

AGENDA ITEM E. NEW BUSINESS

ITEM 9 – KALIFORNSKY MEADOWS 2021 ADDITION

KPB File No.	2021-051
Plat Committee Meeting:	September 13, 2021
Applicant / Owner:	RCMS, Inc. of Kenai, Alaska
Surveyor:	John Segesser / Segesser Surveys
General Location:	Kalifornsky / Kalifornsky APC

Parent Parcel No.:	055-060-29
Legal Description:	SW1/4 SE1/4 and E1/2 SE1/4, Section 29, Township 5 North, Range 11 West
Assessing Use:	Condo Underlying Parcel
Zoning:	Rural Unrestricted
Water / Wastewater	On-Site

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will subdivide a 120 acre parcel into a large tract approximately 80 acres and 20 lots ranging in size from 1.621 to 1.691 acres. Multiple new right of way dedications are proposed and additional right of way dedications are required to bring right of way widths into compliance.

Location and Legal Access (existing and proposed): The proposed subdivision is located near mile 12.5 of Kalifornsky Beach Road, a state maintained right of way. The subdivision is located at the end of borough maintained Buoy Avenue. The subdivision fronts on Buoy Avenue, Discus Street, Tiller Avenue, Farmstead Street and section line easements on the south and east boundary. **Staff recommends** both section line easements be depicted and labeled.

The plat is proposing right of way dedications within the westerly 40 acre portion and no new right of ways within the 80 acre eastern portion. The 80 acre eastern portion is affected by a common interest community with aircraft runway and taxiways. The west 40 acres will be subdivided into lots with fee simple right of way dedications.

The subdivision is within a closed block with the 40 acre western portion complying with block length and the 80 acre eastern section being a larger block than allowed per KPB 20.30.170 – Block Length. The 80 acre eastern section is affected with the common interest community airpark that contains multiple units, utility easements, common elements, and an airstrip. A dedication to improve the block length within the eastern 80 acres will require a dedication crossing the airstrip and through the developed condominium units. There are common elements in place as part of the condominium design that allow private access to the units. **Staff recommends the plat committee concur that an exception to KPB 20.30.170 – block length, or right of way dedications to comply with block length, for the east 80 acres is not required as any right of way would result in crossing a runway and affect improved condominium units.**

KPB Roads Dept. comments	Within jurisdiction. The Road Service Area has no comment at this time.
SOA DOT comments	Not on the state road system, no comment

Site Investigation: The area is relatively flat. Wetland ecosystems are present within portions of the subdivision. **Staff recommends** low wet areas be depicted on the plat and a plat note be added to 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.”

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
SOA Fish and Game	No objections. Public access to public lands and waters will not be affected.

Staff Analysis The proposed subdivision will be dividing a 120 acre aliquot parcel into a +/- 80 acre tract and 20 lots along with right of way dedications.

There are some inconsistencies with the Certificate to Plat. The plat states the property is “excepting therefrom” the condominium plan whereas the property is subject to the common interest community. Only one of the condominium plans is listed in the certificate to plat. **Staff recommends the surveyor work with the title company to make sure all common interest communities are recognized on the final certificate to plat and noted on the plat.**

Although allowed by State Statute, the Kenai Peninsula Borough Title 20 does not contain any requirements or address subdivisions that contain common interest communities. Three condominium plats have been prepared



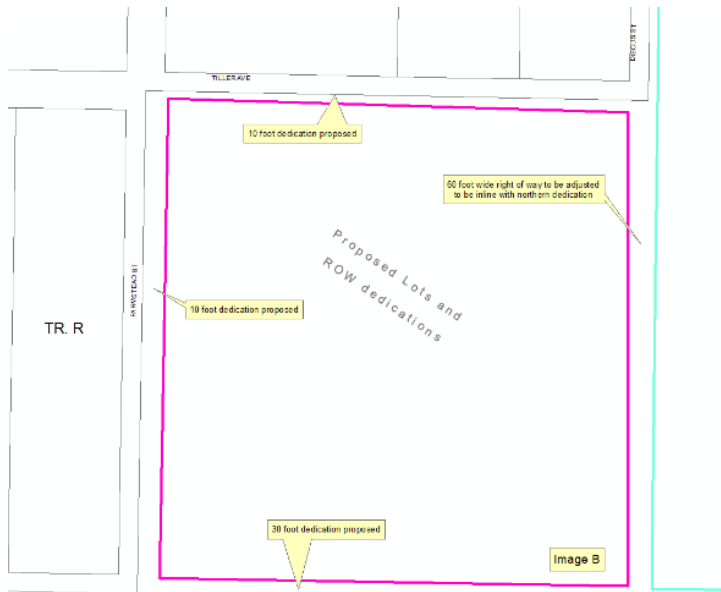
and recorded. The recording numbers are KN 2009-3, KN 2014-5, and KN 2017-45. The plans created units, utility easements, taxiways, an airstrip, and other common elements to allow for proper development and transfer of interest in the property. The owners of the property have recorded documents that removed the western 40 acres from the overall condominium plan. The removal of those “develop right reserved” lands by document also terminate the taxiway easements and common elements within the areas designated as ‘development rights reserved’.

Title to the units within the common interest community are able to be transferred to private ownership.

The east 80 acres will be required to be designated as a parcel of land. **Staff recommends the east 80 acres be designated as a separate Tract similar to Image A.**

The preliminary plat that has been submitted shows the existing units and common elements. As those units have not been reviewed and approved by the platting authority, **Staff recommends the common interest community depiction be removed from the final plat. Staff recommends a note or label be added that states Tract A is affected by a common interest community.**

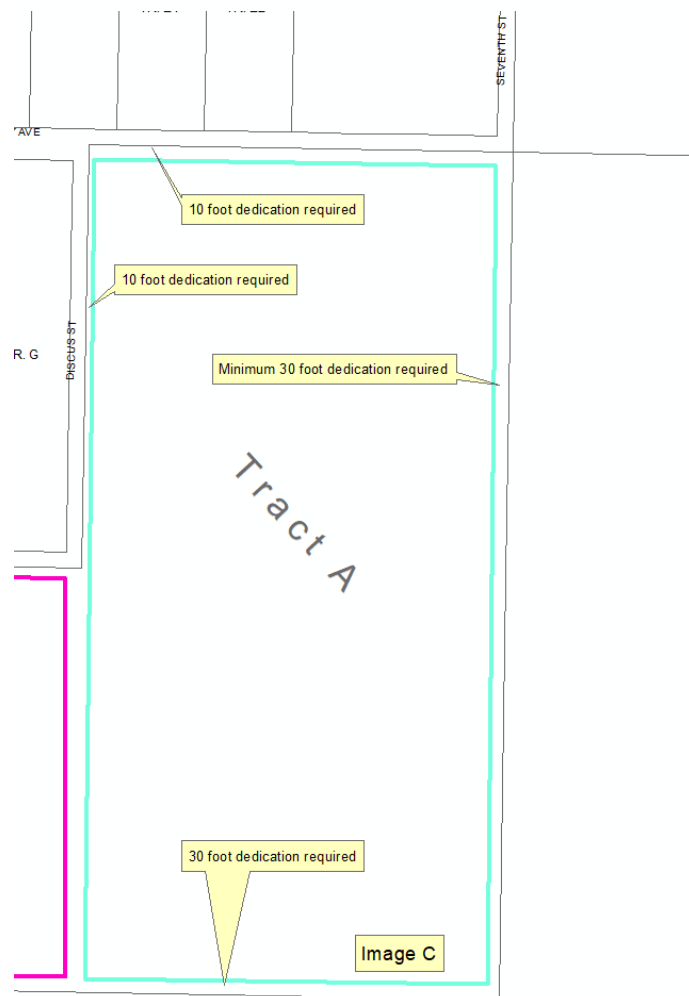
Staff strongly suggests that a new common interest community plat be recorded to show any changes to unit boundaries or to add additional units to the common interest community.



Two full 60 foot wide right of way dedications are proposed with the west 40 acre area.

Tiller Avenue and Farmstead Street are currently 50 foot wide dedications. Sheet 2 indicates that 10 foot dedications are proposed and a 30 foot dedication along the south that coincides with a 50 foot section line easement (Image B).

A 60 foot wide dedication is proposed to provide a continuation of Discus Street. The design proposed shows a 10 foot offset from the northern dedication. This appears to be occurring due to unit locations. As discussed previously, this plat cannot change any unit design. **Staff recommends the right of way dedication for Discus Street be 60 feet wide and align with the current dedication of Discus Street.** (Image B).



Along proposed Tract A several right of ways will be required to comply with code. A 10 foot dedication is required to provide a width of 60 feet for Buoy Avenue and for Discus Street. To be compliant with KPB Code, minimum 30 foot dedications need to be granted along the existing section line easements along the southern and eastern boundary. These dedications will provide a continuation of Seventh Street located to the north and a continuation to the east of a newly proposed dedication (Image C). **Staff recommends a 10 foot right of way be dedicated for Buoy Avenue and discus Street to comply with KPB 20.30.120 Street width.** Exceptions have been requested not to provide dedications along the east and south section line easements within the area affected by the common interest community.

The KPB Addressing Officer must approve new street names. The Addressing Officer commented on the street names labeled to the common elements within the common interest community. Discussions should be had with the Addressing Officer has one of the names used is not available due to E911 requirements. If it is desired to name these common areas to allow addressing for E911, the owners, or the condominium association, should contact the Addressing Officer.

Excluding the common interest community tract, a soils report will be required for the lots and an engineer will sign the final plat. The current plat note for wastewater disposal should be updated to indicate which lots it applies to. **Staff recommends the correct wastewater note be added for Tract A that complies with KPB 20.40.**

Notice of the proposed plat was mailed to the beneficial interest holder on August 26, 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.

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 The proposed plat has not been previously subdivided and no utility easements have been granted by a plat reviewed by KPB platting authority. The plat is proposing to grant 10 foot utility easements adjoining all dedicated right of ways to comply with KPB Code.

The Certificate to Plat contains some inconsistencies with the easements that have been granted by recorded documents. Plat notes 5 and 6 reflect what appears in the certificate to plat but per the documents serial number 2006-00959-0 was granted to ENSTAR Natural Gas and contains a description that should be depicted. An additional easement document granted to ENSTAR Natural Gas was included in the information but is not listed within the Certificate to Plat. It is an easement with the area defined and should be noted within a plat note and depicted on the plat. Plat note 6 refers to a Homer Electric Association easement that is defined and should be depicted.

The common interest community plats granted utility easements. Those easements should be depicted with a labeled referencing the recording document that granted them.

ENSTAR has commented in regards to the easement noted in plat note 4. They are requesting the note be reworded and that the easement be depicted and labeled on the plat.

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	Requests that note 4 is revised to read: "A right-of-way for gas transmission pipelines in favor of Alaska Pipeline Company granted by BLM and identified as Serial No. A-051647, and reserved under Federal Patent 1232767 and referenced in Book 40, Page 219, Kenai Recording District. All excavation and ground disturbing activities within the pipeline right-of-way require approval from APC." APC further requests that the easement be shown on the plat.
ACS	No objections
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	Affected addresses: 50123 Buoy Avenue will be deleted and new addresses assigned. Existing street names corrections needed: Trawling Ave should be added. List of Approved Street Names: Quebec Street List of Street Names Denied: Piper Avenue is denied because there is a Piper PI within the same emergency service zone. Street names are required for newly dedicated ROWs on Page 2.
Code Compliance – Eric Ogren	Code compliance review 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 comments

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

STAFF RECOMMENDATIONS
CORRECTIONS / EDITS

KPB 20.25.070 - Form and contents required.

- A. Within the Title Block
1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
 2. Legal description, location, date, and total area in acres of the proposed subdivision;
 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.
- Staff recommendation:**
- *Neighboring subdivisions and the condominium plats associated with this parcel have the name "Kalifonsky Meadows". Determine if the owner wishes to continue with the "r" removed or included.*
 - *Update the total subdivision acreage to 120 acres.*
 - *Update the pages accordingly to "Sheet 1 of 2" and "Sheet 2 of 2."*
 - *The scale for page 1 should be updated.*
- 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:** *On sheet 1, depict and label the section line easements along the eastern and southern boundary.*
- 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:** *On sheet 1, correct Tract B in the northwest corner as it has been replatted. Tract B1 of KN 2007-76.*
- 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:** *Wetlands appear to be present but are not depicted on the plat. Verify in the field and if depict label any low wet areas.*
- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;
- Staff recommendation:** *Provide a Tract designation for the large acreage area that will contain the common interest community. The 20 new lot designations are acceptable.*

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:*

20.30.160. Streets-Name requirements. Streets shall be named to conform to KPB Chapter 14.10

Staff recommendation: *Approved street names are required for newly dedicated right of ways.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils report required for lots. Engineer will need to sign plat. A separate note will be required for the any Tracts larger than 200,000 sq. ft.

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.

Staff recommendation: Comply with 20.60.030.

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: Acceptance by the borough is required.

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: On sheet 1 update the boundary to show be the exterior of the 120 acre parcel.

20.60.140. Block and lot numbering. Blocks and lots within each block shall be numbered consecutively or all lots shall be numbered consecutively. If possible, each block should be shown entirely on one sheet. Each lot shall be shown entirely on one sheet.

Staff recommendation: No unsubdivided areas are allowed within the perimeter of the subdivision. Removed the "unsubdivided" labels and the unit designations. Provide a label for all parcels of land.

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.
- Tract A is subject to condominium plats that designate common elements. Tract A is subject to the plans recorded within the Kenai Recording District, KN 2009-2, KN 2014-5, and KN 2017-45.
- Provide plat notes for any exceptions granted.
- WASTEWATER DISPOSAL (Tract A): Lots which are at least 200,000 square feet in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

Changes to the following plat notes.

- Note 3 should include reference to code "(KPB 14.06)."
- Update note 4 as requested by the utility provider.
- Note 7, "Front 10 feet adjoining rights-of-way and 20 feet within 5 feet of side lot lines is a utility easement. No permanent..."
- Update the wastewater disposal note to pertain to lots only.

Correct the plat numbers as number 8 is shown on the last line of note 7.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: Acceptance for right of ways to be signed by the Kenai Peninsula Borough is required. The certificate of ownership should be reworded as it is being signed on behalf of RCMS, Inc. The documentation submitted did not indicate that the signature of the President was sufficient. A corporate resolution for RCMS, Inc is required that states the President may be the only signer or correct Mr. Yragui's signature line to state "Officer" and provide a signature line for Mrs. Yragui to also sign as an officer of the company. Comply with 20.60.190.

EXCEPTIONS REQUESTED:

KPB 20.30.030 – Proposed street layout – requirements (dedication of right of way on the east and south boundary within the area affected by the common interest community)

Surveyor's Discussion:

Staff Discussion: Per KPB Code 20.30.030(A), "dedications must provide for the continuation or appropriate projection of all streets surrounding areas and provide reasonable means of ingress for surrounding acreage tracts." Section line easements exist along the eastern and southern boundary of the area affected by the common interest community.

A 30 foot dedication is proposed along the south boundary of the westerly 40 acre section.

If denied, a minimum 30 foot right of way dedication will be required on the south and east boundary of the area affected by the common interest community (Tract A).

Findings:

1. 50 foot wide section line easements exist along the east and south.
2. A 30 foot dedication is proposed along the south boundary of the westerly 40 acre section.
3. Seventh Street is a 50 foot wide dedicated right of way that is located to the north and ends at Buoy Avenue.
4. Tract A is a large acreage lot subject to a common interest community.
5. Common elements provide private access within the common interest community.
6. An airstrip runs north-south on the east 80 acres.
7. Due to an existing airstrip, east-west dedications will be unlikely within Tract A.

Staff reviewed the exception request and recommends 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, 2, 4, 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, 2, 4, 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, 2, 4, 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