

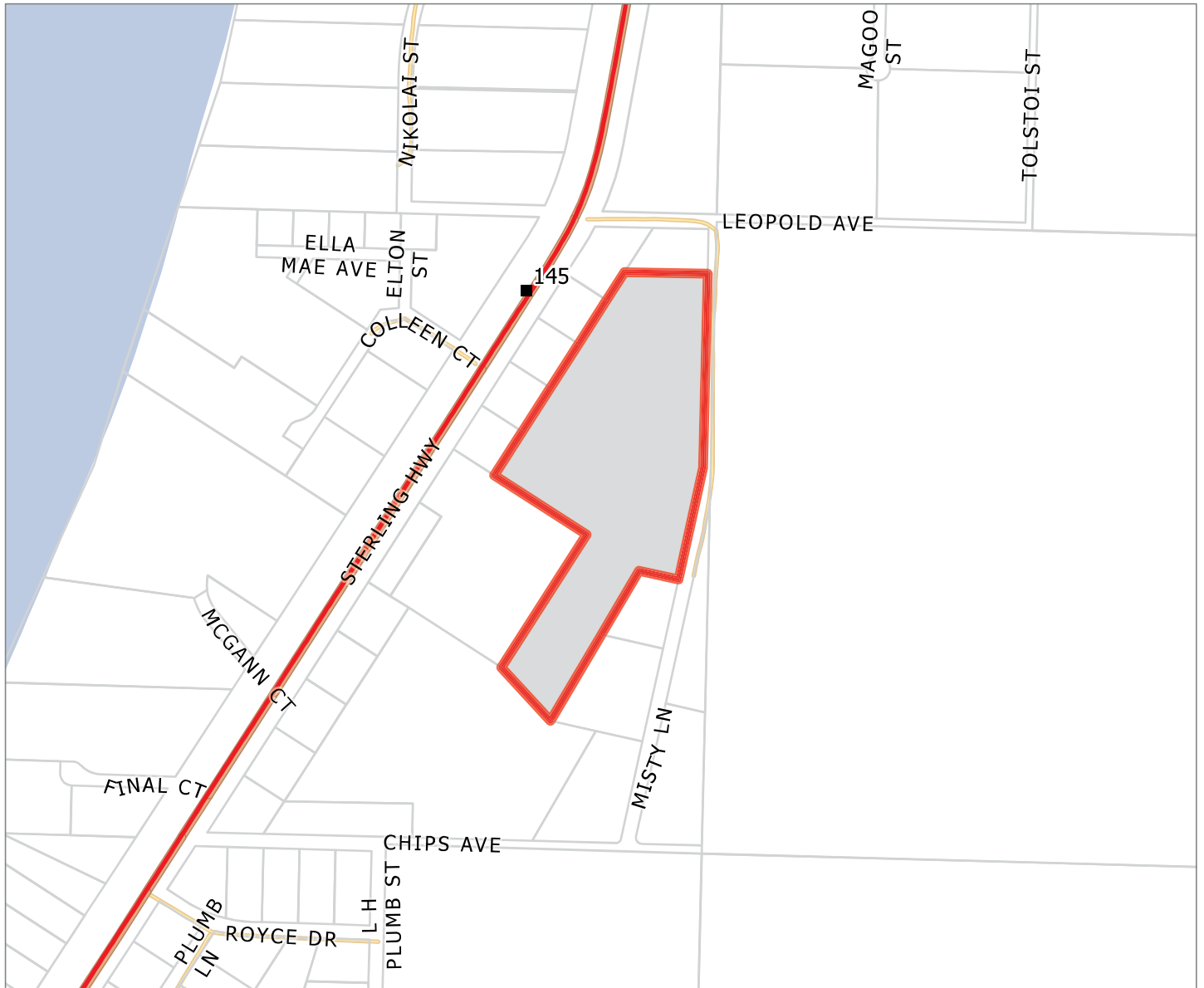
## **E. NEW BUSINESS**

- 5. Lucky Horseshoe Estates 2023 Addn.  
KPB File 2023-010**



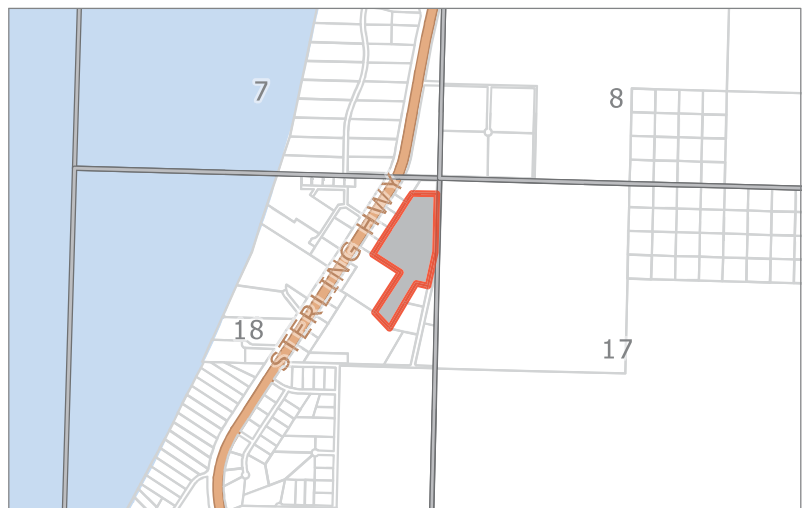
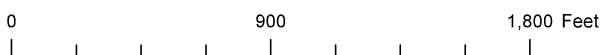
# Kenai Peninsula Borough Planning Department

## Vicinity Map



KPB File 2023-010  
T 03S R 14W SEC 18  
Happy Valley

1/23/2023





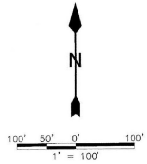


Aerial View

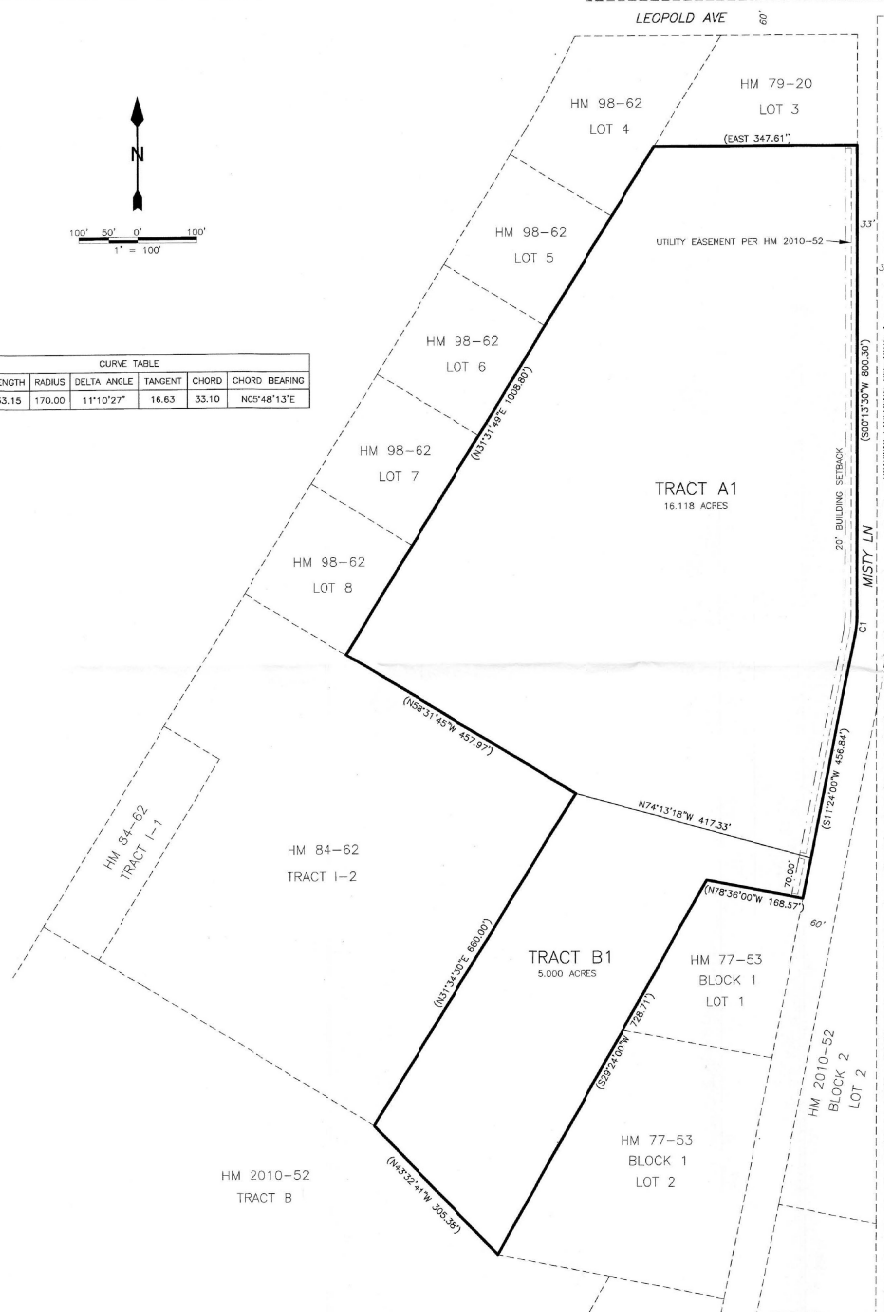


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





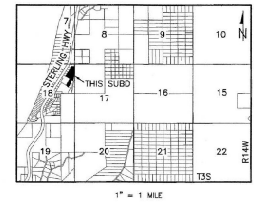
CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA ANGLE	TANGENT	CHORD BEARING
(C1)	33.15	170.00	11°12'27"	16.63	33.10 N59°48'13"E



#### PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF \_\_\_\_\_

BY: \_\_\_\_\_  
AUTHORIZED OFFICIAL



#### CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY 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 OWN FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND GRANT ALL EASEMENTS TO THE USE SHOWN.

GARLYN ANDERSON  
1423 E MAIN ST #4-15  
CORTEZ, CO 81321

#### NOTARY ACKNOWLEDGMENT

FOR: GARLYN ANDERSON  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

NOTARY PUBLIC FOR \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

#### WASTEWATER DISPOSAL

LOTS WHICH ARE AT LEAST 200,000 SQUARE FEET IN SIZE MAY NOT BE SUITABLE FOR ONSITE WASTEWATER TREATMENT AND DISPOSAL. ANY WASTEWATER TREATMENT OR DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

#### NOTES

1. A BUILDING SETBACK OF 20' IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION. THE FRONT 10' ADJOINING DEDICATED RIGHTS-OF-WAY THAT INCREASE TO 20' WITHIN 5' OF THE SIDE LOT LINES IS ALSO A UTILITY EASEMENT.
2. 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.
3. SUBJECT TO A GENERAL EASEMENT WITH NO DEFINITE LOCATION DISCLOSED, GRANTED TO HOMER ELECTRIC ASSOCIATION, INC AS FOUND IN BOOK 22, PAGE 358 HOMER RECORDING DISTRICT, RECORDED JUNE 7, 1961.
4. SUBJECT TO 60' WIDE ROADWAY EASEMENT, GRANTED TO THE FEDERAL LAND BANK OF SPOKANE AS FOUND IN BOOK 98, PAGE 971 HOMER RECORDING DISTRICT, RECORDED ON APRIL 25, 1978.
5. THE KPB PLAT COMMITTEE GRANTED EXCEPTIONS TO 20.30.170 BLOCK LENGTH AT THE MEETING ON \_\_\_\_\_

KPB FILE NUMBER:

PENINSULA SURVEYING, LLC  
10535 CATRINA BOULEVARD, NINILCHIK, AK 99629  
(907)506-7065

#### PLAT OF LUCKY HORSESHOE ESTATES 2023 ADDITION

A SUBDIVISION OF:  
TRACT A, LUCKY HORSESHOE ESTATES UNIT 4, HM 2010-52  
LOCATED WITHIN  
NE 1/4 SEC 18, T35S, R14W, S1M,  
HOMER RECORDING DISTRICT, KENAI PENINSULA BOROUGH  
CONTAINING 21.118 ACRES

OWNER: GARLYN ANDERSON  
1423 E MAIN ST #4-15  
CORTEZ, CO 81321

SCALE: 1" = 100'

DATE: JANUARY 7, 2023

DRAWN: JLS

SHEET: 1 OF 1



KPB 2023-010

AGENDA ITEM E. NEW BUSINESS

ITEM 5 – LUCKY HORSESHOE ESTATES 2023 ADDITION

<b>KPB File No.</b>	2023-010
<b>Plat Committee Meeting:</b>	February 13, 2023
<b>Applicant / Owner:</b>	Garilyn Anderson of Cortez, Colorado
<b>Surveyor:</b>	Jason Schollenberg / Peninsula Surveying
<b>General Location:</b>	Misty Lane, Happy Valley, Anchor Point APC

<b>Parent Parcel No.:</b>	159-150-60
<b>Legal Description:</b>	Tract A, Lucky Horseshoe Estates Unit 4, HM 2010-52
<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 a 21.12 acre parcel into two tracts that will be 5 acres and 16.118 acres.

**Location and Legal Access (existing and proposed):** The subdivision is located near mile 145 of the Sterling Highway. The subdivision is accessed by Leopold Avenue, a 60 foot dedicated right-of-way that is atop section line easements. The portion of Leopold Avenue that is west of Misty Lane is borough maintained. Misty Lane is a varying width right-of-way dedication located off Leopold Avenue. Misty Lane is atop section line easements. The northern portion is dedicated as 33 feet wide and the southern portion is 60 feet wide as it veers away from the section line easements. An additional 60 foot roadway easement was granted along what is now Misty Lane. The northern portion is centered on the section line and noted with a label and plat note. Misty Lane is borough maintained from Leopold Avenue to the southern boundary adjacent to the right-of-way of the proposed plat. ***Staff recommends the adjacent section line easement be shown.***

It appears that the parent lot may have an access from Misty Lane that will be within the proposed panhandle portion of Tract B1. Both new lots will have access from Misty Lane.

The driveway from Misty Lane appears to be providing access to a garage and storage building on Tract B, HM 2010-52. That lot does have dedicated access from the south from Chips Avenue. There are multiple routes to Chips Avenue but it does not appear that Chips Avenue or the rights-of-way in proximity are currently constructed. ***Staff recommends if the owners intend to allow Tract B to access from their property an easement is recorded either concurrently or prior to the platting action and have the easement noted on the plat.***

An exception to block length has been requested.

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Painter, Jed Comments: The additional 30' of ROW will be helpful for road maintenance.
SOA DOT comments	No comment - Engineering

**Site Investigation:** The property does not have any low wet areas. There is some steep terrain found near the flag of proposed Tract B1 and along the eastern boundary of that tract. Staff did not find that the terrain exceeded 20 percent slopes and the existing road dedications do not appear to be affected by the terrain.

There are no constructed improvements on the property and there does not appear to be any encroachment issues being created by this plat or existing issues to resolve. As discussed above, the owner should decide if they will continue allowing the tract to the south to continue through the lots to have access to Misty Lane.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: Located in an unregulated D Zone</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	

**Staff Analysis** The property within the preliminary plat was originally subdivided by Happy Valley Acres 1966 Addition, Plat HM 67-72, as part of Tract K. Lucky Horseshoe Estates Unit 4, Plat HM 2010-52, further subdivided Tract K into the current configuration of Tract A. The easements and plat notes required to be carried over are present on the preliminary plat.

This plat will create two new tracts with the northern tract to be 16.118 acres and the southern tract to be a flag lot as 5.00 acres. The southern tract will have a flag with a width of 70 feet and 168 feet in length.

Due to the size of the lots a soils report will not be required.

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.

Anchor Point Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

**Utility Easements** The parent plat, Lucky Horseshoe Estates Unit 4 HM 2010-52, granted 10 foot utility easements that increased to 20 feet within five feet of the side lot lines. This easement is carried over. The proposed plat will be granting the additional 20 feet within five feet of the side lot lines on the new lot line being created.

An easement granted by recorded document is noted within the plat notes. There is no definite location provided to depict the location.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

**Utility provider review:**

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

**KPB department / agency review:**

Addressing	<p>Reviewer:</p> <p>Affected Addresses:</p> <p>Addresses will be reviewed after recording for possible changes</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</p> <p>Leopold Avenue</p> <p>Misty Lane</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments:</p> <p>JHindman - Any changes to addresses will be reviewed after recording.</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: No comments</p>
Planner	<p>Reviewer: Raidmae, Ryan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments:</p> <p>There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather</p> <p>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**

- Add legend to drawing

**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:** *the location description should include "Alaska"*

- C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

**Staff recommendation:** *Note the adjacent section line easement and the continuation south.*

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

**Staff recommendation:** *Change proposed Tract B1 to A2.*

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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.*

##### **20.30.190. 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.

**Staff recommendation:** *place the standard note on the plat for the flag lot(s): No structures are permitted within the panhandle portion of the flag lot(s). A setback should be put into place within Tract A1 along the panhandle portion of Tract B1.*

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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: Each lot will be greater than 200,000 square feet. A soils report will not be required.*

**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:** *Change B1 designation.*

##### **20.60.180. Plat notes.**



A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

**Staff recommendation:** *Place the following notes on the plat.*

- *No structures are permitted within the panhandle portion of the flag lot(s).*
- *Tract A1 is subject to a 20 foot building setback along the flag portion of Tract A2.*

*Corrections or revisions to plat notes.*

- *Plat note 4, add that a portion is within the Misty Lane dedication.*
- *Plat note 5, add the meeting date.*

### **EXCEPTIONS REQUESTED:**

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

Surveyor's Discussion: This platting action will result in two tracts of land. Tract A1 will be 16 acres and Tract B1 will be 5 acres. There is legal and constructed access to both tracts from Misty Lane. This is a rural area with other large chunks of unsubdivided land in close proximity. Future ROW dedications could be made if the property is subdivided further.

Staff Discussion: KPB Code requires blocks be no less than 330 feet in length and no more than 1,320 feet. The block is an irregular shape due to the Sterling Highway angle. The block is defined by the Sterling Highway, Leopold Avenue, Misty Lane, and Chips Avenue and is closed. Chips Avenue and the southern portion of Misty Lane are not constructed. The block distance along Leopold Avenue complies and is approximately 600 feet. The distance along Chips Avenue is approximately 1,860 feet. The distance along the Sterling Highway is approximately 3,050 feet and along Misty Lane it is approximately 2,670 feet in length. The plat could provide an east-west dedication to improve the block but would not provide a through dedication unless additional lots along the Sterling Highway are replatted.

#### **Findings:**

1. KPB Code requires block lengths to be no less than 330 feet and not more than 1,320 feet.
2. The current block is closed.
3. The block is irregular in shape with portions complying.
4. Sterling Highway, Leopold Avenue, Misty Lane, and Chips Avenue define the block.
5. The Sterling Highway, Leopold Avenue, and the northern portion of Misty Lane are the only portions currently constructed.
6. A dedication can improve the block but not provide a closed block due to lots between the subdivision and the Sterling Highway.
7. The tracts are proposed to be large and can be further subdivided in the future.
8. Tract B1 is proposed to be a flag lot.
9. The access portion of Tract B1 will be 70 feet.
10. Borough dedicated rights-of-way must be a minimum of 60 feet for road maintenance.
11. The access portion of Tract B1 will be wide enough to be dedicated as a right-of-way if required or needed in the future.
12. Per KPB Code Tract A1 should be subject to a 20 foot building setback along the access portion of Tract B1 in the event a dedication occurs atop the panhandle.
13. There is a 16 acre lot to the south of the subdivision.
14. There is a 9 acre lot to the west of the subdivision.

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 2-4, 6, 7, 9, and 11-14 appear to support this standard.**
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;  
**Findings 2-4, 7, and 9-14 appear to support this standard.**
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.  
**Findings 2-4, 7, and 9-14 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**





Aerial View







# **Lucky Horseshoe Estates Unit 4**

A subdivision of Tract K Happy Valley Acres Subd. H&O 57-72  
Located in the NE1/4 Section 16, T22S R14W 3N, Happy Valley, Alaska.  
Homer Recording District, Kodiak Peninsula Borough File 2010-104

**Prepared for:** Gary Presley Estate  
24432 Mary Lane  
Anchorage, AK 99566

**Prepared by:** Johnson Surveying  
Box 27  
Cape Girardeau, MO 63603



**SCALE:** 1" = 100'      **DATE:** 15 June, 2010  
**AREA:** 43.038 acres

## **LEGEND**

- ⊕ - 1/8" UGII brass cap monument, found
- ⊙ - 3/4" aluminum monument, 6537-S-1964, found
- ⊙ - 2" wood cap on nail, 3666-S-1996
- ⊙ - 1/2" rebar at corner, found
- ⊙ - 1/2" x 4" rebar with 1" plastic cap, 1st
- ( ) - indicates missing information, per H&O 77-55

## **NOTES**

1. A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. From all building setbacks is also a utility easement, as is the entire setback within 5' of each lot line.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. An exception to H&O 2203562, block length along Mary Lane was granted by the H&O Planning Commission at the meeting of 19 July, 2010.
4. Acceptance of the plat by the Borough does not indicate acceptance of any easements by the Borough.
5. 60' roadway easement as granted by Homer Records Deed Book 39 Page 971 in Favor of Federal Land Bank of Spokane is located within the Plat. Lane dedication by the state.

## **PLAT APPROVAL**

This plat was approved by the Kodiak Peninsula Borough Planning Commission at the meeting of 19 July, 2010.

KODIAK PENINSULA BOROUGH

In Max A. Hunt October 22, 2010  
Borough Clerk



## **WASTEWATER DISPOSAL**

TRACTS A & B  
These tracts are at least 800,000 sq. ft. or more 5 acres in size and conditions may not be suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kodiak Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer registered to practice in Alaska, and the design must be approved by the Alaska Dept. of Environmental Conservation.

LOTS 2 Block 2 & 3 Block 1  
All easements, water, sewer lines and all slopes on the subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kodiak Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer registered to practice in Alaska, and the design must be approved by the Alaska Dept. of Environmental Conservation.

Christi CEB300 10-21-10  
Signature License # Date

## **OWNERSHIP CERTIFICATE & DEDICATION**

I hereby certify that I am the owner of the real property shown and described herein and that I hereby wish to give up of sub-tenant and by my free consent dedicate the same to public use and grant all easements to the use shown.

Danny Presley  
(Gary Presley) 24432 Mary Lane, Anchorage, AK 99566  
Executor of the Estate of Gary Kirtan Presley

## **NOTARY'S ACKNOWLEDGEMENT**

I, Danny Presley, do hereby certify that I am the owner of the real property shown and described herein and that I hereby wish to give up of sub-tenant and by my free consent dedicate the same to public use and grant all easements to the use shown.

Notary Public for Alaska

Patricia Hartley  
Notary Public for Alaska

My commission expires 3-7-13





HAPPY VALLEY ACRES, 1966 ADDITION  
LOCATED IN LOTS 1 & 2 & E<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> SEC. 18 T3 S. R14 W. S.M. ALASKA.

