

AGENDA ITEM E. NEW BUSINESS

ITEM 5 - Ninilchik River Estates Subdivision Addn 1 McLean Addn

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| KPB File No. | 2021-108 |
| Plat Committee Meeting: | August 23, 2021 |
| Applicant / Owner: | Bruce and Charlene McLean Living Trust of Soldotna, Alaska |
| Surveyor: | Dmitri D. Kimbrell / Fineline Surveys, Inc. |
| General Location: | Ninilchik |

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| Parent Parcel No.: | 157-06-344, 157-06-345 |
| Legal Description: | Lots 1-A and 2-A, Block 1, Ninilchik River Estates Addn No 1, Plat HM 91-71. |
| 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 by removing the shared lot line. Both lots are under common ownership.

Legal Access (existing and proposed): The proposed subdivision fronts Garrison Ridge Road, Alice Avenue, and Wild Salmon Way. Garrison Ridge Road is located past mile 1 of Oil Well Road. Oil Well Road is a state maintained right of way.

Garrison Ridge Road is a 60 foot wide right of way that has been constructed but not maintained. The roadway crosses over the Ninilchik River and is located within Tract A and a large parcel.

The portion of Wild Salmon Way that abuts the proposed subdivision is a 50 foot wide right of way that terminates with a cul-de-sac. This right of way appears to be used for access to parent parcel Lot 1-A. Wild Salmon Way continues north and winds around to Steelhead Ridge Road, Bear Paw Road, and Alice Avenue. These portions of right of ways are not maintained.

Alice Avenue is a 66 foot wide right of way that has not been improved. Alice Avenue connects to Brody Road, a borough maintained right of way, which intersects Oil Well Road near mile 3.25. Additional 33 foot and 50 foot section line easements provide the connection from Oil Well Road to Garrison Ridge Road.

Per the parent plat access to lots 1-A and 2-A is restricted to Wild Salmon Way.

The block is closed but irregular in shape and exceeds length requirements. Wild Salmon Way used to connect to Alice Avenue but was vacated with the parent plat, HM 91-71. The block is currently defined by Alice Avenue, Garrison Ridge Road, Wild Salmon Way, Steelhead Ridge Road, and Bear Paw Road. Wild Salmon Way and Steelhead Ridge Road are right of ways that both end in cul-de-sacs. Garrison Ridge Road crosses the Ninilchik River. Steep terrain is within the Alice Avenue dedication and crosses the Ninilchik River. **Staff recommends the plat committee concur that an exception is not required as any dedication will not improve the block length and per KPB 20.30.100 a cul-de-sac is designed to have one end permanently closed.**

Per the certificate to plat there is an ingress and egress easement. This easement should be noted in the plat notes. As the easement gives a description of the easement area **staff recommends the easement be depicted with a reference to a descriptive plat note.**

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

Site Investigation: The Ninilchik River, an anadromous water way, is located in the western portion of the subdivision. Portions of the subdivision are also within a flood hazard area. There also appears to be steep slopes within the subdivision that should be depicted. Plat note 3 addresses the possible need for a wetland determination and should remain.

Staff recommends the flood zone boundary be shown and labeled, a plat note referencing the map panel be added, and the anadromous waters habitat protection district note be added to the final plat.

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| Floodplain Hazard Review | Is in flood hazard area. Flood Zone A, X. Found on Map Panel: 02122C-1620E Is not within a floodway. |
| Anadromous Waters Habitat Protection District Review | Is totally or partially within HPD. No comments |
| State Parks Review | No comments |
| State Fish and Game | ADF&G has no objections to the platting action. |

Staff Analysis The parent lots were originally part of the Ninilchik River Estates Amended, HM 86-12. A portion of Wild Salmon Way was vacated and terminated as a cul-de-sac and the lots were then replatted as part of Ninilchik River Estates Addition No. 1, HM 91-71. The current action will combine Lot 1-A and Lot 2-A to create one lot.

There does not appear to be any improvement that cross the interior lot line, but with the removing of the shared lot line, any issues with an improvement over the boundary line will be resolved.

Per KPB 20.40.020, a soils analysis report is not required and an engineer will not need to sign the plat as this platting action is vacating lot lines. The plat note listed on the plat needs a correction as the Department of Environmental Conservation signed the parent 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 the property is affected by beneficial interest holders.

The property is not within an advisory planning commission.

Utility Easements The parent plat, HM 86-112, granted 10 foot utility easements along dedicated right of ways. Plat HM 91-71 vacated a portion of Wild Salmon Way and dedicated Garrison Ridge Road. Plat HM 91-71 granted 10 foot utility easements along all dedicated right of ways. There is not a proposed change to the right of ways and the parent plats did not grant easements along the side lot lines. **Staff recommends** plat note 2 be reworded and depict the utility easements. The note shall read “The front 10 feet adjoining dedicated right of ways is a utility easement as granted by plats HM 86-12 and HM 91-71. This platting action will grant 20 foot utility easements within 5 feet of side lot lines as a utility easement. No permanent...”

The certificate to plat shows easements granted to Homer Electric Association, Inc. Plat note 5 refers to an easement to HEA but contains the incorrect recording information. **Staff recommends** update the book and page to Book 27 Page 8, HRD and Book 48 Page 74, HRD.

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:

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| HEA | No comments |
| ENSTAR | No comments or recommendations |

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| ACS | |
| GCI | Approved as shown. |

KPB department / agency review:

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| Addressing – Derek Haws | Affected Addresses: 15938 Wild Salmon Way (will remain with Lot 1B) Existing street names shown are correct |
| 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 – Matt Bruns | No concerns from Assessing Department |

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 the acreage and update accordingly. The scale appears to be off, update the scale listed or update the drawing. Remove the comma after "ADDN" or change to a period.*
- 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:** *Plat note 4 references covenants, conditions, and restrictions of record. Provide an additional plat note for the covenants, conditions, and restrictions of record per item 11 in the certificate to plat as recorded on January 9, 1992 in Bk. 211 Pg. 891 HRD.*
- 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:** *Per the certificate to plat there is a ingress and egress easement. Verify if the easement of record affects this subdivision and if so, depict and label the easement on the drawing. Edit plat note 5 to reference the correct recording information for the easements of record (Bk. 48 Pg. 74 HRD and Bk. 27 Pg. 8 HRD).*
- 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:** *Correct Lot 3-A located to the north of Garrison Ridge Road to Lot 3A1, plat HM 2012-16. Provide a label for Tract A, plat HM 91-71 located on the other side of Garrison Ridge Road and Ninilchik River. Correct the depiction of the former lot line boundary as it extends to the west side of Ninilchik River. The KPB parcel viewer incorrectly depicts the lot line between Lot 1-A and 2-A.*

- 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: *Provide the flood area boundary and add all required notes. Depict any low wet areas associated around boundary of the river.*
- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;
Staff recommendation: *There appear to be steep slopes as the property gets closer to the river. Depict and label any areas affected by steep slopes.*

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: *Wild Salmon Way cul-de-sac provides legal access to Lot 1-A and 2-A only as plat HM 91-71 restricts access for Lots 14-A and 15-A to access from SteelHead Ridge Road. Wild Salmon Way cul-de-sac is not maintained by KPB. Concur that additional width for Wild Salmon Way cul-de-sac to be 60 feet in width is not required at this time and an exception is not required based on the number of lots using Wild Salmon Way for access, development trends, and access restrictions for neighboring lots.*

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.

- B. 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.

- C. 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.

- D. 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 building setback within the drawing or provide a detail drawing.*

20.30.280. Floodplain requirements.

- A. All subdivision plats which are within areas where the floodplain has been identified by the Federal Emergency Management Agency (FEMA), and which involve 50 lots or five acres whichever is lesser, shall include the base flood elevation source.
- B. Any area of the subdivision within the floodplain, floodway or Seward Mapped Flood Data Area (SMFDA) is to be shown and labeled on the plat.
- C. All subdivisions which are wholly or partially located within flood hazard areas as defined by KPB 21.06.030 must comply with KPB 21.06.050 standards for Floodplain Management.
- D. All subdivisions or replats within the Flood Insurance Rate Map (FIRM) area or SMFDA, as amended, as defined by KPB 21.06.020, shall contain the following note:

FLOOD HAZARD NOTICE:

Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough Seward Mapped Flood Data Area as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code.

Staff Comments:

*To maintain consistency with KPB 21.06.050, **staff requests** the surveyor ensure the proposed subdivision have adequate drainage to reduce exposure to flood damage.*

Staff reminds the owner(s), that it is the responsibility of the subdivider to provide all necessary information regarding flood protection measures at the time the preliminary plat is presented for consideration by the planning commission (21.06.050).

Staff recommendation: *Add the Flood Hazard Notice to the plat but include "...has been designated by FEMA (Map Panel 02112C-1620E) as a flood hazard area..."*

20.30.290. Anadromous Waters Habitat Protection District. If any portion of a subdivision or replat is located within an anadromous waters habitat protection district, the plat shall contain the following note:

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.

Platting Staff Comments:

Staff recommendation: *Ninilchik River is an anadromous river. Comply with 20.30.290.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils analysis report is not required as this is combining two lots and creating more usable area. The plat note needs to be corrected as a DEC official signed the parent plat. "...was approved by Alaska Department of Environmental Conservation (10/22/19). Wastewater..."

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.*

20.60.170. 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: *There are covenants as noted in plat note 4. The note needs to be revised to include Book 211 Page 891, HRD, recorded on January 9, 1992. Include in the plat note that the borough does not enforce private covenants per KPB 20.60.170. Comply with 20.60.170.*

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: *In addition to the plat notes mentioned throughout the staff report, place the following notes on the plat.*
 - *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*
 - *Per parent plat, HM 91-71, Lot 1-B shall have access from Wild Salmon Way.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *The trusts lists the trustees as R. Bruce McLean Jr. and Charlene K. McLean. They both must sign the plat. Update the signature lines to match how the trust lists their names and provide an additional signature line. Update the notary to show it is for both trustees. The certificate of ownership needs updated to plural pronouns. 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