E. NEW BUSINESS

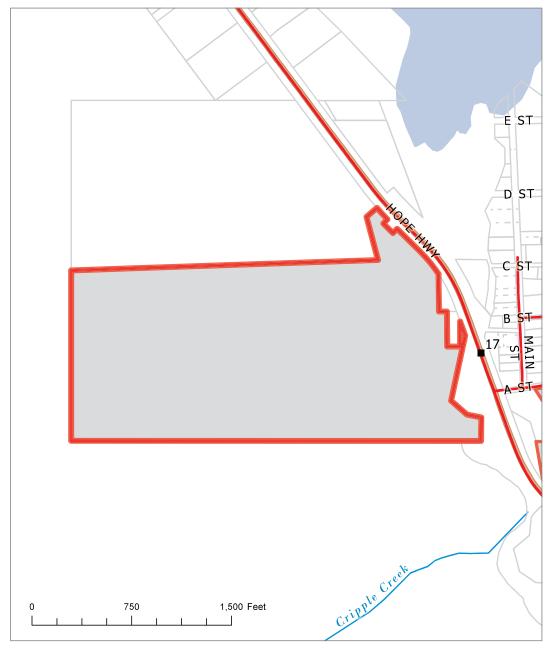
2. Carl & Emma Clark Estates #2 KPB File 2023-012

Kenai Peninsula Borough Planning Department

Vicinity Map

2/1/2023







KPB File # 2023-012 S 28, 32, & 33 T10N R02W Hope



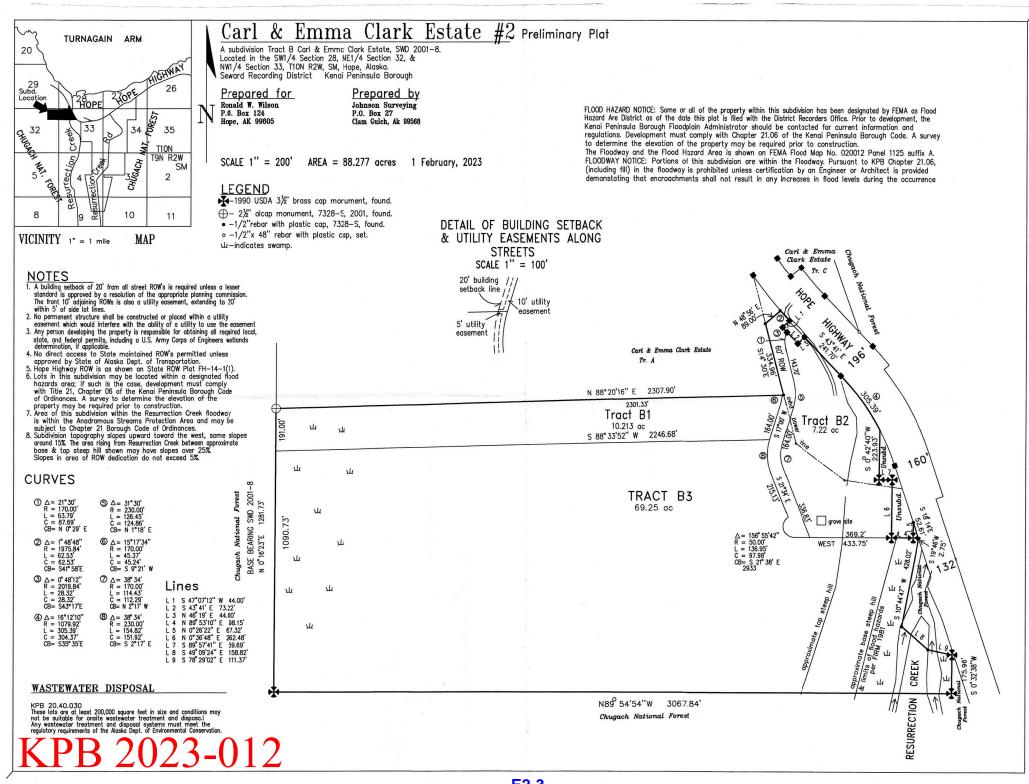
Kenai Peninsula Borough Planning Department

Aerial Map

KPB File Number 2023-012 2/1/2023







AGENDA ITEM E. NEW BUSINESS

ITEM 1 - CARL & EMMA CLARK ESTATE #2

KPB File No.	2023-012
Plat Committee Meeting:	February 27, 2023
Applicant / Owner:	Ronald Wilson of Hope Alaska
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Hope Highway, Hope, Hope/Sunrise APC

Parent Parcel No.:	035-040-16
Legal Description:	Tract B Carl & Emma Clark Estate SW 2001-8
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

<u>Specific Request / Scope of Subdivision:</u> The proposed plat will subdivide an 88 acre parcel into three tracts that will be 7.22, 10.213, and 69.25 acres. A new right-of-way dedication is proposed.

Location and Legal Access (existing and proposed): The preliminary subdivision is located in the Hope area and is near mile 17 of state maintained Hope Highway. There is currently a driveway constructed from the Hope Highway onto the parent property. The access will remain within Tract B2 to provide access to the improvements present. A new right-of-way dedication is proposed that will access the Hope Highway. This dedication is proposed to be inline with the current driveway entrance to the highway. The driveway will then meander southeast within Tract B2. The dedication will be along the southwestern area. The dedication will provide access all three tracts.

The dedication proposed is 60 feet wide and ends with a bump out to provide an adequate turnaround. The right-of-way does not end with a full bulb and this would allow for future continuation if needed or desired.

Block length is not compliant. An exception to block length has been received.

There appears to be some discrepancy on the boundary of the subdivision to the section lines. A Record of Survey was done and recorded, SW 2008-03. Per that record of survey, a portion of Tract B is within the southeast portion of Section 29. **Staff recommends** the surveyor verify the location of the section corner and depict the location in relation to the subdivision, amend the location description in the title block, and update the depiction within the vicinity map.

The certificate to plat does indicate that the property is subject to a section line easement. Information available to staff indicates entry on the property was in 1915 with the patent being issued in 1922. Any concerns regarding the status of the section lines easement may be determined by the State of Alaska DNR.

KPB Roads Dept. comments	Out of Jurisdiction: No
	Roads Director: Griebel, Scott
	Comments: No comments
SOA DOT comments	No comment made. It was noted however from ROW map FH-14-1(1) sheet 4 of
	5, the ROW labeled as 160' should be 166'

<u>Site Investigation:</u> There are a couple of areas within the subdivision that is subject to low wet areas. An area to the west is depicted and along Resurrection Creek. There are a few additional low wet areas depicted within the Kenai Watershed Forum Wetlands Assessment that are not depicted on the plat. A wetland determination plat note

Page 1 of 8

is present. Staff recommends additional wetland information be provided on the final plat.

Contour information is not available for this area. Looking at KPB GIS imagery there does appear to be some areas to the west with some steep areas as well as near Resurrection Creek. The surveyor does state the terrain slopes towards the west with some areas being around 15% grade. The hill depicted near Resurrection Creek contains some slopes over 25% grade. The right-of-way dedication is free of steep slopes. **Staff recommends** the steep hill remain depicted on the final plat and if any other steep areas are detected during the field survey they be indicated on the final if it does not conflict with other required data.

Proposed Tract B2 will contain multiple improvements. **Staff recommends** the surveyor verify no encroachments will be created by the placement of the lot line. A private grave site is present within proposed Tract B2. If this is the site referenced within an easement located within a deed, **staff recommends** the depiction remain with a reference to a plat note with the easement information.

Resurrection Creek runs adjacent and within the southwestern portion of the subdivision. A plat note is present on the plat regarding the Anadromous Waters but should be revised to match code.

The Chugach National Forest borders the subdivision along the western boundary. The appropriate label is present.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: A,C Map Panel: 020012-1125A In Floodway: False Floodway Panel
	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is totally or partially within HPD Comments: i:0#.w kpb maldridge
	C. State Parks
	Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	

<u>Staff Analysis</u> The property was originally part of USS 1092 (HES #71) that was surveyed in 1916. Carl & Emma Clark Estate, SW 2001-8, subdivided a remaining portion of USS 1092 and created the parent Tract B. The proposed plat will now divide Tract B into three tracts with a right-of-way dedication to provide access to all three.

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.

The Hope/Sunrise Advisory Planning Commission (APC) heard the preliminary plat at its February 8, 2023 meeting. The APC unanimously recommended approval of the subdivision.

<u>Utility Easements</u> The parent plat, SW 2001-8, granted 10 foot utility easements that increased to 20 within 5 feet of the side lot lines along dedicated rights-of-way. That plat would have resulted in easements along the Hope Highway. This plat intends to grant the same easements. In addition to the easements along the Hope Highway new easements will be granted on either side of the new proposed dedication. Due to the scale the surveyor has present the depiction of the setbacks and easements being put into place by this plat.

There is a recorded easement for the benefit of Chugach Electric Association, Inc. The easement does not have a disclosed location. *Staff recommends* a plat note be added for the easement.

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	Not within HEA service area.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	
CHUGACH ELECTRIC	Chugach request a note be placed on the plat: Chugach Electric Association, Inc., is the user of an easement granted by Carl M. Clark and Emma Clark, recorded 1/5/1968 at Book 45R, Page 169, serial number 1968-000053-0. It is understood that said easement is valid and applies to the part of Chugach's overhead power line affecting Tract B1 and occupying portions of Tract B2, including 10'x30' easement areas for existing anchors.

KPB department / agency review:

KPB department / agency rev	
Addressing	Reviewer: Haws, Derek
	Affected Addresses:
	18465 HOPE HWY
	Existing Street Names are Correct: Yes
	List of Correct Street Names:
	HOPE HWY
	TIOI ETIWI
	Eviating Street Name Corrections Needed:
	Existing Street Name Corrections Needed:
	All New Street Names are Approved No
	All New Street Names are Approved: No
	List of Assumption of Other at Name of
	List of Approved Street Names:
	List of Street Names Denied:
	Comments:
	MQUAINTON: A name for the new dedication will need to be submitted for
	review. This review can be done at the final review.
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.
	F
	Material Site Comments:
	There are not any material site issues with this proposed plat.
	There are not any material site issues with this proposed plat.

Assessing	Reviewer: Windsor, Heather Comments: No comment
Advisory Planning Commission	Recommended approval

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 – Form and contents required

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

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

Staff recommendation: Update the location to include portion within Section 29

- 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: Update depiction
- F. The location, width and name of existing and platted streets and public ways, railroad rights-of-way, easements, and travel ways existing and proposed, within the subdivision;

Staff recommendation: An approved street name will be required.

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.

- 20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10 **Staff recommendation:** An approved name will be required.
- 20.30.290. Anadromous Waters Habitat Protection District. If any portion of a subdivision or replat is located within an anadromous waters habitat protection district, the plat shall contain the following note:

ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.

Platting Staff Comments: The plat note present should be updated to match the wording within code. **Staff recommendation**: comply with 20.30.290.

Staff recommendation: final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils report is not required due to the size of the lots. Correct the typo within the note

Staff recommendation: comply with 20.40.

KPB 20.60 – Final Plat

Staff recommendation: final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.

20.60.180. 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.
 - Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program (KPB 14.06).
 - Add a note for any exceptions granted.
 - Subject to an easement granted to Chugach Electric Association, Inc within Book 45R Page 169, Seward Recording District. No definite location disclosed.
 - Subject to an easement for ingress, egress, and regress by foot to existing private cemetery as reserved within a deed recorded on March 7, 2002 within Book 110 Page 821, Seward Recording District. No definite location disclosed.
 - The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.

Plat Note 6 could be removed as it is discussed under the flood hazard notice located on the plat. Plat note 7 should be reworded to match KPB Code.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: An acceptance for the new dedication will be required to be signed by the Kenai Peninsula Borough. comply with 20.60.190.

20.60.200. Survey and monumentation.

Staff recommendation: Monuments shall be placed to keep the distance between monumented points less than 1,320 feet. Comply with 20.60.200

EXCEPTIONS REQUESTED:

A. KPB20.30.190 – Lots-Dimensions (3:1 depth to width ratio for Tract B1)

Surveyor's Discussion: Tract can be further subdivided in the future to improve or eliminate the problem.

<u>Staff Discussion:</u> Tract B1 is proposed to be a 10.213 acre lot that has an average width of 200 feet and average depth of 2,265 feet. This is a ratio of 11.3:1. There will be a 200 foot frontage along the new dedication. Per KPB findings the property is not subject to a section line easement. If it is determined that the property is subject to one

Page 5 of 8

it would provide additional access to the benefit of the design but would also limit development on Tract B1 as the easements would be within the tract.

Staff had some discussions with the surveyor to highlight some concerns about the design. He stated he would need to talk to the owner. It appears the intent to having the property divided in this manner was to allow some fields to remain with Tract B3. Staff advised that another dedication to provide more access options and future development options would be ideal or widen the lot to allow more options for future development. The surveyor did advise that further west there could be some terrain restraints.

Findings:

- 1. KPB Code 20.30.190(A) requires lots to be no greater than three times the average width (3:1 ratio).
- 2. The ratio for proposed Tract B1 is 11.3:1.
- 3. Tract B1 has an average width of 200 feet.
- 4. KPB Code 20.30.190(A) requires lots have a minimum depth no less than 100 feet.
- 5. Future replat of Tract B1 could provide a 60 foot wide dedication and leave an approximate 140 foot depth for lots.
- 6. Planning for only a 60 foot wide dedication area will limit development if steep terrain is present and additional width or easements cannot be granted.
- 7. Tract B3 will remain as 69.25 acres.
- 8. A replat of Tract B1 and Tract B3 in the future could provide for proper dedications and lot compliance.
- 9. Once the ownership changes for either/both lots there is no guarantee that both owners are willing to provide necessary dedications.
- 10. Chugach National Forest borders the western boundary.
- 11. Wetlands and steeper terrain are in the western portion.

If the exception request is denied a new design will be required to bring the lot into compliance.

Staff reviewed the exception request and recommends denial based on findings 1,2, 6, 7, and 9.

If the plat committee determines that the exception should be granted, **staff recommends** the approval be subject to a plat note "Tract B1 may have possible limitations on further subdivision based on access issues, development trends in the area, or topography."

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** 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 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 appear to support this standard.

Page 6 of 8

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

B. KPB20.30.170 – Blocks-Length requirements

<u>Surveyor's Discussion:</u> Any further Block Length solution would require further subdividing; problem may have no final solution due to topography and being surrounded by Chugach National Forest.

<u>Staff Discussion:</u> KPB Code requires blocks be no more than 1,320 feet in length. The block along state maintained roads should not be less than 800 feet. The block along the Hope Highway meets the minimum requirements. The new dedication does improve the block as it will split the current distance to the next dedication to approximately 2,200 feet to the north and approximately 3,700 feet to the south. There does not appear to be any section line easements within the area to improve the block.

Findings:

- 1. KPB Code requires blocks to be minimum of 300 feet in length and to be no more than 1,320 feet from intersection to intersection.
- 2. The plat is dedicating a new right-of-way that will provide a break in the currently long block length.
- 3. The new dedication will not provide a closed or looped block due to the design and the need to cross an anadromous stream.
- 4. The new dedication will provide an adequate turnaround area.
- 5. Tract B1 an Tract B3 can be further subdivided in the future to provide additional dedications to improve the block
- 6. The subdivision is bordered by Chugach National Forest along the western and southern boundary.
- 7. There are large acreage tracts in the area that could be further subdivided.
- 8. Dedications can be required to improve the block within the subdivision but it will not be a closed block with a benefit to lots outside 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 3-7 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 3-7 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 3-7 appear to support this standard.

Page **7** of **8**

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.

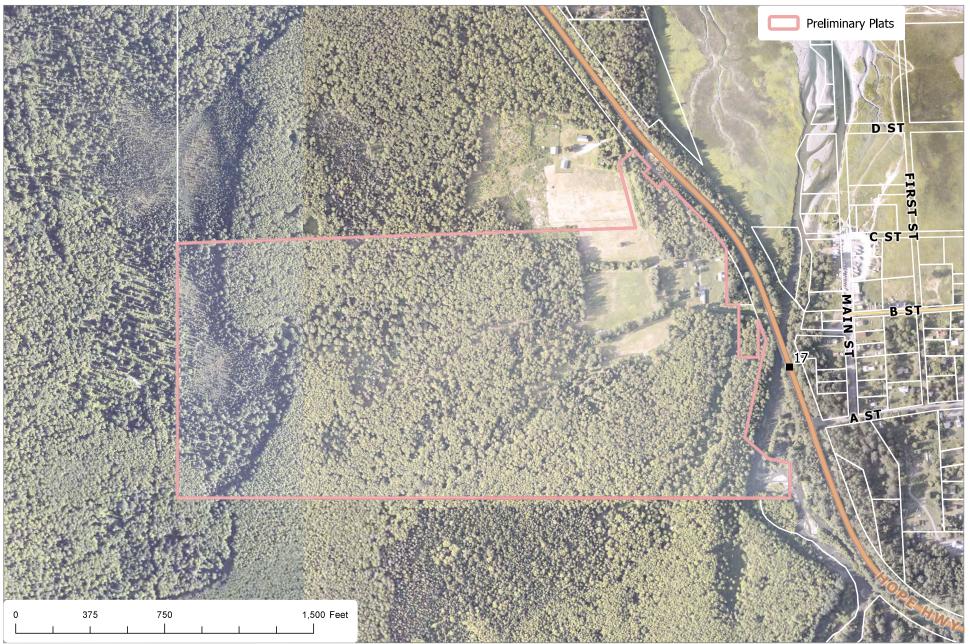
A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

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

KPB File Number 2023-012 2/1/2023





KPB File Number 2023-012 2/1/2023





