

AGENDA ITEM E. NEW BUSINESS

ITEM 3 - S & S SUBDIVISION YOUNG REPLAT

<b>KPB File No.</b>	2021-112
<b>Plat Committee Meeting:</b>	October 25, 2021
<b>Applicant / Owner:</b>	Cole B. and Jessica A. Young of Soldotna, Alaska
<b>Surveyor:</b>	John Segesser / Segesser Surveys, Inc.
<b>General Location:</b>	Shane Rae Circle and Riggs Avenue, Ridgeway area

<b>Parent Parcel No.:</b>	058-033-01,058-033-02
<b>Legal Description:</b>	Lots 2 and 3, S & S Subdivision Plat KN 86-112
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted
<b>Water / Wastewater</b>	On Site

---

STAFF REPORT

**Specific Request / Scope of Subdivision:** The proposed plat will combine two lots and finalize a right of way vacation to create one 2.89 acre lot.

**Location and Legal Access (existing and proposed):** The proposed subdivision is located on Riggs Avenue, a 66 foot wide right of way that coincides with 83 foot wide section line easement. Riggs Avenue is on the City of Soldotna boundary and is maintained by the borough. Riggs Avenue intersect state maintained Mackey Lake Road about a third of a mile from the Sterling Highway.

A petition to vacate Shane Rae Circle was heard and approved by the Planning Commission on September 13, 2021. It was heard and approved by the Kenai Peninsula Borough Assembly on October 12, 2021. This plat will vacate Shane Rae Circle and the new lot will have access via Riggs Avenue. Other lots that had optional access from Shane Rae Circle will continue to have access via Riggs Avenue or Heath Circle.

The block is not compliant and an exception has been requested.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No comments.

**Site Investigation:** The land within the proposed subdivision is relatively flat with no low wet areas.

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: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
-------------------------	---

---

**Staff Analysis** The proposed preliminary plat is composed of lots and right of way created by S&S Subdivision, Plat KN 86-112. That plat created four lots and dedicated a 645 foot long right of way. The right of way was given a Circle suffix. That suffix indicates the intent to extend the right of way in the future but for the right of way not to be a through dedication.

On September 13, 2021, the Planning Commission heard a petition to vacate Shane Rae Circle. The vacated right of way was proposed to be combined with Lots 2 and 3 into one parcel. Lot 1 would have access from Riggs Avenue. Lot 4 and the northern unsubdivided lot would have access via Heath Circle. The four lots bordering Shane Rae Circle are currently owned by the same owner. To the north is a 4.8 acre unsubdivided parcel that is also owned by the same owner of the proposed subdivision.

The owners stated in their vacation petition, that they run a company and have expensive equipment on their property. They wish to have a gate in place in the location of Shane Rae Circle to protect their property. It does appear that there may be driveways off the current Shane Rae Circle that provide access to Lots 1 and 4. Access will not be an issue as long as one owner but staff suggests if ownership changes to any of the lots it be disclosed if new access will need to be developed or that a driveway easement or agreement be recorded to protect all parties.

A soils report will be not required and an engineer will not sign the final plat.

Notice of the proposed plat was mailed to the beneficial interest holder on October 5, 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.

The property is not within an advisory planning commission.

**Utility Easements** The parent plat, S&S Subdivision KN 86-112, granted a 10 foot utility easement along Riggs Avenue as well as a 10 foot along the western side of Shane Rae Circle and a 10 foot by 10 foot easement centered on the shared lot line of Lots 2 and 3. The petition to vacate the right of way did not include any utility easements to vacate. While the 10 foot utility easement will remain along the eastern boundary of Lots 1 and 4, the vacation of the right of way does not provide access to the 10 x 10 easement that will now be in the middle of proposed Lot 2A. Staff notes there are several options to provide access to the remaining 10' x 10' easement. A 10 foot easement may go across the vacated portion of Shane Rae Circle to connect to the north-south easement along Lots 1 and 2. Another option is to provide a 10 foot wide utility easement along the vacated portion of Shane Rae Circle to connect the 10 x 10 easement to the easement along Riggs Avenue. **Staff recommends a 10 foot wide utility easement be granted to connect to the 10 x 10 easement either by crossing the vacated right of way to connect to the utility easement of record, or a 10 foot utility easement on the east side of the vacated right of way.**

ENSTAR has responded that they have an existing main line within the east side of Shane Rae Circle right of way. They have provided two scenarios in which to grant an easement for the line. **Staff recommends the depiction and requested note be provided on the plat or record the document and provide the recording information within a plat note.**

Per plat note 6, there will be 10 foot utility easements along the right of way and 20 feet within 5 feet of the side lot lines. The plat currently depicts the utility easements granted by the parent plat. The utility easement depiction must show the continuation along the vacated portion of Shane Rae Circle and depict the 20 foot within 5 feet of the side lot lines. **Staff recommends update the depiction of the utility easements to show the easement extending across the vacated right of way where adjoining Riggs Avenue.**

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	Reviewed, no comments.
ENSTAR	<p>There are existing natural gas main line which appears to be located within the proposed Shane Rae Circle 60' ROW Vacation. Attached is an approximate ENSTAR as-built for your reference. ENSTAR objects to this plat unless one of the following scenarios is met:</p> <ol style="list-style-type: none"> <li>1. Add a note which says, "There is a ten foot (10 FT) wide natural gas easement centered on the existing main line." And draw in the approximate location of the main line on the map and add, "Approximate location of natural gas main and centerline of ten foot (10 FT) wide natural gas easement."</li> <li>2. Owner signs an ENSTAR Natural Gas Easement document for a ten foot (10 FT) wide natural gas easement, centered on the main line at this location.</li> </ol>
ACS	
GCI	

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 42924 RIGGS AVE</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: Heath Cir Riggs 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: 42924 RIGGS AVE will remain with Lot 2A.</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	<p>Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept. Vacation of Shane Rae Circle ROW will result in Parcel # 058-033-04 having legal access from Heath Circle only. Parcel # 058-033-05 will have legal access only from Riggs Avenue.</p>

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**

**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:** Parent plat number needs corrected to 86-112.

- 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:** Soldotna City Limits is located south of the subdivision, within Riggs Avenue. Depict the boundary and provide a label.

- 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:** Correct the label for Tract C located to the northeast by removing the duplicate C.

---

#### **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:** The new lot does not meet 3:1 requirements. An exception has been requested.

---

#### **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:** A soils analysis report will not be required. Wastewater note is required.

**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.

### 20.60.180. 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.

- Add a note for any exceptions granted.
- WASTEWATER DISPOSAL: The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on **DATE ILLEGIBLE**. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

Update the following plat notes.

- Note 3, correct “Tha” to “The”.
- Note 3, add “...September 13, 2021. Consent by the Kenai Peninsula Borough Assembly was given at the meeting of October 12, 2021.”
- Notes 4 and 5, add “Misc” prior to the Book and Page listed.

### 20.60.190. Certificates, statements, and signatures required.

**Staff recommendation:** A statement must be added and signed by the owners that acknowledge the vacation is only being added to Lots 2 and 3. “We hereby certify that we are the owners of Lot 1 and Lot 4 S & S Subdivision and that we hereby forego the opportunity to receive ½ of the vacation of Shane Rae Circle. We are allowing the entire sixty (60) feet of right-of-way to be attached to Lot 2A S & S Subdivision Young Replat.” Comply with 20.60.190.

### KPB 20.70 – Vacation Requirements

**Staff recommendation.** Must be finalized within one year of Kenai Peninsula Borough Assembly consent, October 12, 2021.

## EXCEPTIONS REQUESTED:

### A. KPB 20.30.170 – Blocks – Length requirements

Staff Discussion: The subdivision is within a closed block defined by Riggs Avenue, Section Line Easements, Brenda Way, Delcie Drive, and Mackey Lake Road. Not all portions are constructed due to wetlands and terrain. The block lengths are not compliant. There are four other dedications within the block that all end in cul-de-sacs. While Shane Rae Circle could have possibly continued through to improve the block several factors limit that ability. The road was dedicated as a circle, which implies the intent to be a permanently closed right of way that would be no more than 1,000 feet long. There are wetlands that would limit the feasibility of it connecting to other right of ways and there are no other right of ways for it to connect to, as they are cul-de-sacs. If a new dedication would be requested would fall under similar issues and due to the design of some of the lots and the current right of way patterns, a dedication through this subdivision will not improve the block length.

If the exception is denied, a dedication will be required to improve the block length.

**Surveyor's Findings:**

1. An extension could come off of Heath Circle to connect with Frazier Road.

**Staff's Findings:**

2. The block is closed.
3. The block exceeds allowable limits.
4. The vacation does not impact or change the block due to intent to be a closed right of way.
5. There are no existing right of ways to connect or be in line with.
6. There are wetlands located to the north and west.
7. The Planning Commission at the September 13, 2021 meeting approved the vacation of Shane Rae Circle.
8. The KPB Assembly at the October 12, 2021 meeting approved the vacation of Shane Rae Circle.

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 4-8 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 4-8 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 4-8 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 20.30.190(A) – Lots-Dimensions** 3:1 depth to width ratio

Staff Discussion: Per KPB Code, the average depth shall be no greater than three time the average width. The proposed lot configuration of Lot 2A results in a depth to width ration of 3.3:1. Due to the vacation of the right of way the depth to width designations now change as the only frontage is along Riggs Avenue.

If the exception is denied, the current lot configuration will not be allowed and a redesign would be required. The only way to provide lots that meet the depth to width ratio would be to provide a right of way dedication.

**Surveyor's Findings:**

1. The width of Lot 2A is 90% of what would be required to meet the code.

**Staff's Findings:**

2. Code allows for 3:1 depth to width ratio.
3. The depth to width ratio for Lot 2A is 3.3:1.
4. Per the vacation petition, the intent is to combine the lots, vacate the right of way so that a gate may be placed to protect property and equipment.
5. Adding the full right of way width to the new lot improves the ratio.
6. The Planning Commission at the September 13, 2021 meeting approved the vacation of Shane Rae Circle.
7. The KPB Assembly at the October 12, 2021 meeting approved the vacation of Shane Rae Circle.

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 4-7 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 4-7 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 4-7 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.

---

**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**