

**SELDOVIA
PLANNING COMMISSION**

Wednesday
October 2, 2019



REGULAR MEETING
6:00pm
MULTI-PURPOSE ROOM

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**AGENDA FOR THE SELDOVIA PLANNING COMMISSION
REGULAR MEETING
MULTI-PURPOSE ROOM
Wednesday
October 2, 2019
6:00PM**

GRUBER FORSBERG CARLUCCIO

- A. Call to order;
- B. Roll Call;
- C. Approval of the Agenda;
- D. Approval of Minutes from September 04, 2019
- E. Public Comments Regarding Items Not on the Agenda;
- F. Public Hearings, Prior Notice;
- G. Consideration of Site Plans;
 - 1. Cole/Warburton Variance Permit Application
 - A. Presentation by Staff or Commission
 - B. Public Presentation or Hearing
 - C. Commission Discussion
 - D. Action/Disposition
 - 2. KPB Ordinance 2019-24- Private Streets and Gated Subdivisions- DRAFT- for comment
 - A. Presentation by Staff or Commission
 - B. Public Presentation or Hearing
 - C. Commission Discussion
 - D. Action/Disposition
 - 3. Rezoning Application- DRAFT
 - A. Presentation by Staff or Commission
 - B. Public Presentation or Hearing
 - C. Commission Discussion
 - D. Action/Disposition
- H. Commission Business:
- I. Staff Reports:
- J. Informational Items Not Requiring Action:
- K. Comments of the Public:
- L. Comments of the Commission:
- M. Next Meeting: Regular scheduled meeting, November 6, 2019
- N. Adjournment:

***If you require special assistance to attend the meeting,
Please, notify the City Office 24 hours in advance of the meeting and arrangements will be made.**

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**Seldovia
Planning Commission
Contents Page
October 2, 2019**

Pages 7-8	Minutes of the Regular Meeting September 4, 2019
Pages 9-11	Cole/Warburton Variance Application
Page 12	Cole/Warburton Variance Public Notice
Page 13	Giles Subdivision Plat 1980
Page 14	Lot 9, Block 3, Townsite of Seldovia USS 1771 Map
Pages 15-16	Pictures of decks and Right-of-Way
Pages 17-18	Cole/Warburton Public Comment
Page 19	KPB Correspondence- New Code for Subdivisions Private Streets and Gated Subdivisions
Pages 20-27	KPB Ordinance- Subdivision Private Streets and Gated Subdivisions
Pages 28-29	Rezoning/Contract Zoning Application- DRAFT
Pages 30-31	SMC Chapter 18.80 Contract Zoning

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**MINUTES FROM THE SELDOVIA PLANNING COMMISSION
REGULAR MEETING
MULTI-PURPOSE ROOM
Wednesday
September 4, 2019
6:00PM**

BATES FORSBERG CARLUCCIO GRUBER
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- A. Call to order; MEETING CALLED TO ORDER 6:05PM BY COMMISSIONER CARLUCCIO
- B. Roll Call; IN ATTENDANCE; BATES, FORSBERG, CARLUCCIO, and GRUBER
- C. Approval of the Agenda;
BATES/GRUBER MOVED TO APPROVE THE AGENDA
NO OBJECTION/ MOTION CARRIED
- D. Approval of Minutes from August 07, 2019
GRUBER/BATES MOVED TO APPROVE THE MINUTES
NO OBJECTION/ MOTION CARRIED
- E. Public Comments Regarding Items Not on the Agenda; None
- F. Public Hearings, Prior Notice; None
- G. Consideration of Site Plans;
 - 1. Consideration of Replat Seldovia Island 2019 and Vacation of Backer's Island Lane
 - A. Presentation by Staff or Commission
CLERK GEAGEL- Presented correspondence with the surveyor, a response from the borough, the replat, the petition to vacate, and the current plat in the packet.
 - B. Public Presentation or Hearing
None
 - C. Commission Discussion
GRUBER- Spoke in support of moving forward and in appreciation for Mr. Huffs comments.
CARLUCCIO- Discussed that Mr. Huffs role in the borough and that he had answered their questions.
FORSBERG- Inquired if the delay had caused any problems.
 - D. Action/Disposition

MAIN MOTION- CARLUCCIO CALLED FOR A MOTION TO RECOMMEND APPROVAL OF THE REPLAT AND THE VACATION OF BACKER'S ISLAND LANE
BATES/FORSBERG SO MOVED

FINDINGS-

- 1. Questions were answered by Mr. Huff.
- 2. Since the owner is removing the lot lanes and making it one parcel again the lane is no longer needed.

AMENDMENT MOTION- BATES/FORSBERG MOVED TO ATTACH THE FINDINGS
NO OBJECTION/ MOTION CARRIED

MAIN MOTION- NO OBJECTION/ MOTION CARRIED

- H. Commission Business:

CLERK GEAGEL- Received letter of resignation from Planning Commissioner Bates.

I. Staff Reports:

CLERK GEAGEL- Commercial Marine work session September 11, 2019 at 6pm.

J. Informational Items Not Requiring Action:

K. Comments of the Public: None

L. Comments of the Commission:

FORSBERG- Commented that the meeting was short and sweet.

BATES- Commented that it was good to sign off on one thing.

GRUBER- Commented that it was a good and short meeting.

CARLUCCIO- Thanked the commission for attending, apologized for being late, and noted that it was a short meeting.

M. Next Meeting: Regular scheduled meeting, October 2, 2019

N. Adjournment:

CARLUCCIO CALLED FOR ADJOURNMENT

BATES SO MOVED

CARLUCCIO SO ORDERED AT 6:20PM

I certify the above represents accurate minutes of City of Seldovia Planning and Zoning Commission meeting of September 04, 2019.

Heidi Geagel, City Clerk

Approved by Commission _____

UNAPPROVED MINUTES



City of Seldovia

P.O. Drawer B, Seldovia, Alaska 99663
Phone: (907) 234-7643, Fax: (907) 234-7430
Email: cityclerk@cityofseldovia.com

**CITY OF SELDOVIA
VARIANCE PERMIT
APPLICATION FORM
FEE: \$200.00**

Owner Name: Justin Cole / Michael Warburton

Mailing Address: 33730 Justins Ct
Homer AK 99603

Legal description of lot/lots: 221 inlet st 19201310 9 3 T85R

Description of neighboring land use:

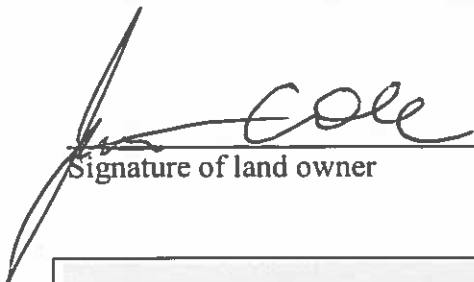
Description of the variance requested:
Deck set back from north lot line

Zoning code section which applicant wishes to deviate from:
18.40.070 Building Set back

Reference: Chapter 18.76.030, Seldovia Municipal Code

Written response to all of the following conditions
Attach extra pages to this application:
(Chapter 18.76.020, Seldovia Municipal Code)

- A. All of the following conditions shall be found before a variance may be granted:
1. A literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other properties in the same district. *Safe exit from the structure.*
 2. Special conditions and circumstances exist which are peculiar to the land or structures involved and which are not applicable to other lands and structures in the same district.
 3. The special conditions and circumstances have not been caused by actions of the applicant. *No.*
- B. Financial hardship or inconvenience shall not be the reason for granting a Variance. *Okay*
- C. Other nonconforming land use or structures within the district shall not be considered grounds for granting a variance. *Okay*
- D. A variance shall be the minimum variance necessary to permit the reasonable use of the land or structure. *Yes.*
- E. A variance shall not be granted which will permit a land use in a district in which that use is otherwise prohibited. *Okay*



Signature of land owner

8/14/19

Date

For City Office use only	
Date Received: <i>08/21/2019</i>	P&Z Approval: _____
Receipt No: <i>63583-792</i>	Signature: _____
Public Hearing: <i>10/02/2019</i>	

City of Seldovia
P.O. Drawer B
Seldovia, Alaska
99663

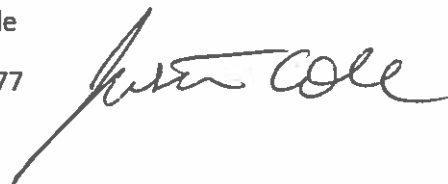
RE: Variance Permit

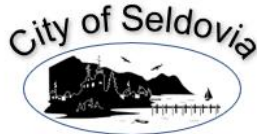
It is our opinion there was a deck on the north side of the structure at 211 Inlet Street. By eliminating the north deck, it would deprive the occupants of a safe exit from the four bedrooms on the lower floor in the event of an emergency (I.E. fire or earthquake).

We are not asking for a variance to expand the original footprint of the existing nonconforming structure, just an approval to amend it safely for the occupants.

Thank you for your consideration on this matter,

Justin L. Cole
907-299-6177

A handwritten signature in black ink, appearing to read "Justin Cole", written in a cursive style.



www.cityofseldovia.com

P.O. Drawer B Seldovia, Alaska 99663 Phone: (907) 234-7643, Fax: (907) 234-7430 email: cityclerk@cityofseldovia.com

PUBLIC NOTICE

August 26, 2019

Notice is hereby given that an application has been received for a variance to the Seldovia Municipal Codes, Section 18.40.070, building set back.

In accordance with Chapter 18.96.030 of the Seldovia Code of Ordinances, all owners of properties within a 300-foot radius must be notified of the proposed variance. According to Municipal records, you are an owner of property within that radius; or you are an affected party.

1. Location: Lot 9, Block 3, Townsite of Seldovia USS 1771
2. Purpose as stated in petition: Deck setback from north lot line.
3. Petitioner(s): Justin Cole/ Michael Warburton
33730 Justins Ct.
Homer, AK 99603

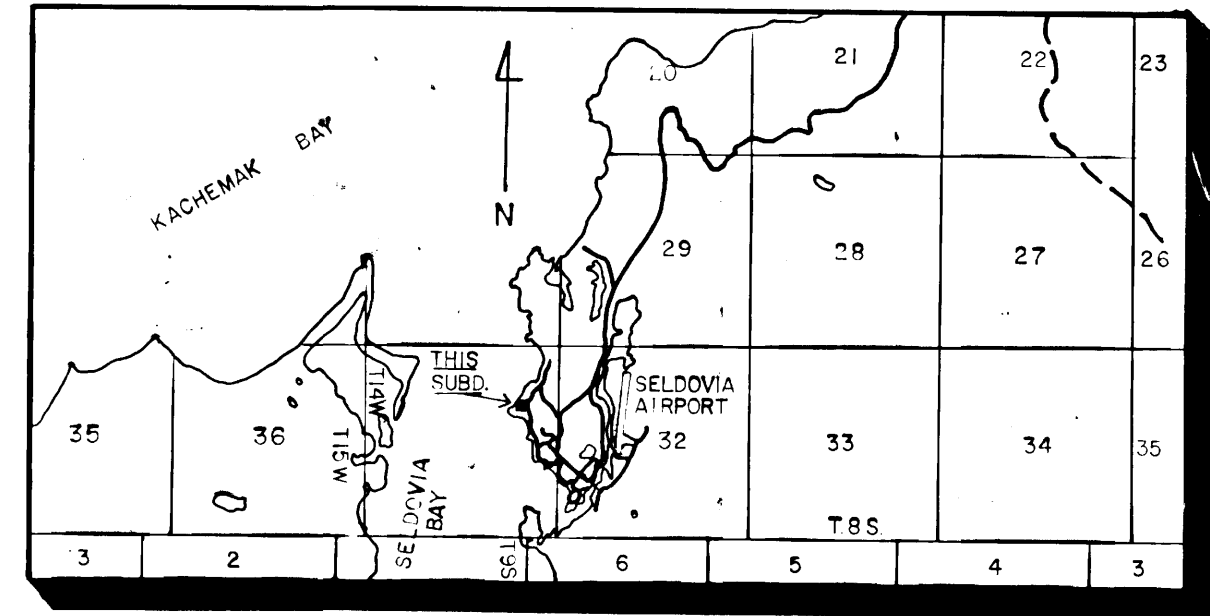
The Planning Commission will be considering and acting upon this variance at their regular meeting, **Wednesday, October 02, 2019**. The meeting will be held in the Council Chambers, Seldovia Public Library, 260 Seldovia St., Seldovia, AK, beginning at 6:00PM

Written comments may be submitted to the attention of Heidi Geagel, Seldovia City Clerk's Office – PO Drawer B – Seldovia, Alaska 99663. You may also submit written comments by email to cityclerk@cityofseldovia.com. **Written comments should be received by the City office no later than Monday, September 30, 2019.**

For additional information, contact Heidi Geagel, Seldovia City office 907-234-7643. Fax number is 907-234-7430.

Heidi Geagel

City Clerk



VICINITY MAP

1" = 1 MI.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND DEDICATE ALL RIGHT-OF WAYS AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Gordon E. Giles Carlena Giles

GORDON AND CARLENA GILES
GENERAL DELIVERY
SELDOVIA, ALASKA

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 12TH DAY OF March, 1981.

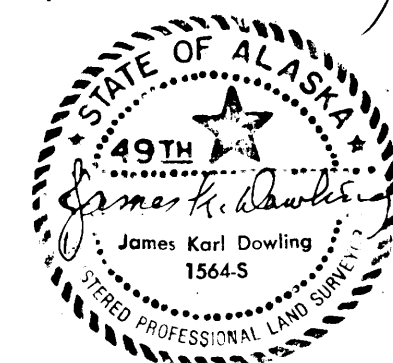
Elaine M. Giles

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 2/27/83

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF June 23, 1980.

KENAI PENINSULA BOROUGH
BY: *Jeffrey B. Tolson*
AUTHORIZED OFFICIAL

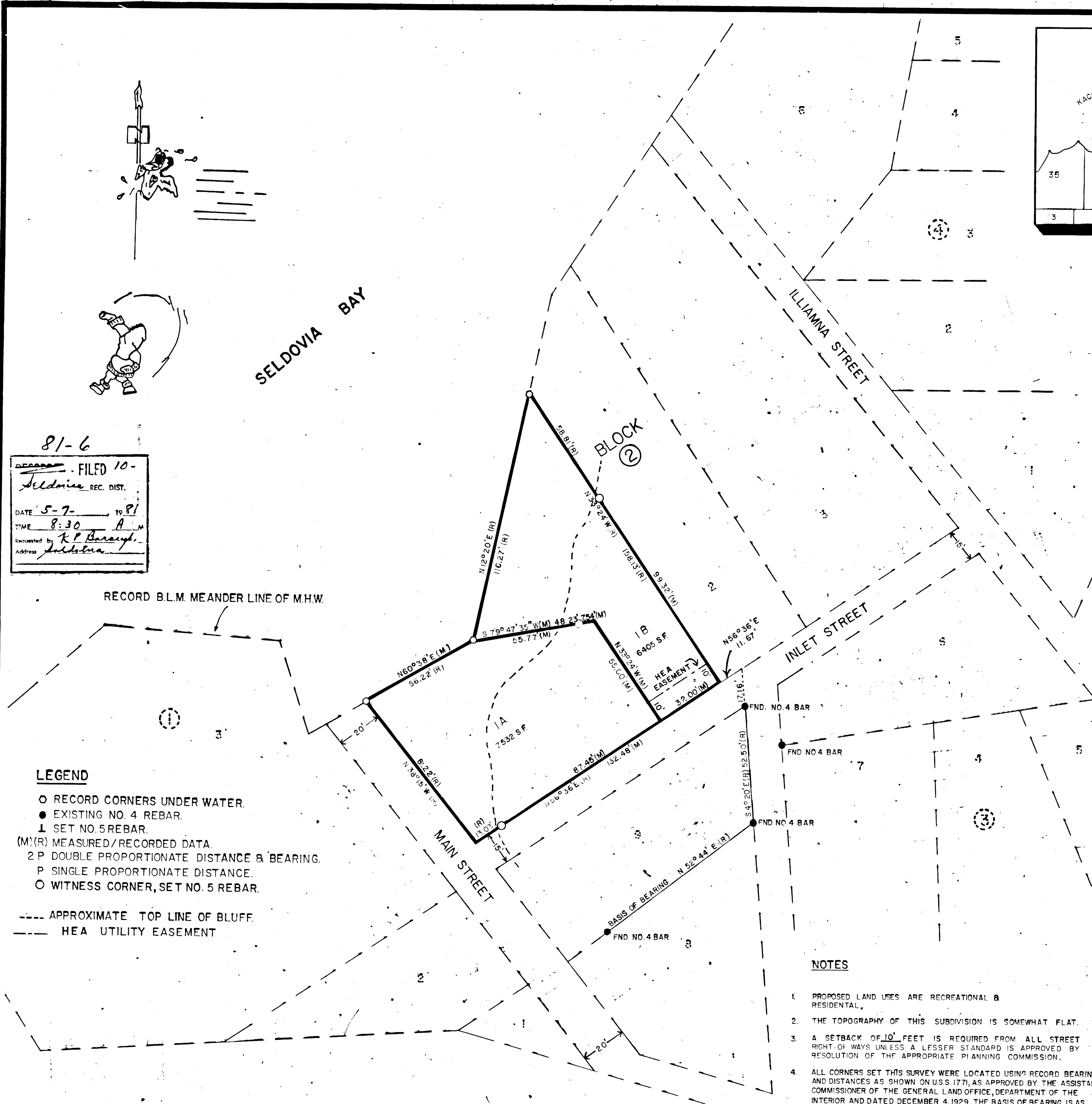


**GILES SUBDIVISION
RESUBDIVISION OF LOTS 1A & 1B,
BLOCK 2, U.S. SURVEY 1771**

LOCATED IN THE CITY OF SELDOVIA
SITUATED WITHIN THE NE 1/4, SEC. 31, T8S, R14W
CONSISTING OF 2 LOTS
CONTAINING 0.3199 AC ±

DOWLING-RICE and ASSOCIATES
P.O. BOX 1974 SOLDOTNA, ALASKA 99669
ENGINEERS 262-9011 SURVEYORS

DATE: MAY, 1980	SCALE: 1" = 30'
DRAFTED R.M.	SHEET: 1 of 1
CHECKED: R.R.	JOB NO: 79034



81-6

FILED 10-
Seldovia REC. DIST.

DATE 5-7-81 TO 81
TIME 8:30 A.M.
Requested by R.P. Barrough
Address Seldovia

NOTES

1. PROPOSED LAND USES ARE RECREATIONAL & RESIDENTIAL.
2. THE TOPOGRAPHY OF THIS SUBDIVISION IS SOMEWHAT FLAT.
3. A SETBACK OF 10 FEET IS REQUIRED FROM ALL STREET RIGHT-OF WAYS UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
4. ALL CORNERS SET THIS SURVEY WERE LOCATED USING RECORD BEARINGS AND DISTANCES AS SHOWN ON U.S.S. 1771, AS APPROVED BY THE ASSISTANT COMMISSIONER OF THE GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR AND DATED DECEMBER 4, 1929. THE BASIS OF BEARING IS AS INDICATED ON THE PLAT.

LEGEND

- RECORD CORNERS UNDER WATER.
- EXISTING NO. 4 REBAR.
- ⊥ SET NO. 5 REBAR.
- (M)(R) MEASURED/RECORDED DATA.
- 2 P DOUBLE PROPORTIONATE DISTANCE & BEARING.
- P SINGLE PROPORTIONATE DISTANCE.
- WITNESS CORNER, SET NO. 5 REBAR.
- APPROXIMATE TOP LINE OF BLUFF.
- - - HEA UTILITY EASEMENT



Map title goes here.



Legend

- 2019 Fires
- Mileposts
- City Limits
- Highways
- Major Roads
- Roads**
- Town Medium Volume
- Town Low/Seasonal; Other
- Proposed
- Parcels

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

0 0.01 0.02 Miles

Coordinate System: NAD_1983_StatePlane_Alaska_4_FIPS_5004_Feet

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Type any notes here.





From: [Greg Tami Holt](#)
To: [Heidi Geagel](#)
Subject: Deck Construction for House on Inlet St.
Date: Tuesday, September 3, 2019 11:12:17 PM

We are submitting the following comments for consideration by the city as they review the construction of an exterior deck on the yellow and gray house located off Inlet St. adjacent to Watch Point. Sorry but we do not have the official address for this property to reference.

We object to the construction of the deck on the east side of this house. It very clearly violates the set back requirements of the city's planning and building codes. It may also possibly encroach on to city property. We can't say this with certainty, however, since we are not privy to a survey of the property lines.

We have owned the house at 369 Spruce Dr., Seldovia for about 7 years and there was no deck on that side of the yellow and gray house until the owner began construction one last year. If in fact, if there ever was construction on that side of the house it was considerable more than 7 years ago. With such an extensive passage of time and a new owner it seems to us that any claim of rights for any sort of grandfathering, waiver, or exemption were long since abdicated.

We believe that the city should uphold its building codes for the benefit of the public and not grant any sort of relief for the construction of the new deck on the Inlet St (west) side of the property regardless of its past history.

The construction of this deck is solely for the benefit of the property owner to the detriment of the city and the public who use that street and associated beach. We frequently walk down Inlet Street to Watch Point and the beach. The new deck on that side of the house makes us feel like we are invading the privacy of that home owner and that we are unwelcome to walk there.

We would also like to mention that we had our own problems concerning planning and building codes with our house at 369 Spruce Dr., Seldovia. The corner of our outside stairs back landing extended three inches on to our neighbors property at the time we bought the house. In addition, our fuel tank was on our neighbors property. Without going into details, even though our neighbor who was affected by this encroachment did not take issue with it, the city held me to the setback requirements in order to do the repairs and deck construction that we wanted to do on the house. In the end we moved the fuel tank and worked with my neighbor to have the property line redrawn so the the house met the city's set back requirements. It cost us over \$4000 just to meet the requirements but the property now conforms to the City's requirements.

We mention this because in the case of our house the general public was not directly affected. It was between two private property owners but we were still required by the city to address the situation in order for us to do the repairs and deck construction we wanted to do on the house.

In the case of the yellow and gray house on Inlet St. a private individual is constructing a deck for his own personal enjoyment and to the detriment of the public's enjoyment of that right of way. We ask that the City of Seldovia abate the construction of this deck.

Sincerely,
Greg and Tami Holt

A solid black rectangular redaction mark covering the signature area.

From: [Huff, Scott](#)
To: [Cassidi Cameron](#); [Heidi Geagel](#); [Baxter, Tammaron](#); kachemak@xyz.net
Subject: New KPB code for Subdivisions Private Streets and Gated Subdivisions
Date: Tuesday, September 24, 2019 10:39:01 AM
Attachments: [image001.png](#)
[ordiance 2019-24 meeting of 082619.pdf](#)

Hello all,

The KPB Planning Department has proposed an ordinance to allow private streets and gated communities. This ordinance will allow new subdivisions to have private streets. The ordinance will also allow existing public right of ways within a subdivision to be converted to private roads. The private roads may be gated to limit the access to the private residencies within the subdivision.

Any private subdivision within City limits would follow the same procedure that is currently in place. The preliminary plat will be sent to the City for review and approval. It would be up to the City to require any improvements be constructed, or extension of utilities be completed.

The design standards of a gated subdivision will follow the existing borough requirements for a regular subdivision. A gated subdivision will have to meet block length standards and cannot limit access to neighboring parcels.

At your convenience, please review the attached ordinance and submit comments to me. Any comments that you have will be forwarded to the KPB Planning Commission for them to review at the October 14th meeting. The recommendations of the Planning Commission will be presented to the KPB Assembly. The Assembly will review, and may approve, the ordinance on October 8th. The assembly may postpone action if there are requests for additional time from Cities and/or planning commissions.

Please let me know if you have any questions or need additional information.

Thank you,

Scott Huff

Platting Manager

(907) 714-2212 (Direct)

(907) 714-2378 (Fax)

KENAI PENINSULA BOROUGH
144 North Binkley Street
Soldotna, Alaska 99669



PUBLIC RECORDS LAW DISCLOSURE: This email and responses to this email may be subject to provisions of Alaska Statutes and may be made available to the public upon request.  Please consider the environment before printing this email.

Introduced by: Mayor
Date: 9/3/19
Hearing: 10/8/19
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-**

**AN ORDINANCE ADOPTING KPB 20.80, SUBDIVISION PRIVATE
STREETS AND GATED SUBDIVISIONS**

WHEREAS, privacy, security, and public safety concerns expressed by residents may be addressed by private streets in subdivisions; and

WHEREAS, Goal 6.5 of the 2005 Comprehensive Plan is to maintain the freedom of property owners in the rural areas of the borough to make decisions and control use of their private land; and

WHEREAS, private streets can only be approved through the KPB 20.50 exception process and there are currently no designated standards and requirements, nor established procedures to create subdivisions with private streets and gated access; and

WHEREAS, there is a need for designated standards and requirements and establishment of procedures for creating gated communities; and

WHEREAS, designating standards, requirements and procedures for establishing private streets within subdivisions with gated access will address residents as well as the public’s privacy, security, and access concerns; and

WHEREAS, the Kenai Peninsula Borough Road Service Area board at its meeting held on August 13, 2019, recommended unanimous approval of this ordinance; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its meeting held on August 26, 2019, recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB Chapter 20.80, entitled “Private Streets and Gated Communities” is enacted as follows:

20.80.010. - Purpose.

This chapter provides standards and requirements for the establishment of private streets in subdivisions in the borough. A subdivision with private streets and gated access may be created at the time of subdivision by the owner of the parcel being subdivided or, where streets have been previously dedicated to the public which access lots in different ownerships, by the owners of those parcels in accordance with the provisions of this chapter.

20.80.020. – Requirements.

Private streets in subdivisions shall meet the following requirements:

- A. The general provisions of KPB Title 14 and 20 as they relate to development, streets and utilities shall apply, except as otherwise provided for in this chapter.
- B. Private streets shall conform to the same standards regulating the design and construction of streets, street naming and street addressing in KPB 14.06, 14.10, 14.20 and KPB 20.30.
- C. A public vehicular turn around shall be provided to allow vehicles that have been denied entry to the private streets the ability to exit without having to backup.
- D. A homeowners' association (HOA) is required for approval of private streets within a subdivision. All property to be served by the private streets must be members in or part of the HOA. The HOA shall own and be responsible for the maintenance of the private streets and appurtenances.
- E. Private streets shall be contained within a separate lot owned by the HOA.
- F. The borough shall not pay for or contribute to any cost to construct, improve, or maintain a private street.
- G. The subdivision final plat and HOA documents shall note that borough maintenance shall not be provided on any private streets.
- H. Gated subdivisions and private streets may be approved, provided they meet the following criteria:

1. Internal streets shall conform to the requirements of KPB 20.30, Subdivision Design Requirements, except as otherwise allowed in this section;
2. Emergency services shall be provided access to deliver services within the private subdivision. Approval by the fire and emergency services provider with jurisdiction in the area of the gated subdivision is required. The fire and emergency services provider must be satisfied that fire and emergency services providers will have safe access into and within the gated subdivision;
3. The requirements of KPB title 20 are met because alternate legal access to adjoining properties is available and that access is constructible in accordance with KPB 20.30, Subdivision Design Requirements and KPB 14.06, Road Standards;
4. There shall be a note on the plat that the streets are not public and are subject to private construction and maintenance;
5. The HOA shall execute a defense and indemnification agreement in favor of the borough in the following form: The HOA shall indemnify, defend, and hold and save the borough, its elected and appointed officers and officials, agents and employees, hereinafter collectively referred to as “agents,” harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys’ fees. The HOA shall be responsible under this clause for any and all legal actions or claims of any character arising from the HOA or the HOA’s acts or omissions related to its private streets and gates in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions of the borough or its agents, which are said to have contributed to the losses, failure, violations, or damages, except for acts or omissions solely attributable to the borough.
6. The HOA and all of the HOA’s subcontractors, if any, shall be responsible for the purchase and maintenance of all insurance required by law and any other insurance the HOA deems necessary or appropriate.

20.80.030. – Gates

If a gate is installed to prevent public access to a subdivision with private streets the gate shall conform to the following requirements:

- A. Each gate must be approved prior to installation by the fire and emergency services provider that serves the proposed gated subdivision. The entrances to all private streets shall be marked with a sign stating that it is a private street.

- B. Gates, approach and departure areas shall be designed by a licensed professional civil engineer.
- C. In order to allow access for the provision of emergency services, each security gate designed and installed shall be equipped so that access is by a radio operated controller or keypad. The fire and emergency services provider serving the gated subdivision, borough assessing department, borough planning department, and law enforcement shall be provided either radio controlled or keypad access to the subdivision.
- D. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
- E. After installation, all emergency access systems must be approved by the fire and emergency services providers serving the gated subdivision. The HOA must maintain all components of the gate system in a normal operating condition and have them serviced on a regular basis, as needed, to ensure proper gate operation. A proper power supply shall be provided and maintained to all electrical components at all times. Each electrical vehicular gate must be provided with a fail-open device to open during power failures and be equipped for emergency access.
- F. A public vehicular turn around shall be provided to allow vehicles that have been denied entry the ability to exit without having to backup.
- G. No part of the gate system shall be placed in a public right-of-way.
- H. The HOA is responsible for the gate, its signage and its costs, and shall be responsible for any violations of this section.

20.80.040. – Converting to gated subdivision.

- A. A subdivision HOA may seek to convert a subdivision to a gated community with private street(s) and restrict public access by filing a replat and vacation petition with the planning director, which shall be considered a request to vacate public street(s) and/or right-of-way(s), as well as replat the subdivision. The request shall comply with the applicable replat and vacation requirements and procedures in this title, except as provided otherwise in this chapter.

B. Upon determination by the planning director that the replat application is complete, the request shall be subject to review and approval by the borough planning commission regarding whether the gated subdivision requirements and procedures have been met, as set out in this chapter. The borough planning commission decision is subject to appeal to the hearing officer pursuant to KPB 21.20.

C. Converting public street to private street – standards.

1. Vacation of the public right-of-way shall be in accordance with the criteria set forth in KPB 20.70.
2. The proposed gated subdivision shall not cause discontinuity in the existing or proposed public street system or distribute an unacceptable amount of traffic through an existing neighborhood than would otherwise result if public streets were used. Converted private streets may not unduly impair access to public facilities, including schools, parks and libraries. Utilities proposed for vacation must not provide service to customers outside the proposed gated subdivision boundary.
3. The proposed gated subdivision must not cause discontinuity in the existing or proposed road system to any property owner in the proposed gated subdivision with frontage on the public right-of-way that is to be vacated.
4. Prior to recording the final plat the property owners abutting the vacated public street shall file with the borough fully executed deeds conveying their interest in the vacated street to the HOA.
5. Prior to recording the HOA shall accept the road “as-is” in its present condition and shall agree to indemnify, hold harmless, and defend the borough against any claims arising from the HOA’s ownership, maintenance and control of the converted street.
6. HOA shall execute a defense and indemnification agreement in favor of the borough in the following form: The HOA shall indemnify, defend, and hold and save the borough, its elected and appointed officers, officials, agents and employees, hereinafter collectively referred to as “agents”, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys’ fees. The HOA shall be responsible under this clause for any and all legal actions or claims of any character arising from the HOA or the HOA’s acts or omissions related to its private streets and gates in any way whatsoever. This

defense and indemnification responsibility includes claims alleging acts or omissions of the borough or its agents, which are said to have contributed to the losses, failure, violations, or damages, except for acts or omissions solely attributable to the borough.

20.80.050. – Converting private streets to public streets in gated subdivision.

- A. The owners of a private street may petition to dedicate the private street through the platting process. The street must meet the design criteria set forth in KPB 20.30 and KPB 14.06.
- B. A civil engineer at the HOA’s expense shall determine whether the private streets meet KPB Title 14 and Title 20 standards for street design and construction. If the streets do not meet borough standards the dedication shall be denied.
- C. The borough may also require, at the HOA’s expense, the removal of any improvements, access control devices, gates, landscaping or other aesthetic amenities associated with the private street.

20.80.060. – Enforcement.

Violations of this chapter shall be in accordance with KPB 20.10.030 and KPB 21.050,

SECTION 2. That KPB Chapter 20.90, entitled “Definitions is amended as follows:

20.90.010. – Definitions generally.

In this title, unless otherwise provided, or the context otherwise requires, the following definitions shall apply.

...

“Gated subdivision” means a residential subdivision consisting of five (5) or more parcels of land where vehicular and/or pedestrian access by the general public from a public street and street(s) within the gated community and/or public right-of-way(s) is restricted as a result of a barrier that may include, but is limited to gates, security personnel, fences or walls. This definition does not include gates or other barriers limiting access to an individual parcel or lot.

...

“Private street” is defined as a vehicular access way shared by and serving two or more lots, which is not publicly maintained, but maintained by a homeowners’ association. The term “private street” shall be inclusive of alleys. The term “street” also includes the term “street” as used in KPB title 14.

SECTION 3. That this ordinance shall become effective upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
_____ DAY OF _____, 2019.**

Wayne Ogle, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

MEMORANDUM

TO: Wayne Ogle, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor
Dil Uhlin, Roads Director

FROM: Max Best, Planning Director

DATE: August 22, 2019

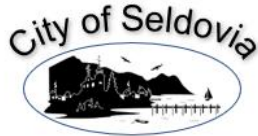
RE: Ordinance 2019-_____, Adopting KPB 20.80, Subdivision Private Streets and Gated Subdivisions (Mayor)

Goal 6.5 of the 2005 Comprehensive Plan is to maintain the freedom of property owners in the rural areas of the borough to make decisions and control use of their private land. Privacy, security, and public safety concerns expressed by residents may be addressed by private streets in subdivisions. Private streets can only be approved through the KPB 20.50 exception process and there are currently no designated standards and requirements, nor established procedures to create subdivisions with private streets and gated access.

There is a need for standardization, criteria, and establishment of procedures for creating both subdivisions with private streets and gated subdivisions. This ordinance codifies the requirements and procedures for creating these types of subdivisions.

This matter is scheduled to come before the KPB Road Service Area Board's at its August 13, 2019 meeting and the KPB Planning Commission at its August 26, 2019 meeting. The recommendations of both boards will be presented to the assembly prior to the final hearing on this ordinance.

Your consideration of this ordinance is appreciated.



www.cityofseldovia.com

P.O. Drawer B Seldovia, Alaska 99663 Phone: (907) 234-7643, Fax: (907) 234-7430 email: cityclerk@cityofseldovia.com

**CONTRACT ZONING
REZONING APPLICATION
FEE: \$150.00**

Name of Owner(s)/Petitioner(s): _____

Legal description of lot/lots covered by this application (use additional sheets if necessary) : _____

Request District Change: From Zone: _____
To _____ zone.

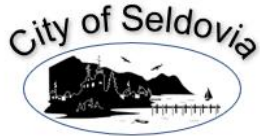
Description of neighboring land use: _____

Reason for Request: _____

Description of proposed use and development (include proposed covenants, guarantees or other forms of agreement to assure the development and use of the land as proposed): _____

Please provide written narrative explaining the following (use additional sheets if necessary):

1. How is the proposed change beneficial to the public interest? _____



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2. How is the proposed change compatible with surrounding zoning districts and the established land use pattern? Would it permit uses not compatible with adjacent land use? _____

3. Are public facilities such as schools, utilities and streets adequate to support the proposed change? _____

4. How does the proposed use not constitute spot zoning? _____

Petitioners:

Signature: _____
Name: _____
Address: _____

Signature: _____
Name: _____
Address: _____

Owner of: _____

Owner of: _____

Signature: _____
Name: _____
Address: _____

Signature: _____
Name: _____
Address: _____

Owner of: _____

Owner of: _____

.....
For City Office use only
Date Received: _____ P&Z Approval: _____
Receipt No: _____
Public Hearing: _____ Attest: _____

Chapter 18.80 Contract Zoning

Sections:

18.80.010 Intent.

18.80.020 Procedures.

18.80.010 Intent. It is the intent of this section to provide a means of insuring that the type of land use proposed in a rezoning request is the one which occurs if the rezoning is granted. "Contract zoning" means a zoning reclassification to a less restricted use when the owner of the rezoned property, either through an agreement with the Council or a covenant in favor of the City, places restrictions on the use of the land beyond the zoning requirements generally attaching to the new district in which the property has been placed.

18.80.020 Procedures. A. A petition for contract zoning shall be submitted to the City Manager. The applicant's petition shall contain detailed information on the proposed development and use of the land. Proposed covenants, guarantees or other forms of agreement to assure the development and use of the land as proposed shall also be submitted. A time schedule for the development and use shall be included with the petition.

B. The City Manager shall present the petition to the City Planning Commission. The City Planning Commission may consider the petition upon finding that:

1. The proposed land use is beneficial to the public interest and can be developed in a manner to be compatible with development in adjacent zoning districts.

2. Existing public facilities, services and utilities can accommodate the proposed use without any detrimental effect on adjacent zoning districts.

3. Rezoning accomplished under this section does not constitute "spot zoning."

4. Unrestricted rezoning to a district ordinarily permitting the proposed use would permit other uses that would not be compatible with the adjacent land use.

C. The City Planning Commission may reject, modify or accept the applicant's proposals submitted under subsection A of this section. If the applicant agrees, in writing, to the City Commission's acceptance or modification of the

applicant's proposal, the Commission shall initiate an ordinance for amendment to the City Council. Action taken by the Commission pursuant to this section shall not be construed to limit the Commission's authority to reject or modify the applicant's proposal during the zoning ordinance amendment process.

D. The applicant may appeal a City Planning Commission action pursuant to subsection C of this section as provided in Chapter 18.92.