

**AGENDA ITEM E. NEW BUSINESS**

**ITEM 1 – BARNETT’S SOUTH SLOPE SUBDIVISION QUIET CREEK PARK REPLAT LOTS 35, 36 & 37**

<b>KPB File No.</b>	2021-057
<b>Planning Commission Meeting:</b>	May 24, 2021
<b>Applicant / Owner:</b>	Gary E. Harris, Derotha Ferraro, Courtney Martin, and Patrick Carter all of Homer, Alaska
<b>Surveyor:</b>	Stephen Smith / Geovera, LLC
<b>General Location:</b>	City of Homer

<b>Parent Parcel No.:</b>	177-021-27, 177-021-28, 177-02129
<b>Legal Description:</b>	Lots 35, 36, and 37 of Barnett's South Slope Subdivision Quiet Creek Park Unit 2, HM 2018-40
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Residential District
<b>Water / Wastewater</b>	City water and sewer

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**STAFF REPORT**

**Specific Request / Scope of Subdivision:** The proposed plat will reconfigure three lots within Barnett’s South Slope Subdivision Quiet Creek Park Unit 2 into two lots that will be 0.785 acres and 0.714 acres.

**Legal Access (existing and proposed):**

The subdivision is accessed from Nelson Avenue (north) which is a 60 foot right of way with a paved road that is maintained by the City of Homer. Nelson Avenue (north) connects with East End Road and connects with South Slope Drive with access to East Hill Road.

Nelson Avenue (south) is a 30 foot dedication that has not been improved and is under the jurisdiction of the City of Homer. Nelson Avenue (south) is not used for access to this subdivision or for neighboring parcels.

The subdivision is not located within a block that complies with the KPB block length requirement. Both Nelson Avenue dedications and Sanjay Court define the block.

KPB Roads Dept. comments	Out of jurisdiction; no comments
SOA DOT comments	No comment

**Site Investigation:**

This subdivision is affected by sloping terrain with limited areas for placement of buildings. The parent plat indicates that the subdivision is affected by wetland area (per Alaska Corps of Engineers Jurisdictional Determination) and a 20 foot drainage easement centered on the depicted drainage way. Per KPB GIS data there are no wetlands or bodies of water within the subdivision. The plat contains the correct development notes stating that development is subject to the City of Homer zoning regulations and the Army Corps of Engineers shall be contacted before development.

Floodplain Hazard Review	Not within flood hazard zone; no comments
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD; no comments
State Parks Review	No comments

## **Staff Analysis**

The City of Homer Planning Commission reviewed the subject plat at their April 7, 2021 meeting. They recommended approval subject to the following conditions:

1. Include a plat note stating property owners should contact the Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation if any. Property owners are responsible for obtaining all required local, state, and federal permits.
2. Carry over the parent plat drainage and wetland information.

Per the City of Homer staff report, city water and sewer are available. Homer public works stated they would not require abandonment of a set of water and sewer services due to the newly constructed and paved Nelson Avenue. A soils analysis report will not be required.

The City of Homer staff report noted that "the proposed application will benefit since the Comprehensive Plan outlines more development for less vehicular traffic but due to the physical characteristics of the lots more green space will be beneficial to address the slope and drainage issues."

A preliminary subdivision has been submitted for the lots abutting the western boundary of this subdivision. The proposed design will not impact this plat. Provide correct lot depiction and labels if recorded prior to this plat.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

The new lot common lot line will more closely follow the existing drainage and provide more usable area for the two lots.

## **CORRECTIONS / EDITS**

KPB 20.25.070 – Form and contents required.

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 name is compliant but very long. Would recommend removing the lots from the name. Suggestion would be Barnett's South Slope Subdivision Quiet Creek Park 2021 Replat or other approved name.*

*Correct the parent parcel description to Lots 35, 36, and 37.*

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:** *Depict and label the wetland area, drainage, and 20 foot drainage easement per HM 2018-40.*

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 Comments:** *A 10 foot wide pedestrian access easement per HM 2019-23, within Lot 8-A-1, provides a connection from the end of Nelson A*

20.30.270. Different standards in cities. Where cities have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. Any appeal of a city design standard is subject to KPB 21.01.020(E).  
**Staff comments:** *The City of Homer does not meet the specified requirements for the application and consideration of different standards.*

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#### KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

**Platting Staff Comments:** *This platting action will connect to an existing city supplied wastewater system that has been approved by the City of Homer. The correct wastewater disposal note is on the plat.*

**Staff recommendation:** *comply with 20.40.*

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#### KPB 20.60 – Final Plat

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

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

**Staff comments:** *The City of Homer report states that a installation agreement is not required.*

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.

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

- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170(B).*
- *Within plat note 8 include the additional amendment serial number of 2020-001089-0.*

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** *Per the certificate to plat Mr. Harris took title as Gary Harris and Gary E. Harris. Both names shall be noted on his signature line. Example: Gary E. Harris, aka Gary Harris. The owners signature lines should note the former lots. Comply with 20.60.190.*

#### Utility Easements

The utility easements of record have been depicted or referenced by a plat note.

**Staff recommends** that a label be added for the depiction of the easement that adjoins Nelson Avenue (north) as granted per HM 2018-40.

**Staff recommends** that the front 15 feet along Nelson Avenue (south) and 20 feet within 5 feet of side lot lines be depicted and labeled as granted per HM 2018-40.

**Staff recommends** to grant any utility easements as requested by the utility providers.

#### Utility provider review:

HEA	No comment
ENSTAR	No comment
ACS	
GCI	No comment

**KPB department / agency review:**

Addressing – Derek Haws	Affected Addresses 839 NELSON AVE 851 NELSON AVE 875 NELSON AVE Comments: CITY OF HOMER WILL ADVISE ON AFFECTED ADDRESSES.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	This plat is located within the City of Homer and is not subject to local option zoning districts or material site review by KPB.
Assessing – Adeena Wilcox	No comments.
Advisory Planning Commission	N/A

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

**EXCEPTIONS REQUESTED:****A. KPB 20.30.120 Streets – width requirements** (Nelson Avenue south)

Surveyor's Discussion: The city of Homer considers the Nelson Avenue South half right-of-way to be not constructible to city standards. I confirmed this with Julie Engebretsen at the Homer planning department. Ms. Engebretsen indicated that exceptions to the dedication of the north half of the right-of-way within all phases of the Quiet Creek Park plats were recommended by the planning staff and the Homer planning commission. This plat involves lots that were part of the original exception to the 30 foot adjoining right-of-way dedication.

Staff Discussion: Nelson Avenue (south) is a 30 foot right of way. Nelson Avenue (south) is under City of Homer jurisdiction. The parent plat (HM 2018-40) was granted an exception to not provide the matching 30 foot dedication. This platting action will be reducing the number of lots and will not change the access pattern to the subdivision.

Currently Nelson Avenue (south) contains a drainage that runs to Kallman Road.

All lots in Barnett's South Slope Subdivision use Nelson Avenue (north) for access. Lot 8-A-1 uses Sanjay Court for physical access. Lots 23 and 24A use Heidi Court for physical access.

A matching 30 foot right of way dedication will remove +/- 5,220 sq. ft. combined from proposed Lot 35-A and 36-A.

If denied, this platting action will be required to provide a matching 30 foot right of way dedication for Nelson Avenue (south).

**Findings:**

1. Nelson Avenue (south) is a 30 foot right of way.
2. Nelson Avenue (south) is under City of Homer jurisdiction. T
3. The parent plat (HM 2018-40) was granted an exception to not provide the matching 30 foot dedication.
4. This platting action will be reducing the number of lots and will not change the access pattern to the subdivision.
5. Currently Nelson Avenue (south) contains a drainage that runs to Kallman Road.
6. All lots in Barnett's South Slope Subdivision use Nelson Avenue (north) for access.
7. Lot 8-A-1 uses Sanjay Court for physical access.
8. Lots 23 and 24A of AA Mattox Subdivision use Heidi Court for physical access.
9. A matching 30 foot right of way dedication will remove +/- 5,220 sq. ft. combined from proposed Lot 35-A

and 36-A.

10. The City of Homer Planning Commission reviewed and approved this preliminary plat on April 7, 2021.

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 1-10 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 1-10 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 1-10 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.

#### **EXCEPTIONS REQUESTED:**

#### **B. KPB 20.30.170 Blocks – Length requirements**

Surveyor's Discussion: The city of Homer considers the Nelson Avenue South half right-of-way to be not constructible to city standards. I confirmed this with Julie Engebretsen at the Homer planning department. Ms. Engebretsen indicated that exceptions to the dedication of the north half of the right-of-way within all phases of the Quiet Creek Park plats were recommended by the planning staff and the Homer planning commission. This plat involves lots that were part of the original exception to the 30 foot adjoining right-of-way dedication.

For the reasons stated above, dedicating a right-of-way connection between Nelson Avenue and the 30 foot wide Nelson Avenue South half right-of-way would be unnecessary.

Staff Discussion: The subdivision is not located within a block that complies with the KPB block length requirement. Both Nelson Avenue dedications (north and south) and Sanjay Court define the block. Development patterns, terrain issues, and drainages limit the location where right of way dedications can be made.

Sanjay Court will be extended with future phases of Barnett's South Slope Subdivision Quiet Creek Park, but is approved to terminate in a cul-de-sac.

Homer High School is located to the southwest and will not be able to provide an extension of right of way.

If denied, this platting action will be required to provide a 60 foot wide right of way connection between Nelson Avenue (north) and Nelson Avenue (south).

**Findings:**

1. The subdivision is not located within a block that complies with the KPB block length requirement.
2. Both Nelson Avenue dedications (north and south) and Sanjay Court define the block.
3. Development patterns, terrain issues, and drainages limit the location where right of way dedications can be made.
4. Sanjay Court will be extended with future phases of Barnett's South Slope Subdivison Quiet Creek Park, but is approved to terminate in a cul-de-sac.
5. Homer High School is located to the southwest and will not be able to provide an extension of right of way.
6. A 60 foot wide right of way dedicaiothn will remove +/- 15,300 sq. ft. of land from this subdivision.
7. A 60 foot wide right of way will remove area that can be used for the construction of residential buildings.

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 1-7 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 1-7 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 1-7 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**