

**MUNICIPALITY OF ANCHORAGE
BOARD OF ADJUSTMENT APPEAL NUMBER 2024-01 FROM
ANCHORAGE PLATTING BOARD'S MAY 19, 2021 FINDINGS OF FACT AND FINAL DECISION IN
PLATTING BOARD CASE NO. S-12545**

BOARD OF ADJUSTMENT FINDINGS AND CONCLUSIONS

WHEREAS on January 22, 2020, Hultquist Homes, Inc. submitted to the Platting Board an application for preliminary plat, seeking to subdivide 2 lots and 2 tracts into 27 lots and 3 tracts to create the Canyon View Estates Subdivision, along with an application for subdivision variances and an application for easement vacations.¹

WHEREAS on May 20, 2020 the Platting Board held a public hearing on the applications and then on June 2, 2020 held a hearing to consider the information and testimony.²

WHEREAS on September 16, 2020, the Platting Board issued a Findings of Fact and Decision, approving the Canyon View Estates Subdivision and phasing plan under AMC 21.03.200, but denying the requested vacations and variances.³

WHEREAS at the November 5, 2020 Platting Board meeting, the Platting Board reviewed a motion alleging changed circumstances in the Canyon View Estates Subdivision; found the September 16, 2020 decision denying the vacations and variances “necessitated extensive changes” to the originally submitted subdivision plat; and instructed the applicant to submit a new subdivision plat omitting the denied vacations and variances.⁴

WHEREAS on February 3, 2021 the Platting Board held a public hearing on the new subdivision plat.⁵

WHEREAS on May 19, 2021, the Platting Board issued a written Findings of Fact and Decision in case no. S-12545, approving the Canyon View Estates Subdivision and phasing plan under AMC 21. 03.200, but denying the requested vacations and variances.⁶

¹ R.285-581.

² R.168-177.

³ R.151-155.

⁴ R. 156; T.185-86.

⁵ T.182-262; R.162, 156-160. The newly submitted plat proposed 25 lots and 5 tracts. T.186.

⁶ R.162, 156-160.

WHEREAS in 2021 Ms. Priestly appealed the May 19, 2021 Platting Board decision to the Board of Adjustment, but the Board of Adjustment dismissed the appeal as untimely.⁷ Ms. Priestly appealed the Board of Adjustment dismissal to the Alaska Superior Court, which held Ms. Priestly timely filed her appeal.⁸ As a result, the appeal from the Platting Board’s May 19, 2021 decision returned to the BOA for a decision on the merits.⁹

WHEREAS on January 17, 2025, the Board of Adjustment deliberated and decided the appeal at a meeting open to the public and pursuant to Title 21.

NOW, THEREFORE, BE IT RESOLVED, the Board of Adjustment adopts the following Findings and Conclusions:

FINDINGS

1. As mandated by code, during the January 17, 2025 hearing, the Board of Adjustment considered the appeal on the basis of the record before the Platting Board, the notice of appeal, the briefs, and the law.¹⁰

2. Anchorage Municipal Code 21.08.030.L.2 provides: “Unless approved by the director, access to a residential use on a residential lot shall not be from a collector or greater street as designated on the Official Streets and Highways Plan.”¹¹

3. With regard to code interpretation both AMC 1.05.020 and AMC 21.15.020L provide that singular terms may include the plural, unless the context requires otherwise.¹²

4. AMC 21.02.050B.1 grants the Platting Board authority to “[i]nterpret or make specific the provisions of Chapter 21.08, Subdivision Standards.”¹³

⁷ R.007, 003.

⁸ R.001, 005-006.

⁹ R.006.

¹⁰ AMC 21.03.050A.11.a.

¹¹ AMC 21.08.030.L.2.

¹² AMC 1.05.020 *Number* definition. (“A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.”); AMC 21.15.020L (“Words used in the singular number include the plural number . . . unless the context of the particular usage clearly indicates otherwise.”).

¹³ AMC 21.02.050B.1.

5. The Board of Adjustment found interpreting AMC 21.08.030.L.2 to prohibit the Planning Director from approving a subdivision-wide exception for driveway access to a collector street would require the BOA to read a restriction — not otherwise present — into the code provision.

6. The Board of Adjustment found municipal code grants the Planning Director authority to approve an access exception for one lot, so the Director also has authority to approve the exception for multiple lots.

7. The Board of Adjustment found the code provisions regarding service areas generally and the Glen Alps Service Area board of supervisors (GASA board) specifically contain no requirement that the Planning Director consult with the GASA board before approving a subdivision plat under AMC 21.03.200.¹⁴

8. The Board of Adjustment found it will not impose additional requirements beyond those specified in the code.

9. Anchorage Municipal Code 21.08.030.L.3 states: “Subdivisions shall be designed to minimize lots with access to residential major streets carrying more than 1,000 average daily trips.”¹⁵

10. The Board of Adjustment found Anchorage Municipal Code does not define “residential major streets.”

11. The Board of Adjustment found AMC 21.08.030.L.3 does not forbid subdivisions that include lots with access to residential major streets carrying more than 1,000 average daily trips, but only that subdivisions must be designed to “minimize” such lots.¹⁶

12. The Board of Adjustment found the 2018 traffic data considered by the Platting Board was potentially outdated, but clarified that the Board of Adjustment could not consider evidence beyond what was included in the appeal packet.¹⁷

¹⁴ See AMC 27.20.050 (establishing the GASA and its duties); see also AMC 27.10.040 (outlining the duties of the board of supervisors in service areas).

¹⁵ AMC 21.08.030.L.3.

¹⁶ *Id.*

¹⁷ AMC 21.03.050A.10; see also R.338-339.

13. The Board of Adjustment found the Platting Board considered the requirement to minimize lots with access to residential major streets carrying more than 1,000 average daily trips as evidenced by the robust and informative discussion and review at the public hearings regarding traffic data.¹⁸

14. The Board of Adjustment also found the Platting Board addressed traffic concerns, in part, by including a condition that each driveway would include an area for turning around to allow vehicles to access Canyon Road in a forward direction.¹⁹

15. The Board of Adjustment, by unanimous vote, found substantial evidence supports the Platting Board's finding that the subdivision complies with AMC 21.08.030.L.3.

16. Factual findings adopted by the Platting Board "by necessary implication . . . may be considered as true if they are supported in the record by substantial evidence."²⁰

17. Appellant asserts the Platting Board failed to address all requirements generally in AMC 21.03.200.C.9 and specifically those requirements in AMC 21.03.200C.9.a, b, e, i and k.²¹

18. The Board of Adjustment found the Platting Board considered the requirements in AMC 21.03.200.C.9 as evidenced by the robust discussion and review at the public hearings and in the staff report regarding public safety, driveway concerns, traffic, topography, and drainage.²² The February 3, 2021 Planning Staff report regarding the subdivision included several conditions for plat approval including: drainage easements and improvements and plat notes to address drainage, driveways, and culverts.²³

¹⁸ R.158, 247, 338-341, 588; T.23-25, 39-40, 56, 59, 76-78, 87, 92, 100, 116-117, 176-177.

¹⁹ R.159.

²⁰ AMC 21.03.050A.11.c.

²¹ Appellant's Brief at 22.

²² *E.g. see* T.31 (driveway issues); T.170-173 (drainage studies, septic, driveway consideration, vegetation impact); T.214, 230-231 (safety issues); T.174-175 (discussion of AMC 21.03.200.C.9); T.211-212, 215-216 (drainage); T.215 (increased traffic); T.257- 259 (slope, driveway, traffic and safety, and drainage issues); R.239-262 (Planning Staff report).

²³ R.258-262.

19. The Board of Adjustment found the references in Appellant’s Brief to testimony regarding public health, safety, welfare, traffic, and environmental impacts demonstrated the Platting Board listened to, debated, and considered those issues.²⁴

20. The Board of Adjustment, by unanimous vote, found substantial evidence supports the Platting Board’s finding that the subdivision complies with AMC 21.03.200.C.9.

CONCLUSIONS

1. Anchorage Municipal Code 21.08.030.L.2 permits the Planning Department Director to approve a subdivision-wide exception for driveway access to a collector street.

2. Anchorage Municipal Code 27.10.040 does not require the Planning Director to consult with the GASA board before approving a subdivision plat.

3. Anchorage Municipal Code 21.08.030.L.3 does not forbid subdivisions that include lots with access to residential major streets carrying more than 1,000 average daily trips.

4. The Platting Board’s finding — that the Canyon View Estates Subdivision complies with AMC 21.08.030.L.3 — is supported by substantial evidence.

5. The Platting Board’s finding — that that the Canyon View Estates Subdivision complies with AMC 21.03.200.C.9 — is supported by substantial evidence.

DECISION

1. This appeal was heard in accordance with AMC 21.03.050.

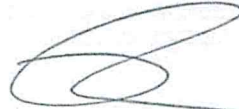
2. The meeting at which the Board of Adjustment decided this appeal was held in accordance with AMC 21.03.050A.10.

3. The Board of Adjustment affirms, in whole, the Platting Board’s May 19, 2021 written Findings of Fact and Decision in case no. S-12545, approving the Canyon View Estates Subdivision and phasing plan under AMC 21. 03.200, but denying the requested vacations and variances.

²⁴ See Appellant’s Brief at 21-22; *see also* T.31 (discussing driveways); T. 214, 230-231 (discussing safety issues); T.211-212, 215-216 (discussing drainage); T.215 (discussing increased traffic).

4. Pursuant to AMC 21.03.050A.12.c. this Board of Adjustment decision is a final decision with respect to all issues involved in the case and the parties have 30 days from the date of service of this decision to appeal to the superior court.

ADOPTED by the Board of Adjustment this 31st day of January 2025.



Michael Rose, Chair
on his own behalf and on behalf
of Board of Adjustment Members
Carl Propes and Sam Laffey

Certificate of Service:

I hereby certify that on the 31 day of January 2025 a true and correct copy of the foregoing document was served by mail or e-mail on each of the following:

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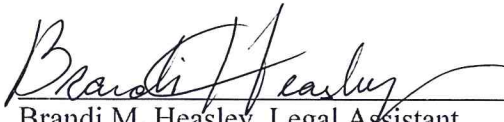
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