

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - SUBDIVISION NAME

KPB File No.	2021-127
Plat Committee Meeting:	October 11, 2021
Applicant / Owner:	Joe Balyeat, 6909 Rising Eagle Rd. Bozeman, MT 59715
Surveyor:	Fixed Height LLC. 225 W 23 <sup>rd</sup> Ave. Anchorage, AK 99503
General Location:	Nikolaevsk

Parent Parcel No.:	165-111-43
Legal Description:	Parcel 1, Plat Waiver Resolution 93-26 Amended, serial no. 93-3636 HRD
Assessing Use:	Residential Vacant
Zoning:	Unrestricted
Water / Wastewater	On site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will subdivide a 40 acre parcel into 8 lots that will be 4.6 acres in size.

**Location and Legal Access (existing and proposed):** This subdivision is located to the north of the village of Nikolaevsk. Legal access to the subdivision is from North Fork Road to Nikolaevsk Road to Kostino Street. A portion of Kostino Street, south of the subdivision, is constructed outside of the dedicated right of way and within Lot 1, Anchor Point Acres Amended (HM 72-62). Lot 1 Anchor Point acres is owned by the same owner of this subdivision.

A 50 foot section line easement affects the east and south boundary of the subdivision. A matching 50 foot section line easement or 50 foot dedicated right of way exists for a total width of 100 feet on both the east and south boundary. The section line easement has been depicted and labeled correctly.

Aerial imagery shows a seismic line that crosses the property from the southeast corner to the northwest. It appears that Tract 19, located to the west of the subdivision, is using the seismic line trail for physical access to their property. Staff was not able to confirm if any access easements of record exist on the seismic line. A portion of Timberland Circle appears to coincide with the seismic line.

The subdivision is located within a closed block, but the block length does not comply with KPB standards. The block is defined by Turku Avenue, Queen Lane, King Road, and Ram Rack Road. To comply with code a 30 foot right of way is required that connects King Road to the section line easements.

This subdivision is subject to a private access easement on the section of Kostino Street located in the southeast corner of the subdivision. ***Staff recommends a plat note or depiction be added in regards to the easement of record per Bk 226 Pg. 390 HRD.***

KPB Roads Dept. comments	
SOA DOT comments	The section line easement between section 13 14 is shown as 50'/50' and appears to be correct.

**Site Investigation:** The terrain slopes from east to west with a drop of 68 feet at approximately a 5% grade.

KPB satellite imagery indicates that this property may contain wet areas, classified as Lake Bed and Discharge Slope, affect the west portion of this subdivision. **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.*

KPB River Center Review	<p>A. Floodplain</p> <p>Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Carver, Nancy Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks</p> <p>Reviewer: Russell, Pam Comments: No Comments</p>
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### **Staff Analysis**

This property was created with a plat waiver (amended) as recorded under serial no. 93-3636 HRD.

The lots being created are larger then 200,000 sq. ft. and do not require a soils analysis report. If additional right of way dedications are required, the size of the lots may be reduced. Any lots less than 200,000 sq. ft. will require a soils analysis report to be prepared and submitted by a licensed engineer.

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.

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**

This subdivision if not affected by any utility easements of record. This platting action will be granting a 10 foot utility easement, with 20 feet within 5 feet of side lot lines, adjoining all dedicated right of ways.

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	<p>Reviewer: Haws, Derek Affected Addresses: None</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: KING RD QUEEN LN TURKU AVE RAM ROCK RD SERGEF AVE BEREZKA DR KOSTINO ST</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: Yes</p> <p>List of Approved Street Names: TIMBERLAND CIR</p> <p>List of Street Names Denied:</p> <p>Comments: New street name TIMBERLAND CIR is approved.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	<p>Reviewer: Taylor, Bryan 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	<p>Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.</p>
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:**

- Revise the subdivision name to a unique name as another preliminary plat has been approved with the name Alaskan Wildwood.
- Correct the parent parcel name to read, 'A subdivision of Parcel 2 per Plat Waiver Resolution 93-26 Amended as recorded under serial no. 93-3636 HRD.'
- remove the reference to document 2019-002734-0.

- 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:** *Depict and label the travel way of Kostino Street within this subdivision. Verify if a trail exists within the subdivision, if so, depict and label the trail with a plat note that no public access is being granted on the trail.*
- 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 and label any areas that are affected by low wetlands on the 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:*

#### 20.30.030. 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 comments: A portion of Kostino Street is constructed across the southeast corner of this subdivision. This road provides physical access to many parcels of land.*

*KPB maintenance of Kostino Street ends at the intersection with Tomskyi Avenue. The portion of Kostino Street within this subdivision is not maintained by KPB.*

*Aerial imagery from 1996 shows that Kostino Street was constructed in this location.*

**Staff recommendation:** *Dedicate a minimum 60 foot width right of way centered on the constructed travel way of Kostino Street.*

#### 20.30.100. Cul-de-sacs.

- A. Streets designed to have one end permanently closed shall be no more than 1000 feet long. The closed end of the cul-de-sac shall have a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be constructible to a 4 percent grade or less.

B. Hammerhead or T -type turnarounds may be allowed on a case-by-case basis. Adequate turning radii, width and depth must be provided for road maintenance and emergency vehicle access. Plans must be reviewed with a recommendation by emergency service providers and the KPB Road Service Area Board prior to submittal for planning commission review.

C. Temporary turnarounds and self-vacating turnarounds shall not be granted or reserved on plats.  
**Staff recommendation:** *The cul-de-sac length appears to be just over 1,000 feet in length. Revise the cul-de-sac design so that the centerline length from the intersection with Kostino Street to the center of the cul-de-sac is 1,000 feet or less.*

#### 20.30.120. Streets-Width requirements.

A. *The minimum right-of-way width of streets shall be 60 feet.*

1. *Half streets shall generally not be allowed except to provide the logical extension of a right-of-way where the remaining half street can reasonably be expected to be dedicated in the future.*
2. *When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoiners to the new half right-of-way will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the plat committee decision by the full Planning Commission.*

B. *Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.*

**Staff comments:** *King Acres (HM 74-2192) dedicated Queen Lane is a 30 foot right of way. Queen Lane is not affected by steep terrain. Queen Lane provides a closed block loop. KPB GIS information shows that the area around Queen Lane may be affected by wetlands. The 30 foot matching right of way dedication of Queen Lane will not create any substandard lots within this proposed subdivision.*

**Staff recommendation:** *Provide a 30 foot matching right of way dedication for Queen Lane.*

#### 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:** *Redesign the cul-de-sac right of way so that the centerline curve radius is 200 feet or greater.*

#### 20.30.240. Building setbacks.

A. A minimum 20-foot building setback shall be required for dedicated rights-of-way in subdivisions located outside incorporated cities.

B. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

C. The setback shall be noted on the plat in the following format:

Building setback- A setback of 20 feet is required from all dedicated street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

D. When a subdivision is affected by a Local Option Zoning District (LOZD), an approved by the assembly, all building setbacks shall be graphically depicted and labeled on the lots. A local option zoning setback shall be noted on the plat in the following format:

Building setback – This subdivision is located within (name of LOZD) Local Option Zoning District as contained in KPB Chapters 21.44 and 21.46 and adopted by KPB Ordinance (number), recorded

under (serial no. and recording district). Information regarding the zoning restrictions and copies of the ordinance are available from the KPB Planning Department.

**Staff recommendation:** Graphically depict and label the 20 foot building setback adjoining all dedicated right of ways within the subdivision.

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#### KPB 20.40 -- Wastewater Disposal

20.40.010 Wastewater disposal.

*Platting Staff Comments:* The current lot design shows all lots to be larger than 200,000 square feet. A wastewater analysis report will be required for any lots that are less than 200,000 square feet.

**Staff recommendation:** comply with 20.40.

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#### 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 the Borough to accept all dedicated right of ways.

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).

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** Provide a Certificate of Acceptance for KPB to sign for the dedicated right of way. Comply with 20.60.190.

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#### **EXCEPTIONS REQUESTED:**

##### **A. KPB 20.30.030 Proposed Street Layout – Kostino Street along the east boundary**

Surveyor's Discussion: Multiple North-South ROWs exist. Queens Lane to the West, Timberlane Circle within the parcel, and Konstino / Ram Rack to the East all provide legal North-South access.

Legal and Physical access already exists. Ram Rack Road Provides legal and physical North-South access and is only 600' East of the proposed extension of Kostino Street.

Staff Discussion: Kostino Street is located to the south east of this subdivision. Kostino Street is a combination of a dedicated right of way and section line easement for a total width of 100 feet. The extension of Kostino Street would be along the east boundary of this subdivision.

A 100 foot wide section line easement affects the east boundary of this subdivision. The section line easement can be used for public access and placement of utilities.

Ram Rack Road is a dedicated and constructed road that provides access to the parcels to the north.

The terrain is sloping but not affected by steep slopes greater than 20 %.

No wet lands affect the eastern boundary where the extension of Kostino Street would be located.

The parcels to the north are between 8 and 10 acres. Wetlands affect these parcels and it is unlikely that they will be subdivided in the future to provide an extension of Kostino Street right of way.

If denied, a minimum 30 foot half width right of way is required to be dedicated along the eastern boundary.

**Findings:**

1. Kostino Street is located to the south east of this subdivision. Kostino Street is a combination of a dedicated right of way and section line easement for a total width of 100 feet.
2. A 100 foot wide section line easement affects the east boundary of this subdivision. The section line easement can be used for public access and placement of utilities.
3. Ram Rack Road is a dedicated and constructed road that provides access to the parcels to the north.
4. The parcels to the north are between 8 and 10 acres. Wetlands affect these parcels and it is unlikely that they will be subdivided in the future to provide an extension of Kostino Street right of way.
5. The terrain is sloping but not affected by steep slopes greater than 20 %.
6. No wet lands affect the eastern boundary where the extension of Kostino Street would be located

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 1-4 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 1-4 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 1-4 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.

**EXCEPTIONS REQUESTED:**

## **B. KPB 20.30.170 Block Length**

Surveyor's Discussion: The large parcels and rural nature of this area lends itself to large sized blocks. Strict conformation to block length requirements would most likely lead to excessive ROW's that would not get developed.

Physical access around the East and North side of the block is already developed. Ram Rack Road and King Road are already developed. They provide legal and physical access from the Southeast corner of the block to the Northwest corner of the block.

Staff Discussion: The subdivision is located within a closed block, but the block length does not comply with KPB standards. The block is defined by Turku Avenue, Queen Lane, King Road, and Ram Rack Road.

The parcels in this area are generally larger parcels in the 8 to 15 acre range. This area is affected by wetlands that limit that amount of area that can be improved on each lot. Tract 13 to the north is large enough to be further subdivided and could provide a matching 30 foot right of way dedication.

To comply with code a 30 foot right of way is required that connects King Road to the section line easements.

### **Findings:**

1. The subdivision is located within a closed block.
2. The block length does not comply with KPB standards.
3. The block is defined by Turku Avenue, Queen Lane, King Road, and Ram Rack Road.
4. The parcels in this area are generally larger parcels in the 8 to 15 acre range.
5. This area is affected by wetlands that limit that amount of area that can be improved on each lot.
6. Tract 13 to the north is large enough to be further subdivided and could provide a matching 30 foot right of way dedication.
7. Tract 13 is affected by wet lands.

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, 4, 5, 7 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, 4, 5, 7 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, 4, 5, 7 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.

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**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**