

# P&Z Agenda Statement

Meeting Date: July 6, 2006  
Through: Clark Corbridge, City Manager  
From: Kirsten Vesel, Assistant City Manager



Agenda Item: Replat of Lot 17A, Block 9 and Lots 1 and 2, Block 4, OTS, including the vacated portion of Washington Street located between 5th Avenue and the East boundary of the alley located 100 feet to the West, including any associated utility easements, and adding an additional twenty (20) feet to the East side of the alley between Washington Street and Railway Avenue

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## **BACKGROUND & JUSTIFICATION:**

Attached for the Commission's review, recommendation to the City Council and the Kenai Peninsula Borough Planning Commission, is a preliminary plat from the National Park Service (NPS) for a replat which includes the vacated portion of Washington Street, approved by the Kenai Peninsula Borough Planning Commission, which is between Fifth Avenue and the alley 100 feet to the West, including all associated utilities, and includes vacation of interior lot lines, and widening of an alley. The NPS is the owner of the adjacent properties to the North and South of the vacated portion of Washington Street. In accordance with Borough requirements, the City must review and comment on plat requests before submittal to the Borough.

Legal action has been taken against the City of Seward's failure to object to the vacation of Washington Street. The most recent legal decision has stated that a referendum is not appropriate for an appropriation of municipal assets. The Court considered the public right-of-way on Washington Street to be an asset. The Court's decision has been included as an attachment. This matter is currently before the Alaska Supreme Court on emergency appeal by Washington's Army. As of the date of this agenda statement, no injunction has been issued by any court preventing continued platting action.

The applicant has proposed mitigation for concerns previously raised by the Commission and the Kenai Peninsula Borough Planning Commission with new features which are presented with this preliminary plat. These include:

1. the widening of the alley to provide access for emergency service and other vehicles;
2. incorporation of an eight (8) foot wide pedestrian easement at the North boundary of the applicant's property; and

3. an alternate tsunami evacuation route which is to be approved by the City of Seward.

Item 1 above requires further consideration. Widening of the alley was not previously presented with the concept sketch nor was it discussed as a potential mitigation measure but does help address access concerns. The additional 20 feet will allow for a 40' marginal access street permitted under the Kenai Peninsula Borough Code standards. However, City code requires street width of 50'. If a 50' wide street is necessary, this can be met if NPS obtains a right-of-way or easement for public use from the adjacent property owner in written and recordable form satisfactory to the City.

#### **Questions for the Commission to consider:**

Does widening the alley to forty (40) feet to create a “marginal access street” constitute compliance with the City’s requirement for fifty (50) foot wide streets, as per SCC section 16.05.010? If so, will procurement of a 10' right-of-way or easement by NPS on adjacent property together with the 40' alley suffice to satisfy the City’s 50' requirement?

#### **Administration Comments to Questions:**

The “marginal access street” will actually front on four lots, not three as stated by the applicant. Consider whether the small amount of frontage on Lot 38, Block 4, OTS should be counted as a fourth lot. Please note that access is provided by two other streets and this frontage it is too small for practical access in any event. The applicant is proposing the widening of the alley in order to be in compliance with the KPB criteria for minimum width for marginal access streets which serve no more than three lots. Since Fourth Avenue is one of the most highly traveled roads in the community, overflow traffic may flow from Fourth Avenue to the widened alley.

#### **Administration’s Recommendations:**

- Administration plans to propose an ordinance change to the city council adopting the 40 foot marginal access street with specific conditions.
- Administration recommends dedicating the alley to become a one-way street with traffic running north to south.
- Administration recommends considering the traffic study’s recommendations to incorporate additional signage for optimal pedestrian and vehicular safety.
- Administration would like the P&Z commission to consider the best use of the other portion of Washington Street between the alley and 4<sup>th</sup> Avenue. The Mary Lowell Center Advisory Committee has been looking at “pedestrian friendly” recommendations for this section of Washington Street. The end use of this

portion of Washington Street would greatly impact the traffic flow and pattern of the surrounding areas.

**Preliminary Plat Review:**

*Pedestrian Access and Safety:*

1. Pedestrian East-West flow: The Kenai Peninsula Borough requires pedestrian ways every 600 feet. Block 9, Original Townsite of Seward is 600 feet in length, as are all the other Blocks in the downtown area. A pedestrian easement would be needed along the North of the vacated area or another pedestrian easement would be needed in Block 9, OTS, providing access from Fifth Avenue to Fourth Avenue, in order to meet this requirement. The preliminary plat does have an eight (8) foot wide pedestrian easement along the North boundary.
2. Washington Street is a component of the tsunami evacuation route; however the Fire Chief has stated that alternate routes can be implemented subject to City approval.

*Encroachments:*

Currently, structures are located on the applicant's two adjacent lots. One of the structures, commonly known as the old Solly Building, encroaches onto the sidewalk along Railway Avenue. This encroachment should be removed at such time as NPS develops the property.

*Utilities:*

There is a water line which runs underneath Washington Street. The Public Works Director has stated that the water line could be capped with no net loss of functionality of the water distribution system. The sewer line and overhead electric lines are located in the alley, which is on the West boundary of the vacated street area.

The Electric Department stated that it, "May have a conflict with the street light circuit. May need to change the circuit to maintain power to existing lights." An easement of record is an option which could be considered. This type of an easement is easier to vacate than an easement created by plat, which could only be vacated by another platting action.

NPS shall provide the City with a complete set of satisfactory utility easements.

*Zoning:*

Washington Street is in the Central Business District.

*Size:*

The new lot created by the plat and including the vacated portion of Washington Street is approximately 21,314 square feet, which is approximately .49 of an acre.

*Floodplain status:*

The replatted area is not in the floodplain.

*Subdivision Agreement:*

The property is served by existing utilities and maintained streets, therefore, a typical subdivision agreement is not needed. However, the City recommends that:

- (a) NPS to provide to the City easements satisfactory to the City for all existing and future utility needs; and
- (b) NPS to execute satisfactory agreement with the City to relocate utilities to the property as necessary, construct the street between Washington Street and Railway Avenue, and provide sidewalks to City specifications, all of which are to be completed at such time the Mary Lowell Center is constructed at this site.

*Recommended Plat Notes:*

See notes already included on preliminary plat.

**Interim Use of Washington Street:**

The NPS has asked the Kenai Peninsula Borough for an exception to KPB ordinance 20.28.120 in order to delay recording of the replat until construction activity commences in the vacated portion of Washington Street. This would allow continued use of Washington Street until commencement of construction and retention of the street as a public way in the event this area is no longer needed as part of the project. Although such a waiver may not be possible, the Administration supports this concept. If such a waiver is not possible and the replat is recorded, the Administration would consider an appropriate written agreement between the City and the NPS which may allow the public to continue to use Washington Street across the property until such time that construction actually commences. If this portion of Washington Street is not needed because of changes in NPS plans, and the NPS so desires, the Administration is willing to work with the NPS to accomplish a re-dedication of the street to public use. In such event, the NPS would desire that the 20' addition to the alley be vacated and returned to the original lot configuration.

**Seward City Code 15.10.140, Definitions:**

*Alley- A dedicated public way which affords a secondary means of access to abutting*

*property and not intended for general traffic circulation.*

*Right-of-way-An area or strip of public land which incorporates or is intended to be occupied by, but not limited to, streets, alleys, sidewalks, bike paths, curbs, gutters, landscaping and/or public utilities.*

*Street-A dedicated public way which affords the principal means of access to abutting property, such as an avenue, place, drive, boulevard, highway or other similar public thoroughfare, except an alley as defined herein.*

**Kenai Peninsula Borough Code 20.20.110 streets/ width requirements:**

*The minimum right of way width of streets shall be as follows:  
...D. Marginal access street, serving no more than 3 lots/ 40 feet'  
(Attachment is included)*

**CONSISTENCY CHECKLIST:**

Where applicable, this agenda statement is consistent with the Seward City Code, Charter, Comprehensive Plans, Land Use Plans, Strategic Plan and City Council Rules of Procedures.

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**RECOMMENDATION:**

Staff recommends that the Commission approve Resolution 2006-17, approving the replat of Lot 17A, Block 9 and Lots 1 and 2, Block 4, OTS, including the vacated portion of Washington Street located between 5th Avenue, and the East boundary of the alley located 100 feet to the West, including all associated utility easements, and adding an additional twenty (20) feet to the East side of the alley between Washington Street and Railway Avenue subject to the conditions specified in the approving resolution.