

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - Stanley's Meadow 2021

KPB File No.	2021-086
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Ina L. and Cecil R. Jones of Fritz Creek, Alaska and Stephanie J. and Billy R. Jones of Homer, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Fritz Creek/ Kachemak Bay APC

Parent Parcel No.:	185-430-25, 185-430-26, 185-430-35 and 185-430-38
Legal Description:	Lots 8-A, 9-A, 10-A and 18-A, Stanley's Meadow No 11 ADEC Power-Trip Replat, HM 93-60.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site/On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure four lots, finalize multiple utility easement vacations, and finalize a right of way vacation to create two lots that will be 1.617 acres and 14.035 acres.

Legal Access (existing and proposed): Access is from state maintained East End Road. Ratone Street is located near mile 17.5 of East End Road. At the end of the Ratone Street dedication is Elmers Way and Perkins Road intersects Elmers Way. All access right of ways are at least 60 feet in width and are a combination of dedicated right of ways and section line easements. A travel way is constructed in the southern portion of Perkins Road. None of the right of ways are maintained by KPB Roads Department.

The subdivision is within a non-compliant block. Perkins Road was a continuous right of way until Stanley's Meadow No. 13, Plat HM 93-34, vacated a portion in 1993. The northern section of Perkins Road now terminates in a cul-de-sac. The vacation has resulted in this subdivision being in a block made of several streets that do not form a looped block. An exception has been requested for block length requirements.

KPB Roads Dept. comments	Within jurisdiction, no comments at this time
SOA DOT comments	No comment

Site Investigation: The plat submitted with this vacation depicts the Kenai Watershed Forum ecosystem identified as riverine. The riverine ecosystem appears to be location within a portion of Cove View Court and Perkins Road.

The slopes greater than 20 percent are shaded. The steep slopes affect a portion of Cove View Court and Perkins Road. The subdivision is bordered on the east and south by steep gullies with drainages.

Staff recommendation: *place a note on the final plat indicating any person developing the property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable.*

Floodplain Hazard Review	Not within a flood hazard area, no comments
Anadromous Waters Habitat Protection District Review	Is not within HPD, no comments
State Parks Review	No comments

Staff Analysis The proposed plat will finalize several utility easement vacations, finalize the vacation of Cove View Court right of way, and reduce four lots to two lots. Both proposed lots will have access via Perkins Road.

Cove View Court was dedicated on Stanley's Meadow No. 11, Plat HM 91-47 with the creation of lots similar to how they are currently configured. Plat HM 93-60, Stanley's Meadow No. 11, slightly changed the lots to the current configuration.

The Planning Commission at the July 12, 2021 meeting approved the vacation of Cove View Court and associated utility easements. The right of way vacation has been forwarded to the Kenai Peninsula Borough Assembly for consent or veto and is scheduled for a hearing on August 3, 2021. If the Assembly consents to the Planning Commission decision, the plat must be recorded prior to August 3, 2022 to finalize the vacation of Cove View Court.

The vacation of the additional utility easements is scheduled to be heard by the Planning Commission on the August 9, 2021 meeting. If the vacations are approved, they must be finalized before August 9, 2021 by resolution or recording of the plat.

Per KPB 20.40.020, a soils analysis report will not be required. The existing parent subdivision did receive approval from Department of Environmental Conservation for parent lots 8A, 9A, and 10A. An official signed the plat on July 19, 1993. In addition, Lot 8-B is increasing the square footage of the parent lot by 22,085 square feet due to the right of way vacation. Lot 9-B is also increasing in size due to the combining of three lots and the right of way vacation. Former Lot 18-A was not included in the wastewater review due to the size of the lot being over 5 acres.

Staff recommends the following wastewater disposal note be placed on the plat. *"WASTEWATER DISPOSAL: The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on July 19, 1993. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation."*

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 beneficial interest holders affect the property.

Kachemak Bay Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Utility Easements The vacation of utility easements adjoining Cove View Court were approved with the vacation of the right of way. The Planning Commission will be reviewing the vacation of the interior easements at the August 9, 2021 meeting. The parent plats granted 5 foot utility easements along each side of side lot lines. The vacations will no longer encumber the new lot with easements dividing the lot.

A 10 foot utility easement will remain along Perkins Road. Homer Electric Association's review of this plat was "no comments". Their review of the utility easement vacations requested a note be carried over from the parent plat.

Staff recommends plat note #4 from plat HM 93-60 be carried over, *"10 foot utility easement exists along each side of all existing powerlines, guys, and anchors."*

The parent plat did depict two powerlines that run through Lot 9-B. **Staff recommends** the powerlines be depicted on the plat as they are subject to the above utility easement.

An easement was also granted to Homer Electric Association by recorded document with no location defined. **Staff recommends** a plat note be added that references any easements of record.

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

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: none All existing street names shown are correct. Cove View Court will be deleted
Code Compliance – Eric Ogren	No comment
Planner – Bryan Taylor	There are no local option zoning district or material site issues with the proposed plat.
Assessing – Adeena Wilcox	No comment
Advisory Planning Commission	Comments 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

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:** *Within the title block, note that this plat is also vacating utility easement as depicted on the drawing.*
- 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:** *Add a width label for Perkins 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:** *Clear overstrikes for Section 33 and 35 labels.*
- 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:** *Tract 2-C, north of the subdivision, did not have a block designation on the plat. Remove the block label.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Parent lots 8A, 9A, and 10A were approved by DEC on 7/19/93. Lot 8-A new configuration of Lot 8-B is increasing in size by 22,085 square feet. Lot 9-A, 10-A, and 18-A are being combined into one 14.035 acre lot. All parent lots are increasing in size and a soils analysis report is not required.

Staff recommendation: Add required plat notes and 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.

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.

- A 10 foot utility easement exists along each side of all existing powerlines, guys, and anchors. (depict the overhead utility line that crosses through lot 9-B and label with a reference to the correct plat note)
- Subject to an easement for electric lines or system and/or telephone lines together with right to enter, maintain, repair and clear shrubbery as granted to Homer Electric Association, Inc. in Book 90 Page 167, HRD. No definite location disclosed.
- Add a plat note for any exception granted.
- Add the appropriate Wastewater disposal notes.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Revise the plat approval note. "This plat and utility easement vacations were approved by the Kenai Peninsula Borough Planning Commission at the meeting of August 9, 2021. The vacation of Cove View Court and associated utility easements were approved by the Kenai Peninsula Borough Planning Commission on July 12, 2021." Comply with 20.60.190.

KPB 20.70 – Vacation Requirements

Staff recommendation. In order to finalize the vacation of Cove View Court the plat will need to be recorded within one year of Borough Assembly consent. The utility easement vacation must be finalized within one year of PC approval by recording the plat or requesting a resolution be adopted by the PC.

EXCEPTIONS REQUESTED:

A. KPB 20.30.170 – Block – Length Requirements

Surveyor's Discussion: Exception needed for Block Length due to topographical constraints.

Staff Discussion: The subdivision is within an open block that does not comply with block length limits. The area is affected by steep terrain and gullies. The boundary of this subdivision is located at the bottom of the gullies.

Several right of ways in the area end are dead-ended with a cul-de-sac. Per KPB Code, cul-de-sacs are to be considered permanently closed. It is possible to open the cul-de-sac with written signatures of landowners along the right of way.

A portion of Perkins Road was vacated in 1993 which created two dead end sections of Perkins Road as well as an open block.

To the east of the subdivision is Jones Drive, which also ends in a cul-de-sac and is located on the other side of the riverine and steep slopes.

If denied, this platting action would be required to provide a 30 foot right of way dedication on the north boundary.

Findings:

1. The subdivision is located within an open block.
2. Elmers Way and Perkins Road define the block.
3. The southern portion Perkins Road is approximately 1,180 feet in length.
4. The portion of Perkins Road that connected to the northern Perkins Road was vacated in 1993.
5. Steep slopes and riverine are located at the end of the southern portion of Perkins Road.
6. Steep slopes and riverine are between the southern portion of Perkins Road and the constructed portion of the northern portion of Perkins Road.
7. The vacation of Cove View Court does not change the block compliance. It currently ends in a cul-de-sac and is at the end of Perkins Road.
8. The area has several large acreage lots that could provide right of way dedications.
9. Getting a compliant block may be difficult due to wetlands and steep slopes.

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 1-9 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 1-9 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 1-9 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 (3:1 depth to width ratio)

Surveyor's Discussion: We ask for the exception based on the idea that we are only vacating right-of-way, topographical constraints of steep canyons, and both parcels are owned by one family that may replat at a later date.

Staff Discussion: Both lots fail to meet the 3:1 depth to width ratio. The vacation of the right of way makes the frontage for both lots be Perkins Road.

The proposed boundary between Lot 8-B and 9-B appears to separate agricultural improvements.

Lot 9-B is 14 acres in size and can be further subdivided.

Findings:

1. Lot 8-B has a depth to width ratio of 4.5:1.
2. Lot 9-B has a depth to width ratio of 3.3:1.
3. Steep slopes affect both lots.
4. Lot 9-B has large areas of wetlands.
5. Lot 8-B cannot be widened to improve width without limiting Lot 9-B's access to Perkins Road due to wetlands and terrain.
6. Lot 8-B would have to have the average depth reduced to approximately 376 feet to comply.
7. Changing Lot 8-B's depth to comply will cause Lot 8-B to be approximately 47,000 square feet (1.07 acres).
8. The proposed configuration will bring new Lot 9-B into compliance as Lot 18-A was a flag lot that did not meet current KPB Code requirements.
9. The proposed boundary between Lot 8-B and 9-B appears to separate agricultural improvements.

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.

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Findings 1-9 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 1-9 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