


Kenai Peninsula Borough
Planning Department

MEMORANDUM

TO: Brent Hibbert, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Melanie Aeschliman, Planning Director 

DATE: July 14, 2021

RE: Right-of-way Vacation: Vacating a portion of C St. right-of-way adjoining Lot 1 Block 2 & Lot 3 Block 3 as dedicated on US Survey No. 4901 Tracts A through D, Townsite of English Bay Plat SL 71-62. KPB File 2021-085V

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of July 12, 2021 the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation of a portion of the above right-of-way by unanimous vote based on the means of evaluating public necessity established by KPB 20.70 (10-Yes, 0-No, 1-Absent) This petition is being sent to you for your consideration and action.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

July 12, 2021 Planning Commission Draft Meeting Minutes
July 12, 2021 Agenda Item E2 Meeting Packet

END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Ruffner to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	10	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser Ecklund, Fikes, Martin, Morgan, Ruffner, Venuti				
Absent	Gillham				

AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - RIGHT OF WAY VACATION
Townsite English Bay USS 4901
C Street adjoining Lot 1 Block 2 Right of Way Vacation**

KPB File No.	2021-085V
Planning Commission Meeting:	July 12, 2021
Applicant / Owner:	Village Council Nanwalek Village of Nanwalek, Alaska
Surveyor:	Kenton Bloom / Seabright Surveying
General Location:	C Street, Nanwalek, AK
Legal Description:	C Street / Townsite English Bay USS 4901/ Seldovia Recording District / Section 35, Township 09 South, Range 16 West, S.M.

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: The proposed right of way vacation, and dedication, will adjust the right of way to encompass the existing travel way as well as alleviate the encroachment of the Nanwalek Village community building into the right of way. The adjustment of the dedicated right of way will allow future construction on the Nanwalek Village community building to be completed without creating an encroachment into the right of way.

Notification: Public notice appeared in the July 1, 2021 issue of the Homer News as a separate ad. The public hearing notice was published in the July 8, 2021 issue of the Homer News as part of the Commission's tentative agenda.

Six certified mailings were sent to owners of property within 300 feet of the proposed vacation. Zero receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to seven owners within 600 feet of the proposed vacation.

9 public hearing notices were emailed to agencies and interested parties as shown below;

- State of Alaska Dept. of Fish and Game
- State of Alaska DNR
- State of Alaska DOT

- Library of Seldovia
- Post Office of Seldovia
- Alaska Communication Systems (ACS)
- ENSTAR Natural Gas
- General Communications Inc., (GCI)
- Homer Electric Association (HEA)

Legal Access (existing and proposed): The right of way vacation and dedication is located within Nanwalek. The portion of C Street proposed for vacation is accessed from Chicklounk Street to the north and Saints Sergus and Herman Street to the south. Chicklounk Street is a 40 foot wide right of ways that have been improved but is not maintained. Access to the south is from Saints Sergus and Herman Street which is a 60 foot wide right of way that has been improved and is maintained by the State of Alaska.

C Street is an improved roadway but a portion is located outside of the dedicated right of way and within Lot 3. The proposed vacation, if approved, will be finalized with a plat that will dedicate right of way centered on the existing travel way.

The design for the subdivision was created in 1967 and recorded in 1971. The block length fits into the design of the village and if the block indeed is short of the minimum qualification staff will ask for the Plat Committee to concur that this subdivision, which is to correct an encroachment issue, is not able to improve the block length.

KPB Roads Dept. comments	Comments not available at the time the staff report was prepared.
SOA DOT comments	The SOA Central Region Right of Way Engineering section has reviewed the ROW vacation, for interpretation of any existing State ROW. Since this does not appear to be a State Road, we have no comment on this ROW vacation.

Site Investigation: The area proposed to be vacated and the new dedication do not appear to have any low wet areas. The area is within Flood Zone C which is minimal flood risk.

Contour information is not available for the area. The top of the cliff is depicted on Lot 3 Block 3. If any steep slopes are found in the proposed right of way dedication when the field survey is performed they will need to be depicted and additional easements may be required.

Floodplain Hazard Review	Comments not available at the time the staff report was prepared.
Anadromous Waters Habitat Protection District Review	Comments not available at the time the staff report was prepared.
State Parks Review	Comments not available at the time the staff report was prepared.

Staff Analysis: U.S. Survey No. 4901 was recorded in 1971 and the plat provided public right of way dedications. Lot 1 Block 2 and Lot 3 Block 3 is owned by the Nanwalek Village. The Nanwalek IRA Council issued a letter authorizing Chief Kvasnikoff to pursue this action and authority to sign all required documents to finish this vacation.

If the vacation is approved a subdivision plat will be required as property boundaries are being altered. The vacated portion of C Street will attach to Lot 1 Block 2 to the north. Additional right of way will be required to be dedicated from Lot 3 Block 3 so that the right of way will remain 40 feet in width. The sketch in the application depicts an additional right of way dedication at the south corner of Lot 1 Block 2 so that the travel way will be within a right of way.

Lot 3 Block 3 is owned by the Bureau of Indian Affairs (BIA). Proper documentation will be required with the plat submittal to show who has the authority to sign on behalf of BIA and they will need to sign the application as well as the final mylar.

Per Kenai Peninsula Borough Comprehensive Plan 2019 a focus area is Historic Preservation. The right of way width of 40 feet does not comply with KPB subdivision standards but can be found to support the Comprehensive Plan as the minimum width helps maintain the character of historic towns, districts and properties while encouraging commercial, tourist, and cultural development. The Village of Nanwalek is defined within the Comprehensive Plan as a federally recognized Alaska Native tribe. The ability for them to further develop their village community building is supported by the Comprehensive Plan and the proposed vacation is being initiated by them and has the village council's support.

Lot 3 Block 3 is approximately 14,810 square feet in size. The granting of additional right of way will further reduce the square footage of this lot. Due to the steep slopes along the western boundary and the reduced size, this lot may be greatly limited on future use.

The vacation will not pose any access issues as the right of way is currently constructed and used just not within the dedicated area. The new dedications will place the existing gravel road within a dedication. This will eliminate any encroachment issues as shown on the sketch.

The letter submitted states the new dedication will include the utility corridor. Current utility information was not available to staff. The utility providers for the area have been notified to be able to provide comment. **Staff recommends** any utility easements requested by the utility providers be granted on the plat, or work with the utility providers to provide the necessary easements.

If the vacation is approved it will be forwarded to the Kenai Peninsula Borough Assembly to be reviewed on August 3, 2021.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right of way is constructed and used but not fully within the dedicated area.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The road is already constructed and the new alternative right of way will allow the existing access to remain where it is located.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: The area is part of the Nanwalek Village as created by U.S. Survey No. 4901. All neighboring lots front on dedicated right of ways. The surrounding area has been improved and additional right of ways do not appear to be needed. Comments from the utility providers should be considered to determine if additional utility easements will be needed.
 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: The right of way does not provide access to a public area or water body. The Nanwalek Village community building is located on Lot 1 Block 2. Moving the location of the right of way will allow an addition to be constructed to the village building.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;

Staff comments: This vacation will not limit opportunities for interconnectivity and additional right of way will be dedicated so that the location is shifted to be centered on the existing travel way.

- 6. Other public access, other than general road use, exist or are feasible for the right-of-way; **Staff comments:** All lots in the area have access via Chicklounk Street, Saints Sergus and Herman Street, and the remaining portion of C Street. The nearby right of ways have been improved.
- 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way. **Staff comments:** The shift in the location of the right of way will provide equal or superior access.

If approved, a plat will finalize the proposed right of way vacations. The plat has not been submitted at the time the staff report was prepared. An exception to right-of-way width (KPB 20.30.120) will be required. Additional exceptions may be required based on the final size of the new lots. Any wastewater systems in place or plans should be noted and included with submittal of the plat. Exceptions may include lots minimum size (KPB 20.30.200) and portions of wastewater disposal (KPB 20.40).

KPB department / agency review:

Planner – Bryan Taylor	
Code Compliance – Eric Ogren	
Addressing – Derek Haws	
Assessing – Matt Burns	
City Advisory Comments	N/A
Advisory Planning Commission	N/A

Utility provider review:

HEA	
ENSTAR	No comments or recommendations.
ACS	A comment was received and was in the desk packet stating they had no objection as long as there was an agreement with the landowner to relocate the ACS cables affected by the realignment of the right-of-way.
GCI	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends approval of the right of way vacation as petitioned, subject to;

- 4. Consent by KPB Assembly.
- 5. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
- 6. Grant utility easements requested by the utility providers.
- 7. Dedication of right of way to keep the right of way width a minimum of 40 feet wide.
- 8. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other

cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.

- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Ruffner moved, seconded by Commissioner Ecklund to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	11	No	0	Absent	1
Yes	Bentz, Brantley, Carluccio, Chesser Ecklund, Fikes, Martin, Morgan, Ruffner, Venuti				
Absent	Gillham				

AGENDA ITEM E. NEW BUSINESS

**ITEM 3 - RIGHT OF WAY VACATION
VACATE COVE VIEW COURT and ADJOINING 10 FOOT UTILITY EASEMENT
STANLEY'S MEADOW 2021, HM 93-60**

KPB File No.	2021-086V1
Planning Commission Meeting:	July 12, 2021
Applicant / Owner:	Cecil R. and Ina L. Jones of Fritz Creek, Alaska and Billy Ray and Stephanie Joy Jones of Homer, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Fritz Creek Area / Kachemak Bay APC
Legal Description:	Perkins Road, Stanley's Meadow No. 11 Plat 93-60 Homer Recording District, Section 34, Township 04 South, Range 11 West, S.M.

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Vacate Cove View Court right of way. Petitioner's statement, 'Lots are being replatted.'

Notification: Public notice appeared in the July 1, 2021 issue of the Homer News as a separate ad. The public hearing notice was published in the July 8, 2021 issue of the Homer News as part of the Commission's tentative agenda.

Six certified mailings were sent to owners of property within 300 feet of the proposed vacation. Zero receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 8 owners within 600 feet of the proposed vacation.

16 public hearing notices were emailed to agencies and interested parties as shown below;

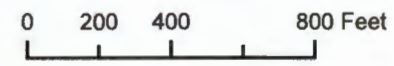
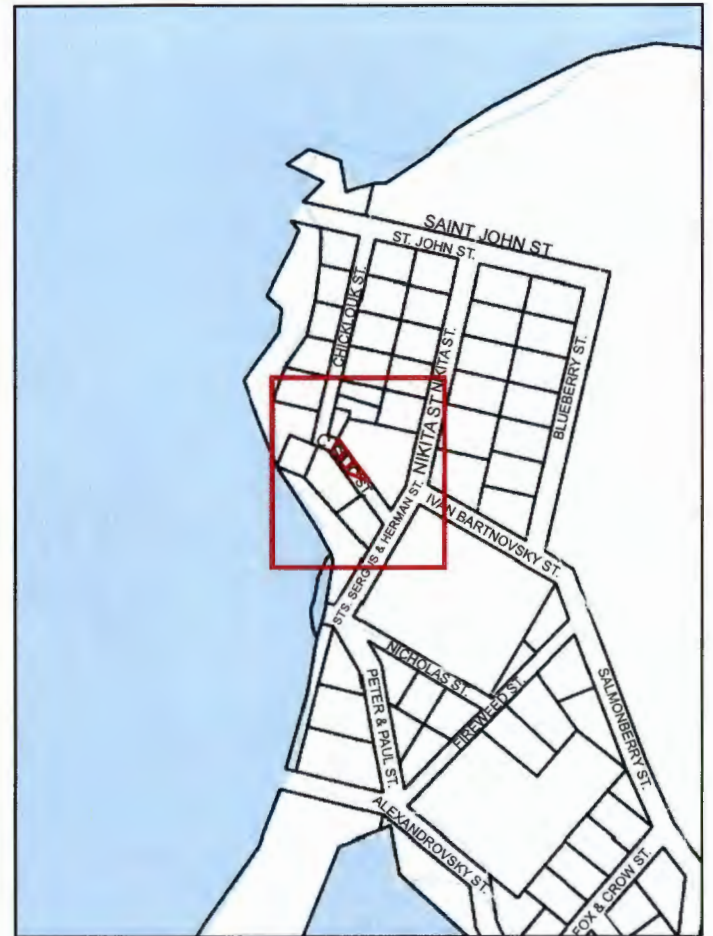
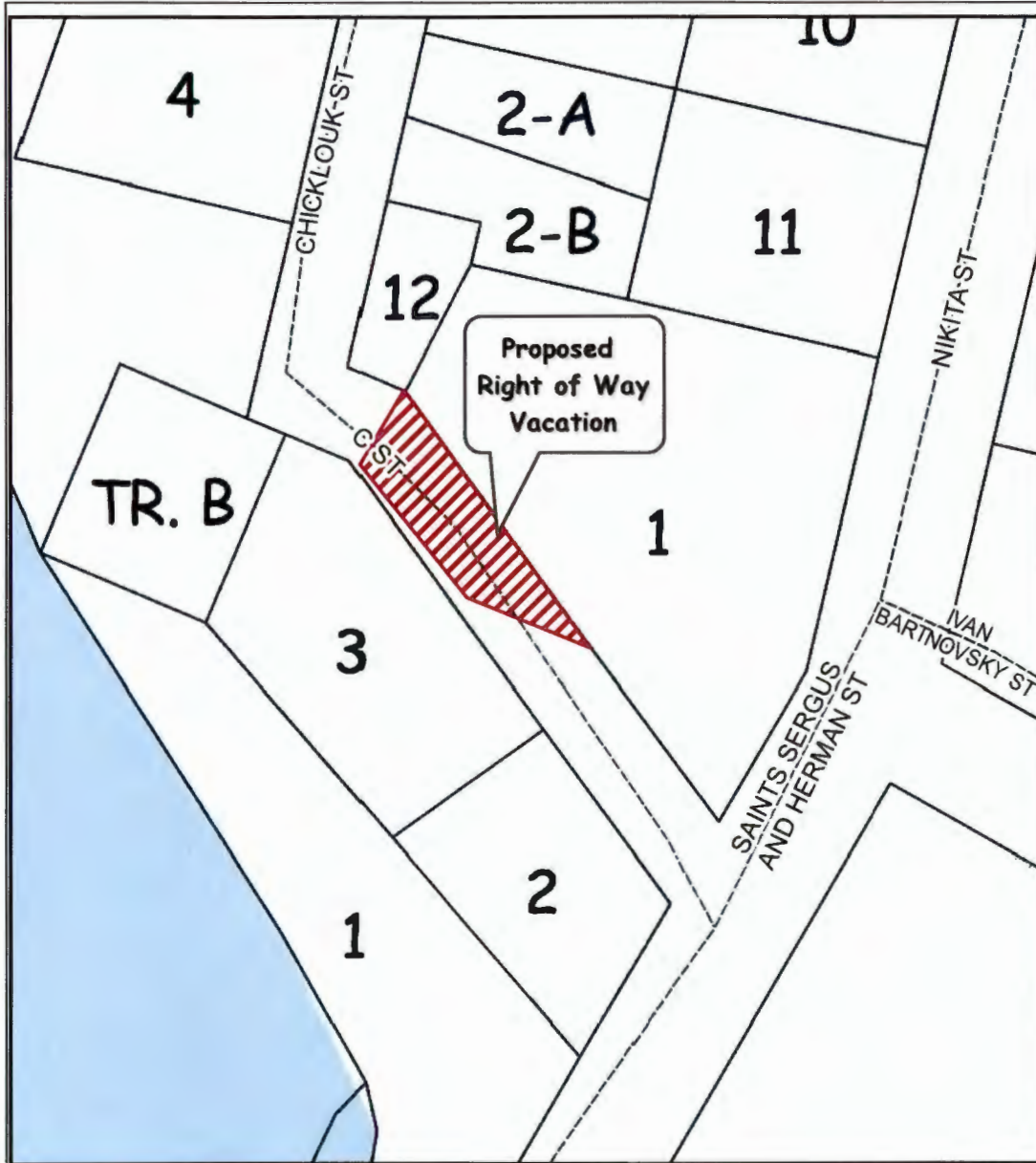
- State of Alaska Dept. of Fish and Game
- State of Alaska DNR
- State of Alaska DOT
- State of Alaska DNR Forestry
- Kachemak Bay Advisory Planning Commission
- Emergency Services of Kachemak
- Homer Kenai Peninsula Borough Office

E. NEW BUSINESS

2. Right-Of-Way Vacation; KPB File 2021-085V

Location: Vacates a portion of C Street right of way adjoining Lot 1 Block 2 and Lot 3 Block 3 as dedicated on U.S. Survey No 4901 Tracts A through D, Townsite of English Bay, Plat SL 71-62.

Petitioner: Village Council of Nanwalek, AK.



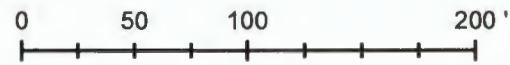
KPB 2021-085V
S35 T09S R16W
NANWALEK



Date: 6/16/2021
 PClements, KPB 2021-085V



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



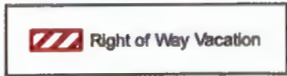
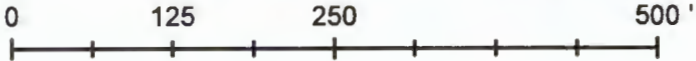


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Aerial View

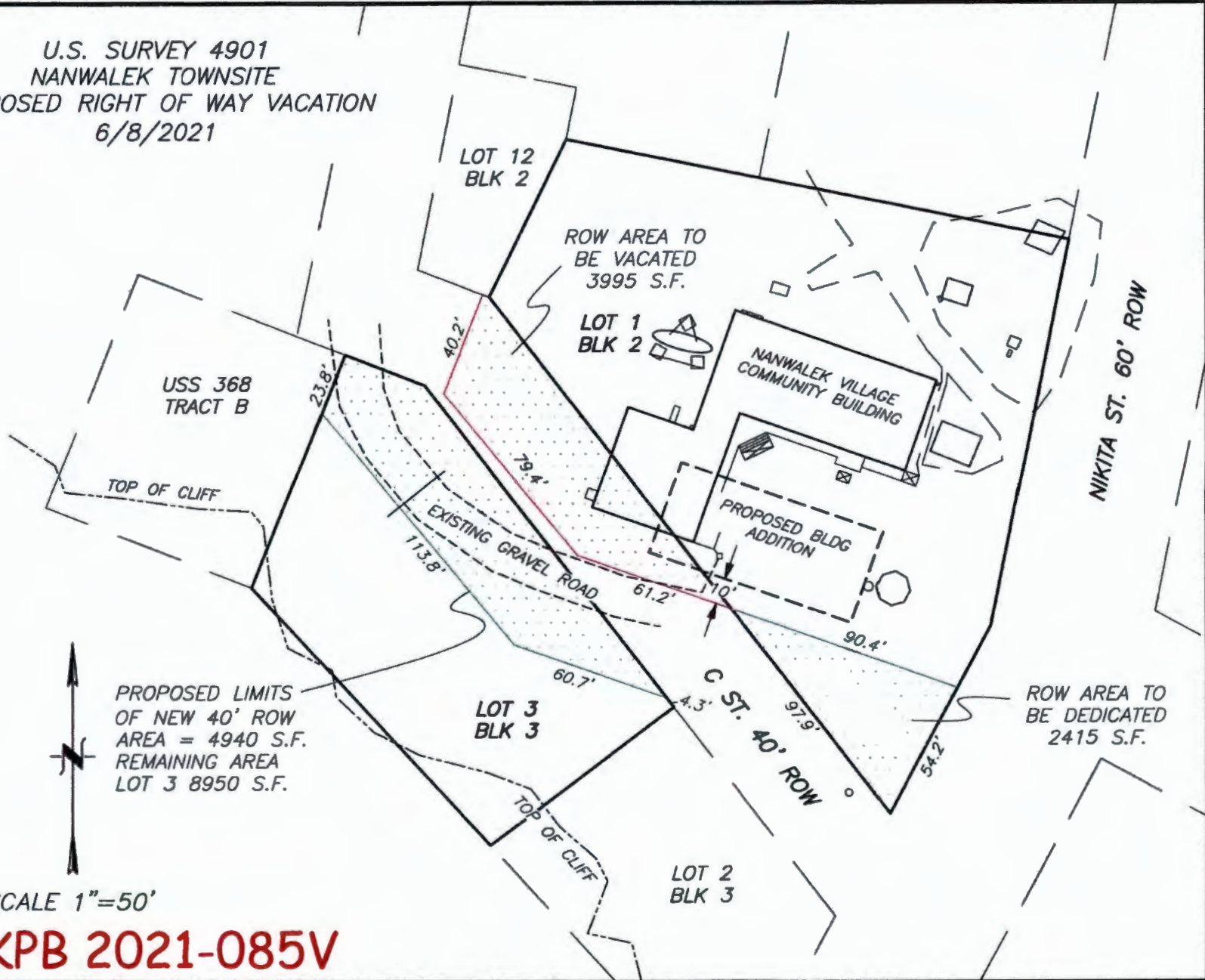


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PClements, KPB 2017-085V
Date: 6/16/2021
Imagery WORLD

U.S. SURVEY 4901
NANWALEK TOWNSITE
PROPOSED RIGHT OF WAY VACATION
6/8/2021



PROPOSED LIMITS
OF NEW 40' ROW
AREA = 4940 S.F.
REMAINING AREA
LOT 3 8950 S.F.

SCALE 1"=50'

KPB 2021-085V

AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - RIGHT OF WAY VACATION
Townsite English Bay USS 4901
C Street adjoining Lot 1 Block 2 Right of Way Vacation**

KPB File No.	2021-085V
Planning Commission Meeting:	July 12, 2021
Applicant / Owner:	Village Council Nanwalek Village of Nanwalek, Alaska
Surveyor:	Kenton Bloom / Seabright Surveying
General Location:	C Street, Nanwalek, AK
Legal Description:	C Street / Townsite English Bay USS 4901/ Seldovia Recording District / Section 35, Township 09 South, Range 16 West, S.M.

STAFF REPORT

Specific Request / Purpose as stated in the petition: The proposed right of way vacation, and dedication, will adjust the right of way to encompass the existing travel way as well as alleviate the encroachment of the Nanwalek Village community building into the right of way. The adjustment of the dedicated right of way will allow future construction on the Nanwalek Village community building to be completed without creating an encroachment into the right of way.

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State of Alaska DNR	ENSTAR Natural Gas
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Post Office of Seldovia	

Legal Access (existing and proposed): The right of way vacation and dedication is located within Nanwalek. The portion of C Street proposed for vacation is accessed from Chicklounk Street to the north and Saints Sergus and Herman Street to the south. Chicklounk Street is a 40 foot wide right of ways that have been improved but is not maintained. Access to the south is from Saints Sergus and Herman Street which is a 60 foot wide right of way that has been improved and is maintained by the State of Alaska.

C Street is an improved roadway but a portion is located outside of the dedicated right of way and within Lot 3. The proposed vacation, if approved, will be finalized with a plat that will dedicate right of way centered on the existing travel way.

The design for the subdivision was created in 1967 and recorded in 1971. The block length fits into the design of the village and if the block indeed is short of the minimum qualification staff will ask for the Plat Committee to concur that this subdivision, which is to correct an encroachment issue, is not able to improve the block length.

KPB Roads Dept. comments	Comments not available at the time the staff report was prepared.
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Site Investigation: The area proposed to be vacated and the new dedication do not appear to have any low wet areas. The area is within Flood Zone C which is minimal flood risk.

Contour information is not available for the area. The top of the cliff is depicted on Lot 3 Block 3. If any steep slopes are found in the proposed right of way dedication when the field survey is performed they will need to be depicted and additional easements may be required.

Floodplain Hazard Review	<u>Comments not available at the time the staff report was prepared.</u>
Anadromous Waters Habitat Protection District Review	Comments not available at the time the staff report was prepared.
State Parks Review	Comments not available at the time the staff report was prepared.

Staff Analysis: U.S. Survey No. 4901 was recorded in 1971 and the plat provided public right of way dedications. Lot 1 Block 2 and Lot 3 Block 3 is owned by the Nanwalek Village. The Nanwalek IRA Council issued a letter authorizing Chief Kvasnikoff to pursue this action and authority to sign all required documents to finish this vacation.

If the vacation is approved a subdivision plat will be required as property boundaries are being altered. The vacated portion of C Street will attach to Lot 1 Block 2 to the north. Additional right of way will be required to be dedicated from Lot 3 Block 3 so that the right of way will remain 40 feet in width. The sketch in the application depicts an additional right of way dedication at the south corner of Lot 1 Block 2 so that the travel way will be within a right of way.

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Lot 3 Block 3 is approximately 14,810 square feet in size. The granting of additional right of way will further reduce the square footage of this lot. Due to the steep slopes along the western boundary and the reduced size, this lot may be greatly limited on future use.

The vacation will not pose any access issues as the right of way is currently constructed and used just not within the dedicated area. The new dedications will place the existing gravel road within a dedication. This will eliminate any encroachment issues as shown on the sketch.

The letter submitted states the new dedication will include the utility corridor. Current utility information was not available to staff. The utility providers for the area have been notified to be able to provide comment. **Staff recommends** any utility easements requested by the utility providers be granted on the plat, or work with the utility providers to provide the necessary easements.

If the vacation is approved it will be forwarded to the Kenai Peninsula Borough Assembly to be reviewed on August 3, 2021.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right of way is constructed and used but not fully within the dedicated area.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The road is already constructed and the new alternative right of way will allow the existing access to remain where it is located.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: The area is part of the Nanwalek Village as created by U.S. Survey No. 4901. All neighboring lots front on dedicated right of ways. The surrounding area has been improved and additional right of ways do not appear to be needed. Comments from the utility providers should be considered to determine if additional utility easements will be needed.
 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: The right of way does not provide access to a public area or water body. The Nanwalek Village community building is located on Lot 1 Block 2. Moving the location of the right of way will allow an addition to be constructed to the village building.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: This vacation will not limit opportunities for interconnectivity and additional right of way will be dedicated so that the location is shifted to be centered on the existing travel way.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: All lots in the area have access via Chicklounk Street, Saints Sergus and Herman Street, and the remaining portion of C Street. The nearby right of ways have been improved.
 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: The shift in the location of the right of way will provide equal or superior access.

If approved, a plat will finalize the proposed right of way vacations. The plat has not been submitted at the time the staff report was prepared. An exception to right-of-way width (KPB 20.30.120) will be required. Additional exceptions may be required based on the final size of the new lots. Any wastewater systems in place or plans should be noted and included with submittal of the plat. Exceptions may include lots minimum size (KPB 20.30.200) and portions of wastewater disposal (KPB 20.40).

KPB department / agency review:

Planner – Bryan Taylor	
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Code Compliance – Eric Ogren	
Addressing – Derek Haws	
Assessing – Matt Burns	
City Advisory Comments	N/A
Advisory Planning Commission	N/A

Utility provider review:

HEA	
ENSTAR	No comments or recommendations.
ACS	
GCI	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends approval of the right of way vacation as petitioned, subject to;

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Dedication of right of way to keep the right of way width a minimum of 40 feet wide.
5. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

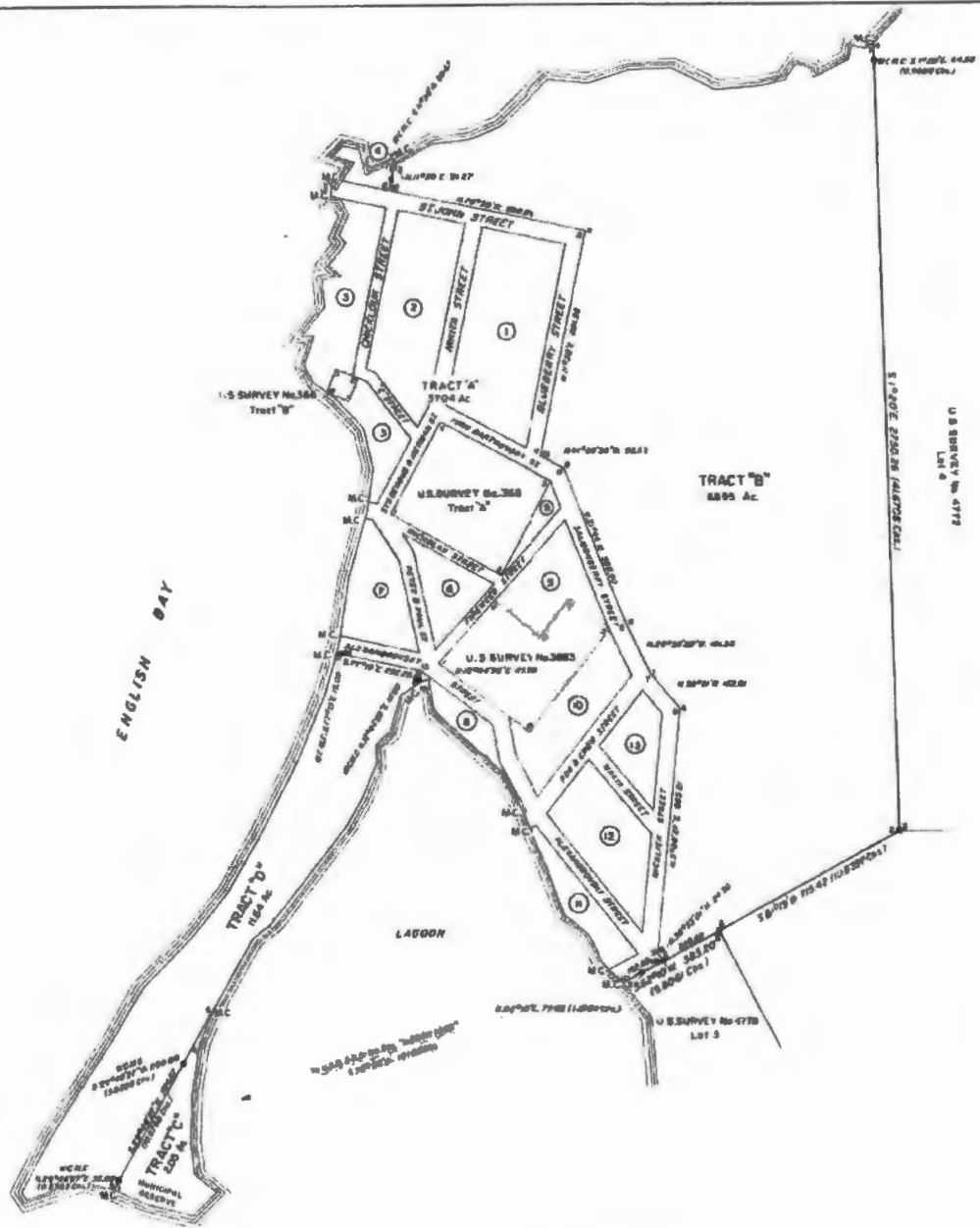
Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT



**U. S. SURVEY
No. 4901, ALASKA**

**TRACTS "A" THROUGH "D"
IN THREE SHEETS
FOR DETAILS OF SUBDIVISION OF TRACT "A"
SEE SHEETS 2 & 3**

SITUATED
AT THE VILLAGE
OF ENGLISH BAY, ALASKA
WITH TRACTS A THROUGH C
COMPOSING THE TOWNSHIP
OF ENGLISH BAY
AND
THE DEPARTMENT SURVEY OF U. S. SURVEY NO. 3863;
LINE 3-4, LOT 4, U. S. SURVEY NO. 4772
AND
LINE 2-3, LOT 3, U. S. SURVEY NO. 4776
GENERAL POSITION
AT WATER'S EDGE CORNER BL. 12, TRACT A
LATITUDE 59°21'47.25" N., LONGITUDE 152°34'36.43" W.

AREA: 119.68 ACRES

DESIGNED BY:
HARVEY V. THAYER, SUPERVISOR, CADASTRAL SURVEYOR
JULY 8, 1907, TO AUGUST 17, 1907
Under Special Instructions
Dated June 8, 1907
Approved June 5, 1907

FIELD NOTES RECORDED BY THE LAND OFFICE
(WITH) OF LAND MANAGEMENT
Washington, D. C. April 1, 1971

This plot is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director
Clark F. Shuman

Chief, Division of Cadastral Survey

U. S. SURVEY
No. 4901, ALASKA
TOWNSITE OF ENGLISH BAY

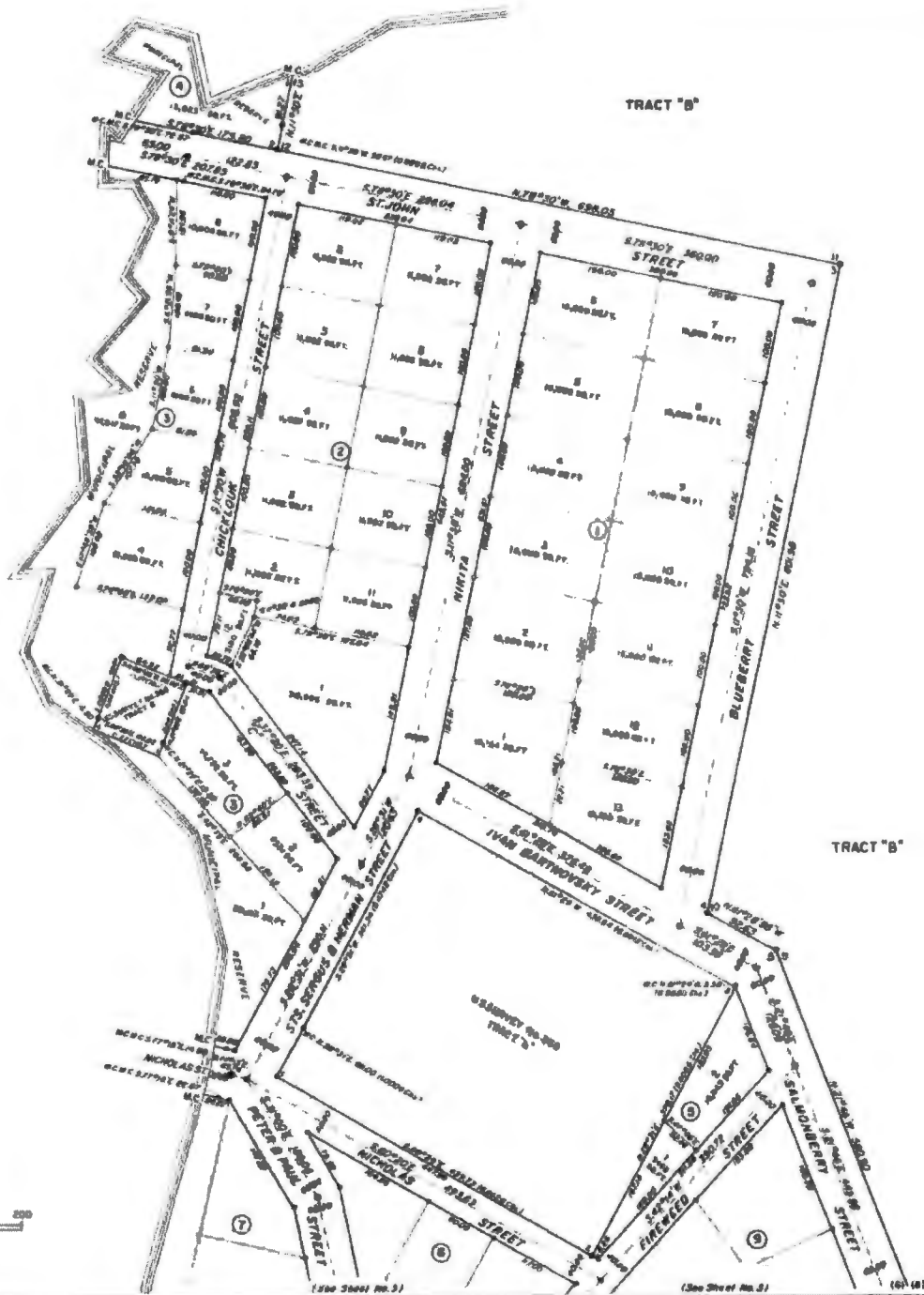
Reference should be made to sheet No. 1,
for survey information.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington, D. C. April 1, 1971

This plat is strictly conformable to the approved field notes, and the survey, having been correctly amended in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director

Chief, Division of Cadastral Survey



ENGLISH BAY



Magnetic Declination
24° 2'

- IRON ROD, ALUMINUM CAP
- COPPERWELD MONUMENT
- BRASS CAPPED IRON POST



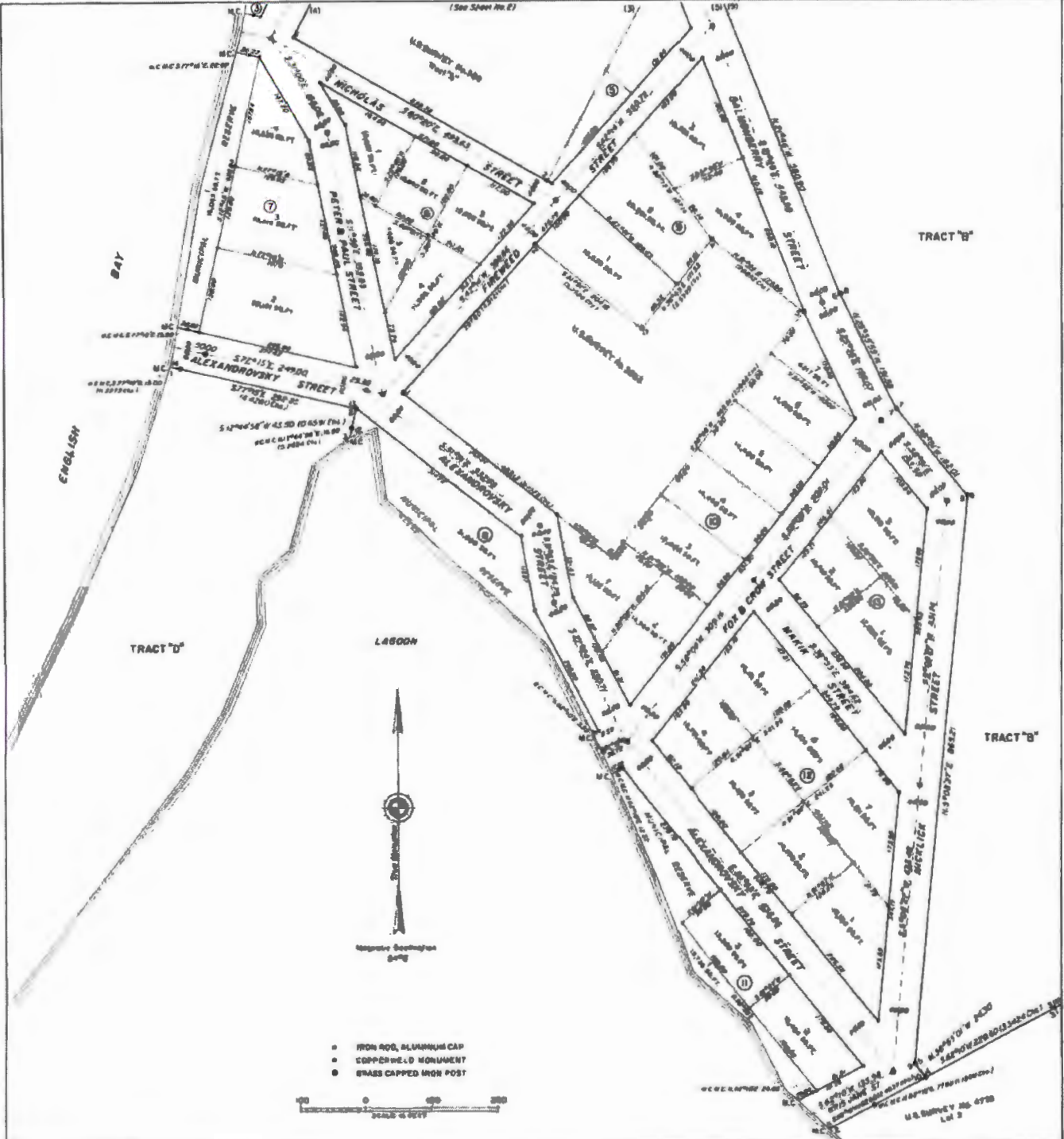
(See Sheet No. 1)

(See Sheet No. 2)

(61-62)

U. S. SURVEY
No. 4901, ALASKA
TOWNSITE OF ENGLISH BAY

Reference should be made to sheet No. 1,
for survey information.



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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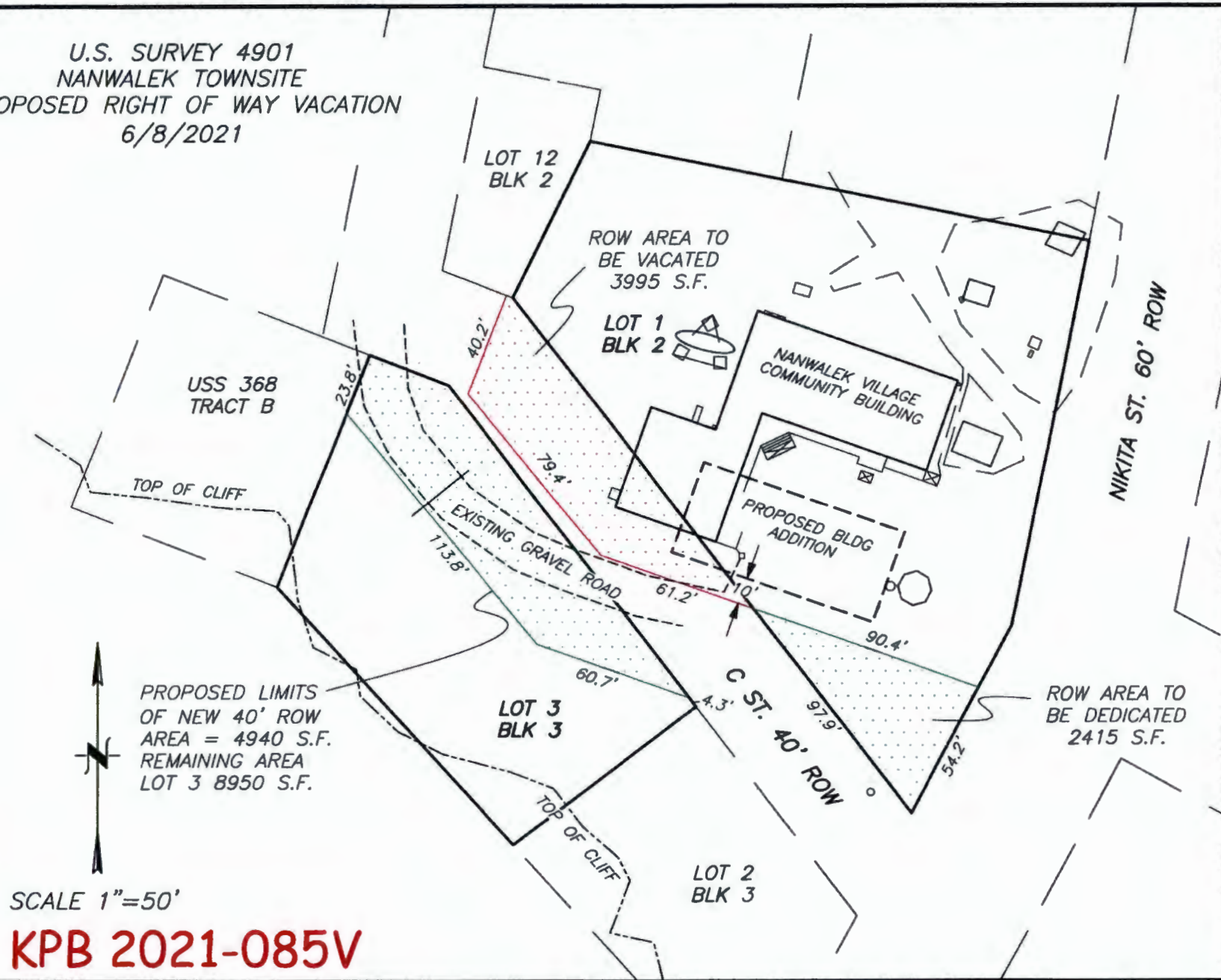
This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director

Clark F. Shuman

Chief, Division of Geodetic Survey

U.S. SURVEY 4901
NANWALEK TOWNSITE
PROPOSED RIGHT OF WAY VACATION
6/8/2021



ROW AREA TO BE VACATED
3995 S.F.

LOT 1
BLK 2

NANWALEK VILLAGE
COMMUNITY BUILDING

PROPOSED BLDG
ADDITION

NIKITA ST. 60' ROW

USS 368
TRACT B

TOP OF CLIFF

EXISTING GRAVEL ROAD

C ST. 40' ROW

ROW AREA TO BE DEDICATED
2415 S.F.

PROPOSED LIMITS
OF NEW 40' ROW
AREA = 4940 S.F.
REMAINING AREA
LOT 3 8950 S.F.

LOT 3
BLK 3

LOT 2
BLK 3

SCALE 1"=50'

KPB 2021-085V