

AGENDA ITEM E. NEW BUSINESS

ITEM 6 - TKC2 SUBDIVISION

KPB File No.	2021-078
Plat Committee Meeting:	JUNE 28, 2021
Applicant / Owner:	TKC LLC PO Box 969 KENAI, AK 99611
Surveyor:	John Segesser/ Segesser Surveys, Inc.
General Location:	Fourth Avenue, Haller Street and Madison Lane, City of Kenai

Parent Parcel No.:	043-020-07
Legal Description:	Government Lot 26, Section 31, Township 6 North, Range 11 West
Assessing Use:	Residential
Zoning:	Suburban Residential
Water / Wastewater	City water and sewer

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 2.5 acre parcel into 2 lots that are 1.013 acres each. This plat will also dedicate right of way for Haller Street and Fourth Avenue.

Legal Access (existing and proposed): The subdivision is located on the corner of Haller Street and Fourth Avenue. The City of Kenai maintains both streets. This platting action will be providing a 33 foot right of way dedication for each road which will create a 66 foot wide right of way for Haller Street and Fourth Avenue. Both right of ways will comply with width requirements.

Madison Lane, a 30 foot right of way to the north, does not appear to be constructed per KPB GIS imagery. The City of Kenai staff report did not address any concerns with Madison Lane.

The preliminary plat is within a closed block that is defined by Haller Street, 5th Avenue, McKinley Street, and Fourth Avenue. The block length is compliant with KPB requirements.

KPB Roads Dept. comments	Outside jurisdiction; no comments.
SOA DOT comments	

Site Investigation: The site is generally flat and not affected by low wet areas. Aerial imagery shows the lot as vacant and KPB Assessing records show no improvements on the property. Per the City of Kenai staff report and Resolution 2021-20, there will be eight single family dwellings, 4 building each, located on the lots.

City water and sewer lines are located within Haller Street and Fourth Avenue rights of way. Per City of Kenai Planning and Zoning Commission Resolution 2021-20, an installation agreement is not required.

Floodplain Hazard Review	Within the City of Kenai; no comments.
Anadromous Waters Habitat Protection District Review	Is not within an AWHPD
State Parks Review	No comments

Staff Analysis The parent parcel is Government Lot 26 per BLM survey finalized in 1953.

The parent lot is subject to a 33 foot wide right of way for roadway and public utilities along the south and west boundary as described in the federal patent located in Book 40 Page 305, Kenai Recording District. The 33 foot right of way from the patent will now be dedicated right of way with the recording of this plat.

The City of Kenai Planning and Zoning Commission reviewed the plat at their May 26, 2021 meeting and recommended approval subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.

This condition can be found on the plat as a plat note.

The City of Kenai staff report included that a conditional use permit had been requested to allow eight single-family dwelling units to be constructed on a 2.5 acre parcel. That permit was heard at the May 26, 2021 Planning and Zoning Commission meeting and was approved.

The City of Kenai staff report included the following analysis:

Access to the proposed Lot 1 and Lot 2 is provided via Haller Street which is a paved City maintained road.

There are water and sewer lines located in the rights-of-way of Haller Street and Fourth Avenue and the eight single family dwellings will connect to those services. The draft site plan identifies sewer and water connecting to Lot 1, and separate sewer and water lines connecting to Lot 2. An installation agreement is not required.

Resolution 2021-20, which was adopted by the City of Kenai Planning and Zoning Commission, states that the subdivision meets Kenai Municipal Code.

The provisions of municipal zoning districts shall govern the building setback requirement for subdivisions within cities. The correct plat note is provided.

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.

Utility Easements The parent parcel is not subject to any platted utility easements of record or utility easements granted by separate document. This plat will grant 15 foot utility easements adjoining the dedicated right of ways.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** depict the utility easement on the plat and 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	
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected address: 1714 Fourth Avenue; Existing Street Name Corrections: Fourth Avenue should be Fourth Avenue; City of Kenai will advise on affected addresses.
Code Compliance – Eric Ogren	No comments

Planner – Bryan Taylor	In the City of Kenai, no review required.
Assessing – Adeena Wilcox	No comment
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:** *The plat has a California address for the owner. Per KPB Assessing records, the address is a Kenai, Alaska PO Box. Consult with owners to have the correct address listed on the plat and if the KPB Assessing address is incorrect, contact the Assessing Department to update the mailing address.*
- 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:** *The dedicated widths of Haller Street and Fourth Avenue vary. Provide 66 foot label for the northern and southern portion of Haller Street and the western portion of Fourth Avenue. Provide a 33 foot label for the portion of Haller Street and Fourth Avenue abutting the subdivision. Provide a street name label and width (30') for Madison Lane.*
- 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:** *Madison Lane is located to the north of the subdivision and needs to be labeled and designated as a right of way. Per KPB Addressing Officer, 4th Avenue should be updated to Fourth Avenue. The lot to the north needs the label corrected as it is Lot 5 not Lot 1.*
- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;
- Staff recommendation:** *Per KPB GIS Imagery, the lot to the east may have an encroachment onto the subject property. Verify any encroachment issues during the field survey.*

KPB 20.30 Design Requirements

- 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 recommendation:** *The City of Kenai does not meet the specified requirements for the application and consideration of different standards.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: This subdivision will connect to the City of Kenai water and sewer. The correct wastewater note is located on the plat. The City of Kenai staff report stated that an installation agreement is not required.

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.

20.60.040. Dedication of public use lands. Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

Staff recommendation: If a dedication for Madison Lane is required, it needs to be included in the Certificate of Acceptance.

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: Provide a plat note for any exceptions that are granted by the KPB Plat Committee including the meeting date. Place the following notes on the plat.

- Subject to an easement for roadway and/or utilities as reserved in patent recorded on September 13, 1966 in Book 40 Page 305, Kenai Recording District.
- If any encroachments are located during the field survey, provide a note that states "Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments."

The plat notes need to be renumbered.

The plat note granting the 15 foot utility easements should have the word "also" removed.

The basis of bearing subdivision needs to be verified and the plat note corrected accordingly.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Revise the Certificate of Ownership to show TKC LLC is the land owner and that the members are signing on behalf of the company. Ken Dunbar should have his name listed as found within the Operating Agreement. Patricia Dunbar, as a member should also sign the plat. The address for the signing members needs to be verified. If the members will be signing the mylar in another state the Notary's Acknowledgement should be updated. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

A. KPB 20.30.030(A) – Proposed street layout – requirements (Continuation of Madison Lane)

Surveyor's Discussion: I would like to get an exception to Madison Lane. TKC2 is being developed as detached 4 plexes and extending the street would take too much developable area. Also, it isn't needed for block length.

Staff Discussion: Madison Lane is a 30 foot wide by 277 foot long dedicated right of way located at the northeast

corner of the subdivision. This right of way was dedicated with the recording of Peck Subdivision, KN 84-88. The plat named the right of way McKinley Street. This may have been in error as McKinley Street is one street to the east.

The property located to the east is a 1.25 acre lot that has not been subdivided to provide the matching dedication.

If denied, this platting action will be required to extend a 30 foot right of way to connect Madison Lane to Fourth Avenue.

Findings:

1. Madison Lane is a 30 foot wide right of way that abuts the northeast corner of the proposed subdivision.
2. Per KPB Imagery, it does not appear that Madison Lane is constructed.
3. The City of Kenai minutes and staff report do not address Madison Lane right of way.
4. A complete block exists and is defined by Haller Street, Fifth Avenue, McKinley Street, and Fourth Avenue.
5. The block is compliant to KPB Code requirements.
6. A through dedication will divide the existing block into two equal blocks, the block length will be the minimal distance allowed (300 feet)
7. A matching dedication will be difficult to obtain from the lot to the east due to existing development.
8. No parcels will be denied access if the right of way is not extended.

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 1-8 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 1-8 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 1-8 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 20.30.100 Cul-de-sac

Surveyor's Discussion: A cul-de-sac or hammer head turnaround would cause one of the units currently under

construction to be in the building setback at the very least, possibly encroaching into the ROW.

Staff Discussion: Madison Lane is located at the northeast corner of the subdivision. There is no turn around area provided at the south end of Madison Lane. 3. If the exception to not extend Madison Lane is granted then Madison Lane will be a dead end street and require a turnaround area.

Madison Lane does not appear to be constructed. The City of Kenai did not address any turnaround issues associated with Madison Lane.

Lot 5 is 0.9 acres in size and can provide a turnaround area if or when it is further subdivided.

If denied, this platting action will be required to provide a turnaround area for Madison Lane in the northeast corner of the subdivision.

Findings:

1. Madison Lane is located at the northeast corner of the subdivision.
2. There is no turn around area provided at the south end of Madison Lane.
3. If the exception to not extend Madison Lane is granted then Madison Lane will be a dead end street and require a turnaround area.
4. Madison Lane does not appear to be constructed.
5. The City of Kenai did not address any turnaround issues associated with Madison Lane.
6. Lot 5 is 0.9 acres in size and can provide a turnaround area if or when it is further subdivided.
7. A dedicated turn around area may conflict with the current construction of buildings and create an encroachment in the building setback.

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 4-7 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 4-7 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 4-7 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.

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