

Kenai Peninsula Borough

Plat Committee

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

August 9, 2021
5:30 p.m.
UNAPPROVED MINUTES

A. CALL TO ORDER

Commissioner Ecklund called the meeting to order at 5:40 p.m.

B. ROLL CALL

Commissioner Morgan moved, seconded by Commissioner Venuti to appoint Commissioner Ecklund as chair for the meeting.

Plat Committee Members/Alternates

Cindy Ecklund, City of Seward
Pamela Gillham, Ridgeway
Virginia Morgan, East Peninsula
Franco Venuti, City of Homer

Staff Present

Scott Huff, Platting Manager
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant

C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES

- *3. Minutes
a. July 12, 2021 Plat Committee Meeting Minutes

Commissioner Ecklund asked if anyone wanted to speak any items on the agenda.

Hearing no one else wanting to speak, public comment was closed.

MOTION: Commissioner Morgan moved seconded by Commissioner Gillham, to approve the agenda and the minutes from the July 12, 2021 Plat Committee meeting.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

D. OLD BUSINESS

1. Appointing a meeting chairperson
Commissioner Morgan moved, seconded by Commissioner Venuti to appoint Commissioner Ecklund as the chair for the meeting. Commissioner Ecklund accepted.

E. NEW BUSINESS

Chair Ecklund asked Ms. Shirnberg to read the procedures by which public testimony would be taken

AGENDA ITEM E. NEW BUSINESS**GROUPED AGENDA**

Staff Report given by Scott Huff

Staff has grouped the plats located under **AGENDA ITEM E.** They are grouped as:

- A.** Simple or non-controversial. The type of plats grouped are lot splits, creating a small number of lots, replats, no exceptions required and no public comments were received. – 6 Plats
5. Fireweed Meadows 2021 Replat; KPB File 2021-095
Geovera, LLC / Emmitt & Mary Trimble Revocable Trust, Home Grown Construction LLC
Location: Milo Fritz Avenue & Granross Street
Anchor Point Area
Anchor Point APC
 6. McReed Subdivision 2021 Replat; KPB File 2021-093
Johnson Surveying / Harne
Location: Cohoe Loop Road
Cohoe Area
 8. Horse Creek Subd 2021 Addition; KPB File 2021-099
Johnson Surveying / Deford
Location: Resurrection Creek Road
Hope Area
 11. Bosn Landing Subdivision Marlow Replat; KPB File 2021-101
Segesser Surveys / Marlow
Location: Stephens Drive
Sterling Area
 12. Emery Subdivision; KPB File 2021-100
Segesser Surveys / Emery
Location: Wendy Lane
Kalifornsky Area
Kalifornsky APC

Staff recommends the committee determine whether any members of the public, surveyors or committee members wish to speak to any of the plats in this **group (A)** and remove the specific plats from the group, voting on the remainder of plats in the group in a single action to grant preliminary approval to the plats subject to staff recommendations and the conditions noted in the individual staff reports.

Chair Ecklund opened the meeting for public comment.

Erin Schumacher; 4310 Tikishla St., Anchorage, AK 99504: Ms. Schumacker requested to speak to item #E7 – Melickian Subdivision 2021 Addition. Chair Ecklund removed item #7 from the grouped agenda.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved seconded by Commissioner Morgan, to grant preliminary approval based on staff recommendations an compliance with borough code to, Fireweed Meadows 2021 Replat, McReed Subdivision 2021 Replat, Horse Creek Subdivision 2021 Addition, Bosn Landing Subdivision Marlow Replat and Emery Subdivision.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS**ITEM 5 - Fireweed Meadows 2021 Replat**

KPB File No.	2021-095
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Home Grown Construction LLC of Anchor Point, AK The Emmitt and Mary Trimble Joint Revocable Trust of Anchor Point, Alaska
Surveyor:	Stephen C. Smith / Geovera, LLC
General Location:	Anchor Point / Anchor Point APC

Parent Parcel No.:	169-011-32 and 169-011-33
Legal Description:	Lots 14 and 16, Fireweed Meadows No 2, Plat HM 2004-71 HRD
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	Community/On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will divide two lots into four lots that will range in size from 0.482 and 0.506 acres.

Legal Access (existing and proposed): The proposed subdivision is located along state right of way, Milo Fritz Avenue. The subdivision is located about a half mile west from the Milo Fritz Avenue and Sterling Highway intersection. Milo Fritz Avenue was originally named Anchor Point Avenue and was changed by Resolution SN 89-03. Milo Fritz Avenue follows a section line and there is a 66 foot section line easement that coincides with the right of way dedication. Some sections of Milo Fritz Avenue appear to only have 30 foot dedications while other sections are 33 foot dedications.

The block is not compliant. The subdivision is located within a closed block defined by Milo Fritz Avenue, HMS Resolution Road, Golf Drive, School Avenue, and Birch Street. The block is irregular but complies along the eastern side of the block. Within the block are tracts that contain private roads. There is a 25 acre lot to the east that contains a large portion of the golf course. The ability for the proposed subdivision to grant a right of way dedication that creates a compliant closed block will be difficult. Any dedication that would be granted would connect to a private right of way (tract). There is a lake in the center of the golf course. Per former plats there was the intent to create additional rights of way that would improve the block but due to development and the lake those plans may not occur. **Staff recommends** that the plat committee concur that an exception is not required and that any required dedications would not improve the block length.

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

Site Investigation: The area appears to be relatively flat. Per KPB GIS data there is not any low wet areas on the property.

Aerial imagery shows that the golf course affects this subdivision with a green located on Lot 14-A and 14-B. The private golf course easement per HM 2004-71 is depicted on the preliminary plat.

Floodplain Hazard Review	Is not located within a floodplain hazard area.
Anadromous Waters Habitat Protection District Review	Is not located within a HPD.
State Parks Review	No comments.

Staff Analysis The proposed subdivision will subdivide two lots into four lots that are 0.482 acres (20,996 square feet), two lots at 0.499 acres (21,736 square feet), and 0.506 acres (22,041 square feet).

The lots will all front on state right of way, Milo Fritz Avenue. Access driveways to the parcels from Milo Fritz Avenue will require a permit from Alaska DOT. Plat note 6 addresses this.

The parent plat, Fireweed Meadows No. 2 (Plat HM 204-71), was approved as a planned development. The preliminary design was named HMS Resolution Ridge Fireweed Meadows and received approval on January 14, 2002. The owners requested the phases be named differently. As this is not normal procedure, it was allowed as long as a plat note was added that gave the full name as approved. As this replat is not part of the original plan, the note should not be carried over from the parent plat. An unsubdivided remainder is located to the east that has yet to be subdivided.

The subdivision and neighboring parcels contain the Anchor Point Golf Course. The plat identifies the bounds of the golf course easement. This is a private easement created from subdivision covenants. Per the covenants, *"The golf course reservation designated as such on the plat of the property, which shall be developed as part of the golf course for purpose of landscaping or the placement of improvements. No improvements shall be placed within a golf course reservation without the prior written consent of the hold of the golf course reservation and the approval of the ARB."*

KPB will not enforce private covenants. This reservation, if upheld through ARB, will greatly diminish the buildable area and limit the area available for onsite wastewater disposal systems unless approval is received from ARB. Documentation may also be presented from the ARB that they do not object to wells or wastewater disposal systems within the golf course easement.

Per KPB 20.30.200, lots less than 40,000 square feet are allowable if public water or wastewater disposal system is available. This subdivision will be served by a community water system identified as the Anchor Point Safe Water Corporation Public Water System. **Staff recommends** documentation be provided to show that the new lots are approved, or have been approved, to connect to the existing water system and that the water system will support the additional lots.

A soils report will be required and an engineer will need to sign the plat. The soils report will be required to show that the proposed lot design and associated building restrictions will allow for an adequate area available to each building site for safe on-site well and wastewater disposal, including area for a replacement wastewater disposal system.

If the lots will contain private wastewater disposals and private wells then the plat will need to be brought back before the plat committee with the soils analysis report to demonstrate to the satisfaction of the commission that the smaller lot size is adequate and safe.

Notice of the proposed plat was mailed to the beneficial interest holder on July 16, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

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 granted 10 foot utility easements along Milo Fritz Avenue. The proposed plat will carry over the easement as well as grant a 20 feet adjoining the right of way within 5 feet of side lot lines.

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 objections.
ACS	No objections.
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected address 72811 Milo Fritz Ave. will remain with Lot 16-B.
Code Compliance – Eric Ogren	No comments.
Planner – Bryan Taylor	There are not local option zoning district issues or material site issues associated with this plat.
Assessing	Special Assessment District – No comment.
Advisory Planning Commission	

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

Staff recommends that in addition to the acreage the square footage, rounded to nearest whole number, be labeled on each lot.

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, the lot information can be removed from the owner's information as it is not required and is noted within the certificate of ownership.
- 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 a label for the Old Sterling Highway.
- 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 proposed 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 the depiction for the boundary of the unsubdivided lands to the east as the boundary line common with Lot 16-B extends to the center of Milo Fritz Avenue.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils analysis will be required as well as documentation that the lots are connected, or have permission to connect, to the existing water system. An engineer will need to sign the plat.

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.

20.60.030. Certificate of borough finance department required.

Platting Staff Comments: All taxes levied on the property within the subdivision shall be paid prior to recordation of the final plat. If approval is sought between January 1 and the tax due date, there shall be on deposit with the borough finance department an amount sufficient to pay the entire estimated real property tax for the current year. Prior to filing of the final plat, a certificate to this effect shall be provided by the borough finance director or his designee upon request by the planning director. Estimated tax payments shall be applied to the actual bill as of July 1 or such earlier date as the taxes due have been determined.

Taxes owed may include special assessments for utility or road assessment districts established by KPB ordinance.

The parcels included in the proposed subdivision are shown as part of the Anchor Point Utility Special Assessment District. Any balance remaining will need to be paid in full prior to recording.

Staff recommendation: *comply with 20.60.030.*

20.60.090 Improvements-Other public systems. A final plat of a subdivision outside city limits served by a public or existing ADEC approved water or wastewater disposal system shall not be approved prior to provision of documentation from the owner of the system that service to the system is installed and available to each lot in the subdivision, and that connection to all lots will not exceed the capacity of the system.

Staff recommendation: *Comply with 20.60.090.*

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: *The golf course easement is shown per HM 2004-71. Private easements cannot be granted by plat. The parent plat showed the easement but did not note the creation of the easement. An adjoining plat did refer to the covenants as outlining the easement. Revise the label or refer to a plat note that refers to the subdivision covenants. 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.*

- *The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.*
- *Reword plat note 3 – “The front 10 feet adjoining all rights-of-way is a utility easement granted by Plat HM 2004-71. This plat is granting additional utility easements that are 20 feet within 5 feet of the side lot lines that adjoin rights-of-way.”*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *comply with 20.60.190. Remove “Co-“from the trustee signature lines.*

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

**Approved by Grouped Agenda*

AGENDA ITEM E. NEW BUSINESS**ITEM 6 - McReed Subdivision 2021 Replat**

KPB File No.	2021-093
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Patricia E. and David J. Harne of Kasilof, Alaska
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Cohoe

Parent Parcel No.:	137-010-27 and 137-010-40
Legal Description:	Tract B, Warfle Tracts, Plat KN 81-168 Tract B, McReed Subdivision, Plat KN 93-12
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site/On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will adjust a common lot line between two lots. Tract B1 will increase from 1.125 acres to 1.382 acres. Tract B2 will decrease from 9.535 acres to 9.275 acres.

Legal Access (existing and proposed): Both lots being created have dedicated access via Cohoe Loop Road, a state maintained 200 foot wide right of way.

The subdivision is within an open and non-compliant block. A closed block will be difficult to obtain, as Cook Inlet is located to the west approximately 1,200 feet from the western subdivision boundary. There are various wetlands and steep slopes in the areas that dedications would improve the block. The lots surrounding the subdivision are all large acreage lots. **Staff recommends** the plat committee concur that

an exception is not required due to the development trends, topographic constraints, and any required dedications will not improve the block length requirements.

KPB Roads Dept. comments	Within jurisdiction, no comments
SOA DOT comments	The ROW for Cohoe Loop Road is as shown on S-0461(1) sheet 4-5 of 11, and appears to be shown correctly.

Site Investigation: The plat indicates the low wet areas along the western portion of the subdivision. Contours are also shown with shading representing the areas greater than 25 percent.

Floodplain Hazard Review	Not within 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 be reconfiguring the lot line between a smaller tract and a large acreage tract. Reasons for this change were not disclosed but per KPB GIS imagery, a structure appears to be encroaching on the lot line. The adjustment of the lot line will place all the improvements on Tract B1 and resolve any encroachment issues. The same owners currently own both lots.

The larger tract was created with the recording of McReed Subdivision, KN 93-12. Warfle Tracts, KN 81-168, created the smaller tract. Plat KN 81-168 established the boundary of deed parcels as recorded in Bk. 128 Pg. 350 KRD. One of the parcels depicted was for the lands located south of Cohoe Loop Road.

A soils analysis report will not be required and an engineer will not need to sign the plat. Tract B2 is larger than 200,000 square feet and Tract B1 is increasing in size approximately 11,000 square feet.

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.

The property is not within an advisory planning commission.

Utility Easements Warfle Tracts, KN 81-168, did not grant any utility easements. McReed Subdivision, KN 93-12, granted the front 10 feet of the building setback as well as the full setback within 5 feet of the side lot lines. Due to scale, depiction may be difficult unless the plat size is increased. Per plat note 1, this plat will grant 10 foot utility easements along the former Tract B of Warfle Tracts and 20 feet within 5 feet of the new side lot line. A 20 by 10 utility easement will still be present along the former lot line. A detail drawing of the area around the new and old lot line would help depict the existing and new utility easements.

Per the certificate to plat there is an easement granted to Homer Electric Association, Inc. with no definite location given. An overhead utility power line is depicted and labeled on the plat. **Staff recommend** a plat be added for the easement of record and note that it is a general easement with not location defined.

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. Additionally, revise the utility easement portion of plat note 1 to the following. "Plat KN 93-12 granted 10 foot wide utility easements along dedicated right of ways and 20 feet within 5 feet of the side lot lines. This plat will be granting 10 foot utility easements adjoining all rights of way and increasing to 20 feet within 5 feet of all new side lot lines."

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: 22019 Cohoe Loop Road (will remain on Tract B1) and 21845 Cohoe Loop Road (will remain on Tract B2) Existing street names 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 – Adeena Wilcox	No comment

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: A space is needed between "Located" and "in". Add the KPB File number 2021-093.

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 proposed 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: The plat waiver lots east of Cohoe Loop Road need the parcel labels corrected. The northern lot is Lot G-1-A and the southern lot is Lot G-1-B.

KPB 20.40 -- Wastewater Disposal**20.40.010 Wastewater disposal.**

Platting Staff Comments: The proposed plat will add approximately 11,000 square feet to the smaller lot. Per KPB 20.40.020(A)(2) a soils analysis is not required. Tract B2 will be greater than 200,000 square feet.

Staff recommendation: Revise the note for Tract B2 to remove "or nominal 5 acres" 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.

C. 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.

D. 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.

- Subject to an easement granted to Homer Electric Association, Inc. per Book 3 Page 20 KRD. No definite location disclosed.

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

**Approved by Grouped Agenda*

AGENDA ITEM E. NEW BUSINESS

ITEM 8 - Horse Creek Subdivision 2021 Addition

KPB File No.	2021-099
Plat	Committee August 9, 2021
Meeting:	
Applicant / Owner:	Shawn and Marnie Deford of Hope, Alaska
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Hope/Hope APC

Parent Parcel No.:	035-101-08
Legal Description:	Tract A5, Horse Creek Subdivision, Plat SW 2004-5.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site/On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 4.99 acre parcel into two lots that will be 2.54 acres and 2.46 acres.

Legal Access (existing and proposed): Resurrection Creek Road, a Kenai Peninsula Borough maintained right of way, will provide access to both lots. The width of Resurrection Creek Road varies in locations. Adjoining this subdivision, it is 66 feet wide.

Resurrection Creek Road intersects with the Hope Highway, a state maintained right of way, near mile post 16. Resurrection Creek Road is a long right of way that extends south from the Hope Highway and provides access to the Resurrection Creek trail. No other dedicated access is available to the proposed subdivision as the western boundary abuts the Chugach National Forest.

The subdivision is within an open block that does not comply with block length requirements. Due to Chugach National Forest surrounding the areas that are developed the ability to provide a closed block will be difficult. Any dedication will provide access to Chugach National Forest and not benefit private land owners.

An exception for block length was granted to the parent subdivision on November 24, 2003. Some of the findings supporting that decision were:

1. United States Forest Service owns the large parcel to the west.
2. The Forest Service has provided a letter indicating they have sufficient public access to their parcel.
3. The subdivision lots are between 420 to 515 feet deep.
4. Resurrection Creek lies close to the western boundary of the subdivision.
5. Looped access to Resurrection Creek Road may be possible through the land to the east if it is ever subdivided.

The USDA Forest Service has been provided notification and may submit comment. **Staff recommends** the plat committee concur that no changes in the area have occurred since the last platting action in 2004 that would require a dedication and that any dedication required will not improve the block length, thus an exception to KPB 20.30.030 projection of right of way and KPB 20.30.170 Block Length is not required at this time.

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

Site Investigation: KPB GIS does not have contour data for this area. The surveyor did state there are gentle slopes within the subdivision that do not exceed 5 percent. The subdivision is near Resurrection River and various creeks but is not within an Anadromous Waters Habitat Protection District. A portion of the subdivision does fall into the Floodplain designation "C", which is minimal flood risk. The subdivision, per KPB GIS data, does not have any low wet areas and the surveyor has confirmed this in plat note 3.

Floodplain Hazard Review	Is in flood hazard area. Flood Zone C. Map Panel: 020012-1125A
Anadromous Waters Habitat Protection District Review	Is not within HPD
State Parks Review	No comments
SOA Fish and Game	No objections as will not affect public access to public lands and all other easements are accurately depicted.

Staff Analysis The proposed subdivision will be dividing a 5 acre tract into two lots that will be 2.54 and 2.46 acres. The parent parcel was created with Horse Creek Subdivision, SW 2004-5, which was a subdivision of U.S. Survey 2761 US Survey 2761 was completed in 1951. The U.S. Survey showed a tract centered on Resurrection Creek Road at a width of 66 feet.

The subdivision is located in the Hope area and is within the Hope Advisory Planning Commission boundary. Resurrection Creek Road continues south and provides several pull off areas for access to the Chugach National Forest, Resurrection Creek, other creeks, and the Resurrection Trail.

KPB GIS data shows the property within the boundary of the Chugach National Forest. This is common and is considered a private inholding and the laws and regulations within the Chugach National Forest do not apply to the property.

The proposed lots are smaller than 200,000 square feet and water and wastewater disposal will be on-site. A soils report will be required and an engineer will 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 the property is affected by beneficial interest holders.

Hope 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 U.S. Survey did not grant any utility easements. The parent plat SW 2004-5, granted utility easements, which will be carried forward with this platting action. Plat note 1 states this plat will grant 20 foot utility easements within 5 feet of the new side lot lines.

Staff recommends the utility easements be depicted on the plat and the utility easement portion on plat note 1 should be reworded. "Plat SW 2004-5 granted the front 10 feet of the setback as a utility easement along with the full setback within 5 feet of the side lot lines. This plat will grant additional 20 foot utility easements within 5 feet of the new side lot lines."

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:

ENSTAR	No comments or recommendations
ACS	No objections
GCI	No comments
SEWARDELECTRIC	Comments not received when the staff report was prepared.
CHUGACH ELECTRIC	Comments not received when the staff report was prepared.
TELALASKA	Comments not received when the staff report was prepared.

KPB department / agency review:

Addressing – Derek Haws	Affected Address: 63129 Resurrection Creek Road (address will be deleted) Existing street names are correct
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	There are not any Local Option Zoning District or material site issues with the proposed plat.
Assessing – Adeena Wilcox	No comment
Hope 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

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:

- Update KPB File number from 2018-120 to KPB 2021-099.
 - Correct the spelling of parent subdivision to “Creek”.
 - The subdivision is located in the SE1/4 of Section 4. Remove “NE1/4” and replace with “SE1/4”.
 - Revise Section 9 to Section 4 per CTP.
 - Capitalize “K” in “AK” for the surveyor’s address.
- 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 width of Resurrection Creek Road “66”.
- 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:
- Revise the location of “This Sub” from Section 9 to Section 4 (SE1/4).
 - Depict and label the boundary for Chugach National Forest.
 - The typical scale used is 1 inch equals 1 mile. We have also accepted different scales for vicinity maps but 1-inch equals 1.33 miles is an odd measurement. Please revise the scale of the vicinity map to 1-inch equals 1 mile, 1 inch equals 1.5 miles, or 1 inch equals 2 miles.
- 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 proposed 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:
- To the south, update Tract A6 to Tract A6A. Either list the subdivision name or recording number, staff just recommends it be consistent among all adjacent land labels.
 - To the east of Resurrection Creek Road, Tract B2 needs updated to Tract B2A. List either the subdivision name or recording number to be consistent to other labels.
 - Add a label to the west for Chugach National Forest.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils analysis report is required for review and a licensed engineer will be required to sign the plat.

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.

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

**Approved by Grouped Agenda*

AGENDA ITEM E. NEW BUSINESS

ITEM 11 - Bos'n Landing Subdivision Marlow Replat

KPB File No.	2021-101
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Neil L. Marlow of Sterling, Alaska Kenneth L. and Judith L. Marlow of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	Sterling
Parent Parcel No.:	063-560-19, 063-560-20
Legal Description:	Lots 2 and 3, Block 1 Bos'n Landing Sub, Part One Plat KN 77-101.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure the shared lot line between two lots.

Legal Access (existing and proposed): The proposed plat is located on Stephens Drive, a 60 foot wide borough maintained right of way. The subdivision is located near the end of a platted cul-de-sac. Stephens Drive is located at the end of Sir Martin Road, a borough maintained right of way with varying widths. Sir Martin Road intersects Lou Morgan Road, a state maintained right of way. The proposed subdivision is located on the Kenai River, which provides water access.

The block is not compliant. Ed Avenue that ends at the river and Stephens Drive that ends in a cul-de-sac define the block. Any right of way dedication would end at the Kenai River and would not provide a compliant block. The neighboring lots all front on a dedicated right of way and the lots on the east side of Stephens Drive front on the Kenai River. **Staff recommends the plat committee concur that an exception is not required, as any required dedications would not improve the block requirements.**

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

Site Investigation: The land is relatively flat with steep slopes near the bank of the Kenai River. Portions of the subdivision are within Floodplain C, minimal flood risk, and A4, 1% annual chance of flood.

The subdivision is subject to the Anadromous Waters Habitat Protection District and must comply with requirements.

Kenai Watershed Forum mapping classifies this area as Riverine. Per the KPB GIS imagery, there does not appear to be any standing water on the property. The lot contains multiple buildings and a gravel drive through both lots providing access to the buildings and parking areas. **Staff recommendation: place a note**

on the final plat, "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." Depict any mapped flood plains or floodways and add all required notes.

Floodplain Hazard Review	Is in flood hazard area. Flood Zone: A4, C. Map Panel: 020012-2065A
Anadromous Waters Habitat Protection District Review	Is totally or partially within HPD, no comments.
State Parks Review	No comments

Staff Analysis This plat will reconfigure two lots by adjusting the common lot line. Lot 3 will become Lot 3A and will change from 0.99 acres to 0.97 acres. Lot 2 will become Lot 2A and will change from 0.99 acres to 1.01 acres. The parent lots were created with Bos'n Landing Subdivision Part One, KN 77-101, which was a subdivision of several government lots.

Stephens Drive was originally dedicated with the intent of continuing north in the future. A replat, Karen Kay Sub Lot 3 Plat KN 2000-006, combined several lots and granted a turnaround area so as not to extend Stephens Drive.

The lots within this subdivision currently contain multiple structures some of which are crossing the current lot line. This platting action will resolve any current encroachments issues. The plat depicts the gravel drive shown with dashed lines. It does appear that each lot has a separate drive to Stephen's Drive. If the owners intend to share driveway/parking areas, it would be advised to record driveway easements to protect future access. The gravel areas are not required to be shown on the plat but if they are, **Staff recommends** a note be added on the plat that it states private access.

A soils report was not prepared for the parent plat. To comply with KPB 20.40 Wastewater Disposal a soils analysis report will be required and an engineer will 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.

The property is not within an advisory planning commission.

Utility Easements The parent plat did not grant utility easements along the right of way. The appropriate plat note is present to grant 10 foot utility easements adjoining the right of way as well as 20 foot within 5 feet of the side lot lines. **Staff recommends** the depiction of those easements if it will not compromise pertinent information.

The parent plat granted a 10 foot maintenance easement for government use along the Kenai River. **Staff recommends** this easement of record be depicted and noted on the plat.

The parent plat granted a 20 foot utility easement on the overhead power line and a 20 foot easement centered on the common boundary line. **Staff recommends** the overhead utility line be located in the field and the 20 foot easement of record be depicted and labeled. Comparing the existing power line information with the parent plat shows that the platted position may be incorrect.

An easement was granted to HEA by document with no definite location defined. This is referenced in plat note 3.

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

Utility provider review:

HEA	No comment
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ENSTAR	There is an existing natural gas service line, which appears to cross proposed Lot 3A Block 1 to serve proposed Lot 2A Block 1. ENSTAR objects to this plat unless one of the following scenarios is met: 1. Add a note which says, "There is a ten foot (10 FT) wide natural gas easement centered on the existing service line." Draw in the approximate location of the service line on the map and add, "Approximate location of natural gas service line located on proposed Lot 3A Block 1 and centerline of ten foot (10 FT) wide natural gas easement." 2. Owner signs an ENSTAR Natural Gas Easement document for a ten foot (10 FT) wide natural gas easement, centered on the service line at this location.
ACS	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected addresses: 36390 Stephens Drive (will remain with Lot 2A) and 36370 Stephens Drive (Will remain with Lot 3A) Correct Stephens Drive to Stephens Drive. All other existing street names 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 comment

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:**
- *The subdivision name chosen has already been used. Staff can recommend "Bos'n Landing Sub 2021 Replat." If the owners wish to use another name they will need to get it approved by planning department staff.*
 - *Revise parent plat description by adding "Part 1" to the parent subdivision name.*
- 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:**
- *Revise the spelling for Stephen's Drive.*
 - *Verify that Stephen's Drive is a 60' wide right of way and provide a width label.*
- 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:** *A township and range label needs to be added.*
- 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: Lot south of Sir Martin Road needs to be revised to Lot 6 instead of Lot 6A.

- 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: Depict on the plat any low wet areas or areas that are subject to flooding.

20.30.220. Lots-Side line requirements. Where reasonable, side lines of lots shall be at right angles to straight portions of the right-of-way or radial to curved portions of the right-of-way.

Staff recommendation: Concur that the design is acceptable an exception is not required as the design of the lot lines is angled to separate the existing improvements onto each lot while keeping both lots close to one acre in size.

20.30.280. Floodplain requirements.

- 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 recommendation: Depict and label the area affected by the floodplain. Add the required notes for the flood hazard notice and floodway notice.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils report was not prepared for the parent plat. To comply with KPB 20.40 Wastewater Disposal a soils analysis report will be required and an engineer will sign the final plat. Soils analysis report and signature from a licensed engineer is 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.

20.60.110. 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: *Provide current meander line data as the river may have changed since the last survey in 1977. The Kenai River meander information and source is required to be noted. Provide information for witness corner survey markers set for this survey. Provide the appropriate plat note regarding meander, '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.'* 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.*

- *All lots along the Kenai River are subject to a 10' maintenance easement for government use only as granted by KN 77-101.*
- *All river meanders are for computation purposes only; property extends to the mean high water of the Kenai River.*
- *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.*
- *FLOOD HAZARD NOTICE: Some of all of the property shown on this plat has been designated by FEMA 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. Map Panel 020012-2065A*
- *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.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *Include the parent lot information on each owner's signature line. 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

**Approved by Grouped Agenda*

AGENDA ITEM E. NEW BUSINESS

ITEM 12 - Emery Subdivision

KPB File No.	2021-100
Plat Committee	August 9, 2021
Meeting:	
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 proposed 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.

C. 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.

D. 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

**Approved by Grouped Agenda*

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 given by Scott Huff.

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 power lines, guys, and anchors."**

The parent plat did depict two power lines that run through Lot 9-B. **Staff recommends the power lines 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.
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 proposed 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.

E. 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.

F. 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 power lines, 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.

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.

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

Chair Ecklund opened the item for public comment.

Gary Nelson, Ability Surveys: 152 Dehl St., Homer, AK 99603: Mr. Nelson was the surveyor on this project. He noted that there was an error on the staff report. The staff report states that there are two power lines on this property. The staff report states that there is a power line on lots 5A and 6A and on the south side of 9B. That power lines is not there. Mr. Huff replied the parent plat HM 91-47 shows two utility lines, and there is map that shows a power line crossing that gulley. This can be worked out between the surveyor and the utility company to ensure that it is depicted correctly on the final plat.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Morgan moved, seconded by Commissioner Venuti to grant preliminary approval to Stanley's Meadow 2021 based on staff recommendations and compliance to borough code.

AMENDMENT A: Commissioner Morgan moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.17 – Block Length Requirements, citing findings 1-9 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AMENDMENT B: Commissioner Morgan moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.190 – Lot Dimensions, 3:1 Depth to Width Ratio, citing findings 1-9 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT B PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 2 - Tulin West Highlands Green 2021 Replat

KPB File No.	2021-104
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Doug Green and Stephanie Green of Homer, Alaska
Surveyor:	Kenton Bloom / Seabright Surveying
General Location:	Diamond Ridge / KACHEMAK BAY APC

Parent Parcel No.:	173-035-17, 173-035-19, 173-035-39, 173-035-40, 173-035-41, 173-035-42
Legal Description:	Tracts 17 and 19, Tulin West Highlands, Plat HM 2002-6 and

Assessing Use:	Tracts 18A, 18B, 20A and 20B, Tulin West Highlands Too, Plat HM 2004-32.
Zoning:	Residential
Water / Wastewater	Rural Unrestricted
	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will create one tract by removing all shared property lines by combining six lots totaling 19.506 acres in size.

Staff Analysis The application was received and processed as per KPB Code. Notifications were sent to all land owners within 600 feet of the subdivision. A deed of trust is present and the beneficial interest holder was notified. The beneficial interest holder has objections with the proposed plat. The surveyor has submitted a request to withdraw Tulin West Highlands Green 2021 Replat from consideration.

Due to notification of a public hearing, anyone wishing to comment should be allowed. No action will need to be taken on this item. The rescheduling of the proposed plat will be determined if and when by the surveyor and owner.

Staff recommendation: Open public hearing to allow any wishing to comment the opportunity to speak per the KPB Plat Committee public hearing procedures. Once all testimony has been taken, close public hearing and take no action on this item at this time.

END OF STAFF REPORT

Chair Ecklund opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Morgan moved, seconded by Commissioner Venuti to postpone action on this item until brought back by staff.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - Self Subdivision Bilben Replat

KPB File No.	2021-092
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Steve W. and Renae E. Bilben of Kasilof, Alaska Delores J. and James A. Gregory of Soldotna, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Cohoe

Parent Parcel No.:	137-160-02, 137-160-03, 137-160-04
Legal Description:	Lots 4, 5 and 6, Block 1, Self Subdivision, Plat KN 72-70
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site/On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will reconfigure three lots into two lots. Proposed Lot 5A will be 2.275 acres by combining former Lots 5 and 6 and relocating the lot line with Lot 4. Lot 4A is decreasing in size from 2.27 acres to 2.059 acres by moving the shared lot line.

Legal Access (existing and proposed): The proposed subdivision is located near the end of Stol Road, a 60 foot wide borough maintained right of way. Stol Road continues past the subdivision but the maintained portion ends along Lot 4. This portion of Stol Road was originally named Lakeview Court but was changed by Resolution SN 2006-05.

Stol Road is located off Tolum Road, which is near mile 115 of the Sterling Highway. Tolum Road is constructed and maintained by the Kenai Peninsula Borough. Tolum Road provides legal access and is a mix of dedicated right of way, section line easements, and public easement per ADL 214774.

Stol Road follows Encelewski Lake providing access to lots on both sides of the right of way. Due to the subdivision being along the bank of the lake, the block is not compliant and is not closed. **Staff recommends the plat committee concur that an exception is not required for block length due to the inability to provide a dedication to improve the block requirements.**

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

Site Investigation: The subdivision is along the shores of Encelewski Lake. Excluding the shoreline, there are no low wet areas within the subdivision. **Staff recommends any low areas within the lot boundaries along the lake be depicted and that the meander information for the lake be depicted and source information be labeled.**

Per KPB GIS data, there may be areas within Lot 4A near the right of way that are slopes greater than 20 percent. **Staff recommends** verify the slopes within the area and depict any slopes greater than 20 percent.

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

Staff Analysis This platting action will reconfigure three lots into two lots. One of the lots will be increasing in size while one is decreasing. Self Subdivision, Plat KN 72-70, was a subdivision of Government Lot 5 resulting in the current lot configurations. The property is accessed by Stol Road and is along Encelewski Lake. Per Alaska DNR land records website there is a seaplane base on the lake, this would provide additional legal access.

Per KPB GIS imagery, it appears that there may be structures encroaching or very close to the lot lines. This platting action appears to correct any possible encroachments. If encroachments are found during the field survey, they must be disclosed to staff to determine the appropriate plat notes/action required.

An exception has been requested for wastewater review.

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.

The property is not within an advisory planning commission.

Utility Easements The parent plat granted a 5 foot clearing easement for underground utilities adjoining the right of way dedication. There is an additional 20 foot easement granted to HEA by recorded document, which is depicted and noted on the plat. This plat will be granting the required 10 foot utility easement along the dedicated right of way. **Staff recommends the utility portion of plat note 1 be worded, "The front 10 foot adjoining all dedicated right of ways and 20 foot within 5 feet of the side lot lines is granted by this plat as a utility easement."**

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	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 53205 Stol Road (will be deleted), 53181 Stol Road (will remain with Lot 5A), and 53111 Stol Road (will remain with Lot 4A). Existing street names listed 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 – Adeena Wilcox	No comment

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.

- 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: *Adjusting the view of the vicinity map so that the subject subdivision is closer to center will allow labeling of Cohoe Loop Road to the north and provide a better representation of the vicinity then the large acreage unsubdivided lots to the south.*
- 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 an easement contract located in Book 296 Page 198. The surveyor should verify if this applies to the land within this subdivision. If the easement affects this subdivision, add a depiction and/or plat note for the easement of record.*
- 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: *Update the recording number information for Lot 7 north of the subdivision to KN 77-192.*
- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;
Staff recommendation: *A block 1 label needs to be added to each of the parcels.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: An exception has been requested.

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.*

20.60.180. Plat notes.

G. 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.

H. 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.*

- *The natural meanders of the lakeshore form the bounds of all lots adjoining the lake.*
- *Add a plat note for any exceptions granted.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *By the signature lines remove the reference to the new lots and add the former lots. Comply with 20.60.190.*

EXCEPTIONS REQUESTED:

A. KPB 20.40 Wastewater Disposal

Staff Discussion: An exception for a wastewater system review has been requested. Lot 5A is not required to have a soils analysis report prepared as the lot is increasing more than 1,000 square feet as provided in KPB 20.40.020(A)(2). Due to Lot 4A decreasing in size and the lot line moving more than 10 feet a soils analysis report would be required.

A soils analysis report is not on file for the parent plat and DEC did not review the parent plat. Soils reports are not on file for the surrounding subdivisions.

If the exception is denied, a soils analysis report will be required for Lot 4A and an engineer will need to sign the plat. The appropriate notes will need to be added for the lots.

Surveyor Findings:

1. Lot 5 and 6 will be combined to create lot 5A, containing 2.3 acres.
2. Lot 4 will have the northwestern boundary adjusted 30 feet and be renamed lot 4A, containing 2.1 acres.
3. Lot 5A is a single-family residence with an existing well and septic system.
4. Lot 4A will have a DEC certified septic system installed this year.
5. This replat reduces the number of lots.
6. Each of the lots will still have over 20,000 square feet of area usable for septic placement.

Staff Findings:

7. A soils analysis report was not prepared for the parent subdivision.
8. Soils analysis reports are not available for the surrounding lots.
9. A 100 foot setback from the water will be required, reducing usable area for wastewater disposal within Lot 4A.
10. Code does not require an analysis report for Lot 5A per KPB 20.40.020(A)(2).
11. The lot line is moving 30 feet, which is 20 feet more than allowed by code for not requiring a soils analysis report.
12. Lot 4A will be 89,690 square feet (2.059 acres)
13. Lot 4A will be decreasing in size by approximately 9,191 square 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 3-6, 12, and 13 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 3-6, 12, and 13 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 3-6, 12, and 13 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

Chair Ecklund opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Morgan moved, seconded by Commissioner Venuti to grant preliminary approval to Self Subdivision Bilben Replat based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Morgan moved, seconded by Commissioner Venuti to grant exception request to KPB 2040 – Wastewater Disposal, citing findings 3-6, 12 & 13 in support of standards one, two and three.

Commissioner Morgan stated the staff report mentioned that there was a comment but she did not see it in the meeting materials. Ms. Shirnberg stated the comment was uploaded this morning as a desk packet item. Mr. Huff then summarized for the committee the comment from Stephen Bilben. The Bilben's home is within 10 of the original property line. The purpose for the Bilben's buying 32 feet from the Gregory's is to create a firebreak and to be able to access the lake to use their airplane. Requiring soils testing would serve no purpose and would be an unnecessary added expense.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 4 - Ninilchik Airport Heights 2021 Replat

KPB File No.	2021-103
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Terrastar Properties LLC of Wellington, Nevada
Surveyor:	Stephen C. Smith / Geovera, LLC
General Location:	Ninilchik
Parent Parcel No.:	185-321-09
Legal Description:	Government Lots 1, 2, 3 and 4 of the E1/2 W1/2, all lying south of Oil Well Road, Section 7 Township 2 South, Range 13 West, SM and Excepting Therefrom Ninilchik Airport Heights Carter Tract B, Deed of Record Boundary Survey, Plat 84-32RS, Ninilchik Airport Heights M. Keeler 1981 Subdivision of Tract "A", Plat 82-3, Ninilchik Airport Heights 2005 Addition, Plat 2005-20 and Ninilchik Airport Heights 2005 Addition NO 2, Plat 2006-11 HRD.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 155.25 acre parcel into a 20.14 acre tract that contains the Ninilchik Airstrip and a 132 acre tract.

Legal Access (existing and proposed): The subdivision is located between miles 3 and 4 of State maintained Oil Well Road. The subdivision has legal access from Smart Street, Tailwind Road and Cessna Street.

Smart Street is located on the west boundary. Smart Street is an improved roadway within a 66 foot wide right of way that is a combination of a dedication and a section line easement. The State of Alaska maintaining Smart Street.

Tailwind Road is located on the east boundary and on the north side of Tract B. Tailwind Road is an improved roadway within a 60 foot wide right of way dedication. The portion that crosses the east end of Tract A is within a public access easement. The Kenai Peninsula Borough maintains Tailwind Road.

Cessna Street is located on the west boundary. Cessna Street is an 83 foot wide right of way that is a combination of right of way dedications and section line easements. Cessna Street is not improved.

There does appear to be some discrepancies regarding the section line easements within and abutting the subdivision. The certificate to plat states that the plat is affected by 33 foot section line easements. Based on the date of entry staff has determined there are no section line easements within the subdivision. However, Ninilchik Airport Heights 2005 Addition No. 2, Plat HM 2006-11, depicted 33 foot section line easements along the west and south boundary. That depiction granted 33 foot public access easements with the same properties as section line easements. The surveyor or owner can work with the state to determine if actual section line easements affect this property. If it is determined the subdivision is subject to section line easements, the current notes and depictions are correct. If it is determined there are no section line easements, but instead there are platted public access easements, the labels should be revised to state "33 foot public access easements granted by Plat HM 2005-30".

The subdivision is divided into two blocks. Oilwell Road, Tailwind Road, Cessna Street, Smart Street, and section line easements define the northern block. The northern block is closed but is larger than allowable lengths. The southern block is defined by Tailwind Road and section line easements. The block is not closed and is larger than allowable lengths. An exception for block length requirements has been requested.

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

Site Investigation: Tract A contains the Ninilchik Airstrip and is relatively flat with no known low wet areas.

Tract B is a large acreage tract that is not developed. Tract B is affected by an anadromous stream named Silver Salmon Creek. Along the creek are wetlands and some steep areas. These areas are depicted on the plat. Due to the wetlands, **Staff recommends a note be placed 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 flood hazard area, no comments.
Anadromous Waters Habitat Protection District Review	Is totally or partially within HPD, no comments.
State Parks Review	No comments

Staff Analysis The proposed plat will divide an unsubdivided remainder into two large tracts. The purpose of the subdivision is to legally separate the runway lease portion from the remainder of the unsubdivided property. No additional right of way dedications are proposed and exceptions have been requested.

The subdivision is an unsubdivided remainder of several government lots. Through the years, several lots and right of way dedications have been created from the original lots. The property involved in this platting action is the unsubdivided remainder which was allowed under old code.

Due to the size of the lots a soils report will not be required and an engineer will not 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.

The property is not within an advisory planning commission.

Utility Easements Plat note 6 addresses several easements granted to Homer Electric Association with no definite locations. This plat is proposing to grant utility easements along dedicated right of ways. Due to the scale, it will be difficult to depict the utility easements. A detail could be added to show the easements being granted.

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
ACS	No objections
GCI	No comments

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 63885 Tailwind Road (will be deleted) Existing street names are correct. Within the Vicinity Map update to Oil Well Road.
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	There are not any Local Option Zoning District issues with this proposed plat. A counter permit for a material site for this parcel expired in 2015. A recent site visit showed no recent extraction activity.
Assessing – Matt Bruns	No comment

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:** *The legal description should match the Certificate to Plat. The excluded plats should include the recording number.*
- 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:**
- *The cul-de-sac north of Tract A should be labeled and a width label added, Stinson Street 50'.*
 - *An additional label north of the subdivision for the west dedication of Smart Street should be added for clarification.*
 - *Verify all section line easement widths.*
 - *Correct section line easement depictions and labels based on information found.*
- 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:** *Correct Oil Well Road label by separating Oil Well into two words.*

- 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 proposed 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: *The ownership listed on the unsubdivided lots may be removed from final 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:*

- 20.30.090. Streets-Maximum grades allowed. The subdivider shall demonstrate that streets can be readily constructed in accordance with current borough road standards and that the grades on any such roads shall not exceed 6 percent on arterial streets and 10 percent on other streets, or 4 percent within 130 feet of any centerline intersections. Submittal of centerline profiles and cross-sections may be required to demonstrate that compliant construction in the right-of-way is feasible.

Staff recommendation: *If right of way dedications are required along the southwest portion additional easements may be required.*

- 20.30.130. Streets-Curve requirements.

A. Where a deflection angle of more than 10 degrees in the alignment of a right-of-way occurs, a curve of minimum radius is required. On streets 100 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets not less than 200 feet. If it is not possible to design a curve to be radial or tangential, that curve shall be clearly labeled non-radial or non-tangential.

B. A minimum 100-foot tangent is required between curves.

Staff recommendation: *Concur that an exception is not needed for line segment L1 as it is less than the 100 foot tangent length requirement but Tailwind Road is an existing right of way dedication and additional right of way is not required at this time.*

- 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 the setback along any required dedications. If no additional dedications are required, Tract A should depict the setback along Smart Street and dedicated portions of Tailwind Road.*

- 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: Silver Salmon Creek is within the Anadromous Waters Catalog. 244-20-10100-2019.

Staff recommendation: comply with 20.30.290.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: The current wastewater disposal note needs to be revised to remove "or nominal 5 acres". No soils analysis report is required and an engineer will not need to sign the plat.

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: If right of way dedications are required, then a certificate of acceptance will be required.

20.60.180. Plat notes.

I. 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.

J. 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:

- Reword note 3 "The front 10 feet adjoining dedicated right of ways and 20 feet within 5 feet of side lot lines is a utility easement. No permanent..."
- Plat note 5 can remain if dedications are required. If there are no new dedications, the note may be removed.
- Add the Anadromous Waters Habitat Protection District Note.
- Add a note "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."

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Revise the certificate of ownership to read "...that we, on behalf of Terrastar Properties, LLC, hereby adopt this plan of subdivision and by our free..." Verify where signatures will be acquired and update notary as needed. If dedications are required, provide an acceptance to be signed by the KPB. Comply with 20.60.190.

20.60.200. Survey and monumentation.

Staff recommendation: Monuments shall be placed or found monuments shown to break the long lot lines into sections 1,320 feet or shorter between monuments. Due to terrain, witness markers may be required. Comply with 20.60.200

EXCEPTIONS REQUESTED:**A. KPB 20.30.030 – Proposed Street Layout – Requirements**
KPB 20.30.170 – Block Length Requirements

Surveyor's Discussion: The section line easement along the west boundary runs into the steep bluff near the southwest corner of the subdivision. That makes it unlikely that a borough standard road could be constructed that would connect to the south boundary. The section line easement along the south boundary runs through a large wetland and the existing creek, and due to the steepness of the bluffs adjoining the existing drainage, it would not seem likely that a borough standard road could or should be constructed within the easement.

Tract A is being extracted from the parent parcel to separate it legally from the unsubdivided remainder of the parent plat. The portion of Tract B northwest of the drainage is likely to be further subdivided and developed at which time right-of-ways will be dedicated.

A dedication to connect the two portions of Tailwind Road would go across the runway lease so I am sure that is why it was just an easement.

Staff Discussion: There have been dedications along the western boundary of the subdivision. There are several areas to consider. Staff will make their recommendation but if the plat committee wishes, they may want to make a separate motion on each dedication if they do not agree with staff's recommendations.

The subdivision is divided into two blocks. Oilwell Road, Tailwind Road, Cessna Street, Smart Street, and section line easements define the northern block. The northern block is a closed block but is larger than allowable lengths. The southern block is defined by Tailwind Road and platted public access easements. The block is not closed and is larger than allowable lengths.

Smart Street lies north of Tract A. The Smart Street dedication is located atop a section line easement and the western portion has been dedicated. Plat HM 2005-20, dedicated a small portion of Smart Street north of Tract A. Smart Street is constructed and maintained by DOT.

Cessna Street is a 30 foot dedication along the west between Tract A and Tailwind Road. Abutting Cessna Street is a platted public access easement. The right of way does not appear to be constructed.

A public road easement exists within Tract A. It provides a legal connection of Tailwind Road right of way. The public road easement is constructed and maintained by the borough. The plat committee heard the subdivision plat that created the lots south of the airstrip on June 13, 2005. In the staff report from that meeting, it states the owner was working with the State of Alaska to clarify restrictions and allowable uses associated with the airport easement. They owner did not want to dedicate over the end of the easement until all issues were resolved with the State of Alaska. Staff also recommended that there be no dedications across the airstrip. No new information was presented regarding the airport easement or possible dedications.

The status of the section line easements will need to be verified. Past subdivision plats show 33 foot public access easements therefore public access easements exist with the same qualities as a section line easement.

If denied, this plat will be required to dedicate right of way on the west and south boundary as well as additional right of way dedications within Tract B to comply with the block length limit of 1,320 feet.

Findings:

1. Tract A is an existing runway.
2. Dedication to extend Smart Street / Cessna Street right of ways along Tract A would result in a right of way crossing a runway.
3. The public road easement is already constructed and maintained.
4. Smart Street is constructed and maintained by the State of Alaska.
5. Tailwind Road is constructed and maintained by the KPB.
6. Cessna Street does not appear to be constructed.

7. Section line easement (or public access easements) provide access to areas within Tract B.
8. Tract B abuts property owned by the Ninilchik Native Association and the Kenai Peninsula Borough.
9. Tract B contains steep terrain, wetlands, and anadromous stream.
10. Tract B will be 132 acres.
11. Tract B can be further subdivided in the future and dedications can occur to meet the design needs.
12. The northern block is approximately 1,920 feet by 2,950 feet by 3,350 feet.
13. Dedications to bring the northern block into compliance will require dedications through a runway.
14. The southern block is approximately 3,350 feet by 2,930 feet by 2,420 feet by 2,560 feet.
15. Dedication to bring the southern block into compliance will require multiple dedications.
16. All lots fronting Tract A have access to the airstrip easement.
17. Previous plats were not required to dedicate across airstrip easement.
18. No parcels are being denied access.

Staff reviewed the exception request and recommends granting approval. Staff is agreeable to the 60 foot wide road easement, located on the east end of the airstrip, being dedicated to public right of way with Tract A and Tract B on each side of the dedication. This can be worked out with the surveyor and land owner.

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 1-7, 10, 11, 13, 16, 18 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 1-7, 10, 11, 13, 16, 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 1-7, 10, 11, 13, 16, 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.

B. KPB 20.30.190 – Lots-Dimensions (3:1 for Tract A)

Surveyor's Discussion: Tract A is an existing runway that operates under an existing airport construction easement. Tract A is intended to separate the runway lease area from the remainder of the unsubdivided property (Tract B) so that the owner can dedicate equal interests to the adjoining landowners in the runway tract. Tract A will only be a parcel containing the runway lease area in the future.

Staff Discussion: KPB 20.30.190(A) states that the average depth shall be no greater than three times the average width.

If denied, Tract A will need to be subdivided into multiple lots to meet the 3:1 depth to width ratio. Also a right of way dedication would be required on the north or south side of the airstrip.

Findings:

1. Tract A is an existing runway.
2. The depth to width ratio is 8.2:1.

3. Access to the lot is by Smart Street and Tailwind Road.
4. Lots abut the tract along the north and south.
5. The intention for this tract is to continue use as runway.
6. The airstrip has been noted and depicted on plats prior to the development of the abutting properties.

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, 5, 6 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, 5, 6 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, 5, 6 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

Chair Ecklund opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MAIN MOTION: Commissioner Morgan moved, seconded by Commissioner Venuti to grant preliminary approval to Ninilchik Airport Heights 2021 Replat based on staff recommendations and compliance to borough code.

AMENDMENT A: Commissioner Morgan moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.030 – Proposed Street Layout Requirements & KPB 20.30.170 – Block Length Requirements, citing findings 1-7, 10, 11, 13, 16 & 18 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AMENDMENT B: Commissioner Morgan moved, seconded by Commissioner Venuti to grant exception request to KPB 20.30.190 – Lot Dimensions, 3:1 for Tract A, citing findings 1, 5 & 6 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT b PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 7 - Melickian Subdivision 2021 Addition

KPB File No.	2021-094
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Neil Waggoner and Marisa Jaso of Anchorage, Alaska Henry Munter and Kelly Rinck of Girdwood, Alaska
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Hope
Parent Parcel No.:	035-101-37
Legal Description:	Tract B2F, Melickian Subdivision 2013 Addition, Plat SW 2014-18.
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site/On Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 4.68 acre parcel into three lots ranging in size from 1.335 acres to 2.010 acres.

Legal Access (existing and proposed): Resurrection Creek Road, a Kenai Peninsula Borough maintained right of way, will provide access to both lots. The width of Resurrection Creek Road varies in locations. Adjoining this subdivision, it is 66 feet wide.

Resurrection Creek Road intersects with the Hope Highway, a state maintained right of way, near mile post 16. Resurrection Creek Road is a long right of way that extends south from the Hope Highway and provides access to the Resurrection Creek trail.

Proposed Lot 1 will have access from Resurrection Creek Road. Lot 3 is on the corner of Resurrection Creek Road and Katday Court. Lot 2 will have access by Katday Court. Katday Court is a 60 foot wide cul-de-sac that appears to be constructed but not maintained by the Kenai Peninsula Borough. It appears an access has been developed off Resurrection Creek Road onto Lot 1 and Lot 3 has a drive from Katday Court.

The subdivision is within an open block that does not comply with block length requirements. Due to Chugach National Forest surrounding the areas that are developed the ability to provide a closed block will be difficult.

Katday Court is a closed cul-de-sac that provides access to the lots from the parent subdivision, which abuts the Chugach National Forest. Plat SW 2007-11, Melickian Subdivision, was granted an exception to block length. The exception was not carried forward to Melickian Subdivision 2013 Addition (SW 2014-18) and an exception was not granted as the dedications on that plat improved the block length. It was discussed that due to the creeks and slopes adjoining the Chugach National Forest the dedication of a through street in this area was not an appropriate projection. The USDA Forest Service is being provided notification and may submit comment. **Staff recommends** the plat committee concur that any dedications required will not improve the block and due to terrain and proximity to the Chugach National Forest, an exception and dedications are not required at this time unless requested by USDA Forest Service.

Parent plat SW 2014-18 contained a note regarding driveways on a state right of way. Resurrection Creek Road was at one time maintained by the State of Alaska but jurisdiction has been given to the Kenai Peninsula Borough. **Staff recommends** the plat note not be carried over and any notes requested by State of Alaska DOT be placed on the plat.

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

Site Investigation: KPB GIS does not have contour data for this area. The surveyor did state there are no grades exceeding 3 percent on the property. The subdivision, per KPB GIS data, does not have any low wet areas and the surveyor has confirmed this on the plat. A creek runs through the subdivision. The creek is shown on the plat and plat note 3 refers developers to contact the Corps of Engineers.

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 divide a 4.68 acre lot into 3 lots. Two of the lots will be 1.335 acres each. These lots both adjoin Resurrection Creek Road and one is a corner lot with frontage on Katday Court. The third lot is 2.010 acres with frontage on Katday Court. A seasonal creek is shown crossing through the middle of Lot 2.

The property was originally part of U.S. Survey 2761. Melickian Subdivision, SW 2007-11, further subdivided tract B from U.S. Survey 2761. The current parent lot configuration was created with Melickian Subdivision 2013 Addition, SW 2014-18.

KPB GIS data shows the property within Chugach National Forest. This is common and is considered a private inholding and the laws and regulations within the Chugach National Forest do not apply to the property.

All lots proposed are under 200,000 square feet and water and wastewater disposal will be on-site. A creek divides proposed Lot 2 and will need to be taken into account for the soils analysis. A soils report will be required and an engineer will 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.

The property is not within an advisory planning commission.

Utility Easements The U.S. Survey did not grant any utility easements. The parent plats did grant the front 10 feet of the 20 foot building setback as well as the full setback within 5 feet of side lot lines as a utility easement. **Staff recommends** the utility easements be depicted on the plat.

Staff recommends the utility easement portion of plat note 1 be reworded. "Plats SW 2007-11 and SW 2014-18 granted the front 10 feet of the setback as a utility easement along with the full setback within 5 feet of the side lot lines. This plat will grant additional 20 foot utility easements within 5 feet of the new side lot lines."

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:

ENSTAR	No comments or recommendations
ACS	No objection.
GCI	Approved as shown.
SEWARD ELECTRIC	Comments not received when the staff report was prepared
CHUGACH ELECTRIC	Comments not received when the staff report was prepared
TELALASKA	Comments not received when the staff report was prepared

KPB department / agency review:

Addressing – Derek Haws	No addresses affected by this subdivision. Existing street names are correct.
Code Compliance – Eric Ogren	No comments
Planner – Bryan Taylor	There are no Local Option Zoning District or material site issues with this proposed plat.
Assessing – Adeena Wilcox	No comment.

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: KPB Assessing records show a PO Box for Henry Munter and Kelly Rinck. The surveyor should verify the owners mailing address. If the address of record differs than KPB records, the owners should contact the Assessing Department to update their information. Add the KPB File number of 2021-094.

- 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: Provide states labels for the lots on the west side of Resurrection Creek 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
- Depict and label the boundary for Chugach National Forest.
 - The typical scale used is 1 inch equals 1 mile. We have also accepted different scales for vicinity maps but 1 inch equals 1.33 miles is an odd measurement. Please revise the scale of the vicinity map to 1 inch equals 1 mile, 1 inch equals 1.5 miles, or 1 inch equals 2 miles.
 - The depiction of the subdivision seems a little off as it appears to be centered on the section line. This subdivision is close but does not abut or cross a section line.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils analysis report required for review and an engineer will need to sign the plat. Provide the correct wastewater disposal 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.

- 20.60.130. 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: The boundary line along the cul-de-sac needs to be revised to match the symbol used on the rest of the boundary.

20.60.180. Plat notes.

K. 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.

L. 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.

- Unless provided a different note by KPB Roads or State DOT add "Resurrection Creek Road ROW is as shown on USS 2761" or provide note regarding source.

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

Chair Ecklund opened the item for public comment.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

Erin Schumacher; 4310 Tikishla St., Anchorage, AK 99504: Ms. Schumacker owns property across the road from this parcel in the Horse Creek Subdivision. She noted all the lots in the Horse Creek Subdivision are approximately 2+ acres in size. The two proposed lots in this design across the street from them and substantially smaller in size at 1.13 acres each.. Having smaller lots would mean having more development in the area, more people, more traffic and noise. She wonder if would be possible to revise the design and have two-acre Lot 2 move forward and front Resurrection Creek Rd. and have the two smaller lots come off Katday Ct. That would keep the design somewhat consistent with the lot sized in the Horse Creek Subdivision.

Jerry Johnson, Johnson Surveys; POB 27, Clam Gulch, AK 99568: Mr. Johnson is the surveyor on this project. He does not believe it is possible to flip the design like Ms. Schumacker proposed. It would require some kind of ROW dedication. It would not be practical to try and created access for the two smaller lots off Katday Ct. This was the design preferred by the property owner.

MOTION: Commissioner Gillham moved, seconded by Commissioner Venuti to grant preliminary approval to Melickian Subdivision 2021 Replat, based on staff recommendations and compliance to borough code.

Chair Ecklund asked staff if Horse Creek Subdivision was a part of local option zone (LOZ). Mr. Huff replied that it was not. Chair Ecklund then explained to Ms. Schumacher that some area in the borough have zoning which can address minimum lot sizes, types of structures, uses etc... This property is not in one of those areas of zoning.

Chair Ecklund noted that Ms. Schumacher wished to address the committee again and noted that public testimony had closed. She then asked the committee if they would relax the rules and allow Ms. Schumacher to speak again. There was no objection from the committee.

Ms. Schumacker stated Horse Creek Subdivision has covenants that address lot size. When the subdivision was created covenants were established to try and keep lots the area at 2+ acres. Chair Ecklund noted that covenants are a civil matter and the borough does not enforce them. She also noted that this parcel was not in the Horse Creek Subdivision so it would not be subject to their covenants. Chair Ecklund also noted that it does not appear this new subdivision has any covenants associated with it. She also noted by look at the map she does not see a way to created access for both of the smaller lots of Katday Ct. Ms. Schumacker thanked Chair Ecklund for the information and stated that she understands the situation. Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS**ITEM 9 - Hinz Subdivision No 2**

KPB File No.	2021-102
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Terrance W. and Jane M. Hinz of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	Kalifornsky / Kalifornsky APC

Parent Parcel No.:	133-034-37
Legal Description:	Tract A Hinz Subdivision Plat KN 2016-24
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will subdivide one 46.825 acre tract into two tracts ranging in size from 5.288 acres to 41.425 acres.

Legal Access (existing and proposed): The proposed subdivision is located on Irish Hills Avenue, a borough maintained right of way. Irish Hills Avenue is located near mile 104 of the Sterling Highway. The width of Irish Hills Avenue varies. Abutting the proposed subdivision it is mostly 60 feet wide but due to terrain and actual construction areas, the width varies within a couple of locations.

A 33 foot section line easement adjoins the north subdivision boundary. This section line easement provides access to Orphea Lake. The terrain in that area appears to be relatively flat. To the east of the subdivision is Betwixt Avenue, a 66 foot wide right of way. Per KPB Code, a continuation of Betwixt Avenue should be granted in conjunction with the section line easement. The surveyor has commented that he would dedicate the continuation of Betwixt Avenue if requested.

The block is not closed due to Orphea Lake and dedicated cul-de-sac. The distance along Betula Street is within the allowable lengths. The block along Irish Hills Avenue exceed code requirements. An exception for block length has been requested.

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

Site Investigation: The proposed plat is along Orphea Lake. The areas subject to inundation are depicted. A pond will be located on Tract A2. It is depicted along with the adjoining wet areas. The appropriate note referring to the U.S. Corps of Engineers is on the plat.

KPB GIS data shows that there may be areas with steep slopes. The parent plat had depicted areas affected by steep slopes. **Staff recommends** any steep slopes within the subdivision be depicted and noted on the plat.

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 O'Loughlin Subdivision, KN 82-722, subdivided an aliquot parcel. KN 82-722 granted the utility easements seen within Tract A1. Hinz Subdivision, KN 2016-24, replated the lots created by KN 82-722 with portions of neighboring Government Lots.

KN 2016-24 combined all the lots into one large tract. It also dedicated an additional 10 feet of Irish Hills Avenue to bring into compliance with the minimum width of 60 feet. Additional right of way was dedicated north of the intersection with Spruce Ridge Street and near the intersection with Betula Street. There was also a matching dedication of Betula Street granted.

Per KPB GIS imagery, there are structures present and the lot line configuration will place the improvements on Tract A1. Tract A2 will not contain any improvements.

The lots are larger than 200,000 square feet, a soils analysis report is not required, and an engineer will not need to sign the 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.

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 Plat KN 82-122, granted several utility easement along the lot lines. The easements stayed in place when the lots were replatted and are depicted on the plat.

KN 2016-24 dedicated 15 feet utility easements along all right of ways. Plat note 6 addresses those easements of record. If a dedication is required to comply with block length, or continuation of Betwixt Avenue, **Staff recommends** the note be revised to grant new dedications or a new note be added.

Several easements have been granted to Homer Electric Association by recorded document. Those are noted in plat note 3. The note should be revised to state "No definite location disclosed."

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** revise plat note 3, depict utility easements and 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	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 49530 Irish Hills Avenue (will remain with Tract A1) and 49612 Irish Hills Avenue (will remain with Tract A2). Correct existing street name: ROW along the east side of Tract A1 should be Betula Street. All other existing street names 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

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 township to 3 North.*
- 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:**
- Right of way to the east is not labeled. Label Betula Street and provide a right of way width label.
 - The width of Irish Hills Avenue varies in one location along the subdivision. Provide a "width varies" label for this portion.
 - The label for Betwixt Avenue is incomplete. Please correct.
- 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:** *Vicinity Map has an incorrect location for "this plat". Correct the label for "Irish Hills Road".*
- 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:** *Depict any steep slopes that affect 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:*

20.30.030. 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: *Dedication of the continuation of Betwixt Avenue is required. Dedicate a minimum 30 foot width right of way and depict a remaining 3 foot section line easement or dedicate the full 33 foot width of the section line easement.*

20.30.040. Streets within 100 feet of waterbodies. No dedications are allowed within 100 feet of the ordinary high water line of a waterbody unless necessary for access to a lot where no reasonable alternative access exists or the dedication provides access to a bridge or public facility, waterbody or watercourse. Final plats must comply with KPB 20.60.050 and 20.60.060.

Staff recommendation: *The dedication will provide access to a waterbody.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Both lots are larger than 200,000 square feet. An analysis report and signature by licensed surveyor will not be required. Correct plat note is on the plat.

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: *Provide a certificate of acceptance for any new right of way dedications that are required.*

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: *Provide the source for the meander line data. Any witness markers used shall be noted as such with dimensions to true corners. Correct any overstrikes on dimensional data. Comply with 20.60.110.*

20.60.180. Plat notes.

M. 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.

N. 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.*

- 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 plat note for any exceptions granted.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Certificate of Acceptance to be signed by a Kenai Peninsula Borough Authorized Official is required with right of way dedications. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

KPB 20.30.170 – Block Length Requirements

Staff Discussion: The block does not meet length requirements. The north-south block length dimension is 1320 feet and complies with code. The east-west block length dimension along Irish Hills Avenue is 2,620 feet and does not comply with code.

Orphea Lake borders the north boundary of the subdivision and limits any extension of right of way.

Tract A1 is 41 acres in size and can be further subdivided in the future. Any subdivision of Tract A1 will need to comply with KPB code including the block length requirement.

If the exception is denied, dedications will be required that intersect Irish Hills Avenue and end at the lake or the northern section line easement.

Findings:

1. Shoreline Avenue, section line easements, Betula Street, Irish Hills Avenue, and Spruce Park Drive define the block.
2. Shoreline Avenue and the section line easements extend to, and across, the lake.
3. A dedication along the western boundary would end at the lake and would still result in two blocks that exceed length requirements.
4. An extension of Spruce Ridge Street would be affected by the existing residence.
5. The surveyor has agreed to dedicate an extension of Betwixt Avenue atop the section line easement.
6. The section line easement provides public access to the lake.
7. The right of way dedication will provide public access to the lake.
8. The lake has public access from east and west.
9. Tract A1 will be a large acreage lot approximately 41 acres.
10. Tract A1 can be further subdivided and dedicate required roads at that time to meet the design of the plat.
11. There is a pond with low wet areas surrounding it on Tract A2.
12. Tract A1 contains wetlands.
13. Per the parent plat, there are steep slopes along the western boundary.
14. No lots are being denied access.

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 3, 4, 9, 10, 11 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 3, 4, 9, 10, 11 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 3, 4, 9, 10, 11 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

Chair Ecklund opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Venuti moved, seconded by Commissioner Morgan to grant preliminary approval to Hinz Subdivision No. 2 based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Venuti moved, seconded by Commissioner Morgan to grant exception request to KPB 20.30.170-Block Length Requirements, citing findings 3, 4, 9, 10 & 11 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

Chair Ecklund noted the staff report makes reference to the Army Corps of Engineers note on the plat which she does not see and plat note #7 seems to be incomplete. She asked staff to address these two issues. Mr. Huff replied plat note #4 address seeking applicable local, state & federal permits which includes the Army Corps of Engineers. He then noted plat note #7 was incomplete and should say the Alaska Department of Environmental Conservation. He will make sure that it is corrected on the final plat

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

AGENDA ITEM E. NEW BUSINESS

ITEM 10 - Mac McGahan Subdivision 2020 Replat

KPB File No.	2021-096
Plat Committee Meeting:	August 9, 2021
Applicant / Owner:	Estate of Dolores Mae McGahan, Nikiski, AK Estate of Merrill Mazie McGahan, Nikiski, AK Merrill M. McGahan, Nikiski, AK Carmen M. McGahan, Nikiski, AK Dolores M. Rappe, Nikiski, AK
Surveyor:	John Segesser / Segesser Surveys
General Location:	Nikiski, Kenai Spur Highway and Nikishka Beach Road.
Parent Parcel No.:	012-080-30, 012-080-33, 012-080-41, 012-080-42, 012-080-47
Legal Description:	Lot 8 of Mac McGahan Subdivision, Lots 6A and 7A of Mac McGahan Subdivision No. 1, Lot 5A of Mac McGahan Subdivision 1983 Addition, and Tract A of Mac McGahan Subdivision 2010 Addition
Assessing Use:	Residential / General Commercial
Zoning:	Unrestricted
Water / Wastewater	On Site (Application did not state)

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will reconfigure four lots and one tract into one lot and one tract. Tract A will be reduced from 3.5 acres to 2.808 acres and the combined lots will be 2.306 acres.

Legal Access (existing and proposed): The lot will have access via the Kenai Spur Highway near mile 27. Tract A1 will have legal access by Nikishka Beach Road. Both right of ways are constructed and maintained by the State of Alaska.

The block is defined by Land Marine Drive, Kenai Spur Highway, Nikishka Beach Road, and section line easements. Land Marine Drive is not a dedicated right of way and passes through private property. The block length along the Kenai Spur Highway and along Land Marine Drive exceed the code requirements. The distance from Nikishka Beach Road to Land Marine Drive is approximately 1,500 feet. The building located within this subdivision contains multiple units with businesses. The lots to the southeast all contain structures. Parking areas exist along the front of the lots. Some of the lots to the west and north contain businesses with large storage and work yards. Due to the location of structures, obtaining a full dedication that would improve the block will be difficult. **Staff recommends** the plat committee concur that an exception to KPB 20.30.170- Block length is not required due to existing development constraints and any dedication would not improve or bring the block into compliance.

KPB Roads Dept. comments	Within jurisdiction, no comments
SOA DOT comments	The ROW for Kenai Spur Highway is as shown on From Wildwood North (S-0490(2)) sheet 24 of 29, and appears to be shown correctly.

Site Investigation: The area appears to not contain any low wet areas and is not within a flood plain area. The property is relatively flat with no steep slopes.

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

SOA Fish and Game	No objections as will not affect public access to public lands and all other easements are accurately depicted.
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Staff Analysis The property within the proposed subdivision was part of the M.M. McGahan homestead in the Nikiski area. Eight lots were split from the property in 1967. Lot 8 is still in the original configuration. Lots 6A and 7A were revised in 1973. Lot 5A was revised in 1983. Tract A was created from a portion of the government lot when a resubdivision was done for Lot 4A in 2011.

The lots involved with this subdivision contain a large building identified as the Nikishka Mall with numerous businesses residing in the buildings. The building crosses several lots. This platting action will remove the lot lines that affect the building within Lots 5A, 6A, 7A and 8. The lot line adjustment with Tract A will provide additional area behind the building for storage.

The building was built in 1977 per KPB Assessing records. The building predated any building setbacks or utility easements being granted adjacent to right of way dedications. A portion of the building extends to the southern property line near the Kenai Spur Highway. This plat shall grant the utility easements required by code and the building setback. A note shall be added that the existing building predates the building setback requirement but any new buildings or improvements must comply. **Staff recommends** that the building setback be removed where the existing building is located within the 20 foot building setback.

A Nikishka Mall Properties Condominium as-built and floor plan was recorded in 2010, KN 2010-20. A few weeks after recording the as-built a Nikishka Mall Properties Declaration of Restrictions was filed, serial number 2010-004682-0. This is considered a common interest community. Common interest communities are allowed under state statute and are a way to transfer interest in a portion of property without subdividing the parent parcel. KPB code does not address common interest communities and common interest communities are not subject to KPB subdivision requirements. Condominium plans and plats are not required to be reviewed by the Planning Department. The KPB Assessing Department does assess each condominium unit separately. As this subdivision will change the parcel boundaries and will not coincide with the unit boundaries of the common interest community, **Staff recommends** that the common interest community be dissolved before the recording of the final plat. A copy of the documents to be recorded, submitted to the planning department will suffice.

Per the requirements of KPB 20.40.020(A)(1)(c), a soils analysis report will not be required for Tract A1 or Lot 5B. This section of code states that a soils analysis report is not required when moving one or more lot lines without increasing the number of developable lots, while maintaining a minimum of 20,000 square feet of contiguous area, as described in KPB 20.40.040(A)(4)(a), for each lot affected by the lot line movement.

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 plat depicts and notes the 20 foot utility easement along Tract A1 and now within Lot 5B. These easements were granted by KN 2011-55.

Mac McGahan Subdivision, Plat KN 1468, granted a 10 foot utility easement along the backside of all lots within the subdivision. The depiction was carried over on the replats. **Staff recommends** the 10 foot utility easement along the former lot lines be depicted and labeled as being granted by KN 1468.

Plat KN 2011-55 also granted 10 foot utility easements along right of way within Tract A1. **Staff recommends** this easement be depicted and note that it was granted by KN 2011-55.

Plat note 9 is granting a 10 foot utility easement along the front of the lots and a 20 foot utility easement within 5 feet of side lot lines. **Staff recommends** the plat note state that no easement are being granted where affected by permanent structures. **Staff recommends** the easements need be depicted on the face of the plat.

An additional easement is on file and noted within plat note 7, no definite location was disclosed to allow depiction. **Staff recommends** plat note 7 be revised to state that the location of the easement is not defined.

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

Utility provider review:

HEA	No comment
ENSTAR	There is an existing natural gas main line and service lines. The main line appears to cross proposed Tract A1 longitudinally. Additionally, the existing service lines appear to cross proposed Tract A1 to serve lots 1, 2, 3, 4A-1, and 5B. ENSTAR objects to this plat unless one of the following scenarios is met: 1. Add a note which says, "There is a ten foot (10 FT) wide natural gas easement centered on the existing main and service lines." and draw in the approximate location of natural gas main and service lines on the map and add, "Approximate location of natural gas main and service lines centerline of ten foot (10 FT) wide natural gas easement". 2. Owner signs an ENSTAR Natural Gas Easement document for a ten foot (10 FT) wide natural gas easement, centered on the main and service line at this location.
ACS	No objections
GCI	No comment

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 51781 Kenai Spur Highway and 51735 Kenai Spur Highway (both will remain with Lot 5B) Existing street names listed are correct
Code Compliance – Eric Ogren	No comment
Planner – Bryan Taylor	There are no Local Option Zoning District or material site issues with this proposed plat.
Assessing – Adeena Wilcox	No comment
Advisory Planning Commission	N/A

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

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

The symbols on the plat do not match in size the symbols in the legend. **Staff recommends** to correct the sizing prior to submitting the final.

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 recording district (KN) in front of the plat numbers. In the owner information split Merrill M. McGahan and Carmen M. McGahan as KPB Assessing has a different address for Carmen. If you verify the addresses and what is shown is correct, Carmen McGahan should contact the KPB Assessing department to correct the mailing address. Merrill should contain two r's.

- 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: List the full width for Kenai Spur Highway and Nikishka Beach Road. Show the full width of the right of ways.
- 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: In section 18 there is a "This Plat" label that needs to be removed.

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Following KPB 20.40.020(A)(1)(c), a soils analysis report is not required for Tract A1. Per KPB 20.40.020(A)(2), a soils analysis report is not required for Lot 5B.

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.

20.60.180. Plat notes.

O. 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.

P. 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:

Update/correct the following plat notes.

- Note 3 – Remove "private" from the note.
- Note 5 – Update the section of code to 20.60.170.
- Note 6 – Add "Misc." in front of the book. Add "no definite location given".
- Note 7 – Change "An" to "A", correct spelling of "portion", and add "Misc." in front of the book. Add "no definite location given".
- Note 8 – Change "An" to "A" and correct the spelling of "portion".
- Note 9 – "Front 10 feet adjoining dedicated rights of way and 20 feet within 5 feet of side lot lines, excluding any areas affected by permanent structures, shall be designated as utility easements. No permanent..."

Place the following notes on the plat.

- Add a plat note for any exceptions granted.
- Carry over from parent plats "The line between lots 5B and 4A-1 is coincident with the building line for the building shown on Lot 4A-1."
- Improvements on Lot 5B predate the 20 foot building setback and 10 foot utility easement created this plat and are not subject to the 20 foot building setback and 10 foot utility easement. Any replacements, or improvements, to the building must comply with the 20 foot building setback and 10 foot utility easement as shown on this plat.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: The certificate of ownership should be written on behalf of the estate and a second one added for individuals to sign. Make sure that "Merrill" is spelled correctly. Some areas it has one r when it should be two. Update Carmen McGahan's address accordingly. The signature

lines for the estates should include "Mazie M. McGahan, aka Merrill Mazie MaGahan, Personal Representative". Update the address for the estate of Merrill McGahan. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

KPB 20.30.190 – Lots-Dimensions (3:1 depth to width for Tract A1)

Staff Discussion: The width of Tract A1 is being reduced within the western portion of the subdivision. The moving of the lot line to the north will provide some additional area behind the building located on Lot 5B. The tract appears to be used to provide access to the back of existing buildings.

If the exception is denied the plat will not be able to be redesigned with a right of way along the long portion of tract A-1. This will allow the frontage to be calculated on the long side of Tract A1.

Findings:

1. KPB Code requires the lots average depth not be greater than three times the average width.
2. The parent subdivision received an exception for the parent tract on April 26, 2010.
3. The depth to width ratio for Tract A1 is 6.0:1.
4. The parent lots range in size from 0.27 acres to 0.54 acres.
5. The replat improves the lot size so all lots comply within minimum size requirements.
6. All wastewater disposal systems must comply with current ADEC regulations.
7. Tract A1 will be 2.8 acres in size.
8. The tract to the north and west are large and can be further subdivided.
9. A building exists on proposed Lot 5B.
10. The lot design options are limited due to the existing 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.

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 5, 7, 8, 9, 10 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 5, 7, 8, 9, 10 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 5, 7, 8, 9, 10 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

Chair Ecklund opened the item for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Gillham moved, seconded by Commissioner Morgan to grant preliminary approval to Mac McGahan Subdivision 2020 Replat based on staff recommendations and compliance to borough code.

AMENDMENT: Commissioner Gillham moved, seconded by Commissioner Morgan to grant exception request to KPB 20.30.190-Lots Dimensions, 3:1 Depth to Width Ratio for Tract A1, citing findings 5, 7, 8, 9 & 10 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	4	No	0
Yes	Ecklund, Gillham, Morgan, Venuti		
No			

F. PUBLIC COMMENT – None

G. ADJOURNMENT

Commissioner Morgan moved to adjourn the meeting 6:40 P.M.

Ann E. Shirnberg
Administrative Assistant