

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - Bay View Subdivision 2018

KPB File No.	2021-087
Plat Committee Meeting:	July 12, 2021
Applicant / Owner:	AKRE Holdings LLC of Overland Park, Kansas
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Lake Shore Drive, Homer

Parent Parcel No.:	179-181-07, 179-181-08
Legal Description:	Lots 88 and 89, Bay View Subdivision Plat NO 53-839, HRD
Assessing Use:	Residential
Zoning:	City of Homer
Water / Wastewater	City Water and Sewer

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine two lots to create one 0.775 acre lot.

Legal Access (existing and proposed): The proposed plat is located on Lakeshore Drive, a 50 foot constructed right of way. The right of way is within City of Homer jurisdiction. Lakeshore Drive is accessed by Douglas Place off of state maintained Ocean Drive. The property is along the south shore of Beluga Lake and may be accessed by boat or floatplane.

The block lengths are compliant but the block is not a closed block due to Beluga Lake.

KPB Roads Dept. comments	Out of jurisdiction; no comments
SOA DOT comments	No comment

Site Investigation: The honeycomb hatching on the plat depicts the areas identified as discharge slope by the Kenai Watershed Forum wetland mapping. The discharge slope affects the majority of the parcel. The property slopes towards Beluga Lake but is not affected by steep slopes. There is approximately a 16 foot elevation drop from the south boundary to the north boundary on Beluga Lake.

Per Kenai Peninsula Assessing records structures were built on the parcel in 2019.

Plat note 6 does state that a U.S. Army Corps of Engineers wetland determination may be required.

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

Staff Analysis The proposed plat will combine two lots that were created by Bay View Subdivision, HM 839, which was recorded in 1953.

City of Homer water and sewer will serve the proposed lot. A soils analysis report is not required. An email has been received from City of Homer Public Works stating an installation agreement is not required. A plat note should be added that states the subdivision is served by City of Homer water and sewer.

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.

This subdivision was heard and approved at the September 24, 2018 Plat Committee meeting. An exception was also granted to 20.30.120 – Streets – width requirements due to Lakeshore Drive only being 50 feet wide. The approval for the subdivision expired on September 24, 2020. A time extension request was received but it required approval from the City of Homer. It was noted by the surveyor that the owners admitted that it got lost in their administration. Per 20.25.110(A) the expiration will require the submission of, and action on, a new preliminary plat (Ordinance 2014-02).

The City of Homer Planning Commission approved the proposed plat on August 1, 2018 subject to a plat note regarding the flood plain be added. That is shown in plat note 7. On April 23, 2021 Mr. Abboud, the City of Homer Planner, stated that the previous recommendation could carry over and that he supported completion of this plat and a review by the City of Homer Planning Commission was not required as this was a simple lot line vacation.

Utility Easements The parent plat did not grant any utility easements. This plat is proposing to grant a 15 foot utility easement along Lakeshore Drive. Plat note 8 describes an HEA easement granted by separate document. **Staff recommends** the recording district be added to note 8.

An ENSTAR easement was granted by document 2020-002255-0, HRD. Per the document, a natural gas easement affected all of Lot 89, which was then defined as a 10 foot wide natural gas easement centered on the existing underground gas pipeline. The easement is for the benefit of Lot 88. The easement will be terminated with merger of title. Comments from ENSTAR were not received when the staff report was prepared. **Staff recommends** that a plat note be added identifying the easement of record and state that the easement of record will be terminated with the merger of title.

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	
ACS	
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 1344 Lakeshore Drive, 1358 Lakeshore Drive Existing street names shown are correct. City of Homer will advise on affected addresses.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	Within the City of Homer, 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:

- Per the certificate to plat, the company name is AKRE Holdings LLC. Update ownership to match the certificate to plat and KPB records.
- Update the subdivision name to 2021 as Bay View Subdivision 2018 is associated with another KPB file which was not finalized. Changing the name to Bay View Subdivision 2021 will help separate it from the previous action.
- Update the KPB File Number to 2021-087.

- 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: Provide a plat note for the ENSTAR easement recorded on July 21, 2020, No. 2020-002255-0 and state that the easement will terminate with the merger of title.
- 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 status labels for lots within 100 feet of the subdivision including Lot 1 of HM 79-110 and the lots across Lakeshore Drive.
- H. Approximate locations of low wet areas, areas subject to inundation, areas subject to flooding or storm water overflow, and the line of ordinary high water. This information may be provided on an additional sheet if showing these areas causes the preliminary plat to appear cluttered and/or difficult to read;
Staff recommendation: The depiction of the wetlands is acceptable and is noted in plat note 5. Although not required, the hatch pattern for the wetlands can be added to the legend.

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:

20.30.060. Easements-Requirements.

- A. The planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.
- B. Upon submittal of a preliminary plat, the planning department shall provide a copy to public utility companies for their comments-and recommended design of utility easements. If the property is subject to existing natural gas or petroleum pipeline easements, a copy shall also be furnished to the appropriate company for comment.
- C. The subdivider bears the responsibility for coordination with the utility companies during the design and development phases. When a subdivider and the utility company cannot agree on easements, the final plat will be taken to the planning commission for determination of easements.
- D. Unless a utility company requests additional easements, the front ten feet adjoining rights-of-way shall be designated as a utility easement, graphically or by note. Within the boundaries of an incorporated city, the width and location of utility easements will be determined by the city and affected utility providers.

Staff recommendation: The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Grant utility easements requested by the utility providers.**

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 Homer does not meet the specified requirements for the application and consideration of different standards.

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.

- The lot is served by city water and wastewater utility. .

Plat note 8 should include the recording district.

Plat note 9 will need the correct meeting date.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: The owners have changed since original plat. Update the Certificate of Ownership to include the correct LLC name and update the authorized signer on the signature line and Notary's Acknowledgment. The notary line states it is for Arkansas. The owners address appears to be Kansas. Verify which state they intend to sign in or leave the state information blank and it can be filled in by the notary. Correct the Plat Approval date. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

A. KPB 20.30.120 – Streets – Width Requirements

Surveyor's Discussion:

Staff Discussion: The surveyor carried over the note from the previous approval. As those approvals expired a new action is required on the exception.

Per the City of Homer Road Maintenance Map available online, Lakeshore Drive is maintained by the city and is considered an Urban Road.

If the exception is denied the subdivision will be required to dedicate additional right of way for Lakeshore Drive. To be compliant a 10 foot right of way dedication would be required.

The Plat Committee may elect to have a 5 foot dedication with this platting action which would require the lots on the south side of Lakeshore Drive to dedicate 5 feet of right of way if/when those lots are replatted. The lots on the south side of Lakeshore Drive are small and cannot be further subdivided. The City of Homer has followed this

method on another substandard width right of way when lots were subdivided.

Findings:

1. The subdivision is within the City of Homer.
2. Lakeshore Drive was dedicated by the parent plat Bay View Subdivision in 1953, prior to statehood.
3. Lakeshore Drive is constructed and maintained by the City of Homer.
4. The City of Homer planner wrote that the plat is acceptable.
5. The City of Homer Planning Commission approved the proposed plat on August 1, 2018 with no discussion or concern about the right-of-way width.
6. Per the Homer staff report from August 1, 2018, the zoning is General Commercial 1.
7. Replats have been done through the years without additional right of way width being requested.
8. Due to the development of the lots, the ability to get matching dedications will be difficult.

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 1-5, 7, 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 1-5, 7, 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 1-5, 7, 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.

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