

AGENDA ITEM E. NEW BUSINESS

ITEM 5 – BUNNELL’S SUBDIVISION HAIGH 2021 REPLAT

<b>KPB File No.</b>	2021-134
<b>Plat Committee Meeting:</b>	October 11, 2021
<b>Applicant / Owner:</b>	Tim and Ruby Haigh, Tim and Ruby Haigh Living Trust of Homer, Alaska
<b>Surveyor:</b>	Kenton Bloom / Seabright Survey and Design
<b>General Location:</b>	City of Homer

<b>Parent Parcel No.:</b>	175-142-21, 175-142-22
<b>Legal Description:</b>	West ½ of Lot 49 and all of Lot 50, Bunnell’s Subdivision (HM 49)
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Medical District
<b>Water / Wastewater</b>	City water and sewer available

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STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will subdivide reconfigure a shared lot line between two lots and dedicate a 30 foot wide dedication.

**Location and Legal Access (existing and proposed):** Legal, and physical, access to the subdivision is by way of a 20 foot alleyway that connects to W. Pioneer Avenue.

Both lots front a 30 foot wide dedication named Swatzell Street. This plat is proposing, at the City of Homer Planning Commission’s request, a matching 30 foot wide dedication of Swatzell Street to provide a full 60 foot dedication along the subdivision. Swatzell Street does not connect to the Swatzell Street to the north as there is a 200 foot gap where the street has not been dedicated. Per Plat HM 2006-57, there is a 30 foot public access easement within the panhandle of Lot 53A1 that connects Swatzell Street to W. Pioneer Ave.

Lot 55A is the Homer Movie Theater. The alley is developed as it provides access to the theater parking area and to the abutting lots.

W Fairview Avenue, Main Street, W Pioneer Avenue, and Bartlett Street define a closed block. The block does exceed allowable limits along the north-south boundary. The east-west block lengths are compliant but the eventual through dedication of Swatzell Street would provide a smaller, but compliant block. In order to bring the block into compliance the plat would be required to dedicate an east-west right of way to provide connection between Swatzell Street and Main Street. Due to existing structures, the ability to get a full dedication will be difficult. **Staff recommends the plat committee concur that an exception is not required as any required dedication would not be feasible or improve the block.**

A comment was received from Roy Thomas, the landowner of Lots 48 and 47 located to the north of the subdivision. He has concerns regarding the requirement to dedicate 30 foot of right of way. He notes that after many years, the right of way remains disconnected and no segment is constructed. He also states there are no land locked parcels as they have access from the existing Swatzell Street dedication and in lieu of access along the dedication, some of the back lots utilize utility easement to access from Bartlett Street. He requests the acquisition of additional right of way be paused until the need is validated or confirmed by studies or development.

The parent subdivision created many long narrow lots that had access from Bartlett Street and the section line easement that is now Main Street. Through the years, the owners of the long narrow lots wanted to subdivide and they were required to make sure all lots had access. The first portion of the right of way was granted by plat HM 78-44. Subsequent sections were granted by HM 79-58 (Amended by HM 83-122), HM 80-26, HM 83-09, and HM 2013-10. The City Planner, per the minutes from the September 1, 2021 Planning Commission meeting, stated he

was not sure of the history of the road but hopefully over time enough right of way would be dedicated to provide a through road.

KPB Roads Dept. comments	
SOA DOT comments	No comment

**Site Investigation:** There are a few areas with steep slopes. Those areas are depicted on the plat. Per KPB GIS data, there are no wetlands present within the subdivision. Per the plat, a creek is present in the eastern portion. The plat is granting a 15 foot wide drainage easement centered on the creek as requested by the City of Homer Planning Commission.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Within City of Homer 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** The proposed plat will reconfigure the lot lines between two lots. The current lot configuration was created by the parent plat, Bunnell's Subdivision HM 49. Lot 49 was split by deed as shown in a record of survey, HM 97-27. The west half fronted Swatzell Street. The proposed plat will create a flag for the W1/2 of Lot 49 to provide physical and legal access to the 20 foot alleyway.

City water and sewer are available. An installation agreement will be required or documentation from the city that one is not required.

Notice of the proposed plat was mailed to the beneficial interest holder on September 17, 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.

Per the certificate to plat, the subdivision is subject to a public recreational easement granted by recorded document. Both lots were subject to recreational easements but the easement was terminated on Lot 50 by recorded document. The remaining easement on the west portion of Lot 49 appears to still be in existence. **Staff recommends a plat note be added for the recreational easement affecting the West ½ of Lot 49 unless the public recreational easement has been terminated and the recorded document is provided.**

The City of Homer Planning Commission heard the preliminary plat at their September 1, 2021 meeting. The Planning Commission recommended approval by unanimous consent with the following comments.

1. Include plat note stating property owner should contact the Army Corps of Engineers prior to any on-site development or construction activity to obtain the most current wetland designation (if any). Property owners are responsible for obtaining all required local, state, and federal permits.
2. Dedicate 30 foot right of way (Swatzell Street) for a full 60 foot right of way.

3. Dedicate a 15 foot utility easement fronting the new 30 foot dedication.
4. Dedicate 15 foot drainage easement centered on the creek over Lot 50A.

The preliminary plat submitted to the Borough for review has met the requests of the City of Homer Planning Commission.

**Utility Easements** The parent plat did not grant any utility easements within the lots. This plat will be granting a 15 foot utility easement along Swatzell Street.

An easement was granted by recorded document. The document does delineate the location of the easement. **Staff recommends the easement from recorded instrument be depicted and refer to a note that contains details of the easement.**

Homer Electric Association requests a 10 foot wide easement centered on an existing underground electrical line. The line is depicted 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	Requests 10 foot wide easement centered on existing underground electrical line.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 3835 MAIN ST</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: MAIN ST SWATZELL ST</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: City of Homer will advise on affected addresses.</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. Review Not Required</p>
Assessing	<p>Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.</p>

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

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## **STAFF RECOMMENDATIONS**

### **CORRECTIONS / EDITS**

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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:**

- Update the owner's information. The owners should be listed as Tim and Ruby Haigh Living Trust and Timothy A. Haigh and Ruby Haigh.
- Verify the owners' address. KPB Assessing records indicate the address is PO Box 683. If the address shown on the plat is correct, the owners should contact the KPB Assessing Department to update the mailing address.

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 a status label for the parcel located to the west of Swatzell Street.

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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.

20.30.190. Lots-Dimensions.

A. The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally, lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.

B. The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB 20.30.030(A) and 20.30.090 for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB 20.30.240.

**Staff recommendation:** place the standard note on the plat for the flag lot(s): No structures are permitted within the panhandle portion of the flag lot(s). An exception has been requested for the flag length.

#### **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:* City water and sewer are available. Correct plat notes are on the plat.

**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.

20.60.080. Improvements-Installation agreement required. A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

**Staff recommendation:** Installation agreement is required or documentation that one is not needed.

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.

- This subdivision is subject to a public recreational easement as defined by Serial Number 2008-004837-0, HRD, recorded on December 12, 2008.
- Right of way easement was granted to Homer Electric Association, Inc. to construct, operate and maintain an electric transmission and /or telephone distribution line or system as recorded in Book 176 Page 815, HRD.
- Add a plat note for any exceptions granted.
- If the exception is granted the following notes will be required
  - o No structures are permitted within the panhandle portion of the flag lot.
  - o There are possible limitations on further subdivision based on access issues, development trends in the area, or topography.

20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** Update the certificate of ownership to reflect plural pronouns. Verify the owners' addresses. The same person will sign the plat on behalf of both themselves and the trust. Update their signature lines to include single and trustee signatures.

Timothy A. Haugh, signing for former Lot 50 and  
as Trustee for the Tim and Ruby Haigh Living Trust for the former W1/2 of Lot 49

Ruby Haigh, who acquired title as Kristie Diane Haight, signing for Former Lot 50 and  
as Trustee for the Tim and Ruby Haigh Living Trust for the Former W1/2 of Lot 49.

Comply with 20.60.190

### **EXCEPTIONS REQUESTED:**

#### **KPB 20.30.190 – Lots-Dimensions** (length of flag portion of Lot 49-A)

##### **Surveyor's Discussion:**

**Staff Discussion:** The size and shape of proposed Lot 49-A will be irregular. The proposed replat will allow proposed Lot 49-A to have access to the 20 foot alley located to the east of the subdivision. In order to accomplish this the flag for the lot is 20 feet wide and 178 feet long. Per KPB Code 20.30.190(B), "If the access portion is less than 60 feet wide, it may not exceed 150 feet in length."

If the exception is denied, a redesign will be required that provides for a code compliant flag or new lot configurations.

##### **Findings:**

1. The proposed flag for Lot 49-A will be approximately 178 feet in length.
2. The width of the proposed flag portion of Lot 49-A is 20 feet.
3. Lot 49-A abuts dedicated right of way, Swatzell Street.
4. Swatzell Street is not connected to a dedicated right of way to the north.
5. Swatzell Street is connected to W. Pioneer Ave to the south through dedications and public access easements.
6. Swatzell Street is not constructed.
7. The flag lot will allow legal access to the lot via a 20 foot wide alley.
8. The City of Homer Planning Commission approved the proposed design.
9. The City of Homer Planner noted that the lot design was unusual but provides access until such time Swatzell Street is developed.

##### **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 3, 5, 7, 8, 9 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 3, 5, 7, 8, 9 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 3, 5, 7, 8, 9 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**