



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

July 28, 2021

City of Kenai
Planning and Zoning Commission
210 Fidalgo Avenue
Kenai, AK 99611

Planning and Zoning Commissioners:

RE: Time Extensions

A time extension is to be heard tonight for Kees Tern Subdivision. It has been brought to our attention that there have been some concerns regarding the time extension process. We apologize as a staff member could not be present but we hope this letter will provide some additional insight for this specific subdivision and for any future, ones you may be requested to review.

The Kenai Peninsula Borough Planning Commission approved Kees Tern Subdivision on February 11, 2013. A revised preliminary was then approved on February 10, 2014. This subdivision was reviewed under old Kenai Peninsula Code (20.04 – 20.28). The Kenai Peninsula Borough adopted a new Chapter 20 that took effect of February 12, 2014. This subdivision, as well as a few others, are still being reviewed under the old code, pre-2014.

KPB 20.12.090, pre-2014, covered the approval and expiration restrictions. It allowed time extensions to be requested but did not place any restrictions on how many or how long they may continue. In addition, the recording of a phase would also extend the expiration by a year. Phases are to be reviewed under the code the main design was approved. The code does allow the Planning Commission to require a new preliminary plat submittal if there are road system changes or if the owners let the approval lapse for a long period. The code does not restrict granting time extensions for lapsed approvals. This portion of code also does not mention needing to have the time extension reviewed by the cities. As time progressed, it was determined that the recommendation by the cities is important as they have their own infrastructures to consider and changes in the area may have occurred. Platting Staff forwards items under this old code to the cities for review and recommendations.

In 2014, the new title 20 was adopted. The code for approval and expirations was KPB 20.25.110. The section of code for approvals did not change reference number by the code that took effect on April 1, 2021. The 2021 code changes to that section were housekeeping and

clarification but the implementation of the code has been the same. Instead of an initial one-year approval, plats are granted a two-year approval. State plats are issued an initial four-year approval due to additional agency reviews and approvals. The owners or surveyor may request two time extensions, each 2 years. This process allows for up to six years to finalize a plat. It also clarified that phases still extend the approval but they must meet the code in effect at the time the phase is submitted. This code also requires the owner or surveyor to forward their request to the city and submit to the borough the city decision. At the borough level, the Planning Director may grant the time extensions unless they wish to present it to the Planning Commission for approval. If the approval lapses a new application must be presented and a new hearing must occur.

With two changes, having taken affect for Title 20 it has been determined these lingering pre-2014 code files need to become compliant to current code. As time extensions are requested, they are being allowed to continue under the code that they were approved until they reach the 10-year mark. As they begin to age, we are including in the staff report a warning that they are approaching a time where they will need to conform to current code. Once they are 10 years old staff is recommending to the Planning Commission that they be subject to current code. If approved they are then limited to only two more time extensions. Failure to finalize will then require them to submit a new application, which means they must start the process over under current code if they wish to continue.

When a time extension is presented to you to review, we are requesting information that may affect the previously approved plan. Changes such as new road construction requirements, new utilities installed, requirements for utility extension, zoning changes, or any infractions to municipal code. An example would be that when the subdivision was approved the utilities were not present in that area. They may now be installed and the city wishes to request an installation agreement. When the city reviews a time extension it is a recommendation and requests for conditions may be presented. Please note that pre-2014 goes before the Planning Commission while the Planning Director reviews newer code plats. If the city has requirements, the Director can refer it back to the Planning Commission for approval.

In regards to Kees Tern Subdivision, this time extension will allow them two more years under old code. Any future time extensions granted will require current code compliance. This subdivision has some additional issues as it was approved with private right-of-ways that were created as a tract. If this subdivision is not finalized before expiring and changes are required to the right of way tract it will have to fall under current code, which now includes private streets and gated communities, KPB 20.80. As outlined in KPB 20.80.005, Chapter 20.80 does not apply within the boundary of an incorporated city. Concerns about the tract would be discussed and handled if failure to finalize prior to the ten-year mark occurs.

July 28, 2021

Page 3

The Kenai Peninsula Borough Planning Department staff has been working hard the last few years trying to keep all old code file current to allow them the opportunity to finalize their projects. Staff also recognizes that allowing projects to linger can affect others in their designs or for cities, planning their infrastructure. We are closing in on the window for any old remaining files to remain active and all files will soon have limitations to finalize.

I hope this letter helps address some concerns and questions you may have. If you have any questions regarding our process or code, please let me know.

Scott Huff
Platting Manager