WATER MARK OF KASITSNA BAY AND ANY QUESTIONS OF RIGHT OF ACCESS TO KASITSNA BAY IN THE EVENT OF SAID LANDS DO NOT IN FACT ABUT THE KASITSNA BAY.
6. THESE PROPERTIES MAY BE SUBJECT TO RESERVATIONS AND EXCEPTIONS AS CONTAINED IN STATE OF ALASKA MENTAL HEALTH TRUST LAND DEED AND/OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF AS RECORDED ON SEPTEMBER 25, 1996 IN BOOK 35, PAGE 415, SELDOVIA RECORDING DISTRICT.
7. THESE PROPERTIES MAY BE SUBJECT TO RESERVATIONS AND EXCEPTIONS AS CONTAINED IN THE REMOVAL FROM BUREAU OF LAND MANAGEMENT RECORD ON AUGUST 20, 1984 IN BOOK 27 PAGE 62, SELDOVIA RECORDING DISTRICT.
8. THE BOROUGH WILL NOT ENFORCE PRIVATE COVENANTS, EASEMENTS, OR DEED RESTRICTIONS PER KBP 20.60.170.
9. 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.
10. THE ONLY ACCESS AVAILABLE TO THIS SUBDIVISION AT THE TIME OF RECORDING MAY BE:
11. EXCEPTIONS TO KBP 20.30.30 (PROPOSED STREET LAYOUT), KBP 20.30.170 (BLOCKS-LENGTH REQUIREMENTS), AND KBP 20.30.210 (LOTS-ACCESS STREET) WERE GRANTED BY THE KBP PLANNING COMMISSION AT THE MEETING HELD ON MAY 9, 2022.



AGENDA ITEM E. NEW BUSINESS

ITEM 11 - EAST OYSTER COVE SUBDIVISION

KPB File No.	2022-047R1
Plat Committee Meeting:	June 13, 2022
Applicant / Owner:	Alaska Mental Health Trust of Anchorage, AK
Surveyor:	Andre Kaeppele, Buku Saliz / Fixed Height LLC
General Location:	Remote, Oyster Cove, Kasitsna Bay

Parent Parcel No.:	191-170-70 and 191-170-87
Legal Description:	A Portion of the North ½ of Section 21 and Lot 4 of US Survey No 4700
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 two parcels that are approximately 38 acres into sixteen lots. The lots will range in size from 1.508 acres to 4.631 acres. 50 foot wide public access easements are proposed to provide alternate access to lots.

**Location and Legal Access (existing and proposed):** This is considered a remote location. It is located along Oyster Cove in the Kasitsna Bay. This is along the eastern side of Oster Cove. On the western side of the cove is the Oyster Cove Airport. These lots will be water access only.

A large acreage parcel is present to the south. Adjacent to the south, east, and southeast of that parcel is more large acreage parcels. They are all owned by Alaska Mental Health Trust. The closest right-of-way is Jakolof Bay Road, about 2 miles south of the subdivision. If the large acreage parcels are ever subdivided they may be able to provide dedicated access to the various lots located along the coast of the bays in the area. KPB information has found that the status of section line easements through the large acreage tracts is not clear. Any attempt to use section lines for access will require a determination by the State of Alaska.

South Kachemak Alaska Subdivision, Plat SL 67-85, indicated a 40 foot wide access easement, centered on the share lot line of Lot 15 and Lot 16 that would provide future access to lands to the west from Little Tutka Bay. This plat is proposing to provide a 50 foot wide access easement at the end of that access easement to provide a continuation to Little Jakalof Bay. Additional 50 foot public access easements are proposed along the shore of Lots 9-13 and Lot 16. That access easement continues to the north centered on shared lot lines to provide additional access to Lots 5-8. The easements then run east-west to provide additional access to Lots 1-4 and 9-11.

Due to the location, large acreage tracts, and no dedications within the area, the block length is not compliant.

KPB Code 20.30.050, Legal Access, requires that legal access exists to the boundary of the subdivision. It is currently only accessed by water. Staff believes the requirements of 20.30.050(B) have been met as there is permanent public access by water. A plat note is present that states the current access limitations. **Staff recommends the plat committee concur to waive the legal access requirements of KPB 20.30.050(A).**

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: Per RSA standards, a 60' ROW is required for maintenance.
SOA DOT comments	No comment

**Site Investigation:** KPB GIS does not have any wetland or contour information for the area. Per older imagery the land appears to not contain any low wet areas except around the cove and bay. Within proposed Lot 14 and Lot 15 there appears some low wet areas may be present within the access easement area from Little Tutka Bay. The appropriate note regarding wetland determinations is present. **Staff recommends** any low wet areas or steep terrain discovered during the field survey be depicted and labeled on the final plat.

This appears to be property with lots of vegetation. No improvements appear on the older imagery that is available. KPB Assessing notes that the property is vacant.

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 comments

**Staff Analysis** The proposed plat being reviewed was originally heard by the Plat Committee on May 9, 2022. The Plat Committee did not take action on that plat due to lack of a second on the motion. Per KPB Code 20.25.100, once a completed application has been received the Planning Commission shall approve, conditionally approve, or disapprove the plat by determining if the plat complies with KPB Code requirements. This decision must be granted within 60 days of a completed application. Per Alaska Statutes, the platting authority must approve or disapprove a plat within 60 days and unless the applicant consents to an extension of time, the plat would be considered approved and the certificate of approval may be issued on demand if action was not taken within the required timeframe. Staff contacted the surveyor to discuss scheduling for the May 23, 2022 meeting. The turnaround time would allow for staff to provide the required notifications and for the Plat Committee to make a decision within 60 days. The surveyor requested the June 13, 2022 meeting to allow time to address some of the concerns brought up during the original meeting and to update their design. What is being reviewed at this time is a revision of the original submittal.

The revision has incorporated some of the recommended changes and corrections made by staff within the original staff report. The lot numbers have had some of their numbers changed at staff's request. Concerns were addressed regarding some of the steep terrain along the water for some of the lots. Additionally, the prior existing access easement from the east contained some low wet areas that could cause access issues. In order to address both of those issues additional public access easements are proposed in addition to the previously proposed easements along Little Jakalof Bay. All lots will now have access to a 50 foot public access easement in addition to their water access. Lots 14 and 15 will now have another route if the already existing access easement is not sufficient.

Homer Electric Association had requested some additional utility easements, the surveyor has included some easements within the revision and this was forwarded to the providers for new comments.

Additional concerns discussed during the previous meeting such as eagle's nest, archeology sites, etc. are not within the purview of KPB Code. Multiple comments have been received for this review that state many of the same concerns as discussed during the previous meeting. Staff would like to note that KPB Code does not have the provision to require environmental impact studies. Additional agencies have guidelines and restrictions that any owner or developer will need to adhere to.

The surveyor has noted in conversations with staff, that the soils will not support a conventional wastewater system. They were advised that the submittal of the report will require compliance for an alternate onsite wastewater treatment and disposal system. A DEC approved alternate system should be presented with the soils report for review.

This is a 38 acre subdivision to create sixteen lots that will be accessed by water only. The two lots that do not front on any waterbody have access via a 40 foot wide access easement from Little Tutka Bay that was created by Plat SL 67-85. All lots will have additional access via 50 foot wide access easements from Little Jakalof Bay.

The land within this survey is from U.S. Survey 4700 that was done in 1965. The remainder of the property is the remaining portion of the north half of Section 21 excluding numerous U.S. Surveys and several subdivision plats.

A soils report will be required and an engineer will 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.

The property is not within an advisory planning commission.

**Utility Easements** The property within this subdivision has not been part of a subdivision that would have granted platted utility easements. Per South Kachemak Alaska Subdivision, Plat SL 67-85, 20 foot utility easements were granted centered on the lot lines shared with the large remainder parcel of this subdivision. That plat was a state plat but we generally do not allow easements to be granted on property not included within the boundary of the subdivision plat. This plat is depicting the easement along the eastern boundary. **Staff recommends the label include "granted by this plat".**

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	
ACS	No objections
GCI	

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek  Affected Addresses:  None</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names:  Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:  List of Street Names Denied:</p> <p>Comments: No addresses affected by this subdivision.</p>
Code Compliance	Reviewer: Ogren, Eric



	Comments: No comments
Planner	Reviewer: Raidmae, Ryan 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:**

- Owner name should include Alaska Mental Health Trust.
- The KPB Assessing information has a different address for Alaska Mental Health. Verify the address they wish to have present on the plat.

#### **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:** An exception has been requested.

20.30.050. Legal access.

A. The applicant shall provide an access plan to the planning department verifying the existence of legal access to the subdivision boundary. The plan shall consist of the documents depicting the access, a map depicting the location of the access, and topographic information indicating that construction which meets the design requirements set forth in KPB Chapter 20.30 is practical and economical. In this title, legal access exists where an unrestricted, public right-of-way connects the subdivision to the state highway system, the state marine highway system or a regularly served public airport, and one of the following is met:

1. Ingress and egress will be provided over section line easements located within a surveyed section;
2. The applicant provides copies of borough-accepted recorded conveyances creating the public easement or right-of-way where the access is located;
3. That access is a State of Alaska maintained road or municipal maintained road;
4. The applicant provides documentation satisfactory to the borough demonstrating that public legal access is guaranteed through judicial decree; or
5. The right-of-way is an easement or fee interest at least 60 feet in width dedicated or irrevocably conveyed to the public and acceptable to the planning commission.

B. The following situations may qualify for a waiver of the legal access requirement:

1. Upon finding that no practical means of providing road access to a proposed subdivision exists and upon presentation of credible and convincing evidence by the applicant that permanent public access by air, water, or railroad is both practical and feasible, the planning commission may waive the legal access requirements of KPB 20.30.050(A). If access other than by road is approved, the mode of access shall be noted on the plat. .
2. Where only a 30-foot dedication exists over all or a portion of the legal access to a subdivision, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the other 30 feet will be dedicated in the future.
3. Where a road is in use for physical access but there is no right-of-way document for all or part of the access road, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the right-of-way will be dedicated in the future.

**Staff recommendation:** *Staff is asking the plat committee to concur that the legal access requirements should be waived, plat note 11 states only water access.*

20.30.170. Blocks-Length requirements. Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.

**Staff recommendation:** *The plat does not comply. Grouped and discussed with the exception to KPB 20.30.030.*

20.30.210. Lots-Access to street. Each lot shall abut on a fee simple dedicated street except as provided by KPB 20.30.030(B).

**Staff recommendation:** *Grouped and discussed with the exception to KPB 20.30.030.*

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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 will be required and an engineer will need to sign the plat. KPB Code 20.40.050, is specific to alternate onsite wastewater treatment and disposal.*

**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.

- 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.

*Plat notes need renumbered and note 12 needs date updated.*

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:**

- On the certificate of ownership, a signature line is not required above Alaska Mental Health Trust Authority as the signature above is on their behalf. Move the typed information to be below "Authorized Official Name".
- Correct the Notary's Acknowledgement should contain "Acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_." Comply with 20.60.190.

**EXCEPTIONS REQUESTED:**

**KPB 20.30.030 – Proposed Street Layout**

Surveyor's Discussion: Based on the ocean frontage contained by all but two of the lots within the proposed subdivision, we expect the primary access for development of these lots to be by watercraft. Additionally, none of the adjoining subdivisions have dedicated ROWs due to the similar ocean front layout of the lots. Dedicating a ROW would encourage development along the landward boundaries of the proposed lots and detract from the rural nature that makes them desirable. If an exception is granted to KPB 20.30.030, 20.30.170 and 20.30.210 would no longer be applicable due to the absence of streets within the proposed subdivision.

Staff Discussion: Per KPB Code 20.30.030, dedications must be provided for continuation or appropriate projections and provide reasonable means of ingress to surrounding acreage tracts. While the exception request is for KPB Code 20.30.030, staff finds that the approval of this acceptance should also take into consideration KPB 20.30.170, Block Length Requirements, and 20.30.210, Lots-Access to streets. If this exception is granted it will not be possible to meet those requirements.

This subdivision is to be remote recreational property. There are other lots in the area that are similar. The Oyster Cove airport is across the bay to provide additional access but watercraft will still be required to get to the lots. The owner of the large acreage parcels in the area are the same of this subdivision. If they needed right-of-way access for their property they could require it at this time.

If the exception is granted, staff recommends the plat note for the exception granted include all three portions of code.

**Findings:**

1. KPB Code requires right-of-way dedications to provide adequate access to all lots within the subdivision



- and neighboring.
2. KPB Code requires right-of-way dedications to create compliant block lengths.
  3. KPB Code requires lots to abut a fee simple dedicated street.
  4. This is a remote area.
  5. Only access at this time is by water.
  6. Large acreage lots are in the area that are all owned by Alaska Mental Health Trust.
  7. The owner of this subdivision is Alaska Mental Health Trust.
  8. Utility easements are being requested and will need to be granted.
  9. Public access easements are proposed from Little Jakalof Bay to all lots within the subdivision.

Denial of the exception will require rights-of-way dedications that will create compliant blocks and that all lots will abut.

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 4-9 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 4-9 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 4-9 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**

May 31, 2022

From: Joy Ballard  
Lamar Ballard

To: The Kenai Borough Assembly

Re: Mental Health Trust Subdivision Proposal in Little Jakolof Bay

Dear Assembly Members:

We have recently become aware of the proposal by the Alaska Mental Health Trust Authority to subdivide two pieces of land between Little Tutka Bay and Little Jakolof Bay into 16 parcels.

We have had our property in Little Tutka Bay since the Mid-Sixties. Since that time, we have observed private and commercial parties undertake developments that were not necessarily in the best interest of the local community. There needs to be a more thorough review of this proposal as it will dramatically increase the number of available lots for development which comes with potential issues around water/beach access, vessel anchorages or congested moorings. It appears that some of the lots in the proposed subdivision are essentially land locked with the exception of a small easement. While the future owners of the proposed lots may be well intentioned, in some instances they may be tempted to access their property through a neighboring lot which has closer beach access. It seems that some of these lots are not very suitable for development as platted.

We respectfully request that you delay any decisions regarding subdividing the area until some of these issues can be addressed by the local community. For my family, a trip to Little Tutka Bay is for leisure activity, but there are those who live in the area year-round. We are grateful to be part of this community and hope that the Kenai Peninsula Borough Planning Commission thoughtfully reviews all input from affected parties.

Thank you for the consideration in this matter.

Sincerely,

Joy and Lamar Ballard  
6221 Petersburg Street  
Anchorage, Alaska 99507  
Email: akjoyski@gmail.com



**Hindman, Julie**

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**From:** Leavitt, Rhealyn  
**Sent:** Tuesday, May 31, 2022 9:28 AM  
**To:** Shirnberg, Ann; Quainton, Madeleine; Hindman, Julie  
**Subject:** FW: <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047R1 proposed Little Jakolof Bay subdivision

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**From:** Daniel Coyle <djcoyle1@gmail.com>  
**Sent:** Monday, May 30, 2022 8:44 AM  
**To:** Planning Dept, <planning@kpb.us>  
**Cc:** Doug Kossler <anchoragerunner@yahoo.com>; tanomoshii@yahoo.com; Maurice Coyle <mauricecoyle3@gmail.com>; jonathan coyle <jpcoyleak@gmail.com>; keetnasimon@yahoo.com; walanier@gmail.com; jenny coyle <jen79coyle@gmail.com>; John Giuggio <giovanpietro3@gmail.com>  
**Subject:** <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047R1 proposed Little Jakolof Bay subdivision

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

**To: Kenai Peninsula Borough Planning Department  
144 N Binkley Street  
Soldotna, AK 99669**

**(submitted via email)  
MAY 30, 2022**

**To: Kenai Peninsula Borough Planning Department**

As a unified group of seven local residents and landowners, we'd like to express our urgent concerns about the proposed subdivision in Little Jakolof Bay and Little Tutka Bay, KPB File 2022-047R1, for the following reasons:

1) The proposed subdivision will destroy an existing archaeological site of significant cultural and historical value. The site is located near proposed lots 8, 9, and 10. Further investigation could uncover additional sites, which would be protected by state and federal law.

In addition, the development of new lots may destroy wildlife habitat, including eagle-nesting areas

2) The proposed subdivision does not provide adequate water access or supply. Many of the proposed lots are located on bedrock, with no water source.

3) The proposed subdivision — 16 lots, many of them extremely narrow, located in a relatively small, confined area — creates multiple and overlapping problems of density and access, and will generate navigational hazards. The entrance and the western (weather-exposed) side of the bay is narrow for running lines, and not suitable for moorings.

4) A significant number of the lots are unusable because of steepness or access problems. Some lots have steep rocks on the shore and are inaccessible from the beach. In addition, two lots have access only through Little Tutka Bay, creating additional congestion for residents of Tutka Bay.

5) The alterations made to this latest version (subsequent to 2022-047) do not significantly lessen any of the concerns voiced above. Adding public-use corridors does not lessen the multiple and lasting negative impacts to the area that this subdivision will create.

We hope that these comments will provide the planning commission with guidance and clarity as it makes its decisions. We are ready and willing to answer any questions or provide any additional information the planning commission requires. We hope that the commission will delay any imminent decisions in order to give appropriate time, research, and attention to these sincere and valid concerns.

SIGNED,

**Daniel Coyle**

**Maurice Coyle**

**Jonathan Coyle**

Co-owners of Bootleggers Cove Lots 1, 3 4, and 5

**Doug Kossler**

**Margaret Kossler**

**Kimberly Lanier**

**William A. Lanier**

Co-owners of Jesse Cove Tract 3 and 4



June 3, 2022

Ms. Madelaine Quinton  
Kenai Peninsula Borough Planning Department  
144 N. Binkley Street  
Soldotna, Alaska 99669

Dear Ms. Quinton,

Subject: KPB File No. 2022-047R1 Oyster Cove Subdivision

As a follow up to our letter outlining our concerns (see below in bold italics) sent to the KPBPD on May 6<sup>th</sup>, 2022 (and on May 9<sup>th</sup> 2022) we continue to express our opposition to the Kenai Peninsula Borough file No. 2022-047R1, East Oyster Cove Subdivision.

Our local community is perplexed at the brazen approach by the Alaska Mental Health Trust Authority's latest attempt to expedite this through the KPB Planning Commission without detailed discussion or inputs from the local community.

Again, we collectively urge the KPB Planning Commission to disapprove the proposed subdivision/replat of East Oyster Cove, or at a minimum, delay consideration of the application until such time as the concerns herein have been adequately addressed.

Very Respectfully,



Donald Fell, Trustee  
Donald Fell & Mary Ann Fell Joint Revocable Trust  
55301 Oyster Cove Rem SW



Mary Ann Fell, Trustee  
Donald Fell & Mary Ann Fell Joint Revocable Trust  
55301 Oyster Cove Rem SW

CC-Oyster Cove Neighbors-

Dan & Jenny Coyle  
George & Marilyn Rhyneer  
Phil Brudie  
Doug & Margaret Kossler

Mark Pfeffer  
Kimberly Lanier  
Willy & Janelle Lanier  
Tom & Tammy Hopkins

*"Thank you for the opportunity to provide written testimony as residents/property owners of the Oyster Cove community. We write to respectfully express our opposition to Kenai Peninsula Borough (KPB) file No. 2022-047, East Oyster Cove Subdivision. The proposed subdivision/replat would create sixteen (16) lots from two (2) parcels owned by the Alaska Mental Health Trust Authority of Anchorage, Alaska.*

*As residents/property owners in Oyster Cove, the public notice of subdivision/replat came as quite a surprise to our family and neighbors. The proposed subdivision/replat would be within 600 feet of our property. Nearly all residents and property owners in the Oyster Cove area are in opposition to the subdivision/replat which we believe will adversely impact water rights, public walking trails, public access points, the environment and local wildlife and wildlife habitats.*

*A primary concern of KPB File No. 2022-047 is how the Alaska Mental Health Trust Authority plans on obtaining water rights in Oyster Cove for future landowners. Under the Alaska Water Use Act (AS 46.15) water is appurtenant to the land where the water is being used. Given the size of the proposed development, we are concerned that the subdivision may adversely impact current landowners' water rights. We also question how existing water rights will be transferred with the subdivision and resale of land within the subdivision?*

*Another concern is the potential for significant adverse environmental impact associated with the subdivision/replat. With the subdivision of the land into 16 new parcels, development potential and associated impacts increase exponentially. As lots are sold off, construction of new structures, utilities and related infrastructure is inevitable. There are significant concerns that such development will result in adverse environmental impacts related to the soil and groundwater, as well as visual impacts, noise impacts and wastewater impacts. In addition, with development there is the potential adverse impacts to the shoreline. Finally, there is significant likelihood that wetlands exist within the subdivision area, which will certainly be impacted by any development. However, it does not appear that any studies have been performed to consider these kinds of impacts or any other potential impacts (or at least none have been made available to the public to our knowledge), and what can/will be done to mitigate those impacts.*

*Given the significant size and scope of development contemplated by the subdivision/replat (which will transform the land from a pristine natural state into sixteen 16 buildable lots), a full environmental impact study should be prepared before preliminary plat approval is considered, which should be made available to the public for review. If any information or studies are available and/or have been performed, then the community should have a right to review the results of such studies, and to comment on the same before the current application is considered (at this point, we are aware of no such studies).*

*Considering Kachemak Bay State Park borders the proposed subdivision/replat, we are concerned this subdivision may adversely impact public walking trails which currently exist on the property. Please identify all public or existing walking trails in the proposed subdivision/replat area. We question whether the existing Little Tutka/Jakolof trail will be considered an easement encumbering the subdivided/replated properties, and whether the right of the public to use those trail(s) will remain intact following the subdivision.*



*Another concern is access to the proposed subdivision. With little to no existing public infrastructure (i.e. docks, airstrips, etc.), the applicant's plan for future access to the lots within the subdivision is unclear. Will there be, or are there, proposed access points to the subdivided/replated properties, or will each lot have its own access point? Are there existing covenants in place for property access, or will such covenants be put in place as a condition for approval? To the extent that each site will have its own point of access, we are concerned that adverse impacts will result from such access (and the development needed to facilitate access to the new lots).*

*Another concern is the impacts of the subdivision on flora and fauna which have been observed in the East Oyster Cove area. Any future development of the subdivision/replat could destroy, disrupt or have an adverse impact on wildlife and wildlife habitats. Oyster Cove is an existing aquatic farmsite for the purpose of harvesting Pacific oysters and blue mussels. As owners and operators of Oyster Cove Seafarms since 1992, we see several environmental conservation issues associated with the subdivision/replat of surrounding property including but not limited to the construction of new docks, waterflow, septic runoff, etc. The KPB Planning Commission should take into consideration, and study, how development of the subdivision/replat may impact the local wildlife and wildlife habitat and should require that surveys or studies be conducted for the subdivision/replat and adjacent areas. Again, it is unclear whether any such surveys or studies have been performed, and if they have been performed, the community should be allowed to review, consider, and comment on the same (and I request copies of the same) prior to considering approval of the application.*

*Finally, it is noted that it appears that one or more exceptions have been requested as a part of this application process relating to layouts, access, etc. However, we see no evidence to support, let alone substantial evidence necessary, to justify the waiver and/or exceptions being requested.*

*From recent meetings and discussions with our neighbors, the opinions and concerns identified above are shared by several others in the Oyster Cove community. Consideration of the same is necessary to protect and improve the health, safety and general welfare of the residents in close proximity to the proposed subdivision/replat. We collectively urge the KPB Planning Commission to disapprove the proposed subdivision/replat of East Oyster Cove, or at a minimum, delay consideration of the application until such time as the concerns addressed herein have been adequately addressed."*

**ITEM E5 - EAST OYSTER COVE SUBDIVISION**

<b>KPB File No.</b>	2022-047
<b>Plat Committee Meeting:</b>	May 9, 2022
<b>Applicant / Owner:</b>	Alaska Mental Health Trust of Anchorage, AK
<b>Surveyor:</b>	Andre Kaeppele, Buku Saliz / Fixed Height LLC
<b>General Location:</b>	Remote, Oyster Cove, Kasitsna Bay

<b>Parent Parcel No.:</b>	191-170-70 and 191-170-87
<b>Legal Description:</b>	A Portion of the North ½ of Section 21 and Lot 4 of US Survey No 4700
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	On site

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the meeting for public comment.

Donald & Mary Ann Fell; P.O. Box 615 Homer, AK 99603: The Fells are landowners in the near vicinity of this plat and spoke in opposition to this development. They expressed concerns related to water rights, adverse environmental impacts & access to the proposed lots.

Tom Hopkins; 60112 Nordby Ave., Homer, AK 99603: Mr. Hopkins is a landowner in the near vicinity of this proposed plat. He spoke in opposition to this development and shared many of the same concerns as other landowners in the area

Philip Brudie, P.O. Box 111, Homer, AK 99603: Mr. Brudie is an adjacent landowner and spoke in opposition to this development. He expressed concerns related to water rights, identification of trails used by the public and possible septic issues.

Tamera Hopkins; 60112 Nordby Ave. Homer, AK 99603: Ms. Hopkins is a landowner in the near vicinity of this proposed plat. She spoke in opposition to this development and shared many of the same concerns as other landowners in the area.

Sharon Whytal; P.O. Box 1529, Homer, AK 99603: Ms. Whytal is a landowner in the near vicinity of this proposed plat. She spoke in opposition to this development and shared many of the same concerns as other landowners in the area.

Dennis Poirier; 11819 Rockridge Dr., Anchorage, AK 99516: Mr. Poirier is a landowner in the near vicinity of this proposed plat. He spoke in opposition to this development and shared many of the same concerns as other landowners in the area. He also has concerns with an easement on the plat used to access Lots 15 & 16. This easement crosses his property and he would like more information on this easement.

Chair Brantley confirmed with staff that the easement Mr. Poirier is referring to, between Lots 15 & 16 of Little Tuka Bay, was in existence before it was depicted on the preliminary plat. Ms. Hindman responded that this easement was depicted on South Kachemak Alaska Subdivision which was done in 1969, which is centered on the common lot line between Lots 15 & 16.

Dave Messer & Ricki Lebman; 15740 Windsong Dr., Anchorage, AK 99516: Mr. Messer & Ms. Lebman are landowners in the near vicinity of this plat and spoke in opposition to this development. Mr. Messer believes that numerous lots on this proposed plat have inadequate access and that the plat at the very least needs to be redesigned. They also share many of the same concerns expressed by the other landowners in the area.

William Lanier; 89 S 750 E, Bountiful, UT 84010: Mr. Lanier is a landowner in the near vicinity of this proposed plat. He spoke in opposition to this development and shared many of the same concerns as other landowners in the area.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Gillham moved to grant preliminary approval to East Oyster Cove Subdivision, based on staff recommendations and compliance to borough code.

Chair Brantley asked for a second on the motion.

Commissioner Venuti asked if there was not a second, would it mean the plat failed to receive preliminary approval? Chair Brantley responded that is correct.

Ms. Hindman was then asked what the next step would be for the applicants. Ms. Hindman replied she was not sure and suggested Borough Attorney Steinhage be asked to weigh in. She believed at the very least the applicants would need to resubmit the plat, possibly with new information, and the plat would go through another public hearing process. Chair Brantley asked if the applicants could appeal the decision. Ms. Hindman replied she wasn't sure, since the committee hasn't made a decision. Again, she suggested that Borough Attorney Steinhage be asked to weigh in.

Mr. Steinhage noted that KPB 2.40.080 states that a review of the plat committee's decision may be heard by the planning commission acting as a platting board. He is not sure that this applies in this case as it implies that the plat committee has made a decision. Mr. Steinhage then asked for time to research this question.

Chair Brantley then asked if someone would like to make a motion to table the item until the end of new business.

**MOTION:** Commissioner Gillham moved, seconded by Commissioner Morgan to table the item until the end of new business.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE**

Yes	5	Brantley, Gillham, Hooper, Morgan, Venuti
No	0	

**ITEM E6 - SOLDOTNA AIRPORT LEASE LOT 2021 REPLAT**

<b>KPB File No.</b>	2022-048
<b>Plat Committee Meeting:</b>	May 9, 2022
<b>Applicant / Owner:</b>	City of Soldotna of Soldotna, AK
<b>Surveyor:</b>	Max Best / Wince-Corthell-Bryson
<b>General Location:</b>	Soldotna Airport Property, Funny River Road, City of Soldotna

<b>Parent Parcel No.:</b>	060-341-44 & 060-341-45
<b>Legal Description:</b>	Lots H-15 and H-21 Soldotna Airport Lease Lot Subdivision Plat No. KN 87-88
<b>Assessing Use:</b>	Leased Vacant Land
<b>Zoning:</b>	Industrial District
<b>Water / Wastewater</b>	City

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the meeting for public comment.

Max Best, Surveyor; Wince-Corthell-Bryson, P.O. Box 1041, Kenai, AK 99611: Mr. Best was the surveyor on this project and made himself available for questions.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.



<b>General Location:</b>	East End Road, Little Fireweed Lane, City of Homer
<b>Parent Parcel No.:</b>	174-191-05 and 174-192-87
<b>Legal Description:</b>	Lot 4-A Block 1 Puffin Acres SVH 2021 Replat Plat No HM 2021-33 Lot 5 Commerce Park Plat No HM 1985-14
<b>Assessing Use:</b>	General Commercial
<b>Zoning:</b>	East End Mixed Use
<b>Water / Wastewater</b>	City

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

Commissioner Venuti informed the commission that he heard this item as planning commissioner for the City of Homer and abstain from deliberations and voting.

**MOTION:** Commissioner Gillham moved, seconded by Commissioner Morgan, to grant preliminary approval to Puffin Acres Bayweld 2022 Replat, based on staff recommendations and compliance to borough code.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE**

Yes		Brantley, Gillham, Hooper, Morgan
Abstained	1	Venuti

Chair Brantley asked Borough Attorney Steinhage for the answer to the committee's earlier question regarding East Oyster Cove Subdivision. Mr. Steinhage clarified for the committee that having a second to the motion does not mean that the individual making the second agrees with the motion. It just allows the motion to be brought to the floor for debate and decision. If there is not a second then there is no discussion or decision. In this instance it would mean that the applicant would have to resubmit the plat for reconsideration by the committee. Chair Brantley asked if the applicant could request that the planning commission hear the plat. Mr. Steinhage replied only if there is an actual decision made by the plat committee. The planning commission would need a decision in place to review. An appeal only works if there are findings by the plat committee for the planning commission to review.

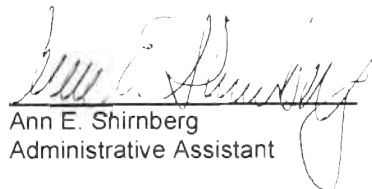
**MOTION:** Commissioner Gillham moved to remove the plat from the table, and to grant preliminary approval to East Oyster Cove Subdivision, based on staff recommendations and compliance to borough code.

**MOTION ~~FAILED~~ DUE TO A LACK OF A SECOND**

**F. PUBLIC COMMENT - None**

**G. ADJOURNMENT**

Commissioner Venuti moved to adjourn the meeting 7:48 P.M.

  
Ann E. Shirnberg  
Administrative Assistant

## **E. NEW BUSINESS**

- 5. East Oyster Cove Subdivision; KPB File 2022-047  
Fixed Height LLC / Alaska Mental Health Trust Authority  
Location: Northeast of Jakolof Bay Road  
Remote Area**



Vicinity Map

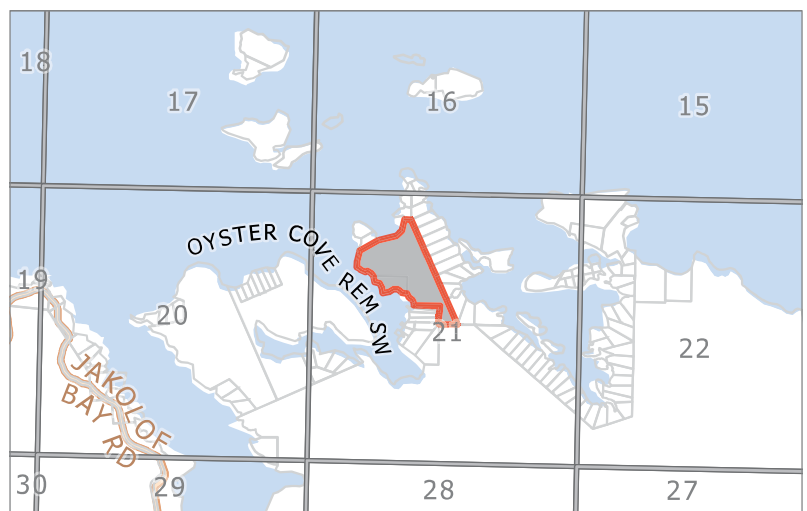
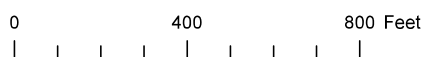


KPB File # 2022-047

S21-T08S-R13W

Remote

4/7/2022







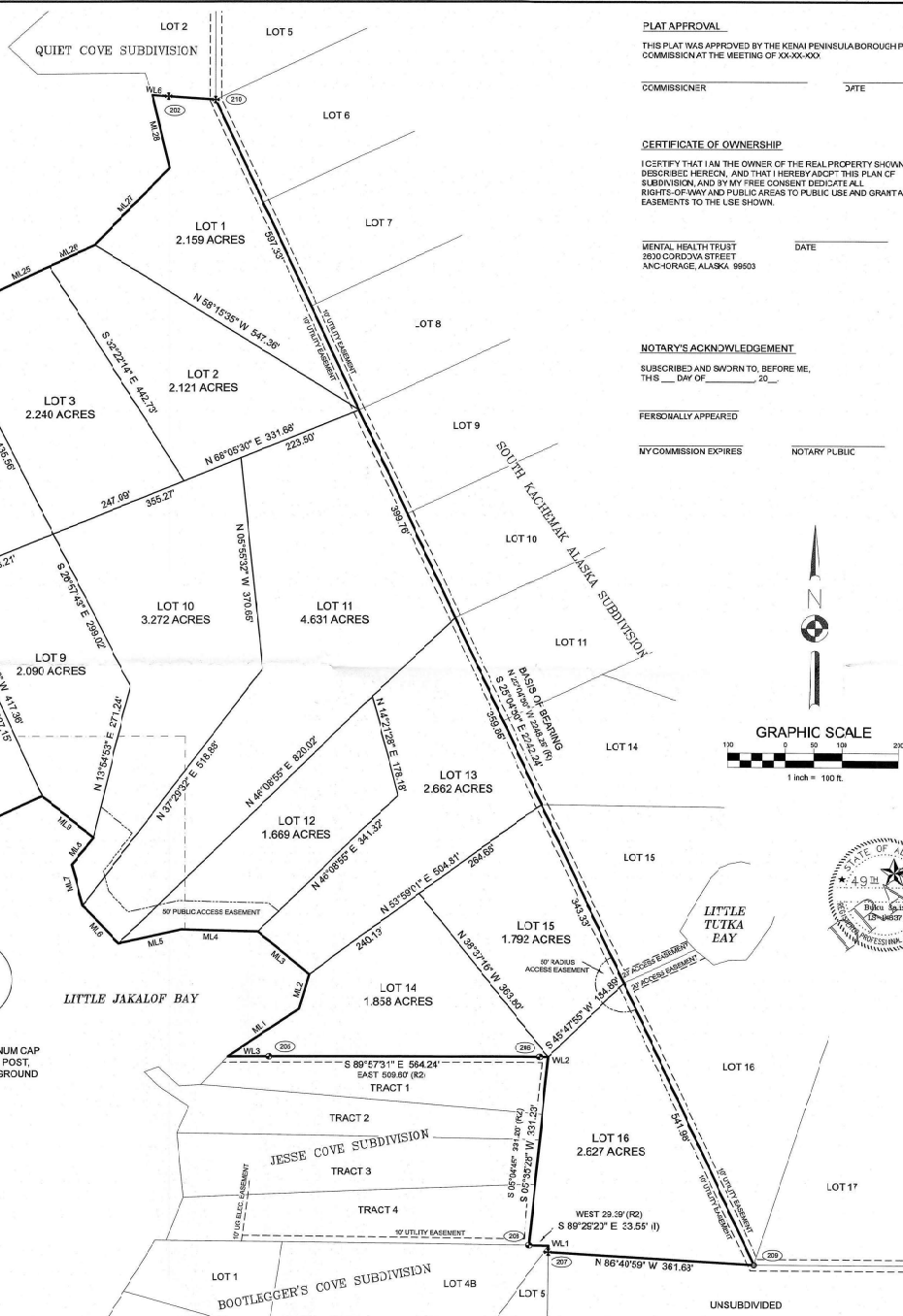
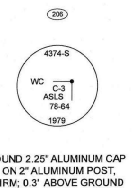
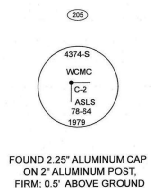


KPB 2022-047

LINE	BEARING	DIST. (ft.)	REC'D	BEARING	DIST. (ft.)
W1.1	N 0° 17' 32" E	11.00	(R1)	S 89° 21' 10" E	11.00
W1.2	S 89° 21' 10" E	11.00	(R2)	S 89° 21' 10" E	11.00
W1.3	S 89° 21' 10" E	11.00	(R3)	S 89° 21' 10" E	11.00
W1.4	S 89° 21' 10" E	11.00	(R4)	S 89° 21' 10" E	11.00
W1.5	S 89° 21' 10" E	11.00	(R5)	S 89° 21' 10" E	11.00
W1.6	S 89° 21' 10" E	11.00	(R6)	S 89° 21' 10" E	11.00
W1.7	S 89° 21' 10" E	11.00	(R7)	S 89° 21' 10" E	11.00
W1.8	S 89° 21' 10" E	11.00	(R8)	S 89° 21' 10" E	11.00
W1.9	S 89° 21' 10" E	11.00	(R9)	S 89° 21' 10" E	11.00
W1.10	S 89° 21' 10" E	11.00	(R10)	S 89° 21' 10" E	11.00

LINE	BEARING	DIST. (ft.)	REC'D	BEARING	DIST. (ft.)
M1.1	N 0° 17' 32" E	11.00	(R1)	S 89° 21' 10" E	11.00
M1.2	S 89° 21' 10" E	11.00	(R2)	S 89° 21' 10" E	11.00
M1.3	S 89° 21' 10" E	11.00	(R3)	S 89° 21' 10" E	11.00
M1.4	S 89° 21' 10" E	11.00	(R4)	S 89° 21' 10" E	11.00
M1.5	S 89° 21' 10" E	11.00	(R5)	S 89° 21' 10" E	11.00
M1.6	S 89° 21' 10" E	11.00	(R6)	S 89° 21' 10" E	11.00
M1.7	S 89° 21' 10" E	11.00	(R7)	S 89° 21' 10" E	11.00
M1.8	S 89° 21' 10" E	11.00	(R8)	S 89° 21' 10" E	11.00
M1.9	S 89° 21' 10" E	11.00	(R9)	S 89° 21' 10" E	11.00
M1.10	S 89° 21' 10" E	11.00	(R10)	S 89° 21' 10" E	11.00

# MONUMENT DETAILS



## PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF XX-XX-XX.

COMMISSIONER

DATE

## CERTIFICATE OF OWNERSHIP

I CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT 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 LSE SHOWN.

MENTAL HEALTH TRUST  
2870 CORDOVA STREET  
ANCHORAGE, ALASKA 99503

DATE

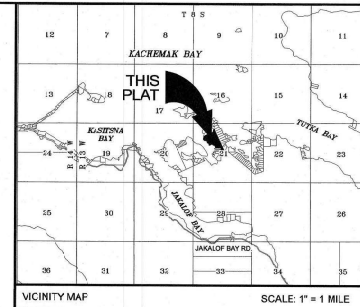
## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN TO, BEFORE ME, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

PERSONALLY APPEARED

MY COMMISSION EXPIRES

NOTARY PUBLIC



## NOTES

- SET 5/8" X 3/4" REBAR WITH 1 1/2" DIAMETER ORANGE PLASTIC CAP AT ALL LOT CORNERS AND 50' UPLAND ON LINE AS WITNESS CORNERS TO THE MEANDER CORNERS.
- ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL LOCAL, STATE AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION, IF APPLICABLE.
- THE LOCATION OF THE MEANDERS WERE DETERMINED USING THE PUBLISHED MEAN HIGH WATER ELEVATION FOR NOAA TIDAL BENCHMARK "TIDAL 6" LOCATED AT KOKA-LAF MARITIME BAY LABORATORY APPROXIMATELY 1.5 MILES WEST OF THE SUBDIVISION LOCATION. THE PUBLISHED MEAN HIGH WATER ORTHOMETRIC ELEVATION IS 12.27 FEET (NAVD88).
- THE LOCATION OF THE SECTION CORNERS FOR PROTRACTED SECTION 21 WERE DETERMINED USING COORDINATES EXTRACTED FROM THE ALASKA DIVISION OF LANDS PROJECTION DIAGRAM No. S-16-5.

## LEGEND

- FOUND 3.25" DIAMETER BRASS MONUMENT
- FOUND 2.5" DIAMETER BRASS MONUMENT
- FOUND 2.25" DIAMETER ALUMINUM MONUMENT
- LOT LINE TO BE REVOCATED THIS PLAT
- EASEMENT TO BE DEDICATED THIS PLAT
- EXISTING EASEMENT
- BEARING BEARING INTERSECTION
- RECORD MEASUREMENT - PLAT 67-85
- RECORD MEASUREMENT - PLAT 75-283
- RECORD MEASUREMENT - PLAT 63-68
- RECORD MEASUREMENT - USS 3979
- RECORD MEASUREMENT - PLAT 67-9

## SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME AND THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE TRUE AND CORRECT.

BUKU SALIZ LS-14837  
REGISTERED LAND SURVEYOR DATE

A PLAT OF	
EAST OYSTER COVE SUBDIVISION	
A SUBDIVISION OF	
A PORTION OF THE NORTH 1/2 OF SECTION 21 AND LOT 4 OF U.S. SURVEY No. 4700 EXCLUDING U.S. SURVEY Nos. 3900, 3979, 3981, 4700 (LOTS 2 & 3), AND 4747 (LOT 1); SOUTH KACHEMAK ALASKA SUBDIVISION, BOOTLEGGER'S COVE SUBDIVISION, QUIET COVE SUBDIVISION AND THOSE UPLANDS LYING NORTH OF U.S. SURVEY No. 3900 AND 3979 CONTAINING 388.761 ACRES	
LOCATED WITHIN PROTRACTED SECTION 21 TOWNSHIP 3 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA.	
OWNER: MENTAL HEALTH TRUST, 2870 CORDOVA STREET, ANCHORAGE, AK 99503	907 290 8848
KPB FILE NO.: XXX-XX	DRAWN BY/DATE: AK/1-1-2022
PROJECT NO.: 21081	CHECKED BY: BS
SURVEY DATE: SEPTEMBER 7-8, 2021	SCALE: 1" = 100'
FIELD BOOK: 21-01	SHEET: 1 OF 1



AGENDA ITEM E. NEW BUSINESS

ITEM 5 - EAST OYSTER COVE SUBDIVISION

<b>KPB File No.</b>	2022-047
<b>Plat Committee Meeting:</b>	May 9, 2022
<b>Applicant / Owner:</b>	Alaska Mental Health Trust of Anchorage, AK
<b>Surveyor:</b>	Andre Kaeppele, Buku Saliz / Fixed Height LLC
<b>General Location:</b>	Remote, Oyster Cove, Kasitsna Bay

<b>Parent Parcel No.:</b>	191-170-70 and 191-170-87
<b>Legal Description:</b>	A Portion of the North ½ of Section 21 and Lot 4 of US Survey No 4700
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	On site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will subdivide two parcels that are approximately 38 acres into sixteen lots. The lots will range in size from 1.508 acres to 4.631 acres.

**Location and Legal Access (existing and proposed):** This is considered a remote location. It is located along Oyster Cove in the Kasitsna Bay. This is along the eastern side of Oster Cove. On the western side of the cove is the Oyster Cove Airport. These lots will be water access only. Lots 15 and 16 will have their access from Little Tutka Bay and will use a public access easement located on Lots 15 and 16 of South Kachemak Alaska Subdivision, Plat SL 67-85.

A large acreage parcel is present to the south. Adjacent to the south, east, and southeast of that parcel is more large acreage parcels. They are all owned by Alaska Mental Health Trust. The closest right-of-way is Jakolof Bay Road, about 2 miles south of the subdivision. If the large acreage parcels are ever subdivided they may be able to provide dedicated access to the various lots located along the coast of the bays in the area. KPB information has found that the status of section line easements through the large acreage tracts is not clear. Any attempt to use section lines for access will require a determination by the State of Alaska.

South Kachemak Alaska Subdivision, Plat SL 67-85, indicated a 40 foot wide access easement, centered on the share lot line of Lot 15 and Lot 16 that would provide future access to lands to the west from Little Tutka Bay. This plat is proposing to grant a 50 foot radius access easement at the end of that access easement. An additional 50 foot public access easement is being granted along the shore of Oyster Cove within Lots 10, 11, and 12.

Due to the location, large acreage tracts, and no dedications within the area, the block length is not compliant.

KPB Code 20.30.050, Legal Access, requires that legal access exists to the boundary of the subdivision. It is currently only accessed by water. Staff believes the requirements of 20.30.050(B) have been met as there is permanent public access by water. **Staff recommends the plat committee concur to waive the legal access requirements of KPB 20.30.050(A) and require a plat note that states the mode of access.**

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

**Site Investigation:** KPB GIS does not have any wetland or contour information for the area. Per older imagery the

land appears to not contain any low wet areas except around the cove and bay. Within proposed Lot 15 and Lot 16 there appears there could be some low wet areas within the access easement area from Little Tutka Bay. The appropriate note regarding wetland determinations is present. **Staff recommends** any low wet areas or steep terrain discovered during the field survey be depicted and labeled on the final plat.

This appears to be property with lots of vegetation. No improvements appear on the older imagery that is available. KPB Assessing notes that the property is vacant.

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 comments

**Staff Analysis** This is a 38 acre subdivision to create sixteen lots that will be accessed by water only. The two lots that do not front on any waterbody will have access via a public access easement.

The land within this survey is from U.S. Survey 4700 that was done in 1965. The remainder of the property is the remaining portion of the north half of Section 21 excluding numerous U.S. Surveys and several subdivision plats.

A soils report will be required and an engineer will 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.

The property is not within an advisory planning commission.

**Utility Easements** The property within this subdivision has not been part of a subdivision that would have granted platted utility easements. Per South Kachemak Alaska Subdivision, Plat SL 67-85, 20 foot utility easements were granted centered on the lot lines shared with the large remainder parcel of this subdivision. That plat was a state plat but we generally do not allow easements to be granted on property not included within the boundary of the subdivision plat. This plat is depicting the easement along the eastern boundary. **Staff recommends** the label include "granted by this plat".

Several easements are depicted on neighboring properties. **Staff recommends** those depictions and labels be removed from the final plat.

Homer Electric Association has requested some internal utility easements be granted to provide access to all lots within the subdivision. **Staff recommends** the requested easements be depicted and labeled as being "granted by this plat."

The required plat note regarding improvements within a utility easement will need to be added.

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	Multiple 30 foot wide utility easements centered on lot lines is being requested.
ENSTAR	No comment
ACS	No objections
GCI	Approved as shown

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: None</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: No addresses affected by this subdivision.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No Comment</p>

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

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

**KPB 20.25.070 – Form and contents required**

**Staff recommendation:** *final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.*

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

**Staff recommendation:**

- Owner name should include Alaska Mental Health Trust.
- The KPB Assessing information has a different address for Alaska Mental Health. Verify the address they wish to have present on the plat.
- The recording district is required within the title block. It can be added to the location description.
- Bootlegger's Cove Subdivisions do not need to be included as they are considered within the southern half of the section. Please remove and this will match the Certificate to Plat.
- For Jesse Cove Subdivision and Quiet Cove Subdivision, include their plat recording numbers.
- Update the acreage.

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:** *Provide a depiction of the boundary and label the Kachemak State Park.*

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 proposed 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 subdivision for Lot 4B to the south is Bootleggers Cove No. 2. Update the labels to differ it from the other lots from the original Bootleggers Cove Subdivision.*

J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

**Staff recommendation:** *Although from separate subdivisions, adjacent lot numbers that match should be avoided. Lot 15 abuts the entire length to another Lot 15 as does Lot 16. Review the lot numbers and adjust to avoid the same numbering if possible.*

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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.*

#### 20.30.030. 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:** *An exception has been requested.*

#### 20.30.050. Legal access.

A. The applicant shall provide an access plan to the planning department verifying the existence of legal access to the subdivision boundary. The plan shall consist of the documents depicting the access, a map depicting the location of the access, and topographic information indicating that construction which meets the design requirements set forth in KPB Chapter 20.30 is practical and economical. In this title, legal access exists where an unrestricted, public right-of-way connects the subdivision to the state highway system, the state marine highway system or a regularly served public airport, and one of the following is met:

1. Ingress and egress will be provided over section line easements located within a surveyed section;
2. The applicant provides copies of borough-accepted recorded conveyances creating the public easement or right-of-way where the access is located;
3. That access is a State of Alaska maintained road or municipal maintained road;
4. The applicant provides documentation satisfactory to the borough demonstrating that public legal access is guaranteed through judicial decree; or
5. The right-of-way is an easement or fee interest at least 60 feet in width dedicated or irrevocably conveyed to the public and acceptable to the planning commission.

B. The following situations may qualify for a waiver of the legal access requirement:

1. Upon finding that no practical means of providing road access to a proposed subdivision exists and upon presentation of credible and convincing evidence by the applicant that permanent public access by air, water, or railroad is both practical and feasible, the planning commission may waive the legal access requirements of KPB 20.30.050(A). If access other than by road is approved, the mode of access shall be noted on the plat. .
2. Where only a 30-foot dedication exists over all or a portion of the legal access to a subdivision, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the other 30 feet will be dedicated in the future.
3. Where a road is in use for physical access but there is no right-of-way document for all or part of the access road, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the right-of-way will be dedicated in the future.

**Staff recommendation:** *Staff is asking the plat committee to concur that the legal access requirements should be waived and a plat note should be added to note the mode of access.*

20.30.170. Blocks-Length requirements. Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.

**Staff recommendation:** *The plat does not comply. Grouped and discussed with the exception to KPB 20.30.030.*

20.30.210. Lots-Access to street. Each lot shall abut on a fee simple dedicated street except as provided by KPB 20.30.030(B).

**Staff recommendation:** *Grouped and discussed with the exception to KPB 20.30.030.*

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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 will be required and an engineer will need to sign the plat.*

**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.*

20.60.140. Block and lot numbering. Blocks and lots within each block shall be numbered consecutively or all lots shall be numbered consecutively. If possible, each block should be shown entirely on one sheet. Each lot shall be shown entirely on one sheet.

**Staff recommendation:** *Adjust so adjacent lots from neighboring subdivisions do not share the same lot number if possible.*

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.*

- *Provide notes 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.*
- *Rights of the public and or governmental agencies in and to that portion of said premises lying below the mean high water mark of Kasitsna Bay and any questions of right of access to Kasitsna Bay in the event said lands do not in fact abut the Kasitsna Bay.*
- *Reservations and exceptions as contained in State of Alaska Mental Health Trust Land Deed and/or in Acts authorizing the issuance thereof as recorded on September 25, 1996 in Book 35, Page 415, Seldovia Recording District.*
- *Reservations and exceptions as contained in the Approval from Bureau of Land Management as recorded on August 20, 1984 in Book 27 Page 62, Seldovia Recording District.*
- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*
- *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.*
- *The only access available to this subdivision at the time of recording is by water.*

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:**

- *The certificate of ownership should be revised to read on behalf of the Alaska Mental Health Trust. "I certify that the Alaska Mental Health Trust is the owner of the real property shown and described hereon, and that on behalf of the Alaska Mental Health Trust 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 easement to the use shown."*
- *The title of the signer on behalf of the Kenai Peninsula Borough should be changed to "Authorized Official"*
- *On the certificate of ownership signature line, we request the authorized person's name and title be added or provide an area where they can neatly print the information.*
- *Correct the Notary's Acknowledgement so it is an acknowledgement instead of a combination of an acknowledgement and a jurat.*

*Comply with 20.60.190.*

### **EXCEPTIONS REQUESTED:**

#### **KPB 20.30.030 – Proposed Street Layout**

Surveyor's Discussion: Based on the ocean frontage contained by all but two of the lots within the proposed subdivision, we expect the primary access for development of these lots to be by watercraft. Additionally, none of the adjoining subdivisions have dedicated ROWs due to the similar ocean front layout of the lots. Dedicating a ROW would encourage development along the landward boundaries of the proposed lots and detract from the rural nature that makes them desirable. If an exception is granted to KPB 20.30.030, 20.30.170 and 20.30.210 would no longer be applicable due to the absence of streets within the proposed subdivision.

Staff Discussion: Per KPB Code 20.30.030, dedications must be provided for continuation or appropriate projections

and provide reasonable means of ingress to surrounding acreage tracts. While the exception request is for KPB Code 20.30.030, staff finds that the approval of this acceptance should also take into consideration KPB 20.30.170, Block Length Requirements, and 20.30.210, Lots-Access to streets. If this exception is granted it will not be possible to meet those requirements.

This subdivision is to be remote recreational property. There are other lots in the area that are similar. The Oyster Cove airport is across the bay to provide additional access but watercraft will still be required to get to the lots. The owner of the large acreage parcels in the area are the same of this subdivision. If they needed right-of-way access for their property they could require it at this time.

If the exception is granted, staff recommends the plat note for the exception granted include all three portions of code.

**Findings:**

1. KPB Code requires right-of-way dedications to provide adequate access to all lots within the subdivision and neighboring.
2. KPB Code requires right-of-way dedications to create compliant block lengths.
3. KPB Code requires lots to abut a fee simple dedicated street.
4. This is a remote area.
5. Only access at this time is by water.
6. Large acreage lots are in the area that are all owned by Alaska Mental Health Trust.
7. The owner of this subdivision is Alaska Mental Health Trust.
8. Utility easements are being requested and will need to be granted.

Denial of the exception will require rights-of-way dedications that will create compliant blocks and that all lots will abut.

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 4-8 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 4-8 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 4-8 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**

ORIGINAL



# U. S. SURVEY No. 4700, ALASKA

## EMBRACING LOTS 1 THROUGH 5

5 NONCONTIGUOUS LOTS  
SITUATED  
NEAR THE MOUTH, AND  
ON THE SOUTHWESTERLY SIDE  
OF TUTKA BAY  
ON THE SOUTHEASTERLY SIDE  
OF KACHEMAK BAY  
NEAR HOMER, ALASKA

### GEOGRAPHIC POSITION

OF WITNESS MEASURE CORNER NO. 1, LOT 1  
LATITUDE  $59^{\circ} 28' 25''$  N., LONGITUDE  $151^{\circ} 29' 00''$  W.

AREA: 35.07 ACRES

### SURVEYED BY:

ROBERT Q. PICKERING, SUPERVISORY CADASTRAL SURVEYOR  
JUNE 24, 1964 TO JULY 21, 1964

Under Special Instructions  
Dated March 15, 1964, and  
Approved March 19, 1964

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Washington, D. C. September 16, 1965

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director

*[Signature]*  
Chief, Division of Engineering

WITNESS LINE TABLE					
MEASURED INFORMATION			RECORDED INFORMATION		
LINE	BEARING	(DIST.)	REC	BEARING	(DIST.)
W.1	N 00° 17' 30" E	1.00	1R1	S 00° 00' 00" E	11.22
W.2	S 02° 17' 31" E	15.00	1R2	CASI	15.00
W.3	S 02° 17' 31" E	72.85	1R3	CASI	72.15
W.4	S 58° 29' 19" W	57.40	1R4	N 58° 29' 19" E	57.45
W.5	N 58° 29' 19" E	38.54	1R5	CASI	38.20
W.6	N 85° 32' 06" W	28.57	1R6	M 85° 31' 48" W	44.89

LINE	BEARING	DIST. (ft.)
ML1	N 59° 25' 06" E	150.12
ML2	S 18° 41' 49" W	67.43
ML3	N 7° 12' 58" E	113.25
ML4	N 89° 10' 01" E	134.54
ML5	N 77° 32' 58" E	113.25
ML6	N 4° 39' 33" W	91.55
ML7	N 14° 39' 54" W	73.39
ML8	N 38° 06' 40" E	66.73
ML9	S 50° 45' 58" E	101.75
ML10	N 50° 45' 58" E	101.75
ML11	N 73° 23' 22" E	92.15
ML12	N 08° 45' 41" E	117.35
ML13	S 64° 45' 46" E	93.35
ML14	N 14° 46' 21" E	106.38
ML15	S 50° 13' 58" E	28.39
ML16	N 73° 23' 22" E	110.07
ML17	S 86° 33' 15" E	363.09
ML18	N 38° 54' 20" W	27.23
ML19	S 83° 54' 41" W	143.66
ML20	S 14° 47' 30" W	135.49
ML21	S 89° 05' 05" E	16.48
ML22	S 89° 05' 05" E	16.48
ML23	S 72° 03' 10" W	143.07
ML24	S 73° 01' 50" W	76.22
ML25	S 24° 31' 04" W	126.38
ML26	S 64° 31' 04" W	87.81
ML27	N 44° 42' 10" E	187.72
ML28	S 13° 30' 22" E	130.52

FOUND 3.25" BRASS CAP  
ON 2.5" IRON POST,  
LOOSE; 0.8' ABOVE GROUND



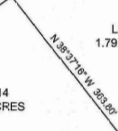
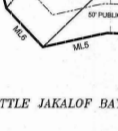
FOUND 3.25" BRASS CAP  
ON 2.5" IRON POST,  
FIRM; 0.3' ABOVE GROUND



FOUND 3.25" BRASS CAP  
ON 2.5" IRON POST,  
FRIM; 0.4' ABOVE GROUND



ROUND 2.25" ALUMINUM CAP  
ON 2" ALUMINUM POST,  
FIRM; 0.5' ABOVE GROUND



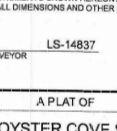
564.24' (R2)



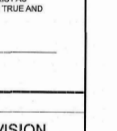
16



APO



A SUBDIVISION OF  
OF THE NORTH 1/2 OF



ON 21

1. SET 5IP X 30" REBAR WITH 1/2" DIAMETER ORANGE PLASTIC CAP AT ALL LOT CORNERS AND 5" JPLAND OR LINE AS WITNESS CORNERS TO THE MEANDER CORNERS.
2. ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL LOCAL, STATE AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLAND DETERMINATION, IF APPLICABLE.
3. THE LOCATION OF THE MEANDERS WERE DETERMINED USING THE PUBLISHED MEAN HIGH WATER ELEVATION FOR NOAA TIDAL BENCHMARK "TDA-9" LOCATED AT MCKA-JAY KASITNA BAR LABORATORY APPROXIMATELY 1.5 MILES WEST OF THE SUBDIVISION LOCATION. THE PUBLISHED MEAN HIGH WATER ORTHOMETRIC ELEVATION IS 12.27 FEET (NAVD83).
4. THE LOCATION OF THE SECTION CORNERS FOR PROTRACTED SECTION 21 WERE DETERMINED USING THE PUBLISHED MEAN HIGH WATER ELEVATION FROM THE ALASKA DIVISION OF LANDS PROTECTION DIAGRAM No. 8-16-5.

- ✦ FOUND 3.25" DIAMETER BRASS MONUMENT
- ⊙ FOUND 2.5" DIAMETER BRASS MONUMENT
- ⊙ FOUND 2.25" DIAMETER ALUMINUM MONUMENT
- LOT LINE TO BE VACATED THIS PLAT
- EASEMENT TO BE DEDICATED THIS PLAT
- EXISTING EASEMENT
- (I) BEARING BEARING INTERSECTION
- (R) RECORD MEASUREMENT - PLAT 67-85
- (R1) RECORD MEASUREMENT - PLAT 75-283
- (R2) RECORD MEASUREMENT - PLAT 83-06
- (R3) RECORD MEASUREMENT - LBS 3979
- (R4) RECORD MEASUREMENT - PLAT 87-4

I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR  
IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE  
BY ME AND THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS  
DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE TRUE AND  
CORRECT.

BUKU SALIZ LS-14837  
REGISTERED LAND SURVEYOR \_\_\_\_\_ DATE \_\_\_\_\_

A SUBDIVISION OF

A PORTION OF THE NORTH 1/2 CF SECTION 21  
AND LOT 4 OF U.S. SURVEY NO. 4700  
EXCLUDING U.S. SURVEY NOS. 3903, 3979, 3981, 4700 (LOTS 2 & 3), AND 4747 (LOT 3);  
SOUTH KACHEMAK ALASKA SUBDIVISION; BOOTLEGGER'S COVE SUBDIVISION; BOOTLEGGER'S  
COVE NO. 2 SUBDIVISION; JESSE COVE SUBDIVISION; QUIET COVE SUBDIVISION;  
AND THOSE UPLANDS LYING NORTH OF U.S. SURVEY NOS. 3903 AND 3979  
CONTAINING 388.751 ACRES

LOCATED WITHIN  
PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA



		C.O.A. 122544
OWNER:	MENTAL HEALTH TRUST ; 2500 CORDOVA STREET ; ANCHORAGE, AK 99503	

PROJECT FILE NO.: XXXX-XX	DRAWN BY/DATE: AK / 1-1-2022
PROJECT NO.: 21083	CHECKED BY: BS
SURVEY DATE: SEPTEMBER 7-8, 2021	SCALE: 1" = 100'
FIELD BOOK: 21-C1	SHEET: 1 OF 1



Dear Members of the Planning Committee:

My name is Philip Brudie and I own lot 2 of Quiet Cove Subdivision (OSS 3980) which is directly adjacent to lot 1 of the proposed East Oyster Cove subdivision. I request that the conditions of plat include a requirement that my DNR approved water source on the land be delineated by an easement for the reasons I outline below. Also the plat should reflect my third party rights to draw water from the water source.

I have owned my lot for fifty years. During that time I have drawn fresh water from a source on the platted property in the approximate location of the proposed lots 1 and 2 (and probably lot 3) through a plastic pipe feeding from a collection point in a small drainage on the east side of lots 1, 2, and three. The piping follows the small stream to tidewater on lot 1. There it splits and provides water to three of the existing owners of Quiet Cove. This is the only known source of available water for our small community. The actual location of the water source and delivery pipe should be fixed by survey.

In 1987 I applied for and eventually received my water right appropriation to draw water from the 'unnamed stream' in Water Rights Certificate LAS 11231, dated 2-22-1988 with priority effective as of 1-23-1987. This was recorded at book 30, page 223, Seldovia Recording District. This affects 2.33 acres of



the Quiet Cove Subdivision (lots 1 and 2)  
My legal rights to use this water have  
been perfected.

At a minimum, the plat needs to disclose  
these prior existing rights on the plat for  
the affected lots, which will require the  
location to be surveyed.

I should note that the historical use  
over the last thirty five plus years has  
extended into the uplands where the  
impoundment facility is located. The  
impoundment area should be memor-  
ialized by an easement allowing the  
users to access, maintain and draw  
from it. My use has been notorious  
and without consent all of these years.

My hope is that the petitioner will  
agree to this request so their entry  
into our neighborhood does not start  
off with a major war on water rights,  
the preservation of which is critical  
to those of us who reside and/or  
recreate here year round.

If the petitioner, despite its public  
status, does not agree, then you, the  
planning commission, should impose  
these requirements for health and  
safety questions. The location of the  
drinking water source needs to be  
delineated so that the ADEC approved  
septic or marine outfall designs  
preserve our access to safe drinking



water, which at a minimum, is legally undisputed at the mean high tide line. Plus, we do urge, for the quality of the Cove itself, as well as our drinking water, that all lots must have an approved ADEC septic design with appropriate legal setbacks from all streams and water sources.

To summarize, my request is that the following conditions to plat be required:

- ① Petitioner is to survey the existing stream, water impound area and drainage and locate it on the map.
- ② The affected lots have a plat note advising of the prior rights to appropriate water provided by LAS 11231.
- ③ The petitioner work with me to delineate an easement preserving my and my neighbors access to the impoundment area and the water supply pipe.
- ④ The plat must disclose the ADEC septic sites on all lots with sufficient distance to preserve the integrity of the surface water for drinking purposes.

Thank you,

Sincerely,

Philip L. Brodie  
April 30, 2022

Philip Brodie  
PO Box 111  
Homer, AK 99603  
907 399 6257

RECEIVED

MAY 04 2022

KPB PLANNING DEPT.

# State of Alaska



BOOK 30 PAGE 223

## Water Rights

RECEIVED

MAY 04 2022

KPB PLANNING DEPT.

### CERTIFICATE OF APPROPRIATION

LAS

11231

THE STATE OF ALASKA UNDER AS 46.15, THE ALASKA WATER USE ACT,  
AND THE REGULATIONS ADOPTED UNDER IT, GRANTS TO:

PHILIP L BRUDIE  
P.O. BOX 859  
HOMER, AK. 99603

THE RIGHT TO USE WATER FROM THE FOLLOWING SOURCE:

A) UNNAMED STREAM WITH A PRIORITY DATE OF 01/23/1987

150.0 GAL/DAY	
FOR SINGLE DWELLING	JAN 01 THRU DEC 31
20.0 GAL/DAY	
FOR POULTRY AND EGG	JAN 01 THRU DEC 31

THE LOCATION TO WHICH THIS WATER RIGHT APPERTAINS IS:

THE LAND EMBRACED IN SOLDIER'S ADDITIONAL HOMESTEAD ENTRY, U.S. SURVEY 3980, SITUATED ON THE SOUTHEASTERLY SHORE OF KASITSNA BAY AREA, ALASKA CONTAINING 2.33 ACRES, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF THE SAID LAND, ON FILE IN THE BUREAU OF LAND MANAGEMENT, SAID PARCEL LOCATED WITHIN W1/2NE1/4NW1/4 PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ~~HOMER~~ RECORDING DISTRICT, STATE OF ALASKA.

SELDovia

THE LOCATION OF THE WATER SOURCE IS THAT PORTION OF AN UNNAMED STREAM LOCATED AT OR BELOW MEAN HIGH TIDE WITHIN NW1/4NE1/4NW1/4 PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA.

THE CONDITIONS THAT APPLY TO THIS APPROPRIATION ARE FOUND IN ATTACHMENT A, ATTACHED HERETO AND MADE A PART HEREOF.

PAGE 1



# State of Alaska



BOOK 30 PAGE 224

## Water Rights

CERTIFICATE OF APPROPRIATION

LAS

11231

THE WATER RIGHT IS GRANTED SUBJECT TO THE PERTINENT STATUTORY PROVISIONS IN AS 46.15, AND ADMINISTRATIVE REGULATIONS IN 11 AAC 93.

THIS CERTIFICATE OF APPROPRIATION IS ISSUED BY AUTHORITY OF AS 46.15.120 AND 11 AAC 93.130 ON February 18, 19 88.

APPROVED: \_\_\_\_\_

TITLE: \_\_\_\_\_

Chief Water Section  
DIVISION OF LAND AND WATER MANAGEMENT

STATE OF ALASKA )

) SS

3rd JUDICIAL DISTRICT)

THIS IS TO CERTIFY THAT ON FEBRUARY 18, 19 88  
BEFORE ME APPEARED EDWARD G. BARBER, Jr., KNOWN BY  
ME TO BE THE DIRECTOR OR AUTHORIZED REPRESENTATIVE OF THE DIVISION OF  
LAND AND WATER MANAGEMENT, DEPARTMENT OF NATURAL RESOURCES, AND  
ACKNOWLEDGED TO ME THAT THIS CERTIFICATE OF APPROPRIATION WAS VOLUN-  
TARILY EXECUTED ON BEHALF OF THE STATE OF ALASKA.

Bill Edgely  
NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA  
MY COMMISSION EXPIRES: 12-1-89

PURSUANT TO AS 46.15.160 AND APPLICABLE REGULATIONS THE CERTIFICATE  
HOLDER SHALL NOTIFY THE ALASKA DIVISION OF LAND AND WATER MANAGEMENT  
UPON CHANGE OF ADDRESS OR TRANSFER OF ANY REAL PROPERTY RELATED  
THERE TO.

# State of Alaska



BOOK 30 PAGE 224

## Water Rights

CERTIFICATE OF APPROPRIATION

LAS

11231

ATTACHMENT A - CONDITIONS:

THE HOLDER OF THIS CERTIFICATE SHALL:

FOLLOW ACCEPTABLE ENGINEERING STANDARDS IN EXERCISING THE WATER RIGHT GRANTED BY THIS CERTIFICATE.

DEFEND AND INDEMNIFY THE STATE AGAINST AND HOLD IT HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, LEGAL ACTIONS, LOSS, LIABILITY AND EXPENSE FOR INJURY TO OR DEATH OF PERSONS AND DAMAGES TO OR LOSS OF PROPERTY ARISING OUT OF OR CONNECTED WITH THE EXERCISE OF THE WATER RIGHT GRANTED BY THIS CERTIFICATE.

COMPLY WITH ALL APPLICABLE LAWS, REGULATIONS AND CONDITIONS.

150 GAL/DAY FOR SINGLE DWELLING IS FOR TWO UNPLUMBED CABINS.

88-284

RECORDED - <del>FILED</del> 16-
Seldovia REC. DIST.
DATE 11-21- 1988
TIME 340 P. M.
Requested by P. BRUDIE
Address HOMER AK



## Quinton, Madeleine

---

**From:** Planning Dept,  
**Sent:** Friday, May 6, 2022 11:56 AM  
**To:** Quinton, Madeleine  
**Cc:** Hindman, Julie  
**Subject:** FW: <EXTERNAL-SENDER>proposed Jakolof subdivision

Madeleine

---

**From:** shannyn moore <shannynmoore@gmail.com>  
**Sent:** Friday, May 6, 2022 11:36 AM  
**To:** Planning Dept, <planning@kpb.us>  
**Subject:** <EXTERNAL-SENDER>proposed Jakolof subdivision

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

From Shannyn Moore  
PO Box RDO  
Homer, Alaska 99603-8999

To The Kenai Borough Assembly

Re: Mental Health Trust Subdivision Proposal in Little Jakolof

Dear Assembly Members,

We appreciate the opportunity to weigh in with you about the Mental Health Trust proposal to add sixteen lots to our community. There are so many different types of people who own homes in our area, but we have yet to meet one who thinks this proposal is a good idea. Thank you for taking the time to hear our different perspectives.

The Mental Health Trust has one job. Their job is to make money for the trust by selling land. They don't have to consider any factors other than making money. With \$400 million in assets, we'd say they are doing their job. You, the assembly, have quite another task at hand. Your job is to make the communities on the Kenai Peninsula better places to live for our residents.

We have one home. We live in Little Tutka Bay. We live here all year. Not everyone with property here is so lucky to get to see the winters. The Mental Health Trust has missed something we want you to understand. These tiny bays and the islands close by are a community. We have a post office, a tiny library, potlucks, wood cutting parties and businesses that employ locals when they can. There are children home schooled here. We respond to local disasters like fires, boats sinking and plane crashes. We aren't just a vacation destination. Owning a home here isn't a National Guard agreement to two weeks a year and one weekend a month for dentists from Anchorage.

The recent proposal for sixteen lots between Little Tutka Bay and Jakolof Bay has zero consideration or provision for public land use. There is no future school site, land for a community cemetery, park or post office. Why is that? Where are new residents going to park their boats? There is zero planning to expand the community with the offering. The reason is simple. It's not the job of Mental Health to make us a community with amenities. It's the job of the borough to help us through this time of proposed growth to do it right.

It's hard to build a life here. At least 70% of the work to construct is just moving supplies across the bay and up to your perch. The land proposed isn't impossible to build on, but you could see impossible from your porch if you could ever get one built.

Please postpone the approval of the subdivision until the issues brought by our community can be addressed. We thank you for your consideration.

Sincerely,

Gregor Welpton and Shannyn Moore

## Quainton, Madeleine

---

**From:** Planning Dept,  
**Sent:** Friday, May 6, 2022 9:15 AM  
**To:** Quainton, Madeleine  
**Subject:** FW: <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047 proposed Little Jakolof Bay subdivision

Madeleine

---

**From:** Daniel Coyle <djcoyle1@gmail.com>  
**Sent:** Friday, May 6, 2022 9:06 AM  
**To:** Planning Dept, <planning@kpb.us>  
**Cc:** Doug Kossler <anchoragerunner@yahoo.com>; tanomoshii@yahoo.com; Maurice Coyle <mauricecoyle3@gmail.com>; jonathan coyle <jpcoyleak@gmail.com>; keetnasimon@yahoo.com; walanier@gmail.com; jenny coyle <jen79coyle@gmail.com>; John Giuggio <giovanpietro3@gmail.com>  
**Subject:** <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047 proposed Little Jakolof Bay subdivision

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

**To: Kenai Peninsula Borough Planning Department  
144 N Binkley Street  
Soldotna, AK 99669**

**(submitted via email)**  
MAY 6, 2022

To: Kenai Peninsula Borough Planning Department

As a unified group of seven local residents and landowners, we'd like to express our urgent concerns about the proposed subdivision in Little Jakolof Bay and Little Tutka Bay, KPB File 2022-047, for the following reasons:

- 1) The proposed subdivision will destroy an existing archaeological site of significant cultural and historical value. The site is located near proposed lots 8, 9, and 10. Further investigation could uncover additional sites, which would be protected by state and federal law. In addition, the development of new lots may destroy wildlife habitat, including eagle-nesting areas
- 2) The proposed subdivision does not provide adequate water access or supply. Many of the proposed lots are located on bedrock, with no water source.

3) The proposed subdivision — 16 lots, many of them extremely narrow, located in a relatively small, confined area — creates multiple problems of density and access, and will generate navigational hazards. The entrance and the western (weather-exposed) side of the bay is narrow for running lines, and not suitable for moorings.

4) A significant number of the lots are unusable because of steepness or access problems. Some lots have steep rocks on the shore and are inaccessible from the beach. In addition, two lots have access only through Little Tutka Bay, creating additional congestion for residents of Tutka Bay.

We hope that these comments will provide the planning commission with guidance and clarity as it makes its decisions. We are ready and willing to answer any questions or provide any additional information the planning commission requires. We hope that the commission will delay any imminent decisions in order to give appropriate time, research, and attention to these sincere and valid concerns.

SIGNED,

**Daniel Coyle**

**Maurice Coyle**

**Jonathan Coyle**

Co-owners of Bootleggers Cove Lots 1, 3 4, and 5

**Doug Kossler**

**Margaret Kossler**

**Kimberly Lanier**

**William A. Lanier**

Co-owners of Jesse Cove Tract 3 and 4

RE: KPB File No. 2022-047

Greetings

I am writing to express concerns about the proposed re-plat of a parcel that fronts on Little Jakolof Bay and a portion of Kasitsna Bay locally referred to as Quiet Cove.

While I respect the owners rights (Alaska Mental HealthTrust Authority, 'AMHTA') to monetize its land holdings this proposed subdivision is not, in my opinion, the way to do it. (Skip to the conclusion for a proposed methodology).

The proposed creation of these lots will add additional pressure to the local communities of Little Jakolof, Quiet Cove and Little Tutka Bay. Today these communities are self sufficient, where the land owners take care of issue themselves instead of relying partially or entirely on the services of the Borough or City of Homer, despite being taxed for services not necessarily received.

For instance, currently my property and other properties in these communities, pay borough collected taxes but receive little in return. Borough taxation for services, which include fire services are, in particular, an excellent example.

On October 19, 2019 my house burned to the ground after a 5 year construction effort. It was a heartbreaking event and an uninsured loss of over \$1.2m. Fortunately no one was injured and thanks to the immediate help of my neighbors rushing in, the event did not consume more than just my improvements and a portion of old growth forest.

What I received from the borough was a "yeah we could see it happening from Homer" and "we'll inform the State of Alaska fire officials that you may have ongoing liability should any of the smoldering roots or remains cause additional damage." In other words, absolutely nothing but a notice of potential liability. No assistance with investigation, no assistance with mitigation of potential post fire issues, no coordination with the State or City of Homer.

To add insult to injury, I then paid over \$100,000 in Landfill expenses associated with hauling the debris to Homer for disposal.

In other words if the Borough wishes to support subdivision and the receive the resulting tax revenue then the borough should be prepared to provide the services. However, despite that, as mentioned above we are a self sufficient community of homes and we are used to taking care of each other. For my part I forgo the services despite paying the taxes because of the tranquility of the area and the support of my neighbors.

Quiet Cove Specific Issues

Quiet cove is a very calm and small cove. So small that its name is only a locally named cove without an official body of water designation. At low tide the cove and the properties fronting on it are inaccessible, either by land or water or air. **In particular the proposed lots 1-4 will have NO ACESSS at low tide.**



The cove is home to Land Otters, Sea Otters, Starfish, Mussels, Clams and innumerable fish and bird species all supported by a diverse eco-system of marine plants that existing due to the tidal action that fills and empties the cove twice each day.

In addition the proposed Lot 2 has no accessibility at high tide due to the cliff face at the beach level. The only way to solve this would be a substantial dock system again impacting the sensitive Quiet Cove marine life and even then such a dock would not be accessible at low tide.

Development of the proposed lots 1-4 would A) seriously impact this bio-diversity and B) create serious impacts related to inaccessibility issues.

#### Little Jakolof Issues

Little Jakolof Bay is a larger and a more robust marine environment. There are several concerns that I assume my neighbors in Little Jakolof will address since I am less directly impacted. Non-the-less, I reached out to Janet Klein a preeminent scholar on the subject of the archeology of Kachemak Bay

<https://worldcat.org/identities/lccn-n82050143/>

Ms.Klein believes there could be anecdotal evidence of archeological significance (house pits)<sup>1</sup>, on portions of the property proposed to be subdivided, on the south facing shore of the property facing little Jakolof. This evidence may or may not prove to be accurate but at a minimum it should be investigated and considered, and if true considered as part of the proposed future use of the property.

#### Little Tutka issues

Again these issues impact others more than myself. Two of the proposed lots 15 and 16 are only accessible by a narrow easement across others properties from Little Tutka Bay. They are in essence landlocked parcels, at the end of an easement at the end of a cove at the end of a bay. Was consideration given to potential acquisition by the owners of the properties with easements? Or extended to the other adjacent parcels adjacent to these lots?

#### Conclusion

As expressed in my opening paragraph I believe the AMHTA should be allowed to seek to accomplish monetization of the value of their holdings with regard to the proposed property, for the benefit of their constituents, the citizens of Alaska accessing the mental health network of the State of Alaska. However, I feel strongly that the method of that monetization could come in many ways, the least of which is a simple commercial blanket subdivision into numerous parcels, each with unique challenges.

One example would be to pursue a conservation easement on the entire parcel wherein the AMHTA would be compensated for the value of the parcel based on a fair market value appraisal. Said appraisal could be based on an as-is valuation or even an "if improved" Valuation (subdivided). That is just one

---

<sup>1</sup> Numerous examples of house pits evidenced in the Kbay area Include those found and preserved on private lands on Yukon Island by the Abbott family. Significantly examined and researched by William Workman <https://www.researchgate.net/scientific-contributions/William-B-Workman-2027733563> over numerous years.

example. In other words what are the monetization goals (dollar amount) of the AMHTA. Make that clear and give the community an opportunity to step and meet the goal.

I would encourage the Kenai Peninsula Platting Board, to postpone this action until a thoughtful process has run its course with regard to the monetization effort that explores alternatives. I believe that myself and my Little Tutka Bay, Little Jakolof Bay and Quiet Cove neighbors are willing to engage in such a process. I also believe that there are some obvious first choice alternatives that would be supported by all.

I am willing to commit to such a process with a defined schedule and without prejudice to the outcome, as I believe are other members in the community. If that ends up in a renewed application to sub-divide the property so be it. But without the engagement of the community in a process, moving forward at this time will be problematic.

Thank you for your consideration, let's engage in a process to accomplish the community goals, the borough goals and the AMHTA goals.

Mark Pfeffer  
(907) 317-5030

May 6<sup>th</sup>, 2022

RE: Proposed plat under consideration KPB File NO. 2022-047

We strongly oppose the plat as proposed with regards to the 20 foot easement from Little Tutka Bay to proposed lots 15 and 16 of East Oyster Bay Subdivision.

We own lot 15 of South Kachemak Alaska Subdivision. We have owned this property for 20 years. I am very familiar with the easement topography at every tide stage. It will be a poor easement. Depending on the exact survey line it may be impassable much of the time, leading to the trespass of adjoining property.

The easement is in a low wetland estuary with a narrow deep creek and a 40–60-foot pond nearer the natural shoreline bench that does not drain. At low tide the pond is thigh deep with muddy bottom. The survey line bisects this pond. To go around it users will trespass on the South Kachemak Alaska subdivision lot 15 or lot 16. Depending on the exact line users will then need to cross the creek, perhaps more than once.

The diagram provided by Mental Health Lands Trust (MHLT) does not depict this area accurately. Little Tutka Bay is not as near to the east line of the 2 lots as depicted. At most tide stages it will be a 300 foot slog through the estuary. At very high tides (23-25 feet) the water does get to the east boundary of the new subdivision. However, it is too shallow for any boat other than a kayak for approximately the last 200 feet. Due to undulating topography of the wetland estuary and the creek it is also impassible with hip boots or chest waders.

This week I went to the MHLT offices in Anchorage to attempt to get a good map with survey lines to better review and make my case. They had terrible mapping available with detail no better than your enclosed diagram.

In the past I have seen a plat map/as built map that showed the southwest corner of our lot 15 SOUTH of the southern edge of the estuary. I was surprised and pleased because it meant we own a fabulous berry patch. If that map is correct the northern 20 foot easement is in the worst possible area of the wetland estuary, directly on the creek. Please provide detailed, accurate mapping for the public to review prior to making any decisions on this.

In summary, this is a bad easement functionally and environmentally. The new East Oyster Bay Subdivision lots 15 & 16 should be changed. Lot 15 could easily be connected to the new lot 14 and sold as a single 3.6-acre parcel, like the new lots 10 and 11. Lot 16 is a bad idea all around. It is land locked and has no view of water or mountains from its north line most of the time. It will have a wet estuary view only at extreme high tides. The amount of damage to the wetlands estuary to develop this land is likely to be large. If lot 16 must be developed then it should be combined with 14 & 15 to provide ocean access.

We urge the Kenai Borough to reject the proposed plat outright until the MHLT addresses and corrects these problems.

Submitted by Dennis & Lisa Poirier

## Quainton, Madeleine

---

**From:** Planning Dept,  
**Sent:** Friday, May 6, 2022 8:32 AM  
**To:** Hindman, Julie; Quainton, Madeleine  
**Subject:** FW: <EXTERNAL-SENDER>KPB File No. 2022-047

FYI

---

**From:** GEORGE RHYNEER <valiant@mtaonline.net>  
**Sent:** Friday, May 6, 2022 8:03 AM  
**To:** Planning Dept, <planning@kpb.us>  
**Subject:** <EXTERNAL-SENDER>KPB File No. 2022-047

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Planners: I am a land owner in Little Jakalof Bay (tract 1 and 2, Jesse Cove Subdivision) When you consider approval of the plat referenced above please be aware that that there may be native middens and other archeological sites along the shoreline of Little Jakalof Bay which should be identified and protected before this land is subdivided and sold. Sincerely, George Rhyneer



## **DESK PACKET ITEMS**

**(Items received after the publishing of the meeting packet on 6/7/22)**

### **E. NEW BUSINESS**

- 11. East Oyster Cove Subdivision; KPB File 2022-047R1  
Fixed Height LLC / Alaska Mental Health Trust Authority  
Location: Oyster Cove REM SW  
Remote Area**

## Quinton, Madeleine

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**From:** Planning Dept,  
**Sent:** Friday, June 10, 2022 8:57 AM  
**To:** Quinton, Madeleine; Hindman, Julie  
**Subject:** FW: <EXTERNAL-SENDER>Oyster Cove Subdivision

Thank You,

Ann Shirnberg  
Administrative Assistant  
Planning Department  
(907) 714-2215

**KENAI PENINSULA BOROUGH**  
**144 North Binkley Street**  
**Seldotns, Alaska 99669**



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to public upon request.

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**From:** tamara hopkins <taxito32@gmail.com>  
**Sent:** Thursday, June 9, 2022 10:43 PM  
**To:** Planning Dept, <planning@kpb.us>  
**Subject:** <EXTERNAL-SENDER>Oyster Cove Subdivision

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KPB 2022-047R1

I am writing again to oppose this subdivision as replatted. I also would like to know how MHT will dispose of this property, auction I assume. I am fearful of what could happen to this Little Jakolof serenity if this is to happen. We have all been very protective of this quiet place. I am a newcomer to this cove, 2006 when I was introduced. It is a very special place, and that will change permanently if 15 lots are sold and developed. My concerns have been stated at the earlier hearing, and they still stand.

I walked to the back corner of our property,(Lot 4B of Bootlegger's Cove No.2 Subdivision) and looked at the proposed access for lots 13,14,15. It is right in the tidal estuary off a backwater portion of Little Tutka Bay which completely floods on any high tide greater than 15 feet or so. This platted access totally ignores the fact that this is wetlands as was pointed out to this body on the previous public hearing of May 9, 2022. It is inconceivable to me how this commission can approve this. Lots 13 and 14 are basically landlocked.

Quiet Cove like Little Jakolof Bay is just that, quiet and very small. And very tidal. I find it hard to see how it can support four lots as depicted on this plat i.e. lots 1 thru 4. Similarly lots 5 thru 12 fronting Little Jakolof Bay will ultimately create a very crowded waterfront. For these reasons , I would urge this commission to disapprove this platt.

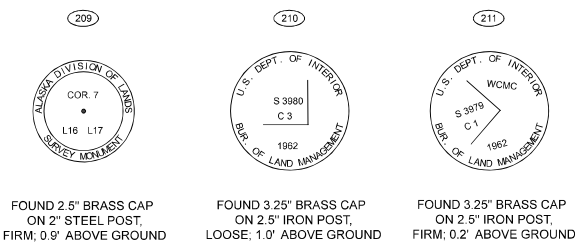
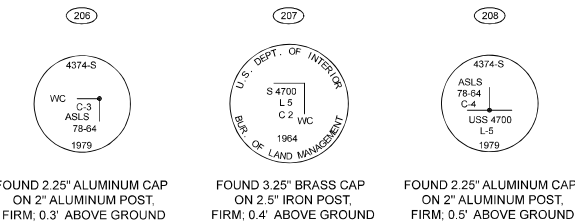
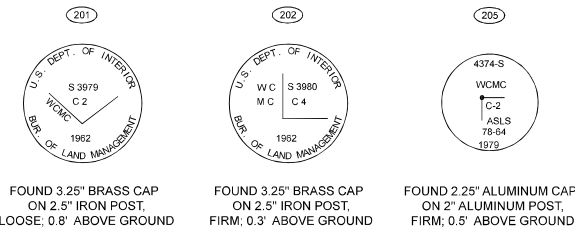
Thank you for your consideration on this matter,

Tamara Hopkins

WITNESS LINE TABLE				RECORD INFORMATION			
LINE	BEARING	DIST. (ft.)	REC.	BEARING	DIST. (ft.)		
WL1	N 00°17'30" E	11.09'	(R1)	S 00°01'06" E	11.22'		
WL2	S 89°57'31" E	15.00'	(R2)	EAST	15.00'		
WL3	S 89°57'31" E	72.83'	(R2)	EAST	19.15'		
WL4	S 58°23'13" W	57.40'	(R3)	N 59°59'00" E	53.46'		
WL5	N 58°23'13" E	38.54'	(R3)	N 59°59'00" E	56.20'		
WL6	N 85°52'06" W	28.57'	(R4)	N 89°31'48" W	44.60'		

MEANDER LINE TABLE		
LINE	BEARING	DIST. (ft.)
ML1	N 56°25'06" E	150.12'
ML2	S 16°41'56" W	62.21'
ML3	N 50°15'46" W	117.53'
ML4	S 88°20'33" E	134.84'
ML5	N 77°32'58" E	113.05'
ML6	N 43°29'33" W	91.55'
ML7	N 14°39'54" W	73.39'
ML8	N 38°06'40" E	59.73'
ML9	S 50°45'56" E	115.23'
ML10	N 85°15'55" E	202.62'
ML11	N 73°23'22" E	92.15'
ML12	N 09°45'41" W	117.85'
ML13	S 64°54'56" E	131.68'
ML14	N 14°46'21" W	96.33'
ML15	S 50°13'38" E	126.39'
ML16	S 50°13'38" E	110.07'
ML17	S 86°53'15" E	163.08'
ML18	N 35°34'20" W	27.23'
ML19	S 39°54'41" W	143.66'
ML20	S 10°47'30" W	135.49'
ML21	S 59°00'57" E	15.54'
ML22	N 64°46'03" W	16.45'
ML23	S 73°01'50" W	143.07'
ML24	S 73°01'50" W	76.22'
ML25	S 54°31'04" W	129.38'
ML26	S 64°31'04" W	87.81'
ML27	N 44°22'10" E	187.72'
ML28	S 13°30'22" E	130.52'

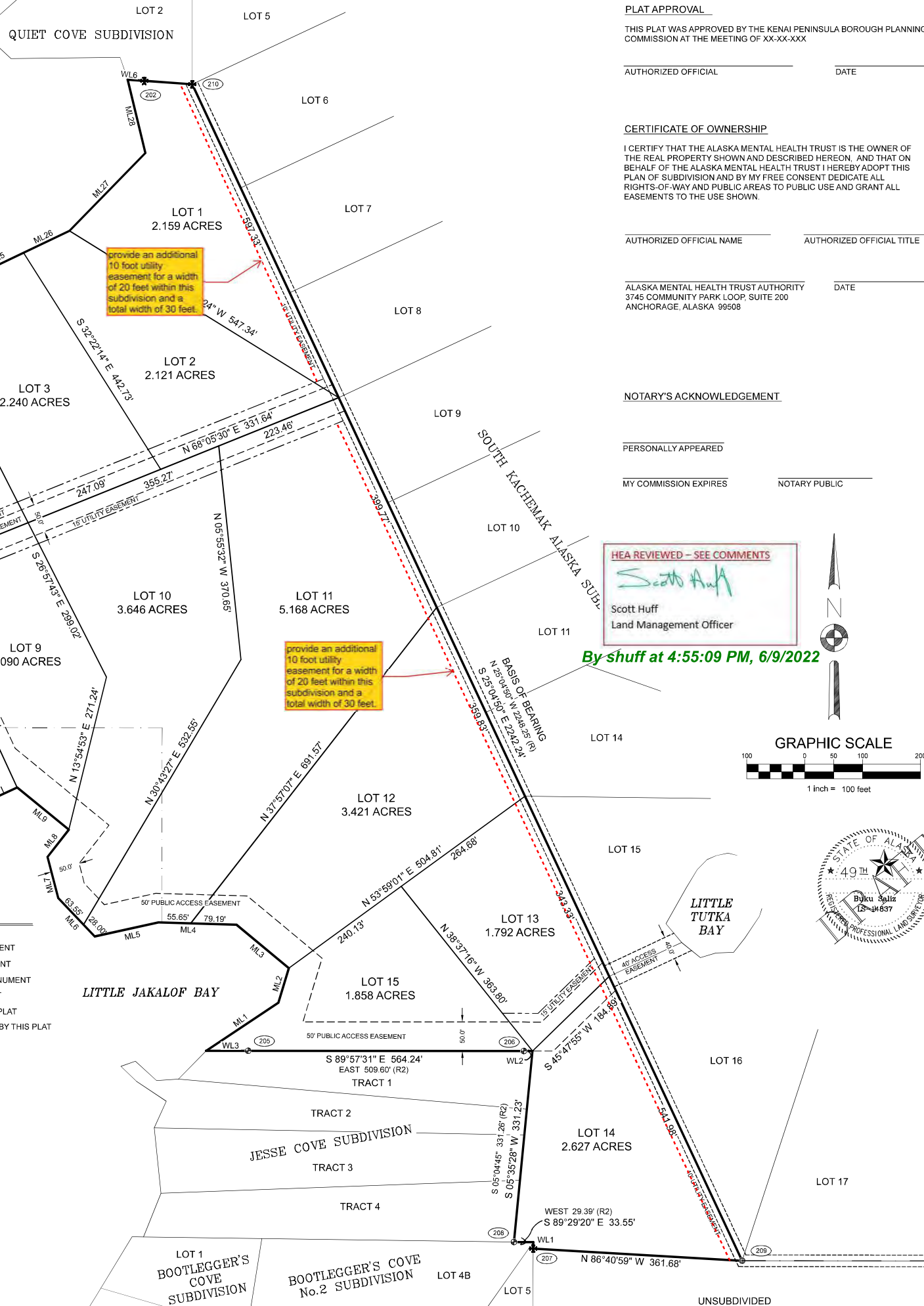
## MONUMENT DETAILS



## LEGEND

- FOUND 3.25" DIAMETER BRASS MONUMENT
- FOUND 2.5" DIAMETER BRASS MONUMENT
- FOUND 2.25" DIAMETER ALUMINUM MONUMENT
- LOT LINE TO BE VACATED BY THIS PLAT
- UTILITY EASEMENT GRANTED BY THIS PLAT
- PUBLIC ACCESS EASEMENT GRANTED BY THIS PLAT
- EXISTING UTILITY EASEMENT
- (R) RECORD MEASUREMENT - PLAT 67-85
- (R1) RECORD MEASUREMENT - PLAT 75-263
- (R2) RECORD MEASUREMENT - PLAT 83-06
- (R3) RECORD MEASUREMENT - USS 3979
- (R4) RECORD MEASUREMENT - PLAT 87-9

KPB 2022-047R1



## PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF XX-XX-XXX

AUTHORIZED OFFICIAL \_\_\_\_\_ DATE \_\_\_\_\_

## CERTIFICATE OF OWNERSHIP

I CERTIFY THAT THE ALASKA MENTAL HEALTH TRUST IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT ON BEHALF OF THE ALASKA MENTAL HEALTH TRUST 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.

AUTHORIZED OFFICIAL NAME \_\_\_\_\_ AUTHORIZED OFFICIAL TITLE \_\_\_\_\_

ALASKA MENTAL HEALTH TRUST AUTHORITY  
3745 COMMUNITY PARK LOOP, SUITE 200  
ANCHORAGE, ALASKA 99508

DATE \_\_\_\_\_

## NOTARY'S ACKNOWLEDGEMENT

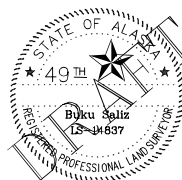
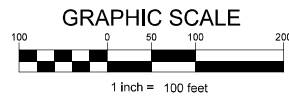
PERSONALLY APPEARED \_\_\_\_\_

MY COMMISSION EXPIRES \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_

HEA REVIEWED - SEE COMMENTS  
Scott Huff  
Land Management Officer

By shuff at 4:55:09 PM, 6/9/2022



## SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME AND THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE TRUE AND CORRECT.

BUKU SALIZ LS-14837  
REGISTERED LAND SURVEYOR DATE \_\_\_\_\_

## A PLAT OF

## EAST OYSTER COVE SUBDIVISION

## A SUBDIVISION OF

## A PORTION OF THE NORTH 1/2 OF SECTION 21 AND LOT 4 OF U.S. SURVEY No. 4700

EXCLUDING U.S. SURVEY No's. 3903, 3979, 3981, 4700 (LOTS 2 & 3), AND 4747 (LOT 3);  
SOUTH KACHEMAK ALASKA SUBDIVISION (67-85);  
JESSE COVE SUBDIVISION (83-6); QUIET COVE SUBDIVISION (87-9);  
AND THOSE UPLANDS LYING NORTH OF U.S. SURVEY No's. 3903 AND 3979  
CONTAINING 36.616 ACRES

LOCATED WITHIN  
PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA  
SELDOVIA RECORDING DISTRICT



FIXED HEIGHT LLC 907.290.8949  
WWW.FIXEDHEIGHT.COM

225 W 23RD AVE.  
ANCHORAGE, AK 99503  
C.O.A. 122544

OWNER: MENTAL HEALTH TRUST ; 2800 CORDOVA STREET ; ANCHORAGE, AK 99503

KPB FILE NO.: XXXX-XX DRAWN BY/DATE: AK / 1-1-2022

PROJECT NO.: 21083 CHECKED BY: BS

SURVEY DATE: SEPTEMBER 7-9, 2021 SCALE: 1" = 100'

FIELD BOOK: 21-01 SHEET: 1 OF 1