

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - Birchwood Subdivision Sherman Addition No 2

KPB File No.	2021-090
Plat Committee Meeting:	July 12, 2021
Applicant / Owner:	Colleen Margaret and Guy Fiscel Sherman of Soldotna, AK Jessica Erin and Cody Joseph Seymour of Soldotna, AK Kelsey L. and Michael G. Ciufo Jr. of Kenai, Alaska
Surveyor:	James Hall / McLane Consulting, Inc.
General Location:	Reger Road and Edgington Road, Sterling Area

Parent Parcel No.:	063-700-35, 063-700-36
Legal Description:	Lot 7, Block 1 Birchwood Sub Sherman Addn No 1, Plat KN 2010-87 The NE1/4 SW1/4 Section 29, Township 5 North, Range 9 West, Excepting therefrom Birchwood Sub Plat KN 79-115 and Birchwood Sub Sherman Addn No 1 Plat KN 2010-87.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure an unsubdivided parcel and a lot to provide additional acreage to Lot 7. The lot will increase from 1.1 acres to 2.8 acres. The large acreage tract will be reduced from 26.0 acres to 24.4 acres. No right of way dedications are depicted on the preliminary plat, however this platting action will require a 30 foot half width right of way dedication for Edgington Road. An exception has been requested for right of way dedications.

Legal Access (existing and proposed): The proposed subdivision is in the Longmere Lake area. The tract has access via Edgington Road and Reger Road.

Edgington Road, where abutting this subdivision, is 30 feet wide and 60 feet wide to the north and 30 feet wide to the south. This section of Edgington Road does not appear to be improved. KPB 20.30.120 requires the minimum right of way width of street to be 60 feet. The property to the west has dedicated a half width right of way. KPB Roads comments states that an additional 30 foot right of way dedication is required for maintenance to be granted. **Staff recommends** this platting action provide a matching 30 foot right of way dedication for Edgington Road to provide a full 60 foot width.

Tract A and Lot 7A both have access via Reger Road. Reger Road is an improved dedicated right of way with a varying width between 80 foot wide and 94 feet. The Kenai Peninsula Borough roads department maintains Reger Road. Reger Road is located at the end of Fannie Mae Avenue. Fannie Mae Avenue intersects Edgington Road. Edgington Road is constructed to the north of Fannie Mae Avenue until it connects to state maintained Sterling Highway at approximate mile 88. Reger Road, Fannie Mae Avenue, the northern portion of Edgington Road are all constructed and maintained by the Kenai Peninsula Borough.

The subdivision is within a closed block but the block length is not compliant. The block is defined by Fannie Mae Avenue, Reger Road, and Edgington Road. An exception to block length has been requested.

KPB Roads Dept. comments	Within jurisdiction; An additional 30' of ROW would be necessary for road maintenance to be granted on the non-developed section of Edgington. Per 14.06.100 Road Construction Standards – Construction Standards for Maintenance 1.
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SOA DOT comments	No comment
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Site Investigation: The areas with slopes greater than 20 percent are shaded on the preliminary plat. Per KPB GIS data there are no wetlands within the boundary or within the abutting right of ways. Lot 7 contains residential improvements and the large Tract does not contain any improvements.

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

Staff Analysis The proposed subdivision will replat a lot and an unsubdivided remainder parcel. The large acreage parcel previously created eight lots by recording plats KN 79-115 and KN 2010-87. Both of those plats were done under old code which allowed unsubdivided remainders. Lot 7 was created by KN 2010-87.

Per 20.40.020(A)(1)(c), a wastewater system review is not required if moving one or more lots lines without increasing the number of developable lots, while maintaining a minimum of 20,000 square feet of contiguous area. Lot 7 and Tract A will both contain a minimum of 20,000 square feet of area available for septic installation, therefore a soils analysis report is not required.

Notice of the proposed plat was mailed to the beneficial interest holder on June 21, 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.

Per KPB GIS Imagery, it does appear the structure located on Lot 7 Block 1 is very close to the property line shared with Lot 8 Block 1. **Staff recommends** that the surveyor confirm if the building is located over the boundary line and if so the encroachment will need to be remedied before final plat approval.

Utility Easements Parent plat KN 2010-87 granted 10 foot utility easements along Reger Road within parent Lot 7 and the east side of the unsubdivided remainder, including the full setback within 5 feet from the side property lines. Per plat note 4 this plat intends to grant the same utility easements.

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

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 35403 Reger Road, 35275 Reger Road. Existing street names listed are correct. 35403 Reger Road will remain with Lot 7A. 35275 Reger Road will remain with Tract A.
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	There are not any Local Option Zoning District or material site issues with this proposed plat.
Assessing – Adeena Wilcox	No comments

Advisory Planning Commission	N/A
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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:

- Verify Jessica Erin Seymour address, KPB Assessing shows 607 Laurel Drive, Kenai, AK 99611.
- Per Assessing/GIS the total acreage is 27.15, verify acreage and correct accordingly.
- Add the missing owner names and address of Colleen Margaret Sherman and Guy Fiscel Sherman, 43420 Kalifornsky Beach Road, Soldotna, AK 99669
- The certificate to plat states that the description should be for the unsubdivided parcel "NE1/4 SW1/4 excepting therefrom Birchwood Subdivision, according to Plat No. 79-115 and also excepting therefrom Birchwood Subdivision, Sherman Addition No. 1, according to Plat No. 2010-87." Revise to match the Certificate to Plat.
- Include Block 1 for the legal description of Lot 7 Block 1 Birchwood Subdivision Sherman Addition No. 1.

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 depiction of the corner of Fannie Mae Avenue and Reger Road needs to be adjusted as Plat KN 2010-87 dedicated a triangle portion from adjacent to Lot 6 Block 1.
- Provide a width label of 50 feet for Lemp Road.

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:

- The sections within T4N are mislabeled.
- The Kenai National Wildlife Refuge is along the township line and into Section 32 and should be depicted and labeled.
- Correct the label for the Sterling Highway as it is labeled Kenai Spur Highway.

E. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purposes, conditions, or limitations of reservations that could affect the subdivision;

Staff recommendation: Add plat note for CCR's, Serial No. 2012-003025-0 and KPB code 20.60.170 (B) verbiage that KPB does not enforce CCR's.

- 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:

- East of Reger Road correct the following:
 - Tract 1A to Lot 1A
 - Tract 1B to Lot 1B
 - Tracts 2, 3, and 4 - recording number from 94-94 to 99-94.
- North of Fannie Mae Avenue correct recording number to 73-16.
- Lot 4 from KN 79-115 should have a block label of "Block 1"
- Lot 8 from KN 79-115 is not labeled. It should be labeled "Lot 8 Block 1 KN 79-115".

- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

Staff recommendation: Provide a Block 1 label for Lot 7A.

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:

20.30.120. 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, adjoining 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: A matching 30 foot dedication is required for Edgington Road. Comply with 20.30.120.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: This platting action will fall under KPB 20.40.020(A)(1)(c) and a soils analysis report will not be required.

Staff recommendation: Correct the wastewater note to comply with KPB 20.40.020(B)(1). 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.

- 20.60.070. Plat specifications. The final subdivision plat shall be clearly and legibly drawn to a scale of 1 inch equal to 10, 20, 30, 40, 50, 60, 150 feet or a multiple of 100 feet. The drawing shall be plotted on good quality polyester film at least 3 mm in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear, legible, and in black ink. The minimum text size should be 10 point (0.1") font or the equivalent. Where necessary, 8 point (0.08") capitalized font or the equivalent can be used to label features. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Colors, grayscale or shading is not acceptable as it does not show when

the drawing is reproduced. Sheets shall be one of these sizes: 11" x 17"; 18" x 24"; and 24" or 30" x 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

Staff recommendation: *Correct the drawing scale to comply with 20.60.070.*

20.60.140. Block and lot numbering. Blocks and lots within each block shall be numbered consecutively or all lots shall be numbered consecutively. If possible, each block should be shown entirely on one sheet. Each lot shall be shown entirely on one sheet.

Staff recommendation: *Provide a Block 1 label for Lot 7A.*

20.60.170. Other data required by law.

A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.

B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat. The borough will not enforce private covenants, easements, or deed restrictions. The borough will not enforce private covenants, easements, or deed restrictions.

C. The plat must adhere to the requirement of the local option zone, where applicable.

Staff recommendation: *Certificate to plat contains covenants and restrictions. Comply with 20.60.170.*

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.*

- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*
- *Former Lot 7 is subject to covenants, conditions, and restrictions as recorded on April 6, 2012, serial number 2012-003025-0, Kenai Recording District.*
- *Add a plat note for any exceptions granted and the date they are granted.*

Remove plat notes 6, 7, and 8 as they do not pertain to this subdivision

The wastewater disposal note would read cleaner if the portions explaining code were added into a plat note and the wastewater disposal note matched code. Each lot also requires a separate note as different portions of code are being applied.

- *"WASTEWATER DISPOSAL: (Lot 7A Block 1) The parent subdivision for lots resulting from this platting action were approved by the Kenai Peninsula Borough on May 10, 2010. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."*
- *"WASTEWATER DISPOSAL: (Tract A) Lots which are at least 200,000 square feet in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation."*
- *Plat note: A soils analysis report was not required for this subdivision per KPB 20.40.020(A)(1)(C).*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation:

- *The Shermans must be added to the certificate of ownership.*
- *The former property description must also be revised as the property excludes the existing subdivisions. The entire description is not required as it should be clearly stated in the title block what lands are involved and the designation in the signature lines is to identify owners of each former parcel. "NE1/4 SW1/4 excluding subdivisions KN 79-115 and KN 2010-087."*
- *Additional notary's acknowledgments will be required and correct the year for the ones currently in place.*
- *Either add the names of the signer in the Notary's Acknowledgment or provide additional space for the names to be written legible.*
- *Ensure there is adequate space for the notary stamps.*
- *Comply with 20.60.190.*

EXCEPTIONS REQUESTED:

A. KPB 20.30.030 – Proposed street layout – Requirements
KPB 20.30.170 – Block-Length requirements

Surveyor's Discussion:

Staff Discussion: These exceptions have been combined but may be voted on separately if the Plat Committee wishes.

The proposed subdivision is within a closed block. The block is defined by Fannie Mae Avenue, Reger Road, and Edgington Road. The block does exceed allowable block length. The block length along Edgington Road is approximately 2,165 feet. Reger Road bends and is found along two sides of the block for a length of approximately 3,100 feet. The block along Fannie Mae Avenue is compliant.

Lemp Road is a 50 foot wide right of way west of the subdivision that was dedicated by Sprucewood Terrace, Plat KN 79-19. A continuation of Lemp Road would help to bring the block into compliance.

A dedication along the southern boundary of the proposed subdivision will create two blocks. The northern block containing this subdivision would be a compliant and complete block. The southern block would still have exceed the block length along Reger Road. This has to do with the design with Reger Road but the block would be closer to compliance. There is a 20 acre parcel to the south that could later provide a 30 foot matching dedication.

If the exception is denied right of way dedications must be granted to create a compliant block. This can be accomplished with a redesign with a combination of the following.

- continuing Lemp Road with a 60 foot wide right of way dedication
- a 30 foot half width right of way dedication along the south boundary
- or dedicate another right of way pattern that will bring the blocks into compliance and provide appropriate access while complying with KPB Code.

Findings:

1. The subdivision is within a closed block.
2. The block length requirements are not met along Edgington Road and Reger Road.
3. Lemp Road is a 50 foot right of way to the west of the proposed subdivision.
4. A 20 acre unsubdivided parcel is to the south.
5. The portion of Edgington Road that defines the block is unconstructed at this time.
6. Reger Road is partially built and maintained by the Kenai Peninsula Borough.

7. Reger Road construction ends about 333 feet from the Edgington Road dedication.
8. Tract A will be approximately 24 acres and could be further subdivided.
9. Future subdivisions can provide through dedications that meet the needs and fit the design of the subdivision.
10. There are some areas of slopes greater than 20 percent within the subdivision.
11. Slopes greater than 20 percent exists where the extension of Lemp Road would be located.
12. Slopes greater than 20 percent exist on the south boundary of the subdivision.

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 8-12 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 8-12 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 8-12 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 20.30.190 – Lots-Dimensions (depth to width ratio for Lot 7A)

Surveyor's Discussion:

Staff Discussion: Lot 7A does not meet the requirements for depth to width ratio. Code requires the ratio to be 3:1 depth to width and Lot 7A is 3.5:1 depth to width. The owners wish to add additional acreage to Lot 7. Private lots exits to the north and south of Lot 7 and do not allow the lot to become wider.

The proposed parcel depth is 704 feet. The proposed width is 200 feet.

If denied, proposed Lot 7A will need to be redesigned so that the average depth is shorthand by 197 feet so that the depth is no more than 507 feet.

Findings:

1. The code requires lot depth to width ratio to be 3:1.

2. The proposed lot will have a depth of 704 feet and a width of 200 feet for a depth to width ratio of 3.5:1.
3. Lot 8 to the south contains improvements.
4. Lots to the north and south are privately owned and do not allow Lot 7 to be widened.
5. There are some areas with slopes greater than 20 percent within Lot 7.
6. The additional acreage will double the lot size and provide usable area for Lot 7.
7. Tract A is 24 acres and can be further subdivided in the future.

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, 6, 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, 6, 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, 6, 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