

AGENDA ITEM E. NEW BUSINESS

ITEM 7 - BROWNS ACRES SUBDIVISION 2021

KPB File No.	2021-072
Plat Committee Meeting:	JUNE 14, 2021
Applicant / Owner:	Randal D and Karen K Jensen and Shannon and Tonia Sailer 240 65th Street N Towner ND 58788
Surveyor:	John Segesser/ Segesser Surveys, Inc.
General Location:	STERLING

Parent Parcel No.:	058-350-09, 058-350-13, 058-350-16, 058-350-17, 058-350-18
Legal Description:	Tract 5-B, Browns Acres Subdivision, No. 2, Plat 85-49. Tracts 6A and 5A1 and Lot 1A, Block 2, Browns Acres Subdivision, Sims-Jensen Replat Plat 2005-118. SW1/4 SW1/4 Section 25, Township 5 North, Range 10 West, excepting therefrom scenic haven subdivision part one plat 83-258.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site (Not noted on application)

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will resubdivide 5 parcel ranging in size from 1.6 acres to 36 acres into 3 new parcels ranging in size from 4.3 acres to 34 acres. This platting action will also provide a matching right of way dedication for Foster Avenue.

Legal Access (existing and proposed): Legal access to the subdivision is via Lopez Avenue and Foster Avenue, both of which are 60 foot wide dedicated right of ways. Lopez Avenue is improved and maintained by KPB. Foster Avenue is not improved at this time. Tract C also has legal access from Inner Circle which is a 40 foot wide dedicated cul-de-sac. Inner Circle appears to contain an improved drive but does not extend to the cul-de-sac. Inner Circle is not maintained by KPB.

A 33 foot section line easement exists on the south and west boundary of this subdivision. A 50 foot section line easement adjoins the south and west boundary for a total width of 83 feet.

This plat will provide a 33 foot right of way dedication for Foster Avenue. A right of way vacation and preliminary plat have been approved for the property to the south. The dedicated right of way on Lot 1 Forest Hills Lookout has been approved to be vacated due to the steep terrain. **Staff recommends** that the 33 foot right of way dedication for Foster Avenue only be dedicated to a point 30 feet west of the boundary between Lot 1 and Lot 2 KN 86-204. This will match with the proposed plat to the south and will not create additional right of way that can not be used. Also, the section line easement will remain to provide legal access and access for utilities, if needed.

The block length does not comply with KPB standards.

KPB Roads Dept. comments	Within KPB jurisdiction. The RSA has no comments at this time.
SOA DOT comments	N/A

Site Investigation: The lots in this subdivision were created by three plats with the first one being recorded in 1983. Different right of ways have been dedicated and then vacated with the plat. The large parcel is an unsubdivided remainder.

The area is affected by rolling terrain with a steep slope along the western boundary. Low wet areas also affect a portion of proposed Tract C and a small portion of proposed Tract A.

Currently the only access to the unsubdivided remainder is from Foster Avenue. With the change in the parcel boundary the large parcel will have access from both Lopez Street and Foster Avenue.

Residential improvements exist in the northeast area of the subdivision. With this replat it appears that the house and other improvements will be located on Tract C and the cleared area will be located on Tract B. The removal of the lot lines will help with any encroachment issues.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Not within a HPD.
State Parks Review	No comments.

Staff Analysis Currently the only access to the unsubdivided remainder is from Foster Avenue. With the change in the parcel boundary, the large parcel will have access from both Lopez Street and Foster Avenue.

Residential improvements exist in the northeast area of the subdivision. With this replat it appears that the house and other improvements will be located on Tract C and the cleared area will be located on Tract B. The removal of the lot lines will help with any encroachment issues.

Lot 1A will be changing from a 3.9 acre parcel to Tract B which is 4.28 acres. This is an increase of 16,552 sq. ft. Per KPB 20.40.020(A)(2) a soils analysis report is not required. Former Tract 5A1, 5-B and 6A are being combined into one parcel, Tract C. Tract C will be 9.45 acres in size. Tract A will be 34.355 acres in size. Both tracts are larger than 200,000 sq. ft. and will not require a soils analysis report. The former parcels within Scenic Haven Subd. Part 1 were not reviewed by DEC.

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 property is not within an advisory planning commission.

Utility Easements Per the parent plats, utility easements exist which adjoin the dedicated right of ways. Plat KN 2005-118 also depicts a 20 foot utility easement within former Tract 6A and a 10 foot utility easement on the south boundary of Tract 6A. **Staff recommends** all utility easements of record be depicted and labeled on the final plat.

Plat note 4 correctly identifies a utility easement of record with no defined 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.

Utility provider review:

HEA	Reviewed, no comments.
ENSTAR	No comments or concerns.
ACS	
GCI	

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 40707 LOPEZ AVE 35065 INNER CIR
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	<p>35045 IDAHO ST</p> <p>Existing Street Name Corrections Needed: LOPEZ ST should be LOPEZ AVE</p> <p>Comments: 40707 LOPEZ AVE will remain with Tract C. 35065 INNER CIR will be deleted. 35045 IDAHO ST will be deleted. LOPEZ ST should be changed to LOPEZ AVE.</p>
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this subdivision.
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.

STAFF RECOMMENDATIONS **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:

- To avoid confusion revise proposed plat subdivision name to "Browns Acres Subdivision 2021".
- Revise legal description to match CTP by adding Tract 6A, replace KN 2005-118 with KN 83-252 and adding "Excepting Therefrom" per CTP.

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: Inner Circle is 40' in width, verify and update. Correct Lopez Street to Lopez Avenue.

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: Depict and label the utility easements in former Lot 6A as shown on plat KN 2005-118.

20.30.090. Streets-Maximum grades allowed. The subdivider shall demonstrate that streets can be readily constructed in accordance with current borough road standards and that the grades on any such roads shall not exceed 6 percent on arterial streets and 10 percent on other streets, or 4 percent within 130 feet of any centerline intersections. Submittal of centerline profiles and cross-sections may be required to demonstrate that compliant construction in the right-of-way is feasible.

Staff recommendation: *Submit centerline profiles and cross section data to show the road construction within Foster Avenue that would comply with KPB road standards. Provide additional right of way, or road maintenance easement, so that a roadway that complies with KPB standards can be constructed and maintained in the future.*

20.30.120. Streets-Width requirements.

- A. The minimum right-of-way width of streets shall be 60 feet.
 - 1. Half streets shall generally not be allowed except to provide the logical extension of a right-of-way where the remaining half street can reasonably be expected to be dedicated in the future.
 - 2. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoiners to the new half right-of-way will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the plat committee decision by the full Planning Commission.
- B. Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.

Staff recommendation: *Per KPB 20.30.120(B) provide additional right of way or easement as needed to accommodate a road design within Foster Avenue.*

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10

Staff recommendation: *Correct Lopez Avenue from Lopez Street.*

20.30.240. Building setbacks.

- A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.
- B. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.
- C. The setback shall be noted on the plat in the following format:
Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.
- D. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:
Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

Staff recommendation: *Depict and label the 20 foot building setback adjoining Lopez Avenue, Inner Circle and Foster Avenue.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments:

Staff recommendation: *Revise the wastewater disposal note for Tract B to comply with KPB 20.40.020(B)(2). Within the wastewater disposal note, remove the reference to a nominal 5 acres. 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.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *Correct the lot information for Randal and Karen Jenson. Verify the state for the Notary's Acknowledgement as the landowners live in North Dakota. Comply with 20.60.190.*

EXCEPTIONS REQUESTED:

KPB 20.30.030 – Projection of right of way

(extending Lopez Avenue and right of way dedication on the west boundary)

KPB 20.30.170 - Block Length

Surveyor's Discussion: We would like to request exceptions to KPB 20.30.030 extend Lopez Avenue and KPB 20.30.170 Block length, due to steep terrain. Foster Avenue looks problematic. If Tract A were to be subdivided in the future, there is flatter terrain within the tract to route streets to meet the borough requirements.

Staff Discussion: The two exceptions are being combined as one as both deal with the extension of Lopez Avenue and the right of way dedication on the west boundary.

The extension of Lopez Avenue and the right of way dedication on the west boundary are affected by very steep slopes.

The large parcels (40 acres) to the west have legal access by section line easements. The 40 acre parcels have limited physical access due to steep terrain and low wet areas.

Tract A will be 34 acres in size and can be further subdivided in the future. If subdivided, right of way dedications can occur in locations where roads can be constructed to KPB standards.

Walker Street S is a 60 foot wide right of way that has been improved and maintained by KPB. Walker Street South provides a connection from Foster Avenue to Lopez Avenue.

If denied, this platting action will be required to provide a 30 foot right of way dedication for Lopez Avenue and a 30 foot right of way dedication on the west boundary.

Findings:

1. The extension of Lopez Avenue and the right of way dedication on the west boundary are affected by very steep slopes.
2. The large parcels (40 acres) to the west have legal access by section line easements.
3. The 40 acre parcels have limited physical access due to steep terrain and low wet areas.
4. Tract A will be 34 acres in size and can be further subdivided in the future. If subdivided, right of way dedications can occur in locations where roads can be constructed to KPB standards.
5. Walker Street S is a 60 foot wide right of way that has been improved and maintained by KPB.
6. Walker Street South provides a connection from Foster Avenue to Lopez Avenue.

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, 2, 4-6 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, 2, 4-6 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, 2, 4-6 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