

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - Green Forest Subdivision Carew Addition

KPB File No.	2021-106
Plat Committee Meeting:	August 23, 2021
Applicant / Owner:	Maria Helen and Robert J. Carew of Nikiski, Alaska
Surveyor:	Dmitri D. Kimbrell / Fineline Surveys, Inc
General Location:	Nikiski

Parent Parcel No.:	013-450-25, 013-450-26
Legal Description:	Lots 13 and 14, Green Forest Subdivision Plat KN 84-309
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will combine two lots into one lot.

Legal Access (existing and proposed): The proposed subdivision is located on Pembroke Drive, a 60 foot right of way that is maintained by the Borough. Pembroke Drive intersects Koala Lane, a 60 foot right of way maintained by the Borough. Koala Lane is located off Halbouty Road, about 3,000 feet from the Halbouty Road intersection with Kenai Spur Highway. Halbouty Road and Kenai Spur Highway are both state maintained roads.

Additional access is available on the west boundary from Dudley Street by way of Wolding Avenue. Dudley Street is a 50 foot wide dedicated right of way that extends into the lake. Per KPB GIS imagery, Wolding Avenue and Dudley Street are not constructed.

The subdivision is located within a closed block. Wolding Avenue (and section line easements), Dudley Street, Koala Lane, and Pembroke Drive define the block. The block lengths do not comply with KPB Code. A freshwater pond is located on the southwestern portion of the subdivision. Due to the size of the northern lots, unless combined, receiving a matching dedication will be difficult. **Staff recommends the plat committee concur that an exception for block length is not required, as a dedication at this time would not improve the block.**

The parent plat, KN 84-309, granted a 20 foot pedestrian easement centered on the shared lot line between Lot 13 and Lot 12 and adjoining the south 20 feet of Lot 13. Lot 13 also has a 10 foot utility easement in conjunction with the pedestrian easement along the boundary line with Lot 12. **Staff recommends the pedestrian easement be labeled along the shared line along with the utility easement and add that the easements were granted by Plat 84-309. That may be done on the label or reference to a plat note with additional information.**

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

Site Investigation: Per KPB GIS data, there appears to be some areas of slopes greater than 20 percent. Some of the slopes are near the lake while some other steeper areas appear about midway through the lot.

The property does contain a portion of a lake. On the plat, this lake is labeled as Georgine Lake. Georgine Lake is a larger lake located to the south/southeast. Staff did not find reference to a name for the lake. **Staff recommends the lake label be revised either to the correct lake name or to "Lake" if there is no documentation to support name.**

There appears to be some low wet areas around the lake. **Staff recommends the low wet areas be depicted on**

the plat and a note be placed “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 flood hazard area. No regulatory mapped floodplain areas intersect this parcel.
Anadromous Waters Habitat Protection District Review	Is not within HPD, no comments.
State Parks Review	No comments

Staff Analysis The owners have constructed their house on the lot line. The proposed plat will remove this lot line so that it does not intersect the residence. Per KPB 20.60.200(A), a field survey is not required and plat note 5 states a field survey is not being performed. Staff requests the plat note be reworded to include the reference to code. **Staff recommends that the legend be corrected to remove reference to found monuments, all distances, bearings, and monuments be designated as record information or computed data, and unless monuments have been pulled, the existing monuments should be shown on the former lot line.**

A soils analysis report and signature from an engineer are not required. Per KPB 20.40.020, the parent subdivision was approved by DEC and they are vacating a lot line. **Staff recommends the wastewater disposal note be updated to read, “The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on November 1, 1984. Wastewater...”**

A comment was received from Larry Stearns. He had no concerns with the proposed plat but wanted to note that the lake was incorrectly labeled as Georgine Lake.

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.

The property is not within an advisory planning commission.

The plat is affected by private covenants and are reference in plat note 3. **Staff recommends a plat be note added that states, ‘The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.’**

Utility Easements The parent plat granted a 10 foot utility easement along the northern lot line of Lot 14 and the southern lot line of Lot 13. A 10 foot utility easement was also granted along the tangent portion of Pembroke Drive (originally named Sherwood Drive). Those easements of record are depicted. The easement along the southern lot line of Lot 13 is also a pedestrian easement. Per the parent plat, a utility easement was not granted along the bulb portion of Pembroke Drive. Per plat note 2, this plat will grant 10’ utility easements adjoining all right of ways. **Staff recommends the new easement be depicted along the bulb and revise the plat note identify the easement being granted by this plat.**

An additional easement has been granted to HEA by recorded document. The approximate location is depicted with a reference to plat note 4. **Staff recommends plat note 4 be revised to show it is Page 839 and was recorded on November 9, 1999.**

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	Reviewed, no comments
ENSTAR	No Comments or recommendations.
ACS	

GCI	Approved as shown.
-----	--------------------

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 51895 Pembroke Drive (will remain on Lot), 51875 Pembroke Drive (will be deleted) Existing street names listed are correct
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	There are not any Local Option Zoning District issues or material site issues associated with this plat.
Assessing – Matt Bruns	No comments.

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: *Revise the lot numbers from lots 12 and 13 to lots 13 and 14. The certificate to plat shows Maria Helen Carew as owner. Correct the owner’s name. Revise the spacing or layout of the title block as some of the text is on the plat borderline or outside the block.*

- 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: *Depict and label Dudley Street a 50’ ROW on the west boundary of lot 13A.*

- 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 large lakes in the area can be depicted and shown on the vicinity map.*

- 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: *Add Dudley Street a 50’ right of way located to the west of the subdivision. Add lot and subdivision labels to the west of Dudley Street and to the south where adjoining this proposed subdivision. The lots to the east are labeled as if the preliminary plat recorded, verify that KPB 2021-010 has recorded and the lot numbers match before recording this plat.*

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:*

20.30.100. Cul-de-sacs.

A. Streets designed to have one end permanently closed shall be no more than 1000 feet long. The closed end of the cul-de-sac shall have a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be constructible to a 4 percent grade or less.

B. Hammerhead or T -type turnarounds may be allowed on a case-by-case basis. Adequate turning radii, width and depth must be provided for road maintenance and emergency vehicle access. Plans must be reviewed with a recommendation by emergency service providers and the KPB Road Service Area Board prior to submittal for planning commission review.

C. Temporary turnarounds and self-vacating turnarounds shall not be granted or reserved on plats.
Staff recommendation: *Dudley Street is dedicated through the lake. The lake creates a terminus to the right of way. As vehicular traffic cannot cross the lake a turnaround area is required to comply with code. An exception has been requested.*

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: *Dudley Street is only 50 feet wide and an additional 10 foot wide right of way dedication is required to comply with code. An exception has been requested.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Revise the plat note as DEC approved and signed the parent plat. A soils analysis report is not required.

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.*

20.60.130. 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 a bolder or thicker line for the subdivision boundary.*

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 existing notes.

- The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.
- Update plat note 5. "No field survey performed or monuments set as allowed per KPB 20.60.200(A)."
- Add a plat note for any exceptions granted.
- Plat note 2 should be revised "The front 10 feet adjoining dedicated right-of-ways and 20 feet within 5 feet of the side lot lines is a utility easement. No..."
- If not included on the face of the plat a reference to a plat note number may be added that states, "Plat KN 84-309 granted a pedestrian easement and utility easements as shown."

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: comply with 20.60.190. Move Maria Helen Carew's name under her signature line.

EXCEPTIONS REQUESTED:

A. KPB 20.30.100 – Cul-de-sacs **KPB 20.30.120 – Streets-Width requirements**

Surveyor's Discussion:

Staff Discussion: The subdivision to the west, Wolding's Tracts KN 72-6, dedicated Dudley Street as a 50 foot wide right of way. Dudley Street dedication continues south through the freshwater lake. Per KPB Code the right of way width requirement is 60 feet.

As the lake creates a dead end for vehicular traffic, KPB code requires a turnaround area.

If this exception request is denied, this platting action will be required to dedicate a 10 foot wide right of way on the west boundary and dedicate a turnaround area on the south end of Dudley Street before the intersection with the lake. The turnaround area could be a portion of a cul-de-sac bulb or a T-type turn around.

Findings:

1. Wolding's Tracts, Plat KN 72-6, dedicated a 50 foot wide right of way for Dudley Street.
2. The Planning Commission did not discuss or request additional dedication at the August 13, 1984 meeting when Green Forest Subdivision, Plat 84-309, was approved. (It was heard as Clausen Subdivision and required a name change.)
3. The lots to the south of the lake were created with Georgine Lake Subdivision Addition No. 3, KN 79-136.
4. Georgine Lake Subdivision Addition No. 3 was approved at the June 4, 1979 Plat Committee meeting with no discussion about additional right of way width. (Was reviewed as Georgine Lake Subdivision Addn. No. 2).
5. The final plat for Georgine Lake Subdivision Addition No. 3 was approved at the June 13, 1979 Plat Committee meeting with no discussion regarding additional right of way width.
6. Wolding's Tract No. 3, Plat KN 2013-11, was heard at the November 26, 2012 Plat Committee meeting and received an exception for minimum right of way width.
7. Dudley Street is dedicated through low wet areas and through a lake.
8. The northern portion of Dudley Street is the only dedicated access to Tract 3A1 of Wolding's Tract No. 3.
9. Tract 2A1 Wolding's Tract No. 3 and Tract 4A Wolding's Tracts No. 2, and Tract 3A1 are all under the same ownership.
10. The owner of Tract 3A1 has constructed access from the south through his other properties.
11. Tract 3A1 is 8.53 acres and could be further subdivided.
12. If Tract 2A1 is subdivided it can provide a right of way dedication on the north boundary that would intersect

with Dudley Street.

13. Dudley Street is not improved at this time.

Staff reviewed the exception request and based on findings 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 2, 9-12 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 2, 9-12 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 2, 9-12 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.

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