

AGENDA ITEM E. NEW BUSINESS

ITEM 4 – USS 4901 C STREET ROW VACATION 2021 REPLAT

KPB File No.	2021-085
Plat Committee Meeting:	September 27, 2021
Applicant / Owner:	Native Village of Nanwalek
Surveyor:	Kenton Bloom / Seabright Survey & Design
General Location:	Nanwalek

Parent Parcel No.:	191-200-07, 191-200-22
Legal Description:	Lot 1 Block 2 Tract A and Lot 3 Block 3 Tract A, USS 4901
Assessing Use:	Residential / Institutional
Zoning:	Rural Unrestricted
Water / Wastewater	City/Community

STAFF REPORT

Specific Request / Scope of Subdivision: The proposed plat will reconfigure two lots to accommodate a right of way vacation and right of way dedication.

Location and Legal Access (existing and proposed): The subdivision is within the Nanwalek Village. The plat will finalize the vacation of a portion of C Street and will dedicate a new portion atop the constructed roadway. The right of way width will remain at 40 feet wide.

C Street is located at the southern end of Chicklounk Street, a constructed 40 foot wide right of way located west of the subdivision. Additional access is available from Saints Sergus and Herman Street and Nikita Street, both are dedicated 60 feet wide right of ways. The staff report for the right of way vacation stated Saints Sergus and Herman Street were maintained by the State of Alaska. All roads within this area are under borough jurisdiction. KPB GIS data reflects that the borough is not maintaining the right of ways. Any maintenance performed is being done at the private or village level. The roads are all located to the north of the English Bay Airport.

The approval of the right of way vacation was subject to a new dedication of right of way that kept the minimum width of 40 feet. This will allow the right of way to not be reduced in width and is consistent with many of the dedicated road widths within the village. The 40 foot wide right of way does not comply with KPB 20.30.120, as minimum width shall be 60 feet. **Staff recommends that the plat committee concur an exception is not required as this platting action is to provide a road alignment for a non-compliant right of way and allowing the minimum width of 40 feet preserves the historic character of the village as discussed in the Comprehensive Plan.**

The block north of C Street is closed but the east-west length is slightly shorter than allowed by code. The block south of C Street is not closed as it is part of a block bordered by shoreline. **Staff recommends the plat committee concur that an exception is not required, as this subdivision plat cannot improve the block length.**

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Painter, Jed Comments: The RSA has no comment at this time.
SOA DOT comments	No comment

Site Investigation: The preliminary plat does not appear to contain any low wet areas. The area is within Flood Zone C, which is non-regulatory and minimal flood risk.

Contour information is not available for the area. The top of the cliff is depicted on Lot 3 Block 3. If any steep slopes

are found in the proposed right of way dedication when the field survey is performed, they need to be depicted and additional easements may be required.

River Center Review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments
	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
	C. State Parks Reviewer: Russell, Pam Comments: No Comments

Staff Analysis U.S. Survey No. 4901 was recorded in 1971 and the plat provided public right of way dedications. The Nanwalek Village owns Lot 1 Block 2 and Lot 3 Block 3.

The right of way vacation was heard and approved by the Planning Commission at their regularly scheduled meeting held on July 12, 2021. The vacation was forwarded to the Kenai Peninsula Borough Assembly and granted consent at their August 3, 2021 meeting. Per KPB Code, the right of way vacation is to be finalized within one year of consent or a new petition will be required.

The purpose of this plat is to finalize a vacation, grant new right of way atop the already constructed right of way, and allow more buildable area to add onto the village community building.

The village has a community water and waste disposal services available. Documentation is required from the Village of Nanwalek that includes any requirements they have and if those requirements are met. If an installation agreement is required, a copy must be provided with the final.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

The property is not within an advisory planning commission.

Utility Easements The parent plat, USS 4901, did not grant any utility easements. This plat is proposing to grant 10 feet adjacent to the right of ways. **Staff recommends** the 10 foot utility easement be depicted and labeled on the drawing. Any additional easements needed by the Nanwalek Village or the utility providers should be granted and clearly marked or noted on the final 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	No comments
ENSTAR	No comments or objections
ACS	No comments.
GCI	Approved as shown

KPB department / agency review:

Addressing – Derek Haws	<p>Affected Addresses: 63324 C ST Existing Street Names are Correct: No List of Correct Street Names: C ST CHICKLOUK ST NIKITA ST Existing Street Name Corrections Needed: SAINTS SERGUS AND HERMAN ST All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 63324 C ST will remain with LOT 1-A I recommend changing STS. SERGUS AND HERMAN ST to SAINTS SERGUS AND HERMAN ST</p>
Code Compliance – Eric Ogren	Comments: No comments
Planner – Bryan Taylor	<p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing – Matt Bruns	Comments: No concerns from Assessing Dept.
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:

- *Update the KPB File number to "2021-085"*
- *Reword the subdivision description. "A Replat of Lot 1 Block 2 Tract A and Lot 2 Block 3 Tract A, USS 4901."*
- *Update the ownership information by removing Bureau of Indian Affairs.*
- *The Ownership should be shown as reported on the Certificate to Plat. The Certificate to Plat states English Bay Village Council and Native Village of Nanwalek (aka English Bay) as the owners. As it appears they are the same owners but took title under different names and can be listed as Native Village of Nanwalek (aka as English Bay Village Council).*

- 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 width of Chicklounk Street needs to be revised to 40 feet. Correct the name label to Saints Sergus and Herman Street.*
- 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: *Lot 2 Block 2 located next to proposed Lot 3-A Block 3 needs the block changed to Block 3. Add a label for Lot 1 Block 3 abutting Lot 3-A Block 3.*

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:*

- 20.30.040. 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: *Concur that the location of the right of way dedication is reasonable as no alternative access exists and there is already a roadway in this location.*
- 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: *The correct note is placed on the plat. A plat note shall be added that the existing structure predates the setback. A proposed addition is shown on the plat and appears to be within the 20 foot building setback. The construction in that location will be an encroachment. It is recommended that an alternate design be chosen to comply with all setbacks unless a setback encroachment permit is applied for and approved. Depict and label the 20 foot building setback on the face of the plat.*

20.30.060. Easements-Requirements.

- A. The planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.

B. Upon submittal of a preliminary plat, the planning department shall provide a copy to public utility companies for their comments-and recommended design of utility easements. If the property is subject to existing natural gas or petroleum pipeline easements, a copy shall also be furnished to the appropriate company for comment.

C. The subdivider bears the responsibility for coordination with the utility companies during the design and development phases. When a subdivider and the utility company cannot agree on easements, the final plat will be taken to the planning commission for determination of easements.

D. Unless a utility company requests additional easements, the front ten feet adjoining rights-of-way shall be designated as a utility easement, graphically or by note. Within the boundaries of an incorporated city, the width and location of utility easements will be determined by the city and affected utility providers.

Staff recommendation: *Depict and label the utility easements being granted with this plat.*

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 or a dedication of a curve in the right of way is not required for C Street as the amount of traffic is limited in this area and a curve in the right of way would reduce the area between the existing Community Building and the right of way.*

20.30.200. Lots-Minimum size.

Except in cities where zoning and subdivision regulations establish different minimums, lots must be designed to meet the following area requirements:

A. Lots shall contain at least 6,000 square feet if served by public wastewater disposal and water systems.

B. Lots shall contain at least 40,000 square feet if both the well and wastewater disposal are to be located on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an on-site well and wastewater disposal system.

C. Subdivisions designed to be served by public wastewater disposal and water systems but not yet served by such systems may be permitted to contain lots of less than 40,000 square feet if the following conditions are met:

1. The available area may be reduced to 20,000 square feet when public water or wastewater disposal system is available, complying with KPB 20.40;

2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure adequate area is available to each building site for safe on-site well and wastewater disposal, including area for a replacement wastewater disposal system.

Staff recommendation: *Concur that an exception for Lot 3-A is not required as it will be able to connect to the village water and wastewater system.*

KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

Platting Staff Comments: It is noted that the subdivision will or is connected to Village water and wastewater disposal. Provide documentation from the Village of Nanwalek that the lots are connected, have the ability to be connected, or that the Village has no additional requirements.

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 an acceptance of the new right of way to be signed by the Kenai Peninsula Borough.*

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.*

20.60.180. 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.*

- *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).*
- *Improvements on Lot 1-A Block 2 predate the 20' building setback created by this plat and are not subject to the 20' building setback. Any new construction, replacement, or improvement to the building must comply with the 20 foot building setback as shown on this plat.*

Reword plat note 2, "The front 10 feet adjoining dedicated right of ways is a utility easement. No permanent..."

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *An acceptance will be required to be signed by the Kenai Peninsula Borough for the new dedication of C Street. The certificate of ownership for Bureau of Indian Affairs may be removed as well as their notary. The ownership information shall reflect the Certificate to Plat. This may be done by listing as Native Village of Nanwalek (aka English Bay Village Council). If this is not correctly representing the ownership, the owners must work with the title company. We have received documentation authorizing Mr. Kvasnikoff to sign on behalf of the Council. Comply with 20.60.190.*

KPB 20.70 – Vacation Requirements

Staff recommendation. *This plat must be recorded within one year of consent, August 3, 2022.*

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