

AGENDA ITEM E. NEW BUSINESS

ITEM 12 - Emery Subdivision

KPB File No.	2021-100
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	David A. and Sandra R. Emery of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	Kalifornsky / Kalifornsky APC

Parent Parcel No.:	131-310-07, 131-310-10, 131-310-20, 131-310-22
Legal Description:	NE1/4 SW1/4 Section 3 Township 4 North Range 11 West (4 parcels with metes/bounds descriptions)
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine four lots with metes and bound descriptions into one parcel and include a 30 foot wide right of way dedication for Wendy Lane.

Legal Access (existing and proposed): The proposed subdivision is located on Wendy Lane, a dedicated right of way with varying widths. Wendy Lane is located off Gaswell Road, which connects to Kalifornsky Beach Road. All roads are maintained by State of Alaska DOT.

The subdivision is located within a closed block defined by Helgeson Avenue W, Gaswell Road, Wendy Lane, and Scotch Run Street S. Not all portions of the rights of way have been dedicated to full width requirements and some of the rights of way are partially constructed.

The north-south block length complies with code and is approximately 920 feet in length. The east-west block length is out of compliance and is approximately 2,560 feet in length. Due to the narrow deed lots on both sides and existing structures and development to the north, this plat will not be able to provide a right of way dedication to help with block length. ***Staff recommends the plat committee concur that an exception to block length is not required, as any dedications will not improve the block requirements at this time and are limited due to existing development.***

Wendy Lane is a state right of way and has varying widths. There is a portion of Wendy Lane south of this subdivision. The width needs to be verified and labeled on the plat. The proposed dedication is 30 feet but the State of Alaska is requesting a 50 foot dedication from centerline. The dedication may need to be widened if the portion to the south is less than 20 feet. The dedication south of the neighboring eastern deed lot will only be allowed a max dedication of 30 feet. If the deed lot is ever subdivided additional dedication may be required.

Depictions of Wendy Lane appear on a Land Estate map but staff could not find reference to a PLO, ADL, or easement document. The certificate to plat did not include any easements. ***Staff recommends the right of way dedication provide the appropriate width to meet the 50 foot width from centerline requested by State of Alaska DOT.***

KPB Roads Dept. comments	Within jurisdiction, no comments
SOA DOT comments	We request that the dedicated ROW width equal 50' from centerline along Wendy Lane.

Site Investigation: Per KPB GIS data, the subdivision does not have any low wet areas and is relatively flat with

no steep slopes.

Aerial imagery shows improvements located on the south portion of Lot 1 with little or no development on the north portion of Lot 1.

Neighboring parcels are developed with residential improvements.

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 subdivision will combine four metes and bounds deed parcels into one lot that will be 4.352 acres. The subdivision will also provide a 30 foot wide dedication for Wendy Lane.

The front parcels contain a residence and shop. Per KPB GIS data, the shop may be encroaching on a side lot line. Combining the lots will resolve the shop encroachment.

The parcels within this subdivision are metes and bounds parcels as are numerous lots surrounding the subdivision. Platted subdivisions have been completed to the west and north of the subdivision.

There is an approximate 10 foot strip of land on the east side of the subdivision that appears to be a gap from between the deeded parcels. There is no mention of this piece of land within the certificate to plat or the descriptions provided within the documents contained in the certificate to plat. It does not appear to be an accepted right of way or borough managed easement. The lots to the east are also deed parcels with metes and bounds descriptions. Research will be required to determine the ownership of this strip of land. This will require pulling deeds and documents for the lots within the subdivision and for neighboring lots. The recording of documents will need to be reviewed to determine the senior documents and follow the splitting of lands to the most current to determine the ownership of the strip of land. **Staff recommends the surveyor research this strip of land by reviewing neighboring deeds and determine if the strip, or gap, in land exists and if so, who the owner of the land is.**

To the west of the strip, or gap, of land are three deed parcels. The three parcels are under common ownership. The two northerly deed parcels appear to have no legal access. Any dedication required to provide access will not improve the access issue due to the deed parcel directly east. The ability to obtain a matching dedication from the deed parcels to the east are difficult due to structures. Also, the width of the deed lot is only 73 feet wide.

Plat note 5 is regarding an access easement. Reviewing the document granting the easement it appears to be the eastern 73 feet of the lot being dedicated as right of way. **Staff recommends the surveyor verify the location of the easement and depict the easement or update the plat note accordingly.**

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.

Kalifornsky 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 As the property has not been part of the KPB platting process, this plat will be granting utility easements along the right of way.

An easement was granted to HEA by recorded document and is noted in plat note 4.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant and depict utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

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

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 48700 Wendy Lane and will remain with new Lot 1 All existing street names shown are correct
Code Compliance – Eric Ogren	No comment
Planner – Bryan Taylor	There are not any Local Option Zoning District or material site issues with this proposed plat.
Assessing – Matt Bruns	No comment
Advisory Planning Commission	Comments not received prior to staff report being prepared.

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

The scale for the plat appears to be off. Either update the drawing scale or correct the scale within the title block.

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:

- Add widths for Wendy Lane. There is a small portion south of the dedication that should be labeled as well as the dedications to the east and west.
- If documentation is found or presented for Wendy Lane right of way include in a plat note with the information.

- 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: Add range labels for the line between section 36 and 31, as this is the line the range changes. Remove the range label between section 11 and 12.

- 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:

- There is a strip of land, or gap, between the subdivision boundary and deed parcels to the east. Perform the necessary research to determine the correct boundary and possibly the correct ownership of this land and update the boundary and plat accordingly.
- The depiction of the lots south of Wendy Lane are incorrect and need to be moved approximately 176 feet to the west. Colson Street dedication is in line with the most western subdivision boundary.

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:

20.30.030. Proposed street layout-Requirements.

A. The streets provided on the plat must provide fee simple right-of-way dedications to the appropriate governmental entity. These dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Adequate and safe access for emergency and service vehicle traffic shall be considered in street layout.

B. Subdivision of land classified as agricultural conveyed subject to AS 38.05.321(a)(2)(B) may provide public access easements in lieu of fee simple dedications if necessary to comply with the minimum lot size restriction of the statute. The public access easements must meet all applicable right-of-way design criteria of Title 20 and are subject to the building setback requirements set forth in KPB 20.30.240.

C. Preliminary plats fronting state maintained roads will be submitted by the planning department to the State of Alaska Department of Transportation and Public Facilities (DOT) for its review and comments.

Staff recommendation: Provide the current right of way widths for Wendy Lane on all sides of the proposed dedication. Verify the width for the portion south of the dedication. State DOT has requested a 50 foot dedication from centerline. Provide the correct dedication width.

20.30.240. Building setbacks.

A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

A. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

B. The setback shall be noted on the plat in the following format:

Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

C. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:

Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

Staff recommendation: Depict and label the 20 foot building setback.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Lots are being combined and increasing in size by more than 1,000 square feet. Soils analysis report is not required per 20.40.020(A)(2). Revise the plat note.

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.

20.60.040. 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 recommendation: *An acceptance for any right of way dedications must be added to the plat to be signed by a State of Alaska DOT. Please coordinate with the State DOT to verify the statement and determine who is the official required to sign the mylar. Wording for the acceptance may be found in KPB Code 20.60.190(7).*

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: *Clearly show what was used to determine the boundary or add a plat note stating how the boundary was determined from record deeds.*

20.60.160. Easements.

A. The plat shall clearly show the location, width, and use of all easements. The easements must be clearly labeled and identified and, if already of record, the recorded reference given. If public easements are being granted by the plat, they shall be properly set out in the owner's certification of dedication.

1. Special purpose easements being granted by the plat shall be clearly defined for allowed use. Special purpose easements may require a signed acceptance statement on the plat.

B. Private easements may not be granted on the plat.

Staff recommendation: *An easement was granted by document and is noted in plat note 5. The easement stated the name of the grantee and to his/her successors and assigns. The easement is private. Staff requests the location be determined and depiction with label referring to the note be added or update the note accordingly. Staff requests the wording in the plat note be revised. Comply with 20.60.160.*

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.*

- *"No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation."*

Make the following corrections to the notes listed on the plat.

- Note 3 – update the code reference to match new code. "20.60.170"
- Note 4 – Add, "no definite location disclosed".
- Note 5 – remove the name from the note as the easement was also to heirs and successors. Remove "granted to Joe Mead."
- Note 5 – Change to "A private easement for access..."
- Note 5 – If it is determined the private easement coincides with the dedication add to the plat note the following. Update the sentence to the true location. "This easement is located within the eastern 73 feet of the 30 foot dedication of Wendy Lane."

- Note 6 – reword to “Front 10 feet adjoining dedicated rights of way and 20 feet within 5 feet of side lot lines is granted as a utility easement by this plat. No permanent...”
- Note 7 – “Engineer’s Subdivision and Soils Report is not available for this subdivision. A wastewater system review is not required as outlined in KPB 20.40.020(2). Soil conditions may be unsuitable for onsite wastewater treatment. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.”

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *Acceptance required. Comply with 20.60.190.*

20.60.200. Survey and monumentation.

Staff recommendation:

- *The record datum listed in the legend does not match the plat listed in plat note 1. The plat shown in the legend is not within the area of this plat.*
- *The legend states that record data is within parenthesis. There is no information presented on the face of the plat within parenthesis.*
- *Correct any overstrikes on symbols on the face of the plat.*
- *A tie is required from the GLO/BLM monuments.*
- *comply with 20.60.200*

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