

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - Bluesky Subdivision 2021 Addition

KPB File No.	2021-107
Plat Committee Meeting:	August 23, 2021
Applicant / Owner:	Trimark Earth Reserve LLC of Anchor Point, Alaska
Surveyor:	Dmitri D. Kimbrell / Fineline Surveys, Inc.
General Location:	Anchor Point / Anchor Point APC

Parent Parcel No.:	169-320-04
Legal Description:	Tract C, Bluesky Plat HM 81-88
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide one tract into two lots. Lot 1 will be 4.796 acres and Lot 2 will be 14.882 acres. A 33 foot wide right of way is proposed to be dedicated atop a section line easement on the north boundary.

Legal Access (existing and proposed): The proposed subdivision is located off the Old Sterling Highway, a state maintained right of way.

A 66 foot wide section line easement affects the north end of the subdivision. A 83 foot section line easement, common with a 30 foot right of way named Deuce Avenue extends to the east. This plat proposes will provide a right of way dedication on the north 33 foot to coincide with the section line easement and provide a continuation of Deuce Avenue.

To the southeast is a 60 foot wide dedicated right of way named Van Seventer Avenue. Deuce Avenue and Van Seventer Avenue are under KPB jurisdiction but neither are constructed at this time.

An additional 30 foot right of way is located in the northwest corner named Skippy Street which provides access from the subdivision to the Old Sterling Highway. Skippy Street it is not maintained. Per KPB GIS Imagery, there appears to be a driveway constructed within Skippy Street that provides access to the structures within proposed Lot 1.

Due to the design of the Old Sterling Highway and the existing development the block is irregular and not closed. Deuce Avenue and section line easements, Old Sterling Highway, Van Seventer Avenue, and additional section line easements define the block. Staff does not recommend a continuation of Van Seventer Avenue as the existing dedication is 60 feet wide and any dedication by this plat will result in an offset right of way. The property to the south is 400 acres in size and owned by the Kenai Peninsula Borough. If the borough divides the property or if a continuation is needed it can be granted by the KPB.

KPB Roads Dept. comments	Within jurisdiction, no comments
SOA DOT comments	No comments

Site Investigation: There are low wet areas within the proposed subdivision. Kenai Watershed Forum wetland mapping shows that the entire subdivision is affected by ecosystems identified as wetland / upland complex or kettle. The preliminary plat depicts the approximate limits of the low wet area with a dotted line that shows both proposed lots will be affected. Plat note 4 addresses the need to contact the U.S. Army Corps of Engineers. The parent plat noted that a portion of the low wet areas was considered a lake. Aerial imagery from 2016 appears to

show standing water in that area. **Staff recommends** *If this is a year round waterbody indicate an approximate boundary and label.*

There appears to be several areas within the proposed subdivision with steep slopes. Areas include around the low wet areas and near the proposed dedication. Per KPB 20.30.090, it must be demonstrated that streets can be constructed in accordance with current borough road standards. Submittal of centerline profiles and cross-sections may be required to demonstrate compliant construction is feasible. **Staff recommendation** *depict any steep slopes greater than 20 percent and provide centerline profiles and cross-sections along the dedication to determine if additional easements are required.*

Floodplain Hazard Review	Not within flood hazard area. Portions of parcel are located within a D Zone, an Undetermined Flood Risk
Anadromous Waters Habitat Protection District Review	Is not within HPD, no comments
State Parks Review	No comments
ADF&G	No objections.

Staff Analysis An existing shop and house will be located on Lot 1 as this action will separate them from the remainder of the property. The parent lot was created by Bluesky, HM 81-88, which was a subdivision of aliquot lands. The western boundary contains a small jog on the line due to the existing improvements on Tract A-1.

Both lots will be greater than 200,000 square feet, a soils analysis report is not required, and an engineer will not need to sign the final plat.

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.

Anchor Point 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 parent plat, Bluesky HM 81-88, granted a 10 foot utility easement along the eastern lot line. This is depicted and labeled correctly. The parent plat also granted a 10 foot utility easement on each side of the existing powerline. The overhead powerline is depicted as well as the 20 foot easement with a label. **Staff recommends** *the label be expanded to say 20 foot utility easement centered on existing powerline as granted by HM 81-88 or a plat note be referenced and added giving the details.*

The certificate to plat shows a blanket easement granted to Homer Electric Association by book 49 pages 269 and 270. **Staff recommends** *a plat note be added, "A right of way easement granted to Homer Electric Association, Inc., and its assigns and/or successors in interest, to construct, operate and maintain an electric transmission and/or telephone distribution line or system by instrument recorded on June 4, 1968 in Book 49 and Pages 269 and 270, HRD. The location is not defined."*

The plat will be granting 15 foot utility easements along dedicated right of ways. **Staff recommends** *reword plat note 2, "The front 15 feet adjoining dedicated right of ways and 20 feet within 5 feet of side lot lines is a utility easement. No permanent..." Depict utility easements if scale will allow without interfering with other 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	No comments.
ENSTAR	No comments or recommendations.
ACS	
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 36633 Old Sterling Highway (will remain with Lot 1) Existing street names are correct. New dedication street name is correct and approved.
Code Compliance – Eric Ogren	No comment.
Planner – Bryan Taylor	There are not any local option zoning district issues or material site issues associated with this subdivision.
Assessing – Matt Bruns	No concerns from Assessing Department.
Advisory Planning Commission	Comments not received 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

Staff recommends the depiction of the 20 foot building setback from all dedicated right of ways if it does not interfere with the legibility of the plat as described in KPB 20.30.240.

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: *Add the name of the subdivision, Bluesky and the plat number HM81-88. Verify the acreage and update accordingly.*

- 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: *Label the Deuce Avenue dedication to the east of the subdivision and provide a width label. Verify the section line easement, depict, and label the easement to the north of the subdivision. Update the label for Van Seventer to include "Avenue". Depict and label the Old Sterling Highway located northwesterly of this subdivision.*

- 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: *Depict the shoreline and label Cook Inlet.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils analysis report will not be required as both lots are greater than 200,000.

Staff recommendation: Correct the existing note to remove "or nominal 5 acres", 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 will be required to be signed by a Borough Official.

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: Try to have all bearings and distances face the same direction on the plat. Additional lot breakdowns will need distances and bearings. Comply with 20.60.110.

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."
- Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program (KPB 14.06).
- Add a note for any exceptions granted.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Provide a Certificate of Acceptance for KPB to accept the right of way that is being dedicated with this plat. Add "Member" behind Mr. Shaffer's name on his signature line. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

KPB 20.30.170 – Blocks-Length requirements

Surveyor's Discussion:

Staff Discussion: The block is not closed and exceeds allowable limits. Old Sterling Highway, Deuce Avenue, Van Seventer Avenue and section line easements, define the block.

Skippy Street is a north-south right of way dedication located at the northwest corner of this subdivision. Due to the location of improvements, both on proposed Lot 1 and neighboring Tract A-1, a continuation of that right of way to improve the block is not practical.

If the exception is denied a dedication will be required. **Staff recommends** that if the exception is denied a 60 foot wide dedication be granted adjoining the eastern boundary to connect Deuce Avenue and Van Seventer Avenue and provide any additional road back slope easements that may be required based on steep terrain.

Findings:

1. The block is not closed due to Van Seventer Avenue not being continued.
2. A dedication of Van Seventer Avenue with this plat will result in an offset right of way.
3. Lot 1 will contain an existing shop and house.
4. Due to the location of the existing shop and the structures on the neighboring lot, a dedication along the western boundary is not practical and difficult to obtain a full dedication.
5. Wetlands are present along the middle and eastern portion of the subdivision.
6. The lot south of the subdivision is a 400 acre parcel owned by the Kenai Peninsula Borough.
7. The large lot owned by the Kenai Peninsula Borough can provide a 60 foot wide continuation of Van Seventer Avenue if ever subdivided or prior to sale.
8. East of the subdivision is Lot 2A and 2D. Both have structures located along the eastern portions of their lots as the western areas contain low wet areas.
9. The lots to the east are large enough to be subdivided but due to existing structure placement and low wet areas future right of way dedications are not anticipated.
10. A dedication from Deuce Avenue to Van Seventer Avenue will improve the block by splitting the current block.
11. The proposed subdivision will not be within a compliant closed block even if a dedication is required.
12. The block length from Deuce Avenue to Van Seventer Avenue if a dedication is required will be approximately 1,340 feet.

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 4-9 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 4-9 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 4-9 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