

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - Tide View Heights No 2

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| KPB File No. | 2021-088 |
| Plat Committee Meeting: | July 12, 2021 |
| Applicant / Owner: | Mack and Carol Living Trust of Kenai, Alaska and Kenneth and Elizabeth Smith of Lenore, Idaho |
| Surveyor: | Jerry Johnson / Johnson Surveying |
| General Location: | Ames Road, Kenai |

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| Parent Parcel No.: | 049-040-98, 049-490-10 |
| Legal Description: | Lot 1 Caro Subdivision Plat No 72-49 and Lot 13A Tide View Heights Subdivision Plat No 93-85 |
| Assessing Use: | Residential |
| Zoning: | Rural Residential |
| Water / Wastewater | On site |

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure a lot line between two lots. Proposed Lot 1A will reduce from 2.08 acres to 1.598 acres. Proposed Lot 13A-1 will increase from 5.91 acres to 6.399 acres.

Legal Access (existing and proposed): Both parcels will have access from Ames Road, a paved road within a 60 foot wide right of way. Ames Road is maintained by the City of Kenai. Ames Road is located off of Beaver Loop Road. The plat has labeled the street as "S. Ames Road". **Staff recommends** the street name be corrected to "Ames Road".

A section line easement that affected parent Lot 13A has been vacated. Lot 1 is affected by a 33 foot section line easement and has been depicted correctly on the plat. **Staff recommends** that dimensions be added to clarify the location of the section line easement within Lot 13A. Plat note 5 addresses the vacation of the section line easements.

Due to Beaver Creek, a conservation easement, and low wet areas, the subdivision is within an open block that cannot comply with KPB standards. Lands surrounding the subdivision to the east and south are large acreage tracts owned by the City of Kenai, Alaska DNR, and Cook Inlet Region Inc. **Staff recommends** the plat committee concur that an exception is not required as this plat is not able to provide dedications to improve the block.

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| KPB Roads Dept. comments | Outside jurisdiction; no comments |
| SOA DOT comments | No comment |

Site Investigation: Beaver Creek crosses through proposed Lot 13A-1 and forms the south boundary for Lot 1A. Lot 13A is part of former Government Lot 13 within Section 1. The south boundary of Government Lot 13 is the slough of the Kenai River. **Staff recommends** the south boundary of Lot 13A-1 be corrected to show the current meander line of the slough as the boundary and update the property dimensions and acreage accordingly. **Staff recommends** current meander line information be used for the south boundary of Lot 1A and the property dimensions and acreage be updated accordingly.

Wetlands affect the area within Beaver Creek and the lands to the west of the creek. The low wet areas have been depicted and labeled correctly.

The plat also contains shading for areas with slopes greater than 25 percent. These steep slopes are located on the west side of the creek.

The City of Kenai does not participate in the FEMA floodplain program. The property is affected by an anadromous waters habitat protection district along Beaver Creek. The KPB River Center can assist with any development along Beaver Creek.

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| Floodplain Hazard Review | Within the City of Kenai. No comments. |
| Anadromous Waters Habitat Protection District Review | Is totally or partially within a AWHPD. No comments. |
| State Parks Review | No comments |

Staff Analysis A lot line will be reconfigured between two existing lots. Parent Lot 13A was created on Tide View Heights Plat KN 93-85 which subdivided two government lots and a deed parcel. Parent Lot 1 was created by Caro Subdivision Plat KN 72-49 which subdivided a deed parcel.

Lot 13A will be increasing by approximately 72,000 square feet. A soils analysis report was prepared and DEC approved the parent plat for Lot 13A. An existing septic system and private well are shown on Lot 13A-1. Staff was not able to find documentation for the installation of a certified wastewater system. Lot 13A-1 will be increasing by more than 1,000 square feet and a soils analysis report is not required.

Lot 1 will be decreasing by approximately 72,000 square feet. A soils analysis report has not been completed for Lot 1 and DEC did not approve the parent plat. An existing septic system and private well are shown on Lot 1A. Staff was not able to find documentation for the installation of a certified wastewater system. Lot 1A will be decreasing by more than 1,000 square feet and per KPB 20.40.020 a soils analysis report will be required.

A conservation easement is in place on a portion of Lot 13A. Plat note 7 addresses the easement and lists the recording information. State Parks is looking into the restrictions of the conservation easement to confirm if this subdivision is allowed. **Staff recommends** the land owner work with the State Parks for any issues related to the conservation easement.

Notice of the proposed plat was mailed to the beneficial interest holder on June 18, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The City of Kenai Planning and Zoning Commission heard the proposed subdivision plat at their May 26, 2021 meeting. Their resolution 2021-18 was adopted at that meeting subject to the following conditions.

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. The 10'x12' cabin on Lot 1A will be moved in order to meet the 15 foot side setback per KMC 14.24.020.
3. Change Note 6 on the plat from 30 foot front setback to a 20 foot front setback per KMC 14.24.020 Development Requirements Table.

Wording is slightly different and includes the possibility of needing a wetlands determination but plat note 4 addresses item 1. **Staff recommends** that specific setback distances not be listed, or carried over, on the plat as requested in item 3. Zoning requirements for these lots may change in the future. **Staff recommends** plat note 6 be revised to include a reference to KPB 20.30.250 which states that platted building setbacks are not carried forward on plats within Cities.

In regards to item 2, this is a Kenai zoning requirements and not a KPB Code requirement. In an effort to not create any encroachments or zoning violations the owners and surveyor must work with the City of Kenai Planning Department. **Staff recommends** the owner and surveyor provide written documentation from the City of Kenai that the cabin has been brought into compliance.

Utility Easements Per the certificate to plat there are two recorded documents that granted Homer Electric Association utility easements with no definite locations given. These easements are identified in plat note 8.

Parent plat for Caro Subdivision does not depict or note any utility easements being granted on Lot 1 but does depict the location of the former utility line.

Tide View Heights plat granted a 10 foot utility easement and 30 foot anchor easement within 5 feet of side lot lines, fronting on South Ames Road ROW. The plat correctly depicts the utility easement. Per the plat note there is a 5 x 30 anchor easement along both lot lines fronting Ames Road. **Staff recommend** the depiction be corrected on the north boundary to show the easement of record. Former Lot 13A is affected by a 20 foot electric easement on the power line. This power line has been removed and the easement has been vacated. **Staff recommends** that the unnumbered plat note that references the overhead powerline being removed includes the statement 'and the electric easement per KN 93-85 has been automatically vacated', and to number the plat note.

Per plat note 2 this plat will result in 15 foot utility easements along Ames Road. **Staff recommends** that plat note 2 be reworded to make it clear that portions of the utility easements were granted by Plat KN 93-85 and all additional widths are being granted by this plat.

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:

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

KPB department / agency review:

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| Addressing – Derek Haws | Affected Addresses: 855 Ames Road, 909 Ames Road Existing Street Name Corrections Needed: S. Ames Road should be Ames Road City of Kenai will advise on affected addresses. |
| Code Compliance – Eric Ogren | No comment |
| Planner – Bryan Taylor | Within the City of Kenai. No review required. |
| Assessing – Adeena Wilcox | No comment |

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:

1. The Mack and Carol Padgett owner information needs "Living Trust" added.
2. Correct Ken Smith to Kenneth L. Smith.
3. The Smith address has a number transposed, correct to 4243.

- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;

Staff recommendation: KPB records show "East Aliak Drive" in Section 33 is "Aliak Drive."

- 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 proposed 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:

1. South of the subdivision is labeled Government Lot 14. It is currently one large parcel comprised of multiple Government Lots. The small portion outside the subdivision and within section 2 is Government Lot 6. The property south of the slough within section 1 is also a Government Lot 6. Label each accordingly.
2. The parcel east of the subdivision is listed as "Unsubdivided". Correct the label to "Government Lot 14."

- 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: A soils analysis report for Lot 1A is required and an engineer will need to sign the plat.

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: Update the plat with current meander line data for the south boundary of Lot 13A-1 and the southeast boundary of Lot 1A. Provide a plat note that states, '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.' Comply with 20.60.110.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

Staff recommendation: Provide dimensional information, or a plat note, to state how the eastern boundary of Lot 13A-1 was established.

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 or revise the existing notes.

- Revise plat note 2. "Plat KN 93-85 granted a 10 foot utility easement within former Lot 13A along Ames Road and a 5 x 30 anchor easement as depicted on the plat. This plat will be granting an additional 5 feet of utility easement to expand the 10 foot utility easement to a 15 foot wide utility easement. This plat will also grant a 15 foot utility easement adjacent to dedicated right of ways within former Lot 1."
- Number the plat note that references the overhead power line. Revise the note to include, and the electric easement per KN 93-85 has been automatically vacated'.
- Revise plat note 6 to match current code. "Per KPB 20.30.250 the building setback of record has been removed. All development must comply with the municipal zoning requirements."
- Revise plat note 9 to match code. "ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE: Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040."

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Add all required items and include the former lot number that the owners are signing. Comply with 20.60.190.

20.60.200. Survey and monumentation.

Staff recommendation: comply with 20.60.200

EXCEPTIONS REQUESTED:

KPB 20.60.200 – Survey and monumentation

Surveyor's Discussion: Exception requested for monumenting Lot corners East of Beaver Creek due to tidal & erosion problems, use same information as shown on plats 93-85 & 2003-21.

Staff Discussion: KPB Code requires all corners and monuments to be located and if missing new survey markers shall be set and depicted on the final plat. The exception request is to not set survey markers east of Beaver Creek

and historical information will be used to locate the property boundary. It does not appear that survey markers have been set east of Beaver Creek. Plat KN 84-45 shows a breakdown of section 1 which could be used to establish the east boundary of Lot 13A-1.

If this exception is approved the surveyor will not be required to set survey markers to the east of Beaver Creek. For the lands west of Beaver Creek, all survey markers must be found or set. This includes witness corners where the boundary intersects Beaver Creek.

If this exception is denied the surveyor will be required to perform a field survey east of Beaver Creek to locate or set survey markers at all property corners.

Findings:

1. The exception would allow for the survey markers east of Beaver Creek to not be set.
2. A conservation easement is in place on Lot 13A and does not allow development east of Beaver Creek.
3. The lot borders critical waterways.
4. The area east of Beaver Creek is either open water or wetlands.
5. The area east of Beaver Creek, outside of Lot 13A, is owned by the City of Kenai and will not further developed.
6. While the City of Kenai does not participate in the FEMA program, the area being discussed is within a flood plain area that has a 1% annual chance of flood.
7. Setting the monuments will require either crossing waterways (Beaver Creek or Kenai River) or crossing wetlands on City of Kenai property or CIRI property.
8. It does not appear that survey markers have been set on the east side of Beaver Creek.
9. A field survey to determine the boundary east of Beaver Creek will require a sectional breakdown of the SW1/4 of Section 1.
10. Plat KN 84-45 performed a sectional breakdown of the SW1/4 of Section 1.

Staff reviewed the exception request and recommends granting approval. **Staff recommends** that the surveyor use the information from plat 84-45 KRD to show the boundary of the lands east of Beaver Creek.

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 2, 4, 5, 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 2, 4, 5, 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 2, 4, 5, 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.

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