

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - Kings Creek 2021 Replat

<b>KPB File No.</b>	2021-081
<b>Plat Committee Meeting:</b>	June 28, 2021
<b>Applicant / Owner:</b>	John A. Baker of Elko, Nevada
<b>Surveyor:</b>	Stephen C. Smith / Geovera, LLC
<b>General Location:</b>	Mile 9.5 East End Road Wilderness Lane and Sarah Street / Kachemak APC

<b>Parent Parcel No.:</b>	172-460-25
<b>Legal Description:</b>	Lot 5, King's Creek 5 Plat HM 84-79
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	On Site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will subdivide a 6.6 acre lot into two lots, one being 1.5 acres and the other 5.134 acres.

**Legal Access (existing and proposed):** The subdivision is located on Wilderness Lane, a 60 foot right of way maintained by the borough. Wilderness Lane is off KPB maintained Walters Street, which is located around mile 9.5 of state maintained East End Road. Wilderness Lane is constructed past the subdivision but per KPB GIS data is only maintained to Sarah Street.

The block is not compliant. The block is defined by East End Road, Walters Street, Wilderness Lane, Pyrenees Way, Lulu Court, Neal Street, and section line easement. To improve the block a dedication would need to be granted along the western or eastern boundary. A dedication along either side will create issues regarding future dedication and extending the right of way to connect to East End Road. The boundary of the subdivision along the west is angled slightly. Lots to the north are also at angles. It would require a replat of multiple lots to avoid creating non-compliant lots. There are improvements on the lots that will make it difficult to replat. There are similar issues along the eastern boundary as the lots to the north have improvements, are smaller acreage lots, and are not typical shapes. **Staff recommends** the plat committee concur that an exception is not required as any required dedications at this time will not improve the block due to neighboring development.

KPB Roads Dept. comments	No comment
SOA DOT comments	No comment

**Site Investigation:** The submittal from the surveyor states there are no low wet areas or slopes exceeding 20%. The subdivision has sloping terrain to the south.

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

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**Staff Analysis** The proposed subdivision will create two lots from Lot 5 of King's Creek 5, HM 84-79. That subdivision divided Tract C from King's Creek, HM 79-112. Appropriate plat notes and easements have been carried forward from the parent plats.

Lot 5-A will be a 1.5 acre lot and will encompass the existing improvements. Per documents provided an alternate wastewater treatment and disposal system is installed within Lot 5-A. An exception has been requested in regards to Lot 5-A so that a soils analysis report is not required due to the existing system. Lot 5-B will be 5.134 acres and a soils report is not required.

Lot 5-B will be a flag lot. The panhandle is proposed to be 40 feet wide and 150 feet long. Due to being less than 60 feet wide **Staff recommends** that additional plat notes will be added that state, 'No structures are permitted within the panhandle portion of the flag lot(s) and further development of Lot 5-B may be limited based on access issues, development trends in the area, or topography.' The panhandle appears to be designed so that the current driveway will remain with Lot 5-A.

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.

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

**Utility Easements** Plat note 3 (the second number 3) states the front 10 feet along the right of way is a utility easement. This plat will be granting a 10 foot utility easement along the western boundary of the subdivision. The parent plat granted 10 foot utility easements along the northern and eastern boundary.

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

**Utility provider review:**

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

**KPB department / agency review:**

Addressing – Derek Haws	Affected Addresses: 54240 Wilderness Lane Existing street names listed are correct. 54240 Wilderness Lane will remain with Lot 5-A.
Code Compliance – Eric Ogren	No comment
Planner – Bryan Taylor	There are no Local Option Zoning District or material site issues with this proposed plat.
Assessing – Adeena Wilcox	Plat note #6 is missing date.
Advisory Planning Commission	

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.

- 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:** Provide a label for Tract 4, HM 72-1216 located south of Wilderness Lane.

- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;  
**Staff recommendation:** Per the submittal letter, no steep slopes present. Per KPB GIS data there may be some steep slopes that should be depicted.
- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;  
**Staff recommendation:** The preliminary plat does not show existing structures. Per KPB GIS imagery, there is a possible structure on proposed Lot 5-A that is very close to flag portion of proposed Lot 5-B. Provide information regarding the structure to determine if an encroachment is present. Plat note regarding encroachments may be required.

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### KPB 20.30 Design Requirements

Platting staff comments: Staff reviewed the plat and all the items required by 20.30 were met, unless otherwise noted below:

- 20.30.170. Blocks-Length requirements. Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.  
**Staff recommendation:** Block length does not comply. Design of the lots to the north and existing structures do not allow for a right of way dedication to be made that would help with block length. Concur that an exception is not required as any required dedication will not improve the block length due to existing development on neighboring parcels and no lots are being denied access.
- 20.30.190. Lots-Dimensions.
- A. The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally, lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.
- B. The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB 20.30.030(A) and 20.30.090 for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB 20.30.240.  
**Staff recommendation:** It appears the limitation to increasing the width of the panhandle may be due to existing structures. Place the standard note on the plat for the flag lot(s): No structures are permitted within the panhandle portion of the flag lot(s). Due to the width of the panhandle an additional note must be added. "Lot 5-B may have possible limitations on further subdivision based on access issues, development trends in the area, or topography."

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### KPB 20.40 -- Wastewater Disposal

- 20.40.010 Wastewater disposal.  
Platting Staff Comments: Plat note 2 should be reworded to match KPB Code. "WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation." The WASTEWATER DISPOSAL note for Lot 5-B needs "or nominal 5 acres" removed.

The surveyor asked for an exception to 20.40.050 due to the existence of an alternate onsite wastewater treatment system. The exception requested should be to 20.40.010 for the requirement of a soils analysis report.

**Staff recommendation:** comply with 20.40.

20.40.050 Alternate onsite wastewater treatment and disposal.

*Platting Staff Comments:* An existing system is on proposed Lot 5-A. Documentation has been provided from DEC dated June 18, 2010 which describes the system and provides a site plan. An exception to not require soils analysis has been requested. Lot 5-A has alternate system installed.

**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.

20.60.180. Plat notes.

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

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

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

- No structures are permitted within the panhandle portion of the flag lot(s).
- Lot 5-B may have possible limitations on further subdivision based on access issues, development trends in the area, or topography.
- If an encroachment is found, add "Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments."

Renumber the plat notes in sequential order.

Revise plat note 2 to "WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."

Remove "or nominal 5 acres" from the wastewater disposal note for Lot 5-B.

If the exception is approved, update plat note 6 by referencing KPB 20.40.100 and correct the meeting date.

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#### **EXCEPTIONS REQUESTED:**

##### **A. KPB 20.40.100 – Soils analysis and report (Lot 5-A)**

*(20.40.050 – Alternate onsite wastewater treatment and disposal was requested in error)*

Surveyor's Discussion: I have included the Documentation of Construction for the alternate wastewater treatment and disposal system serving the existing house on Lot 5-A. An exception to KPB 20.40.050 (Alternate Onsite Wastewater Treatment and Disposal) is being requested due to the existence of the engineered wastewater disposal system.

Staff Discussion: The DEC documentation, dated June 8, 2010, granted final approval for an alternate wastewater treatment and disposal system on Lot 5. This is for the southern portion to provide service to the single family residence on the property. This is proposed to be on Lot 5-A.

The site plan included with the system's approval does not provide enough distances to accurately determine the

location of the septic system but it does show it approximately 20 feet from the west boundary. The surveyor will need to verify the proposed lot configuration will fully encompass the septic system for residential structure on Lot 5-A.

A soils analysis report was not on file or required for the parent plat, which was subdivided in 1984. West of the parent subdivision is King's Creek Nine Subdivision, Plat HM 2006-031. A soils analysis report was submitted and a licensed engineer signed the plat. The Wastewater Disposal note on that plat stated the soil conditions in the subdivision were found to be unsuitable for conventional onsite wastewater treatment and disposal systems.

If denied, a soils analysis report will be required for Lot 5-A.

**Findings:**

1. An alternate wastewater treatment and disposal system has been installed on proposed Lot 5-A.
2. The alternate wastewater disposal system on Lot 5-A has been reviewed and approved by the State of Alaska DEC.
3. Soils in neighboring subdivisions appear to be unsuitable for conventional onsite systems.
4. Per the site plan, an alternate field is located within Lot 5-A.
5. Proposed Lot 5-B and the parcel to the west are larger than 5 acres.
6. Lot 5-A is not affected by slopes greater than 25%.
7. Lot 5-A has a cistern system for drinking water.

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**