

AGENDA ITEM E. NEW BUSINESS

ITEM 2 – ALASKA STATE LAND SURVEY NO. 2017-23

<b>KPB File No.</b>	2021-133
<b>Plat Committee Meeting:</b>	October 11, 2021
<b>Applicant / Owner:</b>	State of Alaska Department of Natural Resources
<b>Surveyor:</b>	Iain Brown / PND Engineers
<b>General Location:</b>	Mile 46 Seward Highway, Summit Lake / Moose Pass APC

<b>Parent Parcel No.:</b>	035-180-04, 035-250-05
<b>Legal Description:</b>	Government Lot 1, excluding ASLS No. 97-32 and 2000-01, Section 5, Township 6 North, Range 1 West, and Portion of Government Lot 1 east of Seward Highway, Section 32, Township 7 North, Range 1 West.
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	On-Site

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat is a state municipal entitlement plat. The intent of this plat is to survey the lands to finalize the entitlement process and to allow the lands to be deeded to the Kenai Peninsula Borough. This plat has been reviewed under KPB Code 20.10.090 Municipal Entitlement Acquisition Plat. This plat must meet the requirements of KPB Chapter 20.25. As this plat is proposing right of way dedication, it is being presented to the Planning Commission for approval. Municipal entitlement plats must meet requirements of KPB Code 20.40.020 – Wastewater System review not required and 20.60 – Final Plats. The Planning Director may determine that portions of 20.60 are not required to finalize the plat.

The proposed plat will subdivide large acreage government lots currently owned by the State. The plat will create five tracts ranging in size from 5 to 119 acres. This platting action will provide two right of way dedications for a portion of the Seward Highway and a continuation of Tenderfoot Lane.

**Location and Legal Access (existing and proposed):** The subject lands are located north and east of Summit Lake near mile 46 of the Seward Highway. Tenderfoot Lane provides access to a federal lands and Tenderfoot Campground. Summit Avenue is 30 foot wide right of way and provides legal and physical access to Tract C of ASLS 97-32.

Tract A will not have dedicated access. Public lands and section line easements provide the only access to Tract A. KPB will be the owner of Tract B and Tract A. Any development of Tract B will be required to provide access to Tract A.

Tract B will have legal access via the Seward Highway and from Tenderfoot Lane.

Tract C will have legal access from Tenderfoot Lane and Summit Avenue.

Tracts D and E will have legal access via the Seward Highway.

A 50 foot wide public access easement adjoining the ordinary high water of Summit Lake, and on the bed extending upland on the creeks, is reserved to the state per AS 38.05.127. Sheet 4 depicts a 50 foot public access easement affecting the entire shoreline of Tract B ASLS 97-32 (SW 98-03). The record plat depicts the 50 foot access easement stopping near the middle of the shore line and not affecting that portion near the creek. **Staff recommends that the surveyor confirm the location of the 50 foot public access easement on adjoining Tract B and update the this plat accordingly.**

Tract A of ASLS 2000-01 (SW 2001-10) is a parcel of land subdivided for a communications tower. A 20 foot wide private non-exclusive use utility easement is the only legal access to this parcel.

**Staff recommends** a plat note, or a label within the Seward Highway, note the DOT project map and specific pages pertaining to this portion of the project.

Comments from DOT request that the labels stating, "Seward Highway right of way dedicated this plat" be changed to say "reserved this plat." The highway reservation has been granted by document. Staff is requesting a plat note with the reservation details. This plat wishes to formally dedicate the highway. ASLS 2014-26 dedicated a portion of the Sterling Highway and ASLS 2006-5 dedicated a portion of the Hope Highway. **Staff recommends the label state 'dedicated this plat' and the surveyor can work with the State of Alaska DOT to determine if it should be a reservation or dedication and update accordingly.**

KPB Roads Dept. comments	Within KPB jurisdiction, no comments.
SOA DOT comments	Seward Highway appears to be shown correctly.

**Site Investigation:** The area is affected by steep terrain sloping up to mountains on the east and west. There is also steep slopes near the creek beds. It does not appear at this time the slopes will pose any issues as the tracts are large acreage and there is adequate area to provide right of way dedications if the large tracts are further subdivided. The right of way dedications are atop already constructed roads and slopes at this time will not affect the use.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Carver, Nancy Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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**Staff Analysis** This plat review was performed under 20.10.090, municipal entitlement plat. As this is a State plat, it will need to conform to any regulations and requirements from the state in addition to the applicable portions of KPB Code. The lands within this plat were selected by the Kenai Peninsula Borough through municipal entitlement and were approved by the state. The recording of this plat will allow the tracts created by this plat to be deeded to the borough for ownership.

The lands are within the boundary of the Chugach National Forest and located along the Seward Highway and Summit Lake.

All tracts are larger than 200,000 square feet and a soils report will not be required.

Moose Pass 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** A 100 foot easement has been granted to Chugach Electric and is depicted on the plat within Tract D (as shown on sheet 2). Sheet 5 depicts a 20 foot wide utility easement (as shown on sheet 5) that provides access to Tract A of ASLS 2000-01, a tract designated for communications.

While this plat does not have to comply with requirements of 20.30, staff requests several requirements be considered for inclusion. KPB 20.30.060(D), would provide the granting of ten foot wide utility easements adjoining dedicated right of ways. KPB 20.30.240, a minimum 20 foot building setback along dedicated right of ways. Inclusion of these requirements will provide established utility easements and setbacks for future development and reduce the possibility of encroachments occurring. **Staff recommends a request be made to include plat notes granting 10 foot utility easements and 20 foot building setbacks along dedicated right of ways and provide a depiction and label on all dedicated right of ways or a typical drawing to show the 20 foot building setback and 10 foot utility easement adjoining all 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	Not within their service territory.
ENSTAR	No comment or recommendations
ACS	
GCI	Approved as shown
CHUGACH ELECTRIC	

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek  Affected Addresses:  51925 SEWARD HWY  51927 SEWARD HWY  51869 TENDERFOOT LN</p> <p>Existing Street Names are Correct: Yes  List of Correct Street Names:  SEWARD HWY  TENDERFOOT LN  SUMMIT AVE</p> <p>Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:</p> <p>Comments:  51925 SEWARD HWY and 51927 SEWARD HWY will remain with TRACT D.  51869 TENDERFOOT LN will remain with TRACT C.</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:</p>

	There are not any material site issues with this proposed plat.
Assessing	Reviewer: Bruns, Matthew Comments: Tract A will not have legal access from a public ROW, otherwise 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**

In addition to comments below staff has the following notes/corrections.

#### All sheets

- Review the monuments depicted and correct any overstrikes on the survey marker symbols.
- The third symbol on the legend does not appear to be on any sheets presented. This may be something the surveyor will add on the final drawing but if not it should be removed or update the map to include the correct symbol.

#### Sheet 1

- Within Tract D, below the W1/16 monument, there is a random line. Remove the line or provide information regarding its meaning.
- Provide a Tract label and acreage for Tract C. this may need to be located off the parcel with a leader pointing to the tract.

#### Sheet 2

- Provide a bearing and distance label from the north corner of Tract D (cor. 3) to the found survey marker on the right of way located further to the north.
- Verify the survey marker symbol located to the southwest of the S1/16 S32 T7N R1W survey marker. If this is a correct survey marker provide a bearing and distance tie.
- Provide a bearing and distance label from the north portion of the Seward Highway right of way dedication to the found survey marker which appears to be on the centerline of the Seward Highway further to the north.

#### Sheet 3

- Remove overstrikes from the survey marker symbols on the east portion of the Seward Highway common with Tract A ASLS 97-32.
- Correct the overstrike on the bearing and distance label located at the south end of the Seward Highway where it overlaps the subdivision boundary.
- Show the meander line boundary for the Seward Highway as a solid bold line as this is the surveyed boundary of the subdivision.

#### Sheet 4

- Show the meander line boundary for Tract C and the Tenderfoot Lane right of way as a solid bold line as this is the surveyed boundary of the subdivision.
- The bearing and distance label (S32°35'46"W 172.95') showing a tie from the meander line intersection with the right of way to the south corner of Tenderfoot right of way can be removed. The right of way will be less than a 60 foot width in this area as the boundary is the ordinary high water line. The sub distance of 114.97' can be removed as well.
- Verify the 50 foot public access easement depicted and labeled on adjoining Tract B ASLS 97-32. The parent plat does not show the 50 foot public access easement extending the entire length of the parcel.
- Remove overstrikes on the survey marker symbols on Tract C ASLS 97-32 and on the end of the current Tenderfoot right of way dedication.

Sheet 5

- Include a street name and width label for the right of way, Tenderfoot Lane, located between Tract B and Tract C.
- Show the meander line boundary for Tract C and the Tenderfoot Lane right of way as a solid bold line as this is the surveyed boundary of the subdivision.
- The bearing and distance label (S32°35'46"W 172.95') showing a tie from the meander line intersection with the right of way to the south corner of Tenderfoot right of way can be removed. The right of way will be less than a 60 foot width in this area as the boundary is the ordinary high water line. The sub distance of 114.97' can be removed as well.
- Remove overstrike on the survey markers on Tract A ASLS 2000-01.
- Depict and label the 50 foot section line easements that affect Tract A.

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**KPB 20.25.070 – Form and contents required**

**Staff recommendation:** final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

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:**

*All sheets*

- Include the address for Department of Natural Resources.
- On all sheets revise the title block to read

A subdivision of  
a portion of Government Lot 1 excluding Alaska State Land Survey No. 97-32 and No.  
2000-01. Section 5, T6N, R1W  
and  
a portion of Government Lot 1 lying east of the Seward Highway, Section 32, T7N, R1W,  
Located within:  
Section 5, Township 6 North, Range 1 West  
and Section 32, Township 7 North, Range 1 West, Seward Meridian

- Verify the final acreage and update accordingly
- On all sheets, include the KPB File number 2021-133 within or near the title block.

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:**

*Sheet 1 – Add a plat note that the subdivision is within the Chugach National Forest Boundary.*

*Sheet 4 – Neighboring Tract B of ASLS 97-32 is shown with a 50 foot public access easement along Summit Lake all the way to Tenderfoot Lane. Per the ASLS 97-32, the easement ends at the meander point between S 44° 36' 10" W and S 34° 50' 05" W. Revise the depiction or provide documentation that the public access easement is for the full length of Tract B.*

*Sheet 5 – Depict and label the 50 foot section line easement located along the east and southern boundary of proposed Tract A.*

- 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:** *Update the subdivision depiction to include the portion of Government Lot 1 within Section 32. The entire subdivision is within the boundary of the Chugach National Forest. Provide a label within the vicinity map for the Chugach National Forest.*

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#### **KPB 20.30 – Subdivision Design Requirements**

**Staff recommendation:** *final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.*

Does not apply to municipal entitlement plats.

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#### **KPB 20.40 – Wastewater Disposal**

**Staff recommendation:** *final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.*

20.40.010 Wastewater disposal.

*Platting Staff Comments:* Remove “or nominal 5 acres” from the note.

**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:** *Acceptance of Tenderfoot Lane is under US Forest Management. An acceptance will need to be determined. If Seward Highway is dedicated, an acceptance to be signed by DOT shall be included.*

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.*

- *No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.*
- *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).*
- *Reservation of Easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 601, dated August 10, 1949 and amended by Public Land Order No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; and Department of the Interior Order No. 2665, dated October 16,*

1951, Amendment No. 1 thereto, dated July 17, 1952 and Amendment No. 2 thereto, dated September 15, 1956, filed in the Federal Register.

- Rights of the public and or governmental agencies in and to that portion of said premises lying below the mean high water mark of Summit Lake, Butcher Creek, Colorado Creek, Canyon Creek, and Tenderfoot Creek and any questions of right of access to the water in the event said lands do not in fact abut the water.
- No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** *Update the year for the notary acknowledgement. KPB 20.60.190 corrected the Notary's Acknowledgement so it is an acknowledgement instead of a combination of an acknowledgement and a jurat.*

**Staff recommendation:** *the Notary's Acknowledgement on the final plat must comply with 20.60.190.*

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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),; 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**