

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – PIPER'S HAVEN UNIT 3 2021 REPLAT

KPB File No.	2021-115
Plat Committee Meeting:	September 13, 2021
Applicant / Owner:	David and Jessica Talbot, Baxter Poe and Megan Tashash, all of Anchor Point, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Happy Valley / Anchor Point APC

Parent Parcel No.:	159-201-03, 159-204-04
Legal Description:	Lots 3 and 4 Piper's Haven Unit 3, Plat HM 98-9
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On-Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will adjust a lot line between two lots to accommodate a structure crossing the existing lot line. Proposed Lot 4A will increase from 10.8 acres to 10.9 acres. Proposed Lot 3A will reduce in size from 11.2 acres to 11.1 acres.

Location and Legal Access (existing and proposed): This subdivision is located in the Happy Valley area. Cloyds Road, a 60 foot wide right of way that is improved but not KPB maintained, fronts the western boundary. Cloyds Road is located off Resch Avenue, a partially dedicated right of way that is constructed but not maintained. Resch Avenue is located south of mile 147 of state maintained Sterling Highway.

Section line easements exist along the eastern boundary of the subdivision. The easements are depicted and are 50 feet wide for a full width of 100 feet. **Staff recommends the label be revised to depict that the entire width is 100 feet or show that there are two easements 50 feet wide on either side of the section line as this subdivision is only subject to 50 feet easements within its boundary.**

The block is closed but not compliant. An exception to block length has been requested.

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

Site Investigation: The plat contains Stariski Creek and the associated large areas of wetlands. Stariski Creek is an anadromous water and affected by a habit protection district. Steep slopes appear to be present along the western edge of the wetlands. Stariski Creek and the associated wetlands are depicted on the plat. If the location of Stariski Creek is approximate it should be labeled as such. **Staff recommends steep slopes be depicted, the source data for the location of Stariski Creek be noted, and add the following plat notes**

- 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.
- 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.
- FLOOD HAZARD NOTICE: Some or 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 02122C-1840E.

Floodplain Hazard Review	Is in flood hazard area. Flood Zone D. Map Panel: 02122C-1840E. In not within a floodway
Anadromous Waters Habitat Protection District Review	Is totally or partially within HPD.
State Parks Review	No comments.

Staff Analysis The lots within the preliminary plat were created by Piper's Haven Unit 3, Plat HM 98-9, a subdivision of aliquot lands. The proposed plat will adjust a lot line between lots 3 and 4. The plat will result in 0.11 acres (4,791 sq. ft.) being removed from the Lot 3 and added to Lot 4. Per the Certificate to Plat there was an as-built done on June 20, 2021 that depicted an encroachment onto Lot 3. A copy of the as-built was not provided. The adjustment of the common lot line will resolve the encroachment. Per the Certificate to Plat, the encroachment is also within the utility easement. A petition to vacate has not been submitted and this platting action will not correct the encroachment into the easement if it exists. **Staff recommends** if the utility easement is not vacated a plat note should be added, "Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments."

The certificate to plat shows an easement for the watercourse known as Stariski Creek. **Staff recommends** the surveyor determine if an easement is in existence, if one is found it should be noted what type and depiction should be included on the plat. If the easement is not found, the surveyor should work with the title company to determine if it should show on the title report.

Both lots currently have structures in place and the lots are greater than 200,000 square feet. A soils analysis report was not prepared for the parent plat. The majority of the lots are wetlands but it does appear that the western portion of the lots contain more than 20,000 contiguous square feet for wastewater installation. **Staff recommends** the surveyor provide staff information regarding the usable area on the lots for wastewater disposal, and current systems and any replacement systems will meet all required separation distances.

A soils report will not be required unless the surveyor is unable to provide information as requested above. The plat note should include the wording as found in 20.40.030.

Notice of the proposed plat was mailed to the beneficial interest holders on August 12, 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 and 20 feet within 5 feet of the side lot lines where adjoining the right of way. Those easements are being carried over and should be depicted on the plat. The plat note should also be updated to indicate the parent plat (HM 98-9) granted the easements.

The parent plat also granted utility easements that are 20 feet x 600 feet centered on the western side of the shared lot lines. The easements are depicted but should note the parent plat (HM 98-9) granted them and clarify that it is 10 feet on either side of the lot line. **Staff recommends** the easements of record be noted as granted by Plat HM 98-9.

Per the Certificate to Plat, there is an encroachment into the utility easement. A petition to vacate the utility easement has not been requested and the approval of this plat will not include an acceptance of the encroachment. **Staff**

recommends the owners/surveyor work with the utility providers to vacate the easement and grant any new easements required due to the inability to use the existing 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	
ENSTAR	
ACS	
GCI	Approved as shown.

KPB department / agency review:

Addressing – Derek Haws	Affected Addresses: 27125 Cloyds Road (will remain with Lot 3A), 27155 Cloyds Road (will remain with Lot 4A) Existing street names listed are correct.
Code Compliance – Eric Ogren	Review was not available
Planner – Bryan Taylor	There are not any Local Option Zoning District or material site issues with this proposed plat.
Assessing – Matt Bruns	No concerns from Assessing Department
Advisory Planning Commission	

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: Please update the owners' addresses to their mailing addresses.

- 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: Revised the label on the section line easement to make it obvious that it is two 50 foot easements.

- 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: Provide the depiction and labels for the lots to the west of Cloyds 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: *Steep slopes appear to be present near the western edge of the depicted wetlands. Slopes should be depicted.*
- N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval;
Staff recommendation: *This platting action will correct an encroachment issue.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils analysis report was not prepared for the parent plat due to the size of the lots. The lots will remain over 200,000 square feet. Add to the plat note the lots are at least 200,000 square feet.

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.

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.

- *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.*
- *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.*
- *FLOOD HAZARD NOTICE: Some or 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 02122C-1840E.*
- *Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments.*
- *Add a plat note for any exceptions granted.*
- *Add to Wastewater Disposal note, "Lots which are at least 200,000 square feet in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment..."*

Add to plat note 1 that the utility easements were granted per HM 98-9.

EXCEPTIONS REQUESTED:

- A. KPB 20.30.190 – Lots-Dimension** 3:1 Average Depth to Width

Surveyor's Discussion: This plat makes a minor change along the lot line between lots 3 and 4. The depth to width ratio will not be changed significantly from the original plat (HM 98-9). The existing lots in the area have similar dimensions to lots 3 and 4. The west half of each lot is the only portion likely to be developed, due to swamp and Stariski Creek along the east side. The section line easement along the entire length of the east boundary is part of a low, swampy area that borders Stariski Creek. It's unlikely that a road could be constructed through this area.

Staff Discussion: The parent plat was completed in 1998 and created lots that do not comply with current 3:1 depth to width requirements. Per KPB 20.30.190, "the average depth shall be no greater than three times the average width." The ratio for Lot 3A is 4.4:1 and for Lot 4A is 4.3:1.

Denial of the exception would greatly affect this subdivision and limit the ability to correct the encroachment, as the length of the lots will make it difficult to create compliant lots without additional lots major changes to configuration or the dedication of a right of way.

Findings:

1. The parent plat was recorded in 1998.
2. The only change from the original configuration is adding 'jog' in the common lot line that will add 4,791 sq. ft. to Lot 4 from Lot 3.
3. The plat is to correct an encroachment issue.
4. The eastern portion of the lots contain Stariski Creek and the associated wetlands.
5. Code requirement is 3:1 depth to width ratio.
6. The lots will have a depth to width ratio of 4.4:1 and 4.3:1.
7. The useable area west of the wetlands comply with the 3:1.

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 2-4 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 2-4 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 2-4 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 20.30.170 – Blocks-Length Requirements

Surveyor's Discussion: This plat makes a minor change along the lot line between lots 3 and 4. The depth to width ratio will not be changed significantly from the original plat (HM 98-9). The existing lots in the area have similar dimensions to lots 3 and 4. The west half of each lot is the only portion likely to be developed, due to swamp and Stariski Creek along the east side. The section line easement along the entire length of the east boundary is part of a low, swampy area that borders Stariski Creek. It's unlikely that a road could be constructed through this area.

Staff Discussion: The block is defined by Sergeant Avenue, Cloyds Road, Sonnichson Avenue, and section line easements on the south and east boundary. Stariski Creek affect the section line easements. Due to existing structures and development, a full 60 foot width dedication would be required on the south boundary as the ability to receive a matching 30 foot dedication from the lot to the south is limited and there are improvements on the parcel to the north.

Denial of the exception will require a 60 foot dedication along the southern boundary of the subdivision to provide a compliant north-south block length and a minimum 30 foot dedication along the eastern boundary of the subdivision to help improve the east-west block length.

Findings:

1. Parent plat was recorded in 1998.
2. The only change from the original configuration is adding 'jog' in the common lot line that will add 4,791 sq. ft. to Lot 4 from Lot 3.
3. The plat is to correct an encroachment issue.
4. The eastern portion of the lots contain Stariski Creek and the associated wetlands.
5. The block is defined by Sergeant Avenue, Cloyds Road, Sonnichson Avenue, and section line easements on the south and east boundary.
6. The north-south block length is approximately 3,300 feet in length.
7. The east-west block length is an average length of approximately 1,482 feet in length from Cloyds Road to the section line easement.
8. Approved right of way names will be required for any dedications required.
9. Sergeant Avenue crosses Stariski Creek.
10. Any improvement along the section line easement will require crossing Stariski Creek.
11. Stariski Creek is an anadromous water body.
12. Section line easements provide additional access to the lots in the area.
13. All lots within the block have access via dedicated right of ways.
14. The lots are long, narrow, and do not comply with 3:1 depth to width ratio.
15. The dedications will improve the block the subdivision is within but the block to the south will still be out of compliance.
16. The lots to the north of Lot 3 were subdivided in 2000 and did not require a dedication atop the section line easement.

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 2-4, 10-13, 16 appear to support this standard.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 2-4, 10-13, 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 2-4, 10-13, 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.

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