

AGENDA

**MATANUSKA-SUSITNA BOROUGH
PLATTING BOARD
AGENDA**

REGULAR MEETING

1:00 P.M.

JANUARY 21, 2016

The *borough staff recommendations* related to petitions being considered by the platting board will be available at least five days prior to the scheduled consideration. It is the responsibility of the petitioner to review the recommendations prior to consideration.

The Platting Division shall process the official actions of the board. Conversation, discussion and testimony will be recorded and saved on record.

Access and ability to have needed information from the recordings (ex. appeals) will be made available to the petitioner by the Platting Division upon request.

All decisions as to approval or disapproval of a subdivision, vacation, elimination, public use easement, variance, right-of-way, or airport acquisition plat by the platting board shall be final unless a *petition for reconsideration* is submitted to the Platting Division within fifteen days of the date of the written *notification of platting board action*, or an appeal filed with the board of adjustments and appeals in accordance with MSB 15.39.

PUBLIC HEARING PROCEDURES

1. Chair states item to be addressed.
2. **Public Hearing Notices:** Secretary states number of public hearing notices sent out, date sent, and responses thereto.
3. **Staff Report:** The Platting Technician gives an overview of the project for the platting board and the public.
4. **Chair opens the public hearing:** The Chair may ask petitioner to give a short overview prior to public input.
5. **Public Testimony:** Members of the public are invited to sign in and testify before the board. Board members may have questions for the person testifying. Testimony is limited to three (3) minutes. The time limit may be extended at the discretion of the Chairman.
6. **Public hearing is closed by the chair.** No further public input is appropriate.
7. **Petitioner Comments:** Petitioner, or his/her representative, comes before the board to discuss staff recommendations and compliance with Title 43 and other applicable regulations. Testimony is limited to five (5) minutes. The time limit may be extended at the discretion of the Chairman.
8. **Motion, Discussion & Vote:** Motion is made and seconded by board members. No further unsolicited input from petitioner is appropriate.

Platting board discusses motion and votes; four affirmative votes are necessary for approval of the proposed action. Decisions are final, unless reconsidered by the platting board or appealed to board of adjustments and appeals.

**MATANUSKA-SUSITNA BOROUGH
PLATTING BOARD AGENDA**

PLATTING BOARD

Jay Van Diest, Chairman
Tait Zimmerman, Vice Chairman
Stan Gillespie
Jordan Rausa
Marty Van Diest, Alt #1
Gregory Pugh, Alt #2
District #2, Vacant
District #6, Vacant
District #7, Vacant



PLATTING DEPARTMENT

Eileen Probasco, Acting Platting Officer
Peggy Horton, Platting Technician
Amy Otto-Buchanan, Platting Technician
Cheryl Scott, Platting Technician
Sloan Von Gunten, Platting Div. Specialist

*Assembly Chambers of the
Dorothy Swanda Jones Building
350 E. Dahlia Avenue, Palmer*

**JANUARY 21, 2016
ASSEMBLY CHAMBERS
REGULAR MEETING
1:00 P.M.**

- 1. CALL TO ORDER**
 - A. Roll Call and Determination of Quorum (by Administrative Specialist)
 - B. Pledge of Allegiance
 - C. Approval of the Agenda
- 2. APPROVAL OF MINUTES**
 - A. January 7, 2016
- 3. UNFINISHED BUSINESS**
- 4. PUBLIC HEARINGS**
 - A. **JOHN M. KINNEY** (owners/petitioners): The request is to create five lots from Lot 1, Block 3, Wasilla Creek Estates, Plat No. 86-17, to be known as **KINNEY RIDGE**, containing 6.68 acres +/- . Access is via N. Showers Street and E. Jensen Road. Located within E ½ SE ¼ Sec 12, T18N, R01E, S.M. AK, lying north of N. Showers Street - E. Jensen Road intersection. Community Council: Fishhook, Assembly District: #6: Barbara Doty
- 5. MISCELLANEOUS**
 - A. Work Session on proposed amendments and changes to Title 43.
- 6. RECONSIDERATIONS/APPEALS**
- 7. PERSONS TO BE HEARD**
- 8. PLATTING OFFICER COMMENTS**

9. BOARD COMMENTS

In order to be eligible to file an appeal from a decision of the Platting Board, a person must be designated an *interested party* pursuant to MSB 15.39.010. The procedures governing appeals to the Board of Adjustment & Appeals are contained in MSB 15.39.010-250, which is available on the borough Internet home page located at (www.matsugov.us), or at various libraries within the borough.

MINUTES

The regular meeting of the Matanuska-Susitna Borough Platting Board was held on January 7, 2016, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 1:00 P.M. by the Chairman, Mr. Jay Van Diest.

1. CALL TO ORDER

A. ROLL CALL AND DETERMINATION OF QUORUM (by Administrative Specialist)

Platting Board members present and establishing a quorum:

- Mr. Jay Van Diest, District #1 (Chairman)
- Mr. Stan Gillespie, District #3 (Excused Absence)
- Mr. Jordan Rausa, District #4
- Mr. Tait Zimmerman, District #5(Vice Chairman)
- Vacant, District #2
- Vacant, District #6
- Vacant, District #7
- Mr. Marty Van Diest, Alternate 1
- Mr. Gregory Pugh, Alternate 2

Staff in attendance:

- Ms. Sloan Von Gunten, Platting Division Administrative Specialist
- Ms. Eileen Probasco, Acting Platting Officer
- Ms. Peggy Horton, Platting Technician
- Ms. Cheryl Scott, Platting Technician

B. THE PLEDGE OF ALLEGIANCE

- The pledge of allegiance was led by Mr. Gregory Pugh.

C. APPROVAL OF THE AGENDA

The Chairman, Jay Van Diest inquired if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved without objection.

2. APPROVAL OF MINUTES

The Chairman, Jay Van Diest inquired if there were any changes to the minutes.

GENERAL CONSENT: The minutes for December 17, 2015, were approved without objection.

3. UNFINISHED BUSINESS

4. PUBLIC HEARINGS

A. NORTHGATE/15' WIDE SCREENING EASEMENT VACATION

Sloan Von Gunten (Administrative Specialist)

- Stated that 82 public hearing notices were mailed out on September 23, 2015, from the October 15, 2015 meeting and to this date there have been no returns, no objections, no non-objections, and no concerns.

Peggy Horton (Platting Technician)

- The Petitioner is requesting a continuance to March 3, 2016 to resolve specific issues.

MOTION:

- Mr. Marty Van Diest moved to continue Northgate to March 3, 2016, seconded by Mr. Zimmerman.

VOTE:

- The motion passed with all in favor.

TIME: 1:10 P.M.

CD: 0:05:56

B. VAIL ESTATES ADD 2 MSP

Sloan Von Gunten (Administrative Specialist)

- Stated that 86 public hearing notices were mailed out on December 17, 2015, to this date there have been 8 returns, no objections, 1 non-objection, and no concerns.

Cheryl Scott (Platting Technician)

- Gave an overview on the case.

Jay Van Diest (Chairman)

- Opened the public hearing and asked any members of the public wishing to speak to come forward. Seeing no members of the public wishing to speak, closed the public hearing.

Pio Cottini (Petitioner's Representative)

- Before Paul Hulbert retired he resolved different issues on the plat design.
- On the flag lots the petitioner will be constructing and paving the driveway.
- Agrees with all the recommendations.

MOTION:

- Mr. Zimmerman moved to approve the Master Plan for Vail Estates Add 2, seconded by Mr. Marty Van Diest.

FINDINGS:

- Add #9: The Petitioner agrees with all the recommendations and findings.

VOTE:

- The motion passed with all in favor. There are 9 findings.

TIME: 1:28 P.M.

CD: 0:24:34

C. OLSON ESTATES

Sloan Von Gunten (Administrative Specialist)

- Stated that 12 public hearing notices were mailed out on December 17, 2015, to this date there have been no returns, no objections, no non-objections, and no concerns.

Peggy Horton (Platting Technician)

- The Petitioner is requesting to continue the case for 6 months or sooner if information is obtained.

MOTION:

- Mr. Marty Van Diest moved to continue Olson Estates for 6 months, seconded by Mr. Pugh.

VOTE:

- The motion passed with all in favor.

TIME: 1:30 P.M.

CD: 0:27:21

BREAK

TIME: 1:40 P.M.

CD: 0:38:04

D. MONUMENT CREEK REMOTE RECREATIONAL CABIN SITE STAKING AREA

Sloan Von Gunten (Administrative Specialist)

- Stated that 40 public hearing notices were mailed out on December 17, 2015, to this date there have been 1 return, 10 objections, no non-objections, and no concerns.

Peggy Horton (Platting Technician)

- Gave an overview on the case.
- There are 10 handouts from the public regarding this case.

Jay Van Diest (Chairman)

- Opened the public hearing and asked any members of the public wishing to speak to come forward.

Bill Billmeier (President of the current homeowners association for Bench Lake)

- Concerned that there is confusion about the ownership of the tracts within Bench Lake Subdivision and which tracts are owned by the state.

Charles Spalding (Owner of Parcel C2, T20N, R08E, SEC 25)

- Concerned on the traffic safety on the highway.
- Concerned on river safety for those who are going to the property by boat.

Mark Glatt (Owner of Parcel D2, T20N, R08E, SEC 34)

- Concerned about river safety. He gets to his property by raft.
- Concerned about traffic and road safety with increased ownership.
- Parking is limited by the highway and RS 2477 Trail.
- Concerned about squatters and trespassers.

Nick Jenkins (Owner of Lot 6, Block 2 of Bench Lake Subdivision)

- Most access to the subdivision is by the river.
- Does not agree with the fly in access to Bench Lake and making the lake a parking place for planes.
- Goes to his property in winter by snow machine from down river.

Daniel Lee (Owner of Tract G-2 in Lee Add #1 Subdivision)

- He constructs roadways and trails out in rural Alaska.
- Concerned about the loss of timber resource in the area.

Melanie Glatt (Owner of Parcel D2, T20N, R08E, SEC 34)

- Concerned about trespassers, traffic and safety issues on the river.
- Would like to see the state do the staking on some of their other property in the area instead of the property across the Matanuska River.
- Handed to the board maps on property DNR owns near the Glenn Highway that she looked up herself.

Christina Overturf (Representing the State Representative Jim Colver)

- Mr. Colver cannot make the meeting today, but he wanted to give an updated e-mail from Jim Spalding to the board concerning Monument Creek.
- Sloan Von Gunten, the Administrative Specialist, read into the record the e-mail from Jim Spalding.

Nancy Cameron (MSB Land Management Agent Representative)

- Stated the boroughs concerns about the staking property located on the south side of the Matanuska River.
- Answered questions regarding borough regulations on property.

Jay Van Diest (Chairman)

- Closed the public hearing.

Lauren Rouen & Cliff Baker (Petitioner's Representative for SOA/DNR)

- Has the ability to create administrative parcels.
- Is open to providing more information regarding the Matanuska River.

- Has gathered more information from the community on access to the property.
- Mr. Baker has flown out to Bench Lake, walked and surveyed the tract of Bench lake Subdivision.
- Gave a brief explanation on the process of how stakers will go to the area and mark their boundary for themselves when the state puts the property up for staking.
- Agrees with all the recommendations.

MOTION:

- Mr. Zimmerman moved to approve the preliminary approval for Monument Creek Remote Recreational Cabin Site Staking Area, seconded by Mr. Pugh. Modify finding #4.

DISCUSSION:

- Discussion on access and staking property.

FINDINGS:

- Modify #4: Several comments were received from the public with objections to this staking area and concerns about minimal and inadequate access from the river, erosion, trespass issues, access from Bench Lake, and the taking of natural resources out of public availability.

DISCUSSION:

- Discussion on Title 43 code concerning access.
- Mr. Marty Van Diest would like to add a recommendation to the motion.

MOTION TO AMEND:

- Mr. Marty Van Diest moved to amend the motion to add a recommendation stating: The state shall require each staker to sign an affidavit that the stakers' access is by plane.
- There is no second. The amended motion failed.

DISCUSSION:

- More discussion on property access and restrictions.

MOTION TO AMEND:

- Mr. Marty Van Diest move to amend the motion to continue Monument Creek Remote Recreational Cabin Site Staking Area to February 18, 2016 Platting Board Hearing, and have the platting staff send out the public notices with a 1 mile radius, seconded by Mr. Zimmerman.

VOTE ON AMENDMENT:

- The amended motion passed with all in favor.

TIME: 4:06 P.M.

CD: 3:02:44

Mr. Rausa had to leave the Platting Board Hearing.

E. ASLS 2014-24

Sloan Von Gunten (Administrative Specialist)

- Stated that 11 public hearing notices were mailed out on December 10, 2015, from the Abbreviated Plat hearing from the December 2, 2015 hearing, to this date there have been no returns, no objections, no non-objections, and no concerns.

Peggy Horton (Platting Technician)

- Gave an overview on the case.

Jay Van Diest (Chairman)

- Opened the public hearing and asked any members of the public wishing to speak to come forward. Seeing no members of the public wishing to speak, closed the public hearing.

Nancy Cameron (MSB Land Management Agent Representative)

- Agrees with all the recommendations.

MOTION:

- Mr. Pugh moved to approve the preliminary plat for ASLS 2014-24, seconded by Mr. Marty Van Diest.

VOTE:

- The motion passed with all in favor. There are 8 findings.

TIME: 4:15 P.M.

CD: 3:11:35

BREAK

TIME: 4:22 P.M.

CD: 3:19:18

F. TIDEWATER ESTATES

Sloan Von Gunten (Administrative Specialist)

- Stated that 25 public hearing notices were mailed out on December 17, 2015, to this date there have been no returns, no objections, no non-objections, and no concerns.

Peggy Horton (Platting Technician)

- Gave an overview on the case.

Jay Van Diest (Chairman)

- Opened the public hearing and asked any members of the public wishing to speak to come forward. Seeing no members of the public wishing to speak, closed the public hearing.

The Petitioner and the Petitioner's Representative is not present

- Called the platting staff and stated that they agree with all the recommendations.

MOTION:

- Mr. Pugh moved to approve the preliminary plat for Tidewater Estates, seconded by Mr. Zimmerman.

VOTE:

- The motion passed with all in favor. There are 6 findings.

TIME: 4:28 P.M.

CD: 3:25:01

5. MISCELLANEOUS

A. Work Session on proposed amendments and changes to Title 43.

Mr. Jay Van Diest suspended the rules for the work session

Peggy Horton (Platting Technician)

- Gave an overview on the Title 43 work session packet.

DISCUSSION:

- Continued the work session on the substantial listing items from the last platting board meeting.

SUBSTANTIAL ITEM #11:

- The Platting Board agreed with adding wording in substantial #4 (A), not changing the wording in substantial #4 (C), and adding additional wording.

SUBSTANTIAL ITEM #12:

- The Platting Board will continue Substantial Item #12 at the next platting board meeting.

TIME: 5:02 P.M.

CD: 3:15:32

Jay Van Diest canceled the suspension of the rules and returned the meeting back to order.

6. RECONSIDERATIONS/APPEALS

7. PERSONS TO BE HEARD

8. PLATTING OFFICER COMMENTS

- Peggy went before the Planning Commission Meeting on the inconsistencies packet. They approved the packet.

9. BOARD COMMENTS

- Mr. Pugh appreciates staff work on providing information for the case files.
- Mr. Marty Van Diest commented on the staff report and the statement that the plat design has a flag lot.

Adjourned 5:07 P.M.

CD: 04:04:20

Jay Van Diest, Chairman

Sloan Von Gunten, Platting Division
Administrative Specialist

4A

**STAFF REVIEW AND RECOMMENDATIONS
PUBLIC HEARING
JANUARY 21, 2016**

PRELIMINARY PLAT: KINNEY RIDGE

LEGAL DESCRIPTION: SEC 12, T18N, R01E, SEWARD MERIDIAN, AK

PETITIONERS: JOHN M. KINNEY

SURVEYOR/ENGINEER: HANSON SURVEYING & MAPPING/MARK HANSEN PE

ACRES: 6.68 ± PARCELS: 5

REVIEWED BY: AMY OTTO-BUCHANAN CASE: 2015-194

REQUEST: The request is to create five lots from Lot 1, Block 3, Wasilla Creek Estates, Plat No. 86-17, Section 12, Township 18 North, Range 01 East, SM AK, to be known as KINNEY RIDGE, containing 6.68+ acres. Access is via S. Showers Street and E. Jensen Road.

Petitioner has requested a continuance to the February 4, 2016 Platting Board date, as the plat configuration of lots has been changed. This requires another Request for Comments be sent out, along with an updated Notice of Public Hearing to reflect the changes to the plat.

One objection has been received from Wesley Anderson who owns Lots 5C, 5A and 5B, Block 4 of Wasilla Creek Estates Subdivision. He objects to the change of name of the subdivision and to the subdivision itself, as he is not in favor of any further subdividing of the lots in the area. His comments, in full, are attached. His comments do not address any violation of code.

Staff is recommending a two week continuance to a date certain of February 4, 2016.

Amy Otto-Buchanan

From: Wesley Anderson <wjla@msn.com>
Sent: Saturday, January 09, 2016 2:08 PM
To: Platting
Cc: wesley.j.anderson.mil@mail.mil; Elizabeth Anderson
Subject: Vote Against Case#15-194

My name is Wesley Anderson, my wife (Elizabeth Anderson) and I would like to vote/speak out against case number 15-194 which is scheduled for around 0830 on 21 Jan 2016 to rename Wasilla Creek Estate to Kinney Ridge.

I am on Active duty stationed in APG, MD so I will not be able to attend in person.

I am a long time Alaskan resident and was one of the individuals who assisted Donald "Don" Showers build the roads on Wasilla Creek Estate and do not wish the name we choose and had approved by the MAT-SU Valley changed. While I am sure (or certainly hope he is, since he wants to name it after his family) Mr. Kinney is a long time resident of the Estate. He has not owned land there longer than my family or Don Showers (since we are the ones who built the Estate)

We own 3 lots and vote no (x3) for each lot we own:

53433B02L005C
53433B02L005A
53433B02L005B

In addition, I am not in favor of any further sub dividing of the lots in said area. Again, the lot size was originally chosen for a reason and I do not want a bunch of neighbors like I am in Anchorage when I retire from the military. It also place un due burden on the resources and will impact the natural beauty of the area.

Please call me with any questions or if I need to file any official paperwork

Thank you for your time and consideration in this matter

V/r
Wes

5A

Platting Board did not accept the repeal of (A)(1) or (B)(2), and accepted the repeal of (B)(3).

Section __. Amendment of section. MSB 43.15.005, General Administration, is hereby amended as follows:

(A) The platting board shall act upon applications for preliminary plats, variances, public use easements, plat note amendments, and vacations of public interest within the procedures outlined by AS 29.40.110 and this title.

(1) The platting board shall not make conditions of plat approval beyond the authority and specific provisions of this title.

(B) The platting officer shall act upon applications for abbreviated plats, waivers, 40-acre exemptions, right-of-way acquisition plats, and elimination or modification of utility easements as described in MSB 43.15.032.

(1) the platting officer shall determine whether agency, department, or public comments provided are within the regulatory authority of this chapter and whether they should apply to a platting action.

(2) The platting officer shall not recommend or impose conditions of approval for platting actions that are not within the specific authority of this title.

Platting Board did not accept the repeal of (A)(1) or (B)(2), and accepted the repeal of (B)(3).

[(3) THE PLATTING OFFICER SHALL DETERMINE WHETHER UTILITY EASEMENT REQUESTS ARE REASONABLE AND ONLY REQUIRE REASONABLE REQUESTS AS RECOMMENDATIONS TO THE BOARD OR AS CONDITIONS OF APPROVAL. THE PLATTING OFFICER SHALL PROVIDE FINAL APPROVAL ON THE ADEQUACY OF AN EASEMENT(S) PROVIDED FOR PLATTING ACTIONS ON FINAL PLATS AND PLATTING ACTIONS DELEGATED AS BY THIS TITLE, WITHIN 20 DAYS OF ACCEPTANCE OF SUBMISSION.]

(C) Leaseholds located within municipal airports are exempt from the requirement to plat.

(D) Commercial leases of ten years or greater are exempt from this title.

This section of code is titled "*General Administration.*"

Removal of paragraph (A)(1) and (B)(2) is because the Platting Officer or the Platting Board, for that matter, should not be limited to only Title 43. There are many other code provisions that would help the Platting Authority in their promotion of the common good and welfare, such as Title 11, Title 15, Title 17 and the Borough Comprehensive Plan.

Removal of paragraph (B)(3) is because the Platting Officer is not a utility designer, nor is it reasonable that he make a determination whether utility easements are reasonable. The Platting Officer is not the entity to accept or deny easements or provide final approval of the adequacy of easements; that is the Platting Board's responsibility through correspondence received from utility companies, engineers, surveyors, developers, and

Platting Board did not accept the repeal of (A)(1) or (B)(2), and accepted the repeal of (B)(3).

staff. Utility easements can't be dedicated on abbreviated plats, which the platting officer hears pursuant to AS 29.40.090.

Platting Board accepted these changes 11/19/2015

Section , Amendment of section. MSB 43.15.012, Forty-Acre Exemption, is hereby amended as follows:

(A) Purpose clause. The purpose of this section is to allow the land owner to divide or combine large parcels of land by document in an expedited manner. The 40-Acre Exemption process is not allowed for parcels created via the waiver process.

(B) Exemptions. The platting officer shall exempt parcels from the provisions of this title where all the following conditions are met:

(1) The smallest parcel created is 40 acres in size, or is one-sixteenth of a section as defined by "aliquot part;"

(2) The parcel is to be conveyed by deed;

(3) The parcels or tracts created can be described by:

(a) aliquot part; or

(b) a metes and bounds description, provided the description is under the seal of a land surveyor;

(4) The document does not alter an existing plat of record, including tracts on a cadastral plat;

(5) A certificate to plat shall be required, consistent with the requirements of MSB 43.15.053(E);

Platting Board accepted these changes 11/19/2015

(6) Signatures of consent are provided on affidavits from all parties holding a legal or equitable interest in the property to be recorded with the document;

(7) No more than four parcels shall be created from the parent parcel(s); and

(8) The applicant demonstrates that legal access as defined by MSB 43.20.120 exists to all parcels or tracts created and is suitable for future borough standard road construction.

(a) The suitability of legal access for future road construction shall be documented by the applicant based on the following information available from existing records within the Matanuska-Susitna Borough:

- (i) air photos;
- (ii) USGS mapping;
- (iii) topographic mapping; and
- (iv) other available data.

(b) The platting officer shall review within ten working days the legal access documentation and its "suitability" for future road construction.

[(C) FOR THE PURPOSE OF THIS SUBSECTION, "SUITABILITY" IS DEFINED AS THE ABILITY OF THE LEGAL ACCESS TO CONTAIN A BOROUGH STANDARD ROAD.]

(i) Access for parcels located two miles beyond the limits of the core comprehensive planning area may be from a trail shown to be constructible to the trail standards listed in MSB 43.20.055(B)(5); however, no trail construction is required for 40-acre exemption approval.

(d) The applicant[BOROUGH SHALL NOT REQUIRE THE PETITIONER TO PROVIDE A DESIGNED ROAD OR TRAIL TO MEET THE REQUIREMENTS OF THIS SUBSECTION] may be required to submit plan, profile and cross-sections if grades along the proposed route will exceed 10%, or if utilities or other land/water features warrant such a submission as determined by the platting officer.

(9) An as-built of all structures or improvements within the parcel boundaries is provided, or a letter from a land surveyor stating that no setback violations exist or will be created by this platting action;

(a) as-built or surveyor's letter is not required if combining parcels.

(10) For parcels described by metes and bounds, all parcel corners shall be surveyed and monumented and a record of survey or a detailed drawing prepared by a land surveyor to be recorded with the public use easement document. The survey shall be tied to at least two platted subdivision corners or two aliquot part corners set by the state or federal government, or land surveyor, or any combination of the preceding;

(C) Exemption document. The document exempting a parcel from the provisions of this title shall be reviewed by the platting officer. The platting officer shall approve the exemption document within ten working days once the exemption submittal meets the conditions of this subsection. Upon approval of the document, the platting officer shall execute the approved document, signed by the planning director, and it shall be affixed with the platting board seal. It is the responsibility of the applicant to pay all appropriate fees.

(1) The intent of this provision is to allow prompt approval of a 40-acre exemption.

(D) The decision of the platting officer in this matter is final unless appealed to the platting board in writing within ten days.

(E) The applicant may appeal the decision of the platting board to the board of adjustment and appeals in accordance with MSB Title 15.

“These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.”

This section of code is titled “*40-Acre Exemption*” and it allows for the creation of 40-acre parcels by document, instead of by plat. Currently the code does not allow the combination 40-acre parcels into larger parcels through this process and staff supports this change as a new way of allowing persons to change their parcel boundaries without submitting a preliminary plat.

Waiver parcels go through a public noticing process and 40-acre exemptions do not. 40-acre exemptions are done in an expedited manner. Once you use a waiver process it’s appropriate that combining those types of lots be held to at least the same process instead of the less restrictive process.

Subparagraph (8)(c) is no longer needed if the suitability standard is addressed in paragraph 8.

When reviewing the constructability of the legal access, if the available information within the items listed is lacking, staff may need additional information to make an informed decision.

Another addition is to require as-built information along parcel lines so setback or encroachment issues are not created. To keep the requirements minimal for this process, a letter from a land surveyor could be submitted instead of a full as-built stating not setback violations exist or will be created. MSB 43.10.060(E) does not allow the platting authority to approve applications where it finds the property is in violation of borough code, like setbacks. Staff wouldn't know if the new parcel lines would create setback or encroachment violations if we did not receive the as-built information or letter.

The other addition is to require those parcels created by metes and bounds legal descriptions to be monumented and a record of survey recorded as it is with waiver subdivisions.

Section __. Amendment of section. MSB 43.15.021, Public Use Easement Acceptance Procedure, is hereby amended as follows:

(A) Prior to acceptance by the borough and recordation, the offeror for a public use easement shall submit a legal description of the proposed easement together with a drawing depicting the location of the proposed easement. If the proposed easement is in the form of a metes and bounds description, the description shall be submitted under the seal of a registered land surveyor.

(B) The legal description shall be reviewed for accuracy and completeness. If discrepancies are found, the offeror shall be notified of the discrepancies and shall resubmit the application for approval.

(C) The offeror shall prove that the public use easement is in a practical location where road construction is feasible in accordance with the subdivision construction manual. The offeror [SHALL NOT] may be required to submit [ROAD DESIGNS]plan, profile and cross-sections if grades along proposed route will exceed 10%; or if utilities or other land/water features warrant such a submission as determined by the platting officer.

[(D) IF ROAD CONSTRUCTION IS PROPOSED, THE OFFEROR SHALL DEMONSTRATE THAT THE PHYSICAL ROAD IS FEASIBLE WITHIN THE PUBLIC USE EASEMENT AND THAT ALL APPROVALS REQUIRED FROM FEDERAL, STATE, BOROUGH, AND OTHER REGULATORY AGENCIES HAVE BEEN ISSUED OR FINAL RECORDING WILL BE CONTINGENT UPON OTHER PERMITS AND APPROVALS.]

(D) Public use easements shall be surveyed, monumented on the exterior, or the centerline if approved by the platting officer, and either shown on a record of survey, an associated plat, or a detailed drawing prepared by a land surveyor to be recorded with the public use easement document.

(E) Upon compliance with subsections (A) through (D)] of this section, a public use easement form with the approved legal description, bearing acknowledgment of acceptance by the borough and being signed by all individuals holding a legal or equitable interest in the property involved, shall be recorded. This provision does not require the signatures of holders of subsurface estate interests in the land being dedicated.

(F) It is the responsibility of the offeror to pay all applicable fees.

“These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.”

This section of code is titled “*Public Use Easement Acceptance Procedure*” and it allows for the creation of public use easements, instead of dedicated right-of-ways.

When reviewing the constructability of the legal access, if the available information within the items listed is lacking, staff may need additional information to make an informed decision.

At the time of road construction is when the permits would be acquired. Permits are sometimes time sensitive and conditions may have changed regarding what permits are necessary. This process will create the public use easement, the construction of that easement would be when the permits would be necessary.

Dedicated right-of-ways are monumented at lot corners, curves, etc. on a plat. Public Use Easements should also be monumented to ensure the true limits or boundary of the ROW will be known, whether it be constructed now or in the future. The property owners adjoining the PUE need to know the location of the PUE in regards to setback requirements.

Platting Board did not agree to add (H), which addressed Substantial #6

Section __. Amendment of section. MSB 43.15.049, Final Plat;
General Provisions, is hereby amended as follows:

(A) Board review. The platting officer shall review all plats subdividing lands within the borough boundaries.

(B) Review for deficiencies. The platting officer shall review and check all final plats for deficiencies. Where deficiencies are found, the plat shall be returned to the subdivider for alteration or correction by the land surveyor responsible for the survey and the plat. The platting officer shall approve or disapprove the final plat within 20 days of submittal of the plat. If disapproved, the final plat shall be returned to the subdivider with specification of the deficiencies. The platting officer shall approve or disapprove the second final plat within ten days of resubmittal.

(C) Dedication and adoption. When a tract or parcel of land has been subdivided and the plat bears acknowledgement of the owner and the approval of the planning and land use director has been recorded in compliance with this title, all streets and other public areas shown on the plat shall be dedicated to

Platting Board did not agree to add (H), which addressed Substantial #6

the public for the use and purpose specified in the plat.

(D) Duplication of names. Road and subdivision names may not duplicate existing road or subdivision names in spelling or sound to avoid confusion with existing names.

(E) Service area boundary requirements. Because of the constraints of state law, it shall not be a condition of subdivision approval that no lot, tract, or parcel be split by a service area boundary. However, if possible the subdivider should configure a lot, tract, or parcel such that it would not be split by a service area.

(F) Utility easements.

(1) A snow storage easement if granted can be placed within a utility easement if there is no overriding surface conflict.

(2) A utility easement can be placed within a slope easement.

(G) Minor plat alterations.

(1) The purpose of this subsection is to resolve platting issues and/or improve the subdivision design and function without burdening staff, the

Platting Board did not agree to add (H), which addressed Substantial #6

petitioner, and the board with the additional time and costs to rehear the case.

(2) The platting officer is authorized to approve minor changes to an approved preliminary plat or master plan during review of the final plat for the following items. Any amendment or modification of the preliminary plat shall be limited to the following:

(a) The total number of lots may be reduced;

(b) The total number of lots may not be increased;

(c) Individual lot sizes may not be reduced by more than 20 percent per lot, and at no point to less than the minimum requirements that the preliminary plat was approved under. The aggregate of the proposed reductions shall not exceed one acre;

(d) Proposed rights-of-way or easements may be moved up to 25 feet if approved by the platting officer, if changes made do not affect existing properties;

[(E) PROPOSED RIGHTS-OF-WAY OR EASEMENTS MAY BE MOVED BETWEEN 25 FEET AND 100 FEET WITH THE CONCURRENCE OF THE PLATTING OFFICER AND THE DIRECTOR OF THE MATANUSKA-SUSITNA BOROUGH DEPARTMENT

Platting Board did not agree to add (H), which addressed Substantial #6

OF PUBLIC WORKS, AS LONG AS CHANGES DO NOT INCREASE
THE AVERAGE DAILY TRAFFIC COUNT BY MORE THAN 5 PERCENT
OR NECESSITATE A HIGHER ROAD CLASSIFICATION;]

(f) Approved external accesses cannot
be changed; and

(g) Amendments and modifications cannot
create setback violations.

This section of code is titled "*Final Plat; General Provisions.*"

The removal of items (G)(2)(e) is due to the fact that moving a ROW on a plat
between 25 and 100 feet is not a minor change; this could change drainage, access
requirements, lot and block design, lot frontage. It is more appropriate that the
plat needs to be seen by the Platting Board for approval of the change.

Section ____ Amendment of subsection. MSB 43.10.060(A),
Platting Authority Procedure, is hereby amended as follows:

(A) The platting board shall act on an application for preliminary plat, variance, public use easement, plat note amendment, elimination or modification of platted utility, drainage, sanitation, slope, snow storage, buffer, and screening easements or vacation of public interest only after holding a public hearing on the application. The platting board shall hear applications for vacations at the hearing on the preliminary plat to which they pertain if an application for plat approval has been filed or is required. The platting board shall consider any preliminary or final plat affected by the vacation of public interest.

Section ____ Amendment of subsection. MSB 43.15.005(A),
General Administration, is hereby amended as follows:

(A) The platting board shall act upon applications for preliminary plats, variances, public use easements, plat note amendments, elimination or modification of platted utility, drainage, sanitation, slope, snow storage, buffer, and screening easements

and vacations of public interest within the procedures outlined by AS 29.40.110 and this title.

Section . Amendment of subsection. MSB 43.15.005(B), General Administration, is hereby amended as follows:

(B) The platting officer shall act upon applications for abbreviated plats, waivers, 40-acre exemptions, and right-of-way acquisition plats[, AND ELIMINATION OR MODIFICATION OF UTILITY EASEMENTS AS DESCRIBED IN MSB 43.15.032].

Section . Amendment of section. MSB 43.15.032, Elimination or Modification of Utility, Drainage, Sanitation, and Screening Easements, is hereby amended as follows:

(A) The platting [OFFICER]board shall review and act upon all applications requesting elimination or modification of platted utility, drainage, sanitation, and screening easements; provided, that:

(1) the authority having jurisdiction over the easement consents;

(a) however, if the beneficiary of an easement refuses to authorize a vacation, the platting [OFFICER]board may approve the vacation if the following conditions are met:

(i) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;

(ii) if necessary a substitute easement is provided by document on the plat; and

(iii) findings of facts support granting the vacation;

(2) if the elimination or modification of easement is due to an encroachment, an as-built survey must be submitted with the original application; and

(3) a vacation resolution is recorded along with a graphic representation showing the specific area eliminated and any alternate easements proposed.

(B) In acting on applications under this section the platting [OFFICER] board shall use the standards [AND THE PROCEDURES USED BY THE PLATTING BOARD IN ACTING ON APPLICATIONS] and procedures under MSB 43.10.060. The platting [OFFICER] board shall approve or disapprove the application within [30] 60 calendar days of the acceptance of the application.

[(C) PROPOSED VACATION WILL BE PRESENTED TO THE BOROUGH ASSEMBLY WITHIN 30 DAYS OF THE DATE OF THE WRITTEN DECISION BY THE PLATTING OFFICER.]

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

There are four places in code where a change to the platting authority over elimination or modification of utility or other types of non-public ROWs has to be made. MSB 43.15.032 is titled "*Elimination or Modification of Utility, Drainage, Sanitation, and Screening Easements.*" The changes above would allow the Platting Board to act upon the elimination or modification of utility and other types of non-public ROW easements instead of the Platting Officer. Currently the Platting Officer's decisions on these types of easements are presented to the assembly after approval; 30 days to the public hearing and another 30 days *or more* to be heard by the assembly. Staff does not consider these types of easements as having the level of importance to be brought before the assembly for legislative action. Having these types of easement eliminations and modifications heard by the Platting Board would streamline the process, saving time and money for all parties involved.

Section . Amendment of section. MSB 43.15.053, Final Plat;
Certificates, is hereby amended as follows:

(A) Certificates of ownership. Each plat of a subdivision filed for record shall contain a certificate of ownership. The certificate shall be signed in black ink and acknowledged by all parties having any legal and equitable interest in the lands subdivided before an officer duly authorized to take acknowledgements of deeds, in the same manner in which deeds are required to be acknowledged. If the title interest is vested in a corporation, it shall also be signed and acknowledged by the designee of the corporation with the authority of its board of directors. Where any person holding any mortgage, lien, or other legal or equitable interest in the lands has not signed the certificate of ownership, the affidavit or title opinion shall be accompanied by the written consent, properly signed and acknowledged, of the person to the approval of the plat. This subsection does not require the signatures of holders of subsurface estate interests in the land being subdivided or dedicated. The ownership and dedication certificate shall be substantially as follows:

(I) (We) certify that (I am) (we are) the owner(s) of the property shown and described in this plan and that (I) (We) adopt this plan of subdivision by (my) (our) free consent(,)(.) (dedicate) (all rights-of-way) (and public areas) (to the Matanuska-Susitna Borough) and (grant all easements to the use shown). (delete inapplicable phrases)

Owner's name and address

Date

(B) Notary's acknowledgments. A notary acknowledgment shall be substantially as follows:

NOTARY'S ACKNOWLEDGMENT

This is to certify that on the ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the state of Alaska, duly commissioned and sworn, personally appeared _____, to me known to be the persons described in and who executed the above instrument; and who acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

Notary for the state of Alaska

My commission expires: _____

Or:

NOTARY ACKNOWLEDGEMENT

Subscribed and sworn to before me this _____ day of _____, 20____, for _____.

Notary for the state of Alaska

My commission expires:_____

(C) Surveyor's certificate. A surveyor's certificate shall be substantially in one of the forms that follow, whichever is appropriate:

I, (surveyor's name and land surveyor number), hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat represents a survey made by me or under my direct supervision, and that the monuments shown on the plat actually exist as described, and that all dimensional and other details are true and correct to the best of my knowledge.

(SEAL)

I, (surveyor's name and land surveyor number), hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat was prepared by me or under my direct supervision using record dimensions from Plat #_____.

(SEAL)

[I, (SURVEYOR'S NAME AND LAND SURVEYOR NUMBER) HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THE PLAT SHALL BE SET ON OR BEFORE _____, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

(SEAL)]

(D) Planning and land use director's certificate.
A certificate of approval for signature by the planning and land use director shall be substantially in a form as follows:

I certify that this subdivision plan has been found to comply with the land subdivision regulations of the Matanuska-Susitna Borough, and that the plat has been approved by the platting authority by plat resolution number _____, dated _____ 20__, and that

this plat has been approved for recording in the office of the recorder in the _____ district, Third Judicial District, State of Alaska in which the plat is located.

_____, 20__

Planning and Land Use Director

ATTEST:

Platting Clerk

(E) Certificate to plat. Every final plat of a subdivision submitted for recording shall be accompanied by a certificate to plat, executed no more than 90 days prior to recording, by a title insurance company, confirming that the title of the land described and shown on the plat is in the name of the person signing the certificate of ownership as it is shown on the plat, or in the name of the corporation as shown in the certificate of ownership.

(F) Certificate of payment of taxes. Every final plat of a subdivision submitted for recording shall be accompanied by a certificate from the tax collecting official or city treasurer stating that all special assessments and borough real property taxes levied

against the property are paid in full. In the case of real property taxes, if the taxes are not delinquent, taxes are deemed paid in full with respect to this section. The certificate shall be as follows:

CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that all current taxes and special assessments, through _____, 20____, against the property, included in the subdivision or resubdivision, hereon have been paid.

_____, 20____

Tax Collection Official (Borough)

I hereby certify that all current taxes and special assessments through _____, 20____, against the property, included in the subdivision or resubdivision, hereon have been paid.

Tax Collection Official (City)

Section __. Amendment of subsection. MSB 43.15.054(D), Final Plat; Surveyor Requirements, is hereby amended as follows:

[(D) MONUMENTS AND MARKERS SET AFTER RECORDING OF PLAT. ALL MONUMENTS OR MARKERS, OTHER THAN THE PERMANENT CONTROL MONUMENTS REQUIRED IN SUBSECTION (A) OF THIS SECTION, SHALL BE SET BEFORE THE RECORDING OF

THE PLAT UNLESS THE LAND SURVEYOR INCLUDES IN THE SURVEYOR'S CERTIFICATION ON THE PLAT THAT THE ADDITIONAL MONUMENTS REQUIRED BY THIS TITLE SHALL BE SET ON OR BEFORE A SPECIFIED LATER DATE. THIS SUBSECTION SHALL ONLY BE USED WITH A SIGNED AND APPROVED SUBDIVISION AGREEMENT.]

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

There are two portions of code that will change if this modification is approved. They both deal with the ability for surveyors to place lot corners after the plat records. MSB 43.15.053 is titled "*Final Plat; Certificates*" and MSB 43.15.054 is titled "*Final Plat; Surveyor Requirements.*" If by some reason, the lot corners are not set after the plat records, the lot owner's ability to understand the boundaries of those lots is in jeopardy. There is a concern that the borough may be placed in the position of installing monumentation if these are not installed prior to recording. If the corners are set by someone other than the original surveyor, owners will never have original corners. On one occasion and possibly more, a developer has defaulted on a subdivision agreement and the corner monuments were not set as the surveyor stated on the plat because he wasn't paid for the work.

Pros for keeping this allowance in code is that sometimes during the utility installation, lot corners are at jeopardy for being disturbed. If they are disturbed, the utility companies are technically responsible for resetting the monuments, therefore they will not be original monuments. If the setting of the lot corners is done via a subdivision agreement, this allows the original surveyor to set corners after utilities and road construction is completed.

Section . Amendment of section. MSB 43.15.053, Final Plat, Certificates, is hereby amended as follows:

(A) Certificates of ownership. Each plat of a subdivision filed for record shall contain a certificate of ownership. The certificate shall be signed in black ink and acknowledged by all parties having any legal and equitable interest in the lands subdivided before an officer duly authorized to take acknowledgements of deeds, in the same manner in which deeds are required to be acknowledged. If the title interest is vested in a corporation, it shall also be signed and acknowledged by the designee of the corporation with the authority of its board of directors. Where any person holding any mortgage, lien, or other legal or equitable interest in the lands has not signed the certificate of ownership, the affidavit or title opinion shall be accompanied by the written consent, properly signed and acknowledged, of the person to the approval of the plat. This subsection does not require the signatures of holders of subsurface estate interests in the land being subdivided or dedicated. The ownership and dedication certificate shall be substantially as follows:

(I) (We) certify that (I am) (we are) the owner(s) of the property shown and described in this plan and that (I) (We) adopt this plan of subdivision by (my) (our) free consent(,)(.) (dedicate) (all rights-of-way) (and public areas) (to the Matanuska-Susitna Borough) and (grant all easements to the use shown). (delete inapplicable phrases)

Owner's name and address

Date

(B) Notary's acknowledgments. A notary acknowledgment shall be substantially as follows:

NOTARY'S ACKNOWLEDGMENT

This is to certify that on the ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the state of Alaska, duly commissioned and sworn, personally appeared _____, to me known to be the persons described in and who executed the above instrument; and who acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

Notary for the state of Alaska

My commission expires: _____

Or:

NOTARY ACKNOWLEDGEMENT

Subscribed and sworn to before me this _____ day of _____, 20____, for _____

Notary for the state of Alaska

My commission expires: _____

(C) Surveyor's certificate. A surveyor's certificate shall be substantially in one of the forms that follow, whichever is appropriate:

I, (surveyor's name and land surveyor number), hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat represents a survey made by me or under my direct supervision, and that the monuments shown on the plat actually exist as described, and that all dimensional and other details are true and correct to the best of my knowledge.

(SEAL)

I, (surveyor's name and land surveyor number), hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat was prepared by me or under my direct supervision using record dimensions from Plat # _____.

(SEAL)

I, (surveyor's name and land surveyor number) hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat represents a survey made by me or under my direct supervision, and that the monuments shown on the plat shall be set on or before _____, and that all dimensional and other details are true and correct to the best of my knowledge.

(SEAL)

(D) Planning and land use director's certificate. A certificate of approval for signature by the planning and land use director shall be substantially in a form as follows:

I certify that this subdivision plan has been found to comply with the land subdivision regulations of the Matanuska-Susitna Borough, and that the plat has been approved by the platting authority by plat resolution number _____, dated _____ 20__, and that

this plat has been approved for recording in the office of the recorder in the _____ district, Third Judicial District, State of Alaska in which the plat is located.

_____, 20____

Planning and Land Use Director

ATTEST:

Platting Clerk

(E) Certificate to plat. Every final plat of a subdivision submitted for recording shall be accompanied by a certificate to plat, executed no more than [90]14 days prior to recording, by a title insurance company, confirming that the title of the land described and shown on the plat is in the name of the person signing the certificate of ownership as it is shown on the plat, or in the name of the corporation as shown in the certificate of ownership.

(F) Certificate of payment of taxes. Every final plat of a subdivision submitted for recording shall be accompanied by a certificate from the tax collecting official or city treasurer stating that all special assessments and borough real property taxes levied

against the property are paid in full. In the case of real property taxes, if the taxes are not delinquent, taxes are deemed paid in full with respect to this section. The certificate shall be as follows:

CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that all current taxes and special assessments, through _____, 20____, against the property, included in the subdivision or resubdivision, hereon have been paid.

_____, 20____

Tax Collection Official (Borough)

I hereby certify that all current taxes and special assessments through _____, 20____, against the property, included in the subdivision or resubdivision, hereon have been paid.

Tax Collection Official (City)

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

MSB 43.15.053 is titled "*Final Plat; Certificates.*" This change would require an updated title report within 14 days of recordation of the plat instead of the current 90 days. The object of this amendment is to verify that ownership, easements, and other exceptions listed in the title report have not changed prior to recording the plat. If ownership had changed, or holders of beneficial interest have been added or modified, then the plat would have to be refiled to reflect those changes, which costs both time and money for all involved.

For your information, the Municipality of Anchorage requires an updated title report within 72 hours of plat recordation. The Kenai Peninsula Borough requires a title report, current not more than three business days prior to submittal of the final plat. But if the plat does not record for any reason the title report is only good for 30 days. Fairbanks North Star Borough has a system where they are able to see items that have recorded, so they do not require updated title reports unless changes are noticed in their system.

Section __. Amendment of section. MSB 43.20.060, Dedication to Public, is hereby amended as follows:

(A) All roads shall be dedicated to the public, except as provided in subsection [(D)] 43.20.100(C) of this section; provided, that a subdivider shall be required only to provide the designated right-of-way width within the subdivision, and one-half of the designated right-of-way width of the street on the exterior boundary of the subdivision with the dedication secured from the adjacent property owner before final plat approval.

(B) When accepting roadway dedication, the platting authority shall conduct a public hearing.

(C) Roads shall be dedicated for access to all lots within the subdivision and [PARCELS OF LAND ADJACENT TO THE SUBDIVISION] adjoining stub rights-of-way. Dedications shall be sufficient to carry all traffic generated by the subdivision and to provide residential rights-of-way for projected traffic through the subdivision.

(D) The platting board may require the dedication or improvement, or dedication and improvement of rights-of-way, tracts, or easements no narrower than ten feet in width to accommodate the construction of

walkways up to eight feet in width in any of the following circumstances:

(1) if a walkway is indicated as appropriate in the borough's comprehensive plan or other ordinance, i.e., special land use district (SPUD);

(2) if the walkway is reasonably necessary to provide safe and efficient pedestrian access to a school, playground, park, shopping center, public cemetery, transportation, or other community facility; or

(3) if the walkway is reasonably necessary to provide connectivity to a dedicated right-of-way in an adjoining subdivided or unsubdivided parcel.

(4) The above requirements for dedication of additional right-of-way for a walkway shall apply only where a walkway cannot be contained within the legal right-of-way reserved for a street;

(a) plats or master plans of 20 lots or less shall be exempt from requirements to construct a walkway, unless evidence is presented supporting the need for pedestrian safety or the walkway will provide connectivity to other pedestrian facilities.

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

Staff recommends a change to a reference in code in Section A as the current reference is to walkways, which is incorrect.

Interconnectivity allows for more efficient flow of traffic. Stub roads that are platted, should be connected to, when the adjoining parcel is subdivided and roads are planned. Providing that stub road, when it isn't a requirement to connect to it, is pointless.

Section 43.20.100 Amendment of section. MSB 43.20.100, Access Required, is hereby amended as follows:

(A) There shall be legal and physical road access provided to all subdivisions and to all lots within subdivisions, except as allowed by subsection (B) of this section and any other exemption within this title.

(B) Upon finding that no practical means of providing road access to a proposed subdivision exists and upon a showing that permanent public access by air, water, or railroad is both practical and feasible, the platting board shall waive the road requirements of subsection (A) of this section. If other than road access is approved, the mode of access shall be noted on the plat.

(C) Gated subdivisions and private roads shall be approved, provided there is no need for public through traffic and they meet the following criteria:

(1) [ROADS ARE CONSTRUCTED TO THE REQUIRED BOROUGH STANDARDS] internal roads conform to the requirements of the Subdivision Construction Manual for residential standards minimum;

(2) emergency services shall be provided access to deliver services within the private

subdivision[. BOROUGH MAINTENANCE SHALL BE PROVIDED ACCESS TO GET THROUGH THE SUBDIVISION TO PROVIDE SERVICES BEYOND THE PRIVATE SUBDIVISION];

(3) alternate legal access to adjoining properties is available and constructible to Subdivision Construction Manual standards;[.]

(4) private maintenance is guaranteed.

(D) A subdivider proposing to create roads shall ensure access to adjoining [PRIVATELY OWNED] parcel(s) [BEYOND A PROPOSED SUBDIVISION AS FOLLOWS] meets the following standards:

(1) legal access shall be provided along a constructible alignment;

(a) geometrical alignment shall meet a minimum of subcollector standards unless the applicant demonstrates that it is not necessary;

(b) provided that constructing physical access to said adjoiners shall not be a condition of plat approval; and

(2) access to adjoining lands does not have to be provided where legal and constructible alternative access is available.

(E) A subdivision plat whose sole purpose is to separate/divide a home/headquarters site in a

Matanuska-Susitna Borough agricultural rights parcel under former MSB Title 13 is exempt from the road construction standards of the MSB Subdivision Construction Manual; provided, that the following conditions are fulfilled:

(1) prior to preliminary plat submittal the agriculture rights property owner is to obtain assembly approval of the sale of the home/headquarters site through an application made to the borough land and resource management division; and

(2) the maximum parcel size is five acres for the home/headquarters site; and

(3) only two parcels can be created from the farm unit parcel, the home/headquarters site and the remainder;

(4) the applicant demonstrates that legal access as defined in MSB 43.20.120, Legal Access, exists to all parcels or tracts created, and the suitability of the legal access for future residential road construction is documented by a registered land surveyor or civil engineer hired by the applicant;

(5) the property is to be surveyed and monumented and a plat submitted in conformance with MSB 43.15.016, Preliminary plat submittal and

approval, 43.15.049, Final plat; general provisions,
and 43.15.051, Final plat; submitted;

(6) a plat note declaring that the borough
is not responsible for road construction or road
maintenance; and

(7) a plat note restricting further
subdivision of the parcels being created.

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

Rewording section C allows for the possibility that a gated subdivision may not be approved if there is a need for the public to access beyond the subdivision, say for a public recreation area, or state land.

Rewording section C1 brings this section in line with 43.20.140, *Physical Access*, which requires all subdivision have roads that conform to the Subdivision Construction Manual. It's a consistency issue, meaning there should be no difference in the road construction standard for gated subdivisions with private roads.

Adding C4 will ensure there will be maintenance for the private roads. Allowing gated subdivisions, without ensuring the lots will have *maintained* access is not in the best

interest of the public. The borough gets calls concerning maintenance on private roads. If we know who is maintaining the roads and what they maintain, we can forward those persons to the correct entity.

Section __. Amendment of section. MSB 43.20.140, Physical Access, is hereby amended as follows:

(A) Roads used for access or internal circulation shall:

(1) be located entirely within dedicated or legal rights-of-way; and

(2) conform to existing requirements of the Subdivision Construction Manual.

(B) Within a preliminary plat, the location of roadways within existing or dedicated right-of-ways will be verified by a land surveyor by an as-built of the roadway within the subdivision tied to property corners at sufficient intervals to verify roadway location prior to plat recordation (a copy of final plat can be utilized as base map).

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

To ensure that subdivision roads are fully within the existing or dedicated rights-of-way after construction. This includes the drivable surface, slopes, cuts, ditches, etc. The only

way to determine this is to have an as-built done that ties the roadway to the property corners. A centerline survey does not provide the same information.

Section __. Amendment of section. MSB 43.20.281, Area, is hereby amended as follows:

(A) Unless designated otherwise by another authority having jurisdiction, minimum lot sizes shall be as follows:

(1) Except as allowed under subsections (A)(2), (3), and (4) of this section, all lots within this district shall contain at least 40,000 square feet of area with at least 10,000 square feet of usable building area and 10,000 square feet of contiguous usable septic area. Lots having 20,000 square feet or less of the total of usable building area and usable septic area shall have 10,000 square feet of contiguous usable septic area surrounded by a well exclusion area extending 100 feet from the perimeter, delineated and reserved on the plat at the discretion of the platting board.

(a) Usable septic area is that area where seasonal high water table is a minimum of eight feet below the surface. Where water is encountered at ten feet or less below the surface, the seasonal high subsurface water is to be determined between May 1st and October 30th, and:

(i) that area where slopes are less than 25 percent;

(ii) that area which is more than 100 feet from open water, surface waters, and wetlands;

(iii) that area which is located at least 50 feet from the top of a slope which is greater than 25 percent and has more than ten feet of elevation change;

(iv) that area which is not within an area dedicated to public use;

(v) that area which is outside of utility or other easements that would affect the use of the areas for on-site septic installation;

(vi) that area which is outside of a protective well radius;

(vii) that area which is outside of any known debris burial site; and

(viii) This subsection (A)(1)(a) may be changed to a minimum of six feet below surface if all of the following criteria are met:

(aa) There are special considerations which would preclude reasonably

creating usable area by placing suitable fill to provide eight feet water table clearance;

(bb) A standard design is provided which is certified to meet applicable ADEC requirements at the time of recording by a state of Alaska licensed professional engineer; and

(cc) A note is provided on the plat stating an engineer designed and certified wastewater disposal system or packaged treatment plant meeting ADEC requirements will be required on subject lots (L#B#).

(b) Water table and ability of soils to accept effluent shall be determined by a number of borings or test holes sufficient to indicate subsurface conditions over the entire area of the subdivision. All of the borings and test holes shall be located within the perimeter of the proposed subdivision. Borings and test holes must have the following minimum depths below the ground surface:

(i) in areas known or suspected to contain permafrost, the lesser of:

(aa) twenty feet deep; or

(bb) a depth at which permafrost or an impermeable layer is encountered; and

(ii) the least depth associated with the following conditions, where they apply:

(aa) two feet below the depth where the water table is encountered;

(bb) twelve feet deep for shallow trench or bed systems;

(cc) sixteen feet deep for areas where deep trench or seepage pits will likely be used;

(dd) the depth to bedrock, clay, or other impermeable strata with an expected percolation rate slower than 120 minutes per inch; or

(ee) As determined by the engineer, a lesser depth as required to verify usable areas is acceptable for hand-dug excavations on parcels with limited or no access for heavy equipment.

(c) The minimum number of test holes shall be determined by the engineer.

(d) When the water table is encountered in the test holes, the depth to the seasonal high water table must be determined by:

(i) monitoring test holes or soil borings at times between May and October (inclusive);

(ii) soil mottling or staining analyses;

(iii) interpretation of levels of standing open water;

(iv) local knowledge and experience, if approved by the borough; or

(v) a combination of these methods.

(e) The depth to any seeps must be noted and may require subsequent monitoring.

(f) Soils in a usable wastewater disposal area must be:

(i) clearly shown to be visually classified as GW, GP, SW, or SP under the Unified Soils Classification System and expected to have a percolation rate of 15 minutes per inch or less (faster);

(ii) clearly shown to be GM or SM under the Unified Soils Classification System by a sieve analysis; or

(iii) shown by a percolation test conducted in accordance with (ADEC) Alaska State Department of Environmental Conservation regulations

to have a percolation rate of 60 minutes per inch or less (faster).

(g) These borings or test holes shall be accomplished under the direct supervision of a state of Alaska registered civil engineer, who shall submit soil logs and other findings in writing to the Matanuska-Susitna Borough certifying 10,000 square feet of contiguous usable area for septic drain field use.

(h) Where lots, tracts, or parcels exceed five acres in size, the platting authority may accept a reduced number of test holes or other supporting information, accomplished under the direct supervision of a state of Alaska registered engineer.

(i) The platting authority shall exempt the submission requirements of MSB 43.15.016(A)(2) for purposes of fulfilling usable area requirements for subdivisions of land where:

(i) the lot size is 400,000 square feet or greater and an engineer or land surveyor submits a detailed topographic narrative; or

(ii) the existing subdivision was previously approved by the Alaska State Department of Environmental Conservation or by the borough after

July 1, 1996, and the proposed subdivision action is limited to moving one or more lot lines a distance of ten feet or less.

(2) Lots containing at least 20,000 square feet but less than 40,000 square feet must be serviced by an approved municipal or community water or municipal or community septic system. The platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved municipal or community water system or municipal or community wastewater system. A community wastewater disposal system shall include a common wastewater disposal site on separate lot(s) that serves the entire subdivision.

(a) Lots containing at least 20,000 square feet but less than 40,000 square feet not served by an approved municipal or community septic system must have a minimum 10,000 square feet of useable septic area and are exempt from providing useable building area.

(3) The platting authority may approve lots having less than 20,000 square feet but at least 7,200 square feet if served by a community or municipal

water system and community or municipal sewage disposal facilities.

(4) For those areas not served by municipal sewer and water, lots less than 20,000 square feet must be approved by a planned unit development as authorized by MSB 17.36.

(B) Within jurisdictions having authority, minimum lot sizes and dimensions shall be those established under or pursuant to the applicable provisions of MSB Title 17; however, where a size or dimension has not been established under or pursuant to MSB Title 17, the applicable provision of this title applies.

(C) If a condemnation by a governmental agency reduces the area of a lot below the minimum required by this section, the area after condemnation shall be the minimum area required for that lot if that lot met the minimum requirements before the condemnation and the resulting area after the condemnation is not less than 80 percent of the minimum required.

(D) Exclusive of open space, lots designated or dedicated for a public or utility purpose with no on-lot sewer shall have no minimum lot size but shall

have restrictions, requirements, designations, or dedications noted on the plat.

(E) Open space incentive. The intent of this subsection is to support the goals, policies, and objectives of the Matanuska-Susitna Borough Parks, Recreation, and Open Space Plan.

(1) Minimum individual lot area may be reduced up to 25 percent by the dedication of an equal area of usable open space within the subdivision; provided, that:

(a) Each non-open space lot has 10,000 square feet of contiguous usable septic area delineated on the plat, unless served by a community wastewater system;

(b) The open space area is connected by public access, or is attached to an existing open space or greenbelt area that has public access. If it is proposed to attach to an existing open space or greenbelt area, the access must be in an area that is feasible for the intended use; and

(c) Open space shall be irrevocably dedicated to the municipality or borough, or irrevocably dedicated to the subdivision owners and cannot be resubdivided.

(2) Additional nonusable area may be attached to the usable open space area, but shall not be used for calculations in the reduction of lot size.

(3) Open space area is exempt from lot configuration; however, the minimum width of any open space area shall be a minimum of 20 feet.

(4) Usable open space area shall be a minimum of 30,000 contiguous square feet.

(a) Usable open space area has a seasonal high groundwater table no closer than two feet below the surface, and is outside of existing or proposed utility, slope, or public use easements and does not include any other existing or proposed easements that would normally disturb the natural vegetative state.

(5) The proposed open space area shall connect to adjacent open space areas when prudent and feasible.

(6) Open space area shall be delineated and identified on the plat.

(7) Community wells and community septic systems shall not be allowed on open space dedicated to a municipality or the borough but are allowed in open space areas if accepted by the subdivision

owners. Protective well radii may be allowed in open space areas.

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

Changes to subsection (A)(2) make it clear that lots that are less than 40,000 sq ft still need useable septic area if not connected to a community or municipal septic system.

Section . Amendment of section. MSB 43.55.010, Subdivision Agreement Required, is hereby amended as follows:

(A) Agreement. Where subdivision improvements are required under this title as a condition of plat approval the subdivider may enter into a subdivision agreement with the borough in accordance with this chapter. Road access and drainage must be at least 85 percent complete and all signage installed prior to entering into a subdivision agreement.

(B) Application. Application for a subdivision agreement shall be made to the platting division. The application shall include a tentative schedule of all proposed construction of public improvements and utilities and the subdivider's estimate of the cost of each required public improvement, plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, and any other pertinent data and information necessary for the platting division to evaluate the proposed installation. The borough may require a showing of the subdivider's financial responsibility.

(C) Contents of agreement. The subdivision agreement shall include, but need not be limited to, the following provision:

(1) a designation of the public improvements required to be constructed;

(2) the construction and inspection requirements of the borough or utility for which the improvements are constructed;

(3) the time schedule for completing the improvements;

(4) the guarantee required by MSB 43.55.030;

(5) a schedule for any payments required under this chapter;

(6) the allocation of costs between the borough and the subdivider for required public improvements;

(7) the warranty required by MSB 43.55.037;

(8) the consent of the subdivider for the ownership of specified public improvements to vest with the municipality upon final acceptance by the borough;

(9) a warranty that the subdivider has title to the subdivision property and the authority to execute the subdivision agreement;

[(10) WHERE THE SUBDIVISION IS WITHIN THE REGULATORY FLOODWAY, A PROVISION REQUIRING THE SUBDIVIDER TO SUBMIT CERTIFICATION OF FLOODPROOFING,

INFORMATION ON THE ELEVATION OF THE LOWEST HABITABLE FLOOR, AND INFORMATION ON THE ELEVATION TO WHICH THE STRUCTURE IS FLOODPROOF FOR EACH BUILDING OR STRUCTURE TO BE CONSTRUCTED AS PART OF THE SUBDIVISION AGREEMENT;]

(11) a provision that all work shall be performed pursuant to Matanuska-Susitna Borough specifications for subdivision improvements or, where city specifications are applicable, city specifications for such improvements;

(12) a provision that work shall not commence until plans have been approved by the platting division and notice to proceed is given.

Section . Amendment of section. MSB 43.55.025, Cost of Required Public Improvements, is hereby amended as follows:

(A) Elements of cost. The cost of any public improvements includes the cost of design, engineering, contract administration, inspection, testing, and surveillance as well as the work, labor, and materials furnished for the construction of the improvement. Little Davis-Bacon wages shall be used to estimate costs.

(B) Apportionment. The subdivision agreement shall require the subdivider to pay all the costs as follows:

(1) all direct and indirect costs incurred by the borough in supplying and administering any method of public improvement guarantee provided for in MSB 43.55.030;

(2) all costs for inspection for final acceptance and warranty repairs of any required public improvements. Surveillance shall be performed by the borough during the course of construction and up to the point of final acceptance of the completed project. Inspection shall be performed by the borough during the warranty period;

(3) all direct and indirect costs of plan review, agreement review, and administration and attendant costs;

(4) all costs of all subdivision improvements required as a condition of plat approval, except those costs of an improvement the borough has agreed to pay that are attributable to oversizing;

(5) the manager may promulgate and amend a schedule of fees and charges to recover the costs set out in subsections (B)(1) through (4) of this section.

Section __, Amendment of section MSB 43.55.030, Guarantee of Completion of Public Improvements, is hereby amended as follows:

(A) Guarantee. To assure the installation of required public improvements which are not accepted at the time the final plat is filed, the subdivision agreement shall require the subdivider to guarantee the completion of all the improvements by one or more of the methods specified below. [THE MEANS OF A GUARANTEE MAY BE CHANGED DURING THE GUARANTEE PERIOD THROUGH A WRITTEN MODIFICATION OF THE AGREEMENT. THE AMOUNT OF GUARANTEE SHALL BE DETERMINED ON THE BASIS OF THE BOROUGH'S COST ESTIMATE. THE GUARANTEE SHALL REMAIN IN EFFECT UNTIL FINAL ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AND THE POSTING AND ACCEPTANCE OF SECURITY FOR THE WARRANTY PERIOD.]

(1) The means of a guarantee may be changed during the guarantee period through a written modification of the agreement.

(2) The amount of the guarantee shall be determined by one of two ways, whichever is greater;

(a) a cost estimate of the remaining required public improvements prepared by an engineer on behalf of the subdivider; or

(b) 20 percent of the total construction cost estimate as approved during the preconstruction phase.

(3) The guarantee shall remain in effect until final acceptance of the public improvements and the posting and acceptance of security for the warranty period.

(B) Cost estimates. The engineer's [BOROUGH'S] estimate shall state the estimated cost of completion for each required public improvement, using Little Davis Bacon wages. Cost estimates for each required public improvement shall be approved by the [PLATTING DIVISION] borough's civil engineer and shall be adequate for the borough to complete the construction.

For purposes of establishing the amount necessary for the guarantee of completion of public improvements, a percentage of overrun allowance shall be added to the total estimated cost of public improvements as follows:

Total Estimated Cost of Improvement	Percent for Overrun Allowance
\$0 to \$500,000	20 percent
Over \$500,000	10 percent

(C) Methods of public improvement guarantee. The subdivision agreement shall include one or more of the following methods to guarantee the construction of required public improvements:

(1) Performance bond. The subdivider may provide a surety bond from a company authorized to do such business in the state of Alaska. The bond shall be in an amount equal to the estimated cost of the remaining [ALL] required public improvements plus an overrun allowance as provided in subsection (B) of this section. The bond shall be payable to the borough in the event that any required public improvements are not finally accepted in accordance with the provisions of this title and shall be posted by no person other than the subdivider.

(2) Deposit in escrow. The subdivider may elect to deposit a cash sum equal to the estimated cost of the remaining [ALL] required public improvements plus overrun allowances as provided above either with the borough or in escrow with the responsible financial institution authorized to do such business in the state of Alaska. In the case of an escrow account, the subdivider shall file with the

borough an escrow agreement which includes the following terms:

(a) Funds of the escrow account shall be held in trust until released by the borough and may not be used or pledged by the subdivider as security in any matter during the period other than payment for the improvements. The funds may be released upon authorization by the borough for payment of improvements as made, except that the escrow holder shall always withhold from disbursement so much of the fund as is estimated by the borough as being necessary to complete the construction and installation of the improvements, plus an overrun at the percentage under subsection (B) of this section that is applicable to the cost of the remaining construction.

(b) In the case of a failure on the part of the subdivider to complete any improvement within the required time period, the institution shall immediately make all funds in the account available to the borough for use in the completion of those improvements.

(3) Letter of credit. The subdivider may elect to provide from a bank or other responsible financial institution authorized to do such business

in the state of Alaska an irrevocable letter of credit that is good until a time as the borough authorizes its revocation. The letter shall be filed with the borough and shall certify the following:

(a) that the creditor irrevocably guarantees funds in an amount equal to the estimated cost of the remaining [ALL] required public improvements plus overrun allowances as required in subsection (B) of this section for the completion of all such improvements;

(b) that in the case of failure on the part of the subdivider to complete any specified improvements within the required time period, the creditor shall pay to the borough immediately and without further action the funds as the borough determines are necessary to finance the completion of those improvements up to the limit of credit stated in the letter.

Section . Amendment of section MSB 43.55.050, Release of Warranty, is hereby amended as follows:

(A) Inspection shall be made by the borough at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be

corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies, the borough shall release the remaining security.

Section __. Amendment of section MSB 43.55.055, Default, is hereby amended as follows:

(A) Default on agreement or warranty. In the event the subdivider defaults on any obligation to construct required public improvements, to repair the improvements under the warranty, or to pay the costs or fees to the borough as are due it, the borough may demand immediate payment on the performance or warranty guarantee. In the case of a performance bond, deposits in escrow, or letter of credit, the borough may demand immediate payment of a portion of all sums obligated for the payment of costs and fees or for the construction or warranty of any improvements. All funds received by the borough shall be used for any construction, repair, or reconstruction necessary to ensure:

(1) that all required public improvements are built to specifications necessary to receive final acceptance; and

(2) the improvements remain in good condition for the completion of the warranty period.

(B) Use of proceeds. The borough may use guarantee funds for the construction, repair, or maintenance of required public improvements from the date of initial default which is the date of expiration of the subdivision agreement when the subdivider has failed to complete the public improvements. In the event that the funds are not appropriated by the borough for the construction, repair, or maintenance of required public improvements within three years of default then the funds shall be appropriated to a road service area budget if the project is located in an established road service area or, if not, to the general fund. [UNTIL THREE YEARS AFTER THE FUNDS HAVE BECOME AVAILABLE TO THE BOROUGH FOR THE USE, EXCEPT THAT NO USE SHALL BE MADE OF THE FUNDS LATER THAN TWO YEARS AFTER SATISFACTORY COMPLETION AND FINAL ACCEPTANCE OF THE WORK. THE BOROUGH SHALL PAY THE SUBDIVIDER ALL GUARANTEE FUNDS WHICH WERE NOT USED OR OBLIGATED FOR THE COMPLETION OF THE IMPROVEMENTS AFTER EITHER:

(1) THE FINAL ACCEPTANCE OF ALL PUBLIC IMPROVEMENTS AND POSTING OF THE WARRANTY SECURITY;

- (2) SUCCESSFUL COMPLETION OF THE WARRANTY PERIOD; OR
- (3) THE THREE-YEAR PERIOD PROVIDED FOR ABOVE.]

These SUBSTANTIAL amendments are drafted showing the existing Title 43 language. If INCONSISTENCIES amendments are made and adopted by the assembly, the language in the SUBSTANTIAL amendments may change slightly, but the resulting change will not alter the justification outlined for each amendment.

The majority of the changes above will make it less likely that defaulted subdivision agreements will occur and protect the borough's taxpayers from costs associated with finishing the construction of subdivision improvements if a developer does default. Current code allows for subdivision agreements to be entered into if road access is not fully available for emergency vehicles or purchasers of the lots. Signage facilitates emergency response, which is a safety issue, so should be installed prior to entering into a subdivision agreement. Adequate guarantees are necessary for the borough to complete the improvements agreed upon if the developer defaults.

43.55.010(C)(10) is being removed because the construction of habitable structures is not a public improvement and therefore would not be included in a subdivision agreement.

The changes to 43.55.055(B) would require that if a subdivider defaults on a subdivision agreement and the borough uses the guarantee funds to make the improvements, any

monies left over are brought into the RSA or the borough's general fund, instead of being returned to the subdivider, who defaulted.