

DESK PACKET

Information that came in after the
01-06-23 meeting packet publish date

1. Bidarki Creek No. 5; KPB File 2022-160
Orion Surveys / Lamb & Reilly
Location: Near MP 171 Sterling Highway
City of Homer

Orion Surveys
PO Box 15025
Fritz Creek, AK 99603

January 16, 2023

Kenai Peninsula Borough Planning Commission,
144 N. Binkley,
Soldotna, AK 99669

Subdividers response to petitions for review of plat approval of Bidarki Creek 5, KPB File No. 2022-160 by the Kenai Peninsula Planning Commission, Plat Committee.

This plat was approved by the Plat Committee on November 14, 2022. Several sections of Borough code have been cited by the three petitioners. Below are responses to each section of code cited.

20.10.010. - Purpose of provisions.

The purpose of this title is to promote an adequate and efficient street and road system, to provide necessary easements, to provide minimum standards of survey accuracy and proper preparation of plats, and to protect and improve the health, safety and general welfare of the people.

20.10.010 was cited by two of the petitioners. "Protect and improve the health, safety and general welfare of the people" covers all the people, neighbors and developers alike. The numerous requirements in Zoning Code, Development Standards, and Subdivision Code are all designed with this protection in mind. In cases where exceptions to code are required this section of code should be relied on but that is not the case with this subdivision. Probably the strongest protections in this case are the development standards in the City of Homer codes.

20.25.60. - Subdivision or replat in second class city submittal procedure.

- A. *Preliminary subdivision plats or replats lying within the corporate boundary of a second class city shall be first submitted to the city for review prior to submittal of the plat to the borough planning department.*
- B. *A preliminary plat shall not be submitted to the borough planning department for review unless the aspects of the subdivision subject to the city authority have been first approved by the city.*
- C. *The preliminary plat submitted to the city shall comply with the requirements of KPB [20.25.070](#) and [20.25.080](#).*
- D. *The city council or its designee, and, if required by city code or requested by the city council, other appropriate municipal departments, shall review the plat or replat and prepare written comments which shall be included with the submittal of the plat to the borough. The subdivider bears the responsibility for presentations to, and discussions with, the city to ensure that the final plat will conform to lawful ordinances and requirements of said city.*
- E. *Final plats submitted to the borough for approval will be submitted by the borough to said city for review by the city council or its designee when the design deviates from the preliminary plat as a condition of preliminary planning commission approval by a substantial change in alignment or a dedication of right-of-way, addition of lots, or major change in lot design which has not been*

- recommended by the city council or its designee.*
- F. *A final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.*
- (Ord. No. [2020-45](#), § 10, 3-2-21; Ord. No. [2014-02](#), § 1, 2-11-14)

20.25.060 was cited by all three petitioners. As to the denial of the plat by City of Homer Planning Commission, the city has determined how they want development to proceed in the city and have written their subdivision codes, development standards and zoning to control this. All parties are subject to these codes. We have demonstrated that all these codes have been and/or can and will be met during discussions with City of Homer Public Works. The plat was not rushed through the city platting process. In response to questions about code compliance for the development of this subdivision we requested postponement of the plat from the first scheduled hearing to the next Planning Commission meeting to allow time for consultation. After a review of the preliminary plans for development of these lots, staff at Public Works agreed that the development plan would be able to meet city requirements. Only after this consultation did we submit the plat to City of Homer Planning Commission for approval.

At this time preliminary engineering is underway and the plan as presented to the City of Homer is proceeding as expected with minor revisions. The engineer on the project is working with the staff at Public Works to ensure compliance with all standards. Finally, KPB is the platting authority in the entire borough including within the City of Homer. The city plat review is advisory to KPB. Any violation of city standards or code would almost certainly be honored in the KPB platting review. Prior to submittal of this plat to the City of Homer Planning Commission we checked again and again for compliance with both city and borough code and found no conflicts. Following the City of Homer Planning Commission meeting we made several minor lot redesigns and combination of two lots into a single lot. No exceptions to code were needed after these changes.

20.30.040. - Streets within 100 feet of waterbodies.

No dedications are allowed within 100 feet of the ordinary high water line of a waterbody unless necessary for access to a lot where no reasonable alternative access exists or the dedication provides access to a bridge or public facility, waterbody or watercourse. Final plats must comply with KPB [20.60.050](#) and [20.60.060](#).

(Ord. No. [2014-02](#), § 1, 2-11-14)

As shown on the preliminary plat the ROW dedication is greater than 100' from Bidarki creek. This separation distance was checked in the field with a tape measure and confirmed. This section of code has been complied with.

20.30.190. - Lots—Dimensions.

- A. *The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.*
- B. *The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB [20.30.030\(A\)](#) and [20.30.090](#) for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB [20.30.240](#).*

The comment from Mr. Sass was that this could set a precedent for future dense developments. As we understand it the City of Homer has a goal of promoting increased density of housing within the city. A denial of this plat without a basis in code could also have the effect of creating uncertainty for future development making attainment of this goal and subdivisions in general more difficult.

Ms. Rourke's comment was that this subdivision is not appropriate for the neighborhood. This area is zoned for minimum 10,000 sq. ft. lots as we have proposed. The fact that the surrounding lots are larger than the minimum allowed in city code doesn't mean that smaller lots are to be prohibited. There are other lots of similar size adjacent to the Sterling Highway within ½ mile East of this subdivision.

21.18.081- Conditional use permit.

- A. *Intent. The intent of this section is to allow special uses and structures which may be compatible with KPB [21.18.071](#) in the habitat protection district through the approval of a conditional use, if certain standards and conditions exist.*

This section of code is for conditional use permits in the Habitat Protection District and is not applicable to this subdivision.

Responses to Petitioners Requests for relief.

Each of the petitioners have requested relief based on these sections of code and in some cases personal preferences. Responses to these requests for relief are listed below in order as listed on the petitioner's forms.

Requests by Mr. Faulkner

- A. We have calculated, and the city has concurred, that development on these lots is not subject to the city's steep slope development ordinance based on the method of measurement in that ordinance. The development plan takes the areas of steep slopes that do exist into consideration. Since the development plan will need approval from Public Works there is oversight built into the process.
- B. Per Homer code 21.12.050, development in the Rural Residential zone must comply with level one site development standards. These standards are very specific on landscaping requirements. The development plan being proposed is designed to meet or exceed all these standards.
- C. Flood hazard mitigation is required as part of the development plan.
- D. Plans for water and wastewater for these lots have already been discussed with Public Works staff and are proceeding as planned. Shared driveway and utility easements are already a condition of approval of the final plat.
- E. These lots are subject to a Local Improvement District for Sewer and Water. Homer City code 17.02.100 governs "Subdivision after levy of assessments". Subsection (g) states that subdivided property connection fees collected under this section shall be deposited in the Homer accelerated water sewer program fund. While code previously may have allowed for a

recalculation of assessments and distribution of funds as Mr. Faulkner requests, that is not currently the process laid out in city code. Further the owners will have no control over the disbursement of these fees after they are paid to the City according to the rules of the LID and city code.

- F. Shared driveways and driveway easements are being designed with emergency vehicle turn-arounds.
- G. AKDOT has reviewed this subdivision and has not objected to the planned cul-de-sac. The existing curb cut will be replaced by a standard intersection with the Sterling highway. Roads with single access points serving significantly more than 11 lots are common along the Sterling Highway.

Requests by Ms. Rourke

- 1. See item A above
- 2. See item B above
- 3. See Item C above
- 4. The preliminary plan was for a sewer main extension extending up through the shared driveway and utility easement. The current plan is for each lot in this subdivision to have its own water and sewer service with any extension of the main lines located in or near the new cul-de-sac dedication. There are instances in the city where sewer services are located in an easement along common property lines. Meadow-Wood subdivision is one.
- 5. Same answer as 4.
- 6. There is no basis in code to dictate the number of lots in a subdivision. This is governed by many other sections of code which have already been discussed.

Requests by Mr. Sass.

- 1. The subdivision codes and development standards have been developed to address these issues. Development on these lots will be subject to these standards and codes. In addition, it is not in the owners interest to create a problem with drainage or wetlands.

In summary, we feel that none of the comments of the petitioners has a basis in either City of Homer or KPB code. Each point of concern they have listed is already covered by the subdivision code and development standards.

We ask the KPB Planning Commission to recognize that, while development standards are not a part of either City of Homer or KPB code, the owners recognize that future development in this subdivision will be subject to the same code and standards that all the neighbors are subject to. Oversight by the City of Homer Public Works will ensure that all these standards are met.

Respectfully submitted,

Tom Latimer, PLS

For owners
Kristen Lamb-Reilly
McKennen Lamb
Rachael Lamb

Quainton, Madeleine

From: Planning Dept,
Sent: Wednesday, January 18, 2023 1:17 PM
To: Quainton, Madeleine
Subject: FW: <EXTERNAL-SENDER>Written Testimony KPB file No. 2022-160
Attachments: Linda's letter KPB PDF 2.pdf

Madeleine

From: lsrouрке@xyz.net <lsrouрке@xyz.net>
Sent: Wednesday, January 18, 2023 12:07 PM
To: Planning Dept, <planning@kpb.us>
Cc: lsrouрке@xyz.net
Subject: <EXTERNAL-SENDER>Written Testimony KPB file No. 2022-160

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Please see attached document and confirm receipt.

Thank you!

January 18, 2023

Kenai Peninsula Planning Commission

Regarding KPB File No. 2022-160

Please review this testimony as it pertains to this subdivision replat.

KPB Code 20.30.190 Lot Dimensions

A. “The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located.”

“Generally lots shall be square or rectangular.”

The Hillside Acres Subdivision, zoned Rural Residential, contains lots that are mostly rectangular in nature and have one home on lots that average 2.5 acres in size.

The Bidarki Creek Subdivision, zoned Rural Residential, also contains lots that are mostly rectangular and average 1 acre in size, and have ONE home per lot.

The Bidarki Creek #5 Plat proposal is an anomaly - it drastically deviates from the surrounding area in every possible way, and should not be approved without attention to this code .

This proposal puts TEN houses on 3.4 acres, which the surrounding area would only have ONE house.

Based on these comparable properties, the largest number of homes on this 3.4 acre property should be limited to FOUR, (this number was discussed at both previous meetings in Homer and Soldotna.

B. Flag lot requirements - there is need for review.

There are an excessive number of flag lots in this proposal, which includes SIX flag lots with 20’ access portions.

Examples:

7508163 Jeffres 4.46 acres - One House



17508164 Rourke .69 acres - One house



17508147 Chalup 1.78 acres - One House



17508117 Finney 2.97 acres - One House



1708156 Rourke .71 acres - One House



17508142 Faulkner 1.52 acres - One House



17525005 Story .93 acres - One House



Thank you for your attention to this important matter.
Linda Schauer Rourke (lsrourke@xyz.net)

Quainton, Madeleine

From: Planning Dept,
Sent: Wednesday, January 18, 2023 1:16 PM
To: Quainton, Madeleine
Subject: FW: <EXTERNAL-SENDER>KPB File No. 2022-160

Madeleine

From: Mark Sass <markasass@gmail.com>
Sent: Wednesday, January 18, 2023 12:50 PM
To: Planning Dept, <planning@kpb.us>
Cc: Gmail <markasass@gmail.com>
Subject: <EXTERNAL-SENDER>KPB File No. 2022-160

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Mark A Sass/ Sass Investments LLC
Hillside Acres Tract 8 Owner

Additional information re review of this subdivision.



picture front of property



Ariel view

3 flag lots next to Bidarki Creek ?

Code 20.30.040

The character of this property will be severely damaged Full stand of mature trees. Would like defined to meet this code.

Code 21.18.081

Serious precedent will be set for entire area forever

Code 20.25.060

I believe this 10 unit density with 6 flag lots + simply does not fit the character or zoning of Rural Residential area

Code 20.30.190

Please let the City of Homer define an appropriate solution.

Sincerely

Mark A Sass

612-919-0735

Sent from my iPhone