

Kenai Peninsula Borough

Plat Committee

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

July 12, 2021
6:00 p.m.
UNAPPROVED MINUTES

Meeting started late due to technical difficulties.

A. CALL TO ORDER

Commissioner Carluccio called the meeting to order at 6:00 p.m.

B. ROLL CALL

Commissioner Venuti moved, seconded by Commissioner Ruffner to appoint Commissioner Carluccio at chair for the meeting.

Plat Committee Members/Alternates

Paulette Carluccio, City of Seldovia
Cindy Ecklund, City of Seward
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

Staff Present

Scott Huff, Platting Manager
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant

C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES

- *3. Minutes
a. June, 2021 Plat Committee Meeting Minutes

Chair Carluccio asked if anyone wanted to speak any items on the agenda.

Hearing no one else wanting to speak, public comment was closed.

MOTION: Commissioner Ecklund moved seconded by Commissioner Ruffner, to approve the agenda and the minutes from the June 28, 2021 Plat Committee meeting.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

E. NEW BUSINESS

Chair Carluccio asked Ms. Shirnberg to read the procedures by which public testimony would be taken

AGENDA ITEM E. NEW BUSINESS**ITEM 1 - Tide View Heights No 2**

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

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 given by Scott Huff.

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.

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.

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 21,000 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 21,000 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. In the desk packet there is information on the private water and waste water system on parent lot, Lot 1. 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. Staff contacted State Parks and they determined that land could be added to the conservation easement but land cannot be taken away from the easement. **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 power line 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:

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

KPB department / agency review:

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.

STAFF REPORT - ADDENDUM

After the staff report was prepared, the surveyor submitted a request for an exception to KPB 20.40.100 Soils Analysis and report.

EXCEPTIONS REQUESTED:

C. KPB 20.40.100 Soils analysis and report. (for proposed Lot 1A)

Surveyor's Discussion: I am requesting an exception to the requirement for soils investigation for Lot 1A for this replat. There was a gravel pit across Ames Dr., the bluff in the front of the lot does indicate a high water table, and the resulting lot will still have more than the required 20,000 square feet for original and replacement wastewater disposal area.

Staff Discussion: Lot 1A will be decreasing by 21,000 sq. ft. The parent plat was recorded in 1972 and a soils analysis report was not completed at that time.

Staff was able to locate a DEC report for parent Lot 1 from 1980. DEC did not approve the water system.

The asbuilt showing the improvements depicts a septic tank and a log crib leach field located to the northeast of the building. The asbuilt shows the log crib to be located more than 58 feet to the northeast from the building. Staff was not able to determine if a new system has been installed since 1980. It appears that the new lot line may encroach on the log crib septic system as shown on the asbuilt survey from 1980.

DEC requires wastewater systems to be at least 50 feet from slopes greater than 25%.

The water well drilling log shows gravel to a depth of 19 feet. Soils analysis reports are required to provide a test pit to ten feet for shallow trench or bed systems and 12 feet for areas where deep trench or seepage pits will likely be used.

Findings:

1. There was a gravel pit across Ames Dr.
2. The bluff in the front of the lot does indicate a high water table.
3. The resulting lot will still have more than the required 20,000 square feet for original and replacement wastewater disposal area.
4. Lot 1A will be decreasing by 21,000 sq. ft.
5. The parent plat was recorded in 1972 and a soils analysis report was not completed at that time.
6. Staff was able to locate a DEC report for parent Lot 1 from 1980.
7. DEC did not approve the water system in 1980.
8. The asbuilt showing the improvements depicts a septic tank and a log crib leach field located to the northeast of the building.
9. The asbuilt shows the log crib to be located more than 58 feet to the northeast from the building.
10. Staff was not able to determine if a new system has been installed since 1980.
11. It appears that the new lot line may encroach on the log crib septic system as shown on the asbuilt survey from 1980.
12. The water well drilling log shows gravel to a depth of 19 feet.

Staff reviewed the exception request and does not recommend approval based on findings 4, 5, 8, 9, 10, 11.

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;
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;
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.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

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

Chair Carluccio opened the meeting for public comment.

Jerry Johnson, Johnson Surveys; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for any questions.

Mac Padget; 855 Ames Road, Kenai, AK 99611: Mr. Padget is the landowner and has owned this property for over 30 years. He stated they are just moving the lot line between his and his neighbor's property. He noted that when they build their home on this site in 1994 he had an excavator on site and they dug a test pit and noted that the gravel was at least 20' deep. This property sits on good gravel and he would ask that they not be required to do the soil analysis report. He also noted that there is no construction associated with the moving of this lot line.

Carol Padget; 855 Ames Road, Kenai, AK 99611: Ms. Padget stated that they request not to have to do a soils analysis report due to cost concerns. They are only increasing their lot size by .5 acre and the costs associated with the move of this lot line are adding up. Nothing is changing is changing on these lots, the septic systems or wells are not changing, they are just moving the lot line to give them a bit of a buffer.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant preliminary approval to Tide View Heights #3 based on staff recommendations and compliance to borough code.

AMENDMENT A MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant exception request of KPB 20.60.200 – Survey & Monumentation, citing finding 2, 4, 5 & 10 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AMENDMENT B MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant exception request to KPB 20.40.100 – Soils Analysis & Report for proposed Lot 1A.

Mr. Huff asked the owners if they knew if the septic system had been replaced since 1980. Mr. Padget replied that he did not know.

Commissioner Ruffner stated that he concurred with staff decision on this exception. He noted that the location of this parcel of land is in a fairly sensitive area. He understands that with the gravel pit close by the soils may be suitable but with not have a good records of what has happened on this lot he would like to see a soils analysis report.

Mr. Huff stated the asbuilt showing the location of the leach field and he is concerned that it is close to where the new lot line. He would hate to see the new lot line cross over their existing septic system.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT B MOTION FAILED BY UNANIMOUS VOTE

Yes	0	No	4
Yes			
No	Carluccio, Ecklund, Ruffner, Venuti		

AMENDMENT C MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to attach findings 4, 5, 8, 9, 10 & 11 in support of denial to exception request to KPB 20.40.100 – Soils Analysis & Report for proposed Lot 1A

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT C MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 2 - Kenai Landing Subdivision 2021 Addition

KPB File No.	2021-089
Plat Committee Meeting:	July 12, 2021
Applicant / Owner:	Kenai Landing Inc. of Homer, Alaska and PRL Logistics Inc. of Anchorage, Alaska
Surveyor:	Mark Aimonetti, Jason Young / Edge Survey & Design, LLC
General Location:	Bowpicker Lane, Seacatch Drive and Columbia Street, at the end of Cannery Road, City of Kenai

Parent Parcel No.:	049-101-03, 049-101-23, 049-101-24, 049-101-25
Legal Description:	Parcel 1: Tract 1, Kenai River Shores Subdivision Plat No KN 2015-29 Parcel 2: Tract A, Kenai Landing Cottages Subdivision, Plat No KN 2005-29 and Alaska Tidelands Survey 115 Plat K-1358, Parcel 3: Lot 1, Kenai Landing Cottages Subdivision, Plat KN 2005-29
Assessing Use:	Commercial Condo and Residential Accessory Bldg., Residential Vacant, and General Commercial.
Zoning:	Heavy Industrial
Water / Wastewater	Community

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide three Tracts and a tideland survey into 2 lots that include a portion of the tideland survey, 6 upland tracts, and 3 tracts within the tideland

survey. The two lots are 0.7 and 0.9 acres with the upland tracts ranging in size from 4.2 acres to 20.5 acres. The three tracts within the former tideland survey range between 1.0 acres to 3.1 acres.

Legal Access (existing and proposed): The proposed subdivision is located at the end of state maintained Cannery Road within the City of Kenai. Bowpicker Lane is an 83 foot wide dedicated right of way/section line easement. Bowpicker is constructed and provides access to the subdivision. A 66 foot wide section line easement exists within the subdivision and extends east from Old Cannery Road. The eastern portion of the section line easements were vacated by Section Line Easement Plat KN 2013-57.

Tracts A-1, A-2, A-3 and Tract B all front on dedicated Bowpicker Lane. A 50 foot public access easement, granted to the City of Kenai, provides a connection from the end of the section line easement to the Kenai River. The section line easement and the public access easement provide legal access to Tract A-4, Tract A-5, Tract C, Lot 1, and Lot 2. Tract D and Tract E, located within the tideland survey, do not front on a dedicated access as legal access is from the Kenai River.

A 66 foot section line easement is centered on the property line between Tract A-3 and B and a portion of Tract A-5. The eastern portions of the 66 foot section line easement was vacated by plat KN 2013-57. A 33 foot access easement is shown within Tract A-5 which becomes a 40 foot access easement as it turns to the south. **Staff recommends** the surveyor confirm if this is a private easement, and if so provide a label stating that the easement is private.

The block is an open block defined by section line easements, Bowpicker Lane, Sea Catch Drive, and Columbia Street. Due to the Kenai River a closed block is not possible but road dedications can improve the block and provide compliant block lengths as they currently exceed requirements. An exception has been requested.

No right of way dedications are proposed with this platting action.

KPB Roads Dept. comments	Outside jurisdiction; no comments
SOA DOT comments	The ROW for Cannery Road is as shown on KPB Right of Way Map MA-21047 Kenai-Alaska (Plat 84-109) and appears to be shown correctly.

Site Investigation: The area is generally flat and not affected by steep terrain. Low wet areas, identified as tidal by the Kenai Watershed Form mapping, have been depicted on the plat. **Staff recommends** the low wet areas be clearly identified with a darker boundary line or the use of hatching or symbols.

Proposed Tracts C, D, and E and portions of Lot 1 and 2 are part of Tideland Survey 115 (K-1358) and are located below the meander line and are within the Kenai River. An existing dock will be within Lot 1 and an existing ramp will be within Lot 2.

Flood Zones are labeled and depicted. City of Kenai does not participate in the FEMA program.

The proposed subdivision is along the Kenai River and affected by Anadromous Waters Habitat Protection District. A note is present on the plat but staff has requested that it be reworded to match code requirements. This change is noted further in the staff report.

Floodplain Hazard Review	Within the City of Kenai; no comments
Anadromous Waters Habitat Protection District Review	Is totally or partially within an AWHPD
State Parks Review	No comments

Staff Analysis This proposed plat is located at the end of Cannery Road in the City of Kenai. In 1912 a cannery was located on this site.

Tract A is affected by a common interest community (CIC) or site condominium. Common Interest Communities are allowed under State statute and are a way to transfer interest in a portion of property without subdividing the parent parcel. KPB code does not address common interest communities and common interest communities are not subject to KPB subdivision requirements. Condominium plans and plats are not required to be reviewed by the Planning Department. The KPB Assessing Department does

assess each condominium unit separately. As this subdivision will change the parcel boundaries and will not coincide with the unit boundaries of the common interest community, **Staff recommends** that the common interest community be dissolved before the recording of the final plat. A copy of the documents to be recorded, submitted to the planning department will suffice.

Multiple buildings are located within the proposed subdivision. The units within the common interest community encompasses the improvements. The City of Kenai staff report noted that a Conditional Use Permit for a Planned Unit Residential Development (PUD) was approved in May 2021. The approval of the Conditional Use Permit will allow for the construction of Phase A of the PUD for 60 residential units.

An easement granted by book 48 page 292 may not be within the boundaries of this subdivision. The provisions also state until access by public road is available. **Staff recommends** the surveyor review the easement and determine if it is still applicable and add a note if it is determined to affect this subdivision.

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.

The property has a community water system and a community wastewater disposal system. An exception for soils analysis report requirements has been requested.

The City of Kenai heard the proposed plat at their June 9, 2021 meeting. Per their staff report, an installation agreement is not required. They 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 wording is included in plat note 7).*
2. Add a Plat Note as following: Any infrastructure improvements (roadways, sewer, water, etc.) are considered private by the City of Kenai. Regarding any roadways or other infrastructure improvements that do not meet minimum standards required by the City of Kenai, if at any future time the City takes ownership and/or maintenance responsibilities of roadways within the subdivision or other infrastructure, improvements will have to be improved to meet City of Kenai Standards in effect at the time of acceptance. The cost of any infrastructure improvements to meet City of Kenai standards will be borne by property owners in the subdivision by assessment without further approval required. *(This is plat note 25).*
3. Property owner will provide the City of Kenai a copy of DEC compliance certification on the water/sewer system.
4. The City of Kenai requests to receive approval from the Kenai Peninsula Borough on exception to requirements of Subdivision Code.
5. Plat Note 22 should update the KPB Plat Committee meeting date as necessary.
6. Surveyor and property owner must work with the City of Kenai and the Kenai Peninsula Borough when designating street names to ensure names meet City and Borough regulations.
7. Property owner will receive approval from the Kenai Peninsula Borough on exceptions to requirements in the Kenai Peninsula Borough Subdivision Regulations.
8. Staff members of the City of Kenai would be available for any future discussion on the topic of exceptions.

Utility Easements There have been multiple easements granted by document. Many of these are discussed further in the staff report regarding plat notes. There is an existing 15 foot utility easement along portions of right of ways with additional width being given to increase a 10 foot to 15 foot along right of ways.

Staff recommends to provide the record information that granted the 20 foot electrical easement on the existing distribution line.

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	No comment
ENSTAR	ENSTAR requires a natural gas easement for existing main and service pipelines which will cross proposed Tract A-5 to serve proposed Tract A-4 and proposed Tract B.
ACS	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 2101 Bowpicker Lane, 2291 Bowpicker Lane, 2301 Bowpicker Lane, 2321 Bowpicker Lane Existing street names listed are correct. City of Kenai will advise on affected addresses.
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	Within the City of Kenai; no review required
Assessing – Adeena Wilcox	The proposed plat is unclear as to how Tract D and E will have legal access and utility access. Some lots and tracts may not meet the minimum lot size requirements for well and septic as defined by Borough Code. Plat is subject to existing condo restrictions. While this plat references prior condo filings, it does not address how the proposed changes will alter the condos. Assessing suggest the Planning Department review proposed condoization plans prior to this plat approval.
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

There is also a listing for (R7) for Phase 7 of the condominiums. Staff did not find reference to (R7) on the plat.

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:

Below are recommendations for sheet 1 and 2.

1. *Within the title block add the Alaska Tideland Survey Information.*
2. *Update Kenai Landing Inc. street address to "Homer" as there currently is a typo.*

The following correction is for sheet 2.

1. *The title block states the scale is 1" = 200'. The only mapping on the sheet is for the utility easement and setback example. The scale for that is 1" = 50". Adjust the scale listed for items shown on the plat.*

- 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 city limits for Kenai run along Bowpicker Lane and then west along Old Cannery Road. Depict and label the boundary between the City of Kenai and the Kenai Peninsula Borough. It appears there may be a space in Bowpicker. Bowpicker is one word. On the northwest corner of the subdivision is Sea Catch Drive located at the end of Bowpicker Lane. Provide a label for Sea Catch Drive.*
- 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: *The certificate to plat contained many easements, confirm if the easements of record affect the subdivision and if so, depict and label with the record information.*
- 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: *Add a plat note or within the depiction of Cannery Road a reference to the ROW map as commented on by DOT. "ROW Map MA-21047 Kenai-Alaska (Plat KN 84-109) Sheet 6".*

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:*

- 20.30.250. Building setbacks-Within cities. The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts. Building setbacks as depicted, or noted, on recorded plats shall not be carried forward on a new subdivision plat located within a municipal zoning district. Provide a plat note stating, "Per KPB 20.30.250 the building setback of record has been removed. All development must comply with the municipal zoning requirements."
Staff recommendation: *This subdivision is within the City of Kenai and not subject to the KPB 20 foot building setback requirement. Remove the depiction of the 20 foot building setback from the typical drawing. The setback was not included on parent plats so a note is not required.*
- 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: *An exception has been requested for Lot 1 and 2. The City of Kenai has requested the DEC compliance certificate.*

Staff recommendation: *Provide the DEC certificate to the City of Kenai Planning Department and provide documentation from the City of Kenai that their request has been met. 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.*

- 20.60.180. Plat notes.

C. 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.

D. 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.

- Lots within this subdivision may be located within a designated flood hazard area.
- No structures are permitted within the panhandle portion of flag lot Tract B.
- Per the certificate to plat there are additional easements that do not appear to be noted or depicted. If it is determined they do not apply work with the title company to remove the reference from the certificate to plat.
 - o Easement affecting the portion of said premises and for the purpose of road. Recorded October 20, 1967 in Book 48 Page 292, Kenai Recording District. (Determine if it applies to this subdivision, if not work with title company to have removed.)
 - o Right of way including the terms and conditions therein recorded on July 21, 1986 in Book 291 Page 361, Kenai Recording District. (Determine if this easement applies to this subdivision, if no work with the title company to have it removed from the certificate to plat)

Remove the following plat notes.

- Remove plat note 1 as this is within the City of Kenai and falls under their zoning regulations. Parent plats did not have a setback so the note per 20.30.250 does not apply.
- Remove plat note 6 as this subdivision is within the City boundary.
- Revise plat note 8 and 9 to include that the floodway is non-regulatory at the time the plat was recorded.
- Remove plat note 20 as those exceptions were granted for parent plats and are not being carried forward.

Revise the following plat notes.

- Within plat note 2 remove the reference to the building setback. The parent plats granted easements of 15 and 10 feet. Revise the note to read "The front 15 feet adjacent to rights-of-way is a utility easement. Plat KN 2015-29 granted 15 feet and Plat KN 2005-29 granted 10 feet utility easements. This plat will grant additional 5 feet as utility easements to bring the 10 foot utility easements to a width of 15 feet. No permanent structures..." If additional right of way is required the note will need to be revised to reflect new easements being granted.
- Plat note 14 has a couple of typos. Correct dates to "June 22, 2011" and "May 31, 2012".
- Plat note 17 needs to be updated to match what is found in new code that took effect on April 1, 2021. Correct the code reference to "20.60.170".
- Plat note 18 has an incorrect date of "July". It should be "October".
- Plat note 19 should reference that it applies to parent Tract A. Spell out "Association". The note states the sketch was ambiguous when in fact it was the wrong sketch that was recorded. The sketch recorded was not near this subdivision. Revise to read "Said easement description was ambiguous and referred to the attached exhibit for location. The exhibit recorded as part of the document is not located within the subdivision therefore the easement is not depicted on the plat."
- Plat note 21 should include the full note as required by KPB 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."
- Plat note 22 will need to have the date revised.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Correct Mr. Hyde's name to Ronald Hyde Jr. on his signature line and notary acknowledgment. Correct Mr. Faulkner's name to Jonathan Faulkner on his signature line and notary acknowledgment. Mr. Faulkner's address needs "Homer" corrected. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

**A. KPB 20.30.190 – Lots-Dimensions
KPB 20.30.200 – Lots-Minimum Size
KPB 20.40.010 – Wastewater disposal (Lots 1 and 2)**

Surveyor's Discussion:

Staff Discussion: Lot 1 is proposed to be approximately 0.963 acres with 0.448 acres (19,515 sq. ft.) as upland. The approximate depth to width ratio is 3.3:1.

Lot 2 is proposed to be approximately 0.737 acres with 0.510 acres (22,276 sq. ft.) as upland. The approximate depth to width ratio is 6.9:1.

Lot 1 contains a dock and Lot 2 contains a boat-launching ramp to the Kenai River. The submittal states that Lot 1 and Lot 2 will be used for launching and docking marine vessels.

Plat note 23 states that no wastewater will be generated on Lots 1 and 2 and any wastewater system that may be installed in the future must be approved by DEC.

If the exception is denied the lots will be required to be redesigned to provide 40,000 square feet, comply with the 3:1 depth to width ratio, and a soils analysis report will be required and an engineer will need to sign the plat.

Surveyor's Findings:

1. Lots 1 and 2 will not be developed
2. Lots 1 and 2 will not produce wastewater.
3. The land and improvements are for parking, and for docking and launching of marine vessels only. There are no permanent residences or offices planned or associated with this use. There is no wastewater produced by this use; the small amounts generated by transient users is met with portable toilets.
4. Historically, potable water for marine vessels is trucked in.
5. If the need for wastewater services arises in the future, the adjacent owner operates an approved, large volume wastewater treatment facility is agreeable to connection.
6. Note with 20.40.080 will be provided.

Staff's Findings:

7. Proposed Lots 1 and 2 will contain portions of tidelands as shown on Alaska Tidelands Survey No. 115.
8. Currently condominium units exists with the same boundary as Lot 1 and Lot 2.
9. City water and sewer are not available for this area.
10. Development must comply with City of Kenai zoning.
11. Proposed Lot 1 has a dock within the tideland area.
12. Proposed Lot 2 contains a boat launch.
13. The property is subject to the Anadromous Waters Habitat Protection District and the River Center should be contacted prior to development.
14. The depth to width ratio for Lot 1 is 3.3:1. If using only upland area the ratio is 2.1:1.
15. The depth to width ratio for Lot 2 is 6.9:1. If using only upland area the ratio is 2.6:1.

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 1-6, 8, 10, 13 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 1-6, 8, 10, 13 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 1-6, 8, 10, 13 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 20.30.030 – Proposed street layout-Requirements**
KPB 20.30.120 – Streets-Width requirements
KPB 20.30.170 – Blocks-Length requirements
KPB 20.30.210 – Lots-Access to Street

Surveyor's Discussion:

Staff Discussion: This exceptions have been grouped but may be voted on separately.

Per 20.30.030, streets provided on the plat must provide fee simple right-of-way dedication to the appropriate governmental entity. In this case that would be the City of Kenai. The City of Kenai did not request any right of way dedications. Code further states the dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means for ingress for surround acreage tracts. There must also be adequate access and turn around areas for emergency vehicles. Per code a continuation of Columbia Street should extend south into the proposed subdivision.

The owner has requested an exception for street width requirements. The proposed design is not including any right of ways to be dedicated that are of substandard width. They are referencing the 50 foot public access easement in their findings. This was granted at a 50 foot width. If the plat committee determines a right of way dedication should exist atop this or the other public access easements within the subdivision this exception will be required to not grant 60 foot right of ways. The owner wishes to not increase the width of the existing public access easements.

The block is an open block defined by the section line easements, Bowpicker Lane, Sea Catch Drive, and Columbia Street. The Kenai River limits the ability for portions to be within a closed block. The distance along Bowpicker Lane exceeds code by 20 feet. If a continuation of Columbia Street were to be required it would also exceed code unless additional right of ways were dedicated to create new intersections.

Per KPB 20.30.210, each lot shall abut on a fee simple dedicated street unless the land is classified by agricultural per state statues. Tracts A-4, A-5, C, D, E, Lot 1, and Lot 2 do not abut dedicated right of ways. There are currently public access easements that provide access to those lots with the exception of Tract D and Tract E. Both of those are within a tideland survey and have legal access from the Kenai River.

If the exception is denied the following will be required.

- a. An extension of Columbia Street will be required.
- b. Right of way dedications will be required coinciding with the existing public access easements and section line easements.
- c. All right of way dedications will need to be 60 feet in width.
- d. Right of way dedications will be required so that all lots front on a dedicated right of way.

Surveyor's Findings:

1. An exception to code is likely not required in so far as an existing SLE acts as dedicated legal access to all subdivided Tracts under 20.30.030.
2. Applicant has provided an access plan verifying the existence of legal access to the subdivision boundary and that construction design requirements under KPB Chapter 20.30 are practical and economical. 20.30.050 defines legal access "where unrestricted, public ROW connects the subdivision to the state highway system... and one of the following is met." The applicant has presented satisfactory evidence meeting criteria #2 thereunder.
3. 20.30.050(A)(1) directly references section lines as a means of legal access.
4. Parcel A abuts the 50'-wide public access easement created in replacement of a section line easement and carries with it all of the same rights, titles and interests to the public that a section line does. The wording of the easement supports this conclusion.
5. With reference to 20.30.050(A)(4), the state easement carries the full weight of a judicial decree since it absolutely involved a quasi-judicial proceeding involving the department of law and their consent.
6. The KPB was party to the State easement agreement and the public process that created the easement; the 60' (*believe this is a typo and should be 50'*) width requirement was agreed to by the KPB at the time. It is neither fair nor reasonable to re-visit this ROW width.

Staff's Findings:

7. Development of this subdivision must comply with the City of Kenai zoning regulations.
8. The City of Kenai did not request additional right of ways.
9. Columbia Street ends at the subdivision and a continuation would be appropriate.
10. Columbia Street is not constructed at this time.
11. Columbia Street is 60 feet wide, an adequate turn around width.
12. The extension of Columbia Street is affected by a pond and tidal marsh and a roadway is unlikely to be constructed.
13. This subdivision is subject to multiple access easements.
14. There is a 33 foot section lines easement, a 33 foot access easement, 40 foot public access easement, and 50 foot public access easement.
15. A projection of Old Cannery Road would be to grant a right of way dedication along the section line easement.
16. The section line easement and a 50 foot wide public access easement provides legal access within the subdivision.
17. The City of Kenai is listed as the Grantee of the 50 foot public access easement.
18. The block is an open block.
19. The Kenai River limits the ability for portions of the subdivision to be within a closed block.
20. The block length along Bowpicker Lane exceeds code requirements by approximately 20 feet.
21. The block is defined by section line easements, Bowpicker Lane, Sea Catch Drive, and Columbia Street.
22. This platting action will create nine parcels with
 - a. Four lots fronting on at least a dedicated right of way.
 - b. Five lots fronting only on a public access easement.
 - c. Two lots not fronting on a dedicated right of way or public access easement as the only legal access if from the Kenai River.

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, 4, 7, 8, 12-14, 16, 19 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, 4, 7, 8, 12-14, 16, 19 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, 4, 7, 8, 12-14, 16, 19 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

Chair Carluccio opened the item for public comment.

Jason Young, Edge Survey & Design LLC; P.O. Box 208, Kasilof, AK 99610: Mr. Young was the surveyor on this project and made himself available to answer any questions. He noted this was a unique plat and it is a stepping stone to another development which has also been approved by the City of Kenai.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Ecklund moved, seconded by Commissioner Ruffner to grant preliminary approval to Kenai Landing Subdivision 2021 Addition based on staff recommendations and compliance to borough code.

AMENDMENT A MOTION: Commissioner Ecklund moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.190 – Lot Dimensions, KPB 20.30.200 – Lots, Minimum Size, and KPB 20.40.010 – Wastewater Disposal for Lots 1 & 2, citing findings 1-6, 8, 10 & 13 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AMENDMENT B MOTION: Commissioner Ecklund moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.030 – Propose Street Layout Requirements, KPB 20.30.120 – Streets, Width Requirements, KPB 20.30.170 – Blocks, Length Requirements and KPB 20.30.210 – Lots, Access to Street citing findings 1, 4, 7, 8, 12-14, 16 & 19 in support of standards one, two and three.

Commissioner Ruffner noted the State of Alaska generally weighs in on public water access on plats and he did not seen any comments from them in the staff report. Did he miss them or did the State have no comments. Mr. Huff replied they had not received any comments from the State. He then noted there was an existing public access easement which was put in place when the section line easement was vacated which does provide legal public access to the river.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT B MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - Birchwood Subdivision Sherman Addition No 2

KPB File No.	2021-090
Plat Committee	July 12, 2021
Meeting:	
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. Ciufu 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 given by Scott Huff.

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.
SOA DOT comments	No comment

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

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 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:
- East of Reger Road correct the following:
 - o Tract 1A to Lot 1A
 - o Tract 1B to Lot 1B
 - o 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.

E. 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.

F. 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 applies.

- *“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.”*
- *“WASTEWATR 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)

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 shorthanded 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.

STAFF REPORT - ADDENDUM

After the staff report was prepared, the surveyor contacted Staff and requested an exception to KPB 20.30.120 Streets – Width requirements for providing a matching dedication of Edgington Road right of way.

EXCEPTIONS REQUESTED:

C. KPB 20.30.120 – Streets – Width requirements

Surveyor's Discussion: After the completion of the plat the land owners intend to sell the 24 acre parcel to an adjacent land owner who wants to keep it undeveloped at this time until they come up with a plan. Future

development is possible but the configuration has yet to be determined.

Staff Discussion: Edgington Road is a 60 foot wide right of way from the intersection of Fannie Mae Avenue to the northwest corner of this proposed subdivision. Edgington Road is a 30 foot wide dedicated right of way where fronting the west boundary of this proposed subdivision. Edgington Road is a 30 foot wide dedicated right of way extending south from the southwest corner of this subdivision to the intersection of Reger Road.

There are 12 parcels that front on Edgington Road. 9 parcels front on multiple right of ways. 3 parcels have access only from Edgington Road where the right of way is 30 foot in width.

Edgington Road is affected by sloping terrain, and is not affected by low wet areas.

Lots 7 and 6, located to the southwest, are owned by William Harris. Lots 8 and 5, located to the southwest, are owned by Don McKay. Lots 9, 4, 3, and the unsubdivided 20 acre parcel are owned by Mark and Susan Krizer. Land owners that own multiple lots appear to be using Urban Street and Reger Road for access. The owners are able to transfer each lot separately.

Both Urban Street and Reger Road are improved and KPB maintained roads.

Edgington Road does not appear to be improved or used as access to neighboring parcels at this time.

An overhead utility line is located within Edgington Road from the intersection of Fannie Mae Avenue to the northeast corner of Lot 2.

Findings:

1. After the completion of the plat the land owners intend to sell the 24 acre parcel to an adjacent land owner who wants to keep it undeveloped at this time until they come up with a plan.
2. Future development is possible but the configuration has yet to be determined.
3. Edgington Road is a 60 foot wide right of way from the intersection of Fannie Mae Avenue to the northwest corner of this proposed subdivision.
4. Edgington Road is a 30 foot wide dedicated right of way where fronting the west boundary of this proposed subdivision.
5. Edgington Road is a 30 foot wide dedicated right of way extending south from the southwest corner of this subdivision to the intersection of Reger Road.
6. There are 12 parcels that front on Edgington Road. 9 parcels front on multiple right of ways. 3 parcels have access only from Edgington Road where the right of way is 30 foot in width.
7. Edgington Road is affected by sloping terrain.
8. Edgington Road is not affected by low wet areas.
9. Lots 7 and 6, located to the southwest, are owned by William Harris.
10. Lots 8 and 5, located to the southwest, are owned by Don McKay.
11. Lots 9, 4, 3, and the unsubdivided 20 acre parcel are owned by Mark and Susan Krizer.
12. Land owners that own multiple lots appear to be using Urban Street and Reger Road for access. Both Urban Street and Reger Road are improved and KPB maintained roads.
13. The owners of multiple lots can transfer the lots separately.
14. Edgington Road does not appear to be improved or used as access to neighboring parcels at this time.
15. An overhead utility line is located within Edgington Road from the intersection of Fannie Mae Avenue to the northeast corner of Lot 2.
16. This subdivision is able to provide a 30 foot half dedication to comply with KPB 20.30.120 Streets – width requirements.

Staff reviewed the exception request and based on findings 3, 4, 6, 13, 15, 16 does not recommend 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;
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;
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.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

END OF STAFF REPORT ADDENDUM

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

Chair Carluccio opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant preliminary approval to Birchwood Subdivision Sherman Addition No. 2 based on staff recommendations and compliance to borough code.

AMENDMENT A MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant exception request to KPB 20.30.030 – Proposed Street Layout Requirements and KPB 20.30.170 – Block Length Requirements, citing findings 8-12 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AMENDMENT B MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant exception request to KPB 20.30.190 – Lot Dimensions, depth to width ratio for Lot 7A, citing findings 4, 6, & 7 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT B MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AMENDMENT C MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to grant exception request to KPB 20.30.120 – Street Width Requirements

Commissioner Ruffner stated that he will be following staff recommendations and will not vote in favor of this exception. If the subdivision does get reworked in the future they can request to vacate the road at that time.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT C MOTION FAILED BY UNANIMOUS VOTE

Yes	0	No	4
Yes			
No	Carluccio, Ecklund, Ruffner, Venuti		

AMENDMENT D MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund attach findings 3, 4, 6, 13, 15 & 16 to support the denial of exception request to KPB 20.30.120 – Street Width Requirements.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT D MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

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 given by Scott Huff.

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.

G. 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.

H. 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

Chair Carluccio opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Ruffner to grant preliminary approval to Bay View Subdivision 2018 based on staff recommendations and compliance to borough code.

AMENDMENT MOTION: Commissioner Venuti moved, seconded by Commissioner Ruffner to grant exception request to KPB 20.30.120- Street Width Requirements, citing findings 1-5, 7 & 8 in support of standards one, two and three

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS**ITEM 5 - Spruce Woods Subdivision 1975 Addition Tract 1 Replat**

KPB File No.	2021-091
Plat Committee Meeting:	July 12, 2021
Applicant / Owner:	Linda and Mark Roth of Homer, AK
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Saber Avenue E, Yukon Street and East End Road, mile post 8.75 East End Road, Fritz Creek area

Parent Parcel No.:	172-131-21
Legal Description:	Tract 1, Spruce Woods Subdivision 1975 Addition, Plat No 75-12
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 10.9 acre parcel into three lots ranging in size from 2.0 to 6.3 acres. A right of way dedication is also proposed at the intersection of Yukon Street with East End Road. This dedication will make the intersection compliant to KPB Code.

Legal Access (existing and proposed): The subdivision is located at the corner of East End Road and Yukon Street. East End Road is a state maintained right of way with a 100 foot width in this area. Yukon Street is a 60 foot dedicated right of way that is a gravel road maintained by the Kenai Peninsula Borough. North of the subdivision is Saber Avenue E. Per KPB GIS data, this right of way is not constructed. The width of Saber Avenue E varies as several lots to the north have not been subdivided to provide the matching 30 feet. Spruce Woods Subdivision 1985 Addition, Plat HM 75-12, granted a 30 foot wide dedication for Saber Avenue E.

Staff recommends a reference to the state right of way map be added to the plat. This may be done within the depicted East End Road right of way or added to a plat note. The record information is per Homer: East End Road, M.P. 3.75-12.2, Kachemak Drive to McNeil Canyon (0414(10)/Z524770000) sheets 29 & 30 of 53, HM 2016-3.

The proposed subdivision is within a closed block. The block is defined by East End Road, Yukon Street, Saber Avenue E, and Greer Road. The block length along Yukon Street and Greer Road are in compliance with Kenai Peninsula code. The block length along Saber Avenue E and East End Road does exceed code required lengths. In order to bring the block into compliance a dedication would be required that would connect Saber Avenue E and East End Road. A dedication along the eastern boundary of the subdivision will create a compliant block for this subdivision, would need to go through steep terrain and wetlands, and would result in the block to the east still being out of compliance. The eastern block would be required to be split into two blocks in order to be compliant. That would result in three small compliant blocks for 7 lots. Including Lot 1A of this subdivision there would be three lots over 5 acres. This will also create additional intersections with a state right of way. **Staff recommends** that the Plat Committee concur that an exception to block length is not required due to existing development, terrain, wetlands, and multiple intersections on a State highway and a right of way dedication is not requested at this time.

KPB Roads Dept. comments	Within jurisdiction; The Road Service Area has no comments at this time.
SOA DOT comments	The ROW for Homer East/East End Road is shown on Homer: East End Road, M.P. 3.75-12.2, Kachemak Drive to McNeil Canyon (0414(10)/Z524770000) sheets 29 & 30 of 53, and appears to be shown correctly.

Site Investigation: The plat depicts the low wet areas located in the northern portion of the subdivision within proposed Lot 1A. There are also various areas with slopes greater than 20 percent that are shown with grey shading.

The appropriate note is on the plat to contact the U.S. Army Corps of Engineers prior to development.

Proposed Lot 1B will contain the existing building and residential improvements.

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

Staff Analysis The proposed plat is a subdivision of Tract 1 created by Spruce Woods Subdivision 1975 Addition, Plat KN 75-12.

Staff recommends the name of the subdivision be shortened. Suggestions would be Spruce Woods Subdivision 2021 Replat or Spruce Woods Subdivision Roth Addition. Other names will require approval by Kenai Peninsula Borough staff.

A soils report will be required for Lot 1B and Lot 1C and an engineer will sign the final plat. Lot 1A is greater than 200,000 sq. ft. and will not require a soils analysis report. The appropriate plat notes will need to be added to the plat.

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.

Utility Easements A 10 foot utility easement was granted along the eastern boundary of Tract 1 by Spruce Woods Subdivision 1975 Addition, Plat HM 75-12. This easement is depicted and labeled on the plat and will be within proposed Lots 1A and 1B. In addition, plat note 2 is granting 10 foot utility easements along the right of ways. This is not depicted and should be if it will not interfere with required information.

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 comment or recommendations
ACS	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected addresses: 55320 East End Road and will remain with Lot 1B. Existing Street Name Corrections Needed: Homer East Road should be East End Road, Sabre Avenue E should be Saber Avenue E
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	Kachemak Bay APC comments / minutes were not available when the staff report was prepared.

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS**CORRECTIONS / EDITS**

The subdivision boundary appears to be creating an overstrike on some of the marker symbols. Adjust so overstrikes are not created.

KPB 20.25.070 - Form and contents required.

- 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:

- Provide a width label of 60' for Bonnie
- Saber Ave. E. north of the subdivision is misspelled as "Sabre".
- The width of Saber Avenue E varies. Abutting the subdivision, the western portion is 30 feet wide while the eastern is 60. Update the depiction of the right of way with correlating width labels.
- Provide a street label and width for Tok Avenue.
- Correct the label for East End Road.
- Remove the overstrike on the label for Yukon Street.

- 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:

- Add adjacent parcel information for lots north of Saber Ave. E.
- The lots from HM 77-8 are within Block 1. Add a Block 1 label.

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:

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: In accordance with 20.40.040 a soils analysis report is required for proposed Lot 1B and Lot 1C and an engineer must sign the plat.

Staff recommendation: Provide the correct wastewater disposal note for all lots. 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 comments: KPB legal and planning department has determined the KPB shall sign the plat to accept right of ways that will be under KPB jurisdiction.

Staff recommendation: Provide a certificate of acceptance for KPB to accept the ROW being dedicated with this plat.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Provide a right of way acceptance for KPB to sign. Comply with 20.60.190.

RECOMMENDATION:**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

Chair Carluccio opened the item for public comment.

Gary Nelson, Ability Surveys; 152 Dehel Avenue, Homer, AK 99603: Mr. Nelson was the surveyor on this project and made himself available for any questions.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Ecklund to grant preliminary approval to Spruce Woods Subdivision 1975 Addition, Tract1 Replat based on staff recommendations and compliance to borough code.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Carluccio, Ecklund, Ruffner, Venuti		
No			

F. PUBLIC COMMENT – None

G. ADJOURNMENT

Commissioner Ecklund moved to adjourn the meeting 7:02 P.M.

Ann E. Shirnberg
Administrative Assistant