

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

9. Quartz Creek Subdivision Outfitters Way Replat; KPB 2022-060R1
Segesser Surveys / KPB, Three Bears Alaska Inc.
Location: Persistent Way & Sterling Highway
Cooper Landing Area / Cooper Landing APC

From: [David Story](#)
To: [jaeger06@hotmail.com](#); [Tymick, Jonathan J \(DOT\)](#); [Ruth D'Amico](#); [Cindy Ecklund](#); [Baski, Sean M \(DOT\)](#); [Mueller, Marcus](#); [Virginia Morgan](#); [Talbert, Alvin H \(DOT\)](#); [ygalbraith@gmail.com](#); [Planning Dept.](#); [Laura Johnson](#); [brandonandheather@live.com](#); [Kathy Recken](#); [Fletcher, Sandra](#); [Janette Cadieux](#); [Shaun Combs](#); [Bryan Gallagher](#); [aaltmann@traylor.com](#); [Hughes, Aaron](#); [officers@cooperlandingcommunityclub.com](#); [Aldridge, Morgan](#)
Subject: <EXTERNAL-SENDER>2024 01 03 CLAPC Unapproved Minutes
Date: Friday, January 5, 2024 11:25:38 AM
Attachments: [20231206 CLAPC Minutes APPRV.pdf](#)
[Final Quartz Creek Outfitters Way Replat KPB Plat File 2022-060R1.pdf](#)
[Traylor Brothers Lease and Land Use Application.pdf](#)
[20240103 CLAPC Minutes UNAPP.pdf](#)

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Commissioners,

Please find attached the Unapproved Minutes and supporting documents for the January 3, 2024 CLAPC Regular Meeting.

The CLAPC voted to:

- Recommend against approving Plat File 2022-060R1 Final plat for Quartz Creek Outfitters Way frontage road across Tracts A, B, and C, KPB lands and that belonging to Three Bears Alaska because although the design presented includes room for a number of the components that have been identified by the community as important, such as those that would improve safety for turning vehicles at Russian Gap Rd., the transfer station and the other area traffic, it does not obligate those components to be included in transportation projects in the near future or potentially at all. Without certainty in funding for the DOT presented plan of a frontage road being completed across Tract B to Tract A, access being limited to the affected parcels via Persistence Way, Tract A, and Quartz Creek Rd. and improved safety at Russian Gap Rd. it limits the community to accepting a compromise it was not interested in making without receiving the benefits of the compromise or materially improving community safety.
- Recommend the approval of the Traylor Brothers Lease Agreement for a temporary craft worker housing site.

Also attached are the approved minutes for the December 6, 2023 CLAPC Regular Meeting.

Cheers,
David

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David Story
Cooper Landing Advisory Planning Commission
Secretary

Please direct all electronic communications to:

<https://www.kpb.us/planning-dept/planning-commissions/cooper-landing-apc>

Please direct all mail to:
Kenai Peninsula Borough Planning Department
Attn: Cooper Landing APC
144 N Binkley St.
Soldotna, AK 99669

ITEM E4 - KIRKLAND SUBDIVISION

KPB File No.	2022-115
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Kevin Kirkland of Saint George, UT
Surveyor:	Steve Smith / Geovera LLC
General Location:	Happy Valley

Parent Parcel No.:	159-080-19
Legal Description:	Portion of Government Lot 3 lying west of the Sterling Highway
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

***Passed Under Consent Agenda**

ITEM E5 - ECHO LAKE HILLS SUBDIVISION ENDRIES ADDITION

KPB File No.	2022-116
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Aron Endries of Soldotna, AK
Surveyor:	John Segesser / Segesser Surveys
General Location:	Echo Lake Road and Independence Avenue, Kalifornsky

Parent Parcel No.:	131-670-49
Legal Description:	Lot 3-B2 Echo Hills Subdivision No. 9, Plat KN 91-54
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

***Passed Under Consent Agenda**

ITEM E6 – QUARTZ CREEK SUBDIVISION OUTFITTER WAY REPLAT

KPB File No.	2022-060R1
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Kenai Peninsula Borough and Three Bears Alaska, Inc.
Surveyor:	John Segesser / Segesser Surveys
General Location:	Cooper Landing / Cooper Landing APC

Parent Parcel No.:	119-124-17, 119-124-18, and 119-124-19
Legal Description:	Tracts A, B, and C of Quartz Creek Subdivision Plat No SW 94-11
Assessing Use:	Residential Vacant
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report was given by Julie Hindman.

Chair Gillham opened the item for public comment.

Marcus Mueller, KPB Land Management Officer: Mr. Mueller gave a brief history behind this project and made himself available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter, to grant preliminary approval to Quartz Creek Subdivision Outfitters Way Replat, based on staff recommendations and

compliance to borough code.

EXCEPTION REQUEST A MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter to grant exception request to *KPB 20.60.060 – Easement Requirements*, granting of 10 feet along dedicated rights-of-way, *KPB 20.30.190 – Lot Dimension*, minimum depth is less than 100 feet, and *KPB 20.30.200 – Lots Minimum Size*, for Tracts A2, B2, and C2, citing findings 5, 7-12 & 14 in support of standards one, two and three.

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

EXCEPTION REQUEST A MOTION PASSED BY UNANIMOUS VOTE

Yes	5	Gillham, Horton, Slaughter, Staggs, Venuti
No	0	

EXCEPTION REQUEST B MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter to grant exception request to *KPB 20.60.050 – Dedication and construction of anadromous waterbody crossings*, citing findings 6-18 in support of standards one, two and three.

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

EXCEPTION REQUEST B MOTION PASSED BY UNANIMOUS VOTE

Yes	5	Gillham, Horton, Slaughter, Staggs, Venuti
No	0	

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

MOTION AS AMENDED PASSED BY UNANIMOUS VOTE

Yes	5	Gillham, Horton, Slaughter, Staggs, Venuti
No	0	

ITEM E7 - SALAMATOF AIR PARK ALCAN 2022 REPLAT

KPB File No.	2022-117
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Alcan Ventures Limited of Vernon, BC
Surveyor:	John Segesser / Segesser Surveys
General Location:	Citabria Street, Lower Salamatof Avenue, Salamatof
Parent Parcel No.:	017-254-34, 017-254-35, 017-254-36, 017-254-37, 017-254-38, 017-254-39, 017-254-40, 017-254-41, 017-254-42, 017-254-43, 017-254-44, and 017-254-45
Legal Description:	Lots C1 through C12 Salamatof Air Park Alcan Addition No 2, KN 2009-14
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

***Passed Under Consent Agenda**

ITEM E8 - YODER SUBDIVISION

KPB File No.	2022-113
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Calvin and Judith A. Yoder of Sterling, AK
Surveyor:	John Segesser / Segesser Surveys
General Location:	Scout Lake Loop Road, Sterling
Parent Parcel No.:	063-141-46
Legal Description:	N1/2 SE1/4 SE1/4 Section 14 Township 5 North Range 9 West
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

AGENDA ITEM E. NEW BUSINESS

ITEM 7 – QUARTZ CREEK SUBDIVISION OUTFITTER WAY REPLAT

KPB File No.	2022-060R1
Plat Committee Meeting:	August 22, 2022
Applicant / Owner:	Kenai Peninsula Borough and Three Bears Alaska, Inc.
Surveyor:	John Segesser / Segesser Surveys
General Location:	Cooper Landing / Cooper Landing APC

Parent Parcel No.:	119-124-17, 119-124-18, and 119-124-19
Legal Description:	Tracts A, B, and C of Quartz Creek Subdivision Plat No SW 94-11
Assessing Use:	Residential Vacant
Zoning:	Rural Unrestricted
Water / Wastewater	On site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will finalize a section line easement, dedicate a frontage right-of-way and reconfigure three lots into six lots to provide a division between the highway and the frontage right-of-way. The tracts north of the frontage road will be between .183 acres and .720 acres. The three lots south of the frontage road will range in size from 9.996 acres and 13.413 acres.

A preliminary design for this subdivision received conditional approval at the June 13, 2022 plat committee meeting. One of the requirements was for the final to be presented to the Plat Committee for review. This is not yet submitted for final but a preliminary revision has been submitted with exception requests. The revised preliminary will require approval in addition to any exceptions. As there may be some additional changes occurring, **staff recommends the requirement for the final be brought back before the Cooper Landing APC and the Plat Committee for a review prior to administrative approval being granted by the planning department.**

Location and Legal Access (existing and proposed): The proposed plat is located between miles 44 and 45 of the Sterling Highway, a state maintained right-of-way. Additional access is available by a 60 foot wide right-of-way between two of the tracts that contains a turn to intersect with Quartz Creek Road. The right-of-way is Persistent Way and is not constructed at this time. Quartz Creek Road is constructed and maintained by the State of Alaska DOT.

The plat will be finalizing some section line easement vacations that were heard and approved by the Planning Commission on June 13, 2022. The Kenai Peninsula Borough Assembly consented to the vacation at their July 5, 2022 meeting. There are section line easements still present outside of this subdivision boundary.

The plat is proposing to dedicate a 60 foot wide right-of-way to be named Outfitters Way. This dedication is to provide a frontage right-of-way to the properties located south of the frontage right-of-way. Three narrow tracts will be created to provide a greenspace between the Sterling Highway and the frontage right-of-way. The design is based on discussions with the State of Alaska DOT and Three Bears Alaska on the best options to allow access along the northern portion of their property while not creating safety concerns on the highway. The property is currently subject to conservation easements and the Cooper Landing Advisory Planning Commission requested the narrow strips of land to allow greenspace between the rights-of-way to replace the existing conservation easements. An ordinance has been prepared to make changes to the conservation easements and is scheduled to be heard by the Planning Commission at the August 22, 2022 meeting.

The block containing Tract C1 is closed. Persistent Way, Quartz Creek Road, and the Sterling Highway define the block. The lengths along the block are not compliant and exceed allowable limits. The vacation of the section line easements, the location of an airstrip to the south, and anadromous streams between Tract A2 and B2, limit the

ability to get a closed block for the eastern portion of the proposal. Tract A1 is owned by the Kenai Peninsula Borough (KPB) and is used as a transfer site. Tract C1 is also owned by the KPB and could be subdivided in the future. **Staff recommends** the plat committee concur that an exception is not required and additional dedications are not needed at this time.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Painter, Jed Comments: No comments
SOA DOT comments	

Site Investigation: The area is relatively flat within the subdivision boundary and there are no steep slopes within the lots are proposed dedication. There are some low wet areas within the subdivision but not depicted and the correct plat note is present. **Staff recommends** low wet areas be depicted on the final plat.

Per the parent plat, Quartz Creek Subdivision SW 94-11, the boundary between parent parcels, Tracts A and B, is a thread of creek that forms the tract boundaries. A 100 foot easement is centered over the creek. The easement is depicted and labeled. **Staff recommends** the shared boundary line be labeled as "Thread of Creek forms Tract Boundary." or a plat note be added explaining the shared boundary line.

Alaska State Land Survey No. 92-22, Plat SW 93-8, depicted the creek and showed a 50 foot public access easement on each side of the creek. Quartz Creek Subdivision, Plat SW 94-11, carried over the depiction but stated it was a pedestrian access easement. Per the Certificate to Plat there are rights of the public to have access to the creek and to portions lying below the mean high water mark. The plat is proposing to carry over the label from the original plat and states it is "100' Public Access Easement". **Staff recommends** allowing the label to match the first plat as any development of access within the easement may require permitting and extending the easement into Tract A2 and Tract B2 unless removed by required process.

A 50 foot conservation easement was created by deed on parent Tract B. It was not clearly carried over onto Plat SW 94-11 as it coincided with the 100 foot access easement. The plat now shows a separate label for the conservation easement within proposed Tract B1. **Staff recommends** the easement be shown on Tract B2 unless removed by required process.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments 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	No objection

Staff Analysis This land was federal land as shown on the US BLM section plat recorded September 28, 1992. The property was transferred to the State of Alaska and then subdivided by Alaska State Land Survey 92-22, Plat SW 93-8. The borough acquired Tract A, ASLS 92-22 and further subdivided the land as shown on Quartz Creek Subdivision, Plat SW 94-11.

The ownership of Tract B has changed several times and is currently owned by Three Bears Alaska, Inc. The ownership of Tracts A and B is the Kenai Peninsula Borough. Tract A is currently being used as a waste transfer site.

The preliminary plat is proposing to alter some conservation easements. These easements were created by an Ordinance and they were later put into the deed that transferred ownership from the borough. Any alterations or removal of those conservation easements may be discussed at the Plat Committee meeting but any formal action will require an Ordinance that is scheduled to be presented to the Planning Commission for recommendations to the Assembly at the August 22, 2022 meeting. The proposed right-of-way dedication is atop one of the conservation easements and the other easements are proposed to be removed or reduced. The status of the conservation easements will be required to be shown at the time of recording with correct depiction and notations. **Staff recommends the plat committee review the right-of-way dedication and if the preliminary plat is approved it will be subject to approval by the Assembly to alter or remove the conservation easement.**

A soils report will not be required for the three larger tracts due to their size. Due to the intent of the creation of the three smaller tracts, there is no intent for the lots to ever have wastewater disposal on the lots. These lots will fall under KPB 20.40.080 and will require a separate plat note and no soils report will 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.

Cooper Landing Advisory Planning Commission reviewed the preliminary plat on May 4, 2022 and June 8, 2022. The APC wishes to have some greenspace remain if the conservation easements are removed. The preliminary design is intended to take their concerns and issues into account while also working with the land owners and DOT on their requirements. The preliminary plat was provided to the Cooper Landing Advisory Planning Commission to aide in their discussion of the ordinance to release the conservation easements. While they did discuss in detail the ordinance there was no specific motions made in regards to the plat. No comments were received for the plat but the conditional approval of the first design had the requirement that the final will be presented to the APC prior to returning to the Plat Committee. Staff is recommending those requirements carry over and the plat will receive another review prior to finalization.

Per the minutes from the Cooper Landing APC meeting of August 3, 2022, there are still some concerns in regards to the design. A request for additional width is being presented to the owners and DOT to allow for a pedestrian/bike path adjacent to Outfitters Way. DOT will be working on building the western portion of the right-of-way and to meet their standards and requirements, the full 60 foot width provided will be utilized and thus not leaving any additional space for the pedestrian/bike path. There may also need to be some additional adjustments at the right-of-way intersections to be compliant and meet DOT requirements. As long as the revisions do not require exceptions, they will be allowed to be made and the APC and Plat Committee will be allowed to review the final design.

Due to the design and the intended use of the northern tracts, multiple exceptions have been requested.

Utility Easements Alaska State Land Survey 92-22, did not grant any utility easements that affect this property. Quartz Creek Subdivision, Plat SW 94-11, did not grant any utility easements. Some of the areas fronting rights-of-way are conservation easements and there is no depiction or note to create easements along Persistent Way. Plat note 12 contains the information for a utility easement granted by document and it is depicted on the plat within proposed Tract A1.

Plat note 13 indicates the intent to grant 10 foot utility easements adjacent to rights-of-way. The easements are depicted on the plat with a reference to the plat note. As the status of the conservation easements has not yet been finalized, utility easements would not be created within the northern tracts. An exception to not create utility easements on those tracts has been requested in case the tracts will not fall under a conservation easement. There is a portion of the utility easement being shown within Tract B1 that is within the conservation easement. **Staff recommends the utility easements be depicted and if they overlap with conservation easements the plat note specify those areas are excluded.**

Additional easements have been requested by Chugach Electric and are depicted on the plat with a plat note present. TelAlaska has requested that they be included in the easement to allow them access. **Staff recommends the easements requested be depicted but the note be changed to not specify the provider so any utility providers may utilize the additional easements.**

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.

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	Outside HEA service area.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown
CHUGACH ELECTRIC	Extend the 20 foot line to Outfitters Way and add another "See Note 7" label.
TELALASKA	<p>TelAlaska request if we might be able to add to, or edit Note 7 regarding utility easements for access to Tract C1. Anywhere there is a utility easement that is granted specifically to Chugach Electric (CEA), if we could request if also include wording "and TelAlaska Inc", or be worded to the effect as "General Utility Easement". Such as:</p> <p>"Utility easements granted to Chugach Electric and TelAlaska Inc by this plat are as follows: 20 feet along the southwesterly and southeasterly boundaries, 30 feet along the southern boundary and a 20 foot by 20 foot anchor easement at the northwestern corner."</p> <p>Or</p> <p>"Utility easements granted by this plat are as follows: "Utility easements granted to Chugach Electric and TelAlaska Inc by this plat are as follows: 20 feet along the southwesterly and southeasterly boundaries, 30 feet along the southern boundary and a 20 foot by 20 foot anchor easement at the northwestern corner."</p>

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek</p> <p>Affected Addresses:</p> <p>21919 STERLING HWY</p> <p>21949 STERLING HWY</p> <p>21971 STERLING HWY</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</p> <p>PERSISTENT WAY</p> <p>STERLING HWY</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: Yes</p> <p>List of Approved Street Names:</p> <p>OUTFITTERS WAY</p>
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	List of Street Names Denied: Comments: 21919 STERLING HWY & 21949 STERLING HWY will be deleted. New addresses will be assigned upon request. 21971 STERLING HWY will remain with Tract A1.
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: Windsor, Heather Comments: No comment
Advisory Planning Commission	No specific discussion on the plat but comments made in regards to the ordinance are being considered and the final plat will go back to them for comment

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

STAFF RECOMMENDATIONS **CORRECTIONS / EDITS**

Correct overstrikes on symbols.

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:** *Spell out Borough within the title block. Update page 1 to read "Sheet 1 of 2".*
- G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;
- Staff recommendation:** *On sheet 2, within the bottom depiction, add a width label for Persistent Way.*
- H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding or storm water overflow, and the line of ordinary high water. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;
- Staff recommendation:** *Wetlands are present but not depicted.*

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.*

20.30.180. Pedestrian ways required when. Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

Staff recommendation: *A possible widening may occur for the dedication to allow additional width for a future pedestrian/bike trail. This is per a request by the APC.*

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: The larger tracts will not require a soils report. The three smaller lots will fall under 20.40.080 and the correct plat note must be presented that notes the lots will not generate or dispose of wastewater on the lots.

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.*

20.60.110. Dimensional data required.

A. The bearing and length of every lot line, block line, and boundary line shall be shown. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled. All non-radial lines shall be labeled. If monumented lines were not surveyed during this platting action, show the computed data per the record plat information.

B. The natural meanders of ordinary high water (or mean high water line as applicable) is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.

C. Any discrepancy between the survey and the record description, and the source of all information used in making the survey shall be indicated. When an inconsistency is found including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, or when any doubt as to the location on the ground of the true boundary or property rights exists, the nature of the inconsistency shall be clearly shown on the drawing.

Staff recommendation: *Additional distance breakdowns are required on the ends of Outfitters Way where it intersects with the Sterling Highway and Persistent Way. Comply with 20.60.110.*

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:

- Add a plat note for any exceptions granted.
- Update the code in Plat note 3 to 20.60.170.
- Plat note 6 has the remainder of another note at the end to remove.
- For plat note 14 note that it is for Tract A1, Tract B1, and Tract C1.
- Add the following plat note for Tracts A2, B2, and C2. WASTEWATER DISPOSAL: Conditions might not be suitable for onsite wastewater treatment and disposal systems. No wastewater will be generated or disposed of on these lots as of the date of this plat. If circumstances change to allow lawful onsite wastewater treatment and disposal systems, those systems must meet the wastewater disposal requirements of KPB Chapter 20.40 and regulatory requirements of the Alaska Departmental of Environmental Conservation.
- Plat note 7 has a typo to be corrected.
- Notes will be required to note the date the Planning Commission and the Assembly approved the section line easement vacations.
- Conservation easements will require notes to indicate creation and/or documents altering the easements.

KPB 20.70 – Vacation Requirements

Staff recommendation. Must be finalized within four years of Assembly consent which was granted on July 5, 2022.

EXCEPTIONS REQUESTED:

A. KPB 20.60.060 – Easements-Requirements (granting of 10 feet along dedicated rights-of-way), **KPB 20.30.190 – Lots-Dimensions** (minimum depth is less than 100 feet), **and KPB 2030.200 – Lots-Minimum Size** (All for Tracts A2, B2, and C2)

Owner's Discussion: Requesting the exceptions for the dedication of a frontage road ROW (Outfitters Way) and creation of 30 foot wide tracts (A2, B2, & C2) situated between the Sterling Highway ROW and the frontage road ROW, designed for community gateway greenspace.

Staff Discussion: Staff grouped these three exception requests as they are all related to the same tracts and have similar justifications. If the Plat Committee wishes to take action on these separately they may do so by making separate motions.

The three tracts are being created to only help provide manageable lands that can provide greenspace. There is no plans or intent to allow any development within the bounds of these tracts. The current conservation easement would not allow for utilities within those tracts. There are proposed restrictions to be put into place on the new tracts. The exception to this portion of code will provide the protection that if the restrictions put into place do not specifically limit utility use the lots can still not be used in that manner.

Findings:

1. KPB Code 20.30.060 requires the 10 foot adjoining rights-of-way be granted as utility easements.
2. Per KPB Code 20.30.190, the minimum depth shall be no less than 100 feet.
3. Per KPB Code 20.30.200, lots shall be at least 40,000 square feet unless served by public wastewater disposal systems and/or water systems.
4. There are no public systems within the area to allow connection.
5. The tracts, as part of their parent lots, are subject to conservation easements that would limit use.
6. The tracts are proposed to be 30 feet wide.
7. Utility easements would reduce the usable width to 10 feet as they are would have utility easement along the Sterling Highway and Outfitters Way.
8. Utility easements are proposed south of Outfitters Way.

9. Utility providers may utilize rights-of-way with the proper permits and approval.
10. The creation of the tracts is to provide greenspace between the two dedications.
11. The Cooper Landing APC requested a minimum 30 foot greenspace along this section of the Sterling Highway.
12. There is no intent to have any development done on the narrow strips of property.
13. The three tracts are approximately 7,971 square feet, 30,841 square feet, and 31,363 square feet.
14. A new ordinance will determine the use and intent of the lots.

If the exceptions are denied, the plat will require a redesign that will bring all lots into compliance and will make this plat unable to be completed due to the restraints and issues for the rights-of-way and the community unless the requirement of a greenspace is removed.

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 5, 7-12, and 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 5, 7-12, and 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 5, 7-12, and 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.

B. KPB 20.60.050 – Dedication and construction of anadromous waterbody crossings

Staff Discussion: KPB Code states that if a right-of-way dedication crosses an anadromous waterbody that the plat should receive a three year approval with 1 year available time extensions. This is to allow the road service area time to inspect and provide certification of the waterbody crossing prior to approval of the final plat. The frontage right-of-way is proposed to cross over the anadromous stream and per KPB 20.60.050 would require construction prior to finalization of the plat.

Findings:

1. KPB Code 20.60.050 requires certification of the crossing prior to the approval of the final plat.
2. Outfitters Way dedication will cross an anadromous stream.
3. Outfitters Way is to be a frontage road to help mitigate traffic from and to the Sterling Highway at the request of Alaska DOT.
4. Alaska DOT is currently working on a highway project within this area.
5. Portions of the frontage right-of-way can fall under the project purview.

6. DOT will be assisting in the construction of Outfitters Way from the western intersection to Persistent Way.
7. The remaining portions to be constructed would fall to the owners to construct.
8. All tracts will have dedicated access.
9. Tract C1 will have access via the constructed portion of Outfitters Way.
10. The owners of Tract B1 will have to construct and improve Outfitters Way to meet their intended use and needs.
11. The anadromous stream is the eastern boundary of Tract B1 with conservation easements in place limiting development on that portion of the tract.
12. Tract A1 will have access from Outfitters Way from the eastern intersection with the Sterling Highway and will not need to cross the anadromous stream for access.
13. The portion along Tract A1 is not currently proposed for construction.
14. Tract A1 is owned by the Kenai Peninsula Borough.
15. The waste transfer site is on the parent lot and will remain on Tract A1.
16. Tract A1 already has two developed access points directly to the Sterling Highway with the western access possibly within the dedication.
17. The construction over the anadromous stream is not required for access at this time.
18. Future construction of the crossing will be required to meet all portions of KPB Code related to road construction and anadromous streams as well as any state or federal requirements.

If the exception is denied, the owners will be required to construct the right-of-way over the anadromous stream in compliance with KPB Code and the plat will not be finalized until the road service area informs the planning department all requirements have been met and the proper certifications have occurred.

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 6-18 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 6-18 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 6-18 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